

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

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

DATE: Tuesday March 12, 2024
TIME: 6:00 P.M.

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

1. **ROLL CALL**
Quorum, Alternate Members, Conflicts of Interest
2. **PLEDGE OF ALLEGIANCE**
3. **MOMENT OF SILENCE**
4. **10-MINUTE PUBLIC INPUT SESSION**
5. **PUBLIC HEARING**
 - a) 708 River Rd. (Map 50, Lot 29), PID# 050-029-000, PB23-07: Preliminary Plan for Residential Subdivision (4 lots)
6. **NEW BUSINESS**
 - a) Growth permits report
7. **OLD BUSINESS**
 - a) Ordinance amendments: Floodplain Management Ordinance
8. **REVIEW AND APPROVE MINUTES**
 - a) July 25, 2023
9. **OTHER BUSINESS / CORRESPONDENCE**
Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town Planner, Board Member
LD2003 – housing-related ordinance – potential amendments
10. **SET AGENDA AND DATE FOR NEXT MEETING**
 - a) March 19, 2024
 - b) Planning Board Upcoming Schedule and Application Queue
11. **ADJOURN**

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

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

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

Instructions to join remote meeting:

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

- a) Please call **1-646-558-8656**
 1. When prompted enter meeting number ID: **842 2662 8024**
 2. When prompted to enter Attendee ID
 3. When prompted enter meeting password: **526120**

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

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


Christine Bennett, Planning Board Chair

A quorum of the Board of Appeals may be present at the Tuesday, March 12, Planning Board meeting to review the draft Floodplain Management Ordinance.

PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **preliminary plan public hearing**



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Kenneth A. Wood, PE, Attar Engineering, Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Date: March 6, 2024 (report date)
 March 12, 2024 (meeting date)
 Re: PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **preliminary plan public hearing**

Application Details/Checklist Documentation	
Address	708 River Rd.
Map/Lot	50/29
PB Case#	23-07
Zoning District(s)	Suburban
Shoreland Zoning District(s)	None
Property Owner(s)	Alan and Frances Newson
Applicant Name(s)	Alan and Frances Newson; Agent: Attar Engineering, Inc.
Proposed Project	4-lot conventional residential subdivision
Sketch Plan	
✓ Application Received by Staff	March 16, 2023
Application Sent to Staff Reviewers	Not sent at sketch plan review
✓ Application Reviewed By PB	May 16 and September 5, 2023
Site Walk	None
Site Walk Publication	N/A
✓ Sketch Plan Approval	September 5, 2023
Preliminary Plan	
✓ Application Received by Staff	November 7, 2023; January 18, 2024 (with additional info requested by staff)
✓ Fee Paid and Date	January 18, 2024
✓ Application Sent to Staff Reviewers	Emailed to ECC on January 24, 2024; ECC review February 7
✓ Notice Mailed to Abutters	January 23, 2024 (on or about)
✓ Application Reviewed by PB	January 23 and February 20, 2024
✓ Application Found Complete by PB	February 20, 2024
Public Hearing	March 12, 2024 (scheduled)

PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **preliminary plan public hearing**

✓ Public Hearing Publication	March 1, 2024 – abutter notice sent based on 500 ft. distance from updated lot lines
Preliminary Plan Approval	
Final Plan	
Application Received by Staff	
Fee Paid and Date	
Application Reviewed by PB	
Public Hearing (if any)	
Public Hearing Publication	

Overview

Applicants seek to subdivide the 17.1-acre parcel at the subject address into four (4) residential lots. As noted in the 3/14/23 cover letter, one lot will contain “the existing dwelling and barn, and the remaining three will have proposed single[-]family houses and accompanying driveways and features”. The existing parcel is located on the inside of the curve of River Rd. as it turns eastward to State Rd.

The proposal is a land subdivision; the 1/18/24 cover letter notes: “There is no proposed development of the three proposed new lots at this time. All lots are to be sold as is and developed at a later date.” As such, the applicant included a letter of the same date requesting waivers of various standards and application information. On February 20, the PB approved some information waivers while continuing to hold the applicant to certain standards they wanted waived.

As of the writing of this report (March 6 COB), the applicant has not yet submitted updated plans based on the February 20 review.

Waivers (see 2/20/24 meeting for full motions)

- 41-256 – reservation of parks/rec land; instead requiring \$1,500 payment-in-lieu per new lot (not applicable for existing house lot) to go to William Murray Rowe Park capital improvements
- Submission requirements (41-67); submission requirements of 41-150:
 - (11) – High intensity soils report
 - (21) – Estimated progress schedule

Preliminary plan completeness

February 20, 2024

Affidavit of ownership

Warranty deed from Patsy White to Frances Newson, dated 9/1/22 (previous packet)

Zoning

Suburban; no shoreland zoning

Dimensional requirements

Standard	Planner review
Min. lot size: 2 acres [41-255; 41-218(e); 45-405]	Met. Lot 1 is ~4.8 ac. and Lots 2-4 are ~4.1 ac.
Min. street frontage: 150 ft.	Met. Lot 1: 215 ft. Lots 2-4: 150 ft.
Min. street frontage waiver/modification	N/A
Setbacks: appropriate for location of subdivision and type of development/use contemplated [41-255]. 45-405 setbacks: 30' front/20' side/30' rear	Met. Setback lines and dimensions shown on sketch plan.

Ch. 41, Art. IV – General Requirements

Section	Standard/ summary	Planner review
41-212	Air quality	Met or N/A.
41-213	Water quality	Need to review drainage plan (pending as of the writing of this report). Applicant has requested a waiver from a drainage plan “as there is no development proposed beyond the subdivision of the lot. A surface water drainage plan would be submitted as required at such time that the lots are to be developed”. ECC did not agree with this (2/1/24 comments). I recommend concurrence with this request; lot development, when it occurs, must abide by the stormwater runoff standard in 45-411.
41-214	Soil quality and erosion-sedimentation control	Need to review ESC plan (pending as of the writing of this report). Soil test pit results in 5/16/23 packet and on subdivision plan (see table), showing all exceed the minimum 9” depth to restrictive layer. Applicant has requested a waiver of an ESC plan with similar justification as in 41-213 above. An ESC plan is noted below as one option for protecting wetland areas for a “common plan of development or sale” (34-2) when individual houses are built. PB may entertain a waiver if you believe some other option for addressing wetland concerns is

PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **preliminary plan public hearing**

41-215	Preservation of natural resources and scenic beauty	<p>Cannot determine if met without seeing plan updates per 2/20/24 review. Lot is largely wooded with forested wetlands delineated on the plan. The 3 new house lots appear to need some tree clearing for the new houses/driveways. However, the lots are larger than the min. lot size, and the suggested/expected house building envelopes, driveways, and septic fields are toward the front of the parcels, in between delineated wetlands. It is uncertain, however, whether wetland impacts will be avoided either during eventual home construction or by future property owners – though unpermitted larger wetland impacts/alterations may run the risk of a DEP enforcement action.</p> <p>Applicant has requested a waiver from this standard “on the basis of no natural resources, scenery, or other physical features being changed by the proposed subdivision plan.” ECC did not agree with this (2/1/24 comments). On this waiver request, I agree in part and disagree in part. Per paragraph (a), at least a note should be added to the plan representing that the rear tree line behind the suggested houses should be preserved (see also discussion below). This includes the delineated forested wetland. This is part of a large, undisturbed habitat block.</p>
41-216	Preservation of historical features and traditional land use pattern	Appears to be met.
41-217	Water supply	Appears to be met.
41-218	Sewage disposal	<p>Appears to be met. New lots will need to be served by septic systems located in appropriate soils. Soils report in 5/16/23 packet shows Class C and D soils with groundwater depth between 10 and 24” for 13 test pits. Test pit locations are shown on the plan.</p> <p>5/18/23 applicant letter summarizes the test pit results showing all depths to the restrictive layer exceed the State’s Subsurface Wastewater Disposal Rules (10-144 CMR 241). Subdivision plan includes a test pit data table.</p>
41-220	Relationship of subdivision to community services	There is no open space lot provided, unlike with earlier sketch plan iterations, but the lots are substantially larger than the minimum lot size and the suggested house locations are at the front of the parcels, with the rear of the parcels shown as undeveloped.

PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **preliminary plan public hearing**

41-221	Traffic and streets	No comments currently, as the subdivision does not propose any new streets but rather 3 additional driveways onto River Rd. Applicant requests a waiver from these standards; a waiver may not be needed as many of these standards are inapplicable to the subdivision plan. One applicable aspect, safe access to and from River Rd., appears to be met given the driveway locations. The individual driveways onto River Rd. may be seen as going against 41-221(b)(4), which restricts or eliminates individual lot access onto collector or arterial roads; entertaining a waiver under 41-66 is recommended for this. Waiver still needed.
41-222	Public health and safety	Appears to be met.
41-223	Local/state/federal land use policies	Applicant requests waiver of review by external entities (e.g. DEP, USACE, York Soil/Water “on the basis of no development being proposed by the subdivision plan” but this is not needed as it is the subdivider’s sole responsibility to meet state and federal requirements.

Subdivision Design Standards

Section 41-255 – Lots

Subsection (a) states:

The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated and shall conform to the requirements of section 41-218(e).

The proposed lots are larger than the minimum lot size, addressing 41-218(e) (lots with private septic systems). The lots are narrow and deep, not unlike some other lots in the vicinity. It is possible that this configuration will promote more conserved land than other possible configurations.

Section 41-256 – Reservation of land

See previous memo and 2/20/24 waiver described above.

Wetlands and drainage

Wetlands continue to be an important review topic for this tract. They make up a large part of the three “new” resultant parcels, of which at least two will have driveways that will require wetland alteration.

Wetland delineation was done by the applicant’s soil scientist Michael Cuomo in 2022. Plan note 4 dates the wetland delineation as 11/7/22, and Mr. Cuomo’s delineation summary letter is dated 8/29/22.

The wetland on-site is not a protected wetland resource regulated by shoreland zoning (there is no shoreland zoning on the tract). Cuomo notes that this is because all wetland areas but one are forested

PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **preliminary plan public hearing**

(exempt from the Town’s Section 1-2 wetland definition), and the one that is not is “less than 10 acres in size, and is not connected to surface waters.” Cuomo notes that the wetland areas meet state-federal definitions and are state-federal regulated.

The ECC offered review comments (2/7/24 meeting with the applicant, comments emailed by ECC Chair 2/13/24 – in packet). In part, the ECC comments state:

A large wetland complex covers a significant portion of the 17 acre lot. This wetland is connected to the Piscataqua River via Stacy Creek and a small unnamed stream. The concept site layouts indicate that aside from the driveways, the building/septic envelopes will be located outside of wetland boundaries. However, there is no guarantee that a future lot owner will not disturb these wetlands either directly (fill, vegetation clearing) or indirectly. The ECC believes that subdividing this property for future development of each lot individually will likely result in incremental impacts to the functions and values of this large wetland system. We recommend that some provisions be included in the Planning Board’s approval to minimize and/or avoid future impacts to this large wetland complex that could result from future development of the individual lots.

The landowner indicated that they would be willing to include restrictions on future development in wetland areas on the back side of the lots if it was allowable. Could open space be dedicated in accordance with open space provisions outline in the zoning ordinance?

The comments then cited an excerpt from the Open Space Developments (OSD) standards (45-467) regarding land to remain undeveloped in an OSD. The applicant is not pursuing an OSD (they are optional outside of the critical rural overlay), but the citation illustrates the ECC’s overall concern related to preserving the on-site wetlands.

At the February 20, 2024, meeting, in summary, the applicant agreed to provide the following toward wetland protection and drainage:

1. Drainage plan [41-150(9) and 41-213]
2. Erosion and sedimentation control plan [41-150(10); 41-214; Ch. 34]
3. Adding a note on plan regarding protecting wetlands
4. Markers in the field showing wetland boundary when new lots are developed

Vernal pools

On July 31, 2023, DEP issued a determination (in packet) that the vernal pool identified on the tract to be subdivide is not significant, and therefore that “activities within 250 feet of the pool are not regulated under the Natural Resources Protection Act (NRPA) unless there are other protected natural resources nearby such as streams or freshwater wetlands”.

The applicant’s wetland/soil scientist Michael Cuomo completed the site assessment in April 2023 and filled out the standard state assessment form, showing one isolated ephemeral vernal pool resulting from an apparent dug pond or borrow pit. This vernal pool is an amphibian breeding area with wood frog eggs and tadpoles found during the assessment. The applicant (1/24/24 email from Wyatt Page) notes that:

PB23-07: 708 River Rd. (Map 50, Lot 29) – Residential Subdivision (4 lots) – **preliminary plan public hearing**

“the identified amphibian breeding area is located on the parcel containing the existing building and is nearly 450’ away from even the furthest edge of potential development on what would be the nearest new lot. We are well out of the 250’ radius.”

Vernal pools are not directly regulated by our land use regulations, but there is a potential indirect connection to 41-215(a) – preservation of natural resources and scenic beauty.

Other notes

- Property is not in a flood zone

Recommendation

To be provided at or before meeting subject to a review of the applicant’s updated plans and other information requested by the PB – not yet provided at the time of this staff report (March 6 COB).

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

March 7th, 2024
Project No. C368-22

**RE: Subdivision Plan Application for Site Plan Amendment
708 River Road Subdivision
708 River Road (Tax Map 50, Lot 29)**

Dear Mr. Brubaker:

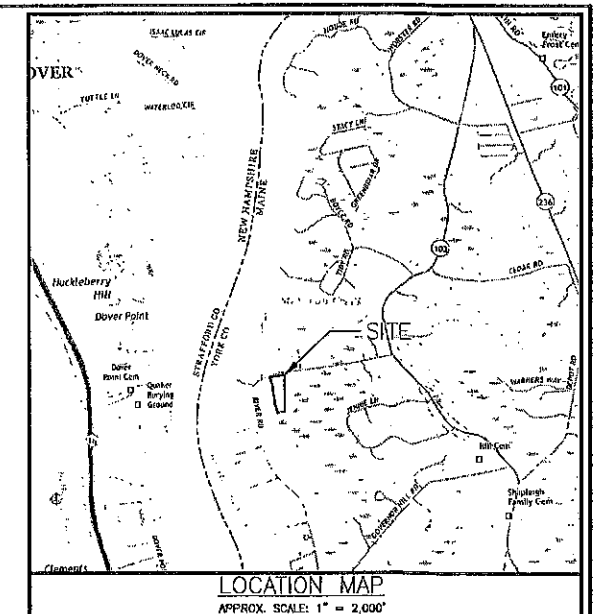
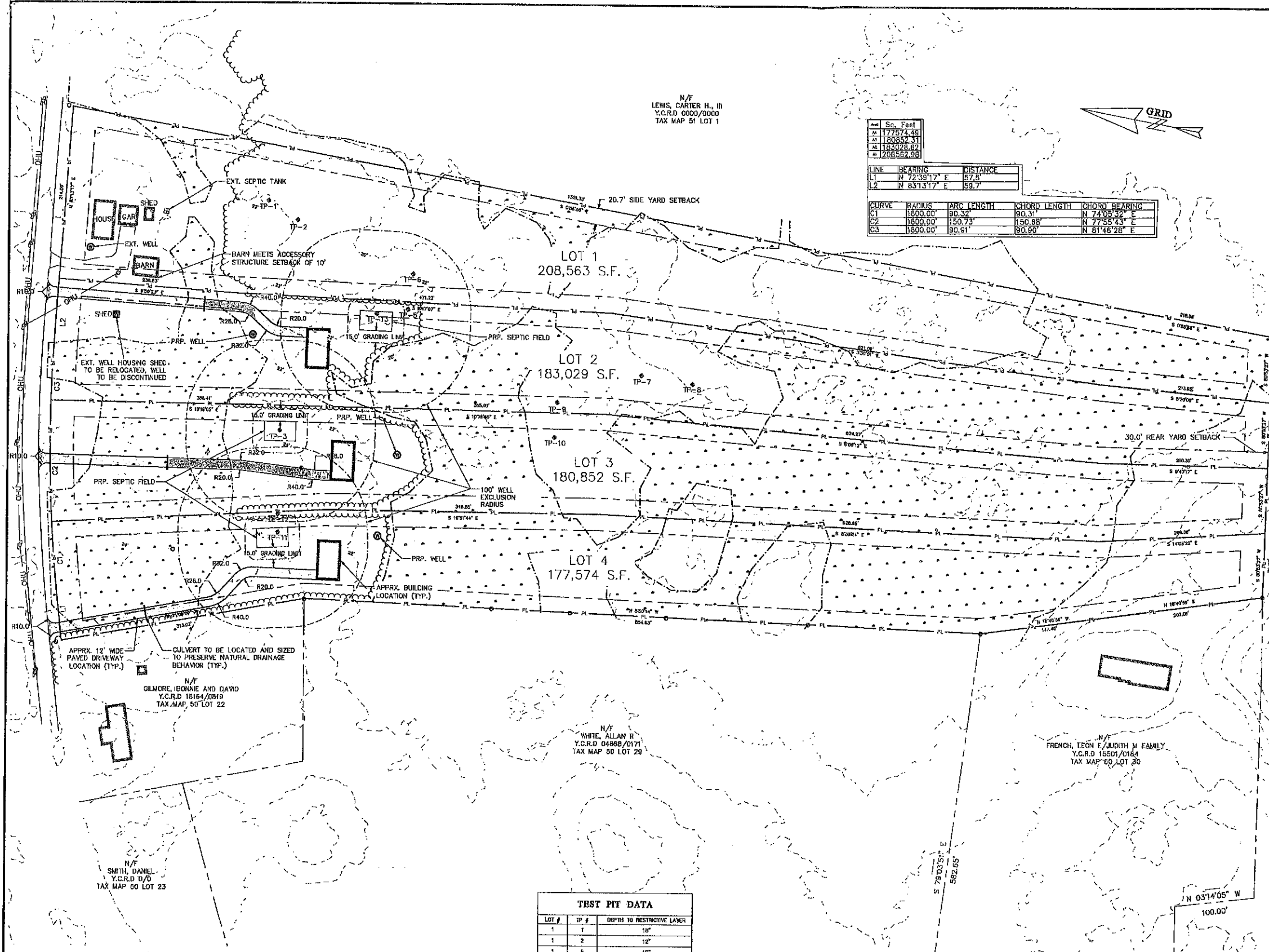
On behalf of the lot owner/applicants, Alan and Frances Newson, I have enclosed a Subdivision Plan with updated notes and supporting Erosion & Sedimentation control plan for your review and consideration.

