

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

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

DATE: Tuesday, August 16th, 2022
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
 - a) Quorum, Alternate Members, Conflicts of Interest
- 2) PLEDGE OF ALLEGIANCE
- 3) MOMENT OF SILENCE
- 4) 10-MINUTE PUBLIC INPUT SESSION
- 5) REVIEW AND APPROVE MINUTES
 - a) June 21st, 2022 ~ August 9th, 2022 – if available
- 6) NOTICE OF DECISION
 - a) 155 Harold L. Dow Highway – if available
 - b) 768 Main Street – if available
 - c) 244 Pleasant Street – if available
- 7) PUBLIC HEARING
 - a) November 2022 Ordinance Amendments
 1. Site Plan Review, Subdivisions, Vesting, and Performance Guarantees
 2. Solar Energy Systems
 3. Maximum Number of Licenses for Marijuana Establishments and Medical Marijuana Establishments
 4. Erosion and Sedimentation Control
 5. Town Fee Schedule
- 8) NEW BUSINESS
 - a) 276 Harold L. Dow Highway (Map 37/Lot 9), PID # 037-009-000, PB22-14: Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – sketch plan review
 - b) 147 Beech Road (Map 29/Lot 4) & 0 Harold L. Dow Highway (Map 36/Lot 13), PID # 029-004-000 and 036-013-000, PB22-16: Shoreland Zoning Permit Application – Town of Eliot Route 236 Water-Sewer Project Pump Stations – sketch plan review
 - c) 7 Maclellan Lane (Map 37/Lot 19), PID # 037-019-000, PB22-15: Site Plan Amendment/Review and Change of Use – Marijuana Store, Office, and Retail – sketch plan review (as time allows)
- 9) OLD BUSINESS
 - a) Comp Plan Update
- 10) OTHER BUSINESS / CORRESPONDENCE
 - a) Town Planner update – written or verbal – if available
- 11) SET AGENDA AND DATE FOR NEXT MEETING
 - a) September 6th, 2022
- 12) ADJOURN

All in-person attendees are asked to wear face masks

POSTED
8-9-22
JSB

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 7:00 (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
- b) Please call 1-646-558-8656
 1. When prompted enter meeting number: 857-6113-0555 # 827 8340 8909 #
 2. When prompted to enter Attendee ID press #
 3. When prompted enter meeting password: 907568 # 615478 #
- c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at time to allow for input. Please remember to state your name and address for the record.
- d) Press *9 to raise your virtual hand to speak


Carmela Braun – Chair

NOTE: All attendees are asked to wear facial protective masks. No more than 50 attendees in the meeting room at any one time. The meeting agenda and information on how to join the remote Zoom meeting will be posted on the web page at eliotmaine.org/planning-board. Town Hall is accessible for persons with disabilities.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

DRAFT for August 16, 2022, Planning Board Public Hearing

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

Ballot question – Town Special Referendum Election, November 8, 2022

ARTICLE #____: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees” be enacted?

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

Background and rationale

Prepared by Planning Board Ordinance Subcommittee

Subdivision, a form of Site plan review that the Planning Board considers, has been a relatively infrequent land use change in Eliot to date. Yet, subdivisions that have improperly installed infrastructure, failed to be completed or for which an approval is decades old have cost the Town of Eliot considerable money, polluted the environment and distressed residents.

The proposed amendments remove the ambiguous language such as “substantially complete”, provide greater clarity to applicants and the Planning Board about when site plan review applications, including applications for subdivision become vested, when approvals expire, creates a section that details requirements for a phased project, how permit expiration will be handled in a phased development and the process an applicant can take to see an extension of time or re-approval.

Additionally, the proposed amendments expand performance guarantees that will protect the Town of Eliot and adds the requirement that applicants provide proof of fiscal capacity.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

(New text underlined in bold)

~~Deleted text in strikethrough~~

Sec. 1-20. - Effect of changes to this Code on existing applications.

Once an application for any approval or permit required under this Code has had at least one substantive review by the reviewing authority, it is considered pending and will not be affected by any ordinance change or moratorium enacted from that point forward, unless such ordinance change or moratorium expressly provides otherwise. Notwithstanding anything to the contrary in 1 M.R.S.A. §302 a substantive review has been conducted only when the following criteria have been met:

(1)The application has been discussed as an agenda item during a regular meeting of the planning board with the applicant, or his representative, present:

(2)(a)For site review applications, the planning board has completed sketch plan review and accepted the site plan for review;

(b)For minor subdivision applications, the planning board has accepted the final plan for review;(c)For major subdivision applications, the planning board has approved the preliminary plan;

(3)A public hearing on the application has been scheduled.

(4)The applicant has not requested an extension of a site plan approval under Section 33-59.

(T.M. of 3-22-03)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

Sec. 33-59 – **Vesting and** expiration of site plan approval

~~The approval of a site plan review under chapter 33, article III shall expire if the work or change involved does not commence within two years of the date the planning board makes its determination of approval under section 33-131, or if the work or change is not substantially completed within three years after such date. See chapter 41 for subdivision regulations.~~

- (a) **Vesting. Applications shall be considered vested (that is, pending) pursuant to Section 1-20.**
- (b) **Expiration of site plan approvals**
 - (1) **The calculation of the expiration of site plan approval shall be based upon the date the Planning Board voted to approve the application.**
 - (2) **Where construction, substantial completion of improvements, and-or fulfillment of conditions required in an approved site plan, has not occurred within the time limits stated below, the approval shall expire.**
 - (3) **The applicant may, no later than 60 days before the date of expiration, make a written request to the Planning Board for a time extension of site plan approval. This request shall explain the reasons why the improvements or fulfillment of conditions have not been completed and indicate how the applicant expects to complete the development if the Planning Board grants a time extension.**
 - (4) **When considering a request under paragraph (3), the Planning Board may consider any amendments to this Ordinance affecting the development since the initial approval or previous time extension. If the Planning Board deems that changes to the site plan are needed based on such amendments, the applicant shall submit an application to the Planning Board pursuant to Section 33-140. In this case, if that application is not submitted prior to site plan approval expiration, the application shall expire. If that application is submitted prior to site plan approval expiration, the site plan shall be considered unexpired while the Planning Board’s review is underway.**
 - (5) **In any partially completed, phased development, if the commencement of any phase is delayed by three (3) or more years, Planning Board site plan approval shall expire as to all phases not yet commenced, upon 60 days written notice to the applicant and-or property owner. The applicant may request an extension of the phasing plan at any time through a site plan revision pursuant to Section 33-140, which shall be granted if the applicant shows good cause for the delay and the Planning Board determines that continuing the development as approved is consistent with the Town Code as amended.**
 - (6) **Except as otherwise provided in this section, site plan approval shall expire if the work or change involved does not commence within two (2) years of site plan approval or if the work or change is not substantially complete**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

within three (3) years from the date of approval. (Reference the definition of “Start of construction” in Section 1-2.)

- (7) In the event of site plan approval expiration, the applicant shall have no rights to develop according to the expired site plan. The applicant may submit a new site plan application or a reapproval application pursuant to Section 33-141.**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

Sec. 33-132. – Performance guarantees.

- (a) Whenever a new street **intended for dedication to the Town of Eliot or to be privately held** or any other required improvements are proposed as part of a site review application, an application for multi-family housing under chapter 33, an application for subdivision approval under chapter 41, or an application for an open space development under chapter 45, the applicant shall provide a performance guarantee for the streets and/or required improvements, as described below.
- (b) At the time of submission of an application for review of a site plan under section 33-126 or an application for review of a preliminary subdivision under section 41-141, or an open space development under section 45-467, the applicant shall submit a written statement, addressed to the Eliot Board of Selectmen and to the Eliot Planning Board, affirming that the applicant will provide a performance guarantee for all streets and required improvements under either option 1 or option 2 below, and stating which option the applicant elects.
- (c) **The Planning Board may require a financial security for a period not to exceed two (2) years to ensure the replacement of any plantings shown on the landscaping plan that have failed to grow normally, are diseased, or have died.**
 - (1) *Option 1.* Financial guaranty.
 - a. In order to ensure completion of all streets and required improvements, the applicant shall, prior to the issuance of any building permits for the approved project, furnish to the board of selectmen a performance guaranty in the form of cash, a certified check payable to the town, or an irrevocable letter of credit in a form and from an issuer acceptable to the board of selectmen. The amount of such performance guaranty shall be determined by the board of selectmen, and shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the streets and required improvements. An independent, third party professional engineer, licensed in Maine, and selected by the board of selectmen shall be required, to confirm that the amount of the performance guaranty proposed by the applicant will be sufficient. Said engineering evaluation shall be at the expense of the applicant, funded by an escrowed technical consulting fee, established by the board of selectmen, pursuant to the procedure of section 33-128 of this Code. The performance guaranty shall be conditioned upon the completion of all streets and required improvements within 36 months after the date the performance guaranty is issued. If cash or a certified check is used for the performance guaranty, the funds shall be deposited in an escrow account with a financial institution acceptable to the board of selectmen and pursuant to an escrow agreement approved by the board of selectmen.
 - b. The irrevocable letter of credit or escrow agreement shall provide that funds may be released in part or in whole only as approved by the board of selectmen after certification by the road commissioner and with the concurrence of the code enforcement officer and an independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

above, that the streets or, in the case of a partial release, a specified portion of the streets, have been completed as required by the planning board approval. The letter of credit or escrow agreement shall not obligate the town to allow partial releases.

- c. The applicant shall not commence construction of the streets or required improvements until the performance guaranty has been provided and accepted by the board of selectmen. Thereafter, prior to the commencement of each major phase of street construction, the applicant shall notify the road commissioner, ~~and~~ code enforcement officer, **and third party professional engineer (if applicable)** to schedule an inspection of the construction site. The applicant shall not begin the next major phase of street construction without an agreement from the road commissioner, and the independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, that the phase of the street being inspected has been completed as shown on the plans approved by the planning board. For the purpose of this condition, the major phases of street construction are shown on Table 1, below.

Table 1.

| | |
|---------|---|
| Phase 1 | Pre-construction meeting with road commissioner, code enforcement officer, applicant, street contractor and applicant's engineer. |
| Phase 2 | Clearing and removal of tree stumps, organic material, rocks and boulders as specified in Sec. 37-72. |
| Phase 3 | Completion of grading, shoulders, and culverts. |
| Phase 4 | Installation of aggregate subbase course as specified in Sec. 37-71. |
| Phase 5 | Installation of crushed gravel base course as specified in Sec. 37-71. |
| Phase 6 | Installation of hot bituminous pavement base course as specified in Sec. 37-71. |
| Phase 7 | Placement of permanent reference monuments as specified in Sec. 37-72. |
| Phase 8 | Installation of hot bituminous pavement wearing/surface course as specified in Sec. 37-71. |
| Phase 9 | Final seeding of slopes and landscaping. |

- d. After the performance guaranty has been provided and accepted by the board of selectmen, the applicant may sell lots and building permits may be issued during the construction of the streets. However, no occupancy permit shall be issued for any building until the street on which that building fronts has been completed through Phase 5, as described in Table 1 above.
- (2) *Option 2.* Lot sales and building permits deferred until streets and required improvements are complete.
- a. In lieu of a financial performance guaranty under option 1, the applicant may enter into a written agreement with the board of selectmen agreeing that no lots shall be sold and no building permits shall be issued until the proposed streets and required improvements are completed in accordance with the planning board's approval, and that, before the applicant may sell lots or obtain building permits, both of the following documents must be provided to the code enforcement officer:

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1. A written statement from the applicant's registered professional engineer, licensed in Maine, indicating that he or she has completed a site evaluation and that, to the best of his or her knowledge, the street and/or required improvements were designed and constructed in accordance with the final plan as approved by the planning board.
 2. A written statement from the town road commissioner and an independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, that the street was inspected prior to the commencement of each major phase of street construction per Table 1, and to the best of his or her knowledge the street **and-or required improvements** was constructed in accordance with the final plan as approved by the planning board.
- b. Upon receipt of such agreement from the applicant, the board of selectmen shall provide a copy of the agreement to the code enforcement officer and shall direct the code enforcement officer not to issue building permits until the road commissioner and an independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, have certified in writing to the board of selectmen that all streets and required improvements have been constructed in accordance with the final plan as approved by the planning board.
- c. The applicant shall not commence construction of the streets or required improvements until the agreement has been executed and delivered to the board of selectmen. Thereafter, prior to the commencement of each major phase of street construction **and-or required improvements**, the applicant shall notify the road commissioner and code enforcement officer to schedule an inspection of the construction site. The independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, shall be included in the inspection. The applicant shall not begin the next major phase of street construction **and-or required improvements** without an agreement from the applicant, the independent, third party professional engineer and the road commissioner, that the phase of the street **and-or required improvements** being inspected has been completed as shown on the plans approved by the planning board. For the purpose of this condition, the major phases of street construction are shown on Table 1, above.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

Sec 33-133. – Phasing of development

If an applicant wishes to phase the development of a site plan, the approved plans shall reflect the intended phasing plan. The Planning Board shall review the phasing proposal as an integral part of the plan submittal. The applicant shall establish that all phased infrastructure shall be functional for the specific phase under development, independent of future phases. The Planning Board may accept, as part of a phasing plan, temporary structures, such as turnarounds, that may be required to permit infrastructure within a particular phase to function properly.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

Sec 33-141. – Site plan reapproval process

If Planning Board site plan approval expires, the applicant may request reapproval as follows:

- (a) **The applicant shall submit an application and ten (10) copies of the approved site plan to the Planner along with a cover letter addressing why the improvements/development have not been completed and giving a time schedule to complete the development, if reapproved.**
- (b) **After a public hearing pursuant to Sections 33-129 and 33-130, the Planning Board may make a determination on reapproval as described in Section 33-131.**
- (c) **The Planning Board shall consider any amendments to the Town Code affecting the development since the initial approval when considering a request for reapproval, and may require the applicant to revise the site plan pursuant to Section 33-140.**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, and Chapter 41 – Subdivisions, Related to Site Plan and Subdivision Plan Expiration, Phasing, and Performance Guarantees

Sec. 41-43. – Phasing

If a subdivider wishes to phase the development of a subdivision, the approved plans shall reflect the intended phasing plan. The Planning Board shall review the phasing proposal as an integral part of the plan submittal. The applicant shall establish that all phased infrastructure shall be functional for the specific phase under development, independent of future phases. The Planning Board may accept, as part of a phasing plan, temporary structures, such as turnarounds, that may be required to permit infrastructure within a particular phase to function properly. The subdivider shall provide a separate performance guarantee, in a form and amount acceptable to the Town Manager and Select Board, for the completion of the infrastructure of each phase.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

DRAFT for August 16, 2022, Planning Board Public Hearing

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Ballot question – Town Special Referendum Election, November 8, 2022

ARTICLE #__: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems” be enacted?

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

Background and rationale

In the June 14, 2022, Annual Town Election and Referendum, voters approved ordinance amendments establishing zoning, performance standards, and site plan review requirements for solar energy systems. The amendments established definitions for two types of systems based on size and location: smaller-scale, ground-mounted or roof-mounted systems (SES-SR) and larger-scale, ground-mounted systems (SES-LG).

The amendments proposed for this November 2022 Town Special Referendum Election make adjustments and clarifications to the solar energy system land use regulations. First, they make SES-LGs allowable, subject to Planning Board site plan review, in the Limited Commercial shoreland zoning district, as long as they are on appropriate soils. Other shoreland zoning districts would continue to prohibit them. Qualifications and limitations are also added for SES-SRs in two other shoreland zoning districts, Resource Protection and Limited Residential (LR), in part to anticipate Maine Department of Environmental Protection (DEP) review regarding SES-SRs in the LR district and in part to align SES-SR allowability with the allowability of other structures and general purpose of the RP district.

Subsection 45-462(d)(5)e generally prohibits SES-LGs in Focus Areas of Statewide Ecological Significance as defined by the Maine Natural Areas Program, with some exceptions. The amendments clarify these exceptions, which apply to land that has undergone development or significant grading, or is a brownfield site. Similar modifications are proposed for Subsection 33-191(d) to clarify which SES-LGs are exempt from providing environmental information otherwise required by Subsection 33-191(c) in site plan review applications. The amendments add a new definition of a brownfield site that is consistent with a commonly accepted definition at the state

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

and federal level. Another proposed new definition is “impervious area”, which is also included in the Erosion and Sedimentation Control ordinance amendments also proposed for this same election.

The amendments also modify and clarify Section 45-462(d)(1), which generally requires a continuous vegetated buffer between SES-LGs and nearby residential uses or streets, town ways, or public ways. The amendments expand the residential lots from which the SES-LG must be so buffered from being merely “abutting” to being within 100 ft. of the lot to be developed. They also clarify that the Planning Board may allow limited openings in the vegetated buffer if necessary for transportation, emergency, and utility access, or otherwise as required by law or code. This is intended to balance the fact that the buffer should be as continuous as possible (and maintained as such) with the fact that the development of SES-LGs may need some openings for the functioning of the site, e.g. a new driveway for maintenance vehicle access.

The amendments further define wetland impact avoidance/minimization by placing a limit such that SES-LGs cannot be located on, or alter, 4,300 sq. ft. or greater of wetlands.

Finally, the amendments make other minor wording and editorial changes.

New text underlined in bold

~~Deleted text in strikethrough~~

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

[abridged to only show changes]

Brownfield (or a brownfield site) means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

[...]

Impervious area means the total area of a parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and underdrained artificial turf fields are all considered impervious. *[Also proposed in the Erosion and Sedimentation Control ordinance amendments]*

[...]

Solar energy system means a system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted. Solar energy systems are categorized by a combination of area and location as follows:

1. A small-scale or roof-mounted solar energy system (SES-SR) is either:
 - (a) a ground-mounted solar energy system whose area, based on total airspace projected over the ground, is less than 15,000 square feet (approximately one-third of an acre); or
 - (b) a roof-mounted solar energy system
2. A larger-scale solar energy system (SES-LG) is a ground-mounted solar energy system whose area, based on total airspace projected over ~~a roof or~~ the ground, is equal to or greater than 15,000 square feet. Within any three-year period, construction of two or more ground-mounted solar energy systems on the same ~~property~~ **lot**, where the total combined area,

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

based on total airspace projected over the ground, of those systems is equal to or greater than 15,000 square feet, shall be collectively considered **construction of** an SES-LG.

[...]

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Sec. 33-191. – Larger-scale solar energy systems

In addition to the required elements in Section 33-127, all larger-scale solar energy system (SES-LG) site plan review applications must include the following:

- (a) A decommissioning plan consistent with Section 45-462(d)(10). A decommissioning plan (or advanced draft of such plan) required by 35-A MRSA 3491 through 3496 may be provided as long as it is consistent with Section 45-462(d)(10).
- (b) Documentation of the financial guarantee required by 35-A MRSA 3491 through 3496. The Town shall have the option to be an obligee on a surety bond or otherwise hold a financial assurance.
- (c) Environmental information, as applicable:
 - (1) Summary of known occurrences of species or habitats of concern for the project site provided by the Maine Department of Inland Fisheries and Wildlife (MDIFW);
 - (2) Documentation regarding Endangered, Threatened, or Rare/Special Concern species or their habitat on the project site, pursuant to the Maine Endangered Species Act (MESA; 12 M.R.S.A. §12801 eq. seq.);
 - (3) Significant Wildlife Habitats (SWHs) defined and protected pursuant to the Natural Resources Protection Act (NRPA; 38 M.R.S.A §480-B (10)) and Maine Department of Environmental Protection (DEP) SWH rules (06-096 CMR 335; 09-137 CMR 10), including, but not necessarily limited to, Deer Wintering Areas (DWAs) or Travel Corridors;
 - (4) Mapped vernal pools on, or within 250 feet of the ~~property~~ **lot**, and the following related information: Maine State Vernal Pool Assessment Forms completed by a qualified wetland scientist; vernal pool significance determinations from MDIFW; mapped Critical Terrestrial Habitat (CTH) buffers, as required by NRPA (38 M.R.S.A. §480-BB) and DEP CTH rules (06-096 CMR 305 and 335); and associated CTH impact calculations. An applicant may omit the aforementioned assessment forms and-or vernal pool determinations if:
 - i. because of the time of year at which the application is submitted, conducting a seasonally valid vernal pool survey would delay application review by at least two months; and
 - ii. the applicant treats all vernal pools on the property as “potentially significant” and designs the project as if they were significant and DEP CTH rules apply.
 - (5) Delineated wetlands. Wetland delineation for wetlands shown on the site plan must have been completed by a qualified wetland scientist within the last five years.
 - (6) **A summary of documented or potential** ~~A~~ **archaeological and historical resources on, or in the vicinity of, the lot,** including but not limited to correspondence **to or** from the State Historic Preservation Commission.

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

- (7) A summary of DEP NRPA permit requirements and the status of applications for said permits.
 - (8) An estimate of the location of prime farmland or soils of statewide importance.
 - (9) Environmental assessment and alternatives analysis. Applicants for SES-LGs shall submit an environmental assessment and alternatives analysis that documents how the siting decision was made; an assessment of different locations and sizes of solar array on the parcel to be developed; a narrative describing impacts to wildlife, documented significant natural areas, watersheds; and a discussion of how these impacts will be avoided, minimized, or mitigated.
- (d) *Environmental information exemptions.* Applications for SES-LGs systems, **for which** at least 90 percent of **their total airspace projected over the ground** ~~which would cover the following land~~, already impervious area (such as a parking lot), or which are entirely within documented brownfield sites, are exempt from providing the above information **required by subsection (c)**, unless the Planning Board makes a motion to require it:
- (1) **Land where significant grading has already been permitted and has occurred, such as a quarry;**
 - (2) **Land where development has already been permitted and has occurred, including, but not necessarily limited to, buildings, structures, parking lots, driveways, livestock corral areas, or other impervious areas to be redeveloped by the SES-LG; or,**
 - (3) **A brownfield site that existed as of June 22, 2022;**
- (e) Locations of proposed new power lines serving the site, information about anticipated upgrades to existing power distribution lines or poles, and a summary of the project’s status with power company/grid operator required approvals/documents.
 - (f) *Operations and Maintenance Plan.* The applicant shall submit a plan for the operation and maintenance of the SES-LG, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.
 - (g) *Emergency Services.* The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. The owner or operator shall cooperate with the Fire Department in developing an emergency response plan. All means of shutting down the system shall be clearly marked. The owner or operator shall provide to the Code Enforcement Officer the name and contact information of a responsible person for public inquiries throughout the life of the installation.

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Sec. 44-34. Table of land uses.

[this section was updated in the June 14, 2022, Town Election, but has not yet been updated in Municode. This amendment seeks to update table row numbering.]

All land use activities, as indicated in table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in section 44-33 and other applicable ordinances. The district designated for a particular site shall be determined from the official zoning map.

Key to table 1:

| | | |
|-----|---|---|
| Yes | - | Allowed (no permit required but the use must comply with all applicable land use standards) |
| No | - | Prohibited |
| SPR | - | Allowed with site plan review and approval by the planning board |
| CEO | - | Allowed with permit issued by the code enforcement officer |
| LPI | - | Allowed with permit issued by the local plumbing inspector |

Abbreviations:

| | | |
|----|---|---------------------|
| RP | - | Resource protection |
| LR | - | Limited residential |
| LC | - | Limited commercial |
| GD | - | General development |
| SP | - | Stream protection |

The following notes are applicable to the land uses table on the following page:

Note: The term “functionally water-dependent use” as defined, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by water or use water for cooling, to traditional commercial fishing enterprises, and public shorefront parks.

Table 1. Land Uses in the Shoreland Zone

| Land Uses | | Districts | | | | |
|---------------------------------------|--|-----------|------------------|-----|-----|-----|
| | | SP | RP | LR | LC | GD |
| Uses or Activities Without Structures | | | | | | |
| (1) | Clearing of vegetation for activities other than timber harvesting | CEO | CEO ¹ | CEO | CEO | CEO |
| (2) | >Emergency operations | yes | yes | yes | yes | yes |
| (3) | Fire prevention activities | yes | yes | yes | yes | yes |
| (4) | Forest management activities, except for timber harvesting and land management roads | yes | yes | yes | yes | yes |

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

| | | | | | | |
|-------------------------------------|--|-------------------|-------------------|-------------------|-------------------|------------------|
| (5) | Mineral exploration | no | no | no | yes ² | yes ² |
| (6) | Mineral extraction, including sand and gravel extraction | no | no | no | SPR | SPR |
| (7) | Motorized vehicular traffic on existing roads and trails | yes | yes | yes | yes | yes |
| (8) | Nonintensive recreational uses not requiring structures such as hunting, fishing and hiking | yes | yes | yes | yes | yes |
| (9) | Soil and water conservation practices | yes | yes | yes | yes | yes |
| (10) | Surveying and resource analysis | yes | yes | yes | yes | yes |
| (11) | Wildlife management practices | yes | yes | yes | yes | yes |
| Principal Structures or Uses | | | | | | |
| (12) | Principal structures and uses: | | | | | |
| | a. One- and two-family residential | SPR ⁴ | SPR ⁹ | CEO | CEO | CEO |
| | b. Multifamily dwelling | no | no | SPR | SPR | SPR |
| | c. Commercial (not listed elsewhere) | no ¹³ | no ¹³ | no ¹³ | SPR | SPR ⁵ |
| | d. Industrial | no | no | no | no | SPR |
| | e. Governmental and institutional | no | no | no | SPR | SPR |
| | f. Small nonresidential facilities for educational, scientific or nature interpretation purposes | SPR ⁴ | SPR | CEO | CEO | CEO |
| (13) | Agriculture | CEO | SPR | CEO | CEO | CEO |
| (14) | Aquaculture | SPR ¹⁰ | SPR ¹⁰ | SPR ¹⁰ | SPR | Yes |
| (15) | Auto graveyard | no | no | no | no | no |
| (16) | Auto hobbyist storage area | no | no | no | no | no |
| (17) | Auto junkyard | no | no | no | no | no |
| (18) | Auto recycling operation, limited | no | no | no | no | no |
| (19) | Auto recycling operation, principal | no | no | no | no | no |
| (20) | Bed and breakfast | no | no | SPR ¹⁰ | SPR ¹⁰ | SPR |
| (21) | Boardinghouse | no | no | SPR ¹⁰ | SPR | SPR |
| (22) | Campgrounds | no | no ⁷ | no | no | SPR |
| (23) | Conversions of seasonal residences to year-round residences | LPI | LPI | LPI | LPI | LPI |
| (24) | Fireworks sales | no ¹⁷ | no ¹⁷ | no ¹⁷ | no ¹⁷ | no ¹⁷ |

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| | | | | | | |
|-------------------------------------|---|------------------|------------------|-------------------|---------------------------------------|-------------------|
| (25) | Gambling Casino | no | no | no | no | no |
| (26) | Marijuana establishment | | | | | |
| | a. Marijuana store | no | no | no | SPR | SPR |
| | b. Marijuana cultivation facility | no | no | no | SPR | SPR |
| | c. Marijuana products manufacturing facility | no | no | no | no | SPR |
| | d. Marijuana testing facility | no | no | no | SPR | SPR |
| (27) | Marinas | | | | | |
| | a. Full service | no | no | no | no | SPR |
| | b. Limited | no | no | no | SPR | SPR |
| (28) | Medical marijuana establishment | | | | | |
| | a. Medical marijuana dispensary | no | no | no | SPR | SPR |
| | b. Medical marijuana cultivation facility | no | no | no | SPR | SPR |
| | c. Medical marijuana caregiver retail store | no | no | no | SPR | SPR |
| | d. Medical marijuana products manufacturing facility | no | no | no | no | SPR |
| | e. Medical marijuana testing facility | no | no | no | SPR | SPR |
| (29) | Off-site parking | no | no ⁷ | no | no | no |
| (30) | Public and private recreational areas involving minimal structural development | SPR | SPR | SPR | SPR | CEO |
| (32) (31) | Solar energy system, larger-scale (SES-LG) | no | no | no | no SPR¹⁵ | no |
| Accessory Structures or Uses | | | | | | |
| (34) (32) | Structures accessory to allowed uses, not otherwise listed | SPR ⁴ | SPR | CEO | CEO | CEO |
| (32) (33) | Essential services | SPR ⁶ | SPR ⁶ | SPR | SPR | SPR |
| | a. Roadside distribution lines (34.5kV and lower) | CEO ⁶ | CEO ⁶ | yes ¹² | yes ¹² | yes ¹² |
| | b. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone | SPR ⁶ | SPR ⁶ | CEO | CEO | CEO |

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

| | | | | | | | |
|--------------------------------|----|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| | c. | Non-roadside or cross-country distribution lines involving 11 or more poles in the shoreland zone | SPR ⁶ | SPR ⁶ | SPR | SPR | SPR |
| | d. | Other essential services | SPR ⁶ | SPR ⁶ | SPR | SPR | SPR |
| (33) (34) | | Fences | yes ^{11A} | yes ^{11A} | yes ^{11A} | yes ^{11A} | yes ^{11A} |
| (34) (35) | | Filling and earthmoving of < 10 cubic yards | CEO | CEO | yes | yes | yes |
| (35) (36) | | Filling and earthmoving of > 10 cubic yards | SPR | SPR | CEO | CEO | CEO |
| (36) (37) | | Home business | no ^{12A} | no ^{12A} | SPR ^{10A} | SPR ^{10A} | no |
| (37) (38) | | Home occupations; regular and water-dependent | no | no | no | no | no |
| (38) (39) | | Home Office | CEO | no | CEO | CEO | CEO |
| (39) (40) | | Individual, private campsites | CEO | CEO | CEO | CEO | CEO |
| (40) (41) | | Piers, docks, wharves, bridges and other structures and uses and extending over or below the normal high-water line or within a wetland: | | | | | |
| | a. | Temporary | CEO ¹¹ | CEO ¹¹ | CEO ¹¹ | CEO ¹¹ | CEO ¹¹ |
| | b. | Permanent residential | SPR | SPR | SPR | SPR | SPR |
| | c. | Permanent commercial | SPR ¹⁴ | SPR ¹⁴ | SPR ¹⁴ | SPR | SPR |
| | d. | Limited commercial | SPR ⁵ | SPR ⁵ | SPR ⁵ | SPR | no |
| (41) (42) | | Private sewage disposal systems for allowed uses | LPI | LPI | LPI | LPI | LPI |
| (42) (43) | | Road and driveway construction | SPR | no ⁸ | SPR | SPR | SPR |
| (43) (44) | | Service drops, as defined, to allowed uses | yes | yes | yes | yes | yes |
| (44) (45) | | Signs. | yes ^{9A} | yes ^{9A} | yes ^{9A} | yes ^{9A} | yes ^{9A} |
| (45) (46) | | Solar energy system, small-scale ground-mounted or roof mounted (SES-SR) | CEO ¹⁵ | CEO ^{15A} | CEO ^{15B} | CEO ¹⁵ | CEO ¹⁵ |
| (46) (47) | | Small wind energy system | SPR ¹⁶ | SPR ¹⁶ | SPR ¹⁶ | SPR ¹⁶ | SPR ¹⁶ |
| (47) (48) | | Uses similar to allowed uses | CEO | CEO | CEO | CEO | CEO |

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| | | | | | | |
|--------------------------------|---|-------------------|-------------------|-------------------|-------------------|-------------------|
| (48) (49) | Uses similar to uses requiring a CEO permit | CEO | CEO | CEO | CEO | CEO |
| (49) (50) | Uses similar to uses requiring a SPR permit | SPR | SPR | SPR | SPR | SPR |
| (50) (51) | Waste containers | CEO ^{5A} | CEO ^{5A} | CEO ^{5A} | CEO ^{5A} | CEO ^{5A} |

Footnotes:

- ¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
- ² Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.
- ³ In RP not allowed in areas so designated because of wildlife value.
- ⁴ Provided that a variance from the setback requirement is obtained from the board of appeals.
- ⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only (see note on previous page).
- ^{5A} Only as an accessory use to an allowed principal use on the lot. Must conform to the requirements of [section] 45-422, Waste containers.
- ⁶ See further restrictions in subsection 44-35(1)(2), essential services.
- ⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a site plan review is required from the planning board.
- ⁸ Except as provided in subsection 44-35(h).
- ⁹ Single family residential structures may be allowed by special exception only according to the provisions of subsection 44-44(f), Special exceptions. Two-family residential structures are prohibited.
- ^{9A} See sign ordinance section.
- ¹⁰ Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.
- ^{10A} Must conform to the requirements of section 45-456.1, Home business.
- ¹¹ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- ^{11A} Must conform to the requirements of section 45-423, Fences.
- ¹² Permit not required, but must file a written "notice of intent to construct" with CEO.
- ^{12A} "No" except in conjunction with aquaculture, small nonresidential facilities for educational, scientific or nature interpretation purposes or limited commercial piers,

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docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

¹³ Use is "No" except when permitted under another specific land use entry.

¹⁴ Only commercial aquaculture allowed on piers in this zone, with no other commercial pier uses. Pier must meet the requirements of a residential pier in these zones.

Note: A person performing any of the following activities shall require a permit from the department of environmental protection, pursuant to title 38, M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- a. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- b. Draining or otherwise dewatering;
- c. Filling, including adding sand or other material to a sand dune; or
- d. Any construction or alteration of any permanent structure.

¹⁵ Must conform to the requirements of section 45-462. **SES-LGs in LC must be sited on soils that are non-hydric and are otherwise appropriate pursuant to subsection 44-35(r).**

^{15A} **In RP, an SES-SR is only allowable as a roof-mounted system on an approved or legally nonconforming structure, or as a ground-mounted system whose area, based on total airspace projected over the ground, is less than 5,000 square feet.**

^{15B} **In LR, an SES-SR is only allowable if its primary purpose is to supply energy to a principal use or structure located on the same lot as the system, or on an abutting lot in the case of a common system serving more than one principal use or structure.**

¹⁶ Must conform to the requirements of section 45-461.

¹⁷ See chapter 12 for additional regulations pertaining to the sale and use of fireworks.

(T.M. of 11-06-2018(3); T.M. of 7-14-2020(4) ; T.M. of 6-8-2021(2) , art. 33; T.M. of 6-8-2021(3) , art. 36; T.M. of 6-8-2021(4) , art. 31)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, Related to Solar Energy Systems

Sec. 45-462. – Solar energy systems.

- (a) *Purpose.* The purpose of this section is to establish performance standards for solar energy systems. This section is intended to achieve the following general objectives:
- (1) Support the goals of the 2009 Comprehensive Plan, such as Critical Natural Resource Policy 1: “Work to preserve rare and endangered plant and animal habitat and other important natural resource systems within Eliot and adjacent communities”;
 - (2) Avoid or minimize potential adverse impacts of solar energy systems on abutting properties and the environment, including rare plant populations; habitat for rare or exemplary natural communities; and large, undeveloped blocks of forestland;
 - (3) Encourage the siting of solar energy systems on land that has already been developed or disturbed, such as:
 - a. on top of buildings
 - b. in parking lots
 - c. on closed landfills
 - d. on significantly disturbed sites such as brownfields
 - e. on land where previous development was located or significant grading has taken place, and,
 - f. in regenerating wooded areas that are not comprised primarily of important farmland soils.
 - (4) Encourage the siting of solar energy systems on land that is not prime farmland or soils of statewide importance.
 - (5) Provide performance standards appropriate for the scale of the proposed solar energy system and its potential adverse impacts.
 - (6) Provide for the proper decommissioning and removal of panels and supporting structures when the panels have indefinitely stopped producing electricity.
- (b) *Objectives are not performance standards.* The general objectives in subsection (a) should not be interpreted as performance standards themselves. However, they are intended to relate to the performance standards, and applicants are encouraged to address the objectives to the extent practicable.
- (c) *Performance standards for all solar energy systems.* Solar energy systems must comply with all applicable building, plumbing and electrical codes and with all applicable dimensional requirements of this chapter (Zoning) and Chapter 44 (Shoreland Zoning).
- (d) *Performance standards for larger-scale ground-mounted solar energy systems.* The following standards shall apply to the development and maintenance of all larger-scale solar energy systems (SES-LGs). Planning Board site plan review applications shall provide adequate information to demonstrate how the proposed development will comply with these standards.
- (1) *Buffering and screening.* SES-LGs shall comply with buffering and screening requirements in Section 33-175 and Section 45-417. Without limiting the generality of the foregoing:
 - a. SES-LGs shall be visually screened from ~~abutting properties~~ **lots** that have existing residential use **and are within 100 feet of the lot(s) to be developed with the SES-LG and** ~~or~~ from streets, town ways, or public ways, by a ~~continuous~~-vegetated buffer that is at least 50 feet in depth. **Except as provided in paragraph b., the vegetated buffer shall be continuous. It shall be**

maintained as a vegetated buffer for the duration of the operation of the SES-LG.

- b. ~~An opening in the buffer along a street, public way, or town way is allowed only to the extent needed for vehicular access.~~ **The Planning Board may allow openings in the vegetated buffer required in paragraph a. only if they are necessary for transportation, emergency, or utility access to the site, or if they are otherwise required by law or building code requirements. Openings shall be minimized, and, to the extent practicable, one opening shall serve multiple purposes (e.g. a site driveway and power line).**
- (2) *Fencing.* SES-LGs shall comply with the fence requirements in Section 33-175 and Section 45-423. Without limiting the generality of the foregoing:
- a. Fencing for SES-LGs shall be provided if required by the National Electrical Code (NEC), and shall be designed, installed, and maintained in accordance with the NEC.
 - b. When used, fencing around the perimeter of an SES-LG shall be elevated by a minimum of 6 inches to allow for passage of small terrestrial animals.
 - c. Where there is a documented potential or need for passage of larger wildlife, the Planning Board may require that an SES-LG include fence or gate design features at reasonable intervals to allow for such passage while ensuring site security and NEC compliance, including, but not necessarily limited to game fences designed with larger openings at the bottom and progressively smaller openings moving to the top of the fence, or wooden escape poles of five-inch or larger diameter, and no more than 3 feet higher than the height of the fence, in at least two locations along the fence.
- (3) *Land Clearing.* Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of SES-LGs or as otherwise prescribed by applicable laws, regulations, and ~~bylaws~~ ordinances. Removal of mature trees shall be avoided to the extent possible. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.
- (4) *Wetlands.* Wetland alteration shall be avoided or minimized to the extent practicable. **In no case shall an SES-LG be sited on, or alter, 4,300 square feet or greater of wetlands.** If the project is subject to a Natural Resources Protection Act permit from the Maine Department of Environmental Protection and the applicant has not provided such approved permit as part of application review, the Planning Board may make the provision of such permit prior to, or along with, the building permit application a condition of approval.
- (5) *Habitat.* SES-LGs shall comply with the following performance standards regarding protection of sensitive wildlife habitat and corridors, as applicable:
- a. Significant, potentially significant, or assumed significant vernal pools, and their associated Critical Terrestrial Habitat (CTH), shall be protected to the extent required by DEP.
 - b. Documented habitats for State Endangered, Threatened, or Special Concern bat species shall be avoided, including but not necessarily limited to winter hibernacula and maternity roost trees.

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- c. Deer Wintering Areas, Deer Travel Corridors, Northern Black Racer habitat, and New England Cottontail habitat shall be protected to the extent required by MDIFW.
 - d. Unless otherwise required by DEP or MDIFW, SES-LGs shall not be located within 250 feet of:
 - 1. Known or discovered Great Blue Heron colonies;
 - 2. Wetlands with documented use by ribbon snakes, Blanding’s turtles, or spotted turtles; **or**
 - 3. Wetlands with confirmed or probable use by the ringed boghaunter dragonfly.
 - e. SES-LGs shall not be allowed in Focus Areas of Statewide Ecological Significance as defined by the Maine Natural Areas Program, except **for SES-LGs for which at least 90 percent of their total airspace projected over the ground would cover the following land within such focus areas:** ~~for land within such focus areas where significant grading has already taken place, such as quarries, or where development has already occurred.~~
 - 1. **Land where significant grading has already been permitted and has occurred, such as a quarry;**
 - 2. **Land where development has already been permitted and has occurred, including, but not necessarily limited to, buildings, structures, parking lots, driveways, livestock corral areas, or other impervious areas to be redeveloped by the SES-LG; or,**
 - 3. **A brownfield site that existed as of June 22, 2022.**
 - f. Without limiting the foregoing, impacts to sensitive wildlife habitats shall be avoided or minimized to the extent practicable
- (6) *Ecological site maintenance.* Native, pollinator-friendly seed mixtures shall be planted and maintained to the extent possible. Mowing shall be minimized to the extent practicable. Herbicide and pesticide use shall be prohibited. Only mechanical means of weed and pest control is allowed.
 - (7) *Archaeological Resources.* Sign-off by the State Historic Preservation Commission regarding archaeological and historical resources shall be provided with all applications.
 - (8) *Utility Connections.* Overhead or pole-mounted electrical wires shall be avoided to the extent possible within the facility.
 - (9) *Signage.* A sign identifying the owner of an SES-LG and providing a 24-hour emergency contact phone number shall be placed such that it is clearly visible at the entrance of the facility.
 - (10) *Fire safety.* Knox Box access and adequate vehicle turnaround areas for emergency vehicles shall be provided.
 - (11) *Decommissioning and removal.* All ground-mounted solar energy systems that have discontinued operation shall be removed. For the purpose of this paragraph, “discontinued operation” means that the system has operated at 10 percent or less of its rated nameplate capacity for a continuous period of at least twelve (12) months. The owner or operator shall physically remove the installation no more than 365 days after the date of discontinued operations. The owner or operator shall notify the Code

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Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. At minimum, decommissioning shall consist of:

- a. Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.
- d. For SES-LGs, in addition to the above requirements, decommissioning shall be consistent with the decommissioning plan required by Section 33-191. Where there is a conflict between two requirements, the stricter shall control.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

DRAFT for August 16, 2022, Planning Board Public Hearing

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

Ballot question – Town Special Referendum Election, November 8, 2022

ARTICLE #26: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses” be enacted?

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

Background and rationale

The Town has opted in to a range of marijuana establishments (adult use) and medical marijuana establishments. “Opted in” means that the Town has made these uses allowable, subject to Planning Board Site Plan Review, in the Commercial-Industrial (C/I) zoning district, and has set up a local licensing program for them. They are prohibited in all other zoning districts. In addition to these zoning restrictions, certain marijuana establishments and medical marijuana establishments may not be located within 500 ft. of a public facility, place of worship, residential property, or childcare facility. Also, based on State law or rulemaking, no marijuana establishment or medical marijuana establishment may be located within 500 ft. of a public or private school.

Within the confines of these limitations, an estimated 30 marijuana or medical marijuana establishments are active or proposed in town, insofar as having their local and State active license (adult use), being otherwise in operation (medical), having been approved by the Planning Board, or having applied to the Planning Board as of the writing of these proposed amendments. Since multiple establishment types might be located on the same property or even in the same building, these 30 active or proposed establishments are associated with 14 properties in the C/I district. An estimated 8 adult use and 5 medical marijuana establishments have their State active license (adult use) or are otherwise in operation. These 13 active establishments are associated with 7 properties in the C/I district.

Concerns have been voiced by the community that relate to the collective scale and number of establishments that are in place or could potentially be built under current zoning. These concerns include traffic impacts, odors, and indirect effects on the ability for other businesses to purchase suitable land and become established along Route 236, the Town’s primary commercial corridor.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

Economic Policy 1 in the 2009 Comprehensive Plan encourages continued support of “broad-based community economic development activity, reflecting community desires and the community’s role in the region”. The Comprehensive Plan also recommends that the Town “continually seek ways to provide support to...small businesses and help them to grow”.

These amendments would limit the number of local marijuana licenses that can be active at any one time. Proposed new Section 11-6.1 would set the maximum number of licenses by establishment type, or group of establishment types, as follows:

- Marijuana store: Eight (8)
- Marijuana cultivation facility or marijuana products manufacturing facility (combined total): Thirteen (13)
- Medical marijuana caregiver retail store or medical marijuana dispensary: Four (4)
- Medical marijuana cultivation facility or medical marijuana products manufacturing facility (combined total): Three (3)

The Select Board would not be able to issue a local marijuana license when the maximum number of active licenses has been reached for a particular marijuana establishment type. In order to provide some flexibility, cultivation and manufacturing activities have been grouped, such that an overall cap would apply to the combined total licenses for these activities. Testing facilities would also be exempt. The numbers above have been developed to account for adult use or medical marijuana establishments that are, as of the writing of these ordinance amendments, either in operation or are at some stage of the review process, from Planning Board application submittal to receipt of a State active license. (They total 28, which is 30 minus the active marijuana testing facility that tests both adult use and medical marijuana.)

Section 11-6.1 would also establish rules for review of local marijuana license applications with respect to the maximum license numbers. This would be on a first-come, first-serve basis with regard to complete license applications with all required fees paid. Subsection 11-6.1(d) would allow for the automatic reduction in the maximum number of licenses available in the event a license is revoked, expires, or is voluntarily terminated by the licensee.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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]

[Add a new section:]

Sec. 11-6.1. – Maximum number of local marijuana licenses.

- (a) Except pursuant to subsection (d) of this section, for each type of marijuana establishment, the maximum number of local marijuana licenses issued by the local licensing authority that may be active at any one time is as follows:
 - (1) Marijuana store: Eight (8)
 - (2) Marijuana cultivation facility or marijuana products manufacturing facility (combined total): Thirteen (13)
- (b) Except pursuant to subsection (d) of this section, for each type of medical marijuana establishment, the maximum number of local marijuana licenses issued by the local licensing authority that may be active at any one time are as follows:
 - (1) Medical marijuana caregiver retail store or medical marijuana dispensary (combined total): Four (4)
 - (2) Medical marijuana cultivation facility or medical marijuana products manufacturing facility (combined total): Three (3)
- (c) Marijuana testing facilities and medical marijuana testing facilities are not subject to this section.
- (d) The maximum numbers of local marijuana licenses for an applicable establishment type, or group of establishment types, in subsections (a) and (b), shall be reduced when the following occurs:
 - (1) If a local marijuana license is revoked pursuant to subsection 11-8(c), and, if appealed under Section 11-13, such revocation is upheld by court action, then the maximum number for that establishment type (or group of establishment types) shall be reduced by one (1).
 - (2) If a local marijuana license has expired pursuant to Section 11-10 or has been otherwise voluntarily terminated by the licensee, then the maximum number for that establishment type (or group of establishment types) shall be reduced by one (1).
 - (3) The maximum numbers shall not be reduced below the following:
 - i. Marijuana store: Four (4)
 - ii. Marijuana cultivation facility or marijuana products manufacturing facility (combined total): Seven (7)

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

- iii. Medical marijuana caregiver retail store or medical marijuana dispensary (combined total): Two (2)
 - iv. Medical marijuana cultivation facility or medical marijuana products manufacturing facility (combined total): Two (2)
- (e) The following rules apply to review of local marijuana license applications with regard to this section:
- (1) The intent of the maximum numbers in subsections (a) and (b) is to account for the number of establishments (or proposed establishments) that are currently in operation, have their state license, have received Planning Board approval, and-or have, as of (and including) August 16, 2022, active applications before the Planning Board that have received at least one Planning Board review.
 - (2) Applications for new local marijuana licenses shall be reviewed on a first-come, first-served basis.
 - (3) Applications that are not complete, pursuant to Section 11-7, are not guaranteed any priority order of review. If a local license is granted pursuant to Section 11-8, but the applicant has not yet paid any or all fees pursuant to Section 11-9, the local license application is not considered active with respect to this section until said fees have been paid.
 - (4) The Town finds that the requirements for medical marijuana licenses were added to this section after some medical marijuana establishments had begun operation and that a grace period is warranted to allow medical marijuana establishments to obtain a local marijuana license pursuant to this chapter. Medical marijuana establishments that have been approved by the Planning Board, are in operation as of the effective date of this ordinance amendment, and are in good standing with respect to the Maine Medical Use of Marijuana Program Rule (18-691 Code of Maine Rules, Chapter 2) and the Town Code shall be given until May 15, 2023, to apply for a local marijuana license for their existing operation and shall be given priority order with respect to subsection (b) of this section.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

Sec. 11-8. - Issuance of local marijuana license.

[this section was updated in the June 14, 2022, Town Election, but has not yet been updated in Municode]

(a) Responsibilities and review authority.

- (1) The local licensing authority shall have the authority to impose any conditions on a license that may be necessary to ensure compliance with the requirements of this chapter or to address concerns about operations that may be resolved through the conditions. The failure to comply with such conditions shall be considered a violation of the license.
- (2) No local marijuana license shall be granted by the local licensing authority until the police chief, the fire chief, the code enforcement officer, and if applicable the health inspector have all made their recommendation upon the applicant's ability to comply with this article. Whenever inspections of the premises used for or in connection with the operation of a licensed business are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the applicant or licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

(3) No local marijuana license for a specific type of marijuana establishment or medical marijuana establishment shall be granted by the local licensing authority if the maximum number of local marijuana licenses for that type of marijuana establishment or medical marijuana establishment, pursuant to Section 11-6.1, is met.

(b) Upon the filing of a completed application for a marijuana license, **unless the maximum number of licenses has been met pursuant to subsection (a), paragraph (3) of this section,** the town manager shall immediately schedule a public hearing on the application before the town select board to occur within 30 days. The town manager shall provide written notice of the public hearing to the applicant and to the select board within five days of the filing of a completed application. At least ten days before such hearing, notices shall be posted in at least three prominent places, advertised in a newspaper with local circulation, and forwarded to the clerk of an adjacent municipality in the case where the premises for which the local marijuana license is sought is located within 500 feet of a municipal boundary. Abutters shall be notified by certified mail, return receipt requested.

- (1) At the public hearing on the local marijuana license application, the select board shall take testimony of the applicant and any interested members of the public. The hearing shall focus upon the criteria for issuance of a permit.
- (2) The select board shall issue to the applicant written notice of its decision to grant or deny the license. If the board denies the permit, the written notice shall set forth the board's reasons for the denial. The select board shall grant a marijuana license unless it finds that the issuance of the license would be detrimental to public health, safety or welfare, as demonstrated by the following criteria:

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- a. An applicant is less than 21 years of age.
 - b. An applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
 - c. The establishment is in a location where a marijuana establishment is not permitted.
 - d. Any establishment in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
 1. Been declared by a court of law to be a nuisance; or
 2. Been subject to an order of closure.
 3. Been convicted of or pled guilty or nolo contendere to a specified criminal activity.
 - e. A person who has had a license for a marijuana establishment and/or medical marijuana establishment revoked by the town or by the state.
 - f. An Applicant who has not acquired all necessary state approvals and licenses and other required local approvals prior to the issuance of a local marijuana license.
- (c) The town may suspend or revoke a license for any violation of this chapter, chapter 45 or any other applicable building and life safety code requirements. The town may suspend or revoke a license if the licensee has a state license for a marijuana establishment and/or medical marijuana establishment suspended or revoked by the state. The licensee shall be entitled to notice and a hearing prior to any suspension or revocation.
- (d) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and the address of the business. The license shall be posted in a conspicuous place at or near the entrance to the business so that it may be read at any time that the business is occupied by patrons or is open to the public.
- (e) A local marijuana license renewal application shall be subject to the same review standards as applied to the initial issuance of the license and the same notice requirement as a new application. As part of the renewal process, the select board shall consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems.

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Sec. 33-190. - Performance standards for marijuana establishments and medical marijuana establishments.

[this section was updated in the June 14, 2022, Town Election, but has not yet been updated in Municode]

Notwithstanding anything to the contrary of 1 M.R.S.A. § 302 or any other law, to any application relating to the establishment or operation of a proposed marijuana establishment or medical marijuana establishment, whether or not such application had become "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to the enactment of this section.

All marijuana establishments and medical marijuana establishments require site plan review and approval from the planning board prior to the issuance of any building permit or certificate of occupancy. The review of an application for a marijuana establishment shall not begin until the applicant has submitted to the town a valid state-issued conditional license to operate the marijuana establishment pursuant to 28-B M.R.S.A. § 205. **The review of an application for a marijuana establishment or medical marijuana establishment, where such type establishment has, at the time of said application, reached the maximum number of licenses pursuant to Chapter 11, shall not begin until the applicant submits a signed statement acknowledging that they are aware of the maximum having been reached and that they may not be able to obtain a local marijuana license until such time as one becomes available.** The following performance standards are to be used by the planning board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.

Reference section 11-3 for definitions related to this section.

(1) All marijuana establishments and medical marijuana establishments shall be screened in accordance with section 33-175.

(2) All marijuana establishments and medical marijuana establishments shall comply with applicable parking requirements of subsection 45-495(15).

(3) Signage and advertising.

a. All signage and advertising for any marijuana establishment or medical marijuana establishment shall comply with the signage, advertising, and marketing provisions in 22 M.R.S.A § 2429-B and 28-B M.R.S.A § 702, as may be amended, in addition to all applicable provisions of chapter 45 in this Code. No interior signage, advertising as described above shall be visible from the exterior of the building in which the marijuana establishment is located. Signage containing misleading or deceptive marketing or marketing towards individuals under the age of 21 is prohibited.

b. There is a compelling governmental interest to the town in marijuana establishments and medical marijuana establishments abiding by the signage, advertising, and marketing provisions in 22 M.R.S.A § 2429-B and 28-B M.R.S.A § 702, as may be amended, including, but not limited to, reducing the likelihood of reaching persons under 21 years of age, who may frequently ride in (or may be old enough to drive) vehicles upon streets, town ways, or public ways from which signage is visible and legible. Many persons in this age range may understand

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words such as "marijuana" and "cannabis", or any other word, phrase or symbol commonly understood to refer to marijuana. The use of these terms may increase the appeal or awareness of marijuana establishments, medical marijuana establishments, or marijuana use to these persons. To reduce the likelihood of this appeal and awareness, no signage visible from a street, town way, or public way may use the word "marijuana" or "cannabis", or any other word, phrase or symbol commonly understood to refer to marijuana.

(4) Area of activities for all marijuana establishments and medical marijuana establishments; control of odors and emissions; sealed walls; disposal plan; security.

a. All activities of marijuana including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors. Marijuana establishments and medical marijuana establishments are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to, storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan application.

b. Odor management. For all marijuana establishments and medical marijuana establishments, odor of marijuana must not be perceptible at the exterior of the building at the premises or at any adjoining use of the property. Marijuana stores, marijuana product manufacturing facilities, marijuana testing facilities, medical marijuana caregiver retail stores, medical marijuana product manufacturing facilities, and medical marijuana testing facilities are not required to install filtration equipment on the licensed premises but must satisfy the same odor standard contained herein. While the town does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

c. Noxious gases and fumes. Marijuana product manufacturing facilities, marijuana testing facilities, medical marijuana manufacturing facilities, and medical marijuana testing facilities shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production.

d. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment must be provided at all times.

e. Prior to planning board approval and for the duration of their operation, all marijuana establishments shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard marijuana products must have a metal cover or lid that is locked at all times. Security cameras must be installed to record activities in the area of such trash receptacles.

f. Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:

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1. Security surveillance cameras installed and operating 24 hours a day, seven days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
2. Door and window intrusion robbery and burglary alarm systems with audible and police department notification components that are professionally monitored and maintained in good working condition;
3. A locking safe or secure storage container permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises;
4. Exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of this Code;
5. Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g. windows); and
6. Identification checks ensuring that areas within the premises where marijuana or marijuana product cultivation, storage, weighing, manufacturing, sampling, packaging, preparation for testing, transfer or retail sale take place are only accessed by authorized persons displaying individual identification cards or authorized contractors of the marijuana establishment or medical marijuana establishment who are aged 21 and older and who display a valid visitor identification badge.

All security recordings shall be preserved as the state requires. All marijuana establishments shall provide the police chief or their designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the town may provide notice of any operating problems associated with the establishment.

(5) Separation (buffering) from sensitive uses.

- a. No marijuana establishment or medical marijuana establishment shall be sited within 500 feet of the lot lines of a public or private school. This standard may not be relaxed by variance or waiver.
- b. No marijuana store, medical marijuana caregiver retail store, or medical marijuana dispensary shall be sited within 500 feet of the lot lines of any public facility, place of worship, residential property, or childcare facility.

The planning board will not preclude a sensitive use listed in a. and b. above from opening at a location within the applicable buffer zones solely because the sensitive use is within such buffer zones.

A marijuana store, medical marijuana caregiver retail store, or medical marijuana dispensary may continue to operate in its present location as a pre-existing use if a sensitive use as listed in a. and b. above later locates within the applicable buffer zone; however, the marijuana store does so at its own risk, and town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store, near a sensitive use listed in a. and b. above.

The distance cited in this subsection shall be measured as the aerial straight-line distance between the nearest point of the operating boundary of the marijuana establishment or medical

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marijuana establishment and the nearest point along a lot line of the site of the use listed in a. or b. above.

For purposes of this measurement, if a marijuana establishment or medical marijuana establishment is in a freestanding building, the operating boundary shall consist of the outer walls of the building. If a marijuana establishment or medical marijuana establishment leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the operating boundary of such establishment shall be the outer wall of the room or suite of rooms being leased by the establishment.

(6) Hours of operation. Marijuana stores, medical marijuana caregiver retail stores and medical marijuana dispensaries are limited to the same hours of operation as those for establishments serving or selling alcoholic beverages or products in accordance with chapter 6 section 11 or as may be set forth in state statute. When there is a conflict between state statute and local zoning, the more restrictive hours of operation shall apply.

(7) Cultivation area limitation. The number of plants or area of the plant canopy in a marijuana cultivation facility shall not exceed the number of plants or area of the plant canopy allowed by the facility's cultivation facility license tier issued by the state in accordance with 28-B M.R.S.A. § 301. The number of plants or area of the plant canopy in a medical marijuana cultivation facility shall not exceed the number of plants or area of the plant canopy allowed by 22 M.R.S.A. § 2423-A, para. 2, as may be amended. The site plan shall include the facility's cultivation area allowance and show or list the square footage of the proposed cultivation area.

(8) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana establishment except in compliance with all operating and other requirements of state, local law and regulation, and compliance with this Code including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

(9) Drive-through and home delivery. Marijuana establishments and medical marijuana establishments are prohibited from having drive-through pick-up facilities. Marijuana stores are prohibited from providing home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within a marijuana store.

(10) Pesticides. The only pesticides allowed to be used in marijuana establishments and medical marijuana establishments are non-synthetic substances, unless specifically listed as "prohibited" on the National List of Allowed and Prohibited Substances in 7 CFR Part 205, as may be amended from time to time, and pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time. All marijuana establishments and medical marijuana establishments shall comply with all packaging and labeling requirements from the state.

(11) Inspections. The code enforcement officer or their designee will inspect all marijuana establishments and medical marijuana establishments prior to issuance of a certificate of occupancy, to verify that the facilities are constructed and can be operated in accordance with the application submitted, the land use approval(s) issued and the requirements of this section, local and state building codes and electrical codes. The fire chief or their designee will inspect all

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marijuana establishments prior to issuance of a certificate of occupancy, to verify that the facilities are constructed and can be operated in accordance with the requirements of all applicable state and local fire codes. The initial inspection shall occur after the establishment is ready for operation, but no marijuana, marijuana products will be permitted on the premises until the inspection is complete and a certificate of occupancy is issued. Nothing herein shall prevent the fire chief or their designee from inspecting marijuana establishments at random intervals, but not to exceed four times a year, and without advance notice provided that the inspection is during normal business hours of the establishment.

(12) Change of use/addition of use. If any type of marijuana establishment or medical marijuana establishment is to change to another type of establishment or to add another type of marijuana establishment or medical marijuana establishment to its existing operations, such change of use or additional use must be reviewed and approved by the planning board for compliance with this section.

