

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

POSTED
7/26/22
EAB

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

DATE:
TIME:

Tuesday, August 2nd, 2022
6:00 P.M.

All in-person attendees are asked to wear face masks

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

- 1) **ROLL CALL**
 - a) Quorum, Alternate Members, Conflicts of Interest
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **MOMENT OF SILENCE**
- 4) **10-MINUTE PUBLIC INPUT SESSION**
- 5) **REVIEW AND APPROVE MINUTES**
 - a) June 7th, 2022 ~ July 26th, 2022 – if available
- 6) **NOTICE OF DECISION**
 - a) 155 Harold L. Dow Highway – if available
 - b) 768 Main Street – if available
 - c) 244 Pleasant Street – if available
- 7) **PUBLIC HEARING**
- 8) **NEW BUSINESS**
 - a) November 2022 Ordinance Amendments
 1. Ordinance Subcommittee update
 2. Subdivision Requirements
 3. Solar Energy Systems
 4. Event Centers
 5. Advisory Question: Cap on Marijuana Establishment Licenses
 - b) 143 Harold L. Dow Highway (Map 23/ Lot 25), PID # 023-025-000, PB22-13: - Sketch Plan Review
- 9) **OLD BUSINESS**
 - a) November 2022 Ordinance Amendments
 1. Erosion and Sedimentation Control
 2. Fees
- 10) **OTHER BUSINESS / CORRESPONDENCE**
 - a) Town Planner update – written or verbal – if available
- 11) **SET AGENDA AND DATE FOR NEXT MEETING**
 - a) Reminder: August 3rd, 2022 – Community Resilience Partnership Work Session (4:00pm to 5:30pm)
 - b) August 9th, 2022
- 12) **ADJOURN**

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

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

- a) Go to www.eliotme.org
- b) Click on "Meeting Videos" – Located in the second column, on the left-hand side of the screen.
- c) Click on the meeting under "Live Events" – The broadcasting of the meeting will start at 7:00 (Please note: streaming a remote meeting can be delayed up to a minute)

Instructions to join remote meeting:

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


Carmela Braun – Chair

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

1 **ITEM 1 - ROLL CALL**

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

5
6 Also Present: Jeff Brubaker, Town Planner.

7
8 Voting members: Carmela Braun, Jeff Leathe, Christine Bennett, Jim Latter, and Lissa
9 Crichton.

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

12
13 **ITEM 3 – MOMENT OF SILENCE**

14
15 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

16
17 There was no public input.

18
19 **ITEM 5 – REVIEW AND APPROVE MINUTES**

20
21 Mr. Leathe moved, second by Mr. Latter, to approve the minutes of April 19, 2022, as
22 amended.

23 **VOTE**
24 **5-0**
25 **Motion approved**

26 **ITEM 6 – NOTICE OF DECISION**

27
28 There were no Notices of Decision.

29
30 **ITEM 7 – PUBLIC HEARING**

31
32 There were no public hearings.

33
34 **ITEM 8 – NEW BUSINESS**

35
36 **A. Climate Resilience Partnership**

37
38 Mr. Brubaker said that we are excited to start this project. This is a project with SMPDC,
39 as the lead agency, and a partnership of four communities – Eliot, Fryeburg, Berwick,
40 and Old Orchard Beach. This is a partnership between local, tribal, and regional agencies
41 to reduce carbon emissions and prepare for climate change impacts. There are some
42 community action grants available for \$4.75 million at this point for planning and
43 implementing climate and resilience actions. Communities must enroll in this partnership
44 to be eligible for these grants. So, we are at the very first of the very first step, which is
45 starting the partnership process. Again, this is all about identifying actions that
46 communities can take to make themselves more prepared for climate change and the first

47 part is the CIP enrollment process. The first step there is to complete a self-assessment
48 and that's what's in your packets – the self-assessment form. This is kind of like a form
49 that we, as a community, will complete together over the next couple of months. He
50 shared the form on the screen. Basically, it's an evaluation form where you try your best
51 to evaluate where the community is at in terms of climate resilience. Some areas are what
52 we are doing well, what areas need improvements in the short term, and what needs to be
53 addressed long-term. Obviously, we are a community that's affected by sea level rise and
54 sea water intrusion, things like that. And, of course, change in temperatures. And it talks
55 about what 3 to 5 actions could be priorities for us. It goes on to talk about hazard
56 mitigation. What types of hazards and destructive events in Eliot and have we assessed
57 how likely each hazard has changed or may change in the future. I will be the lead on this
58 locally. We'll need to fill this out and submit it back to SMPDC. I'll make sure you get
59 this form by email after this meeting. These are just questions about societal
60 characteristics and trends that increase vulnerability. Is your community addressing
61 vulnerabilities associated with these underlying characteristics. It talks about the
62 Comprehensive Plan. Does your community have reserves that would help absorb a
63 shock when they occur. So, once we've done the self-assessments, they're going to want
64 to hold a community workshop and we have SMPDC to help us with this; that that will
65 help us prioritize some of the actions we might want to take. Another thing I can send
66 you is a list of community actions, summarizing what was in the spreadsheet. The next
67 step after that is to adopt a resolution of commitment and that can be done by the SB.
68 Then, we submit all our enrollment materials and, hopefully, joined as a partnership.
69 Grant deadlines are March and September. I'm not sure we'd be quite ready in September
70 but certainly next March we could be ready. Once you have joined, you just have to show
71 progress every two years to remain eligible. He reviewed the SMPDC Service Provider
72 Grant Timeline for the four communities involved. There's an opportunity to share
73 experiences with those communities or even partner on a community action application
74 grant. In the summer we'll really want to complete that self-assessment and review the
75 community action list and, then, the fall hold the community workshop. That would set
76 us up for prioritizing the list of actions for the winter as well as the municipal resolution.
77 We'll submit our enrollment application at that time and then, hopefully, we'll have
78 enough momentum to go into a potential grant cycle.

79
80 Mr. Latter asked if Mr. Brubaker had the bandwidth for that.

81
82 Mr. Brubaker said that I think I do because I think this really is a collective effort.
83 Obviously, SMPDC will be able to help us a lot and we're hoping that our wonderful
84 volunteer committee members can help provide some information help us fill out these
85 initial forms.

86
87 Ms. Braun asked if you are planning to involve anyone from the community on what their
88 thoughts are on this project.

89
90 Mr. Brubaker said yes. I think that will be where we want to, once we schedule our
91 workshop, get the word out and see if members of the community can attend. As you
92 know, Ms. Chair, the Conservation Commission reviewed this at their last meeting.

93
94 Ms. Braun said that they were very receptive and willing to work with us, as well. I found
95 that very encouraging. I'm very interested in interacting with other boards and getting us
96 all on the same page. I do think it would be good to have some community involvement
97 to feel them out about what their thoughts are. We have a large older population, too, so
98 I'm sure they're interested in some sort of public transportation, etc.

99
100 Ms. Lemire said that we had around 70 people from the community involved in the Comp
101 Plan so it's very doable.

102
103 Ms. Bennett asked how we were selected within these communities.

104
105 Mr. Brubaker said that I think that SMPDC emailed everybody within their jurisdiction
106 asking if they were interested and we were one. Mr. Sullivan was excited about it, too, so
107 we submitted a letter of support, letter of participation, and sure enough we got it. I don't
108 know if some of the larger communities already have some climate resilience work going
109 on. For us, it's kind of new for Eliot so it seemed to me that being able to join this group
110 effort would be a good way to get this climate resilience thinking work done without
111 going it alone and having our regional agency partner with us.

112
113 Ms. Bennett said that I think it's fabulous and I do note that legislation did pass last
114 session at the State level that is going to be requiring communities to do such work.
115 Kittery has a standing committee, a climate action network, that has done an enormous
116 amount of this work already. At some point we may just want to look at that, at their
117 findings and suggestions just as ideas they are looking to implement.

118
119 Mr. Brubaker said that that's a good idea. I think they were initially interested in this and
120 they decided to just keep going with their own direction.

121
122 Ms. Braun added that it would also be a good way to make contact with these other
123 communities, to try to see what's happening in these other communities.

124
125 **B. November 2022 Ordinance Amendments**

126
127 **1. Erosion & Sedimentation Control**

128
129 Sharing the screen, Mr. Brubaker said that this is beginning to translate the model
130 ordinance into something that fits into our code and is not a final draft. This is
131 comprehensive erosion & sedimentation control that are needed for all construction sites
132 in Town that disturb and acre or more and it's something we need to do for our MS4
133 Permit. The time to have these rules in place is July 1, 2023 so we're timing this for the
134 November ballot. There are a lot of new definitions. We are introducing erosion &
135 sedimentation control BMPs (best management practices). We are editing a lot of
136 definitions to align with the model ordinance. This document will have legal review. We
137 do have a new definition of "impervious area" and is pretty much straight from the model
138 ordinance. We are also introducing a new qualification – "Qualified Erosion and

139 Sedimentation Control Professional” and that is someone who has been certified in
140 erosion & sedimentation control practices. If you recall, the model ordinance had text in
141 green, black, and blue. The black text is something that shouldn’t really be edited, the
142 green is some good language that could be edited to fit our ordinance, and the blue is
143 optional language to include but isn’t necessary for the MS4 Permit compliance but it
144 might make you extra strong in terms of erosion and sedimentation control measures and,
145 so, I tried to capture that in the text.

146
147 Ms. Braun said that that one I agree with. It’s necessary to have that definition.
148

149 Mr. Brubaker said, regarding the new Chapter 34 addition, and we can still change it but,
150 what makes sense to me is putting erosion and sedimentation control in its own chapter;
151 that it is open to discussion but it would be right next to the post-construction stormwater
152 construction chapter.

153
154 Ms. Braun said that I think that’s a good idea.
155

156 Ms. Bennett said, regarding the “waters of the State” definition, I see for brevity’s sake
157 we’ve inserted the State definition, which I think is great. I’m just wondering personally
158 if we can actually put that definition in the ordinance so that people can be aware of what
159 the ‘waters of the State’ is. I’d kind of have to make it up on the fly if you asked me right
160 now.

161
162 Mr. Latter asked how most people access this information.
163

164 Mr. Brubaker said that I think online.
165

166 Mr. Latter suggested putting a hyperlink within the draft definition to clink over directly.
167

168 Mr. Brubaker said that we could do whatever you guys think. To Ms. Bennett’s point,
169 sometimes we do include the full text of the definition, even though it’s verbatim with the
170 State text. Then underneath it we put State law reference. In other cases, we do ‘this’,
171 which is what the model ordinance did. The point is that we have a lot of flexibility how
172 we write this ordinance.

173
174 Ms. Bennett said that I like the idea, especially if a hyperlink can be included on
175 MuniCode. My only other question is, on the second to last page of the draft under the
176 new Chapter 34 Applicability, you have highlighted in yellow some additional text and it
177 was not recommended at this time to include. I was wondering what the rationale is. Is
178 that something that Ms. Rabasca is recommending or is that something in your opinion.
179

180 Mr. Brubaker said that I believe that most communities are at the one acre or more
181 disturbed area threshold but some in southern Maine have adopted this smaller threshold;
182 that it does drastically increase the number of sites that need to be monitored. I think my
183 main thinking is that we’re not quite ready from the staffing side to do that. You’ll see,
184 especially as this language gets honed, how a lot of this is the responsibility of the

185 developer. There are also some Town requirements, too, like inspections every so often.
186 To your point, Ms. Bennett, we'd only want to go below an acre if we know we are ready
187 to do it from a staffing level.

188
189 **2. Fees**

190
191 Mr. Latter said that I was able to at least reach out to the three towns and get some
192 information. It just didn't all translate. The verbiage wasn't the same and I wasn't sure
193 where to plug some of it in. I did find it interesting that some of them were a lot more
194 than ours and they had a sliding scale. For Sanford, the site plan review for a minor site
195 plan went from \$50 to \$1,000. Some of it was based on square footage. A major site plan
196 review for projects 30,000 to 99,000 square feet was \$2,300 and, for greater than 100,000
197 square feet with one supplemental submission is \$3,000. Then, they charge for additional
198 supplemental submissions. They seem to be the most progressive as far as trying to cover
199 their costs. I did have a nice back-and-forth with South Portland and he said not to take
200 their fees as any kind of metric because we haven't touched them in forever. It's on their
201 to-do list.

202
203 Ms. Bennett said that York said the same thing, too, that theirs were very outdated. Along
204 with Mr. Latter's observation of Sanford, South Berwick in their subdivision fees, has a
205 line that says \$1,500 for planning services. I didn't drill in. I didn't make a phone call to
206 South Berwick to find out more about that.

207
208 Ms. Braun said that I would think that would be for the services of the Planner and all the
209 staff that gives assistance because a lot of them come in for pre-assessment or pre-
210 consultation and, sometimes, more than once. That would cover that. I like that.

211
212 Mr. Brubaker said that, in South Berwick's case, I think because they had a contract
213 planner, that may be a way for the applicant to pay for that service.

214
215 Ms. Braun said that that would help cover the cost of our planner and Ms. Metz, as well.
216 She puts a lot of effort and time into those applications. I think we ought to consider that,
217 asking what the other PB members thought.

218
219 Mr. Latter said that part of it is the cost of doing business as a municipality; that part of it
220 is the service we provide for the taxpayer. But those specific things that chew up a lot of
221 funding I don't know why the taxpayer should eat it. That's something else that's not
222 getting done.

223
224 Ms. Braun agreed, adding that, in some cases, we see an application several more times
225 than once and we don't charge them additionally for that; that we should.

226
227 Ms. Bennett said that York has a per-meeting fee. I think it might have been \$300 but I
228 can't recall exactly.

229

230 Mr. Brubaker said that I have many of the inputs from you all and will keep incorporating
231 those into the spreadsheet. I did incorporate Ms. Bennett's and, yes, York has this \$300
232 per-meeting fee for sketch plan review.

233
234 Ms. Crichton said that that would make sure they have all their information right away.

235
236 Mr. Latter said that my thinking is that we don't have to get a full re-coop of costs from
237 the one-time property owner, using the gentleman from Cedar Street coming in. He's not
238 the person we're trying to re-coop our costs from. He's the person who the services exist
239 to help. You compare that with somebody else who is strictly a commercial endeavor and
240 that's their business. I don't see why we should cover a part of their business cost.

241
242 Ms. Braun said that I agree. I've seen some come in two, three, up to seven times for the
243 same application for whatever the fee is in the beginning, and that's it. That just doesn't
244 seem right and it's taking away time from others who are waiting to come in and get their
245 project seen. I think it should be the larger developer who wants to come in several times
246 that should be impacted by a higher fee.

247
248 Ms. Bennett said that, if you look at that top grid, our neighbors are charging significantly
249 more on the site plan and the sketch plan. For our site plan, it is \$100 up to five acres and
250 \$50/acre for 6+ so it's graded by the size of the actual parcel. But Kittery is \$300 plus an
251 additional add-on fee. South Berwick is \$300 and, then, York is \$500 and adds in \$200
252 per dwelling unit or \$10 per square foot for nonresidential structures (garages, patios,
253 porches). It was very hard to find any of these fees on their website and had to be emailed
254 to me. They said not to use them as an example because they need to do this, as well.

255
256 Mr. Latter said that, by comparison, everybody's marijuana use seems to be up there
257 because they're trying to _____ (33:34) it. Understand that it's such a new thing that the
258 fee was not set in 1954

259
260 Ms. Braun said that we need to come to some sort of middle ground because we're
261 obviously not up to where we should be.

262
263 Mr. Latter asked if we would make a recommendation to the SB and then they would
264 decide to put it on the ballot.

265
266 Mr. Brubaker said that I think the same as usual. It's in our code §1-25 so it has to be
267 approved by the voters.

268
269 Mr. Leathe said that, for Ogunquit, for subdivisions they charge, in addition to the regular
270 charges I sent you, there is \$1,500 up front that they put in an escrow account and it's
271 subject to one or two 6-month deadlines. If the developer hasn't complied with the
272 requirements that are within those time periods, they don't get the money back.
273 Additionally, if the town incurs any costs along the way, they can take that money
274 directly out of the escrow account. So, I think that's something to consider. The other
275 ancillary question around that when I look back at the sedimentation and erosion work we

276 just talked about and having a pre-construction meeting where the Code Enforcement
277 authority that has to go out to the site and review with the folks that are actually going to
278 be doing the disturbance, whether we should be incorporating that in our fee schedule. I
279 don't know how often that happens but I suspect disturbing land of that size is pretty
280 frequent. That's just one more burden that someone here, I think the CEO maybe, would
281 have to take half a day over there to take care of that in terms of getting prepared, going
282 to the meeting, and writing it up. I think that that should be an additional cost that we
283 should have recovered.

284
285 Mr. Brubaker said that I can look into including that.

286
287 Mr. Leathe added that it may towards, ultimately, with having the Budget Committee
288 expanding the Code Enforcement Office to more than one person. Someone to take over
289 some of the maintenance items; that maintenance activities are hard to keep up with when
290 there's only one person in a community this size.

291
292 Mr. Brubaker agreed. I think you could look at some of the other communities, like
293 Kittery, that have a designated stormwater person. Ms. Rabasca may have mentioned this
294 but I do believe fees do cover at least a decent chunk of their salary. It only makes sense,
295 if we have a post-construction stormwater management fee per inspection, that we could
296 also look at doing that for the erosion and sedimentation control.

297
298 Mr. Leathe said that enforcement actions are very expensive, from starting an initiative to
299 starting an action, and maybe we should think of that as outside of our purview. But we
300 should be thinking about fees associated with other aspects of maintaining these projects,
301 should we approve them which principally ends back at the Code Enforcement office and
302 we go on and look at new projects.

