

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

TYPE OF MEETING: REMOTE
PLACE: ZOOM ONLINE MEETING

DATE: Tuesday, November 10, 2020
TIME: 7:00 P.M.

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

1) ROLL CALL

- a) Quorum, Alternate Members, Conflicts of Interest

2) PLEDGE OF ALLEGIANCE

3) MOMENT OF SILENCE

4) 10-MINUTE PUBLIC INPUT SESSION

5) REVIEW AND APPROVE MINUTES

- a) September 29, 2020 – if available
- b) October 20, 2020 – if available

6) NOTICE OF DECISION

7) PUBLIC HEARING

- a) 276 Harold L Dow Highway (Map 37/Lot 9), PID # 037-009-000, PB20-14: Site Plan Review/Change of use to add Medical Marijuana Dispensary as an approved use

8) OLD BUSINESS

- a) 41 Rogers Point Drive (Map 32/Lot 2), PID # 032-002-000, PB20-19: Shoreland Zoning Application to replace and expand existing non-conforming residential structures – Application and Site Walk Review
- b) 495 Harold L Dow Highway (Map 53/Lot 6), PID # 053-006-000, PB20-20: Site Plan Review/Change of use to add Marijuana Establishment (Adult Use Marijuana Cultivation/Manufacturing) to existing approved uses
- c) Ordinance Amendment Update

9) NEW BUSINESS

10) CORRESPONDENCE

- a) Bylaws

11) SET AGENDA AND DATE FOR NEXT MEETING

- a) November 17, 2020

12) ADJOURN

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: **941 2245 8268 #**
 - 2. When prompted to enter Attendee ID **press #**
 - 3. When prompted enter meeting password: **997053 #**
- 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


Denny Lentz – Chair

1 **ITEM 1 - ROLL CALL**

2
3 Present: Dennis Lentz - Chairman, Melissa Horner (delayed), Carmela Braun, Mallory
4 Strange – Alternate, Jeff Leathe - Alternate.

5
6 Also Present: Jeff Brubaker, Town Planner; Kearsten Mertz, Land Use Administrative
7 Assistant.

8
9 Absent: Christine Bennett, Bill Olsen (excused).

10
11 Voting members: Dennis Lentz, Melissa Horner, Carmela Braun, and Mallory Strange
12 (appointed).

13
14 **ITEM 2 – PLEDGE OF ALLEGIANCE**

15
16 **ITEM 3 – MOMENT OF SILENCE**

17
18 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

19
20 There was no public input.

21
22 **ITEM 5 – REVIEW AND APPROVE MINUTES**

23
24 Ms. Braun moved, second by Ms. Strange, to approve the minutes of September 15,
25 2020, as amended.

26 **VOTE**
27 **3-0**
28 **Motion approved**

29
30 Note: At this time, Ms. Horner entered the meeting.

31
32 **ITEM 6 – NOTICE OF DECISION**

33
34 There were no Notices of Decision.

35
36 **ITEM 7 – OLD BUSINESS**

37
38 **A. Medical and Adult Use Marijuana Town Code Amendments – Review of Draft**

39
40 Mr. Brubaker shared his screen while this was discussed. He thanked Ms. Horner for her
41 work on this and said that these are mainly minor word changes. Regarding the last item
42 on the agenda, what we’re looking at is the last opportunity for the PB to hold a public
43 hearing on any ordinance changes that would be considered on the June 2021 Town
44 Election, which is March 16th; so, that is an end goal for the PB to strive for. You could
45 decide this is ready to go tonight. It will still need Attorney Saucier’s review but, if you

46 do want to take some more time, I do think there will probably be some time in future PB
47 meetings where some additional changes can be made.

48
49 Ms. Horner suggested stopping at every one and discussing it until we are in agreement,
50 then move on to the next one.

51
52 The PB agreed.

53
54 **Chapter 11 (Purpose page 1):**

55
56 Mr. Brubaker said that the first one we are in, which is Chapter 11 Licensing, is not really
57 a change but merely a note of recommendation from Attorney Saucier that the vote
58 include officially opting in to Medical Marijuana uses. He's not sure that that was
59 explicitly done, although I think he does believe that was implicit in the Town's past
60 decisions.

61
62 Ms. Horner asked if that was going to be an additional vote on the ballot.

63
64 Mr. Brubaker said that I was going to leave it up to Attorney Saucier to tell us if anything
65 more was needed than simply referring to 'this' language in the draft.

66
67 Ms. Horner said that that is a little scary.

68
69 Mr. Brubaker said that, hopefully, Attorney Saucier can give us some good wisdom on
70 that.

71
72 **DEFINITIONS:**

73
74 Mr. Brubaker said that, now that we have the opportunity, should any, or all, of these
75 definitions be formally moved to §1.2 in our Town Code.

76
77 Ms. Horner said that I think we talked about that and decided not to do that; that we were
78 following South Portland and it made sense to everyone, at the time of creating this
79 ordinance, to leave it in the Chapter that it was in for ease, I think.

80
81 Ms. Lemire asked if part of the reason was that this is a more complicated process that
82 involves the Select Board, as well.

83
84 Ms. Horner said that we made a conscious decision to have the definitions in this
85 Chapter.

86
87 Mr. Lentz agreed that we did and I don't remember why.

88
89 Ms. Braun asked if there is any reason why they can't appear in two places, in Chapter
90 One with the other definitions and in Chapter 11 to be specific to this particular chapter.

91

92 Ms. Horner said that ‘applicant’ was a good example, as an ‘applicant’ isn’t just an
93 applicant; that it’s an applicant within this Chapter that has to do with the licensing of
94 marijuana. There are a few others; that they aren’t many but it wasn’t worth moving the
95 whole section. I don’t think it would hurt anything to leave it the way that it is.
96

97 Mr. Lentz said that I would agree with that and Attorney Saucier would be looking at
98 this.
99

100 Mr. Brubaker said that it was mainly just a formality.
101

102 Ms. Horner said that ‘applicant’ is the best example. We also have other types of
103 applicants and then we’d have to have two different applicant definitions in the main; that
104 I think it would be a little sloppy, is all. Then, if you take it a step further, in Chapter One
105 it will be in alphabetical order, which would be really hard, in my opinion, to make sure
106 you are finding all the definitions you need to find; whereas, if we left it in this Chapter,
107 they are all right there.
108

109 Mr. Lentz said that most of the rest are unique to Chapter 11.
110

111 **Caregiver retail store (page 1):**
112

113 Mr. Brubaker said that this definition is suggesting that ‘medical marijuana store’ be
114 ‘caregiver retail store’ to be in sync with the State law. It is related to consolidating the
115 definition of ‘medical marijuana retail store’ later in this section into ‘caregiver retail
116 store’; that it’s mainly terminology here.
117

118 Ms. Horner asked if they aren’t different.
119

120 Mr. Brubaker said I’m not sure. I think the South Portland had ‘medical marijuana retail
121 store’. I’m just trying to sync this up with what State law says are one of the four medical
122 marijuana uses. But, again, it’s a matter of terminology; that I think it’s just a matter of
123 being clear in the Code that, if we use ‘medical marijuana retail store’, then we’re
124 referring to the ‘caregiver retail store’ statute in State law, exempt, as they may be
125 different.
126

127 The PB agreed to leave it there.
128

129 **Marijuana (page 2):**
130

131 Mr. Brubaker said that this term syncs up with State law. Again, pretty simple and up for
132 discussion by the PB.
133

134 The PB agreed.
135

136 **Cont’d page 3:**
137

138 **Medical Marijuana; Medical Marijuana Assistant; Medical Marijuana Caregiver;**
139 **Medical Marijuana Cultivation:**

140
141 Mr. Brubaker said that these were pretty simple. It's just putting in "shall mean" to each
142 of them.

143
144 The PB agreed.

145
146 **Medical Marijuana Cultivation Facility**

147
148 Mr. Brubaker this is a comment that applies to this language, as it shows up a few times.
149 This basically talks about principle versus accessory use. I actually didn't go out and
150 make the change, yet, but I do think that the meaning of the sentence should be conveyed
151 within the Land Use Table, Chapter 44 Shoreland Zoning, and Chapter 45.

152
153 Mr. Lentz said that I don't recall that we've ever talked about that, either.

154
155 Ms. Horner said that the only reason this even got in here is because we're trying to
156 marry our junky Medical Marijuana Ordinance with our awesome Adult Use Ordinance.
157 So, these bolded definitions are in addition to the new Chapter 11 and those were pulled
158 from South Portland. I read through all those and I thought that was a really good idea to
159 say it's only authorized as a principle use. We don't have anything like that in Eliot and I
160 know it has certainly been a little confusing to that, when someone comes and they want
161 to do cultivation but then they also want to have a store, etc. We don't have to keep that
162 in. We've certainly been handling it fine. I'm not sure what unintended consequences
163 might happen. There's nothing in Eliot that says we can't have more than one use on a
164 property. So, there's no reason why a Medical Marijuana Cultivation Facility can't also
165 have a store. I just thought it would be easier to have that an additional use when it comes
166 to doing application stuff.

167
168 Mr. Brubaker said, to be clear, I don't disagree that this should be represented in the
169 Town Code. I actually think it's a good additional step for these applications to leap over.
170 I think it's better to have this language operationalized in the Land Use Tables because, if
171 it's in these definitions in Chapter 11, we might forget about them, especially when we're
172 primarily looking at Chapters 44, 45, and 33 when reviewing the applications. I'm not
173 saying we should take them out of our Town Code entirely; I'm just saying to put it in a
174 place where we'll remember them easier.

175
176 Ms. Horner asked do we have Shoreland Zoning in the C/I Zone.

177
178 Mr. Brubaker said, yes, we do.

179
180 Mr. Lentz said that, with 'this' highlighted sentence, you're suggesting the Land Use
181 Table.

182
183 Mr. Brubaker said yes.

184
185 Mr. Lentz asked if there was any objection to that. There was not.
186

187 Mr. Brubaker said that, related to that, South Portland also had this ‘**special exception**’
188 use. We don’t officially have that term defined or a process for ‘special exception’. As I
189 understand it, we used to do conditional use permits and we might not do it as much
190 anymore. We still obviously have conditions of approval, though. I think we should avoid
191 using this specific term ‘special exception’ unless we decide we want to create a process
192 for that in our Town Code.

193
194 Ms. Lemire said that I would agree.

195
196 The PB also agreed.

197
198 Mr. Brubaker said that, regarding **Medical Marijuana Dispensary (page 4)**, this is
199 basically the same comment as above for these other definitions. We should certainly
200 have a Marijuana Retail Store, it’s just a matter of definition and terminology. Whether
201 we call it a Retail Store or Caregiver Store, the intent was just to sync it up with the exact
202 term in State law.

203
204 Ms. Horner suggested she check to make sure they’re not different, adding that she’s not
205 sure why she thinks that.

206
207 Ms. Strange said that I kind of agree with you, Ms. Horner, that when I hear Caregiver,
208 I’m thinking of it differently than someone who does not provide care to someone else.

209
210 Ms. Horner added that I could be way off base but, in my mind, the Caregiver Retail
211 Store is different because the Caregiver has very specific patient _____ and sell to,
212 whereas a Medical Marijuana Retail Store, you only need a medical marijuana card from
213 your doctor to walk in. I’m pretty sure that Caregiver Stores don’t even need Town
214 approval. I could send you all the information but I think it would be very important to
215 doublecheck that before we just agree that that makes sense. I do think they’re different
216 and I don’t know that there would be a way to consolidate them because they really are
217 their own things.

218
219 Mr. Lentz said that I see what you mean, suggesting we make a note on that to go back
220 and doublecheck that to see what we need to do there. Is that okay with everyone.

221
222 The PB and Planner agreed.

223
224 Mr. Lentz said to Ms. Horner that she thought they should be separated, from what you
225 can recall.

226
227 Ms. Horner said only if they’re different. Only if the State sees those...because Caregiver
228 Retail Store, I think, is different from Medical Marijuana Retail Store.

229

230 Mr. Lentz said that that just threw a wrench into my thinking but you may be right.

231

232 Ms. Horner said that, at the end of the day with this ordinance, it almost doesn't matter
233 except for the fact that if someone...because either way they're going to have to come
234 before the PB. I don't know if that caregiver thing is left over from the non-profit
235 language. I could be way off-base but I just wanted to bring it up.

236

237 Mr. Brubaker agreed we could doublecheck it.

238

239 NOTE: All definitions on page 4 with 'special exception' to be determined; otherwise
240 suggested changes are okay.

241

242 **Public facility (page 5):**

243

244 Mr. Brubaker said that I talked about how 'Public Facility' isn't needed, assuming the
245 buffering from 'Public Facility' if 'public facilities' below is struck. It's just more a
246 cleaning up of the definitions, assuming it's not needed. Obviously, this has had a lot of
247 attention in Eliot but Ms. Horner's intent was to strike 'public facility' from one of the
248 sensitive uses. So, if that happens then this definition isn't necessarily needed in Chapter
249 11.

250

251 Ms. Horner asked if that was the same definition that's in Chapter 1. I think I just heard
252 you say that my intention was to get rid of...what did you say.

253

254 Mr. Brubaker clarified that it was just to respond to your initial recommendation, as
255 you'll see when we scroll down, that I noticed that the wording 'public facility' was
256 struck. So, if that's what you wanted to do, then this is just a matter of removing this
257 definition from the section because I don't know if it would be needed. It wouldn't hurt
258 to keep it in, otherwise.

259

260 Ms. Horner commented that she didn't think that was part of her recommendation.

261

262 Mr. Lentz said that I don't see any reason why that can't stay in, as long as it is the same
263 as what is in Chapter 1.

264

265 Mr. Brubaker read the pertinent definition in §1.2: "Public facility means any facility,
266 including, but not limited to, buildings, property, recreation areas, and roads, which are owned,
267 leased, or otherwise operated, or funded by a governmental body or public entity."

268

269 Ms. Horner said that that was the 'road' thing and asked if we didn't just change that
270 definition in the Marijuana Ordinance.

271

272 Mr. Lentz agreed that 'roads' is the thing that is different between these two.

273

274 Ms. Horner said that I think ‘public facility’ needs to stay in the Marijuana Ordinance
275 because the whole kerfuffle about that definition was ‘roads’. That would mean that no
276 business could go anywhere.

277
278 Mr. Brubaker said that I understand the change to ‘roads’ in the definition and that it was
279 made in the last election. I am just saying that, if the language below is struck entirely on
280 ‘public facility’, then this definition is essentially moot.

281
282 Ms. Horner suggested we put a pin in it and then come back when we get to that.

283
284 All agreed.

285
286 **Local Marijuana License (page 6):**

287
288 Mr. Brubaker said that this is a question of whether a testing facility should be required to
289 have a local license. It doesn’t currently in the Code and South Portland doesn’t require it
290 but Portland does. I’m sure there are other towns with varying rules. This isn’t to
291 recommend one way or the other, it’s just identifying this as a point of discussion for the
292 PB.

293
294 Mr. Lentz said that we just approved a testing facility and they did have to have a local
295 license, did they not.

296
297 Mr. Brubaker said that, under the current ordinance, they would not need to seek a license
298 from the SB.

299
300 Mr. Lentz said that I think that it’s important that it stay there and would leave the
301 highlighted text in as a reference.

302
303 Ms. Horner said that the only upside with requiring them to get a license would be a fee
304 would come to the Town. If we changed that, does that mean that the one we just
305 approved would never have to get a local license or would they have to do it next year.

306
307 Mr. Brubaker said that my opinion is that they would have to get a license eventually.

308
309 Mr. Lentz said that I would agree.

310
311 Ms. Horner said that I’m comfortable with money being generated to help offset some of
312 these costs. I don’t think that’s necessarily a bad thing. The only reason we didn’t have
313 the testing facilities require a license is because that’s what South Portland did. I don’t
314 think we really talked about why or why not.

315
316 Mr. Lentz asked if it was the opinion of the PB that we should require a local license.

317
318 The PB said yes.

319

320 Mr. Lentz said that we could change to the first sentence of that paragraph.

321

322 Mr. Brubaker said that he would make a note of that.

323

324 Ms. Strange asked to go back to discuss ‘Caregiver’, that she just found the definition in
325 §1.2, which she read: “Registered primary *caregiver* means a person, a hospice provider
326 licensed under Title 22 M.R.S.A. chapter 1681 or a nursing facility licensed under Title 22
327 M.R.S.A. chapter 405 that provides care for a registered patient and that has been named by the
328 registered patient as a primary *caregiver* to assist with a registered patient's use of *marijuana*.”
329 So, by this definition, I do think that there is a difference.

330

331 Ms. Horner asked if there was a definition for ‘Caregiver retail store’.

332

333 Ms. Strange said that I was not able to find one.

334

335 Mr. Brubaker found it on page 4:

336

Medical marijuana retail store. A medical marijuana store is a retail establishment operated by a single medical marijuana registered caregiver where harvested marijuana is sold by that medical marijuana registered caregiver to medical marijuana qualifying patients for patients’ medical use and may include an area for consultation with patients. Two or more medical marijuana registered caregivers are prohibited from forming, owning or operating a medical marijuana retail store as a single medical marijuana retail store. A medical marijuana retail store is only authorized as a principal use, and not as an accessory use.

337

338

339 Ms. Braun said that this definition says “to qualifying patients’. Does that mean just the
340 caregiver’s ‘patients’, as Ms. Horner pointed out, or does that mean any patient who has a
341 marijuana card.

342

343 Ms. Horner said that, by definition, what Ms. Strange just said is that a patient would
344 need to identify them as a caregiver. I just don’t know enough about it. I was under the
345 impression that, if you had a medical card, you could just go to a store, like Sweet Dirt,
346 but I don’t necessarily have to name Sweet Dirt as my caregiver; whereas, if my friend
347 was growing marijuana for me because I had my medical marijuana card, then I’d have to
348 tell the State who that is.

349

350 Ms. Strange said that the way that I interpret it is that the major difference is that this
351 caregiver is a registered hospice provider under a particular license versus, to Ms.
352 Horner’s point, just someone who is able is to apply for a medical card that they can take
353 and use at their disposal.

354

355 Ms. Horner suggested that Attorney Saucier would know.

356

357 Mr. Brubaker said that I was a little bit confused by it, too. I just identified this in State
358 law and thought that this was what the State wanted local municipalities to do. I would

359 certainly love Attorney Saucier's feedback on it, as well. Are there any last comments
360 regarding the definitions section.

361

362 Ms. Horner said that she has a document from 22 M.R.S.A. §2429-D, the local
363 regulations on registered caregivers and what the towns can do.

364

365 Mr. Brubaker said that I see it.

366

367 Ms. Horner said that 3) says authorize caregiver retail stores but it doesn't mention
368 medical marijuana retail stores. So, I just want to do whatever the State of Maine is
369 doing. Whatever Maine is calling it is what we should be calling it when it comes to retail
370 stores.

371

372 Mr. Brubaker said that that's kind of my motivation for calling it 'caregiver retail store',
373 in looking at that definition in §2422.

374

375 Ms. Horner asked then why is everything medical marijuana retail.

376

377 Mr. Brubaker said that I don't know, actually; that I was relying on that definition plus
378 another section of State law that essentially enumerates what kind of medical marijuana
379 you can have and one of the ones I didn't _____ is 'caregiver retail store'.

380

381 Ms. Horner said to be continued.

382

383 **License Application (page 7):**

384

385 Mr. Brubaker said the additional language here is:

386 (7) If the application is for a medical marijuana establishment, a copy of the applicant's
387 active registered caregiver registry identification card.

388 This is suggested to be added as just the information that accompanies the license
389 application.

389

390 The PB agreed.

391

392 (b) (10) was regarding the title of the application of the type of marijuana that the
393 applicant is applying for. The PB agreed to leave it in.

394

395 **License Application cont'd (page 8):**

396

397 Mr. Brubaker said that Ms. Horner had added some language on **confidentiality** when it
398 comes to a registered caregiver card. I just think it would be hard from a practical
399 standpoint to keep that confidential, especially because this licensing process is coming
400 after the land use approval process. The second point I made was to get myself out of
401 being the person to check those cards.

402

403 Ms. Horner said that this might be an attorney question but I'm pretty confident that that
404 is a HIPAA law. As an example, if I'm a caregiver, I don't necessarily have to disclose

405 that to everybody. That's why that is built in here and that's why the person who is in
406 charge of this makes sure it's valid. It could be my caregiver card that's being used but,
407 then, Ms. Braun is doing the application for me and my identification is under HIPAA
408 protection. So, somebody has to be responsible for checking that card, if that was to come
409 up. I think that goes back to the 'caregiver retail store' because, for some people, this is a
410 true privacy thing. That's why they have a caregiver and don't go to a store to get
411 cannabis. A part of that is that you guys don't have any business knowing who my doctor
412 is unless I disclose it. So, it's the same thing for that, I believe. If I was a cannabis
413 patient, my caregiver is also protected under that. Somebody has to be responsible for
414 checking those cards and I think in the South Portland it was town clerk, which it could
415 be the Town Clerk in Eliot. They deal with some sensitive things, as well. It needs to be
416 somebody that's trained and understands why those things are private. Maybe the person
417 who deals with fuel assistance or assistance like that that the Town provides should be
418 doing it because that's sort of the same idea.

419
420 Mr. Lentz said that that may be Ms. Albert.

421
422 Ms. Lemire said that it is. The Town Clerk is Ms. Rawski. Ms. Albert is the executive
423 secretary to the Town Manager, General Assistance Administrator, and couple of other
424 titles, as well.

425
426 Ms. Horner said that maybe it should be the Town Clerk. I feel that this would happen
427 rarely but it should be someone who is sensitive to why that's private.

428
429 Ms. Lemire said that there was discussion around this when Sweet Dirt first brought their
430 application in.

431
432 Mr. Lentz said that I remember.

433
434 Ms. Horner said that it's probably an attorney question because I'm pretty sure that has to
435 do with HIPAA law.

436
437 Mr. Brubaker said that I can put in the Town Clerk but then have Attorney Saucier
438 review that. I just think we should make sure there's a way of keeping that confidentiality
439 while also, if a medical marijuana application comes before the PB, having some way of
440 verifying that whoever will be doing the medical marijuana use, if approved, they are
441 legit and tied in with the actual property owner, applicant, or something like that. But I'm
442 sure there's a way to do that.

443
444 Ms. Horner said that the last sentence says: "*At the time of application, the cardholder*
445 *may appoint a representative to appear before the Licensing Authority on their behalf.*"

446
447 Ms. Lemire said that I think that's what Sweet Dirt did.

448
449 Ms. Horner asked the Planner if he thinks that covers it.

450

451 Mr. Brubaker said that I am pretty flexible here. If it's HIPAA, it definitely needs to stay
452 in. You guys may see this on an upcoming application. We're having a challenge with
453 figuring out who's who on the application. I just want to make sure the PB can know
454 who's who on these land use applications.

455
456 Mr. Lentz said okay.

457
458 Mr. Brubaker said that, with Sweet Dirt, there seems to be a precedent for that kind of
459 review.

460
461 Ms. Lemire said yes.

462
463 Mr. Lentz said to put it on the list.

464
465 Mr. Brubaker said okay, and I'll change that to Town Clerk.

466
467 **Page 12 Severability, etc.:**

468
469 Mr. Brubaker said that this is just Ms. Horner's original additional language adding
470 medical marijuana, adding effective date, severability. No changes there

471
472 The PB agreed.

473
474 **Performance Standards (page 13):**

475
476 Mr. Brubaker said this is the official language adding medical into the adult use so that
477 all of these medical provisions are struck. Additionally, here we are beginning the new,
478 consolidated, new and improved §33-190 Performance Standards. I removed 'new' in the
479 next sentence as I think it would cause confusion as to what constitutes new for site plan
480 review and it might open the door for applicants to exploit that ambiguous language.

481
482 Ms. Horner said that, if we don't leave the word 'new' in, then doesn't that mean that
483 anybody coming before the PB to do anything in an existing place would need to do a site
484 plan review.

485
486 Mr. Lentz said that they would anyway according to the rule. Isn't that what the Land
487 Use Table says.

488
489 Mr. Brubaker said that the Land Use Table basically says that marijuana establishments
490 need site plan review so it has been the practice that all marijuana applications get site
491 plan review.

492
493 Ms. Horner said that I was thinking change of use. Maybe I'm overthinking it.

494
495 Mr. Brubaker said that even in that case the PB would review most changes of uses, right.

496

497 Mr. Lentz said that I would think so.

498
499 Ms. Horner asked if that meant full site review.

500
501 Mr. Lentz said that I think we had that discussion one night on an application, did we not.
502 I think we had that conversation on Sweet Dirt.

503
504 Mr. Brubaker said that I think it's good to just have an opportunity to check their site plan
505 even if they're just doing a change of use. Usually there's something about the use and
506 activity that's changing and who knows what kind of site improvements the PB might
507 want to suggest, even for a simple change of use.

508
509 Mr. Lentz said that, even with a change of use, the plan would have to be updated.

510
511 Mr. Brubaker agreed, that if they are going from medical to adult use there might be
512 changes to performance standards, such as signage, that the PB might want to suggest,
513 even if the applicant isn't inclined to make them.

514
515 Mr. Lentz said that I believe we should leave it in there for now.

516
517 The PB agreed with changes on this page.

518
519 **Page 14:**

520
521 Mr. Brubaker said that what's here is just to mirror State law, which states that PB review
522 may not start until a conditional license has been issued.

523
524 The PB agreed.

525
526 **Page 15:**

527
528 (e) disposal plan and (f) security plan are required by both local and State requirements
529 and should be spelled out, with the words "stricter shall control".

530
531 Ms. Horner said that I would like it all spelled out just for us when we are going through
532 applications. Maybe you could add some language to have it say what you want it to say
533 about the State law.

534
535 Mr. Brubaker said that I will do that.

536
537 Mr. Lentz said that I agree, Ms. Horner. I like the fact that it's spelled out for our benefit.

538
539 Mr. Brubaker said that I also add f.6. Identification checks. I just remember looking at
540 some recent applications right after I was hired and that was one of the things that they
541 had proposed. I think the State regulations talk about that, as well.

542

543 Ms. Horner said that they do.

544

545 Mr. Lentz asked what that meant.

546

547 Mr. Brubaker said that I think, in CATLAB's case, it was like basically, if you wanted to
548 get into their lab, you have to have an ID and there is a card reader.

549

550 Ms. Horner said that you need identification to go into any marijuana establishment; that
551 most places have security person checking ID's before they're even allowed in the store.

552

553 Mr. Lentz asked if we are saying that identification cards are required.

554

555 Ms. Horner said that we are saying that they need to check IDs, like when you go into a
556 bar, you need to be 21.

557

558 **(5) Separation (*buffering*) of sensitive uses**

559

560 Ms. Horner said that we made a very conscious decision; that if we put "no marijuana
561 establishment", we're basically ruling out all marijuana for Route 236, so we made a
562 conscious decision to only make it the stores; like a bar. As a PB, we felt like, if there
563 was a closed warehouse and there were 2 or 3 people there a day, who cares if they're
564 500 feet away from the dump. Whereas, we didn't want a store there with people coming
565 and going all day. By making it establishment, we are essentially ruling out everything.

566

567 Mr. Brubaker said that I totally see that point, and I know that's important for other
568 sensitive uses, but this is just for the public and private school. So, it's trying to mirror
569 what State law says.

570

571 Ms. Horner said that I don't think State law says that. State law is only stores.

572

573 Mr. Brubaker said that I'll have to check that, again. I could have misread it.

574

575 Ms. Horner said that I think it should go back to the way we had it.

576

577 Mr. Lentz asked how it read before.

578

579 Ms. Horner said that it just said 'store'.

580

581 Mr. Brubaker said that it's really related to that §402 in State law.

582

583 Ms. Horner said that §402 in State law references liquor stores.

584

585 Mr. Brubaker said that we can just go back and confirm 28-A §402 (2A).

586

587 Mr. Lentz agreed.

588

589 It was found that 28-A §402 was liquor stores and 28-B §402 was the appropriate section.
590 The Planner's note will be corrected.

591
592 Mr. Lentz said that, in reading the old one, I think we should leave it like it was. He
593 asked Ms. Horner if we didn't have that sorted out before.

594
595 Ms. Horner said yes. We left it at stores, only stores. That that would mean that basically
596 anything couldn't be 500 feet within a school, and then there's all those school along
597 Route 236 that have schools in them, and I think we just felt it was too complicated so we
598 left it at store. I'd have to go back and look at minutes.

599
600 Mr. Lentz said that we were more concerned with the buying and selling and who would
601 be in and out of those places.

602
603 Ms. Horner said yes; versus CATLAB. It had to do with the schools within the places of
604 worship. There were so many places of worship that had schools in them that we might as
605 well not pass this ordinance.

606
607 Mr. Lentz said that I like the original one better.

608
609 Mr. Brubaker said that I think the key is whether the State law even defines those schools
610 embedded in places of worship, private schools, or defines them as some other kind of
611 educational program.

612
613 Ms. Horner said that it's basically any educational facility that serves children from pre-k
614 to 12th.

615
616 Mr. Brubaker said any kind of educational program inside a church would be considered.

617
618 Mr. Lentz said yes.

619
620 Ms. Horner said that that's why we left it at 'store', because I remember talking about all
621 that when Mr. Cielezsko was on the PB and it was a PB that having an establishment was
622 too extreme; that we narrowed the scope to just 'store'.

623
624 Mr. Brubaker said, just to be clear, that I fully respect the PB' preference on any of these
625 but, in the case where State law says something, I wouldn't want our Code to be contrary
626 to that.

627
628 Ms. Horner and Mr. Lentz said that they understand.

629
630 Ms. Horner asked what happens with all the places that are already in business.

631
632 Mr. Brubaker said that there are a number of places I don't think 'school' applies to,
633 correct. The Code, as it exists now, establishes that separation from schools. It's just as
634 you mentioned, Ms. Horner, that it leaves our adult use cultivation facilities. There is

635 obviously a lot that was done in the past that I'm not intimately familiar with but I'm just
636 saying that, in this case from my reading of State law, this is the way to make this
637 language consistent with State law.

638
639 Mr. Lentz asked if we could get a read from Attorney Saucier on this.

640
641 Mr. Brubaker said yes; that I'm happy for Attorney Saucier to say anything differently;
642 that I just wanted to really flag this because, whatever we do, it shouldn't be contrary to
643 State law.

644
645 Mr. Lentz said that I think we all agree with that. Let's keep going.

646
647 **Page 16:**

648
649 Mr. Brubaker said that this first one basically says that you can't penalize a marijuana
650 establishment if a **sensitive use** comes in later. This is just wordsmithing this section to
651 replace Planning Department with Planning Board because the Planning Board is the
652 ultimate decision-making authority on most land use applications. Then, it just clarifies
653 that a sensitive use moving into the buffer zone later will not be precluded solely because
654 of that rule.

655
656 The PB agreed.

657
658 Mr. Brubaker said that I agree, Ms. Horner, that South Portland had a good way of
659 **measuring the sensitive use**. I just added some additional specificity to that. So, 'aerial
660 straight-line distance' between the building and the property line. And 'this' here just
661 below, I understand what they're trying to do here. I think the key, here, is to not make a
662 new definition of the term 'lot line' that's based on a lease rather than property lines. I'm
663 fine keeping it in. I would just suggest we keep in ii) and kind of wordsmith it a little bit.
664 If you're a small store in a large shopping plaza; for example, if you move into Eliot
665 Commons, you shouldn't be penalized if you are at one end and the building stretches all
666 the way toward Kittery.

667
668 Ms. Horner read, "To avoid confusion, I would recommend not use the term 'lot line' to
669 describe a leased area" and asked what he was referencing there.

670
671 Mr. Brubaker highlighted 'lot line' in the paragraph directly above i) and ii).

672
673 Ms. Horner asked what should it be.

674
675 Mr. Brubaker said that I don't know that I had something particular in mind. Possibly
676 'outer wall', if it's in a shopping plaza or 'outer wall' of the building that is free-standing.

677
678 Ms. Horner said that I'm not saying I don't agree with you but isn't it establishing what
679 that definition is in i) and ii), reading "such establishment's lot line shall be determined as
680 follows:."; that we use the term 'lot line' as a measurement tool but, then, if you're leasing

681 something, or you're leasing a room, we have to redefine the term 'lot line' in order to
682 not punish you, like you said.

683
684 Mr. Brubaker said right. I'm saying keep the exact intent for what this language is, just
685 use a term other than 'lot line' because 'lot line' is a zoning term on which a lot of other
686 things rest, including front, rear, and side setbacks, and so forth. It's just a matter of
687 avoiding any ambiguity but keeping the same intent. The intent is to try to measure from
688 a reasonable outer limit of the actual marijuana use. So, I fully understand what the
689 language says but just noting this that maybe there's a term that could be used besides
690 'lot line'.

691
692 Ms. Horner said that the Planner, you for however you work for Eliot, and others in the
693 future, it's up to them to know what this is meant to say. So, it's up to them to explain it
694 to the applicant for why we're using it this way and it's only for the purposes of this
695 measurement. My argument is that there is no ambiguity because it's up to the Planner to
696 clarify what that means, as it's only for the purpose of this measurement. But you come
697 up with something else because I want to hear it.

698
699 Ms. Strange asked what about operating boundary.

700
701 Mr. Lentz asked if we aren't establishing a buffer zone.

702
703 Ms. Horner said yes but you need somewhere to start that from.

704
705 Ms. Strange said that, for me, I'm almost thinking like an operating boundary.

706
707 Mr. Lentz said exactly.

708
709 Ms. Strange said that it would be another way to say it without saying 'lot line'.

710
711 Mr. Lentz said that that's a good thought. Are you going to clean that up.

712
713 Mr. Brubaker said yes.

714
715 Mr. Brubaker said that, under **7) Cultivation area**, this is just more wordsmithing to
716 define the cultivation area as the number of plants or the plant canopy. So, that just lines
717 up with State law in terms of allowable number of plants, or the different tiers, for size of
718 plant canopy.

719
720 Ms. Horner asked if that was what the State says about cultivation area. I thought they
721 only measured it by canopy and not number of plants.

722
723 Mr. Brubaker said mostly by canopy, yes. There is that initial tier where it's only number
724 of plants.

725
726 The PB agreed.

727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772

Page 17 Cultivation area cont'd:

Mr. Brubaker said that this just shows how the site plan should include the actual cultivation areas so that the PB can see it and review it.

The PB agreed.

Mr. Brubaker said, regarding **(10) Pesticides**, this is wordsmithing. The current language has National List and I looked that up. That actually refers to a national list of allowed and prohibited substances and I put in the Chapter and ‘as may be amended from time to time’. These are natural substances that are still bad, like arsenic.

The PB agreed.

Mr. Lentz asked what the PB’s pleasure would be. How do you want to handle this, now. Obviously, we have some things for legal counsel, other things that Mr. Brubaker is going to check and update. Would you like to bring this back one more time.

Ms. Horner said yes.

The PB agreed that they would like to see it again all cleaned up.

Mr. Brubaker said that I’ll make the changes that the PB suggested and send it to Attorney Saucier. When his review is done, I will let Mr. Lentz know.

The PB agreed. This would then be put on an agenda to review.

B. Variance Town Code Amendments (recommendation of Board of Appeals) – Review of Draft

Mr. Lentz said that we have something that we’ve been asked to do for quite some time, now, and that’s to clear up the difference between waivers and variances. Once again, Mr. Brubaker has put together a list. He asked the Planner to take us through it.

Page 1:

Mr. Brubaker said that one of the things I should have done is include the BOA’s recommendations. You did see them on March 3rd but I do have them on my screen if anyone wants to look at the actual correspondence from the BOA. As a background, this is to basically change the variance language to be in concert with State law. There are a number of sections of our Code that are contrary to State law; that I know that makes the CEO nervous and it also makes the BOA nervous. So, this is definitely trying to remediate that situation. This is written in warrant article language and he described the layout of the document. I try to sync everything with State law, where possible.

773 **Page 2 Definitions:**

774

775 As a background, the State provides for a few types of variances. One is the ‘disability
776 variance’ that allows for some zoning standards to be not met in order for a house to be
777 made accessible for somebody with disabilities. The ‘practical difficulty variance’ allows
778 some dimensional standards to be not met if meeting them would create a practical
779 difficulty. That’s kind of like a lower hurdle to get over. That’s kind of like the ping pong
780 net. Then there is the hardship variance, which is the most difficult standard to get over
781 and that’s like the tennis net.

782

783 Ms. Lemire said that it’s more like the Tower of Babel.

784

785 Mr. Brubaker said that’s the hardest one to get over but all of this stuff is in State law so
786 we have to follow it. There is hardship variance language in our code but the BOA
787 basically said that we need to create a new practical difficulty variance in our Town Code
788 and clarify the process the BOA already goes through with respect to a generic variance
789 is actually a hardship variance. We will have these new variance sub-definitions, now, in
790 our Town Code if this is passed by the voters. We have the practical variance, which
791 feeds into the definition for practical difficulty and defines what it is. Again, the BOA
792 asked that this only be available for non-conforming lots of record. This is when an
793 applicant comes in and they don’t have adequate street frontage, they can then come in to
794 the BOA and seek this kind of a variance; and they don’t have to climb over the Tower of
795 Babel. The hardship variance language is pretty similar to what is already in our
796 ordinance and is defined in §1.2

797

798 Mr. Lentz said that, when I look at ‘practical difficulty’, I don’t think we’ll ever, ever
799 issue a variance. Unless I’m reading this wrong, and I could be.

800

801 Mr. Brubaker agreed that it was a lot of hurdles to overcome because they need to meet
802 all of these criteria.

803

804 Ms. Lemire said that most are pretty easy.

805

806 Mr. Lentz said that I assume the applicant would document these.

807

808 Ms. Lemire said that they would have to.

809

810 Ms. Horner asked if this kind of stuff comes into play when people want to do, for
811 example, a lot line adjustment with a neighbor. The reason I am asking is that I wanted to
812 do a lot line adjustment with my neighbor but, because they are a non-conforming lot, it
813 was something about the change that would make his lot more non-conforming.

814

815 Mr. Lentz said that you can’t do that.

816

817 Mr. Brubaker said that this would be available for a non-conforming lot of record. So, if
818 you have a difficulty meeting a setback just because of how the lot is, as an example it

819 might have been created a long time ago, and as long as it's not in the Shoreland Zone
820 (State law), you could go to the BOA and ask for this kind of a variance.

821

822 **Page 4 Chapter 33:**

823

824 Mr. Brubaker said that this is just a note on Chapter ss. I know there has been a lot of
825 discussion on this with one particular standard in Chapter 33. I just wanted to point out
826 that there is an ability for the PB to waive certain requirements. You can see that in the
827 subdivision regulations. You can see that in Chapter 37, which is the street and sidewalk
828 standards. The MMA webinar a couple of weeks ago was pretty adamant that the BOA
829 basically retains the only power to grant variances specifically for zoning requirements,
830 as distinguished, say, from subdivision regulations. I am just going to leave this in for
831 general discussion, maybe not tonight, but I'm not actually proposing any changes in
832 Chapter 33 right now.

833

834 Mr. Lentz said okay.

835

836 **Page 5 (§44-47 Appeals) (Shoreland Chapter)**

837

838 Mr. Brubaker said that a lot of this is just wordsmithing. For whatever reason, there was
839 this bracketed term [the ordinance from which this chapter is derived] in this section and,
840 so, I just cleaned that up to 'this chapter'. I'm not sure why this was in there. Under (b),
841 all it is doing is establishing what kind of variances are allowable and, again, the only
842 variances you can do in the Shoreland Zone are a hardship variance and a disability
843 variance.

844

845 Ms. Horner asked if we are confident that there are no unintended consequences of
846 removing that bracketed language.

847

848 Mr. Brubaker said no, I'm not confident. I just didn't know what it meant, as it was in
849 brackets and it's weird for it to be in brackets.

850

851 Ms. Lemire said that the words are "from which this chapter is derived". The words Mr.
852 Brubaker put in say "this chapter", so you are negating where the source is... 'the
853 ordinance from which this chapter is derived'.

854

855 Mr. Brubaker asked if that was referring to the actual voter-approved amendment that
856 created the Shoreland Zoning Chapter.

857

858 Ms. Lemire said that it could be; that I didn't even think about that until just a minute
859 ago. It seems to me that that language goes back to a source that's not here.

860

861 Mr. Brubaker commented that, maybe instead of touching my hand on the burner, I
862 should have asked Attorney Saucier to help me.

863

864 Mr. Lentz agreed that I think we've lost the source for this.

865
866 Mr. Brubaker said that I will touch base with Attorney Saucier about that.
867

868 Ms. Lemire said that Chapter 44, at least under our (BOA) authority, we have to base
869 everything on the ordinances. This is more like an outline of what we can do but we have
870 to go to the source to make the actual determination based on facts and law. I don't know
871 if that helps or not.

872
873 Mr. Brubaker said that it does. I think I'm confused by what the brackets were supposed
874 to mean there.

875
876 Ms. Horner said that it seems the brackets, themselves, is just a note to whoever needs to
877 reference why they are doing an administrative appeal.

878
879 Ms. Lemire said that's true. "...a permit application under the ordinance from which this
880 chapter is derived"; so, they have to go to the specific ordinance.

881
882 Mr. Lentz said yes, that this is just generalization. So, there would be a specific ordinance
883 that this was tied to.

884
885 Ms. Lemire said yes.

886
887 Ms. Horner added based on what the appeal is. What they are trying to appeal, you need
888 to be able to reference back to that ordinance.

889
890 Ms. Lemire said exactly. Yes, because you all make your decision based on an ordinance,
891 or several ordinances, depending on what you're hearing.

892
893 Mr. Brubaker said that I will work on this for clarity.

894
895 **(b) (1) Variance appeals**
896

897 Mr. Brubaker said this, again, is the types of variances in the Shoreland Zone. Basically,
898 a hardship variance. This just says there shall not be any use variances in the Shoreland
899 Zone. That's already in the Chapter and the definition is being referenced. The disability
900 variance criteria seem like a lot but it's all just trying to gel it with State law. This is
901 basically allowing for a ramp, a railing, or something like that for a person in a
902 wheelchair, as well as a pretty limited place of storage for parking for a non-commercial
903 vehicle that's used by that person for access.