The revised notes on the subdivision

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

Sincerely;

Wyatt R. Page, E.I.
Project Engineer



GENERAL NOTES

- THIS PLAN PROVIDES SKETCH PLAN DETAILS FOR THE SUBDIVISION OF TAX MAP 50 LOT 29 INTO 4 RESIDENTIAL LOTS. THE PORTION IDENTIFIED AS LOT 1 WOULD HOUSE THE EXISTING HOME AND ASSOCIATED BUILDINGS ASIDE FROM THE SHED LOCATED IN LOT 2. LOTS 2-4 ARE TO BE DEVELOPED INTO NEW RESIDENTIAL LOTS.
- THE SITE IS IDENTIFIED ON THE TOWN OF ELIOT TAX ASSESSOR'S MAP 50 AS LOT 29 IN THE SUBURBAN DISTRICT AND MEASURES APPROXIMATELY 17.1 ACRES.
- THE BEARINGS HEREON, ARE BASED ON GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83 AS DERIVED FROM GPS OBSERVATIONS.
- WETLAND DELINEATION AND TEST PITS BY MICHAEL CUOMO, MAINE CERTIFIED SOIL SCIENTIST #211, DATED 11/07/2022 AND LOCATED BY ATTAR ENGINEERING, AUGUST, 2022.
- DIMENSIONAL REQUIREMENTS
SUBURBAN DISTRICT AS PER 645-405
MINIMUM LOT SIZE 2 ACRES
FRONT YARD SETBACK 30 FEET
SIDE YARD SETBACK 20 FEET
REAR YARD SETBACK 30 FEET
MAXIMUM BUILDING HEIGHT 35 FEET
MAXIMUM LOT COVERAGE 15%
MINIMUM STREET FRONTAGE 150 FEET
- ATTAR ENGINEERING HAS NOT IDENTIFIED UTILITIES AS PART OF THIS SURVEY.
- THE SIDELINES OF RIVER ROAD, AS DEPICTED HEREON, ARE BASED ON A STATUTORY WIDTH OF 3 RODS (48.5') AND FOUND MONUMENTATION.

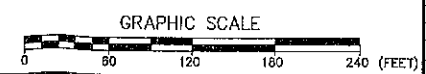
ATTAR ENGINEERING HAS NOT PERFORMED A RECORD RETRACEMENT SURVEY OF THE SIDELINES OF RIVER ROAD. THE OWNERS OF LAND ADJACENT TO SAID ROAD OR STREET MAY HAVE OWNERSHIP RIGHTS EXTENDING INTO THE ROADS OR STREET. THIS DOCUMENT DOES NOT INTEND TO LIMIT, DENY, OR LOCATE THESE RIGHTS AND DOES NOT NECESSARILY REFLECT THE EXTENT OF TITLE THAT PASSES BY IMPLICATION OR OPERATION OF LAW.
- ANY PROPOSED DEVELOPMENTS TO THE SUBDIVIDED LOTS SHALL MAINTAIN THE NATURAL STATE OF WATERCOURSES, SWALES, AND FLOODWAYS AS NEARLY AS POSSIBLE AND SHALL NOT CREATE UNDOE EROSION, DRAINAGE, OR RUNOFF PROBLEMS IN EITHER THE SUBDIVISION OR IN ADJACENT PROPERTIES. ANY NECESSARY CULVERTS, SWALES, AND DRAINAGE CONTROL MEASURES SHALL BE DESIGNED ACCORDINGLY.
- NO WETLANDS AS SHOWN ON THIS PLAN MAY BE FILLED OR DRAINED BY FUTURE OWNERS EXCEPTING AS NEEDED TO CONSTRUCT DRIVEWAYS AND ASSOCIATED DRAINAGE MEASURES NEEDED TO SERVICE THE SUBDIVIDED LOTS PROPOSED BY THIS PLAN. THIS RESTRICTION SHALL BE NOTED IN THE DEEDS FOR INDIVIDUAL LOTS.
- AT SUCH TIME THAT THE LOTS ARE TO BE DEVELOPED, WETLAND BOUNDARIES ARE TO BE MARKED.

TOWN OF ELIOT	
PLANNING BOARD	DATE

TEST PIT DATA

LOT #	TP #	DEPTH TO RESTRICTIVE LAYER
1	1	10"
1	2	12"
1	6	15"
2	5	24"
2	7	22"
2	8	11"
2	9	10"
2	13	20"
3	3	14"
3	4	10"
3	10	12"
4	11	12"
4	12	18"

MINIMUM REQUIRED DEPTH TO RESTRICTIVE LAYER IS 9". ALL TEST PITS HAVE SUFFICIENT CLEARANCE ACCORDING TO THE STATE OF MAINE SUBSURFACE WASTEWATER DISPOSAL RULES (10-144 CMR 241).



NO.	DESCRIPTION	DATE

TAX MAP 50, LOT 28

SUBDIVISION PLAN
708 RIVER ROAD
ELIOT, ME 03903

FOR:
ALAN NEWSON
705 RIVER ROAD
ELIOT, ME 03903

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE • SURVEYING
1284 STATE ROAD -- ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2126

SCALE: 1" = 60'
DATE: 03/07/2024
JOB NO: C308-22

APPROVED BY:

DRAWN BY: WRP
REVISION DATE: - - -
SHEET: 1

STATE OF MAINE
CHRISTEN B. WILBER
No. 2351
PROFESSIONAL LAND SURVEYOR

STATE OF MAINE - YORK COUNTY
REGISTRY OF DEEDS
RECEIVED _____ 20____
AT _____ M, AND RECORDED IN
PLAN BOOK _____ PAGE _____
ATTEST _____ REGISTER

EROSION & SEDIMENTATION CONTROL NOTES

1. SEDIMENT BARRIERS SHALL BE INSTALLED PARALLEL TO CONTOURS DOWNSLOPE OF ALL STRIPPING OR CONSTRUCTION OPERATIONS. PRIOR TO THE START OF CONSTRUCTION, A DOUBLE SILT FENCE BARRIER SHALL BE INSTALLED DOWNSLOPE OF ANY SOIL MATERIAL STOCKPILES (STORMWATER SHALL BE PREVENTED FROM DRAINING TOWARD STOCKPILES). SILT FENCES SHALL BE INSPECTED AFTER EACH RAIN EVENT AND DAILY DURING PROLONGED RAIN. SILT AND SOIL PARTICLES ACCUMULATING BEHIND THE FENCE SHALL BE REMOVED AFTER EACH SIGNIFICANT RAIN EVENT AND IN NO INSTANCE SHOULD ACCUMULATION EXCEED 1/2 THE HEIGHT OF THE FENCE. TORN OR DAMAGED AREAS SHALL BE REPAIRED.
2. TEMPORARY AND PERMANENT VEGETATION AND MULCHING IS AN INTEGRAL COMPONENT OF THE EROSION AND SEDIMENTATION CONTROL PLAN. ALL AREAS SHALL BE INSPECTED AND MAINTAINED UNTIL THE DESIRED VEGETATIVE COVER IS ESTABLISHED. THESE CONTROL MEASURES ARE ESSENTIAL TO EROSION PREVENTION AND ALSO REDUCE COSTLY REWORK OF GRADED AND SHAPED AREAS. THE MAXIMUM AREA THAT CAN BE EXPOSED, AND NOT TEMPORARILY OR PERMANENTLY STABILIZED, AT ONE TIME SHALL BE LIMITED TO 10 ACRES.
3. SEEDING, FERTILIZER AND LIME RATES AND TIME OF APPLICATION WILL BE DEPENDENT ON SOIL REQUIREMENTS. TEMPORARY VEGETATION SHALL BE MAINTAINED IN THESE AREAS UNTIL PERMANENT SEEDING IS APPLIED. ADDITIONALLY, EROSION AND SEDIMENTATION MEASURES SHALL BE MAINTAINED UNTIL PERMANENT VEGETATION IS ESTABLISHED.
4. ALL LAWN AREA, OUTER POND SIDE SLOPES AND SWALES SHALL BE PERMANENTLY SEEDED WITH THE FOLLOWING MIXTURE: 20 LB/ACRE CREEPING RED FESCUE, 2 LB/ACRE REDTOP AND 20 LB/ACRE TALL FESCUE FOR A TOTAL OF 42 LB/ACRE. FERTILIZER AND LIME RATES SHALL BE DEPENDENT ON SOIL TESTING. IN THE ABSENCE OF SOIL TESTS, FERTILIZE WITH 10-20-20 (N-P2O5-K2O) AT 800 LB/ACRE AND LIME AT 3 TONS/ACRE. MULCH WITH HAY AT 70-90 LB/1000 S.F. 4" OF LOAM SHALL BE APPLIED PRIOR TO SEEDING.
5. POND BOTTOMS AND INNER POND SIDESLOPES SHALL BE PERMANENTLY SEEDED WITH THE FOLLOWING MIXTURE: 20 LB/ACRE CREEPING RED FESCUE, 8 LB/ACRE BIRDSFOOT TREFLOID AND 20 LB/ACRE TALL FESCUE FOR A TOTAL OF 48 LB/ACRE. SEE THE ABOVE NOTE FOR FERTILIZER, LIME AND MULCHING RATES.
6. TEMPORARY VEGETATION OF ALL DISTURBED AREAS, MATERIAL STOCKPILES AND OTHER SUCH AREAS SHALL BE ESTABLISHED BY SEEDING WITH EITHER WINTER RYE AT A RATE OF 112 LB/ACRE OR ANNUAL RYEGRASS AT A RATE OF 40 LB/ACRE. WINTER RYE SHALL BE USED FOR FALL SEEDING AND ANNUAL RYEGRASS FOR SHORT DURATION SEEDING. SEEDING SHALL BE ACCOMPLISHED BEFORE OCTOBER 1. TEMPORARY STABILIZATION WITH MULCH OF DISTURBED AREAS SHALL TAKE PLACE WITHIN 7 DAYS OF THE CESSATION OF CONSTRUCTION ACTIVITIES IN AN AREA THAT WILL NOT BE WORKED FOR MORE THAN 7 DAYS. AREAS WITHIN 75 FEET OF A WETLAND OR WATERBODY SHALL BE TEMPORARILY STABILIZED WITH MULCH WITHIN 48 HOURS OF THE INITIAL DISTURBANCE OR PRIOR TO ANY STORM EVENT, WHICHEVER COMES FIRST.
7. TEMPORARY SEEDING OF DISTURBED AREAS SHALL BE ACCOMPLISHED BEFORE OCTOBER 1. PERMANENT SEEDING SHALL BE ACCOMPLISHED BEFORE SEPTEMBER 15.
8. ALL SEEDED AREAS SHALL BE MULCHED WITH HAY AT A RATE OF 2 BALES (70-90 LB) PER 1000 S.F. OF SEEDED AREA.
9. ALL DISTURBED AREAS ON THE SITE SHALL BE PERMANENTLY STABILIZED WITHIN 7 DAYS OF FINAL GRADING OR TEMPORARILY STABILIZED PER E&S NOTE 6. PERMANENT STABILIZATION MEANS 80% COVER WITH MATURE, HEALTHY PLANTS FOR PLANTED AREAS AND FOR SODDED AREAS, COMPLETE BINDING OF SOIL ROOTS INTO THE UNDERLYING SOIL WITH NO SLUMPING OF THE SOIL OR DIE-OFF.
10. A STABILIZED CONSTRUCTION ENTRANCE SHALL BE INSTALLED AT ALL ACCESSSES TO PUBLIC ROADS (SEE PLAN). TEMPORARY CULVERTS SHALL BE PROVIDED AS REQUIRED.
11. SLOPES BETWEEN 3H:1V AND 2H:1V SHALL BE TREATED WITH POLYJUTE OPEN WEAVE GEOTEXTILE (OR EQUIVALENT) AFTER SEEDING. JUTE MATS SHALL BE ANCHORED PER MANUFACTURER'S SPECIFICATIONS. SLOPES 2H:1V TO SLOPES AS STEEP AS 1.5H:1V SHALL BE TREATED WITH RIP RAP AS DEPICTED ON THE PLANS/DETAILS. SLOPES STEEPER THAN 1.5H:1V ARE PROHIBITED.
12. EXCESSIVE DUST CAUSED BY CONSTRUCTION OPERATIONS SHALL BE CONTROLLED BY APPLICATION OF WATER OR CALCIUM CHLORIDE.
13. THE CONTRACTOR MAY OPT TO USE EROSION CONTROL MIX BERM AS A SEDIMENT BARRIER IN LIEU OF SILTATION FENCE OR HAY BALE BARRIERS WITH APPROVAL FROM THE INSPECTING ENGINEER.
14. TEMPORARY E&S CONTROL MEASURES SHALL BE REMOVED WITHIN 30 DAYS OF PERMANENT STABILIZATION. ACCUMULATED SEDIMENTS SHALL BE REMOVED AND THE AREA STABILIZED.
15. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ADEQUATE HOUSEKEEPING PRACTICES DURING THE CONSTRUCTION OF THE PROJECT. THESE STANDARDS CAN BE FOUND IN THE FOLLOWING DOCUMENT: MDEP CHAPTER 500 (STORMWATER MANAGEMENT), APPENDIX C. HOUSEKEEPING. HOUSEKEEPING PRACTICES INCLUDE, BUT ARE NOT LIMITED TO, SPILL PREVENTION, GROUNDWATER PROTECTION, FUGITIVE SEDIMENT AND DUST, DEBRIS AND OTHER MATERIALS, EXCAVATION Dewatering, AUTHORIZED NON-STORMWATER DISCHARGES (SEE NOTE 18) AND UNAUTHORIZED NON-STORMWATER DISCHARGES (SEE NOTE 19). ANY SPILL OR RELEASE OF HAZARDOUS SUBSTANCES MUST BE REPORTED TO THE MDEP; FOR OIL SPILLS, CALL 1-800-482-0777; FOR SPILLS OF TOXIC OR HAZARDOUS MATERIAL, CALL 1-800-452-4664.
16. WHENEVER PRACTICABLE, NO DISTURBANCE ACTIVITIES SHOULD TAKE PLACE WITHIN 50 FEET OF ANY PROTECTED NATURAL RESOURCE. IF DISTURBANCE ACTIVITIES TAKE PLACE WITHIN 75' OF ANY PROTECTED NATURAL RESOURCE, AND STORMWATER DISCHARGES THROUGH THE DISTURBED AREAS TOWARD THE PROTECTED NATURAL RESOURCE, PERIMETER EROSION CONTROLS MUST BE DOUBLED, IF DISTURBANCE ACTIVITIES TAKE PLACE LESS THAN 30 FEET FROM ANY PROTECTED NATURAL RESOURCE, AND STORMWATER DISCHARGES THROUGH THE DISTURBED AREAS TOWARD THE PROTECTED NATURAL RESOURCE, PERIMETER EROSION CONTROLS MUST BE DOUBLED AND DISTURBED AREAS MUST BE TEMPORARILY OR PERMANENTLY STABILIZED WITHIN 7 DAYS.

EROSION & SED. CONTROL NOTES (CONT.)