303
304 Ms. Crichton asked, for people who come in and get approved, how long do they have to
305 do their project before they have to come back in and do another application.

306
307 Mr. Brubaker said that it is 2 years for a site plan and I think it's the same for a
308 subdivision.

309
310 Ms. Crichton asked if the application is paid the same or is it more if they have to come
311 back.

312
313 Mr. Brubaker said that they have to do it all again. In Eliot, the process works where we
314 get an application. My interpretation of the wording of the code, at sketch plan, they
315 don't yet need to submit the fee, although some do. When they get to full site plan
316 review, subdivision preliminary plan application, that is when the fee is due. So then, we
317 start to review the application and, sometimes, we might say we need a third-party
318 reviewer come in and, at that point, the PB makes a motion and I get a quote for a third-
319 party; that I base the fee on that quote and then the applicant would submit that fee to
320 escrow to cover that third-party review. I think what you guys are seeing, and what I saw
321 in Biddeford and Saco, is an automatic escrow deposit up front for planning services. It

322 does seem that a lot of these communities have the applicants pay their fees to cover the
323 base cost of review.

324
325 Mr. Leathe said that, from the three towns I looked at, they charge fees up front. If you
326 want a meeting with the PB for any variety of topics, you have to have a check to get in
327 the door. You can't just come in and have a preliminary discussion then walk away.

328
329 Ms. Braun said that I think we should test something like that. If we take a fee for a third-
330 party reviewer and we don't need it, they would get their money back. Other than that, at
331 least it would cover costs. How much time does the Administrative Assistant spend just
332 copying stuff, and that all comes out of our budget. Lots of paper, lots of ink, her time. If
333 we had some sort of fee cover it would be less of a burden to our budget. If other
334 communities are doing that, I don't see why we shouldn't step up to the plate and do it.

335
336 Mr. Brubaker said that that was one of the things on the Board of Appeals (BOA) side
337 that I saw in some of these communities' fee schedules. They had a base BOA fee but
338 then they said that the applicant is responsible for postage and photocopying and, to some
339 degree, legal review that the town needed to do.

340
341 Everyone agreed to further consider what might be re-cooped in terms of planning staff
342 time, postage, copying, etc.

343
344 Ms. Lemire asked if this would be across the board with any applicant.

345
346 There was discussion around this regarding how to apply to different applications, such
347 as a home business versus a subdivision as an example. One example was to base it on
348 the dollar value of the project, possibly apply to larger developments, a sliding scale.
349 There needs to be a rationale to fit the fee schedule.

350
351 Ms. Braun said that we don't charge for subdivisions per lot, do we.

352
353 Mr. Brubaker said yes, \$200/lot.

354
355 Ms. Braun asked if the other communities were charging per lot.

356
357 Ms. Bennett said that Kittery has a flat fee of \$500 plus \$50 per dwelling unit or lot.
358 South Berwick broke up their fees for preliminary plan and final plan. They do a \$200 fee
359 for preliminary fee plus a \$200 per lot fee and then just a flat fee for subdivision final
360 plan. York has a flat fee for subdivision of \$500 then \$200 per lot or unit.

361
362 Mr. Leathe said that Ogunquit was \$600 or \$150 per lot, whichever is higher.

363
364 Mr. Latter said that in Sanford a minor subdivision of land with up to one supplemental
365 submission is \$1,750. He added that, in the scheme of things, if you are subdividing and
366 building 3 or 4 houses, what's \$1,750, especially when lumber \$147 per 2X4.

367

368 Mr. Leathe asked, once you've put in all this data, how do you plan to proceed.

369

370 Mr. Brubaker said that you will see a typical ordinance amendment for §1-25, much like
371 you have in the past with strikethroughs and new language and developing a draft
372 rationale for the changes. If you are okay with it, I could also take this to the BOA to ask
373 if they believe their fees should be updated, as well.

374

375 Ms. Braun said that, if you could do that and get it on the November ballot, that would be
376 good.

377

378 Mr. Brubaker said that he would update the spreadsheet, as well, as data comes in and
379 present it at a future meeting.

380

381 **3. Event Centers**

382

383 There is no printed information for this discussion.

384

385 Mr. Brubaker said that there has been some interest in the community about potentially
386 allowing event centers. The idea is that they may want to make use of their property for a
387 venue that could be rented out for different types of events. The penultimate example
388 being the barn that can host weddings. The current zoning is unclear on that type of use
389 and we are looking into it. WE are having SMPDC do an initial assessment of a potential
390 ordinance to allow it, subject to site plan review and licensing. If they are allowed, we
391 need to make sure there is comprehensive mitigation impacts. This is definitely a slow
392 scope creep that's slippery.

393

394 Mr. Latter describe a situation where something that started out small eventually went
395 beyond the scope of the original intent that brought it to the town's attention as an
396 example of caution.

397

398 Mr. Brubaker said we, like every other community, is not unfamiliar with scope creep of
399 an approved use. Slowly growing and expanding and upsetting some of the
400 neighborhood.

401

402 Ms. Braun asked if there would be a property in a residential neighborhood, bearing in
403 mind the noise, the parking, etc.

404

405 Ms. Lemire said that we do have a noise ordinance that also includes protected hours
406 against excessive noise.

407

408 Mr. Brubaker said that some events would clearly not be appropriate for residential
409 neighborhoods. If there are some that would fit, obviously a lot of different performance
410 standards would need to be considered. He showed a list that SMPDC came up with that
411 they are working on.

412

413 Mr. Latter said that I think 'maximum # of events' is critical.

414 Mr. Brubaker said that that is tangible, too, and easy to enforce.
415

416 Ms. Lemire suggested talking with Mr. Widi; that he might be a good person to speak
417 with about his own personal experience with this, as he holds events at his farm.
418

419 Ms. Bennett said that I have heard that those events at the farm has had a significant
420 impact on the neighbors, especially directly, because how many 100's of cars go in and
421 out of that property on a given night when they are doing events. It does turn a residential
422 road and area into a commercial use, albeit temporary in impact.
423

424 Ms. Braun said that I'm thinking of barns in the Village and say we allow them to have
425 weddings in barns. Weddings can be a large number of people and there could be parking
426 issues, noise, waste disposal, etc., and neighbors are going to complain. Raitt Farm is fine
427 and way out and they do a lot of events with a large piece of land. In the Village area, we
428 are so congested and it seems an impossibility.
429

430 Mr. Brubaker said that I think this would be a good one, as we move forward, to imagine
431 if we allow 'this' here, what would it be like on the night of a wedding of X size. What
432 would that feel like for the neighbors at 9PM. He talked about the work Mr. Galbraith has
433 been doing on developing this list of parameters and one that I think is particularly good
434 is 'maximum occupancy (tiers)'. You could get approved for an event center; you could
435 get licensed (annual licensing) from the SB for an event center but perhaps it would only
436 be for the first occupancy tier were you could only have small events. So, you might
437 envision a barn having small fundraiser dinners, or something like that. That would be
438 different than a wedding with 200 guests and a live band there.
439

440 Mr. Leathe asked if any of the neighboring communities have an event center ordinance.
441

442 Mr. Brubaker said no but that would be a good thing I could see if Mr. Galbraith could
443 research a bit.
444

445 Ms. Braun asked if there is a reason why people are asking about this. Is it because of
446 COVID and they don't want to go out to public venues.
447

448 Mr. Latter said that I think it's just that the environment has changed. I'm going to a
449 wedding in October and it's in a barn. Where once upon a time they were looking for a
450 restaurant with a ballroom...nobody goes to a bar, everybody goes to a brewery now.
451 My mother-in-law is turning 80 and I called Town Hall to say we are going to have a tent
452 and maybe some entertainment and asked if we needed a permit. They said no, as long as
453 it's not over 100 people or whatever the number was. So, there's nothing to prohibit me
454 from putting up a tent, having 50 or 60 people, and meet whatever the quiet time is in the
455 ordinance; that my neighbor offered me a ROW for parking. So, some places you do have
456 to get a permit.
457

458 The Mass Gathering Permit was discussed. It requires a permit for any event over 1,000.
459 There is also a Special Amusement Permit required if serving alcohol. They are required
460 to have a public hearing with the SB, who approves these permits.

461
462 Ms. Lemire said that the only thing I don't see on the list is any kind of insurance
463 [liability].

464
465 Mr. Brubaker agreed. Mr. Galbraith mentioned that as something that should be included.

466
467 Ms. Bennett said that, along these lines, I know that communities often require that you
468 have a police detail for parking purposes. That would be a cost borne by the host.

469
470 Ms. Braun said that Mr. Galbraith is working on an ordinance and will get it to us when
471 he feels it's ready.

472
473 Mr. Brubaker concurred.

474
475 **C. Planning Board Ordinance Subcommittee**

476
477 Mr. Brubaker said that this was more a placeholder to continue the discussion. I did want
478 to note that because I think this is important. Mr. Sullivan is interested in holding, with
479 the SB this summer and with other committees, some summits, which are like informal
480 discussions of important issues in Town to the Town. I think it would be good for the PB
481 to be ready to slate somebody, one or two (no quorum) to attend if interested. I think a
482 few of them relate to land use, conservation and things like that.

483
484 Ms. Braun said that I think these are important. What about, in our ordinances, the
485 definitions we were talking about and possibly having some people working on potential
486 definition changes. They can do that as long as it's two or less. Otherwise, we would
487 have to have an open meeting.

488
489 Mr. Brubaker said that, with our remote participation policy, we want every meeting
490 hooked up with Zoom. But, you are allowed to make it a non-quorum from a few people
491 or you could do a three-person and then [inaudible].

492
493 Mr. Latter said that a subcommittee is a working meeting. They can't do anything on
494 behalf of the whole PB. They would do their work and then make a recommendation to
495 the whole Board.

496
497 Ms. Lemire said right. You can't make any motions.

498
499 Mr. Latter said that as long as you don't make any decisions and you're just doing some
500 work.

501
502 Ms. Lemire said exactly. The SB often does that.

503

504 Ms. Bennett wanted to reiterate that she has volunteered to be part of that committee.

505

506 Mr. Leathe said that the school board does this, too. They have working committees and
507 it is my understanding that no one ever shows up.

508

509 Ms. Lemire said that, sometimes, the SB has working meetings with the whole board but
510 don't make any decisions.

511

512 Mr. Latter added that you then present the findings at an open, public meeting.

513

514 Ms. Braun said that you can have two of you get together to work on it or do it separately
515 then come together to come to a consensus, and then present it to the PB.

516

517 Mr. Leathe said that if a member of the public did want to come who happens to be an
518 expert in meeting events or solar and wanted to participate with ideas, that would be
519 helpful.

520

521 Ms. Braun agreed.

522

523 Mr. Latter said that I think, if you have a subcommittee, there is more transparency. If
524 you're trying to get people together to avoid a quorum to do public business to me it's
525 cleaner to create a subcommittee. Except for what Mr. Brubaker said about only one or
526 two going to the summits. If we're doing committee business, we should do it in some
527 way, shape, or form from a posted, public meeting.

528

529 Ms. Braun suggested we make a motion to create the subcommittee and then the
530 subcommittee can determine how they will proceed.

531

532 Ms. Bennett asked if there is any barrier to us recording the subcommittee meetings. I
533 was suggesting it as another level of transparency and because we still are in a pandemic,
534 someone may not be able to come to a meeting, or someone may not be able to come at
535 the time we are meeting, and may just want to review what the conversation is and maybe
536 come to the next meeting to offer some input.

537

538 There was discussion regarding the potential of having subcommittee meetings in the
539 other room but no assurance they could be recorded.

540

541 **Ms. Bennett moved, second by Mr. Latter, that the Planning Board form a**
542 **subcommittee of the Planning Board to review ordinance changes.**

543

VOTE

544

5-0

545

Motion approved

546

547 Ms. Braun said that Ms. Bennet has already volunteered. I need one more member. Who
548 would be interested in doing this.

549

550 Mr. Leathe raised his hand.

551

552 Mr. Latter asked what timeframe are we talking about.

553

554 Ms. Braun said that, bearing in mind the constraints of when the ballot work has to be
555 done to be on the ballot, we need to decide which are the most important, and gear it that
556 way or if it's just definitions, in general, we should be working on. I think it was more the
557 definitions we were interested in as opposed to actual ordinances. Some of them are
558 really old and just need to be updated.

559

560 Ms. Bennett said that I have created a template spreadsheet around the definitions. There
561 are 34 Town meetings that need to be looked at. There are 34 different Town meetings
562 when we changed the definitions. So, for each definition, we have no idea how old it is.
563 Of the 34 Town meetings we have to look at, 14 of them we will actually have to go into
564 the Annual Reports and physically look at the books. Then, 20 of them have actually
565 been scanned at this point. Ms. Metz has sent me a pdf of scanned Town Reports, back to
566 2010 but going back earlier, it's actually going to be a manual process to find the article
567 put to the voters and see what the change was. I'm just putting that forward that it's going
568 to be somewhat of a laborious task and I really do think we should get on it very soon if
569 we have any chance of changing any definitions in November.

570

571 Mr. Leathe said that I would be happy to share in the work.

572

573 Ms. Braun said that the two of you should get together and decide how you want to
574 proceed and come back to us when you have a recommendation.

575

576 Ms. Bennett suggested, if Mr. Leathe isn't opposed to this, we just say this is a public
577 meeting and that allows other members of the Board to come and participate, if they
578 choose, at any point along the process. Does anyone see any reasons not to do that.

579

580 After discussion, Mr. Brubaker said that we can manage the zoom and video if you guys
581 don't mind.

582

583 Ms. Braun asked what the consensus is. Is it going to be a public meeting or two people
584 working on definitions.

585

586 Mr. Brubaker said that there would be a staff impact but it could be less if it were to be
587 tacked on before a regular PB meeting, but I don't know what people's schedules are
588 like. Even that, if it's a public meeting, it's just a matter of posting the agenda and,
589 obviously, with an ordinance subcommittee, there wouldn't be the newspaper or abutter
590 notifications. I think we could do it with a pretty scaled-back administrative part.

591

592 Ms. Braun suggested tacking on an hour, say at 5PM, before the regular meeting once in
593 a while to work on definitions, then we could still do the Zoom. Does everybody agree to
594 that.

595

596 There was general consensus.

597

598 Ms. Braun said that our second two meetings in June we are swamped. We are off the
599 first three weeks in July and, unless someone wants to do something in July, it will be the
600 first admin meeting in August.

601

602 Ms. Bennett said that you are proposing that the full board will discuss anything to do
603 with ordinance or definition changes will be the first meeting in August.

604

605 Ms. Braun said correct.

606

607 Ms. Bennett said that I don't recall the exact schedule but it feels like we then have to
608 have a public hearing almost immediately.

609

610 Mr. Brubaker said that August is the key month and, in mid-August we would be having
611 our public hearings. So, my advice to the ordinance committee would be are you sure you
612 want to time this for August or do you want to time it for next June.

613

614 Ms. Braun suggested timing it for June. I don't think we'll make it for August.

615

616 Mr. Brubaker said that we already have our batch of ordinances we are working on now.
617 But it's not like you can't introduce minor ordinance amendments to the batch for
618 August. I'm just saying for you guys to be mindful of your own workload as citizen
619 public servants.

620

621 Mr. Leathe said that one of my initial thoughts, with Mr. Brubaker and Ms. Bennett's
622 help, is if there are certain areas in our code, now, that are more at risk than others and
623 prioritize, because each one of these is going to be a fair amount of time to decipher and
624 figure out. Maybe we could come up with a list of three or four that we think are the most
625 important that we could better invest our time in and work at it that way rather than try to
626 come in all at once with the ordinances we want to change unless they are minor stuff.

627

628 Mr. Brubaker said equipment storage, trucks, day nursery; that those are some that we've
629 all noticed that have been really challenging.

630

631 Mr. Latter added that the context of what exists today versus when they were written.

632

633 Mr. Leathe said that I think the other aspect to this that I've learned is the whole
634 experience of solar and not really being prepared as a town could be for a new application
635 such as that; that we should look forward a little bit to what the next new thing that is
636 coming towards us. Is it marijuana. Is it solar. Is it X. Maybe that could be incorporated,
637 as well.

638

639 Ms. Braun said that the next big thing is the housing bill that was just passed by the State.
640 We have until June 2023 with that.

641

642 Mr. Brubaker agreed. There will be some changes we will have to make so we'll want to
643 que that up.

644
645 Discussion points for the new housing law:

- 646 • it's a right by law, so we have to change the Town ordinance to make it allowable
- 647 • every parcel zoned for residential can now be duplex
- 648 • already allow ADU's
- 649 • we allow duplexes by right in all zones
- 650 • LD2003 doesn't allow a density threshold that prevents a duplex on the lot
- 651 • Currently, if more than one unit on a parcel, must meet the minimum acreage ex:
652 rural is 3 acres. If more than one unit, must be additional 3 acres per unit. LD2003
653 says no. Must allow within the original three acres.
- 654 • Will have to look at §45-405 to amend for minimum land area

655
656 Mr. Brubaker asked if you want to re-do a by-law change to represent this new committee
657 in our by-laws.

658
659 Ms. Braun said yes.

660
661 Mr. Latter asked if we have the ability to set an ad-doc committee in our by-laws.

662
663 The PB will look at the by-laws for specific language and amend to incorporate.

664
665 Mr. Leathe added a point of information. In Section 7 under our by-laws, the "Chair can
666 call for a standing work session for addressing and/or amending zoning ordinances on
667 any ongoing basis."