(13) Other laws remain applicable. A marijuana establishment or medical marijuana establishment shall meet all operating, local and state licensing and other requirements of state and local laws and regulations. To the extent the state has adopted or adopts in the future any stricter law or regulation governing adult use marijuana and/or medical marijuana establishments, the stricter law or regulation shall control.

(T.M. of 11-5-2019(4); T.M. of 6-8-2021(4) , art. 31)

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

DRAFT for August 16, 2022, Planning Board Public Hearing

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

Ballot question – Town Special Referendum Election, November 8, 2022

ARTICLE #__: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control” be enacted?

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

Background and rationale

The Town of Eliot is subject to a Clean Water Act permit designed to protect waters from stormwater pollution. The permit, called the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (“MS4 Permit”), is issued by Maine Department of Environmental Protection (DEP). DEP periodically issues updated versions of the permit, most recently in 2021. Through the Southern Maine Stormwater Working Group (SMSWG), the Town coordinates with other Southern Maine communities on stormwater-related issues and permit compliance. SMSWG helps these municipalities write and update stormwater management plans and ordinances to demonstrate permit compliance and progress on reducing stormwater pollution.

The new MS4 Permit requires that, by June 30, 2023, municipalities update their ordinances to require and regulate erosion and sedimentation control (ESC) on construction sites in a manner consistent with DEP’s Chapter 500 Stormwater Management Rules. The regulations would apply to construction sites that cause one or more acre of disturbance, or smaller sites if they are part of a larger common plan of development or sale that would disturb one acre or more.

If the ordinance amendments are adopted, these sites would have to implement ESC best management practices (BMPs), which DEP defines as “methods, techniques, designs, practices, and other means to control erosion and sedimentation”. The BMPs would have to be in place before construction begins and remain in place throughout construction. Adequate and timely maintenance would be required. The developer or contractor would be required to conduct regular

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inspections of the BMPs – on a weekly basis but also before and after rain events. They would have to keep a log for inspection by the Town and DEP. If there is a repair need, the repair would need to be initiated upon discovery and completed in a timely manner.

SMSWG developed a Model Ordinance that can be incorporated into each municipality’s code of ordinances. These ordinance amendments rely on the Model Ordinance, which will help the Town comply with the MS4 Permit and achieve uniformity with respect to other communities’ ordinances and DEP requirements. Subsection 41-214(c) and Section 45-412 have erosion control standards for subdivisions and other land uses, respectively. However, these sections only include a limited number of BMPs and apparently have not been updated since 1989. Section 44-35(q) has ESC standards for Chapter 44 – Shoreland Zoning, and was updated in 2018. These ordinance amendments overhaul and update how the Town regulates ESC at construction sites that disturb one or more acres by adapting the Model Ordinance into a new Chapter 34.

If the amendments are adopted, applicable development applicants would need to submit an ESC plan consistent with Chapter 34. Section 33-127(11) already requires a “soil erosion and sediment control plan” for Planning Board site plan review (SPR) applications. This would be updated to reflect the existing erosion control sections as well as new Chapter 34. A similar update would be made to the subdivision preliminary plan content requirements in Chapter 41. The ESC plan would then be reviewed by the Planning Board or Code Enforcement Officer, depending on the level of review needed for the development. Review, approval, and appeals procedures are outlined by Section 34-3. Section 34-4 and -5 include ESC plan basic requirements, including that the plan shall be prepared by a Qualified Erosion and Sedimentation Control Professional and that BMPs will be in place before construction begins. Section 34-6 specifies when the BMPs will be inspected during the course of construction. Section 34-7 specifies an enforcement procedure and the process for appealing enforcement actions. Section 34-8 contains severability and conflicting requirements clauses. Section 34-9 provides for potential waivers from the ESC requirements to be granted in special circumstances. Section 34-10 establishes the legal authority for enacting Chapter 34.

Appendix 1 then establishes particular design and procedural standards for implementing ESC measures during construction. These standards are based on DEP’s Chapter 500 rules. The standards cover timing of installation and maintenance of BMPs, pollution prevention, sediment barriers to prevent sediment from entering drainage channels or drain inlets, stabilized construction entrances, temporary stabilization of exposed soils, removal of temporary ESC measures, permanent stabilization, winter construction, stormwater channel construction phasing, sediment basins to control sediment levels and runoff velocity, construction phasing, construction site and BMP inspection, maintenance and corrective action needing to be taken by the developer/contractor, documentation of inspections and corrective actions, spill prevention, groundwater protection, fugitive sediment and dust, minimizing the exposure of construction debris and certain other materials to precipitation and runoff, excavation dewatering, washout from certain construction materials, and authorized and unauthorized non-stormwater discharges.

Subsection 41-214(c), Subsection 44-35(q), and Section 45-412 are all updated by the proposed amendments to reference Chapter 34.

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(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]

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

[abridged to only show changes]

[...]

Adverse impact means any undue deleterious effect due to erosion or sedimentation from construction activity on waters of the state, protected natural resources, the infrastructure of the regulated small MS4, or off-site. Such undue deleterious effect is or may be potentially harmful or injurious to human health, welfare, safety, property, biological productivity, diversity, or stability, or may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

[...]

Best management practices or “BMPs” **(stormwater)** ~~(chapter 35)~~ means schedules of activities, prohibitions of practices, maintenance procedures, and **other methods, techniques, designs, and** management practices to prevent or reduce the pollution of waters of the state; **and to control erosion (erosion control BMPs) and sedimentation (sedimentation control BMPs).** BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

[...]

Common plan of development or sale (chapter 34 and chapter 35) means a “subdivision” as defined in 30-A MRSA §§ 4401 et seq. (the Maine Subdivision statute) and in this section.

[...]

*Construction, **construction activity,** or construction activities* means any and all activity **for the purpose of** ~~incidental to~~ the erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances, including land clearing, grading,

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excavating and filling. **Related to stormwater management or erosion and sedimentation control, it also means any activity on a parcel that results in a disturbed area.**

[...]

Discharge (chapters 31 and 35) means any spilling, leaking, pumping, pouring, emptying, dumping, disposing, or other addition of pollutants to “waters of the state.”, **not including groundwater.**

[...]

Disturbed area means ~~clearing, grading and excavation.~~ **all land areas of a parcel that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing of vegetation for, or construction of, a project.** Mere Ccutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered “disturbed area.” “Disturbed area” does not include routine maintenance but does include redevelopment. **and new impervious areas. Paving impervious gravel surfaces, provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same, is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered disturbed area.**

[...]

Enforcement authority ~~(chapter 31)~~ means the person(s) or department, **and their designee,** authorized under **Chapters 31 and 34** section 31-4 to administer and enforce the chapter. **those chapters. The use of the term “Enforcement Authority” in these chapters is synonymous with “Enforcement Authority or their designee”.**

[...]

General Permit means **the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4) approved October 15, 2020, and modified November 23, 2021, and any amendment or renewal thereof.**

[...]

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Impervious area means the total area of a parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Pervious pavement, pervious pavers, pervious concrete, and underdrained artificial turf fields are all considered impervious. [Also proposed in the Solar Energy Systems ordinance amendments]

[...]

Parcel (Chapter 34) means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or Parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

[...]

Person (Chapter 34) means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency, or other legal entity which creates, initiates, originates, or maintains a discharge authorized or regulated by the General Permit.

[...]

Protected natural resource means coastal sand dunes, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water system primary protection areas, great ponds, or rivers, streams or brooks as defined in the Natural Resources Protection Act at 38 MRSA §480-B.

[...]

Qualified Erosion and Sedimentation Control Professional means a person who has been certified by Enviro-Cert International in erosion and sedimentation control practices or has been certified by completing the Maine Department of Environmental Protection Erosion and Sedimentation Control Practices Workshop, or is a Maine Professional

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Engineer with at least two years’ experience in designing Erosion and Sedimentation Control BMPs.

[...]

Regulated small MS4 (chapters 31, ~~34~~, and 35) means any small MS4 regulated by the State of Maine "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems" ("General Permit"), including all those located partially or entirely within an urbanized area (UA) and those additional small MS4s located outside an UA that as of the issuance of the ~~G~~general ~~P~~permit have been designated by the DEP as regulated small MS4s.

[...]

Site (Chapter 34) means the portion(s) of a parcel upon which construction activity subject to Chapter 34 is located.

Waters of the state means ~~any and all surface and subsurface waters that are contained within, flow through, or under or border upon this state or any portion of the state, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the state, but not excluding waters susceptible to use in interstate or foreign commerce, or whose use, degradation or destruction would affect interstate or foreign commerce.~~ **“waters of the state” as defined in 38 MRSA §361-A (7).**

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Sec. 33-127. Contents; required information.

[as updated by the June 14, 2022, Town Election – not yet updated in Municode]

The developer shall submit two originals of a site plan, drawn at a scale not smaller than one inch equals 20 feet, and ten copies reduced to 11 inches by 17 inches, and showing the following information unless the planning board waives these requirements, upon the written request of the applicant:

- (1) Development name or identifying title and the name of the town.
- (2) Name and address of record owners, developer and designer.
- (3) Names and address of all abutters and their present land use.
- (4) Perimeter survey of the parcel made and certified by a state-registered land surveyor, relating to reference points, showing true north point, graphic scale, corners of the parcel, date of survey, total acreage, existing easements, buildings, watercourses and other essential existing physical features.
- (5) The location of temporary markers adequate to enable the planning board to locate readily and appraise the basic layout in the field.
- (6) Contour lines at intervals of not more than five feet or at such intervals as the planning board may require, based on U.S. Geological Survey topographical map datum of existing grades where change of existing ground elevation will be five feet or more.
- (7) Provisions of chapter 45 of this Code applicable to the area to be developed and any zoning district boundaries affecting the development.
- (8) Provisions for collecting and discharging storm drainage, in the form of a drainage plan.
- (9) Preliminary designs of any bridges or culverts which may be required.
- (10) The location of all natural features or site elements to be preserved.
- (11) **An soil-erosion and sedimentation control plan- that complies with Chapter 34, if applicable, and-or Section 45-412 for all developments, Section 44-35(q) for shoreland zoning permit applications, and-or Subsection 41-214(c) for subdivisions.**
- (12) A high-intensity soils report by a state-certified soils scientist identifying the soils boundaries and names in the proposed development, with the soils information superimposed upon the plot plan. Such soils survey shall account for the water table in wet and dry seasons, slope, soil quality, etc.; and planning board approval will be conditioned upon compliance with any recommendations included in such report.
- (13) The location and size of any existing sewers and water mains, culverts and drains on the property to be developed.
- (14) Connection with existing water supply or alternative means of providing water supply to the proposed development.

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- (15) Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed.
- (16) If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and groundwater conditions, depth to maximum groundwater level, location and results of soils testing.
- (17) An estimated progress schedule.
- (18) Construction drawings sufficient to enable the code enforcement officer to verify the following information:
 - a. Total floor area, ground coverage, height, and location of each proposed building, structure or addition.
 - b. Elevation drawings of each proposed building, structure, or addition including dimensions and architectural features
 - c. All existing and proposed setback dimensions.
 - d. The size, location and direction and intensity of illumination of all major outdoor lighting apparatus and signs.
 - e. The type, size and location of all incineration devices.
 - f. The type, size and location of all machinery likely to generate appreciable noise beyond the lot lines.
 - g. The amount and type of any raw, finished, or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if appropriate.
 - h. The location, type and size of all curbs, sidewalks, driveways, fences, retaining walls, parking space areas, and the layouts together with all dimensions.
 - i. All landscaped areas, fencing and size and type of plant material proposed to be retained or planted.
 - j. A site plan for a telecommunication structure must provide a description and construction detail of the telecommunication structure, including plot plan identifying location of the structure on the property; dimensions of the structure; structural supports, if any; lighting; color; and equipment located on the structure, if any. This description shall also identify any accessory structures that are proposed in connection with the operation of the telecommunication structure.
 - k. Applications for subdivisions shall include all applicable submission requirements above, in addition to those required by chapter 41 of this Code. If these submission requirements conflict with the requirements of the chapter 41, the stricter standards shall apply.
- (19) Site plans and construction drawings for new and existing structures listed as "SPR" in section 45-290 shall be submitted to the Eliot Fire Chief for review and comment prior to final approval by the planning board.

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(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 204.4); T.M. of 3-27-99(1), § 8; T.M. of 6-12-2010(3); T.M. of 6-18-2011(5); *T.M. of 6-14-2022(4)*)

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[Add a new chapter to the Town Code:]

Chapter 34 – EROSION AND SEDIMENTATION CONTROL

Section 34-1. – Purpose

The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control erosion at construction sites and prevent migration of sediment from construction sites so that erosion and sedimentation do not adversely impact off-site natural resources, properties, or the regulated small MS4.

Section 34-2. – Applicability

This chapter applies to construction activity on a parcel or common plan of development or sale commencing after the effective date of this chapter, that results in:

- (a) disturbed area of one or more acres of land, or
- (b) disturbed area that is less than one acre of land if the construction activity creating disturbed area less than one acre of land is part of a larger common plan of development or sale that, as approved or amended, would create disturbed area of one acre or more.

Section 34-2.1. – Enforcement Authority

Except as otherwise provided for in this chapter, the Code Enforcement Officer of the Town, or their designee, is the Enforcement Authority referenced in this chapter.

Section 34-3. – Procedure

- (a) *Erosion and Sedimentation Control Plan required.* No person shall commence construction activity subject to Section 34-2 without first preparing and obtaining approval for an Erosion and Sedimentation Control Plan in accordance with this ordinance.
- (b) *Submission.* When construction activity is subject to subdivision, site plan, or other review under the Town’s land use regulations, which includes a review for erosion and sedimentation control, an Erosion and Sedimentation Control Plan meeting these requirements shall be submitted to the Municipal Permitting Authority concurrently with that review. When a concurrent review is not otherwise required, an Erosion and Sedimentation Control Plan shall be submitted to the Enforcement Authority.
- (c) *Review.* The Erosion and Sedimentation Control Plan shall be reviewed by the Enforcement Authority or incorporated into the municipal review of a subdivision, site plan, or other review under the Town’s land use regulations by the Municipal Permitting Authority. In accordance with subsection (b) above,

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the Enforcement Authority and the Municipal Permitting Authority, as appropriate, will conduct the review under the standards of this ordinance, and will accept and consider public comment provided as part of that review.

The Enforcement Authority or Municipal Permitting Authority, as appropriate, will review the Erosion and Sedimentation Control Plan for compliance with the standards of Section 34-4, Section 34-5, and Appendix 1 of this chapter and may provide comments where standards have not been met. Once an applicant has submitted an Erosion and Sedimentation Control Plan that the Enforcement Authority or Municipal Permitting Authority finds is in compliance with the standards of Section 34-4, Section 34-5, and Appendix 1 of this chapter, the Enforcement Authority or Municipal Permitting Authority shall provide written confirmation to the applicant. The Enforcement Authority or Municipal Permitting Authority may approve the Erosion and Sedimentation Control Plan, approve it with conditions, or deny the Erosion and Sedimentation Control Plan, and that decision shall be in writing and supported by findings of fact and conclusions of law. Appeals from decisions of the Enforcement Authority regarding the Erosion and Sedimentation Control Plan may be taken within 30 days of the date of decision to the Board of Appeals as provided under the Town's land use regulations; appeals from decisions of the Municipal Permitting Authority regarding the Erosion and Sedimentation Control Plan may be taken within 30 days of the date of decision in the same manner as appeals are taken under Chapter 33 or Chapter 41, as appropriate.

- (d) *Pre-construction meeting.* At least ten (10) days prior to commencing construction activity, the applicant shall request a pre-construction meeting with the Enforcement Authority. At a minimum, attendance at the meeting is required by the Enforcement Authority and the applicant or their representative in charge of construction. If the representative in charge of construction is not the primary earthwork contractor, a representative of the primary earthwork contractor must also attend the pre-construction meeting. Meeting minutes must be prepared by the Town's representative and distributed to all attendees and the Town Planner.
- (e) *Compliance with requirements.* The applicant shall implement and comply with the Erosion and Sedimentation Control Plan as approved throughout all phases of construction activity.
- (f) *Notice of permanent stabilization.* The applicant shall provide notice to the Enforcement Authority when permanent stabilization of the site has been achieved to allow for final inspection per Section 34-6 of this chapter.

Section 34-4. – Submission requirements

- (a) *Project contacts and qualifications.* The applicant shall provide contact information (i.e., name, company if applicable, phone number, physical

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address, and email address) for the applicant, Qualified Erosion and Sedimentation Control Professional, and Contractor (if applicable).

(b) *Erosion and Sedimentation Control Plan content.* The Erosion and Sedimentation Control Plan shall be prepared in accordance with the performance standards contained in Appendix 1. The Erosion and Sedimentation Control Plan shall consist of a graphic representation of the site at a scale no smaller than 1 inch = 100 feet showing:

- (1) Parcel boundaries,
- (2) Locations of protected natural resources,
- (3) Locations of all potential sources of authorized and unauthorized non-stormwater discharges,
- (4) Locations of all erosion and sedimentation control BMPs to be used
- (5) Topography for site pre- and post-construction conditions at 2-foot elevation contours,
- (6) Details for all erosion and sedimentation control BMPs to be used,
- (7) Details and timing associated with phasing of construction activity in disturbed areas at the site, and phasing of installation and stabilization of erosion and sedimentation control BMPs (if applicable),
- (8) Erosion and sedimentation control BMP notes with construction standards,
- (9) A narrative description of the timing, inspections, and erosion and sedimentation control BMPs to be used,
- (10) Example inspection form,
- (11) Dewatering plan (if necessary), and
- (12) Locations of areas not to be disturbed by construction activity, including trees, vegetation, and areas intended for infiltration.

The Erosion and Sedimentation Control Plan shall also include documentation of any variances or releases provided by the Maine Department of Environmental Protection from Chapter 500 performance standards.

Section 34-5. – Requirements and standards

The Enforcement Authority or Municipal Permitting Authority, as appropriate, shall determine if the following standards are met in accordance with Appendix 1.

- (a) *Qualified Erosion and Sedimentation Control Professional.* The Erosion and Sedimentation Control Plan has been prepared by a Qualified Erosion and Sedimentation Control Professional.
- (b) *Timing of installation and maintenance.* The Erosion and Sedimentation Control Plan requires that sedimentation control BMPs shall be in place before construction begins; additional erosion and sedimentation control BMPs shall be installed as needed and shall be phased in if phasing is used, and shall be maintained until permanent stabilization is achieved.

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- (c) *Inspection.* The Erosion and Sedimentation Control Plan provides for inspection of the site by the applicant to confirm that erosion and sedimentation control BMPs are in place and functioning. The Erosion and Sedimentation Control Plan also provides for corrective action if erosion is occurring or there is a discharge of sediment or turbid water from the construction site.
- (d) *Spill prevention.* The Erosion and Sedimentation Control Plan includes measures that prevent construction site pollution and spills from entering stormwater.
- (e) *Groundwater protection.* The Erosion and Sedimentation Control Plan restricts the storage or handling of liquid petroleum products and other hazardous materials that may drain to an “infiltration area.”
- (f) *Fugitive sediment and dust.* The Erosion and Sedimentation Control Plan includes provisions to prevent erosion of soils, tracking or migration of soils into the right of way, discharge of sediment from the site, and fugitive dust emissions during or after construction.
- (g) *Debris.* The Erosion and Sedimentation Control Plan includes provisions to minimize the exposure of construction materials and waste to stormwater runoff and prevent them from migrating off-site.
- (h) *Excavation dewatering.* The Erosion and Sedimentation Control Plan includes provisions to remove or properly disperse the collected water in a manner that prevents sediment from entering stormwater.
- (i) *Non-stormwater discharges.* The Erosion and Sedimentation Control Plan minimizes non-stormwater discharges and, if non-stormwater discharges are allowed, they are identified in the Erosion and Sedimentation Control Plan with appropriate pollution measures for discharge.

Section 34-6. – Inspection

The Enforcement Authority will inspect the site as follows at a minimum:

- (a) Once before any disturbance begins and after all Erosion and Sedimentation Control BMPs specified in the Erosion and Sedimentation Control Plan are in place
- (b) Three times during the active earth moving phase of construction
- (c) Once at project completion to ensure the Site has reached permanent stabilization and all temporary erosion and sedimentation controls have been removed

Additional inspection requirements to be completed by the applicant during construction are contained in Appendix 1.

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Section 34-7. – Enforcement

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this chapter. Whenever the Enforcement Authority believes that a person has violated this chapter, the Enforcement Authority may enforce this chapter in accordance with 30-A M.R.S. § 4452 and this section.

- (a) *Right of entry.* In order to determine compliance with this chapter, the Enforcement Authority may enter upon the parcel at reasonable hours with the consent of the owner, occupant, agent, or contractor to inspect the parcel for compliance with this chapter.
- (b) *Notice of violation.* Whenever the Enforcement Authority finds that a person has violated this ordinance, the Enforcement Authority may order compliance with this ordinance by written notice of violation to that person indicating the nature of the violation(s), a statement of the ordinance provision(s) alleged to have been violated, including a statement of the penalties for violation, and ordering the action necessary to correct it, including, without limitation:
 - (1) The abatement of violations and the cessation of practices or operations in violation of this chapter;
 - (2) At the person's expense, compliance with or repair of the Erosion and Sedimentation Control BMPs required as a condition of approval of the Erosion and Sedimentation Control Plan, and/or the restoration of any affected portion(s) of the parcel;
 - (3) The payment of fines, of the Town's remediation costs, and of the Town's reasonable administrative costs and attorneys' fees and costs;
 - (4) If abatement of a violation, compliance with the Erosion and Sedimentation Control Plan, repair of Erosion and Sedimentation Control BMPs, and/or restoration of affected portions of the parcel is required, the notice shall set forth a deadline within which such abatement, compliance, repair, and/or restoration must be completed.
- (c) *Stop Work Notice.* The Enforcement Authority may issue a Stop Work Notice whenever:
 - (1) A person has not acted on a notice of violation issued pursuant to this chapter within the time set forth in the notice, or
 - (2) A person subject to the applicability section of this chapter undertakes Construction Activity without first submitting an application for and obtaining approval of an Erosion and Sedimentation Control Plan.

The Enforcement Authority will attempt to deliver the Stop Work Notice to the applicant, the person performing the construction activity, or the owner or occupant of the parcel, as appropriate, by any means reasonable calculated to effectuate delivery.

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Once the Stop Work Notice has been delivered, no further construction activity at the site may proceed other than as is necessary to correct the non-compliance. Construction activity may resume only when the Enforcement Authority provides written notice that the person may resume that construction activity.

- (d) *Penalties, fines, and injunctive relief.* Any person who violates this chapter, including, but not limited to the Erosion and Sedimentation Control Plan, shall be subject to fines, penalties, and orders for injunctive relief and shall be responsible for the Town's attorney's fees and costs, all in accordance with 30-A M.R.S. § 4452. Each day that such violation continues shall constitute a separate violation. Moreover, any person who violates this chapter also shall be responsible for any and all fines, penalties, damages, and costs, including, but not limited to attorneys' fees and costs, incurred by the Town for enforcement of violation(s) of federal and state environmental laws and regulations caused by or related to that person's violation of this chapter; this responsibility shall be in addition to any penalties, fines, or injunctive relief imposed under this section.
- (e) *Consent agreement.* The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs, and fees without court action.
- (f) *Appeal of Notice of Violation.* Any person receiving a Notice of Violation or Stop Work Notice may appeal the determination of the Enforcement Authority to the Board of Appeals per Section 45-49. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a de novo hearing on the appeal within 30 days from the date of receipt of the notice of appeal. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of that date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- (g) *Enforcement measures.* If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming or modifying the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the Town's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 34-8. – Severability and conflicts

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any Person,

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establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this chapter.

Whenever a provision of this chapter conflicts with or is inconsistent with another provision of this chapter or of any other ordinance, regulation or statute administered by the Town, the more restrictive provision shall control.

Section 34-9. – Waivers

Where the Enforcement Authority or Municipal Permitting Authority, as appropriate, finds that there are special circumstances of a particular Erosion and Sedimentation Control Plan that make a particular submission requirement or standard inapplicable, a waiver may be granted, provided that such waiver will not have the effect of nullifying the intent and purpose of this chapter. The applicant shall submit, in writing, the reason for the requested waiver. In granting waivers or modifications, the Enforcement Authority or Municipal Permitting Authority, as appropriate, may require such conditions that will substantially secure the objectives of the standards so waived or modified.

Section 34-10. – Authority

The Town enacts this Erosion and Sedimentation Control chapter pursuant to 30-A M.R.S. §§3001 et seq. (municipal home rule ordinance authority), 38 M.R.S. §413 (the Wastewater Discharge Law), 33 USC §§1251 et seq. (the Clean Water Act), and 40 CFR Part 122 (US Environmental Protection Agency’s regulations governing the National Pollution Discharge Elimination System (NPDES)). The Maine Department of Environmental Protection, through its promulgation of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems has listed the Town as having a Regulated Small MS4; under this General Permit, listing as a Regulated Small MS4 necessitates enactment of elements of this chapter as part of the Town’s stormwater management program in order to satisfy the minimum control measures for Construction Site Stormwater Runoff Control.

Appendix 1

Erosion and Sedimentation Control Standards

The following are the mandatory minimum standards for Construction Activity subject to this chapter. The Erosion and Sedimentation Control Plan required under this chapter shall be developed and implemented to include these mandatory minimum standards, which are based upon the Maine Department of Environmental Protection’s 06-096 CMR Chapter 500 Stormwater Management Rule Appendices A, B, and C.

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Where not otherwise specified in this Appendix, the Erosion and Sedimentation Control BMPs shall be designed using Performance Standards specified in the Maine Erosion and Sediment Control BMPs Manual for Designers and Engineers developed by the Maine Department of Environmental Protection (October 2016 or most current version).

The Erosion and Sedimentation Control Plan shall be prepared by a Qualified Erosion and Sedimentation Control Professional as defined in this chapter.

(a) *General timing of installation and maintenance until permanent stabilization*

- (1) Sedimentation Control BMPs must be in place before Construction Activity begins.
- (2) Additional Erosion and Sedimentation Control BMPs must be phased in as appropriate.
- (3) Erosion and Sedimentation Control BMPs must remain in place and functional until the Site is permanently stabilized.
- (4) Adequate and timely maintenance of Erosion and Sedimentation Control BMPs must be conducted until permanent stabilization is achieved.

(b) *Pollution prevention.* Disturbed areas shall be minimized. Natural downgradient buffer areas, as well as (to the extent practicable) any areas where stormwater may flow off-Site, shall be protected. Stormwater volume and velocity shall be controlled within the Site to minimize soil erosion. Disturbance of steep slopes shall be minimized. Stormwater discharges, including both peak flow rates and volume, shall be minimized to minimize erosion at outlets. The discharge may not result in erosion of any open drainage channels, swales, stream channels or stream banks, upland, or coastal or freshwater wetlands off the project Site. Whenever practicable, no disturbance activities shall take place within 50 feet of any Protected Natural Resource. If it is not practicable to maintain the 50-foot buffer of no disturbance, the Erosion and Sedimentation Control Plan must include redundant (at least two) perimeter control measures that are appropriate for the soil and slope.

(c) *Sediment barriers.* Prior to construction, properly install sediment barriers at the downgradient edge of any area to be disturbed and adjacent to any drainage channels within the Disturbed Area. Sediment barriers shall be installed downgradient of soil and sediment stockpiles, and stormwater must be prevented from running onto the stockpile. Sediment barriers shall be maintained by removing accumulated sediment, or removing and replacing the barrier, until the Disturbed Area is permanently stabilized. Where a discharge to a storm drain inlet occurs, protection measures that remove sediment from the discharge must be installed and maintained. Storm drain inlet protection must include effective curb inlet or “back throat” protection, where applicable.

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- (d) *Stabilized construction entrance.* Prior to construction, a stabilized construction entrance (SCE) shall be installed at all points of vehicular egress from the Site. The SCE is typically a stabilized pad of aggregate, underlain by a geotextile filter fabric, or an engineered track out control mat which has been approved by Maine DEP which is used to prevent traffic from tracking material away from the Site onto public rights-of-way. The SCE shall be maintained until all Disturbed Areas are stabilized. If an alternate SCE has been approved by Maine DEP, provide proof of this with the Plan or application.
- (e) *Temporary stabilization*
 - (1) Within 7 days of the cessation of Construction Activities in an area that will not be worked for more than 7 days, any exposed soil shall be stabilized with mulch or other non-erodible cover.
 - (2) Areas within 75 feet of a wetland or waterbody shall be stabilized within 48 hours of the initial disturbance of the soil or prior to any storm event, whichever comes first.
- (f) *Removal of temporary measures.* Any temporary control measures, such as silt fence, shall be removed within 30 days after permanent stabilization is attained. Any accumulated sediments shall be removed and the areas where those sediments were shall be stabilized.
- (g) *Permanent stabilization.* If the Site or a portion of the Site will not be worked for more than one year or has been brought to final grade, then the area shall be permanently stabilized within 7 days by planting vegetation, seeding, sod, or through the use of permanent mulch, or riprap, or road sub-base. If using vegetation for stabilization, proper vegetation shall be selected for the light, moisture, and soil conditions. Disturbed Area subsoils shall be amended with topsoil, compost, or fertilizers. Seeded areas shall be protected with mulch or, if necessary, erosion control blankets. Sodding, planting, and seeding shall be scheduled to avoid die-off from summer drought and fall frosts. Newly seeded or sodded areas must be protected from vehicle traffic, excessive pedestrian traffic, and concentrated runoff until the vegetation is well-established with 90% cover by healthy vegetation. If necessary, areas must be reworked and restabilized if germination is sparse, plant coverage is spotty, or topsoil erosion is evident. Permanent Stabilization Definitions are as follows:
 - (1) Seeded Areas: For seeded areas, permanent stabilization means a 90% cover of the Disturbed Area with mature, healthy plants with no evidence of washing or rilling of the topsoil.
 - (2) Sodded Areas: For sodded areas, permanent stabilization means the complete binding of the sod roots into the underlying soil with no slumping of the sod or die-off.
 - (3) Permanent Mulch: For mulched areas, permanent mulching means total coverage of the exposed area with an approved mulch material. Erosion

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control mix may be used as mulch for permanent stabilization according to the approved application rates and limitations.

- (4) Riprap: For areas stabilized with riprap, permanent stabilization means that slopes stabilized with riprap have an appropriate backing of a well-graded gravel or approved geotextile to prevent soil movement from behind the riprap. Stone must be sized appropriately. It is recommended that angular stone be used.
 - (5) Paved Areas: For paved areas, permanent stabilization means the placement of the compacted gravel subbase is completed, provided it is free of fine materials that may runoff with a rain event.
 - (6) Ditches, Channels, and Swales: For open channels, permanent stabilization means the channel is stabilized with a 90% cover of healthy vegetation, with a well-graded riprap lining, turf reinforcement mat, or with another non-erosive lining such as concrete or asphalt pavement. There must be no evidence of slumping of the channel lining, undercutting of the channel banks, or down-cutting of the channel.
- (h) *Winter Construction.* Winter construction is Construction Activity performed during the period from November 1 through April 15. If Disturbed Areas are not stabilized with permanent measures by November 1 or new soil disturbance occurs after November 1, but before April 15, then these areas must be protected and runoff from them must be controlled by the following additional winter construction measures and restrictions:
- (1) Site 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 must be stabilized. Mulch may not be spread on top of snow.
 - (2) Sediment Barriers: All areas within 75 feet of a Protected Natural Resource must be protected with a double row of sediment barriers.
 - (3) Ditch Lines: Ditch lines must be stabilized with an appropriate stone lining backed by an appropriate gravel bed or geotextile unless specifically released from this standard by the Maine DEP. If release from Maine DEP has been granted, proof of this release must be provided with the Plan or application.
 - (4) Slopes: Mulch netting must be used to anchor mulch on all slopes greater than 8% unless erosion control blankets or erosion control mix is being used on these slopes. Unvegetated slopes less than 8% must be protected with an erosion control blanket, erosion control mix, or riprap.
- (i) *Stormwater channels.* Each channel shall be constructed in sections so that the section's grading, shaping, and installation of the permanent lining can be completed the same day. If a channel's final grading or lining installation must be delayed, then diversion berms must be used to divert stormwater away from

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the channel, properly-spaced check dams must be installed in the channel to slow the water velocity, and a temporary lining installed along the channel to prevent scouring.

- (j) *Sediment basins.* Sediment basins that will be used to control sediment during Construction activities must be designed to provide storage for either the calculated runoff from a 2-year, 24-hour storm or provide for 3,600 cubic feet of capacity per acre draining to the basin. Outlet structures must discharge water from the surface of the basin whenever possible. Erosion controls and velocity dissipation devices must be used if the discharging waters are likely to create erosion. Accumulated sediment must be removed as needed from the basin to maintain at least half of the design capacity of the basin. Clearly visible staking must be installed with marks showing the elevation of half design capacity for easier inspection. The use of cationic treatment chemicals in Sediment Basins, such as polymers, flocculants, or other chemicals that contain an overall positive charge designed to reduce turbidity in stormwater may only be used if proof of approval by Maine DEP is provided.
- (k) *Phasing Plan Requirements.* No phasing plan is required if contractor will limit Disturbed Area to a maximum of 5 acres of disturbance across the Site at any time. If the Construction Activity will result in more than 5 acres of Disturbed Area at any one time, the Contractor shall provide a phasing plan showing:
 - (1) the initial 5-acre area to be disturbed;
 - (2) which portions of the initial disturbance will be stabilized, and what temporary or permanent stabilization methods will be used;
 - (3) which areas will be subsequently disturbed and what temporary or permanent stabilization methods will be used; and
 - (4) each phase of disturbance and stabilization must clearly show the total areas in square feet or acres such that the 5-acre Disturbed Area limit at any one time is met throughout the entire project.

During construction, the following are the inspection, maintenance, and corrective action requirements which must be implemented by the applicant or their on-Site representative:

- (l) *Inspection.* Disturbed and Impervious Areas, Erosion and Sedimentation Control BMPs, materials storage areas that are exposed to precipitation, and locations where vehicles enter or exit the Site are inspected at least once a week as well as before and within 24 hours after a storm event (rainfall), and prior to completing permanent stabilization measures. A Qualified Erosion and Sedimentation Control Professional shall conduct the inspections.
- (m) *Maintenance and Corrective Action.* If Erosion or Sedimentation Control BMPs need to be maintained, or repaired or enhanced (corrective action), the work shall be initiated upon discovery of the problem but no later than the end of the next workday. If additional Erosion or Sedimentation Control BMPs or significant repair of Erosion or Sedimentation Control BMPs are necessary, implementation must be completed prior to any storm event (rainfall) and

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within 7 calendar days of identification. All measures must be maintained in effective operating condition until areas are permanently stabilized.

- (n) *Documentation.* A log (report) summarizing the inspections and any repairs or enhancements (corrective actions) added must be maintained by the applicant. 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 Erosion and Sedimentation Control BMPs that need maintenance, Erosion and Sedimentation Control BMPs that failed to operate as designed or proved inadequate for a particular location, and location(s) where additional Erosion and Sedimentation Control BMPs are needed. The log must document each Erosion and Sedimentation Control BMP requiring maintenance, Erosion and Sedimentation Control BMP needing replacement, and location needing additional Erosion and Sedimentation Control BMPs, as well as the corrective action taken and when it was taken. The log shall be maintained for at least three years from the completion of permanent stabilization.

During construction, the following are housekeeping requirements which must be implemented by the applicant or their on-Site representative:

- (o) *Spill Prevention.* Controls must be used to prevent pollutants from construction and waste materials stored on-Site from entering stormwater, which includes storage practices to minimize exposure of the materials to stormwater. The Site contractor or operator must develop, and implement as necessary, appropriate spill prevention, containment, and response planning measures.
- (p) *Groundwater Protection.* During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the Site draining to an infiltration area. An infiltration area is any area of the Site that by design or as a result of soils, topography, and other relevant factors accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the Site for the purposes of storage and handling of these materials.
- (q) *Fugitive Sediment and Dust.* Actions must be taken to ensure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control, but other water additives may be considered as needed. A stabilized construction entrance shall be included to minimize tracking of mud and sediment. If off-Site tracking occurs, public roads shall be swept immediately and no less than once a week and prior to significant storm events. Operations during dry months, that experience fugitive dust problems, shall wet down unpaved access roads once a week or more frequently as needed with a water additive to suppress fugitive sediment and dust.

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- (r) *Debris and Other Materials.* Minimize the exposure of construction debris, building and landscaping materials, trash, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials to precipitation and stormwater runoff. These materials must be prevented from becoming a pollutant source. Sediment generated by concrete or mortar mixing, brick cutting & saw cutting activities must be contained (e.g., sausage boom, straw bales, etc.) and cleaned up using dry methods (i.e., sweeping or vacuuming) to prevent it from entering drainage structures or water resources. These activities shall be done on vegetated areas whenever possible and away from drainage structures and water resources.
- (s) *Excavation Dewatering.* Excavation dewatering is the removal of water from trenches, foundations, coffer dams, ponds, and other areas within the construction area that retain water after excavation. In most cases the collected water is heavily silted and hinders correct and safe construction practices. The collected water removed from the ponded area, either through gravity or pumping, must be spread through natural wooded buffers or otherwise treated to collect the maximum amount of sediment possible, like a coffer dam sedimentation or sediment filter bag. Avoid allowing the water to flow over Disturbed Areas of the Site. If the Maine DEP has approved equivalent measures, provide proof of approval. Note that discharge of excavation dewater fluids from the Site must be visually clear (no visible suspended or settleable solids).
- (t) *Washout from Concrete, Stucco, Paint, Curing Compounds, or Other Construction Materials.* If washout/cleanout is to be completed on the Site, a designated area(s) shall be established and marked on the Erosion and Sedimentation Control Plan. This area shall be a minimum of 50 feet from all drainage structures, ditches, waterbodies, and resource areas, as well as property boundaries. The area shall not have an outlet to discharge wastes or flows. No detergents shall be used or vehicles washed in this location. A leak-proof pit or container shall be established in the washout area(s), to which washings shall be directed. This area shall be used for washout containment and dewatering by evaporation only. The pit shall not allow infiltration to occur. To prevent clean water from entering the pit, the washout area shall be covered during precipitation events. Inspections of the pit shall be conducted daily to ensure no leaks are present and no discharge is occurring.
- (u) *Authorized Non-stormwater Discharges.* Identify and prevent contamination by non-stormwater Discharges. Where allowed non-stormwater Discharges exist, they must be identified, and steps shall be taken to ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the Discharge. Authorized non-stormwater Discharges are:
 - (1) Discharges from firefighting activity
 - (2) Hydrant flushing if dechlorinated to 0.05 mg/l or less

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- (3) Vehicle wash water if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage, and transmission washing is prohibited)
 - (4) Dust control runoff if it does not cause erosion
 - (5) Routine external building washdown, not including surface paint removal, that does not involve detergents
 - (6) Pavement wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material had been removed) if detergents are not used
 - (7) Uncontaminated air conditioning or compressor condensate
 - (8) Uncontaminated groundwater or spring water
 - (9) Foundation or footer drain-water where flows are not contaminated
 - (10) Uncontaminated excavation dewatering per subsection (s), Excavation Dewatering
 - (11) Potable water including waterline flushings
 - (12) Landscape irrigation
- (v) *Unauthorized Non-stormwater Discharges*. The following Discharges are prohibited:
- (1) Wastewater from the washout or cleanout of concrete, stucco, paint, form release oils, curing compounds, or other construction materials;
 - (2) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
 - (3) Soaps, solvents, or detergents used in vehicle and equipment washing; and
 - (4) Toxic or hazardous substances from a spill or other release.

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Sec. 41-150. – Preliminary plan specifications

The subdivider shall submit the preliminary plan in seven copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions as shown in section 41-123, showing or accompanied by the following information:

- (1) Proposed name of the subdivision or identifying title and the name of the town.
- (2) The name and address of record owner, subdivider, and designer.
- (3) The name and address of abutters, including subdivisions, streets and land use.
- (4) An actual field survey of the parcel made and certified by a state-registered land surveyor, showing boundary locations, bearings, and dimensions, reference points, true north point, graphic scale, acreage, contour lines, elevations, existing and proposed lots, buildings, utilities, rights-of-way, easements, and covenants, cemeteries, watercourses, and other essential physical features. The corners of the parcel shall be located on the ground and marked by monuments, as required in section 41-252.
- (5) The location of temporary markers adequate to enable the planning board to locate readily and appraise the basic layout in the field.
- (6) The proposed lot lines with approximate dimensions and suggested locations of buildings.
- (7) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (8) A statement or plan showing effect upon air quality as provided in section 41-212.
- (9) A plan for minimizing surface water drainage as provided in section 41-213 and preliminary designs of any culverts or bridges which may be required.
- (10) An soil-erosion and sedimentation control plan as provided in section 41-214.
- (11) A soils report and high intensity soils survey prepared and signed by a soils scientist identifying the soils names and boundaries in the proposed subdivision. Following its review of all soils analyses, the planning board may require that at least 20,000 square feet or 25 percent of the land area (whichever is greater) of any proposed building lot contain soils in which seasonal groundwater is not within 15 inches of the original ground surface. This is intended to ensure that lots will have sufficient land area suitable for foundations, subsurface sewage disposals, outdoor yard space, and other regular land uses. See article V of this chapter for soils survey and report requirements for mobile home parks.
- (12) The location of all natural features or site elements to be preserved as provided in section 41-215.
- (13) A statement or plan concerning historical sites and land use patterns as provided in section 41-216.
- (14) Connection with existing water supply or alternative means of providing water supply to the proposed subdivision as provided in section 41-217.

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- (15) Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and groundwater conditions, depth to maximum groundwater level, location and results of soils testing as provided in section 41-218.
 - (16) A statement or plan for solid waste disposal as provided in section 41-219.
 - (17) A community services and impact statement as provided in section 41-220.
 - (18) A traffic congestion and safety plan as provided in section 41-221.
 - (19) A public health and safety statement as provided in section 41-222.
 - (20) Demonstrate compliance with federal, state and local land use and other policies and laws as provided in section 41-223. The subdivider shall show the width and location of any existing streets, highways, easements, utilities, building lines, alleys, parks, public open spaces, or other public places; those shown upon the official map and the comprehensive plan, if any, within the area to be subdivided; and the width, location, grades and street profiles of all streets or other public improvements proposed by the subdivider.
 - (21) An estimated progress schedule.
 - (22) Demonstrate adequate financing as provided in section 41-224.
- (T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 502.2))

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

Sec. 41-214. – Soil quality

- (a) *Soil suitability for construction.* In any instance where the code enforcement officer or the planning board doubts the capability of the soil to adequately accommodate proposed construction, they may require that a soil test be made, at the owner's expense, in order to identify the soil type, by a soil scientist. If the soil type which is identified is classified as having poor or very poor suitability for the proposed use, the code enforcement officer or planning board may require the subdivider to submit written evidence from the soil scientist or a professional civil engineer that the soil will be able to support all proposed pavement, structures and utilities. This report may include recommended engineering measures to ensure that cracking, subsidence, or other failure will not result.
- (b) *Reasons for disapproval.* The planning board shall not approve such portions of any proposed subdivision that:
- (1) Are situated below sea level.
 - (2) Are located on land which must be filled or drained or on land created by diverting a watercourse; except the planning board may grant approval if municipal sewage collection and treatment is provided. In no instance shall the planning board approve any part of a subdivision located on filled floodplains, as defined in the zoning chapter.
- (c) *Erosion control.* **Subdivisions subject to Chapter 34 shall follow the erosion and sedimentation control requirements in Chapter 34. For all construction activity subject to this chapter, erosion** Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following best-management practices:
- (1) Stripping of vegetation, and regrading or other development shall be minimized as far as is practical, and shall be done in such a way as to minimize erosion.
 - (2) The duration of exposure of the disturbed area shall be kept to a practical minimum.
 - (3) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
 - (4) Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical after construction ends.
 - (5) Until a disturbed area is stabilized, sediment in runoff water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the planning board.
 - (6) The top of a cut or the bottom of a fill section shall not be closer than ten feet to an adjoining property, unless otherwise specified by the planning board.
 - (7) During grading operations, methods of dust control shall be employed.
 - (8) On slopes greater than 25 percent, there shall be no grading or filling within 100 feet of the normal high water mark except to protect the shorelines and prevent erosion.
 - (9) Topsoil shall be considered part of the subdivision. Except for surplus topsoil for roads, parking areas, and building excavations, it is not to be removed from the site.

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- (d) *Debris and waste.* The subdivider shall not deposit or bury trees, timber, debris, rocks, junk, rubbish, unsuitable soil, or other waste materials of any kind. The code enforcement officer shall withhold approval of permits or recommendation of release of any performance bonds or dedication of improvements until the subdivider removes such waste materials.

(T.M. of 11-2-82; T.M. of 3-19-88; T.M. of 12-20-89, (§ 803))

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

Sec. 44-35. – Land use standards

[...]

(q) *Erosion and sedimentation control.*

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil Erosion and Sedimentation Control Plan. The plan shall be submitted to the Municipal Permitting Authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and manmade drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with riprap.

(6) Without limiting the foregoing, all construction activity subject to Chapter 34 shall meet the requirements of that chapter. [...]

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 41 – Subdivisions, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

Sec. 45-412. - Erosion control.

Construction activity subject to Chapter 34 shall follow the erosion and sedimentation control requirements in Chapter 34. For all construction activity subject to this chapter, erosion Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following best management practices:

- (1) Stripping of vegetation, and regrading or other development shall be done in such a way as to minimize erosion.
- (2) The duration of exposure of the disturbed area shall be kept to a practical minimum.
- (3) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
- (4) Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the county soil and water conservation district or the state soil and water conservation commission shall be installed as soon as practical after construction ends.
- (5) Until a disturbed area is stabilized, sediment in runoff water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the planning board.
- (6) The top of a cut or the bottom of a fill section shall not be closer than ten feet to an adjoining property, unless otherwise specified by the planning board.
- (7) During grading operations, methods of dust control shall be employed.

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

DRAFT for August 16, 2022, Planning Board Public Hearing

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

Ballot question – Town Special Referendum Election, November 8, 2022

ARTICLE #__: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule” be enacted?

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

Background and rationale

These amendments remove listed fees from Section 1-25 and authorize the Select Board to establish and maintain a Town fee schedule, where fees may be occasionally be updated by a vote of the Select Board.

Several fees have not been changed in a long time and are no longer providing cost recovery, meaning that the service associated with the fee costs the Town more than the amount the fee is providing. If adopted, staff expect to develop a master fee schedule to be brought to the Select Board for review and approval. Until then, the fees in Section 1-25 would remain in effect.

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

(New text underlined in bold)

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Sec. 1-25. Fee schedule.

(a) Purpose and Authority. The Select Board is hereby authorized to establish and maintain a fee schedule with fees for permitting, licensing, services, application, appeal, as permitted under the Code of Ordinances. Except as limited by this section or otherwise by law, the Select Board is authorized to modify the fee amounts in that fee schedule. For the purpose of this section, “fee schedule” may mean one master fee schedule or multiple individual fee schedules grouped by fee categories.

(b) The tables in this section shall remain effective until the Select Board adopts a fee schedule pursuant to subsection 1-25(a) above. The tables below shall be repealed and removed from this Ordinance upon the adoption of a fee schedule by the Select Board.

| CODE ENFORCEMENT | | | | |
|--------------------------------|--|---|----------------|--|
| PURPOSE | | FEE | | |
| Building permits (Sec. 45-125) | Foundation/slab only | \$100.00 | | |
| | Accessory structures | \$0.20/sq. ft. | | |
| | Principal structures (new construction or additional living area) | Finished area | \$0.50/sq. ft. | |
| | | Unfinished area | \$0.25/sq. ft. | |
| | Alterations/renovations | \$8.00 per \$1,000.00 of est. construction cost | | |
| | Demolition (of structures 8' × 8' or more) | \$25.00 - Accessory structures | | |
| | | \$50.00 - Principal structures | | |
| | Fence permit - any height or length (Sec. 45-423) | \$25.00 | | |
| | Swimming pool permit - any size, any type (excluding temporary/inflatable pools) | \$75.00 | | |
| | | Temporary | \$50.00 | |
| Permanent - residential | | \$100.00 | | |

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

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| | Piers, docks, wharves, bridges or other structure extending over or below the high water line (Sec. 44-35(c)) | Permanent commercial - | \$150.00 |
| Campsite license fees (Sec. 33-173) | New campsites | \$150.00 application fee + \$10.00/campsite | |
| | Annual renewals | \$25.00 application fee + \$10.00/campsite | |
| Electrical permits (Sec. 45-132) | New dwelling units (fee includes electrical permit and 2 inspections) | Single-family dwellings | \$100.00 |
| | | All other dwelling units (ADUs, modular, manufactured, etc.) | \$75.00 each |
| | AMP service (fee includes permit and 1 inspection) | Temporary service | \$30.00 |
| | | 100 & 200 AMP (panel & service) | \$50.00 |
| | | Subpanels, underground service wire, other | \$30.00 each |
| | Wiring (fee includes electrical permit and 1 inspection) | \$50.00 | |
| | Alternative energy systems (fee includes permit and 1 inspection) (Sec. 45-461 & 462) | Solar energy systems | \$50.00 |
| | | Small wind energy systems | \$75.00 |
| | Swimming pools, hot tubs, saunas, spas, etc. (includes permit and 1 inspection) | \$30.00 each | |
| | Signs (any illuminated) | \$30.00 each | |
| | Generators (any size), transfer switches, transformers (permit + 1 inspection) | \$30.00 each | |
| Re-inspection fee (for any additional inspections) | \$50.00 each | | |
| Flood hazard development permit (Sec. 25-58) | | \$50.00 | |
| Growth permit (Sec. 29-42(b)) | | \$500.00/dwelling unit (upon replacement with a building permit to construct a new dwelling unit, | |

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

| | | | |
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| | | \$400.00/dwelling unit shall be credited toward building permit fees) | |
| Plumbing permits (Sec. 45-131) | External (subsurface wastewater disposal systems) | Engineered system | \$300.00 |
| | | Non-engineered system | \$250.00 + \$15.00 (state fee) |
| | | Disposal field only | \$150.00 |
| | | Treatment tank only | \$125.00 |
| | | Holding tank | \$150.00 |
| | | Other components (complete pump station, piping, etc.) | \$50.00 |
| | | Primitive system (incl. 1 alternative toilet) | \$150.00 |
| | | Alternative toilet | \$50.00 |
| | | Seasonal conversion | \$50.00 |
| | | Separated laundry system | \$50.00 |
| | | 1st time system variance | \$50.00 |
| | | Internal plumbing | \$40.00 min. (includes 1—4 fixtures) + \$10.00 per additional fixture |
| | Re-inspection fee (for any additional inspections) | \$50.00 each | |
| Tele-communication structures (Sec. 45-460) | Expansion of existing telecommunication structure | \$350.00 | |
| | Collocation of antenna on existing telecommunication structure | \$350.00 | |
| | New telecommunication structure (any height) | \$500.00 | |
| Auto graveyards, auto recycling operations, and auto hobbyist | Auto graveyard | \$175.00 application fee + \$50.00/permit | |
| | Auto recycling operation, principal | \$175.00 application fee + \$250.00/permit | |

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

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|---|--|---|
| storage area operating permits (select board) | Auto hobbyist storage area | \$175.00 application fee + \$25.00/permit |
| Sign permit (Sec. 45-130) | Exterior signs for commercial establishments (new, permanent signs only) | \$50.00 |
| | Home business signs or replacement signs for commercial establishments | \$25.00 |
| After-the-fact permits | | Permit fees doubled |

| PUBLIC WORKS/ROAD COMMISSIONER | |
|---|--|
| PURPOSE | FEE |
| Stormwater management facilities - review of annual certifications and inspection reports for properties entered into a maintenance agreement with the town (Sec. 35-4(b)(6)) | \$250.00 - annual base fee |
| Stormwater management facilities - annual town inspection (as needed) of properties entered into a maintenance agreement with the town (Sec. 35-4(b)(6); Sec. 35-5(b)) | \$300.00 per town staff inspection \$900.00 per town-contracted third-party consultant inspection |
| Excavation permit - for excavation of town ways (Sec. 37-55) | \$100.00 |
| Driveway construction permit | \$50.00 |

| PLANNING BOARD | | | |
|--|--|-----------------|---|
| PURPOSE | | | FEE |
| Site Plan Review (Sec. 33-128) <i>(Public</i> | Rural, Suburban, Commercial/Industrial Districts | Village, Zoning | General site plan review application (non Shoreland zone) \$100.00 per acre up to 5 acres; \$50.00 each additional acre |

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

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|-----------------------------------|---|--|--|
| <i>hearing fees not included)</i> | | | (minimum fee \$100.00) |
| | | Change of use (no site changes or major structural changes or additional square footage) | \$25.00 |
| | | Home business; home occupation | \$25.00 |
| | | Lodging businesses (bed & breakfasts, hotels, motels, boarding homes, inns, etc.) | \$25.00 per room for lodging businesses in lieu of acreage-based fee |
| Shoreland Zoning Districts | General site plan review application | \$100.00/acre up to 5 acres. \$50.00 each additional acre (minimum fee \$100.00) | |
| | Piers, docks, wharves, bridges and other structures extending over or below the high-water line | \$50.00 | |
| | Road & driveway construction permits | \$50.00 | |
| | Non-conforming structures, uses and lots per Sec. 44-32 | \$75.00 | |
| | Revisions to final site plans after planning board approval (Sec. 33-140) | \$100.00 | |
| | Subdivision application fee | \$200.00 per lot or dwelling unit | |
| | Mobile home park application fee | \$50.00 per unit | |

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

| | | |
|--|---|--|
| Subdivisions (Sec. 41-142) | Final plan fee for subdivisions and mobile home parks (Sec. 41-171) | \$50.00 |
| | Revisions to final subdivision plans after approval (Sec. 41-182) | \$200.00 per lot or dwelling unit affected by change |
| Public hearing fees (includes abutter notification via certified mail and advertising in 2 local newspapers) | | \$175.00 |

| BOARD OF APPEALS | |
|---|---|
| PURPOSE | FEE |
| All Board of Appeals applications (variances, waivers, administrative appeals) (Sec. 45-50) | \$150.00 (includes application and all public hearing fees) |

(T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-11-2013(3); T.M. of 6-9-2015(2); T.M. of 6-8-2021(2) , art. 33; T.M. of 11-2-2021(1) , art. 2)

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

Sec. 2-80. Select board's administrative authority.

The select board shall be authorized to act on the following administrative matters usually acted on annually at town meeting:

- (1) Taxes are due and payable at the time of the mailed demand. The select board is granted the authority to set dates in the months of November and the following May as the dates when interest on unpaid current tax amounts will begin to accrue.
- (2) To establish the rate of interest charged on each half of taxes after the November and May dates, such rate of interest not to exceed the maximum rate as established annually by the state treasurer.
- (3) To authorize the select board to set an interest rate to be paid on abated taxes for the fiscal year.
- (4) To authorize the tax collector to accept prepayments of taxes not yet committed, pursuant to 36 M.R.S.A. section 506.
- (5) To authorize the select board, when town meeting is delayed into the next fiscal year, to spend from unassigned fund balance an amount per month not more than 1/12 of the appropriated amount of the current fiscal year budget until the required town meeting can be held.
- (6) To authorize the select board to annually execute signatures as may be required to borrow funds through tax anticipation notes, if necessary for cashflow, and to pay interest on said tax anticipation notes from any general fund revenue.
- (7) To pay tax abatements and applicable interest granted during the fiscal year from the overlay account.
- (8) To authorize the select board to dispose of town-owned personal property under such terms and conditions as they deem to be in the best interest of the town.
- (9) To authorize the select board, on behalf of the town, to sell and dispose of any real estate acquired by the town for non-payment of taxes thereon, on such terms as they deem advisable and to execute quitclaim deeds for such property. The select board must first request the advice of the conservation commission.
- (10) To authorize the select board to receive insurance and/or other property damage restitution funds and to expend said receipts for materials and labor to correct said damages without further appropriations.
- (11) To authorize the select board to accept and appropriate or to reject any and all funds from grants, donations, and reimbursements during the year for any municipal department, committee, commission and/or project, to include but not limited to reimbursements from F.E.M.A. for any state declared emergencies, community development block grants, donations for the parks, and capital or program grants for community service department.
- (12) To authorize the select board and treasurer to borrow on notes or to appropriate money from unreserved fund balance for any further amount needed for snow removal.

Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 2 – Administration, Related to the Town Fee Schedule

- (13) To make final determinations regarding the closing or opening of roads to winter maintenance, pursuant to 23 M.R.S.A. § 2953.
- (14) To authorize the select board to establish the rate of interest charged of delinquent sewer accounts.
- (15) To authorize the select board to make any budgetary changes, in their sole discretion, as a result of a LD1 override failure.
- (16) **To authorize the select board to establish and maintain a fee schedule as further provided for in Section 1-25.**

(T.M. of 11-6-2018(1), (§ 10))



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Kenneth A. Wood, P.E., Attar Engineering, Applicant’s Representative
 Shelly Bishop, Code Enforcement Officer
 Date: August 12, 2022 (report date)
 August 16, 2022 (meeting date)
 Re: PB22-14: 276 Harold L. Dow Hwy. (Map 37, Lot 9): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Sketch Plan Review**

| Application Details/Checklist Documentation | |
|---|---|
| ✓ Address: | 276 Harold L. Dow Hwy. |
| ✓ Map/Lot: | 37/9 |
| ✓ PB Case#: | 22-14 |
| ✓ Zoning: | Commercial/Industrial (C/I) district |
| ✓ Shoreland Zoning: | Stream Protection |
| ✓ Owner Name: | Black Hawk Holdings, LLC |
| ✓ Applicant Name: | Blackbeard Farms, LLC |
| ✓ Proposed Project: | Marijuana Products Manufacturing Facility |
| Application Received by Staff: | June 9, 2022 |
| ✓ Application Fee Paid and Date: | \$300 (SP Amend.: \$100; Chg. of Use: \$25; PH: \$175) June 13, 2022 |
| ✓ Application Sent to Staff Reviewers: | June 30, 2022 |
| Application Heard by PB | August 16, 2022 (scheduled) |
| Found Complete by PB | TBD |
| Site Walk | TBD |
| Site Walk Publication | TBD |
| Public Hearing | TBD |
| Public Hearing Publication | TBD |
| Deliberation | TBD |
| ✓ Reason for PB Review: | Site Plan Amendment, Change of Use, Marijuana Establishment |

Overview

Applicant Blackbeard Farms LLC (property owner: 155 HDH LLC; agent: AG Architects, PC) seeks Site Plan Amendment/Review and a Change of Use approval for a marijuana establishment (marijuana products manufacturing facility) at 276 Harold L. Dow Hwy. (Map 37, Lot 9), an approximately 49-acre lot. Per the cover letter, the establishment would consist of the incorporation of an “approx. 600 SF commercial product (“manufacturing”) kitchen within the existing approved cultivation building

PB22-14: 276 Harold L. Dow Hwy. (Map 37, Lot 9): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Sketch Plan Review**

(Building 2). There will be no changes in the exterior of the building, impervious area, employees or predicted traffic movement.”