1. AUTHORIZED NON-STORMWATER DISCHARGES. IDENTIFY AND PREVENT CONTAMINATION BY NONSTORMWATER DISCHARGES. WHERE ALLOWED NON-STORMWATER DISCHARGES EXIST, THEY MUST BE IDENTIFIED AND STEPS SHOULD BE TAKEN TO ENSURE THE IMPLEMENTATION OF APPROPRIATE POLLUTION PREVENTION MEASURES FOR THE NON-STORMWATER COMPONENT(S) OF THE DISCHARGE. AUTHORIZED NONSTORMWATER DISCHARGES ARE:
 - (A) DISCHARGES FROM FIREFIGHTING ACTIVITY;
 - (B) FIRE HYDRANT FLUSHINGS;
 - (C) VEHICLE WASHWATER (WHERE SPILLS/LEAKS OF TOXIC OR HAZARDOUS MATERIALS HAVE NOT OCCURRED, UNLESS ALL SPILLED MATERIAL HAD BEEN REMOVED) IF DETERGENTS ARE NOT USED;
 - (D) DUST CONTROL RUNOFF IN ACCORDANCE WITH PERMIT CONDITIONS AND APPENDIX (C)(3);
 - (E) ROUTINE EXTERNAL BUILDING WASHDOWN, NOT INCLUDING SURFACE PAINT REMOVAL, THAT DOES NOT INVOLVE DETERGENTS;
 - (F) PAVEMENT WASHWATER (WHERE SPILLS/LEAKS OF TOXIC OR HAZARDOUS MATERIALS HAVE NOT OCCURRED, UNLESS ALL SPILLED MATERIAL HAD BEEN REMOVED) IF DETERGENTS ARE NOT USED;
 - (G) UNCONTAMINATED AIR CONDITIONING OR COMPRESSOR CONDENSATE;
 - (H) UNCONTAMINATED GROUNDWATER OR SPRING WATER;
 - (I) FOUNDATION OR FOOTER DRAIN-WATER WHERE FLOWS ARE NOT CONTAMINATED;
 - (J) UNCONTAMINATED EXCAVATION Dewatering (SEE REQUIREMENTS IN APPENDIX C(5));
 - (K) POTABLE WATER SOURCES INCLUDING WATERLINE FLUSHINGS;
 - (L) LANDSCAPE IRRIGATION.
2. UNAUTHORIZED NON-STORMWATER DISCHARGES. THE DEPARTMENT'S APPROVAL UNDER THIS CHAPTER DOES NOT AUTHORIZE A DISCHARGE THAT IS MIXED WITH A SOURCE OF NONSTORMWATER, OTHER THAN THOSE DISCHARGES IN COMPLIANCE WITH APPENDIX C(6). SPECIFICALLY, THE DEPARTMENT'S APPROVAL DOES NOT AUTHORIZE DISCHARGES OF THE FOLLOWING:
 - (A) WASTEWATER FROM THE WASH-OUT OR CLEAN-OUT OF CONCRETE, STUCCO, PAINT, FORM RELEASE OILS, CURING COMPOUNDS OR OTHER CONSTRUCTION MATERIALS;
 - (B) FUELS, OILS OR OTHER POLLUTANTS USED IN VEHICLE AND EQUIPMENT OPERATION AND MAINTENANCE;
 - (C) SOLVENTS, OR DETERGENTS USED IN VEHICLE AND EQUIPMENT WASHING; AND
 - (D) TOXIC OR HAZARDOUS SUBSTANCES FROM A SPILL OR OTHER RELEASE.

E&S INSPECTION/MAINTENANCE DURING CONSTRUCTION

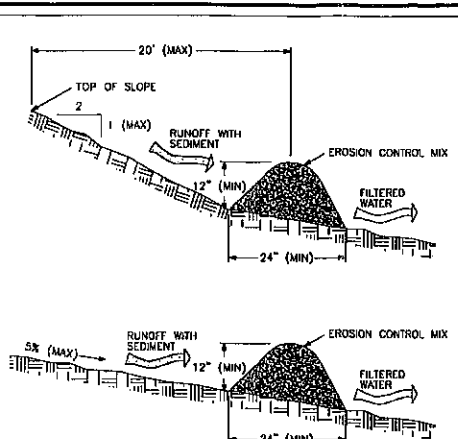
- THE SITE CONTRACTOR SHALL BE RESPONSIBLE FOR THE FOLLOWING:
- INSPECTION AND CORRECTIVE ACTION:** INSPECT DISTURBED AND IMPERVIOUS AREAS, EROSION CONTROL MEASURES, MATERIALS STORAGE AREAS THAT ARE EXPOSED TO PRECIPITATION, AND LOCATIONS WHERE VEHICLES ENTER OR EXIT THE SITE. INSPECT THESE AREAS AT LEAST ONCE A WEEK AS WELL AS BEFORE AND WITHIN 24 HOURS AFTER A STORM EVENT OF MORE THAN 0.5" IN A CONSECUTIVE 24 HOUR PERIOD, AND PRIOR TO COMPLETING PERMANENT STABILIZATION MEASURES. A PERSON WITH KNOWLEDGE OF EROSION AND STORMWATER CONTROL, INCLUDING THE STANDARDS AND CONDITIONS IN THE PERMIT, SHALL CONDUCT THE INSPECTIONS.
 - MAINTENANCE:** IF BEST MANAGEMENT PRACTICES (BMPs) NEED TO BE REPAIRED, THE REPAIR WORK SHOULD BE INITIATED UPON DISCOVERY OF THE PROBLEM BUT NO LATER THAN THE END OF THE NEXT WORKDAY. IF ADDITIONAL BMPs OR SIGNIFICANT REPAIR OF BMPs ARE NECESSARY, IMPLEMENTATION MUST BE COMPLETED WITHIN 7 CALENDAR DAYS AND PRIOR TO ANY STORM EVENT (RAINFALL). ALL MEASURES MUST BE MAINTAINED IN EFFECTIVE OPERATING CONDITION UNTIL AREAS ARE PERMANENTLY STABILIZED.
 - DOCUMENTATION:** KEEP A LOG (REPORT) SUMMARIZING THE INSPECTIONS AND ANY CORRECTIVE ACTION TAKEN. THE LOG MUST INCLUDE THE NAME(S) AND QUALIFICATIONS OF THE PERSON MAKING THE INSPECTIONS, THE DATE(S) OF THE INSPECTIONS, AND MAJOR OBSERVATIONS ABOUT THE OPERATION AND MAINTENANCE OF EROSION AND SEDIMENTATION CONTROLS, MATERIALS STORAGE AREAS, AND VEHICLES ACCESS POINTS TO THE PARCEL. MAJOR OBSERVATIONS MUST INCLUDE BMPs THAT NEED MAINTENANCE, BMPs THAT FAILED TO OPERATE AS DESIGNED OR PROVED INADEQUATE FOR A PARTICULAR LOCATION, AND LOCATION(S) WHERE ADDITIONAL BMPs ARE NEEDED, FOR EACH BMP REQUIRING MAINTENANCE, BMP REPAIR/REPLACEMENT, AND LOCATION NEEDING ADDITIONAL BMPs. NOTE IN THE LOG THE CORRECTIVE ACTION TAKEN AND WHEN IT WAS TAKEN. THE LOG MUST BE MADE ACCESSIBLE TO DEPARTMENT STAFF AND A COPY MUST BE PROVIDED UPON REQUEST. THE PERMITTEE SHALL RETAIN A COPY OF THE LOG FOR A PERIOD OF AT LEAST THREE YEARS FROM THE COMPLETION OF PERMANENT STABILIZATION.

PAVEMENT SECTION CONSTRUCTION NOTES

1. DRIVEWAYS AND PARKING AREAS TO BE CONSTRUCTED IN ACCORDANCE WITH THE APPROPRIATE CROSS SECTION DETAIL. GRAVEL FILL TO BE COMPACTED TO 95% MODIFIED PROCTOR IN ACCORDANCE WITH ASTM D 1557. LIFT THICKNESSES TO BE A MAXIMUM OF 6".
2. ALL STUMPS, ORGANIC MATERIAL, ROCKS AND BOULDERS TO BE REMOVED TO A MINIMUM DEPTH OF 24" BELOW SUBBASE.
3. ALL STUMPS, LEDGE AND LARGE BOULDERS TO BE REMOVED FROM THE CONSTRUCTION AREA. THE CONSTRUCTION AREA SHALL BE CLEARED AND ROUGH GRADED.
4. ALL CULVERTS TO BE ADS N-12 (HDPE) OR APPROVED EQUAL. CULVERT INLETS AND OUTLETS TO BE PROTECTED IN ACCORDANCE WITH THE CULVERT INLET/OUTLET PROTECTION DETAIL.
5. THE CONTRACTOR MUST CONTACT DIG SAFE AND ALL LOCAL UTILITIES PRIOR TO THE START OF CONSTRUCTION TO VERIFY THE LOCATION OF EXISTING SUBSURFACE UTILITIES AND CONDITIONS. LOCATING AND PROTECTING ANY UNDERGROUND OR ABOVE GROUND UTILITY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
6. THE CONTRACTOR MUST KEEP ROADWAY TRANSITIONS FROM NEW TO EXISTING PAVEMENT CLEAN TO ENSURE NO SEDIMENT OR DEBRIS LEAVES THE SITE.

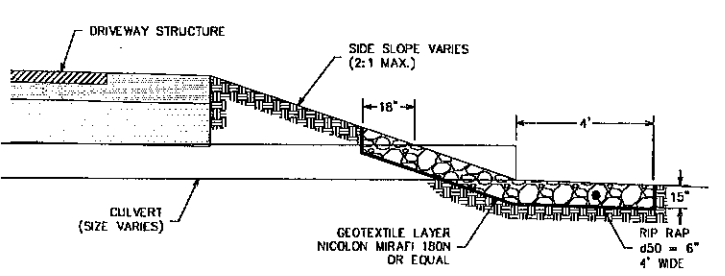
WINTER CONSTRUCTION NOTES

1. AN AREA SHALL BE CONSIDERED STABILIZED WHEN EXPOSED SURFACES HAVE BEEN EITHER MULCHED WITH HAY AT A RATE OF 100 LB/1000 S.F. OR DORMANT SEEDED, MULCHED AND ADEQUATELY ANCHORED BY AN APPROVED ANCHORING TECHNIQUE. IN ALL CASES, MULCH SHALL BE APPLIED SO THAT THE SOIL SURFACE IS NOT VISIBLE THROUGH THE MULCH.
2. FROM OCTOBER 15 TO APRIL 1, LOAM AND SEED WILL NOT BE REQUIRED. DURING PERIODS OF TEMPERATURES ABOVE FREEZING, DISTURBED AREAS SHALL BE FINE GRADED AND PROTECTED WITH MULCH OR TEMPORARILY SEEDED AND MULCHED UNTIL PERMANENT SEEDING CAN BE APPLIED. AFTER NOVEMBER 1, DISTURBED AREAS MAY BE LOAMED, FINE GRADED AND DORMANT SEEDED AT A RATE 200-300% HIGHER THAN THE SPECIFIED PERMANENT SEEDING RATE. IF CONSTRUCTION CONTINUES DURING FREEZING WEATHER, DISTURBED AREAS SHALL BE GRADED BEFORE FREEZING AND TEMPORARILY STABILIZED WITH MULCH. DISTURBED AREAS SHALL NOT BE LEFT OVER THE WINTER OR FOR ANY OTHER EXTENDED PERIOD OF TIME UNLESS STABILIZED WITH MULCH.
3. FROM NOVEMBER 1 TO APRIL 15 ALL MULCH SHALL BE ANCHORED BY EITHER PEG LINE, MULCH NETTING, TRACKING OR WOOD CELLULOSE FIBER. MULCH NETTING SHALL BE USED TO ANCHOR MULCH IN ALL DRAINAGE WAYS WITH SLOPES GREATER THAN 3%, SLOPES EXPOSED TO DIRECT WINDS AND FOR SLOPES GREATER THAN 8%. MULCH NETTING SHALL BE USED TO ANCHOR MULCH IN ALL AREAS WITH SLOPES GREATER THAN 15%. AFTER OCTOBER 1, THE SAME APPLIES TO ALL SLOPES GREATER THAN 8%.
4. SNOW SHALL BE REMOVED FROM AREAS OF SEEDING AND MULCHING PRIOR TO PLACEMENT.
5. FOR WINTER STABILIZATION, HAY MULCH SHALL BE APPLIED AT TWICE THE STANDARD TEMPORARY STABILIZATION RATE. AT THE END OF EACH CONSTRUCTION DAY, AREAS THAT HAVE BEEN BROUGHT TO FINAL GRADE SHALL BE STABILIZED. MULCH SHALL NOT BE SPREAD ON TOP OF SNOW.
6. ALL AREAS WITHIN 75 FEET OF A PROTECTED NATURAL RESOURCE SHALL BE PROTECTED WITH A DOUBLE ROW OF SEDIMENT BARRIERS.
7. ALL VEGETATED DITCH LINES THAT HAVE NOT BEEN STABILIZED BY NOVEMBER 1, OR WILL BE WORKED DURING THE WINTER CONSTRUCTION PERIOD, SHALL BE STABILIZED WITH AN APPROPRIATE STONE LINING BACKED BY AN APPROPRIATE GRAVEL BED OR GEOTEXTILE UNLESS SPECIFICALLY RELEASED FROM THIS STANDARD BY THE MDEP.
8. MULCH NETTING SHALL BE USED TO ANCHOR MULCH ON ALL SLOPES GREATER THAN 8% UNLESS EROSION CONTROL BLANKETS OR EROSION CONTROL MIX IS BEING USED ON SUCH SLOPES.

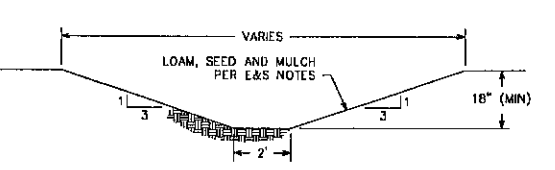


- EROSION CONTROL MIX COMPOSITION STANDARDS:**
- THE ORGANIC MATTER CONTENT SHALL BE BETWEEN 80 AND 100%, DRY WEIGHT BASIS.
 - PARTICLE SIZE BY WEIGHT SHALL BE 100% PASSING A #20 SCREEN AND A MINIMUM OF 70% MAXIMUM OF 60% PASSING A #40 SCREEN.
 - THE ORGANIC PORTION NEEDS TO BE FIBROUS AND ELONGATED.
 - LARGE PORTIONS OF SILTS, CLAYS OR FINE SANDS ARE NOT ACCEPTABLE IN THE MIX.
 - SOLUBLE SALTS CONTENT SHALL BE <4.0 mmhos/cm
 - THE PH SHOULD FALL BETWEEN 5.0 AND 8.0

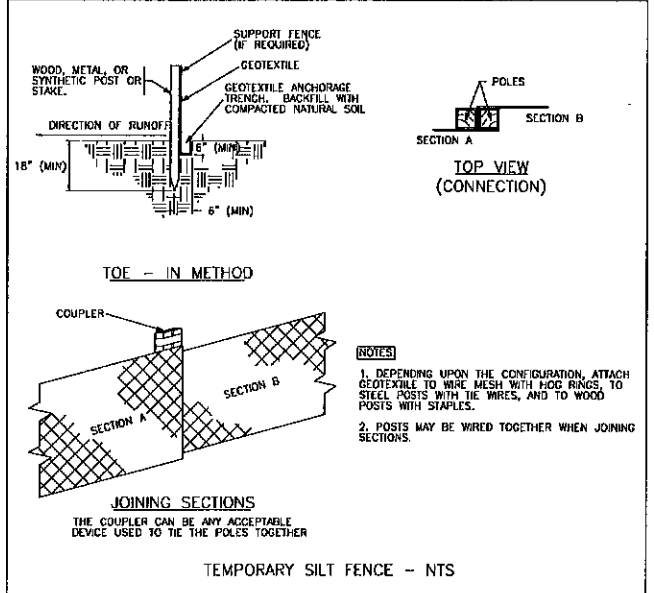
EROSION CONTROL MIX BERM (NTS)



CULVERT INLET/OUTLET PROTECTION DETAIL (NTS)

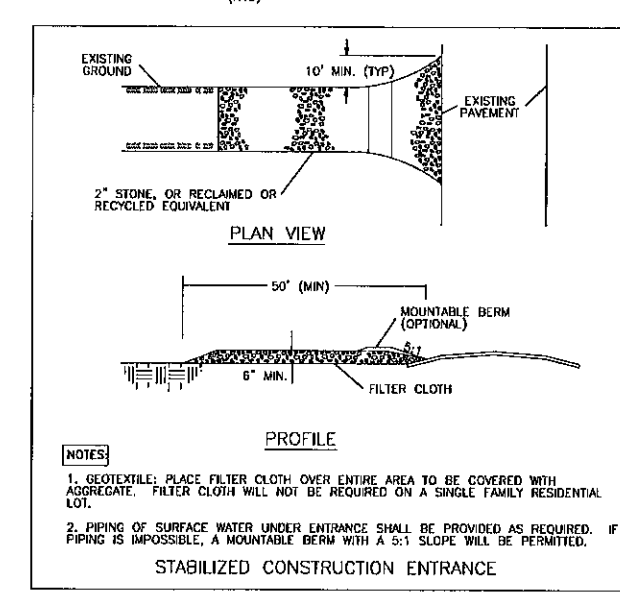


VEGETATED SWALE DETAIL (NTS)



- NOTES:**
1. DEPENDING UPON THE CONFIGURATION, ATTACH GEOTEXTILE TO WIRE MESH WITH HOG RINGS, TO STEEL POSTS WITH THE WIRES, AND TO WOOD POSTS WITH STAPLES.
 2. POSTS MAY BE WIRED TOGETHER WHEN JOINING SECTIONS.