904
905 Ms. Lemire said that, as a not of interest, and it has been many years, the PB approved
906 something like this down off of King's Highway. There was a small lot and the man had
907 a disability and he needed a garage structure and a ramp, and they placed a bunch of
908 conditions on it.

909
910 Mr. Lentz said that I remember that.

911
912 Mr. Brubaker said that it does talk about that there could be conditions imposed. I struck
913 the old reference to disability variance.

914
915 **Page 7 (d) Appeal procedure (1) (i):**

916
917 Mr. Brubaker said that this just takes out ‘or variance’ in the appeals section. It seems
918 weird that an aggrieved party is looking for a variance. That’s more a de novo review by
919 the BOA; so, that’s just wordsmithing.

920
921 The PB agreed.

922
923 **§45-49 Powers (page 9):**

924
925 Mr. Brubaker said that this is the powers and duties of the BOA and this is where the
926 most changes are. (b) talks about that variances will be as limited as possible to satisfy
927 the reason for the variance, whether it’s practical, hardship, or disability. And it talks
928 about how, if a party establishes that all the defining conditions for a variance are met,
929 and that’s the way the BOA concurs, they basically have to grant that variance. This
930 means that the BOA has to be acting in a quasi-judicial sense all the time.

931
932 Ms. Lemire said yes. Absolutely. With a hardship variance, if they meet all four, they are
933 given the variance.

934
935 Mr. Brubaker said that practical difficulty, disability variance, and hardship variance are
936 all referenced.

937
938 **§45-194 Nonconforming lots of record (page 13):**

939
940 **(c)(2)**

941
942 The big thing that the BOA wanted taken out, and this is for non-conforming uses, by the
943 way. The CEO allowed to authorize a 25% reduction is now struck, as it is not consistent
944 with State law. The reference to a waiver is also struck. It talks about, if you are looking
945 for a relaxation in standards, it’s either a practical difficulty variance or a hardship
946 variance.

947
948 Ms. Lemire said that State law is really, really strict on this stuff.

949
950 Mr. Brubaker agreed. The MMA really tries to scare you on that.

951
952 Ms. Lemire said that they do try, yeah.

953
954 Mr. Brubaker said that variances are supposed to be the exception and not the rule.

955

956 Mr. Brubaker said that those are basically the recommended changes. It doesn't have to
957 be acted on tonight if the PB doesn't want to but I would be happy to answer any
958 questions you have.

959
960 Ms. Horner asked if these recommendations came straight from the BOA.

961
962 Ms. Lemire said yes.

963
964 Ms. Horner said that I'm comfortable with whatever they want to do with the ordinance
965 that they work with. We have to sign off on this because that's part of our job as a PB,
966 but I can't say that I...I'm comfortable with everything that's been presented.

967
968 Mr. Lentz said that I think you're right. This is their world that they live in and they were
969 trying to clarify between the PB and BOA on waivers and variances and things like that.
970 He asked Ms. Lemire if this would satisfy them as far as their request to us.

971
972 Ms. Lemire said that I think it will. We needed your help in putting this together because,
973 as I was looking at the letter we wrote to you, I was also going through the ordinances
974 and I was finding all kinds of places that needed to be reviewed and revised because of
975 this change.

976
977 Mr. Lentz said that I think Mr. Brubaker has done a really good job, again.

978
979 Ms. Lemire agreed. I think it's excellent.

980
981 The PB members agreed.

982
983 Ms. Lemire asked if the PB was going to run this by the whole BOA to review to see if
984 they are okay with it.

985
986 Ms. Horner said that I thought this came from the BOA.

987
988 Ms. Lemire said that it did. This particular work is done by Mr. Brubaker to make what
989 we would like work.

990
991 Ms. Horner said that I would then like to say that we throw it back to the BOA.

992
993 Mr. Lentz said that I would think you would want to approve this from a PB standpoint
994 because you are relaxing some of the efforts of the PB with this, also. We can certainly
995 approve the document from a PB standpoint but I think the final approval has to come
996 from the BOA. They are accepting that they have changed a little of our work and we
997 have actually changed some of theirs. So, it's a compromise, and we can't all be together,
998 but we can sign off what we believe is correct.

999
1000 Ms. Lemire said that, if they find something that they just don't want, they can always let
1001 you know.

1002
1003 Mr. Lentz added that we'll modify it, just like we do anything else. So, with that in mind,
1004 do you want to approve this.
1005
1006 Ms. Horner asked if we can't just send this back to them as a draft to see what they think
1007 or do we need to approve it to do that.
1008
1009 Ms. Lemire said that you can do that and Mr. Brubaker has to re-visit "from which this
1010 chapter is derived" stuff.
1011
1012 Mr. Lentz said that we could approve this as amended or accepted by the PB. That way
1013 we are approving our portion, which I think is the best way to do it.
1014
1015 Ms. Horner asked if we can do that by consensus or do we have to make a formal motion.
1016
1017 Mr. Lentz said that I would make a formal motion. I think that's appropriate.
1018
1019 Ms. Horner said even with the outstanding item. I guess I would like, and I don't know if
1020 I'm being too anal, but it seems like I would like some clarification on that bracketed
1021 language before I approve this. That could potentially be a big thing. Are we trying to get
1022 this on the November ballot.
1023
1024 Mr. Lentz said no. You can't.
1025
1026 Ms. Horner asked if it's okay if we give it back to the BOA the way that it is and see
1027 what they have to say and, then, vote on it. Can we just trade a draft back.
1028
1029 Ms. Lemire said that you're going to have a public hearing on this, correct.
1030
1031 Mr. Lentz said that I think so. We could approve it as a draft.
1032
1033 **Ms. Braun moved, second by Ms. Horner, that the Planning Board the draft of the**
1034 **proposed Town Code Amendments Related to Variances, as amended.**
1035 **VOTE**
1036 **4-0**
1037 **Motion approved**
1038
1039 Mr. Lentz said that we also received a copy of the Zoning Ordinances from the MMA.
1040 Enjoy that reading.
1041
1042 Ms. Braun said that that was actually very helpful.
1043
1044 The PB agreed.
1045
1046
1047

1048 **ITEM 8 – NEW BUSINESS**

1049

1050 **A. Site Plan review and Subdivision review of processes - Overview**

1051

1052 **Site Plan review process:**

1053

1054 Mr. Brubaker shared his screen for this discussion. This is just a general overview of the
1055 site plan process. It starts with application and site plan submission. Ms. Lemire has
1056 provided a lot of wisdom and institutional knowledge on that. Thank you. It's a draft and
1057 I wanted to share this for input. Nothing is intended to be final here.

1058

1059 Mr. Lentz asked if a site plan review process always has a sketch plan prior to it or
1060 included with it.

1061

1062 Mr. Brubaker said that I think so. That's what our code technically says. But there is that
1063 one section in our ordinance that speaks to a site plan amendment and, in that case, if the
1064 PB decides that the amendment is minor, the PB can essentially approve that amendment
1065 the very same night.

1066

1067 Mr. Lentz said that my whole goal for asking Mr. Brubaker to do this is because once we
1068 say we understand and approve it, we're going to run by this so we eliminate the
1069 questions and confusion, which I had, as well as everybody else.

1070

1071 Mr. Brubaker said that it initially starts with a sketch plan, with some initial required
1072 content. I review it and then get it on the PB's agenda. I think Ms. Goodwin had a pretty
1073 good system for how far in advance they had to submit that in order to get on a certain
1074 date PB agenda so I'm trying to continue that practice. When you are reviewing the
1075 sketch plan, you are deciding whether it complies with Chapter 33 and other ordinances
1076 and policies involved. You can then make suggestions, in writing, for the applicant to
1077 incorporate into subsequent submittals. The sketch plan is distinguished from the actual
1078 application in Chapter 33 and there are all 'these' things that can be done prior to the
1079 actual application being submitted. There is the site inspection, and I know for some
1080 minor projects, the PB has waived that, which makes sense, but you always have the
1081 ability to require a site inspection and that's something that the applicant needs to set up,
1082 working with the PB.

1083

1084 Mr. Lentz asked at what point does the planner review or planner recommendations start.
1085 When would you put that together.

1086

1087 Mr. Brubaker said that I try to continue what Mr. Galbraith's practice was, which was,
1088 even on sketch plan review, have a basic overview and then refine that once it got to the
1089 actual application. I'm happy to change that based on what the PB thinks is best.

1090

1091 Mr. Lentz said that that was fine. It was just a question on when we can look forward to
1092 seeing...I depend on that review as a guide.

1093

1094 The PB agreed that that was very helpful.

1095

1096 Mr. Lentz reiterated that I depend on that and I was just wondering at what point that was
1097 part of the package.

1098

1099 Mr. Brubaker said that I will try to include that the first time the PB sees a sketch plan.

1100

1101 The PB thanked him.

1102

1103 Mr. Brubaker said that you can comment on the sketch plan. The stuff about contour
1104 interval and street classification is more for subdivision, which is a type of site plan
1105 review, but I think it's more for major developments. Then, here's the actual site plan
1106 review application. This is when the applicant actually pays the fee and fills out the full
1107 site plan review application with all the check boxes and things like that.

1108

1109 Mr. Lentz asked, at this point, we have approved the sketch plan.

1110

1111 Mr. Brubaker said approved, essentially. I think the language in the Town code is
1112 something like the PB finds that the sketch plan has met, so far, because there's a lot
1113 that's still to be discussed, the requirements of Chapter 33. There's nothing major that's
1114 wrong.

1115

1116 Mr. Lentz asked in which of the blocks does that occur.

1117

1118 Mr. Brubaker pointed to the sketch plan box and said that it occurs here but I will make
1119 the box clearer that this is sketch plan approval.

1120

1121 Mr. Lentz said that the next block would be the beginning of the site plan review.

1122

1123 Mr. Brubaker said yes. Once the application is found to be complete, within 30 days of
1124 that, you have your public hearing. You could potentially wait one meeting but, if the
1125 meeting after that falls more than 30 days later, you should be scheduling the public
1126 hearing for the next available meeting. So, determination of complete, then scheduling
1127 that public hearing.

1128

1129 Ms. Horner said that I feel like we should be doing that, anyway. Once we find the site
1130 plan review application complete, officially, the very next meeting no matter what it is
1131 should be the public hearing and then, hopefully, a formal approval.

1132

1133 Mr. Brubaker said that, as long as you can meet that notice requirement, that does seem
1134 to be the typical practice. Within 75 days of that determination, the PB does need to make
1135 that decision that Ms. Horner referenced. You can approve, modify and approve, or
1136 disapprove a site plan. The appeal period starts and this is where the PB can put
1137 conditions on; that the very next meeting you usually do the Notice of Decision with all
1138 of the findings of fact, and so forth.

1139

1140 Ms. Braun said that I'm going back to the 4-lot subdivision that we just did and it was
1141 held up because of the performance standards. That's typical, then, correct. We should
1142 have performance standards that they have to comply with.

1143
1144 Mr. Brubaker said yes. There are subdivision requirements that they need to comply with.
1145 With that subdivision, what I found looking at the process as a new Planner, was that
1146 there used to be a difference between minor subdivision and major subdivision. There
1147 still is a definition of minor subdivision in the code but it looks like, according to the
1148 noted in MuniCode, that the provisions for a minor subdivision were repealed a ta prior
1149 Town Meeting. So, I needed to figure out what to do, even though it's a 4-lot subdivision;
1150 that it looks like it needs both preliminary and subdivision approval.

1151
1152 Ms. Lemire said that Definitions give us some indication of what the process is and then I
1153 found 'official submittal date' is also in the definitions so that kind of added to the fun
1154 craziness of the ordinance. I'd really like to read the original 41-1 to see what the actual
1155 changes really were.

1156
1157 Ms. Horner asked why these performance guarantees aren't in the application.

1158
1159 The PB agreed.

1160
1161 Ms. Horner said that this box has been the most confusing because why wouldn't all that
1162 stuff come up during the application process. Shouldn't that all be in the sketch plan.

1163
1164 Mr. Brubaker said that that was a good point. I think it certainly should be discussed and
1165 included in those applications if a performance guarantee is applicable. This is at the
1166 point where the applicant actually furnishes the guarantee; that I believe there is a
1167 financial guarantee, or promise, that you won't sell lots or apply for building permits until
1168 the specific improvements that are subject to the guarantee are actually made. So, it's
1169 basically the Town holding the applicant's feet to the fire to actually construct
1170 improvements in a sound way according to Town standards before they start making
1171 money off a development.

1172
1173 Mr. Lentz asked if those performance guarantees weren't negotiated during the site plan
1174 review.

1175
1176 Mr. Brubaker said yes; that I should probably clarify this in the flow chart. You don't
1177 have to start talking about these guarantees here. This is more when they come due and
1178 you can definitely talk about them early in the application.

1179
1180 Ms. Lemire said that the other thought I had was that we had a couple of very complex
1181 subdivisions back is 2006 and 2009 where this really came into play. With one
1182 subdivision in particular, performance guarantees were put in place and the developer
1183 came back after not doing the job correctly wanting his money back, and the Town said
1184 no. It's part of the process and it was discussed much earlier than here where it is in the

1185 powerpoint. The performance guarantee has to go with the approval of the plan and has to
1186 be incorporated in the Notice of Decision.

1187
1188 Mr. Brubaker said that that was a good point. I will amend this flow chart to make sure
1189 the performance guarantees are represented earlier in the process.

1190
1191 Ms. Lemire said that I don't think it would do any harm to review our application, either,
1192 because I've noticed a couple of things that need to be changed. They've been around
1193 awhile.

1194
1195 Ms. Horner said that I don't want to get caught up on this but those last two boxes, I
1196 think...Mr. Lentz and I were very confused about the Surrey Lane application and this is
1197 why. Because, even though those are part of Eliot's code and how we're supposed to be
1198 doing things, I don't remember doing it that way. It was so confusing to not go from to a
1199 public hearing to any final recommendations from the PB and, then, just approving it that
1200 night as long as nothing major came up from the public that was of value and substance
1201 that that would make the application invalid.

1202
1203 Ms. Braun asked if they are usually monetary guarantees as opposed to anything else.

1204
1205 Mr. Brubaker said that the code provides for two, as I understand it. One could be a
1206 monetary guarantee, where they are basically bonding or putting money upfront or it also
1207 could be a promise where there is a condition, or promise, not to sell lots or get building
1208 permits until they've made the necessary improvements.

1209
1210 Ms. Braun said that that's like that one lot couldn't be sold until the lot line was finalized.
1211 So, that was part of the performance guarantee for that.

1212
1213 Mr. Brubaker said yes.

1214
1215 Ms. Lemire said that my experience with the PB is that, when there is a performance
1216 guarantee, most of the time it's with a subdivision.

1217
1218 Mr. Lentz agreed that most of the time it is.

1219
1220 Ms. Braun said that that money is given back to them when the project is completed and
1221 they've done what they're supposed to do.

1222
1223 Ms. Lemire said yes.

1224
1225 Ms. Braun said that the Town doesn't keep any of that money.

1226
1227 Ms. Lemire said that, unless they have to spend money any on what the developer
1228 promised to do, the money is given back.

1229

1230 Mr. Lentz said that I still have some confusion about the Notice of Decision and the box
1231 it's in. We're here and we're approving the plan and the 30-day appeal period starts and
1232 we've already listed the conditions for approval. The Notice of Decision happens the
1233 same meeting or is it the next meeting.

1234
1235 Mr. Brubaker said that it would be at the next meeting. This really should be a separate
1236 box.

1237
1238 Mr. Lentz said yes; at least that's the way I thought we were doing it.

1239
1240 Ms. Lemire said that, once the public hearing is done and you've made your approval
1241 motion of the application, I go home and finish the Notice and the Notice comes in at the
1242 next meeting for review and approval.

1243
1244 Mr. Lentz said right.

1245
1246 Ms. Horner asked what if there are guarantees and all that other stuff, all that stuff in the
1247 following boxes.

1248
1249 Mr. Brubaker said that the idea would be that that would be represented in the conditions
1250 of approval and 'this' box would be where the furnish the guarantee.

1251
1252 Ms. Braun asked, when they come in for a subdivision application, do we mention
1253 performance guarantees at that point so that they are aware that that might come into
1254 play.

1255
1256 Mr. Brubaker said yes, that we should mention it upfront.

1257
1258 Ms. Braun agreed, asking if there is any sort of a pamphlet we can give them that
1259 explains what is needed, performance guarantees, and all that.

1260
1261 Ms. Strange said that that's a good idea.

1262
1263 Ms. Braun said that we should have something that we pass out so that they're not
1264 surprised.

1265
1266 Mr. Lentz agreed.

1267
1268 Ms. Braun said that I notice, sometimes, that they haven't paid their fees and, yet, we're
1269 at final determination. Does that seem right to you. They should be paying the fees when
1270 they bring the application in.

1271
1272 Mr. Brubaker agreed that that is when they should be paying the fees.

1273
1274 Ms. Horner said that I don't think we should let them at a meeting until the fees are paid.

1275

1276 Ms. Braun said that I agree. They are coming in with all this work and they want all of
1277 these things but they haven't paid their fees.
1278
1279 Ms. Strange said that I feel like that's a checklist item, just like any others that should be
1280 completed before you move on to that next step.
1281
1282 Mr. Lentz said that I agree.
1283
1284 Ms. Braun said that there must be some way that we get the money when they give the
1285 application. The application doesn't process further until we get the fees necessary.
1286
1287 Mr. Brubaker said yes.
1288
1289 Mr. Lentz said that those are excellent points.
1290
1291 Mr. Lentz said that there is this third to last block, again, that I'm stuck with when the
1292 appeal period starts. The 30 days, does that start the night of approval or when the Notice
1293 of Decision is approved.
1294
1295 Ms. Lemire said that it starts the night of the decision.
1296
1297 Ms. Braun said that they haven't gotten it in writing yet what the Notice of Decision is.
1298 Unless they're making very good notes, they have no idea what the conditions are for
1299 them to appeal on.
1300
1301 Ms. Lemire said that it's all discussed in the meetings and you cover it pretty well at that
1302 last meeting during the public hearing and for final decision on the plan.
1303
1304 Ms. Horner said that that has definitely come up before in my tenure and I think we even
1305 had a legal opinion weigh in saying that something like even if the Notice of Decision
1306 hasn't been delivered, the clock is still ticking because everything is public record.
1307
1308 Ms. Lemire said that that's right.
1309
1310 Ms. Braun said that the applicant should be made aware of that so that they are paying
1311 attention and get all of the conditions noted.
1312
1313 Ms. Horner said that we say it at the meetings when we do their approvals.
1314
1315 Mr. Lentz said that we aren't as clear as we used to be. There is a whole list of standard
1316 conditions we used to repeat at each meeting and then we got away from that. When we
1317 said that 'this is approved', we said and the standard conditions apply, which was a whole
1318 laundry list of conditions that are standard and, then, if there were other conditions, we
1319 mentioned them individually. Is that right.
1320

1321 Ms. Lemire said that that's exactly right. If all the applicants were there, you would say it
1322 (standard conditions) once and then everybody would have heard it. I think it should be
1323 read at least once during the meeting if you're approving applications. However, it could
1324 also be put into the application because the standard conditions are part of our
1325 ordinances. It's embedded in our ordinances. You could have 'standard conditions always
1326 apply. See § _____' to be in the application, itself, to make the applicant aware.

1327
1328 Ms. Braun said that's a good idea.

1329
1330 Mr. Lentz said that they are standard things like you give the Police Officer the ability to
1331 do 'this' or the CEO has the ability to visit.

1332
1333 Ms. Horner said that Mr. Duncan always used to read those, no matter who made the
1334 motion; that he had them in his book.

1335
1336 Mr. Lentz suggested we should get a copy of those so everyone has a copy.

1337
1338 Ms. Lemire said that I'll send it out to everybody.

1339
1340 Mr. Lentz said that we could also put it on the application. Then the only thing we would
1341 have to add are conditional items for approval that would apply to the individual plan
1342 being approved.

1343
1344 Ms. Lemire said that it's always good practice to make the motion as specific as you can.

1345
1346 Ms. Braun commented that she wonders how many people pay really attention to that
1347 language.

1348
1349 Ms. Horner said that I was an applicant before the PB and I had so much anxiety, I
1350 memorized everything. I don't know if you guys have been in front of a PB but it is
1351 terrifying when you're not used to doing it. I think the people who don't pay attention are
1352 the people who have done it 100 times and think they know what the standard conditions
1353 of approval are.

1354
1355 Ms. Lemire said that one of the standard conditions is that any PB decision, and all the
1356 things the applicant agrees to within the meetings, they can't change that unless it comes
1357 back to the PB. So, that's important. When someone gets approval from the PB, they
1358 need to be aware that...well, even sometimes they are and they still do it.

1359
1360 Ms. Horner said that it's like when people verbally agree to do tree plantings, that's
1361 binding.

1362
1363 Ms. Lemire said that, yes, it is.

1364
1365 Mr. Lentz asked Mr. Brubaker to update this and we'll get a copy to everybody so we can
1366 look at it again.

1367
1368
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1410
1411

Mr. Brubaker said yes and I will make sure it prints larger.

Subdivision review process:

Mr. Brubaker said that this is a special type of site plan review. It starts with a sketch plan submittal. A lot of the Chapter 33 language applies to a subdivision process and Chapter 41 is the main source for PB review. Within 6 months of the sketch plan being approved, or concurred with, by the PB, the applicant must submit the preliminary plan application. Otherwise, they have to go back to the beginning and do another sketch plan.

Mr. Lentz said that, within the second block, there is something we never take advantage of – the development of technical consultant fees. That’s something we miss the boat on sometimes. If especially if we are dealing with a subdivision and they are going to build a road that they eventually want to turn over to the Town, this is the point that we can get a third party in there, as a technical consultant, to make sure that the road is being built the way it’s supposed to be. We never seem to take advantage of that and that ability is there.

Ms. Braun said that, again, that should be something they should be made aware of so they aren’t surprised. It never hurts to state it again.

Mr. Lentz agreed.

Mr. Brubaker said that that’s important and it is within the PB’s power to require that for any particular aspect of the subdivision. At the preliminary review application stage, like several Board members have said, this is when you have to have your fees paid, and any technical consultant fees, that’s when you need to put them in escrow. The Planning Office tracks that escrow account.

Ms. Braun said that you don’t collect any fees for the sketch plan.

Mr. Brubaker said correct.

Ms. Braun said that we are generous.

Mr. Brubaker said that you can always change that. A future ordinance amendment.

Mr. Lentz asked if we are at the first time we see this.

Mr. Brubaker said that this is the second – the preliminary plan application. But, important to the point that you just made, it needs to conform to the sketch plan so they can’t come up with a new plan out of left field and present it to the PB.

Mr. Lentz said that that’s what I was trying to piece together.

1412 Mr. Brubaker pointed out the ‘official submittal date’ that Ms. Lemire mentioned. After
1413 14 days, at least the PB has the initial review of the preliminary plan. I would be writing,
1414 or modifying, my staff report at this point. Again, there is that application completeness
1415 determination.

1416
1417 Mr. Leathe asked at what point do you put in the performance guarantee discussion.

1418
1419 Mr. Brubaker said that that’s a good point. I would agree with everything that’s been said
1420 about putting it in upfront and sketch plan review would be good, just so the applicant
1421 knows that that might come. If it is okay with the PB, I can modify the flow chart to
1422 make sure that performance guarantees are referenced upfront.

1423
1424 The PB agreed that would be good.

1425
1426 Ms. Lemire said that that would remove their wiggle room, too.

1427
1428 The PB agreed.

1429
1430 Mr. Brubaker said that, within 30 days of that completeness, there is the public hearing
1431 with the notice requirements; and that’s State law, too.

1432
1433 Ms. Lemire said that, with the public hearing, there’s supposed to be two of them.

1434
1435 Mr. Brubaker said that I think I have that in the flow chart.

1436
1437 Ms. Lemire said that, for major subdivisions, I can understand why they would have to
1438 have two public hearings but, for something like Surrey Lane, I don’t see a point.

1439
1440 Mr. Brubaker said that there is ‘this’ thing in State law that says ‘published notice at least
1441 2 times in a newspaper’. You could have a public hearing on the preliminary plan and
1442 then another one on the final plan.

1443
1444 Ms. Lemire said yes; that it’s happened before with major subdivisions because of the
1445 changes that have to be made.

1446
1447 Ms. Brubaker said yes, our Town code provides for that. After the public hearing, then
1448 comes the PB decision on preliminary plan. Again, you can approve, approve with
1449 modification, or disapprove. I can take the Notice of Decision and put it in a new box. I
1450 did note it ‘here’ that, after the decision is made, that’s when Ms. Lemire generates the
1451 Notice of Decision and, like we did with Surrey Lane, there is that text that says it is only
1452 the preliminary plan approval. Then, you get to final plan application. Another fee is
1453 required, otherwise the application is not complete. I have performance guarantee listed
1454 so they will need to have all that in place. State and federal approvals; so, for example, if
1455 they need any DEP permits or US Army Corps permits. Then, again, there is another
1456 ‘official submittal date’ and the Planning Office giving the receipt to the subdivider. So,
1457 again, if the applicant gets their preliminary approval and they don’t submit their final

1458 plan application within 6 months, the PB could send them back to the drawing board. So,
1459 really, it's on the applicant to jump from this approval to the final plan application.

1460

1461 Ms. Braun asked if we then have another Notice of Decision for the final plan.

1462

1463 Mr. Lentz said that that's a good question.

1464

1465 Mr. Brubaker said that Ms. Lemire might have some thoughts on that.

1466

1467 NOTE: Ms. Lemire lost her internet connection again.

1468

1469 Mr. Brubaker said that she emailed me some really helpful thoughts. It looks like we've
1470 typically only done Notice of Decision for preliminary plan but it seems like in our
1471 discussion there's certainly nothing that would preclude another Notice of Decision from
1472 happening for the final plan.

1473

1474 Ms. Horner asked if that would open up the door for...why would someone be able to
1475 appeal the final decision. That's not what I'm trying to say. The Notice of Decision for
1476 appeals purposes. Wouldn't all that get stated within the preliminary Notice of Decision.
1477 Nothing is changing other than the fact that they're getting their approvals.

1478

1479 Mr. Brubaker said that I'm not sure they could appeal a preliminary plan decision
1480 because the decision wouldn't yet be ripe because it's not the final decision. I think
1481 they'd have to wait for it to be finalized for them to appeal that decision.

1482

1483 Ms. Horner asked if that Notice of Decision should not be in 'that' box at all.

1484

1485 Mr. Brubaker said that I think it helps to have a Notice of Decision at the preliminary
1486 plan stage because the applicant for Surrey Lane needed that Notice so they could
1487 reference it in their final plan submittal. Based on that they had to wait for the Notice of
1488 Decision to get finalized. Then they put a note in the final plan basically saying 'we
1489 reference and agree to abide by all the conditions in this Notice of Decision'.

1490

1491 Ms. Horner said that what I'm saying is that there shouldn't be another Notice of
1492 Decision.

1493

1494 Mr. Brubaker said that there hasn't been for final plan. I don't think there needs to be. It
1495 wouldn't hurt to have one but I'll defer to the PB on that.

1496

1497 Mr. Lentz said that I think the one will work. It was just a question of when do you do it.
1498 I think that's where the confusion was.

1499

1500 Mr. Brubaker said that when Ms. Lemire and I were looking at Surrey Lane, we found
1501 that it was usually, for subdivision approval, done at the preliminary plan stage. Then,
1502 there is the review and final determination of the final plan within 45 days of the final
1503 plan submittal. Again, you can approve or disapprove the final plan, or modify and

1504 approve, too. I wish Ms. Lemire was back here because, again, this is where you can have
1505 a second public hearing on the final plan and, I just wanted to state here, even at this
1506 stage, the PB does have the power to seek modifications from the applicant. Although
1507 hopefully, at this point, things are far enough along that those modifications should all be
1508 small.

1509
1510 Ms. Horner just texted me to say we should just keep going and she'll try to get back on.

1511
1512 Mr. Brubaker said that we're pretty much wrapping up. There is the final approval on the
1513 final plans. That's when you guys came into the office and gave your signatures. That has
1514 been a long practice because I've come across some plans from the 2000's or 1990's
1515 where you see the PB signatures on them. The members who voted to approve Surrey
1516 Lane did sign all the copies and that does seem to be a long-standing practice in our
1517 Town code.

1518
1519 Mr. Lentz said yes.

1520
1521 Mr. Brubaker said that the last two boxes are appeal and any last changes and recording
1522 of the final plan at the Registry of Deeds.

1523
1524 Mr. Lentz asked for comments or questions.

1525
1526 Ms. Horner said that that wasn't so bad.

1527
1528 Ms. Braun agreed, adding that it was helpful to see it all written down and how it flows.

1529
1530 **B. Planning Board motion templates**

1531
1532 This was not discussed.

1533
1534 **C. Meeting schedule and upcoming submission deadlines**

1535
1536 Mr. Lentz thanked Mr. Brubaker and Ms. Metz for putting this together. No action, as far
1537 as the PB is concerned; just a document for your knowledge.

1538
1539 Mr. Brubaker said that applications are still pretty heavy right now. That's why I figured
1540 the 20th could be an application review meeting. Then, it's been past practice that the PB
1541 wouldn't meet on Election Day so that's why it is recommended that the first meeting in
1542 November occur on the 10th.

1543
1544 The PB agreed.

1545
1546 Mr. Brubaker said that I avoided New Year's and March 16th is the last possible date that
1547 the PB can hold a public hearing on ordinance amendments and then make a
1548 recommendation to the SB for the June election.

1549

1550 Mr. Lentz said that I promise we'll get out of this load we are in right now. We have a
1551 terrible load of applications. Very difficult, some of them.

1552
1553 Ms. Horner said that a part of me would rather meet a third time in a month rather than
1554 stay on here and hear an application at 9:30 at night because I'm toast.

1555
1556 Ms. Braun said that I am, too. I agree.

1557
1558 Ms. Horner said that I would rather have three 2-hour meetings than two 4-hour
1559 meetings, or whatever it is. So, I just wanted to throw that out there. I don't want it to
1560 become a regular practice but I would rather do that so my brain functions well.

1561
1562 Ms. Braun agreed; that by the time 9:30PM comes along, I can't function anymore, that
1563 my questions aren't intelligent, I don't think.

1564
1565 Mr. Lentz said that we can arrange that. It may be that we could do applications on two
1566 nights and the third we could do the administrative, if we have to, to try to break it up.

1567
1568 Ms. Braun said that, if we have applications that are going to take a long time, then I
1569 would limit it to two at one meeting. We couldn't possibly squeeze three at one meeting
1570 that are going to take a long time.

1571
1572 Mr. Lentz said that, unfortunately, we put the agenda out today and we did load it up,
1573 with my okay.

1574
1575 Ms. Horner said that I don't know what the agenda looks like but, if there is a way to still
1576 meet everybody's requirements but, maybe, at next month we do a third meeting and
1577 break it up.

1578
1579 Mr. Lentz said that we'll look at the next meeting date and see what we can do for the next
1580 agenda.

1581
1582 Mr. Leathe asked if it was possible to start the meeting at 6PM instead of 7PM.

1583
1584 Ms. Braun and Ms. Strange agreed.

1585
1586 Ms. Horner said that I couldn't be here until 7PM.

1587
1588 Mr. Lentz said to let Mr. Brubaker and I talk about this and see what we can put together
1589 for the upcoming agendas.

1590
1591 **ITEM 9 – CORRESPONDENCE**

1592
1593 There was no correspondence.

1594
1595

1596 **ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**

1597

1598 The next regular Planning Board Meeting is scheduled for October 6, 2020 at 7PM.

1599

1600 **ITEM 11 – ADJOURN**

1601

1602 There was a motion and a second to adjourn the meeting at 9:45 PM.

1603

1604

1605

1606

1607

Carmela Braun, Secretary

1608

Date approved: _____

1609

1610

1611 **Respectfully submitted,**

1612

1613 **Ellen Lemire, Recording Secretary**

1614

1615

1 **ITEM 1 - ROLL CALL**

2
3 Present: Dennis Lentz - Chairman, Melissa Horner, Carmela Braun, Bill Olsen, Jeff
4 Leathe - Alternate.

5
6 Also Present: Jeff Brubaker, Town Planner; Kearsten Metz, Land Use Administrative
7 Assistant.

8
9 Absent: Christine Bennett, Mallory Strange – Alternate (excused).

10
11 Voting members: Dennis Lentz, Melissa Horner, Carmela Braun, Bill Olsen, and Jeff
12 Leathe (appointed).

13
14 Mr. Lentz said that in our conversation this past week, we thought that there are a few
15 things like quorum, alternate members and, particularly for me, the conflict of interest.
16 Enclosed in your packet you should have gotten a copy of the revised Eliot Planning
17 Board by-laws, which was revised in 2018. Buy most of those things are covered in there.
18 Of particular interest, as I said, is the conflict of interest. My three years on the Charter
19 Commission we spent a lot of time talking about that. If you get a chance to look at the
20 Charter and see the far-reaching impacts of that, it's not only the conflict of interest but,
21 for me, it's perceived; that it's not so much your actual alignment with a particular
22 subject but what other people think when they're watching this. So, never, ever hesitate
23 in recusing yourself and siting out of a particular hearing because of that. It's just
24 something you should read up on. Looking at the date on the by-laws, I'm not sure how
25 often they are updated but, as you're reading through, you may find some things that
26 we'll want to question and it would make a good topic for one of our administrative
27 sessions. We do want to keep up with the by-laws. I know we spent a lot of time on them.

28
29 **ITEM 2 – PLEDGE OF ALLEGIANCE**

30
31 **ITEM 3 – MOMENT OF SILENCE**

32
33 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

34
35 Mr. Houle clarified that the Chair said that I could not talk about stuff that's on tonight's
36 agenda, is that correct.

37
38 Mr. Lentz said that we will take your comments when we get to that point on the agenda.

39
40 Mr. Houle thanked him for the clarification.

41
42 **ITEM 5 – REVIEW AND APPROVE MINUTES**

43
44 Ms. Braun moved, second by Mr. Leathe, to approve the minutes of October 6, 2020, as
45 amended.

46 **VOTE**

47 **4-0-1 (Mr. Olsen abstained)**
48 **Motion approved**
49

50 **ITEM 6 – NOTICE(S) OF DECISION**

51
52 **A. 1470 State Road (Map 27/Lot22) PB20-17**

53
54 Mr. Lentz said that there is a letter from the property owner, which is something we
55 asked for.

56
57 **Mr. Lentz moved, second by Ms. Horner, that the Planning Board confirms that it**
58 **felt that this application was complete when it moved it to Public Hearing, dated**
59 **September 15, 2020.**

60 **VOTE**
61 **4-0-1 (Ms. Braun abstained)**
62 **Motion approved**
63

64 **Ms. Horner moved, second by Mr. Leathe, that the Planning Board find the Notice**
65 **of Decision PB20-17 approved, as amended.**

66 **VOTE**
67 **3-0-2 (Ms. Braun and Mr. Olsen**
68 **abstained)**
69 **Motion approved**
70

71 **B. 290 Harold L. Dow Highway (Map 37/Lot 20) PB20-15**

72
73 **Ms. Horner moved, second by Ms. Braun, that the Planning Board approve the**
74 **Notice of Decision Letter, dated October 6, 2020, PB20-17, as amended.**

75
76 **VOTE**
77 **4-0-1 (Mr. Olsen abstained)**
78 **Motion approved**
79

80 **C. 291 Harold L. Dow Highway (Map 37/Lot 2-1) PB20-16**

81
82 **Ms. Horner moved, second by Ms. Braun, that the Planning Board approve the**
83 **Notice of Decision, dated October 6, 2020, for PB20-16, as amended.**

84
85 **VOTE**
86 **4-0-1 (Mr. Olsen abstained)**
87 **Motion approved**

88 **ITEM 8 – PUBLIC HEARING**

89
90 **A. 495 Harold L. Dow Highway (Map 53/Lot 6), PB20-20: Site Plan Review/Change**
91 **of Use to add Marijuana Establishment (Adult Use Marijuana Cultivation) to**
92 **existing property.**

93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138

Received: September 15, 2020
1st Heard: October 6, 2020 (preliminary sketch site plan)
2nd Hearing: October 20, 2020 (site plan review for original application)
Public Hearing: October 20, 2020 (public hearing for original application)
3rd Hearing: _____, 2020
2nd Public Hearing: _____, 2020
Site Walk: N/A
Approval: _____, 2020

Mr. (Brian) Nielsen, (E.I.T Attar Engineering, Inc.) was present for this application.

Mr. Brubaker said that this was notice for a Public Hearing for Adult Use Cultivation and we are holding the Public Hearing. But, subsequent to that, they submitted an updated application that also speaks to a Change of Use in the front building for Adult Use Manufacturing. Mr. Nielsen and I talked about this and I think the idea here is that we hold the Public Hearing, don't take any final action tonight. You may consider application completeness based on the additional letter you see in your agenda packet, which I covered a little in my staff report. The idea, then, would be that this would come back at one of the next meetings for another public hearing so that we can make sure that we are fully covering our bases and we can have a public hearing that notices the addition of Adult Use Manufacturing Change of Use. The PB might consider a final action at that point. But I do believe we need to hold another public hearing to incorporate these late-breaking changes to the application, make sure the public is fully noticed and, then, continue this item to that subsequent meeting; presumably November 10th.

Mr. Lentz asked if Mr. Nielsen was in agreement with that.

Mr. Nielsen said yes.

7:43 PM Public Hearing opened.

Mr. Nielsen said that he is representing NEK Assets and a new project at 495 Harold L. Dow Highway. The site is currently approved for Medical Marijuana Cultivation, Manufacturing, and Medical Marijuana Retail Sales. The goal of this application, at this point, is to add Adult Use Cultivation to the greenhouse; so, they would be co-located Adult and Medical Marijuana Cultivation. That was the original application. WE would like to add Adult Use Manufacturing along with the existing Medical Marijuana Manufacturing use in the front building. As in the original application, there is no additional structure and no site changes.

There was no public comment.

7:45 PM Public Hearing closed.

Ms. Horner asked if this is for a Change of Use or adding a use.

139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184

Mr. Nielsen said that I believe it's considered a Change of Use but I can see why the question. We are adding a use to the existing, approved use. I guess only technically because, if you were to walk in there, the changes would not be visible; that it would just be cultivation of marijuana, manufacturing of marijuana products and it's really just in the licensing and tracking where the use differs.

Ms. Horner asked if that meant that they couldn't cultivate anymore.

Mr. Nielsen said no; that they would still be cultivating but they would be cultivating both Adult Use Marijuana and Medical Marijuana.

Mr. Olsen said that this is more just process than anything else. I understand why we needed to have the public input section of this Public Hearing, because it had been advertised but, given that we have to do another public hearing anyway and I do see that this is a very minor... I guess it would be a change, or an addition, and I guess an addition is a change, technically, and I understand where Ms. Horner is coming from. To me, we can't vote on this and move it forward to day so all we can do is suggest another date for a public hearing. I'm just concerned with taking time twice.

Mr. Lentz agreed.

Mr. Brubaker said, regarding Mr. Olsen's comment, I would again recommend another public hearing for this but there could be a motion made tonight on completeness with regard to the revised application, which would transition it to a new public hearing.

Mr. Lentz said that I think that would be appropriate. Would someone want to provide that input, as far as the completion of PB20-20.

Ms. Braun said that they are adding something to the current application. How can we say that this is complete when we don't have the additional information. Am I not understanding.

Ms. Horner said that we have the information tonight for what we need.

Ms. Braun said that they are changing this to add something else so it's not complete.

Mr. Nielsen said that the agenda packet I got from the Town web site today does include the new information we submitted October 13th.

Ms. Braun said that it's not on my agenda. The only thing on my agenda is the Public Hearing for what we have right now.

Mr. Brubaker said that it should have been included at the end of the packet for this item – the October 13th submittal from Attar Engineering to us. Did everybody get that.

185 Mr. Lentz said yes.

186

187 Ms. Braun said that I got it. There was no explanation as to what it was for.

188

189 Mr. Lentz read part of the letter, "*The applicant is looking to update the ongoing*
190 *application by adding Adult Use Manufacturing into the currently approved Retail*
191 *Facility. This building would be used for Medical and Adult Use Manufacturing as well*
192 *as Medical Marijuana Retail Sales.*" That is what they're asking to update. Is that correct
193 Mr. Nielsen.

194

195 Mr. Nielsen said that that's correct. We're looking to add Adult Use Manufacturing as a
196 use to the front building.

197

198 Mr. Lentz said that the question, as far as completeness, is what is required for Adult Use
199 Manufacturing that we don't already have presented and looked at.

200

201 Ms. Horner asked if we did the waivers.

202

203 At this time, minutes were reviewed to verify waivers were done.

204

205 Ms. Horner said that we can, if we want as a Board, approve the change of use to Adult
206 Cultivation and find the application complete for Manufacturing, which would then get
207 us to Public Hearing for the Manufacturing.

208

209 Mr. Lentz said yes. We're adding Adult Use Manufacturing into the current plan. So, if
210 Adult Use Manufacturing is complete then you have it updated, as far as I can see.

211

212 Mr. Brubaker said that, with regard to Ms. Braun's point, I do think in the minutes and
213 recalling from the discussion, that there were some additional pieces of information that
214 the PB asked for. I was wondering if Mr. Nielsen could update. I know one would be a
215 security plan and I realize that, sometimes, the applicant has to provide that but redact
216 certain details. I know that the Conservation Commission had inquired about wetlands at
217 the back of the property, as well.

218

219 Mr. Nielsen said that, with the Security Plan, I spoke about that with the applicant this
220 afternoon and we will be getting that to the Town. It will only be increased from the
221 currently-approved Security Plan but we will get a new copy of that to the Town. As far
222 as the wetlands go, I do not have that information, yet. That being said, the area where
223 the wetlands are to the rear of the lot, that area is not changing and will remain, as is, in
224 the approved site plan.