668
669 **ITEM 9 – OLD BUSINESS**

670
671 **A. Comprehensive Plan Update**

672
673 Mr. Brubaker shared his screen and summarized the update. We do want to move forward
674 on this. I'm hoping that, by the end of this month, we'll have released the RFP for
675 consulting assistance as well as formulated a draft of the Comp Plan Committee structure,
676 including number of members and topical subcommittees. The summer would basically
677 be preparing/recruiting the Comp Plan members and that would have some ex-officio or
678 automatic board representatives from the PB, as well as the Conservation Commission,
679 and members of the public. Then finalize the consultant contract. One update we do have
680 is a table at Eliot Festival Day. Hopefully at that point, one of the things that the PB
681 previously recommended was a community survey, that we can have a community survey
682 open in the fall and just leave it open so folks can take it. We can then begin one of the
683 two pillars of the Comp Plan process, which is the 'existing conditions inventory'. The
684 other being the setting of 'vision' and 'goals'. I do think we can do this in one to one and
685 a half years. I was reading Kittery's 2015 Comp Plan and they were able to do it in 1½
686 years, I think. They did have a pretty big consulting team working with them. We want to
687 dovetail this with the Climate Resilience Project. I presented to the Conservation

688 Commission last Wednesday and one of the things they said was to make sure that what
689 is adopted doesn't sit on a shelf but gets implemented, including an implementation plan
690 in the Comp Plan.

691
692 Ms. Lemire said that they did create an implementation committee after and it was never
693 able to accomplish anything. They created a strategy and policy spreadsheet and where
694 they were supposed to be going, whether PB or SB or wherever they were supposed to be
695 going and very little got done. I don't know how you would push them with timelines,
696 etc. to accomplish things. It is completely new work with new ordinances and policies
697 and it takes time.

698
699 Ms. Braun said that a lot of the stuff in there is still doable, right. It's still valid.

700
701 Ms. Lemire said that I think some of it is. I think we've seen a huge change in the past 10
702 years in Town in the way we all do things as a society. I do think they have a good vision
703 in there and I don't think it's changed all that much. I think there will be some things that
704 are very-well worth saving.

705
706 Ms. Braun said that I think the public surveys would be good.

707

708 **ITEM 10 – CORRESPONDENCE**

709

710 There was no correspondence.

711

712 **ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING**

713

714 There is no meeting next week because of voting.

715

716 There will be regular meetings on June 21 and June 28.

717

718 The PB will not meet for the first three weeks in July

719

720

721 The next regular Planning Board Meeting is scheduled for June 21, 2022 at 7PM.

722

723 **ITEM 13 – ADJOURN**

724

725 The meeting was adjourned at 7:41 PM.

726

727

728 **Christine Bennett, Secretary**

729

Date approved: _____

730

731 **Respectfully submitted,**

732

733 **Ellen Lemire, Recording Secretary**

MEMO

Date: 7/29/2022

To: The Eliot Planning Board

From: The Ordinance Review Committee (Christine Bennett & Jeff Leathe)

It has been a busy 6-weeks since the Board approved the creation of an Ordinance Review sub-committee.

In conjunction with our Planner, we tackled some of the pressing items to be addressed for the November 2022 ballot and looked at what we need and may want to consider for the June 2023 ballot.

An outline of Ordinance worked done and proposed is below.

In the interest of spreading this work out more evenly across the year and provide the opportunity for thoughtful consideration and meaningful dialogue, we ask the Board to consider placing an item on the agenda for every administrative meeting for Ordinance Review.

Research on the age of our definitions has begun but was deferred for actual definition work at hand. We look forward to reporting on this item later in the year.

Respectfully yours,

Christine Bennett
Jeff Leathe

For NOVEMBER 2022 Ballot

Erosion & Sedimentation Control - required for MS4 Permit Compliance – Jeff Brubaker

Event Centers - Jeff Brubaker

Site Plan Review - PB Subcommittee

- Performance guarantees (33-132)
 - Clarified to cover streets (public or private) & required improvements
 - Added the option of requiring one for landscape improvements
- Added Vesting to Section (33-59) Expiration of Site Plan approval
 - Rewrote to include process for permit extension and re-approval.
 - Added expiration for sketch plan
 - Clarified that PB will be allowed to consider any changes to the Ordinance since approval in the considering an extension.
- Phasing (new section 33-133)
- Re-approval (new section 33-141)

Solar energy systems modifications – JEFF BRUBAKER

Definitions – PB Committee

- Day Nursery – remove and add (to be consistent with State definitions and rules)
 - Childcare Center
 - Nursery School
 - Small Child Care Facility
 - Family Child Care Provider
- Adult Day Care
- School
 - Public or Private
 - Commercial (added yoga studio in list of examples)
- Elderly Housing
 - Use "62 and up" threshold for Fair Housing Act instead of 55

Adult Use Marijuana Facilities - Jeff Brubaker

- Propose a cap or non-binding question to the SB

For JUNE 2023 Ballot

LD 2003

- 45-459(c)(1): change "only 1 allowed" ADU provision
- 45-459(c)(13): remove ADU parking space requirement

Tiny Homes

- Change minimum dwelling unit size to conform to LD 2003
- Add Definition
- Decide if they can be stand alone dwelling units (~ mobile homes) or a sub category of ADU
- Update Table of Allowed Uses

Growth Management

- Remove exemption for Elderly Housing and Assisted Living Facilities

Short-term rentals

- Define
- Permitting - Add to Home Business Definition?
- Limits

Subvision

- Investigate whether it makes sense to bring back Minor Subdivisions - why was it removed before?
- Minor modification of subdivision; Add language about lot line adjustments

Open Space Developments

- Consider requiring the use of this tool for lots serviced by sewer and water.
- Consider using this tool for Affordable Housing.
- Consider modifying the tool for the Critical Rural Overlay zone to ensure that reserved land has a robust set of ecological features (eg not just the wetlands) and is situated adjacent to other undeveloped blocks of land. Also remove HOA as a holder of the reserved land in this zone and restrict to the Town of Eliot or a Qualified Conservation Holder.

Accessory Dwelling Units (ADUs)

- Require Fire Department review of proposed siting in permit process

Definitions

- Home office / home occupation / home business
 - Eliminate home office, add to home occupation
 - Add Family Child Care Provider to home occupation
- Consider zones

Future Work

Climate Resilience

- Create wetland setbacks that can accommodate 50 years worth of climate change
- Modifying lot coverage standards to accommodate increasing stormwater needs and wetland expansion.

Proposed Town Code Amendments of Chapter 33 -Planning and Development

DRAFT for August 2, 2022, Planning Board Review

Recommended motion template

Motion to set a public hearing for August 16, 2022, for the Draft Proposed Town Code Amendments Related to Site plan review .

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Proposed Town Code Amendments of Chapter 33 – Planning and Development.

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

ARTICLE #____: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 33 – Planning and Development” be enacted?

Background and rationale

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

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

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

(New text underlined in bold)

~~Deleted text in strikethrough~~

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

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

a) **Vesting**

1. **Applications for Site plan review approval shall be reviewed under the Ordinance provisions in effect at the time a full application is submitted to the Planning Board per submission requirements contained in 33-127.**

2. Site plan approvals shall be fully vested from the date the application is determined to be complete by the Planning Board until the expiration of such approval. After such expiration, the applicant shall have no rights to develop according to the final plan and shall be subject to any adopted amendments to this Ordinance.
3. In any partially completed, phased development, if the commencement of any phase is delayed by three (3) years, the Planning Board may declare the development approval expired as to all uncompleted phases, upon 60 days written notice to the property owner/applicant. The owner may request an extension of the phasing plan at any time, which shall be granted if the property owner/applicant shows good cause for the delay and the Planning Board determines that continuing the development as approved is consistent with this Ordinance as amended.

b.) Expiration of permits

1. General

- a.) The expiration of plan approval date for any Site plan review applications including subdivision shall be based upon the date the Planning Board voted to approve the application.
- b.) Where construction and/or substantial completion of improvements, or fulfillment of conditions required in an approved plan, has not occurred within the time limits stated below, the approval shall expire.
- c.) The applicant may, at any time before the date of expiration, make a written request to the Planning Board for a time extension. This request shall explain the reasons why the improvements or fulfillment of conditions have not been completed and indicate how the applicant expects to complete the development if the Planning Board grants a time extension.
- d.) The Planning Board may consider any amendments to this Ordinance affecting the development since first approved when considering a request to extend any approval.

2.) Site plan approval expiration

Except when otherwise stipulated in an approved phasing plan, site plan approval shall expire three (3) years from the date of approval, unless the applicant has submitted a written request for an approval extension no less than 14 days prior to the Planning Board for consideration. For subdivision approvals, the sketch plan approval shall expire in one (1) year from the date of approval and the final plan shall expire in five (5) years from approval, unless either the Code Enforcement Officer certifies that construction of all approved infrastructure throughout the subdivision has been completed, the applicant submits an extension request, or the Board of Selectmen executes the terms of the performance guarantee to complete all approved infrastructure.

[...]

Sec. 33-132. Performance guarantees.

- (a) Whenever a new street intended for dedication to the Town of Eliot or to be privately held or any other required improvements are proposed as part of a site review application, an application for multi-family housing under chapter 33, an application for subdivision approval under chapter 41, or an application for an open space development under chapter 45, the applicant shall provide a performance guarantee for the streets and/or required improvements, as described below.
- (b) At the time of submission of an application for review of a site plan under section 33-126 or an application for review of a preliminary subdivision under section 41-141, or an open space development under section 45-467, the applicant shall submit a written statement, addressed to the Eliot Board of Selectmen and to the Eliot Planning Board, affirming that the applicant will provide a performance guarantee for all streets and

required improvements under either option 1 or option 2 below, and stating which option the applicant elects.

(c) **The Planning Board may require a financial security for a period not to exceed two (2) years to ensure the replacement of any plantings shown on the landscaping plan that have failed to grow normally, are diseased, or have died.**

(1) *Option 1.* Financial guaranty.

- a. In order to ensure completion of all streets and required improvements, the applicant shall, prior to the issuance of any building permits for the approved project, furnish to the board of selectmen a performance guaranty in the form of cash, a certified check payable to the town, or an irrevocable letter of credit in a form and from an issuer acceptable to the board of selectmen. The amount of such performance guaranty shall be determined by the board of selectmen, and shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the streets and required improvements. An independent, third party professional engineer, licensed in Maine, and selected by the board of selectmen shall be required, to confirm that the amount of the performance guaranty proposed by the applicant will be sufficient. Said engineering evaluation shall be at the expense of the applicant, funded by an escrowed technical consulting fee, established by the board of selectmen, pursuant to the procedure of section 33-128 of this Code. The performance guaranty shall be conditioned upon the completion of all streets and required improvements within 36 months after the date the performance guaranty is issued. If cash or a certified check is used for the performance guaranty, the funds shall be deposited in an escrow account with a financial institution acceptable to the board of selectmen and pursuant to an escrow agreement approved by the board of selectmen.
- b. The irrevocable letter of credit or escrow agreement shall provide that funds may be released in part or in whole only as approved by the board of selectmen after certification by the road commissioner and with the concurrence of the code enforcement officer and an independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, that the streets or, in the case of a partial release, a specified portion of the streets, have been completed as required by the planning board approval. The letter of credit or escrow agreement shall not obligate the town to allow partial releases.
- c. The applicant shall not commence construction of the streets or required improvements until the performance guaranty has been provided and accepted by the board of selectmen. Thereafter, prior to the commencement of each major phase of street construction, the applicant shall notify the road commissioner and code enforcement officer **and third party professional engineer if applicable** to schedule an inspection of the construction site. The applicant shall not begin the next major phase of street construction without an agreement from the road commissioner, and the independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, that the phase of the street being inspected has been completed as shown on the plans approved by the planning board. For the purpose of this condition, the major phases of street construction are shown on Table 1, below.

Table 1.

Phase 1	Pre-construction meeting with road commissioner, code enforcement officer, applicant, street contractor and applicant's engineer.
Phase 2	Clearing and removal of tree stumps, organic material, rocks and boulders as specified in Sec. 37-72.
Phase 3	Completion of grading, shoulders, and culverts.
Phase 4	Installation of aggregate subbase course as specified in Sec. 37-71.
Phase 5	Installation of crushed gravel base course as specified in Sec. 37-71.
Phase 6	Installation of hot bituminous pavement base course as specified in Sec. 37-71.

Proposed Town Code Amendments of Chapter 33 -Planning and Development

Phase 7	Placement of permanent reference monuments as specified in Sec. 37-72.
Phase 8	Installation of hot bituminous pavement wearing/surface course as specified in Sec. 37-71.
Phase 9	Final seeding of slopes and landscaping.

- d. After the performance guaranty has been provided and accepted by the board of selectmen, the applicant may sell lots and building permits may be issued during the construction of the streets. However, no occupancy permit shall be issued for any building until the street on which that building fronts has been completed through Phase 5, as described in Table 1 above.
- (2) *Option 2.* Lot sales and building permits deferred until streets and required improvements are complete.
- a. In lieu of a financial performance guaranty under option 1, the applicant may enter into a written agreement with the board of selectmen agreeing that no lots shall be sold and no building permits shall be issued until the proposed streets and required improvements are completed in accordance with the planning board's approval, and that, before the applicant may sell lots or obtain building permits, both of the following documents must be provided to the code enforcement officer:
1. A written statement from the applicant's registered professional engineer, licensed in Maine, indicating that he or she has completed a site evaluation and that, to the best of his or her knowledge, the street and/or required improvements were designed and constructed in accordance with the final plan as approved by the planning board.
 2. A written statement from the town road commissioner and an independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, that the street was inspected prior to the commencement of each major phase of street construction per Table 1, and to the best of his or her knowledge the street **and or required improvements** was constructed in accordance with the final plan as approved by the planning board.
- b. Upon receipt of such agreement from the applicant, the board of selectmen shall provide a copy of the agreement to the code enforcement officer and shall direct the code enforcement officer not to issue building permits until the road commissioner and an independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, have certified in writing to the board of selectmen that all streets and required improvements have been constructed in accordance with the final plan as approved by the planning board.
- c. The applicant shall not commence construction of the streets or required improvements until the agreement has been executed and delivered to the board of selectmen. Thereafter, prior to the commencement of each major phase of street construction **and or required improvements**, the applicant shall notify the road commissioner and code enforcement officer to schedule an inspection of the construction site. The independent, third party professional engineer, funded at the applicant's expense from the technical consulting fee escrow, established above, shall be included in the inspection. The applicant shall not begin the next major phase of street construction **and or required improvements** without an agreement from the applicant, the independent, third party professional engineer and the road commissioner, that the phase of the street **and or required improvements** being inspected has been completed as shown on the plans approved by the planning board. For the purpose of this condition, the major phases of street construction are shown on Table 1, above.

[...]

Sec 33-133 Phasing of development

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

[...]

Sec 33-141 Site plan and subdivision re-approval process

If a subdivision or site plan expires without the applicant submitting a written request for an approval extension to the Planning Board, the applicant may request re-approval as follows:

- 1.) The applicant shall submit an application and ten (10) copies of the approved plan to the Planner along with a cover letter addressing why the improvements/development have not been completed and giving a time schedule to complete the development, if reapproved.**
- 2.) The Planning Board may reapprove the original approval, reapprove the original approval with conditions or deny the re-approval. The Planner shall provide the applicant with a decision in the form of Findings of Fact within seven (7) days of the Planning Board's action.**
- 3.) The Planning Board shall consider any amendments to this Ordinance affecting the development since first approved when considering a request for re-approval.**

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

DRAFT for August 2, 2022, Planning Board Review

Recommended motion template

Motion to set a public hearing for August 16, 2022, for the Draft Proposed Town Code Amendments Related to Solar Energy Systems.

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

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

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

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

Background and rationale

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

The amendments proposed for this November 2022 Town Special Referendum Election make adjustments and clarifications to the solar energy system land use regulations. First, they make SES-LGs allowable, subject to Planning Board site plan review, in the Limited Commercial shoreland zoning district. Other shoreland zoning districts would continue to prohibit them.

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

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

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

(New text underlined in bold)

~~Deleted text in strikethrough~~

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

[abridged to only show changes]

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

[...]

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

[...]

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

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

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mounted solar energy systems on the same ~~property~~ lot, where the total combined area, based on total airspace projected over the ground, of those systems is equal to or greater than 15,000 square feet, shall be collectively considered **construction of** an SES-LG.

[...]

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

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

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

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

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Sec. 44-34. Table of land uses.

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

Key to table 1:

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

Abbreviations:

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

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

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

Table 1. Land Uses in the Shoreland Zone

Land Uses		Districts				
		SP	RP	LR	LC	GD
Uses or Activities Without Structures						
(1)	Clearing of vegetation for activities other than timber harvesting	CEO	CEO ¹	CEO	CEO	CEO
(2)	>Emergency operations	yes	yes	yes	yes	yes
(3)	Fire prevention activities	yes	yes	yes	yes	yes
(4)	Forest management activities, except for timber harvesting and land management roads	yes	yes	yes	yes	yes
(5)	Mineral exploration	no	no	no	yes ²	yes ²
(6)	Mineral extraction, including sand and gravel extraction	no	no	no	SPR	SPR

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

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	b.	Marijuana cultivation facility	no	no	no	SPR	SPR
	c.	Marijuana products manufacturing facility	no	no	no	no	SPR
	d.	Marijuana testing facility	no	no	no	SPR	SPR
(27)	Marinas						
	a.	Full service	no	no	no	no	SPR
	b.	Limited	no	no	no	SPR	SPR
(28)	Medical marijuana establishment						
	a.	Medical marijuana dispensary	no	no	no	SPR	SPR
	b.	Medical marijuana cultivation facility	no	no	no	SPR	SPR
	c.	Medical marijuana caregiver retail store	no	no	no	SPR	SPR
	d.	Medical marijuana products manufacturing facility	no	no	no	no	SPR
	e.	Medical marijuana testing facility	no	no	no	SPR	SPR
(29)	Off-site parking		no	no ⁷	no	no	no
(30)	Public and private recreational areas involving minimal structural development		SPR	SPR	SPR	SPR	CEO
(32)	Solar energy system, larger-scale (SES-LG)		no	no	no	no SPR¹⁵	no
Accessory Structures or Uses							
(31)	Structures accessory to allowed uses, not otherwise listed		SPR ⁴	SPR	CEO	CEO	CEO
(32)	Essential services		SPR ⁶	SPR ⁶	SPR	SPR	SPR
	a.	Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²
	b.	Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	SPR ⁶	SPR ⁶	CEO	CEO	CEO
	c.	Non-roadside or cross-country distribution lines involving 11 or more poles in the shoreland zone	SPR ⁶	SPR ⁶	SPR	SPR	SPR
	d.	Other essential services	SPR ⁶	SPR ⁶	SPR	SPR	SPR

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

Footnotes:

¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

² Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.