TEMPORARY SILT FENCE - NTS



- NOTES:**
1. GEOTEXTILE: PLACE FILTER CLOTH OVER ENTIRE AREA TO BE COVERED WITH AGGREGATE. FILTER CLOTH WILL NOT BE REQUIRED ON A SINGLE FAMILY RESIDENTIAL LOT.
 2. PIPING OF SURFACE WATER UNDER ENTRANCE SHALL BE PROVIDED AS REQUIRED. IF PIPING IS IMPOSSIBLE, A MOUNTABLE BERM WITH A 5:1 SLOPE WILL BE PERMITTED.

STABILIZED CONSTRUCTION ENTRANCE (NTS)

EROSION & SEDIMENTATION CONTROL PLAN
708 RIVER ROAD
ELIOT, ME 03903

FOR: ALAN NEWSON
705 RIVER ROAD
ELIOT, ME 03903

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

SCALE: AS NOTED DATE: 03/07/2024
APPROVED BY: [Signature] DRAWN BY: WRP
REVISION: DATE: - - - SHEET: 1

STATE OF MAINE
KENNETH A. WOOD
No. 5692
LICENSED PROFESSIONAL ENGINEER
[Signature]

NO.	DESCRIPTION	DATE

JOB NO: C368-22 FILE: River Road 708 DET

TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903



PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Town Hall (1333 State Rd.) with Remote Option
DATE OF HEARING: March 12, 2024
TIME: 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, March 12, 2024 at 6:00 PM for the following application:

- **708 River Rd.** (Map 50, Lot 29), PID# 050-029-000, PB23-07: Preliminary Plan for Residential Subdivision (4 lots)
 - **Applicant:** Alan and Frances Newson
 - **Property Owner:** Alan and Frances Newson

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.

LEGAL NOTICES

Town of York, Maine
**NOTICE OF PUBLIC HEARING
 PLANNING BOARD / SELECTBOARD**



DATE: Monday, March 11, 2024 at 6:00 PM

PLACE: York Public Library, 15 Long Sands Road, York

The York Planning Board and Selectboard will conduct a joint public hearing regarding a proposed ordinance amendment as follows:

• **Floodplain Management Ordinance**

Printed copies of the proposed amendment (draft document dated December 21, 2023) are available with the Town Clerk at the Town Hall, and digital copies are available on the Town's website: www.yorkmaine.org.

Town of Kittery: Notice of Public Hearing

Changes to the Federal Emergency Management Agency (FEMA) Base Flood Elevation (BFE) and Special Flood Hazard Area (SFHA) Boundaries for the Atlantic Ocean within the Town of Kittery, Maine.

The Town of Kittery hereby gives notice of its intent to revise the Base Flood Elevation (BFE) and Special Flood Hazard Area (SFHA) boundaries affecting certain coastal areas in the Town of Kittery. Specifically, the flood hazard information shall be revised along the coastal areas of the Atlantic Ocean in the Town of Kittery.

In order to create scientifically and technically accurate flood maps for the community, the Town commissioned a new coastal flood hazard analysis and submitted to FEMA a Letter of Map Revision application based on the new analysis. The new coastal flood hazard analysis encompasses the coastal areas of the Town of Kittery as shown on Flood Insurance Rate Map (FIRM) Panels No. 23031C0728G, 23031C0729G, 23031C0731G, and 23031C0733G. As a result of the revision, the BFE and SFHA boundaries will be corrected to be more scientifically and technically accurate. The 1% annual chance water-surface elevations shall increase and decrease, and the 1% annual chance floodplain shall widen and narrow within the area of revision.

Maps and the detailed analysis of the revision can be reviewed at the Kittery Town Hall at 200 Rogers Road, Kittery, ME 03904. If you have any questions about the revision or its effect on your property, please contact Kathy Connor, Project Planner, at (207) 475-1325 or KConnor@kitteryme.org.



... *AWARD from page 17*

post-secondary, honors, and college-level classes. She is a two-sport athlete participating

in soccer and lacrosse. Sophia is involved in Girl Talk, a club for mentoring younger female students, and is an intern in the athletic department.

Notine will be attending Endicott College and plans to double major in business management and political science. She will also compete on the lacrosse team.

She, along with the recipients from every high school in Maine, will be honored at the Maine Principals' Association banquet on April 6. Each recipient is eligible for one of several \$1,000 scholarships.

LEGAL NOTICES

Town of Eliot
PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
 PLACE: Town Hall, 1333 State Rd., with Remote Option
 DATE OF HEARING: March 12, 2024
 TIME: 6:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, March 12, 2024 at 6:00 PM for the following application:

708 River Rd. (Map 50, Lot 29), PID# 050-029-000, PB23-07: Preliminary Plan for Residential Subdivision (4 lots). Applicant: Alan and Frances Newson. Property Owner: Alan and Frances Newson.

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



Town of Kittery: Notice of Public Hearing

Pursuant to §16.4 Land Use Regulations and §16.7 General Development Requirements of the Town of Kittery Land Use and Development Code, the Kittery Planning Board shall hold a public hearing on March 14, 2024 at 6 PM in Council Chambers, 200 Rogers Road, Kittery, ME. Geoff Aleva, on behalf of owner/applicant 90 US Route 1 LLC, requests approval to develop a hotel with 62 rooms and associated parking and utilities on the property of 90 US Route 1, Tax Map 14, Lot 2, in the Bypass-Old Post Road Commercial (C-3) Zone.

A copy of the proposed application is on file with the Planning Department and may be viewed at Town Hall during normal business hours, at www.kitteryme.gov, or by emailing mzakian@kitteryme.org. All interested persons are invited to attend the public hearing in person or remotely, and will be given an opportunity to be heard at the hearing or submit public comments via email to mzakian@kitteryme.org in advance of the meeting or during the public hearing.

Town of Eliot
PUBLIC HEARING NOTICE

AUTHORITY: ELIOT SELECT BOARD
 PLACE: ELIOT TOWN OFFICE, 1333 State Rd.
 DATE OF HEARING: THURSDAY, March 14, 2024
 TIME: 5:30PM

Notice is hereby given that the Select Board of the Town of Eliot, Maine will hold a public hearing on Thursday, March 14, 2024 at 5:30PM in said Town to hear public comment on the following:

CATLAB LLC 19 Levesque Drive Eliot Maine, Renewal Cannabis Testing License. (MTF36B)

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 (www.eliotme.org) 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.

**NOTICE OF PUBLIC HEARING
 March 11, 2024, 7:15 PM**

Richard Gagnon Auditorium, Town Office Building
 SOUTH BERWICK, MAINE

**TO RECEIVE COMMENTS CONCERNING SOUTH BERWICK
 SEWER DISTRICT RATE CHANGES EFFECTIVE MAY 1, 2024.**

Sewer District trustees ask that you please review the enclosed information which describes the proposed user charge rates commencing in May of 2024, which they have approved for presentation at the Public Hearing.

You may attend the hearing to present comments and information.

You may also submit information in writing to Trustees, South Berwick Sewer District, 293C Main Street, P.O. Box 320, South Berwick, ME 03908.

Information received prior to that date and at the Public Hearing will be placed on the record.

By Paul Hussey, Clerk, Board of Trustees, South Berwick Sewer District

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LEGAL NOTICES

NOTICE OF PUBLIC HEARING

TOWN OF KITTERY
 BOARD OF APPEALS

In-Person, Council Chambers
 Tuesday, March 12, 2024
 6:30 p.m.

Arthur Dumas, on behalf of abutters Charles Taylor and Karen Benoit, requests an Administrative Appeal of the issuance of a building permit for 17 Page Street located in the Residential - Urban Zone per Code Section 16.1.8.

The Weekly Sentinel
 (877) 646-8448
www.TheWeeklySentinel.com

~ Real Estate ~

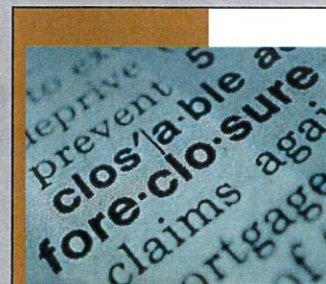
ABOVE &
 BEYOND



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CENTURY 21

Barbara Patterson
 207.384.4008
 96 Portland St, South Berwick, ME 03908
Info@Century21BarbaraPatterson.com
www.Century21BarbaraPatterson.com



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717 RIVER RD LLC
158 SHATTUCK WAY
NEWINGTON, NH 03801

FRENCH, LEON E/JUDITH M F
LEON E/JUDITH M FRENCH TR
632 RIVER RD
ELIOT, ME 03903

MONAGHAN, TRICIA P.
MONAGHAN, JOHN, III
8 SIENA WAY
ELIOT, ME 03903

AMAROSA, JON RICHARD J
AMAROSA, EMILY
604 RIVER RD
ELIOT, ME 03903

GILMORE, BONNIE
GILMORE, DAVID
682 RIVER RD
ELIOT, ME 03903

NEWSON, ALAN P
NEWSON, FRANCES L
705 RIVER RD
ELIOT, ME 03903

AMAROSA, JON-RICHARD J
AMAROSA, EMILY J
604 RIVER RD
ELIOT, ME 03903

GOODWIN, WARREN K
709 RIVER RD
ELIOT, ME 03903

SHAPLEIGH, PATRICIA W
SHAPLEIGH, WILLIAM E & SH
23 CLAY COVE DR
ELIOT, ME 03903

BERMAN, MARK A
667 RIVER RD
ELIOT, ME 03903

HAMMOND, PAMELA JOAN
28 SIENA WAY
ELIOT, ME 03903-0152

SHAPLEIGH, PATRICIA W
SHAPLEIGH, WILLIAM E JR
23 CLAY COVE DR
,

CARROLL, PATRICK J JR.
23 RIVERVIEW DR
,

HARMAN, TERRIE
6 OAK STREET
EXETER, NH 03833

SMITH, DANIEL
673 RIVER RD
ELIOT, ME 03903

CARSON-FERNANDES, GAIL P
644 RIVER RD
ELIOT, ME 03903

JOLIE, THOMAS M
JOLIE, ALLISON L
PO BOX 581
ELIOT, ME 03903

SMITH, MARY A
673 RIVER RD
ELIOT, ME 03903

COLE FAMILY 2020 TRUST
LEON A COLE, TTEE
638 RIVER ROAD
ELIOT, ME 03903

KSYPKA, HELEN
PO BOX 422
ELIOT, ME 03903-0422

TICKNOR, COLE
TICKNOR, SARA
596 RIVER RD
ELIOT, ME 03903

COLLINS, PATRICK R JR
COLLINS, EVA M
616 RIVER RD
ELIOT, ME 03903

LEWIS, CARTER H., III
105 WILLOWBROOK AVE
STRATHAM, NH 03885

TROIANO, JUSTIN M
18 RIVERVIEW DR
ELIOT, ME 03903

DERBY, PETER B
DERBY, ELIZABETH H
685 RIVER RD
ELIOT, ME 03903

LILLIS, BART
33 BRANNEN LN
ELIOT, ME 03903

TROIANO, MARK
TROIANO, JUDITH
21 RIVERVIEW DR
ELIOT, ME 03903

FORTUNATO, FRANK JR
FORTUNATO, JANICE G
26 RIVERVIEW DRIVE
ELIOT, ME 03903

LONGSTAFF, JAMES E
LONGSTAFF, BARBARA G
651 RIVER RD
ELIOT, ME 03903

ZANNINI, ROBERT & JAYNE R
ROBERT J & JAYNE E ZANNIN
1317 WESTRIDGE RD
GREENSBORO, NC 27410

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Floodplain Management Ordinance

Long title

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

Ballot question – Annual Town Meeting & Referendum Election, June 4, 2024

ARTICLE #__ : “Shall an ordinance entitled ‘Floodplain Management Ordinance’ be enacted?”

(A copy of this ordinance is available in the Town Clerk’s Office)

Background and rationale

These ordinance amendments repeal the current text in Chapter 25 – Floodplain Management Ordinance – and replace it with new text. The new Floodplain Management Ordinance must be adopted by July 17, 2024, otherwise the Town will be immediately suspended from the National Flood Insurance Program (NFIP). Except for certain minor changes, the text of the new Floodplain Management Ordinance must match a model ordinance provided by the State NFIP Coordinator.

A floodplain contains land area susceptible to being inundated by water from any source, such as land next to rivers, streams, lakes, and the ocean. The Federal Emergency Management Agency (FEMA) maintains maps of floodplains in the U.S. FEMA has defined different zones to classify various degrees of flood risk. Some of these flood zones are designated as special flood hazard areas (SFHAs) – areas within the floodplain having a one percent or greater chance of flooding in any given year.

SFHAs are shown on flood insurance rate maps (FIRMs, or DFIRMs to refer to digital versions of the maps). These maps are the official maps published and maintained by FEMA as part of the NFIP. FEMA has recently produced new DFIRMs with an effective date of July 17, 2024. The new Floodplain Management Ordinance must reference these new maps.

Flood risk is not covered by most home insurance policies. The NFIP, administered by FEMA, offers flood insurance to property owners, renters, and businesses in SFHAs in communities that participate in the NFIP. Therefore, if Eliot is suspended from the NFIP, property owners, renters, and businesses with existing NFIP flood insurance cannot renew their policies, and nobody would be able to sign up for a new NFIP policy. If someone wants to take out a government-backed mortgage for a home or business in a high-risk flood area, they are required to have flood insurance, suggesting that they might not be able to get that type of mortgage if Eliot is suspended from the NFIP. Enactment of the new Floodplain Management Ordinance would keep Eliot in the

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

NFIP without any lapses. The updated ordinance fulfills an obligation of NFIP communities to maintain sound floodplain management practices and regulations, which, in summary, restrict how buildings, infrastructure, and other development can be located, designed, and built within SFHAs.

These amendments update the definitions in Section 1-2 to reflect the model ordinance. Some definitions do not need to be changed, and some need only editorial or modest updates. Definitions in the model ordinance but not currently in Section 1-2 would be added.

Section 25-1 establishes the purpose of the chapter and cites its legal authority. It adopts by reference the updated DFIRMs. Section 25-2 requires a flood hazard development permit from the Code Enforcement Officer (CEO) for any development within an SFHA. Section 25-3 specifies what needs to be included in the flood hazard development permit application. Section 25-4 gives the Select Board the authority to establish a permit application fee and gives the CEO, Planning Board, or Board of Appeals authority to hire expert assistance for their reviews under the ordinance. Section 25-5 establishes the standards the CEO must follow in reviewing permit applications.

Section 25-6 lists the development standards – how buildings, infrastructure, and other development in SFHAs shall be located, designed, and built. There are different standards for different types of development, including residential and non-residential buildings, utilities, water and wastewater systems, recreational vehicles, accessory structures, walls, piers, and other improvements. A common type of standard in this section is to elevate the lowest floor a certain height above the base flood elevation. The base flood is a flood that has a 1% chance of being equaled or exceeded in any given year (it is also commonly called the 100-year flood). Other types of standards relate to floodproofing buildings to a certain height above the base flood elevation, and ensuring that parts of a building are not susceptible to breaking off and getting carried away by a flood. Some standards differentiate between flood zones A and AE. Flood zone A is for inland waterways; FEMA does not provide a base flood elevation for this zone so it must be derived from other sources. Flood zone AE is for the Piscataqua River and for the tidal portions of creeks; FEMA provides base flood elevations for this zone.

Section 25-7 requires a Certificate of Compliance from the CEO before any occupation of land or structures in an SFHA. Section 25-8 provides standards of review for the Planning Board, including a required condition of approval for developments on land with SFHAs. Section 25-9 provides for appeals of decisions, and variances from the standards, to be reviewed by the Board of Appeals. Section 25-10 delegates to the CEO enforcement authority for the chapter and authorizes penalties to be levied for any violation. The remaining sections pertain to severability, conflict with other laws, and abrogation.