225

226 Mr. Lentz said okay. So, you still owe us that. They did update the floor plan, I believe.

227

228 Mr. Nielsen said that that's correct.

229

230 Mr. Brubaker said that it seems that the PB is in a little bit of an impasse, here, on how to
231 proceed. We're going to have two meetings in November – the 10th and 17th. If you're not
232 comfortable moving forward with it on the 10th, you could make a motion to plan, or
233 schedule, a public hearing for the 17th and get another crack at reviewing this application
234 on the 10th, with the idea that once it gets to the 10th, you won't have time to schedule the
235 public hearing for the 17th. It's kind of a fallback option but it seems like there are a few
236 bits of outstanding information and this is the first time you are looking at the revised
237 application. So, you could continue this review to the 10th but make a motion to schedule
238 the public hearing on the 17th.

239
240 Ms. Horner said that I don't know if I agree with that. I don't feel like anything is
241 changing about this application, at all, except for its use. We have the Conservation
242 Commission stuff; that it's on the updated site plan. We don't owe them anything. They
243 have everything they need. We have a Security Plan that's just being increased. I have to
244 politely disagree that we are at an impasse. I'm ready to make a motion to approve this.
245 Could somebody shed light on what we're missing that the applicant already said that we
246 have in order to push this out more. We're all so familiar with this project; that we've
247 been working together on this property for, like, five years. They're just asking for a
248 change of use and now we're pushing it out to November. I don't understand.

249
250 **Ms. Horner moved that the Planning Board approve the Change of Use Adult Use**
251 **Marijuana Cultivation**

252
253 Mr. Olsen said I don't know if you have completed your motion but I don't disagree that
254 we have that much of an impasse. But I think, from a process standpoint, having a change
255 come on the night of a Public Hearing I just think is kind of precedence, just is not good
256 process, myself. I know it's minor and I don't disagree that it's minor and I don't
257 disagree that the Security Plan is an update, but we have talked about stuff coming at the
258 last minute, I think it places us in a bad precedent in the future if you're able to do this
259 tonight. It's process more than substance from my perspective.

260
261 Ms. Horner said that we had the Public Hearing that nobody commented on and the
262 Change of Use to add Adult Use Marijuana Cultivation. That was what my motion was.
263 The next step is to find the application complete for adding the manufacturing. That's not
264 even what we're talking about right now.

265
266 Mr. Olsen said okay. Then I'm agreeing with you because I'm fine with finding it
267 complete for manufacturing.

268
269 Ms. Horner said that my motion is to approve the change of use to add Marijuana
270 Establishment Adult Use Marijuana Cultivation, which is what we had the Public
271 Hearing for.

272
273 Mr. Lentz clarified that that is Ms. Horner's request.

274
275 Ms. Horner said that, for tonight, it is. Correct me if I'm wrong, Mr. Brubaker.

276
277 Mr. Brubaker said that that was essentially their original application; that the original
278 application is a Change of Use for the addition of Marijuana Cultivation.

279
280 Ms. Horner added that the thing that came in, whenever it came in, is for the next thing to
281 add – Manufacturing – but that’s not even on our agenda tonight.

282
283 Mr. Lentz said that that is why we need another public hearing.

284
285 Ms. Horner said that it sounds like we need a whole other meeting about it, anyway. It’s
286 not even on our agenda.

287
288 It was agreed that everyone was on the same page.

289
290 **Ms. Horner moved, second by Mr. Olsen, that the Planning Board approve the**
291 **Change of Use to add Marijuana Establishment Adult Use Marijuana Cultivation.**

292
293 DISCUSSION

294
295 Mr. Brubaker asked Ms. Horner if she wanted to include in her motion that the PB has
296 found this application complete.

297
298 Ms. Horner said that we did that already.

299
300 Ms. Lemire agreed, saying that the motion for completeness was in the October 6th
301 minutes.

302
303 It was clarified through discussion that the only thing Ms. Horner has made a motion on
304 is the original PB20-20 application.

305
306 Mr. Nielsen said that, in speaking with Mr. Brubaker and please correct me if I’m wrong,
307 it’s still just one application that we’re making an edit to. Mr. Brubaker wanted to hold a
308 public hearing, and I agree with this, this evening because we’d already noticed it and the
309 application was in the state it was before, which was for just Cultivation. So, now we’re
310 updating it. It’s still the same the same application but it almost puts the process on hold.
311 So, for _____, we updated the use, had the public hearing, and got final approval that
312 same evening. In this one, we’re basically holding the public hearing and, then, kind of
313 taking a step back and saying is this application is complete, meaning do you have
314 everything you need to find the manufacturing and cultivation complete; that then we’ll
315 schedule another public hearing. So, we won’t get any full approvals this evening; that
316 it’s basically like an application update rather than a new application. He asked Mr.
317 Brubaker if he was saying that correctly.

318
319 Mr. Brubaker said yes; that I look at it as one application. Because you had submitted a
320 revision to it, just like on October 6th with the original application, I recommended that
321 the PB provide an opportunity to make a motion on application completeness of the

322 revised application. You should all have gotten that October 13th letter and the updated
323 site plan from Mr. Nielsen in your agenda packet. My staff report also summarized that
324 revision that Mr. Nielsen has submitted. The reason for having another public hearing is
325 because only the adult use cultivation change was noticed. The adult use manufacturing
326 change was never noticed so it's a total "cross your T's, dot your I's" recommendation
327 from me to make sure that that adult use manufacturing has been noticed. The idea was to
328 take the complete application and hold another public hearing on it on November 10th
329 but, then, it was mentioned that there were some differing opinions on whether you felt
330 that what's in front of you now was complete. I was just trying to recommend that you
331 could take another crack at it on the 10th then have the public hearing on the 17th. It is
332 totally up to the PB what you want to vote on and there is a motion that Ms. Horner put
333 forth that Mr. Olsen has seconded. I'll defer to the PB's vote on that.

334
335 DISCUSSION ENDED

336 **VOTE**
337 **5-0**
338 **Motion approved**

339
340 Mr. Lentz discussed scheduling the public hearing on the 17th and holding a meeting on
341 the 10th because of Election Day falling on the 3rd, which would be the normally-
342 scheduled PB meeting.

343
344 Ms. Horner asked what we were planning a public hearing for.

345
346 Mr. Brubaker said that it would be a public hearing for the revised application.

347
348 Ms. Horner said that that is not on our agenda. I'm being a stickler about this. That's not
349 on the agenda and I don't believe that's fair to the Town of Eliot.

350
351 Mr. Lentz said that we would put that on the agenda for the 10th.

352
353 Ms. Horner asked if a public hearing that same night is fair.

354
355 Mr. Lentz said no. I'm saying that we put the notice on for the 10th and we can discuss
356 the change for that application; that the 17th could be the public hearing. I believe that's
357 what Mr. Brubaker was telling us.

358
359 Mr. Brubaker said to Ms. Horner that what she was saying that, because of the cover of
360 this agenda only references adult use cultivation, it's not ready to move forward in terms
361 of the adult use manufacturing piece.

362
363 Ms. Horner asked if the adult use manufacturing piece get submitted in time to make it
364 onto our agenda...nope. I'm being a total stickler because I just don't think that's fair.
365 That sets a precedent that someone could submit something to us late with their change of
366 use and, then, now we're expected to jump on it at the same meeting.

367

368 Mr. Brubaker clarified that it was submitted on the 13th, we included it in the agenda
369 packet, and I also reflected it in my staff report. So, you are correct that the agenda title
370 on the agenda page did not get updated to include adult use marijuana cultivation and
371 manufacturing but that information is provided in the agenda packet.
372

373 Ms. Horner said that I agree with you. I'm comfortable scheduling a public hearing for
374 this. I think it's so minor. I just want to make sure that we are following the rules and will
375 follow the same rules for everybody. That's all.
376

377 Mr. Brubaker said that I agree with you. I think that's why I just wanted to, in the
378 abundance of caution, have another public hearing on this, as only cultivation and not
379 manufacturing was noticed. The public hearing notice did go out before Attar sent their
380 revised letter and that's why I mentioned it to the PB.
381

382 Ms. Horner clarified that she was only 'beating the horse' to flush it all out because I'm
383 comfortable scheduling the public hearing, if that's what the Chair wants to do.
384

385 Mr. Lentz said that I agree with you, Ms. Horner, 100% and it's always something we're
386 working toward but there are times when we just can't pull it all together and we've got
387 to make a few minor changes. I think it's always a goal to make sure that the dates are
388 correct and we have everything in sync. Every now and then we get thrown a curve and
389 we need to be able to make the best of it but it's certainly not a way to run an airline.
390

391 Mr. Olsen asked if we are going to set the public hearing, adding the manufacturing, for
392 November 17th.
393

394 Mr. Lentz said yes and we can have a discussion on the 10th.
395

396 Ms. Braun said that it was not clear to me that the manufacturing part was to be discussed
397 this evening so I didn't have an opportunity to look at it. I think it's just one of those
398 things that needs to be discussed. I agree with Ms. Horner that we just have to follow the
399 rules and not be asked to recognize something on the same day it comes in or on short
400 notice.
401

402 Mr. Lentz said that I think we all feel the same way.
403

404 Mr. Brubaker agreed. That's why it's good to sequence it with the 10th being additional
405 application review and the 17th being the public hearing.
406

407 The PB agreed.
408

409 Mr. Nielsen asked if that meant that the application, as it stands, is found complete. There
410 will be some further PB discussion on November 10th and the Public Hearing will be
411 scheduled for November 17th.
412

413 Mr. Lentz said that I think that's the way I see it.

414
415 Ms. Lemire said that Ms. Horner's motion was to approve the change of use for tonight's
416 application.
417
418 Mr. Lentz said yes.
419
420 Ms. Braun said that it is just cultivation.
421
422 Mr. Lentz said yes.
423
424 Mr. Nielsen said that, in that case, does that mean that cultivation is approved, as it
425 stands, for final approval for cultivation only.
426
427 Mr. Lentz said that we're getting to the point where we're splitting these things, again,
428 and I don't want to go there.
429
430 Mr. Nielsen said that, to my mind, it was the same application, there was a motion. What
431 was that motion for, specifically.
432
433 Mr. Lentz asked Ms. Lemire to read the motion.
434
435 Ms. Lemire read: to approve the change of use to add Marijuana Establishment Adult Use
436 Marijuana Cultivation.
437
438 Mr. Lentz asked where that puts us.
439
440 Mr. Olsen said it puts us on November 10th to review the added Manufacturing, find it
441 complete, and make a motion for Public Hearing on November 17th.
442
443 Mr. Lentz said that on November 10th we may be approving the manufacturing portion of
444 this change.
445
446 Mr. Olsen said because it will be on the agenda.
447
448 Mr. Lentz asked Mr. Brubaker if he was in sync with that.
449
450 Mr. Brubaker said that you have not made a motion on the revised application
451 completeness. AS Mr. Olsen mentioned, that can happen on the 10th. Usually, there's two
452 weeks between PB meetings; so, there is an opportunity to make a motion for
453 completeness and schedule a public hearing. That couldn't happen on the 10th for the 17th
454 meeting. So, what I think needs to happen, if the PB agrees that the public hearing is on
455 the 17th, you could make a motion tonight basically establishing that a public hearing will
456 happen on the 17th but wait until the 10th to make that completeness motion on the revised
457 application, as the revised application has not been deemed complete. You changed the
458 use for the original application but the site plan portion of that has not been approved. So,
459 it's only ben a change of use question. Again, what I think you need to do tonight is make

460 a motion to establish the public hearing on the 17th so that we have time to notice it.
461 When it comes back on the 10th, you can consider application completeness of the revised
462 application because you haven't done that yet. On the change of use question, I know I'm
463 a stickler on this and it's not fun to hear, but I've mentioned to the PB several times
464 before that I don't believe the change of use should be split off from an overall site plan
465 review approval. I'll leave it at that; that that's my soap box. You are the ones that make
466 the motions and make the votes. Again, I would recommend the PB make a motion
467 scheduling the public hearing on the 17th.

468
469 **Mr. Lentz moved, second by Ms. Braun, that the Planning Board schedule the**
470 **Public Hearing for November 17, 2020.**

471 **VOTE**
472 **5-0**
473 **Motion approved**
474

475 Mr. Nielsen said that I will see you on the 10th and also on the 17th.

476 Mr. Lentz said yes.

478
479 **ITEM 9 – OLD BUSINESS**

480
481 There was nothing under this item.

482
483 **ITEM 10 – NEW BUSINESS**

484
485 **A. 16 Arc Road (Map 45/Lot 17), PB20-21: Site Plan Review/Change of Use to Non-**
486 **Profit Medical Marijuana Dispensary (Medical Marijuana Manufacturing,**
487 **Cultivation, and Storefront).**

488
489 **Received: October 4, 2020**
490 **1st Heard: October 20, 2020 (sketch site plan review)**
491 **2nd Hearing: _____, 2020**
492 **Public Hearing: _____, 2020**
493 **Site Walk: _____, 2020**
494 **Approval: _____, 2020**

495
496 Mr. (John) Chagnon, PE, Ambit Engineering, Inc. was present for this application.

497
498 Ms. Braun said that, on the agenda, it says PB20-21 and on the Planner's Memorandum it
499 says PB20-22. Is it 21 or 22.

500
501 Ms. Metz confirmed that it is PB20-22.

502
503 Mr. Lentz said that this is a sketch plan review and information-gathering only.

504

505 Mr. Brubaker gave an overview of this application. He noted that Ms. Delmar, Mr.
506 Seymour, and Mr. Chagnon are here for the applicant. This was an application submitted
507 (two versions) in late September and another revised application on October 4th. It needs
508 revisions for the reasons I listed in my staff report. It needs to be a Shoreland Zoning
509 application. That was actually submitted today by the applicant; so, I would recommend
510 that for a sketch plan review at a future meeting. There's been a little back-and-forth on
511 what the proposed use is. I just wanted to provide an update that this property is almost
512 entirely within the Shoreland Zone and Medical Marijuana uses are not permitted in the
513 Shoreland Zone. The application, as I understand it, is shifting to Adult Use Marijuana
514 and, in that case, we would need a conditional license from the State OMP before we can
515 find the application complete. This is an opportunity to exchange information but the
516 application really needs to be re-submitted for a future PB review.

517
518 Mr. Chagnon screen-shared the site plan.

519
520 Ms. Horner said that, if this is not allowed in the Shoreland Zone, it doesn't feel like we
521 really have much to talk about until we're able to see the updated application,
522 unfortunately. I apologize to the applicants but that is my feeling.

523
524 Mr. Lentz said to let us go through it and we'll see what we can see. We can share some
525 of our thoughts and maybe get some information from them.

526
527 Mr. Chagnon said that Marijuana Establishments are allowed with site plan review under
528 Chapter 45 and we can talk about the Shoreland. We believe we fall under 'commercial
529 activities' and we can talk more about that. I wanted to show you the plan. The site was
530 approved previously under PB11-21 as a site yard for an earthworks construction
531 company. It's off Harold Dow Highway, down the Arc Road on the right-hand side
532 before you get to the ARC facilities. Under PB13-5, the site was re-purposed, or re-
533 approved, as Echo Movement Composting; that it was a composting facility from
534 material they brought in to the site. There was no sale of the material on the site. We have
535 a cover page showing the general location and project team, an existing conditions plan;
536 that currently there is a small commercial structure, a long driveway to that structure
537 from Arc Road. The structure started out as a lean-to-type of structure to process compost
538 material and then the building was added at the site. Pointing to the plan proposal, he
539 pointed out the existing building and said that we are proposing to construct an addition
540 to that building. There would be a portion of the existing building removed but, then, the
541 rest of it would be new construction. There would be a parking area to the east of the
542 proposed building and plenty of room to come in. 'This' would be shipping and receiving
543 with a dock-high door; that there is enough room for trucks to come in and maneuver to
544 the loading dock. There would be a facility 'here' for solid waste, parking in the front,
545 septic system on the south side of the building, propane tanks. The site has electrical
546 service now, which would be upgraded to feed the new building. The plans are to put
547 some generators to maintain safety and security. It's a good site for that. We'll be able to
548 put a gate across the driveway and provide for that much needed security. The site was
549 approved previously with stormwater management that included a detention pond. The
550 amount of impervious surface is not changing dramatically so we anticipate building out

551 that ___ (sounded like he said 'con') to provide stormwater management. As far as
552 parking, this is not a location that the public will come in to so the parking load is based
553 on the employees and we anticipate 20 employees, maximum; that it requires 20 spaces
554 and we are providing 25 spaces. If there are any questions about the site layout, we'd be
555 happy to talk about that now and get your feedback on your initial thoughts.

556
557 Mr. Lentz said that on your Note #3 on your Existing Conditions Plan it says this parcel
558 is in a flood plain and your application says that it is not. Tone is incorrect and that needs
559 to be corrected. We're looking for manufacturing and I'm not sure that's the use that you
560 want based on reading the application.

561
562 Mr. Chagnon said that the original application was submitted with the Chapter 45 use of
563 Marijuana Establishment. It was changed but it needs to be changed back. I think that's
564 the more appropriate use under Chapter 45, Marijuana Establishment.

565
566 Mr. Lentz commented that as long as it's consistent all the way across. That's all. Then
567 the PB can make their mind up. To Mr. Brubaker he said that this should definitely go to
568 the Conservation Commission.

569
570 Mr. Brubaker said that we will plan to send the Shoreland Zoning application that we got
571 today to all of our normal reviewers, including the Conservation Commission. I just,
572 again, wanted to clarify that this entire parcel, almost is in Shoreland so we would be
573 dealing with the Chapter 44 Land Use Table instead of the Chapter 45 Land Use Table.

574
575 Mr. Lentz said that the application does not comply with Chapter 44 and the Shoreland
576 Zoning. Is that correct.

577
578 Mr. Brubaker said that with this, again, I promised Ms. Delmar I'd get them on for the
579 20th, and here they are, but since then it's changed a little bit. We need to go back to the
580 drawing board and the revised application will come back for a sketch plan review to the
581 PB.

582
583 Mr. Chagnon asked in what way doesn't it comply.

584
585 Ms. Horner said that I believe the Planner said, in his notes, that this use wasn't allowed
586 in that zone.

587
588 Mr. Brubaker said that that was correct; that Medical Marijuana is not allowed in the
589 Shoreland Zone.

590
591 Ms. Horner said that, as long as the application reflects a use that's allowed in the zone,
592 then there shouldn't be an issue.

593
594 Mr. Brubaker said correct. So, they are going to move away from Medical Marijuana in
595 their most updated application.

596

597 Ms. Horner asked if this project needs the lighting plans, signage, dumpster, the security
598 plan, and all that stuff that we need.

599
600 Mr. Lentz said absolutely.

601
602 Mr. Chagnon agreed that it does. To go from Medical to Adult Use Production, as the
603 Planner mentioned, requires that we obtain the State permit first. The information that's
604 required we will show on the site plans and there will also be plans in place for security
605 and lighting, protocols and disposals. The use we are looking at in Chapter 44 does not
606 have the same as Chapter 45. Since there is not a listed use in the Chapter 44 Table, we
607 would have to come to an agreement about what use in the Table would fit the use we are
608 proposing and we think 12(c) 'commercial, not listed elsewhere' is the closest. We would
609 ask the PB that they consider that the most appropriate use.

610
611 Ms. Horner asked if our Land Use Table has 'Marijuana Establishment'.

612
613 Mr. Chagnon said not in this Chapter.

614
615 Mr. Brubaker confirmed that there is no row for 'Marijuana Establishment' in the
616 Shoreland Chapter Land Use Table.

617
618 Ms. Horner asked if he thought that was an oversight. Do we know why that's not
619 allowed in the Shoreland Zone because I have no idea.

620
621 Mr. Brubaker said that it's funny that 'Non-profit Medical Marijuana Dispensary' is in
622 there but it's 'no' across the board and, then, there's no row for 'Marijuana
623 Establishment'. That's what's on the books right now.

624
625 Ms. Horner asked if there are any State laws around that that we aren't being made aware
626 of or don't know about.

627
628 Ms. Delmar said that I have been doing this for awhile and I have never seen anything
629 about the State prohibiting that.

630
631 Mr. Lentz said that I may be out of line, here, but why is this here in front of the PB. It's
632 certainly not ready to be here. WE can't make any decisions on it. It's nice to put
633 something on to make our applicants happy that it gets on the PB agenda but it's just full
634 of open holes and questions.

635
636 Mr. Brubaker said that, ideally, this kind of application wouldn't be ready for PB review.
637 It's just that since we received it and committed to having it on the 20th agenda, it's
638 changed a couple of times. Those changes have been reviewed closely and more things
639 have been found out. So, I just wanted to keep my promise to the applicant and make sure
640 that they at least got some initial information or initial discussion from the PB. Certainly,
641 as we got closer to this meeting date, it was clear that there were a number of deficiencies
642 and, in fact, they re-submitted a Shoreland Zoning application today. So, again, hopefully

643 there was some useful exchange of information but it will come back in a better form to
644 the PB.

645
646 Mr. Lentz said okay. Are there comments from other PB members.

647
648 Ms. Horner asked, saying I don't necessarily expect Mr. Brubaker to speak for other
649 Town employees that are in your wing of the Town Hall, but our...I'm not sure what I'm
650 trying to ask. Is the feeling of Eliot that you're moving towards the ordinance that we
651 have been working on when working with applicants and what they're trying to do,
652 knowing that you have to do what we have on the books now.

653
654 Mr. Brubaker said that I'm not sure I understand the question but I would emphasize that
655 I'm going to be looking at an application based on what we have on the books right now.

656
657 Ms. Horner said that, obviously, we don't know how the Town will feel about the
658 ordinance that we just worked on but the ordinance that we just worked on is removing
659 'Non-profit Medical Marijuana Dispensary'. We're asking the Town to abolish that use
660 and marry in 'Medical Marijuana Establishment'. What we don't know is if we're going
661 to remove it from the Shoreland Table and then we'd have to go with what Mr. Chagnon
662 is asking us to do – to find another use for 'Medical Marijuana Establishment' in the
663 Shoreland Zone. So, it's just something to think about.

664
665 Mr. Brubaker added that the PB will keep talking about that draft ordinance amendment.
666 But even if approved, that wouldn't be in force until after the June elections.

667
668 Ms. Horner said that I would be more comfortable approving a use as the applicant is
669 asking if we could find out why 'Non-profit Medical Marijuana Dispensary' is not
670 allowed in the Shoreland Zone. I am wondering if it was an oversight when they were
671 creating the ordinance, not realizing that there are Shoreland spots in the C/I Zone where
672 it's allowed. Whether there is a reason like chemicals or lot coverage or something like
673 that.

674
675 Mr. Brubaker said, again, I think it's just a matter of what's on the books right now. The
676 absence of 'Marijuana Establishment' in the Shoreland Zone Land Use Table means there
677 is this potential for 'Marijuana Establishment' to be approved in the Shoreland Zone. I
678 certainly don't see, with my short experience with this, any State statute that speaks to
679 prohibiting marijuana uses in Shoreland Zoning. The Medical question is moot right now
680 because they are moving their application to Adult Use.

681
682 No other PB members had any comments at this time.

683
684 Mr. Lentz said that we'll take this back. It needs some work.

685
686 Mr. Chagnon thanked the PB for their time tonight. We will definitely re-work this. I
687 think one of the things that brought this forward the way it is tonight is the prior approvals

688 that have been granted on the site was, in my mind, more of a site plan amendment than
689 starting with a clean slate. We'll certainly be back with better information for you.

690

691 **ITEM 11 – CORRESPONDENCE**

692

693 **A. Written communication from Mr. Timothy Johnson**

694

695 **B. Written communication from Mr. James Houle**

696

697 Mr. Lentz said that in my packet yesterday I picked up two letters, both on the same
698 subject. The first one was from a James Houle and I recognize the name as one of the
699 people who was an abutter when we approved the application for the transfer of firearms
700 paperwork. The other letter is from Mr. Timothy Johnson. He asked if the gentlemen
701 could hear him.

702

703 Ms. Metz said that I don't believe either gentleman is currently with us.

704

705 Mr. Lentz said that we're not going to spend any time with this. The letters are pretty
706 redundant about what was discussed at the last meeting with the applicant. They were
707 received into the system, both on October 7th. At least one of them is someone who
708 chooses to say that we didn't do what we should have done and they don't understand.
709 Did everybody get a copy.

710

711 All members said yes.

712

713 Mr. Lentz said that the bottom line is, as far as I'm concerned, a decision we made.
714 Hopefully, they're always the right decisions and there is certainly an approach either one
715 of these fellows can take and there is an appeals process, which went into effect the 6th of
716 this month. They have 30 days to appeal our decision and, again, I hoped we made the
717 right decision. That's why we have an appeal process. It was a difficult application, that's
718 for sure.

719

720 Mr. Brubaker added that Mr. Johnson also sent me an email with a similar theme to the
721 correspondence. I did have a chance to talk with him and I think the main point is that
722 those four types of product or merchandise sales allowed under a Home Business is more
723 a menu of options rather than criteria where you need to meet all four of them.

724

725 Ms. Horner said that I think we explained that very well on more than one occasion.

726

727 Mr. Lentz said that I think it's a good thing and I truly like to have the input from the
728 public. It helps us. Believe it or not, it has helped me. I think it was a good exchange
729 between the applicant and those gentlemen in the public hearing. I think the applicant
730 answered the questions sufficiently. Did we make a mistake. I don't think so. That's why
731 there's vanilla and chocolate, I guess.

732

733 Mr. Olsen said that I just have one ordinance-related comment to this. I think both
734 individuals were more concerned with the gun noise than the process of firearms. I will
735 say, and I know the applicant is still on and I'm fine saying this, that shooting weapons
736 outside your home on 40 acres is a lot different than 2 acres. I would say that we should
737 revisit ordinance about weapon discharge in closer proximities because it's not ricochets
738 or anything like that, which is dangerous; it's a noise issue. It is extremely loud to have a
739 weapon discharged when you are that close and it does make life miserable. I live all the
740 way at the end of Brixham Road and I can hear the gun range on Thursday nights. So, my
741 sense is that we should revisit the ordinance on weapon discharge and the noise
742 associated with it more than if we're doing sales. I think that part is very good and a good
743 process. I'm not against weapons. I think it's just where it's happening.

744
745 Mr. (Josh) Seymour, one of the owners of the Arc Road property, said that I wanted to
746 apologize, as I just got back into this call and realized you were discussing the gun-
747 shooting over at our property.

748
749 Ms. Horner said no, that we are not. We are not discussing Arc Road.

750
751 Mr. Seymour said that there has been some shooting over there, as well, and I just wanted
752 to make sure that you knew we would not be shooting on that property at all.

753
754 Mr. Lentz said that this is a different part of Town.

755
756 Mr. Seymour said okay. We'll make sure that we don't become an issue over at the Arc
757 Road property but I'm glad to hear that this was not directed towards us.

758
759 Mr. (Mike) Maloney, 1470 State Road, said that the property that my house is located on
760 is 2 acres but I own 14 additional acres that are behind my house. I've looked through all
761 of the Town ordinances and I'm well over 100 yards from my neighbors, it's behind my
762 house, and I have everything cleared. I understand that they aren't pleased with the noise
763 but I'm not the only neighbor who shoots here. I own 14 acres out here so ricochet is the
764 least of my concerns. I don't think a bullet is going to make it from my back yard up to
765 their house at any time. I have a berm set up behind my house to shoot into so
766 everything's safe, legal. I'm more than well-within all the Town's Noise Ordinance codes
767 and Firearms codes. I don't think there are any safety concerns that would need to be
768 addressed out there but I would be happy to have someone come down and look at what
769 I'm shooting into if they an issue with where my bullets are going to go. I've also talked
770 with the neighbors who live closer to the area where I shoot and they don't have any
771 concerns with me being out there shooting. I don't shoot out there at night. I shoot during
772 the day. I don't know where the noise is really going to cause a hassle for anybody. It's
773 not like I'm out there shooting 24 hours a day. It's during the day and it's all well-within
774 my property and more than far enough away from the neighbor who says he's less than
775 100 yards, which is absolutely wrong.

776
777 Mr. Lentz said that I don't think this whole issue was particularly about shooting.

778

779 Mr. Maloney said that I understand that it doesn't relate to the business and I know that
780 it's something that, obviously, people have a concern with. If it's something that needs to
781 be brought up, I'd be more than happy to sit in and give my input. I just want to make
782 sure that everybody's aware that I'm not shooting at my neighbor's houses and in their
783 direction or out there making enough noise to keep people up at night.

784
785 Mr. Lentz thanked Mr. Maloney. He asked if there were any questions or comments
786 about the two letters.

787
788 Ms. Horner commented that, with this type of issue, no one is going to make everybody
789 happy.

790

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

792

793 **A. Motion to cancel the November 3, 2020 regularly-scheduled meeting and**
794 **schedule a new meeting for November 10, 2020.**

795

796 **Mr. Olsen moved, second by Ms. Braun, that the Planning Board cancel the**
797 **November 3, 2020 meeting and push it to November 10, 2020.**

798

VOTE

799

5-0

800

Motion approved

801

802 **B. Approve upcoming Planning Board meeting and submittal deadline schedule.**

803

804 Mr. Lentz said that we have a copy of the latest submission deadlines and asked if there
805 were any questions or comments.

806

807 Mr. Brubaker said that I was looking for a sense of the PB on whether that schedule
808 looks good to you.

809

810 The PB agreed that it looked good.

811

812 Mr. Brubaker said that that would give us some time for more administrative meetings
813 to work on ordinances. I submitted the variance draft to both the Town attorney and the
814 CEO so she can get it on the BOA agenda, which I think is going on their November
815 meeting for their review. I did make the changes the PB requested on the Marijuana
816 Ordinance and I think you wanted to take one more crack at it before legal review. So,
817 it's just a matter of when you want to do that.

818

819 Ms. Horner asked if we could add a meeting in January and in February to just hammer
820 this stuff out.

821

822 After discussion, the PB agreed to hold administrative meetings on January 5 and 12 and
823 a regular meeting on January 19.

824

825 Mr. Brubaker said that he would get the Noise Ordinance for the PB's review, as well as
826 taking with Chief Moya about laws concerning weapons discharge.

827
828 Ms. Braun said that she didn't get the information about the conflict of interest and other
829 information.

830
831 Ms. Horner said that I didn't get it either. Nor did Mr. Olsen.

832
833 After discussion, it was recognized that this was regarding the by-laws and that everyone
834 had a copy. This had been briefly discussed after some staff had attended the MMA
835 webinar for PBs and BOA's and that had triggered the suggestion that the PB review
836 their by-laws.

837
838 Mr. Olsen said that this is in Article 8 under General Provisions and it doesn't just talk
839 about financial interest but personal interest and also bias, which is murky.

840
841 There was agreement that this was something that all PB members should be aware of
842 and take heed of.

843
844 Mr. Lentz said that I think the Charter does a good job of explaining some of that stuff
845 and suggested people might want to take a look at that.

846
847
848 The next regular Planning Board Meeting is scheduled for November 10, 2020 at 7PM.

849
850 **ITEM 13 – ADJOURN**

851
852 There was a motion and a second to adjourn the meeting at 9:05 PM.

853
854
855
856
857 **Carmela Braun, Secretary**
858 **Date approved:** _____

859
860
861 **Respectfully submitted,**
862
863 **Ellen Lemire, Recording Secretary**

864
865

PB20-14: 276 Harold L. Dow Hwy. (Map 37/Lot 9): Site Plan Amendment / Change of Use: Add Medical Marijuana Dispensary as an allowed use



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Kenneth A. Wood, PE, Attar Engineering
Brian Nielsen, EIT, Attar Engineering
Shelly Bishop, Town of Eliot Code Enforcement Officer (CEO)
Kearsten Metz, Land Use Administrative Assistant
Date: November 2, 2020 (report date)
November 10, 2020 (meeting date)
Re: PB20-14: 276 Harold L. Dow Highway (Map 37/Lot 9): Site Plan Amendment / Change of Use: Add Medical Marijuana Dispensary as an allowed use – **Public Hearing**

Application Details/Checklist Documentation	
✓ Address:	276 Harold L. Dow Highway
✓ Map/Lot:	Map 37 / Lot 9
✓ PB Case#:	PB20-14
✓ Zoning District:	Commercial/Industrial (C/I) District
✓ Shoreland Zoning:	Stream Protection
✓ Owner Name:	Black Hawk Holding, LLC
✓ Applicant Name:	Black Hawk Holding, LLC
✓ Proposed Project:	Site Plan Review for the following: <ul style="list-style-type: none"> • Change of Use • Site Plan Amendment for Medical Marijuana Dispensary
✓ Application Received by Staff:	Date: August 18, 2020
✓ Application Fee Paid and Date:	\$125 (Site Plan Review: \$100; Change of Use: \$25) 8/24/20
✓ Application Fee Paid and Date:	\$175 (Public Hearing) 10/29/20
✓ Application Sent to Staff Reviewers:	Date: September 21, 2020
✓ Application Heard by PB	Date: October 6, 2020
✓ Found Complete by PB	Date: October 6, 2020
Site Walk	N/A
Public Hearing	Date: November 10, 2020 (scheduled)
Public Hearing Publication	Date: October 29, 2020

PB20-14: 276 Harold L. Dow Hwy. (Map 37/Lot 9): Site Plan Amendment / Change of Use: Add Medical Marijuana Dispensary as an allowed use

Deliberation	Date: TBD
Notice of Decision	Date: TBD
✓ Reason for PB Review:	Site Plan Review / Change of Use

Overview

Black Hawk Holding, LLC (agent: Attar Engineering) is applying for Site Plan Review and a Change of Use to allow for a Medical Marijuana Dispensary (land use table reference: Nonprofit Medical Marijuana Dispensary) at 276 Harold L. Dow Highway (Map 37, Lot 9) and is seeking review and approval of proposed site improvements. The Change of Use would allow the applicant to convert the existing wood-framed building near the site entrance to a medical marijuana dispensary. A review of previous communications regarding this site indicates that the current approved use is Automobile Recycling Business. The property is about 49 acres in area but the proposed medical marijuana use would be restricted to the aforementioned building, which is near Route 236.

The application includes a cover letter; Site Plan Review application; warranty deed; agent authorization letter; abutters list; boundary plan; sensitive use buffer map for the proposed medical marijuana dispensary; and 1986 HHE-200 form for the on-site septic system.

After receiving the application, prior to scheduling for sketch plan review by the Planning Board, Town staff sought additional information from the applicant, specifically regarding an ongoing compliance issue on the property related to unapproved marijuana cultivation uses occurring on-site in the metal-framed (larger) building. Town staff have been communicating with the property owner for several months about the issue and a process for coming into compliance. The application does not apply for approval for these unapproved uses. In meeting with the applicant and applicant’s agent, Town staff sought additional written correspondence from the applicant asking for a timeline for compliance and the unapproved uses’ attempts to obtain a state conditional license for adult use marijuana, a prerequisite for moving forward with any application that specifically includes that adult use marijuana change of use request. That additional correspondence is attached.

***November 10 update:** Town staff have sought updates from the applicant on the progress of the compliance process. On November 2, the applicant submitted a new cover letter, updated site plan, updated Section 33-127 narrative, and a copy of a tenant’s application to OMP for a conditional license for adult use cultivation. However, as of mid-afternoon November 2, OMP reported that they had not yet received the application.*

Zoning

The site is in the Commercial/Industrial (C/I) district.

PB20-14: 276 Harold L. Dow Hwy. (Map 37/Lot 9): Site Plan Amendment / Change of Use: Add Medical Marijuana Dispensary as an allowed use

Type of review needed (November 10 update)

The Planning Board conducted sketch plan review on October 6, found the application complete, approved the requested information waivers, and scheduled a public hearing for November 10. At this meeting, the Planning Board should receive public input before further deliberating on the application.

Recommended action

- Continue the item to a future meeting to allow more time for the compliance process to progress. As stated above, while the applicant has shared a copy of a tenant's conditional license, as of mid-afternoon November 2, OMP reported that they had not yet received the application.
- Timelines for action (approve, modify/approve, or disapprove, per Section 33-131):
 - Within 30 days of public hearing (November 10)
 - Within 75 days of acceptance of completed application and site plan (October 6)

Registered primary caregiver

The applicant's agent has provided the identification card (current) of the registered primary caregiver for Town staff review.

Section 33-189 – Nonprofit medical marijuana dispensaries and registered primary caregivers (November 10 update)

By seeking a change of use to medical marijuana dispensary, the application becomes subject to the Section 33-189 performance standards. On October 6, the Planning Board had an initial opportunity to review the application in the context of these performance standards. This section adds my review notes on these standards for Planning Board consideration.

(a) – Applicability to both nonprofit medical marijuana dispensaries and registered primary caregivers

No notes on this section.

(b) – current dispensary certificate or registered primary caregiver license

See above – ID card provided.

(c) – buffering/setback requirements

Sensitive use buffer map provided in the application package.

PB20-14: 276 Harold L. Dow Hwy. (Map 37/Lot 9): Site Plan Amendment / Change of Use: Add Medical Marijuana Dispensary as an allowed use

(d) – cultivation area restrictions

N/A – no cultivation proposed in front wood-framed building

(e) – 33-175 screening

The site plan shows that the existing tree line and vegetated area within and behind the front setback will remain.

(f) – 45-495(9) parking requirements

The site plan uses the 45-495(9) parking calculation of 1/200 sq. ft. floor area. 8 spaces required and 8 spaces provided.

(g) – compliance with applicable town and state regulations

No additional notes on this provision

(h) – visibility of materials from the exterior of the building

This section states: “No materials described in the definition of a nonprofit medical marijuana facility shall be visible from the exterior of the building in which the nonprofit medical marijuana dispensary or registered primary caregiver facility is located.”

The materials in the Section 1-2 definition include: “...marijuana, paraphernalia, prepared marijuana any marijuana products or byproducts, or related supplies and educational materials...”

Town staff recommended that a note be added to the plans reflecting this requirement. The November 2 updated site plan addresses this in general note 11. The site plan also includes a signage note regarding compliance with Ch. 45, Article XI and stating that the “sign shall not use the word ‘marijuana’ or ‘cannabis’ or any other word, phrase or symbol commonly understood to refer to marijuana.”

Requested information waivers (approved October 6)

- Drainage plan – 33-127(8)
- High intensity soils report – 33-127(12)

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Remote Zoom Meeting
DATE OF HEARING: Tuesday, November 10, 2020
TIME: 7:00 PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, November 10th, 2020 at 7:00 PM for the following application:

- **276 Harold L Dow Hwy (Map 37/Lot 09), PID # 037-009-000, PB20-14: Site Plan Review/Change of Use to Medical Marijuana Dispensary**
 - Applicant: Black Hawk Holdings, LLC
 - Owner: Black Hawk Holdings, LLC

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

OBITUARIES & NEWS

Antoinette Camela Mitrook

Antoinette (Toni) Camela Mitrook, 81, passed away peacefully at home with her family by her side on Monday, October 19, 2020. Toni was a lifelong resident of Portsmouth, N.H.



Born on May 10, 1939; she was the daughter of Anthony and Grace (King) Ferrelli.

Toni was an artistic, outspoken and beautiful woman. She will be remembered for her wonderful sewing and ceramic doll making skills also having taught classes in her home for many years. Toni was a loyal member of The Women of the Moose in Portsmouth where she was conferred with the College of Regents Degree.

One of Toni's greatest joys in life was spending time with her grandchildren. All of whom carry a very special place in her heart. Many of her fondest memories are the summers teaching

them all to swim at a local campground in Lee. Toni is survived by her husband Russell Mitrook, of 57 years; her daughter Susan Murray and James Barfield of Portsmouth; her best friend Donna Lowry of York; her brothers Anthony Ferrelli of Stratham and John Ferrelli of Portsmouth; her grandchildren Melissa, Joseph, Nicholas, Adelia, George, Steven, Joshua, Crystal, Destiny, and Andera. She had seven great-grandchildren and several nieces and nephews.

She was predeceased by her sons Edward T. Donovan and Gregory R. Donovan, her sister Rosemary Parisi and her brother George Ferrelli.

SERVICES: There are no planned services at this time. Arrangements by the Farrell Funeral Home, Portsmouth, N.H.

Kerry A. Cote

Kerry A. Cote, 51, of Portsmouth, passed away on Sunday, October 25, 2020 at Tufts Medical Center in Boston. She was born on October 9, 1969 in Concord, New Hampshire. Kerry is the daughter of Phillippe Cote and Joan Beaudoin.



Bryant; plus waiting for the arrival of second grandchild, Baby Barstow-Bryant; two sisters, Cheryl Rice of Indiana and Stephanie Kelly

(Thomas) of Indiana; two nephews and a great nephew. SERVICES: A memorial visitation will be held from 3-5 p.m., on Monday, November 2, 2020 at the J. Verne Wood Funeral Home - Buckminster Chapel, 84 Broad St., Portsmouth.

In lieu of flowers, memorial contributions may be made to: A.A. World Services, Inc. P.O. Box 459, Grand Central Station, New York, NY 10163. (212) 870-3400 or at: https://contribution.aa.org. For online condolences, visit: www.jvwoodfuneralhome.com. Arrangements are under the direction and care of the J. Verne Wood Funeral Home and Cremation Service - Buckminster Chapel.

Kerry was actively involved with AA in the seacoast area for over 25 years, volunteering much of her time to help others in their recovery.

What Kerry loved and enjoyed most in life was being a mom. She also enjoyed spending time at the beach and bringing her dog to the dog park. Survivors include her father, Phillippe Cote (Denise) of Hampton; her mother, Joan Shaffer (Loren) of New Paris, Ohio; her children, Tylor Bryant (Christy) of Portsmouth, Kendall Bryant of Rochester, and Ella Cote of Portsmouth; a grandchild, Carter Barstow-

Jeanne Helen Menger

ST. AUGUSTINE, Fla. - Jeanne Helen Menger, 85, of St. Augustine, passed away on Saturday, October 24, 2020 at the Bailey Family Center for Caring. She was born on July 6, 1935 on Long Island, N.Y., the daughter of Henry and Augusta Reyels and beloved sister of Marion.



other activities. She was a loving mother and devoted wife. Jeanne and Bill spent their retirement years in New Castle, N.H., where they continued to attend

the many sporting events of their four grandsons. They loved traveling, living by the ocean and spending time with their family. Jeanne was an incredibly kind and giving person. She was always tremendously grateful for the gifts in her life. She will be deeply missed by her family and friends.