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- ³ In RP not allowed in areas so designated because of wildlife value.
- ⁴ Provided that a variance from the setback requirement is obtained from the board of appeals.
- ⁵ Functionally water-dependent uses and uses accessory to such water dependent uses only (see note on previous page).
- ^{5A} Only as an accessory use to an allowed principal use on the lot. Must conform to the requirements of [section] 45-422, Waste containers.
- ⁶ See further restrictions in subsection 44-35(1)(2), essential services.
- ⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a site plan review is required from the planning board.
- ⁸ Except as provided in subsection 44-35(h).
- ⁹ Single family residential structures may be allowed by special exception only according to the provisions of subsection 44-44(f), Special exceptions. Two-family residential structures are prohibited.
- ^{9A} See sign ordinance section.
- ¹⁰ Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.
- ^{10A} Must conform to the requirements of section 45-456.1, Home business.
- ¹¹ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
- ^{11A} Must conform to the requirements of section 45-423, Fences.
- ¹² Permit not required, but must file a written "notice of intent to construct" with CEO.
- ^{12A} "No" except in conjunction with aquaculture, small nonresidential facilities for educational, scientific or nature interpretation purposes or limited commercial piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.
- ¹³ Use is "No" except when permitted under another specific land use entry.
- ¹⁴ Only commercial aquaculture allowed on piers in this zone, with no other commercial pier uses. Pier must meet the requirements of a residential pier in these zones.

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

- a. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- b. Draining or otherwise dewatering;

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- c. Filling, including adding sand or other material to a sand dune; or
- d. Any construction or alteration of any permanent structure.

¹⁵ Must conform to the requirements of section 45-462.

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

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

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

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Sec. 45-462. – Solar energy systems.

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

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

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

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

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

**Event Center Ordinance
Planning Board Draft 7-26-2022**

- I. Sec. 45-1. – Definitions: Town’s Zoning Ordinance (Chapter 45), Section 1-2 (Definitions and Rules of Construction), proposed.

Event Center: A building, portion of a building, or property commercially used for the purpose of hosting a function, such as weddings, receptions, banquets, birthday parties, celebration of life gatherings, milestone parties or other social event similar / compatible with the named uses as determined by the Code Enforcement Officer. Event centers are not to be confused with:

1. *Places of worship, as defined, and their associated accessory uses;*
2. *Indoor commercial recreation and amusement, as defined;*
3. *Or a party / event held at a private property / residence typically associated with residential uses.*

TABLE OF LAND USE:

*Table of permitted and prohibited uses:
Sec. 1-2*

INSERT TABLE SPR ALL DISTRICTS:

SITE PLAN REVIEW REQUIREMENT:

“Site plan review uses—Planning board. Where the table of land uses in sections 44-34 or 45-290 lists a use as SPR, the use is a site plan review use.”

45-469 Event centers.

Notwithstanding anything to the contrary to State Law - 30-A M.R.S.A. § 4301 et seq. (Planning and land use regulations), or any other law, to any application relating to the establishment or operation of a proposed event center.

- 1) Planning Board Review: Event centers must be reviewed and approved by the planning board under chapter 33, article III, Site plan review. The use must also conform to the basic requirements in chapter 45, article VIII (Performance standards) and any applicable standards for specific activities in chapter 45, article IX. The following performance standards are to be used by the planning board in reviewing site plan applications and compliance with the same shall serve as requirements for approval of such site plans.
- 2) Event centers, which existed prior to (adoption date) shall remain unaffected by the adoption of this ordinance. However, size / scope expansions, as determined by the Code Enforcement Officer, may not increase unless planning board approval has been granted.
- 3) Licensing: Event centers shall comply with all licensing standards and fee schedules as adopted and amended. The operator shall apply to the Town on an annual basis. The Town reserves the right to revoke an event centers licensing or deny the reissuance for noncompliance.
- 4) Event centers shall comply with applicable parking requirements of Section 45-945 and / or as determined by the planning board during review of this section were unpaved parking is being proposed.
- 5) The application for the operation of an event center shall comply with the following:
 - a. Narrative: All applications require a detailed narrative which outlines all activities proposed for property, including, but not limited to; food preparation, alcohol service, event set-up and breakdown and cleaning services and waste and recycling removal.
 - b. Uses or activities not specifically approved by the planning board are not permitted to take place on the site. The code enforcement officer may review and approve minor modifications or activities proposed

**Event Center Ordinance
Planning Board Draft 7-26-2022**

for the site if determined the activities are similar or compatible to the approved plans. The CEO may determine that the proposed activity is beyond a minor change / compatible use and planning board review and approval will be required.

- c. Liability Insurance: All applications shall provide sufficient proof of liability insurance for the property and/or event. The event insurance shall remain in place during each event.
- d. The property owner will remain the responsible party for all related events taking place on the property.
- e. A primary point of contact (PPC) shall be provided to the Town's emergency services, for each event taking place on the property. The PPC shall remain on site during the event. The PPC will be responsible for managing the event and making sure the event does not expand beyond the approved uses and conditions of approval. The PPC will responsible for shutting down an event, with or without Town interference, if necessary. The Town retains the express authority to shut down an event if it is non-compliant or turns into a risk to health and wellbeing. The PPC shall be responsible person for the event coordination including vendors hired for the event, event set-up and break-down. The PPC shall be the property owner, event coordinator or client renting the facility. The PPC responsible for, and manages "the event" to ensure that any issues are dealt with in an expeditious manner. The event coordinator / managers shall be responsible for tracking the number of event attendees, through online reservations, tickets, and/or occupancy counters.
- f. Event contract: If the property is being rented by an outside party a contract for the event shall be provided to the property owner. A sample contract shall be provided to the Town with the site plan application and shall include, at minimum; event size; safety and evacuation plan; event set-up and breakdown plan; traffic plan, and waste removal.
- g. Occupancy permits, for structure/s utilized in the event center operation will be determined by building and fire codes as adopted by the Town.
- h. Parking requirements will be based upon the Town's parking standards for the structures and based upon the largest event approved to be held on the premises. Remote parking and shuttle service to and from the event center providing the applicant has a signed agreement, outlining the conditions of the agreement, from the property owner and that the parking and shuttle plan has been part of the Boards review and approval.
- i. Event Centers Classifications: Event centers shall be classified into four levels of review as outlined below. Were events exceed any of the requirements within any of the defined levels, all prior listed levels shall be complied with and/or the standards contained the within the higher standard apply:
 - 1. Level I:
 - a) Parking shall be provided as required in Chapter 45 – Zoning Ordinance - Article X based Occupancy Permits - Up to 49: Required parking shall be provided based upon the posted occupancy of all proposed structures to be utilized within the operation. If temporary structures, for the duration of each event, are proposed to be utilized such a banquet tents, etc. Temporary grassed / gravel parking shall be provided, beyond the established occupancy for permanent structures, based upon the anticipated size of the event.
 - b) Events per year: 1-6
 - c) The guest parking area provides adequate on-site vehicle stacking.
 - d) The site shall provide adequate sight distance for ingress and egress to and from the property.
 - e) Off-street Parking and Loading plan shall be provided illustrating all proposed parking and loading areas, drive aisles, and points of vehicle and pedestrian points of access to parking and event center points of egress. If applicable a designated drop-off area for provided services, including valet services and associated designated parking areas shall be provided.
 - f) Shall provide a designated parking area which may be grassed if parking space areas and drive

**Event Center Ordinance
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aisles are defined (signage, fencing, wheel stops, etc.).

- g) Designated handicapped parking shall be provided and shall include a solid paved, compacted gravel or equivalent, including handicapped textured ramps.
 - h) All designated walkways / pathways from the parking area to the event center shall be provided including ground mounted lighting during night events.
2. Level II:
- a) Occupancy Permit – 50 to 149: Required parking shall be provided based upon the posted occupancy of all proposed structures to be utilized within the operation. If temporary structures, for the duration of each event, are proposed to be utilized such a banquet tents, etc. Temporary grassed parking shall be provided, beyond the established occupancy for permanent structures, based upon the anticipated size of the event.
 - b) Events per year: 6-12
 - c) Walkways / pathways from the parking area to the event center shall provide and lit during night events.
3. Level III - Structures with an Occupancy Limit of 150 to 249 people, and / or facilities up to 3,000 square feet of event space.
- a) Occupancy Permit – 150 to 249: Required parking shall be provided based upon the posted occupancy of all proposed structures to be utilized within the operation. If temporary structures, for the duration of each event, are proposed to be utilized such a banquet tents, etc. Temporary grassed parking shall be provided, beyond the established occupancy for permanent structures, based upon the anticipated size of the event.
 - b) Events per 12-24
 - c) Shall provide a designated parking area which shall be a paved.
 - d) Shall contain dark sky compliant parking lot lighting.
 - e) Parking coordinators and / or traffic control personnel, as determined by the Police and Fire Departments, may be required shall provide a designated parking area which shall be a minimum of compacted gravel. If gravel / grass or similar parking areas are being proposed a dust management plan shall be provided and adopted.
4. Level IV - Structures with an Occupancy Limit of 250+ people, and / or facilities with a maximum of 5,000 square feet of event space.
- a) Occupancy Permit – 150 to 249: Required parking shall be provided based upon the posted occupancy of all proposed structures to be utilized within the operation. If temporary structures, for the duration of each event, are proposed to be utilized such a banquet tents, etc. Temporary grassed parking shall be provided, beyond the established occupancy for permanent structures, based upon the anticipated size of the event.
 - b) Events per calendar year 25+
 - c) Shall provide a designated parking area which shall be a paved.
 - d) Parking coordinators and / or traffic control personnel, as determined by the Police and Fire Departments, may be required.

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- j. Sewer and water: All applications shall provide proof of adequate waste and water supply. If public, a Letter of Service availability shall be provided. If well and septic is being proposed documentation adequate water and ability for the septic system shall be provided.
- k. Portable restrooms: If portable restrooms are being proposed they shall meet the following conditions:
 - a) Temporary: Temporary restroom accommodations may be utilized, beyond required codes for permanent structures, provided they are installed the day preceding the event and removed within three (3) days of the scheduled event. If brought immediately before and removed immediately after the event, they need not be screened. If porta potties are proposed for more than three (3) consecutive days they need to be visually screened from public roads and abutting residences.
 - b) Portable restrooms shall also provide immediate access to handwashing facilities (temporary / permanent). Handwashing facilities shall be provided based upon the capacity of the event and shall include designated refuse disposal area.
 - c) Semi-permanent: Seasonal / semi-permanent portable restrooms may be provided providing: A detailed service plan, to be reviewed and approved by the planning board, shall be provided including a schedule related to the emptying, cleaning, and maintenance.
 - d) Semi-permanent / seasonal restroom may be allowed providing screening from adjacent roadways and adjacent residential uses. Screening may take to form of landscaping, berming, fencing and / or other buffering methods as determined by the Planning Board.
- l. Waste Removal: Waste and recycling is subject to the standards outlined in Article 1 – (solid waste) Chapter 16 (waste recycling and disposal) and shall further comply with the following:
 - a) The applicant shall provide a detailed overview of the type of waste generated at scheduled events, event clean up involved, including grounds, and waste storage and removal / storage.
 - b) Any waste on the property that results from the event and is visible from a public way or abutting residences should be properly discarded or stored within a screened and sealed in waste receptacle and removed within 48 hours after the event.
- m. Water: If public water is not being provided an overview of the of the water demands for drinking, washing needs / demands, etc. is required.
- n. Alcoholic Beverages: If alcohol is being proposed a liquor/caterer’s license for each event shall comply with Chapter 6 (Alcoholic Beverages).
- o. Food preparation: If food is to be prepared on-site the applicant should show proof of commercial kitchen license and details regarding required, washing stations, grease separators, mop stations and waste / grey water removal. If outside catering is to be utilized for any event the caterer shall provide proof of insurance, a service agreement with the facility and all required licensing.
- p. Event centers shall be in full compliance with the Town’s Noise Ordinance, including indoor or outdoor live entertainment or amplified recordings.
- q. Hours of Operation: All events shall include a proposed hours of operation. Should the board set established times or go on a case by case basis (district sensitive
- r. Prohibited Activities: The following activities are hereby prohibited:
 - 1) Balloon Launches.
 - 2) “Sky / Chinese Lanterns”.
 - 3) Candle are prohibited unless directly reviewed and approved by the Fire Department.
 - 4) Fire pits, either permanent or temporary, shall only be permitted with written authority of the Fire Chief.
 - 5) Camping is not allowed unless in compliance with on-site related to events unless in conformance with Sec. 33-172. – Campgrounds. If camping is proposed as an element of the

**Event Center Ordinance
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- event center a separate use permit and site plan are required.
- 6) Any unauthorized expansion of the event center, not specifically authorized by the planning board, unless approved as a minor change to the approved development plans by the Town's code enforcement officer.
 - 7) Fireworks, pyrotechnic and special effects are prohibited unless in compliance with Chapter 12 – Fireworks.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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

ARTICLE #26: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses” be enacted?

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

Background and rationale

The Town has opted in to a range of marijuana establishments and medical marijuana establishments, and a number of such establishments have been developed in the Commercial-Industrial (C/I) zoning district along parts of Route 236, the only zoning district where they are allowed. In addition to only being allowed in the C/I district, certain marijuana establishments and medical marijuana establishments may not be located within 500 ft. of a public facility, place of worship, residential property, or childcare facility. Also, based on State law or rulemaking, no marijuana establishment or medical marijuana establishment may be located within 500 ft. of a public or private school.

Despite these and other zoning and site plan review restrictions, a number of marijuana establishments and medical marijuana establishments are in operation, under construction, or being reviewed for various approvals. Almost 30 marijuana or medical marijuana establishments have their local and State license (adult use), are otherwise in operation (medical), have been approved by the Planning Board, or have applied to the Planning Board.

Concerns have been voiced by the community that relate to the collective scale and number of establishments that are in place or could potentially be built under current zoning and performance standards. These concerns include traffic impacts, odors, and indirect effects on the ability for other businesses to purchase suitable land and become established along Route 236, the Town’s primary commercial corridor. Economic Policy 1 in the 2009 Comprehensive Plan encourages continued support of “broad-based community economic development activity, reflecting community desires and the community’s role in the region”. The Comprehensive Plan also recommends that the Town “continually seek ways to provide support to...small businesses and help them to grow”.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

These amendments would limit the number of local marijuana licenses that can be active at any one time. [Add specific caps here] The Select Board would not be able to issue a local marijuana license when the maximum number of active licenses have been reached for a particular marijuana type. In order to provide some flexibility, cultivation and manufacturing activities have been grouped, such that an overall cap would apply to the combined total of these activities.

Temporary information for Planning Board review - Status of marijuana and medical marijuana establishments that are operating, have obtained some approvals but are not yet operating, or have applied for Planning Board review. See attached and summary table (draft) below.

	App. to PB	PB appr.	App. for building permits	Local license issued	State active license issued	Oper. (med.)	No longer active	Total
Marijuana Cultivation Facility		2		2	2		1	7
Marijuana Products Manufacturing Facility	1	3	1		2			7
Marijuana Store	3	3			2		1	9
Marijuana Testing Facility					1			1
Medical Marijuana Caregiver Retail Store		1				1		2
Medical Marijuana Cultivation Facility						1		1
Medical Marijuana Dispensary	1					1		2
Medical Marijuana Products Manufacturing Facility			1					1
Grand Total	5	9	2	2	7	3	2	30

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

New text in bold underline

~~Deleted text in strikethrough~~

[Add a new section:]

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

- (a) For each type of marijuana establishment, the maximum number of local marijuana licenses issued by the local licensing authority that may be active at any one time are as follows:
 - (1) Marijuana store: [number] (##)
 - (2) Marijuana cultivation facility or marijuana products manufacturing facility (combined total): [number] (##)
- (b) For each type of medical marijuana establishment, the maximum number of local marijuana licenses issued by the local licensing authority that may be active at any one time are as follows:
 - (1) Medical marijuana caregiver retail store: [number] (##)
 - (2) Medical marijuana dispensary: [number] (##)
 - (3) Medical marijuana cultivation facility or medical marijuana products manufacturing facility (combined total): [number] (##)
- (c) Marijuana testing facilities and medical marijuana testing facilities are not subject to this section.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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

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

(a) Responsibilities and review authority.

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

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

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

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

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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

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

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

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

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

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

(3) Signage and advertising.

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

b. There is a compelling governmental interest to the town in marijuana establishments and medical marijuana establishments abiding by the signage, advertising, and marketing provisions in 22 M.R.S.A § 2429-B and 28-B M.R.S.A § 702, as may be amended, including, but not limited to, reducing the likelihood of reaching persons under 21 years of age, who may frequently ride in (or may be old enough to drive) vehicles upon streets, town ways, or public ways from which signage is visible and legible. Many persons in this age range may understand words such as "marijuana" and "cannabis", or any other word, phrase or symbol commonly understood to refer to marijuana. The use of these terms may increase the appeal or awareness of marijuana establishments, medical marijuana establishments, or marijuana use to these persons. To reduce the likelihood of this appeal and awareness, no signage visible from a street, town

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

way, or public way may use the word "marijuana" or "cannabis", or any other word, phrase or symbol commonly understood to refer to marijuana.