Application contents

Submitted June 9, 2022

- Cover letter dated 6/3/22
- Agent authorization letter, Blackbeard Farms LLC to Attar Engineering, Inc.
- Site Plan Review application signed by applicant’s representative
- OCP Conditional License AMF777 issued to Blackbeard Farms, LLC, exp. 8/9/22
- Local Authorization Form with Section 1 filled out
- Lease agreement
- Floor plan
- MaineDOT driveway/entrance permit
- Grease trap specification
- Septic inspection report dated 2/18/22
- Septic permit form/HHE-200
- Site plan set

Type of review needed

Sketch plan review – ask questions of the applicant, seek more information as needed, provide input as needed on ordinance compliance. Some information may be provided with full SPR application.

If the Planning Board believes the application is complete (considering inapplicable content requirements and any waivers you may grant), consider a completeness motion and the setting of a public hearing.

Zoning

Commercial-Industrial (C/I); Stream Protection shoreland zoning on the site but no development is proposed within it.

Use

Marijuana establishments (e.g. products manufacturing facilities) are SPR uses in the C/I district.

Section 1-2 definition

Marijuana products manufacturing facility shall mean a “products manufacturing facility” as that term is defined in 28-B M.R.S.A. § 102(4243), as may be amended. A *marijuana products manufacturing facility* is an entity licensed to purchase adult use marijuana; to manufacture, label and package adult use marijuana products; and to sell adult use marijuana products from a marijuana cultivation facility only to other *marijuana products manufacturing facilities*, or marijuana stores and marijuana social clubs.

There is a typo in the statutory reference in the latter definition; likely it refers to 28-B M.R.S.A. § 102(43), which is “Products manufacturing facility”. That definition is:

“Products manufacturing facility” means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

PB22-14: 276 Harold L. Dow Hwy. (Map 37, Lot 9): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Sketch Plan Review**

Affidavit of ownership (33-106)

See attached lease agreement. Deed and corporate information [33-106(5)] should be provided.

OMP Conditional License

OCP Conditional License AMF777 issued to Blackbeard Farms, LLC, exp. 8/9/22 – will need to see renewal

Dimensional requirements (45-405)

| Dimension | Standard | Met? |
|--|---|---|
| Min lot size, lot line setbacks, max building height, max lot coverage | | N/A – no new lot creation; no new buildings, additions, or expansions |
| Min street frontage (ft) | 300 | Met – 400 ft. |
| Max sign area (sf) | Max. 50 sf for wall-mounted, 100 sf for common freestanding | See Note 14 of site plan |

Site walk (33-64)

The PB previously conducted a site walk on this site on 5/17/21 as part of review of PB21-10. You could elect to conduct another site walk, especially with some new members. However, this application primarily involves only interior building changes.

Marijuana performance standards (33-190)

| Paragraph | Standard summary | Met? |
|-----------|--|---|
| (1) | Screening per 33-175 | Appears to be met. Site generally has existing buffer. No changes are proposed to it. |
| (2) | Comply with applicable parking requirements (45-495) | Appears to be met. See site plan Note 6. |
| (3) | Signage and advertising | See site plan Note 14. |
| (4e) | Waste and wastewater disposal plan | Information on septic system adequacy is provided (see inspection report and septic permit form). However, more info is needed with regard to Section 33-190(4)b. See Planner Review Letter 1. |
| (4f) | Security measures | See site plan notes 9-10. |
| (5) | “500 foot rule” separation/buffering | N/A – proposed use (manufacturing) is not the type of use subject to this section |
| (6) | Hours of operation | N/A with regard to manufacturing but see site plan Note 8 (8am to 9pm, 7 days a week) |
| (7) | Cultivation area limitation | N/A |
| (8) | Sale/production of edible products | License info needed. See Planner Review Letter 1. |
| (9) | Drive-through and home delivery prohibition | N/A |
| (10) | Traffic impact assessment for marijuana stores | N/A – manufacturing |

PB22-14: 276 Harold L. Dow Hwy. (Map 37, Lot 9): Site Plan Amendment/Review and Change of Use – Marijuana Products Manufacturing Facility – **Sketch Plan Review**

| | | |
|------|-------------------------------------|--|
| (11) | Pesticides, packaging, and labeling | Defer packaging and labeling requirements to State OCP review. |
| (12) | Inspections | Relates to building permit/Fire Chief review |
| (13) | Change/addition of use | Met – current proposal under review by PB. |
| (14) | Odor management | More info requested. See Planner Review Letter 1. |
| (15) | Other laws remain applicable | Defer to State OCP review |

Traffic (45-406)

Safe access to and from public and private roads

No change to existing access configuration. Reference DOT permit in packet.

Adequate number and location of access points; avoid unreasonable adverse impact on the town road system

No change to existing access points. **Planner Review Letter 1 requests clarification on trip generation calculation in site plan Note 7.**

Assure safe interior circulation within the site

No change to internal circulation.

Odor (45-409)

See above table – **more info needed.**

Stormwater runoff (45-411)

No change to exterior of the site.

Erosion control (45-412)

No change to exterior of the site.

Preservation of landscape (45-413)

No change to exterior of the site.

Water and sewer (45-416)

Building has existing well and septic. See septic information in packet. Site has a history of DEP soil remediation and environmental covenant that I described in more detail in my PB21-10 staff reports.

Buffers and screening (45-417, 33-175, 33-190)

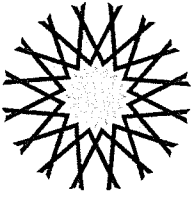
Site contains existing vegetative buffer.

Parking and loading

See site plan note 7.

* * *

Respectfully submitted,
 Jeff Brubaker, AICP
 Town Planner



ATTAR

ENGINEERING, INC

CIVIL · STRUCTURAL · MARINE

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

June 3, 2022
Project No. C019-22

**RE: Site Plan Application (Change of Use)
276 H.L. Dow Highway (Tax Map 37, Lot 9)
Eliot, Maine**

Dear Mr. Brubaker:

On behalf of Blackbeard Farms, LLC I have enclosed a set of updated plans for the Application for Site Plan Review and additional supporting documentation for the above referenced project.

The applicant proposes to add an approx. 600 SF commercial product (“manufacturing”) kitchen within the existing approved cultivation building (Building 2). There will be no changes in the exterior of the building, impervious area, employees or predicted traffic movement.

Also included is a Conditional License for the Adult Use Marijuana Products Manufacturing Facility from the Office of Marijuana Policy and other supporting documentation such as a lease, wastewater disposal system information and a plan-set.

We look forward to discussing this project at the next available Planning Board meeting. If any additional information is required, please contact me. Thank you for your assistance.

Sincerely;

Kenneth A. Wood, P.E.
President

cc: Blackbeard Farms, LLC
C019-22_Eliot_Cover

BLACK HAWK HOLDING, LLC

36 Wilson Road
Wilton, NH 03086
603-232-3586

Jeffrey Brubaker
Town of Eliot Maine
1333 State Rd, Eliot, ME 03903

June 3, 2022

Dear Mr. Brubaker,

Please be informed that Kenneth A. Wood, P.E. and Brian Nielsen, E.I.T. of Attar Engineering, Inc. will be acting as my agents for the applications and permitting of my project at 276 Harold Dow Highway.

Please contact me if I can provide any additional information.

Sincerely;



Jelal Jones
Blackbeard Farms, LLC

cc: Kenneth A. Wood, P.E. Attar Engineering, Inc.

| |
|---|
| Case No. _____ Site review? Yes No |
|---|

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

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

Tax Map 37 Lot# 9 Lot Size 49.13 Acres Zoning District: Commercial/Industrial(C/I)

Your Name Blackbeard Farms, LLC Your mailing address 223 Beech Ridge Road

City/Town York State: ME Zip: 03909 Telephone: 774-330-9380

Who owns the property now? Black Hawk Holdings, LLC

Address (Location) of the property 276 Harold Dow Highway

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

Step 2 (establish your legal interest in the property)

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

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

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

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

The project proposes to add Adult Use Marijuana Manufacturing within the large building at the rear of the site.

| |
|---|
| Case No. _____ Site review? Yes No |
|---|

Step 4 Attach ten (10) copies of a sketch plan, showing in approximate dimensions the following:


- All zoning districts
- The location of all existing and/or proposed buildings
- The setbacks of all existing and proposed structures or uses.

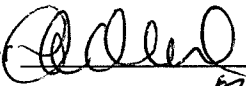
- The location of proposed signs, their size, and direction of illumination.

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

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

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

Applicant  Date 6/24/2022

Property Owner  Date 6/20/2022

AK/2022

Step 6 Application received by Planning Assistant

Date received by the PA _____ PA initials _____

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

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

PART 1 - THE PROCEDURE

| |
|---------------------------|
| Case No. _____ |
| Site review? Yes No |

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

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

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

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

(STEP 5) Board visits site with applicant.

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

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

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

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

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

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

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

| |
|---------------|
| PART 2 |
|---------------|

Case No. _____

Site review? Yes No

DETAILED ORDINANCE REFERENCES FOR EACH SITE REVIEW EVENT

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

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

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

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

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

Case No. _____

Site review? Yes No

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

Chapter 33 required information

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

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

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

Other Chapter 33 Site Review Ordinance Requirements.

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

Case No. _____

Site review? Yes No

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

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

Chapter 35 Post-Construction Stormwater Management

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

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

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

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

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

Case No. _____

Site review? Yes No

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

5.1. Board discusses Site Plan with applicant.

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

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

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

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

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

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

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

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

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

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



500 foot Abutters List Report

Eliot, ME
August 18, 2020

Subject Property:

Parcel Number: 037-009-000
CAMA Number: 037-009-000
Property Address: 276 HAROLD L DOW HWY

Mailing Address: BLACK HAWK HOLDINGS LLC
36 WILSON ST
WILTON, NH 03086

Abutters:

Parcel Number: 029-005-001
CAMA Number: 029-005-001
Property Address: 257 HAROLD L DOW HWY

Mailing Address: DG STRATEGIC II LLC ATTN: TAX DEPT
STORE #15940
100 MISSION RIDGE
GOODLETTSVILLE, TN 37072

Parcel Number: 029-014-000
CAMA Number: 029-014-000
Property Address: 238 HAROLD L DOW HWY

Mailing Address: UNITED METHODIST CHURCH
238 HAROLD L DOW HWY
ELIOT, ME 03903

Parcel Number: 029-030-000
CAMA Number: 029-030-000
Property Address: 249 HAROLD L DOW HWY

Mailing Address: PRIME ELIOT LLC
83-85 RAILROAD PLACE
SARATOGA SPRINGS, NY 12866

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

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

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

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

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

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

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

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

Parcel Number: 037-003-001
CAMA Number: 037-003-001
Property Address: 299 HAROLD L DOW HWY

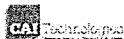
Mailing Address: NATURAL ROCKS SPRING WATER ICE
CO INC
299 HAROLD L DOW HWY
ELIOT, ME 03903

Parcel Number: 037-005-000
CAMA Number: 037-005-000
Property Address: 26 MACLELLAN LN

Mailing Address: BROWN DOG PROPERTIES MAINE LLC
396 BEECH RD
ELIOT, ME 03903

Parcel Number: 037-010-000
CAMA Number: 037-010-000
Property Address: 262 HAROLD L DOW HWY

Mailing Address: DAVIS, RITA REVOCABLE TRUST RITA L
DAVIS TRUSTEE
17 ELIZABETH LN
KITTELY POINT, ME 03905



www.cai-tech.com

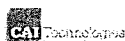
Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



500 foot Abutters List Report

Eliot, ME
August 18, 2020

| | |
|--|---|
| Parcel Number: 037-013-000 CAMA Number: 037-013-000 Property Address: 26 VITTUM HILL RD | Mailing Address: TEBBETTS, ROBERT F TEBBETTS, CONSTANCE A 26 VITTUM HILL RD ELIOT, ME 03903 |
| Parcel Number: 037-013-001 CAMA Number: 037-013-001 Property Address: VITTUM HILL RD | Mailing Address: TOWN OF ELIOT 1333 STATE RD ELIOT, ME 03903 |
| Parcel Number: 037-015-000 CAMA Number: 037-015-000 Property Address: 22 VITTUM HILL RD | Mailing Address: MA, GEORGE 22 VITTUM HILL RD ELIOT, ME 03903 |
| Parcel Number: 037-015-001 CAMA Number: 037-015-001 Property Address: 27 EVERGREEN LN | Mailing Address: METZ, LORI DECATO 27 EVERGREEN LN ELIOT, ME 03903 |
| Parcel Number: 037-016-000 CAMA Number: 037-016-000 Property Address: 24 SURREY LN | Mailing Address: ROY, JAMES G MUZEROLL-ROY, HEATHER A 24 SURREY LN ELIOT, ME 03903 |
| Parcel Number: 037-017-000 CAMA Number: 037-017-000 Property Address: 29 SURREY LN | Mailing Address: ESTES, CRAIG W ESTES, LEAH N 29 SURREY LN ELIOT, ME 03903 |
| Parcel Number: 037-018-000 CAMA Number: 037-018-000 Property Address: 24 EVERGREEN LN | Mailing Address: DEGRAPPO, DOUGLAS A DEGRAPPO, MARIA 24 EVERGREEN LN ELIOT, ME 03903 |
| Parcel Number: 037-020-000 CAMA Number: 037-020-000 Property Address: 290 HAROLD L DOW HWY | Mailing Address: AMP REALTY HOLDINGS LLC C/O NORTHERN POOL & SPA 291 HAROLD L DOW HWY ELIOT, ME 03903 |
| Parcel Number: 037-021-000 CAMA Number: 037-021-000 Property Address: 300 HAROLD L DOW HWY | Mailing Address: SLATE HILL RECYCLING LLC 171 YORK WOODS RD SOUTH BERWICK, ME 03908 |
| Parcel Number: 037-022-000 CAMA Number: 037-022-000 Property Address: SURREY LN | Mailing Address: LAMS LLC 6 YORK POND RD YORK, ME 03903 |
| Parcel Number: 038-016-001 CAMA Number: 038-016-001 Property Address: 20 EVERGREEN LN | Mailing Address: HASHEM, LEON M JR HASHEM, BETH F 20 EVERGREEN LN ELIOT, ME 03903 |
| Parcel Number: 038-021-000 CAMA Number: 038-021-000 Property Address: BEECH RD | Mailing Address: KILBOURN, LARRY J/MARYL W REV TRUST LARRY J/MARYL W KILBOURN TRUSTEES 37 LITTLE BROOK LN ELIOT, ME 03903 |



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500 foot Abutters List Report

Eliot, ME
August 18, 2020

Parcel Number: 038-025-000
CAMA Number: 038-025-000
Property Address: 37 LITTLEBROOK LN

Mailing Address: KILBOURN, LARRY J/MARYL W REV
TRUST LARRY JMARYL W KILBOURN
TRUSTEES
37 LITTLE BROOK LN
ELIOT, ME 03903

Parcel Number: 038-026-000
CAMA Number: 038-026-000
Property Address: 43 LITTLEBROOK LN

Mailing Address: HARRIS, MICHAEL D PETERSEN, JENNY
43 LITTLEBROOK LN
ELIOT, ME 03903

Parcel Number: 038-027-000
CAMA Number: 038-027-000
Property Address: 67 LITTLEBROOK LN

Mailing Address: STACY, HAROLD A STACY, MARCIA C
67 LITTLE BROOK LN
ELIOT, ME 03903

Parcel Number: 038-028-000
CAMA Number: 038-028-000
Property Address: 46 LITTLEBROOK LN

Mailing Address: PERKINS FAMILY REVOCABLE TRUST
DANIEL W & JANICE L PERKINS
TRUSTEES
46 LITTLEBROOK LN
ELIOT, ME 03903

Parcel Number: 046-001-000
CAMA Number: 046-001-000
Property Address: 71 LITTLEBROOK LN

Mailing Address: SCHULTZE, ABEL A SCHULTZE,
ANGELA
71 LITTLEBROOK LN
ELIOT, ME 03903

Parcel Number: 046-002-000
CAMA Number: 046-002-000
Property Address: 97 LITTLEBROOK LN

Mailing Address: REMICK, STEPHEN H REMICK, CYNTHIA
97 LITTLE BROOK LN
ELIOT, ME 03903

Parcel Number: 046-003-000
CAMA Number: 046-003-000-000
Property Address: 107 LITTLEBROOK LN

Mailing Address: SWEET PEAS LLC
PO BOX 243
ELIOT, ME 03903

Parcel Number: 046-003-000
CAMA Number: 046-003-000-001
Property Address: 107 LITTLEBROOK LN #1

Mailing Address: BROX, ERIC A
C/O JEAN HARDY PO BOX 79
ELIOT, ME 03903

Parcel Number: 046-003-000
CAMA Number: 046-003-000-002
Property Address: 107 LITTLEBROOK LN #2

Mailing Address: MAY LIVING TRUST GEORGE
F/MARTHA D MAY TRUSTEES
C/O JEAN HARDY PO BOX 79
ELIOT, ME 03903

Parcel Number: 046-003-000
CAMA Number: 046-003-000-003
Property Address: 107 LITTLEBROOK LN #3

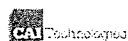
Mailing Address: BAUMANN, SIGRID
C/O JEAN HARDY PO BOX 79
ELIOT, ME 03903

Parcel Number: 046-003-000
CAMA Number: 046-003-000-004
Property Address: 107 LITTLEBROOK LN #4

Mailing Address: MILLER, JOHN
C/O JEAN HARDY PO BOX 79
ELIOT, ME 03903

Parcel Number: 046-003-000
CAMA Number: 046-003-000-005
Property Address: 107 LITTLEBROOK LN #5

Mailing Address: GALLO, ANTHONY
C/O JEAN HARDY
ELIOT, ME 03903



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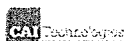
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500 foot Abutters List Report

Eliot, ME
August 18, 2020

| | |
|---|--|
| Parcel Number: 046-003-000 CAMA Number: 046-003-000-006 Property Address: 107 LITTLEBROOK LN #6 | Mailing Address: ROBBINS, GLEN C/O JEAN HARDY PO BOX 79 ELIOT, ME 03903 |
| Parcel Number: 046-003-000 CAMA Number: 046-003-000-007 Property Address: LITTLEBROOK LN | Mailing Address: GALLO, ANTHONY C/O JEAN HARADY PO BOX 79 ELIOT, ME 03903 |
| Parcel Number: 046-003-000 CAMA Number: 046-003-000-008 Property Address: 107 LITTLEBROOK LN #8 | Mailing Address: BULGER, EDWARD P C/O JEAN HARDY PO BOX 79 ELIOT, ME 03903 |
| Parcel Number: 046-003-000 CAMA Number: 046-003-000-009 Property Address: LITTLEBROOK LN | Mailing Address: PROSTKOFF, MELVIN E C/O JEAN HARDY PO BOX 79 ELIOT, ME 03903 |
| Parcel Number: 046-003-000 CAMA Number: 046-003-000-010 Property Address: LITTLEBROOK LN | Mailing Address: MACKLE REVOCABLE TRUST ROBERT B & BARBARA MACKLE TRUSTEES C/O JEAN HARDY ELIOT, ME 03903 |
| Parcel Number: 046-007-000 CAMA Number: 046-007-000 Property Address: 50 MACLELLAN LN | Mailing Address: HISSONG READY-MIX AGGREGATES LLC 48 YORK ST SUITE 2 KENNEBUNK, ME 04043 |
| Parcel Number: 046-008-000 CAMA Number: 046-008-000 Property Address: 22 EVERETT LN | Mailing Address: FORD, STEPHEN M ZAMALLOA, ALEJANDRO ENRIQUEZ 22 EVERETT LN ELIOT, ME 03903 |
| Parcel Number: 046-010-000 CAMA Number: 046-010-000 Property Address: MACLELLAN LN | Mailing Address: BROWN DOG PROPERTIES MAINE LLC 396 BEECJ RD ELIOT, ME 03903 |
| Parcel Number: 046-100-000 CAMA Number: 046-100-000 Property Address: 55 LITTLEBROOK AIRPARK | Mailing Address: KAICHEN, MICHAEL & JILL M REVOCABLE LIVING TRUST MICHAEL & JILL KAICHEN TRUSTEES 55 LITTLEBROOK AIRPARK ELIOT, ME 03903 |
| Parcel Number: 047-003-000 CAMA Number: 047-003-000 Property Address: 84 LITTLEBROOK LN | Mailing Address: SCREMIN, CLAUDIO F SCREMIN, JENNIFER L 84 LITTLE BROOK LN ELIOT, ME 03903 |
| Parcel Number: 047-004-000 CAMA Number: 047-004-000 Property Address: 7 BARNARD LN | Mailing Address: MCKENNEY, DONALD D MCKENNEY, SALLIE J 7 BARNARD LN ELIOT, ME 03903 |
| Parcel Number: 047-005-000 CAMA Number: 047-005-000 Property Address: 15 BARNARD LN | Mailing Address: BARBOUR, ANN C BARBOUR, FREDERICK J 15 BARNARD LN ELIOT, ME 03903 |



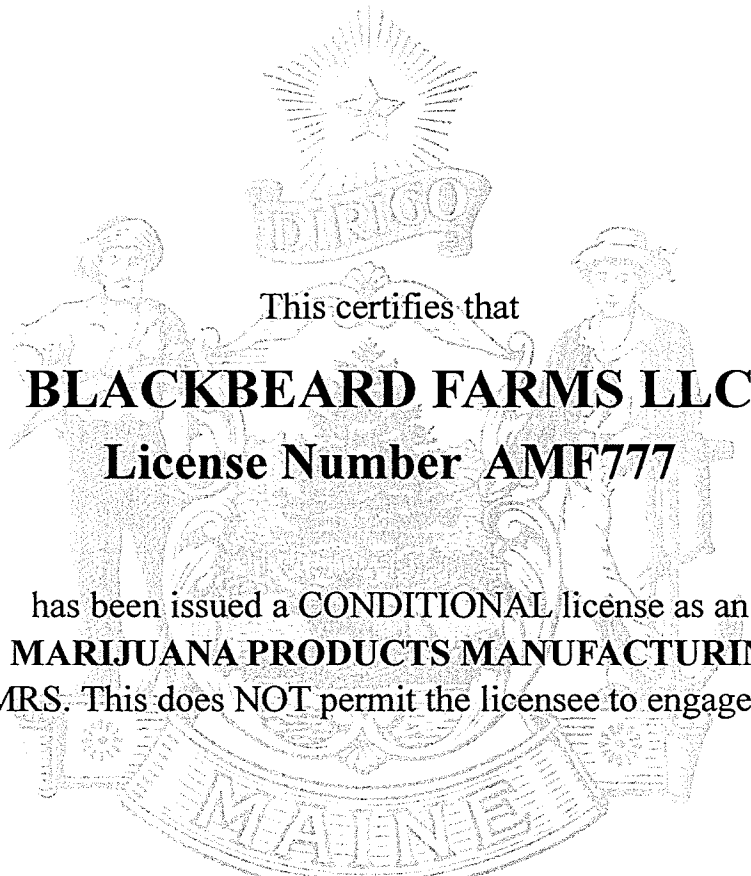
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
OFFICE OF MARIJUANA POLICY
MAINE ADULT USE MARIJUANA PROGRAM



This certifies that

BLACKBEARD FARMS LLC
License Number AMF777

has been issued a **CONDITIONAL** license as an
ADULT USE MARIJUANA PRODUCTS MANUFACTURING FACILITY
under 28-B MRS. This does **NOT** permit the licensee to engage in any activity.

NOTE: THIS IS NOT AN ACTIVE LICENSE

Issued on:
August 10, 2021

Expires on:
August 09, 2022

Erik Gundersen, Director

OFFICE OF MARIJUANA POLICY
MAINE ADULT USE MARIJUANA
PROGRAM

To make a complaint about this licensed Adult Use Marijuana Establishment:
Email: Licensing.OMP@maine.gov

The Conditional License for AMF777 has been issued based on the following organizational structure:

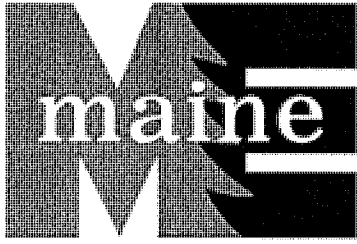
Principals:

JELAL RABIN JONES, MANAGER

Owners:

100.00% - JELAL RABIN JONES

NOTICE: This conditional license was issued based upon the information indicated above and submitted on application forms provided by the conditional licensee. The conditional licensee acknowledged and affirmed that the foregoing information was truthful and complete in the presence of a notary. Any changes to the information indicated above must be timely reported to the Office of Marijuana Policy and may affect the conditional licensee's licensure status. A conditional licensee will be required, at a minimum, to obtain a new local authorization based upon any changes to the entity ownership structure listed above.



OFFICE OF MARIJUANA POLICY

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Maine Adult Use Local Authorization Form

This Local Authorization Form must be completed by the host municipality, county commissioners or the Maine Land Use Planning Commission. The authorized local official responsible for completing this Form must forward the Form to the Office of Marijuana Policy at Licensing.OMP@maine.gov or 162 State House Station, Augusta, Maine 04333.

If the authorized local official in receipt of this Form has not recently met with the Office of Marijuana Policy to discuss the local authorization process and OMP's expectations for completion of this Form, please contact Elisa C Ellis, Director of Licensing, at Licensing.OMP@maine.gov or (207) 287-3282 prior to filling it out.

| Section 1: License Information. Information to be completed | | | | |
|---|--|---|--|---------------------------|
| Business Legal Name: BLACKBEARD FARMS LLC | | Business DBA: | | License Number: AMF777 |
| License Type: ADULT USE MARIJUANA PRODUCTS MANUFACTURING FACILITY | | | | |
| Mailing Address: 84 MARGINAL WAY PORTLAND, ME 04101-2443 | | Facility Phone: +1 (207) 253-0598 | | |
| | | Primary Contact Person: HANNAH E. KING, ESQ. | | |
| | | Primary Contact Email: mdumas@dwmlaw.com | | |
| Section 2: Marijuana Establishment and Local Authorization Information. This section to be completed by the Municipality, County Commissioners, or Maine Land Use Planning Commission in receipt of request for Local Authorization. | | | | |
| Physical Location of Establishment (include unit number) | | Municipality/Town/Plantation/Township | County | State ZIP |
| Tax Map #: | | Tax Lot #: | | |
| Owner of Record of the Physical Location Listed Above: | | | | |
| Date Local Authorization Form Presented to the Municipality, County Commissioners, or Maine Land Use Planning Commission: | | | Date Local Authorization Form Approved by Municipality, County Commissioners, or Maine Land Use Planning Commission: | |
| If you are requesting Local Authorization from a <i>municipality</i> , complete Section 3. | | | | |
| If you are requesting Local Authorization from a <i>town, plantation or township in the unorganized and deorganized areas</i> through the county commissioners or the Maine Land Use Planning Commission, complete Section 4. | | | | |
| Section 3: Local Authorization of Marijuana Establishments within Municipalities. This section to be completed by the Municipality in receipt of request for Local Authorization. | | | | |
| Section 3(a): Request for local authorization to operate marijuana establishment in municipality prohibited unless authorized by municipal ordinance or warrant article. A person seeking to operate a marijuana establishment within a municipality may not request local authorization to operate the marijuana establishment and a municipality may not accept as complete the person's request for local authority unless the following questions are answered in the affirmative. | | | | |
| 1. Has the legislative body of the municipality voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including the type of marijuana establishment the person seeks to operate as indicated in the "License Type" box of Section 1 of this form? | | | | |

Yes No

2. Is a copy the local ordinance, warrant article, or other local regulation authorizing the siting of this establishment attached or included with the submission of this form?
 Yes No

Section 3(b): Minimum authorization criteria. A municipality may not authorize the operation of a marijuana establishment within the municipality unless the following questions are answered in the affirmative.

1. Is the marijuana establishment proposed to be located equal to or greater than 1,000 feet of the property line of a preexisting public or private school? If the municipality by ordinance or other regulation prohibits the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies.
 Yes No
2. Has the person requesting local authorization to operate the marijuana establishment demonstrated possession or entitlement to possession of the proposed licensed premises of the marijuana establishment?
 Yes No

If yes, briefly explain:

Section 3(c): Local authorization required for operation of marijuana establishment within municipality. A person may not operate a marijuana establishment within a municipality unless the following questions are answered in the affirmative.

1. Has the person obtained all applicable municipal approvals, permits, or licenses that are required by the municipality for the operation of this type of adult use marijuana establishment? By selecting "yes" below, the municipality is affirming that all municipal approvals, permits, or licenses have been approved, granted, or issued and no further action by the municipality is required prior to the Office of Marijuana Policy's issuance of an active license. The Office of Marijuana Policy encourages the municipality to coordinate the issuance date of a local license with the Office when appropriate.
 Yes No
2. Is a list and copy of all applicable approvals, permits, or licenses with the issuance and expiration dates attached or included with the submission of this form? The Office of Marijuana Policy encourages the municipality to coordinate the issuance date of a local license with the Office when appropriate.
 Yes No

Section 4: Local Authorization of Marijuana Establishments within Towns, Plantations and Townships in the Unorganized and Deorganized Areas. This section to be completed by the Maine Land Use Planning Commission, or if outside MLUPC's administration, by the appropriate county commissioners in receipt of request for Local Authorization.

Section 4(a): Request for local authorization to operate marijuana establishment in town, plantation or township in unorganized and deorganized areas prohibited unless generally allowed by town or plantation or by county commissioners on behalf of township. A person seeking to operate a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas may not request local authorization unless one of the following questions is answered in the affirmative.

1. In the case of a town or plantation, the legislative body of the town or plantation has voted to allow some or all types of marijuana establishments within the town or plantation, including the type of marijuana establishment the person seeks to operate as indicated in the "License Type" box of Section 1 of this form?
 Yes No Not applicable
2. In the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of marijuana establishments within the township, including the type of marijuana establishment the person seeks to operate as indicated in the "License Type" box of Section 1 of this form?
 Yes No Not applicable

Section 4(b): Minimum authorization criteria. The County Commissioners and Maine Land Use Planning Commission may not certify to the Department local authorization of a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas unless the following questions are answered in the affirmative.

1. Is the marijuana establishment proposed to be located equal to or more than 1,000 feet of the property line of a preexisting public or private school? If the County Commissioners or Maine Land Use Planning Commission prohibit the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies.
 Yes No
2. Has the person requesting local authorization to operate the marijuana establishment demonstrated possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises (specify: _____) or by virtue of ownership of the premises?
 Yes No

Section 4(c): Local authorization required for operation of marijuana establishment in town, plantation or township in unorganized and deorganized areas. A person may not operate a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas unless the following questions are answered in the affirmative.

1. Has the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located, certified to the Maine Land Use Planning Commission that the person has obtained all applicable local approvals, permits or licenses **not** relating to land use planning and development?
 Yes No Not applicable
2. Is a copy of the certification including a list of all applicable approvals, permits, or licenses **not** relating to land use planning and development with the issuance and expiration dates attached or included with the submission of this form?
 Yes No Not applicable
3. Has the person obtained all applicable Maine Land Use Planning Commission approvals, permits, or licenses that are required for the operation of this type of adult use marijuana establishment? By selecting "yes" below, the Maine Land Use Planning Commission is affirming that all Maine Land Use Planning Commission approvals, permits, or licenses have been approved, granted, or issued and no further action by the Maine Land Use Planning Commission is required prior to the Office of Marijuana Policy's issuance of an active license. The Office of Marijuana Policy encourages the Maine Land Use Planning Commission to coordinate the issuance date of a local license with the Office when appropriate.
 Yes No Not applicable
4. Is a list and copy of all applicable Maine Land Use Planning Commission approvals, permits, or licenses with the issuance and expiration dates attached or included with the submission of this form? The Office of Marijuana Policy encourages Maine Land Use Planning Commission to coordinate the issuance date of a local license with the Office when appropriate.
 Yes No Not applicable

Statutory Guidance for Municipalities/County Commissioners/Maine Land Use Planning Commission

Pursuant to 28-B M.R.S. §§ 402-403, failure to act on a person's request for local authorization to operate a marijuana establishment in a municipality, town, plantation, or township in an unorganized and deorganized area does not satisfy the local authorization requirement.

Typically, a request for local authorization should be approved or denied within 90 days. For additional information regarding failure to act on a person's request for local authorization and result appeal rights, see 28-B M.R.S. §§402-403.

Pursuant to 28-B M.R.S. §406, any changes in the status of local authorization require notification to the Office of Marijuana Policy within 14 days of the date on which the change occurs, including without limitation, withdrawing authorization or suspending or revoking a local license for the operation of a marijuana establishment.

The completed Maine Adult Use Local Authorization Form can be emailed to the Office of Marijuana Policy at Licensing.OMP@maine.gov or sent to Office of Marijuana Policy, 162 State House Station, Augusta, ME 04333-0162.

Municipality/LUPC Representative

| | | |
|--|-------|---------|
| Legal Name and Title of Municipality/County Commissioners/LUPC Representative: | City: | County: |
|--|-------|---------|

I hereby affirm and acknowledge that the information above is truthful and complete to the best of my knowledge.

| | |
|---|-------|
| Signature of Municipality/County Commissioners/LUPC Representative (Do not sign until witnessed by notary): | Date: |
|---|-------|

Notarization

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, at _____, Maine, by _____ to be his/her free act and deed.

| | |
|----------------------------------|-------------------|
| Name of Notary Public (Printed): | STAMP/SEAL |
| Notary Public, State of Maine | |
| My commission expires: | |

LEASE AGREEMENT

3/27/2022

THIS LEASE AGREEMENT ("Lease") is made as of this 1st day of ~~October~~ ^{April} 2022 (the "Effective Date"), by and between (Landlord LLC), with an address of which for notice purposes is 36 Wilson Road, Williston, NH ("Landlord"); Tenant, with an address of address ("Tenant") Jakel Jones/Black Bird Farms LLC

JS
JF

1. PROPERTY; TERM

1.1 PREMISES Landlord hereby leases to Tenant and Tenant hereby leases from Landlord that certain property identified as 276 Harold L. Dow Highway, Unit C Eliot Maine and approximately 8,000 rentable square feet of greenhouse and other related space (the "Building") for all purposes of this Lease and irrespective of any variation thereof which might ever be determined by measurement (together, the land and Building shall be referred to as the "Premises"). The Premises is situated on the real property described by address in Exhibit A attached hereto ("Property") and also depicted along with the approximate location of the Premises on that certain site plan ("Site Plan") attached hereto as Exhibit A.1. The Building and the location of the Premises are as shown on the Site Plan attached hereto as Exhibit A.1.

1.2 LEASE TERM. The term of this Lease ("Term") shall be twenty four (24) full calendar months commencing on the Effective Date, and subject to the possibility an option to renew with Landlord's consent, subject to the terms, timing, conditions and rents applicable thereto as specified below. The continuation of the Term into any such renewal option shall also be deemed to give rise to a period called part of the Term hereunder. Tenant shall provide Landlord with a copy of its validly issued and currently effective Maine State license to operate an Adult Use Cultivation Facility as defined under 22 M.R.S.A. § 2422 (1-F) (hereinafter "Cultivation Facility") on the Premises. For these purposes the "Cannabis Use Permits" are defined as follows:

1.2.1 Cannabis Use Permits. Tenant acknowledges and agrees and Landlord requires, that Tenant shall secure all state and local required licenses and approvals of all applicable jurisdictions and regulatory bodies, including those required in the State of Maine including but not limited to the Marijuana Legalization Act to operate for its intended marijuana grow and/or process facility, and any other permitted use per Tenant's permit, including without limitation, those necessary to be in compliance with all State of Maine regulations. Tenant shall evidence all such Cannabis Use Permits by providing a copy of same to Landlord along and ensure that all such Cannabis Use Permits remain in full force and effect during the Term.

J
JF

1.2.2 Zoning Approval Letter. On or before commencement of the Lease, Tenant shall, at its sole cost and expense, secure all required local permits, licenses and approvals ("Permits and Approvals") required to commence operations for its grow/processing facility and shall provide Landlord with a copy of all such Permits and Approval showing their effectiveness with an appeal pending, no appeal instituted and no petition filed (the "Appeals Process"). Tenant covenants and agrees to use its best efforts to obtain all required zoning and local planning approvals or permits or variances and a writing from governmental authority indicating same ("Zoning Approval Letter"), which Zoning Approval Letter confirms that the contemplated use herein is allowed and approved for the Premises (inclusive of all parking requirements, if any, deemed necessary by governmental authority). Without cost to Landlord, Landlord will reasonably cooperate with Tenant as request in Tenant's efforts to secure its Zoning Approval Letter provided, "reasonably cooperates" means reasonably responding to inquiries to reasonably confirm facts or information and otherwise acting in a reasonable manner consistent with the purposes of this Lease toward the goal of enabling Tenant to secure its Permits and Approvals including executing applications that owners are required to sign or join in with Tenant. Tenant shall evidence immediately to Landlord each and all of the Permits and Approvals as same are secured by Tenant.

1.2.3 Termination for Failure of Permits and Approvals

(a) After the Commencement Date: If for any reason Tenant shall suffer a loss of its required Permits and Approvals, Tenant shall immediately in writing notify Landlord and shall immediately cease all marijuana grow/processing business operations and activities in and at the Premises which otherwise are permitted by this Lease until such time as the lost and/or revoked Permits and Approvals have been re-secured and reasonably evidenced to Landlord. In addition:

(i) Without Fault. Should Tenant secure its Permits and Approvals but, then suffer a loss thereof, but only if such loss arises by reason of either a loss of local zoning approval or a revocation or loss of any of the Permits and Approvals, and such occurrence arises through no fault, no inaction, no omission, and no other conduct or action of Tenant which conduct or action is in breach of this Lease or breach by Tenant of the State rules and regulations and laws which govern under the Permits and Approvals, such event shall be called an "Excused Loss of Approvals". In case of an Excused Loss of Approvals, Tenant shall immediately notify Landlord in writing upon receipt of written notice of same and Tenant may thereafter at any time until such lost Permits and Approvals have been re-secured, terminate this Lease upon delivery of written notice of such termination (an "Excused Termination"); provided, such an Excused Termination shall not be effective until the ninetieth (90th) day after the giving of written notice of such termination unless Landlord elects for such Excused Termination to be effective to occur (including retroactively to the date of such loss). An Unexcused Termination shall be deemed to

(ii) With Fault: Should Tenant secure its Permits and Approvals during the above noted period but, thereafter suffer a loss thereof but only if such loss arises by reason of either a loss of local zoning approval or a revocation or loss of any of the Permits and Approvals where such loss or revocation so arises through fault, inaction, omission, or other conduct or action of Tenant which conduct or action is in breach of this Lease or breach by Tenant of the State rules and regulations and laws which govern under the Permits and Approvals, such event shall be called an "Unexcused Loss of Approvals". In case of an Unexcused Loss of Approvals, Tenant shall immediately notify Landlord in writing upon written receipt of same and Landlord may thereafter at any time until such lost Permits and Approvals have been re-secured, terminate this Lease upon delivery of written notice of such termination (an "Unexcused Termination"); provided, such an Unexcused Termination shall not be effective until the twentieth (20th) day after the giving of written notice of such termination. During such 90-day period, if Tenant is able to re-secure such lost Permits and/or Approvals, as applicable, the Unexcused Termination will not take effect. In case of an Unexcused Termination, same shall also constitute a breach and default of this Lease for which all remedies of Landlord shall be cumulative.

1.2.4 Landlord's Right of Termination for Legal Climate Risk Change If at any time during the Term(s) of the Lease, the legal landscape in which Maine mentioned and approved the herein contemplated interplays with the Federal Issues (defined below), is altered such that there has occurred or there is imminent to occur (or actually occurring) a seizure of Landlord's property, or instrument to occur (or actually occurring) Federal action to impose or seek criminal sanctions or civil forfeiture upon Landlord or any of its assets by reason of their Lease and/or the related activities contemplated herein to occur (or occurring), then Landlord may terminate this Lease upon 30 days' prior written notice to Tenant of termination, whereupon the Lease shall be deemed and treated as though it had naturally expired on the indicated termination date set forth in such notice, unless Tenant is able to prevent or cure, as applicable, the material adverse consequences prior to such termination date and provided further, during such thirty (30) day period, Tenant shall cease any operation or activity to the extent necessary to address the actual threat to Landlord as credibly perceived and communicated in writing to Tenant. Landlord expressly acknowledges, however, that the current legal landscape as of the Effective Date hereof, including the current status of Federal Issues, shall not in and of itself constitute such a legal climate risk change permitting any such termination. Upon any such termination, Landlord shall not have any obligation to reimburse or recompense Tenant for any costs Tenant has incurred related to Tenant's improvements of the Premises; the Building shall remain on the Property; and in any event rents and charges hereunder shall remain due and owing through any actual termination date existing.

55
[Handwritten signature]

2. RENT AND OTHER CHARGES:

2.1 BASE RENT Tenant agrees to pay monthly rent ("Base Rent") on the first day of each month of the Term in the amount of twenty thousand dollars per month (\$20,000/month)

2.1.1 Base Rent shall be due and payable on the first day of every month.

2.1.2 Base Payment Address: Base Rent (and any and all other items of rent, additional rent or sums due Landlord hereunder) shall be paid without demand, without necessity of notice, without reduction, without set off and without deduction in wire transfer of immediately available funds or by check or money order to Landlord at 16 Wilson Road, Wilton, NH or such other address as Landlord directs in writing from time to time at least 30 days prior to next rental installment where such writing is given in accordance with the notice provisions of this Lease.

2.2 LATE CHARGES If any Base Rent or other payment due under this Lease is not received by Landlord within fifteen (15) days of the due date of such payment, Tenant shall pay, in addition to such payment a late charge equal to the greater of (i) five percent (5%) of the payment which is past due. If any payment due from Tenant shall remain overdue for more than thirty (30) days, interest shall accrue daily on the past due amount from the date such amount was due until paid or judgment is entered at a rate equivalent to the lesser of eighteen percent (18%) per annum and the highest rate permitted by law. Interest on the past due amount shall be in addition to and not in lieu of the five percent (5.0%) late charge or any other remedy available to Landlord.

2.3 RENEWAL. So long as Tenant is not then in default of this Lease during the Term hereof, Tenant may renew this Lease, with Landlord's written consent, for one (1) additional one-year term. For the renewal term, the parties agree to a 4% annual increase to the Base Rent. Tenant shall notify Landlord in writing of its desire to renew this Lease ninety (90) days prior to the end of the initial Term and the parties agree that should Landlord agree in writing to a renewal term, the terms and conditions of this Lease shall continue throughout the renewal term.

arising in connection with the Premises, including without limitation, all Operating Expenses (as hereinafter defined). All charges payable by Tenant under the terms of this Lease other than Base Rent are called "Additional Rent." The term "Rent" shall mean Base Rent and Additional Rent. Landlord shall be responsible for payment of real estate taxes and property insurance.

2.5 OPERATING EXPENSES.

2.5.1

"Operating Expenses" shall mean the expenses for the following services which the Landlord shall provide and pass through the cost to Tenant: (1) electricity cost for the Premises; (2) 50% of the cost of snow removal for the Building. Landlord shall have no obligation to provide any additional services to or cover any additional costs on behalf of Tenant during the Term.

2.5.2 PAYMENT OF OPERATING EXPENSES: In addition to the payment of Base Rent, Tenant shall pay to Landlord all Operating Expenses in accordance with the terms hereof. Landlord shall bill Tenant for its Operating Expenses as incurred and such payments will be due in full with the next monthly rent payment. All such amounts are deemed items of additional rent and are subject to sales tax (if applicable) which Tenant shall pay together with all such moneys as and when paid to Landlord.

2.5.3 UTILITIES; JANITORIAL SERVICES

2.5.3.1 Utilities at the Premises (other than electricity): Tenant shall be solely responsible for and shall promptly pay directly to the service providers all charges for gas, heat, water, sewer, security, power, telephone and any other utility or service used in or servicing the Premises exclusively and all other costs and expenses involved in the care, maintenance, and use thereof and not related to the rest of the Building.

2.5.3.2 Payment of Electricity at the Premises: Tenant shall pay to Landlord for its use of the electricity at the Premises. Landlord shall bill Tenant for its electricity use as incurred and such payment will be due in full with the next monthly rent payment. All payments, rights and responsibilities related to the electricity payment shall be in accordance with this Lease.

2.5.3.3 Janitorial Services: Tenant shall be solely responsible for and shall promptly pay for all window washing, janitorial service and trash and debris removal charges relating to the Premises. Tenant shall maintain the Premises in a clean and orderly fashion.

1. USE OF PROPERTY.

1.1 PERMITTED USES: Tenant may use the Premises for a State of Maine officially sanctioned, approved, permitted and authorized medical marijuana grow/processing center, being a State approved "Cultivation Facility" as more particularly defined and described in 22 M.R.S.A. §2622 (1-F) in compliance with all of the Permits and Approvals described above, or for any other use permitted by Maine regulatory bodies ("Permitted Use"), and for no other use or purpose whatsoever if not in compliance with the Permits and Approvals. Tenant shall NOT be permitted to sell any product to be consumed on site whatsoever. Landlord acknowledges and agrees that such is the intended use to be permitted under this Lease. Notwithstanding anything herein to the contrary, Landlord acknowledges and agrees that Tenant's Permitted Use shall not be a violation of this Lease while and so long as Tenant is properly licensed, permitted and approved with all State of Maine and local Permits and Approvals in good standing with the State of Maine (the "Legal Compliance Certification").

3.2 COMPLIANCE WITH LAWS.

3.2.1 LANDLORD'S COMPLIANCE: Tenant shall be responsible for any costs associated with making any modifications to the Building required pursuant to any federal, state or local laws, ordinances, building codes, and rules and regulations of governmental entities having jurisdiction over the Premises, including but not limited to the Americans with Disabilities Act ("ADA") and all regulations and orders promulgated pursuant to the ADA (collectively, "Applicable Laws"). Landlord shall comply with any and all Maine revised state marijuana laws and rules and regulations specifically relating to Landlord and specifically with respect to ADA for the structure of the Building noting Tenant shall remain responsible for compliance for ADA for its employees and within the Building.

3.2.2 TENANT'S COMPLIANCE: Tenant shall comply with all Applicable Laws, and shall promptly comply with all governmental orders and directives for the correction, prevention, and abatement of any instances and any violation of Applicable Laws in, upon, or connected with the Premises, all at Tenant's sole expense. Tenant warrants that all improvements or alterations of the Premises made by Tenant or Tenant's employees, agents or contractors, either prior to Tenant's occupancy of the Premises or during the Term, will comply with all Applicable Laws, including any and all on site security requirements set forth under Applicable Laws or as otherwise reasonably required by Landlord given the safety concerns associated with the Permitted Use hereunder. In the event that (i) Tenant's specific use and occupancy of the Premises, or (ii) any alterations to the Premises performed by or on behalf of Tenant pursuant to this Lease, necessitates or triggers any modifications (including structural modifications) to the Premises or Building or alterations to the Building systems, the same shall be made by Landlord pursuant to a budget reasonably agreed upon by Landlord and Tenant and approved by the Board of Directors.



compliance with all Applicable Laws subject to the Legal Compliance Clarification.

1.3 HAZARDOUS MATERIAL. Throughout the Term, Tenant will not bring upon the Premises or release, discharge, store, dispose, or transport of any Hazardous Materials (as hereinafter defined) on, under, in, above, in, or from the Premises or the Building, except that de minimus quantities of Hazardous Materials may be used in the Premises as necessary for the customary maintenance of the Premises provided that same are used, stored and disposed of in strict compliance with Applicable Laws. For purposes of this provision, the term "Hazardous Materials" will mean and refer to any wastes, materials, or other substances of any kind or character that are or become regulated as hazardous or toxic waste or substances, or which require special handling or treatment, under any Applicable Laws.

If Tenant's activities at the Premises or Tenant's use of the Premises (a) result in a release of Hazardous Materials that is not in compliance with Applicable Laws or permits issued thereunder; (b) gives rise to any claim that requires a response under Applicable Laws or permits issued thereunder; (c) causes a significant public health threat; or (d) causes the presence at the Premises, Building or Park of Hazardous Materials in levels that violate Applicable Laws or permits issued thereunder, then Tenant shall, at its sole cost and expense: (i) immediately provide verbal notice thereof to Landlord as well as notice to Landlord in the manner required by this Lease, which notice shall identify the Hazardous Materials involved and the emergency procedures taken or to be taken; and (ii) promptly take all action in response to such situations required by Applicable Laws, provided that Tenant shall first obtain Landlord's approval of the non-emergency remediation plan to be undertaken. Landlord hereby represents that to the best of its knowledge and belief as of the Commencement Date there are no Hazardous Materials at the Building, on the Premises or on the Park which exceed levels that require remediation or similar clean up or curative action to be taken.

Tenant shall at all times indemnify and hold harmless Landlord against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges and expenses (including reasonable attorneys' fees) of any nature whatsoever suffered or incurred by Landlord to the extent they were caused by the following activities of Tenant at the Premises, Building or Property during the Term of this Lease and arise from events or conditions which came into existence after the Commencement Date not caused by Landlord or other tenants: (i) any release, release, or disposal of any Hazardous Materials at the Premises, Building or Property by Tenant; or (ii) the violation of any Applicable Laws at the Premises, Building or Property pertaining to protection of the environment, public health and safety, air emissions, water discharges, hazardous or toxic substances, solid or hazardous wastes or occupational health and safety. The indemnification obligations of Tenant shall survive the expiration or earlier termination of this Lease.

1.4 SIGNS. Tenant shall not place any sign on the Premises, Building or Property or except with the prior written consent of Landlord, including consent as to location and design, which may be withheld in Landlord's sole discretion. Tenant agrees to remove all of its signs prior to termination of the Lease and upon such removal all damage incident to such removal.

1.5 ACCESS

1.5.1 LANDLORD'S ACCESS. Landlord shall be entitled at all reasonable times and upon reasonable notice to enter the Premises to examine them and to make such repairs, alterations, or improvements thereto as Landlord is required by this Lease to make in which Landlord considers necessary or desirable; provided, Landlord shall comply with all laws in respect of any such entry; Landlord may require Tenant provide an accompanying staff member or employee with any such entry; Landlord will honor any specifically closed-off areas as may be required by law for security and safety; but Landlord may nonetheless act as prudent and necessary in the care of emergency. Tenant shall not unduly obstruct any pipes, conduits, or mechanical or other electrical equipment in the circumstances, in such manner so as to reduce, if practical, interference with Tenant's use and enjoyment of the Premises. Subject to the foregoing, Landlord and its agents have the right to enter the Premises at all reasonable times and upon reasonable notice to show them to prospective purchasers, lenders, or anyone having a prospective interest in the Building, and, during the last six (6) months of the Term or any renewal thereof, to show them to prospective tenants. Landlord will have the right at all times to enter the Premises with Tenant or licensed individuals on behalf of the Tenant to escort the Landlord at the event of an emergency affecting the Premises, subject to any applicable limitations imposed by Maine revised statute laws and/or Maine Department of Revenue regulations.

1.5.2 TENANT'S ACCESS. Tenant shall have access to the Premises twenty-four (24) hours per day, seven (7) days per week, 365 days per year, subject to reasonable security measures and except in the event of an emergency, casualty, force majeure or similar event which causes Landlord to limit access to tenants, which limitation of access shall be for the shortest duration as reasonably possible.

1.6 QUIET POSSESSION. Provided Tenant is not in default beyond applicable notice and cure periods, Tenant shall be entitled to peaceful and quiet enjoyment of the Premises for the Term without interruption or interference by Landlord or any persons claiming through Landlord.

1.7 COVENANTS AND RESTRICTIONS. Tenant hereby acknowledges and agrees that the Building, and Tenant's occupancy thereof, is subject to all matters of Public Record.

4. TENANT ALTERATIONS AND IMPROVEMENTS.

4.1 TENANT IMPROVEMENTS

Lease, Tenant acknowledges and agrees that Landlord has not undertaken to perform any modification, alteration or improvements to the Premises, and Tenant further waives any defects in the Premises and acknowledges and accepts the Premises in their "AS IS" condition, and as suitable for the purpose for which they are leased. Tenant acknowledges and agrees that if Tenant desires to expand its existing operations at the Premises or elsewhere, Landlord shall have the ability to lease space to Tenant for such operations on comparable terms and conditions as set forth in this Lease. Tenant shall continue to be responsible for all of its own construction and operational costs and expenses at all such additional facilities; provided, however, Landlord and Tenant covenant and agree to use their good faith efforts to cooperate with each other to establish a mutually agreed upon budget, lease terms and the conditions for the lease by Landlord to Tenant of all such facilities.

4.2 TENANT ALTERATIONS. Tenant will not make or allow to be made any alterations in or to the Premises without first obtaining the written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion; provided, however that such Landlord consent shall not be required for changes that are not to the exterior, or are not to the structure, or are not to Building systems, or which are merely cosmetic in nature. All Tenant alterations will be accomplished in a good and workmanlike manner at Tenant's sole expense, in conformity with all Applicable Laws by a licensed and bonded contractor approved in advance by Landlord, such approval of contractor not to be unreasonably withheld or delayed. All contractors performing alterations in the Premises shall carry workers' compensation insurance, commercial general liability insurance, automobile insurance and excess liability insurance in amounts reasonably acceptable to Landlord and shall deliver a certificate of insurance evidencing such coverage to Landlord prior to commencing work in the Premises. Upon completion of any such work, Tenant shall provide Landlord with "as built" plans, copies of all construction contracts, and proof of payment for all labor and materials. All alterations or improvements shall remain with the Premises upon Lease termination or expiration and will be surrendered to Landlord along with the Premises at such time and will be deemed owned by Landlord at all times from and after and upon completion thereof (but rights to the use of same and Tenant's obligations to keep in good order, condition and repair and maintain same, as a part of the Premises, shall remain with Tenant pursuant to this Lease during the term of the Lease). Tenant shall comply with any reasonable request of Landlord to execute documents, deeds, bills of sale or other such agreements evidencing a change in ownership of personal property as set forth herein. Tenant will have no authority or power, express or implied, to create or cause any construction lien or mechanic's or materialman's lien or claim of any kind against the Premises, the Property or any portion thereof. Landlord's interest in the Premises is not and shall not be subject to any liens as a result of Tenant's use or occupancy of the Premises including specifically, without limitation, for improvements made by Tenant, and all such liens are expressly prohibited. Tenant will promptly cause any such liens or claims to be released by payment, bonding or otherwise within thirty (30) days after request by Landlord, and will indemnify Landlord against losses arising out of any such claim including, without limitation, legal fees and court costs. Landlord has the right, but not the obligation, to discharge any such lien. Any amount paid by Landlord for such purpose and Landlord's related reasonable attorney's fees shall be paid by Tenant to Landlord upon demand and shall accrue interest from the date paid by Landlord until Landlord is reimbursed therefor at the highest rate permitted by Law. NOTICE IS HEREBY GIVEN THAT LANDLORD WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIAL FURNISHED OR TO BE FURNISHED TO TENANT, OR TO ANYONE HOLDING THE PREMISES THROUGH OR UNDER TENANT, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR SERVICES OR MATERIALS WILL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN THE PREMISES. TENANT WILL DISCLOSE THE FOREGOING PROVISIONS TO ANY CONTRACTOR ENGAGED BY TENANT PROVIDING LABOR, SERVICES OR MATERIAL TO THE PREMISES.

5. INSURANCE AND INDEMNITY.

5.1 TENANT'S INSURANCE. Tenant will throughout the Term (and any other period when Tenant is in possession of the Premises) carry and maintain, at its sole cost and expense, the following types of insurance, which shall provide coverage on an occurrence basis (except for Tenant's products liability policy, which shall be on a claims-made basis), in the amounts provided with deductible amounts reasonably satisfactory to Landlord:

(a) COMMERCIAL GENERAL LIABILITY INSURANCE. Commercial general liability ("CGL") insurance with coverage for premises-operations, personal and advertising injury, products/completed operations and contractual liability with combined single limits of liability of not less than \$1,000,000 with \$2,000,000 umbrella for a total of \$3,000,000 for bodily injury and property damage per occurrence.

(b) COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE. Comprehensive automobile liability insurance with a limit of not less than \$1,000,000 per occurrence for bodily injury, \$500,000 per person and \$100,000 property damage or a combined single limit of \$1,600,000 for both Tenant-owned and leased vehicles.

(c) UMBRELLA COVERAGE. Tenant shall also carry and maintain umbrella coverage with a limit of not less than \$5,000,000 per occurrence.

(d) PROPERTY INSURANCE. Insurance of personal property, decorations, trade fixtures, furnishings, equipment, alterations, leasehold improvements and betterments made by Tenant on a replacement cost basis, with coverage equal to not less than one hundred percent (100%) of the full replacement value of the insured property. Such insurance shall be written on the ISO Special Perils form including but not limited to the perils of fire, extended coverage, windstorm, vandalism, malicious mischief and sprinkler leakage, for the full replacement cost value of the covered items and in amounts that meet any co-insurance clause of the policies of insurance with a deductible amount not to exceed \$10,000. Tenant's policy will also include business interruption/extra expense coverage in amounts sufficient to insure twelve (12) months of interrupted business operations at the Premises.

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All policies referred to above shall: (i) be taken out with insurers permitted to write policies in ~~Mass~~ having a minimum A.M. Best's rating of A-, Class VII, or otherwise approved in advance by Landlord, (ii) be non-contributing with, and shall apply only as primary and not in excess to any other insurance available to Landlord or any mortgagee of Landlord, and (iii) contain an obligation of the insurer to endeavor to notify Landlord not less than thirty (30) days prior to any material change, cancellation or termination of any such policy except not less than ten (10) days prior in the case of termination due to Tenant's nonpayment of premiums. Landlord and Landlord's property manager, and any mortgagee named by Landlord, shall be named as additional insureds on the CGL and automobile liability policies. Tenant shall provide certificates of insurance on Award Form 25-S on or before the Commencement Date and thereafter at times of renewal or changes in coverage or insurer, and if required by a mortgagee copies of such insurance policies certified by Tenant's insurer as being complete and current promptly upon request. If (a) Tenant fails to take out or to keep in force any insurance referred to in this Section 5.1, or should any such insurance not be approved by either Landlord or any mortgagee, and (b) Tenant does not commence and continue to diligently cure such default within two (2) business days after notice by Landlord to Tenant specifying the nature of such default, then Landlord has the right, without assuming any obligation in connection therewith, to procure such insurance at the sole cost of Tenant, and all outlays by Landlord shall be paid by Tenant to Landlord without prejudice to any other rights or remedies of Landlord under this Lease. Tenant shall not keep or use in the Premises any article that may be prohibited by any fire or casualty insurance policy in force from time to time covering the Premises or the Building.

5.2 LANDLORD'S INSURANCE. During the Term, Landlord, at its option, may carry and maintain the following types of insurance: (i) property insurance on the Building covering "All Risks" perils in an amount equal to the full replacement cost of the Building (excluding any property with respect to which Tenant and other tenants are obliged to insure pursuant to Section 5.1 or similar sections of their respective leases), and (ii) commercial general liability insurance with respect to Landlord's operations on the Property. Landlord may maintain any other commercially reasonable insurance coverages relating to the Premises, or Tenant's activities and operations therein. All costs of such insurance are properly includable in Operating Expenses and shall be reimbursed by Tenant.

5.3 RELEASE AND WAIVER OF SUBROGATION RIGHTS. The parties hereto, for themselves and anyone claiming through or under them, hereby release and waive any and all rights of recovery, claim, action or cause of action, against each other, their respective agents, directors, officers and employees, for any loss or damage to all property, whether real, personal or mixed, located in the Premises or the Building, by reason of any cause against which the releasing party is actually insured or, regardless of the releasing party's actual insurance coverage, against which the releasing party is required to be insured pursuant to the provisions of Sections 5.1 or 5.2. This mutual release and waiver shall apply regardless of the cause or origin of the loss or damage, including negligence of the parties hereto, their respective agents and employees except that it shall not apply to willful conduct. Each party agrees to provide the other with reasonable evidence of its insurance carrier's consent to such waiver of subrogation upon request. This Section 5.3 supersedes any provision to the contrary which may be contained in this Lease.