She was preceded in death by her husband, Bill, in 2017. She is survived by her daughter, Trish "Patty" Fletcher and her husband Ian now of St. Augustine; son, Peter Menger and his wife Karla of Stratham, N.H.; sister, Marion Fischetti of Springfield, Massachusetts; grandchildren, Dylan Fletcher, Christian Fletcher, Cole Menger and Erik Menger; nephews, Mark and Chris Fischetti and Clark and Cathy Menger.

SERVICES: Services will take place at a later date. St. Johns Family Funeral Home is in charge of arrangements.

Portsmouth Christian has 2 more COVID-19 cases

By Jeff McMenemy
Fosters Daily Democrat
USA TODAY NETWORK

DOVER - Portsmouth Christian Academy confirmed it has received two more positive COVID-19 tests at its Dover campus.

After receiving the first positive test Saturday, officials asked "the affected class" to "remain off-site for quarantine and testing," the school said in a statement.

"During this time, two other results from the off-site class have been reported to us

as positive (asymptomatic). Fifteen other results came back as negative," officials said in the statement. "We are waiting for nine more results to come in from the affected grade. The initial reported case is a mild case, and the person is recovering well."

All three positive tests involve fourth-grade students, school officials said.

The two new positive cases came from PCA's Lower School, which houses the younger grades' classrooms. The school is home to students in pre-K through the

12th grade.

Mike Runey, PCA's head of school, "has been consistently communicating with families as well as staff and faculty" to update them about the situation, according to a PCA statement.

In an email to PCA parents Tuesday, Runey confirmed the two new positive COVID tests. The people who tested positive were last on campus Friday, he said in the email.

"All staff and faculty as well

as students who have potentially been in close contact have been notified and are going through testing or quarantine," he said.

PCA would again be open Wednesday, Runey said, "with the majority of students on-site."

"The affected grade and those new students, staff and faculty who had close contact as of (Tuesday) will be off-site; all operations per normal schedule," he said.

Legal Notice NOTICE OF PUBLIC HEARING North Hampton Select Board

Notice is hereby given that in accordance with the requirements of RSA Chapter 31:95-b III (a) that a public hearing of the **Select Board** will be held on the **9th day of November, 2020 at 7pm** at the North Hampton Town Hall located at 231 Atlantic Avenue North Hampton, New Hampshire.

The purpose of the hearing is to consider acceptance of the following unanticipated revenues:

- Acceptance of funds in the amount of \$12,902.00 for reimbursement from the Department of Homeland Security/Federal Emergency Management Agency for FY2021 to Support the Radiological Emergency Preparedness (REP) Program in North Hampton. PM-00504615

Legal Notice TOWN OF STRATHAM Zoning Board of Adjustment Public Hearing Notice

Notice is hereby given that the Zoning Board of Adjustment will hold a Public Hearing on Tuesday, November 10, 2020 at 7:00PM in the Town Municipal Center located at 10 Bunker Hill Avenue, Stratham, NH 03885. The following applications will be heard:

- Case #655, Philip J. Malone and Stephanie Malone, 72 River Road, Map 08 Lot 38, Residential Agricultural Zoning District, represented by Coughlin, Rainboth, Murphy & Lown, PA of 439 Middle Street, Portsmouth, NH. The applicant is appealing the September 2, 2020 decision of the Stratham Planning Board granting approval of the Cleary subdivision; a minor subdivision application for 7 Boat Club Drive, Tax Map 08, Lot 39 owned by Robert and Stephanie Cleary, pursuant to RSA 676:5, on the grounds stated in the appeal document submitted 10/01/2020.

The public may also access this meeting at the date and time above using this conference call information. Please dial **1-800-764-1559** and input **4438** when prompted for a user pin/code. Please follow the Chair's instructions delivered at the meeting in order to register comments during the public meeting. If at any time during the meeting you have difficulty hearing the proceedings, please call 603-772-7391 ext. 182.

This notice is sent to you as an abutter in conformity with state law. You, or your agent, are invited to attend the meeting, to hear the proposal(s) and make comments. You are not required to attend. Copies of the plans(s) may be viewed and are on file at the Town Office. PM-00504667

Legal Notice NOTICE OF PUBLIC HEARING North Hampton Select Board

Notice is hereby given that in accordance with the requirements of RSA Chapter 31:95-b III (a) that a public hearing of the **Select Board** will be held on the **9th day of November, 2020 at 7pm** at the North Hampton Town Hall located at 231 Atlantic Avenue North Hampton, New Hampshire.

The purpose of the hearing is to consider acceptance of the following unanticipated revenues:

- Acceptance of funds in the amount of \$23,417.00 for Municipal Aid for FY21 for Aid to Cities and Towns PM-00504621

Built in Seacoast Area Since 1947

WINDOWS & AWNINGS

WHERE QUALITY HAS MATTERED SINCE 1947

99 State Rd., Kittery, ME
207-439-5868 • ronbet.com

Legal Notice NOTICE OF PUBLIC HEARING North Hampton Select Board

Notice is hereby given that in accordance with the requirements of RSA Chapter 31:95-b III (a) that public hearing of the **Select Board** will be held on the **9th day of November, 2020 at 7:00pm** at the North Hampton Town Hall located at 231 Atlantic Avenue North Hampton, New Hampshire.

The purpose of the hearing is to consider acceptance and adoption of revisions and additions to the

- **Resident-only Parking Ordinance, including the following:**

- Resident-only Parking Areas: The Select Board may, at their discretion, designate resident-only parking areas.**
- The west side of Causeway Road from the Rye Town Line to 30 feet before the intersection of Route 1A, Ocean Boulevard, shall be restricted to vehicles displaying a North Hampton Beach Parking Permit sticker attached to the driver side rear window of the vehicle.**
- Any person violating the provisions of this ordinance may be issued a parking ticket payable to the Town of North Hampton, the fine payable to be \$100.00.**
- The Chief of Police or any Sworn Officer of the North Hampton Police Department may also cause any vehicle parked in violation of this ordinance, to be towed at the expense of the owner.**

Legal Notice Town of Eliot PUBLIC HEARING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: Remote Zoom Meeting
DATE OF HEARING: Tuesday, November 10, 2020
TIME: 7:00 PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, November 10th, 2020 at 7:00 PM for the following application:

- 276 Harold L Dow Hwy (Map 37/Lot 09), PID # 037-009-000, PB20-14: Site Plan Review/Change of Use to Medical Marijuana Dispensary
 - o Applicant: Black Hawk Holdings, LLC
 - o Owner: Black Hawk Holdings, LLC

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

Fielding's Oil & Propane Co.

Serving Portsmouth, Dover, Rochester & Surrounding Towns

#2 Heating Oil K-1 Kerosene Propane Gas

Landlord Pricing Available

Easy Pay Budget Plans Available

Portsmouth (603) 436-2005
Exeter (603) 778-3700

1-800-491-3194

Order online at www.fieldingoil.com

Orders of 200 gallons or more receive an additional 2¢ off.
Price subject to change.

IN BRIEF

ST. LOUIS Gun-wielding couple seek prosecutor's removal

A St. Louis couple facing felony charges for waving guns at racial injustice protesters who marched near their home were in court Wednesday asking a judge to remove the city's top prosecutor from the case. A grand jury earlier this month indicted Mark McCloskey, 63, and Patricia McCloskey, 61, on

charges of unlawful use of a weapon and tampering with evidence.

The effort to disqualify Circuit Attorney Kim Gardner, a Democrat, contends that her prosecution is politically motivated. The McCloskeys' attorney, Joel Schwartz, cites emails referencing the case that were sent to potential donors ahead of Gardner's primary election victory in August.

The Associated Press

HAP MOORE

ANTIQUES AUCTIONS

OVER 44 YEARS IN ANTIQUES

Preparing for Auctions of Coins, Currency, Stamps, Sterling Silver, Jewelry And Quality Old Family Things.

hapmoore@hapmoore.com • www.hapmoore.com
The Goodwin Building • 611 Route One P.O. Box 16
York, ME 03909 • (207) 363-6373 • ME Lic. AU694

Legal Notice
**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

7th Circuit - Family Division - Rochester Telephone: 1-855-212-1234 76 North
Main Street TTY/TDD Relay: (800) 735-2964
Rochester, NH 03867 http://www.courts.state.nh.us

CITATION BY PUBLICATION-TERMINATION OF PARENTAL RIGHTS

TO: **MICHAEL PERKINS**
296 Hanover Street
PORTSMOUTH, NH 03801

FOR TELEPHONIC HEARING:
DIAL: 1-866-951-1151
Conference Room #: 468-920-816#

formerly of and now parts unknown
Case Number: **619-2020-TR-00023**
Preliminary Hearing
A petition to terminate parental rights over your minor child(ren) has been filed in this Court. You are hereby cited to appear at a Court to show cause why the same should not be granted.

Date: November 18, 2020 **76 North Main Street**
Time: 9:30 AM **Rochester, NH 03867**
Time Allotted: 30 Minutes **Courtroom 2-7th Circuit-Family Division-Rochester**

A written appearance must be filed with this Court on or before the date of the hearing, or the respondent may personally appear on the date of hearing or be defaulted.

CAUTION

You should respond immediately to this notice to prepare for trial and because important hearings will take place prior to trial. If you fail to appear personally or in writing, you will waive your right to a hearing and your parental rights may be terminated at the above hearing.

IMPORTANT RIGHTS OF PARENTS

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

You are hereby notified that you have a right to be represented by an attorney. You also have the right to oppose the proceedings, to attend the hearing and to present evidence. If you desire an attorney, you may notify this Court within ten (10) days of receiving this notice and upon a finding of indigency, the Court will appoint an attorney without cost to you. If you enter an appearance, notice of any future hearings regarding this child(ren) will be by first class mail to you, your attorney and all other interested parties not less than ten (10) days prior to any scheduled hearing. Additional information may be obtained from the Family Division Court identified in the heading of this Order of Notice. If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.

Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625:11, in a courtroom or area used by a court.

BY
October 16, 2020
Cheryll-Ann Andrews, Clerk of Court
(868)
C: CASA; Michael Perkins; John F. Driscoll, ESQ

NHJB-2187-F (07/01/2011) PM-00503844



500 foot Abutters List Report

Eliot, ME
October 26, 2020

Subject Property:

Parcel Number: 032-002-000
CAMA Number: 032-002-000
Property Address: 41 ROGERS POINT DR

Mailing Address: DYSART, MICHAEL G HESSE, PETRA W
361 HARVARD ST #8
CAMBRIDGE, MA 02138

Abutters:

Parcel Number: 032-001-000
CAMA Number: 032-001-000
Property Address: 25 ROGERS POINT DR

Mailing Address: LONGTIN, ROBERT A LONGTIN,
MELINDA M
25 ROGERS POINT
ELIOT, ME 03903

Parcel Number: 032-003-000
CAMA Number: 032-003-000
Property Address: 46 ROGERS POINT DR

Mailing Address: RAWLING, DANIEL T VACCARO,
ROBERT L
46 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-004-000
CAMA Number: 032-004-000
Property Address: 44 ROGERS POINT DR

Mailing Address: MATTHESON REALTY TRUST JOHN &
TRACY MATTHESON, TRUSTEES
42 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-006-000
CAMA Number: 032-006-000
Property Address: 42 ROGERS POINT DR

Mailing Address: MATTHESON, JOHN EGGLESTON, TRACY
42 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-007-000
CAMA Number: 032-007-000
Property Address: 38 ROGERS POINT DR

Mailing Address: OESER, STEPHEN A OESER, LORRAINE
P
38 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-008-000
CAMA Number: 032-008-000
Property Address: 36 ROGERS POINT DR

Mailing Address: HENDERSON, JEFFREY D
36 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-011-000
CAMA Number: 032-011-000
Property Address: 28 ROGERS POINT DR

Mailing Address: SCHUBERT, DAVID H SCHUBERT,
CATHRYN
28 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-016-000
CAMA Number: 032-016-000
Property Address: 7 GRANDVIEW DR

Mailing Address: VISKER, ROBERT W VISKER, EGAN P
7 GRANDVIEW DR
ELIOT, ME 03903

Parcel Number: 033-009-000
CAMA Number: 033-009-000
Property Address: RIVER RD

Mailing Address: WATERS, JAMES J
488 RIVER RD
ELIOT, ME 03903

Parcel Number: 033-010-000
CAMA Number: 033-010-000
Property Address: 467 RIVER RD

Mailing Address: JORDAN, LUCILLE R REVOCABLE
TRUST LUCILLE R JORDAN TRUSTEE
467 RIVER RD
ELIOT, ME 03903



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

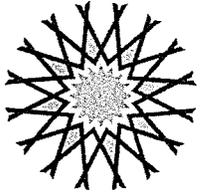
Eliot, ME
October 26, 2020

Parcel Number: 033-011-000 CAMA Number: 033-011-000 Property Address: 13 ROGERS POINT DR	Mailing Address: ROUX, STEPHEN R REVOCABLE TRUST STEPHEN R ROUX TRUSTEE 13 ROGERS POINT DR ELIOT, ME 03903
Parcel Number: 033-012-000 CAMA Number: 033-012-000 Property Address: ROGERS POINT DR	Mailing Address: ROUX, STEPHEN R REVOCABLE TRUST STEPHEN R ROUX, TRUSTEE 13 ROGERS POINT RD ELIOT, ME 03903
Parcel Number: 033-031-000 CAMA Number: 033-031-000 Property Address: GRANDVIEW DR	Mailing Address: REARDON, SANDRA J 502 LLOYD PL UNIT A BEL AIR, MD 21014-2342
Parcel Number: 033-032-000 CAMA Number: 033-032-000 Property Address: GRANDVIEW DR	Mailing Address: OLSEN, HARRIS L HRS OR DEVS C/O MIMI KWI SUN OLSEN 94-1025 ANANIA CT #56 MILILANI, HI 96789
Parcel Number: 033-033-000 CAMA Number: 033-033-000 Property Address: ROGERS POINT DR	Mailing Address: ROUX, STEPHEN R REVOCABLE TRUST STEPHEN R ROUX TRUSTEES 13 ROGERS POINT RD ELIOT, ME 03903
Parcel Number: 033-034-000 CAMA Number: 033-034-000 Property Address: 487 RIVER RD	Mailing Address: JORDAN, LUCILLE R REVOCABLE TRUST LUCILLE R JORDAN TRUSTEE 467 RIVER RD ELIOT, ME 03903



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.



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE

RECEIVED

By Kearsten Metz at 3:58 pm, Nov 02, 2020

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

November 2nd, 2020
Project No. C019-20

**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 Black Hawk Holdings, 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.

On the most recent review you had asked for additional notes to be placed on the plan related to the Medical Marijuana Performance Standards 33-189(h) and the sign ordinance Article XI of Chapter 45 and 33-190(3). These notes are depicted on the updated site plan as Note 11 and a leader pointing towards the existing sign respectively.

Also included is an application to the Office of Marijuana Policy for a Tier 2 Cultivation Facility. This change is not intended to be part of the current application. It is to show that the client is working towards bringing the site into compliance.

Additionally, the 33-127 Contents have been corrected and attached.

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;

Brian Nielsen, E.I.T.
Staff Engineer

cc: Black Hawk Holdings, LLC
C019-20_Eliot_Cover



OFFICE OF MARIJUANA POLICY

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

OPERATING PLAN TEMPLATE CULTIVATION FACILITY

Pursuant to Section 3.5.2 of the Adult Use Marijuana Program Rule, the Department shall keep on file a copy of all facility plans, security plans, operating plans and cultivation plans, as well as copies of certifications of testing facilities. The most recent plan, whether submitted with the issuance of the marijuana establishment license, or by the subsequent approval of an application to change, shall be the Plan of Record with which the licensee must comply.

The Operating Plan is an official Plan of Record. This document and use of this template are required. The Office of Marijuana Policy (OMP) understands that an applicant or licensee may have prepared other operating documents. Although the applicant or licensee may submit additional operating documents for reference, this Operating Plan is designed to be a succinct, standalone document.

OMP recognizes that during the conditional license application process, site-specific information may not be available. An updated, site-specific Operating Plan will be required prior to active licensure.

Note: Nursery Cultivation Facilities require use of the Nursery Cultivation Facility Operating Plan, not this template.

SECTION 1: License Type

Please choose only one. A separate Operating Plan is required for each licensed establishment.

- Cultivation Facility, Tier 1 (Plants) – No more than 30 mature marijuana plants.
- Cultivation Facility, Tier 1 (Canopy) – No more than 500 square feet of mature marijuana plants.
- Cultivation Facility, Tier 2 – No more than 2,000 square feet of mature marijuana plants.
- Cultivation Facility, Tier 3 – No more than 7,000 square feet of mature marijuana plants.
- Cultivation Facility, Tier 4 – No more than 20,000 square feet of mature marijuana plants.

SECTION 2: Days and Hours of Operation

In the table below, indicate the operating hours of the facility. Place an "x" in the closed column if the facility will be closed on a particular day.

As a reminder, pursuant to Section 3.4.1(C) of the Adult Use Marijuana Program Rule: Licensees shall ensure that at all times during operating hours and hours of apparent activity that there is, on-site, an individual identification cardholder authorized to cooperate with Department inspection of the premises and business records.

	Closed	Facility Opening Hour	Facility Closing Hour
Sunday		07:00	21:00
Monday		07:00	21:00
Tuesday		07:00	21:00
Wednesday		07:00	21:00
Thursday		07:00	21:00
Friday		07:00	21:00
Saturday		07:00	21:00

SECTION 3: Cultivation Facility Site Information

OMP recognizes that a specific location is not required during the conditional license application process. If the applicant does not have a site-specific location, provide a diagram and layout of the proposed Cultivation Facility.

1. Provide a diagram of the property on which the Cultivation Facility is located, including all point(s) of ingress/egress from the closest maintained public way, employee entrance(s), point(s) of delivery, parking area(s), and public right(s) of way. (Acceptable file formats include, but are not limited to, the following: .BMP, .GIF, .JPG, .PDF, .PNG. Diagrams may also be inserted as additional pages to the end of this form or uploaded via the online facility application process as Other Supporting Documentation.)

2. Provide a diagram of the layout of the Cultivation Facility, including square footage of the areas in which cultivation does and does not occur and square footage of the entire facility. If the Cultivation Facility is co-located with an Adult Use Products Manufacturing Facility and/or Adult Use Marijuana Store, the diagram must clearly delineate the cultivation facility area from the other establishment(s). A Cultivation Facility that connects to another Adult Use establishment, requires at least a single, lockable door to be reflected in the diagram. (Acceptable file formats include, but are not limited to, the following: .BMP, .GIF, .JPG, .PDF, .PNG. Diagrams may also be inserted as additional pages to the end of this form or uploaded via the online facility application process as Other Supporting Documentation.)

3. If the property is also used as a residence, describe the location of that residence within the property and plans for complete separation of the residence from the facility, including:
- a. Entirely separate entrances from the public right of way, and
 - b. That no solvent extraction using potentially hazardous extraction methods or inherently hazardous extraction methods in the same building or structure as the residence.

The facility Will not be colocated with a residential building

SECTION 4: Co-Location of Adult Use Facilities

Is this Cultivation Facility co-located with an Adult Use Products Manufacturing Facility and/or an Adult Use Marijuana Store?

Yes No

If yes, complete Section 4(a) and (b)

SECTION 4(a): Type of Adult Use Facility Co-Location

Check all that apply.

- Adult Use Products Manufacturing
- Adult Use Marijuana Store

SECTION 4(b): Co-Location of Adult Use Marijuana Establishments

Section 2.4.9(B)(2) requires the following:

The Cultivation Facility may connect to another type of establishment by a single, lockable door. Regardless of common ownership, excise tax is payable when any marijuana seedlings, immature plants, marijuana, or marijuana products pass out of the cultivation facility into another type of marijuana establishment. All marijuana to pass through a single, lockable door must be entered into the tracking system, and excise taxes shall be paid in accordance with this Rule and 28-B M.R.S. § 1001.

Describe how all applicable requirements of Section 2.4.9 of the Adult Use Marijuana Program Rule will be met, including but not limited to the requirement described above.

N/A

SECTION 5: Co-Location of Adult Use Cultivation Facility and Medical Marijuana Facilities

Is this Adult Use Cultivation Facility co-located with any medical marijuana facility?

Yes No

If yes, complete Section 5(a) and (b)

SECTION 5(a): Type of Medical Marijuana Facility Co-Location

Check all that apply

- Registered dispensary cultivation operation
- Registered caregiver's cultivation operation

SECTION 5(b): Co-Location of Adult Use Cultivation Facility and Medical Marijuana Facilities

1. List and describe all equipment with approval listing(s) to be used for cultivating both medical marijuana and adult use marijuana.

N/A

2. Describe how the licensee will ensure that each shared piece of cultivation equipment is not used simultaneously on medical marijuana and adult use marijuana, with the purpose of ensuring that medical marijuana flowers and trim remain separate from adult use marijuana flowers and trim.

N/A

3. Describe how the licensee will separately track medical marijuana and adult use marijuana and will otherwise keep them from becoming intermixed.

N/A

SECTION 6: Equipment and Approval Listing

Provide approval listing(s) for all equipment listed below.

1. List all lights, irrigation system(s), greenhouse(s) and all other equipment to be used specific to the cultivation of marijuana within the cultivation facility.

Not all equipment decided at this time.

Flowering lights GSTS 1000-2 UL 1598 & C22.2 No. 250.0-08. UL 8750 C22.2 No 250.13

SECTION 7: Pesticides, Fungicides, Insecticides and Fertilizers

1. List all pesticides, fungicides, insecticides and fertilizers that will be present or used.

Dr. Zymes

House and Garden Soil A, Soil B, Multi Zen, Roots Excelurator Gold, Drip Clean, Amino Treatment, Nitrogen Boost, Bud-XL, Top Booster, Top Shooter

SECTION 8: Utility Plans

OMP recognizes that a specific location is not required during the conditional license application process. If the applicant does not have a site-specific location, provide plans for how the following are intended to be done.

1. Describe plans for providing electricity, water, and other utilities necessary for the normal operation of the cultivation facility. Both utilities, water and sewage disposal are provided by a well and septic tank serviced by the landlord. Trash and recycling services are provided by Shipyard Waste Solutions. Trash and recycling are disposed of twice a month. Central Maine Power company provides power to the facility. There is a 3-phase 480V power system with a 600Amp Service, with more readily available. The marijuana establishment is heated and cooled through the use of a passive central heating and cooling system and electric baseboard heat.

2. Describe plans for ventilation and filtration systems that prevent marijuana plant odors from significantly altering the environmental odor outside, while addressing the potential for mold.

Odor mitigation and ventilation systems have been installed at the cultivation facility in accordance with the town of Sanford Maine odor nuisance control and abatement performance standards in the city's zoning and ordinances. Odor is controlled through 3 primary techniques. Strategically placed carbon filters and HEPA filters along with ducted fans have been installed in line with heating and cooling systems and industrial sized ventilation and exhaust fans with accompanying carbon filters.

In an effort to reduce the potential for mold, the ventilation and exhaust system installed in the rear of the building runs constantly. It is set to a thermostat maintaining proper environmental control. There are additional dehumidifiers located throughout the facility as well. The supplemental dehumidification system helps further maintain environmental set points, which is unfavorable for mold to propagate.

SECTION 9: Plans for Compliance with the Marijuana Legalization Act and the Adult Use Program Rules

OMP recognizes that a specific location is not required during the conditional license application process. If the applicant does not have a site-specific location, provide plans for obtaining proof of compliance with the following.

1. Describe plans for shipping and receiving of marijuana and marijuana products.
As required by 18 C.M.R Ch. 1 Rule 4.2.1, all marijuana transported between this facility and any other licensed facility will include a transport manifest created in the facilities Metrc tracking system. The manifest will include all necessary information specified in rule 4.2.1(A)(1)-(10). As compliant with Rule 4.2.3 (A)-(L) transportation of marijuana will only be conducted between licensed facilities, all product will be enclosed in a locked area of the vehicle, and all other relevant procedures will be followed. Receipt of any marijuana products will follow the procedure outlined in Rule 4.2.4 and added to the facilities inventory system within METRC upon receipt

2. Describe plans to dispose of or destroy used, unused and waste marijuana and marijuana products.
Non-hazardous marijuana waste that is to be disposed of will be rendered unusable prior to leaving the cultivation facility. This will be done by grinding and incorporating the marijuana waste with other ground materials. The resulting mixture will be at least 50 percent non-marijuana waste by volume. Food Waste and compost from the cultivation facility will be used and ground with unused and/or marijuana waste or marijuana products. Once the marijuana and/or unused marijuana products are rendered unusable, they are disposed of properly. Prior to disposing of the marijuana waste or actions taken with unused marijuana products, these details will be entered into Metrc tracking system. Waste marijuana and marijuana products will be disposed of in a locked dumpster only accessible by individuals with an individual identification card of the cultivation facility.

3. Describe how the facility plans to prevent access to the premises by persons under age 21, including without limitation vendors and contractors.
As required by 18 C.M.R Chp 1 Rule 3.2.1 the facility is only open to those over the age of 21. In order to ensure that no persons under the age of 21 are permitted into the facility, all persons, before entering the facility, will be required to present photo I.D. The licensee or an employee thereof will verify the age and identity of all persons seeking to enter the facility. All vendors will be notified that their employees must be over the age of 21 and photo I.D will be required in order to enter the facility. Vendors will be required to sign the visitor log before entering. Mail and other deliveries will be treated in the same manner, age will be verified and they will be asked to register in the visitor's log.

4. Describe how the facility plans to conduct a background screening process for employees and vendors.
All employees will be required to obtain an OMP IIC and to display it at all times while working on site. Since obtaining an OMP IIC requires a background check, we will not duplicate that process, but will contact and confirm all information provided by the employee on their job application. Employees will not be scheduled to work, or be allowed on-site, until their credentials have been verified and their OMP IIC obtained. Non-Plant touching contractors, are not required to obtain an OMP IIC. We will verify with contractors that they will only send 21+ years of age employees. Upon arrival, contractors will be required to sign in our visitor log and will be provided with a visitor identification badge which will be worn conspicuously at all times. It will include the date/time of entry and departure, visitor's name, State issue ID number, the IIC# of the supervising employee, the visitor's purpose and an identifying mark.

SECTION 10: Proof of Compliance with State and Federal Code(s)

OMP recognizes that a specific location is not required during the conditional license application process. If the applicant does not have a site-specific location, provide plans for obtaining proof of compliance with the following.

1. Provide proof of compliance with building code(s).
Electrical and Building Permits to be signed off on by town. Waiting for town

2. Provide proof of compliance with the National Fire Protection Association model fire code.
Town inspector to Complete. Waiting for Inspection and Permitting

3. Provide proof of compliance with applicable electrical code(s).
State Inspector to Complete. Waiting for Completion

4. Provide proof of compliance with any other applicable federal and/or state environmental requirements.
Not available at this time

5. Provide proof of compliance with all state and federal laws regarding wastewater and waste disposal for the cultivation facility.
Waiting for Town

6. Describe the workplace safety plan consistent with 29 CFR Part 1910, covering personal protective equipment, hazard assessment, safe equipment operation, proper application of agricultural chemicals, ladder use, hazard communication and other state and federal workplace safety requirements.

The safety plan complies with all relevant portions of both 29 CFR: 1910 including the use of personal protective equipment under 1910, subpart I; Hazard assesment under 1910 subpart-App ; safe equipment operation; hazard communications and training under 1910.1200; safe ladder use under 1910.23; a fire protection plan Under 1910.39; an emergency action plan under 1910.38 and equipment specific regulations under 1910.137 and 1910.147.

Our safety plan also complies with other federal and state including the National Fire Prevention Act (NFPA) at both the federal level and as adopted by the state of Maine

SECTION 11: Notice

The Department shall keep on file a copy of all facility plans, security plans, operating plans and cultivation plans, as well as copies of certifications of testing facilities. The most recent plan, whether submitted with the issuance of the marijuana establishment license, or by the subsequent approval of an application to change, shall be the Plan of Record with which the licensee must comply. Field Investigators will have access to all plans and will review all plans prior to an on-site assessment. Failure to comply with the Plan of Record may lead to enforcement action. Any significant changes to the Plan of Record must be approved by the Department.

Signature – This Plan of Record cannot be accepted without a signature

Any information contained within this Plan of Record or otherwise found, obtained, or maintained by the Department, shall be accessible to law enforcement agents of this or any other state, the government of the United States, or any foreign country.

Authorizing Business Representative's Signature

Date

10/19/2020

Printed Name:

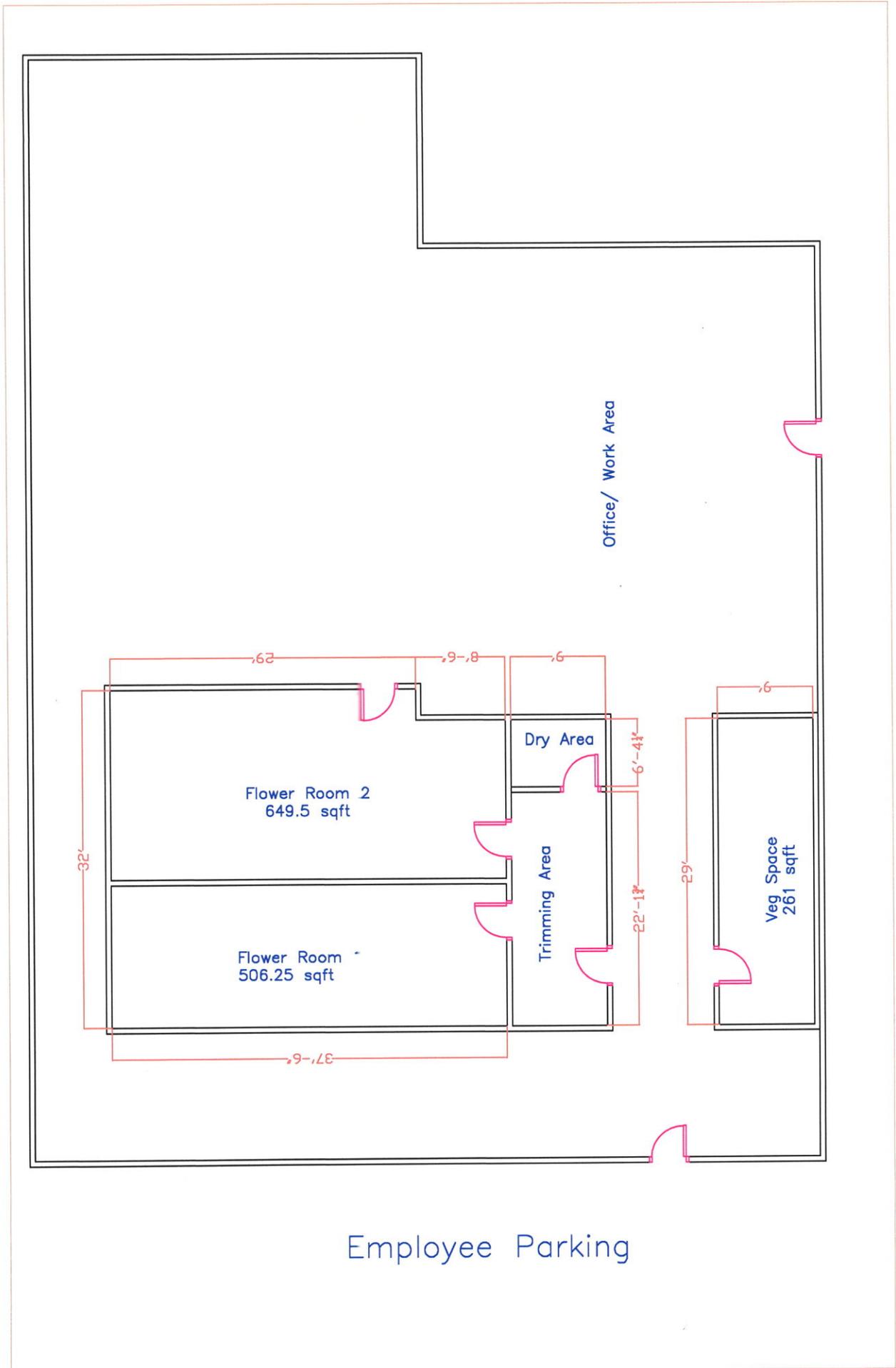
Nicholas Zagami

Email Address:

nicholas.zagami@gmail.com

Phone Number:

(603)534-0911



CODE OF MUNICIPAL ORDINANCES – TOWN OF ELIOT, MAINE
Section 33-127. Contents; required information
Nonprofit Medical Marijuana Dispensary

- (1) Development name or identifying title and the name of the town

This information is provided on the Site Plan.

- (2) Name and address of record owners, developer and designer

This information is provided on the Site Plan.

- (3) Names and addresses of all abutters and their present land use

This information is provided on the Site Plan.

- (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.

The original perimeter survey is provided; there have been no changes to the boundary and the same owner who purchased the parcel based on the survey currently owns the parcel.

- (5) The location of temporary markers adequate to enable the planning board to locate readily and appraise the basic layout in the field.

The site layout is apparent due to its existing conditions; the proposed facility will be located in an existing building.

- (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.

Contours are provided on the Site Plan at 2' intervals.

- (7) Provisions of chapter 45 of this Code applicable to the area to be developed and any zoning district boundaries affecting the development.

Zoning district boundaries are depicted on the Site Plan (Commercial Industrial/ Stream and Wetlands Protection District.

- (8) Provisions for collecting and discharging storm drainage, in the form of a drainage plan.

The developed areas of the site are existing. No new construction is proposed, therefore, no new Stormwater infrastructure is proposed. Stormwater is managed on the existing site by sheet flow of runoff to upland, wooded, buffers.

- (9) Preliminary designs of any bridges or culverts which may be required.

No new bridges or culverts are proposed.

- (10) The location of all natural features or site elements to be preserved.

All natural features outside the existing treeline are proposed to be retained.

- (11) A soil erosion and sediment control plan.

The existing site is stabilized in regards to Erosion & Sedimentation Control. No new soil disturbance is proposed, therefore, the applicant respectfully requests a waiver from this submittal requirement.

- (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.

The site is to be utilized in its existing condition, therefore, the applicant respectfully requests a waiver from this submittal requirement.

- (13) The location and size of any existing sewers and water mains, culverts and drains on the property to be developed.

There are 3 septic systems on the plan. Associated HHE-200 forms are attached to this application and shown on the Site Plan. Other utilities are shown on site plan.

- (14) Connection with existing water supply or alternative means of providing water supply to the proposed development.

Water supply will be provided by an existing well, depicted on the Site Plan.

- (15) Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed.

An existing SSWDS will be utilized to serve the building and its employees.

- (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.

3 HHE-200 forms (existing SSWDS) are included with the application.

- (17) An estimated progress schedule.

Construction including interior and minor exterior improvements will commence shortly after approval. The schedule is approximately 45 days.

- (18) Construction drawings sufficient to enable the code enforcement officer to verify the following information:

- a. Total floor area, ground coverage and location of each proposed building, Structure or addition.

This information is provided on the Site Plan.

- b. All existing and proposed setback dimensions.

This information is provided on the Site Plan.

- c. The size, location and direction and intensity of illumination of all major lighting apparatus and signs.

Proposed lighting information provided on the Site Plan.

- d. The type, size and location of all incineration devices.

No incineration devices exist or are proposed.

- e. The type, size and location of all machinery likely to generate appreciable noise beyond the lot lines.

No such machinery exists or is proposed.

- f. 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.

No waste materials are proposed to be stored outside buildings.

- g. The location, type and size of all curbs, sidewalks, driveways, fences, retaining walls, parking space areas, and the layouts together with all dimensions.

This information is provided on the Site Plan.

- h. All landscaped areas, fencing and size and type of plant material proposed to be retained or planted.

No landscaping is proposed; proposed fencing is shown on the Site Plan.

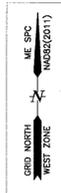
- i. A site plan for a telecommunication structure must provide a description and construction detail of the telecommunication structure, including the plot plan identifying location of the structure on the property; dimensions of the structure; structural supports, if any; lighting; color; and equipment 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.

No telecommunication structures exist or are proposed.

- j. 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.

The project is not a subdivision, therefore, this item is not applicable.

(19) A copy of this application has been submitted to the Fire Chief.



EXTENT OF LANDSCAPE DEBRIS PILE ASSOCIATED WITH ABUTTER

CONCRETE BLOCK STORAGE

CONCRETE SLAB (TYP.)

ELECTRIC PEDESTAL (TYP.)

EXTENT OF CONCRETE FROM MIXER WASHOUT ASSOCIATED WITH ABUTTER

FRESHWATER WETLAND PSS1E

CONCRETE CONTAINMENT TANK

1 STORY METAL FRAME

FRESHWATER WETLAND PFO1E

POURED CONCRETE WALL

BOUNDARY OF ON SITE TOPOGRAPHY (SEE NOTE 8)

AC UNITS

EXISTING ACCESS EASEMENT TO THE CELL TOWER (SEE NOTE 8)

FRESHWATER WETLAND PSS1E

FRESHWATER WETLAND PFO1E

NEW PARKING SPACES OVER NEW PAVEMENT

WELL

FRESHWATER WETLAND PFO1E

EXISTING WOOD FRAME TO BECOME MEDICAL MARIJUANA DISPENSARY

SHED

APPROXIMATE SEPTIC LOCATION

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

LEGEND	
PROPERTY LINE	---
SETBACK	---
EXT. BUILDING	[Hatched Box]
PRP. BUILDING	[Diagonal Lines Box]
EXT. PAVEMENT	[Stippled Box]
EXT. WETLAND BNDY	[Wavy Line]
CENTERLINE OF ROAD	---
EXT. STONEWALL	[Dashed Line]
EXT. SIGN	[Symbol]
EXT. TREELINE	[Wavy Line]
EXT. MAJOR CONTOUR	---XXXX---
EXT. MINOR CONTOUR	---XXXX---
EXT. SEWER MANHOLE	⊙
EXT. POWER POLE	⊕
EXT. ELEC PEDESTAL	⊞
EXT. MONITORING WELL	●
EXT. STORM LINE	---D---
EXT. SEWER LINE	---S---
EXT. SEPTIC TANK	[Rectangular Box]
EXT. OVERHEAD ELEC	---OHU---

TOWN OF ELIOT PLANNING BOARD DATE



CHAIR	DATE

A	PLANNING DEPARTMENT REVIEW	10/30/2020
NO.	DESCRIPTION	DATE

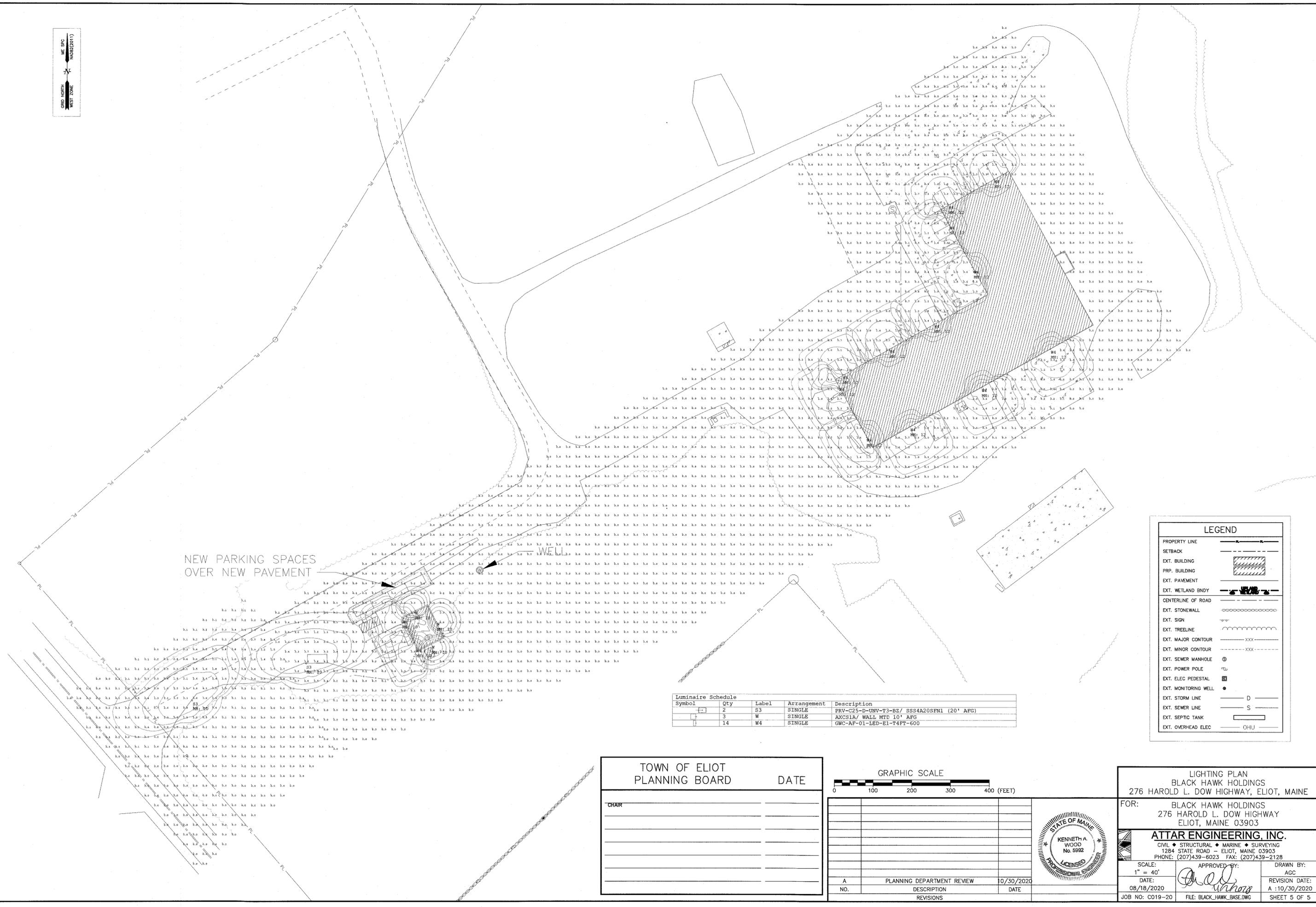
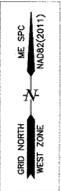


SITE PLAN BLACK HAWK HOLDINGS 276 HAROLD L. DOW HIGHWAY, ELIOT, MAINE

FOR: BLACK HAWK HOLDINGS 276 HAROLD L. 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:	APPROVED BY:	DRAWN BY:
1" = 40'	[Signature]	AGC
DATE:		REVISION DATE:
08/18/2020		A : 10/30/2020
JOB NO: C019-20	FILE: BLACK_HAWK_BASE.DWG	SHEET 3 OF 5



NEW PARKING SPACES
OVER NEW PAVEMENT

WELL

LEGEND	
PROPERTY LINE	---
SETBACK	---
EXT. BUILDING	[Hatched Box]
PRP. BUILDING	[Hatched Box]
EXT. PAVEMENT	[Hatched Box]
EXT. WETLAND BNDY	[Wavy Line]
CENTERLINE OF ROAD	---
EXT. STONEWALL	[Dashed Line]
EXT. SIGN	[Symbol]
EXT. TREELINE	[Wavy Line]
EXT. MAJOR CONTOUR	---XXX---
EXT. MINOR CONTOUR	---XXX---
EXT. SEWER MANHOLE	[Circle]
EXT. POWER POLE	[Square]
EXT. ELEC PEDESTAL	[Square]
EXT. MONITORING WELL	[Circle]
EXT. STORM LINE	---
EXT. SEWER LINE	---
EXT. SEPTIC TANK	[Rectangle]
EXT. OVERHEAD ELEC	---

Luminaire Schedule				
Symbol	Qty	Label	Arrangement	Description
[Symbol]	2	S3	SINGLE	PRV-C25-D-UNV-F3-BZ/ SSS4A20SFN1 (20' AFG)
[Symbol]	3	W	SINGLE	AXCS1A/ WALL MTD 10' AFG
[Symbol]	14	W4	SINGLE	GWC-AF-01-LED-E1-T4FT-600

TOWN OF ELIOT PLANNING BOARD		DATE
CHAIR		



NO.	DESCRIPTION	DATE
A	PLANNING DEPARTMENT REVIEW	10/30/2020



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

FOR: BLACK HAWK HOLDINGS
276 HAROLD L. 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" = 40'	APPROVED BY: <i>[Signature]</i>	DRAWN BY: AGC
DATE: 08/18/2020		REVISION DATE: A : 10/30/2020
JOB NO: C019-20	FILE: BLACK_HAWK_BASE.DWG	SHEET 5 OF 5

PB20-19: 41 Rogers Point Dr. (Map 32/Lot 2) Shoreland Zoning Application to replace and expand existing non-conforming residential structures – Application/Site Walk Review



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Chris Wilber, Applicant
Shelly Bishop, Town of Eliot Code Enforcement Officer (CEO)
Kearsten Metz, Land Use Administrative Assistant
Date: October 6, 2020 (meeting date)
Re: PB20-19: 41 Rogers Point Drive (Map 32/Lot 2) Shoreland Zoning Application to replace and expand existing non-conforming residential structures –
Application/Site Walk Review

Application Details/Checklist Documentation	
✓ Address:	41 Rogers Point Drive
✓ Map/Lot:	Map 32 / Lot 2
✓ PB Case#:	PB20-19
✓ Zoning District:	Suburban
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Chris and Jennifer Wilber
✓ Applicant Name:	Chris Wilber
✓ Proposed Project:	Shoreland Zoning Application – Residential use
✓ Application Received by Staff:	Date: September 16, 2020
Application Fee Paid and Date: Application Fee Paid and Date:	N/A – Sketch Plan Review stage
✓ Application Sent to Staff Reviewers:	Date: September 21, 2020
✓ Application Heard by PB Found Complete by PB	Date: October 6, 2020 Date:
Site Walk	Date: November 9, 2020 (scheduled)
Public Hearing	Date: TBD
Public Hearing Publication	Date: TBD
Deliberation	Date: TBD
Notice of Decision	Date: TBD
✓ Reason for PB Review:	Shoreland Zoning Application / Site Plan Review

PB20-19: 41 Rogers Point Dr. (Map 32/Lot 2) Shoreland Zoning Application to replace and expand existing non-conforming residential structures – Application/Site Walk Review

Overview

Applicant Chris Wilber has submitted a Shoreland Zoning application “to replace and expand an existing nonconforming residential structure located within 75 ft. of the Piscataqua River” at 41 Rogers Point Drive (Map 32, Lot 2). The existing residence would be completely demolished and replaced with a new year-round residence, which is described in the application as a cottage. The application “proposes to increase the overall distance [of the residence] from the river, to bring the structure in greater compliance with the ordinance.” The applicant also proposes to modify an existing boathouse/garage, while generally keeping its current footprint, as well as build new retaining walls. The boathouse/garage modification is proposed to create a living area with living/dining room, bedroom, and bathroom over the car storage area. In between the residence and retaining wall, the application proposes “semi-pervious pavers, stone or bricks and low growing grasses and shrubs”. The application states that there is an approved septic system in place.