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

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

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

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

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

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

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

1. Security surveillance cameras installed and operating 24 hours a day, seven days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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

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

(5) Separation (buffering) from sensitive uses.

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

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

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

The distance cited in this subsection shall be measured as the aerial straight-line distance between the nearest point of the operating boundary of the marijuana establishment or medical marijuana establishment and the nearest point along a lot line of the site of the use listed in a. or b. above.

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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

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

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

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

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

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

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

Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments; Chapter 33 – Planning and Development; and Chapter 45 – Zoning, Related to Limiting the Number of Marijuana Establishment and Medical Marijuana Establishment Licenses

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

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

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

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

WORKING DRAFT																	
PB Case #	PID	Address	Associated Mj Business Entity	Adult use (AU) or Medical (Med)	Establishment Type	Cultivation Tier	Current status	PB Submittal Date	PB Meeting Date	Additional PB Mtg Date(s) (if needed)	PB Public Hearing Date	PB Approval Date	NOD Approval Date	CofO Issue Date	Local License SB PH Date	Local License SB Approval	State Active License #
		495 HL Dow Hwy	Sweet Dirt	Med	Medical Marijuana Caregiver Retail Store		In operation (medical)										
20-12	054-002-000	483 HL Dow Highway						7/9/2020	Preliminary Review 08/18/20	N/A	9/1/2020	9/15/2020	9/15/2020	Yes			
20-14	037-009-000	276 HL Dow Hwy	Organic Goods	Med	Medical Marijuana Dispensary		In operation (medical)	8/18/2020	Preliminary Review 10/06/20	11/10/2020	11/10/2020	11/17/2020	12/1/2020	Yes			
20-15	037-020-000	290 HL Dow Hwy		AU	Marijuana Store		No longer active or superseded	8/18/2020	Preliminary Review 09/15/20	N/A	10/6/2020	10/6/2020	10/20/2020	No			
20-16	037-002-001	291 HL Dow Hwy	Arcanna, LLC	AU	Marijuana Cultivation Facility	3	State active license issued	8/18/2020	Preliminary Review 09/15/20	N/A	10/6/2020	10/6/2020	10/20/2020	Yes			ACC274
20-16	037-002-001	291 HL Dow Hwy	Arcanna, LLC	AU	Marijuana Products Manufacturing Facility		State active license issued	8/18/2020	Preliminary Review 09/15/20	N/A	10/6/2020	10/6/2020	10/20/2020	Yes			AMF275
20-20	053-006-000	495 HL Dow Hwy	Sweet Dirt, LLC	AU	Marijuana Cultivation Facility	4	State active license issued	9/15/2020	10/6/2020	10/20/20; 11/17/20	10/20/2020	10/20/2020	11/10/2020	Yes			ACD597
20-20	053-006-000	495 HL Dow Hwy	Sweet Dirt, LLC	Med	Medical Marijuana Cultivation Facility		In operation (medical)	9/15/2020	10/6/2020	10/20/20; 11/17/20	10/20/2020	10/20/2020	11/10/2020	Yes			
20-20	053-006-000	495 HL Dow Hwy	Sweet Dirt, LLC	AU	Marijuana Products Manufacturing Facility		State active license issued	9/15/2020	10/6/2020	10/20/20; 11/17/20	10/20/2020	10/20/2020	11/10/2020	Yes			AMF 598
20-21	053-007-000	505 HL Dow Hwy	Sweet Dirt, LLC			4	No longer active or superseded	9/16/2020	Preliminary Review 01/19/2021	TBD	TBD	TBD	TBD	No			
20-22	045-017-000	16 Arc Road	Green Truck Farms III, LLC	AU	Marijuana Cultivation Facility	4	No longer active or superseded	10/5/2020	Preliminary Review 10/20/2020	11/17/2020 Shoreland Zone Application	5/18/2021	5/18/2021					
20-28	037-020-000	290 HL Dow Hwy	Arcanna Retail, LLC	AU	Marijuana Store		State active license issued	12/22/2020	1/19/2021	2/16/2021	2/16/2021	2/16/2021	3/2/2021		5/13/2021	5/13/2021	AMS276
20-28	037-020-000	290 HL Dow Hwy	ECC Lebanon, LLC; Arcanna, LLC	AU	Marijuana Cultivation Facility	4	PB approved	12/22/2020	1/19/2021	2/16/2021	2/16/2021	2/16/2021	3/2/2021				
20-5	037-019-000	7 Maclellan Ln							5/12/2020	12/15/2020: SPR 01/19/2021:	TBD		TBD	N/A			
20-9	029-026-000	17/19 Levesque Dr			Marijuana Testing Facility		State active license issued	5/20/2020	New - proposed 7/21/2020	8/18/2020	8/18/2020		TBD	Yes			
21-02	037-002-003	28-32 Brook Drive	OBI Labs, LLC	AU	Marijuana Products Manufacturing Facility		PB approved	1/25/2021	3/2/2021	4/6/21; 4/19/21 (SW); 4/20/21	4/20/2021	4/20/2021	5/4/2021				
21-02	037-002-003	28-32 Brook Drive	Oracle Industries, LLC (dba Aura Co.)	AU	Marijuana Cultivation Facility	4	PB approved	1/25/2021	3/2/2021	4/6/21; 4/19/21 (SW); 4/20/21	4/20/2021	4/20/2021	5/4/2021				
21-02	037-002-003	28-32 Brook Drive	Oracle Industries, LLC (dba Aura Co.)	AU	Marijuana Store		PB approved	1/25/2021	3/2/2021	4/6/21; 4/19/21 (SW); 4/20/21	4/20/2021	4/20/2021	5/4/2021				

Count of Establishment Type Row Labels	Column Labels							Grand Total	
	Applied to PB	PB approved	Applied for building permits	Local license issued	State active license issued	In operation (medical)	No longer active or superseded		
Marijuana Cultivation Facility		2			2	2		1	7
Marijuana Products Manufacturing Facility	1	3		1		2			7
Marijuana Store	3	3				2		1	9
Marijuana Testing Facility						1			1
Medical Marijuana Caregiver Retail Store		1					1		2
Medical Marijuana Cultivation Facility							1		1
Medical Marijuana Dispensary	1						1		2
Medical Marijuana Products Manufacturing Facility (blank)				1					1
Grand Total	5	9	2	2	7	3	2	2	30

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

DRAFT for Planning Board review, August 2, 2022

Recommended motion template

Motion to set a public hearing for August 16, 2022, for the Draft Proposed Town Code Amendments Related to Erosion and Sedimentation Control.

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

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

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

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

Background and rationale

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

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

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

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

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

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

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

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

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

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

(New text underlined in bold)

~~Deleted text in strikethrough~~

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

[abridged to only show changes]

[...]

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

[...]

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

[...]

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

[...]

*Construction, **construction activity,** or construction activities* means any and all activity **for the purpose of** ~~incidental to the~~ erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances, including land clearing, grading, excavating and filling. **Related to stormwater management or erosion and sedimentation control, it also means any activity on a parcel that results in a disturbed area.** *[probably needs*

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wordsmithing but the last sentence tries to dovetail the Model Ordinance language with the existing definition.]

[...]

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

[...]

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

[...]

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

[...]

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

[...]

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

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

[...]

Municipal permitting authority means the municipal official or body that has jurisdiction over the land use approval or permit required for a development. *[current definition]*

[model ordinance] **Permitting authority means the Code Enforcement Officer, Building Inspector, Planning Board, or other official or body authorized by State law or the municipality’s ordinances to approve development or redevelopment projects.**

[...]

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

[...]

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

[...]

Protected natural resource means coastal sand dunes, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water

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system primary protection areas, great ponds, or rivers, streams or brooks as defined in the Natural Resources Protection Act at 38 MRSA §480-B.

[...]

Qualified Erosion and Sedimentation Control Professional means a person who has been certified by Enviro-Cert International in erosion and sedimentation control practices or has been certified by completing the Maine Department of Environmental Protection Erosion and Sedimentation Control Practices Workshop, or is a Maine Professional Engineer with at least two years' experience in designing Erosion and Sedimentation Control BMPs. *[blue text – optional Maine Climate Council / more stringent than Ch. 500]*

[...]

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

[...]

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

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

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Sec. 33-127. Contents; required information.

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

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

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

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

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

Add a new chapter to the Town Code:

Chapter 34 – Erosion and Sedimentation Control

Section 34-1. – Purpose

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

Section 34-2. – Applicability

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

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

Section 34-3. – Procedure

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

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

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

Section 34-4. – Submission requirements

- (a) *Project contacts and qualifications.* The applicant shall provide contact information (i.e., name, company if applicable, phone number, physical address, and email address) for the applicant, Qualified Erosion and Sedimentation Control Professional, and Contractor (if applicable).
- (b) *Erosion and sedimentation control plan content.* The erosion and sedimentation control plan shall be prepared in accordance with the performance standards contained in Appendix 1. The erosion and sedimentation control plan shall

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consist of a graphic representation of the site at a scale no smaller than 1 inch = 100 feet showing:

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

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

Section 34-5. – Requirements and standards

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

- (a) *Qualified Erosion and Sedimentation Control Professional.* The erosion and sedimentation control plan has been prepared by a Qualified Erosion and Sedimentation Control Professional.
- (b) *Timing of installation and maintenance.* The erosion and sedimentation control plan requires that sedimentation control BMPs shall be in place before construction begins, additional erosion and sedimentation control BMPs shall be installed as needed and shall be phased in if phasing is used, and shall be maintained until permanent stabilization is achieved.
- (c) *Inspection.* The erosion and sedimentation control plan provides for inspection of the site by the applicant to confirm that erosion and sedimentation control BMPs are in place and functioning. The Erosion and Sedimentation Control Plan also provides for corrective action if erosion is occurring or there is a discharge of sediment or turbid water from the construction site.

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

Section 34-6. – Inspection

The enforcement authority will inspect the site as follows at a minimum:

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

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

Section 34-7. – Enforcement

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

- (a) *Right of entry.* In order to determine compliance with this chapter, the enforcement authority may enter upon the parcel at reasonable hours with the

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consent of the owner, occupant, agent, or contractor to inspect the parcel for compliance with this chapter.

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

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

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

- (d) *Penalties/Fines/Injunctive Relief.* Any person who violates this chapter, including, but not limited to the Erosion and Sedimentation Control Plan, shall be subject to fines, penalties, and orders for injunctive relief and shall be responsible for the Town's attorney's fees and costs, all in accordance with 30-A M.R.S. § 4452. Each day that such violation continues shall constitute a

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separate violation. Moreover, any person who violates this chapter also shall be responsible for any and all fines, penalties, damages, and costs, including, but not limited to attorneys' fees and costs, incurred by the Town for enforcement of violation(s) of federal and state environmental laws and regulations caused by or related to that person's violation of this chapter; this responsibility shall be in addition to any penalties, fines, or injunctive relief imposed under this section.

- (e) *Consent agreement.* The Enforcement Authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs, and fees without court action.
- (f) *Appeal of Notice of Violation.* Any person receiving a Notice of Violation or Stop Work Notice may appeal the determination of the Enforcement Authority to the Board of Appeals per Section 45-49. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. The Board of Appeals shall hold a de novo hearing on the appeal within 30 days from the date of receipt of the notice of appeal. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of that date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- (g) *Enforcement Measures.* If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal to the Board of Appeals, within 45 days of a decision of the Board of Appeals affirming or modifying the Enforcement Authority's decision, then the Enforcement Authority may recommend to the municipal officers that the Town's attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

Section 34-8. – Severability and conflicts

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any Person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this chapter.

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

Section 34-9. – Waivers

Where the Enforcement Authority or Permitting Authority, as appropriate, finds that there are special circumstances of a particular Erosion and Sedimentation Control Plan that make

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

Section 34-10. – Authority

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

Appendix 1

Erosion and Sedimentation Control Standards

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

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

Erosion and Sedimentation Control BMPs that require design to accommodate specific storm events shall be designed using precipitation data from either the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 precipitation data or the Northeast Regional Climate Center Extreme Precipitation Tables.

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

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

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

(b) *Pollution prevention*

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

(c) *Sediment barriers*

- (1) 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.
- (2) Sediment barriers shall be installed downgradient of soil and sediment stockpiles, and stormwater must be prevented from running onto the stockpile. Sediment barriers shall be maintained by removing accumulated sediment, or removing and replacing the barrier, until the Disturbed Area is permanently stabilized. Where a discharge to a storm drain inlet occurs, protection measures that remove sediment from the discharge must be installed and maintained. Storm drain inlet protection must include effective curb inlet or “back throat” protection, where applicable.

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(d) *Stabilized construction entrance*

- (1) Prior to construction, a stabilized construction entrance (SCE) shall be installed at all points of vehicular egress from the Site. The SCE is typically a stabilized pad of aggregate, underlain by a geotextile filter fabric, or an engineered track out control mat which has been approved by Maine DEP which is used to prevent traffic from tracking material away from the Site onto public rights-of-way.
- (2) The SCE shall be maintained until all Disturbed Areas are stabilized.
- (3) If an alternate SCE has been approved by Maine DEP, provide proof of this with the Plan or application.

(e) *Temporary stabilization*

- (1) Within 7 days of the cessation of Construction Activities in an area that will not be worked for more than 7 days, any exposed soil shall be stabilized with mulch or other non-erodible cover.
- (2) Areas within 75 feet of a wetland or waterbody shall be stabilized within 48 hours of the initial disturbance of the soil or prior to any storm event, whichever comes first.

(f) *Removal of temporary measures*

- (1) Any temporary control measures, such as silt fence, shall be removed within 30 days after permanent stabilization is attained. Any accumulated sediments shall be removed and the areas where those sediments were shall be stabilized.

(g) *Permanent stabilization*

- (1) If the Site or a portion of the Site will not be worked for more than one year or has been brought to final grade, then the area shall be permanently stabilized within 7 days by planting vegetation, seeding, sod, or through the use of permanent mulch, or riprap, or road sub-base.
- (2) If using vegetation for stabilization, proper vegetation shall be selected for the light, moisture, and soil conditions.
- (3) Disturbed Area subsoils shall be amended with topsoil, compost, or fertilizers.
- (4) Seeded areas shall be protected with mulch or, if necessary, erosion control blankets.
- (5) Sodding, planting, and seeding shall be scheduled to avoid die-off from summer drought and fall frosts.
- (6) Newly seeded or sodded areas must be protected from vehicle traffic, excessive pedestrian traffic, and concentrated runoff until the vegetation is well-established with 90% cover by healthy vegetation. If necessary, areas must be reworked and restabilized if germination is sparse, plant coverage is spotty, or topsoil erosion is evident.

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(7) Permanent Stabilization Definitions are as follows:

- a. Seeded Areas: For seeded areas, permanent stabilization means a 90% cover of the Disturbed Area with mature, healthy plants with no evidence of washing or rilling of the topsoil.
- b. Sodded Areas: For sodded areas, permanent stabilization means the complete binding of the sod roots into the underlying soil with no slumping of the sod or die-off.
- c. Permanent Mulch: 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.
- d. Riprap: For areas stabilized with riprap, permanent stabilization means that slopes stabilized with riprap have an appropriate backing of a well-graded gravel or approved geotextile to prevent soil movement from behind the riprap. Stone must be sized appropriately. It is recommended that angular stone be used.
- e. Paved Areas: For paved areas, permanent stabilization means the placement of the compacted gravel subbase is completed, provided it is free of fine materials that may runoff with a rain event.
- f. Ditches, Channels, and Swales: For open channels, permanent stabilization means the channel is stabilized with a 90% cover of healthy vegetation, with a well-graded riprap lining, turf reinforcement mat, or with another non-erosive lining such as concrete or asphalt pavement. There must be no evidence of slumping of the channel lining, undercutting of the channel banks, or down-cutting of the channel.

(h) *Winter Construction*

(1) Winter construction is Construction Activity performed during the period from November 1 through April 15. If Disturbed Areas are not stabilized with permanent measures by November 1 or new soil disturbance occurs after November 1, but before April 15, then these areas must be protected and runoff from them must be controlled by the following additional winter construction measures and restrictions:

- a. Site Stabilization: Hay mulch shall be applied at twice the standard temporary stabilization rate. At the end of each construction day, areas that have been brought to final grade must be stabilized. Mulch may not be spread on top of snow.
- b. Sediment Barriers: All areas within 75 feet of a Protected Natural Resource must be protected with a double row of sediment barriers.
- c. Ditch Lines: Ditch lines must be stabilized with an appropriate stone lining backed by an appropriate gravel bed or geotextile unless specifically

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released from this standard by the Maine DEP. If release from Maine DEP has been granted, proof of this release must be provided with the Plan or application.

- d. Slopes: Mulch netting must be used to anchor mulch on all slopes greater than 8% unless erosion control blankets or erosion control mix is being used on these slopes. Unvegetated slopes less than 8% must be protected with an erosion control blanket, erosion control mix, or riprap.

(i) *Stormwater channels*

- (1) Each channel shall be constructed in sections so that the section's grading, shaping, and installation of the permanent lining can be completed the same day.
- (2) If a channel's final grading or lining installation must be delayed, then diversion berms must be used to divert stormwater away from the channel, properly-spaced check dams must be installed in the channel to slow the water velocity, and a temporary lining installed along the channel to prevent scouring.