5.4 INDEMNIFICATION OF THE PARTIES.

5.4.1 TENANT'S INDEMNITY. Tenant hereby agrees to indemnify, defend and hold harmless Landlord from and against any and all liability for any loss, injury or damage, and all costs, expenses, court costs and reasonable attorneys' fees, imposed on Landlord by any person whatsoever that occurs (i) in the Premises, except for any such loss, injury or damage that is caused by or results from the gross negligence or willful misconduct of Landlord, its employees or agents; or (ii) anywhere in the Property outside of the Premises as a result of the gross negligence or willful misconduct of Tenant, its employees, agents or contractors; or (iii) imposed upon or suffered by Landlord due to breach or violation of Tenant's obligations under this Lease which breach or violation in turn gave rise to any such liability, costs, expenses, court costs and reasonable attorneys' fees suffered by or imposed upon Landlord by operation of any Federal laws as defined below in Section 8.2.

5.4.2 LANDLORD'S INDEMNITY. Landlord hereby indemnifies Tenant from, and agrees to hold Tenant harmless against, any and all liability for any loss, injury or damage, including, without limitation, all costs, expenses, court costs and reasonable attorneys' fees, imposed on Tenant by any person whatsoever, that occurs in the Building or anywhere in the Property and that is caused by or results from the gross negligence or willful misconduct of Landlord or its employees or agents. Landlord expressly does not indemnify Tenant from any consequence of any Federal laws.

The provisions of this Section 5.4 shall survive the expiration or earlier termination of this Lease.

6. DAMAGE, DESTRUCTION AND CONDEMNATION.

6.1 DESTRUCTION OR DAMAGE TO PREMISES. If the Premises are at any time damaged or destroyed in whole or in part by fire, casualty or other causes, Landlord shall have sixty (60) days from such damage or destruction to determine and inform Tenant whether Landlord will restore the Premises to substantially the condition that existed immediately prior to the occurrence of the casualty. If Landlord elects to rebuild, Landlord shall complete such repairs to the extent of insurance proceeds within one hundred eighty (180) days from the end of the sixty (60) day period. If such repairs have not been completed within that 180-day period, and Tenant desires to terminate the Lease as a result thereof, then Tenant must notify Landlord prior to Landlord's completion of the repairs of Tenant's intention to terminate this Lease. Landlord shall then have ten (10) days after Landlord's receipt of written notice of Tenant's election to terminate to complete such repairs (as evidenced by a certificate of completion). If Landlord does complete such repairs prior to the expiration of such ten-day cure period, Tenant shall have no such right to terminate this Lease. Tenant shall, upon substantial completion by Landlord, promptly and diligently, and at its sole cost and expense, repair and restore any improvements to the Premises made by Tenant to

notice, which date shall not be less than thirty (30) nor more than sixty (60) days after the date such notice is given. Until the restoration of the Premises is complete, there shall be no abatement or reduction of Base Rent in the same proportion that the square footage of the Premises so damaged or destroyed and under restoration bears to the total usable footage of the Premises, unless the damaging event was caused by the negligence or willful misconduct of Tenant, its employees, officers, agents, licensees, invitees, visitors, customers, concessionaires, assignees, subcontractors, contractors or subcontractors, in which event there shall be no such abatement.

Notwithstanding the foregoing provisions of this paragraph, if damage to more than fifty percent (50%) of the Premises or destruction of the Premises shall occur within the last year of the Term, as the same may be extended as provided hereinafter and Landlord notifies Tenant that (i) Landlord will restore the Premises to their condition prior to the casualty, and (ii) Landlord desires to extend the Term of the Lease with Tenant, then Landlord and Tenant shall extend the Term for an additional period so as to expire five (5) years from the date of the completion of the repairs to the Premises, provided Tenant gives written notice to Landlord of Tenant's agreement to extend the Term within fifteen (15) days after receipt of Landlord's notice. Such extension shall be on the terms and conditions provided herein, if an option to extend this Lease remains to be exercised by Tenant hereunder, or under the terms prescribed in Landlord's notice, if no such further extension period is provided for herein. Upon receipt of such notice from Tenant, Landlord agrees to repair and restore the Premises within a reasonable time. If Tenant refuses or fails to timely extend the Term as provided herein, Landlord at its option shall have the right to terminate this Lease as of the date of the damaging event, or to restore the Premises and the Lease shall continue for the remainder of the then unexpired Term, or until the Lease is otherwise terminated as provided herein.

6.2 CONDEMNATION.

6.2.1 TOTAL OR PARTIAL TAKING. If the whole of the Premises (provided that if 60% or more of the Premises are taken, Tenant may deem that all of the Premises are taken), or such portion thereof as will make the Premises unusable, in Landlord's reasonable judgment, for the purposes leased hereunder, shall be taken by any public authority under the power of eminent domain or sold to public authority under threat or in lieu of such taking, the Term shall cease as of the day possession or title shall be taken by such public authority, whichever is earlier ("Taking Date"), whereupon the rent and all other charges shall be paid up to the Taking Date with a proportionate refund by Landlord of any rent and all other charges paid for a period subsequent to the Taking Date. If less than the whole of the Premises, or less than such portion thereof as will make the Premises unusable as of the Taking Date, is taken, Base Rent and other charges payable to Landlord shall be reduced in proportion to the amount of the Premises taken. If this Lease is not terminated, Landlord shall repair any damage to the Premises caused by the taking to the extent necessary to make the Premises reasonably tenantable within the limitations of the available compensation awarded for the taking (exclusive of any amount awarded for land).

6.2.2 AWARD. All compensation awarded or paid upon a total or partial taking of the Premises or Building including the value of the leasehold estate created hereby shall belong to and be the property of Landlord without any participation by Tenant. Tenant shall have no claim to any such award based on Tenant's leasehold interest. However, nothing contained herein shall be construed to preclude Tenant, at its cost, from independently prosecuting any claim directly against the condemning authority in such condemnation proceeding for damage to, or cost of removal of, stock, trade fixtures, furniture, and other personal property belonging to Tenant; provided, however, that no such claim shall diminish or otherwise adversely affect Landlord's award or the award of any mortgage.


7. MAINTENANCE AND REPAIRS.

7.1 Tenant shall, at its expense, throughout the Term and all renewals and extensions thereof, maintain in good order, condition and repair the Premises, including but not limited to heating and air conditioning equipment, walls, floors and ceilings, window exteriors, mechanical and electrical systems and equipment exclusively serving the Premises, electric light fixtures, bulbs, tubes and tube castings, doors, door coverings, dock doors, levelers, plumbing system and plumbing fixtures, Tenant's signs and utility facilities not maintained by Landlord. Landlord shall use reasonable efforts to extend to Tenant the benefit from warranties on such items, if any, that have been made by Landlord's contractors or vendors and to extend to Tenant, as and if available, any bulk buying power that Landlord may have with such contractors or vendors. If any portion of the Premises or any system or equipment in the Premises which Tenant is obligated to repair cannot be fully repaired, Tenant shall promptly replace the same, regardless of whether the benefit of such replacement extends beyond the Term. Tenant shall, at Tenant's expense, maintain a preventive maintenance contract providing for the regular inspection (at least quarterly) and maintenance of the heating and air conditioning system by a licensed and qualified heating and air conditioning contractor, or Tenant shall perform such HVAC inspection and maintenance with duly licensed and qualified employee. The cost of such preventive maintenance contract shall be paid by Tenant and an expense solely chargeable to Tenant, but if Landlord so elects, same may be billed directly by Landlord to Tenant where Landlord on Tenant's behalf enters into such preventive maintenance contract and in such case shall be deemed Additional Rent (Landlord alone may so elect whether to enter into such preventive maintenance contract on Tenant's behalf). Landlord shall have the right, upon notice to Tenant, to undertake the responsibility for preventive maintenance of any other system or component at Tenant's expense. Tenant shall be responsible for janitorial services and trash removal from the Premises, at Tenant's expense. Landlord and Tenant intend that, at all times during the Term, Tenant shall maintain the Premises in good order and condition and appearance reasonably commensurate with the balance of the Property.

All of Tenant's obligations to maintain and repair shall be accomplished at Tenant's sole expense. If Tenant

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insured in performing such maintenance or repair plus an administration fee equal to 5% of such actual and reasonable costs or expenses.

7.2 CONDITION UPON TERMINATION. Upon the termination of the Lease, Tenant shall surrender the Premises to Landlord with all personal property and fixtures located therein including but not limited to all improvements, kitchen upgrades, security systems, HVAC/environmental control systems (including but not limited to the evaporator, condenser, compressor and expansion), water retaining systems (including but not limited to controls and filtration) and computer and manual controls for all systems, movable property, fixtures, power wiring, equipment materials, inventory (including any plants) or any other property of any kind. The Premises shall be, in broom clean condition and with all systems in good working order, condition and repair, except for damage caused by casualty, condensation and ordinary wear and tear which Tenant was not otherwise obligated to remedy under any provision of this Lease. However, Tenant shall not be obligated to repair any damage that Landlord is required to repair under Section 7.1. Subject to the foregoing, Tenant shall repair, at Tenant's expense, any damage to the Premises or Building caused by the removal of any of Tenant's personal property. 

K. DEFAULT AND REMEDIES

8.1 DEFAULT BY TENANT. The following will be events of default by Tenant under this Lease:

(a) Failure to pay when due any installment of Rent or any other payment required pursuant to this Lease within seven (7) days of due date;

(b) The filing of a petition for bankruptcy or insolvency under any applicable federal or state bankruptcy or insolvency law; an adjudication of bankruptcy or insolvency or an admission that it cannot meet its financial obligations as they become due, or the appointment of a receiver or trustee for all or substantially all of the assets of Tenant; in each of the foregoing cases, if not dismissed within 30 days of such filing, adjudication, declaration or appointment, as applicable; the foregoing shall also apply to any party guaranteeing the obligations of Tenant under this Lease (each a "Guarantor").

(c) A transfer in fraud of creditors or an assignment for the benefit of creditors, whether by Tenant or any Guarantor;

(d) The filing or imposition of a lien against the Premises, the Building or the Property as a result of any act or omission of Tenant and the failure of Tenant to satisfy or bond the lien in its entirety within thirty (30) days after receipt of notice of same;

(e) The liquidation, termination or dissolution of Tenant or any Guarantor, or, if Tenant or any Guarantor is a natural person, the death of Tenant or such Guarantor;

(f) Failure to cure the breach of any provision of this Lease or any other lease or agreement hereof to Tenant, provided, however, that if such breach cannot be cured within such 20 day period using diligent efforts and Tenant promptly commenced efforts to cure such breach upon receipt of Landlord's notice thereof, then such cure period shall be extended for so long as Tenant continues to use diligent efforts to cure, not to exceed a total of sixty (60) days from the date of Landlord's notice;

(g) Tenant's breach of the same provision of this Lease, other than the obligation to pay Rent, more than twice (2) in any twelve (12) month period;

(h) Failure to deliver, maintain or restore the Security Deposit pursuant to Section 11.2 hereof within the timeframes provided; and

(i) Failure of any of the guarantors to fulfill the terms and conditions of the Guaranty or the breach of the Guaranty by one of the Guarantors.

8.2 REMEDIES. Upon the occurrence of any event of default set forth in Section 8.1, Landlord shall be entitled to the following remedies:

(a) Landlord may terminate this Lease, dispossess Tenant and recover as damages from Tenant all Rent that is due but unpaid as of the date of dispossession, plus all other reasonable costs and expenses incurred by Landlord to dispossess Tenant;

(b) Landlord may terminate this Lease and declare 100% of all Rent to be paid pursuant to this Lease for the remainder of the Term to be immediately due and payable, and thereafter such amount shall be accelerated and Landlord shall be entitled to recover the net present value thereof employing an assumed discount rate of 2% per annum for purposes of present value computation;

(c) Landlord may elect to repossess the Premises and to retit the Premises for Tenant's account, holding Tenant liable in damages for all expenses incurred in any such retitling and for any difference between the amount of Rent received from such retitling and the amount due and payable under the terms of this Lease, provided, however, that Tenant shall not, in such circumstances, be responsible for any cost to retitlit or alter the Premises;

(d) After the provision of...

The above remedies shall be cumulative and shall not preclude Landlord from pursuing any other remedies permitted by law. Landlord's election not to enforce one or more of the remedies upon an event of default shall not constitute a waiver. However, notwithstanding anything else herein, Landlord hereby expressly disclaims, relinquishes and rejects any Landlord's lien that otherwise by law, statute or contract might arise in or to any marijuana product and/or related products, chemicals or substances that, the ownership, possession, use, sale or distribution of which, but for the Legal Compliance Clarification, would or might be deemed contrary to Federal law or Federal regulations or enforcement provisions by the Federal government or any agency, arm or authority thereof ("Federal laws").

8.3 COSTS. If any litigation or other court action, arbitration or similar adjudicatory proceeding is commenced by any party to enforce its rights under this Lease against any other party, all fees, costs and expenses, including, without limitation, reasonable attorneys' fees and court costs, incurred by the prevailing party in such litigation, action, arbitration or proceeding shall be reimbursed by the non-prevailing party, provided, that if a party to such litigation, action, arbitration or proceeding prevails in part, and loses in part, the court, arbitrator or other adjudicator presiding over such litigation, action, arbitration or proceeding shall award a reimbursement of the fees, costs and expenses incurred by such party on an equitable basis.

8.4 WAIVER. No delay or omission by Landlord in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to, a default.

8.5 DEFAULT BY LANDLORD. In the event of any default by Landlord, Tenant's exclusive remedy shall be an action for damages, but prior to any such action Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall have a period of thirty (30) days following the date of such notice in which to commence the appropriate cure of such default. Unless and until Landlord fails to commence and diligently pursue the appropriate cure of such default after such notice or complete same within a reasonable period of time, Tenant shall not have any remedy or cause of action by reason thereof. Notwithstanding any provision of this Lease, neither Landlord nor any officer, director, partner, shareholder, or member of Landlord shall have any individual or personal liability whatsoever under this Lease. In the event of any breach or default by Landlord of any term or provision of this Lease, Tenant agrees to look solely to the equity or interest then-owned by Landlord in the Building (together with insurance proceeds, condemnation awards and sale proceeds), and in no event shall any deficiency judgment be sought or obtained against Landlord, nor any officer, director, partner, shareholder, or member of Landlord. Notwithstanding any provision of this Lease, Landlord shall not be liable to Tenant or any other person for consequential, special or punitive damages, including without limitation, lost profits.

9 PROTECTION OF LENDERS. Landlord represents and warrants that as of the date hereof, there either is no mortgage or ground lease affecting the Property

9.1 SUBORDINATION AND ATTORNMENT. This Lease shall be subject and subordinated at all times to the terms of each and every ground or underlying lease which now exists or may hereafter be executed affecting the Premises under which Landlord shall lease, and to the terms of each and every mortgage and deed of trust in any amount or amounts whatsoever now or hereafter existing encumbering the Premises, Building or the Property, and to all modifications, renewals and replacements thereto without the necessity of having further instruments executed by Tenant to effect such subordination. Tenant, upon demand, shall further evidence its subordination by executing a subordination and attornment agreement in form and substance mutually acceptable to Tenant and Landlord and its mortgagee or ground lessor, which subordination and attornment agreement must provide that so long as no default or event which with the passing of time or giving of notice would constitute a default exists under this Lease, the peaceful possession of Tenant in and to the Premises, and continued Permitted Use thereof, for the Term shall not be disturbed in the event of the foreclosure of the subject mortgage or termination of the subject ground or underlying lease affecting the Premises. If Landlord's interest in the Building or Property is acquired by any ground lessor, mortgagee, or purchaser at a foreclosure sale or transfer in lieu thereof, Tenant shall attorn to the transferee or successor as Landlord under this Lease. Notwithstanding the foregoing, any mortgagee under any mortgage shall have the right at any time to subordinate any such mortgage to this Lease on such terms and subject to such conditions as the mortgagee in its discretion may consider appropriate.

9.2 ESTOPPEL CERTIFICATES. Within ten (10) days of receipt of written request from Landlord, any lender or prospective lender of the Building, or of the request of any purchaser or prospective purchaser of the Building, Tenant shall deliver an estoppel certificate, attaching a true and complete copy of this Lease, including all amendments relative thereto, and certifying with particularity, among other things, (i) a description of any renewals or expansion options, if any; (ii) the amount of rent currently and actually paid by Tenant under this Lease; (iii) that the Lease is in full force and effect as modified; (iv) Tenant is in possession of the Premises; (v) stating whether either Landlord to the best of its knowledge or Tenant is in default under the Lease and, if so, summarizing such default(s) if known, and (vi) stating whether Tenant or Landlord has any offsets or claims against the other party and, if so, specifying with particularity the nature and amount of such offset or claim if known. Landlord shall likewise deliver a similar estoppel certificate within ten (10) days of the receipt of a written request from Tenant, any lender or prospective lender of Tenant, or assignee approved by Landlord, certifying the status of Tenant's monetary obligations under this Lease.

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transfer, provided that such transfer is not for the primary purpose of avoiding such obligations. However, each landlord shall deliver to its transferee all funds previously paid by Tenant if such funds have not yet been applied under the terms of this Lease.

11. MISCELLANEOUS PROVISIONS.

Paid Electric

11.1 SECURITY DEPOSIT. During the Term of this Lease, Tenant shall remit to Landlord twenty thousand dollars (\$20,000) as a security deposit ("Security Deposit") on or before October 1, 2021. The Security Deposit represents security for the faithful performance and observance by Tenant of each and every term of this Lease. Landlord may apply all or part of the Security Deposit to any unpaid Rent or other charges due from Tenant or to cure any other default of Tenant. The Security Deposit shall not constitute liquidated damages. If after notice, Tenant fails to cure and Landlord uses any part of the Security Deposit, Tenant shall restore the Security Deposit to its full amount within ten (10) days after written notice from Landlord. No interest shall accrue to or for the benefit of Tenant on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. Landlord shall not be obligated to return the Security Deposit to Tenant upon the expiration or earlier termination of the Lease unless and until all of the following events occur: (i) the payment in full of all Rent due pursuant to the Lease; and (ii) the repair of any and all damage to the Premises beyond that caused by casualty, condemnation and normal wear and tear.

11.3 INTERPRETATION. The captions of the Articles or Sections of this Lease are to assist the parties in reading the Lease and are not a part of the terms or provisions of this Lease. Whenever required by the content of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall include the other. In any provision relating to the conduct, acts or omissions of Tenant the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Premises, Building or Property with Tenant's expressed or implied permission. This Lease will not be construed more or less favorably with respect to either party as a consequence of the Lease or various provisions hereof having been drafted by one of the parties hereto.

11.4 INCORPORATION OF PRIOR AGREEMENTS; MODIFICATIONS. This Lease is the only agreement between the parties pertaining to the lease of the Premises and no other agreements either oral or otherwise shall be effective unless embodied herein. All amendments to this Lease shall be in writing and signed by Landlord and Tenant. Any other purported amendment shall be void.

11.5 NOTICES. Any notice or document (other than rent) required or permitted to be delivered by the terms of this Lease shall be in writing and delivered by: (i) hand delivery; (ii) certified mail, return receipt requested; or (iii) guaranteed overnight delivery service. Notices to Tenant shall be delivered to the address specified in the introductory paragraph of this Lease. Notices to Landlord shall be delivered to the address specified in the introductory paragraph of this Lease. All notices shall be effective upon delivery or attempted delivery during normal business hours. Either party may change its notice address upon notice to the other party, given in accordance herewith by an authorized officer, partner, or principal.

11.6 WAIVERS. All waivers must be in writing and signed by the waiving party. Either party's failure to enforce any provision of this Lease or its acceptance of Rent shall not be a waiver and shall not prevent such party from enforcing that provision or any other provision of this Lease in the future. No statement on a payment check from Tenant or in a letter accompanying a payment check shall be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate such check without being bound to the conditions of such statement.

11.7 NO RECORDATION. Tenant shall not record this Lease or any memorandum of lease.

11.8 FORCE MAJEURE. The performance by either party to this Lease of its obligations (except the payment of Rent or other sums of money) shall be excused by delays attributable to events beyond that party's control for a period of time that is sufficient for the party to perform its obligations after the cessation of the Force Majeure event acting in a diligent, commercially reasonable manner. Events beyond a party's control include, but are not limited to, acts of the other party, acts of God (excluding reasonable preparation therefor), war, civil commotion, labor disputes, strikes, fire, flood or other casualty, failure of power, shortages of labor or material, government action, regulation or restriction (including extraordinary delay in the issuance of any permit, permit appeal or building permit inspection) and unusually inclement weather conditions. Events beyond a party's control shall not include changes in economic or market conditions, or financial or internal problems of the non-performing party, or problems that can be satisfied by the payment of money.

11.9 EXECUTION OF LEASE. Submission or preparation of this Lease by Landlord shall not constitute an offer by Landlord or option for the Premises, and this Lease shall constitute an offer, acceptance or contract only as expressly specified by the terms of this Section 11.9. In the event that Tenant executes this Lease first, such action shall constitute an offer to Landlord, which may be accepted by Landlord by executing this Lease, and once this Lease is so executed by Landlord and delivered to Tenant, such offer may not be revoked by Tenant and this Lease shall become a binding contract. In the event that Landlord executes this Lease first, such action shall constitute an offer to Tenant, which may be accepted by Tenant only by delivery to Landlord of a fully executed copy of this Lease, together with a fully executed copy of any and all guaranty agreements and addenda provided that in the event that any party other than Landlord makes any material or minor alteration of any nature whatsoever to any of said documents, then such action shall merely constitute a counteroffer, which Landlord, may, at Landlord's election, accept or reject. Notwithstanding that the Commencement Date may occur and the Term may commence after the date of execution of this Lease, upon delivery and acceptance of this Lease in accordance with the terms of this Lease, this Lease shall be fully effective, and in full force and effect and valid and binding against the parties in

Tenant, intending that Landlord rely thereon, represents and warrants to Landlord that:

(i) Tenant and the party executing on behalf of Tenant are fully and properly authorized to execute and enter into this Lease on behalf of Tenant and to deliver this Lease to Landlord.

(ii) This Lease constitutes a valid and binding obligation of Tenant, enforceable against Tenant in accordance with the terms of this Lease.

(iii) Tenant is duly organized, validly existing and in good standing under the laws of the state of Tenant's organization and has full power and authority to enter into this Lease, to perform Tenant's obligations under this Lease in accordance with the terms of this Lease, and to transact business in the state in which the Premises are located, and

(iv) The execution of this Lease by the individual or individuals executing this Lease on behalf of Tenant, and the performance by Tenant of Tenant's obligation under this Lease, have been duly authorized and approved by all necessary corporate or partnership action, as the case may be, and the execution, delivery and performance of this Lease by Tenant is not in conflict with Tenant's bylaws or articles of incorporation (if a corporation), agreement of partnership (if a partnership), and other charters, agreements, rules or regulations governing Tenant's business as any of the foregoing may have been supplemented or amended in any manner.

11.11.2 LANDLORD'S AUTHORITY As a material inducement to Tenant to enter into this Lease, Landlord, intending that Tenant rely thereon, represents and warrants to Tenant that:

(i) Landlord is the fee owner of the Property.

(ii) Landlord and the party executing on behalf of Landlord are fully and properly authorized to execute and enter into this Lease on behalf of Landlord and to deliver this Lease to Tenant.

(iii) This Lease constitutes a valid and binding obligation of Landlord, enforceable against Landlord in accordance with the terms of this Lease.

(iv) Landlord is duly organized, validly existing and in good standing under the laws of the state of Landlord's organization and has full power and authority to enter into this Lease, to perform Landlord's obligations under this Lease in accordance with the terms of this Lease, and to transact business in the state in which the Premises are located, and

(v) The execution of this Lease by the individual or individuals executing this Lease on behalf of Landlord, and the performance by Landlord of Landlord's obligation under this Lease, have been duly authorized and approved by all necessary corporate or partnership action, as the case may be, and the execution, delivery and performance of this Lease by Landlord is not in conflict with Landlord's bylaws or articles of incorporation (if a corporation), agreement of partnership (if a partnership), and other charters, agreements, rules or regulations governing Landlord's business as any of the foregoing may have been supplemented or amended in any manner.

11.12 MAINE LAW. This Lease shall be governed by the laws of the State of Maine.

11.13 COUNTERPART. This Lease may be executed in multiple counterparts, each counterpart of which shall be deemed an original and any of which shall be deemed to be complete in itself and may be introduced into evidence or used for any purpose without the production of the other counterpart or counterparts.

11.14 HOLDING OVER. If Tenant remains in possession of the Premises after the end of the Term without having executed and delivered a new lease or an agreement extending the Term, there shall be no tacit renewal of this Lease or the Term, and Tenant shall be deemed to be occupying the Premises from month to month at a monthly Base Rent payable in advance on the first day of each month equal to one hundred twenty-five percent (125%) (first month), one hundred fifty percent (150%) (second month) and two hundred percent (200%) (hereafter of the monthly amount of Base Rent payable during the last month of the Term, and otherwise upon the same terms as set forth in this Lease, so far as they are applicable to a month to month tenancy. In addition to and not limiting any other rights or remedies which Landlord may have on account of Tenant holding over without written consent of Landlord, Tenant shall be liable for any and all direct and consequential damages incurred by Landlord on account of such unapproved holding over including claims by tenants entitled to future possession.

11.15 TIME IS OF THE ESSENCE. Time is of the essence of this Lease and all provisions contained herein

11.16 APPROVAL OF PLANS AND SPECIFICATIONS. Neither review nor approval by or on behalf of Landlord of any Tenant's plans nor any plans and specifications for any Tenant Alterations or any other work shall constitute a representation or warranty by Landlord, any of Landlord's beneficiaries or any of their respective agents, partners or employees that such plans and specifications either (i) are complete or suitable for their intended purpose, or (ii) comply with Applicable Laws, it being expressly agreed by Tenant that neither Landlord, nor any of Landlord's beneficiaries nor any of their respective agents, partners or employees assume any responsibility or liability whatsoever to Tenant or to any other person or entity for such completeness, suitability or compliance.

agency relationship

11.18 BROKERS. Tenant covenants, represents and warrants that there was and is no broker, finder or commissioned procuring cause or participant in commissions associated with Tenant's efforts (any such person being a "Tenant's Broker") in connection with the negotiation and consummation of this Lease. Tenant agrees to indemnify and defend Landlord against any loss, liability, or expense (including reasonable attorney's fees and costs) arising out of claims for fees or commissions from anyone other than a broker retained or listed by Landlord claiming to have represented Tenant in connection with this lease of the Premises.

11.19 WAIVER OF TRIAL BY JURY. LANDLORD AND TENANT EACH HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE. THE PARTIES FURTHER HEREBY WAIVE THE RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED.

11.20 RIDERS AND EXHIBITS. All Riders, Addenda and Exhibits attached hereto and referenced herein shall be deemed to be a part hereof and are hereby incorporated.

11.21 TENANT ASSIGNMENT. Tenant will not assign this Lease, in whole or in part, or sublease the Premises, in whole or in part other than to a "Permitted Transferee" (hereafter defined). For these purposes, a "Permitted Transferee" means (i) any "Parent", "Subsidiary" or "Affiliate" of Tenant as each of those terms is hereafter defined as well as (ii) the resulting entity after a merger or consolidation of Tenant with another entity or company as well as (iii) an entity purchasing all of Tenant's Maine grow/processing operations. A "Parent" is an entity which owns all or a controlling and majority interest in the stock or other membership or similar issued and outstanding indices of ownership of Tenant. "Subsidiary" is an entity in which Tenant owns all or a controlling and majority interest of such entity's stock or other membership or similar issued and outstanding indices of ownership, and an "Affiliate" is any entity in which Tenant's Parent owns all or a controlling and majority interest of such entity's stock or other membership or similar issued and outstanding indices of ownership. Tenant shall in writing promptly notify Landlord of reasonable detail concerning any such Permitted Transferee and the transaction giving rise to same. Should Tenant nonetheless seek Landlord's consent to an assignment or sublet, the parties acknowledge that Landlord has a heightened interest in analyzing same and has reserved the absolute right to deny consent so as to help minimize concerns about Federal issues, and this sentence is expressly intended to alter otherwise common law obligations of reasonableness for assignment or sublet requests. In addition, should Tenant nonetheless seek such approval or consent to an assignment or sublet, same shall be subject to Landlord's right of recapture set forth below. If notwithstanding all the foregoing such a request for approval or consent is made and Landlord in fact determines to allow same to occur, then: Any assignment of this Lease shall require that the assignee assume all obligations of Tenant. In no event will Tenant be released from any obligation or liability under this Lease following any such assignment or sublease. Notwithstanding the foregoing to the contrary, Landlord may, in Landlord's sole and absolute discretion, approve or disapprove any proposed assignment or sublease by Tenant to an existing occupant of any space on the Property or an affiliate of any such occupant. No subtenant of the Premises or any portion thereof, may further assign or sublease its interest in the Premises or any portion thereof. In the event of a proposed assignment of the Lease or sublease of the Premises, in each case to a non-Permitted Transferee, Tenant agrees to pay Landlord the sum of Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00), together with any legal fees and disbursements incurred in the preparation and/or review of any such documentation, within thirty (30) days of invoice for payment thereof, as Additional Rent, if such assignment or sublease to a non-Permitted Transferee is approved. For clarity, there shall be no fee for an assignment or sublease of Tenant's interest in the Premises or any portion thereof to a Permitted Transferee. If the rent due and payable by any assignee or subtenant under any permitted assignment or sublease exceeds the Rent payable under this Lease for such space, Tenant will pay to Landlord all such excess rent and other excess consideration within ten (10) days following receipt thereof by Tenant. Within fifteen (15) days after Landlord's receipt of Tenant's request for Landlord's consent to a proposed assignment or sublease, Landlord shall have the right to require Tenant to reconvey to Landlord that portion of the Premises which Tenant is seeking to assign or sublet. Tenant shall reconvey that portion of the Premises in consideration of Landlord's release of Tenant from all future Rent and other obligations, which would not otherwise survive termination of the Lease, with respect to the portion of the Premises so reconveyed. Any such reconveyance shall be evidenced by an agreement reasonably acceptable to Landlord and Tenant as to form and substance.

Notwithstanding anything herein to the contrary, no assignment or sublease whatsoever shall release Tenant from Tenant's obligations and liabilities under this Lease or alter the primary liability of Tenant to pay all rent and to perform all obligations to be paid and performed by Tenant. Tenant shall pay to Landlord all direct costs and shall reimburse Landlord for all expenses (including reasonable attorneys' fees) incurred by Landlord in connection with any assignment or sublease requested by Tenant. Landlord may, in its reasonable discretion, consider all factors cognizable by law as reasonable to evaluate and consider in making its determination of whether to consent, including making a study of the financial wherewithal and credit of any proposed successor or subtenant and, in the case of an assignment, may require additional guaranties as appropriate to satisfy reasonable financial standards and criteria for approval. Any guaranty of an individual offered shall be joined by spouse and shall be in Landlord's then current commercially reasonable form. Landlord may condition any consent to any assignment, upon the execution and delivery of Landlord's commercially reasonable form of instrument, executed by Landlord, Tenant, the successor (assignee) tenant, and any new guarantor(s) then so existing, under the terms of which (i) the Tenant (or assignor) agrees and confirms to the foregoing continued obligations and liabilities and assigns all of its rights, title and interest in and to the Lease and all monies having been paid thereunder, including any security deposit, (ii) the successor (or assignee) agrees to assume the Lease in all respects and to assume all obligations of payment and

evidence of insurance as called for in this Lease prior to first entry upon, on or into the Premises. Landlord may conditionally consent to any sublease, upon the execution and delivery to Landlord of a commercially reasonable form of sublease agreement as between Tenant and such subtenant, under the terms of which (i) Tenant shall continue to remain primarily liable for the payment of all amounts of rental and other sums and performance of all covenants required of Tenant under the Lease, (ii) there shall be no modifications or amendments of the sublease without the prior written consent of Landlord, (iii) the subtenant shall not be granted any rights of Tenant under the Lease nor the power to exercise same, (iv) it is provided that in the event of any default under the terms and provisions of the Lease, Landlord shall have the right to collect the rental attributable to the subleased space directly from the subtenant without waiving any of Landlord's rights against Tenant, (v) Landlord shall not be liable for, and Tenant and the subtenant shall, jointly and severally, hold Landlord harmless against and indemnify Landlord for and from any commission(s) payable associated with the sublease, and (vi) nothing in the sublease will be deemed to amend or modify the Lease as between Tenant and Landlord, and the subtenant will expressly confirm and acknowledge that the sublease is inferior and subordinate to the Lease in all respects.

11.22 LANDLORD PROTECTION. Landlord will have the right to finance any and all future projects that Tenant is the owner, operator or investor in, on similar terms or as otherwise mutually agreed, with all such leases being cross collateralized and cross defaulted with this Lease. During the Term of this Lease, Tenant covenants and agree that it will not invest in or build or operate a facility that is reasonably likely to have a negative impact on the performance of the Property during the Term of this Lease and that Tenant will not operate, invest in or build such a competitive facility unless the status of the operations at the Premises and the net operating income actually support the need for additional facilities.

11.23 LANDLORD ASSIGNMENT. Landlord will have the right to sell, transfer or assign, in whole or in part, its rights and obligations under this Lease. Any such sale, transfer or assignment will operate to release Landlord from any and all liability under this Lease arising after the date of such sale, assignment or transfer, so long as successor landlord assumes the obligations of landlord hereunder.

11.24 NOTWITHSTANDING ANY OTHER TERM OR CONDITION OF THIS LEASE THE FOLLOWING ADDITIONAL PROPERTY SPECIFIC TERMS AND CONDITIONS SHALL GOVERN AND CONTROL:

A. SIGNAGE. Signage must be approved, in writing, by Landlord before installation. Approved signage must conform to building standard in size, style, color and location. It is the responsibility of the Tenant to obtain all necessary governmental permits required for signage approved by Landlord.

B. OUTSIDE STORAGE. Under no circumstances shall Tenant store or display its goods or merchandise outside of the Building with the exception of specifically requested and approved by Landlord load grade or materials that are specifically required for Tenant's operations that cannot be stored within the building (e.g., soil). Tenant shall ensure any outside storage is neat and organized and in compliance with all applicable Laws and Tenant shall not store any plants or other finished materials outside of the Building.

C. HVAC/ENVIRONMENTAL CONTROLS, GREENHOUSE ROOF AND SYSTEMS REPAIR AND MAINTENANCE. Tenant shall, at Tenant's sole expense repair and in accordance with the terms of this Lease, shall have a maintenance agreement for the HVAC/Environmental Controls, Greenhouse Roof and Systems unless such work will be performed by a duly qualified employee of Tenant or of Tenant's Affiliate, and will be responsible for any repairs and replacement for HVAC/Environmental Controls, Greenhouse Roof and Systems at all times during the Lease Term.

D. TENANT'S PRIMARY DUTY. All agreements and covenants to be performed or observed by Tenant under this Lease shall be at Tenant's sole cost and expense and without any abatement of rent. If Tenant fails to pay any sum of money to be paid by Tenant or to perform any other act to be performed by Tenant under this Lease, Landlord shall have the right, but shall not be obligated, and without waiving or releasing Tenant from any obligations of Tenant, to make any such payment or to perform any such other act on behalf of Tenant in accordance with this Lease. All sums so paid by Landlord and all costs incurred or paid by Landlord shall be deemed additional rent hereunder and Tenant shall pay the same to Landlord on written demand, together with interest on all such sums and costs from the date of expenditure by Landlord to the date of repayment by Tenant at the rate of ten percent (10%) per annum.

E. ABANDONED PROPERTY. If Tenant abandons the Premises, or is dispossessed by process of law or otherwise, any movable furniture, equipment, trade fixtures or personal property belonging to Tenant and left in the Premises shall be deemed to be abandoned, at the option of Landlord, and Landlord shall have the right to sell or otherwise dispose of such personal property in any commercially reasonable manner.

F. GUARANTEE. The full and faithful performance of Tenant hereunder and the payment of all obligations, including Rent, shall be guaranteed on a personal basis by the guarantors, if any, on a joint and several basis.

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Landlord:

 3/22/2022

Tenant:

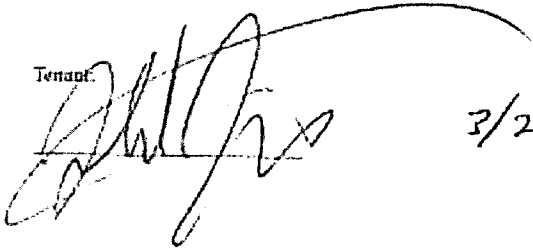
 3/22/2022

EXHIBIT A
PROPERTY DESCRIPTION

Exhibit A-1
SITE PLAN -

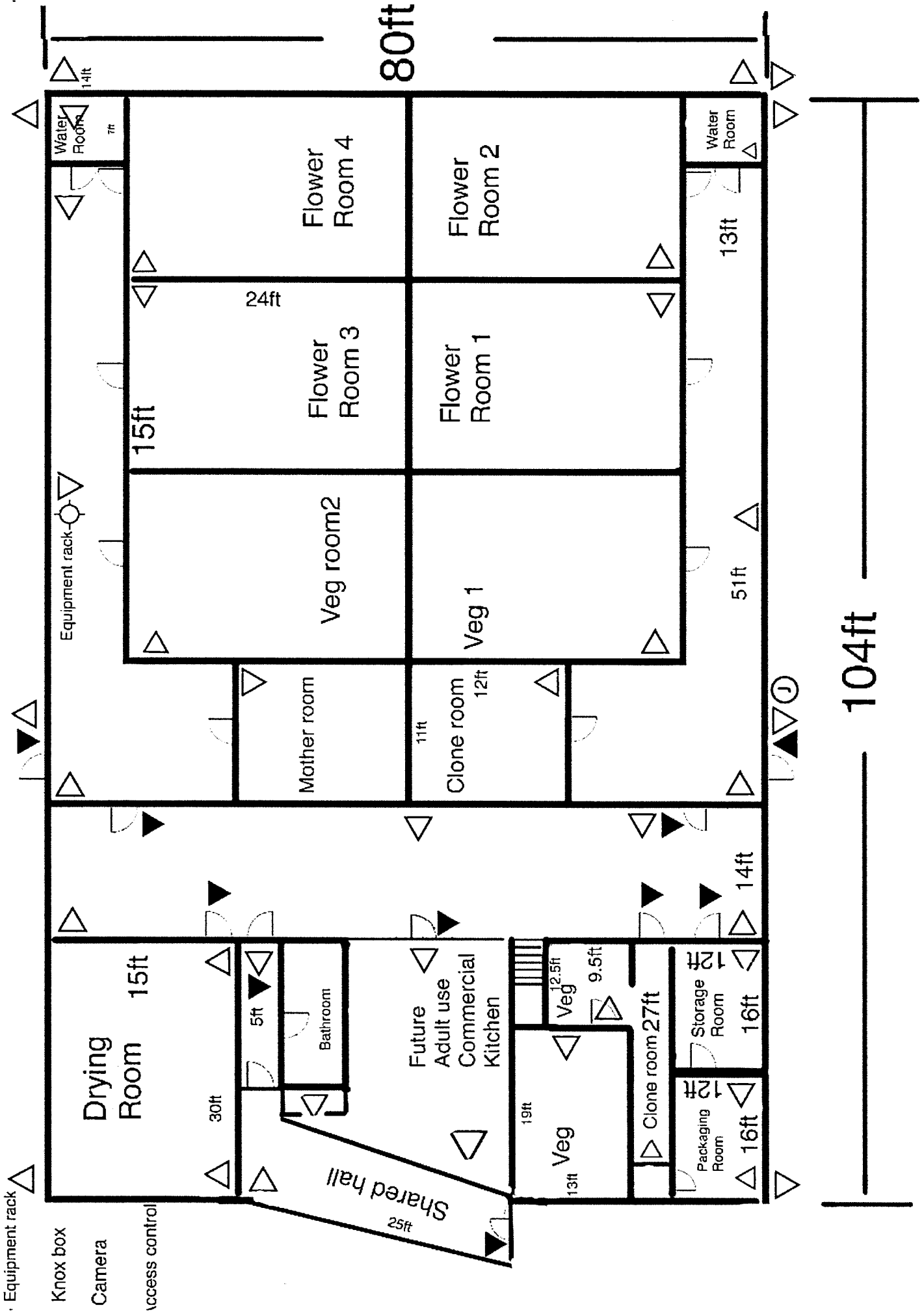


The following is deemed incorporated onto the site plan sketch here pictured and upon any other sketch or image attached to or made a part of this Lease: This Exhibit is diagrammatic and is intended only for the purpose of indicating the approximate location of constructed areas comprising the Property and/or the Building and the approximate location of the Premises, and for the purposes of indicating approximately the boundaries of the Property if so indicated thereon. It does not in any way supersede any of Landlord's rights set forth in the Lease, including in respect of arrangements and/or locations of shared-use parts of the common areas and changes in such arrangements and/or locations, including without limitation parking areas. It is not to be sealed; any measurements or distances shown or parking counts should be taken as approximate. Dimensions indicated (if any) are not exact nor to scale and in any case are approximate. It does not purport to show the exact or final location of columns, division walls or other required architectural, structural, mechanical or electrical elements. References to tenants (if any) are not and shall not be deemed representations of existing or future tenants nor of any particular tenant-mix or tenant physical arrangement or placement or operation or use or closures, now or in the future anticipated.

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1

2



104ft

80ft



Maine Department of Transportation Driveway/Entrance Permit

Permit Number: 9781

Location: Route: 0236X, Dow Highway

Owner: Eliot Recycling Services, Inc

Municipality: Eliot

Address: 276 Dow Highway
Eliot, ME 03903

County: York

Tax Map: 37; Lot Number: 6

Culvert Size: 18"

Telephone: (207)252-1396

Culvert Type: plastic

Culvert Length: 60'

Date of Permit: 05-JAN-10

Approved Entrance Width: 42'

In accordance with rules promulgated under 23 M.R.S.A., Chapter 13, Subchapter I, Section 704, the Maine Department of Transportation (MaineDOT) approves a permit and grants permission to perform the necessary grading to construct, in accordance with sketch or attached plan, an Entrance to [a] Commercial Industrial at a point 2140' N from Beech Road, subject to the Chapter 299 Highway Driveway and Entrance Rules, standard conditions and special conditions (if any) listed below.

Conditions of Approval:

This permittee acknowledges and agrees to comply with the Standard Conditions of Approval attached hereto and to any Specific Conditions of Approval shown here.

Approved Special Condition(s):

- * In the town of Eliot on the easterly side of route 236, approximately 2140 feet northerly of Beech Rd and approximately 111 feet northerly of utility pole 30/9.
- * If entrance width exceeds 30 feet (42 feet maximum), a raised island shall be constructed which separates the incoming lane from the outgoing lane(s). Said island shall be 6 feet in width, with the leading end set back 8 feet from the edge of shoulder pavement.
- * The entrance shall be constructed in such a way that the pavement line and the shoulder line at the entrance shall conform to the pavement line and the shoulder line that currently exists on this section of highway, and in a way so as to prevent surface water from draining onto the highway.
- * A 18 inch diameter plastic HDPE culvert shall be installed in line with the existing ditch parallel to route 236, conforming to MDOT option III Standards.
- * The entrance profile shall be constructed so that the first 50 feet off the edge of roadway pavement slopes no more than 3% above the pavement elevation of the highway. Thereafter the entrance profile shall conform to MDOT Standards wherein grade changes shall not exceed 9% in 8 foot increments of entrance length.
- * This permit is approved to allow for up to 99 passenger car equivalents (PCEs) in the peak hour to use the entrance. When a change of use (PCEs) occurs, the Owner will be required to gain the approval of the MaineDOT in order to evaluate the PCEs in the peak hour. If at any time it is determined that the estimated net change in PCEs in the peak hour will be above the 99 PCE threshold, the MaineDOT may require the owner to apply for a Traffic Movement Permit.

Approved by: Brian Keefe, P.E. Date: 1/5/10

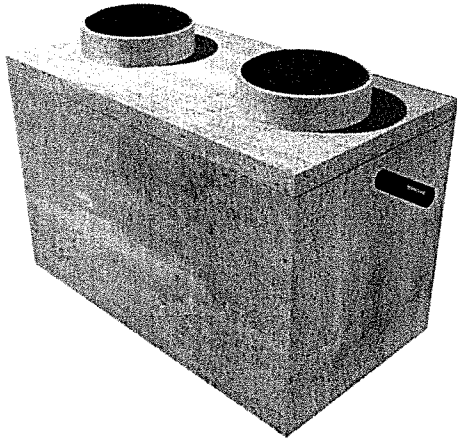
STANDARD CONDITIONS

1. Provide, erect and maintain all necessary barricades, lights, warning signs and other devices as directed by MaineDOT to safeguard traffic properly while the construction is in progress.
2. At no time cause the highway to be closed to traffic.
3. Where the driveway is located within a curb, curb and gutter, and/or sidewalk section, completely remove the existing curb, curb and gutter, and/or sidewalk as may be required to create the driveway and restore drainage. All driveways abutting sidewalk sections shall meet the requirements set forth in the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12131 et seq.
4. Obtain, have delivered to the site, and install any culverts and/or drainage structures which may be necessary for drainage, the size, type and length as called for in the permit pursuant to 23 M.R.S.A. Sec. 705. All culverts and/or drainage structures shall be new.
5. Start construction of the proposed driveway within twenty-four (24) months of the date of permit issuance and substantially complete construction of the proposed driveway within twelve months of commencement of construction.
6. Comply with all applicable federal, state and municipal regulations and ordinances.
7. Not alter, without the express written consent of the MaineDOT, any culverts or drainage swales within the MaineDOT right of way.
8. File a copy of the approved driveway permit with the affected municipality or LURC, as appropriate within 5 business days of receiving the MaineDOT approval.
9. Construct and maintain the driveway side slopes to be no steeper than the adjacent roadway side slopes, but in no case to be steeper than 3 horizontal to 1 vertical, unless the side slope is behind existing roadway guardrail, in which case it shall be no steeper than 2 horizontal to 1 vertical.
10. Notify the MaineDOT of a proposed change of use served by the driveway when increase in traffic flow is expected to occur. This does not exempt the need for obtaining a Traffic Movement Permit (TMP) if trip generation meets or exceeds 100 passenger car equivalents (pce) during the peak hour of the day.
11. Construct or implement and maintain erosion & sedimentation measures sufficient to protect MaineDOT's facilities.
12. Driveways shall be designed such that all maneuvering and parking of any vehicles will take place outside the highway right-of-way and where vehicles will exit the premises without backing onto the highway traveled way or shoulders. All driveways will have a turnaround area to accommodate vehicles using the premises.

FURTHER CONDITION OF THE PERMIT:

The owner shall assume the defense of, and pay all damages, fines, and penalties for which he/she shall become liable, and shall indemnify and safe harmless said Department, its representatives, agents and employees from liability, actions against all suits, claims, damages for wrongful death, personal injuries or property damage suffered by any person or association which results from the willful or negligent action or inaction of the owner/applicant/agent and in proceedings of every kind arising out of the construction and maintenance of said entrance(s), including snow removal. Nothing herein shall, nor is intended to, waive any defense, immunity or limitation of liability which may be available to the MaineDOT, their officers, agents or employees under the Maine Tort Claims Act or any other privileges and/or immunities provided by law. It is a further condition that the owner will agree to keep the right of way inviolate for public highway purposes and no signs (other than traffic signs and signals), posters, billboards, roadside stands, culvert end walls or private installations shall be permitted within Right of Way limits.

GREASE TRAP-1000 GAL



OVERVIEW

FEATURES & BENEFITS

SPECS & GUIDES

Model: **1000 GT LFUCG**

Material: **Concrete**

Height: **6'**

Width: **4'**

Length: **8'**

Weight: **18100 lb**

DOWNLOADS

PDF: [LEX-CAT-1000-GT-2115-CATALOG-1.PDF](#)

DWG: [LEX-CAT-1000-GT-2115-1.OWG](#)

PRODUCT AVAILABILITY

LOCATION AVAILABLE

747 Allenridge Point
Lexington, KY

PHONE

(859) 259-1484

HOURS

M-F 7:00-5:00

[ADD TO QUOTE GENERATOR](#)

NEW NAME. RENEWED PROMISE.

Oldcastle Infrastructure is a new brand, which now houses all of our precast, storm water, enclosure, and building accessory products. Welcome to a more unified approach and a more focused customer experience.

[ABOUT OLDCASTLE INFRASTRUCTURE](#)

[ABOUT OUR NAME AND BRAND CHANGE](#)

Solving today. Transforming tomorrow.™

J. DOSING TANKS

1. General: All dosing tanks must be watertight. Materials and construction specifications are the same as those specified for septic tanks in this Section. Manholes for dosing tanks must terminate a minimum of 4 inches above the ground surface.
2. Frost protection: In cases where the dosing tanks will be installed above the maximum expected depth of frost penetration, dosing tanks must be protected with at least 2 inches of high density expanded rigid polystyrene.
3. Dosing compartments: When a dosing compartment is located inside a septic tank, the dosing compartment must not reduce the minimum tank liquid capacity required in Section 6(G).
4. Access openings: Access openings for dosing tanks may be buried, although watertight risers to within 6 inches of finish grade are required, in order to simplify location and maintenance. The riser must be located at the appropriate opening to facilitate pumping. The riser opening must be at least 18 inches in diameter over the tank cover and a separate riser must be extended to grade. The riser must be sized to accommodate removal and installation of any component(s) within the tank.

K. AEROBIC TREATMENT UNITS

1. General: The use of an aerobic treatment unit or any other device in lieu of, or in conjunction with, a septic tank must not be permitted by the LPI without prior approval of the device by the Department. Any aerobic treatment tank used in lieu of, or in conjunction with, a septic tank must bear the endorsement of the National Sanitation Foundation's Standard 40, or other endorsement accepted by the Department; or review and approval from the Department.
2. Use of an aerobic treatment unit allows disposal area size modification pursuant to Section 4(H).

L. EXTERNAL GREASE INTERCEPTORS

1. General: Any new commercial or institutional food preparation facility, such as a restaurant, cafeteria, institutional kitchen, or other facility subject to Footnote 2 of Table 4C, served by a subsurface wastewater disposal system, must install an external grease interceptor.
2. Any converted or expanded commercial or institutional food preparation facility requires an external grease interceptor, except when not practical, as determined by the LPI. In such a case, an internal grease interceptor must be used, meeting the requirements of the Plumber's Examining Board Installation Standards, 02-395 CMR 395 or, if the design flow of the facility is 100 gpd or less, a high efficiency outlet filter may be installed in the septic tank, in lieu of an external grease interceptor.
3. Location: The external grease interceptor must be installed in a separate line serving that part of the plumbing system into which the external grease will be discharged. The external grease interceptor must be located close to the source of the wastewater (to keep the grease from solidifying). External grease interceptors must be installed with an access cover to the surface and located, designed and installed in a manner that will permit easy access for inspection, repair, and cleaning.
4. Sizing the external grease interceptors for restaurants: Equation 6B must be used to determine the minimum size of external grease interceptors serving restaurants.
5. Sizing the external grease interceptors for cafeterias and institutional kitchens: Equation 6B must be used to determine the minimum size of external grease interceptors serving cafeterias and institutional kitchens.

Equation 6B

$$Q=[M][GL][ST][LF]$$

where:

Q is the liquid capacity of external grease interceptor, gallons;

M is the total number of meals served per day;

GL is the gallons of wastewater per meal, typ. 2.0 gallons

ST is the storage capacity, typ. 2; and

LF is a loading factor depending on type of facilities present:

LF is 1.0 with dish washing; and;

LF is 0.5 without dish washing.

USE 200 MEALS / DAY - CONS

$$Q = 200(2)(2)(1) = 800 \text{ GAL REQ'D}$$

USE 1000 GAL INTERCEPTOR

6. Minimum size: In no case may an external grease interceptor serving a restaurant, cafeteria, or institutional kitchen be smaller than 750 gallons liquid capacity.
7. Construction: The minimum requirements for construction, materials, and foundations of external grease interceptors are the same as those required for septic tanks. The installation must be in accordance with 6(H).
8. Outlet baffle of grease trap: The outlet of the external grease interceptor must be provided with pipe tee baffle extending to a depth of 12 inches above the tank floor and well above the maximum liquid level. A septic tank filter may be used in lieu of the outlet baffle.
9. Maintenance: All external grease interceptors must be routinely inspected to determine the volume present. All external grease interceptors must be cleaned when the volume of external grease equals no more than 50 percent of the liquid capacity of the tank.

M. PIPING

1. Scope: This Section governs the design and installation of the piping systems used to convey wastewater from the building drain to the septic tank, to the disposal field and within the disposal field.
2. Methods of distribution: The allowed methods for discharge of septic tank effluent to the disposal field and distribution of septic tank effluent within the disposal field are as follows:
 - (a) Gravity flow method;
 - (b) Gravity dosing method;
 - (c) Low pressure dosing method; and
 - (d) Serial dosing method.
3. Alternating pumps: Alternating pumps may be used to alternately dose a field or portion of a field. However, no disposal field or portion of a disposal field may receive more than the maximum daily disposal design flow allowed in Section 4. Alternating pumps must be installed in pump-dosed systems with design flows of more than 2,000 gpd.
4. Connecting Pipes and Delivery Pipes: The connecting pipes between the components of a system must meet the following requirements:
 - (a) Gravity flow piping: The pipes must be sized to serve the connected fixtures, but in no case may be less than 3 inches in diameter (1.5 inches for primitive systems);

SEPTIC INSPECTOR
Dave Anderson
22 Pearl Street, Biddeford, ME 04005

Date: 02-18-2022
Phone: 207-730-1548
Report number: 8527

Client name: Jelal Jones - Black Beard Farms LLC
Address: P.O. Box 661
City: York
State: ME
Zip: 03909
Phone: (774) 330-9380

Inspection address:
Address: 276 ME-236
City: Eliot
State: ME
Zip: 03903

Age of the system: Unknown

Weather: Partly sunny

Date last pumped: 2022

Temperature: 36°

Building style: Commercial

Soil: Frozen

HHE-200: No

Number of bedrooms: N/A

Disclosure: No

Number of people currently living
In the home:

People Present: Client

Assessment: Satisfactory with Notation.

DISCLAIMER

In consideration of the fee paid for the inspection and the services rendered, Septic Inspector and the client agree that: the purpose of this inspection is to identify and disclose the visible and apparent conditions of the septic system as these conditions appeared on the date of inspection. The inspector shall review the municipal and state records if made available at the time of the inspection.

This report was completed in accordance with the minimum reporting criteria established by the Maine Department of Human Services and adapted in part from the "Maine Septic System Inspection Guidelines" prepared by the Maine Association of Site Evaluators. The information contained in this document accurately describes the conditions observed relative to the specific items referenced in the report that existed on the inspection date. No warranty is made or implied that the conditions described herein are representative of past conditions; will continue beyond the inspection date; or that the subsurface wastewater disposal system will function in compliance with the Maine Subsurface Wastewater Disposal Rules. No inference can be made regarding conditions, status, or functionality of any system characteristic not specifically described in this report.

If the client or a third party makes a claim that we have been negligent in making the inspection and/or preparing the report, or if the client is not fully satisfied that we have met our obligation and duties under this inspection agreement, all parties agree the claim against Septic Inspector shall be limited to no greater than double the septic inspection fee paid by the client. This limitation applies to every type of claim or cause of action arising out of or related to this agreement, inspection report, including but not limited to breach of contract, negligence or violation of an Unfair Trade Practices Act.

Home Interior:

1. **Plumbing: Functional**
2. **Sump pump: N/A**
3. **Water treatment: N/A**
4. **Washer: N/A**
5. **Garbage disposal: N/A**

Treatment Tank: Concrete w/riser to grade

1. **Size: 1000 gallons**
2. **Condition: Functional**
3. **Effluent: Functional**
4. **Baffle: Functional**
5. **Scum/sludge: Functional**

Pump Chamber: Separate Concrete w/riser to grade

1. **Pump operation: Functional**
2. **Scum: Functional**
3. **Alarm: Functional**

Disposal Area:

1. **Effluent line: Not accessed**
2. **Distribution box:**
3. **Ground cover: Functional**
4. **Effluent level: Functional**
5. **Surface water control: Functional**

Assessment: Satisfactory with Notation.

Assessments and Recommendations:

This system has a 1000-gallon concrete tank with a separate concrete pump chamber. The septic tank has a man-made brick and mortar riser with an iron cover at the tank center. The visual inspection into the septic tank with a long handle mirror showed that the outlet baffle was intact. The effluent level in the tank was at the bottom of the outlet pipe as is appropriate. There was no scum floating in the tank.

The pump chamber also has a man-made brick and mortar riser with an iron cover. There was no scum floating in the pump chamber. The flow test introduced approximately 60 gallons of water into the septic tank, which then flowed into the pump chamber. The effluent level in the pump chamber rose to its preset upper limits and the switch activated automatically. When the effluent level reached its preset lower limits, the pump switched off automatically. This indicates that the pump was working satisfactorily. The high effluent alarm in the building was tested and found to be working properly.

The suspected leach field showed no signs of effluent surfacing.

Conclusions and recommendations:

This system was working satisfactorily at the time of inspection. It is recommended that the septic tank be pumped on a regular basis every three to five years to help preserve the longevity of the system.

Note; at the time of inspection, the brick-and-mortar risers were leaking, allowing groundwater from snow melt and rain into the tank and the pump chamber. It is suggested that the existing risers to be sealed. Alternatively, it is suggested that concrete or plastic riser be installed that are properly seal to the tank to prevent water, soil or root intrusion.

If you have any questions concerning this inspection, please do not hesitate to call me at 207-730-1548.