Copies of the model ordinance and other materials provided to the Town of Eliot by the State NFIP Coordinator can be provided by the Planning office on request, and these materials may be posted in Town Hall, on the Town website, or both.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

New text underlined in bold

~~Deleted text in strikethrough~~

[Text in brackets, bold, and italics introduces a large block of new text:]

[Text in brackets and italics is a temporary explanatory note]

[Revision annotations at the end of sections may be omitted – to be updated accordingly by Municode during codification]

Sec. 1-2. - Definitions and rules of construction.

[abridged to only show changes]

[Current text in code: “100-year flood. See ‘base flood.’” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

Accessory structure (for floodplain purposes) means a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

[...]

[Current text in code: “Adjacent grade means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

Agricultural structure means a structure that is used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

connection with these purposes or uses are also considered to have agricultural purposes or uses.

[^editorial change to use singular instead of plural]

[...]

Area of special flood hazard means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in ~~article I~~ **Section 25-1. of chapter 25.**

[^only editorial changes for capitalization. Existing text substantially matches Model Ordinance.]

[...]

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

Basement (for floodplain purposes) means any area of the building having its floor subgrade (below ground level) on all sides.

[...]

[Building - see Structure.]

[...]

[Current text in code: “Certificate of compliance means a document signed by the code enforcement officer stating that a structure is in compliance with all of the provisions of this chapter.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

[Current text in code: “Code enforcement officer means a person certified under 30-A M.R.S.A., Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

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

[...]

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures; **including the construction of additions or substantial improvements to buildings or other structures**; mining, dredging, filling, grading, paving, excavation, ~~or~~ drilling operations, **or storage of equipment; or the storage, deposition, or extraction of equipment or materials.** Within chapter 44, Shoreland Zoning, “development” means a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

[^editorial changes for clarification, some minor differences with Model Ordinance. Seeking DACF concurrence.]

[...]

Elevated building means a non-basement building **that is:**

- (1) Built, in the case of a building in ~~zones AE and A~~ **Zones A or AE**, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or ~~stilts~~ **shear walls**; and
- (2) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to ~~two feet~~ **one foot** above the magnitude of the base flood.

In the case of ~~zones AE and A~~ **Zones A or AE**, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwaters, as required in section 25-17.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

Elevation certificate means an official form (~~FEMA Form 81-31, 02/06~~**FEMA Form FF-206-FY-22-152**, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; ~~and is required for purchasing flood insurance.~~

[...]

[...]

Manufactured home park or subdivision, existing (for floodplain purposes) means a manufactured home park or subdivision that was recorded in the **York County Registry of Deeds** prior to the adoption date of the **Town’s** first floodplain management regulations.

[^editorial changes and sorted alphabetically to be next to other similar definition]

[...]

[Current text in code: “Flood or flooding means: (1) A general and temporary condition of partial or complete inundation of normally dry land areas from: a. The overflow of inland or tidal waters. b. The unusual and rapid accumulation or runoff of surface waters from any source. (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a. of this definition.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[Current text in code: “Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.” Matches, or substantially matches, Model Ordinance, no change proposed.]

Flood insurance rate map (FIRM) means an official map of a community, on which the ~~administrator of the Federal Insurance Administration~~ **Administrator** has delineated both the special hazard areas and the risk premium zones applicable to the community.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

[Current text in code: “Flood insurance study. See ‘flood elevation study.’” Matches, or substantially matches, Model Ordinance, no change proposed.]

*Floodplain or flood-prone area means **any** land area susceptible to being inundated by water from any source (see **“flood or flooding”**).*

[Current text in code: “Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[Current text in code: “Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain, grading, or erosion control ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[Current text in code: “Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[Current text in code: “Floodway. See ‘regulatory floodway.’” Matches, or substantially matches, Model Ordinance, no change proposed.]

[Current text in code: “Floodway encroachment lines means the lines marking the limits of floodways on federal, state and local floodplain maps.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

[Current text in code: “Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

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

[...]

[Current text in code: “Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary of the interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the secretary of the interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the secretary of the interior, or directly by the secretary of the interior in states without approved programs.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

Locally established datum **(for floodplain purposes)** means, ~~for the purposes of this [Code],~~ an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), **North American Vertical Datum (NAVD)**, or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

[...]

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements set out in ~~chapter 25, article IV~~ **Section 25-6(n)**.

[...]

Manufactured home (for floodplain purposes) means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision **(for floodplain purposes)** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

[...]

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, **North American Vertical Datum (NAVD)**, or other datum, to which base flood elevations shown on a community’s ~~flood insurance rate map~~ **Flood Insurance Rate Map** are referenced.

[...]

Minor development **(for floodplain purposes)** means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50 percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in ~~article VI.J~~ **Section 25-6(l)**, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

[...]

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

[Current text in code: “National Geodetic Vertical Datum (NGVD) means the National Vertical Datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called ‘1929 Mean Sea Level (MSL).’” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

*New construction **(for floodplain purposes)** means structures for which the start of construction commenced on or after the effective date of **the initial** floodplain management regulations adopted by a community and includes any subsequent improvements to such structure.*

[...]

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

[...]

Recreational vehicle (for floodplain purposes) means a vehicle which is:

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

[...]

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

Regulatory floodway means:

- (1) The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ **a designated height**; and
- (2) When not designated on the community’s flood insurance rate map, it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

[...]

[Current text in code: “Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

[Current text in code: “Special flood hazard area. See ‘area of special flood hazard.’” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

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

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

external dimensions of the building.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

[Current text in code: “Structure (floodplain) means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

[Current text in code: “Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

[Current text in code: “Substantial improvement means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's board of appeals.” Matches, or substantially matches, Model Ordinance, no change proposed.]

[...]

Variance (floodplain management ordinance) means a grant of relief by a community from the terms of ~~the~~ a floodplain management regulations.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

Violation (Chapter 25) means the failure of a structure or other development to fully comply with ~~a community's~~ the Town's floodplain management regulations or ordinances.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

[Chapter 25 – Floodplain Management Ordinance is REPEALED IN FULL AND REPLACED with the new Chapter 25 text as shown in the following pages]

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

[Enact a new Chapter 25 as follows:]

Sec. 25-1. – Purpose and establishment

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

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

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

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

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

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

Sec. 25-2. – Permit required

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

Before any construction or other development (as defined in **Section 1-2**), including the placement of manufactured homes, begins within any areas of special flood hazard established in **Section 25-1**, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Eliot, Maine.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

Sec. 25-3. – Application for permit

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

- (1) The name, address, and phone number of the applicant, owner, and contractor;
- (2) An address and a map indicating the location of the construction site;
- (3) A site plan showing locations of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- (4) A statement of the intended use of the structure and/or development;
- (5) A statement of the cost of the development including all materials and labor;
- (6) A statement as to the type of sewage system proposed;
- (7) Specification of dimensions of the proposed structure and/or development;

[Items (8)-(11)b. apply only to new construction and substantial improvements.]

- (8) The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - a. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - i. in Zones AE from data contained in the “Flood Insurance Study - York County, Maine,” as described in **Section 25-1**; or,
 - ii. in Zone A:
 - (a) from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265), including information obtained pursuant to **Subsection 25-6(m)** and **Subsection 25-8(d)**; or,
 - (b) in the absence of all data described in **subparagraph (a)**, information to demonstrate that the structure shall meet the elevation requirement in **Subsection 25-6(h)(2)b.**, **Subsection 25-6(i)(2)a. or b.**, or **Subsection 25-6(j)(2)b.**
 - b. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - c. lowest floor, including basement; and whether or not such structures contain a basement;

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- d. lowest machinery and equipment servicing the building; and,
 - e. level, in the case of non-residential structures only, to which the structure will be floodproofed.
- (9) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in **Section 25-6**;
- (10) A written certification by:
- a. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
 - b. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.
- (11) The following certifications as required in **Section 25-6** by a registered professional engineer or architect:
- a. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of **Section 25-6(i)**; and other applicable standards in **Section 25-6**;
 - b. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of **Section 25-6(n)(2)a**;
 - c. a certified statement that bridges will meet the standards of **Section 25-6(o)**;
 - d. a certified statement that containment walls will meet the standards of **Section 25-6(p)**.
- (12) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- (13) A statement of construction plans describing in detail how each applicable development standard in **Section 25-6** will be met.

Sec. 25-4. – Application fee and expert’s fee

A non-refundable application fee in the amount **established by the Select Board as authorized by Section 1-25** shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

Sec. 25-5. – Review standards for flood hazard development permit applications

The Code Enforcement Officer shall:

- (a) Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of **Section 25-6** (Development Standards) have been, or will be met;
- (b) Utilize, in the review of all Flood Hazard Development Permit applications:
 - (1) the base flood and floodway data contained in the “Flood Insurance Study - York County, Maine,” as described in **Section 25-1**;
 - (2) in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to **Paragraph 25-3(8)a.ii.(a)**; **Subsection 25-6(m)**; and **Subsection 25-8(d)**, in order to administer **Section 25-6**; and,
 - (3) when the **Town** establishes a base flood elevation in a Zone A by methods outlined in **Paragraph 25-3(8)a.ii.(b)**, the **Town** shall submit that data to the Maine Floodplain Management Program.
- (c) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in **Section 25-1**;
- (d) In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- (e) Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- (f) If the application satisfies the requirements of this chapter, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
- (1) A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction for verifying compliance with the elevation requirements of Section 25-6, subsections (h), (i), or (j). Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 - (2) A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 25-6(i)(1). The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 - (3) A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Section 25-6(l), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
- (g) Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 25-9, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Sections 25-3, 25-6, and 25-7.

Sec. 25-6. – Development standards

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

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

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

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
- (3) If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
 - (4) If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.
- (h) *Residential.* New construction or substantial improvement of any residential structure located within:
 - (1) Zone AE shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.
 - (2) Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Paragraph 25-3(8)a.ii.(a); Subsection 25-5(b); or Subsection 25-8(d); or,
 - b. in the absence of all data described in Paragraph a., to at least two feet above the highest adjacent grade to the structure.
 - (i) *Non-Residential.* New construction or substantial improvement of any non-residential structure located within:
 - (1) Zone AE, shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least two feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 25-3(11) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- (2) Zone A shall have the lowest floor (including basement) elevated:
- a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Paragraph 25-3(8)a.ii.(a); Subsection 25-5(b); Subsection 25-8(d); or,
 - b. in the absence of all data described in Paragraph a., to at least two feet above the highest adjacent grade to the structure; or,
 - c. together with attendant utility and sanitary facilities meet the floodproofing standards of Paragraphs 25-6(i)(1)a., b., and c.
- (j) *Manufactured Homes*. New or substantially improved manufactured homes located within:
- (1) Zone AE shall:
- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - 1. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - 2. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

3. All components of the anchoring system described in Paragraphs 1 and 2 shall be capable of carrying a force of 4800 pounds.
- (2) Zone A shall:
 - a. be elevated on a permanent foundation, as described in Paragraph 25-6(j)(1)b., such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation utilizing information obtained pursuant to Paragraph 25-3(8)a.ii.(a); Subsection 25-5(b); Subsection 25-8(d); or,
 - b. in the absence of all data as described in Paragraph a., to at least two feet above the highest adjacent grade to the structure; and,
 - c. meet the anchoring requirements of Paragraph 25-6(j)(1)c.
 - (k) *Recreational Vehicles*. Recreational Vehicles located within:
 - (1) Zones A and AE shall either:
 - a. be on the site for fewer than 180 consecutive days; and,
 - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - c. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Subsection 25-6(j)(1).
 - (l) *Accessory Structures*. New construction or substantial improvement of Accessory Structures, as defined in Section 1-2, shall be exempt from the elevation criteria required in Subsections 25-6(h) and 25-6(i) above, if all other requirements of Section 25-6 and all the following requirements are met.
 - (1) Accessory Structures located in Zones A and AE shall:
 - a. meet the requirements of Subsections 25-6(a)(1) through (4), as applicable;
 - b. be limited in size to a one-story two car garage;
 - c. have unfinished interiors and not be used for human habitation;
 - d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area.
 - e. be located outside the floodway;
 - f. when possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

placed further from the source of flooding than is the primary structure; and,

- g. have hydraulic openings, as specified in **Subsection 25-6(n)(2)**, in at least two different walls of the accessory structure.

(m) *Floodways.*

- (1) In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community’s Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 25-6(m)(3), unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in FEMA’s guidelines and standards for flood risk analysis and mapping.
- (3) In Zones A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

(n) *Hydraulic Openings/Flood Vents.* New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of **Section 25-6**, including the elevation requirements of Subsections 25-6(h), 25-6(i), or 25-6(j) and is elevated on posts, columns, piers, piles, or crawlspace may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

- (1) Enclosed areas are not “basements” as defined in **Section 1-2**;
- (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- a. be engineered and certified by a registered professional engineer or architect; or,
- b. meet or exceed the following minimum criteria:
 - 1. a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - 2. the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - 3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
- (3) The enclosed area shall not be used for human habitation; and,
- (4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- (o) *Bridges.* New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:
 - (1) when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least two feet above the base flood elevation; and,
 - (2) a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Subsection 25-6(m); and,
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- (p) *Containment walls.* New construction or substantial improvement of any containment wall located within:
 - (1) Zones A and AE shall:
 - a. have the containment wall elevated to at least two feet above the base flood elevation;

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by **Section 25-3(11)**.
- (q) *Wharves, Piers, and Docks*. New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water, and shall comply with all applicable local, state, and federal regulations.

Sec. 25-7. – Certificate of Compliance

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

- (a) For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor for compliance with **Section 25-6, paragraphs (h), (i), or (j)**.
- (b) The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- (c) Within 10 working days, the Code Enforcement Officer shall:
 - (1) review the Elevation Certificate and the applicant’s written notification; and,
 - (2) upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

Sec. 25-8. – Review of subdivision and development proposals

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

- (a) All such proposals are consistent with the need to minimize flood damage.
- (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (d) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- (e) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with **Section 25-6**. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

Sec. 25-9. – Appeals and variances

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

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

- (a) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (b) Variances shall be granted only upon:
 - (1) a showing of good and sufficient cause; and,
 - (2) a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
 - (3) a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
 - (4) a determination that failure to grant the variance would result in “undue hardship,” which in this subsection means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- (d) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - (1) the criteria of subsections (a) through (c) of this section and Subsection 25-6(m) are met; and,
 - (2) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (e) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - (1) the development meets the criteria of subsections (a) through (c) of this section; and,
 - (2) the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (f) Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
 - (1) the development meets the criteria of subsections (a) through (c) of this section; and,
 - (2) the development meets the criteria of Subsection 25-6(m) and Subsection 25-6(n).
- (g) Any applicant who meets the criteria of subsections (a) through (c) and subsection (d), (e), or (f) of this section shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - (1) the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

- (2) such construction below the base flood level increases risks to life and property; and,
 - (3) the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks, and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant’s decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- (h) *Appeal Procedure for Administrative and Variance Appeals*
- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 - (2) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
 - (3) The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
 - (4) The person filing the appeal shall have the burden of proof.
 - (5) The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
 - (6) The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
 - (7) Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

Sec. 25-10. – Enforcement and penalties

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this **chapter** pursuant to Title 30-A MRSA § 4452.
- (b) The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this **chapter**.

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

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

Sec. 25-11. – Validity and severability

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

Sec. 25-12. – Conflict with other laws

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

Sec. 25-13. – Definitions

See Section 1-2.

Sec. 25-14. - Abrogation

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

Sec. 25-15. – Disclaimer of liability

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

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

Floodplain Management Ordinance

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 25 – Floodplain Management Ordinance, Related to an Update of the Town’s Floodplain Management Ordinance

Municipal Officers’ Certification of Official Text of a Proposed Ordinance

To the Town Clerk of the Town of Eliot, Maine:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled “Floodplain Management Ordinance”, which is to be presented to the voters for their consideration on June 4, 2024.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: _____, _____

Richard Donhauser, Chairman

William Widi, Vice Chairman

Lauren Dow

Stanley Shapleigh

B. Cabot Trott

**Select Board
Town of Eliot, Maine**

1 **ITEM 1 - ROLL CALL**

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

5
6 Also Present: Jeff Brubaker, Town Planner.

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

10
11 **ITEM 2 – PLEDGE OF ALLEGIANCE**

12
13 **ITEM 3 – MOMENT OF SILENCE**

14
15 **ITEM 4 - ELECTION OF OFFICERS**

16
17 Ms. Braun asked for a motion for the position of Chair:

18
19 **Mr. Leathe moved, second by Ms. O’Connor, that Christine Bennett be nominated**
20 **as Chair.**

21
22 There were no other nominations.

23 **VOTE**
24 **6-0**
25 **Motion approved**

26
27 At this time, Ms. Bennett became Chair and continued officer nominations.