(j) *Sediment basins*

- (1) Sediment basins that will be used to control sediment during Construction activities must be designed to provide storage for either the calculated runoff from a 2-year, 24-hour storm or provide for 3,600 cubic feet of capacity per acre draining to the basin.
- (2) Outlet structures must discharge water from the surface of the basin whenever possible.
- (3) Erosion controls and velocity dissipation devices must be used if the discharging waters are likely to create erosion.
- (4) Accumulated sediment must be removed as needed from the basin to maintain at least half of the design capacity of the basin. Clearly visible staking must be installed with marks showing the elevation of half design capacity for easier inspection.
- (5) The use of cationic treatment chemicals in Sediment Basins, such as polymers, flocculants, or other chemicals that contain an overall positive charge designed to reduce turbidity in stormwater may only be used if proof of approval by Maine DEP is provided.

(k) *Phasing Plan Requirements*

- (1) No phasing plan is required if contractor will limit Disturbed Area to a maximum of 5 acres of disturbance across the Site at any time. If the Construction Activity will result in more than 5 acres of Disturbed Area at any one time, the Contractor shall provide a phasing plan showing:
 - a. the initial 5-acre area to be disturbed;
 - b. which portions of the initial disturbance will be stabilized, and what temporary or permanent stabilization methods will be used;
 - c. which areas will be subsequently disturbed and what temporary or permanent stabilization methods will be used; and

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- d. each phase of disturbance and stabilization must clearly show the total areas in square feet or acres such that the 5-acre Disturbed Area limit at any one time is met throughout the entire project.

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

(l) *Inspection*

- (1) Disturbed and Impervious Areas, Erosion and Sedimentation Control BMPs, materials storage areas that are exposed to precipitation, and locations where vehicles enter or exit the Site are inspected at least once a week as well as before and within 24 hours after a storm event (rainfall), and prior to completing permanent stabilization measures. A Qualified Erosion and Sedimentation Control Professional shall conduct the inspections.

(m) *Maintenance and Corrective Action*

- (1) If Erosion or Sedimentation Control BMPs need to be maintained, or repaired or enhanced (corrective action), the work shall be initiated upon discovery of the problem but no later than the end of the next workday.
- (2) If additional Erosion or Sedimentation Control BMPs or significant repair of Erosion or Sedimentation Control BMPs are necessary, implementation must be completed prior to any storm event (rainfall) and within 7 calendar days of identification. All measures must be maintained in effective operating condition until areas are permanently stabilized.

(n) *Documentation*

- (1) A log (report) summarizing the inspections and any repairs or enhancements (corrective actions) added must be maintained by the applicant. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of erosion and sedimentation controls, materials storage areas, and vehicles access points to the Parcel. Major observations must include Erosion and Sedimentation Control BMPs that need maintenance, Erosion and Sedimentation Control BMPs that failed to operate as designed or proved inadequate for a particular location, and location(s) where additional Erosion and Sedimentation Control BMPs are needed. The log must document each Erosion and Sedimentation Control BMP requiring maintenance, Erosion and Sedimentation Control BMP needing replacement, and location needing additional Erosion and Sedimentation Control BMPs, as well as the corrective action taken and

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when it was taken. The log shall be maintained for at least three years from the completion of permanent stabilization.

(o) *Spill Prevention*

- (1) Controls must be used to prevent pollutants from construction and waste materials stored on-Site from entering stormwater, which includes storage practices to minimize exposure of the materials to stormwater. The Site contractor or operator must develop, and implement as necessary, appropriate spill prevention, containment, and response planning measures.

(p) *Groundwater Protection*

- (1) During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the Site draining to an infiltration area. An infiltration area is any area of the Site that by design or as a result of soils, topography, and other relevant factors accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the Site for the purposes of storage and handling of these materials.

(q) *Fugitive Sediment and Dust*

- (1) Actions must be taken to ensure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction.
- (2) Oil may not be used for dust control, but other water additives may be considered as needed.
- (3) A stabilized construction entrance shall be included to minimize tracking of mud and sediment. If off-Site tracking occurs, public roads shall be swept immediately and no less than once a week and prior to significant storm events.
- (4) Operations during dry months, that experience fugitive dust problems, shall wet down unpaved access roads once a week or more frequently as needed with a water additive to suppress fugitive sediment and dust.

(r) *Debris and Other Materials*

- (1) Minimize the exposure of construction debris, building and landscaping materials, trash, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials to precipitation and stormwater runoff. These materials must be prevented from becoming a pollutant source. Sediment generated by concrete or mortar mixing, brick cutting & saw cutting activities must be contained (e.g., sausage boom, straw bales, etc.) and cleaned up using dry methods (i.e., sweeping or vacuuming) to prevent it from entering drainage structures or water resources. These activities shall be done on vegetated areas whenever possible and away from drainage structures and water resources.

(s) *Excavation Dewatering:*

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- (1) Excavation dewatering is the removal of water from trenches, foundations, coffer dams, ponds, and other areas within the construction area that retain water after excavation. In most cases the collected water is heavily silted and hinders correct and safe construction practices. The collected water removed from the ponded area, either through gravity or pumping, must be spread through natural wooded buffers or otherwise treated to collect the maximum amount of sediment possible, like a coffer dam sedimentation or sediment filter bag. Avoid allowing the water to flow over Disturbed Areas of the Site. If the Maine DEP has approved equivalent measures, provide proof of approval. Note that discharge of excavation dewater fluids from the Site must be visually clear (no visible suspended or settleable solids).
- (t) *Washout from Concrete, Stucco, Paint, Curing Compounds, or Other Construction Materials:*
- (1) If washout/cleanout is to be completed on the Site, a designated area(s) shall be established and marked on the Erosion and Sedimentation Control Plan. This area shall be a minimum of 50 feet from all drainage structures, ditches, waterbodies, and resource areas, as well as property boundaries. The area shall not have an outlet to discharge wastes or flows. No detergents shall be used or vehicles washed in this location. A leak-proof pit or container shall be established in the washout area(s), to which washings shall be directed. This area shall be used for washout containment and dewatering by evaporation only. The pit shall not allow infiltration to occur. To prevent clean water from entering the pit, the washout area shall be covered during precipitation events. Inspections of the pit shall be conducted daily to ensure no leaks are present and no discharge is occurring.
- (u) *Authorized Non-stormwater Discharges:*
- (1) Identify and prevent contamination by non-stormwater Discharges. Where allowed non-stormwater Discharges exist, they must be identified, and steps shall be taken to ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the Discharge. Authorized non-stormwater Discharges are:
 - a. Discharges from firefighting activity
 - b. Hydrant flushing if dechlorinated to 0.05 mg/l or less
 - c. Vehicle wash water if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage, and transmission washing is prohibited)
 - d. Dust control runoff if it does not cause erosion
 - e. Routine external building washdown, not including surface paint removal, that does not involve detergents

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

- f. Pavement wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material had been removed) if detergents are not used
- g. Uncontaminated air conditioning or compressor condensate
- h. Uncontaminated groundwater or spring water
- i. Foundation or footer drain-water where flows are not contaminated
- j. Uncontaminated excavation dewatering per item 5 Excavation Dewatering
- k. Potable water including waterline flushings
- l. Landscape irrigation

(v) *Unauthorized Non-stormwater Discharges*

(1) The following Discharges are prohibited:

- a. Wastewater from the washout or cleanout of concrete, stucco, paint, form release oils, curing compounds, or other construction materials;
- b. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- c. Soaps, solvents, or detergents used in vehicle and equipment washing; and
- d. Toxic or hazardous substances from a spill or other release.

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

Sec. 41-214. – Soil quality

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

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

- (9) Topsoil shall be considered part of the subdivision. Except for surplus topsoil for roads, parking areas, and building excavations, it is not to be removed from the site.
- (d) *Debris and waste.* The subdivider shall not deposit or bury trees, timber, debris, rocks, junk, rubbish, unsuitable soil, or other waste materials of any kind. The code enforcement officer shall withhold approval of permits or recommendation of release of any performance bonds or dedication of improvements until the subdivider removes such waste materials.

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

Sec. 44-35. – Land use standards

[...]

- (q) *Erosion and sedimentation control.*
 - (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
 - (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 - (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 - (4) Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.

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

- b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and manmade drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- (6) Without limiting the foregoing, all construction activity subject to Chapter 34 shall meet the requirements of that chapter.**

[...]

Sec. 45-412. - Erosion control.

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

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

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

DRAFT for August 2, 2022, Planning Board Review

Recommended motion template

Motion to set a public hearing for August 16, 2022, for the Draft Proposed Town Code Amendments Related to the Town Fee Schedule.

Planning Board recommends _____ (#-#)

Select Board recommends _____ (#-#)

Short title

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

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

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

Background and rationale

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

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

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

(New text underlined in bold)

~~Deleted text in strikethrough~~

Sec. 1-25. Fee schedule.

- (a) Purpose and Authority. The Select Board is hereby authorized to establish and maintain a fee schedule with fees for permitting, licensing, services, application, appeal, or the like. Except as limited by this section or otherwise by law, the Select Board is authorized to modify the fee amounts in that fee schedule. For the purpose of this section, “fee schedule” may mean one master fee schedule or multiple individual fee schedules grouped by fee categories.**
- (b) Each individual fee in the following tables in this section shall remain effective unless and until the Select Board includes a fee for that corresponding item in its adopted fee schedule. Individual fees in the tables below, or entire tables, shall be removed from this section upon the adoption of the same, or updated, fees or tables, in the fee schedule adopted by the Select Board.**
- (c) The Select Board may include additional fees in the fee schedule that are not expressly listed in this Code. Fees expressly listed in sections of this Code other than this section shall remain in effect as they are written, but they may be included in the fee schedule for informational purposes.**

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

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

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

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

Flood hazard development permit (Sec. 25-58)		\$50.00	
Growth permit (Sec. 29-42(b))		\$500.00/dwelling unit (upon replacement with a building permit to construct a new dwelling unit, \$400.00/dwelling unit shall be credited toward building permit fees)	
Plumbing permits (Sec. 45-131)	External (subsurface wastewater disposal systems) plumbing disposal	Engineered system	\$300.00
		Non-engineered system	\$250.00 + \$15.00 (state fee)
		Disposal field only	\$150.00
		Treatment tank only	\$125.00
		Holding tank	\$150.00
		Other components (complete pump station, piping, etc.)	\$50.00
		Primitive system (incl. 1 alternative toilet)	\$150.00
		Alternative toilet	\$50.00
		Seasonal conversion	\$50.00
		Separated laundry system	\$50.00
		1st time system variance	\$50.00
	Internal plumbing	\$40.00 min. (includes 1—4 fixtures) + \$10.00 per additional fixture	
	Re-inspection fee (for any additional inspections)	\$50.00 each	
Tele-communication structures (Sec. 45-460)	Expansion of existing telecommunication structure	\$350.00	
	Collocation of antenna on existing telecommunication structure	\$350.00	
	New telecommunication structure (any height)	\$500.00	

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

Auto graveyards, auto recycling operations, and auto hobbyist storage area operating permits (select board)	Auto graveyard	\$175.00 application fee + \$50.00/permit
	Auto recycling operation, principal	\$175.00 application fee + \$250.00/permit
	Auto hobbyist storage area	\$175.00 application fee + \$25.00/permit
Sign permit (Sec. 45-130)	Exterior signs for commercial establishments (new, permanent signs only)	\$50.00
	Home business signs or replacement signs for commercial establishments	\$25.00
After-the-fact permits		Permit fees doubled

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

PLANNING BOARD	
PURPOSE	FEE

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

Site Plan Review (Sec. 33-128) <i>(Public hearing fees not included)</i>	Rural, Commercial/Industrial Districts	Suburban, Village, Zoning	General site plan review application (non Shoreland zone)	\$100.00 per acre up to 5 acres; \$50.00 each additional acre (minimum fee \$100.00)	
			Change of use (no site changes or major structural changes or additional square footage)	\$25.00	
			Home business; home occupation	\$25.00	
			Lodging businesses (bed & breakfasts, hotels, motels, boarding homes, inns, etc.)	\$25.00 per room for lodging businesses in lieu of acreage-based fee	
	Shoreland Zoning Districts			General site plan review application	\$100.00/acre up to 5 acres. \$50.00 each additional acre (minimum fee \$100.00)
				Piers, docks, wharves, bridges and other structures extending over or below the high-water line	\$50.00
				Road & driveway construction permits	\$50.00
				Non-conforming structures, uses and lots per Sec. 44-32	\$75.00

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

	Revisions to final site plans after planning board approval (Sec. 33-140)	\$100.00
Subdivisions (Sec. 41-142)	Subdivision application fee	\$200.00 per lot or dwelling unit
	Mobile home park application fee	\$50.00 per unit
	Final plan fee for subdivisions and mobile home parks (Sec. 41-171)	\$50.00
	Revisions to final subdivision plans after approval (Sec. 41-182)	\$200.00 per lot or dwelling unit affected by change
Public hearing fees (includes abutter notification via certified mail and advertising in 2 local newspapers)		\$175.00

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

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

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

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

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

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

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

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

(T.M. of 11-6-2018(1), (§ 10))



LETTER OF TRANSMITTAL

TO: Town of Eliot
1333 State Road
Eliot, ME
03903

FROM:
AMBIT ENGINEERING, INC.
Civil Engineers and Land Surveyors
200 Griffin Road, Unit 3
Portsmouth, NH 03801
Phone (603) 430-9282 Fax 436-2315

DATE: 6/2/2022	JOB NO. 3448
ATTENTION: Planning Department	
RE: Sketch Plan Permit Application	
143 H. L. Dow Highway	

WE ARE SENDING YOU

<input checked="" type="checkbox"/> ATTACHED	<input type="checkbox"/> UNDER SEPARATE COVER VIA
<input type="checkbox"/> SHOP DRAWING	<input type="checkbox"/> PRINTS
<input checked="" type="checkbox"/> PLANS	<input type="checkbox"/> SPECIFICATIONS
<input type="checkbox"/> SAMPLES	<input checked="" type="checkbox"/> OTHER Application

COPIES	DATE	REVISION	DESCRIPTION
10	5-18-22		Application for Approval
1	6-6-22		Site Plans (full size)
10	6-6-22		Site Plans (11 x 17)
10	6-6-22		Supplemental Information

THESE ARE TRANSMITTED AS CHECKED BELOW

FOR YOUR APPROVAL FOR YOUR USE AS REQUESTED
 FOR BIDS DUE
 FOR REVIEW AND COMMENT RETURNED AFTER LOAN TO US

REMARKS

Please place us on the agenda for the next Planning Board Meeting.

COPY TO Development Team

If enclosures are not as noted, kindly notify us at once.

Case No. _____

Site review? Yes No

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

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

Tax Map 23 Lot# 25 Lot Size 5.0 Acres Zoning District: Commercial Industrial

Your Name Green Truck Farms 7, LLC Your mailing address 19 Buffum Road Unit 6

City/Town North Berwick State: Maine Zip: 03906 Telephone: (207)432-6000

Who owns the property now? Tim A. Pickett PO Box 242 Eliot, ME 03903

Address (Location) of the property 143 Harold L. Dow Highway

Property located in a flood zone? Yes No

(If yes, please complete the attached Flood Hazard Development Application and return it with your completed application)

Step 2 (establish your legal interest in the property)

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

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

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

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

Proposed adult use retail and medical dispensary in a 6,000 SF constructed building.

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

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


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


- The location of all existing and/or proposed entrances and exits.

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

- Sewer connection plans to follow
- Plans of buildings, sewage disposal facilities, and location of water supply.

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

Applicant  Date 5/18/22

Property Owner  Date 5/18/22

Step 6 Application received by Planning Assistant

Date received by the PA _____ PA initials _____

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

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

PART 1 - THE PROCEDURE

	Case No. _____
	Site review? Yes No

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

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

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

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

(STEP 5) Board visits site with applicant.

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

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

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

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

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

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

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

PART 2

Case No. _____

Site review? Yes No

DETAILED ORDINANCE REFERENCES FOR EACH SITE REVIEW EVENT

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

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

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

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

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

Case No. _____

Site review? Yes No

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

Chapter 33 required information

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

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

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

Other Chapter 33 Site Review Ordinance Requirements.

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

Case No. _____

Site review? Yes No

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

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

Chapter 35 Post-Construction Stormwater Management

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

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

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

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

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

Case No. _____

Site review? Yes No

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

5.1. Board discusses Site Plan with applicant.

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

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

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

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

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

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

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

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

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

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

DELMAR LAW OFFICES
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Portland, Maine 04101
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Michelle L. DelMar, Esq.
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Admitted in Maine and Massachusetts

Boston location:
10 Post Office Sq., Ste. 800S
Boston, MA 02109

May 23, 2022

Planning Board
Town of Eliot
1333 State Road
Eliot, Maine 03903

**RE: Application for Site Plan Review; Green Truck Farms 7, LLC and Green Truck Farms II, LLC; 143 Harold Dow Highway
Green Truck Farms 7, LLC; Adult Use Store Pending License Number: AMS1272**

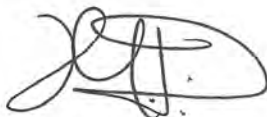
Dear Members of the Planning Board:

The following information is provided in pursuit of clarifying the status of state licensing for the Applicant, Green Truck Farms 7, LLC. The Maine Office of Cannabis Policy ("OCP") issued Adult Use Store Pending License Number AMS1272, to the Applicant. In many instances, it takes time for an applicant to obtain the certificate for a Conditional Adult Use Store License.

Given that there is no issue that would prevent the OCP from providing the Applicant with a certificate for Conditional License, a great likelihood of success and the possible delays with the State offices due to staffing, etc., kindly consider approving this Application with the condition that the Applicant submit the Conditional Adult Use Store License, upon receipt.