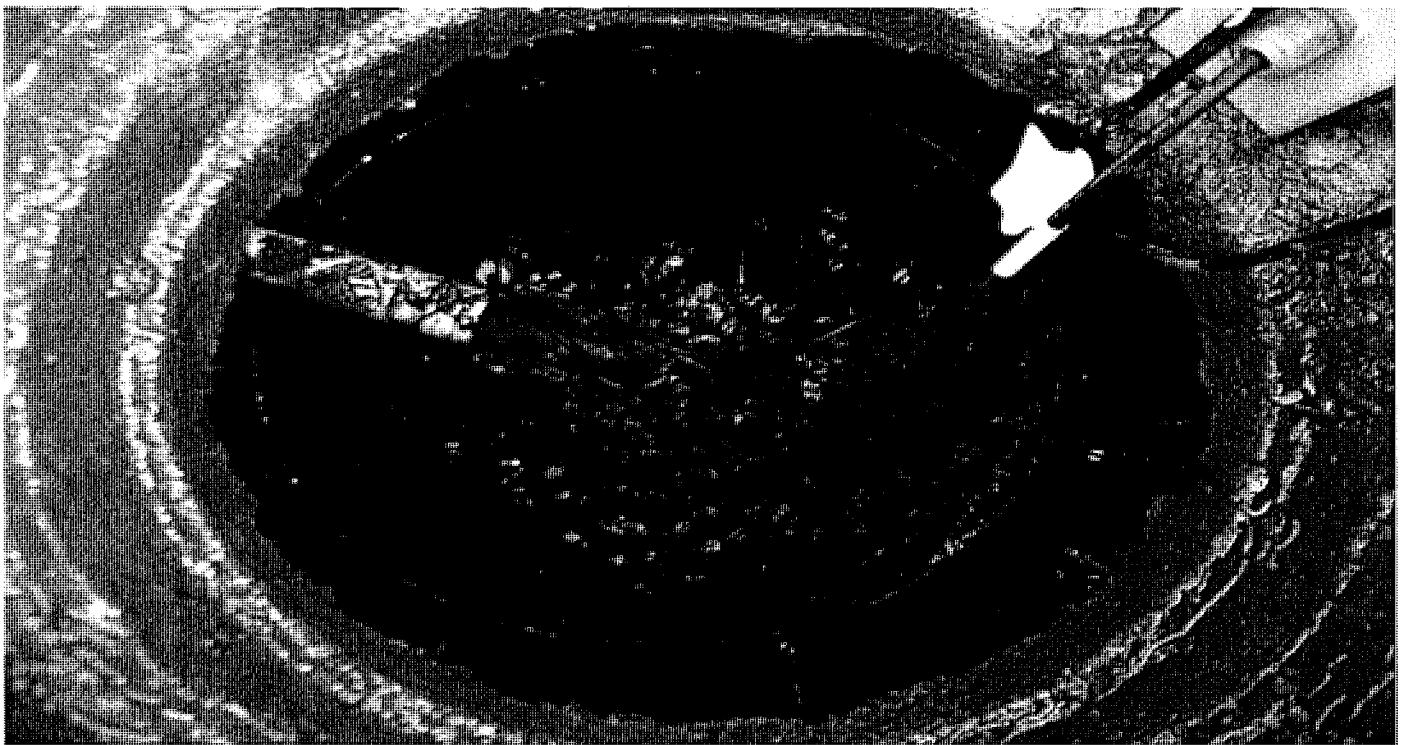
Respectfully,



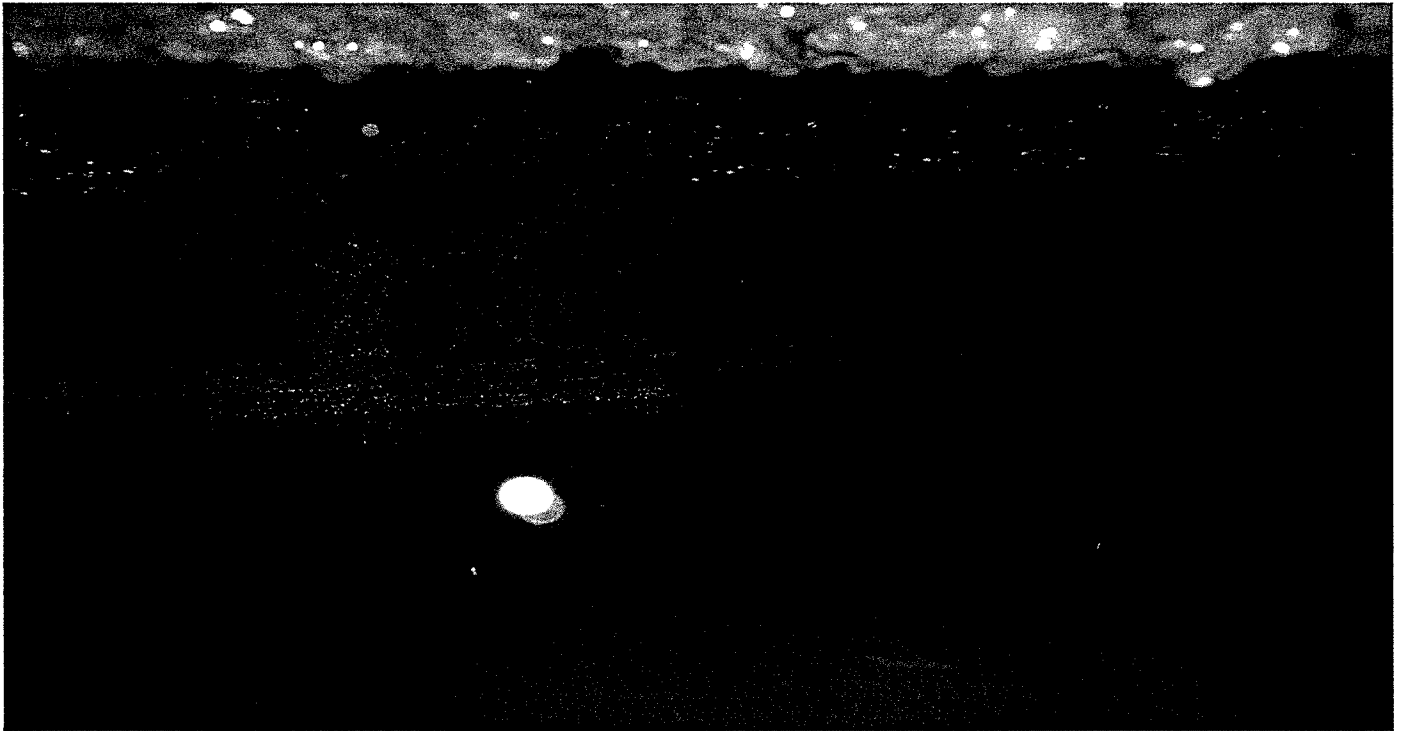
Mark O'Neil
Septic Inspector



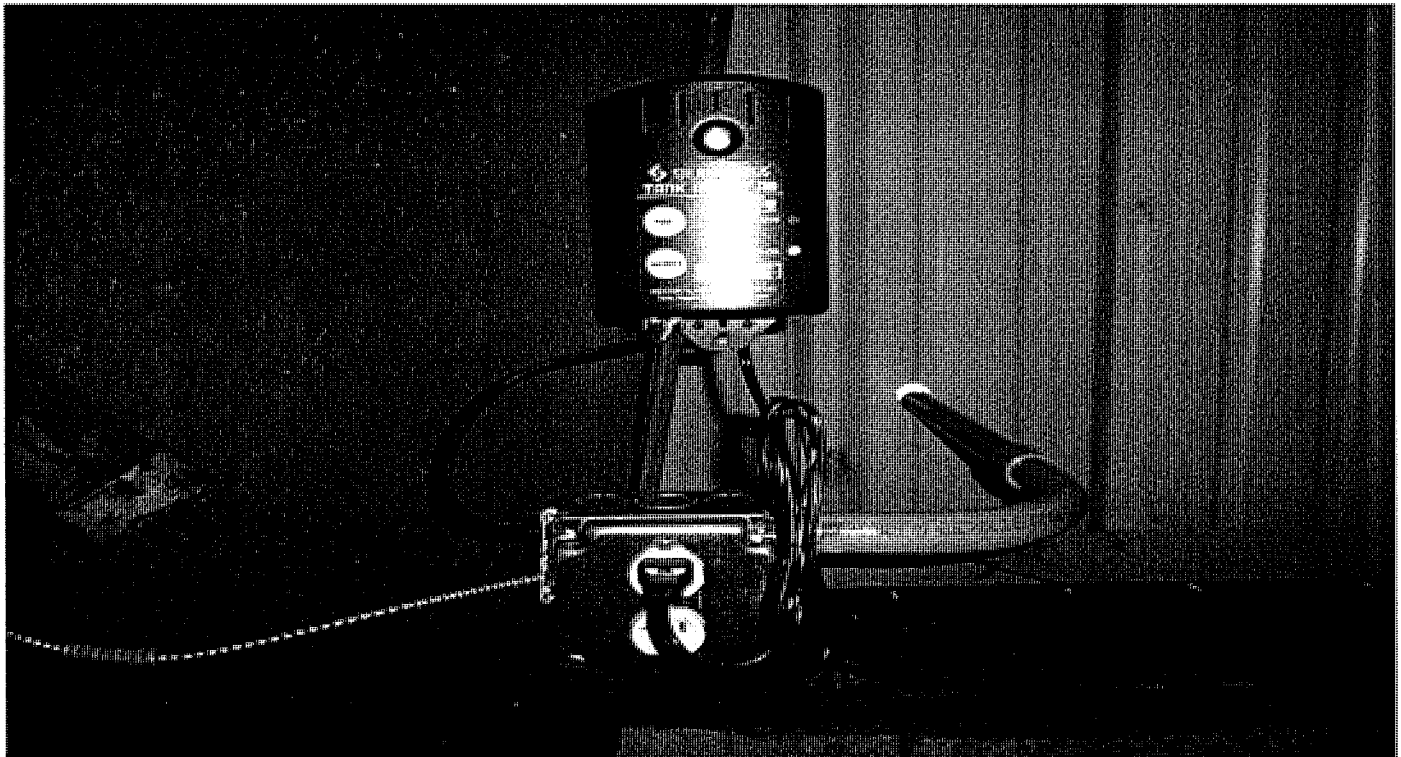
Brick-and-mortar risers at the septic tank center and at the pump chamber.



Ground water intrusion through the brick- and – mortar riser.

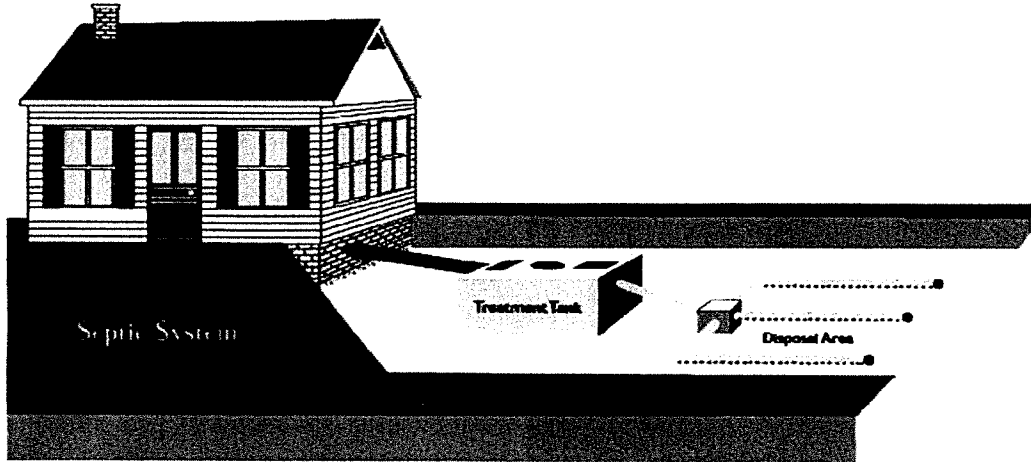


The outlet baffle was intact.



The high effluent alarm in the building was tested and found to be working properly.

Our Inspection Process



Background:

There are more than 600,000 dwellings in the State of Maine. More than half of those dwellings, 330,000, rely on subsurface wastewater disposal systems (septic systems).

Septic systems consist of an underground tank (septic tank) and a drain field (leach field) to cleanse and purify household wastewater. Sewage flows by gravity from the house to the tank where heavy solids settle to the bottom (sludge) and lighter solids, grease and oils float to the top (scum). Anaerobic bacteria break down the solids. Incoming sewage displaces a like quantity of liquid (effluent), which flows from the tank by gravity to pipes or chambers buried underground. Effluent is absorbed by the soil where aerobic bacteria and microorganisms utilize various nutrients and chemicals contained in the effluent. The majority of the purified water returns to the ground water.

A septic inspection seeks to determine whether the components of the septic system are operating properly.

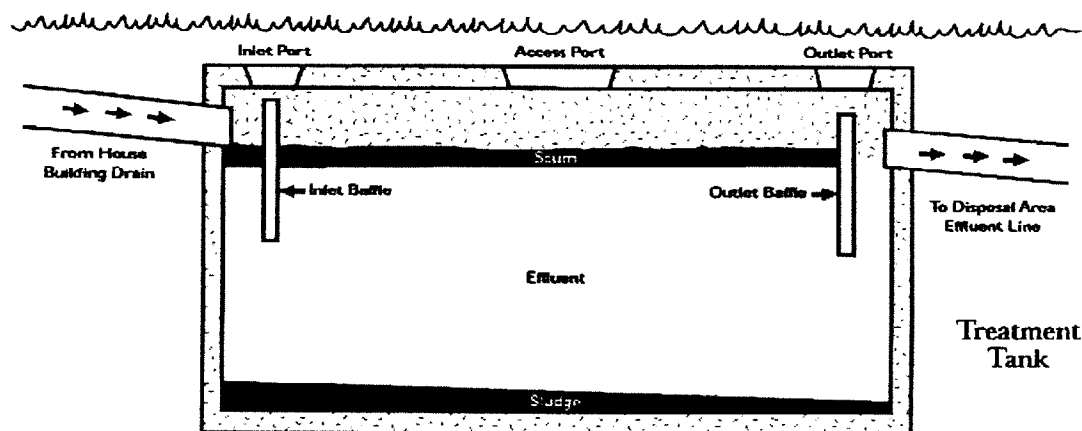
In 1974 the state of Maine adopted rules for the design and construction of septic systems and required the use of a standard design form (HHE-200). If the system being inspected was installed after 1974, and the form is available at the time of inspection, the original home design criteria will be compared with the current usage.

Inside the House:

The physical inspection will begin with a review of the home's readily visible plumbing. Fixtures are checked to ensure that leaks are not causing excessive amounts of water to enter the septic system. Sump pumps and backwash from the water treatment equipment should not drain into the system. Washing machines should empty into the septic system unless they drain into a separate gray water system that is specifically designed for such use. A garbage disposal places excessive amounts of solids into the system and should not be used unless the septic design (HHE-200) has made provisions for its use.

The Treatment Tank (Septic Tank)

The septic tank needs to be of a sufficient size to allow sewage from the house to have adequate time to permit the heavy solids (sludge) to settle to the bottom and the lighter solids (scum) to float to the top. Usually, the outlet inspection cover will be excavated to allow observation into the tank, and an estimate of tank condition and size to be made. The effluent level should be at the bottom (invert) of the outlet pipe. A baffle needs to be in place and have sufficient structural integrity to hold solids in the tank, where anaerobic bacteria will digest the organic material. Non-organic material needs to be pumped every three years, to prevent excess amounts of solids from escaping from the tank into the leach field.



Pump Tank

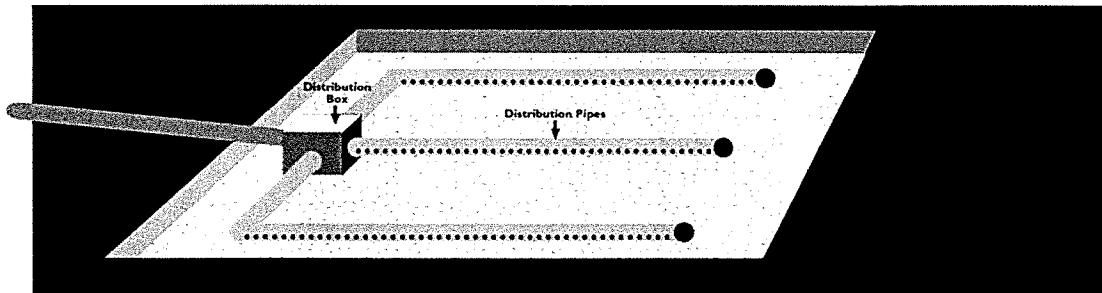
Most septic systems are designed to allow effluent to flow by gravity to the leach field. Occasionally, leach fields need to be placed higher than the septic tank. A pump would then be necessary to deliver the effluent to the higher leach field. If the home being inspected utilizes a pump system, the pump tank may either be opened or inspected using a fiber optic camera inserted through the septic tank outlet pipe into the pump tank, to confirm that the pump is operating properly and that excess amounts of scum have not accumulated in the tank.

Sufficient water will be introduced into the septic tank that will then flow into the pump tank to raise the effluent level. When a preset level is reached, the float switch will activate the pump and lower the effluent level. When the effluent is drawn down to a preset level, the switch will deactivate the pump. If the pump fails to activate and the effluent level continues to rise, a higher switch should activate an alarm inside the home to warn of pump malfunction.

Disposal Area (Leach Field)

If gravity is used to deliver the effluent to the leach field, a pump is not required. Where possible, a fiber optic camera will be inserted through the outlet pipe of the septic tank and the effluent line may then be inspected for obstructions and an effort will be made to observe the condition of the distribution box, if present.

The leach field provides a temporary underground storage area for the effluent using either a series of pipes buried in a trench or bed of small stones, or a series of chambers.



The surrounding soil acts as a filter as it absorbs the effluent. Aerobic bacteria and micro-organisms convert the remaining organic material to soluble plant nutrients. Pathogens are attracted and held by the electrical charge of the soil particles and, away from the host, soon die. Purified water is allowed to return to the water table.

As the leach field ages, the soil becomes clogged with waste water solids and the by-products of bacterial and microorganism's growth. As this Biomat accumulated, absorption is slowed and the field begins to retain effluent. When effluent is retained above the stone layer or the chambers fill, the field has reached the end of its useful life (failed). If the field is not restored or replaced, continued use would flood the field. If ponding or outbreak occurs, or the effluent backs up into the house, the system is malfunctioning and must be replaced.

During the inspection, water may be introduced into the septic tank and allowed to flow into the field. When possible, the fiber optic camera will be used to observe the flow and drainage of effluent. The ground above and surrounding the leach field will be inspected to ensure that ponding or breakout has not occurred and that sufficient ground cover is present to prevent erosion. A core sample may be taken or a test pit dug to ensure that effluent is not being retained above the stone layer or that the chambers are not full. The surrounding landscape will be observed to note if rain runoff will need to be directed away from the leach field.

An overall assessment will be made as to the condition of the septic system. Recommendations will be made to correct deficiencies or to improve the system.

Some Things You Can Do to Keep Your Septic System Healthy

Septic systems are hardy and self-sufficient, but there are ways to ensure that you receive the greatest longevity of yours:

1. Know the location of your tank and have the non-biodegradable materials pumped from it every three to five years.
2. Avoid excess water in your drain field. Some things you can do are:
 - a. Repair leaking fixtures.
 - b. Install low flow showerheads.
 - c. Space your washer loads throughout the week.
 - d. Redirect drains from sump pumps and backwash from water treatment systems away from your septic system.
 - e. Divert rain runoff from the yards, driveways, and roofs away from the drain field.
3. Eliminate or severely restrict the use of garbage disposals and prevent grease and oils from entering the drain. Everything that can go into the trash should be kept out of the system including: paper towels, tissues, disposable diapers, sanitary products, and condoms.
4. Use liquid laundry detergent and minimize the use of chlorine bleach which kills bacteria.
5. Do not use continuous toilet bowl cleaners. Paint removers and thinners, latex paint, cleaning solvents, oils, and toxic pesticides should be disposed of according to your local ordinances rather than down the drain.
6. Additives are not necessary and may do more harm than good.
7. An effluent filter will help restrict the migration of solids into the drain field. Filters need annual cleaning.
8. Avoid vehicular traffic over the tank, drainpipes, and disposal field to avoid compaction of the soil and possible damage to the pipes, unless your system was specifically designed to handle the excessive weight.
9. Grass should be grown over the drainage field to prevent erosion. Avoid planting woody rooted trees and bushes near the field. Their roots can invade and clog the pipes.
10. Vegetable gardens need to be located well away from the drainage field.
11. Unused antibiotics should not be flushed into the system.
12. Know the warning signs of a malfunctioning field due to its age or damage.
 - a. House drains may become sluggish, gurgle, or even back up.
 - b. Grass over the drain field may grow taller or richer in color, and the ground may become mushy and have a septic smell.
 - c. Dark effluent may begin to pond above or breakout the sides of the drain field.
 - d. When in doubt, call a professional for an opinion.

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering
(207)289-3826

R3/1

PROPERTY ADDRESS

Town Or Plantation: ELIOT

Street Subdivision Lot #: RT 236

PROPERTY OWNERS NAME

Last: GARLAND First: BILL

Applicant Name: INTERSTATE EQUIP. CORP

Mailing Address of Owner/Applicant (if Different): ELIOT ME

ELIOT PERMIT # 890 TOWN COPY

Date Permit Issued: 5-17-89 \$ 140 FEE Double Fee Charged

[Signature]
Local Plumbing Inspector Signature

L.P.I. # 854

37.9

Owner/Applicant Statement

I certify that the information submitted is correct to the best of my knowledge and understand that any falsification is reason for the Local Plumbing Inspector to deny a Permit.

[Signature] G.M. 5-17-89
Signature of Owner/Applicant Date

Caution: Inspection Required

I have inspected the installation authorized above and found it to be in compliance with the Subsurface Wastewater Disposal Rules.

[Signature]
Local Plumbing Inspector Signature

5/18/89
Date Approved

PERMIT INFORMATION

| | | |
|---|---|--|
| <p>THIS APPLICATION IS FOR:</p> <p>1. <input type="checkbox"/> NEW SYSTEM</p> <p>2. <input checked="" type="checkbox"/> REPLACEMENT SYSTEM</p> <p>3. <input type="checkbox"/> EXPANDED SYSTEM</p> <p>4. <input type="checkbox"/> EXPERIMENTAL SYSTEM</p> | <p>THIS APPLICATION REQUIRES:</p> <p>1. <input checked="" type="checkbox"/> NO RULE VARIANCE</p> <p>2. <input type="checkbox"/> NEW SYSTEM VARIANCE Attach New System Variance Form</p> <p>3. <input type="checkbox"/> REPLACEMENT SYSTEM VARIANCE Attach Replacement System Variance Form</p> <p>a. <input type="checkbox"/> Requiring Local Plumbing Inspector Approval</p> <p>b. <input type="checkbox"/> Requires State and Local Plumbing Inspector Approval</p> <p>4. <input type="checkbox"/> MINIMUM LOT SIZE VARIANCE</p> | <p>INSTALLATION IS:</p> <p>COMPLETE SYSTEM</p> <p>1. <input checked="" type="checkbox"/> NON-ENGINEERED SYSTEM</p> <p>2. <input type="checkbox"/> PRIMITIVE SYSTEM (Includes Alternative Toilet)</p> <p>3. <input type="checkbox"/> ENGINEERED (+ 2000 gpd)</p> <p>INDIVIDUALLY INSTALLED COMPONENTS:</p> <p>4. <input type="checkbox"/> TREATMENT TANK (ONLY)</p> <p>5. <input type="checkbox"/> HOLDING TANK _____ GAL</p> <p>6. <input type="checkbox"/> ALTERNATIVE TOILET (ONLY)</p> <p>7. <input type="checkbox"/> NON-ENGINEERED DISPOSAL AREA (ONLY)</p> <p>8. <input type="checkbox"/> ENGINEERED DISPOSAL AREA (ONLY)</p> <p>9. <input type="checkbox"/> SEPARATED LAUNDRY SYSTEM</p> |
| <p>SEASONAL CONVERSION to be completed by the LPI</p> <p>5. <input type="checkbox"/> SYSTEM COMPLIES WITH RULES</p> <p>6. <input type="checkbox"/> CONNECTED TO SANITARY SEWER</p> <p>7. <input type="checkbox"/> SYSTEM INSTALLED - P# _____</p> <p>8. <input type="checkbox"/> SYSTEM DESIGN RECORDED AND ATTACHED</p> | <p>DISPOSAL SYSTEM TO SERVE:</p> <p>1. <input type="checkbox"/> SINGLE FAMILY DWELLING</p> <p>2. <input type="checkbox"/> MODULAR OR MOBILE HOME</p> <p>3. <input type="checkbox"/> MULTIPLE FAMILY DWELLING</p> <p>4. <input checked="" type="checkbox"/> OTHER <u>COMMERCIAL</u> SPECIFY _____</p> | <p>TYPE OF WATER SUPPLY</p> <p><u>EXISTING WELL</u></p> |
| <p>IF REPLACEMENT SYSTEM:</p> <p>YEAR FAILING SYSTEM INSTALLED <u>?</u></p> <p>THE FAILING SYSTEM IS:</p> <p>1. <input checked="" type="checkbox"/> BED 3. <input type="checkbox"/> TRENCH</p> <p>2. <input type="checkbox"/> CHAMBER 4. <input type="checkbox"/> OTHER: _____</p> | <p>SIZE OF PROPERTY ZONING</p> <p><u>± 2/1Ac</u> <u>YES</u></p> | |

DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)

| | | | | | | | |
|--|--|---|--|--|---|--|---|
| <p>TREATMENT TANK</p> <p>1. <input checked="" type="checkbox"/> SEPTIC: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Low Profile</p> <p>2. <input type="checkbox"/> AEROBIC <u>NGW</u></p> <p>SIZE: <u>1500</u> GALS.</p> | <p>WATER CONSERVATION</p> <p>1. <input checked="" type="checkbox"/> NONE</p> <p>2. <input type="checkbox"/> LOW VOLUME TOILET</p> <p>3. <input type="checkbox"/> SEPARATED LAUNDRY SYSTEM</p> <p>4. <input type="checkbox"/> ALTERNATIVE TOILET</p> <p>SPECIFY: _____</p> | <p>PUMPING</p> <p>1. <input type="checkbox"/> NOT REQUIRED</p> <p>2. <input type="checkbox"/> MAY BE REQUIRED (DEPENDENT ON TREATMENT TANK LOCATION AND ELEVATION)</p> <p>3. <input checked="" type="checkbox"/> REQUIRED DOSE: <u>200</u> GALS.</p> | <p>CRITERIA USED FOR DESIGN FLOW (BEDROOMS, SEATING, EMPLOYEES, WATER RECORDS, ETC.)</p> <p><u>40 Employees</u> <u>@ 15 GPD ea</u> <u>= 600 GPD</u></p> | | | | |
| <p>SOIL CONDITIONS USED FOR DESIGN PURPOSES</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">PROFILE <u>3</u></td> <td style="width: 50%;">CONDITION <u>C</u></td> </tr> <tr> <td colspan="2">DEPTH TO LIMITING FACTOR: <u>24.</u></td> </tr> </table> | PROFILE <u>3</u> | CONDITION <u>C</u> | DEPTH TO LIMITING FACTOR: <u>24.</u> | | <p>SIZE RATINGS USED FOR DESIGN PURPOSES</p> <p>1. <input type="checkbox"/> SMALL</p> <p>2. <input type="checkbox"/> MEDIUM</p> <p>3. <input checked="" type="checkbox"/> MEDIUM-LARGE</p> <p>4. <input type="checkbox"/> LARGE</p> <p>5. <input type="checkbox"/> EXTRA LARGE</p> | <p>DISPOSAL AREA TYPE/SIZE</p> <p>1. <input type="checkbox"/> BED _____ Sq. Ft.</p> <p>2. <input checked="" type="checkbox"/> CHAMBER <u>1120</u> Sq. Ft. <input type="checkbox"/> REGULAR <input type="checkbox"/> H-20</p> <p>3. <input type="checkbox"/> TRENCH _____ Linear Ft.</p> <p>4. <input type="checkbox"/> OTHER: _____</p> | <p>EQUIPMENT Maintenance Facility</p> <p>DESIGN FLOW: <u>600</u> (GALLONS/DAY)</p> |
| PROFILE <u>3</u> | CONDITION <u>C</u> | | | | | | |
| DEPTH TO LIMITING FACTOR: <u>24.</u> | | | | | | | |

SITE EVALUATOR STATEMENT

On 4-11-89 (date) I conducted a site evaluation for this project and certify that the data reported is accurate. The system I propose is in accordance with the Subsurface Wastewater Disposal Rules.

Michael Marano 219 5-1-89
Site Evaluator Signature SE# Date

(Local Plumbing Inspector's Signature if permit is for Seasonal Conversion.)

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering

Town, City, Plantation

ELIOT

Street, Road, Subdivision

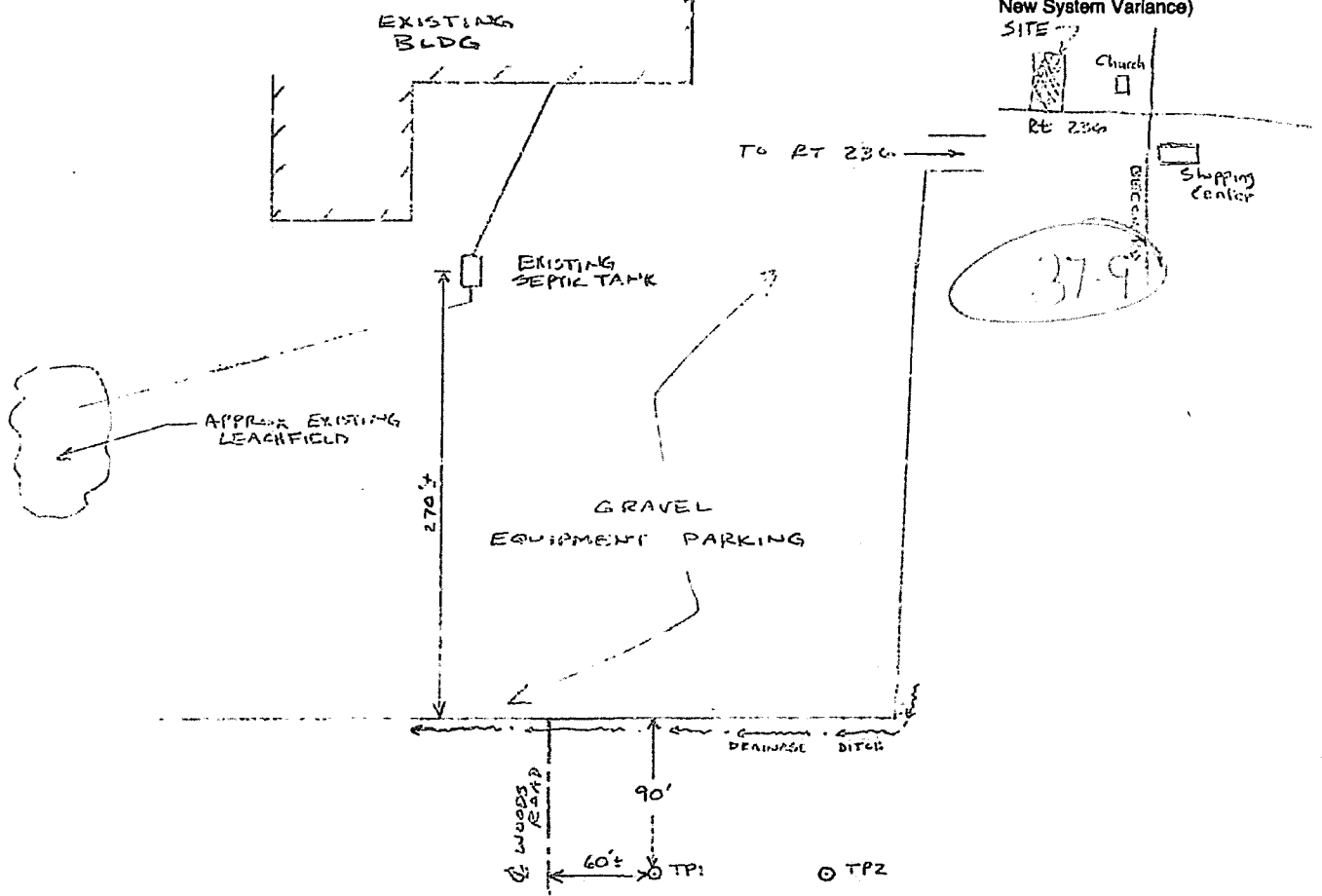
RT 236
SITE PLAN

Owners Name

INTERSTATE EQUIP. CORP

SITE LOCATION PLAN (Attach Map from Maine Atlas for New System Variance)

Scale 1" = 3100' FL



SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole TP1 Test Pit Boring
3" Depth of Organic Horizon Above Mineral Soil

| DEPTH BELOW MINERAL SOIL SURFACE (Inches) | Texture | Consistency | Color | Mottling |
|---|-----------------|-------------|--------------|----------|
| 0 | FINE SANDY LOAM | FRIABLE | DARK BROWN | |
| 6 | | | STRONG BROWN | |
| 15 | | | YELLOWISH | |
| 20 | | | BROWN | |
| 30 | | FIRM | PALE BROWN | |
| 40 | | | BROWN | FEW |
| 50 | | | | |

| | | | | |
|-----------------------|-----------------------------------|------------------|----------------------------|--|
| Soil Profile <u>3</u> | Classification Condition <u>C</u> | Slope <u>2</u> % | Limiting Factor <u>26'</u> | <input type="checkbox"/> Ground Water <input checked="" type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock |
|-----------------------|-----------------------------------|------------------|----------------------------|--|

Observation Hole TP2 Test Pit Boring
3" Depth of Organic Horizon Above Mineral Soil

| DEPTH BELOW MINERAL SOIL SURFACE (Inches) | Texture | Consistency | Color | Mottling |
|---|-----------------|-------------|-----------------|----------|
| 0 | F.S.L. | FRIABLE | DK. BROWN | |
| 6 | FINE SANDY LOAM | FRIABLE | STRONG BROWN | |
| 15 | | | YELLOWISH BROWN | |
| 20 | | | PALE BROWN | |
| 30 | | FIRM | BROWN | |
| 40 | | | | FEW |
| 50 | | | | |

| | | | | |
|-----------------------|-----------------------------------|------------------|----------------------------|--|
| Soil Profile <u>3</u> | Classification Condition <u>C</u> | Slope <u>2</u> % | Limiting Factor <u>24'</u> | <input type="checkbox"/> Ground Water <input checked="" type="checkbox"/> Restrictive Layer <input type="checkbox"/> Bedrock |
|-----------------------|-----------------------------------|------------------|----------------------------|--|

Michael Mammons

Site Evaluator Signature

219

SE#

4-11-89

Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Town, City, Plantation

ELIOT

Street, Road, Subdivision

RT 236

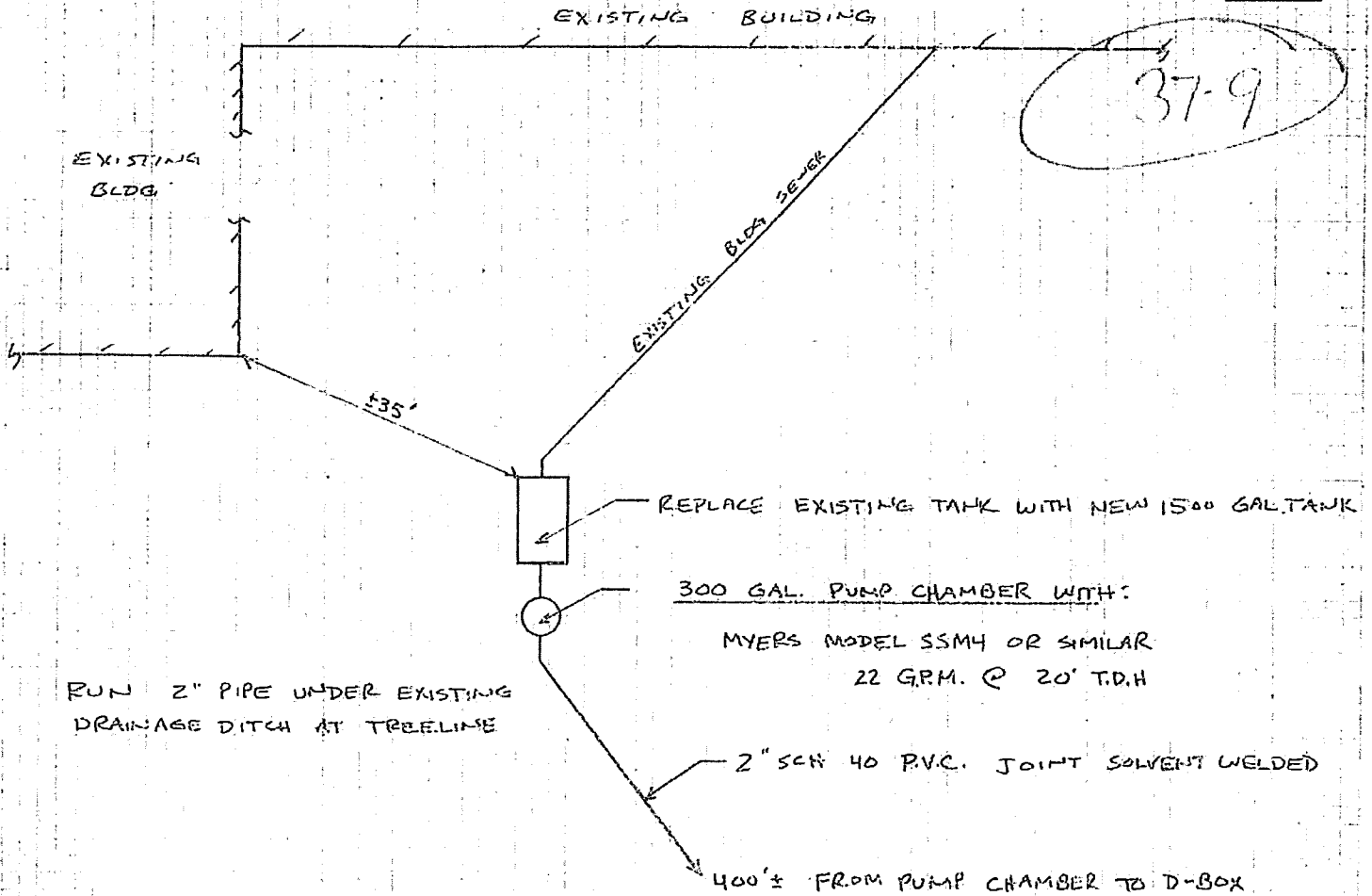
Department of Human Services
Division of Health Engineering

Owners Name

INTERSTATE EQUIP. CORP

SUBSURFACE WASTEWATER DISPOSAL PLAN

Scale 1" = 20 Ft.



FILL REQUIREMENTS

Depth of Fill (Upslope)
Depth of Fill (Downslope)

CONSTRUCTION ELEVATIONS

— " Reference Elevation is —
— " Bottom of Disposal Area —
— " Top of Distribution Lines or Chambers —

ELEVATION REFERENCE POINT LOCATION & DESCRIPTION

DISPOSAL AREA CROSS SECTION

Scale:

Vertical: 1 inch = Ft.
Horizontal: 1 inch = Ft.

SEE NEXT PAGE

Michael Maurano
Site Evaluator Signature

219
SE#

4-11-89
Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering

Town, City, Plantation

Street, Road, Subdivision

Owners Name

ELIOT

RT 236

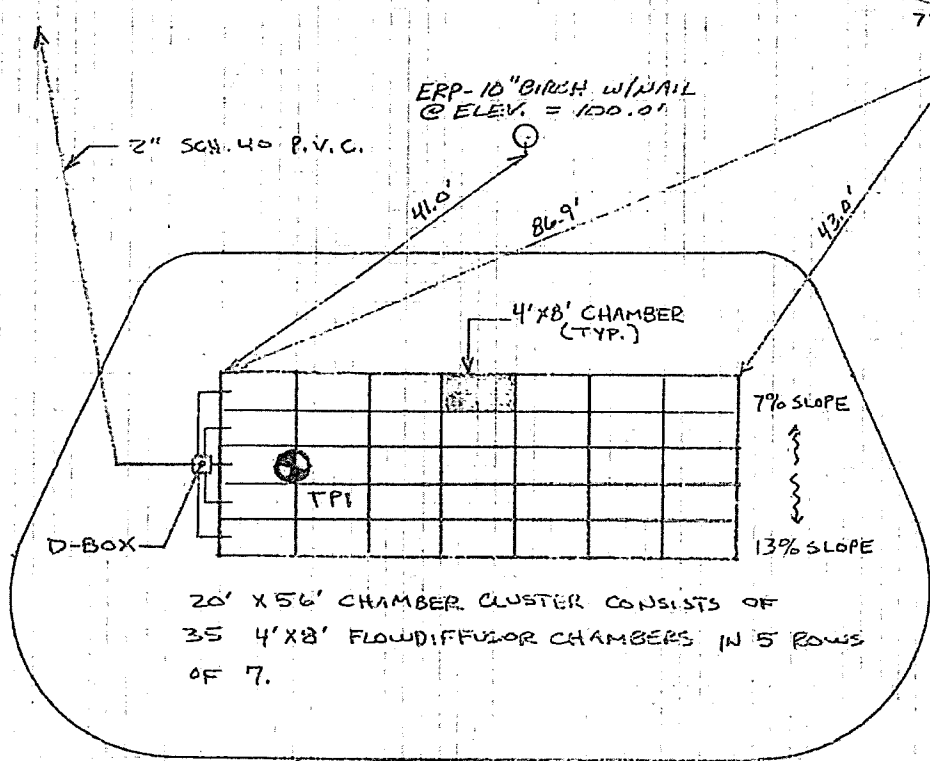
INTERSTATE EQUIP. CORP

SUBSURFACE WASTEWATER DISPOSAL PLAN

Scale 1" = 20 Ft.

RUN 2" PIPE UNDER EXISTING DRAINAGE DITCH AT TREELINE

± 400' FROM D-BOX TO PUMP CHAMBER



20' X 56' CHAMBER CLUSTER CONSISTS OF 35 4' X 8' FLOW DIFFUSER CHAMBERS IN 5 ROWS OF 7.

FILL REQUIREMENTS

Depth of Fill (Upslope) ± 13"
Depth of Fill (Downslope) ± 25"

CONSTRUCTION ELEVATIONS

Reference Elevation is 100.0'
Bottom of Disposal Area (STONE) 96.0'
Top of Distribution Lines or Chambers 97.6'

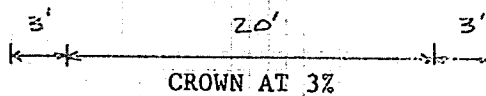
ELEVATION REFERENCE POINT LOCATION & DESCRIPTION

ERP- 10" BIRCH W/NAIL @ ELEV. = 100.0'

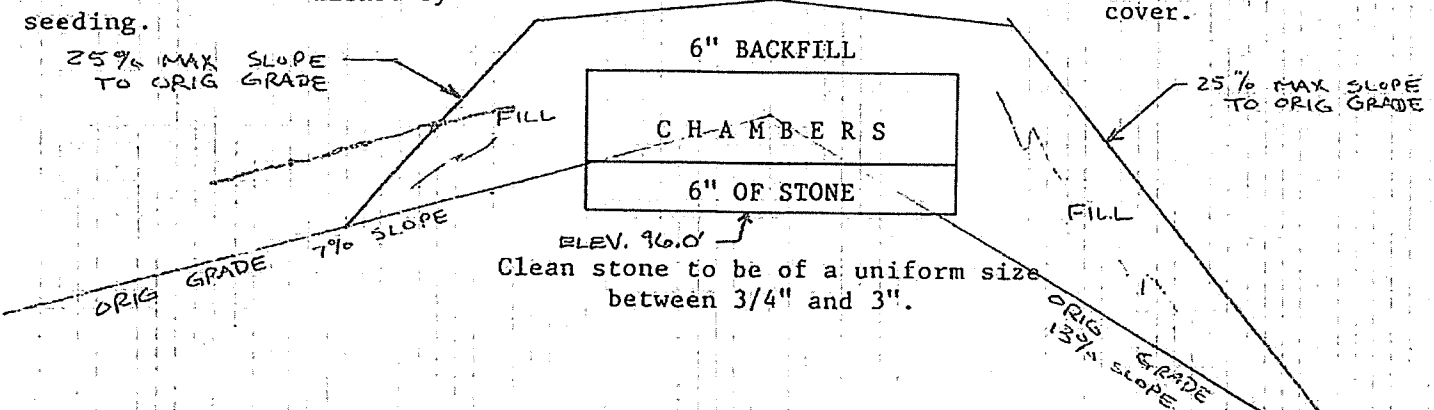
Scale:

Vertical: 1 Inch = 2 Ft.
Horizontal: 1 Inch = 10 Ft.

Cover for bed may be: grass, clover, trefoil, vetch, perennial wild flowers, or other herbaceous perennials which can be established by seeding.



Cover for fill extensions may be: Small woody shrubs with hardy perennial ground cover.



Michael Mariano
Site Evaluator Signature

219
SE#

5-1-89
Date

GENERAL NOTES (CONT):

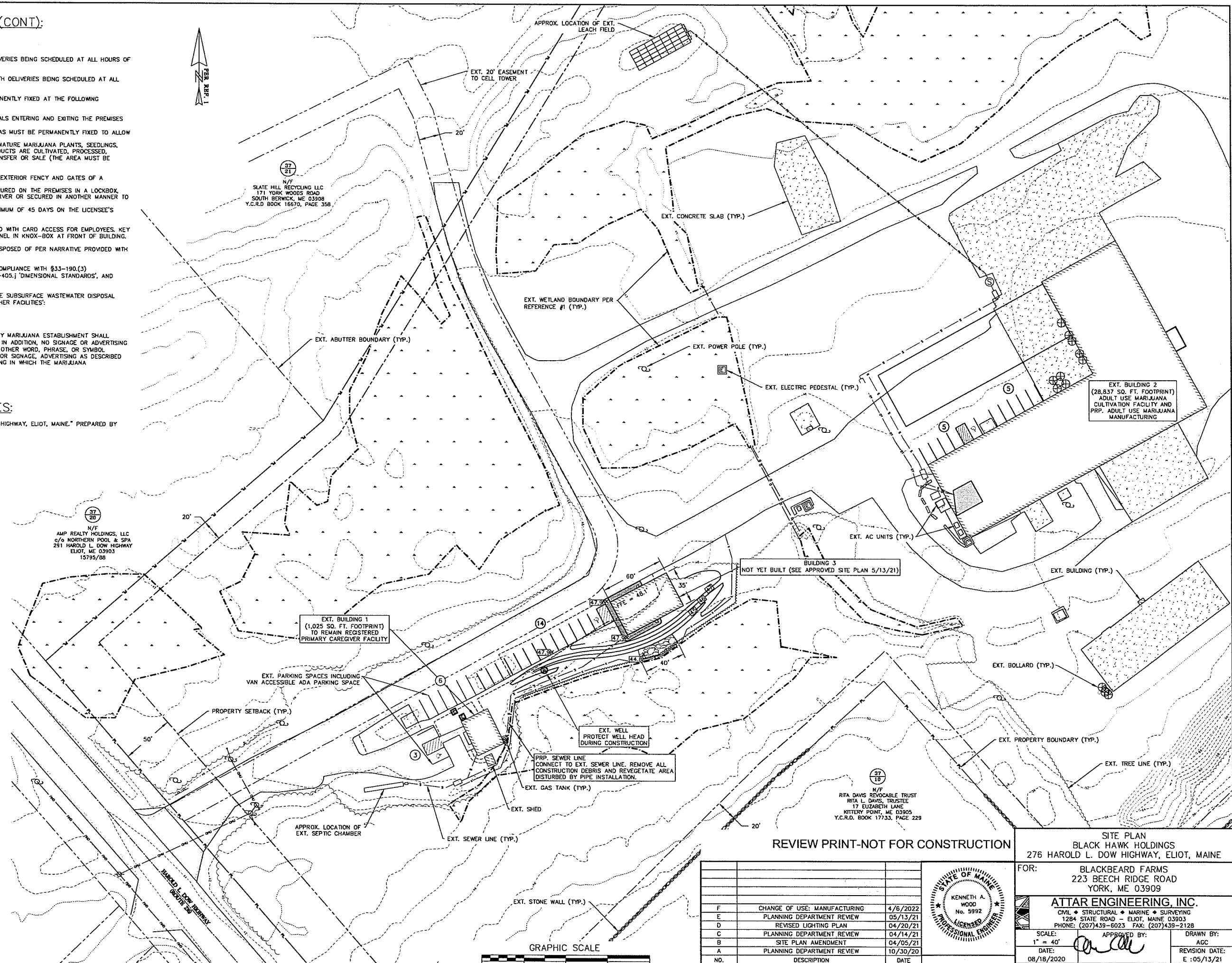
- B. HOURS OF OPERATION
RETAIL USE: 7 DAYS/WEEK, 8:00AM - 9:00PM
CULTIVATION USE: 7DAYS/WEEK, 8:00AM-9:00PM, WITH DELIVERIES BEING SCHEDULED AT ALL HOURS OF THE DAY.
MANUFACTURING USE: 7 DAYS/WEEK, 8:00AM - 9:00PM, WITH DELIVERIES BEING SCHEDULED AT ALL HOURS OF THE DAY.
9. AS PER §33-190(4)(f): SECURITY CAMERAS MUST BE PERMANENTLY FIXED AT THE FOLLOWING LOCATIONS:
 - A. ALL EXIT/ENTRY POINTS (SUFFICIENT TO IDENTIFY INDIVIDUALS ENTERING AND EXITING THE PREMISES AND LIMITED ACCESS AREAS).
 - B. EACH POINT OF SALE - A SUFFICIENT NUMBER OF CAMERAS MUST BE PERMANENTLY FIXED TO ALLOW VIEWING OF THE FOLLOWING:
 - ANY AREA WHERE MARIJUANA, MARIJUANA PLANTS, IMMATURE MARIJUANA PLANTS, SEEDLINGS, SEEDS, MARIJUANA CONCENTRATE OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, MANUFACTURED, STORED, AND/OR PREPARED FOR TRANSFER OR SALE (THE AREA MUST BE VIEWED IN ITS ENTIRETY).
 - ANY AREA WHERE WASTE IS STORED.
 - ALL AREAS OF THE PREMISES WITHIN 10 FEET OF THE EXTERIOR FENCE AND GATES OF A CULTIVATION FACILITY WITH OUTDOOR GROWING.
 - C. THE SURVEILLANCE SYSTEM STORAGE DEVICE MUST BE SECURED ON THE PREMISES IN A LOCKBOX, CABINET OR CLOSET, OR MUST BE ON A THIRD-PARTY SERVER OR SECURED IN ANOTHER MANNER TO PROTECT FROM EMPLOYEE TAMPERING OR CRIMINAL THEFT.
 - D. ALL SURVEILLANCE RECORDINGS MUST BE KEPT FOR A MINIMUM OF 45 DAYS ON THE LICENSEE'S RECORDING DEVICE.
10. AS PER §33-190(4)(f): ALL EXTERIOR DOORS TO BE LOCKED WITH CARD ACCESS FOR EMPLOYEES. KEY CARD AND KEYS WILL BE PROVIDED FOR EMERGENCY PERSONNEL IN KNOX-BOX AT FRONT OF BUILDING.
11. A PER §33-190(4)(e): FACILITY WASTE PRODUCTS TO BE DISPOSED OF PER NARRATIVE PROVIDED WITH THE SITE PLAN APPLICATION ASSOCIATED WITH THIS PLAN.
12. ALL PROPOSED SIGNS SHALL BE DESIGNED AND PLACED IN COMPLIANCE WITH §33-190(3) 'PERFORMANCE STANDARDS FOR MARIJUANA FACILITIES', §45-405.1 'DIMENSIONAL STANDARDS', AND ARTICLE XI §45-532 'SIGN PLACEMENT'.
13. SEWER DEMAND CALCULATION - AS PER THE STATE OF MAINE SUBSURFACE WASTEWATER DISPOSAL RULES, §10-144 CMR 241, TABLE 4C 'DESIGN FLOWS FOR OTHER FACILITIES':
BUILDING 1 AND 3: 60 GPD EMPLOYEES
BUILDING 2: 180 GPD EMPLOYEES
14. AS PER §33-190(3): ALL SIGNAGE AND ADVERTISING FOR ANY MARIJUANA ESTABLISHMENT SHALL COMPLY WITH ALL APPLICABLE PROVISIONS OF CHAPTER 45. IN ADDITION, NO SIGNAGE OR ADVERTISING SHALL USE THE WORD "MARIJUANA" OR "CANNABIS" OR ANY OTHER WORD, PHRASE, OR SYMBOL COMMONLY UNDERSTOOD TO REFER TO MARIJUANA. NO INTERIOR SIGNAGE, ADVERTISING AS DESCRIBED ABOVE SHALL BE VISIBLE FROM THE EXTERIOR OF THE BUILDING IN WHICH THE MARIJUANA ESTABLISHMENT IS LOCATED.

REFERENCES:

1. "SITE PLAN, BLACK HAWK HOLDINGS, 276 HAROLD L. DOW HIGHWAY, ELIOT, MAINE." PREPARED BY ATTAR ENGINEERING, INC. PLAN DATED MAY 13, 2021.

LEGEND

| | |
|----------------------|-----|
| PROPERTY LINE | --- |
| SETBACK | --- |
| EXT. ABUTTER LINE | --- |
| EXT. PAVEMENT | --- |
| PRP. PAVEMENT | --- |
| EXT. GRAVEL | --- |
| EXT. CONCRETE | --- |
| EXT. PARKING | --- |
| PRP. PARKING | --- |
| CENTERLINE OF ROAD | --- |
| EXT. BUILDING | ▨ |
| PRP. BUILDING | ▨ |
| EXT. STONEWALL | --- |
| EXT. TREELINE | --- |
| PRP. TREELINE | --- |
| EXT. MAJOR CONTOUR | --- |
| EXT. MINOR CONTOUR | --- |
| PRP. MAJOR CONTOUR | --- |
| PRP. MINOR CONTOUR | --- |
| EXT. SIGN | --- |
| EXT. POWER POLE | ⊕ |
| EXT. ELEC PEDESTAL | ⊕ |
| EXT. OVERHEAD ELEC | OHU |
| EXT. SEWER MANHOLE | ⊙ |
| EXT. SEWER LINE | S |
| PRP. SEWER LINE | S |
| EXT. SEPTIC TANK | ⊙ |
| EXT. WELL | ⊙ |
| EXT. STORM LINE | D |
| EXT. WETLAND BNDY | --- |
| EXT. WETLAND AREA | --- |
| EXT. STREAM LIMITS | --- |
| EXT. STREAM OFFSET | --- |
| PRP. SILTATION FENCE | --- |
| NEW IMPERVIOUS AREA | --- |



REVIEW PRINT-NOT FOR CONSTRUCTION

| NO. | DESCRIPTION | DATE |
|-----|------------------------------|----------|
| F | CHANGE OF USE: MANUFACTURING | 4/6/2022 |
| E | PLANNING DEPARTMENT REVIEW | 05/13/21 |
| D | REVISED LIGHTING PLAN | 04/20/21 |
| C | PLANNING DEPARTMENT REVIEW | 04/14/21 |
| B | SITE PLAN AMENDMENT | 04/05/21 |
| A | PLANNING DEPARTMENT REVIEW | 10/30/20 |



SITE PLAN
BLACK HAWK HOLDINGS
276 HAROLD L. DOW HIGHWAY, ELIOT, MAINE

FOR: BLACKBEARD FARMS
223 BEECH RIDGE ROAD
YORK, ME 03909

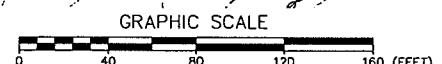
ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE • SURVEYING
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-6023 FAX: (207)439-2128

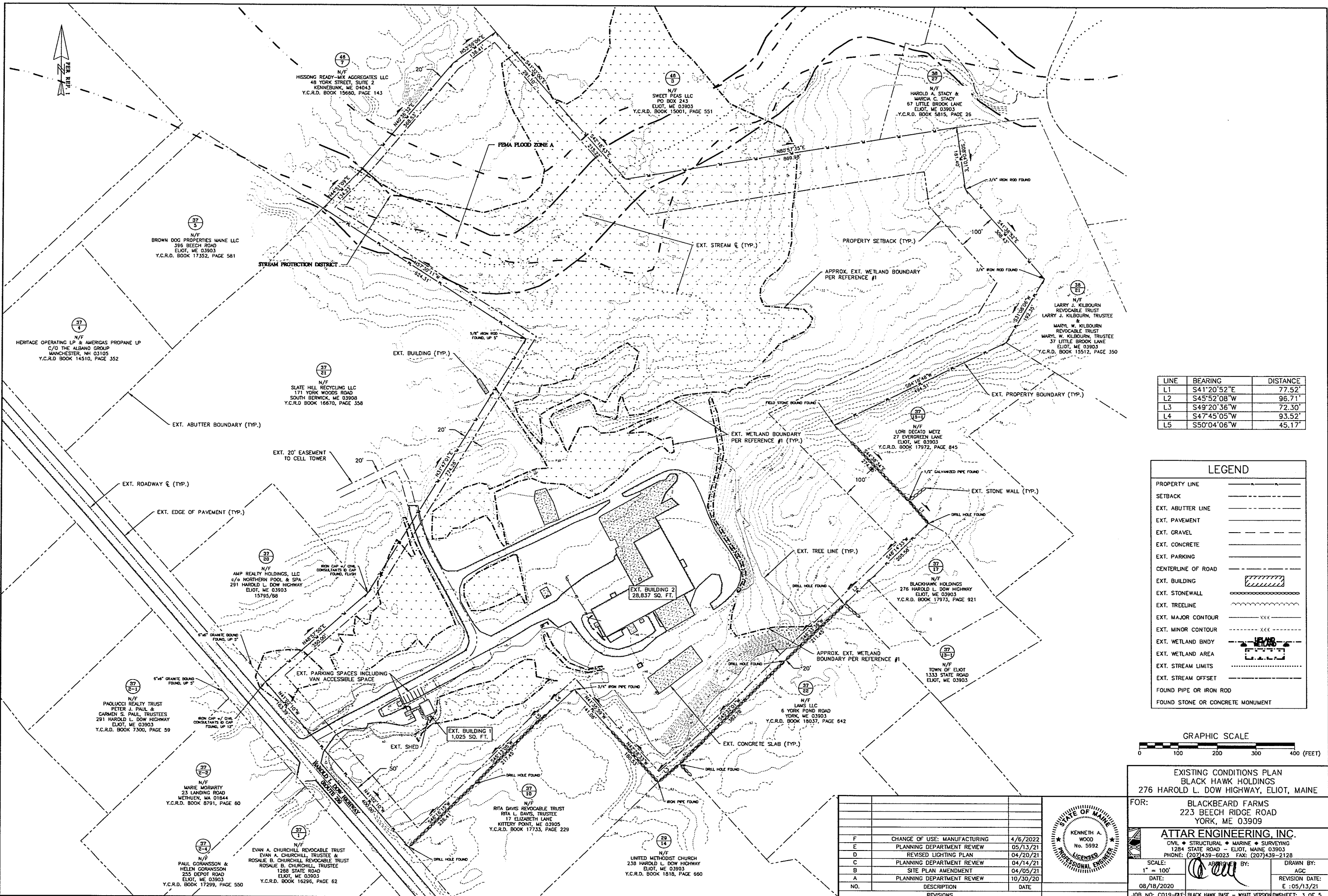
SCALE: 1" = 40'
DATE: 08/18/2020

APPROVED BY: *[Signature]*
DATE: 08/18/2020

DRAWN BY: AGC
REVISION DATE: E :05/13/21

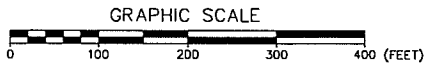
JOB NO: C019-02E; BLACK HAWK BASE - WYATT VERSION; DWG SHEET: 2 OF 5





| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | S41°20'52"E | 77.52' |
| L2 | S45°52'08"W | 96.71' |
| L3 | S49°20'36"W | 72.30' |
| L4 | S47°45'05"W | 93.52' |
| L5 | S50°04'06"W | 45.17' |

| LEGEND | |
|----------------------------------|---|
| PROPERTY LINE | — |
| SETBACK | — |
| EXT. ABUTTER LINE | — |
| EXT. PAVEMENT | — |
| EXT. GRAVEL | — |
| EXT. CONCRETE | — |
| EXT. PARKING | — |
| CENTERLINE OF ROAD | — |
| EXT. BUILDING | ▨ |
| EXT. STONEWALL | — |
| EXT. TREELINE | — |
| EXT. MAJOR CONTOUR | — |
| EXT. MINOR CONTOUR | — |
| EXT. WETLAND BNDY | — |
| EXT. WETLAND AREA | — |
| EXT. STREAM LIMITS | — |
| EXT. STREAM OFFSET | — |
| FOUND PIPE OR IRON ROD | — |
| FOUND STONE OR CONCRETE MONUMENT | — |



EXISTING CONDITIONS PLAN
 BLACK HAWK HOLDINGS
 226 HAROLD L. DOW HIGHWAY, ELIOT, MAINE

FOR: BLACKBEARD FARMS
 223 BEECH RIDGE ROAD
 YORK, ME 03909

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



SCALE: 1" = 100'
 DATE: 08/18/2020
 JOB NO: C019-ELE; BLACK HAWK BASE - WYATT VERSION; SHEET: 3 OF 5

| NO. | DESCRIPTION | DATE |
|-----|------------------------------|----------|
| F | CHANGE OF USE: MANUFACTURING | 4/6/2022 |
| E | PLANNING DEPARTMENT REVIEW | 05/13/21 |
| D | REVISED LIGHTING PLAN | 04/20/21 |
| C | PLANNING DEPARTMENT REVIEW | 04/14/21 |
| B | SITE PLAN AMENDMENT | 04/05/21 |
| A | PLANNING DEPARTMENT REVIEW | 10/30/20 |
| NO. | DESCRIPTION | DATE |
| | REVISIONS | |

N/F HISSING READY-MIX AGGREGATES LLC
 48 YORK STREET, SUITE 2
 KENNEBUNK, ME 04043
 Y.C.R.D. BOOK 15680, PAGE 143

N/F SWEET PEAS LLC
 PO BOX 243
 ELIOT, ME 03903
 Y.C.R.D. BOOK 15001, PAGE 551

N/F HAROLD A. STACY & MARCIA C. STACY
 67 LITTLE BROOK LANE
 ELIOT, ME 03903
 Y.C.R.D. BOOK 5815, PAGE 26

N/F BROWN DOG PROPERTIES MAINE LLC
 396 BEECH ROAD
 ELIOT, ME 03903
 Y.C.R.D. BOOK 17352, PAGE 581

N/F HERITAGE OPERATING LP & AMERIGAS PROPANE LP
 C/O THE ALBAND GROUP
 MANCHESTER, NH 03105
 Y.C.R.D. BOOK 14310, PAGE 352

N/F SLATE HILL RECYCLING LLC
 171 YORK WOODS ROAD
 SOUTH BERWICK, ME 03908
 Y.C.R.D. BOOK 16670, PAGE 358

N/F AMP REALTY HOLDINGS, LLC
 c/o NORTHERN POOL & SPA
 291 HAROLD L. DOW HIGHWAY
 ELIOT, ME 03903
 15795/88

N/F PADLUCCI REALTY TRUST
 PETER J. PAUL & CARMEN S. PAUL, TRUSTEES
 291 HAROLD L. DOW HIGHWAY
 ELIOT, ME 03903
 Y.C.R.D. BOOK 7300, PAGE 59

N/F MARIE MORIARTY
 23 LANDING ROAD
 METHUEN, MA 01844
 Y.C.R.D. BOOK 8791, PAGE 60

N/F EVAN A. CHURCHILL, REVOCABLE TRUST
 EVAN A. CHURCHILL, TRUSTEE & ROSALIE B. CHURCHILL, TRUSTEE
 1288 STATE ROAD
 ELIOT, ME 03903
 Y.C.R.D. BOOK 16296, PAGE 62

N/F PAUL GORANSSON & HELEN GORANSSON
 255 DEPOT ROAD
 ELIOT, ME 03903
 Y.C.R.D. BOOK 17299, PAGE 550

N/F RITA DAVIS REVOCABLE TRUST
 RITA L. DAVIS, TRUSTEE
 17 ELIZABETH LANE
 KITTERY POINT, ME 03905
 Y.C.R.D. BOOK 17733, PAGE 229

N/F UNITED METHODIST CHURCH
 238 HAROLD L. DOW HIGHWAY
 ELIOT, ME 03903
 Y.C.R.D. BOOK 1818, PAGE 660

N/F LORI DECATO METZ
 27 EVERGREEN LANE
 ELIOT, ME 03903
 Y.C.R.D. BOOK 17972, PAGE 845

N/F BLACKHAWK HOLDINGS
 276 HAROLD L. DOW HIGHWAY
 ELIOT, ME 03903
 Y.C.R.D. BOOK 17973, PAGE 921

N/F TOWN OF ELIOT
 1333 STATE ROAD
 ELIOT, ME 03903

N/F LANS LLC
 6 YORK POND ROAD
 YORK, ME 03903
 Y.C.R.D. BOOK 18037, PAGE 642

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- YCRD YORK COUNTY REGISTRY OF DEEDS
- MAP 11 / LOT 21
- RAILROAD SPIKE FOUND
- IRON ROD/IRON PIPE FOUND
- IRON PIPE FOUND
- STONE/CONCRETE BOUND FOUND
- RAILROAD SPIKE SET
- IRON ROD SET
- DRILL HOLE SET
- GRANITE BOUND SET
- BOUNDARY
- BUILDING SETBACK
- OVERHEAD ELECTRIC/WIRES
- CONTOUR
- SPOT ELEVATION
- EDGE OF PAVEMENT (EP)
- WOODS / TREE LINE
- UTILITY POLE (w/ GUY)
- SIGNS
- ELEVATION
- EDGE OF PAVEMENT
- FINISHED FLOOR
- INVERT
- TEMPORARY BENCHMARK
- TYP.