28
29
30 Ms. Bennett opened nominations for Vice Chair:

31
32 **Mr. Latter nominated Carmela Braun for Vice Chair. Second by Mr. Leathe.**

33
34 Mr. Latter thanked Ms. Braun for her service. I know it’s not easy to have a change in
35 leadership but I think it’s important. I have served as both chair of public committees and
36 then stepped down. I think it does give you a different perspective and gives different
37 people the opportunity to bring leadership. I acknowledge Ms. Bennett’s leadership on
38 the housing issue. It’s going to be critical this year and I welcome your guidance on that.
39 I just want to let Ms. Braun know that I have appreciated her guidance the past two years
40 that I’ve served on this committee, as well, and I look forward to having her leadership as
41 we move forward.

42
43 Ms. Bennett said that I think we all, here, hold that same sentiment.

44
45 There were no other nominations.

46

47 **VOTE**
48 **6-0**
49 **Motion approved**

50
51 Ms. Bennett opened nominations for the position of Secretary:

52
53 **Ms. Bennett nominated Suzanne O'Connor for Secretary. Second by Mr. Latter.**

54
55 There were no other nominations.

56 **VOTE**
57 **6-0**
58 **Motion approved**

59
60 At this time, Mr. Latter said that he was recently diagnosed with cancer. It's nothing dire
61 but it is something I have to deal with. If the SB is amenable, I am going to ask them to
62 appoint me as an alternate if Mr. Shiner would take the regular seat, moving forward. I
63 may have to miss a couple of meetings in the treatment process. I might just need some
64 time to take care of this. So, if Mr. Shiner is willing to serve as a full member, I'm going
65 to forward that on to the SB.

66
67 Mr. Shiner said that he would be willing.

68
69 **ITEM 5 – 10-MINUTE PUBLIC INPUT SESSION - None**

70
71 **ITEM 6 – REVIEW AND APPROVE MINUTES**

72
73 Approval of minutes were deferred until the next meeting.

74
75 **ITEM 7 – NOTICE OF DECISION**

76
77 **PB23-06 Shoreland Zoning Permit Application/Seasonal Float Expansion (Map**
78 **1/Lot 143), 18 Cole Street.**

79
80 **Ms. Bruan moved, second by Mr. Latter, that the Planning Board accept the Notice**
81 **of Decision for PB23-06 Shoreland Zoning Permit Application/Seasonal Float**
82 **Expansion, as amended.**

83 **VOTE**
84 **6-0**
85 **Motion approved**

86
87 **ITEM 8 – PUBLIC HEARING**

88
89 **A. PB23-10: 16 Arc Road (Map 45/Lot 17): Shoreland Zoning Permit Application –**
90 **Marijuana Store and Medical Marijuana Caregiver Retail Store**

91
92 **Received: March 29, 2023**

93 **1st Heard: June 27 2023 (shoreland review/completeness)**
94 **2nd Heard: _____, 2023 (continued review)**
95 **Public Hearing: _____, 2023**
96 **Site Walk: N/A**
97 **Approval: _____, 2023**

98
99 Ms. Bennett said that I do not see the applicant present nor do I see an agent. She asked
100 the Planner how we should proceed.

101
102 Mr. Brubaker said that there is a requirement that the applicant, or agent, be present for
103 the public hearing. For the short term, we could punt this item to later in the evening to
104 see if someone comes,

105
106 Mr. Latter suggested we recess the hearing so that we could pick it up later in the evening
107 or at a future meeting as opposed to adjourning it.

108
109 Mr. Shiner also suggested verifying that the applicant wanted to pursue this application.

110
111 **Mr. Latter moved, second by Ms. Braun, to recess this public hearing to 7:15PM.**

112 **VOTE**
113 **6-0**
114 **Motion approved**

115
116 **ITEM 9 – NEW BUSINESS**

117
118 **A. 17 Levesque Drive (Map29/Lot 26), PB23-11: Site Plan Amendment/Review and**
119 **Change of Use – Eliot Commons Car Wash**

120
121 **Received: March 29, 2023**
122 **1st Heard: June 27 2023 (shoreland review/completeness)**
123 **2nd Heard: July 25, 2023 (continued review/approval)**
124 **Public Hearing: July 25, 2023**
125 **Site Walk: N/A**
126 **Approval: July 25, 2023**

127
128 Mr. (Wyatt) Page, Attar Engineering, was present for this application.

129
130 Mr. Brubaker said that, if the Chair doesn't mind, I will just send an email to Mr.
131 Seymour regarding tonight's meeting.

132
133 The Chair agreed.

134
135 Mr. Brubaker, showing his screen, said that this is for a 3,300-square-foot auto wash car
136 facility. Eliot Commons has condominiumized unit lots so this is a 1.1-acre plat, also
137 known as Unit #4 in a larger parcel, which is itself part of Eliot Commons. This part is
138 currently undeveloped next to the Post Office. I had recommended it be reviewed, in

139 terms of the land use table, as ‘use similar to an auto repair garage’. The right title and
140 interest documents are in the packet. I think this lot is still owned by York Hospital,
141 where they proposed a medical building that was never built. That is according to the
142 current purchase & sales agreement. The basic dimensional standards appear to be met,
143 presumably the building height standard is met. We have a newer requirement in our
144 code to require elevation drawings. We don’t have those but it is something that the PB
145 could either ask for or decide to waive. Regarding stormwater, there is about 1,700
146 square feet of new impervious area and a total disturbed area of about $\frac{3}{4}$ of an acre. There
147 is no DEP permitting sought. We are under the one-acre threshold for Chapter 34 Erosion
148 and Sedimentation Control standards and Chapter 35 Post-Construction Stormwater
149 Management standards, as an individual site, although, those chapters do refer to
150 individual sites within a larger common plan’s development being subject to those
151 standards. I think, for now, it would be mostly exempt from those standards but I do
152 believe, perhaps at some time in the future, Eliot Commons could discuss with the Town
153 a more comprehensive stormwater management program. The site does have stormwater
154 features. There is a detention pond in the rear of the parcel that outlets to a level spreader
155 taking concentrated flow from the site to sheet flow and spreading it out across a wooded
156 buffer before it leaves the site into the adjacent wetlands behind the Dunkin’ Donuts
157 building. There is a smaller management area also shown on the site plan to the south.
158 The applicant does have erosion and sedimentation control details on Sheet 7 and they
159 did their HydroCad stormwater modelling showing they are reducing peak stormwater
160 flows from the site at three different points. A key hot topic in the sketch plan review is
161 what’s going to happen with the wash water from the car wash. I’ll let the applicant
162 chime in further but we do restrict hazardous waste discharges, whether that be into the
163 public sewer system or the stormwater system. The stormwater management plan did add
164 a statement talking about the exterior drains inside the building to capture the water. I
165 will let the applicant elaborate on that further if the PB wishes to discuss that. Regarding
166 sewer, it is currently with Eliot Commons as a private wastewater system. The Town’s
167 in-progress water and sewer project will be bringing the sewer line past Levesque Drive
168 with various buildings having opportunity to access that sewer line. There are other
169 aspects in my staff report – parking, traffic, tree buffer (possibly two new shade trees at
170 the front) and a dumpster proposed in the back. There is also a lighting plan that shows
171 lighting at or near zero at the lot lines. I there are two waivers needed from §33-127 –
172 high intensity soils report (12) and elevation drawings (18b). I think clearly a high
173 intensity soils report can be waived and debatable as to whether elevation drawings are
174 needed. I also think there are other aspects of the site plan review content requirements
175 that are clearly not applicable. In my opinion, the clearly not applicable items you don’t
176 need to actually articulate waivers for. That would be my recommendation.

177
178 Mr. Page said that I will mostly be reiterating what Mr. Brubaker said. It is a 3,300
179 square-foot car wash going in to Levesque Drive. All of the previously-discussed
180 stormwater; that the only water directed off-site will be turned into sheet flow before it
181 reaches the wetland and our intent is to direct any wash water from the car wash into the
182 sanitary system. Along with this, some details not previously mentioned. There had been
183 an interest in signage. We now have the dimensions of a sign but we still do not have a
184 layout. We are looking at a 48” by 40” sign with some semblance of graphic, whatever

185 logo the applicant selects for the business. That would be going, I assume, near the shade
186 trees or closer to the parking lot. Other than that, I have nothing new to add.

187
188 Mr. Leathe said that it's a lot of water. You said that it could be as much as 720,000
189 gallons. In addition, there's going to be some soap and I don't know what other
190 chemicals, or products, would be mixed in that water. I am curious to learn about that.
191 Also, is there any opportunity to recycle any of that water in the facility.

192
193 Mr. Page said that I'm unsure and I will defer that for the moment. What I can say, for
194 now, is that that 720,000 number that is written states very clearly that that is not
195 accounting for the new capture system. At the time of that writing, it hadn't been decided
196 exactly what the situation for that would be. But, I have with me Jeff Arimento of Car
197 Wash Pros, who can shed some further light on that.

198
199 Mr. Arimento agreed that it is a potential lot of water. The water going into the drainage
200 systems within the car wash will consist of water, some chemicals that we use during the
201 wash process, all of which are non-toxic, so we can supply MSDS sheets for all of the
202 chemicals that we typically use in the car wash. Then, you obviously have some
203 chemicals brought into the bay that we have no control over but it's all the same types of
204 things all these cars in the parking lot might be dropping on the ground. So all that water
205 will go into a drainage system in each bay where we will be designing and building a
206 little sediment pit. Imagine a 4X4 box that goes down two feet with drainage pipes
207 sticking up. Water goes down the drain, sand and solids are captured in that little area,
208 and then the operator will have to remove that physically. The rest of the water and soap
209 will go down; that towns usually require an oil and water separator, too, and that goes out
210 to the sewer system. There is a piece of equipment that exists in the car wash system that
211 allows us to re-use water. Some car washes have them and some don't. The vast majority
212 of them do not. There are certain towns that have those sewer systems so they are
213 obviously required because there is no choice. That is something that the client, if he
214 wanted to, could install. They are very expensive systems and they allow you to re-use
215 some of the water, not all of the water, because there are certain aspects of the wash, like
216 final rinse of a car, that you always have to do the fresh water. Is that a possibility, yes,
217 but at this time he has not discussed that with me as something he was looking to do.

218
219 Mr. Latter said that it's going to tie into the sewer system.

220
221 Mr. Arimento said that my understanding is that all the drains within the bays for the car
222 wash water capture will tie into a sewer system.

223
224 Mr. Latter asked what the sewer treatment on that site now.

225
226 Ms. Bennett said that my understanding this is a private sewer system and goes to the
227 Kittery Wastewater Treatment facility.

228
229 Mr. Brubaker said that, to my understanding, in Eliot Commons each unit has sewerage
230 going to a pump station that's near the post office, then the pump station pumps the

231 sewerage down the force main out to Route 236 and down to Bolt Hill. Then it goes
232 down Bolt Hill to where it meets up with our public sewer system.

233
234 Ms. Bennett asked if each individual owner of a condo lot within Eliot Commons
235 required to have an allocation from the Kittery Wastewater Treatment Plant (KWTP).

236
237 Mr. Page said that I don't have an answer for you at this time.

238
239 Ms. Bennett said that I was recalling our deliberations with the Villages, which is also
240 tying into the same private sewer system. Within that distant approval, there was an
241 allocation sought and received from the KWTP. I would advise you reach out to them to
242 inquire.

243
244 Mr. Page said that he would pursue that.

245
246 Mr. Leathe said that, if you are going to use 720,000 gallons of water in the facility, and
247 this is really a point of information, do you have to talk to the water supply company to
248 ensure that amount of water can be delivered. I'm curious as to whether that is free or you
249 have to pay for that amount of water.

250
251 Mr. Arimento said that I've never been involved in that discussion. Is there town water
252 onsite.

253
254 Mr. Leathe said that that is an assumption that you can get 720,000 gallons of water. To
255 me, that sounds like a lot of water. But it is something I would be curious to know that
256 the supply is there to meet the needs.

257
258 Ms. Bennett said that another utility you should reach out to is the Kittery Water District
259 (KWD). We don't have our own water district nor do we have a wastewater treatment
260 plant. We subscribe to both of those through Kittery.

261
262 Mr. Page said that I will absolutely reach out to those folks.

263
264 Mr. Leathe said that, then, I start to think about how much water we have in this whole
265 system and is it a little like electricity on Route 236. How much can we allocate. Do we
266 have enough. How do we get more, if we need it. What are the contingency plans if we
267 do run out. Maybe things are at a much bigger picture than the facility that the applicant
268 is proposing but it just made me start to think about something I hadn't thought about
269 before.

270
271 Mr. Page said that there is no reason why we can't come back with some answers for
272 you. I think those are perfectly fine questions.

273
274 Ms. O'Connor said that I think there was a similar question when we did the first review
275 with them about water on the incoming side; that this seem to probably dwarf the rest of
276 the water usage for the condo area at 72,000 gallons/day.

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Mr. Page said that the estimated, at the high end, would be 2,300 gallons/day on a busy day accounting for the higher end of self-service and the normal, higher end of the regular service. It is 2,300 gallons/day and 720,000 gallons/year.

Ms. Bennett added that 2,300 gallons/day would translate into usage for about 80 homes per day. I know that the Town of Eliot is in the process of expanding our sewer system on Route 236 for our Commercial/Industrial Zone, as you know, and we had to get an allocation from KWD as to whether they capacity. They allocated a certain amount of wastewater treatment to our C/I Zone. I don't know where KWD and KWTP is in terms of capacity. There has been some conversation about it nearing its designed size. I'm just voicing in a larger, general frame, and not specific to your application, for a discussion as a Town; if we allow a car wash that doesn't reclaim any water to crowd out the ability for 80 future homes to have wastewater treatment for something that is more needed to have that treatment. There's a question of public benefit, here, that we haven't discussed.

Mr. Latter said that the building is not going to be over 55 feet tall, correct.

Mr. Page said no. I believe it's 13 feet to 14 feet tall on the inside.

Mr. Latter asked if we are going to have some elevation drawings done as part of this project at some point.

Mr. Page said that, at some point, yes.

Mr. Latter said that that doesn't hold up my ability to make a decision but I would want those to be provided as a matter of public record.

Ms. Braun added that I would like to see some elevation drawings, sooner rather than later.

Mr. Page agreed.

Mr. Leathe asked if this was going to have any impact on parking with the other condo buildings in the area. I read in Mr. Brubaker's notes that there would be some parking in that area.

Mr. Page said that this is a conversation I have had with the client because it was brought up that we have enough space to construct 'this' much parking. However, currently all of the parking in the Commons is shared to my knowledge. My recommendation to the client, and the client agreed, was that all of our parking in the general parking area while it is serving our business, there were not going to be any signs put up or anything except for the parking in the vacuum aisles. There would be parking exclusive to those only. So, we are not going to be affecting the parking capacity for Eliot Commons.

322 Mr. Leathe said not Eliot Commons but the dental office and State Farm and those
323 businesses.

324
325 Mr. Page said that I don't have the calculations on hand but I believe they already had a
326 surplus of spaces, all the spaces that remain in line with all the existing parking. We have
327 a number of spaces. I believe there are only four spaces in the general parking area that
328 are exclusive to the vacuum islands and the rest are, and my client agreed, open to anyone
329 who is there to use them. I'd be happy to provide something in writing, as well.

330
331 Mr. Shiner asked if the owner gave you any indication of hours of operation.

332
333 Mr. Page said that I don't think I have it in writing in front of me so I don't have an
334 answer for you at this time. We can provide that.

335
336 Mr. Shiner said that I asked the question because, if it's an automated self-serve bay and
337 a 24/7 kind of thing, does that mean it's going to be illuminated all night for an activity
338 there.

339
340 Mr. Page said that as I understand it the self-serve bay would not be 24/7. It would be
341 open for the same hours as the regular service bays are, as well. The lighting is all going
342 to be uniform. I don't think there's going to be any special lighting.

343
344 Mr. Shiner said that I can't imagine that the cost of the lighting would be outweighed by
345 the proceeds.

346
347 Ms. Bruan asked if it would be manned by employees in the entire complex.

348
349 Mr. Arimento said that I can't speak to the exact plans at this point but, typically, this
350 type of car wash is not attended full time. So, there is typically not a full-time employee
351 onsite. Most owner/operators will have someone visit the site multiple times during the
352 day. They might be there on a busy weekend, especially in the beginning when the car
353 wash opens to make sure everyone knows how to use it, etc. There is no requirement for
354 the facility to operate with somebody there.

355
356 Mr. Page said that, for what it's worth, I have been told that so far that we have those four
357 diagonal spaces that were mentioned in the writing. Those were specifically designated
358 for employees only. It was my understanding that there would be at most, if not all, hours
359 of the day there would be at least one attendant there.

360
361 Ms. Braun asked that that be clarified for when you come back.