The application includes both a Request for Planning Board Action and a Shoreland Zoning application; a warranty deed showing the applicant’s current ownership of the property; an abutters list; a site plan with building side elevations; and an expanded project narrative with proposed construction schedule.

Zoning

41 Rogers Point Drive is located entirely within the Resource Protection (RP) and Limited Residential (LR) Shoreland Zoning districts. The underlying base zoning is Suburban.

Type of review needed by Planning Board (November 10 update)

Planning Board review of the Shoreland Zoning Application and Site Plan Review is needed. One-family residential and accessory structures are SPR uses in the RP district in the Shoreland Zoning land use table (44-34), and Planning Board approval is needed per Section 44-32(c) – expansions of nonconforming structures.

The Planning Board held sketch plan review on October 6. At this meeting the Planning Board asked questions of the applicant, scheduled the Nov. 9 site walk (inspection), and scheduled continued application review on Nov. 10. The Planning Board is encouraged to discuss the site walk during this item and continue reviewing the application.

Existing conditions

The lot is on the east side of Rogers Point Drive, facing a tidal mud flat in a cove in the river. While the current address is 41 Rogers Point Drive, in older permits, the address, 15 Rogers Point Drive, is used. The lot currently has a house/camp and a two-story boathouse/garage (simplified to “house” and “boathouse” in this report). The project narrative indicates that the house was built in 1940 (which matches online property records) and the boathouse was built in the 1970s. (In the property file, there is a

PB20-19: 41 Rogers Point Dr. (Map 32/Lot 2) Shoreland Zoning Application to replace and expand existing non-conforming residential structures – Application/Site Walk Review

building permit application for the boathouse, dated February 1979. The permit appears to have been issued in March 1979, and there are notes in the application about DEP approval and Board of Appeals variance issuance.) The narrative states that the prior owners occupied the house sometimes year-round and sometimes seasonally. A 2001 Shoreland Zoning application by the previous owner for the pouring of a slab floor foundation for the boathouse lists the residence as year-round. The lot also has a dock, retaining wall, and septic system. The narrative states that “there is a shared drilled well on a neighboring property with deed rights”. The narrative describes the vegetation on the site as follows:

The property is vegetated with fully mature white pine, black oak, along with white birch, and several fruit bearing trees. Other areas are grassed and gravel parking, lawn, and blackberry/invasive bittersweet. Draining is essentially sheet flow across vegetated areas toward the tidal zone.

Access to the lot is via Rogers Point Drive, a private gravel road with about a 20-25 ft. right-of-way, according to the Town’s online GIS map.

Nonconformance

The lot (about 0.32 ac.) is a nonconforming lot of record in the Suburban district, and the existing structures are nonconforming. According to the application, the lot was created in 1937. The lot’s shore frontage is about 320 ft. While this exceeds the minimum required shore frontage (44-35(a)(1); 150 ft. street frontage requirement in Section 45-405) the narrow shape of the lot, whose maximum depth from the right-of-way to the river is about 70 ft., makes it impossible to meet both a Rogers Point Drive lot line setback and the river normal high-water line setback. According to GIS, the existing house is both partially within 25 ft. of the river and within 10 ft. of the private right-of-way, and it is partially within the RP zone. The boathouse is less than 10 ft. of both the right-of-way and the river – entirely in the RP zone. Since the existing house and boathouse are within the 75 ft. river normal high-water line setback prescribed Section 44-35(b)(1), any modifications are subject to Section 44-32 – Nonconformance. Within this section:

- Subsection (c)(1)a prohibits expansion of any portion a structure within 25 ft. of the normal high-water line, or of an accessory structure that is located closer to the normal high-water line than the principal structure.
- Subsection (c)(1)c1 permits the expansion of the “combined total footprint for all [legally existing nonconforming principal and accessory] structures” less than 75 ft. from the normal high-water line up to “1,000 square feet or 30 percent larger than the footprint that existed on January 1, 1989, whichever is greater”, and it also limits the height of any structure to “20 feet or the height of the existing structure, whichever is greater”.

The application package includes conceptual sketches of the proposed residence (cottage) and renovated boathouse, and the expansion calculation is included in questions 24 and 25 of the Shoreland Zoning application. The calculation shows the current residence footprint at 742 sq. ft. and the proposed new residence footprint at 920 sq. ft. The

PB20-19: 41 Rogers Point Dr. (Map 32/Lot 2) Shoreland Zoning Application to replace and expand existing non-conforming residential structures – Application/Site Walk Review

proposed height of the new residence is 20 ft. The application notes that the overall footprint area of the boathouse will not change, although the gambrel roof would be modified to be a pitched shed roof, and a replacement of the existing wood deck on the westerly side of the structure with a new exterior stairway of the same square footage on the easterly side of the structure is proposed.

***November 10 update:** DEP has suggested that a greatest practical extent review of the boathouse. The applicable section of the land use regulations is Section 44-32(c)(4) – also pasted at the end of this report. Further discussion is recommended.*

Proposed lot coverage

The application proposes about 2,000 sq. ft. of lot coverage by non-vegetated surfaces, or about 15% of the lot area. This is less than the 20% maximum prescribed by Section 44-35(b)(4).

Accessory Dwelling Unit

The application proposes to create a new space on the second floor of the boathouse that would serve as an ADU, with living/dining space, a bedroom, and a bathroom. ADU provisions are in Section 45-459 of the Town Code. The Board may wish to discuss this proposed unit further with the applicant.

Setbacks

The proposed new residence would be further back from the river than the current one. According to the site plan, a portion of the new structure would still be within the 25 ft. normal high-water line setback; however, a site plan inset/detail shows how the new residence's encroachment within that 25 ft. setback is 9 sq. ft., compared to the existing house's encroachment of 58 sq. ft. With regard to the Rogers Point Drive setback, the new residence would hold the same line as the current residence, and the nonconformity would not be increased. The new residence would also hold the same side extents as the current residence. As noted above, the footprint of the boathouse would generally stay the same except for the deck/stairway replacement and relocation.

Pier

No changes in the existing residential pier/dock are proposed on the site plan. The narrative describes it as in "poor condition".

Retaining wall

The site plan and narrative propose the replacement of the existing railroad tie retaining wall along the shore with a new retaining wall along the front of the residence for soil stability. This retaining wall is shown as partially within and partially outside of the 25 ft.

PB20-19: 41 Rogers Point Dr. (Map 32/Lot 2) Shoreland Zoning Application to replace and expand existing non-conforming residential structures – Application/Site Walk Review

normal high-water line setback. Per Section 44-35(b)(1) and (5), retaining walls that are necessary for erosion control are not subject to the normal high-water line setback, and neither are low retaining walls that meet certain conditions. Since some of these conditions for a non-erosion-control retaining wall are presumptively not met (e.g. needing to be more than 25 ft. from the normal high-water line and needing to be outside of the 100-year floodplain), the retaining wall does appear to have to meet the erosion control purpose, which is what the application describes its purpose as.

Septic system

The narrative notes that the existing (approved, functioning) septic system is located northeast of the existing structure, preventing further expansion on that side. An HHE-200 septic replacement application from 2001 is in the property file, and this is for 2 bedrooms and 180 gallons per day. A state-issued variance for setback reduction for the septic system, dated June 2000, is in the property file. The Board may wish to discuss the proposed 3 bedrooms (2 in the new residence and 1 in the boathouse) in relation to the septic system.

Tree removal

The site plan indicates a limited number of trees to be removed, as well as trees to be replanted.

Erosion and sedimentation control

The site plan includes details about erosion control measures to be taken during construction, including silt fencing or hay bales, disturbed areas mulched and seeded, and jute matting.

DEP PBR (November 10 update)

The application has been reviewed by DEP. The PBR is included in the agenda packet.

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

Section 44-32(c)(4):

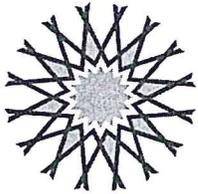
Reconstruction or replacement. Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50 percent of the market value of the structure before such

PB20-19: 41 Rogers Point Dr. (Map 32/Lot 2) Shoreland Zoning Application to replace and expand existing non-conforming residential structures – Application/Site Walk Review

damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the planning board in accordance with the purposes of this chapter. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to subsection [44-32\(c\)\(1\)](#) above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with subsection [44-32\(c\)\(3\)](#) above.

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50 percent or less of the market value, or damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the code enforcement officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the planning board shall consider, in addition to the criteria in paragraph (c)(3) above, the physical condition and type of foundation present, if any.



ATTAR

ENGINEERING, INC

CIVIL ♦ STRUCTURAL ♦ MARINE

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

September 22nd, 2020
Project No. C019-20

**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 Black Hawk Holdings, LLC I am reaching out regarding their project located at 276 Howard L. Dow Highway.

As in the application sent on the 18th of August our client is proposing a Medical Marijuana Retail Storefront. This would be a Medical Marijuana Establishment for the retail sale of Medical Marijuana.

The metal framed building in the rear of the site is currently used for Medical Marijuana Cultivation and is in the process of becoming compliant as an Adult Use Medical Marijuana Establishment for Adult Use Marijuana Cultivation.

Once a conditional license is obtained from the State of Maine our client will return to the Planning Board to request an allowed use of the building as an Adult Use Marijuana Establishment.

Enclosed is a letter from our client detailing the history of the property and the intent for the future.

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;

Brian Nielsen, E.I.T.
Staff Engineer

cc: Black Hawk Holdings, LLC
C019-20_Eliot_Cover

Black Hawk Holdings LLC
276 Harold L Dow Highway
Eliot, ME 03903

To: Town of Eliot (Planning Board)

To whom it may concern:

Background:

In June of 2019 Black Hawk Holding purchased the parcel of land located at 276 Harold L Dow Highway in Eliot ME. Post purchase we were notified of a potential code violation regarding our tenant who had a medical cannabis cultivation company on the site. The code violation was in regards to the five-hundred-foot buffer required when a property abuts a residential, government, or place of worship. The building in question is approximately four hundred and ten feet to its nearest corner (although a good portion of the building is beyond the buffer). Black Hawk Holding presented this issue to the town and started the process of compliance. Unfortunately, the pandemic shut down town operations which lasted until July causing further delays.

Purpose of letter: The purpose of this letter is to inform the town of Eliot and the Planning board that the current Medical Cannabis Cultivation business has begun the process to become compliant by becoming an "Adult Marijuana Establishment" for Adult Use Marijuana Cultivation. We have provided written notification the tenant that in order to continue business operations, compliance must be achieved in the most expedited way possible.

We very much look forward to our continued focus of cleaning up what was a dilapidated property and turning it into an attractive, taxable property for the town of Eliot.

Thank you,

Stephen Dunker

Managing Partner

Black Hawk Holdings LLC



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

POSTED
10/20/20
CW

SITE WALK MEETING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: 41 Rogers Point Drive (Map32/Lot2)
DATE OF HEARING: Monday, November 9, 2020
TIME: 10:00 am

The Planning Board of the Town of Eliot, Maine, has scheduled a site walk for the following application on the above-referenced date:

- **41 Rogers Point Drive (Map 32/ Lot 2), PB20-19:** Shoreland Zoning Application to replace an existing non-conforming residential structure with a new, larger residential structure and renovate an existing boathouse/garage, and associated site improvements. Property is located within the Suburban zoning district and Resource Protection and Limited Residential shoreland zoning districts.
 - Applicant: Chris Wilber
 - Property Owners: Chris and Jennifer Wilber

This application will also be included on the Planning Board's meeting agenda on Tuesday, November 10, at 7:00 PM.

OBITUARIES & NEWS

No obituaries were submitted for today's Portsmouth Herald.



Senate Majority Leader Mitch McConnell, R-Ky., arrives for a closed-door meeting with Senate Republicans, Friday on Capitol Hill in Washington. [J. SCOTT APPLEWHITE/THE ASSOCIATED PRESS]

Senate GOP marches ahead on Barrett over Democrats' blockade

By Lisa Mascaro and Mary Clare Jalonic
The Associated Press

WASHINGTON — The Senate is poised for a rare weekend session as Republicans race to put Amy Coney Barrett on the Supreme Court and cement a conservative majority before Election Day despite Democratic efforts to stall President Donald Trump's nominee.

Democrats mounted time-consuming procedural hurdles Friday, but the party has no realistic chance of stopping Barrett's advance in the Republican-controlled chamber. Barrett, a federal appeals court judge, is expected to be confirmed Monday and quickly join the court.

Senate Democratic leader Chuck Schumer of New York warned Republicans that they were making a "colossal and historic mistake."

Republicans appeared unmoved. In a lengthy speech, Senate Majority Leader Mitch McConnell praised Barrett as an "extraordinary" nominee and defended her quick confirmation. "We will give this nominee the vote she deserves no later than Monday," he said.

Barrett, 48, presented herself in public testimony before the Senate Judiciary Committee as a neutral arbiter of cases on abortion, the Affordable Care Act and presidential power — issues soon confronting the court. At one point she suggested, "It's not the law of Amy."

But Barrett's past writings against abortion and a ruling on the Obama-era health care law show a deeply conservative thinker.

Trump said this week he is hopeful the Supreme

Court will undo the health law when the justices take up a challenge Nov. 10, the week after the election.

The fast-track confirmation process is like none other in U.S. history so close to a presidential election.

Schumer called it the "least legitimate process in the country's history" as he forced procedural steps, including an unusual private Senate session, in hopes of changing Republicans' minds.

But Republicans quickly convened, then ended, the closed-door meeting, pushing forward. Sen. John Cornyn, R-Texas, dismissed the stall tactics as "frivolous."

At the start of Trump's presidency, McConnell engineered a Senate rules change to allow confirmation by a majority of the 100 senators, rather than the 60-vote threshold traditionally needed to advance high court nominees over objections. With a 53-47 GOP majority, Barrett's confirmation is almost certain.

Most Republicans are supporting Barrett's confirmation. Only Republican Sen. Susan Collins of Maine has said she won't vote for a nominee so close to the presidential election.

Another, Sen. Lisa Murkowski, R-Alaska, early on said she would prefer not to vote ahead of the election. But in a statement Thursday, Murkowski said now that the process is moving forward, the decision on whether to vote to confirm Barrett is one "each senator has to make on their own."

Republicans on the Judiciary Committee powered Barrett's nomination forward Thursday despite a boycott of the vote by Democrats.

Trump, Biden scrap on oil, virus with just over a week to go

By Steve Peoples, Will Weissert and Zeke Miller
The Associated Press

THE VILLAGES, Fla. — President Donald Trump and his allies fought for support in pivotal battleground states Friday after a debate performance that gave new hope to anxious Republicans. Democrat Joe Biden, campaigning close to home, tried to clean up a debate misstep while urging voters to stay focused on the president's inability to control the worsening pandemic.

The surge of activity with just 11 days remaining in the 2020 contest highlighted the candidates' divergent strategies, styles and policy prescriptions that are shaping the campaign's closing days. More than 52 million votes have already been cast, with an additional 100



President Donald Trump speaks Friday while on a phone call with leaders of Sudan and Israel in the Oval Office of the White House in Washington. [ALEX BRANDON/THE ASSOCIATED PRESS]

million or so expected before a winner is declared.

The coronavirus debate has pushed Trump onto the defensive for much of the fall, but for the moment it is Biden's team that has been forced to explain itself. In the final minutes of Thursday night's debate,

the former vice president said he supports a "transition" away from oil in the U.S. in favor of renewable energy. The campaign released a statement hours later declaring that he would phase out taxpayer subsidies for fossil fuel companies, not the industry altogether.

Biden also dispatched running mate Kamala Harris to help clarify his position as she campaigned in swing state Georgia.

"Let's be really clear about this: Joe Biden is not going to ban fracking," Harris said. "He is going to deal with the oil subsidies. You know, the president likes to take everything out of context. But let's be clear, what Joe was talking about was banning subsidies, but he will not ban fracking in America."

Biden said the same after the debate, but he did not address his energy policy in a speech Friday that focused on the coronavirus.

Trump repeatedly raised the energy issue at a rally at The Villages, a sprawling retirement community in Florida, where thousands of people gathered outdoors on a polo field. Most did not wear masks.

Washington state discovers first 'murder hornet' nest in US

By Nicholas K. Geranios
The Associated Press

SPOKANE, Wash. — Scientists in Washington state have discovered the first nest of so-called murder hornets in the United States and plan to wipe it out Saturday to protect native honeybees, officials said.

Workers with the state Agriculture Department spent weeks searching, trapping and using dental floss to tie tracking devices to Asian giant hornets, which can deliver painful stings to people and spit venom but are the biggest threat to honeybees that farmers depend on to pollinate crops.

"Ladies and gentlemen, we did it," agency spokeswoman Karla Salp said at a virtual

briefing. Bad weather delayed plans Friday to destroy the nest found in Blaine, a city north of Seattle.

The nest is about the size of a basketball and contains an estimated 100 to 200 hornets, according to scientists, who suspected it was in the area ever since the invasive insects began appearing late last year. Officials have said it's not known how they arrived in North America.

Despite their nickname and the hype that has stirred fears in an already bleak year, the world's largest hornets kill at most a few dozen people a year in Asian countries, and experts say it is probably far less. Meanwhile, hornets, wasps and bees typically found in the United States kill an average of 62 people a year, the

Centers for Disease Control and Prevention has said.

The real threat from Asian giant hornets — which are 2 inches long — is their devastating attacks on honeybees, which are already under siege from problems like mites, diseases, pesticides and loss of food.

A small group of the hornets can kill an entire honeybee hive in hours, and they have already destroyed six or seven hives in Washington state, officials said.

The nest was found after an Agriculture Department worker trapped two of the hornets Wednesday. Two more were captured Thursday, the agency said.

Using dental floss, "entomologists were able to attach radio trackers to three hornets,

the second of which led them to the discovery of the nest" Thursday, agriculture officials said.

It was about 300 yards from the traps in the cavity of a tree on private property, officials said. Dozens of the hornets were seen buzzing in and out of the tree about 7 or 8 feet above the ground. The owner is letting the state eradicate the nest and remove the tree.

The plan Saturday is to fill the cavity with foam and cover it with plastic wrap to prevent the hornets from escaping, said Sven-Erik Spichiger, an entomologist for the Agriculture Department. Then a tube will be inserted to vacuum up the hornets trapped inside and deposit them in a collection chamber, he said.

VIRUS

From Page A1

Congress St. business while potentially infectious. The potential community exposure came Thursday, Oct. 15 between 8 and 10 p.m.

As of late Friday afternoon, The Goat was open, but the Daniel Street Tavern appeared to be closed and no one was answering the phone.

Dover's La Festa closes temporarily: La Festa Brick & Brew Pizzeria announced on its website it has closed temporarily due to an employee testing positive for the virus.

"We are temporarily closed while we conduct staff-wide testing for Covid-19 due to one asymptomatic, part-time employee who had a routine test that came up positive," the announcement states. "That employee has had minimal interaction with the public and only limited interaction with co-workers but out of an abundance of caution we will be testing and cleaning for the next few days. We very much look forward to seeing you all soon."

The other restaurants on the list released by DHHS were The Draft Sports Bar and Grill of Concord (potential exposure dates Oct. 9-18), The Barley House Restaurant and Tavern of Concord (Oct. 12, 13, 14, 16) and Bantam Grill of Peterborough (bar area on afternoon and evening of Oct. 13).

DHHS stated it has conducted contact investigations on all cases associated with these



The Daniel Street Tavern in Portsmouth is one location announced by the state Department of Health and Human Services as a site of possible community exposure to COVID-19. [RICH BEAUCHESNE/SEACOASTONLINE]

potential community exposures and is notifying known close contacts directly. However, DHHS is making this public notification because there may be additional individuals at the location during those days and times who were exposed to the coronavirus.

Guidance for self-quarantine: [nh.gov/covid19/residents/documents/self-quarantine-covid.pdf](https://www.nh.gov/covid19/residents/documents/self-quarantine-covid.pdf)

Testing can be scheduled by calling (603) 271-5980 or through completing the online form at business.nh.gov/DOS_COVID19Testing. Other options can be found at [nh.gov/covid19/resources-guidance/testing-guidance.htm](https://www.nh.gov/covid19/resources-guidance/testing-guidance.htm).

Latest numbers

DHHS on Friday reported an additional COVID-19-related death, a Hillsborough County woman age 60 or older. It was the state's 471st death attributed to COVID-19.

DHHS also reported 120

new positive test results for COVID-19, for a daily PCR test positivity rate of 1.3%. Friday's results include 87 people who tested positive by PCR test and 33 who tested positive by antigen test.

There are now 896 current COVID-19 cases diagnosed in New Hampshire.

Of the newest cases with complete information, 14 people are under age 18. The new cases are in Rockingham (32), Merrimack (16), Hillsborough County other than Manchester and Nashua (14), Belknap (8), Strafford (8), Sullivan (3), Cheshire (2), Grafton (2), Carroll (1), and Coos (1) counties, and in Nashua (18) and Manchester (14). The county of residence is being determined for one new case.

No new hospitalized cases were reported and there are currently 15 individuals hospitalized. Since the start of the pandemic, there have been a total of 10,112 cases of COVID-19 diagnosed with 765 (7.6%) of those

having been hospitalized; 8,745 people have recovered among the diagnosed cases.

In the Seacoast, Portsmouth continues to have the most active cases at 26, followed by Durham (21), Dover (13), Exeter (12), Rochester (11), Hampton (7) and Newmarket and Stratham (5). The remaining Seacoast communities have zero to 4 active cases, according to DHHS.

Manchester has the state's most active cases at 103, followed by Nashua with 76.

UNH calendar

The University of New Hampshire is extending its winter break for a week but eliminating spring break in an effort to prevent the spread of the coronavirus.

UNH is sending students home for Thanksgiving and then conducting classes and final exams remotely in December. Classes will resume on campus Feb. 1, a week later than originally scheduled, UNH President James Dean said last week.

Given the extra-long break, officials decided to cancel spring break, but some shorter breaks are planned, he said. Some campus buildings also will be closed in December and January to save money on heating, but arrangements will be made for those who need to work on campus.

Dean said 201 staff members and 44 faculty members have accepted early retirement offers made as the university seeks to recover financially from the pandemic. Lost revenue, plus the cost of testing, cleaning and protective equipment have added up to tens of millions of dollars.

MARKET WATCH

Dow	28,335.57	▼ 28.09
Nasdaq	11,548.28	▲ 42.28
S&P	3,465.39	▲ 11.90
Russell	1,640.50	▲ 10.25
NYSE	13,199.86	▲ 53.94

COMMODITIES REVIEW

Gold	1,903.40	▼ 1.80
Silver	24.70	▲ 0.025
Platinum	908.60	▲ 1.90
Copper	3.14	▲ 0.014
Oil	39.78	▼ 0.07

MARKET MOVERS

• **Gilead Sciences Inc.:** Up 12 cents to \$60.79 — Regulators approved the company's antiviral medication remdesivir, the first drug to treat COVID-19.

• **Mattel Inc.:** Up \$1.23 to \$14.16 — The maker of Barbie and other toys reported earnings for the summer quarter that blew past analysts' forecasts.

Legal Notice Town of Eliot

SITE WALK MEETING NOTICE

AUTHORITY: Eliot, Maine Planning Board
PLACE: 41 Rogers Point Drive (Map 32/Lot 2)
DATE OF HEARING: Monday, November 9, 2020
TIME: 10:00 am

The Planning Board of the Town of Eliot, Maine, has scheduled a site walk for the following application on the above-referenced date:

• **41 Rogers Point Drive (Map 32/ Lot 2), PB20-19:** Shoreland Zoning Application to replace an existing non-conforming residential structure with a new, larger residential structure and renovate an existing boathouse/garage, and associated site improvements. Property is located within the Suburban zoning district and Resource Protection and Limited Residential shoreland zoning districts.

o Applicant: Chris Wilber

o Property Owners: Chris and Jennifer Wilber

This application will also be included on the Planning Board's meeting agenda on Tuesday, November 10, at 7:00 PM.

PM-00504223



500 foot Abutters List Report

Eliot, ME
October 26, 2020

Subject Property:

Parcel Number: 032-002-000
CAMA Number: 032-002-000
Property Address: 41 ROGERS POINT DR

Mailing Address: DYSART, MICHAEL G HESSE, PETRA W
361 HARVARD ST #8
CAMBRIDGE, MA 02138

Abutters:

Parcel Number: 032-001-000
CAMA Number: 032-001-000
Property Address: 25 ROGERS POINT DR

Mailing Address: LONGTIN, ROBERT A LONGTIN,
MELINDA M
25 ROGERS POINT
ELIOT, ME 03903

Parcel Number: 032-003-000
CAMA Number: 032-003-000
Property Address: 46 ROGERS POINT DR

Mailing Address: RAWLING, DANIEL T VACCARO,
ROBERT L
46 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-004-000
CAMA Number: 032-004-000
Property Address: 44 ROGERS POINT DR

Mailing Address: MATTHESON REALTY TRUST JOHN &
TRACY MATTHESON, TRUSTEES
42 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-006-000
CAMA Number: 032-006-000
Property Address: 42 ROGERS POINT DR

Mailing Address: MATTHESON, JOHN EGGLESTON, TRACY
42 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-007-000
CAMA Number: 032-007-000
Property Address: 38 ROGERS POINT DR

Mailing Address: OESER, STEPHEN A OESER, LORRAINE
P
38 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-008-000
CAMA Number: 032-008-000
Property Address: 36 ROGERS POINT DR

Mailing Address: HENDERSON, JEFFREY D
36 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-011-000
CAMA Number: 032-011-000
Property Address: 28 ROGERS POINT DR

Mailing Address: SCHUBERT, DAVID H SCHUBERT,
CATHRYN
28 ROGERS POINT DR
ELIOT, ME 03903

Parcel Number: 032-016-000
CAMA Number: 032-016-000
Property Address: 7 GRANDVIEW DR

Mailing Address: VISKER, ROBERT W VISKER, EGAN P
7 GRANDVIEW DR
ELIOT, ME 03903

Parcel Number: 033-009-000
CAMA Number: 033-009-000
Property Address: RIVER RD

Mailing Address: WATERS, JAMES J
488 RIVER RD
ELIOT, ME 03903

Parcel Number: 033-010-000
CAMA Number: 033-010-000
Property Address: 467 RIVER RD

Mailing Address: JORDAN, LUCILLE R REVOCABLE
TRUST LUCILLE R JORDAN TRUSTEE
467 RIVER RD
ELIOT, ME 03903



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
October 26, 2020

Parcel Number: 033-011-000 CAMA Number: 033-011-000 Property Address: 13 ROGERS POINT DR	Mailing Address: ROUX, STEPHEN R REVOCABLE TRUST STEPHEN R ROUX TRUSTEE 13 ROGERS POINT DR ELIOT, ME 03903
Parcel Number: 033-012-000 CAMA Number: 033-012-000 Property Address: ROGERS POINT DR	Mailing Address: ROUX, STEPHEN R REVOCABLE TRUST STEPHEN R ROUX, TRUSTEE 13 ROGERS POINT RD ELIOT, ME 03903
Parcel Number: 033-031-000 CAMA Number: 033-031-000 Property Address: GRANDVIEW DR	Mailing Address: REARDON, SANDRA J 502 LLOYD PL UNIT A BEL AIR, MD 21014-2342
Parcel Number: 033-032-000 CAMA Number: 033-032-000 Property Address: GRANDVIEW DR	Mailing Address: OLSEN, HARRIS L HRS OR DEVS C/O MIMI KWI SUN OLSEN 94-1025 ANANIA CT #56 MILILANI, HI 96789
Parcel Number: 033-033-000 CAMA Number: 033-033-000 Property Address: ROGERS POINT DR	Mailing Address: ROUX, STEPHEN R REVOCABLE TRUST STEPHEN R ROUX TRUSTEES 13 ROGERS POINT RD ELIOT, ME 03903
Parcel Number: 033-034-000 CAMA Number: 033-034-000 Property Address: 487 RIVER RD	Mailing Address: JORDAN, LUCILLE R REVOCABLE TRUST LUCILLE R JORDAN TRUSTEE 467 RIVER RD ELIOT, ME 03903



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.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM**

(For use with DEP Regulation, Natural Resources Protection Act - Permit by Rule Standards, Chapter 305)

APPLICANT INFORMATION (Owner)		AGENT INFORMATION (If Applying on Behalf of Owner)	
Name:	Chris Wilber	Name:	
Mailing Address:	PO Box 90	Mailing Address:	
Mailing Address:		Mailing Address:	
Town/State/Zip:	Eliot, ME 03903	Town/State/Zip:	
Daytime Phone #:	451-3940 Ext:	Daytime Phone #:	Ext:
Email Address:	chriswilberpls@gmail.com	Email Address:	
PROJECT INFORMATION			
Part of a larger project? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Project Town:	Eliot	Town Email Address:	planner@eliotme.org
Brief Project Description:	Structure removal and rebuild w/30% expansion per Town of Eliot Shoreland Zoning regulations		
Project Location & Brief Directions to Site:	41 Rogers Point Drive. From Marshwood Middle School, take Depot Road to State Road, Right on State, next left onto Governor Hill Road to River Road, Right of River 0.1 mile, left onto Rogers Point Drive.		

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work that meets the requirements for Permit-by-Rule (PBR) under DEP Rules, [Chapter 305](#). I and my agent(s), if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. (9) Utility Crossing | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (17) Transfer/Permit Extension |
| <input checked="" type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (11) State Transportation Facilities | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input checked="" type="checkbox"/> Sec. (6) Movement of Rocks or Veg. | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (19) Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (13) F&W Creat./Water Qual. Improv. | <input type="checkbox"/> Sec. (20) Act. Near Waterfowl/Bird Habitat |
| <input type="checkbox"/> Sec. (8) Shoreline Stabilization | <input type="checkbox"/> Sec. (15) Public Boat Ramps | |

NOTE: Municipal permits also may be required. Contact your local code enforcement office for information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS AND FEE

- Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
- Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
- Attach** Proof of Legal Name if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's registration information (available at <http://icrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>). Individuals and municipalities are not required to provide any proof of identity.

FEE: Pay by credit card at the [Payment Portal](#). The Permit-by-Rule fee may be found here <https://www.maine.gov/dep/feeschedule.pdf> and is currently \$250.

- Attach** payment confirmation from the Payment Portal when filing this notification form.

Signature & Certification:

- I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules.
- I understand that this PBR becomes effective 14 calendar days after receipt by the Department of this completed form, the required submissions, and fee, *unless the Department approves or denies the PBR prior to that date.*

By signing this Notification Form, I represent that the project meets all applicability requirements and standards in Chapter 305 rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.

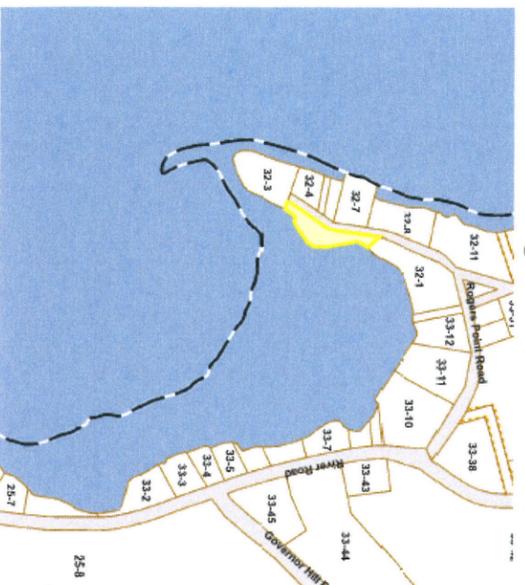
Signature of Agent or Applicant (may be typed):		Date:	9/27/20
---	---	-------	---------

Keep a copy as a record of permit. Email this completed form with attachments to DEP at: DEP.PBRNotification@maine.gov. DEP will send a copy to the Town Office as evidence of DEP's receipt of notification. No further authorization will be issued by DEP after receipt of notice. A PBR is valid for two years, except Section 4, "Replacement of Structures," are valid for three years. **Work carried out in violation of the Natural Resources Protection Act or any provision in Chapter 305 is subject to enforcement.**

41 Rogers Point Drive, Eliot, Me

Fast Facts

- Tax Map 32 LOT 2
- Current Owner:
 - Michael Dysart & Petra Hesse
- Assessment -\$289,000 (2015)
- Purchase Price \$240,000
- Area-0.32 Acres
- Water Frontage-320' +/-
- Structures-
 - 1- Bedroom, 1 Bath Camp
 - 1-2 story boathouse/barn
 - Town Approved Septic System
 - Drilled Well (Shared)
 - Grandfathered Dock
 - 2 ton mooring



Note: This prospectus has been prepared for financing purposes using public data and is not the result of a comparable sales appraisal by a Maine Licensed Real Estate Appraiser

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

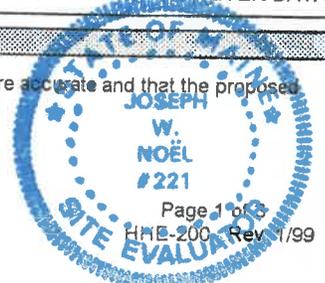
Maine Department of Human Services
Division of Health Engineering, Station 10
(207) 287-6672 FAX (207) 287-4172

PROPERTY LOCATION		>> Caution: Permit Required -- Attach in Space Below <<	
City, Town, or Plantation	ELIOT	ELIOT Date Permit Issued: <u>3/20/01</u> \$ <u>11210</u> FEE <input type="checkbox"/> if Double Fee Charged L.P.I. # <u>179</u> _____ Local Plumbing Inspector Signature	1935 TOWN COPY Municipal Tax Map # <u>32</u> Lot # <u>2</u>
Street or Road	15 ROGER'S POINT DRIVE		
Subdivision, Lot #			
OWNER/APPLICANT INFORMATION			
Name (last, first, MI)	<u>DE SHAR, MICHAEL</u> Owner <u>BOROWSKI CARL</u> Applicant		
Mailing Address of	15 ROGER'S POINT DRIVE ELIOT, MAINE 03903		
Daytime Tel. #	(207) 439-2234		
Owner or Applicant Statement		Caution: Inspections Required	
I state that the information submitted is correct to the best of my knowledge and understand that any falsification is reason for the Department and/or Local Plumbing Inspector to deny a Permit. _____ Signature of Owner or Applicant		I have inspected the installation authorized above and found it to be in compliance with the Subsurface Wastewater Disposal Rules Application. _____ Local Plumbing Inspector Signature	
		(1st) Date Approved <u>4/25/01</u> (2nd) Date Approved _____	