PLAN REFERENCES:

- 1) ALTA/ASCM LAND TITLE SURVEY FOR RUBBER RECOVERY TECHNOLOGIES, ROUTE 236 ELIOT, MAINE. PREPARED BY ANDERSON LIVINGSTON ENGINEERS, INC. DATED MARCH 12, 2001. NOT RECORDED.
- 2) SUBDIVISION PLAN, TAX MAP 37 - LOTS 6, 8 & 14. RECORD OWNERS: ELIOT RECYCLING SERVICES, LLC, 276 HAROLD L. DOW HIGHWAY, ELIOT, MAINE 03903, PROPERTY LOCATED AT: HAROLD L. DOW HIGHWAY, TOWN OF ELIOT, COUNTY OF YORK, STATE OF MAINE. PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2010. FINAL REVISION DATE DECEMBER 7, 2010. Y.C.R.D. PLAN BOOK 348 PAGE 9.
- 3) SKETCH TO ACCOMPANY DEED FOR PROPOSED OUTSALE LAND OF ELIOT RECYCLING SERVICES, LLC TAX MAP 37, LOT 6 AND 9 ROUTE 236, ELIOT, YORK COUNTY, MAINE. PREPARED FOR: PETER PAUL, P.O. BOX 894, ELIOT, ME 03903, SCALE 1" = 100'. DATED 12/3/09. PREPARED BY CML CONSULTANTS, Y.C.R.D. PLAN BOOK 341 PAGE 20.

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
280 Griggs Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-2282
Fax (603) 430-2315

NOTES:

- 1) PARCEL IS SHOWN ON THE TOWN OF ELIOT ASSESSOR'S MAP 37 AS LOT 9.
- 2) OWNER OF RECORD:
BLACK HAWK HOLDINGS
276 HAROLD L. DOW HIGHWAY
ELIOT, ME 03903
17973/921
- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 23014900108, EFFECTIVE DATE JUNE 5, 1989.
- 4) EXISTING LOT AREA:
2,140,126 S.F.
49.1305 ACRES
- 5) PARCEL IS LOCATED IN COMMERCIAL/INDUSTRIAL DISTRICT & PARTIALLY IN THE STREAM AND WETLANDS PROTECTION DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 3 ACRES
FRONTAGE: 300 FEET
SETBACKS: FRONT 30 FEET
SIDE 20 FEET
REAR 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM LOT COVERAGE: 50%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A BOUNDARY SURVEY OF ASSESSOR'S MAP 37 LOT 9 IN THE TOWN OF ELIOT.
- 8) PARCEL IS SUBJECT TO THE TERMS AND CONDITIONS OF A LEASE BY AND BETWEEN CASSELLA T.I.R.E.S., INC. AND SPRINT SPECTRUM LP OF A PCS SITE AGREEMENT RECORDED AT YCRD 11290/92 AND AN EASEMENT FOR A CELL TOWER AND ACCESS (AND GUY OR UTILITY AREAS) RECORDED AT 14856/66.
- 9) PARCEL IS SUBJECT TO AN ENVIRONMENTAL COVENANT WITH THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR A VOLUNTARY RESPONSE ACTION PROGRAM. (SEE YCRD 15377/845)
- 10) PARCEL IS SUBJECT TO THE PERMITTED ENCUMBRANCES AS ENUMERATED IN YCRD 14534/625.
- 11) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').

BLACK HAWK HOLDINGS
TAX MAP 37 LOT 9
276 HAROLD L. DOW HIGHWAY, ELIOT, ME.

| | | |
|-----|--------------------|----------|
| 1 | ISSUED FOR REVIEW | 3/17/20 |
| 0 | ISSUED FOR COMMENT | 12/31/19 |
| NO. | DESCRIPTION | DATE |

REVISIONS

SCALE: 1" = 100' NOVEMBER 2019

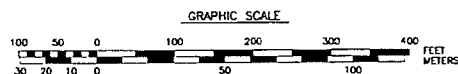
BOUNDARY PLAN

C1

PURSUANT TO CHAPTER 90 PARTS 1 AND 2 OF THE SURVEY STANDARDS OF PRACTICE AS ADOPTED BY THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS, THE FOLLOWING EXCEPTIONS TO PART 2 ARE NOTED:
A) NO SURVEY REPORT HAS BEEN PREPARED.
B) NO LAND DESCRIPTION HAS BEEN PREPARED.
C) MONUMENTS HAVE NOT BEEN SET.
THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CHAPTER 90 STANDARDS OF PRACTICE, EFFECTIVE DATE APRIL 1, 2001 EXCEPT AS NOTED ON THIS PLAN.



JOHN R. CHANDON, PLS #2275
DATE 3-17-20

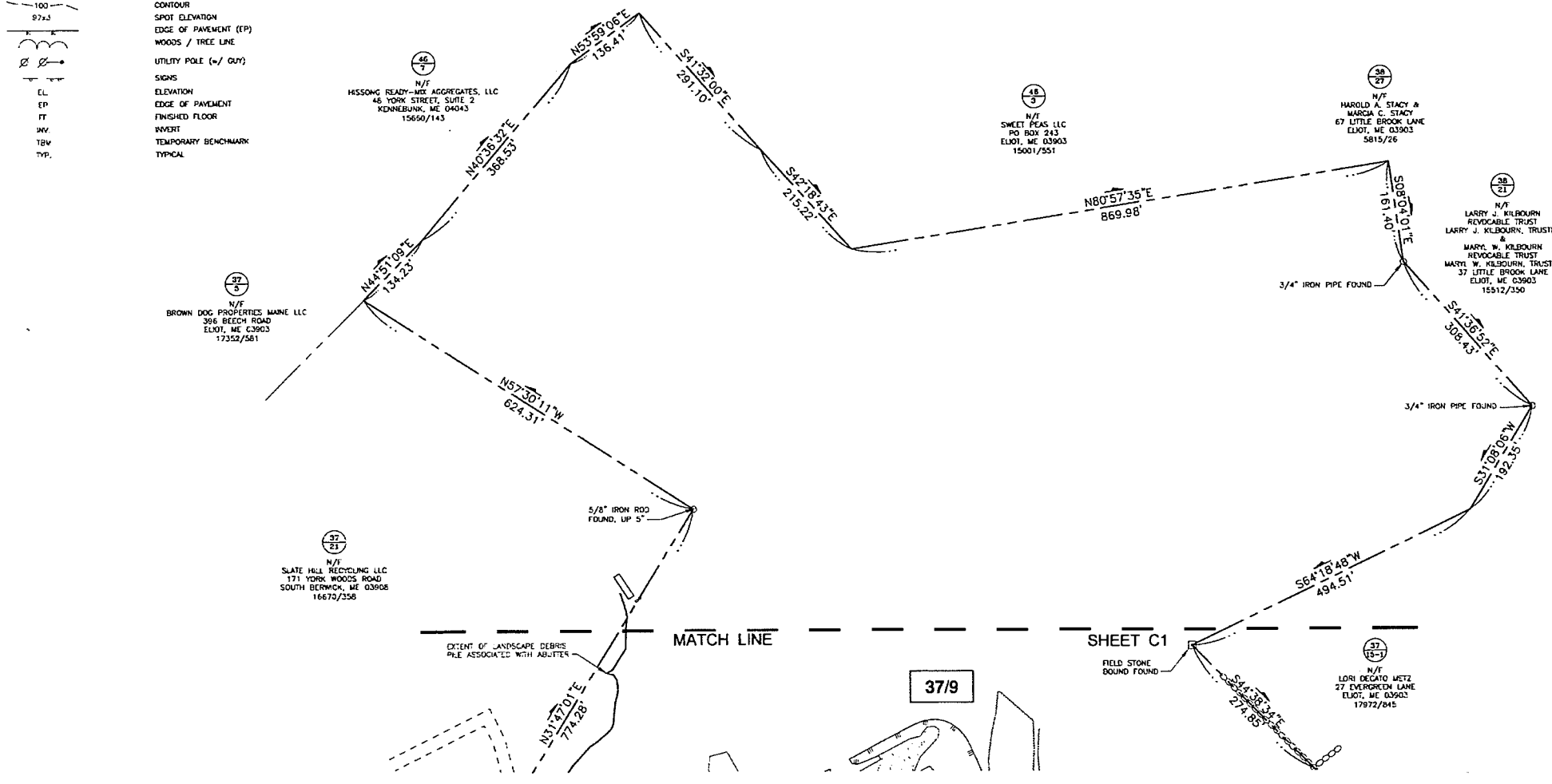


LENGTH TABLE

| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | S41°20'52"E | 77.52' |
| L2 | S45°52'08"W | 96.71' |
| L3 | S49°20'36"W | 72.30' |
| L4 | S47°45'05"W | 93.52' |
| L5 | S50°04'06"W | 45.17' |

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- LEGEND:**
- N/F NOW OR FORMERLY
 - RP RECORD OF PROBATE
 - YCRD YORK COUNTY REGISTRY OF DEEDS
 - MAP 11 / LOT 21
 - RAILROAD SPIKE FOUND
 - IRON ROD/IRON PIPE FOUND
 - IRON PIPE FOUND
 - STONE/CONCRETE BOUND FOUND
 - RAILROAD SPIKE SET
 - IRON ROD SET
 - DRILL HOLE SET
 - GRANITE BOUND SET
 - BOUNDARY
 - BUILDING SETBACK
 - OVERHEAD ELECTRIC/WIRES
 - CONTOUR
 - SPOT ELEVATION
 - EDGE OF PAVEMENT (EP)
 - WOODS / TREE LINE
 - UTILITY POLE (=/ GUY)
 - SIGNS
 - ELEVATION
 - EP EDGE OF PAVEMENT
 - FF FINISHED FLOOR
 - IV INVERT
 - TBW TEMPORARY BENCHMARK
 - TYP. TYPICAL



PLAN REFERENCES:

- ALTA/ASCM LAND TITLE SURVEY FOR RUBBER RECOVERY TECHNOLOGIES, ROUTE 236 ELIOT, MAINE, PREPARED BY ANDERSON LIVINGSTON ENGINEERS, INC. DATED MARCH 12, 2001. NOT RECORDED.
- SUBDIVISION PLAN, TAX MAP 37 - LOTS 6, 9 & 14, RECORD OWNERS: ELIOT RECYCLING SERVICES, LLC, 276 HAROLD L. DOW HIGHWAY, ELIOT, MAINE 03903, PROPERTY LOCATED AT: HAROLD L. DOW HIGHWAY, TOWN OF ELIOT, COUNTY OF YORK, STATE OF MAINE, PREPARED BY AMBIT ENGINEERING, INC. DATED SEPTEMBER 2010, FINAL REVISION DATE OCTOBER 7, 2010. Y.C.R.D. PLAN BOOK 348 PAGE 9.
- SKETCH TO ACCOMPANY DEED FOR PROPOSED OUTSALE LAND OF ELIOT RECYCLING SERVICES, LLC TAX MAP 37, LOT 6 AND 9 ROUTE 236, ELIOT, YORK COUNTY, MAINE, PREPARED FOR: PETER PAUL, P.O.BOX 694, ELIOT, ME 03903, SCALE 1" = 100', DATED 12/3/09, PREPARED BY CML CONSULTANTS, Y.C.R.D. PLAN BOOK 341 PAGE 20.

ME SPC
NAD83(2011)
GRID NORTH
WEST ZONE

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

- NOTES:**
- PARCEL IS SHOWN ON THE TOWN OF ELIOT ASSESSOR'S MAP 37 AS LOT 9.
 - OWNER OF RECORD:
BLACK HAWK HOLDINGS
276 HAROLD L. DOW HIGHWAY
ELIOT, ME 03903
17973/921
 - PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 2301490010B, EFFECTIVE DATE JUNE 5, 1989.
 - EXISTING LOT AREA:
2,140,126 S.F.
49.1305 ACRES
 - PARCEL IS LOCATED IN COMMERCIAL/INDUSTRIAL DISTRICT & PARTIALLY IN THE STREAM AND WETLANDS PROTECTION DISTRICT.
 - DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 3 ACRES
FRONTAGE: 300 FEET
SETBACKS: FRONT 30 FEET
SIDE 20 FEET
REAR 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM LOT COVERAGE: 50%
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE RESULTS OF A BOUNDARY SURVEY OF ASSESSOR'S MAP 37 LOT 9 IN THE TOWN OF ELIOT.
 - PARCEL IS SUBJECT TO THE TERMS AND CONDITIONS OF A LEASE BY AND BETWEEN CASELLA T.I.R.E.S., INC. AND SPRINT SPECTRUM LP OF A PCS SITE AGREEMENT RECORDED AT YCRD 11290/82 AND AN EASEMENT FOR A CELL TOWER AND ACCESS (AND GUY OR UTILITY) AREAS RECORDED AT 14856/86.
 - PARCEL IS SUBJECT TO AN ENVIRONMENTAL COVENANT WITH THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR A VOLUNTARY RESPONSE ACTION PROGRAM. (SEE YCRD 15377/845)
 - PARCEL IS SUBJECT TO THE PERMITTED ENCUMBRANCES AS ENUMERATED IN YCRD 14534/625.
 - VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').

BLACK HAWK HOLDINGS
TAX MAP 37 LOT 9
276 HAROLD L. DOW HIGHWAY, ELIOT, ME.

| 1 | ISSUED FOR REVIEW | 3/17/20 |
|-----------|--------------------|----------|
| 0 | ISSUED FOR COMMENT | 12/31/19 |
| NO. | DESCRIPTION | DATE |
| REVISIONS | | |

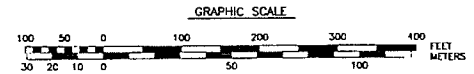
SCALE: 1" = 100' NOVEMBER 2019

BOUNDARY PLAN C2

PURSUANT TO CHAPTER 90 PARTS 1 AND 2 OF THE SURVEY STANDARDS OF PRACTICE AS ADOPTED BY THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS, THE FOLLOWING EXCEPTIONS TO PART 2 ARE NOTED:
A) NO SURVEY REPORT HAS BEEN PREPARED.
B) NO LAND DESCRIPTION HAS BEEN PREPARED.
C) MONUMENTS HAVE NOT BEEN SET.
THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CHAPTER 90 STANDARDS OF PRACTICE, EFFECTIVE DATE APRIL 1, 2001 EXCEPT AS NOTED ON THIS PLAN.



John R. Chagnon
JOHN R. CHAGNON, PLS #22276
DATE 3-17-20





TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

July 25, 2022

Mr. Kenneth A. Wood, P.E.
Attar Engineering
1284 State Rd.
Eliot, ME 03903

Subject: PB22-14: 276 Harold L. Dow Hwy.: Site Plan Review and Change of Use – Marijuana Products Manufacturing Facility – Review Letter 1

Dear Mr. Wood:

I have reviewed the site plan submittal for the subject application, received June 9, 2022, and have the following questions/comments. Unless otherwise noted, numerical citations are to the Eliot Town Code.

Eliot voters approved ordinance amendments on June 14, 2022, which included changes to Section 33-190 – Performance standards for marijuana establishments and medical marijuana establishments. My comments reflect those changes; however, they are not yet fully integrated into Municode. You can find a PDF version of the amendments, certified by our Town Clerk, at the following link: https://library.municode.com/me/eliot/codes/code_of_ordinances?nodeId=12510. See “Adopted Ordinances Not Yet Codified”.

1. All marijuana products manufacturing facilities shall have in place a plan for disposal of wastewater from the facility [33-190(4)b2]. A waste disposal “narrative” is referenced on Sheet 2, Note 11, and a grease trap spec sheet is included in your submittal. However, I do not see a discrete plan/narrative in your submittal that is consistent with 33-190(4)b2. Please clarify or provide this plan/narrative.
2. Please clarify the status of the applicant with regard to obtaining food licensing [33-190(8)]. Without being certain, based on recent reviews, I believe this would need at least a commercial processing license from the state Department of Agriculture, Conservation, and Forestry.
3. Please demonstrate how the proposed use would meet the new odor management standards in 33-190(14). (See the PDF available via the above link to view these changes.) You may reference the existing odor management equipment in place for the cultivation use, or any new measures you feel are necessary to meet the standards for a combined cultivation/manufacturing use.
4. While this is not a direct Town requirement, I suggest that you clarify how you will meet Adult Use Program Rule Section 2.4.7(B), particularly with regard to the door to the proposed kitchen and State-required tracking system for excise taxes when an adult use marijuana cultivation facility is co-located with an adult use marijuana products manufacturing facility. [33-190(13)].
5. The cover letter states that there will be “no changes in...employees or predicted traffic movement”. However, Sheet 1, Note 7, seems to convey that there will be 5 new employees (and 5 peak trips added) for the proposed marijuana products manufacturing use. Also, Note 7 has two ITE 882 “Marijuana Dispensary” land uses. If these refer to each of the existing medical marijuana dispensary

(1,025 sq. ft.) and the approved, not-yet-built adult use marijuana retail store (2,100 sq. ft.), the latter's square footage seems like it needs to be updated for the trip generation calculation, which shows 1,918 sq. ft. Also, please clarify what the "commercial space" use is in Note 7 assuming it refers to neither the marijuana cultivation or proposed marijuana manufacturing.

6. Due to a recent heavy backlog of applications, in combination with other Planning Board business, given the submittal date compared to other applications and review requirements in the Town Code, I expect that sketch plan review for this application will occur at either an August 9 special Planning Board meeting, if held, or the August 16 Planning Board meeting.

Please let me know if you have any questions or would like to discuss further.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Brubaker". The signature is stylized and cursive.

Jeff Brubaker, AICP, Town Planner

Cc: Planning Board
Shelly Bishop, Code Enforcement Officer
Jay Muzeroll, Eliot Fire Chief



To: Eliot Planning Board
From: Lee Jay Feldman, Director of Planning
Date: 8/12/2022
Re: Shoreland zoning application-147 Beech Road Map 29 Lot 4

| Application Details/Checklist Documentation | |
|---|--|
| ✓ Address: | 147 Beech Road |
| ✓ Map/Lot: | Map 29/ Lot 4 |
| ✓ PB Case#: | |
| ✓ Zoning District: | Resource Protection |
| ✓ Shoreland Zoning: | Yes; Resource Protection |
| ✓ Owner Name: | |
| ✓ Applicant Name: | Town of Eliot/Underwood Engineers |
| ✓ Proposed Project: | Shoreland Zoning Permit Application for the placement of a Pump Station and Force Main on the property in order to expand the Sewer system |
| ✓ Application Received by Staff: | 06/29/2022 |
| ✓ Application Fee Paid and Date: | N/A |
| ✓ Application Sent to Staff Reviewers: | Date: 06/29/2022 <ul style="list-style-type: none"> • Southern Maine Planning and Development Commission |
| Application Received/Found Complete by PB: | |
| Site Walk Date: | |
| Public Hearing Date: | |
| Public Hearing Publication Date: | |
| Deliberation Date: | |

| | |
|-----------------------------|--|
| Notice of Decision Date: | |
| ✓ Reason for PB Review: | |

I. Proposal

The proposed project will consist of a pumping station building, wet well, propane tank, and paved driveway. The facility will be an essential service, pumping future wastewater downstream from the Route 236 TIF Area to the existing gravity sewer system on State Road. There is no reasonable alternate location for this pumping station. The facility will be constructed at a low point along Beech Road, allowing wastewater to flow by gravity from higher locations along Route 236 and Beech Road.

A culvert will be constructed under the driveway to maintain the existing drainage swale. There is an existing house on the northerly portion of the property and the facilities are to be constructed within an easement area on the southerly corner. The easement ground cover is primarily grass, so minimal clearing is anticipated for construction. The entire easement area is within the shown FEMA floodplain, the station will be protected from flood levels 3 feet above the estimated flood elevation at the site.

From what I gather from this submission this site is located on an easement location with the abutting property. The Easement Agreement has been submitted for review and everything seems to be in order from the information provided to me.

II. Ordinance Review

This project is being reviewed under the Shoreland Review standards within the Resource Protection Zone. This use requires Site Plan Review as an Essential Service in the RP zone. The site has some floodplain on the property; however, the structure will not be located in the floodplain and is proposed to be constructed 3 feet above the base flood elevation.

III. The Site Design

The site design proposes to pick up the roadside water along the southeast portion of front portion of the property and convey it through a short 30-foot underdrain pipe to outlet it in a stone outlet abutting the upland edge of the wetland on the south westerly corner of the property.

The site grading will sheet the remaining water east to west toward the wetland. The amount of water coming off this site should be minimal.

The utilities are proposed to come in underground from the south side of Beech Road. The Force Main for the project will come from the building and head in a westerly direction along the North side of Beech Road.

The site will also contain a 1000-gallon underground propane tank on the easterly side of the proposed pump house structure.

The applicant is proposing to place 20 Arborvitae shrubs 5 feet tall and 5 feet on center along the East & North demarcated boundary of the easement in order to screen the site from the property owner's view.

One issue the applicant has not adequately addressed in the submission concerns an existing drainpipe from the property owner's home that goes directly under the proposed pump house. The engineering team has indicated that this pipe will be located during construction and relocated if necessary.

IV. Recommendation

I would recommend approval of this proposed pump station as presented to the planning board.



To: Eliot Planning Board
From: Lee Jay Feldman, Director of Planning
Date: 8/12/2022
Re: Shoreland zoning application-Route 236 Map 36 Lot 13

| Application Details/Checklist Documentation | |
|---|--|
| ✓ Address: | Route 236 |
| ✓ Map/Lot: | Map 36/ Lot 13 |
| ✓ PB Case#: | |
| ✓ Zoning District: | Resource Protection |
| ✓ Shoreland Zoning: | Yes; Resource Protection |
| ✓ Owner Name: | |
| ✓ Applicant Name: | Town of Eliot/Underwood Engineers |
| ✓ Proposed Project: | Shoreland Zoning Permit Application for the placement of a Pump Station and Force Main on the property in order to expand the Sewer system |
| ✓ Application Received by Staff: | 06/29/2022 |
| ✓ Application Fee Paid and Date: | N/A |
| ✓ Application Sent to Staff Reviewers: | Date: 06/29/2022 <ul style="list-style-type: none"> • Southern Maine Planning and Development Commission |
| Application Received/Found Complete by PB: | |
| Site Walk Date: | |
| Public Hearing Date: | |
| Public Hearing Publication Date: | |
| Deliberation Date: | |

| | |
|--------------------------|---|
| Notice of Decision Date: | |
| ✓ Reason for PB Review: | Use in the Shoreland zone requires Approval |

I. Proposal

The proposed project will consist of a pumping station building, wet well, propane tank, and paved driveway. The facility will be an essential service, pumping future wastewater downstream from the Route 236 TIF Area to the existing gravity sewer system on Brook Road. There is no reasonable alternate location for this pumping station. The facility will be constructed at a low point along Beech Road, allowing wastewater to flow by gravity from higher locations along Route 236 and Beech Road.

A culvert will be constructed under the driveway to maintain the existing drainage swale. Placing the water into a Stone outlet to the west of the proposed entrance allowing the water to eventually get back into the wetland area southwest of the site.

A new sewer line will be brought in to the site from across Route 236 at a proposed Manhole in the d&p classics site. The wastewater will then circulate through the pump station to a Force main heading down Route 236 in a southerly direction.

II. Ordinance Review

This project is being reviewed under the Shoreland Review standards within the Resource Protection Zone. This use requires Site Plan Review as an Essential Service in the RP zone. The site has some floodplain on the property; however, the structure will not be located in the floodplain and is proposed to be constructed 9 feet above the base flood elevation.

III. The Site Design

The utilities are proposed to come in underground from the southwesterly side of Route 236. The site will also contain a 1000-gallon underground propane tank on the westerly side of the proposed pump house structure.

The application does provide Elevations of the proposed pump station for the boards consideration. From the photos submitted it seems that this project will clean up some illicit dumping that has occurred over the years.

IV. Recommendation

At this time, I would recommend approval of the application as presented to the Planning Board.

FOR OFFICE USE ONLY:

PERMIT NO.: _____

ISSUE DATE: _____

FEE AMOUNT: _____

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

GENERAL INFORMATION

| | | |
|---|--|---|
| 1. APPLICANT Town of Eliot | 2. APPLICANT'S ADDRESS 1333 State Rd Eliot, ME | 3. APPLICANT'S TEL. # 207-439-1813 |
| 4. PROPERTY OWNER HO Bouchard Inc | 5. OWNER'S ADDRESS 349 Coldbrook Rd Hampden, ME 04444 | 6. OWNER'S TEL. # 207-850-7975 |
| 7. CONTRACTOR TBD | 8. CONTRACTOR'S ADDRESS TBD | 9. CONTRACTOR'S TEL. # TBD |
| 10. LOCATION/ADDRESS OF PROPERTY 147 Beech Road | 11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED 029-004-000 | 12. ZONING DISTRICT Resource Protection |
| 13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3). The proposed construction consists of a pumping station building, wet well, propane tank, and paved driveway. A culvert will be constructed under the driveway to maintain the existing drainage swale. There is an existing house on the northerly portion of the property and the facilities are to be constructed within an easement area on the southerly corner. The easement ground cover is primarily grass, so minimal clearing is anticipated for construction. The facility will be an essential service, pumping future wastewater downstream from the Route 236 TIF Area to the existing gravity sewer system on State Road. There is no reasonable alternate location for this pumping station. It will be constructed at the topographic low point along Beech Road, allowing wastewater to flow by gravity from higher locations along Route 236 and Beech Road. The entire easement area is within the shown FEMA 2018 Preliminary Revised floodplain, but the station will be protected from flood levels 3 feet above the estimated flood elevation at the site. A portion of the interior finished floor may be depressed to accommodate the design constraints of the suction lift pumps. | | |

| | |
|---|--|
| 14. PROPOSED USE OF PROJECT Sewer pumping station | 15. ESTIMATED COST OF CONSTRUCTION \$1,500,000 |
|---|--|

SHORELAND AND PROPERTY INFORMATION

| | |
|--|--|
| 16. LOT AREA (SQ. FT.) 44,866 sf | 17. FRONTAGE ON ROAD (FT.) 355 ft |
| 18. SQ. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES EXISTING AREA = 3,125 sf (6.97%) ADDITIONAL AREA PROPOSED = 1,215 sf (2.70%) TOTAL = 4,340 sf (9.67%) | 19. ELEVATION ABOVE 100 YR. FLOOD 3 ft |
| 20. FRONTAGE ON WATERBODY (FT.) 167 ft | 21. HEIGHT OF PROPOSED STRUCTURE 16 ft |
| 22. EXISTING USE OF PROPERTY Residential | 23. PROPOSED USE OF PROPERTY Essential Services - Other (Easement area only) |

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

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

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

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

SITE PLAN

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

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

See plan sheets in Attachment A

SCALE: _____ = _____ FT.

FRONT OR REAR ELEVATION

SIDE ELEVATION

See plan sheets in Attachment A

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

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

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

**Permit-by-Rule application to be submitted
after Shoreland Zoning Permit approval**

OTHERS:

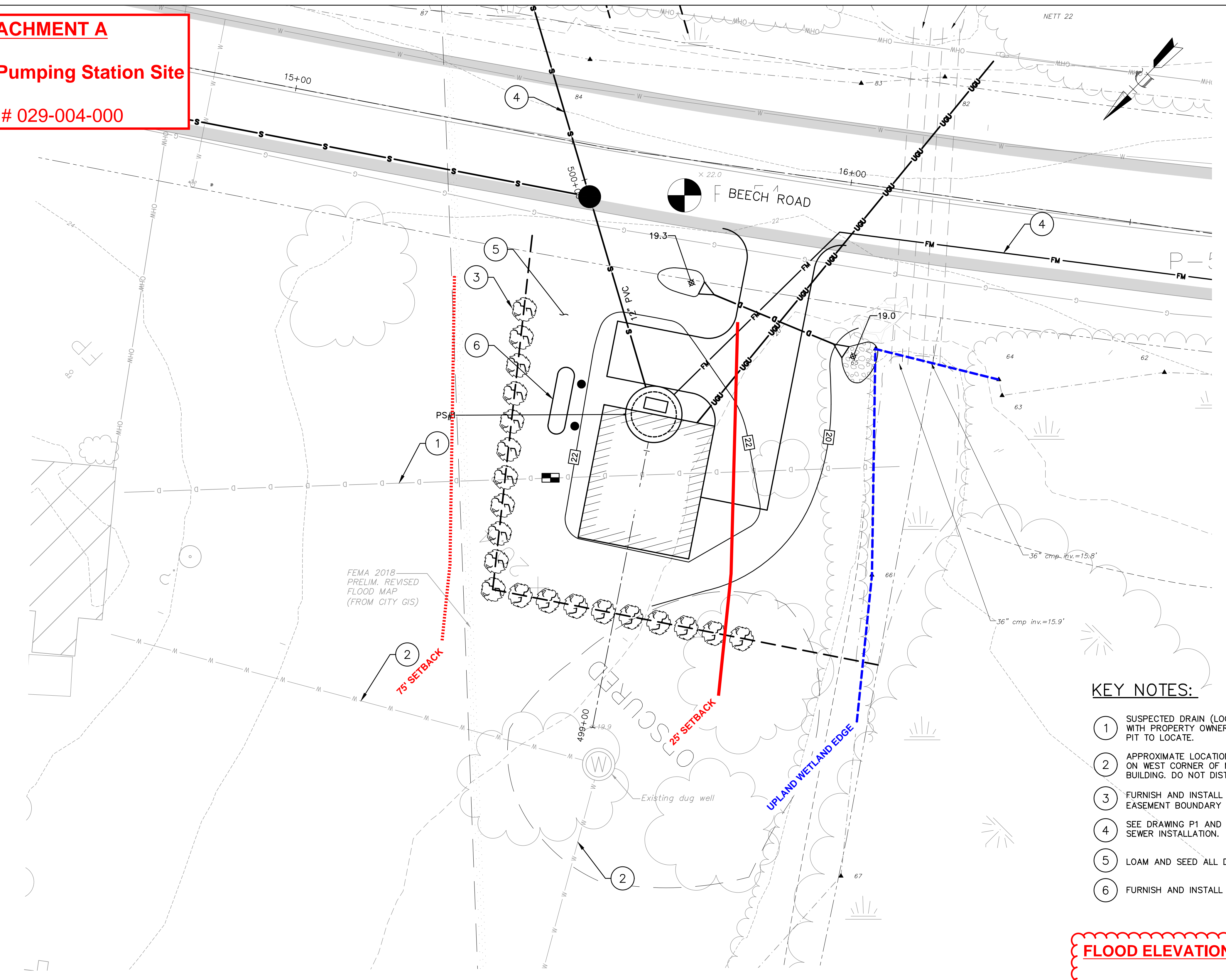
- _____
- _____
- _____
- _____

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

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

| | |
|--|---------------|
| _____ APPLICANT'S SIGNATURE | _____ DATE |
| _____ AGENT'S SIGNATURE (if applicable) | _____ DATE |

ATTACHMENT A
Beech Road Pumping Station Site
 Parcel # 029-004-000



FEMA 2018
 PRELIM. REVISED
 FLOOD MAP
 (FROM CITY GIS)

KEY NOTES:

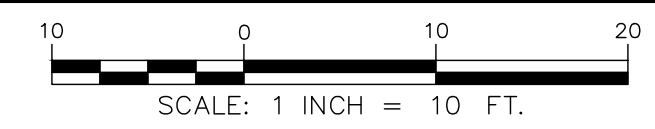
- ① SUSPECTED DRAIN (LOCATION, SIZE, AND DEPTH UNKNOWN). COORDINATE WITH PROPERTY OWNER FOR ADDITIONAL INFORMATION AND PERFORM TEST PIT TO LOCATE.
- ② APPROXIMATE LOCATION OF EXISTING WATER TO SERVE EXTERIOR SPIGOT ON WEST CORNER OF MAIN HOUSE AND UTILITY SINK IN WORKSHOP BUILDING. DO NOT DISTURB.
- ③ FURNISH AND INSTALL 20 EMERALD GREEN ARBORVITAE (5' TALL) ALONG EASEMENT BOUNDARY @ 5' ON CENTER.
- ④ SEE DRAWING P1 AND P14 FOR ADDITIONAL INFORMATION REGARDING SEWER INSTALLATION.
- ⑤ LOAM AND SEED ALL DISTURBED AREAS.
- ⑥ FURNISH AND INSTALL 1,000 GAL. UNDERGROUND PROPANE TANK.

FLOOD ELEVATION NOTE

(1) FEMA 2018 Prelim. Revised Flood Map elevation line shown does not follow elevation contours in this area.

(2) The estimated 100-year flood elevation at this site is 19-ft. The flood map elevation line approximately follows the 18-ft contour upstream of this site and the 20-ft contour downstream.

BEECH ROAD PUMPING STATION SITE PLAN

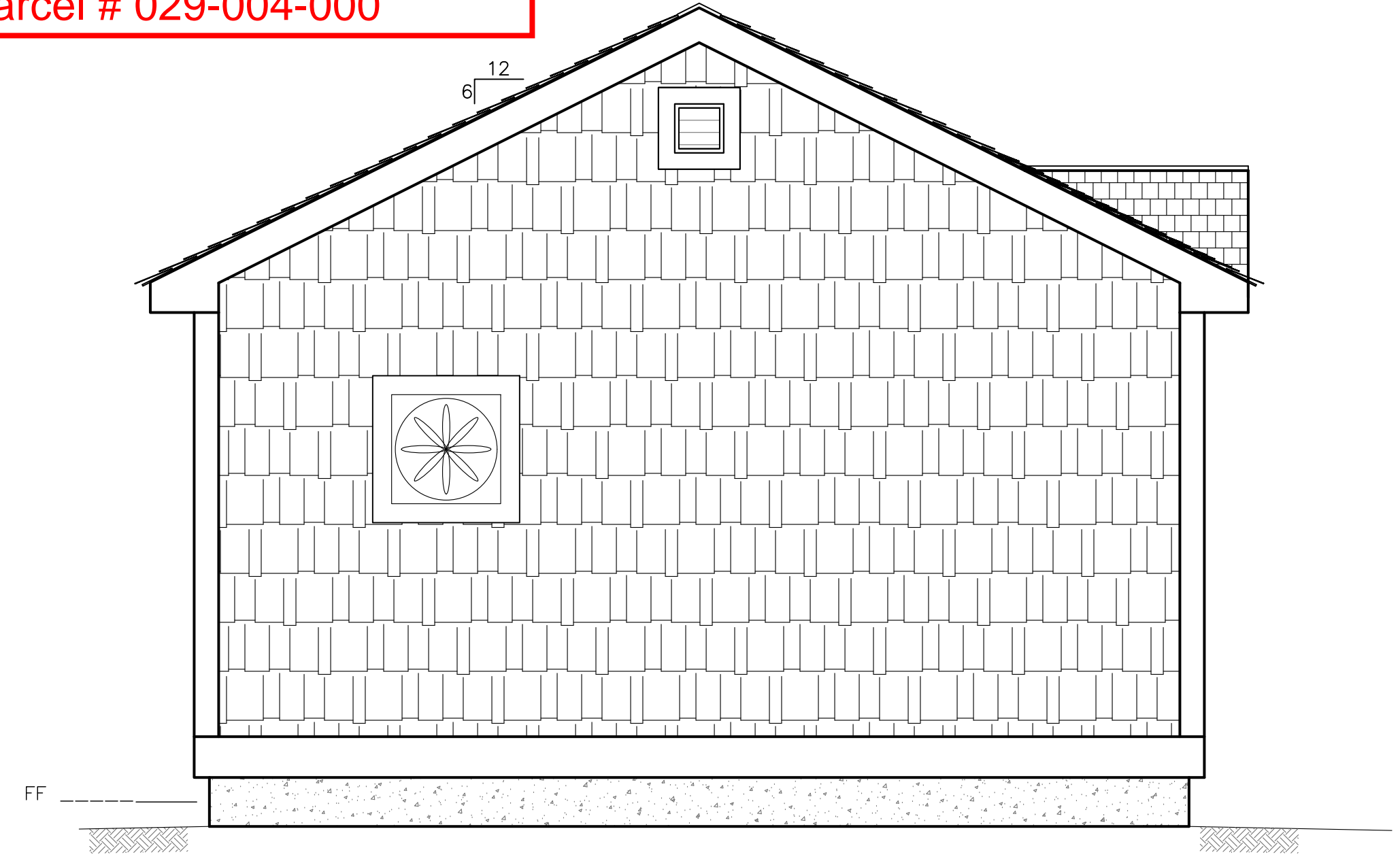


| | | | |
|--|-----|---|------|
| DRAWN/CHK. RMG | | ISSUE FOR | |
| DESIGNED | PDM | APPROVAL | By |
| CHECKED | | Date | |
| APPROVED | | CONSTRUCTION | By |
| Date: 8/3/2021 | | Date | |
| Book No. 2552 | | RECORD DRAWING | By |
| Project No. 2552 | | Date | |
| Dwg. ID 2552_P_Lay. | | REVISIONS | APPD |
| Scale | | NO. | |
| <p>DRAFT 8/3/2021 NOT FOR CONSTRUCTION</p> | | <p>UNDERWOOD engineers</p> | |
| | | <p>25 Vaughan Mall, Portsmouth, N.H. 03801 Tel. 603-436-6192 Fax. 603-431-4733</p> | |
| <p>PUMPING STATION - SITE PLAN BEECH ROAD</p> | | <p>RTE 236 TIF AREA (CONTRACT #3) SEWER & WATER EXTENSION</p> | |
| <p>DWG NO PS1</p> | | <p>SHEET X OF</p> | |
| <p>ELIOT, MAINE</p> | | | |

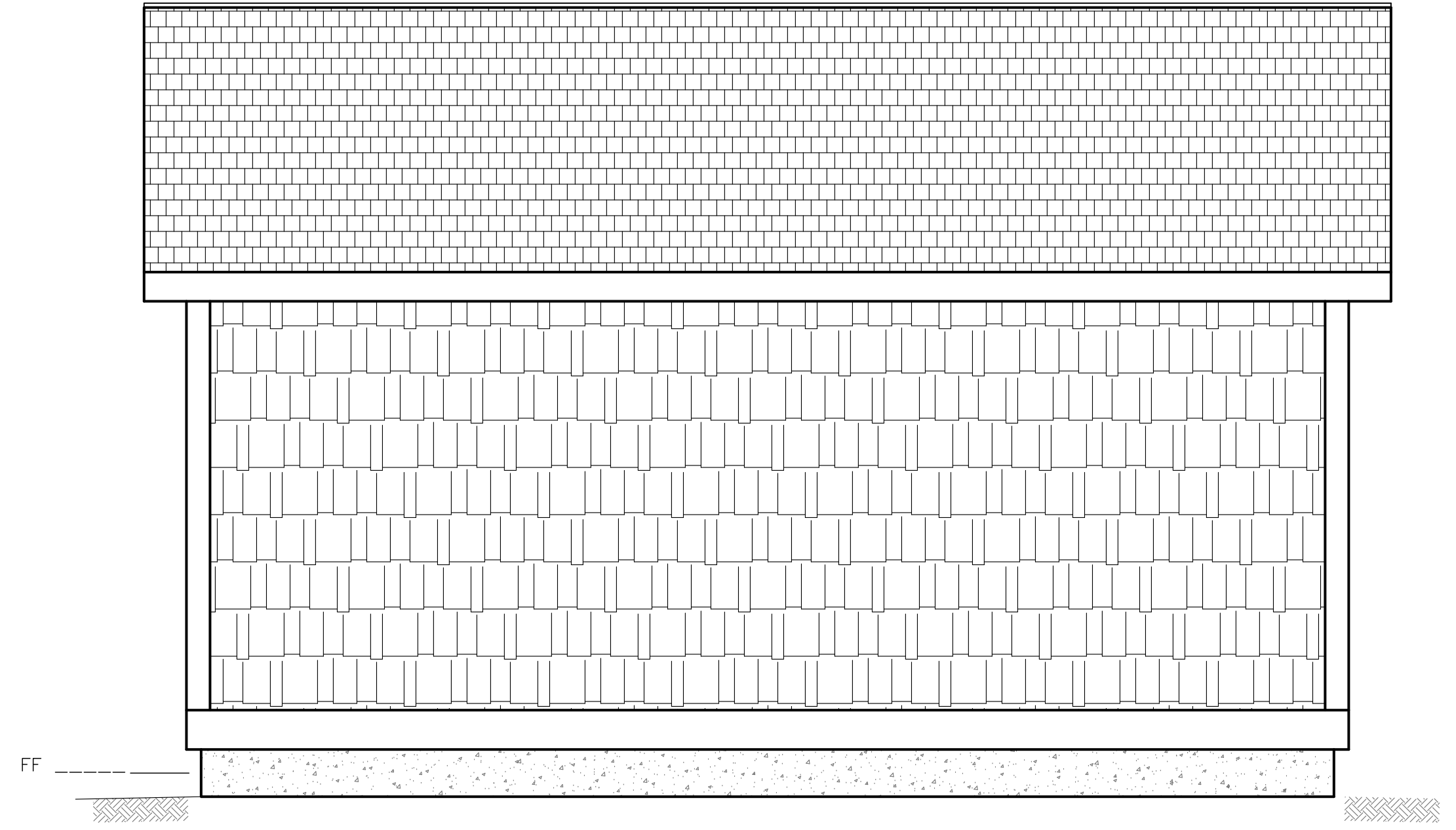
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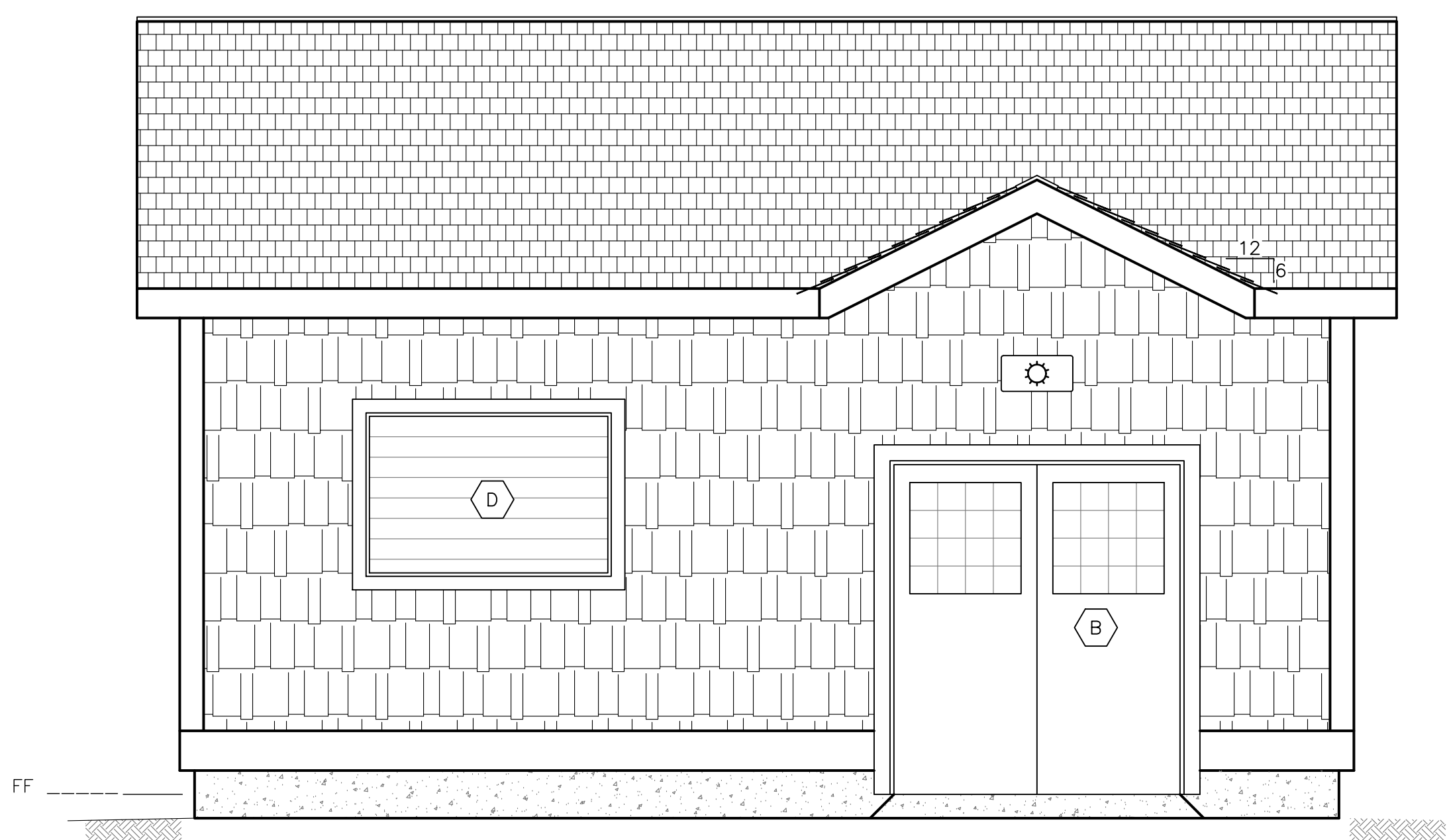
ATTACHMENT A
Beech Road Pumping Station Site
 Parcel # 029-004-000



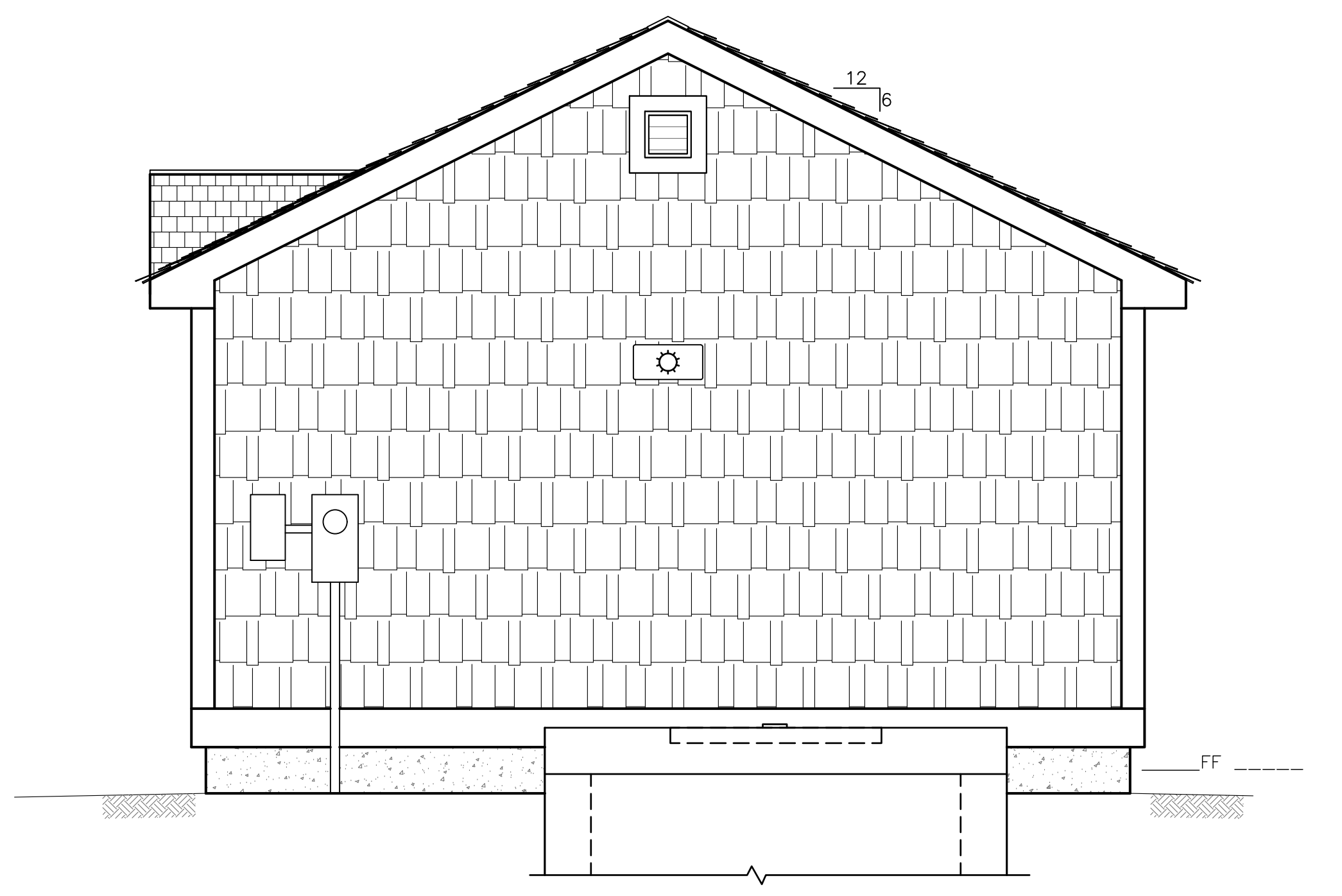
NORTH ELEVATION



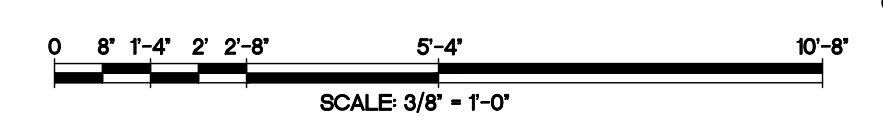
EAST ELEVATION



WEST ELEVATION



SOUTH ELEVATION



| | | |
|---|--|--|
| DRAFT 8/3/2021 NOT FOR CONSTRUCTION | 25 Vaughan Mall, Portsmouth, N.H. 03801 Tel. 603-436-6192 Fax. 603-431-4733 | BEECH ROAD PUMPING STATION BUILDING ELEVATIONS RTE 236 TIF AREA (CONTRACT #3) SEWER & WATER EXTENSION ELIOT, MAINE |
| DWG NO A1 | SHEET 1 OF 1 | |
| Drawn/Chk. RMG Designed PDM Checked - Approved - Date 8/3/2021 Book No. 2552 Project No. 2552 Dwg. ID Scale | NO. REVISIONS APP'D | ISSUE FOR APPROVAL Date By CONSTRUCTION Date By RECORD DRAWING Date By |

H:\Real\humbert\029002\Beech Road Pumping Station\029002_Plan\Bldg_01.dwg, A1, 8/26/21 5:16:54 PM, rmg

ATTACHMENT B

Beech Road Pumping Station Site

Parcel # 029-004-000



Photo of easement area taken from Beech Road (June 2020)

ATTACHMENT B

Beech Road Pumping Station Site

Parcel # 029-004-000



Photo of existing house taken from Beech Road (June 2020)

FOR OFFICE USE ONLY:

PERMIT NO.: _____

ISSUE DATE: _____

FEE AMOUNT: _____

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

GENERAL INFORMATION

| | | |
|---|--|--|
| 1. APPLICANT Town of Eliot | 2. APPLICANT'S ADDRESS 1333 State Rd Eliot, ME | 3. APPLICANT'S TEL. # 207-439-1813 |
| 4. PROPERTY OWNER Town of Eliot | 5. OWNER'S ADDRESS 1333 State Road Eliot, ME 03903 | 6. OWNER'S TEL. # 207-439-1813 |
| 7. CONTRACTOR TBD | 8. CONTRACTOR'S ADDRESS TBD | 9. CONTRACTOR'S TEL. # TBD |
| 10. LOCATION/ADDRESS OF PROPERTY Property located on Harold L. Dow Hwy approximately 3,600 ft north of the intersection of Beech Rd | 11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED 036-013-000 | 12. ZONING DISTRICT Resource Protection |
| 13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3). The proposed construction consists of a pumping station building, wet well, propane tank, generator, and paved driveway. A culvert will be constructed under the driveway to maintain the existing drainage swale. The facilities are to be constructed on the easterly corner of the property. The facility will be an essential service, pumping future wastewater downstream from a portion of the Route 236 TIF Area to a planned gravity sewer manhole at Brook Road. There is no reasonable alternate location for this pumping station which is located on Town land at a topographic low point along Route 236 so it can collect wastewater flows by gravity from both the north and south. Clearing of trees and vegetation is anticipated to be limited to the area necessary for construction and site regrading. Some clearing is necessary within 25 feet of the upper wetland edge for erosion prevention (maintaining 1:3 slopes). | | |

| | |
|---|--|
| 14. PROPOSED USE OF PROJECT Sewer pumping station | 15. ESTIMATED COST OF CONSTRUCTION \$900,000 |
|---|--|

SHORELAND AND PROPERTY INFORMATION

| | |
|---|---|
| 16. LOT AREA (SQ. FT.) 16,117 sq | 17. FRONTAGE ON ROAD (FT.) 173 ft |
| 18. SQ. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES 1,941 sq (12.04%) | 19. ELEVATION ABOVE 100 YR. FLOOD 12 ft |
| 20. FRONTAGE ON WATERBODY (FT.) 313 ft | 21. HEIGHT OF PROPOSED STRUCTURE 16 ft |
| 22. EXISTING USE OF PROPERTY Vacant | 23. PROPOSED USE OF PROPERTY Essential Services - Other |

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

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

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

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

SITE PLAN

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

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

See plan sheets in Attachment A

SCALE: _____ = _____ FT.