362
363 Ms. Bennett added in addition to the hours of operation.

364
365 Mr. Page agreed.

366

367 Ms. Bennett said that Ms. Braun suggested that we continue this application at another
368 date for the applicant to come back with more information about the items we just
369 discussed, which was the request for elevation drawings, clarification of whether, or not,
370 there is going to be an employee on the site, the hours of operation, and allocation of
371 wastewater/water from KWD and KWTP. The applicant also said that they just finalized
372 a sign, which would be another thing. So, these are the items we just discussed that are
373 outstanding with this application. Does this PB consider this application complete at this
374 time.

375
376 After discussion, Ms. Braun made a recommendation that the PB have this application
377 continue for PB23-1, 17 Levesque Drive (M29/L26).

378
379 The PB agreed by consensus.

380
381 Mr. Brubaker wanted to clarify, and I think it's an important point for the full meeting,
382 that prior to starting our water and sewer project down Route 236, we did approach
383 Kittery to amend our IMA (Inter-Municipal Agreement) to double our reserved capacity
384 at KWTP. We did that in anticipation of our project bringing in a lot more wastewater
385 capacity online. Follow up on specific numbers for this application when this is reviewed
386 next.

387
388 Ms. Bennett said that I would also like to follow up on whether our capacity, our
389 allocation, from the KWTP to the Town of Eliot includes this private sewer system or
390 does not. A question for our Planner.

391
392 NOTE: Mr. Seymour for PB23-10 arrived at this time.

393
394 **ITEM 8 – PUBLIC HEARING**

395
396 **A. PB23-10: 16 Arc Road (Map 45/Lot 17): Shoreland Zoning Permit Application –**
397 **Marijuana Store and Medical Marijuana Caregiver Retail Store**

398
399 **Received: March 29, 2023**
400 **1st Heard: June 27 2023 (shoreland review/completeness)**
401 **2nd Heard: July 25, 2023 (continued review/approval)**
402 **Public Hearing: July 25, 2023**
403 **Site Walk: N/A**
404 **Approval: July 25, 2023**

405
406 Mr. (Josh) Seymour, applicant, was present for this application.

407
408 **6:51 PM Public Hearing re-opened**

409
410 Mr. Brubaker this is seeking the re-approval of an expired Shoreland Zoning Permit
411 application for a Marijuana Store and Medical Marijuana Caregiver Retail Store. The site
412 plan approval of non-Shoreland is not yet expired. Mr. Seymour at Green Truck is asking

413 for the same project as in the previous approval, PB21-29, approved in April of 2022. My
414 recommendation is approval with conditions and motion templates are in the staff report.
415 The motion reflects that it would be the same approval and conditions as the previous
416 approval.

417
418 Mr. Seymour said that I have nothing to add. I do appreciate you keeping me on the
419 schedule. Thank you very much.

420
421 There was no public comment.

422
423 **6:53 PM Public Hearing closed.**

424
425 Mr. Latter asked if anything had changed in our rules since we did this.

426
427 Mr. Brubaker said that there have been various changes but nothing that jumps out at me
428 needing to be addressed as part of this review. The PB can certainly suggest areas; that if
429 you recall, there was a discussion about whether parking would change. That's a
430 legitimate point of discussion. To keep the Shoreland and non-Shoreland approvals
431 synced up, I would say that it's best to approve it as is.

432
433 Ms. Bennett asked should ownership of this property change, would they need to come
434 before the PB; that there is already an approved site plan so could a new owner go
435 forward with the site plan.

436
437 Mr. Brubaker said that the new owner could benefit from the approval. I will say that,
438 with new ownership, approvals run with the land. There would be the potential to ensure
439 that the new owner was properly licensed at the State level for marijuana uses.

440
441 Ms. Bennett added utilizing it in the same manner the PB approved it because this is a
442 combination of medical and retail marijuana.

443
444 Mr. Seymour said that any change in a new owner's plans, if there is one, would have to
445 come back before the PB for an amendment.

446
447 **Mr. Latter moved, second by Ms. Braun, that the Planning Board approve the**
448 **Shoreland Zoning Permit Application PB23-10 for a Marijuana Store and Medical**
449 **Marijuana Caregiver Retail Store at 16 Arc Rd., with the intent of the approval**
450 **being a renewal of the same Shoreland Zoning Permit approval in PB21-29, decided**
451 **April 12, 2022, with the following findings of fact (in addition to other applicable**
452 **findings of fact to be included in the Notice of Decision):**

- 453
454 **1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and**
455 **Shoreland Zoning Permit Application have been or will be met.**
456 **2. Based on the information presented by the applicant and in accordance with Sec.**
457 **44-44, the Planning Board finds that the proposed use:**
458

- 459 a. Will maintain safe and healthful conditions;
- 460 b. Will not result in water pollution, erosion, or sedimentation to surface
- 461 waters;
- 462 c. Will adequately provide for the disposal of all wastewater;
- 463 d. Will not have an adverse impact on spawning grounds, fish, aquatic
- 464 life, bird, or other wildlife habitat;
- 465 e. Will conserve shore cover and visual, as well as actual, points of access
- 466 to inland and coastal waters;
- 467 f. Will protect archaeological and historic resources as designated in the
- 468 comprehensive plan;
- 469 g. Will avoid problems associated with floodplain development and use;
- 470 h. Is in conformance with the provisions of section 44-35, land use
- 471 standards.

472 **The approval includes the following conditions:**

- 473 1. The property may be developed and used only in accordance with the plans,
- 474 documents, material submitted, and representations of the applicant made
- 475 to the Planning Board. All elements and features of the use as presented to
- 476 the Planning Board are conditions of approval and no changes in any of
- 477 those elements or features are permitted unless such changes are first
- 478 submitted to and approved by the Eliot Planning Board. Copies of approved
- 479 permits from Maine DEP, Army Corps of Engineers, if applicable, and State
- 480 shall be provided to the CEO before construction on this project may begin.
- 481 2. The permit is approved on the basis of information provided by the
- 482 applicant in the record regarding the ownership of the property and
- 483 boundary location. The applicant has the burden of ensuring that they have
- 484 the legal right to use the property and that they are measuring required
- 485 setbacks from the legal boundary lines of the lot. The approval of this
- 486 permit in no way relieves the applicant of this burden. Nor does this permit
- 487 approval constitute a resolution in favor of the applicant of any issues
- 488 regarding the property boundaries, ownership, or similar title issues. The
- 489 permit holder would be well-advised to resolve any such title problems
- 490 before expending money in reliance on this permit.
- 491 3. The applicant authorizes inspection of premises by the Code Enforcement
- 492 Officer during the term of the permit for the purposes of permit
- 493 compliance.
- 494 4. All plans, documents, material submitted, and representations of the
- 495 applicant made to the Planning Board in PB21-29, and all conditions of
- 496 approval in the decision of the Planning Board in PB21-29 (April 12, 2022),
- 497 shall remain in effect.

498
499
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501
502

VOTE
6-0
Motion approved

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

506
507 **B. 857 Main Street (Map10/Lot 2), PB32-12: Site Plan Amendment/Review and**
508 **Shoreland Zoning Permit Application – Boatyard Expansion**

509
510 **Received: January 25, 2023**
511 **1st Heard: March 7 2023 (sketch plan review)**
512 **2nd Heard: July 25, 2023 (site plan review/completeness)**
513 **3rd Heard: _____, 2023 (continued review/Public Hearing)**
514 **Public Hearing: _____, 2023**
515 **Site Walk: March 28, 2023**
516 **Approval: _____, 2023**

517
518 Mr. (Geoff) Aleva, PE (Civil Consultants), Mr. (Tom) Allen (Owner/General
519 Manager/Safe Harbor), and Mr. (Brett) Patten (General Contractor/H.L. Patten) were
520 present for this application.

521
522 Mr. Brubaker said that this is a full site plan review for a boatyard on the existing
523 property. Mr. Aleva did correct me that the owner name is Safe Harbors Marinas. The
524 request is to replace with a larger building for some smaller buildings, which will be
525 demolished. The frame-supported structure you saw on the site walk that is closer to the
526 water will be retained and there is a little bit of a new, paved work area by the shoreline,
527 and a commercial pier. The current operation and the scope of the improvements are
528 detailed in my staff report and in the application package. I know that Ms. O'Connor has
529 provided site walk review notes and the PB may want to discuss some of that. The
530 Conservation Commission (CC) has reviewed twice, now, and their main review is
531 summarized in the application package. Regarding uses and zoning, I have a lengthy
532 discussion of that in my staff report but, in summary, I recommend that within the
533 Shoreland Zone, the use is an SPR use that is similar to SPR uses 'commercial piers,
534 generic industrial, limited marina'. I believe the General Development (GD) zoning
535 supercedes the Resource Protection zoning for this particular parcel. I believe that is a
536 proper interpretation of our Shoreland Chapter. Within the non-Shoreland Village Zone,
537 as discussed at sketch plan review, I think the PB should review as a
538 continuance/potential expansion presumptively of a legal, non-conforming use, a use
539 similar to a 'warehouse, commercial establishment'. There's a lot about the rules and
540 applicability of the expansion of a non-conforming use. In summarizing, I believe that the
541 applicant's general approach of enclosing, within a building, operations that already
542 occur outdoors does not, itself, constitute an expansion. There are other ways that our
543 code measures an expansion of a non-conforming use and the applicant has provided
544 information to address that. If there are questions from the PB, I refer to my staff report
545 or you could ask the applicant for more on that. The application package has right title
546 and interest, including a deed and a boundary survey. The basic dimensional
547 requirements generally appear to be met. I think they had some questions about signage
548 but I think, generally, they are met. Same with the Shoreland Zoning standards. There is a

549 retaining wall proposed and our code requires that the retaining wall either be justified as
550 for erosion control or need to _____ different requirements; that the applicant has
551 responded in their July 14th memo with the justification for the wall being needed for
552 erosion control. In terms of a tree buffer, there is a tree buffer on one side of the parcel
553 facing the Clark Road parcels. I will say here, because I was on leave during the PB site
554 walk, the applicant and their representatives were gracious enough to host me for a site
555 walk a week ago; that I also saw the tree buffer on the other side of the lot towards the
556 Eliot Shores houses. There is more information about that in your packet. The Shoreland
557 Zoning Chapter authorizes you to ask for more information or request a tree score plan.
558 In terms of the pier, nothing much is changing about the pier. I did clarify that the new
559 electrical box they proposed be elevated out of the flood plain and they were going to
560 check to make sure the pier had adequate reflectors. In the aerial imagery from 1980,
561 you'll see a lot bigger commercial pier that jutted out to the riparian lines of the property.
562 The pier appears to be smaller now, as it appears to be within the riparian lines today,
563 than it was back in the day. The 1980 imagery clearly shows an intensely developed site
564 as the boatyard operations were already a few decades old. I think you had said earlier
565 that, maybe back in the '60's, there was a boatyard presence on this parcel.
566

567 Mr. Allen said that _____ in 1986 is its most recent generation as a boatyard.
568

569 Mr. Brubaker said, regarding the stormwater and drainage, that there is more information
570 in the application packet. No model stormwater run-off calculations but there's a lot of
571 verbiage in the application to state that they are improving the stormwater situation on the
572 parcel. Regarding parking and loading, we have 19 parking spaces proposed. One ADA
573 space and, again, clarify why the ADA space is located where you see it on the site plan.
574 Lots of doors for large vehicles and boats very clearly, in my mind, satisfies the loading
575 bay requirement. I don't have too much on traffic. There will be new water and sewer
576 lines proposed and they have reached out to the various utilities on that. The photometric
577 plan shows a glare _____ back at the lot lines. The application notes that moving
578 operations from outdoors to indoors will have a positive effect on noise going to the
579 adjacent parcel. I'll finally conclude that, obviously, this site does have a history of fire
580 and, so, it is noted that the building will have fire suppression. We don't have written
581 comments that I know of from the Fire Chief but I did speak with him about it and he
582 generally seemed positive.
583

584 At this time, Ms. O'Connor read the site walk notes into the record:
585

586 **"-PB23-2, 857 Main Street (Map 10 / Lot 2), PID #010-002-000,**

587 Site Plan Amendment/Review and Shoreland Zoning Permit Application – Boatyard Expansion
588 Site Walk took place on March 28, 2023 at 3:00 pm

589 Present were PB members Ms. Braun, Mr. Leathe, Mr. Shiner, myself, the applicant – Mr. Tom
590 Allen, Safe Harbor Marina, Mr. Geoffrey Aleva – Civil Consultants, several abutters and
591 representatives.

592 The purpose of the application request: demolish several existing structures and replace with
593 larger structure that will enable existing outdoor work to move indoors. In summer, much of the

594 work can take place outside in the uncovered area. But there is demand for work year-round,
595 the ability to work indoors in covered space will expand year-round work.

596 The site visit began at the NW area where the older wooden building is near the existing metal
597 warehouse building. The proposal is for several older wooden buildings to be removed and
598 replaced with a larger, modern, metal building with new sprinkler system. There will also be
599 rework of the entry & parking, from current state gravel to paving where traffic will flow. There
600 will be some enhancement of the work area near the shoreline. Details of the new building:

- 601 • It will meet up to existing metal warehouse at northern end of property, accommodating
- 602 change in grade there;
- 603 • Existing setback will continue for new building;
- 604 • Wall but no windows facing north side abutters;
- 605 • Clean roof, no exhaust;
- 606 • Solar panels on south facing side
- 607 • Rain water collection under parking area;
- 608 • There was discussion of water use and draining – Power washing will remain outdoors at
- 609 bottom of wall (same as today);
- 610 • In new building, there will be a bottom filter for paint and metals;
- 611 Some next steps were identified:

- 612 • They will need a lighting plan for PB review
- 613 • They will contact Police & Fire after sketch plan review
- 614 • Storm Water Update:
 - 615 ○ Original plan from 2010/2011 (catch basins, trenches, wash out basin)
 - 616 ○ Will create a new updated storm water plan with DEP approval

617 The group then moved down towards the shoreline and there was discussion of
618 improvements near water line:

- 619 • Much of the outdoor work can move indoors but some will remain out there (e.g., metal
- 620 sanding);
- 621 • Large boats will need to stay outside near the shoreline;
- 622 • Part of the project is to cut into hillside to expand work area and increase maneuverability
- 623 (ability to move more than one boat at a time);
- 624 • Plans include building an 8ft block retaining wall; this will drive redesign of DEP storm water
- 625 plan and subsequent approval;
- 626 • This work area is within the 250' high water line (that condition exists today);
- 627 • Lower pad may have surface change but will not change permeability (all rated same by
- 628 DEP);

629 At this point, the PB review concluded and there were questions from the public:

- 630 • 10-12 abutters joined the site walk;
- 631 • Mike Thompson (abutter) confirmed which operations will go inside, that no fence will be
- 632 added, and trees will remain as is. He said they are good neighbors;
- 633 • Tom Allen (GM for Safe Harbors) stated some of the benefits of the project: greater safety
- 634 with inside work, less chemicals, better scheduling, less noise for neighbors, more consistent
- 635 employment (not peaks and valleys due to weather change, etc.);

- 636 • Heidi (abutter, but last name unknown) asked about the amount of outside noise. Tom
637 indicated a good portion but not 100% of that kind of work could now be done inside (but
638 not large boats, not metal hull);
- 639 • Len Lamberti (abutter) asked what kind of lighting. There was discussion about safety
640 lighting, motion detection, on the building, facing down not up/out.
- 641 • Mona Valdez (abutter) indicated that today there are some light pollution issues from the
642 existing warehouse facing her house. Tom took feedback and suggested they could have
643 further conversation to address that issue now.
- 644 Site walk concluded at approximately 4:00 pm.”