PERMIT INFORMATION		
TYPE OF APPLICATION 1. <input type="checkbox"/> First Time System 2. <input checked="" type="checkbox"/> Replacement System Type Replaced: <u>TANK & PIT</u> Year Installed: <u>??</u> 3. <input type="checkbox"/> Expanded System a. <input type="checkbox"/> One-time exempted b. <input type="checkbox"/> Non-exempted 4. <input type="checkbox"/> Experimental System 5. <input type="checkbox"/> Seasonal Conversion	THIS APPLICATION REQUIRES 1. <input type="checkbox"/> No Rule Variance 2. <input type="checkbox"/> First Time System Variance a. <input type="checkbox"/> Local Plumbing Inspector Approval b. <input type="checkbox"/> State & Local Plumbing Inspector Approval 3. Replacement System Variance a. <input type="checkbox"/> Local Plumbing Inspector Approval b. <input type="checkbox"/> State & Local Plumbing Inspector Approval 4. <input type="checkbox"/> Minimum Lot Size Variance 5. <input type="checkbox"/> Seasonal Conversion Approval	DISPOSAL SYSTEM COMPONENT(S) 1. <input checked="" type="checkbox"/> Complete Non-engineered System 2. <input type="checkbox"/> Primitive System (graywater & alt toilet) 3. <input type="checkbox"/> Alternative Toilet, specify: _____ 4. <input type="checkbox"/> Non-Engineered Treatment Tank (only) 5. <input type="checkbox"/> Holding Tank, _____ gallons 6. <input type="checkbox"/> Non-engineered Disposal Field (only) 7. <input type="checkbox"/> Separated Laundry System 8. <input type="checkbox"/> Complete Engineered System (2000 gpd or more) 9. <input type="checkbox"/> Engineered Treatment Tank (only) 10. <input type="checkbox"/> Engineered Disposal Field (only) 11. <input type="checkbox"/> Pre-treatment, specify: _____ 12. <input type="checkbox"/> Miscellaneous components
SIZE OF PROPERTY <u>~ 8,000</u> sq. ft. <input checked="" type="checkbox"/> _____ acres <input type="checkbox"/>	DISPOSAL SYSTEM TO SERVE 1. <input checked="" type="checkbox"/> Single Family Dwelling Unit, No. of Bedrooms: <u>2</u> 2. <input type="checkbox"/> Multiple Family Dwelling, No. of Units: _____ 3. <input type="checkbox"/> Other: _____ SPECIFY _____	TYPE OF WATER SUPPLY 1. <input checked="" type="checkbox"/> Drilled Well 2. <input type="checkbox"/> Dug Well 3. <input type="checkbox"/> Private 4. <input type="checkbox"/> Public 5. <input type="checkbox"/> Other: _____
SHORELAND ZONING <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)			
TREATMENT TANK 1. <input checked="" type="checkbox"/> Concrete a. <input checked="" type="checkbox"/> Regular b. <input type="checkbox"/> Low Profile 2. <input type="checkbox"/> Plastic 3. <input type="checkbox"/> Other: _____ CAPACITY <u>1000</u> gallons W/ ZAPREL OUTLET FILTER	DISPOSAL FIELD TYPE & SIZE 1. <input type="checkbox"/> Stone Bed 2. <input type="checkbox"/> Stone Trench 3. <input checked="" type="checkbox"/> Proprietary Device a. <input type="checkbox"/> Cluster array c. <input checked="" type="checkbox"/> Linear b. <input type="checkbox"/> Regular load d. <input type="checkbox"/> H-20 load 4. <input type="checkbox"/> Other: _____ SIZE <u>100</u> sq. ft. <input type="checkbox"/> lin. ft. <u>10" DIA. GEP-FLOW PIPE</u>	GARBAGE DISPOSAL UNIT 1. <input checked="" type="checkbox"/> No 3. <input type="checkbox"/> Maybe 2. <input type="checkbox"/> Yes >> Specify one below: a. <input type="checkbox"/> Multi-compartment Tank b. <input type="checkbox"/> Tanks in Series c. <input type="checkbox"/> Increase in Tank Capacity d. <input type="checkbox"/> Filter on Tank Outlet	DESIGN FLOW <u>180</u> gallons per day BASED ON: 1. <input checked="" type="checkbox"/> Table 501.1 (dwelling unit(s)) 2. <input type="checkbox"/> Table 501.2 (other facilities) SHOW CALCULATIONS -- for other facilities -- 3. <input type="checkbox"/> Section 503.0 (meter readings) ATTACH WATER-METER DATA
SOIL DATA & DESIGN CLASS PROFILE CONDITION DESIGN <u>5 / C / 2</u> at Observation Hole # <u>TD1</u> Depth <u>45</u> " Elevation <u>-100</u> " OF MOST LIMITING SOIL FACTOR	DISPOSAL FIELD SIZING 1. <input type="checkbox"/> Small -- 2.0 sq. ft./gpd 2. <input checked="" type="checkbox"/> Medium -- 2.6 sq. ft./gpd 3. <input type="checkbox"/> Medium-Large -- 3.3 sq. ft./gpd 4. <input type="checkbox"/> Large -- 4.1 sq. ft./gpd 5. <input type="checkbox"/> Extra Large -- 5.0 sq. ft./gpd	PUMPING 1. <input checked="" type="checkbox"/> Not Required 2. <input type="checkbox"/> May Be Required 3. <input type="checkbox"/> Required >> Specify only for engineered or experimental systems: DOSE: _____ gallons	

SITE EVALUATOR STATEMENT		
I Certify that on <u>3/23/2000</u> (date) I completed a site evaluation on this property and state that the data reported are accurate and that the proposed system is in compliance with the State of Maine Subsurface Wastewater Disposal Rules (10-144A CMR 241).		
_____ Site Evaluator Signature	_____ SE #	_____ Date
JOSEPH W. NOEL Site Evaluator Name Printed		
(207) 384-5587 Telephone #		
J.W.N # 00-1630		



SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering
(207) 287-5672 FAX (207) 287-4172

Town, City, Plantation
ELIOT

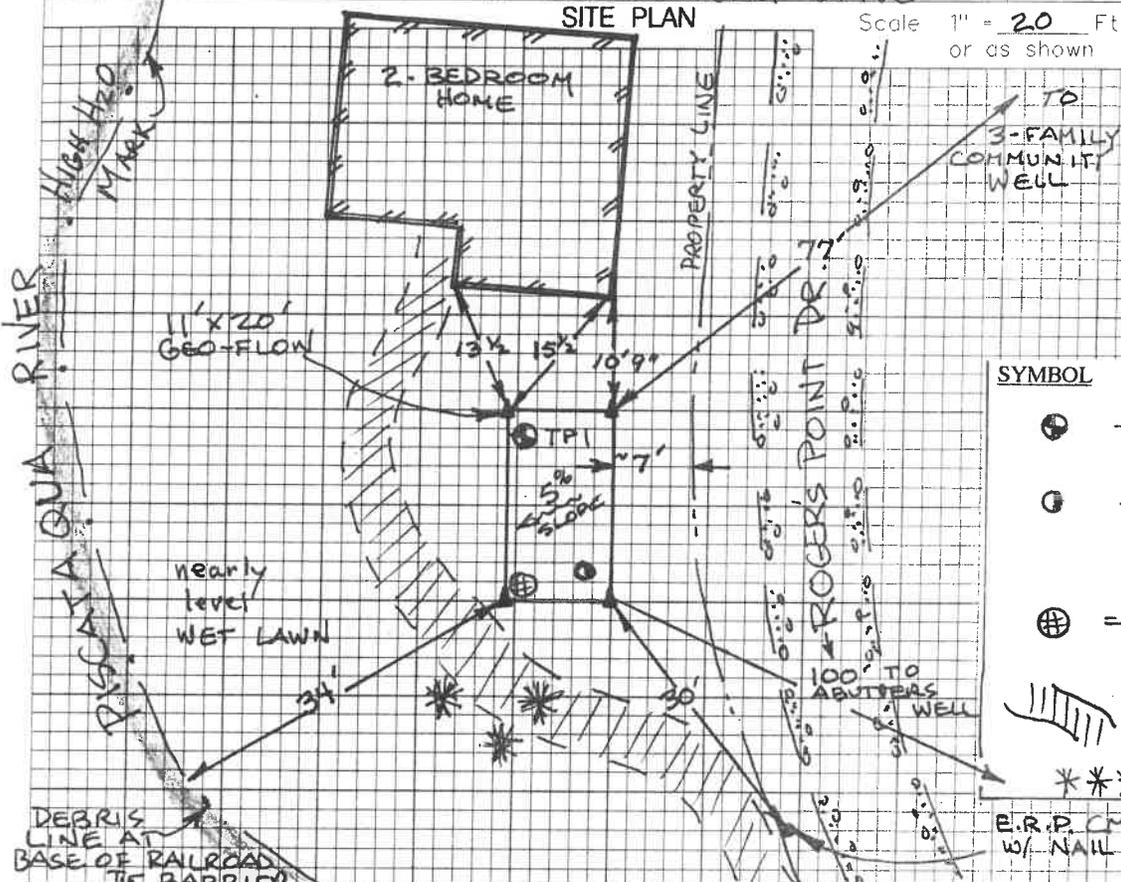
Street, Road Subdivision
15 ROGER'S POINT DRIVE

Owner's Name
BOROWSKI

SITE PLAN

Scale 1" = 20 Ft.
or as shown

SITE LOCATION PLAN



SYMBOL

NOTE

- = Test Pit (hand excavated)
- = Abandoned well filled with debris. To be dug out and filled with clean sand.
- = Existing tank - leach pit. To be dug out and replaced with clean backfill.
- = Short steep slope.
- = *** = 24" diameter white pines.

E.R.P. CMP POLE 74
w/ NAIL 34" UP.

SOIL DESCRIPTION AND CLASSIFICATION

(Location of Observation Holes Shown Above)

Observation Hole TP Test Pit Boring
1" Depth of Organic Horizon Above Mineral Soil

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

Texture	Consistency	Color	Mottling
SANDY LOAM	FRIABLE	DARK BROWN	NONE
SANDY LOAM TO LOAMY FINE SAND		YELLOWISH BROWN	
LOAMY FINE SAND		LIGHT OLIVE BROWN	

Soil Classification: Profile 5 Condition C Slope 5% Limiting Factor 45"

Ground Water
 Restrictive Layer
 Bedrock
 Pit Depth

Information provided by the client or the client's representative concerning property lines, wells, existing underground utilities, zoning information, etc., is accepted in good faith as being correct by the site evaluator. The site evaluator accepts no responsibility for the veracity of such information.

Texture	Consistency	Color	Mottling

Soil Classification: Profile _____ Condition _____ Slope _____ % Limiting Factor _____ " Ground Water Restrictive Layer Bedrock Pit Depth

Joseph W. Nail
Site Evaluator Signature

221

SE #

4/1/00
Date

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering
(207) 287-5672 FAX (207) 287-4172

Town, City, Plantation
ELIOT

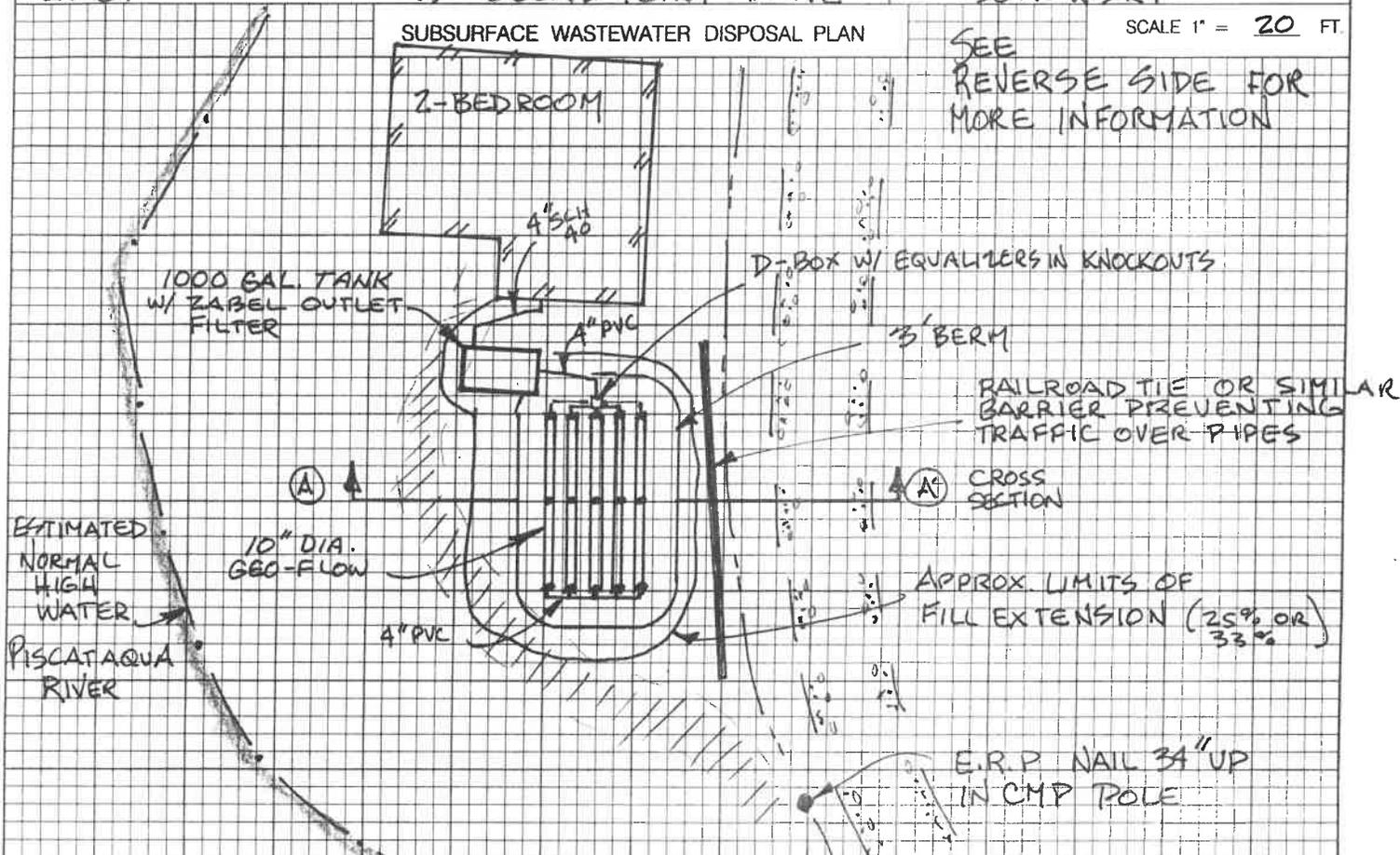
Street, Road, Subdivision
15 ROGERS POINT DRIVE

Owner's Name
BOROWSKI

SCALE 1" = 20 FT.

SUBSURFACE WASTEWATER DISPOSAL PLAN

SEE REVERSE SIDE FOR MORE INFORMATION



FILL REQUIREMENTS

CONSTRUCTION ELEVATIONS

ELEVATION REFERENCE POINT

Depth of Fill (Upslope) ~4"
Depth of Fill (Downslope) ~10"

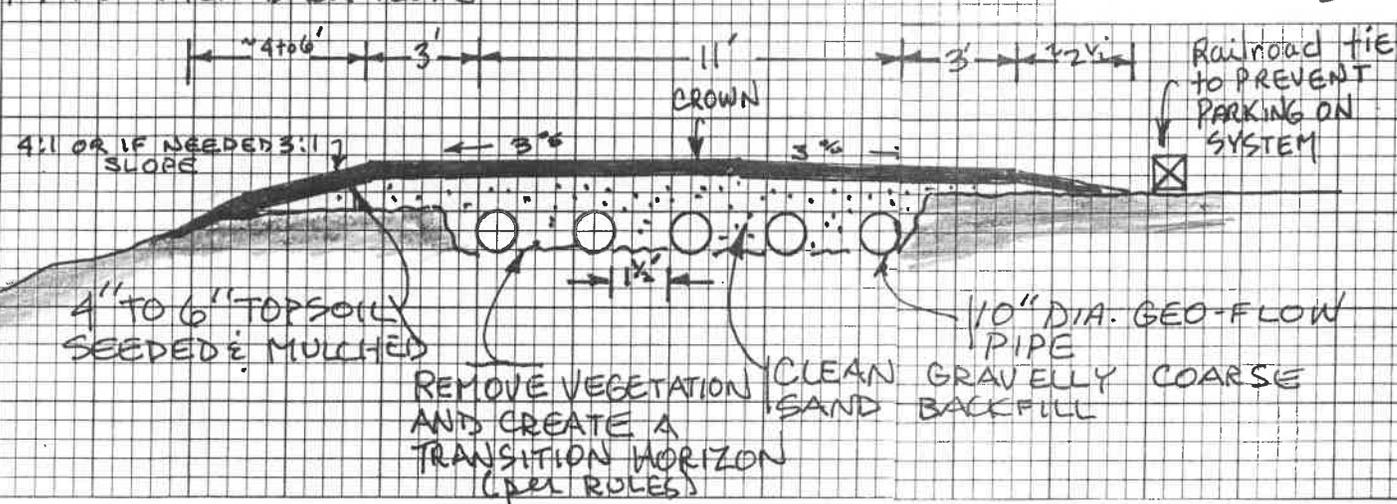
Finished Grade Elevation -52"
Top of Distribution Pipe or Proprietary Device -64"
Bottom of Disposal Area -76"

Location & Description SHOWN ABOVE
Reference Elevation NAIL=0"

DO NOT DRIVE OVER PIPING WHEN BACKFILLING

DISPOSAL AREA CROSS SECTION SECTION A-A'

SCALE:
VERTICAL: 1" = 5'
HORIZONTAL: 1" = 5'



Joseph W. Stiel
Site Evaluator Signature

221
SE #

4/1/00
Date

NOTES

The most recent revision of the Maine Subsurface Wastewater Disposal Rules ("Rules") is hereby made a part of this HHE-200 Form and shall be consulted by the disposal system installer for further construction details, material specifications, cautions and other related details pertinent to the installation of this disposal system.

As this application pertains only to the "rules" referenced above, the owner/applicant must check both local and state ordinances and regulations regarding other building regulations (i.e., zoning, wetlands, building codes, minimum lot size, etc.) before considering this an approved suitable site.

All information shown on this application relating to property lines and subsurface structures (such as but not limited to: water lines, septic tanks, cess pools, cellar drains, utility lines, etc.) are noted, plotted or left off as not affecting the system based on information provided by the owner or his agent. It is the responsibility of the owner or his agent to confirm BEFORE CONSTRUCTION BEGINS, the above and/or any other feature which may affect (or be adversely affected by) the installation of this system.

Construction details Chapter 8 of the "Rules" shall be consulted and include: (A) The vegetation in the proposed disposal area and fill extensions shall be removed and the ground surface scarified (rotor tilled with backfill material) to minimize glazing of the original soil. (B) The bottom of the disposal area and distribution line, shall be level with a maximum grade tolerance of 1 inch per 100 feet. (C) Fill shall be clean, gravelly, coarse sand, free of foreign material, placed in 8 inch lifts. (D) The finished grade of the backfill over the disposal areas shall extend 3 to 5 feet beyond the edge of the disposal area. At that point, the fill shall be sloped at a uniform grade of no greater than 25% (4:1) to the original ground. (E) The land adjacent to the disposal area shall be graded to prevent both the accumulation of surface water on the disposal area, and the flow of surface water across the disposal area. (F) The finished disposal areas and fill extensions shall be seeded to prevent erosion: (a) grass, clover, trefoil, vetch, perennial wildflowers, or other herbaceous perennials may be utilized for disposal area surfaces. Woody shrubs are unacceptable. (b) Woody shrubs in conjunction with hardy perennial ground clover, may be used on fill extensions only.

When a gravity system is proposed, BEFORE CONSTRUCTION BEGINS, the disposal system installer and building contractor shall review the relative elevation of all points given on this HHE-200 Form and the elevation of the existing or proposed building drain and septic tank openings for compatibility to the minimum code pitch requirements. Any questions that arise should be directed to the local plumbing inspector or myself. When a pump system is installed, provisions shall be made to keep the tank and lift station outlets above the high water table. An alarm device warning of pump failure is required. At present, venting of pumped systems is optional.

If the use of a laundry machine becomes excessive, a separate laundry bed should be designed and installed. A lint catching device should be installed for the washing machine (if it doesn't have one) and cleaned frequently. A distribution box has been shown in the design and is intended to offer an inspection port whereby the owner can check for excessive lint or grease build-up before damage to the system is done. Inspection should be frequent. This system has not been designed or sized to accommodate a garbage disposal. If one is to be used, you must first notify me so that I can increase the disposal size and septic tank capacity.

The actual water flow and/or number of bedrooms shall not exceed the design criteria indicated on this HHE-200 Form without a re-evaluation of the system.

The setback distance between a well and disposal system serving a single family residence is 100 feet. The location of a new well that is within 100 feet of the proposed system may void this design. For additional setback information and variances to these setbacks, see Chapter 7 of the "Rules".

All Construction shall be inspected by the local plumbing inspector (LPI) prior to backfilling. Backfill material shall comply with Chapter 8 of the "Rules".

THE SEPTIC TANK SHALL BE PUMPED WITHIN TWO YEARS OF INSTALLATION and subsequently as recommended by the pump service, but in no case shall the septic tank be pumped less often than once every three years (the tank should be pumped when the sludge or scum occupies one-third of the tank's liquid capacity - Chapter 9). Avoid introducing kitchen grease into the septic system. No septic tank degreasers or cleaners, chlorine, water softening system chemicals, paints, hazardous or controlled substances shall be disposed of in the system. No chemicals other than normal household cleaners shall be disposed of in the disposal field (Chapter 2 section 204.2).

If the owner or installer has any questions, please do not hesitate to call at 384-5587.

REPLACEMENT SYSTEM VARIANCE REQUEST

THE LIMITATIONS OF THE REPLACEMENT SYSTEM VARIANCE REQUEST

This form shall be attached to an application (HHE-200) for the proposed replacement system which requires a variance to the Rules. The LPI shall review the Replacement System Variance Request an HHE-200 and may approve the Request if all of the following requirements can be met, and the variance(s) requested fall within the limits of LPI's authority.

1. The proposed design meets the definition of a Replacement System as defined in the Rules (Sec. 1903)
2. There will be no change in use of the structure except as authorized for one-time exempted expansions outside the shoreland zone of major waterbodies/courses.
3. The replacement system is determined by the Site Evaluator and LPI to be the most practical method to treat and dispose of the wastewater.
4. The BOD₅ plus S.S. content of the wastewater is no greater than that of normal domestic effluent.

GENERAL INFORMATION

Town of ELIOT

Permit No. _____

Date Permit Issued _____

Property Owner's Name: CARL BOROWSKI

Tel. No.: (207) 439-2234

System's Location: 15 ROGER'S POINT DRIVE

Property Owner's Address: (same)

(if different from above) _____

SPECIFIC INSTRUCTIONS TO THE: LOCAL PLUMBING INSPECTOR (LPI):

If any of the variances exceed your approval authority and/or do not meet all of the requirements listed under the Limitations Section above, then you are to send this Replacement System Variance Request, along with the Application, to the Department for review and approval consideration before issuing a Permit. (See reverse side for Comments Section and your signature.)

SITE EVALUATOR:

If after completing the Application, you find that a variance for the proposed replacement system is needed, complete the Replacement Variance Request with your signature on reverse side of form.

PROPERTY OWNER:

If has been determined by the Site Evaluator that a variance to the Rules is required for the proposed replacement system. This variance request is due to physical limitations of the site and/or soil conditions. Both the Site Evaluator and the LPI have considered the site/soil restrictions and have concluded that a replacement system in total compliance with the Rules is not possible.

PROPERTY OWNER

I understand that the proposed system requires a variance to the Rules. Should the proposed system malfunction, I release all concerned provided they have performed their duties in a reasonable and proper manner, and I will promptly notify the Local Plumbing Inspector and make any corrections required by the Rules. By signing the variance request form, I acknowledge permission for representatives of the Department to enter onto the property to perform such duties as may be necessary to evaluate the variance request.

Carl Borowski
SIGNATURE OF OWNER

4 April 2000
DATE

LOCAL PLUMBING INSPECTOR

I, Richard Mabe, the undersigned, have visited the above property and have determined to the best of my knowledge that it cannot be installed in compliance with the Rules. As a result of my review of the Replacement Variance Request, the Application, and my on-site investigation, I (check and complete either a or b):

a. approve, disapprove) the variance request based on my authority to grant this variance. Note: If the LPI does not give his approval, he shall list his reasons for denial in Comments Section below and return to the applicant. —OR—

b. find that one or more of the requested Variances exceeds my approval authority as LPI. I (recommend, do not recommend) the Department's approval of the variances. Note: If the LPI does not recommend the Department's approval, she shall state his reasons in Comments Section below as to why the proposed replacement system is not being recommended.

Comments: _____

Jim Barkley
LPI SIGNATURE

5/9/00
DATE

Replacement System Variance Request

VARIANCE CATEGORY	VARIANCE REQUESTED		LIMIT OF LPI'S APPROVAL AUTHORITY		VARIANCE REQUESTED TO:	
SOILS						
Soil Profile	Ground Water Table		to 7"		inches	
Soil Condition	Restrictive Layer		to 7"		inches	
from HHE-200	Bedrock		to 12"		inches	
SETBACK DISTANCES (in feet)						
From	Disposal Fields		Septic Tanks		Disposal Fields	Septic Tanks
	Less than 1000 gpd	1000 to 2000 gpd	Less Than 1000 gpd	1000 to 2000 gpd	To	To
Wells with water usage of 2000 or more gpd	300 ^a ft	300 ft	100 ^a ft	100 ^a ft		
Owner's wells	100 down to 50 ft	200 down to 100 ft	100 ^b down to 50 ft	100 down to 50 ft	77'	~ 85'
Neighbor's wells	100 ^b down to 60 ft	200 ^b down to 120 ft	100 ^b down to 50 ft	100 ^b down to 75 ft		
Water supply line	10 ft ^a	20 ft ^a	10 ft ^a	10 ft ^a		
Water course, major - for replacements only, see Table 400.4 for exempted expansions	100 down to 60 ft	200 down to 120 ft	100 down to 50 ft	100 down to 50 ft	34'	~ 34'
Water course, minor	50 down to 25 ft	100 down to 50 ft	50 down to 25 ft	50 down to 25 ft		
Drainage ditches	25 down to 12 ft	50 down to 25 ft	25 down to 12 ft	25 down to 12 ft		
Coastal wetlands, special freshwater wetlands, great ponds, rivers, streams (edge of fill extension)	25 ft ^d	25 ft ^d	25 ft ^d	25 ft ^d		
Slopes greater than 3:1	10 ft	18 ft	N/A	N/A		
No full basement [e.g. slab, frost wall, columns]	15 down to 7 ft	30 down to 15 ft	8 down to 5 ft	14 down to 7 ft		
Full basement [below grade foundation]	20 down to 10 ft	30 down to 15 ft	8 down to 5 ft	14 down to 7 ft	10'	~ 5'
Property lines	10 down to 5 ^c ft	18 ft down to 9 ^c ft	10 ft down to 4 ^c ft	15 ft down to 7 ^c ft	~ 7'	
Burial sites or graveyards, measured from the down toe of the fill extension	25 ft	25 ft	25 ft	25 ft		

OTHER

1. Fill extension Grade - to 3:1 (WHERE NEEDED)

2.

3.

Footnotes:

- a. This setback distance cannot be reduced by the LPI, but may be considered for reduction by State variance.
- b. Written Permission from the owner of a well is required when a replacement system will be located less than 100 (or 200 ft. for 1000-2000 gpd) feet and closer to that well than the system it is replacing.
- c. Sufficient distance shall be maintained to assure that the toe of the fill does not extend to the 3:1 slope or property line.
- d. Natural Resources Protection Act requires a 25 foot setback on slopes with less than 20% from the edge of disturbance and 100 feet on slopes greater than 20% except for the repair or installation of a replacement system when no practical alternative exists.

Joseph W. Nail

SITE EVALUATOR'S SIGNATURE

4/1/00
DATE

FOR USE BY THE DEPARTMENT ONLY

The Department has reviewed the variance(s) and (does does not) give its approval. Any additional requirements, recommendations, or reasons for the Variance denial, are given in the attached letter.

SIGNATURE OF THE DEPARTMENT

DATE



STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
DIVISION OF HEALTH ENGINEERING
10 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0010

ANGUS S. KING, JR.
GOVERNOR

KEVIN W. CONCANNON
COMMISSIONER

June 5, 2000

Carl Borowski
15 Roger's Point Drive
Eliot ME 03903

Subject: Approval, Replacement System Variance Request, Borowski property, Roger's Point Drive, Eliot

Dear Mr. Borowski:

The Division has reviewed a Replacement System Variance Request for the subject property. The state variances requested are to allow the installation of a subsurface wastewater disposal system with setback reductions of 34 feet each disposal field and septic tank to a major watercourse. The system design prepared by Joseph Noel, SE, dated 4-1-00, is found to be in compliance with the Maine Subsurface Wastewater Disposal Rules.

We approve the requested variances with the following requirements:

1. A permit for system installation is to be obtained from the Local Plumbing Inspector in advance of the start of system construction.
2. The system is to be installed in accordance with the submitted and approved system design. Should alterations be required at the time of system installation, the system designer must be notified prior to making any changes.
3. The variance approval is based only on the rules administered by this department. The approval of the variance request does not relieve the property owner from compliance with all other state and local requirements pertaining to the installation, use, and operation of the wastewater disposal system.

By accepting this approval and the associated plumbing permit, the owner agrees to comply fully with the conditions of approval and the Subsurface Wastewater Disposal Rules.

Because installation and owner maintenance has a significant effect on the working order of onsite sewage disposal systems, including their components, the Division makes no representation or guarantee as to the efficiency and/or operation of the system.

Should you or others have any questions regarding this review and/or approval, please feel free to contact me at 287-5687.

Sincerely,

Linda S. Robinson
Wastewater & Plumbing Control Program
Division of Health Engineering
e-mail: linda.robinson@state.me.us

/lsr
cc: Richard Mabey, LPI
Joseph Noel, SE



Maine DEP Section 305ss2B(1)

41 Rogers Point

Photos-Looking northerly toward property:



Looking Easterly



Looking Westerly



Looking Southerly





STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Permit-by-Rule & Notice of Intent Review Form

Natural Resources Protection Act
Stormwater Management Law
Maine Construction General Permit

PBR #
PBR #
NOI #

Applicant:
Project Address:

Town:
Tax Map/Lot #:

NRPA PBR Sections – Ch. 305

- | | | |
|---|--|---|
| <input type="checkbox"/> Sec. 2 Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. 9 Utility Crossing | <input type="checkbox"/> Sec. 16 Coastal Sand Dune Project |
| <input type="checkbox"/> Sec. 3 Intake Pipes | <input type="checkbox"/> Sec. 10 Stream Crossing | <input type="checkbox"/> Sec. 17 Transfer/Permit Extension |
| <input type="checkbox"/> Sec. 4 Replacement of Structures | <input type="checkbox"/> Sec. 11 State Transport. Facilities | <input type="checkbox"/> Sec. 18 Maintenance Dredging |
| <input type="checkbox"/> Sec. 6 Movement of Rocks or Veg. | <input type="checkbox"/> Sec. 12 Restoration Natural Areas | <input type="checkbox"/> Sec. 19 Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. 7 Outfall Pipes | <input type="checkbox"/> Sec. 13 F&W Creat./Water Quality | <input type="checkbox"/> Sec. 20 Act. Near Waterfowl/Bird Habitat |
| <input type="checkbox"/> Sec. 8 Shoreline Stabilization | <input type="checkbox"/> Sec. 15 Public Boat Ramps | |

Notes:

Reviewer:
Reviewer:

Deficient Date:
Accepted Date:

NRPA SW NOI
 NRPA SW NOI



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
Dana Lee, Town Manager

From: Jeff Brubaker, AICP, Town Planner

Cc: Wendy Rawski, Town Clerk
Melissa Albert, General Assistance Administrator
Shelly Bishop, Code Enforcement Officer
Kearsten Metz, Land Use Administrative Assistant
Philip Saucier, Bernstein Shur, Legal Counsel

Date: October 29, 2020

Re: June 2021 Ordinance Amendments

The following table includes a working list and status of land use ordinance amendments proposed for the June 2021 ballot. In addition to these amendments, the 2022 Growth Permits allocation will also need to go on the same ballot. This table does not necessarily include all proposed June 2021 Town Code amendments – only those that affect Subpart B (land use regulations) of the Town Code. Many of these amendments are in development and will benefit from continued input and review, as necessary, from the Planning Board, Select Board, other boards and committees, staff, Town legal counsel, and the public as they move toward being finalized for the June 2021 ballot.

Ordinance amendment	Purpose/summary	Status
Marijuana licensing and land use regulations	Consolidate land use regulations for medical and adult use marijuana while improving and expanding performance standards; better define various medical marijuana uses under the term “medical marijuana establishment”; bring medical marijuana establishments under Chapter 11 licensing requirements; ensure consistency with state law; and improve the clarity of marijuana land use regulations.	Discussion drafts reviewed by PB 8-18-20; 9-29-20 Updated draft in-progress; anticipated to come back to PB for review in December
Variances	Make changes based on Board of Appeals recommendations for variances and waivers; eliminate BOA and CEO waiver provisions inconsistent with state law; define and apply variance types consistent with state law	Discussion draft reviewed by PB 9-29-20 Draft, with minor updates, to be reviewed by BOA on 11-19-20
Auto graveyards, auto recycling businesses, auto	Modify auto graveyard and junkyard definitions, and add a new auto hobbyist definition, consistent with state law; add auto hobbyist storage area as an SPR use in certain zoning districts while prohibiting it in others; add new land	Draft in progress; staff internal review to be followed by request for PB, SB,

hobbyists, and junkyards	use performance standards for said auto uses in Ch. 45; create rules in Ch. 16 for operating permits for auto graveyards and auto recycling businesses (with the land use table continuing to prohibit junkyards throughout town and continuing to substantially restrict permissible locations of auto graveyards and auto recycling businesses).	and other committee (as necessary)
Home occupations and home businesses	Make minor changes to allow home occupations in the C/I district; improve the clarity of 45-456.1(h)(2) regarding on-site sales of merchandise and products by a home business that are not homemade but are “customarily incidental” to the home business’s products or services.	Not yet started.
Firearms sales businesses	Update Sec. 45-290 land use table to restrict firearms sales businesses to C/I zoning district.	Not yet started.
Post-construction stormwater management	Make minor changes to Ch. 35 based on recommendations from the Southern Maine Stormwater Working Group (SMSWG) and the Town’s stormwater consultant	Not yet started.
Planning Board/Code Enforcement Fees	Update Section 1-25 as needed.	Not yet started.
2022 Growth Permits	(Non-ordinance) Propose 2022 growth permit allocation for voter consideration, accompanied by annual report.	Not yet started.

1) GENERAL PROVISIONS

- a) Business of the Board shall be conducted in accordance with Maine State Statutes, the most recent edition of The Town of Eliot Charter, Town Ordinances, as well as such Planning Board Standards or Policies as may be adopted by the Board.
- b) The Planning Board pledges to maintain professional conduct in the review of all proposals before it, and all other business deliberations.
 - i) All proposals shall be examined equally and equitably.
- c) Any question of whether a Member shall be disqualified from voting on a particular matter due to bias or conflict of interest must be decided by a majority vote of the Members present except the Member who is being challenged.
 - i) Any Member of the Planning Board who has a conflict of interest or bias with an application may voluntarily step down.
 - ii) If there is a question of a conflict of interest or bias brought by another Member of the Board, the applicant, or the public, that Member may be asked to step down after discussion and a majority vote by all Members, except the Member whose potential conflict or bias is under consideration.
- d) Those Board Members in attendance at meetings shall be expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.
- e) The most current edition of Robert's Rules of Order shall be the authority for making parliamentary decisions.
- f) The Minutes of Meetings and all writings required to be made by the Board may be kept by a professional secretary who is not a Member of the Board.
 - i) The Board reviews and approves minutes before submitted to the Town Clerk's Office.
 - ii) Originals of all Minutes of Meetings shall be filed with the Town Clerk.
- g) All records shall be deemed public and may be inspected at reasonable times.

2) MEMBERSHIP

- a) Appointments
 - i) Appointments to the Board shall be made by the Select Board of the Town of Eliot.
 - ii) Appointees to the Board shall be at least eighteen (18) years of age and legal residents of Eliot.
 - iii) The Board shall consist of five (5) Regular Members and two (2) Alternative Members.
 - iv) When there is permanent vacancy, the Select Board shall appoint a person to serve for the remainder of the term pursuant to the Eliot Charter.
 - v) The full term is five (5) years. The terms are staggered, but each full-term slot expires at Town Meeting.
 - vi) Any resignation by a Board member must be submitted in writing to the Select Board, and becomes effective when accepted by the Select Board at its next regularly scheduled meeting.

- b) A quorum of the Board, as defined by Ordinance Governing Boards, Commission, and Committees shall be a majority of the full voting board, or three (3) Members.
- c) Attendance and Participation
 - i) All Members are expected to attend all meetings and participate fully in the general conduct of the Board.
 - ii) A Member who expects to be absent from any meetings must notify the Chair of the absence in advance for it to be considered an excused absence.
 - (1) Any Member who was absent during any meeting that the Member is being asked to vote on must state publicly for the record that the Member has read the minutes and reviewed any documents received and discussed at the missed meeting(s).

3) OFFICER MEMBERS AND THEIR DUTIES

- a) Officers of the Planning Board shall consist of The Chair, Vice Chair, and Secretary.
 - i) All officers shall be Regular Members of the Board.
 - ii) In the extraordinary circumstances of absence of all officers at a meeting, a quorum of the Board may elect a Chair pro tempore for that meeting.
- b) The Chair shall:
 - i) Preside at all meetings and hearings of the Board.
 - ii) Has the authority to appoint all committees, call special meetings, and call work sessions.
 - iii) Responsible for any communication or requests to or from another Town Board.
 - iv) Must be informed of and will coordinate all requests for information from the Board to any source inside or outside the Town of Eliot.
 - v) Will prepare the agenda for meetings.
- c) The Vice Chair shall:
 - i) Act for the Chair in the Chair's absence.
- d) The Secretary shall:
 - i) Act for the Chair and the Vice Chair in their absence.
 - ii) Attendance, alternate member voting rotation shall be kept.
 - iii) Review of draft minutes.
- e) Alternate Board Members
 - i) Shall attend all meetings and participate in the proceedings.
 - ii) May propose motions and vote only when designated by the Chair to sit for a Regular Member.
 - iii) Shall be designated to vote on a rotating basis.
 - iv) Shall not hold office.

4) ADMINISTRATION DUTIES

- a) Duties and jobs may be assigned or performed by any Board member or staff as the Board sees fit.
 - (1) Keep a record of: resolutions, transactions, correspondence, findings and determinations, and minutes for meetings of all kinds.
 - (2) Provide notice of meetings to Board Members, arrange proper and legal notice of hearings, prepare correspondences, and any other duties the Board may find necessary.
- b) Election of Officers

- i) Nominations for office shall be made from regular voting members of the Board at the annual organizational meeting which shall be held on the first regular scheduled meeting after the annual Town meeting and the election shall follow immediately after.
- ii) A candidate receiving a majority vote of the regular voting membership of the Planning Board shall be declared elected and shall serve for one year or until their successor shall take office.
- iii) Vacancies of officers shall be immediately filled by Board election process.

5) MEETINGS

a) Organization

- i) All meetings in which official action is taken shall be open to the public.
- ii) Video streaming of all meetings shall be in accordance with the Eliot Charter.
- iii) The Chair may set time limits on public comment that will be applicable for the entire meeting
 - (1) Can be limited to a specific time overall, per individual, or both.
 - (2) The Chair will use discretion on time limits in order to promote good relations between The Board and the public.
- iv) Those providing input at public meetings and hearings are advised to observe general rules of decorum and address only the issues before the Board. Persons disrupting the proceedings may be asked to leave the room by the Chair.

b) Regular Meeting

- i) Meetings will be held on the first and third Tuesday of the month at Eliot Town Hall at the time specified on the Town calendar.
 - (1) Meetings may be rotated to various locations to enable better citizen rapport.
 - 1. There must be special attention paid to the responsibility of the notification to the Public if the meeting is to be held at other than the normal time and place.
- ii) Materials received from applicants and other interested parties will be handled in the following manner:
 - (1) The Chair will read written public comment after the application presentation but before the attending public speaks.
- iii) Public comment will be handled in the following manner at Regular Meetings:
 - (1) The Chair will recognize public comment as a specific agenda item that is open to particular concerns regarding general Board functions.
 - (2) The Chair will recognize public comment during applications before the Board that are open to particular concerns regarding the functions germane to the Board on the applications.
 - 1. Public comment on applications will be opened by the Chair after the initial presentation from the applicant but before the Chair closes public comment so the Board can deliberate directly with the applicant. Public's comment must be made to the Chair, and all questions and discussions between citizens and Board Members must be through the Chair.

c) Special Meeting

- i) The Chair or other presiding officer, upon majority of approval of the Board, may call a Special Meeting at any appropriate time, to conduct necessary Board business.

d) Emergency Meeting

- i) Shall be run in accordance with the Eliot Charter upon majority approval of the Board, and public notice shall be given as soon as possible using all means of available communication to the public and local media.

e) Site Walks

- i) The purpose of the site walk is for collecting information related to physical factors of a site under consideration of the Board.
- ii) Shall be conducted like a regular meeting and decisions shall not be made during the site walk.
- iii) The public may attend site walks but there will be no public comment or input allowed regarding the application during the site walk to any Board Member unless allowed by the Chair.
- iv) Chair shall give verbal summary of the site walk for the record at the following meeting.

f) Executive Sessions

- i) Upon a concurring vote of at least three (3) members present and voting, the Board may call for an Executive Session, from which the public shall be barred. Such sessions shall be held in accordance with: MRS-Title 1, Section 405.
- ii) Within Executive Session it shall be the Chair's responsibility to ensure that only business for which the Session was called will be discussed. The Chair shall conduct the Executive Session to ensure that compliance with the rules for Executive Session occurs.

6) PUBLIC HEARINGS

- a) When an application requires a Public Hearing, the Board shall specifically schedule a Public Hearing before a final decision is made.
- b) Notice of hearings will be provided to applicants and the public in order for them to review and prepare.
- c) Notices of hearings will be provided according to applicable ordinance requirements.
- d) The Planning Board will strive to conduct public hearings in a fair and efficient manner that permits a thorough exploration of the issues to be considered.
- e) The Chair will read written public comment that has been submitted before the attending public speaks.
- f) The Chair shall recognize individuals wanting to speak, generally beginning with the abutters and ending with any other attending member of the public. The Chair shall close the Public Hearing after all have spoken, and the Board may then resume deliberations.
- g) During the Public Hearing, all statements must be made through the Chair, and all questions and discussion between citizens and Board Members must be through the Chair.

7) WORK SESSIONS

- a) The Chair, or any presiding officer, may, with the approval of the majority of the Board, call a work session for the purpose of:
 - i) Implementing the Comprehensive Plan, addressing or amending Subdivision Regulations, addressing or amending Zoning Ordinances, addressing or amending Planning Board Bylaws, and any other work items as necessary.

- b) These sessions are open to the public.
 - i) Since the work sessions are for Board discussion, input from the public is generally limited although input from staff, Boards, the public, and groups is permitted at the discretion of the Chair, or consensus of the Board.

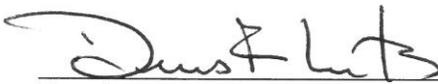
8) BYLAW AMENDMENTS

- a) These By-laws may be amended by a four (4) Member vote of the entire voting Membership of the Planning Board.

9) SEVERABILITY

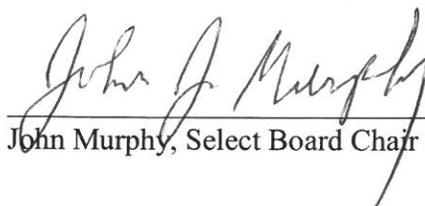
- a) The invalidity of any section or provision of these By-laws shall not be help to invalidate any other section or provision of these By-laws.