FRONT OR REAR ELEVATION

SIDE ELEVATION

See plan sheets in Attachment A

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

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

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

**Permit-by-Rule application to be submitted
after Shoreland Zoning Permit approval**

OTHERS:

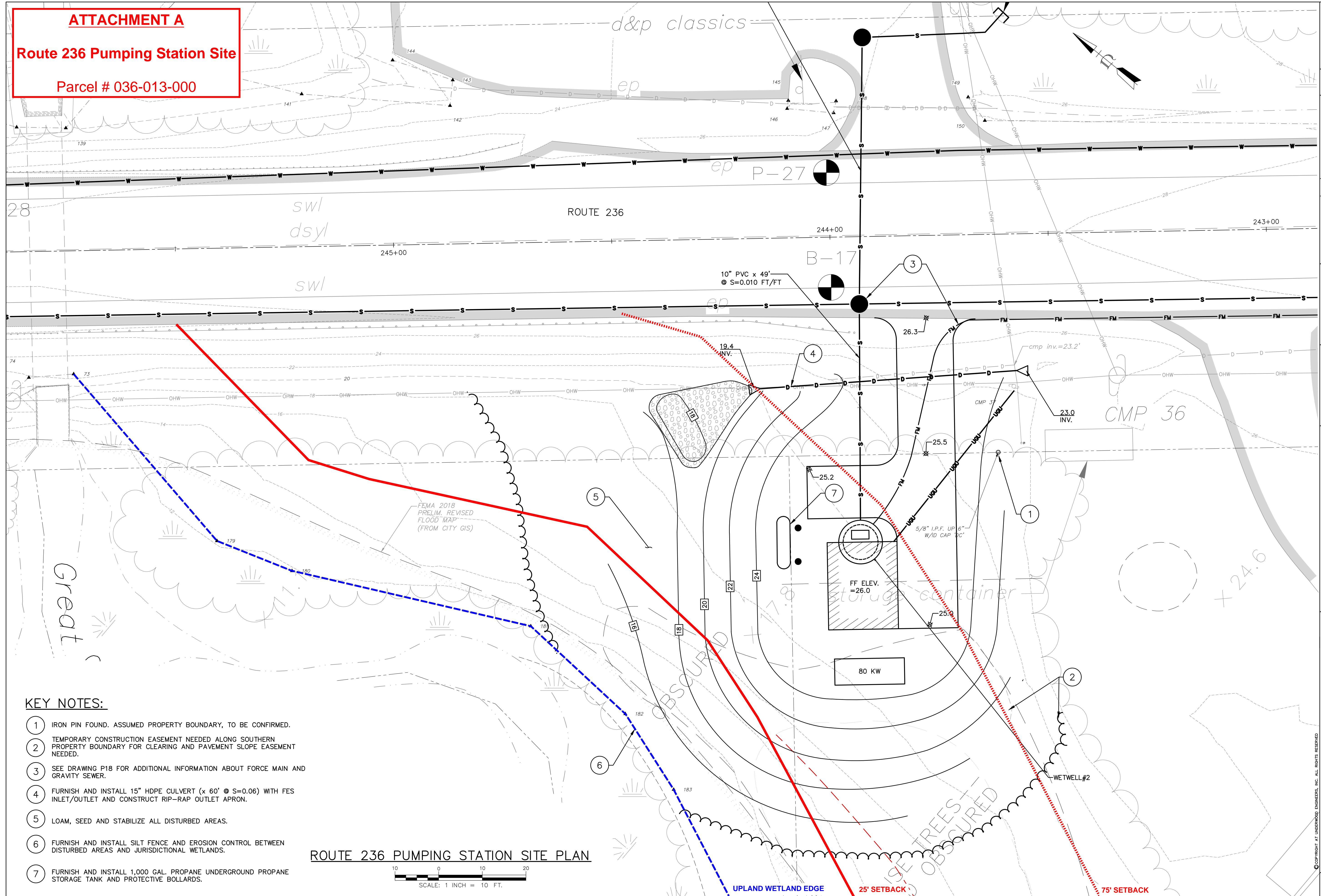
---- _____
---- _____
---- _____
---- _____

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

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

| | |
|--|---------------|
| _____ APPLICANT'S SIGNATURE | _____ DATE |
| _____ AGENT'S SIGNATURE (if applicable) | _____ DATE |

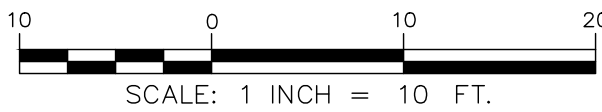
ATTACHMENT A
Route 236 Pumping Station Site
Parcel # 036-013-000



KEY NOTES:

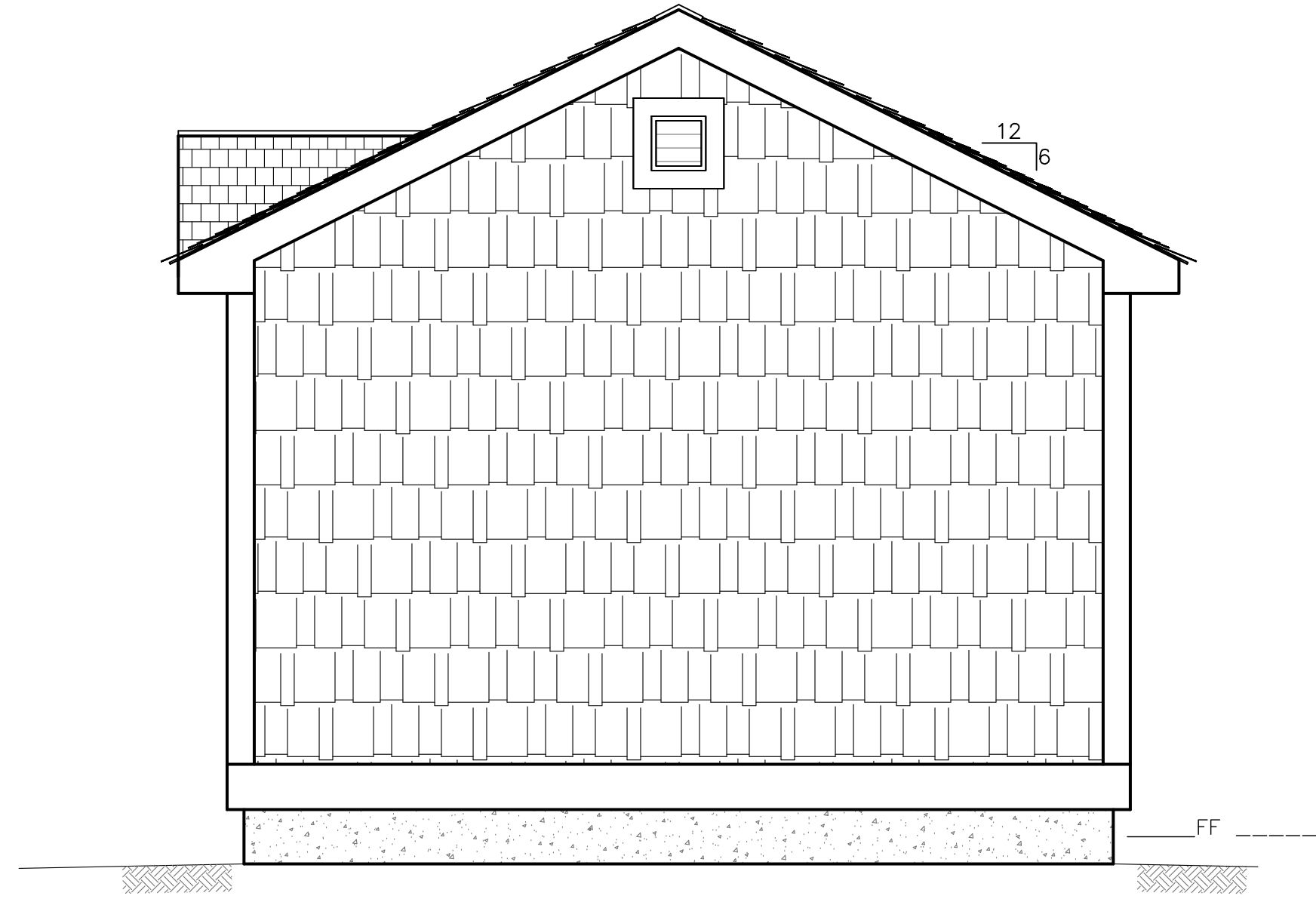
- ① IRON PIN FOUND. ASSUMED PROPERTY BOUNDARY, TO BE CONFIRMED.
- ② TEMPORARY CONSTRUCTION EASEMENT NEEDED ALONG SOUTHERN PROPERTY BOUNDARY FOR CLEARING AND PAVEMENT SLOPE EASEMENT NEEDED.
- ③ SEE DRAWING P18 FOR ADDITIONAL INFORMATION ABOUT FORCE MAIN AND GRAVITY SEWER.
- ④ FURNISH AND INSTALL 15" HDPE CULVERT (x 60' @ S=0.06) WITH FES INLET/OUTLET AND CONSTRUCT RIP-RAP OUTLET APRON.
- ⑤ LOAM, SEED AND STABILIZE ALL DISTURBED AREAS.
- ⑥ FURNISH AND INSTALL SILT FENCE AND EROSION CONTROL BETWEEN DISTURBED AREAS AND JURISDICTIONAL WETLANDS.
- ⑦ FURNISH AND INSTALL 1,000 GAL. PROPANE UNDERGROUND PROPANE STORAGE TANK AND PROTECTIVE BOLLARDS.

ROUTE 236 PUMPING STATION SITE PLAN

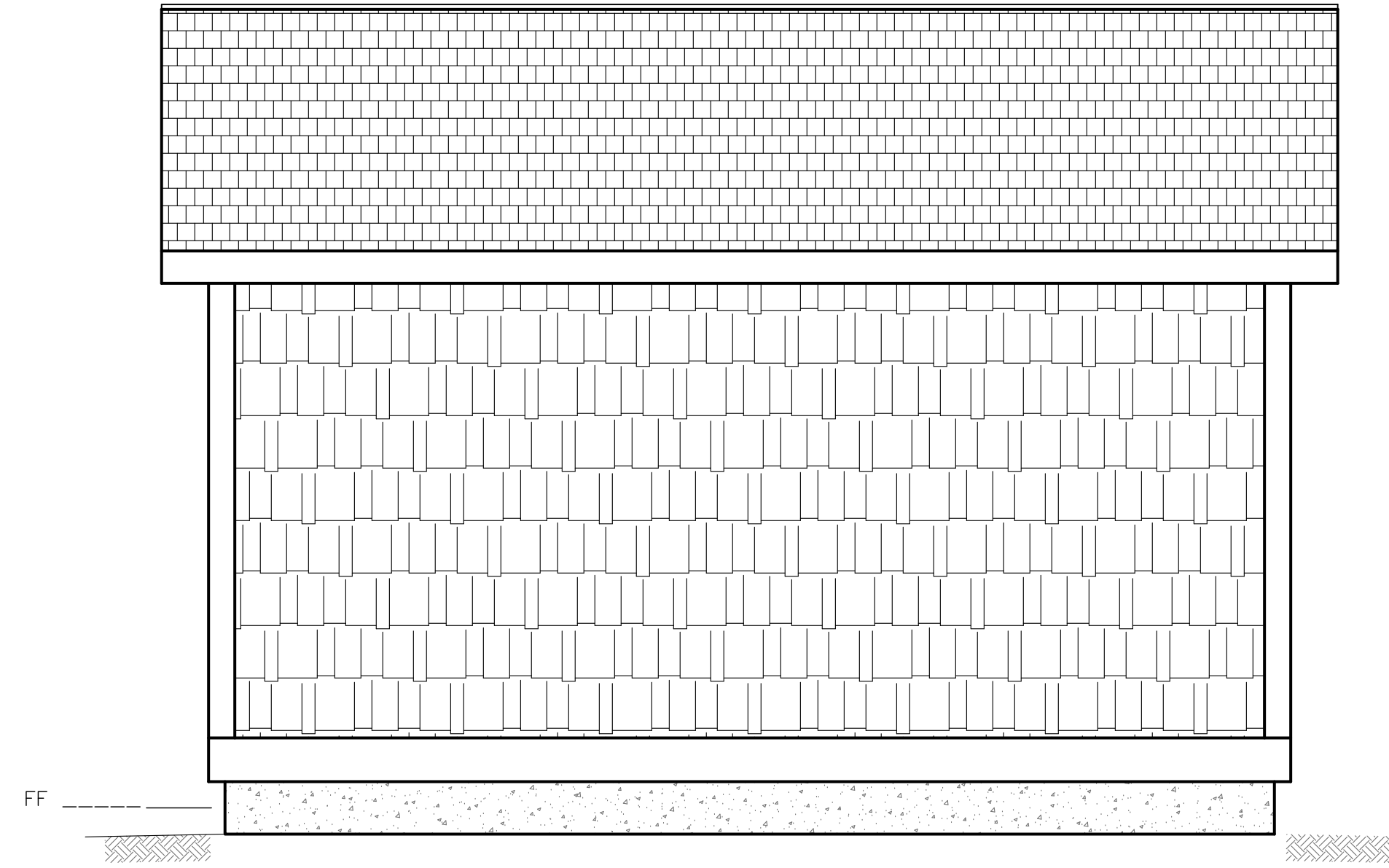


| | | | |
|---|-----|---|----|
| DRAWN/CHK. RMG | | ISSUE FOR | |
| DESIGNED | PPM | APPROVAL | By |
| CHECKED | | Date | |
| APPROVED | | CONSTRUCTION | By |
| Date: 8/13/2021 | | Date | |
| Book No. 2552 | | RECORD DRAWING | By |
| Project No. 2552 | | Date | |
| Dwg. ID 2552_P_Lat. | | APPD | |
| Scale | | REVISIONS | |
| | | NO. | |
| <p>DRAFT 8/3/2021 NOT FOR CONSTRUCTION</p> | | <p>UNDERWOOD engineers</p> | |
| | | <p>25 Vaughan Mall, Portsmouth, N.H. 03801 Tel. 603-436-6192 Fax. 603-431-4733</p> | |
| <p>PUMPING STATION - SITE PLAN ROUTE 236</p> | | <p>RTE 236 TIF AREA (CONTRACT #3) SEWER & WATER EXTENSION</p> | |
| <p>ELIOT, MAINE</p> | | <p>DWG NO PS2</p> | |
| <p>SHEET X OF</p> | | | |

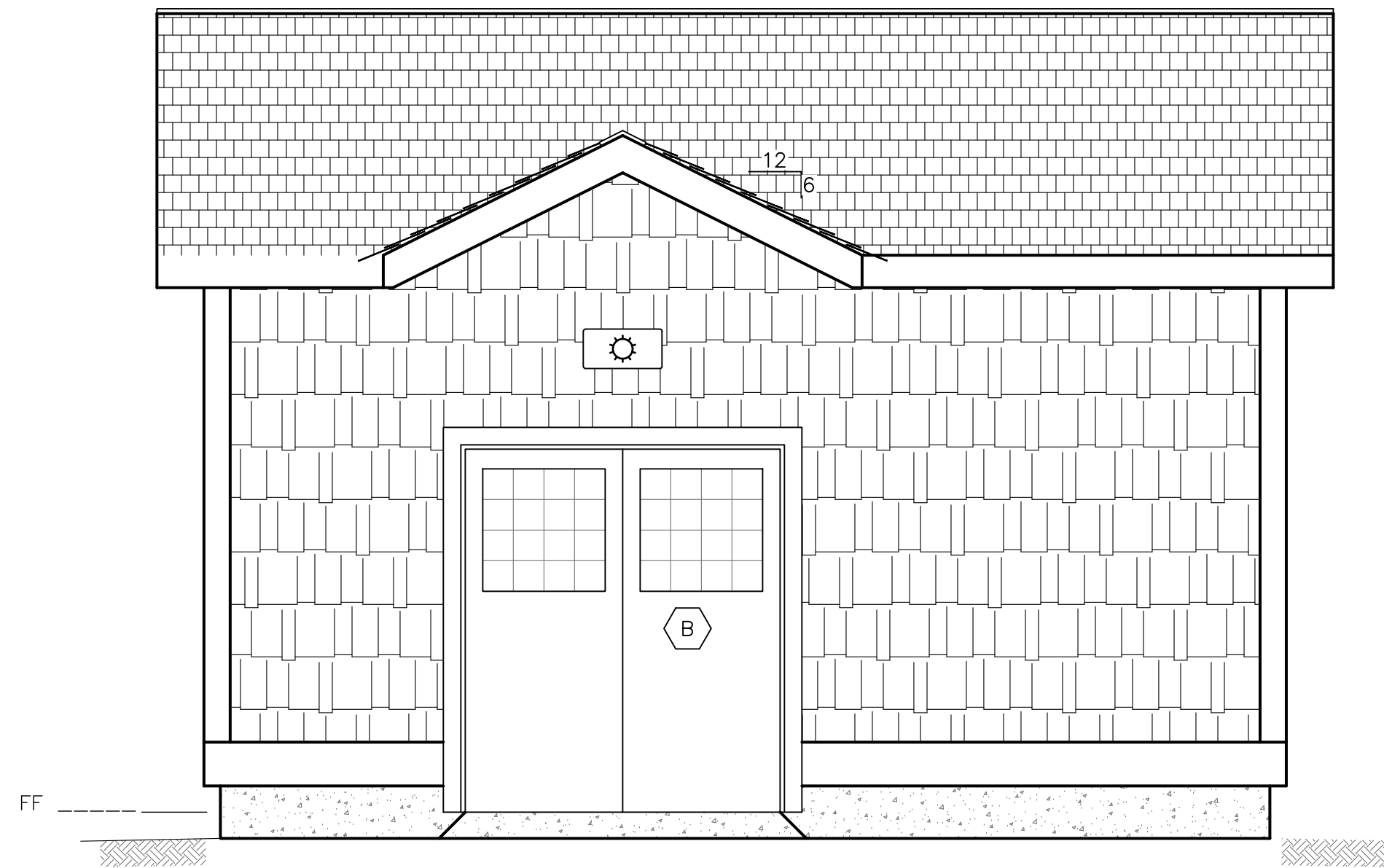
ATTACHMENT A
Route 236 Pumping Station Site
Parcel # 036-013-000



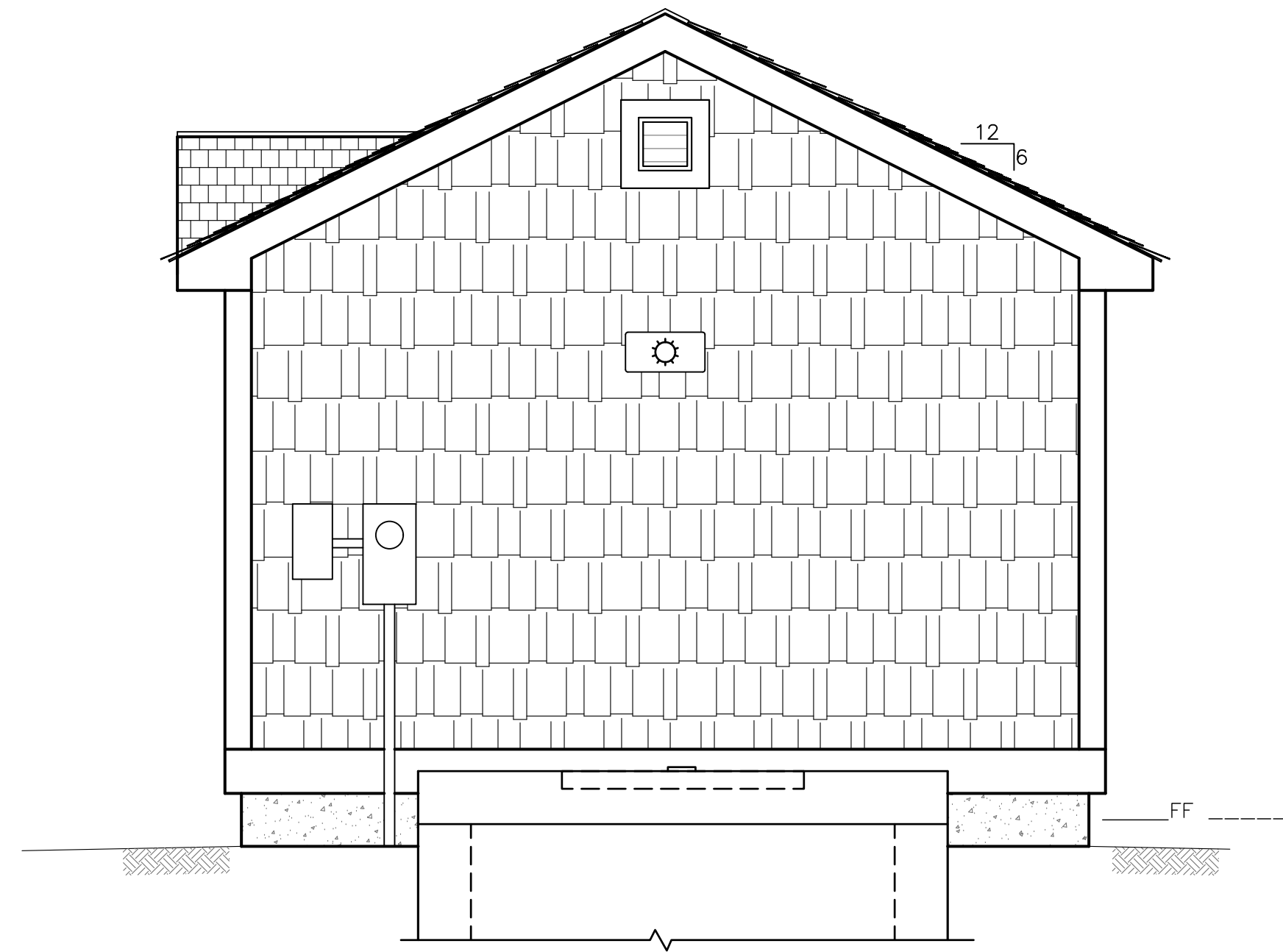
SOUTH ELEVATION



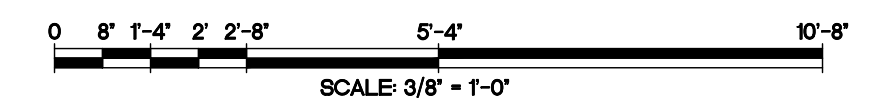
WEST ELEVATION



EAST ELEVATION



NORTH ELEVATION



| ISSUE FOR | APPROVAL | By |
|-----------|----------------|----|
| | Date | |
| | CONSTRUCTION | By |
| | Date | |
| | RECORD DRAWING | By |
| | Date | |

DRAFT
 8/3/2021
 NOT FOR CONSTRUCTION

UNDERWOOD
 engineers

25 Vaughan Mall, Portsmouth, N.H. 03801
 Tel. 603-436-6192 Fax. 603-431-4733

ROUTE 236 PUMPING STATION
 BUILDING ELEVATIONS
 RTE 236 TIF AREA (CONTRACT#3)
 SEWER & WATER EXTENSION
 ELIOT, MAINE

| | |
|--------------|-----------------|
| DWG NO A2 | SHEET 1 OF 1 |
|--------------|-----------------|

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ATTACHMENT B

Route 236 Pumping Station Site

Parcel # 036-013-000



Photo of property taken from east side of Route 236 (April 2020)

ATTACHMENT B

Route 236 Pumping Station Site

Parcel # 036-013-000



Photo of property taken from west side of Route 236 (April 2020)

2552.06

July 21, 2022

Lee Jay Feldman, Director of Land Use and Planning
Southern Maine Planning & Development Commission
110 Main Street
Suite 1400
Saco, ME 04072

**Re: *Town of Eliot Shoreland Zoning Permit Applications for Pumping Stations
Route 236 (TIF Area) Sewer & Water Extension***
Eliot, ME

Dear Mr. Feldman:

This letter provides project background information and responses to Southern Maine Planning & Development Commission (SMPDC) comments received on July 12, 2022 regarding the two (2) shoreland zoning permit applications for the above-referenced project prepared by Underwood Engineers (UE) on behalf of the Town of Eliot (the Town).

Project Background

The two (2) pumping stations referenced in the applications are part of the larger Route 236 TIF Area Sewer & Water Extension project. A brief project summary is below:

The Town established a TIF district along Route 236 in April 2009 to encourage economic growth. The Town voters authorized funding for construction to extend municipal sewer to the TIF district in November 2020. The Route 236 TIF Area Sewer & Water Extension project scope includes three (3) contracts (see Attachment A – Project Area Figure):

- Contract #1: Route 236, Beech Road, & State Road sewer mains
- Contract #2: Cross-country and local road sewer mains
- Contract #3: Pumping stations (2)

A Shoreland Zoning Permit is required for each pumping station included in Contract #3:

- Route 236 Pumping Station: Planned on Town parcel (Map 36 Lot 13).
- Beech Road Pumping Station: Planned on a residential parcel (Map 29 Lot 4) at 147 Beech Road in an easement area.

Responses to SMPDC Comments Dated July 12, 2022 (Attachment B)

Beech Road Pumping Station Application Review Memo

SMPDC comments provided are listed below in *italics* and UE's responses follow in **bold**:

- 1) *(pg 2) From what I gather from this submission this site is located on an easement location with the abutting property. This is not clear from the information submitted and there is no Easement Agreement that I can see from the information provided to me.*

Please find the attached Utility Easement Deed that was conveyed to the Town for the Beech Road Pumping Station (Attachment C). The Utility Easement Deed was signed by the Grantor on May 22, 2012 and recorded in the York County Registry of Deeds on October 22, 2012 (Book 16442 Pages 69 – 71).

- 2) *(pg 3) One issue the applicant has not adequately addressed in the submission concerns an existing drainpipe from the property owner's home that goes directly under the proposed pump house. Is the applicant going to relocate that line? Is the applicant going to put the new building directly over that line?*

The location of the suspected existing drainpipe is unknown at this time, but will be located by the contractor during construction. If necessary, the drainpipe will be relocated during construction as shown on the revised Beech Road Pumping Station Site Plan included with this letter (Attachment D).

Route 236 Pumping Station Application Review Memo

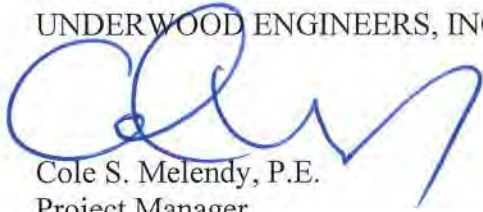
SMPDC comments do not identify any specific issues with the Route 236 application. Please inform us if supplemental information is required for review.



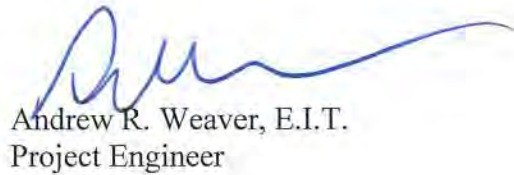
Please don't hesitate to reach out if you have any questions.

Very truly yours,

UNDERWOOD ENGINEERS, INC.



Cole S. Melendy, P.E.
Project Manager



Andrew R. Weaver, E.I.T.
Project Engineer

ARW/JMC
Encl.

cc: Jeff Brubaker, A.I.C.P., Town Planner (via email w/ encl.)

Encl.

Attachment A – Project Area Figure

Attachment B – SMPDC Application Review Memos dated July 12, 2022

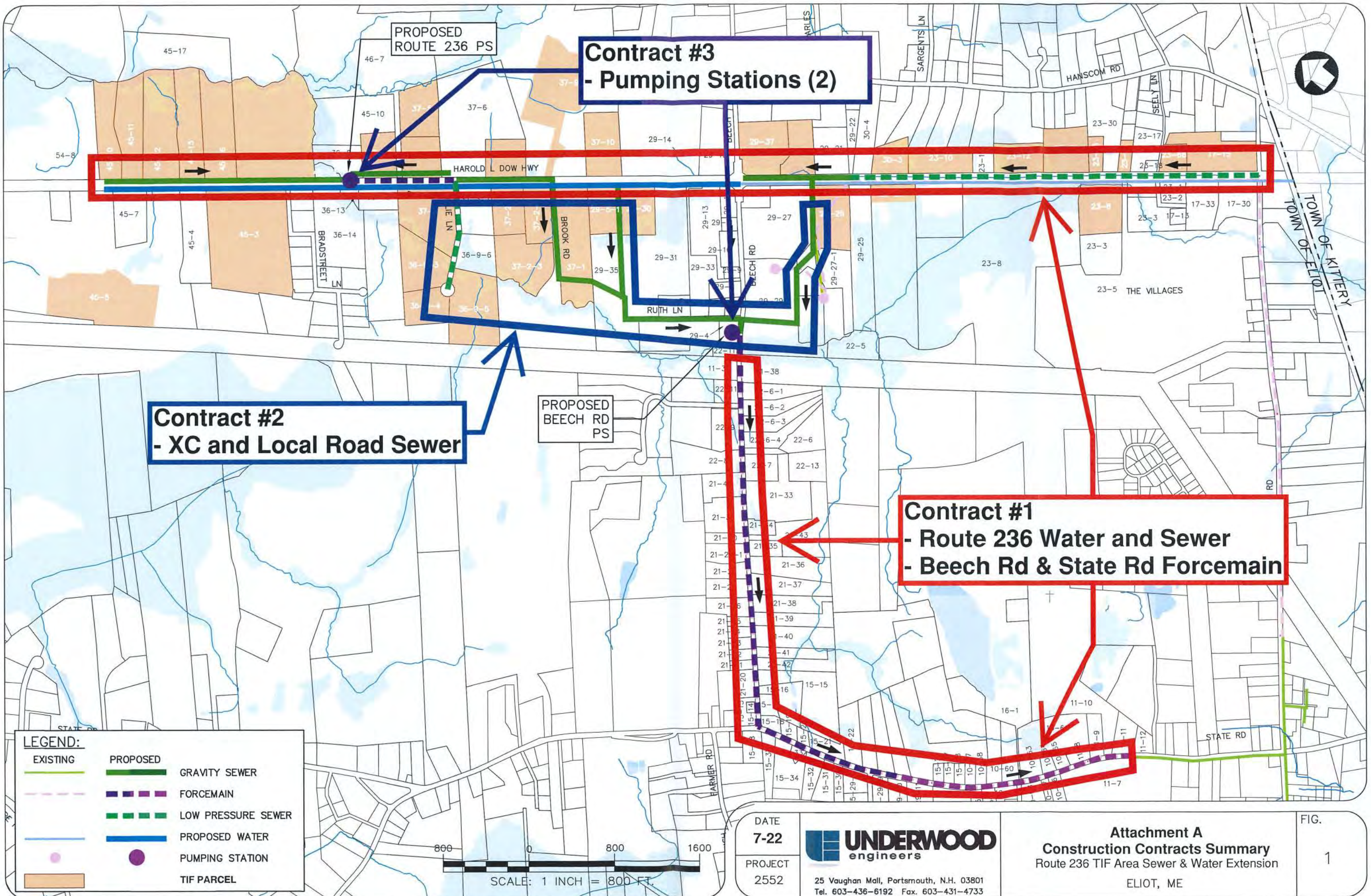
Attachment C – Utility Easement Deed – Beech Road Pumping Station

Attachment D – Revised Site Plan – Beech Road Pumping Station



ATTACHMENT A
PROJECT AREA FIGURE

C:\Users\rmg\Desktop\working files\2552 Eliot Route 236\2552_FIG.dwg, worksht, 5/27/2020 10:37:05 AM, rmg



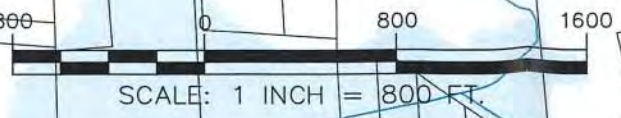
Contract #2
- XC and Local Road Sewer

Contract #3
- Pumping Stations (2)

Contract #1
- Route 236 Water and Sewer
- Beech Rd & State Rd Forcemain

LEGEND:

| | | | | | |
|--|-----------------|--|-----------------|--|--------------------|
| | EXISTING | | PROPOSED | | GRAVITY SEWER |
| | | | | | FORCEMAIN |
| | | | | | LOW PRESSURE SEWER |
| | | | | | PROPOSED WATER |
| | | | | | PUMPING STATION |
| | | | | | TIF PARCEL |



DATE
7-22

PROJECT
2552

UNDERWOOD
engineers

25 Vaughan Mall, Portsmouth, N.H. 03801
Tel. 603-436-6192 Fax. 603-431-4733

Attachment A
Construction Contracts Summary
Route 236 TIF Area Sewer & Water Extension
ELIOT, ME

FIG.
1

ATTACHMENT B
SMPDC APPLICATION REVIEW MEMOS



To: Eliot Planning Board
From: Lee Jay Feldman, Director of Planning
Date: 7/20/2022
Re: Shoreland zoning application-147 Beech Road Map 29 Lot 4

| Application Details/Checklist Documentation | |
|---|--|
| ✓ Address: | 147 Beech Road |
| ✓ Map/Lot: | Map 29/ Lot 4 |
| ✓ PB Case#: | |
| ✓ Zoning District: | Resource Protection |
| ✓ Shoreland Zoning: | Yes; Resource Protection |
| ✓ Owner Name: | |
| ✓ Applicant Name: | Town of Eliot/Underwood Engineers |
| ✓ Proposed Project: | Shoreland Zoning Permit Application for the placement of a Pump Station and Force Main on the property in order to expand the Sewer system |
| ✓ Application Received by Staff: | 06/29/2022 |
| ✓ Application Fee Paid and Date: | N/A |
| ✓ Application Sent to Staff Reviewers: | Date: 06/29/2022 <ul style="list-style-type: none"> Southern Maine Planning and Development Commission |
| Application Received/Found Complete by PB: | |
| Site Walk Date: | |
| Public Hearing Date: | |
| Public Hearing Publication Date: | |
| Deliberation Date: | |

| | |
|--------------------------|--|
| Notice of Decision Date: | |
| ✓ Reason for PB Review: | |

I. Proposal

The proposed project will consist of a pumping station building, wet well, propane tank, and paved driveway. The facility will be an essential service, pumping future wastewater downstream from the Route 236 TIF Area to the existing gravity sewer system on State Road. There is no reasonable alternate location for this pumping station. The facility will be constructed at a low point along Beech Road, allowing wastewater to flow by gravity from higher locations along Route 236 and Beech Road.

A culvert will be constructed under the driveway to maintain the existing drainage swale. There is an existing house on the northerly portion of the property and the facilities are to be constructed within an easement area on the southerly corner. The easement ground cover is primarily grass, so minimal clearing is anticipated for construction. The entire easement area is within the shown FEMA floodplain, the station will be protected from flood levels 3 feet above the estimated flood elevation at the site.

From what I gather from this submission this site is located on an easement location with the abutting property. This is not clear from the information submitted and there is no Easement Agreement that I can see from the information provided to me.

II. Ordinance Review

This project is being reviewed under the Shoreland Review standards within the Resource Protection Zone. This use requires Site Plan Review as an Essential Service in the RP zone. The site has some floodplain on the property; however, the structure will not be located in the floodplain and is proposed to be constructed 3 feet above the base flood elevation.

III. The Site Design

The site design proposes to pick up the roadside water along the southeast portion of front portion of the property and convey it through a short 30-foot underdrain pipe to outlet it in a stone outlet abutting the upland edge of the wetland on the south westerly corner of the property.

The site grading will sheet the remaining water east to west toward the wetland. The amount of water coming off this site should be minimal.

The utilities are proposed to come in underground from the south side of Beech Road. The Force Main for the project will come from the building and head in a westerly direction along the North side of Beech Road.

The site will also contain a 1000-gallon underground propane tank on the easterly side of the proposed pump house structure.

The applicant is proposing to place 20 Arborvitae shrubs 5 feet tall and 5 feet on center along the East & North demarcated boundary of the easement in order to screen the site from the property owner's view.

One issue the applicant has not adequately addressed in the submission concerns an existing drainpipe from the property owner's home that goes directly under the proposed pump house. Is the applicant going to relocate that line? Is the applicant going to put the new building directly over that line? I would not suggest placing the structure over this line without a manhole structure inside the building incase access is needed to this pipe.

IV. Recommendation

At this time, I am not sure that the submission has provided a lot of answers to critical questions. I would recommend a tabling action would be in order until the applicants representative can provide additional information on this site.



To: Eliot Planning Board
From: Lee Jay Feldman, Director of Planning
Date: 7/20/2022
Re: Shoreland zoning application-Route 236 Map 36 Lot 13

| Application Details/Checklist Documentation | |
|---|--|
| ✓ Address: | Route 236 |
| ✓ Map/Lot: | Map 36/ Lot 13 |
| ✓ PB Case#: | |
| ✓ Zoning District: | Resource Protection |
| ✓ Shoreland Zoning: | Yes; Resource Protection |
| ✓ Owner Name: | |
| ✓ Applicant Name: | Town of Eliot/Underwood Engineers |
| ✓ Proposed Project: | Shoreland Zoning Permit Application for the placement of a Pump Station and Force Main on the property in order to expand the Sewer system |
| ✓ Application Received by Staff: | 06/29/2022 |
| ✓ Application Fee Paid and Date: | N/A |
| ✓ Application Sent to Staff Reviewers: | Date: 06/29/2022 • Southern Maine Planning and Development Commission |
| Application Received/Found Complete by PB: | |
| Site Walk Date: | |
| Public Hearing Date: | |
| Public Hearing Publication Date: | |
| Deliberation Date: | |

| | |
|--------------------------|---|
| Notice of Decision Date: | |
| ✓ Reason for PB Review: | Use in the Shoreland zone requires Approval |

I. Proposal

The proposed project will consist of a pumping station building, wet well, propane tank, and paved driveway. The facility will be an essential service, pumping future wastewater downstream from the Route 236 TIF Area to the existing gravity sewer system on Brook Road. There is no reasonable alternate location for this pumping station. The facility will be constructed at a low point along Beech Road, allowing wastewater to flow by gravity from higher locations along Route 236 and Beech Road.

A culvert will be constructed under the driveway to maintain the existing drainage swale. Placing the water into a Stone outlet to the west of the proposed entrance allowing the water to eventually get back into the wetland area southwest of the site.

A new sewer line will be brought in to the site from across Route 236 at a proposed Manhole in the d&p classics site. The wastewater will then circulate through the pump station to a Force main heading down Route 236 in a southerly direction.

II. Ordinance Review

This project is being reviewed under the Shoreland Review standards within the Resource Protection Zone. This use requires Site Plan Review as an Essential Service in the RP zone. The site has some floodplain on the property; however, the structure will not be located in the floodplain and is proposed to be constructed 9 feet above the base flood elevation.

III. The Site Design

The utilities are proposed to come in underground from the southwesterly side of Route 236. The site will also contain a 1000-gallon underground propane tank on the westerly side of the proposed pump house structure.

The application does provide Elevations of the proposed pump station for the boards consideration. From the photos submitted it seems that this project will clean up some illicit dumping that has occurred over the years.

IV. Recommendation

At this time, I am not sure that the submission has provided a lot of answers to critical questions. I would recommend a tabling action would be in order until the applicants representative can provide additional information on this site.

ATTACHMENT C

UTILITY EASEMENT DEED – BEECH ROAD PUMPING STATION

UTILITY EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS, that Dennis R. and Linda K. Spinney, with a mailing address of 235 Bolt Hill Road, Eliot, Maine 03903, County of York, State of Maine (herein "Grantor")

FOR CONSIDERATION PAID in the amount of One Dollar (\$1.00), receipt of which is hereby acknowledged, grant to the **TOWN OF ELIOT**, its employees, agents, or assigns acting on behalf of the Town of Eliot, Maine, a municipal body politic, having a mailing address of 1333 State Road, Eliot, Maine, 03903, (hereinafter "Grantee")

WITH QUITCLAIM COVENANTS, the following easement rights with respect to the Grantor's property situated at 147 Beech Road, Eliot, York County, Maine (the "Premises"), Assessor's Map 29, Lot 4. Said easements are further bounded and described as follows:

1. Temporary Easement: Conveying to the Grantee the temporary right and privilege to enter onto land of the Grantor, for the initial purpose of initial construction of a sewer pumping station, together with associated site improvements, at the location shown on a plan entitled "EASEMENT PLAN - TAX MAP 29 LOT 4", dated April 2012, prepared by Underwood Engineers, Inc. The Temporary easement will expire one year following acceptance of the sewer construction by the Town of Eliot. The Temporary Easement is at the southerly corner of the property, generally defined as follows; beginning at the southerly corner of the lot at Beech Road extending seventy two (72) feet more or less northeast along Beech Road, thence turning and running sixty (60) feet more or less northwest, thence turning and running seventy four (74) feet more or less southwest to Great Brook, thence turning and running sixty (60) feet more or less southeast, to the point of beginning, encompassing an area of 4,400 square feet (0.10 AC.), more or less.
2. Permanent Easement: Conveying to the Grantee the permanent right and privilege to maintain, operate, repair and/or replace: sewer pipelines, manholes, appurtenances and access road along the sewer. The Permanent Easement is at the southerly corner of the property, being the same area as the temporary easement as described above.
3. Purpose and Rights: It is further agreed that within the described Easements, the Grantor convey to the Grantee the perpetual, permanent, uninterrupted and unobstructed exclusive easement and right of way in, under, across and over the Easement area for the purpose of installing, operating, maintaining, and repairing: a sewerage pumping station and other facilities that are located within the prescribed easement area. The Grantee shall have the right to remove trees, bushes, undergrowth and other obstructions interfering with the activities authorized herein and to take such other actions as may be reasonably necessary, useful or convenient for the enjoyment of the easement rights herein granted.

4. Grantee's Responsibility to Restore: Disturbed areas outside the easement areas shall be graded and restored in a manner that will not impede natural flow of drainage across the premises. Surfaces shall be graded smooth in keeping with the appearance of the adjoining landscape. All disturbed areas will be re-loamed and seeded.
5. Grantor's Sewer Connection: It is agreed by condition of this easement that a sewer connection pipe will be provided to the Grantee at the general location shown on the referenced easement plan, for the Grantee's sole benefit. It is further agreed that the Grantee and/or Owner of the property will not be assessed a connection fee to connect to the sewer connection pipe as provided.
6. Easement to Run with Land: All rights and privileges, obligations and liabilities created by this instrument shall inure to the benefit of, and be binding upon, the heirs, devisees, administrators, executor, successors and assignees of the Grantee and of the Grantor, the parties hereto and all subsequent owners of the Premises and shall run with the land.
7. Recording of Easement: It is the intention of the grantor and grantee that the easement will be permanently defined with metes and bounds including monumentation following construction of the sewer. The permanent easement plan will then be recorded at the York County Registry of Deeds, at the Grantees expense.

MEANING AND INTENDING to convey an easement over a portion of the premises conveyed to the within Grantor by deed of Raymond D. Grover and Ruth O. Grover dated January 25th, 1978, and recorded in Book 2310 Page 217 of the York County Registry of Deeds.

DATED this 22 day of May, 2012.

By: Dennis R. Spinney
 Grantor: Dennis R. Spinney

By: Linda K. Spinney
 Grantor: Linda K. Spinney

STATE OF MAINE
 COUNTY OF YORK

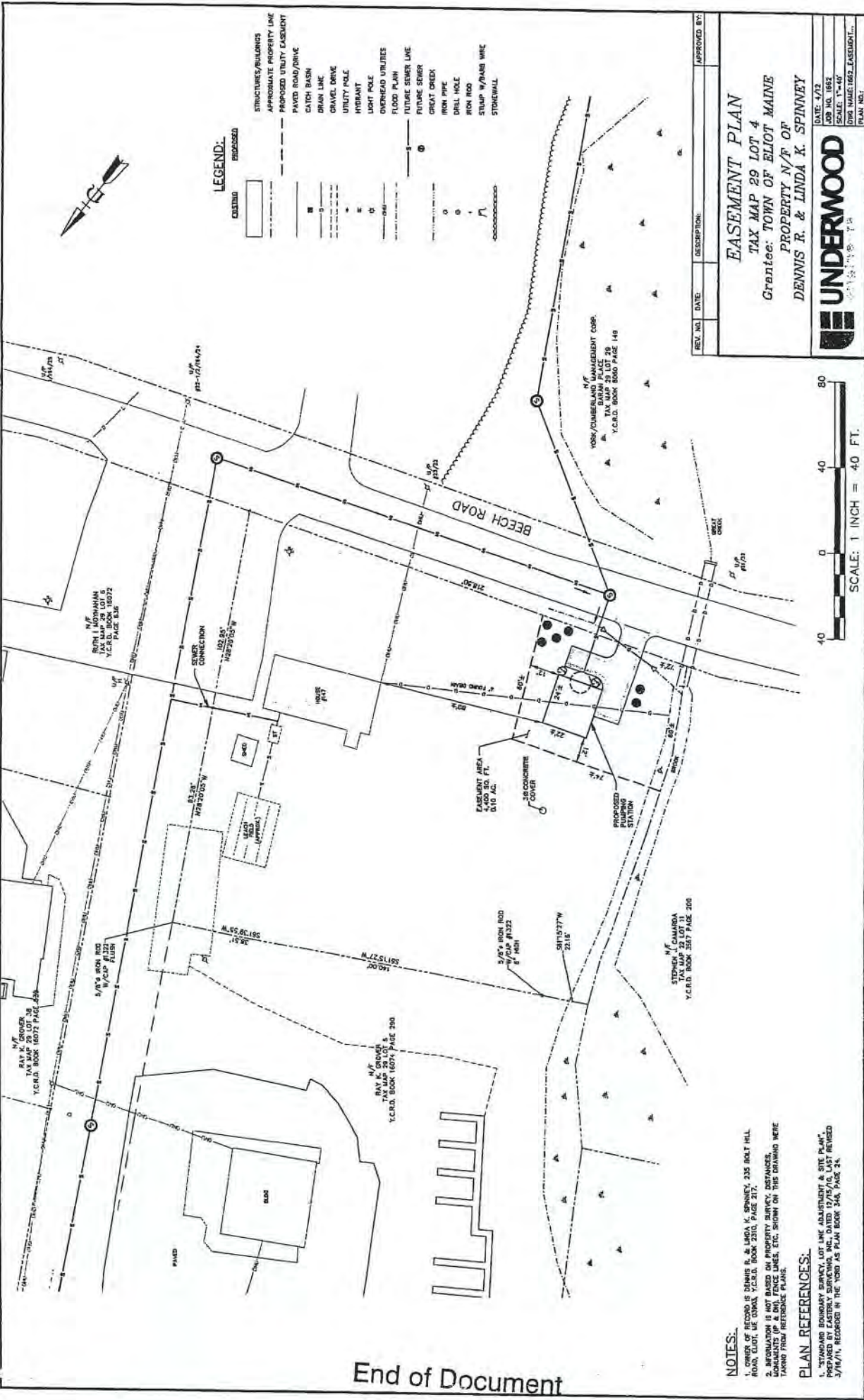
The foregoing instrument was acknowledged before me this 22 day of May, 2012 by _____

SEAL

Sheila M Hatch
 Justice of the Peace/Notary Public
 Printed Name: Sheila M Hatch

My Commission Expires:

SHEILA M. HATCH
 Notary Public, Maine
 My Commission Expires March 19, 2016



LEGEND:

- EXISTING PROCESSED
- STRUCTURES/BUILDINGS
- APPROXIMATE PROPERTY LINE
- PROPOSED UTILITY EASEMENT
- PAVED ROAD/DRIVE
- CATCH BASIN
- DRAIN LINE
- GRAVEL DRIVE
- UTILITY POLE
- HYDRANT
- LIGHT POLE
- OVERHEAD UTILITIES
- FLOOD PLAN
- FUTURE SEWER LINE
- PURPOSE SENDER
- GREAT DRAIN
- IRON PIPE
- DIEL HOLE
- IRON ROD
- STOP W/BRD WIRE
- STONEWALL

| | | | |
|----------|------|-------------|-------------|
| REV. NO. | DATE | DESCRIPTION | APPROVED BY |
| | | | |

EASEMENT PLAN
TAX MAP 29 LOT 4
 Grantee: TOWN OF ELIOT MAINE
 PROPERTY N/F OF DENNIS R. & LINDA K. SPINNEY

DATE: 4/7/13
 JOB NO. 1093
 SCALE: 1"=40'
 DRAW NUMBER: 1093_EASEMENT...
 PLAN SET

UNDERWOOD
 SURVEYORS



NOTES:

- ORDER OF RECORD IS DENNIS R. & LINDA K. SPINNEY, 335 BOLT HILL ROAD, CLUT, ME 03964, Y.C.R.D. BOOK 2310, PAGE 217.
- INFORMATION IS NOT BASED ON PROPERTY SURVEY, DISTANCES, MONUMENTS UP & OVER, FENCE LINES, ETC. SHOWN ON THIS DRAWING WERE TAKEN FROM REFERENCE PLANS.

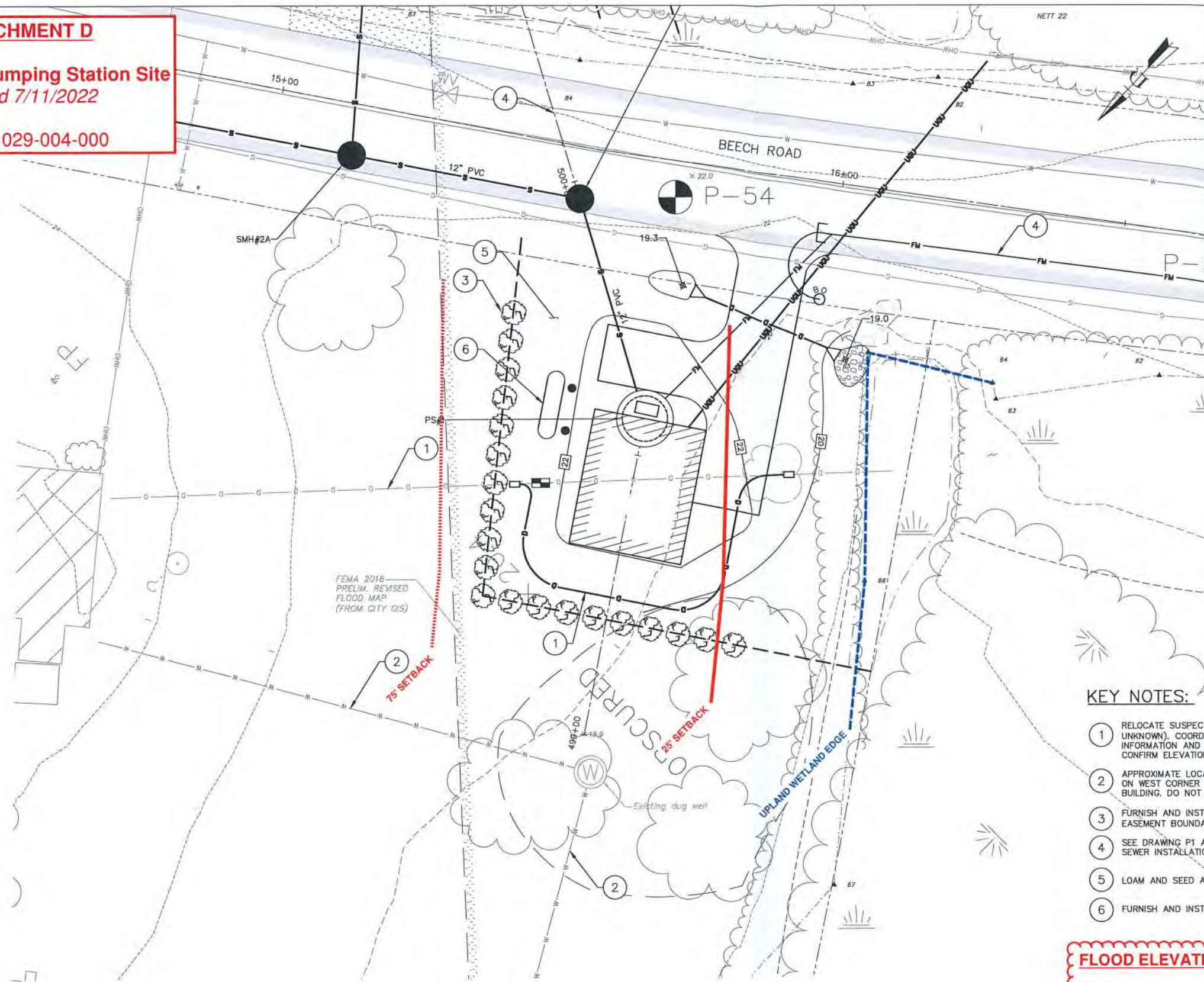
PLAN REFERENCES:

- STANDARD BOUNDARY SURVEY, LOT LINE ADJUSTMENT & SITE PLAN, PREPARED BY EASTBURY SURVEYING, INC., DATED 12/15/10, LAST REVISED 3/6/11, RECORDED IN THE TOWN AS PLAN BOOK 246, PAGE 24.

End of Document

ATTACHMENT D
REVISED SITE PLAN – BEECH ROAD PUMPING STATION

ATTACHMENT D
Beech Road Pumping Station Site
 Revised 7/11/2022
 Parcel # 029-004-000



KEY NOTES:

- ① RELOCATE SUSPECTED DRAIN (LOCATION, SIZE, MATERIAL, AND DEPTH UNKNOWN). COORDINATE WITH PROPERTY OWNER FOR ADDITIONAL INFORMATION AND PERFORM TEST PIT TO LOCATE. SLOPE TO DRAIN AND CONFIRM ELEVATION IN FIELD WITH ENGINEER.
- ② APPROXIMATE LOCATION OF EXISTING WATER TO SERVE EXTERIOR SPIGOT ON WEST CORNER OF MAIN HOUSE AND UTILITY SINK IN WORKSHOP BUILDING. DO NOT DISTURB.
- ③ FURNISH AND INSTALL 20 EMERALD GREEN ARBORVITAE (5' TALL) ALONG EASEMENT BOUNDARY @ 5' ON CENTER.
- ④ SEE DRAWING P1 AND P14 FOR ADDITIONAL INFORMATION REGARDING SEWER INSTALLATION.
- ⑤ LOAM AND SEED ALL DISTURBED AREAS.
- ⑥ FURNISH AND INSTALL 1,000 GAL. UNDERGROUND PROPANE TANK.

FLOOD ELEVATION NOTE

(1) FEMA 2018 Prelim. Revised Flood Map elevation line shown does not follow elevation contours in this area.

(2) The estimated 100-year flood elevation at this site is 19-ft. The flood map elevation line approximately follows the 18-ft contour upstream of this site and the 20-ft contour downstream.

BEECH ROAD PUMPING STATION SITE PLAN
 SCALE: 1 INCH = 10 FT.

| | |
|---|--|
| Drawn/Chk. RMG Designed PDM Checked: _____ Approved: 7/7/2022 Date: 7/7/2022 Book No. 2652 Project No. 2652_P.L01 Dwg. ID 2652_P.L01 Scale: _____ | ISSUE FOR APPROVAL Date: _____ By: _____ |
| | CONSTRUCTION Date: _____ By: _____ |
| REVISIONS NO. _____ DATE _____ BY _____ | APPD DATE _____ BY _____ |

DRAFT
 7/7/2022
 NOT FOR CONSTRUCTION

UNDERWOOD engineers
 25 Vaughan Mall, Portsmouth, N.H. 03801
 Tel. 603-436-6192 Fax. 603-431-4733

PUMPING STATION - SITE PLAN
 BEECH ROAD
 RTE 236 TIF AREA (CONTRACT#3)
 SEWER & WATER EXTENSION
 ELIOT, MAINE

| | |
|---------------|---------------|
| DWG NO PS1 | SHEET X OF |
|---------------|---------------|



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Lew Chamberlain, P.E., Attar Engineering, Applicant’s Representative
 Joel Pepin, Applicant
 Date: August 12, 2022 (report date)
 August 16, 2022 (meeting date)
 Re: PB22-15: 7 Maclellan Ln.: Site Plan Amendment/Review and Change of Use – Marijuana Store, Office, and Retail – **Sketch Plan Review**

| Application Details/Checklist Documentation | |
|---|---|
| ✓ Address: | 7 Maclellan Ln. |
| ✓ Map/Lot: | 37/19 |
| ✓ PB Case#: | 22-15 |
| ✓ Zoning: | Commercial/Industrial (C/I) District |
| ✓ Shoreland Zoning: | Resource Protection (RP), Limited Commercial (LC) |
| ✓ Owner Name: | Potions, LLC |
| ✓ Applicant Name: | Potions, LLC & JAR Cannabis Co. |
| ✓ Proposed Project: | Marijuana Store, Office, and Retail |
| ✓ Application Received by Staff: | June 28, 2022 |
| ✓ Application Fee Paid and Date: | \$300 (SP Amend.: \$100; Chg. of Use: \$25; PH: \$175) June 29, 2022 |
| ✓ Application Sent to Staff Reviewers: | June 30, 2022 |
| Application Heard by PB | August 16, 2022 (scheduled) |
| Found Complete by PB | TBD |
| Site Walk | TBD |
| Site Walk Publication | TBD |
| Public Hearing | TBD |
| Public Hearing Publication | TBD |
| Deliberation | TBD |
| ✓ Reason for PB Review: | Site Plan Amendment, Change of Use, Marijuana Establishment |

Overview

Applicants Potions, LLC, and JAR Cannabis Co. (property owner: Potions, LLC; agent: Attar Engineering) seeks Site Plan Amendment/Review and a Change of Use approval for a marijuana establishment (marijuana store) along with office space and retail space at 7 Maclellan Ln. (Map 37, Lot 19). The existing building (former car wash, previously approved as a marijuana products manufacturing facility) would remain with its current approved use and same tenant. A previously

PB22-15: 7 Maclellan Ln.: Site Plan Amendment/Review and Change of Use – Marijuana Store, Office, and Retail – **Sketch Plan Review**

approved addition to that building for retail space would be reduced from its previous approval of 8,000 sq. ft. to become a 3,200 sq. ft. separate mixed-use building with general retail space and office space. There would then be a new building constructed in the eastern corner of the site with 2,000 sq. ft. for a marijuana store and 2,000 sq. ft. office above it.

Application contents

Submitted June 28, 2022

- Cover letters dated 6/27/22 from both Attar Engineering and JAR Cannabis
- Agent authorization letters, JAR Cannabis Co. and Blake Dubin to Attar Engineering, Inc.
- SPR application signed by Attar Engineering
- Quitclaim deed
- 500 foot abutters list
- Location maps
- Site plan set

Type of review needed

Sketch plan review – ask questions of the applicant, seek more information as needed, provide input as needed on ordinance compliance. Some information may be provided with full SPR application.

Zoning

Commercial-Industrial (C/I); RP and LC shoreland zoning in a corner of the property not to be developed.

Use

Marijuana establishments, retail sales, and office uses are SPR uses in the C/I district.

Affidavit of ownership (33-106)

Deed provided; need more info on lease or lease option, etc.

OMP Conditional License

Needed – Has been requested of applicant

Additional review info

To be provided during Planner presentation at meeting.

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

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

June 27, 2022
Project No. C341-22

**RE: Sketch Plan Application for Site Plan Amendment
Potions, LLC & JAR Cannabis (Tax Map 37, Lot 19)
7 MacLellan Lane, Eliot, Maine**

Dear Mr. Brubaker:

On behalf of the lot owner/applicant, Potions, LLC, and applicant/potential tenant, JAR Cannabis Co., I have enclosed a Sketch Plan Application and supporting documents for your review and consideration.

The site, which contains 3.09 acres, is located at 7 Maclellan Lane and was originally developed as a car wash. The car wash use has been discontinued and an Adult Use Marijuana Manufacturing use has been established in the existing building, per previous site plan approvals. The site is in the Commercial/Industrial zoning district and partially within Limited Commercial and Resource Protection Shoreland Overlays. It is not located in a flood hazard zone.

JAR Cannabis Co. proposes to construct and operate a 2,000 s.f. Adult Use Marijuana Retail Store with an additional 2,000 s.f. of office space on a second level in the same building. JAR Cannabis will be a tenant of Potions, LLC.

Potions, LLC, proposes, as separate, future, phase, to reduce the size of the previously approved, 8,000 s.f building to a 3,200 s.f., mixed use building of office and general retail space.

The existing Adult Use Marijuana Manufacturing operation will remain as a tenant of Potions, LLC.

The existing septic system will be modified or rebuilt with a smaller footprint due to the reduction in required sewer capacity.