Green Truck Farms 7, LLC will keep the Planning Board apprised with regard to the same. Thank you for your time, attention and consideration with regard to this matter. Please do not hesitate to contact me with any questions or concerns.

Respectfully,



Michelle DelMar, Esq.

cc: Joshua Seymour, Green Truck Farms 7, LLC
John Chagnon, Ambit Engineering

**PURCHASE AND SALES AGREEMENT AND DEPOSIT RECEIPT
COMMERCIAL, INVESTMENT & INDUSTRIAL REAL ESTATE**

DATE: March 8th, 2022

PROPERTY ADDRESS: 143 Harold L. Dow Highway (Route 236), Eliot, Maine 03903

PURCHASE PRICE:

Initialed by Buyer: JK Seller: TP

DEPOSIT:

Initialed by Buyer: JK Seller: TP

This Purchase and Sale Agreement and Deposit Receipt (this "Agreement") is made at the date set forth above, by and between:

BUYER: JD INVESTMENTS, LLC, a Maine limited liability company, or its assign(s).

SELLER(S): Seller Name: Tim Pickett **an** Individual
(Individual/Maine Corp/Maine LLC)
Seller Address: 143 Harold L Dow Highway, Eliot, ME 03903

Seller Name: n/a **a** _____
(Individual/Maine Corp/Maine LLC)

Seller Address: _____

(separately and collectively herein referred to as the "SELLER"),

each a "party", together the "parties."

1. WITNESSETH: Subject to the conditions in this Agreement, the SELLER agrees to sell and convey and the BUYER agrees to PURCHASE,

- a. The real estate located at 143 Harold L Dow Highway, Eliot, Maine and known or more particularly described as:
 - i. approximately 217,800 Square Feet ("Land") improved
 - ii. together with 900 square foot building, structures and improvements now thereon ("Improvements") and
 - iii. as described in the Town of Eliot, Maine Tax Maps as
 1. Map 23, Lot 25, and
 2. in the York County Registry of Deeds as Book: 14093, Page: 0823, Dated: May 17th, 2004

and further described in Description of Property, attached hereto as **Schedule A**, and subject to leases set forth in **Schedule B** (collectively the Lease), and no other leases;

- b. All right, title and interest (if any) in and to any and all fixtures, fittings, apparatus, appliances, equipment and machinery and improvements thereon (expressly excluding such items owned by tenants, which they have authority to remove under their respective leases); and
- c. All right, title, interest, privileges, easements and appurtenances, if any, to the Land and/or Improvements, including without limitation, all development rights, air rights, mineral, mining and water rights, leases, rights to lease security deposits, licenses, certificates of occupancy, permits and approvals, all warranties and guaranties and all easements,

rights-of-way, and other appurtenances used or connected with the beneficial use or enjoyment of the Land and/or Improvements, including, but not limited to access to public way, if applicable (the "Property").

2. **PURCHASE PRICE:** SELLER agrees to sell and convey, and BUYER agrees to purchase the Property for the sum of _____, which shall be allocated between real property and personal property, by Allocation Agreement of the parties within 10 business days of this Agreement.

3. **DEPOSITS:**

- a. Initial Deposit: An initial deposit, receipt of which is hereby acknowledged, in the amount of _____ Dollars is to be applied first toward the Purchase Price and is to be held in an escrow account by a third party, namely,
Escrow Agent: Michelle DelMar, Esq. of Delmar Law Offices, PC
Address of Escrow Agent: 254 Commercial Street Suite 245, Portland, Maine 04101.

The Initial Deposit shall be non-refundable, except that the Initial Deposit shall be refundable in the event of SELLER default and/or BUYER terminates this Agreement in accordance herewith based on SELLER not conveying title in accordance with the terms of this Agreement, e.g., good and marketable or insurable title, etc. or if at the option of the BUYER, this Agreement is rescinded in event of unsatisfactory review of lease(s) or in the event a fire or other casualty loss exceeds \$ _____.

4. **TRANSFER OF TITLE:** SELLER agrees to:

- a. Sell, convey and deliver the Property to the BUYER by a good and marketable or insurable Title by Warranty Deed with Covenant, free and clear of all liens and encumbrances, except as noted herein.
- b. Convey all personal property to the BUYER by Bill of Sale, free and clear of all encumbrances, except as noted herein. The parties acknowledge that personal property belonging to then current tenants, if any, may be left at the premises at closing.
- c. SELLER shall use reasonable efforts to comply with the provisions of this Agreement, and to remove any defects in title, and to make conveyance, and to deliver possession as provided herein, and to make the Property conform with the provisions hereof, as the case may be, in which event the Closing shall be extended for a period of not more than thirty (30) days upon written notice thereof from BUYER to SELLER to clear such issues. If at the expiration of the extended time SELLER shall not have cured the previously existing problem so that conveyance can be made in accordance with the terms of this Agreement, then BUYER may elect (i) to terminate this Agreement or (ii) to accept the conveyance of the Property on the original Closing Date or extended Closing Date, in its then condition, in which case, SELLER shall convey such title to BUYER. In the event that the title to the subject property, pursuant to the above, proves not to be marketable or insurable and/or not free and clear of all liens and encumbrances, all rights and obligations herein may, at the BUYER's option, terminate and all deposit monies returned to BUYER.
- d. **Closing Date:** The Closing to be held on a date selected by BUYER, after 40 Business days following the date of this Purchase and Sale Agreement and no later than 10 Business days following BUYER's receipt of notice of Approvals, as defined herein. The Closing shall be held remotely or at 12:00 p.m. at the BUYER's Attorney's office, DelMar Law Offices, PC, 254 Commercial Street, Suite 245, Portland, Maine or at another time and place mutually agreed by the parties.

5. **POSSESSION:** Possession, except all tenants, occupants, if any, and all personal property, as provided herein, is to be given at Transfer of Title.

6. **RISK OF LOSS; INSURANCE:** Risk of loss or damage to the Property shall be on SELLER until delivery of the Property to the BUYER. In the event the Property is materially damaged prior to closing the Purchase Price shall be equitably abated. The Property and contents shall, until the full performance of this agreement, be kept insured against Fire, with Extended Coverage, by the SELLER. In case of loss, all sums recoverable from said insurance shall be paid or assigned, on delivery of title, to the BUYER, unless the premises and contents shall have been restored to their former condition by the SELLER; or, at the option of the BUYER, this Agreement may be rescinded and any Deposit monies

refunded if loss shall exceed \$50,000.00. The SELLER shall provide evidence of current insurance coverage to the BUYER upon request.

7. MAINTENANCE: Until possession of Property is delivered, SELLER agrees to maintain the Property in as good condition and working order as shown to BUYER.

8. INSPECTIONS: This contract is NOT subject to the results of any BUYER inspection, however, SELLER agrees to provide BUYER with reasonable access to the Property for inspections.

9. PRORATIONS / EXPENSES: Real Estate and personal property taxes, any utility expenses assessed against the owner of the property, and any other assessments against the property by municipal officials, shall be prorated as of the date of the closing. Rents shall be prorated, and leases and security deposits and all other right, title, interest, privileges, easements and appurtenances, as set forth in Section 1 above, if any, assigned to BUYER at closing. The real property transfer tax shall be paid by both BUYER and SELLERS in accordance with Maine law. BUYER shall pay the expenses of its title search, title insurance and recording of the deed. SELLER shall pay the expense of preparing its deed and the recording fee for any discharges or other instruments necessary to clear title. Both parties shall pay their own legal fees and expenses associated with this transaction, except that BUYER agrees to reimburse SELLER for reasonable attorneys fees for review of this Agreement.

10. LIQUIDATED DAMAGES AND INTERPLEADER PROVISIONS:

a. BUYER DEFAULT. If the BUYER shall default in the performance under this Agreement, the amount of the deposit may, at the option of the SELLER, become the property of the SELLER as reasonable liquidated damages.

b. SELLER DEFAULT. In the event SELLER defaults in its performance under this Agreement (including, without limitation, a default hereunder based on breach by SELLER of any of its representations and warranties contained herein that is discovered prior to the Closing), then BUYER, shall have all legal and equitable remedies.

c. In the event of any dispute relative to the deposit monies held in escrow, the Escrow Agent may, in its sole discretion, pay said deposit monies into the Clerk of Court of proper jurisdiction in an Action of Interpleader, providing each party with notice thereof, and shall be discharged from its obligations as recited herein, and each party to this agreement shall thereafter hold the Escrow Agent harmless in such capacity. Each party hereto agrees that the Escrow Agent may deduct the cost of bringing up such Interpleader Action from the monies held in escrow prior to the forwarding of same to the Clerk of such Court.

11. FINANCING: This Agreement is NOT contingent upon BUYER obtaining financing.

12. AGENT: The undersigned SELLER and BUYER understand that NO Agency represents the BUYER or SELLER in this transaction. Any and all commissions of SELLER's agent, if any, shall be paid by SELLER. SELLER shall indemnify BUYER and hold BUYER harmless from any and all claims for broker commissions in this transaction.

13. ADDITIONAL CONTINGENCIES AND OTHER PROVISIONS:

- a. This Agreement shall be contingent upon BUYER's prospective tenant obtaining all approvals necessary to construct and operate an Adult-use and Medical Marijuana Retail store at the Property ("Approvals") and BUYER may terminate this Agreement in the event such Approvals are not obtained, and in such case the SELLER shall retain the \$50,000.00 deposit, as liquidated damages, provided such SELLER is not in default hereof.
- b. There Hundred Thousand Dollars (\$300,000.00) of the Purchase Price (referred to as the "135 Harold L. Dow Highway Escrow"), shall be set aside in escrow and held by the Escrow Agent, for the purposes described in Schedule C (Scope of Work concerning separate property at 135 Harold L. Dow Highway), attached hereto.
- c. SELLER shall provide BUYER copies of all Leases for the Property, if any, within Two (2) Business Days of SELLER's receipt of fully executed copy of this Agreement.
- d. SELLER shall allow BUYER to walk-through the entire Property within Ten (10) Business Days of SELLER's receipt of fully executed copy of this Agreement.
- e. Within five (5) days from SELLER's receipt of copy of this Agreement fully executed, the SELLER shall provide the BUYER with copies of plans, building plans, schematics, surveys, environmental site assessments, engineering studies, property condition reports, leases, lease amendments, tax information, title insurance policies, warranties, current tax bills, water & sewer bills, certificate of occupancy(ies), rent history, property disclosure statement and other documents relevant to the condition or operation of the Property in SELLER's immediate possession.

- f. Examination of Property Conditions. BUYER and its representatives shall have the right, at all mutually agreeable reasonable times, and from time to time, but only in the presence of SELLER or its designated agents and subject to rights of the existing tenant, to enter onto the Property for all reasonable purposes including without limitation, for the purposes of making engineering studies, conducting environmental studies, site planning, collecting information for permitting purposes and making general inspections. SELLER will reasonably cooperate with BUYER to assist BUYER in gaining such access.

14. REPRESENTATIONS AND WARRANTIES

(a) In consideration for BUYER's waiver of right to inspect Property, and other valuable consideration, SELLER represents and warrants to BUYER that, to the best of SELLER's knowledge, without having undertaken any investigations or studies the following matters are true and correct as of the execution of this Agreement and also will be true and correct as of the Closing:

- (1) There are no agreements with any party and/or third parties except for the Lease between SELLER and the parties listed in Schedule B hereof, affecting the Property that will survive the Closing. None of SELLER's tenants are currently delinquent, except as set forth on Schedule B, if any.
- (2) All work required to be performed by the SELLER under the Lease has been completed and full payment for such work has been tendered. No tenant allowances are due to any tenant pursuant to the Lease (other than such as have been paid in full).
- (3) The Lease is the entire agreement between SELLER and tenant under such Lease, including all representations and warranties, and there are no other agreements between SELLER and such tenant of any kind. SELLER has paid in full all obligations for brokerage commissions and finders' fees incurred in entering into the Lease, whether payable before or after Closing. No brokerage commissions or finders' fees are payable upon the renewal of any existing Lease.
- (4) All of the due diligence documents delivered by SELLER to BUYER are true and correct copies in all material respects.
- (5) SELLER is an individual, corporation and/or limited liability company and is qualified to do business in the State of Maine; this Agreement has been and all the documents executed by SELLER that are to be delivered to BUYER at the Closing, will be, duly authorized, executed, and delivered by SELLER and are, and in the case of documents executed by SELLER to be delivered hereunder, will be, legal, valid, and binding obligations of SELLER, enforceable against SELLER in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the right of contracting parties generally), will be sufficient to convey title (if they purport to do so), and do not, and will not at the time of the Closing, violate any provision of any agreement to which SELLER is a party or to which it is subject and the execution by SELLER does not require any other consent or approval from any individual or company.
- (6) SELLER has not received any written notice of any action or proceeding (zoning or otherwise) or governmental investigation (including, without limitation, any eminent domain or similar proceeding) pending, or threatened, against or relating to (a) the Property including, without limitation, the tenant under the Lease, (b) this transaction or (c) SELLER, which would affect the Property after the Closing, nor, is there any basis for such action. This provision does not relieve BUYER from its obligation to investigate all zoning matters affecting the Property or its intended use.
- (7) SELLER has not granted to any person or entity any option or other right to purchase to the Property and no person or entity has any option or other right to purchase the Property.
- (8) SELLER has not received any written notice from any governmental authority or agency (i) claiming that the Property does not comply with applicable laws, ordinances, rules and regulations, including those relating to Hazardous Substances, which matter remains uncured; (ii) of any pending condemnation action with respect to the Property; (iii) of any assessments for public improvements against the Property which are unpaid; and/or (iv) of any written notice of any proposed increase in the assessed valuation of the Property that would be effective prior to the Closing Date.
- (9) SELLER is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.
- (10) To SELLER's knowledge, without investigation or inquiry, there are no Hazardous Substances existing on or affecting the Property, and SELLER has received no written notice of any pending or threatened proceeding by any governmental authority with respect to any such Hazardous Substances or any written notice of any actual or alleged violation of any federal, state or local environmental law. "Hazardous Substances" shall mean all substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "petroleum," "oil," "pollutant," or "toxic pollutant" as defined in applicable laws, acts, ordinances, or bylaws, as amended, or any rules or regulations adopted thereunder.

(b) Survival. All of the representations and warranties of SELLER set forth in this Section 14 and elsewhere in this Agreement shall be true upon the execution of this Agreement, shall be deemed to be repeated at and as of the Closing Date and shall survive the Closing for a period of twelve (12) months.

15. SELLER'S COVENANTS

(a) SELLER covenants that from the date of this Agreement through and including the Closing Date:

(1) SELLER's exclusivity obligations shall be in effect as of the date the BUYER's Deposit was received by the SELLER or SELLER's agent, namely the date of this Agreement and until the Closing Date, and during such period the Sellers shall not engage in solicitations, discussions, marketing or enter into any agreement or contract, concerning sale or modified, new or extended leasing, of the Property to any third party, without the express written consent of the BUYER.

(2) SELLER shall not agree to any restriction, covenant, easement, taking or other matter affecting the title to the Property, without BUYER's written consent, which BUYER shall not unreasonably withhold or delay.

(3) SELLER shall perform all of SELLER's obligations as landlord under the Lease and will enforce all of the obligations of the tenant under the Lease.

(4) SELLER shall not modify, cancel, extend, renew or otherwise change in any manner any of the terms, covenants or conditions of the Lease or enter into any new leases of space in the Property or any other occupancy agreements or contracts affecting the Property, or grant any consent to any matter requiring the consent of SELLER under the Lease, each without the prior written consent of BUYER, which consent may be granted or withheld in the sole and absolute discretion of BUYER.

(5) SELLER shall operate the Property substantially in the same manner as the Property has been operated prior to the date of this Agreement.

(6) SELLER shall maintain the Improvements in good order and repair so that the Property shall be in the same condition on the Closing Date as it is in on the date of this Agreement and at showing to BUYER, reasonable wear and tear and casualty excepted.

(7) SELLER shall not modify, cancel, extend, renew or otherwise change in any manner any of the terms, covenants or conditions of any of contracts affecting the Property or enter into any new agreement affecting the Property without the prior written consent of BUYER, which consent may be granted or withheld in the sole and absolute discretion of BUYER.

(8) SELLER shall cooperate with BUYER in connection with obtaining the Approvals and BUYER's due diligence.

(9) SELLER shall deliver a current estoppel certificate in a form reasonably acceptable to BUYER executed by the tenant, evidencing that the Lease is in full force and effect, that there are no defaults by either landlord or tenant under the Lease, and certifying the amount of all security deposits, Rent and prepaid Rent paid through the month of the Closing.

(10) The SELLER agrees to keep confidential and not disclose the terms of this Agreement to any third party without the express written consent of the BUYER.