645

646 Mr. Aleva said that it’s been a great synopsis of where we are at with Mr. Brubaker’s and
647 Ms. O’Connor’s replay of the project. Other than that, it’s a pretty straightforward site
648 plan, design-wise. We’ve looked at stormwater and provided a stormwater maintenance
649 plan, which hasn’t been involved in the site until now. The permitting we have for the
650 DEP is really just a permit-by-rule process because of the work in the Shoreland Zone for
651 the increased work area for our 3,300 square-foot addition in that space. When we looked
652 at that area down on the shoreland, that work is not going to impact the tree growth that’s
653 on that one abutting side. It’s really in the area that was in that grassy section that had a
654 lot of invasive species in there. That’s where that work is going to go. Any kind of
655 planting we do will be native plantings, native grasses. The only part of the stormwater
656 we talked about on the site was converting a lot of the traveled areas of the paved area,
657 replacing a lot of those structures, the drainage catch-basins, with deep sunk areas to
658 catch sediment. You saw on the site how some of the sediment in the springtime comes
659 down through that property; that that will take care of that issue on those areas. There
660 was a question from the Planner regarding the ADA parking space placement along the
661 building. We looked at what we had for grades in that section. Remember, we’ve got the
662 existing building that will remain that has a bunch of open bay doors for maintenance and
663 then the grade really drops down. In order for us to keep an accessible route to meet
664 ADA, we’re tucking that up tight to the doors. We have the ADA space and then we have
665 a walkway that goes to our new building, along the edge on the side to keep that
666 consistent. We’ve had discussions with Kittery Water and Kittery Sewer; employees stay
667 the same; usage really stays the same other than the fact that we will be bringing a new
668 water line down to serve as a sprinkler line for the new building. Signage will stay the
669 same; that we’ll meet code requirements. I think the current sign on the property is
670 compliant. On the larger printed site plan, you can see a lot of what’s going on. We are
671 moving a lot of those current, outdoor facilities to the inside. Just dressing the site up,
672 getting the gravel upgraded, renewing the property, so-to-speak, on that side. There was a
673 question on the site walk about work going on below; that we have a filter system for
674 capturing any kind of processed water, filtered, then it’s taken out and pumped away. I
675 just want to make sure that the PB understands that, when there are ships that are down
676 there being worked on, either sandblasting or getting new paint, that they are all enclosed.
677 It's not like that material can just fall on the ground and then be captured. I think you saw
678 that there was a ship there that had tenting around it and they have a vacuum system
679 inside that tent that captures that area. Then, they do that work currently up on top of the
680 hill and, now, that will be moved inside the building. As the site plan indicates, we’re
681 capturing gutter water off of the roof to be used for cleaning boats afterwards and, then,

682 that would be discharged to a filtration oil/water separator and then into the sewer
683 system. Regarding the buildings, we're replacing the light fixtures that are all down-lit on
684 that side. Some of the light concerns from the abutters: the overhead doors have
685 translucent panels and a couple times those lights would stay on overnight so we're
686 working with the staff to make sure that doesn't happen. On the new addition, some of
687 those panels won't be translucent so it reduces the glare on the neighbors. Again, our
688 work stays within the setbacks. We're not going to change any of the tree growth along
689 the sides and hoping with that one side of the building, with no doors or windows, it
690 helps to cut the noise down for the neighbors.

691
692 Mr. Latter said that it appears to me that you don't often see a project like this that
693 actually has this much going on that will have less of an impact to the abutters
694 afterwards. Usually, a big project has more of an impact but, either by design or
695 happenstance, that seems to be the case, here.

696
697 Mr. Aleva agreed that that really works out well. You saw that a lot of the abutters that
698 were there were positive. They didn't have anything negative to say about the property
699 and this is just going to make it better. It makes it a safer work environment for Tom's
700 guys that are trying to do maintenance outside because they don't currently have the
701 space to do it inside.

702
703 Mr. Leathe said that of all the projects I've seen in the past 2 to 3 years, I think this one
704 has been as well-presented as any, just in terms of the documentation. But more deeply,
705 concern about the neighbors, concerned about the environment, about the employees, and
706 doing the right things. For me, at least, it's refreshing. I want to thank you guys for the
707 presentation and the materials.

708
709 Mr. Patten said that Safe Harbors does want to put solar panels on the entire south-facing
710 roof. I don't know if those require elevations but we will put them on the next submittal. I
711 don't know if that's required but we wanted to ask of you thought that that needs to be on
712 there.

713
714 Ms. Braun said that we'd like to have them on the final set.

715
716 Mr. Patten added that Mr. Allen, with the rest of the ambient lighting, the existing
717 building that stays, the photometrics show, he wanted to do all of the exterior lighting to
718 work with the neighbors; that the photometrics actually represent the new lighting on the
719 existing building, not just the new construction.

720
721 Mr. Allen clarified that, when you referenced the side of the building that has no
722 windows or doors, it will have no doors but we are going to make a request tonight,
723 apologizing that this is recent information tonight, is for transom windows higher to let
724 the light in for the benefit of our workers.

725

726 Mr. Patten added that there is one pass door because we need it for emergency access;
727 that there will be no bay doors but there will be emergency lighting on the exit door and
728 those lights are on sensors so those lights will not be on during the night.

729
730 Mr. Alen said that, for the benefit of the PB and from my personal perspective as the
731 prior owner, that this facility is very unique, I think, to have a company that is willing to
732 make a meaningful investment, and the right kind of investment, in a facility in its
733 location that would be ripe for development into another use. I've always taken both this
734 yard in Eliot and the yard in Kittery as a personal objective to continue them in their
735 current use. I wanted to pass that along, for the record, and wanted to make sure that the
736 PB understood that. It's Eliot's only waterfront boatyard.

737
738 Ms. Bennett said that we have a waiver in front of us and, if the PB is ready, I would
739 accept a motion.

740
741 **Mr. Leathe moved, second by Ms. O'Connor, that the Planning Board approved the**
742 **waiver for §33-127(11) – High Intensity Soil Survey.**

743 **VOTE**

744 **6-0**

745 **Motion approved**

746
747 Ms. Bennett asked the PB how they felt about the completeness of this application.

748
749 Mr. Patten asked, regarding the solar array on the roof, is that something that the Fire
750 Chief or electrical inspector has to comment on.

751
752 Ms. Bennett said that I think that's an excellent question. I don't believe that he does and
753 our CEO is also an electrical inspector. Depending on who you use to install those panels,
754 they will go through that process as part of the building permit process. We would like to
755 see those on the elevations so that we have that for the record.

756
757 Mr. Shiner asked if there were plans to submit an as-built set.

758
759 Mr. Aleva asked if that was a requirement for the PB. Do you have that in your site plan
760 regulations, an as-built requirement.

761
762 Mr. Brubaker said that it's a requirement for subdivisions but, unless I'm missing
763 something, I don't know that there is a requirement for non-subdivisions.

764
765 Mr. Shiner said that I think that would be something to go back to code enforcement
766 because they may want to know about systems and have some indications of what's built.

767
768 Mr. Aleva said absolutely. So, when we get to that point of the building permit side, prior
769 to submitting a permit, we will have to have our State Fire Marshall Permit that checks
770 life safety and ADA compliance. Then we come in here to get the building permit and
771 that shows all the structural, mechanical, electrical items and that sets up what the

772 inspection requirements are through the Town and inspections for foundations and steel
773 and electrical systems, and things like that. So, there is a whole other big process once the
774 construction starts; that there are inspections and verification that things are built to that
775 plan.
776

777 **Mr. Latter moved, second by Ms. Braun, that the Planning Board deem PB 23-2**
778 **complete and set a public hearing for August 15, 2023.**

779 **VOTE**

780 **6-0**

781 **Motion approved**

782

783 **ITEM 10 – OLD BUSINESS**

784

785 **A. 771 & 787 Main Street (Map 6/Lots 43,44, & 154), PB23-13: Subdivision Plan**
786 **Amendment**

787

788 **Received: March 29, 2023**

789 **1st Heard: June 27 2023 (shoreland re3view/completeness)**

790 **2nd Heard: July 25, 2023 (continued review/approval)**

791 **Public Hearing: July 25, 2023**

792 **Site Walk: N/A**

793 **Approval: July 25, 2023**

794

795 Ms. (Grace) Bradish, representative, was present for this application.

796

797 Mr. Brubaker said that this is an amendment to re-locate the fire hydrant 275 feet closer
798 to Middle Street. It would be re-located between lots #2 & #3 (currently on lot #4). The
799 Fire Chief and Kittery Water District (KWD) are amenable to the plan. There was an
800 earlier plan that KWD didn't like as much that was revised. It had to do with the water
801 mains to the individual lots were set up. KWD did just have a minor note that the water
802 main material would need to be HDEP instead of PVC. For subdivision amendments, as
803 we went through with a previous subdivision amendment that had a lot of review time,
804 we can do it by application or subdivision review. In my opinion, this is minor enough to
805 be an amendment by application. So, the applicant has submitted a simple, one page
806 Request for Planning Board Action and my recommendation would be to approve the
807 application with the provided motion.
808

809

809 Ms. Bradish said that I am here with LGE Property Development and Jesse Realty. The
810 fire hydrant is just being re-located to Lots #2 & #3 between the sideline. It was at Lot #4
811 but it's being moved 275 feet.

812

813 Ms. Bennett, hearing no questions, said that the Chair would entertain a motion to
814 approve.

815

816 **Ms. O'Connor moved, second by Mr. Leathe, that the Planning Board approve the**
817 **Subdivision Plan Amendment Application for PB23-13 to re-locate the proposed fire**

818 **hydrant, along with water line changes at Clover Farm Subdivision at 771 & 787**
819 **Main Street, along the new subdivision street named Shipping Lane.**

820 **VOTE**

821 **6-0**

822 **Motion approved**

823

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

827

828 **B. November 2023 Ordinance Amendments: Housing/LD2003, Park-and-Rides,**
829 **Grocery Stores.**

830

831 Ms. Bennett said that, since we last met, there have been some revisions to the draft
832 ordinance you last saw for **LD2003** implementation. I've worked in comments from
833 DECD into the document. I also took a stab at re-writing the background and rationale a
834 little bit following some of the recommendations from our conversation. The draft was
835 forwarded to our Planner on Monday morning and he is in the process of reviewing it
836 right now. We did have a conversation just prior to this meeting where we feel we still
837 have some outstanding questions in our mind regarding the restrictive covenants for
838 affordable housing developments; how to explicitly put that in and what that looks like in
839 our ordinance. But, in an effort to move this forward in a short timeframe, we felt we
840 could distribute this to the PB by the end of the week with the attendant materials for the
841 next meeting and, at the same time, forward to our attorney for him to review. Next
842 meeting we will have opportunity to talk about it and schedule the public hearing for
843 August 15th. That's the timeline we are working with. I think the SB has to do final
844 approval of all warrants no later than September 12th. We do have a little room if changes
845 need to be made. We also have a proposed ordinance to create allowance for a **Park and**
846 **Ride**. How are you doing with that, Mr. Brubaker.

847

848 Mr. Brubaker said that I previously presented just initial slides. So, I have to write the
849 ordinance but it won't be earth-shattering. It will be like what you saw in the slides;
850 creating a carve-out for public Park and Rides to be allowable in our Town. It is
851 technically not allowable now because off-site parking is not allowed in any zone. Our
852 2009 Comp Plan is still speaking to us and still active and very much has things to say. It
853 does recommend allowing Park and Ride lots, so, that would be the proposal.

854

855 Ms. Bennett asked if we might have something to look at for the next meeting.

856

857 Mr. Brubaker agreed.

858

859 Ms. Bennett asked if there is a proposal related to **grocery stores** and what is that.

860

861 Mr. Brubaker said that that is something I am thinking about. The Town doesn't have a
862 grocery store line item in our land use table. I don't know if we need it but it is something
863 to think about. We have 'retail store' line item. I do believe, of the neighboring towns,

864 York does provide a separate definition for grocery stores. The interesting thing is ‘retail
865 stores’, I think, had a 16 allowability and basically means SPR use in the C/I District or
866 in the Rural or Suburban District for a lot that abuts Route 236 only. There is a clause
867 that limits the size of those retail stores outside of the C/I District to, I believe, 5,000
868 square feet. The questions is do we need to allow grocery stores specifically as a line item
869 and should grocery stores, wherever they are allowed, presumably in the C/I District or
870 somewhere else along Route 236, face the limitation of 5,000 square feet in size.

871
872 Mr. Late3r asked if the thinking is to make the definition of grocery store a more
873 permissible use than a retail store.

874
875 Mr. Brubaker said yes, in that it would not face a 5,000 square-foot limitation.

876
877 Ms. O’Connor asked if there is something like a convenience store, asking what
878 Cumberland Farms is qualified as.

879
880 Mr. Brubaker said that I think it would be gas station; that that use is primarily for the
881 sale of gas but you can also sell a limited amount of retail goods.

882
883 Ms. O’Connor asked if, with grocery store, does it need to address alcohol at all.

884
885 Mr. Brubaker said that it could, depending on how specific.

886
887 Mr. Leathe asked, if we didn’t propose a grocery store ordinance and a grocery store
888 came in.

889
890 Mr. Brubaker said that that is a good question to segway in to the fact that I just saw that
891 we also do have a generic, commercial establishment definition in our code. In our land
892 use table there is a line that says ‘commercial establishment, two or more’ are allowed.
893 That is an SPR use in the C/I District so I don’t know if that means, like where you have
894 more than one commercial establishment on the same site, but the definition of
895 commercial establishment does mention grocery store. I’ve always been thrown off by
896 the ‘two or more, where allowed’. So I think it would either be that or under ‘retail
897 stores’.

898
899 Ms. Bennett said that Nature’s Way in South Berwick is a nice example, or Golden
900 Harvest. Storage space there adds to the size but not the retail space, itself. They are one
901 of the larger purveyors of fresh food for restaurants on the seacoast. She asked if this was
902 something Mr. Brubaker was thinking about trying to pull together.

903
904 Mr. Brubaker said maybe something to put out in June. It came to mind because of an
905 inquiry from a property owner on Route 236 about needing a variance for a ___ grocery
906 store and that property owner was referred to the Board of Appeals (BOA) process but,
907 for some reason, has never gotten a hearing before the BOA. They were looking for a
908 practical difficulty variance to increase their lot coverage but also were looking to have a

909 grocery store that was more than 5,000 square feet but were prevented by the current
910 5,000 square-foot limitation.

911
912 Ms. Bennett said that Mr. Shiner and I did have the opportunity to talk about LD2003. I
913 have a punch list that I shared with Mr. Brubaker and Mr. Shiner about this ordinance
914 amendment and one was to consolidate our language around wastewater treatment,
915 sewage, etc., and there seems to be that we need to do a cohesive look at language around
916 water, sewage, and wastewater treatment in general. It's too much of a lift to do it at this
917 time. We were in agreement to put it off until the June ballot.

918
919 **ITEM 11 – OTHER BUSINESS/CORRESPONDENCE**

920
921 **A. Updates, if available: Ordinance Subcommittee, Comprehensive Plan, Town**
922 **Planner, Board Members.**

923
924 Ms. Bennett asked if everyone saw that the agenda got posted for the next meeting. There
925 are two new items coming before us. One is a Shoreland Zoning application and another
926 request for PB re-approval. We also have a site plan amendment review for a mobile
927 vendor site. We will be looking at the LD2003 ordinance amendments, as well.

928
929 Ms. Bennett said that I would like to propose, regarding the minutes, to move the minutes
930 down to 'Other Correspondence' near the end of our meeting as a courtesy to the public
931 who come to our meetings and have to listen to us go through an administrative function.
932 How does everyone feel about that.

933
934 Some PB members were okay with that.

935
936 Mr. Latter said that sometimes I think it's just nice; that people tune in at the beginning
937 and we cover what our business has been.

938
939 There was discussion that they don't have the minutes beforehand to have read them and
940 minutes are just being word smithed, for the most part. The Notices of Decision would
941 still be done at the beginning.

942
943 Ms. Lemire said, regarding minutes, I agree that it doesn't really matter when in the
944 meeting you do the minutes. However, every once on awhile, you run into a situation
945 where you need to have them approved before you continue with an application. It
946 doesn't happen very often but it does happen. So, just for those situations, you may want
947 to change that up for just that particular thing.

948
949 Ms. Bennett said that you make a very good point. Flexibility could be allowed for that.

950
951 The necessity of the robustness of the minutes was discussed.

952
953 Ms. Bennett said that, for one, it really helps to inform the Notice of Decision. The other
954 piece is that, in the case of a legal challenge, they are the evidence of our deliberation.

955 That's why we really take the time to go through and make sure they accurately reflect
956 what we actually said. In my opinion, I believe that the detail that Ms. Lemire provides in
957 our minutes is invaluable to our PB and to the Town.

958
959 Ms. Lemire added that the PB is a quasi-judicial board. The other piece to the minutes are
960 the Findings of Fact. The minutes details make all the difference for the Findings of Fact.

961
962 Mr. Leathe said that we had this very same discussion a week ago on the Budget
963 Committee, you (Mr. Latter) were there. We are not quasi-judicial but the commentary
964 revolved around having an independent person to summarize may not actually capture the
965 discussion well enough and making the extra effort that Ms. Lemire does would cement
966 the fact that this is exactly what we talked about.

967

968 **ITEM 12 – SET AGENDA AND DATE FOR NEXT MEETING**

969

970 The next regular Planning Board Meeting is scheduled for August 1, 2023 at 7PM.

971

972 **ITEM 13 – ADJOURN**

973

974 **Mr. Leathe moved, second by Ms. O'Connor, that the Planning Board adjourn.**

975

VOTE

976

6-0

977

Motion approved

978

979 The meeting adjourned at 7:57 PM.

980

981

982

983

984

Suzanne O'Connor, Secretary

985

Date approved: _____

986

987

988 **Respectfully submitted,**

989

990 **Ellen Lemire, Recording Secretary**

991

992

993

994