Traffic trip generation for the completed development is expected to be less than 100 peak hour trips, therefore, a Traffic Movement Permit is not required. More specific traffic data and / or analysis can be provided if required by the Planning Board.

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;

Lewis Chamberlain, P.E.
C341-22 Sketch_cover.doc

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



JAR Cannabis Co.
Eliot Municipal Marijuana Application
Cover Letter for Application

June 27th, 2022

To: Town of Eliot Maine
From: Joel Pepin – Owner

JAR Cannabis Company is applying for a Marijuana Retail License for our leased premises at 7 MacLellan Dr. JAR is a 100% Maine owned vertically integrated cannabis company with a proven track record of success in several other municipalities. We are excited to bring our business to Southern Maine, and to develop a strong relationship with the Town of Eliot and the local community. I have had multiple meetings with the Town Planner, Mr. Brubaker, about our project. I am confident that our application & newly updated site plan conforms with the Town's marijuana ordinance.

We look forward to developing the commercial lot at 7 MacLellan Dr. Thank you in advance for the time and consideration of our application. We are committed to moving forward responsibly and professionally with this project.

Thank you,

A handwritten signature in black ink, appearing to read "Joel Pepin", written in a cursive style.

Joel Pepin
Owner
JAR Cannabis Co.
(207)333-8171
joel@jarcannabis.com

**Joel Pepin
JAR Co. Farms Windham, LLC
dba JAR Cannabis Co.
P.O. Box 404
Standish, ME 04084**

Jeffery Brubaker
Town Planner
Town of Eliot
1333 State Road
Eliot, ME 03903

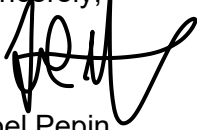
June 27, 2022

Dear Mr. Brubaker,

Please be informed that Lewis Chamberlain, P.E. and Michael Sudak, E.I.T. of Attar Engineering, Inc. will be acting as my agents for the applications and permitting of my project at 7 Maclellan Lane in Eliot, Maine.

Please contact me if I can provide any additional information.

Sincerely;

A handwritten signature in black ink, appearing to read 'Joel Pepin', with a stylized flourish extending to the right.

Joel Pepin

cc: Lewis Chamberlain, P.E. Attar Engineering, Inc.

**Blake Dubin
Potions, LLC
336 Miller Ave
Portsmouth, NH 03801**

Jeffery Brubaker
Town Planner
Town of Eliot
1333 State Road
Eliot, ME 03903

June 27, 2022

Dear Mr. Brubaker,

Please be informed that Lewis Chamberlain, P.E. and Michael Sudak, E.I.T. of Attar Engineering, Inc. will be acting as my agents for the applications and permitting of my project at 7 Maclellan Lane in Eliot, Maine.

Please contact me if I can provide any additional information.

Sincerely;

Blake Dubin



cc: Lewis Chamberlain, P.E. Attar Engineering, Inc.

| |
|---|
| Case No. _____ Site review? Yes No |
|---|

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

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

Tax Map 37 Lot# 19 Lot Size 3.09 ac. Zoning District: C/I, SLLR, RP

Your Name Lewis Chamberlain (agent) Your mailing address 1284 State Road

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

Who owns the property now? Potions, LLC

Address (Location) of the property 7 Maclellan Lane

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

Step 2 (establish your legal interest in the property)

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

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

Office, Retail, Adult Use Marijuana Manufacturing

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

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

See attached cover letter.

Case No. _____

Site review? Yes No

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

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

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

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

(STEP 5) Board visits site with applicant.

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

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

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

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

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

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

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

PART 2

Case No. _____

Site review? Yes No

DETAILED ORDINANCE REFERENCES FOR EACH SITE REVIEW EVENT

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

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

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

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

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

Case No. _____

Site review? Yes No

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

Chapter 33 required information

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

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

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

Other Chapter 33 Site Review Ordinance Requirements.

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

Case No. _____

Site review? Yes No

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

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

Chapter 35 Post-Construction Stormwater Management

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

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

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

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

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

Case No. _____

Site review? Yes No

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

5.1. Board discusses Site Plan with applicant.

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

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

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

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

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

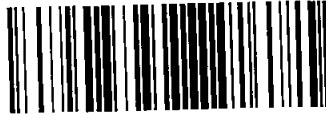
6.5. Abutters notified 10 days prior to by certified mail, return receipt requested. \$150.00 paid by applicant to cover the cost of advertising and abutter notification (Sec. 1-25)

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

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

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

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



Quitclaim Deed With Covenant

Blake Dubin of Miller Avenue, Portsmouth, New Hampshire, for good and valuable consideration, grants to Potions, LLC, a Maine limited liability company with a principal place of business in Eliot, York County, Maine, with quitclaim covenant the land in the Town of Eliot, York County, Maine more particularly bounded and described in Exhibit A, which is attached to and made a part of hereof by reference.

IN WITNESS WHEREOF, Blake Dubin has executed this instrument this 6th day of January, ~~2020~~ ²⁰²¹.

Witness

Blake Dubin

NO R.E. TRANSFER TAX PAID

STATE OF MAINE
County of York

This document was subscribed, sworn to, and acknowledged to be his free deed and act before me by Blake Dubin this 6th day of January, ~~2020~~ ²⁰²¹.

Signature of Notary/Attorney

My commission expires: Oct 02, 2024

DAMALIS MEDRANO
Notary Public, State of New Hampshire
My Commission Expires Oct. 02, 2024

SEAL

2p → Blake Dubin
336 Miller Ave.
Portsmouth, NH 03801

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, located on the northeasterly sideline of Route 236, also known as the Dow Highway, in the Town of Eliot, County of York and State of Maine, and being bounded and described as follows:

Beginning at a rebar set on the northeasterly sideline of Route 236, which rebar is set at the southwesterly corner of the premises herein described and on the northwesterly sideline of a private right of way easement; thence running North 25° 35' 12" West along Route 236 for a distance of three hundred nineteen and 37/100 (319.37) feet to a rebar; thence turning and running North 61° 17' 22" East along land now or formerly of Gary D. Findley, for a distance of three hundred three and 25/100 (303.25) feet to a rebar; thence running North 61° 17' 17" East along land now or formerly of Hans D. Baumann and others, for a distance of three hundred ten and 59/100 (310.59) feet to a rebar; thence running South 28° 42' 39" East along land now or formerly of Allan C. McClellan, Jr. and others, for a distance of three hundred thirty (330) feet to a rebar set on the northwesterly sideline of a private right of way easement; thence running South 62° 33' 49" West along said right of way, for a distance of one hundred thirty-six and 42/100 (136.42) feet; thence running South 62° 13' 25" West along said right of way, for a distance of four hundred ninety-four and 89/100 (494.89) feet to a rebar set on the northeasterly sideline of Route 236 and the point of beginning.

Excepting from the above-described premises, a certain lot or parcel of land conveyed by Fource, LLC to Booth R. Hemingway by deed dated July 20, 2007 and recorded in the York County Registry of Deeds in Book 15216, Page 652, being more particularly bounded and described as follows:

Commencing at a rebar set on the northwesterly sideline of a private way known as MacLellan Drive, said point lies North 62° 13' 25" East a distance of 427.47 feet from a rebar found at the intersection of MacLellan Drive and the northeasterly sideline of Route 236; thence running North 28° 42' 39" West a distance of three hundred twenty-five and 86/100 (325.86) feet along remaining land now or formerly of Fource, LLC to a rebar set at the land now or formerly of Gary D. Finley and Maureen Finley; thence running North 61° 17' 13" East a distance of two hundred three and 79/100 (203.79) feet along land now or formerly of said Finley to a rebar; thence running South 28° 42' 39" East a distance of three hundred thirty (330) feet along land now or formerly of Booth R. Hemingway to a rebar found at MacLellan Drive; thence running South 62° 27' 04" West a distance of two hundred three and 83/100 (203.83) feet along MacLellan Drive to the point of beginning.

The above described premises are conveyed together with and appurtenant easement to be used as a right of way to gain access to and exit from the northeasterly sideline of Route 236 and the above described premises. Said right of way is more particularly described in the deed of Allan Q. McClellan, Jr. et al to Han Baumann, et al dated January 17, 2005 and recorded in the York County Registry of Deeds in Book 14352, Page 1.



500 foot Abutters List Report

Eliot, ME
June 27, 2022

Subject Property:

Parcel Number: 037-019-000
CAMA Number: 037-019-000
Property Address: 7 MACLELLAN LN

Mailing Address: POTIONS LLC
7 MACLELLAN DR
ELIOT, ME 03903

Abutters:

Parcel Number: 036-008-000
CAMA Number: 036-008-000
Property Address: 348 HAROLD L DOW HWY

Mailing Address: FINLEY, GARY D FINLEY, MAUREEN
10 WYMAN AVE
KITTERY, ME 03904

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

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

Parcel Number: 036-010-000
CAMA Number: 036-010-000
Property Address: 335 HAROLD L DOW HWY

Mailing Address: THOMPSON, STEPHEN R
335 HAROLD L DOW HWY
ELIOT, ME 03903-1418

Parcel Number: 036-011-000
CAMA Number: 036-011-000
Property Address: HAROLD L DOW HWY

Mailing Address: PERHAM, CALVIN L
145 PINE GROVE AVE
LYNN, MA 01904-2859

Parcel Number: 036-013-000
CAMA Number: 036-013-000
Property Address: HAROLD L DOW HWY

Mailing Address: TOWN OF ELIOT
1333 STATE ROAD
ELIOT, ME 03903

Parcel Number: 036-014-000
CAMA Number: 036-014-000
Property Address: 37 BRADSTREET LN

Mailing Address: HUNDLEY, THOMAS R HUNDLEY, L
APRIL
37 BRADSTREET LANE
ELIOT, ME 03903

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

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

Parcel Number: 037-004-000
CAMA Number: 037-004-000
Property Address: 14 MACLELLAN LN

Mailing Address: HERITAGE OPERATING LP AMERIGAS
PROPANE LP
C/O THE ALBANO GROUP PO BOX 1240
MANCHESTER, NH 03105

Parcel Number: 037-005-000
CAMA Number: 037-005-000
Property Address: 26 MACLELLAN LN

Mailing Address: BROWN DOG PROPERTIES MAINE LLC
396 BEECH RD
ELIOT, ME 03903

Parcel Number: 037-021-000
CAMA Number: 037-021-000
Property Address: 300 HAROLD L DOW HWY

Mailing Address: SLATE HILL RECYCLING LLC
171 YORK WOODS RD
SOUTH BERWICK, ME 03908



www.cai-tech.com

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



500 foot Abutters List Report

Eliot, ME
June 27, 2022

Parcel Number: 045-001-000
CAMA Number: 045-001-000
Property Address: 9 BRADSTREET LN

Mailing Address: BEDARD, PATRICK S
BEDARD, ABBY
COHEN
PO BOX 366
ELIOT, ME 03903

Parcel Number: 045-015-000
CAMA Number: 045-015-000
Property Address: HAROLD L DOW HWY

Mailing Address: TOWN OF ELIOT
1333 STATE RD
ELIOT, ME 03903

Parcel Number: 045-018-000
CAMA Number: 045-018-000
Property Address: 384 HAROLD L DOW HWY

Mailing Address: HENRIE REALTY TRUST MARIE &
MATTHEW GAGNON TRUSTEES
PO BOX 431
TOPSFIELD, MA 01983

Parcel Number: 046-007-000
CAMA Number: 046-007-000
Property Address: 50 MACLELLAN LN

Mailing Address: HISSONG READY-MIX AGGREGATES
LLC
48 YORK ST SUITE 2
KENNEBUNK, ME 04043

Parcel Number: 046-010-000
CAMA Number: 046-010-000
Property Address: MACLELLAN LN

Mailing Address: BROWN DOG PROPERTIES MAINE LLC
396 BEECH RD
ELIOT, ME 03903



www.cai-tech.com

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7 Maclellan Lane

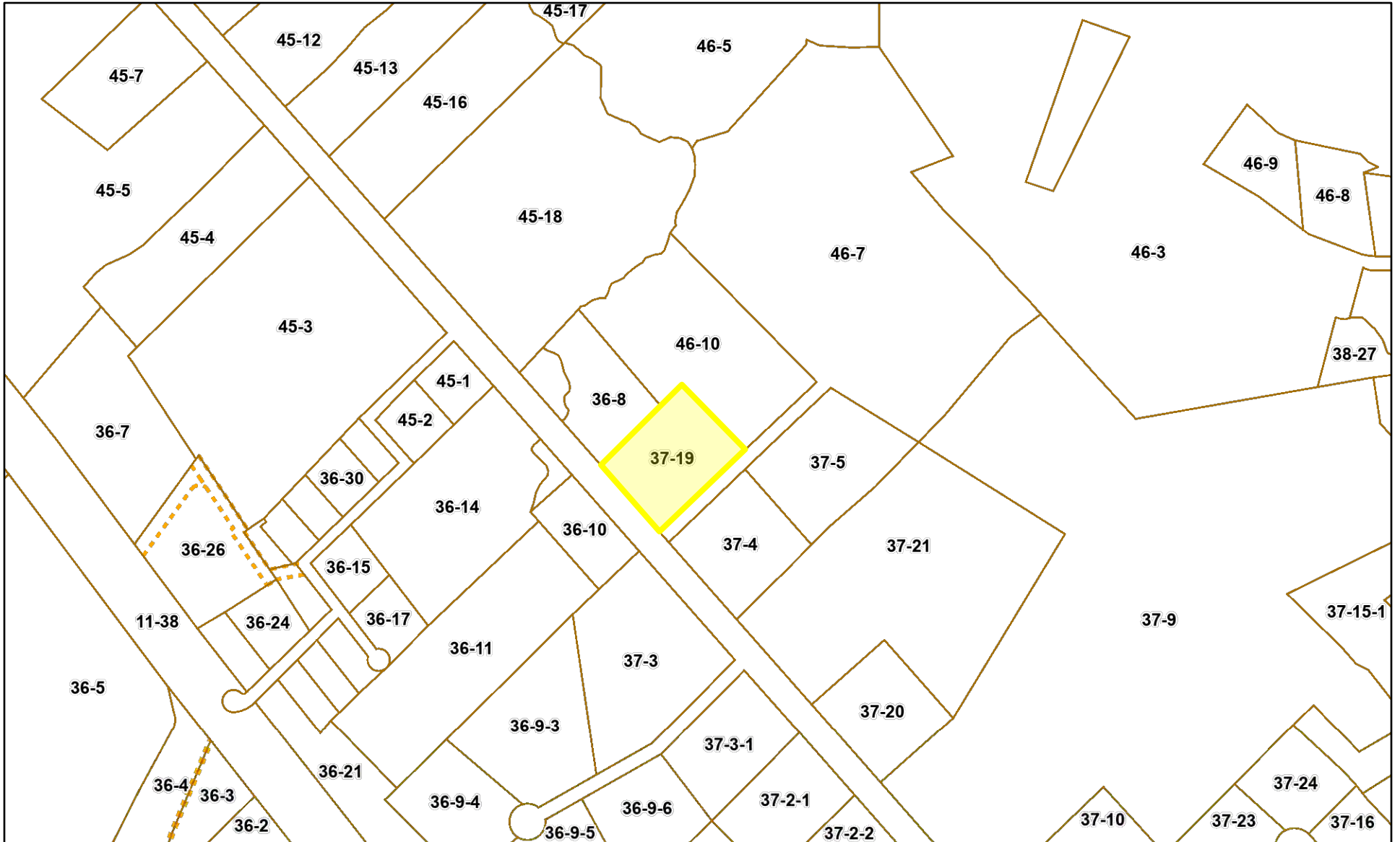
Eliot, ME



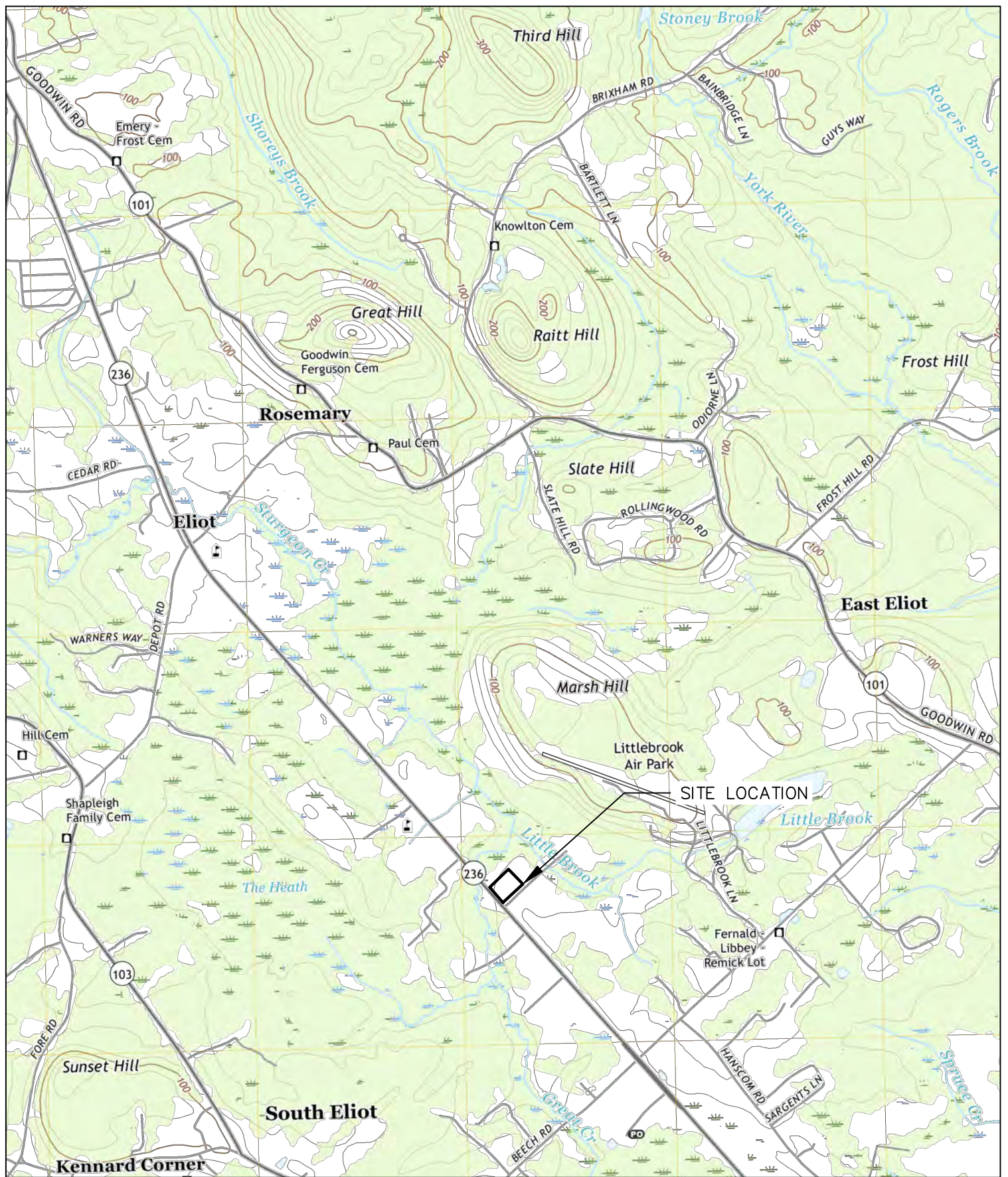
June 27, 2022

1 inch = 500 Feet

www.cai-tech.com



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

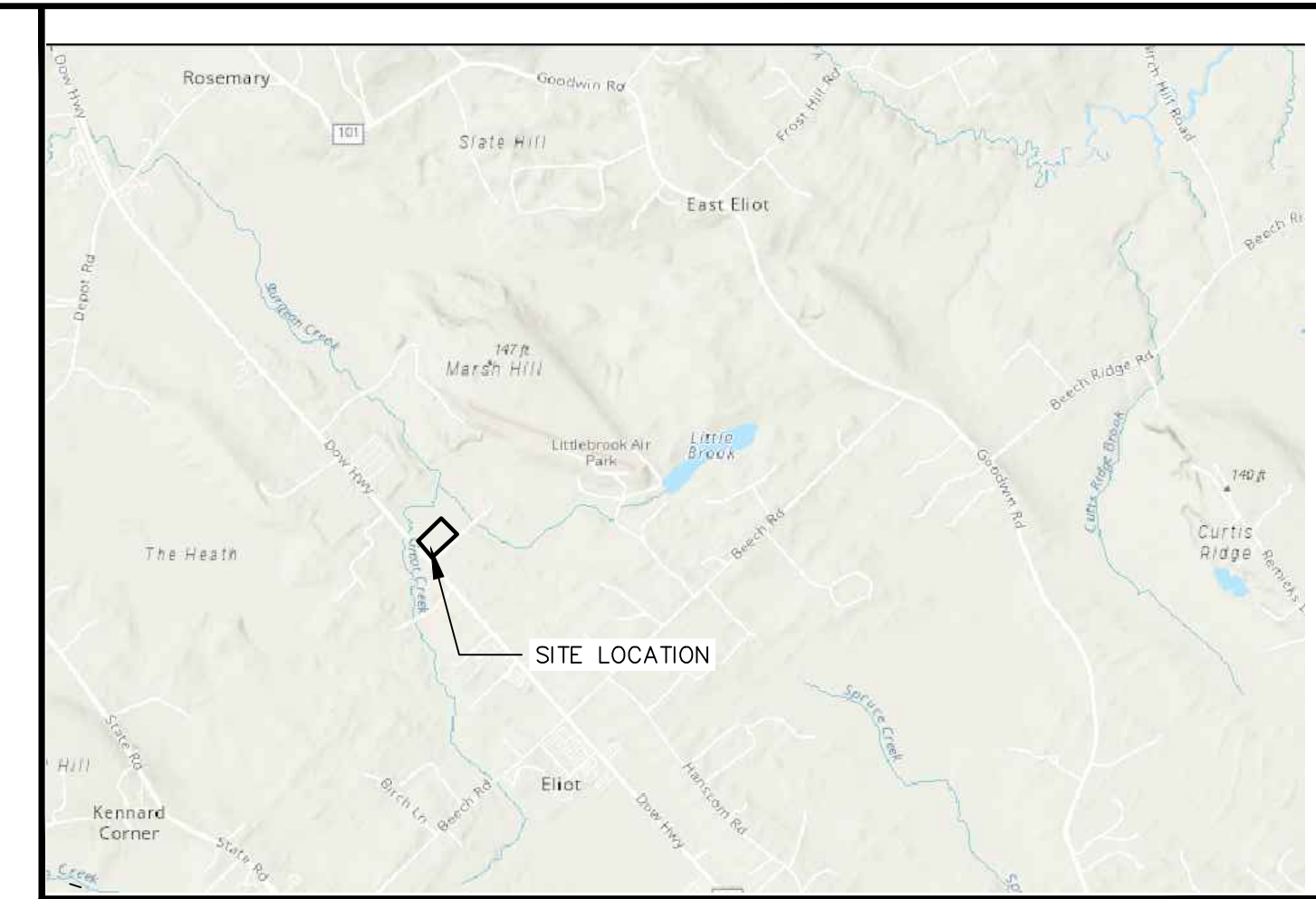
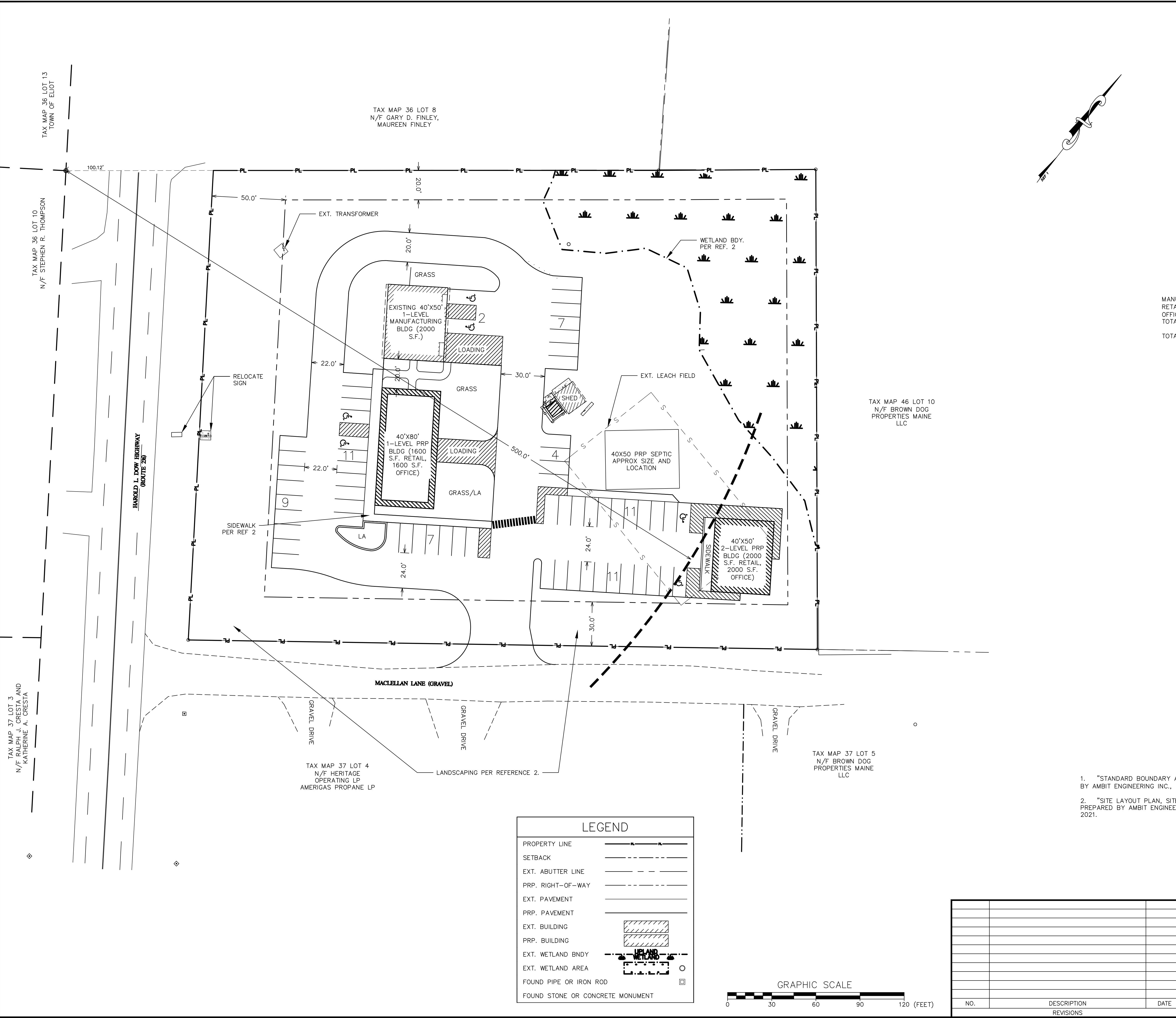


| | | |
|--|---------------------------|---|
| ATTAR ENGINEERING, INC. CIVIL ♦ STRUCTURAL ♦ MARINE ♦ SURVEYING 1284 STATE ROAD - ELIOT, MAINE 03903 PHONE: (207)439-6023 FAX: (207)439-2128 | | |
| SCALE: 1" = 2000' DATE: 6/28/22 | APPROVED BY: | DRAWN BY: WRP REVISION DATE: - : - |
| JOB NO: [C341-22] | FILE: MACLELLAN DRIVE.DWG | SHEET: 1 OF 1 |

LOCATION: 7 MACLELLAN LANE
 ELIOT MAINE
 TAX MAP 37 LOT 19

INFORMATION: USGS LOCATION MAP
 7.5-MINUTE SERIES
 DOVER EAST QUADRANGLE

JAR CANNABIS CO
 PO BOX 404
 STANDISH, MAINE 04084



SITE LOCATION MAP
APPROXIMATE SCALE 1" = 2000'

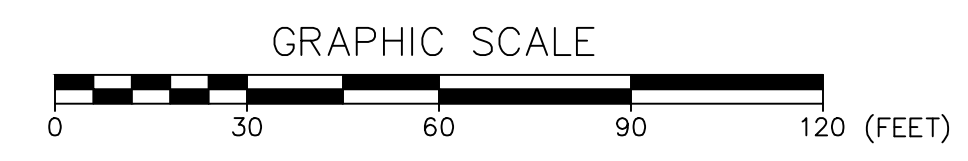
PARKING CALCS

| | | | |
|---|------------------|---------------|-------------|
| MANUFACTURING: | 1 SPACE/EMPLOYEE | X 7 EMPLOYEES | = 7 SPACES |
| RETAIL: | 1 SPACE/150 S.F. | X 3,600 S.F. | = 24 SPACES |
| OFFICE: | 1 SPACE/200 S.F. | X 3,600 S.F. | = 18 SPACES |
| TOTAL REQUIRED SPACES = 49 SPACES | | | |
| TOTAL SPACES : = 49 REQUIRED WITH 62 PROVIDED (6 ADA) | | | |

REFERENCES

- "STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY TAX MAP 37, LOT 9" FOR BLAKE DUBIN. PREPARED BY AMBIT ENGINEERING INC., PORTSMOUTH, NH. DATED JANUARY 2020, REVISION 1 DATED 11/23/20
- "SITE LAYOUT PLAN, SITE DEVELOPMENT, 7 MACLELLAN LANE, ELIOT, MAINE", FOR BLAKE DUBIN. PREPARED BY AMBIT ENGINEERING INC. PORTSMOUTH, NH. DATED JANUARY 2020, REVISED FEBRUARY 09, 2021.

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



| NO. | DESCRIPTION | DATE |
|-----|-------------|------|
| | | |
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| | | |
| | | |

TAX MAP 37, LOT 19

SKETCH PLAN
SITE PLAN AMENDMENT
7 MACLELLAN LANE, ELIOT, MAINE

FOR:
JAR CANNABIS CO
PO BOX 404
STANDISH, MAINE, 04084

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

| | | |
|--------------------|---------------------------|-------------------------|
| SCALE: 1" = 30' | APPROVED BY: | DRAWN BY: WRP |
| DATE: 6/27/2022 | | REVISION DATE: - : - |
| JOB NO: C341-22 | FILE: MACLELLAN DRIVE.DWG | SHEET: 1 OF 1 |

GENERAL NOTES

1. THE PLAN PROVIDES A SITE PLAN AMENDMENT AND CHANGE OF USE TO THE PROPERTY LOCATED AT 7 MACLELLAN LANE IN ELIOT. THE PROPOSED CHANGE INCLUDES ADDING ADULT USE MARIJUANA MANUFACTURING TO THE EXISTING MANUFACTURING AND RETAIL USES. NO NEW STRUCTURES ARE PROPOSED OUTSIDE OF THE CURRENTLY APPROVED SITE PLAN. ADULT USE MARIJUANA MANUFACTURING TO BE SITED WITHIN THE EXISTING STRUCTURE. NO MARIJUANA USE IS PROPOSED IN THE APPROVED ADDITION.

THIS SHEET DEPICTS THE SITE CONDITIONS REQUIRED FOR AN ADULT USE MARIJUANA MANUFACTURING FACILITY. THE ABOVE USE IS PROPOSED WITHIN THE EXISTING BUILDING. WITH THE EXCEPTION OF OPERATIONAL REQUIREMENTS FOR A MARIJUANA ESTABLISHMENT (SECURITY, LIGHTING AND WASTE MANAGEMENT) NO CHANGES TO THE CURRENTLY APPROVED SITE PLAN (REFERENCE 2) ARE PROPOSED. NO ADDITIONAL DISTURBED AREA IS PROPOSED. TO ALLOW FOR THE OPERATION OF AN ADULT-USE MARIJUANA MANUFACTURING FACILITY AHEAD OF COMPLETING THE APPROVED ADDITION A PHASED CONSTRUCTION PLAN IS PROPOSED. PLEASE SEE PHASING NOTES BELOW.

2. BOUNDARY LINES, EXISTING CONDITIONS, ZONING BOUNDARIES AND TOPOGRAPHY TAKEN FROM REFERENCE 1.
3. THE SITE IS IDENTIFIED ON TOWN OF ELIOT TAX MAP 37 AS LOT 19 AND IS APPROXIMATELY 3.09 ACRES IN AREA. THE PARCEL IS LOCATED IN THE COMMERCIAL/INDUSTRIAL (C/I) DISTRICT AND PARTIALLY IN THE RESOURCE PROTECTION AND LIMITED COMMERCIAL SHORELAND OVERLAY DISTRICTS.
4. DIMENSIONAL REQUIREMENTS
COMMERCIAL/INDUSTRIAL (C/I) DISTRICT
MINIMUM LOT SIZE 3 ACRES
FRONT YARD SETBACK 50 FEET
SIDE YARD SETBACK 20 FEET
REAR YARD SETBACK 20 FEET
MAXIMUM BUILDING HEIGHT 55 FEET
MAXIMUM LOT COVERAGE 50%
5. COVERAGE CALCULATIONS:
EXISTING BUILDING COVERAGE: 2,000 S.F. 1.4% LOT COVERAGE
EXISTING IMPERVIOUS SURFACE COVERAGE: 28,313 S.F. 21.0% IMPERVIOUS COVERAGE
6. WATER SERVICE SHALL BE PROVIDED BY AN EXISTING, INDIVIDUAL, PRIVATE, DRILLED WELL. SEWER SERVICE SHALL BE PROVIDED BY AN EXISTING, PRIVATE, ON-SITE, SUBSURFACE WASTEWATER DISPOSAL SYSTEM (SSWDS).

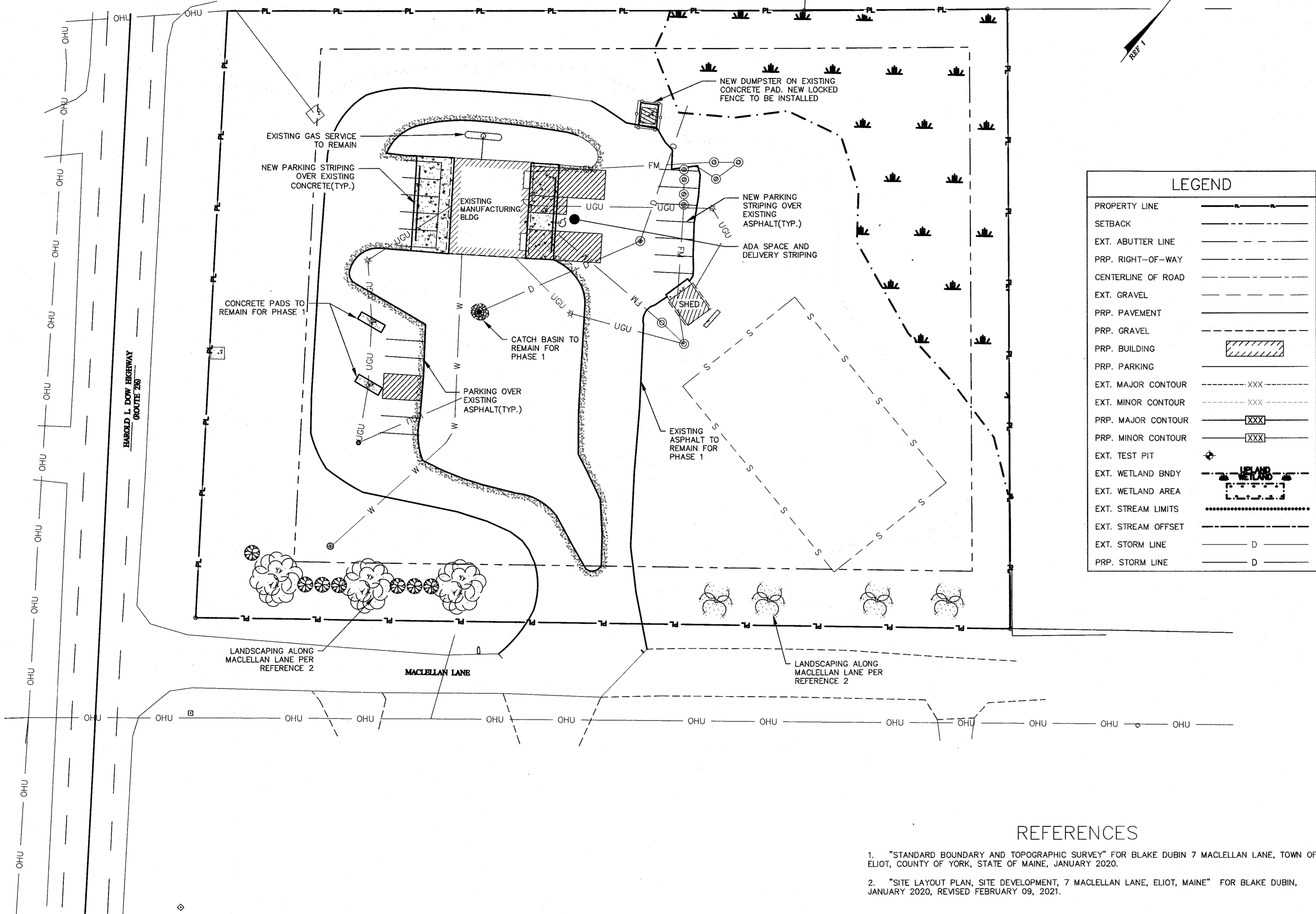
7. PARKING CALCULATIONS
EXISTING PERMITTED USE:
MANUFACTURING: 1 SPACE/EMPLOYEE X 7 EMPLOYEES = 7 SPACES
RETAIL: 1 SPACE/150 S.F. X 8,000 S.F. = 53 SPACES
TOTAL REQUIRED SPACES = 60 SPACES
- TOTAL SPACES : = 60 REQUIRED WITH 60 PROVIDED (3 ADA)
8. SITE LAYOUT, UTILITIES AND TOPOGRAPHY FROM REFERENCE 2.
9. SECURITY CAMERAS MUST BE PERMANENTLY FIXED AT THE FOLLOWING LOCATIONS IN THE ESTABLISHMENT:
1. ALL EXIT/ENTRY POINTS (SUFFICIENT TO IDENTIFY INDIVIDUALS ENTERING AND EXITING THE PREMISES AND LIMITED ACCESS AREAS).
2. EACH POINT OF SALE A SUFFICIENT NUMBER OF CAMERAS MUST BE PERMANENTLY FIXED TO ALLOW VIEWING OF THE FOLLOWING:
1. ANY AREA WHERE MARIJUANA, MARIJUANA PLANTS, IMMATURE MARIJUANA PLANTS, SEEDLINGS, SEEDS, MARIJUANA CONCENTRATE OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, MANUFACTURED, STORED, AND/OR PREPARED FOR TRANSFER OR SALE (THE AREA MUST BE VIEWED IN ITS ENTIRETY).
2. ANY AREA WHERE MARIJUANA WASTE IS STORED.
3. ALL AREAS OF THE PREMISES WITHIN 10 FEET OF THE EXTERIOR FENCE AND GATES OF A CULTIVATION FACILITY WITH OUTDOOR GROWING.
3. THE SURVEILLANCE SYSTEM STORAGE DEVICE MUST BE SECURED ON THE PREMISES IN A LOCKBOX, CABINET OR CLOSET, OR MUST BE ON A THIRD-PARTY SERVER OR SECURED IN ANOTHER MANNER TO PROTECT FROM EMPLOYEE TAMPERING OR CRIMINAL THEFT.
4. ALL SURVEILLANCE RECORDINGS MUST BE KEPT FOR A MINIMUM OF 45 DAYS ON THE LICENSEE'S RECORDING DEVICE.
10. ALL EXTERIOR DOORS TO BE LOCKED WITH CARD ACCESS FOR EMPLOYEES. KEY CARD AND KEYS WILL BE PROVIDED FOR EMERGENCY PERSONNEL IN KNOX-BOX AT FRONT OF BUILDING.
11. FACILITY WASTE PRODUCTS TO BE PLACED IN DUMPSTER SHOWN ON SITE PLAN. ANY PLANT MATERIAL TO BE GROUND UP INTO A COMPOSTABLE FORM AND DISPOSED OF AS SUCH. OTHER WASTE TO BE PACKAGING MATERIAL AND STANDARD FARM DEBRIS. DUMPSTER WILL BE FENCED IN AND MONITORED BY SECURITY CAMERAS. SPECIFIC WASTE PROCEDURES UNDER REVIEW BY MDEP.

PHASING NOTES

1. THE PURPOSE OF THE PROPOSED PHASE CONSTRUCTION IS TO ALLOW THE OPERATION OF A MARIJUANA ESTABLISHMENT AHEAD OF FULLY COMPLETING ALL OF THE SITE IMPROVEMENTS REQUIRED IN THE CURRENTLY APPROVED SITE PLAN (REFERENCE 2). THIS PLAN IN NO WAY SEEKS TO REMOVE OR REDUCE THE REQUIRED SITE IMPROVEMENTS SHOULD THE 8,000 SQUARE FOOT ADDITION BE BUILT.
2. CONSTRUCTION TO BE DONE IN TWO PHASES.
2.1. PHASE 1: RENOVATION OF EXISTING APPROVED MANUFACTURING BUILDING FOR ADULT-USE MARIJUANA MANUFACTURING.
2.2. PHASE 2: APPROVED ADDITION AND ASSOCIATED SITE IMPROVEMENTS PER THE CURRENTLY APPROVED SITE PLAN (REFERENCE 2).
3. PHASE 1
3.1. CONCRETE PADS DIRECTLY OUTSIDE OF EXISTING BUILDING TO REMAIN. PARKING PROPOSED IN THESE AREAS FOR THIS PHASE.
3.2. EXISTING ASPHALT TO REMAIN THIS PHASE.
3.3. DURING THE CONSTRUCTION OF THE ADDITION, MANUFACTURING OPERATIONS WILL CONTINUE IN THE EXISTING BUILDING. PARKING, UTILITIES, SECURITY AND OTHER OPERATIONAL REQUIREMENTS TO BE COORDINATED WITH CONSTRUCTION CONTRACTOR AND ELIOT CODE OFFICE IN A PRE-CONSTRUCTION MEETING.
3.4. LIGHTING TO BE PROVIDED ON ALL SIDES OF EXISTING BUILDING PER ELIOT CODE OF ORDINANCES CHAPTER 33-190(4)(f). ALL LIGHTING TO BE DARK SKY COMPLIANT AND SHALL MEET ALL PERFORMANCE REQUIREMENTS OF ELIOT CODE OF ORDINANCES CHAPTER 45-410.
3.5. ALL SECURITY MEASURES PER ELIOT CODE OF ORDINANCES CHAPTER 33-190(4)(f) SHALL BE INSTALLED AHEAD OF RECEIVING A CERTIFICATE OF OCCUPANCY.
4. PHASE 2
4.1. SITE IMPROVEMENTS PER SHEET 2 AND REFERENCE 2.
4.2. POROUS PAVEMENT FOR PARKING TO BE COMPLETED FIRST TO ALLOW MARIJUANA MANUFACTURING EMPLOYEES TO PARK DURING PHASE 2 CONSTRUCTION. THIS WOULD PROVIDE THE 15 REQUIRED SPACES.
5. PARKING REQUIRED PHASE 1
MANUFACTURING: 1 SPACE/EMPLOYEE X 15 EMPLOYEES = 15 SPACES (16 PROVIDED)
TOTAL SPACES REQUIRED 15 WITH 16 SPACES PROVIDED.

LEGEND

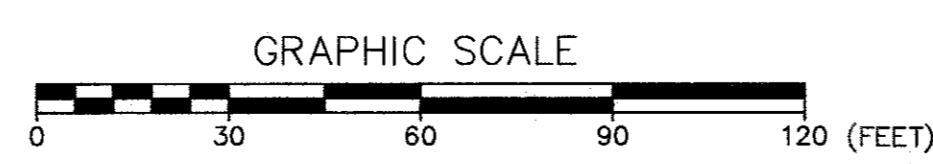
| | |
|--------------------|---------------|
| PROPERTY LINE | --- |
| SETBACK | --- |
| EXT. ABUTTER LINE | --- |
| PRP. RIGHT-OF-WAY | --- |
| CENTERLINE OF ROAD | --- |
| EXT. GRAVEL | --- |
| PRP. PAVEMENT | --- |
| PRP. GRAVEL | --- |
| PRP. BUILDING | --- |
| PRP. PARKING | --- |
| EXT. MAJOR CONTOUR | ---XXX--- |
| EXT. MINOR CONTOUR | ---XXX--- |
| PRP. MAJOR CONTOUR | ---XXX--- |
| PRP. MINOR CONTOUR | ---XXX--- |
| EXT. TEST PIT | + |
| EXT. WETLAND BNDY | ---WETLAND--- |
| EXT. WETLAND AREA | --- |
| EXT. STREAM LIMITS | --- |
| EXT. STREAM OFFSET | --- |
| EXT. STORM LINE | --- |
| PRP. STORM LINE | --- |



REFERENCES

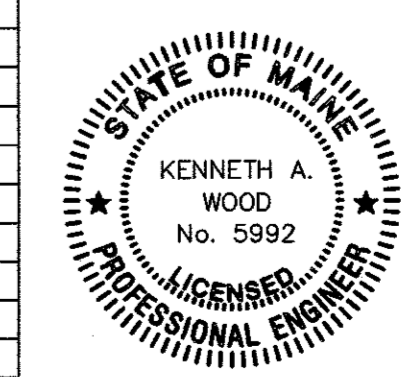
1. "STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY" FOR BLAKE DUBIN 7 MACLELLAN LANE, TOWN OF ELIOT, COUNTY OF YORK, STATE OF MAINE, JANUARY 2020.
2. "SITE LAYOUT PLAN, SITE DEVELOPMENT, 7 MACLELLAN LANE, ELIOT, MAINE" FOR BLAKE DUBIN, JANUARY 2020, REVISED FEBRUARY 09, 2021.

| | |
|-----------|------|
| SIGNATURE | DATE |
| CHAIR | |



PREVIOUSLY APPROVED PLAN

| NO. | DESCRIPTION | DATE |
|-----|-----------------|-----------|
| A | PLANNING REVIEW | 7/09/2021 |
| | REVISIONS | |



TAX MAP 37, LOT 19

PHASE 1 SITE PLAN
SITE PLAN AMENDMENT
7 MACLELLAN LANE, ELIOT, MAINE

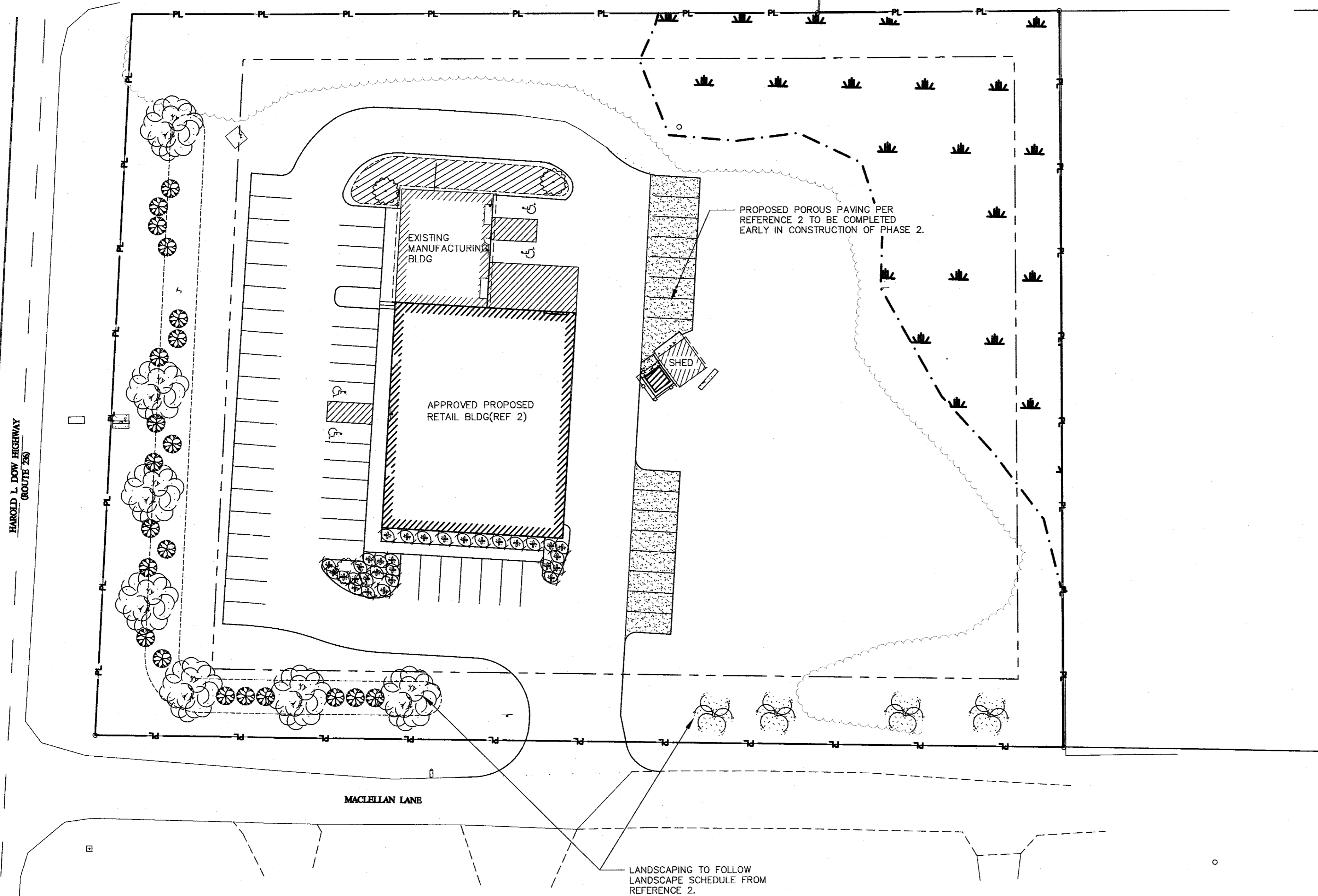
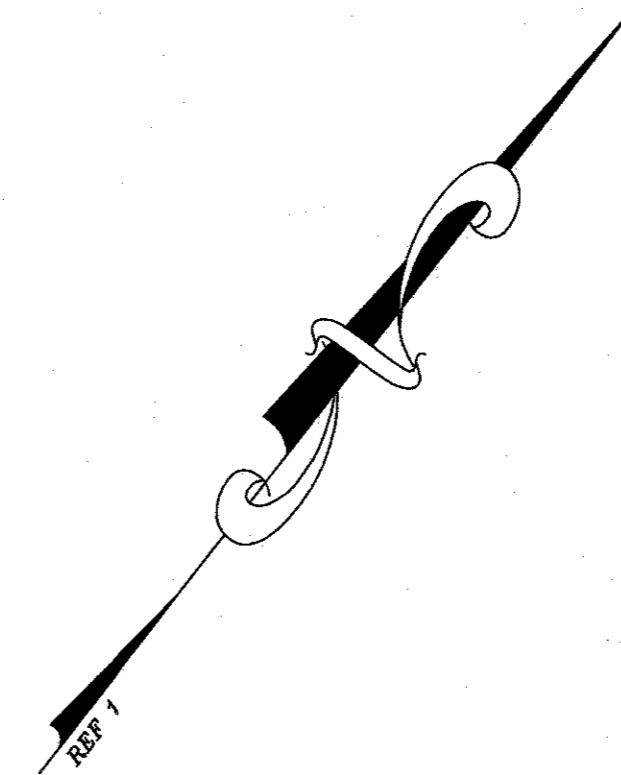
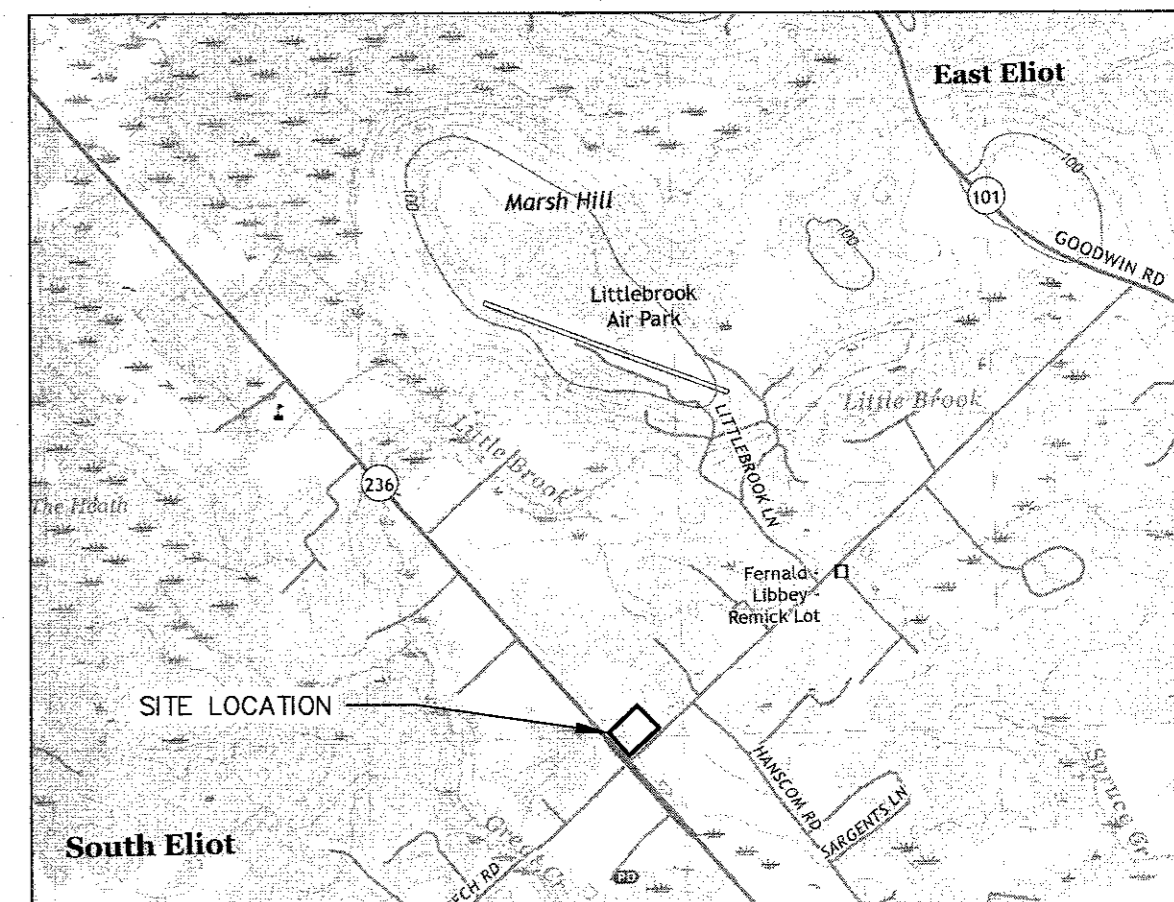
FOR: NEK ASSETS, LLC
987 HAROLD DOW HIGHWAY
ELIOT, MAINE, 03903

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

SCALE: 1" = 30'
DATE: 6/22/2021
JOB NO: C110-21

APPROVED BY: [Signature]
DATE: 7/17/2021
FILE: MACLELLAN DRIVE.DWG

DRAWN BY: BRN
REVISION DATE: A : 7/09/2021
SHEET: 1



PHASING NOTES

1. THE PURPOSE OF THE PROPOSED PHASE CONSTRUCTION IS TO ALLOW THE OPERATION OF A MARIJUANA ESTABLISHMENT AHEAD OF FULLY COMPLETING ALL OF THE SITE IMPROVEMENTS REQUIRED IN THE CURRENTLY APPROVED SITE PLAN (REFERENCE 2). THIS PLAN IN NO WAY SEEKS TO REMOVE OR REDUCE THE REQUIRED SITE IMPROVEMENTS SHOULD THE 8,000 SQUARE FOOT ADDITION BE BUILT.
 2. CONSTRUCTION TO BE DONE IN TWO PHASES.
 - 2.1. PHASE 1: RENOVATION OF EXISTING APPROVED MANUFACTURING BUILDING FOR ADULT-USE MARIJUANA MANUFACTURING.
 - 2.2. PHASE 2: APPROVED ADDITION AND ASSOCIATED SITE IMPROVEMENTS PER THE CURRENTLY APPROVED SITE PLAN (REFERENCE 2).
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 - 3.2. EXISTING ASPHALT TO REMAIN THIS PHASE.
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 5. PARKING REQUIRED PHASE 1

| | |
|--|---------------------------|
| MANUFACTURING: 1 SPACE/EMPLOYEE X 15 EMPLOYEES | = 15 SPACES (16 PROVIDED) |
|--|---------------------------|
- TOTAL SPACES REQUIRED 15 WITH 16 SPACES PROVIDED.

REFERENCES

1. "STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY" FOR BLAKE DUBIN 7 MACLELLAN LANE, TOWN OF ELIOT, COUNTY OF YORK, STATE OF MAINE, JANUARY 2020.
2. "SITE LAYOUT PLAN, SITE DEVELOPMENT, 7 MACLELLAN LANE, ELIOT, MAINE" FOR BLAKE DUBIN, JANUARY 2020, REVISED FEBRUARY 09, 2021.

PREVIOUSLY APPROVED PLAN

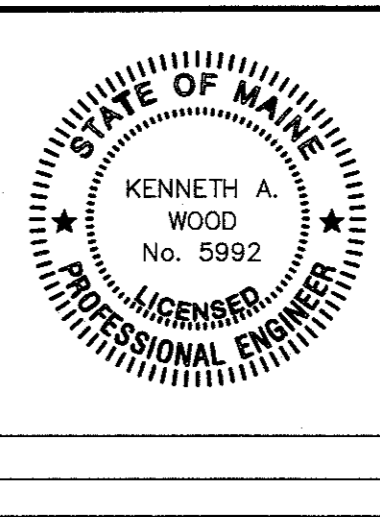
| LEGEND | |
|----------------------------------|--|
| PROPERTY LINE | |
| SETBACK | |
| EXT. ABUTTER LINE | |
| PRP. RIGHT-OF-WAY | |
| EXT. PAVEMENT | |
| PRP. PAVEMENT | |
| PRP. BUILDING | |
| EXT. WETLAND BNDY | |
| EXT. WETLAND AREA | |
| FOUND PIPE OR IRON ROD | |
| FOUND STONE OR CONCRETE MONUMENT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

| | |
|-----------------|------------|
| SIGNATURE _____ | DATE _____ |
| CHAIR _____ | |

GRAPHIC SCALE

0 30 60 90 120 (FEET)

| NO. | DESCRIPTION | DATE |
|-----|-----------------|-----------|
| A | PLANNING REVIEW | 7/09/2021 |
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| TAX MAP 37, LOT 19 | | |
| PHASE 2 SITE PLAN SITE PLAN AMENDMENT 7 MACLELLAN LANE, ELIOT, MAINE | | |
| FOR: NEK ASSETS, LLC 987 HAROLD DOW HIGHWAY ELIOT, MAINE, 03903 | | |
| ATTAR ENGINEERING, INC. CIVIL • STRUCTURAL • MARINE • SURVEYING 1284 STATE ROAD - ELIOT, MAINE 03903 PHONE: (207)439-6023 FAX: (207)439-2128 | | |
| SCALE: 1" = 30' | APPROVED BY: | DRAWN BY: BRN |
| DATE: 6/22/2021 | REVISION DATE: A : 7/09/2021 | REVISION DATE: A : 7/09/2021 |
| JOB NO: C110-21 | FILE: MACLELLAN DRIVE.DWG | SHEET: 2 |