Adopted by the vote of the Planning Board
June 10, 1980; May 1, 2018; September 4, 2018



Dennis Lentz, Planning Board Chair

10/2/2018
Date



John Murphy, Select Board Chair

10/27/2018
Date

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Kenneth A. Wood, PE, Attar Engineering
Brian Nielsen, EIT, Attar Engineering
Shelly Bishop, Town of Eliot Code Enforcement Officer (CEO)
Kearsten Metz, Land Use Administrative Assistant
Date: November 2, 2020 (report date)
November 10, 2020 (meeting date)
Re: PB20-20: 495 Harold L. Dow Hwy. (Map 53/Lot 6) Site Plan Amendment /
Change of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation
and Manufacturing) to existing uses

Updated from previous reports: October 6, 2020 (sketch plan review); October 20, 2020 (public hearing for initial application, initial review of revised application)

Application Details/Checklist Documentation	
✓ Address:	495 Harold L. Dow Highway
✓ Map/Lot:	Map 53 / Lot 6
✓ PB Case#:	PB20-20
✓ Zoning District:	Commercial/Industrial (C/I) District
✓ Shoreland Zoning:	N/A
✓ Owner Name:	PW ME CanRe SD LLC <i>(updated owner – 5-15-2020 purchase date)</i>
✓ Applicant Name:	NEK Assets, LLC
✓ Proposed Project:	Site Plan Review for the following: <ul style="list-style-type: none"> • Change of Use • Site Plan Amendment for Marijuana Establishment • Note October 13, 2020, revised application adding Adult Use Manufacturing change of use request
✓ Application Received by Staff:	Date: September 15, 2020 (original) October 13, 2020 (revised) November 2, 2020 (revised)
✓ Application Fee Paid and Date:	\$125 (\$100 site plan amendment; \$25 change of use) 9/15/20
✓ Application Fee Paid and Date:	\$175 paid for 10/20/20 public hearing. A new \$175 fee will need to be paid before the Nov. 17 public hearing.
✓ Application Sent to Staff Reviewers:	Date: September 21, 2020

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses

✓ Application Heard by PB	Date: October 6, 2020
Found Complete by PB	Date: October 6, 2020 (revised application not yet found complete)
Site Walk	Date: N/A
Public Hearing	Date: October 20, 2020 Date: November 17, 2020 (scheduled)
Public Hearing Publication	Date: November 4, 2020 (anticipated)
Deliberation	Date: TBD
Notice of Decision	Date: TBD
✓ Reason for PB Review:	Site Plan Review / Change of Use

Overview

NEK Assets, LLC (agent: Attar Engineering) is applying for a Change of Use from Medical Marijuana Cultivation (land use table reference: Nonprofit Medical Marijuana Dispensary) to Medical Marijuana Cultivation and Adult Use Marijuana Cultivation and Manufacturing (Marijuana Establishment) at 495 Harold L. Dow Highway (Map 53, Lot 6) and is seeking review and approval of proposed site improvements. The Change of Use would allow the applicant to cultivate and manufacture adult use marijuana in addition to its current approved medical marijuana cultivation and manufacturing. The property is 3.04 acres in area.

The application includes a cover letter; Site Plan Review application; location map; OMP conditional license and draft local authorization form; 2017 HHE-200 form for the on-site septic system; October 2019 Notice of Decision; November 2017 Board of Appeals Notice of Decision; and amended site plan.

November 10 update: *On November 2, the applicant submitted an updated site plan, additional cover letter, and security plan. The updated site plan and cover letter are included in the agenda packet. The certificate of occupancy has now been granted for the front building.*

October 20 update: *On October 13, the applicant submitted an updated site plan and change of use request. As stated in the cover letter, “The applicant is looking to update the ongoing application by adding Adult Use Manufacturing into the currently approved 2,800 square foot Primary Caregiver Retail Facility. This building would be used for Medical and Adult Use Manufacturing as well as Medical Marijuana Retail Sales. The application still includes the addition of Adult Use Cultivation to the greenhouse as previously presented.”*

This building, at the front of the site, currently includes medical marijuana manufacturing and a registered caregiver retail storefront. The updated application seeks to add adult use manufacturing to the mix of approved uses in this building.

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses

Note that a certificate of occupancy has not yet been given for this building as construction related to the building is ongoing.

Zoning

The site is in the Commercial/Industrial (C/I) district.

Type of review needed

Section 11-3 of the Town Code defines a “marijuana establishment” as follows:

*Marijuana establishment shall mean a “marijuana establishment” as that term is defined in 28-B M.R.S.A. § 102(29), as may be amended. A *marijuana establishment* is a marijuana store, a marijuana cultivation facility, a marijuana products manufacturing facility, or a marijuana testing facility or a marijuana social club.*

The applicant is applying for a “marijuana establishment” use in the table of land uses (45-290). This is an SPR use in the C/I district, which means it may be permitted subject to site plan review and conformance with the requirements of Section 33-190 – Performance Standards for Marijuana Establishments. Section 33-190 requires that all marijuana establishments go through site plan review and receive approval from the Planning Board.

November 10 update: *At the October 20 meeting, the Planning Board reviewed the revised application for adult use marijuana cultivation and manufacturing. The Board approved the change of use portion of the original application to add adult use marijuana cultivation, but the Board has not yet found the revised application complete. This meeting is for reviewing the revised application, including the November 2 revised site plan and updated security plan. A public hearing has been noticed for November 17.*

October 20 update: *Public hearing and recommendation on October 13 updated application*

Sketch plan review occurred on October 6, 2020, and this item is for a public hearing. Because the public hearing was already noticed and published prior to receiving the updated application, it is recommended that the Planning Board continue to hold the public hearing on the Adult Use Cultivation site plan amendment and change of use. Since the public hearing notice (published October 9) only referred to the addition of Adult Use Cultivation and did not reference the Adult Use Manufacturing change of use that the applicant sought via their October 13 updated application, it is recommended that the Board consider a motion on application completeness for the revised application at this meeting, but continue review of the application to November 10 or 17, with a new noticed public hearing reflecting the added adult use manufacturing change of use request.

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses

Previous Planning Board actions

The application proposes to revise a previously-approved site plan. Most recently, on October 15, 2019, the Planning Board approved a site plan amendment to replace an existing 4,500 sq. ft. building damaged by fire with a new 32,832 sq. ft. greenhouse for the cultivation of medical marijuana. Previous Planning Board decisions for this site took place in August 2018 and April 2019.

State conditional license

Before an application is heard by the Planning Board, the Town requires that applicants furnish a conditional license from the Maine Office of Marijuana Policy (OMP) for any adult use marijuana establishment for which they are seeking land use approval. The application package includes an OMP conditional license granted to Sweet Dirt LLC for an Adult Use Marijuana Cultivation Facility, Tier 4 (expires 8/10/21). The license includes Hughes Pope and Kristin Pope as principals/owners of Sweet Dirt, LLC.

***October 20 update:** The October 13 revised application also includes an Adult Use Marijuana Products Manufacturing Facility conditional license granted to Sweet Dirt LLC, expiring October 8, 2021.*

Section 33-190 – Performance standards for marijuana establishments

When an applicant seeks a change of use to adult use marijuana uses, the application becomes subject to the performance standards in Section 33-190. The below sections run through these standards.

Screening

Marijuana establishments must be screened from view according to Section 33-175. Subsection (b) states:

Front yards, especially those along Rte. 236, shall have an extensive vegetative cover, including large shade trees. Areas along Rte. 236 shall be 50 feet in width, beginning at the 50-foot setback line and extending to the rear of the front yard so as to screen the proposed use. Similarly, half of the front yard for commercial or industrial uses on other streets shall be landscaped.

The existing site includes a vegetated buffer of variable width within and behind the 50 ft. setback. The Board may wish to discuss potential additional screening opportunities with the applicant.

Parking and loading

The site plan includes parking calculations in general note 7. The calculations use the 1 space per 200 sf standard for the caregiver retail store on site (nonprofit medical marijuana dispensary) – 14 spaces – and the 1 space per employee standard for the

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses

greenhouse, with 8 employees – 8 spaces – resulting in a requirement of 22 spaces. A total of 34 spaces are provided.

The site plan shows 2 accessible parking spaces in front of the caregiver retail store that are being finalized, as of this report, based on the applicant’s previous site plan approval and building permit application. The in-progress construction of these spaces needs to meet Section 502 of the 2010 ADA Standards for Accessible Design – which has been discussed with the applicant – and the site plan currently before the Board should reflect the ADA-compliant design. ADA parking space access aisles need to adjoin an accessible route and connect to accessible entrances. The accessible route from the access aisle should not pass behind parked vehicles. To this end the site plan should show, at minimum, an accessible route from the access aisles to building entrances. The Board may wish to discuss how wheelchair accessibility from the parking spaces to the greenhouse building would be achieved.

Parking space and circulation aisle dimensions are shown on the site plan. The 10’x18’ space dimensions meet the minimum square footage requirement of 180 sf in Section 45-488. The Board may wish to discuss with the applicant delivery/loading areas and where those take place on the site plan.

***November 10 update:** The updated site plan now shows ADA-accessible parking spaces, as built, for the front building.*

Signage and advertising

The site includes an existing business sign along Route 236; no changes to this signage are apparent on the site plan.

Area of marijuana-related activities

Section 33-190(4) requires all marijuana activities to be conducted indoors. There is no apparent change to the location of the cultivation within the greenhouse – only an added adult use classification to the existing cultivation.

***October 20 update:** The October 13 revised application includes a floor plan for the front building that currently houses the medical marijuana manufacturing and caregiver retail storefront uses and is proposed to add adult use marijuana manufacturing.*

Odor management

There is no apparent change in the application related to on-site odor management.

Marijuana product disposal

Section 33-190 requires “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”. A standalone disposal

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses

operational plan was not submitted with the application. However, the cover letter states that “Marijuana waste products are mixed with a soap solution to render them unusable and then mixed in with standard non-marijuana waste to further dissuade reuse.” The site plan shows the proposed dumpster location with fencing, and site plan general note 11 states: “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 packing material and standard farm debris. Dumpster will be fenced in and monitored by security cameras. Specific waste procedures under review by MDEP.”

Security measures

The site plan general notes include information about on-site security, including permanent security camera locations, surveillance system storage, duration of stored recordings, and locking, key card access, and Knox box provisions for all exterior doors. The application package also includes a lighting plan that shows illuminance throughout the site. Additionally, as required by the state Adult Use Marijuana Program Rule, each licensee at the state level needs to have a written security plan approved by the state before they can operate.

The application cover letter states: “Security has been upgraded since the previous approval. Other than the items listed on the Site Plan additional cameras have been added as well as methods of detection that trigger when a person has gone over or through the perimeter fence.”

The Planning Board may wish to request more information from the applicant on whether some other required security measures are included, such as:

- Whether the security cameras will be operating 24 hours per day, 7 days per week
- An alarm system with audible and police department notification components
- To be provided to the Eliot Police Department, 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
- A locking safe permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises
- Locks or bars on any other access points besides doors (e.g., windows)

The application was sent to the Police Chief for his review; no comments have been received at the time of this report.

***November 10 update:** The applicant has submitted an updated Security Plan to the town. Due to the length (> 200 pages) and request for confidentiality, the security plan is not included in this agenda packet. However, an initial review suggests that several of the above bullet points appear to be addressed in the security plan, and the applicant has been asked to provide a summary of how their plan addresses all security provisions in 33-190.*

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses

Separation from sensitive uses

Regarding the Section 33-190(5) 500 ft. buffer/setback requirement, the application states that the “facility is not within 250 [feet] of the property line of an existing public or private school, residential property, childcare facility, place of worship or a public facility. The reduction of setback from 500’ to 250’ was granted to the site by the Zoning Board of Appeals in November 2017.” Adult use marijuana cultivation is not subject to the 33-190(5) buffer/setback requirement.

Hours of operation

The application cover letter states that “Employee operations will continue as they have been”.

Packaging and labeling

Section 33-190(10) covers allowable pesticide use and requires compliance with state packaging and labeling rules. The state Adult Use Marijuana Program Rule has extensive packaging and labeling requirements for marijuana establishments.

Inspection

Section 33-190 requires Code Enforcement Officer and Fire Chief (or designee) inspections prior to Certificate of Occupancy.

Wastewater

A copy of the 2017 wastewater disposal system application (HHE-200) is included in the application packet.

Water supply

The site plan shows the existing well location, which will provide water service.

Traffic and driveway

No changes to the existing site’s traffic and driveway are noted in the application.

Stormwater

The application notes that there are “no changes proposed to increase the existing impervious area and there will be no additional impacts on stormwater management”. The proposed detention pond at the rear of the site is shown on the site plan.

A soil erosion and sedimentation control plan is included in the site plan set.

Fire safety

The Fire Chief provided his review for the site plan amendment that was previously reviewed by the Board. The October 2019 NOD (in the application package) includes the Fire Chief’s comments at that time.

PB20-20: 495 H.L. Dow Hwy. (Map 53/Lot 6) SP Amend. / Chg. of Use: Add Marijuana Establishment (Adult Use Marijuana Cultivation and Manufacturing) to existing uses

Conservation Commission

***November 10 update:** Wetlands are now shown at the rear of the property in the revised site plan.*

***October 20 update:** The Conservation Commission reviewed the initial submittal of this application at their October meeting and offered the following comment: “No comments except extent of wetland and/or stream boundaries should be identified on plans.”*

Requested information waivers

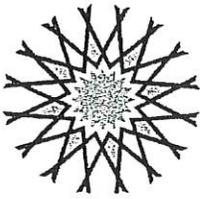
- Drainage plan – 33-127(8)
- High intensity soils report – 33-127(12)

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

References

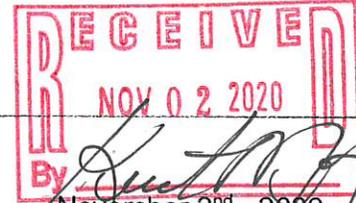
2010 ADA Standards for Accessible Design, Section 502 – Parking Spaces:
<https://www.ada.gov/regs2010/2010ADAStandards/2010ADASTandards.htm#pgfld-1006250>



ATTAR

ENGINEERING, INC

CIVIL • STRUCTURAL • MARINE



November 2nd, 2020
Project No. C066-20

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

**RE: Site Plan Application (Change of Use)
495 H.L. Dow Highway (Tax Map 53, Lot 6)
Eliot, Maine**

Dear Mr. Brubaker:

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

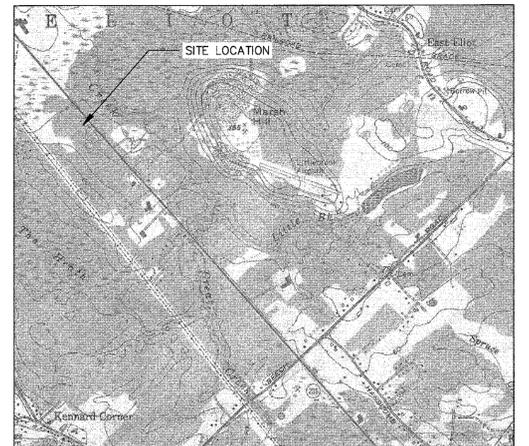
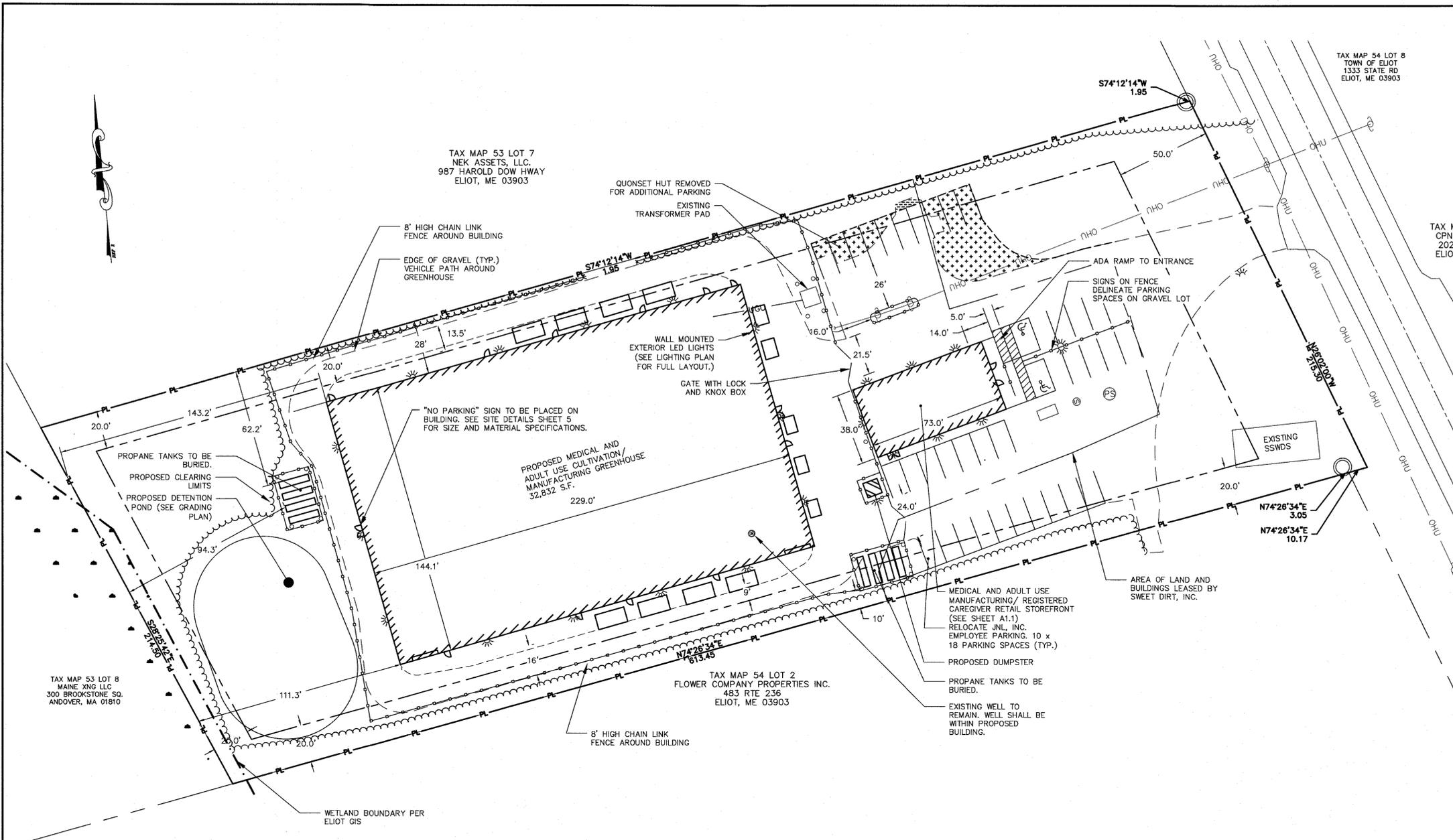
The updated plans show the ADA parking and entrance path as-built.

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;

Brian Nielsen, E.I.T.
Staff Engineer

cc: NEK Assets, LLC
C066-20_Eliot_cover



GENERAL NOTES

- THE PLAN PROVIDES A SITE PLAN AMENDMENT AND CHANGE OF USE TO THE PROPERTY LOCATED AT 495 HAROLD DOW HIGHWAY (ROUTE 236) IN ELIOT. THE PROPOSED CHANGE INCLUDES ADDING ADULT USE CULTIVATION TO THE EXISTING MEDICAL CANNABIS GREENHOUSE AND ADDING ADULT USE MANUFACTURING TO THE REGISTERED PRIMARY CAREGIVER RETAIL BUILDING. THE GREENHOUSE WILL BE USED TO CULTIVATE BOTH MEDICAL AND ADULT USE MARIJUANA AND THE REGISTERED PRIMARY CAREGIVER RETAIL BUILDING WILL BE USED TO MANUFACTURE MEDICAL AND ADULT USE MARIJUANA PRODUCTS IN ADDITION TO MEDICAL MARIJUANA RETAIL SALES.
- BOUNDARY LINES, EXISTING CONDITIONS AND TOPOGRAPHY WERE TAKEN FROM REFERENCE 1.
- THE SITE IS IDENTIFIED ON TOWN OF ELIOT TAX MAP 53 AS LOT 6 AND IS APPROXIMATELY 3.0 ACRES IN AREA. THE PARCEL IS LOCATED IN THE COMMERCIAL/INDUSTRIAL (C/I) DISTRICT.
- 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%
- COVERAGE CALCULATIONS:**
EXISTING BUILDING COVERAGE: 35,632 S.F. 31.1% LOT COVERAGE
EXISTING IMPERVIOUS SURFACE COVERAGE: 82,641 S.F. (1.90 AC.) (NO NEW IMPERVIOUS PROPOSED)
- 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). WASTEWATER SYSTEM DESIGNED FOR 180 GALLONS PER DAY, 15 GALLONS PER DAY PER EMPLOYEE = 12 FULL TIME EMPLOYEES.**
- PARKING CALCULATIONS**
RETAIL: 1 SPACE/200 S.F. X 2,800 S.F. = 14 SPACES
GREENHOUSE: 1 SPACE/EMPLOYEE X 8 EMPLOYEES = 8 SPACES
TOTAL SPACES : = 22 REQUIRED WITH 34 PROVIDED
- GENERAL LAYOUT FROM REFERENCE 2.**
- SECURITY CAMERAS MUST BE PERMANENTLY FIXED AT THE FOLLOWING LOCATIONS IN THE ESTABLISHMENT:**
 - ALL EXIT/ENTRY POINTS (SUFFICIENT TO IDENTIFY INDIVIDUALS ENTERING AND EXITING THE PREMISES AND LIMITED ACCESS AREAS).
 - EACH POINT OF SALE A SUFFICIENT NUMBER OF CAMERAS MUST BE PERMANENTLY FIXED TO ALLOW VIEWING OF THE FOLLOWING:
 - ANY AREA WHERE MARIJUANA, MARIJUANA PLANTS, IMMATURE MARIJUANA PLANTS, SEEDLINGS, SEEDS, MARIJUANA CONCENTRATE OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, MANUFACTURED, STORED, AND/OR PREPARED FOR TRANSFER OR SALE (THE AREA MUST BE VIEWED IN ITS ENTIRETY).
 - ANY AREA WHERE MARIJUANA WASTE IS STORED.
 - ALL AREAS OF THE PREMISES WITHIN 10 FEET OF THE EXTERIOR FENCE AND GATES OF A CULTIVATION FACILITY WITH OUTDOOR GROWING.
 - THE SURVEILLANCE SYSTEM STORAGE DEVICE MUST BE SECURED ON THE PREMISES IN A LOCKBOX, CABINET OR CLOSET, OR MUST BE ON A THIRD-PARTY SERVER OR SECURED IN ANOTHER MANNER TO PROTECT FROM EMPLOYEE TAMPERING OR CRIMINAL THEFT.
 - ALL SURVEILLANCE RECORDINGS MUST BE KEPT FOR A MINIMUM OF 45 DAYS ON THE LICENSEE'S RECORDING DEVICE.
- ALL EXTERIOR DOORS TO BE LOCKED WITH CARD ACCESS FOR EMPLOYEES. KEY CARD AND KEYS WILL BE PROVIDED FOR EMERGENCY PERSONNEL IN KNOX-BOX AT FRONT OF BUILDING.
- 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.

REFERENCES

- "STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY" PREPARED FOR SWEET DIRT, TAX MAP 53 LOT 6, 495 HAROLD DOW HWY., ELIOT, ME 03903. OWNER OF RECORD: FLOWER COMPANY PROPERTIES INC. JACQUELYN NOONEY, 9 ISLAND AVE, KITTERY, ME 03904. BY AMSDEN FIELD SURVEY.
- "AMENDMENT TO SITE PLAN" PREPARED FOR SWEET DIRT, INC. TAX MAP 53 LOT 6, 495 HAROLD DOW HWY., ELIOT, ME 03903. OWNER OF RECORD: FLOWER COMPANY PROPERTIES INC. BY JUSTIN KRONENWITZ.

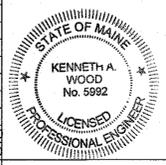
LEGEND	
PROPERTY LINE	— PL —
SETBACK	----
EXT. ABUTTER LINE	----
PRP. RIGHT-OF-WAY	----
EXT. PAVEMENT	----
PRP. GRAVEL	----
PRP. BUILDING	▨

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

SIGNATURE	DATE
CHAIR	



NO.	DESCRIPTION	DATE
B	PLANNING DEPARTMENT REVIEW	10/30/2020
A	CO-LOCATED MANUFACTURING	10/13/2020



TAX MAP 53, LOT 6
SITE PLAN
SWEET DIRT FACILITY
495 HAROLD DOW HIGHWAY, ELIOT, MAINE

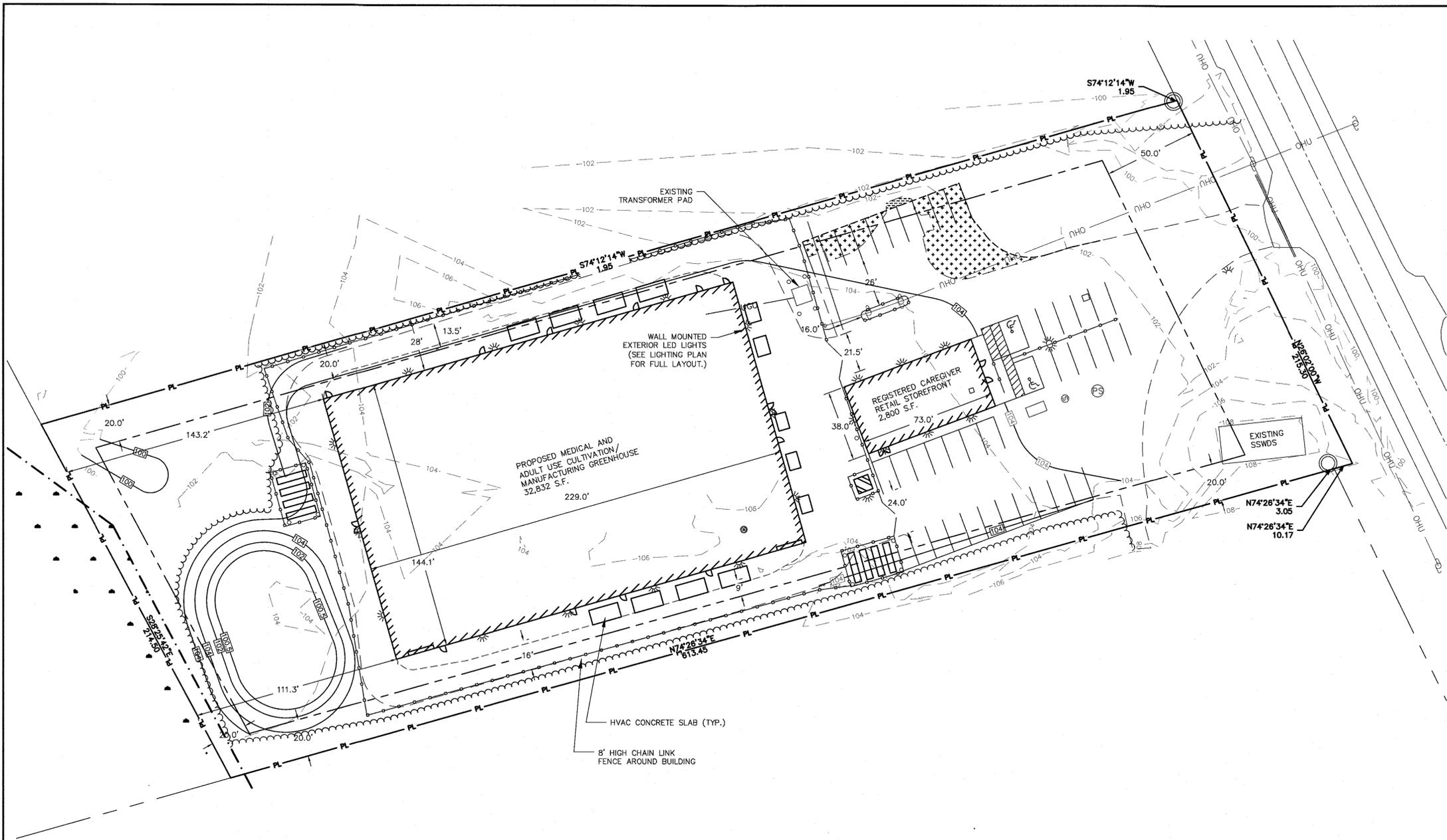
FOR: NEK ASSETS, LLC
987 HAROLD DOW HIGHWAY
ELIOT, MAINE 03903

ATTAR ENGINEERING, INC.
CIVIL • STRUCTURAL • MARINE
1284 STATE ROAD - ELIOT, MAINE 03903
PHONE: (207)439-8023 FAX: (207)439-2128

SCALE: 1" = 30'
DATE: 9/15/2020
JOB NO: C066-19

APPROVED BY: *[Signature]*
FILE: SWEET DIRT BASE.DWG

DRAWN BY: BRN
REVISION DATE: B : 10/30/2020
SHEET: 1



GENERAL NOTES

1. ALL PIPES, VALVES, FITTINGS, AND CONNECTIONS SHALL MEET CURRENT ELIOT WATER DISTRICT STANDARDS.
2. ALL STORM DRAINS TO BE ADS N-12 (PE) OR APPROVED EQUAL.
3. A MINIMUM OF 5.0' OF COVER SHALL BE MAINTAINED OVER ALL WATER LINES.
4. CENTRAL MAINE POWER COMPANY WILL PREPARE THE ELECTRICAL PLAN FOR CONSTRUCTION.
5. NEW WATER AND SEWER LINES SHALL BE TESTED IN ACCORDANCE WITH RESPECTIVE DISTRICT REQUIREMENTS.

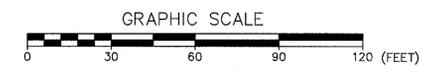
REFERENCES

1. "STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY" PREPARED FOR SWEET DIRT. TAX MAP 53 LOT 6, 495 HAROLD DOW HWY., ELIOT, ME 03903. OWNER OF RECORD: FLOWER COMPANY PROPERTIES INC. JACQUELYN NOONEY, 9 ISLAND AVE, KITTERY, ME 03904. BY AMSDEN FIELD SURVEY.
2. "AMENDMENT TO SITE PLAN" PREPARED FOR SWEET DIRT, INC. TAX MAP 53 LOT 6, 495 HAROLD DOW HWY., ELIOT, ME 03903. OWNER OF RECORD: FLOWER COMPANY PROPERTIES INC. BY JUSTIN KRONEWITTER.

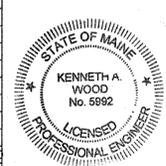
LEGEND	
PROPERTY LINE	PL
SETBACK	---
EXT. ABUTTER LINE	---
PRP. RIGHT-OF-WAY	---
EXT. PAVEMENT	---
PRP. GRAVEL	---
PRP. BUILDING	▨

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

SIGNATURE _____ DATE _____
 CHAIR _____



NO.	DESCRIPTION	DATE
B	PLANNING DEPARTMENT REVIEW	10/30/2020
A	CO-LOCATED MANUFACTURING	10/13/2020



TAX MAP 53, LOT 6

GRADING AND UTILITY PLAN
 SWEET DIRT FACILITY
 495 HAROLD DOW HIGHWAY, ELIOT, MAINE

FOR:
 NEK ASSETS, LLC
 987 HAROLD DOW HIGHWAY
 ELIOT, MAINE 03903

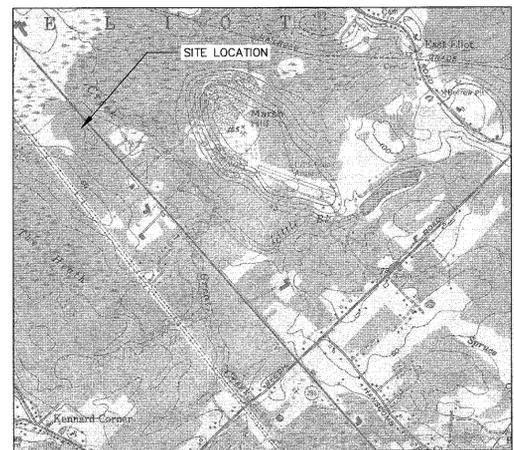
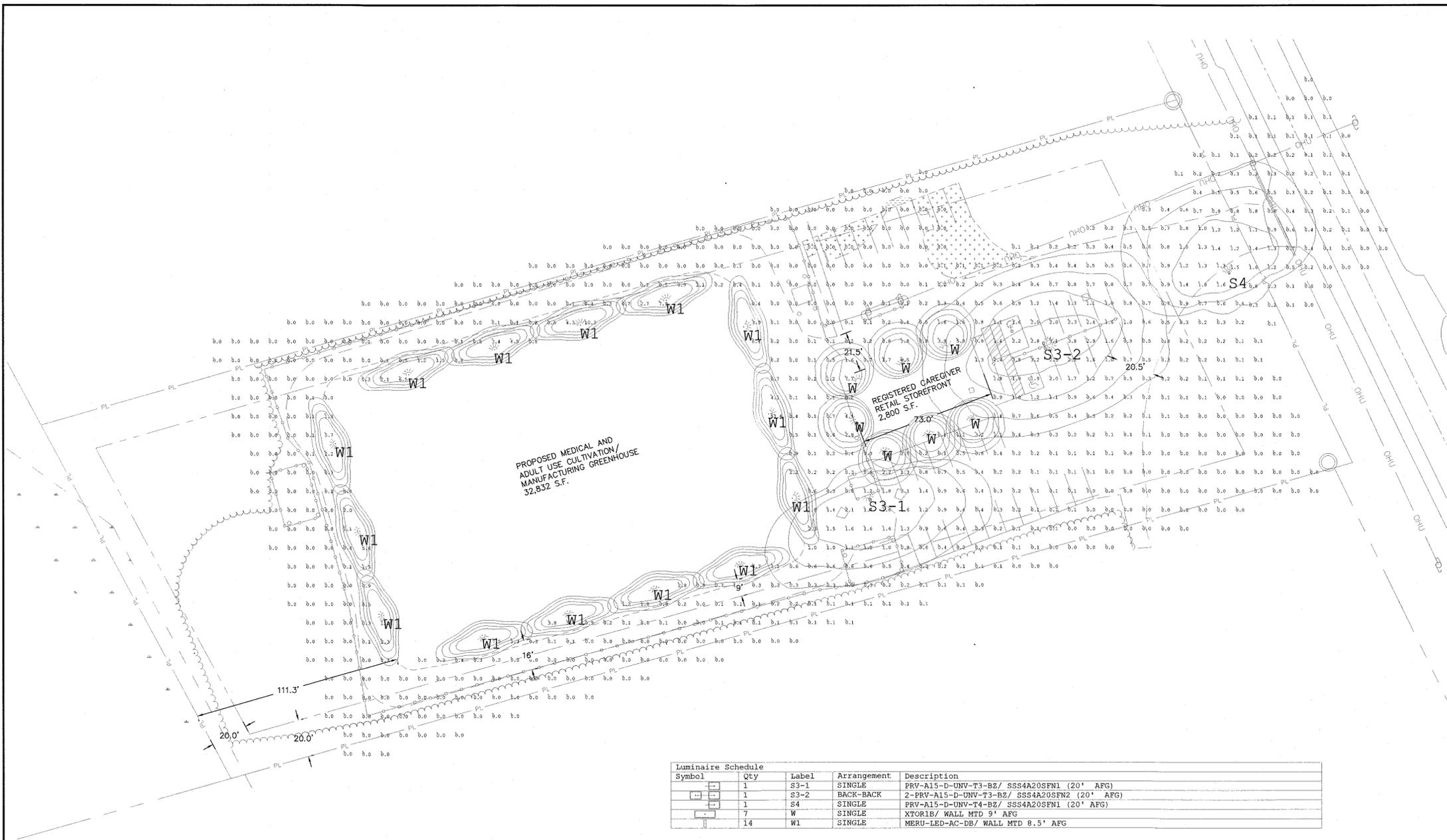
ATTAR ENGINEERING, INC.
 CIVIL • STRUCTURAL • MARINE
 1284 STATE ROAD - ELIOT, MAINE 03903
 PHONE: (207)439-6023 FAX: (207)439-2128

SCALE: 1" = 30'
 DATE: 9/15/2020
 JOB NO: C066-19

APPROVED BY:

 FILE: SWEET DIRT BASE.DWG

DRAWN BY: BRN
 REVISION DATE: B : 10/30/2020
 SHEET: 2



SITE LOCATION MAP
1" = 2000'

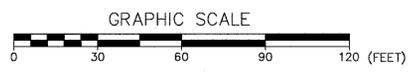
GENERAL NOTES

1. LIGHTING DESIGN PROVIDED BY CHARRON INC.

Symbol	Qty	Label	Arrangement	Description
---	1	S3-1	SINGLE	PRV-A15-D-UNV-T3-BZ/ SSS4A20SFN1 (20' AFG)
---	1	S3-2	BACK-BACK	2-PRV-A15-D-UNV-T3-BZ/ SSS4A20SFN2 (20' AFG)
---	1	S4	SINGLE	PRV-A15-D-UNV-T4-BZ/ SSS4A20SFN1 (20' AFG)
---	7	W	SINGLE	XFOR1B/ WALL MTD 9' AFG
---	14	W1	SINGLE	MERU-LED-AC-DB/ WALL MTD 8.5' AFG

LEGEND	
PROPERTY LINE	PL
SETBACK	---
EXT. ABUTTER LINE	---
PRP. RIGHT-OF-WAY	---
EXT. PAVEMENT	---
PRP. GRAVEL	---
PRP. BUILDING	▨

SIGNATURE	DATE
CHAIR	

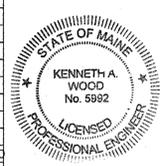


REFERENCES

1. "STANDARD BOUNDARY AND TOPOGRAPHIC SURVEY" PREPARED FOR SWEET DIRT. TAX MAP 53 LOT 6, 495 HAROLD DOW HWY., ELIOT, ME 03903. OWNER OF RECORD: FLOWER COMPANY PROPERTIES INC. JACQUELYN NOONEY, 9 ISLAND AVE, KITTERY, ME 03904. BY AMSDEN FIELD SURVEY.
2. "AMENDMENT TO SITE PLAN" PREPARED FOR SWEET DIRT, INC. TAX MAP 53 LOT 6, 495 HAROLD DOW HWY., ELIOT, ME 03903. OWNER OF RECORD: FLOWER COMPANY PROPERTIES INC. BY JUSTIN KRONEWITTER.

TAX MAP 53, LOT 6		LIGHTING PLAN SWEET DIRT FACILITY 495 HAROLD DOW HIGHWAY, ELIOT, MAINE	
FOR:		NEK ASSETS, LLC 987 HAROLD DOW HIGHWAY ELIOT, MAINE 03903	
ATTAR ENGINEERING, INC.		CIVIL • STRUCTURAL • MARINE 1284 STATE ROAD - ELIOT, MAINE 03903 PHONE: (207)439-6023 FAX: (207)439-2128	
SCALE: 1" = 30'	DATE: 9/15/2020	APPROVED BY: <i>[Signature]</i> 11/2/2020	DRAWN BY: BRN REVISION DATE: B : 10/30/2020
JOB NO: C066-19		FILE: SWEET DIRT BASE.DWG	
SHEET: 3			

NO.	DESCRIPTION	DATE
B	PLANNING DEPARTMENT REVIEW	10/30/2020
A	CO-LOCATED MANUFACTURING	10/13/2020
NO.		



EROSION & SEDIMENTATION CONTROL NOTES

EROSION & SED. CONTROL NOTES (CONT.)

WINTER CONSTRUCTION NOTES

- SILTATION FENCE OR HAY BALE BARRIERS WILL BE INSTALLED DOWNSLOPE OF ALL STRIPPING OR CONSTRUCTION OPERATIONS. A DOUBLE SILT FENCE BARRIER SHALL BE INSTALLED DOWNSLOPE OF ANY SOIL MATERIAL STOCKPILES. SILT FENCES SHALL BE INSPECTED AFTER EACH RAIN EVENT AND DAILY DURING PROLONGED RAIN. SILT AND SOIL PARTICLES ACCUMULATING BEHIND THE FENCE SHALL BE REMOVED AFTER EACH SIGNIFICANT RAIN EVENT AND IN NO INSTANCE SHOULD ACCUMULATION EXCEED 1/2 THE HEIGHT OF THE FENCE. TURN OR DAMAGED AREAS SHALL BE REPAIRED.
- TEMPORARY AND PERMANENT VEGETATION AND MULCHING IS AN INTEGRAL COMPONENT OF THE EROSION AND SEDIMENTATION CONTROL PLAN. ALL AREAS SHALL BE INSPECTED AND MAINTAINED UNTIL THE DESIRED VEGETATIVE COVER IS ESTABLISHED. THESE CONTROL MEASURES ARE ESSENTIAL TO EROSION PREVENTION AND ALSO REDUCE COSTLY REWORK OF GRADED AND SHAPED AREAS.
- SEEDING, FERTILIZER AND LIME RATES AND TIME OF APPLICATION WILL BE DEPENDENT ON SOIL REQUIREMENTS. TEMPORARY VEGETATION SHALL BE MAINTAINED IN THESE AREAS UNTIL PERMANENT SEEDING IS APPLIED. ADDITIONALLY, EROSION AND SEDIMENTATION MEASURES SHALL BE MAINTAINED UNTIL PERMANENT VEGETATION IS ESTABLISHED.
- ALL LAWN AREA, OUTER POND SIDE SLOPES AND SWALES SHALL BE PERMANENTLY SEEDDED WITH THE FOLLOWING MIXTURE: 20 LB/ACRE CREEPING RED FESCUE, 2 LB/ACRE REDTOP AND 20 LB/ACRE TALL FESCUE FOR A TOTAL OF 42 LB/ACRE. FERTILIZER AND LIME RATES SHALL BE DEPENDENT ON SOIL TESTING. IN THE ABSENCE OF SOIL TESTS, FERTILIZE WITH 10-20-20 (N-P205-K201) AT 800 LB/ACRE AND LIME AT 3 TONS/ACRE. MULCH WITH HAY AT 70-90 LB/1000 S.F. 4" OF LOAM SHALL BE APPLIED PRIOR TO SEEDING.
- POND BOTTOMS AND INNER POND SIDESLOPES SHALL BE PERMANENTLY SEEDDED WITH THE FOLLOWING MIXTURE: 20 LB/ACRE CREEPING RED FESCUE, 8 LB/ACRE BIRDSFOOT TREFLOID AND 20 LB/ACRE TALL FESCUE FOR A TOTAL OF 48 LB/ACRE. SEE THE ABOVE NOTE FOR FERTILIZER, LIME AND MULCHING RATES.
- TEMPORARY VEGETATION OF ALL DISTURBED AREAS, MATERIAL STOCKPILES AND OTHER SUCH AREAS SHALL BE ESTABLISHED BY SEEDING WITH EITHER WINTER RYE AT A RATE OF 112 LB/ACRE OR ANNUAL RYEGRASS AT A RATE OF 40 LB/ACRE. WINTER RYE SHALL BE USED FOR FALL SEEDING AND ANNUAL RYEGRASS FOR SHORT DURATION SEEDING. SEEDING SHALL BE ACCOMPLISHED BEFORE OCTOBER 1.
- TEMPORARY SEEDING OF DISTURBED AREAS SHALL BE ACCOMPLISHED BEFORE OCTOBER 1. PERMANENT SEEDING SHALL BE ACCOMPLISHED BEFORE SEPTEMBER 15.
- ALL SEEDDED AREAS SHALL BE MULCHED WITH HAY AT A RATE OF 2 BALES (70-90 LB) PER 1000 S.F. OF SEEDDED AREA.
- SLOPES 2:1 OR STEEPER SHALL BE TREATED WITH POLYJUTE OPEN WEAVE GEOTEXTILE (OR EQUIVALENT) AFTER SEEDING. JUTE MATS SHALL BE ANCHORED PER MANUFACTURER'S SPECIFICATIONS.
- EXCESSIVE DUST CAUSED BY CONSTRUCTION OPERATIONS SHALL BE CONTROLLED BY APPLICATION OF WATER OR CALCIUM CHLORIDE.
- THE CONTRACTOR MAY OPT TO USE EROSION CONTROL MIX BERM AS A SEDIMENT BARRIER IN LIEU OF SILTATION FENCE OR HAY BALE BARRIERS WITH APPROVAL FROM THE INSPECTING ENGINEER.
- MINIMIZE DISTURBED AREAS AND PROTECT NATURAL DOWNGRADIENT BUFFER AREAS TO THE EXTENT PRACTICABLE. CONTROL STORMWATER VOLUME AND VELOCITY WITHIN THE SITE TO MINIMIZE SOIL EROSION. MINIMIZE THE DISTURBANCE OF STEEP SLOPES. CONTROL STORMWATER DISCHARGES, INCLUDING BOTH PEAK FLOW RATES AND VOLUME, 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 SHOULD TAKE PLACE WITHIN 50 FEET OF ANY PROTECTED NATURAL RESOURCE. IF DISTURBANCE ACTIVITIES TAKE PLACE BETWEEN 30 FEET AND 50 FEET OF ANY PROTECTED NATURAL RESOURCE, AND STORMWATER DISCHARGES THROUGH THE DISTURBED AREAS TOWARD THE PROTECTED NATURAL RESOURCE, PERIMETER EROSION CONTROLS MUST BE DOUBLED. IF DISTURBANCE ACTIVITIES TAKE PLACE LESS THAN 30 FEET FROM ANY PROTECTED NATURAL RESOURCE, AND STORMWATER DISCHARGES THROUGH THE DISTURBED AREAS TOWARD THE PROTECTED NATURAL RESOURCE, PERIMETER EROSION CONTROLS MUST BE DOUBLED AND DISTURBED AREAS MUST BE TEMPORARILY OR PERMANENTLY STABILIZED WITHIN 7 DAYS.
- 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 SHOULD BE INSTALLED DOWNGRADIENT OF SOIL OR SEDIMENT STOCKPILES AND STORMWATER PREVENTED FROM RUNNING ONTO THE STOCKPILE. MAINTAIN THE SEDIMENT BARRIERS 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, IF THE STORM DRAIN CARRIES WATER DIRECTLY TO A SURFACE WATER AND YOU HAVE AUTHORITY TO ACCESS THE STORM DRAIN INLET, YOU MUST INSTALL AND MAINTAIN PROTECTION MEASURES THAT REMOVE SEDIMENT FROM THE DISCHARGE.
- PRIOR TO CONSTRUCTION, PROPERLY INSTALL A STABILIZED CONSTRUCTION ENTRANCE (SCE) AT ALL POINTS OF EGRESS FROM THE SITE. THE SCE IS A STABILIZED PAD OF AGGREGATE, UNDERLAIN BY A GEOTEXTILE FILTER FABRIC, USED TO PREVENT TRAFFIC FROM TRACKING MATERIAL AWAY FROM THE SITE ONTO PUBLIC ROW'S. MAINTAIN THE SCE UNTIL ALL DISTURBED AREAS ARE STABILIZED.
- WITHIN 7 DAYS OF THE CESSATION OF CONSTRUCTION ACTIVITIES IN AN AREA THAT WILL NOT BE WORKED FOR MORE THAN 7 DAYS, STABILIZE ANY EXPOSED SOIL WITH MULCH, OR OTHER NON-ERODIBLE COVER. STABILIZE AREAS WITHIN 75 FEET OF A WETLAND OR WATERBODY WITHIN 48 HOURS OF THE INITIAL DISTURBANCE OF THE SOIL OR PRIOR TO ANY STORM EVENT, WHICHEVER COMES FIRST.
- REMOVE ANY TEMPORARY CONTROL MEASURES, SUCH AS SILTATION FENCE, WITHIN 30 DAYS AFTER PERMANENT STABILIZATION IS ATTAINED. REMOVE ANY ACCUMULATED SEDIMENTS AND STABILIZE.
- IF THE AREA WILL NOT BE WORKED FOR MORE THAN ONE YEAR OR HAS BEEN BROUGHT TO FINAL GRADE, THEN PERMANENTLY STABILIZE THE AREA 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, SELECT THE PROPER VEGETATION FOR THE LIGHT, MOISTURE, AND SOIL CONDITIONS; AMEND AREAS OF DISTURBED SUBSOILS WITH TOPSOIL, COMPOST, OR FERTILIZERS; PROTECT SEEDDED AREAS WITH MULCH OR, IF NECESSARY, EROSION CONTROL BLANKETS; AND SCHEDULE SODDING, PLANTING, AND SEEDING SO TO AVOID DIE-OFF FROM SUMMER DROUGHT AND FALL FROSTS. NEWLY SEEDDED 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. ONE OR MORE OF THE FOLLOWING MAY APPLY TO A PARTICULAR SITE.
- FOR SEEDDED 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.
- 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.
- FOR MULCHED AREAS, PERMANENT MULCHING MEANS TOTAL COVERAGE OF THE EXPOSED AREA WITH AN APPROVED MULCH MATERIAL. EROSION CONTROL MIX MAY BE USED AS MULCH FOR PERMANENT STABILIZATION ACCORDING TO THE APPROVED APPLICATION RATES AND LIMITATIONS.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR ADEQUATE HOUSEKEEPING PRACTICES DURING THE CONSTRUCTION OF THE PROJECT. THESE STANDARDS CAN BE FOUND IN THE FOLLOWING DOCUMENT: MDEP CHAPTER 500 (STORMWATER MANAGEMENT), APPENDIX C. HOUSEKEEPING. HOUSEKEEPING PRACTICES INCLUDE, BUT ARE NOT LIMITED TO, SPILL PREVENTION, GROUNDWATER PROTECTION, FUGITIVE SEDIMENT AND DUST, DEBRIS AND OTHER MATERIALS, EXCAVATION DEWATERING, AUTHORIZED NON-STORMWATER DISCHARGES AND UNAUTHORIZED NON-STORMWATER DISCHARGES.

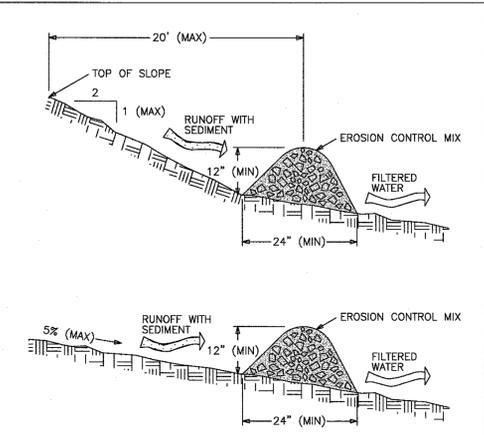
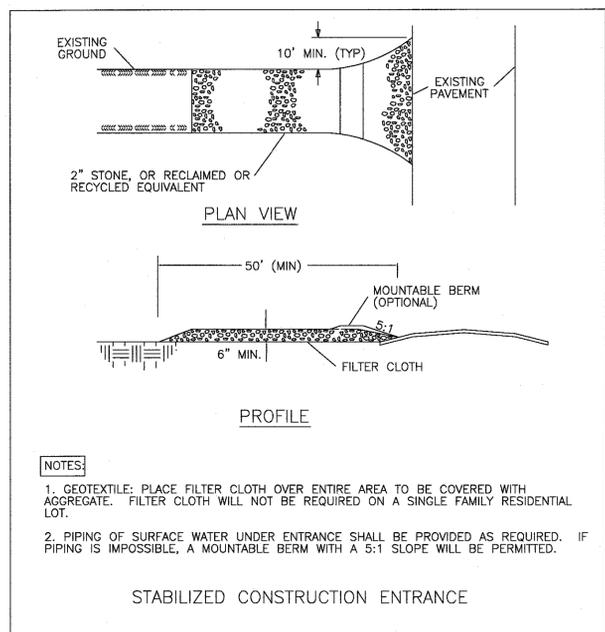
- AN AREA SHALL BE CONSIDERED STABILIZED WHEN EXPOSED SURFACES HAVE BEEN EITHER MULCHED WITH HAY AT A RATE OF 100 LB/1000 S.F. OR DORMANT SEEDDED, MULCHED AND ADEQUATELY ANCHORED BY AN APPROVED ANCHORING TECHNIQUE. IN ALL CASES, MULCH SHALL BE APPLIED SO THAT THE SOIL SURFACE IS NOT VISIBLE THROUGH THE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

E&S INSPECTION/MAINTENANCE DURING CONSTRUCTION

INSPECTION AND CORRECTIVE ACTION. INSPECT DISTURBED AND IMPERVIOUS AREAS, EROSION CONTROL MEASURES, MATERIALS STORAGE AREAS THAT ARE EXPOSED TO PRECIPITATION, AND LOCATIONS WHERE VEHICLES ENTER OR EXIT THE SITE. INSPECT THESE AREAS AT LEAST ONCE A WEEK AS WELL AS BEFORE AND WITHIN 24 HOURS AFTER A STORM EVENT (RAINFALL), AND PRIOR TO COMPLETING PERMANENT STABILIZATION MEASURES. A PERSON WITH KNOWLEDGE OF EROSION AND STORMWATER CONTROL, INCLUDING THE STANDARDS AND CONDITIONS IN THE PERMIT, SHALL CONDUCT THE INSPECTIONS.

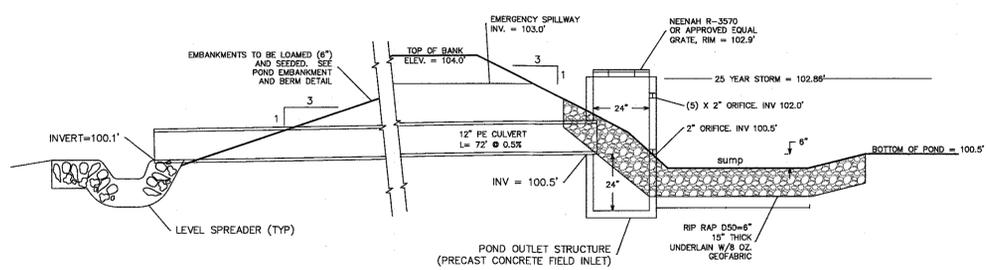
MAINTENANCE. IF BEST MANAGEMENT PRACTICES (BMPs) NEED TO BE REPAIRED, THE REPAIR WORK SHOULD BE INITIATED UPON DISCOVERY OF THE PROBLEM BUT NO LATER THAN THE END OF THE NEXT WORKDAY. IF ADDITIONAL BMPs OR SIGNIFICANT REPAIR OF BMPs ARE NECESSARY, IMPLEMENTATION MUST BE COMPLETED WITHIN 7 CALENDAR DAYS AND PRIOR TO ANY STORM EVENT (RAINFALL). ALL MEASURES MUST BE MAINTAINED IN EFFECTIVE OPERATING CONDITION UNTIL AREAS ARE PERMANENTLY STABILIZED.

DOCUMENTATION. KEEP A LOG (REPORT) SUMMARIZING THE INSPECTIONS AND ANY CORRECTIVE ACTION TAKEN. THE LOG MUST INCLUDE THE NAME(S) AND QUALIFICATIONS OF THE PERSON MAKING THE INSPECTIONS, THE DATE(S) OF THE INSPECTIONS, AND MAJOR OBSERVATIONS ABOUT THE OPERATION AND MAINTENANCE OF EROSION AND SEDIMENTATION CONTROLS, MATERIALS STORAGE AREAS, AND VEHICLES ACCESS POINTS TO THE PARCEL. MAJOR OBSERVATIONS MUST INCLUDE BMPs THAT NEED MAINTENANCE, BMPs THAT FAILED TO OPERATE AS DESIGNED OR PROVED INADEQUATE FOR A PARTICULAR LOCATION, AND LOCATION(S) WHERE ADDITIONAL BMPs ARE NEEDED. FOR EACH BMP REQUIRING MAINTENANCE, BMP NEEDING REPLACEMENT, AND LOCATION NEEDING ADDITIONAL BMPs, NOTE IN THE LOG THE CORRECTIVE ACTION TAKEN AND WHEN IT WAS TAKEN. THE LOG MUST BE MADE ACCESSIBLE TO DEPARTMENT STAFF AND A COPY MUST BE PROVIDED UPON REQUEST. THE PERMITTEE SHALL RETAIN A COPY OF THE LOG FOR A PERIOD OF AT LEAST THREE YEARS FROM THE COMPLETION OF PERMANENT STABILIZATION.

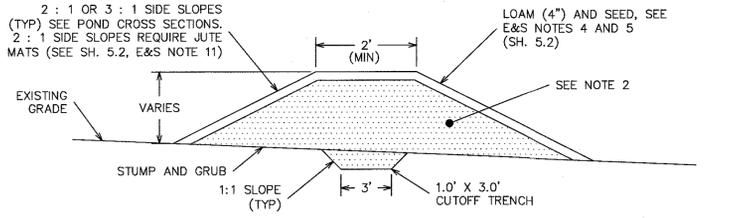


- EROSION CONTROL MIX COMPOSITION STANDARDS:**
- THE ORGANIC MATTER CONTENT SHALL BE BETWEEN 80 AND 100% DRY WEIGHT BASIS.
 - PARTICLE SIZE BY WEIGHT SHALL BE 100% PASSING A #8 SCREEN AND A MINIMUM OF 70% MAXIMUM OF 85% PASSING A 0.75" SCREEN.
 - THE ORGANIC PORTION NEEDS TO BE FIBROUS AND ELONGATED.
 - LARGE PORTIONS OF SILTS, CLAYS OR FINE SANDS ARE NOT ACCEPTABLE IN THE MIX.
 - SOLUBLE SALTS CONTENT SHALL BE <4.0 mmhos/cm
 - THE pH SHOULD FALL BETWEEN 5.0 AND 8.0

EROSION CONTROL MIX BERM (NTS)



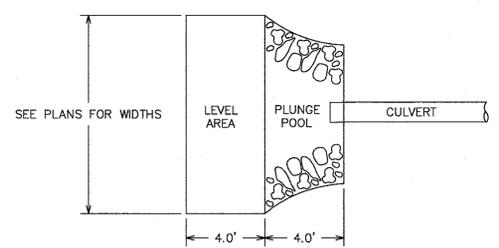
CROSS-SECTION DETENTION POND 1 (SEE SH. 2 FOR PLAN VIEW) (NTS)



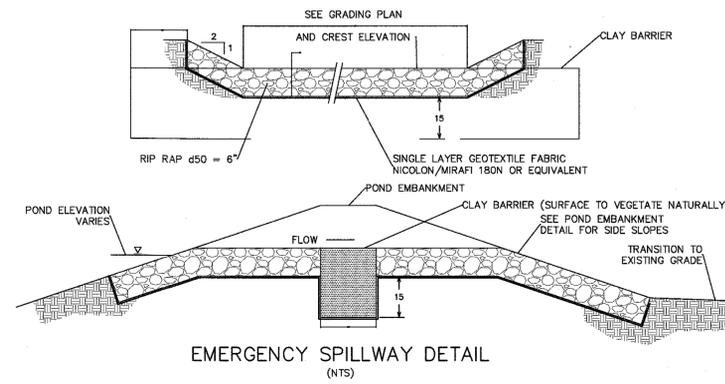
POND EMBANKMENT AND BERM DETAIL SCALE: 1" = 5'

EMBANKMENT CONSTRUCTION NOTES

- ALL ORGANIC MATERIAL, STUMPS, ROCKS AND BOULDERS SHALL BE REMOVED TO A MINIMUM DEPTH OF 24" BELOW SUBGRADE OF THE BASIN EMBANKMENT. ALL EXCAVATIONS BELOW THE BASIN EMBANKMENT SHALL HAVE A MINIMUM SLOPE OF 1H : 1V.
- ALL BASIN EMBANKMENT FILL MATERIAL SHALL BE WELL GRADED BORROW WITH A MINIMUM OF 20% FINES CONTENT. EMBANKMENT FILL SHALL BE PLACED IN 12" (MAX.) LIFTS AND BE COMPACTED TO 95% MODIFIED PROCTOR. A CUTOFF TRENCH SHALL BE EXCAVATED AS SHOWN PRIOR TO CONSTRUCTION OF EMBANKMENT.
- DETENTION BASIN AND ALL EXCAVATIONS SHALL BE KEPT FREE OF WATER DURING CONSTRUCTION.



LEVEL SPREADER (NTS)



EMERGENCY SPILLWAY DETAIL (NTS)

NO.	DESCRIPTION	DATE
B	PLANNING DEPARTMENT REVISIONS	10/30/2020
A	PLANNING REVIEW REVISIONS	10/08/19
	REVISIONS	



EROSION AND SEDIMENTATION CONTROL SWEET DIRT FACILITY
495 HAROLD DOW HIGHWAY, ELIOT, MAINE

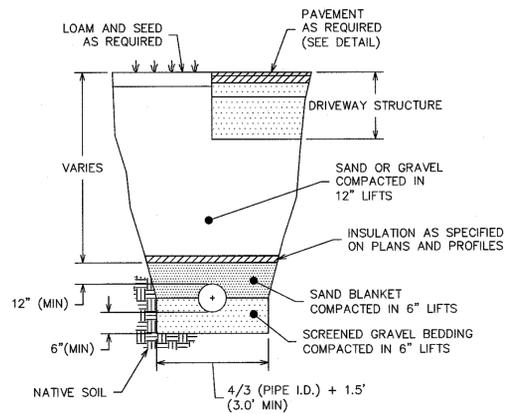
FOR: **NEK ASSETS, LLC.**
987 HAROLD DOW HIGHWAY
ELIOT, MAINE 03903

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

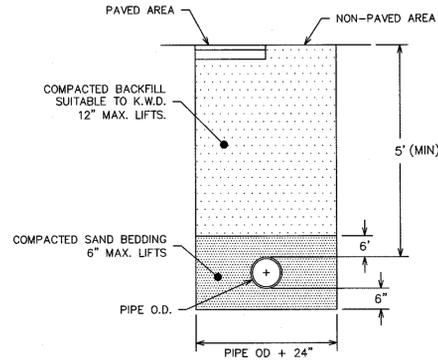
SCALE: 1" = 30'
DATE: 9/15/2020
JOB NO: C066-19

APPROVED BY: *[Signature]*
FILE: SWEET DIRT DET.DWG

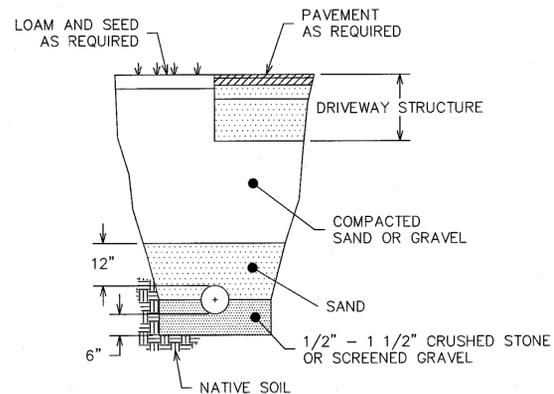
DRAWN BY: BRN
REVISION DATE: B : 10/30/2020
SHEET: 4



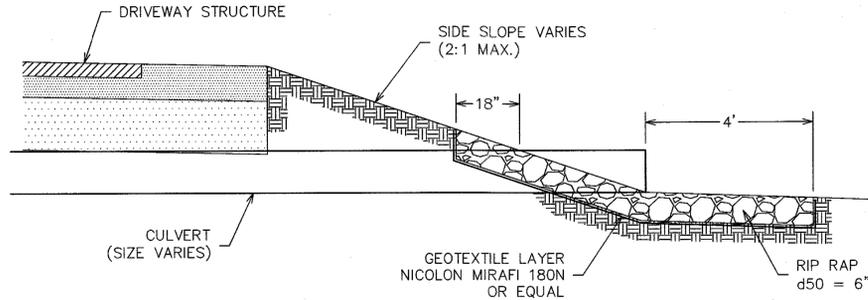
SEWER PIPE TRENCH DETAIL
SCALE: NTS
TRENCH TO BE SUPPORTED BY SLOPING BACK AT 2:1 OR OTHER ACCEPTABLE METHOD.



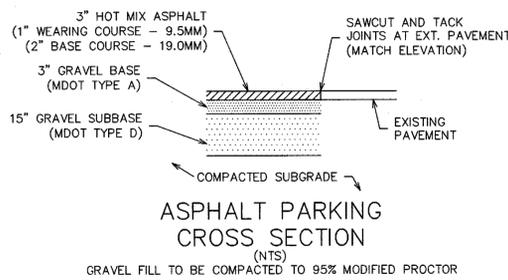
WATER LINE TRENCH DETAIL
(NTS)



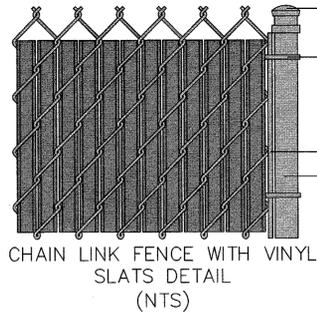
DRAINAGE PIPE TRENCH DETAIL
SCALE: NTS
TRENCH TO BE SUPPORTED BY SLOPING BACK AT 2:1 OR OTHER ACCEPTABLE METHOD.



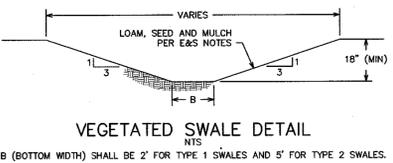
CULVERT INLET/OUTLET PROTECTION DETAIL
(NTS)



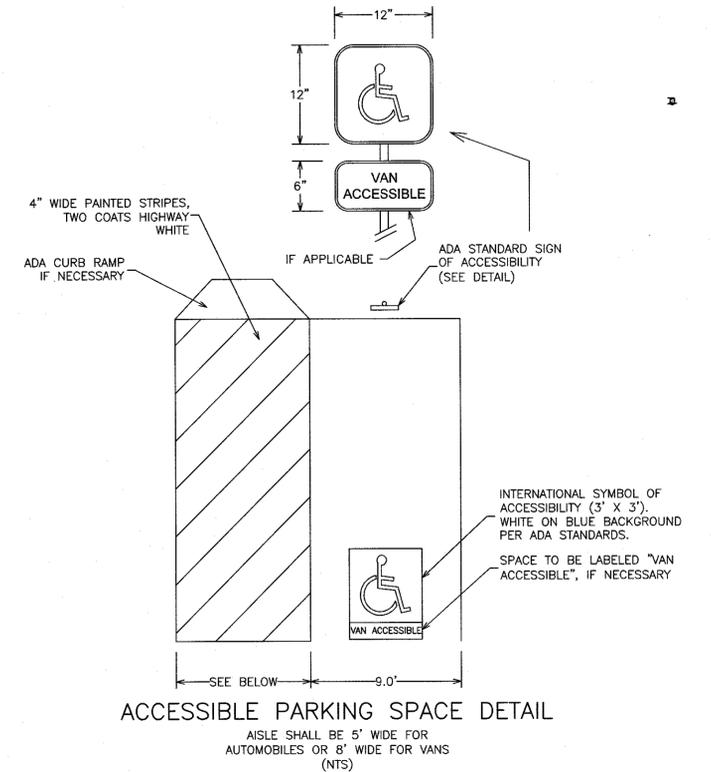
GRAVEL FILL TO BE COMPACTED TO 95% MODIFIED PROCTOR
(NTS)



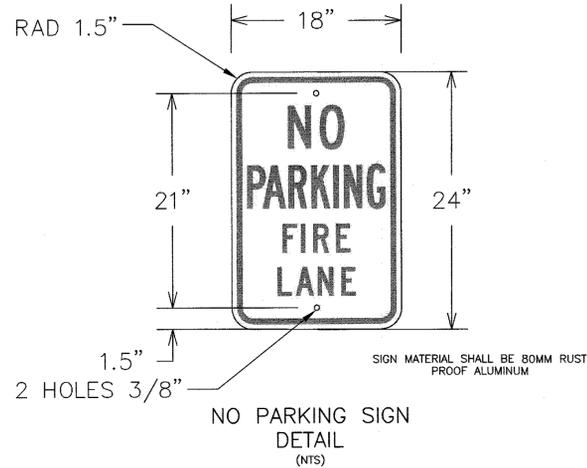
CHAIN LINK FENCE WITH VINYL SLATS DETAIL
(NTS)



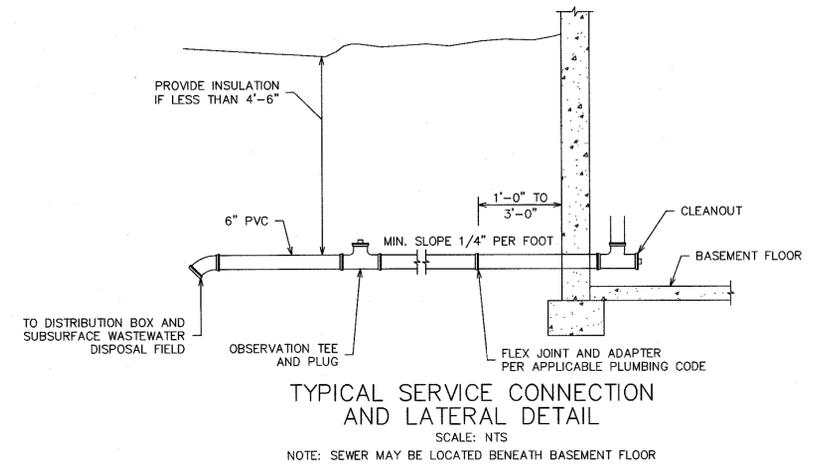
VEGETATED SWALE DETAIL
B (BOTTOM WIDTH) SHALL BE 2' FOR TYPE 1 SWALES AND 5' FOR TYPE 2 SWALES.
(NTS)



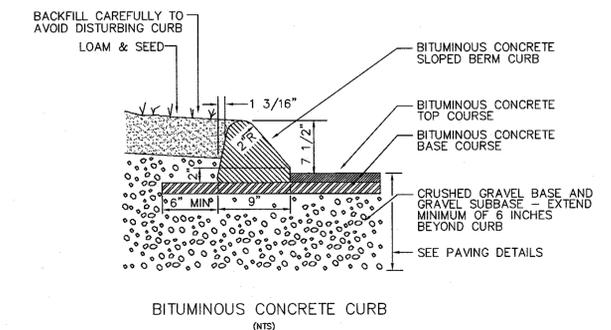
ACCESSIBLE PARKING SPACE DETAIL
AISLE SHALL BE 5' WIDE FOR AUTOMOBILES OR 8' WIDE FOR VANS
(NTS)



NO PARKING SIGN DETAIL
(NTS)



TYPICAL SERVICE CONNECTION AND LATERAL DETAIL
SCALE: NTS
NOTE: SEWER MAY BE LOCATED BENEATH BASEMENT FLOOR



BITUMINOUS CONCRETE CURB
(NTS)

SITE DETAILS SWEET DIRT FACILITY 495 HAROLD DOW HIGHWAY, ELIOT, MAINE		
FOR: NEK ASSETS, LLC. 987 HAROLD DOW HIGHWAY ELIOT, MAINE 03903		
ATTAR ENGINEERING, INC. CIVIL • STRUCTURAL • MARINE 1284 STATE ROAD - ELIOT, MAINE 03903 PHONE: (207)439-6023 FAX: (207)439-2128		
SCALE: 1" = 30' DATE: 9/15/2020	APPROVED BY: 	DRAWN BY: BRN REVISION DATE: B : 10/30/2020
JOB NO: C066-19 FILE: SWEET DIRT DET.DWG	SHEET: 5	

NO.	DESCRIPTION	DATE
B	PLANNING DEPARTMENT REVISIONS	10/30/2020
A	PLANNING REVIEW REVISIONS	10/08/19
	REVISIONS	





TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
Dana Lee, Town Manager

From: Jeff Brubaker, AICP, Town Planner

Cc: Wendy Rawski, Town Clerk
Melissa Albert, General Assistance Administrator
Shelly Bishop, Code Enforcement Officer
Kearsten Metz, Land Use Administrative Assistant
Philip Saucier, Bernstein Shur, Legal Counsel

Date: October 29, 2020

Re: June 2021 Ordinance Amendments

The following table includes a working list and status of land use ordinance amendments proposed for the June 2021 ballot. In addition to these amendments, the 2022 Growth Permits allocation will also need to go on the same ballot. This table does not necessarily include all proposed June 2021 Town Code amendments – only those that affect Subpart B (land use regulations) of the Town Code. Many of these amendments are in development and will benefit from continued input and review, as necessary, from the Planning Board, Select Board, other boards and committees, staff, Town legal counsel, and the public as they move toward being finalized for the June 2021 ballot.

Ordinance amendment	Purpose/summary	Status
Marijuana licensing and land use regulations	Consolidate land use regulations for medical and adult use marijuana while improving and expanding performance standards; better define various medical marijuana uses under the term “medical marijuana establishment”; bring medical marijuana establishments under Chapter 11 licensing requirements; ensure consistency with state law; and improve the clarity of marijuana land use regulations.	Discussion drafts reviewed by PB 8-18-20; 9-29-20 Updated draft in-progress; anticipated to come back to PB for review in December
Variances	Make changes based on Board of Appeals recommendations for variances and waivers; eliminate BOA and CEO waiver provisions inconsistent with state law; define and apply variance types consistent with state law	Discussion draft reviewed by PB 9-29-20 Draft, with minor updates, to be reviewed by BOA on 11-19-20
Auto graveyards, auto recycling businesses, auto	Modify auto graveyard and junkyard definitions, and add a new auto hobbyist definition, consistent with state law; add auto hobbyist storage area as an SPR use in certain zoning districts while prohibiting it in others; add new land	Draft in progress; staff internal review to be followed by request for PB, SB,

hobbyists, and junkyards	use performance standards for said auto uses in Ch. 45; create rules in Ch. 16 for operating permits for auto graveyards and auto recycling businesses (with the land use table continuing to prohibit junkyards throughout town and continuing to substantially restrict permissible locations of auto graveyards and auto recycling businesses).	and other committee (as necessary)
Home occupations and home businesses	Make minor changes to allow home occupations in the C/I district; improve the clarity of 45-456.1(h)(2) regarding on-site sales of merchandise and products by a home business that are not homemade but are "customarily incidental" to the home business's products or services.	Not yet started.
Firearms sales businesses	Update Sec. 45-290 land use table to restrict firearms sales businesses to C/I zoning district.	Not yet started.
Post-construction stormwater management	Make minor changes to Ch. 35 based on recommendations from the Southern Maine Stormwater Working Group (SMSWG) and the Town's stormwater consultant	Not yet started.
Planning Board/Code Enforcement Fees	Update Section 1-25 as needed.	Not yet started.
2022 Growth Permits	(Non-ordinance) Propose 2022 growth permit allocation for voter consideration, accompanied by annual report.	Not yet started.

1) GENERAL PROVISIONS

- a) Business of the Board shall be conducted in accordance with Maine State Statutes, the most recent edition of The Town of Eliot Charter, Town Ordinances, as well as such Planning Board Standards or Policies as may be adopted by the Board.
- b) The Planning Board pledges to maintain professional conduct in the review of all proposals before it, and all other business deliberations.
 - i) All proposals shall be examined equally and equitably.
- c) Any question of whether a Member shall be disqualified from voting on a particular matter due to bias or conflict of interest must be decided by a majority vote of the Members present except the Member who is being challenged.
 - i) Any Member of the Planning Board who has a conflict of interest or bias with an application may voluntarily step down.
 - ii) If there is a question of a conflict of interest or bias brought by another Member of the Board, the applicant, or the public, that Member may be asked to step down after discussion and a majority vote by all Members, except the Member whose potential conflict or bias is under consideration.
- d) Those Board Members in attendance at meetings shall be expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.
- e) The most current edition of Robert's Rules of Order shall be the authority for making parliamentary decisions.
- f) The Minutes of Meetings and all writings required to be made by the Board may be kept by a professional secretary who is not a Member of the Board.
 - i) The Board reviews and approves minutes before submitted to the Town Clerk's Office.
 - ii) Originals of all Minutes of Meetings shall be filed with the Town Clerk.
- g) All records shall be deemed public and may be inspected at reasonable times.

2) MEMBERSHIP

- a) Appointments
 - i) Appointments to the Board shall be made by the Select Board of the Town of Eliot.
 - ii) Appointees to the Board shall be at least eighteen (18) years of age and legal residents of Eliot.
 - iii) The Board shall consist of five (5) Regular Members and two (2) Alternative Members.
 - iv) When there is permanent vacancy, the Select Board shall appoint a person to serve for the remainder of the term pursuant to the Eliot Charter.
 - v) The full term is five (5) years. The terms are staggered, but each full-term slot expires at Town Meeting.
 - vi) Any resignation by a Board member must be submitted in writing to the Select Board, and becomes effective when accepted by the Select Board at its next regularly scheduled meeting.

- b) A quorum of the Board, as defined by Ordinance Governing Boards, Commission, and Committees shall be a majority of the full voting board, or three (3) Members.
- c) Attendance and Participation
 - i) All Members are expected to attend all meetings and participate fully in the general conduct of the Board.
 - ii) A Member who expects to be absent from any meetings must notify the Chair of the absence in advance for it to be considered an excused absence.
 - (1) Any Member who was absent during any meeting that the Member is being asked to vote on must state publicly for the record that the Member has read the minutes and reviewed any documents received and discussed at the missed meeting(s).

3) OFFICER MEMBERS AND THEIR DUTIES

- a) Officers of the Planning Board shall consist of The Chair, Vice Chair, and Secretary.
 - i) All officers shall be Regular Members of the Board.
 - ii) In the extraordinary circumstances of absence of all officers at a meeting, a quorum of the Board may elect a Chair pro tempore for that meeting.
- b) The Chair shall:
 - i) Preside at all meetings and hearings of the Board.
 - ii) Has the authority to appoint all committees, call special meetings, and call work sessions.
 - iii) Responsible for any communication or requests to or from another Town Board.
 - iv) Must be informed of and will coordinate all requests for information from the Board to any source inside or outside the Town of Eliot.
 - v) Will prepare the agenda for meetings.
- c) The Vice Chair shall:
 - i) Act for the Chair in the Chair's absence.
- d) The Secretary shall:
 - i) Act for the Chair and the Vice Chair in their absence.
 - ii) Attendance, alternate member voting rotation shall be kept.
 - iii) Review of draft minutes.
- e) Alternate Board Members
 - i) Shall attend all meetings and participate in the proceedings.
 - ii) May propose motions and vote only when designated by the Chair to sit for a Regular Member.
 - iii) Shall be designated to vote on a rotating basis.
 - iv) Shall not hold office.

4) ADMINISTRATION DUTIES

- a) Duties and jobs may be assigned or performed by any Board member or staff as the Board sees fit.
 - (1) Keep a record of: resolutions, transactions, correspondence, findings and determinations, and minutes for meetings of all kinds.
 - (2) Provide notice of meetings to Board Members, arrange proper and legal notice of hearings, prepare correspondences, and any other duties the Board may find necessary.
- b) Election of Officers

- i) Nominations for office shall be made from regular voting members of the Board at the annual organizational meeting which shall be held on the first regular scheduled meeting after the annual Town meeting and the election shall follow immediately after.
- ii) A candidate receiving a majority vote of the regular voting membership of the Planning Board shall be declared elected and shall serve for one year or until their successor shall take office.
- iii) Vacancies of officers shall be immediately filled by Board election process.

5) MEETINGS

a) Organization

- i) All meetings in which official action is taken shall be open to the public.
- ii) Video streaming of all meetings shall be in accordance with the Eliot Charter.
- iii) The Chair may set time limits on public comment that will be applicable for the entire meeting
 - (1) Can be limited to a specific time overall, per individual, or both.
 - (2) The Chair will use discretion on time limits in order to promote good relations between The Board and the public.
- iv) Those providing input at public meetings and hearings are advised to observe general rules of decorum and address only the issues before the Board. Persons disrupting the proceedings may be asked to leave the room by the Chair.

b) Regular Meeting

- i) Meetings will be held on the first and third Tuesday of the month at Eliot Town Hall at the time specified on the Town calendar.
 - (1) Meetings may be rotated to various locations to enable better citizen rapport.
 - 1. There must be special attention paid to the responsibility of the notification to the Public if the meeting is to be held at other than the normal time and place.
- ii) Materials received from applicants and other interested parties will be handled in the following manner:
 - (1) The Chair will read written public comment after the application presentation but before the attending public speaks.
- iii) Public comment will be handled in the following manner at Regular Meetings:
 - (1) The Chair will recognize public comment as a specific agenda item that is open to particular concerns regarding general Board functions.
 - (2) The Chair will recognize public comment during applications before the Board that are open to particular concerns regarding the functions germane to the Board on the applications.
 - 1. Public comment on applications will be opened by the Chair after the initial presentation from the applicant but before the Chair closes public comment so the Board can deliberate directly with the applicant. Public's comment must be made to the Chair, and all questions and discussions between citizens and Board Members must be through the Chair.

c) Special Meeting

- i) The Chair or other presiding officer, upon majority of approval of the Board, may call a Special Meeting at any appropriate time, to conduct necessary Board business.

d) Emergency Meeting

- i) Shall be run in accordance with the Eliot Charter upon majority approval of the Board, and public notice shall be given as soon as possible using all means of available communication to the public and local media.

e) Site Walks

- i) The purpose of the site walk is for collecting information related to physical factors of a site under consideration of the Board.
- ii) Shall be conducted like a regular meeting and decisions shall not be made during the site walk.
- iii) The public may attend site walks but there will be no public comment or input allowed regarding the application during the site walk to any Board Member unless allowed by the Chair.
- iv) Chair shall give verbal summary of the site walk for the record at the following meeting.

f) Executive Sessions

- i) Upon a concurring vote of at least three (3) members present and voting, the Board may call for an Executive Session, from which the public shall be barred. Such sessions shall be held in accordance with: MRS-Title 1, Section 405.
- ii) Within Executive Session it shall be the Chair's responsibility to ensure that only business for which the Session was called will be discussed. The Chair shall conduct the Executive Session to ensure that compliance with the rules for Executive Session occurs.

6) PUBLIC HEARINGS

- a) When an application requires a Public Hearing, the Board shall specifically schedule a Public Hearing before a final decision is made.
- b) Notice of hearings will be provided to applicants and the public in order for them to review and prepare.
- c) Notices of hearings will be provided according to applicable ordinance requirements.
- d) The Planning Board will strive to conduct public hearings in a fair and efficient manner that permits a thorough exploration of the issues to be considered.
- e) The Chair will read written public comment that has been submitted before the attending public speaks.
- f) The Chair shall recognize individuals wanting to speak, generally beginning with the abutters and ending with any other attending member of the public. The Chair shall close the Public Hearing after all have spoken, and the Board may then resume deliberations.
- g) During the Public Hearing, all statements must be made through the Chair, and all questions and discussion between citizens and Board Members must be through the Chair.

7) WORK SESSIONS

- a) The Chair, or any presiding officer, may, with the approval of the majority of the Board, call a work session for the purpose of:
 - i) Implementing the Comprehensive Plan, addressing or amending Subdivision Regulations, addressing or amending Zoning Ordinances, addressing or amending Planning Board Bylaws, and any other work items as necessary.

- b) These sessions are open to the public.
 - i) Since the work sessions are for Board discussion, input from the public is generally limited although input from staff, Boards, the public, and groups is permitted at the discretion of the Chair, or consensus of the Board.

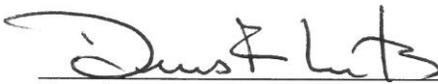
8) BYLAW AMENDMENTS

- a) These By-laws may be amended by a four (4) Member vote of the entire voting Membership of the Planning Board.

9) SEVERABILITY

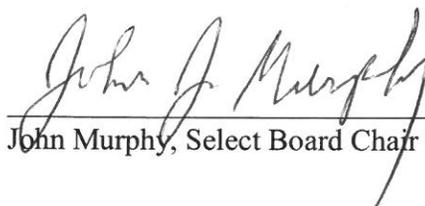
- a) The invalidity of any section or provision of these By-laws shall not be help to invalidate any other section or provision of these By-laws.

Adopted by the vote of the Planning Board
June 10, 1980; May 1, 2018; September 4, 2018



Dennis Lentz, Planning Board Chair

10/2/2018
Date



John Murphy, Select Board Chair

10/27/2018
Date