16. SELLER'S CLOSING DOCUMENTS: On or before the Closing, SELLER shall deliver or cause to be delivered to BUYER the following:

(a) The Deed;

(b) If the Deed refers to a plan necessary to be recorded therewith, the SELLER shall deliver such plan with the Deed in form adequate for recording or registration. In addition, if title to the Property is registered, the Deed shall be in form sufficient to entitle the BUYER to a Certificate of Title covering the Property, or any registered land portion thereof, and the SELLER shall deliver with the Deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title;

(c) Reasonable proof of the authority of SELLER's signatories, in form and substance reasonably acceptable to BUYER's title insurer, including a Maine tax good standing certificate, if required, and resolution of SELLER;

(d) Such customary affidavits and indemnities with respect to parties in possession and mechanics liens as BUYER's title insurance company may reasonably require in order to issue title insurance policies without taking exception for so-called mechanics' and materialmen's' liens and limiting the exception for parties in possession and such other documents relating to the terms of the transaction as BUYER's lender may customarily and reasonably request;

(e) Certificates of Good Standing of the SELLER issued by the Secretary of the State of Maine, dated not more than 30 days prior to Closing;

(f) An affidavit certifying that SELLER is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code;

(g) The Lease (or an accurate copy thereof) and estoppel/certificate as described in Section 15 (a)(9) herein;

(h) An Assignment of the Lease;

(i) A bill of sale as to Personal Property, if applicable;

- (j) A certification updating the representations and warranties given by SELLER pursuant to this Agreement, with qualification if applicable, executed by SELLER;
- (k) A signed notice to the tenant under the Lease advising of the sale and directing such tenant to make all future rent payments to BUYER; and
- (l) Any keys to entrance doors, and equipment and utility rooms located in the Property, which keys shall be tagged for identification if applicable. To enable SELLER to deliver title and possession accordance with this Agreement, the SELLER may, at the time of junction at the time of Closing, use the purchase money or any portion thereof to clear title of any encumbrances or interests, provided that all such instruments so procured are recorded simultaneously with a delivery of the deed or arrangements, reasonably satisfactory to BUYER and/or BUYER's title insurer, have been made for subsequent recording thereof.

17. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties relating to the subject thereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement.

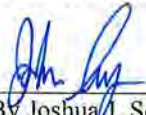
18. MISCELLANEOUS

- (a) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.
- (b) Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Agreement.
- (c) In the event any provision of this Agreement shall be deemed invalid or prohibited thereunder, such invalidity or prohibition shall be construed as if such invalid or prohibited provision had not been inserted herein and shall not affect the remainder of such provision or the remaining provisions of this Agreement.
- (d) This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and to their respective transferees, successors, and assigns.
- (e) This Agreement shall be governed by and construed in accordance with the laws of the State of Maine.
- (f) Electronic signature shall be equal to original signature on this Agreement.
- (f) SELLER acknowledges that SELLER has not been influenced to enter into this transaction, nor has SELLER relied upon any warranties or representations, not set forth or incorporated in this Agreement or previously made in writing.

SELLER's Initials RP THIS IS A LEGAL INSTRUMENT. IF NOT UNDERSTOOD, LEGAL, TAX OR OTHER COUNSEL SHOULD BE CONSULTED BEFORE SIGNING.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal by their duly authorized representatives as of the day and year first above written.

BUYER:
JD Investments, LLC


By Joshua J. Seymour
Its Manager, duly authorized

MARCH 9TH, 2022
Date

SELLER #1:


Signature
Tim Pickett, Individually

March 9, 2022
Date

Attachments: Schedule A, Description of Property
 Schedule B, Description of Lease(s)
 Schedule C, The 135 Harold L. Dow Highway Scope of Work

Schedule A

Description of Property

The land in Eliot, County of York and State of Maine, being bounded and described as follows:

Beginning at the northeasterly corner of the lot herein conveyed, being the point where this lot intersects with Route 236 and land now or formerly owned by Greenwood Construction Corp.; thence running along Route 236 a distance of 440 feet to a point; thence turning and running South 63 degrees, 38 minutes West a distance of 500 feet along other land being retained by the grantor to a point; thence turning and running in a northerly direction along a line which should parallel the coarse followed along Route 236 a distance of 440 feet along other land retained by the grantor to a point which should be the edge of the line of land separating this property from land now or formerly owned by Greenwood Construction Corp.; thence turning and running North 63 degrees, 38 minutes East a distance of 500 feet along land now or formerly owned by Greenwood Construction Corp. to the point of beginning.

Conveyed from William E. Bronson by deed dated March 30, 2004 and recorded at Book 14093, Page 823 at the York County Registry of Deeds.

Schedule B

Description of Leases

Property Address: n/a ; TENANT LIST

Lessee/Tenant Name	Building	Unit #	Expiration of Term	Current Delinquencies
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NONE

Schedule C

The 135 Harold L. Dow Highway Scope of Work

SCOPE OF WORK

Within 10 days following the Closing, the BUYER agrees to commence the following Scope of Work and SELLER agrees to cooperate with the BUYER and BUYER's agents with regard to the same:

- a. BUYER agrees to use reasonable efforts to assist the SELLER in obtaining all necessary approvals for a certain driveway for ingress and egress to his separate property located at 135 Harold L. Dow Highway, Eliot, Maine (Map 23 Lot 8, Book & Page 17597/0314), and specifically limited to assisting with coordinating the following:
 - i. designers, engineers;
 - ii. necessary applications to the Town of Eliot; and
 - iii. related approval work concerning the driveway.

("135 Harold L. Dow Highway Approvals")
- b. The SELLER agrees and provides the Escrow Agent with authorization to release and disburse funds from 135 Harold L. Dow Highway Escrow for costs and expenses (including designers, engineers, attorneys, and other professionals) related to this Scope of Work ("Costs for the Scope of Work") and indemnifies and holds Escrow Agent harmless with regard to related activities, in accordance herewith and agrees to sign the Escrow Agent's Escrow Agreement.
- c. The BUYER agrees that there shall be no fee for the time of its Manager, Joshua Seymour, for his work related to this Scope of Work.
- d. The SELLER acknowledges and represents that the BUYER has made no promises or representations as to the outcome or likelihood of successful outcome of this Scope of Work.
- e. This Scope of Work specifically excludes any work beyond the 135 Harold L. Dow Highway Approvals, and specifically excludes any work related to construction, for example construction permits.
- f. SELLER agrees to provide the BUYER with an acknowledgement of satisfaction of this Scope of Work and general release, upon issuance from the Town of Eliot, of notice of grant or denial of the applications for the 135 Harold L. Dow Highway Approvals.
- g. In the event the 135 Harold L. Dow Highway Escrow is depleted, the BUYER shall not be required to continue the Scope of Work and BUYER will be deemed to have satisfied its the Scope of Work obligations.
- h. Any funds in the 135 Harold L. Dow Highway Escrow remaining after all Costs for the Scope of Work are paid, shall be disbursed by the Escrow Agent to the SELLER, within 60 days following the Escrow Agent's receipt of confirmation from BUYER that BUYER has received an Acknowledgement and General Release from the SELLER, to BUYER'S satisfaction, acknowledging that the BUYER has satisfied its obligations to SELLER under this Scope of Work, and general release of BUYER by SELLER and his heirs, representatives and assigns of all claims.
- i. The BUYER and SELLER agree that in the event of any dispute between them such dispute shall be resolved exclusively by arbitration to be conducted in accordance with the rules of the American Arbitration Association ("AAA") applying the laws of the State of Maine and costs of such Arbitration shall be borne equally by the parties.

Green Truck Farms 7, LLC
(a Maine Limited Liability Company)


RESOLUTION

The Manager of Green Truck Farms 7, LLC, hereby enacts the following resolution:

RESOLVED, to submit Site Plan Review Application to the Town of Eliot concerning premises located at 143 Harold Dow Highway, Eliot, Maine and to bestow upon of the following Manager, full authority to conduct all business related to such applications and permits, including but not limited to being the designated authorized signatory on all related documents: Joshua Seymour, Manager

The Undersigned hereby certifies that he is a duly elected and qualified Manager and the custodian of the books and records of **Green Truck Farms 7, LLC**, a limited liability company duly formed pursuant to the laws of the State of Maine, and that the foregoing is a true record of a resolution duly adopted at a meeting of the Managers, and that said meeting was held **May 17, 2022**, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Manager of the above named Limited Liability Company this 18th day of May 2022. A True Record.

 5/18/22

Joshua Seymour, as Manager of JD Investments, LLC

JD Investments, LLC
(a Maine Limited Liability Company)

RESOLUTION


The Manager of JD Investments, LLC, hereby enacts the following resolution:

RESOLVED, to support Tenant, Green Truck Farms 7, LLC's Site Plan Review Application for submission to the Town of Eliot concerning premises located at 143 Harold Dow Highway, Eliot, Maine and to bestow upon of the following Manager, full authority to conduct all business related to such applications and permits, including but not limited to being the designated authorized signatory on all related documents:

Joshua Seymour, Manager

The Undersigned hereby certifies that he is a duly elected and qualified Manager and the custodian of the books and records of **JD Investments, LLC**, a limited liability company duly formed pursuant to the laws of the State of Maine, and that the foregoing is a true record of a resolution duly adopted at a meeting of the Managers, and that said meeting was held on **August 31, 2020**, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Manager of the above named Limited Liability Company this 18th day of May 2022. A True Record.

 5/18/22

Joshua Seymour, as Manager of JD Investments, LLC

Doc# 2004029673 Page 823
Book 14093

MAINE R.E. TRANSFER TAX PAID

WARRANTY DEED


KNOW ALL PERSONS BY THESE PRESENTS, that **WILLIAM E. BRONSON**, with a mailing address of P.O. Box 1507, Lehigh Acres, Florida 33970, for consideration paid, GRANTS to **TIM PICKETT**, of Eliot, County of York, State of Maine, with a mailing address of P.O. Box 242, Eliot, Maine 03903, with WARRANTY COVENANTS, the property located in Eliot, County of York, State of Maine, more particularly described as follows:

The land in Eliot, County of York and State of Maine, being bounded and described as follows:

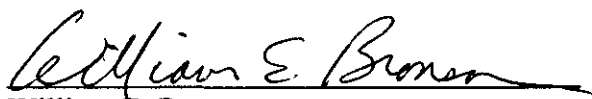
Beginning at the northeasterly corner of the lot herein conveyed, being the point where this lot intersects with Route 236 and land now or formerly owned by Greenwood Construction Corp.; thence running along Route 236 a distance of 440 feet to a point; thence turning and running South 63 degrees, 38 minutes West a distance of 500 feet along other land being retained by the grantor to a point; thence turning and running in a northerly direction along a line which should parallel the coarse followed along Route 236 a distance of 440 feet along other land retained by the grantor to a point which should be the edge of the line of land separating this property from land now or formerly owned by Greenwood Construction Corp.; thence turning and running North 63 degrees, 38 minutes East a distance of 500 feet along land now or formerly owned by Greenwood Construction Corp. to the point of beginning.

Meaning and intending to convey a portion of the property conveyed from the Inhabitants of the Town of Eliot to William E. Bronson by deed dated November 14, 1991 and recorded at Book 5890, Page 245 of the York County Registry of Deeds.

Signed and witnessed this 30 day of March, 2004.



Witness

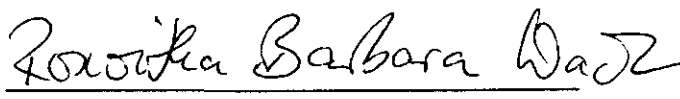


William E. Bronson

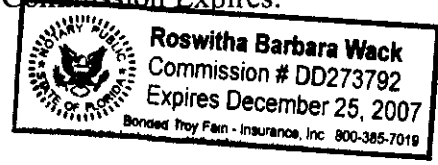
STATE OF FLORIDA
LEE, ss.

Personally appeared the above named William E. Bronson and acknowledged the foregoing instrument to be his free act and deed.

Date: 3/30/04



Notary Public
My Commission Expires:



PLEASE SIGN TO
Patrick S. Bedard
Attorney-at-Law
3 Broad Street Ln, PO Box 366
Eliot, Maine 03903

2 797

Green Truck Farms III, LLC

(a Maine Limited Liability Company)

RESOLUTION

The Manager of **Green Truck Farms III, LLC**, hereby enact the following resolution:

RESOLVED, to ratify and confirm the authority of **Joshua Seymour**, as Manager of the Company, to submit a Site Plan Review Application to the Town of Eliot, concerning property at 143 Harold Dow Highway, Eliot, Maine, in pursuit of developing that property and to perform in accordance therewith and to bestow upon of **Joshua Seymour**, full authority to conduct all business related to such purchase and related loan applications and loan documents, without limitation, including but not limited to being the designated authorized signatory on all related documents, acting singly in any case, to execute, acknowledge, deliver, file and record in the appropriate offices, as applicable, any such other instruments, certificates, documents and other writings necessary or appropriate to secure perform in accordance with such Purchase and Sale Agreement, as amended, and any recordable instrument on behalf of the Company purporting to affect an interest in real property, whether to be recorded with a registry of deeds, a court or office thereof, or otherwise.

The Undersigned hereby certifies that he is a duly elected and qualified Manager and the custodian of the books and records of **Green Truck Farms III, LLC**, a limited liability company duly formed pursuant to the laws of the State of Maine, and that the foregoing is a true record of a resolution duly adopted at a meeting of the Manager, and that said meeting was held on May 11, 2022, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Manager of the above-named Limited Liability Company on the date set forth below.

A True Record.

Joshua Seymour

05 / 23 / 2022

Joshua Seymour, as Manager Date
of Green Truck Farms III, LLC

Green Truck Farms 7, LLC

(a Maine Limited Liability Company)

RESOLUTION

The Manager of **Green Truck Farms 7, LLC**, hereby enact the following resolution:

RESOLVED, to ratify and confirm the authority of **Joshua Seymour**, as Manager of the Company, to submit a Site Plan Review Application to the Town of Eliot, concerning property at 143 Harold Dow Highway, Eliot, Maine, in pursuit of developing that property and to perform in accordance therewith and to bestow upon of **Joshua Seymour**, full authority to conduct all business related to such purchase and related loan applications and loan documents, without limitation, including but not limited to being the designated authorized signatory on all related documents, acting singly in any case, to execute, acknowledge, deliver, file and record in the appropriate offices, as applicable, any such other instruments, certificates, documents and other writings necessary or appropriate to secure perform in accordance with such Purchase and Sale Agreement, as amended, and any recordable instrument on behalf of the Company purporting to affect an interest in real property, whether to be recorded with a registry of deeds, a court or office thereof, or otherwise.

The Undersigned hereby certifies that he is a duly elected and qualified Manager and the custodian of the books and records of **Green Truck Farms 7, LLC**, a limited liability company duly formed pursuant to the laws of the State of Maine, and that the foregoing is a true record of a resolution duly adopted at a meeting of the Manager, and that said meeting was held on May 11, 2022, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Manager of the above-named Limited Liability Company on the date set forth below.

A True Record.

Joshua Seymour

05 / 23 / 2022

Joshua Seymour, as Manager Date
of Green Truck Farms 7, LLC

JD Investments, LLC

(a Maine Limited Liability Company)

RESOLUTION

The Manager of **JD Investments, LLC**, hereby enacts the following resolution:

RESOLVED, to support Green Truck Farms 7, LLC and Green Truck Farms III, LLC's Site Plan Review Application for submission to the Town of Eliot concerning premises now under contract with **Tim Pickett**, located at **143 Harold Dow Highway, Eliot, Maine** and to bestow upon Joshua Seymour, as Manager, full authority to conduct all business related to such applications and permits, including but not limited to being the designated authorized signatory on all related documents.

The Undersigned hereby certifies that he is a duly elected and qualified Manager and the custodian of the books and records of **JD Investments, LLC**, a limited liability company duly formed pursuant to the laws of the State of Maine, and that the foregoing is a true record of a resolution duly adopted at a meeting of the Manager, and that said meeting was held on May 11, 2022, and that said resolution is now in full force and effect without modification or rescission.

IN WITNESS WHEREOF, I have executed my name as Manager of the above-named Limited Liability Company on the date set forth below.

A True Record.

Joshua Seymour

05 / 23 / 2022

Joshua Seymour, as Manager Date
of JD Investments, LLC

Disposal of Plant Material

143 Harold Dow Highway, Eliot, ME 03903

This property will be used for Retail only and will not include any production, cultivation or manufacturing on the property. All marijuana products will come into the building fully packaged in child-resistant packaging. We do not foresee any issues regarding the disposal of plant material due to the lack of production in the facility.

Our waste containers will be located in the rear parking lot, within the secured fenced area. Our staff will ensure that there is no overfilling of the waste containers and all surrounding areas are kept free and clear of litter and trash. All waste containers will be screened from public view. The dumpster will have a metal lid which will remain locked at all times and will not be able to be accessed by anyone except staff, management or ownership. Security cameras will be installed to record any activities in the area of waste containers.

Security Plan

143 Harold Dow Highway, Eliot ME 03903

Security Company: American Security Alarms, Inc., Corey Farwell (207) 324-3353

The facility will have two separate, co-located dispensaries each with individual entrances and exits. Each unit will have its own security system that consists of door contacts on all exterior doors, motion detectors and cameras throughout the building and exterior of the premises. In case of alarm, the property owners and law enforcement will be notified immediately. The owners, Office of Marijuana Policy and American Security Alarms will be able to access camera recordings.

Equipment used:

1-Xr150 Alarm Control Panel. It has transitioned from diaper-focused communications to a true network, cellular and wi-fi communications approach by providing stronger, multi-layered panel communications that ensure a constant link between the panel and monitoring center. The unique DMP serial 3 format support 32-character user, zone and areas names to decrease the time and limit dependence on automation literal tables for message interpretation. Contact ID diaper is also supported.

1-Lit Keypad for arming & disarming the system with English language display with 24 hour emergency police, medical, and fire panic switches

1-Siren Speaker: Inside

4-Door Contacts: (3) inside (1) overhead door

4-Passive Infrared Body Heat Detectors

1-Celluar Communicator with an automatic weekly or daily test which transmits all alarms by zone on monitored systems

1-16 Channel 12TB NVR

4 - Monitors

1 – UPS

16-IP/IR Megapixel Cameras

The rear parking lot of the facility will be secured by an automatic gate and will remain locked at all times. This rear parking lot is treated as a limited access area and there will be no public access. Therefore, anyone with access will be approved staff, vendors or ownership. All access will be controlled electronically with card access only. In the event of an incident of non-compliance, employees and management are required to report directly to ownership who will, in turn, notify the department (OMP) in writing within 24 hours.

Odor Remediation Plan

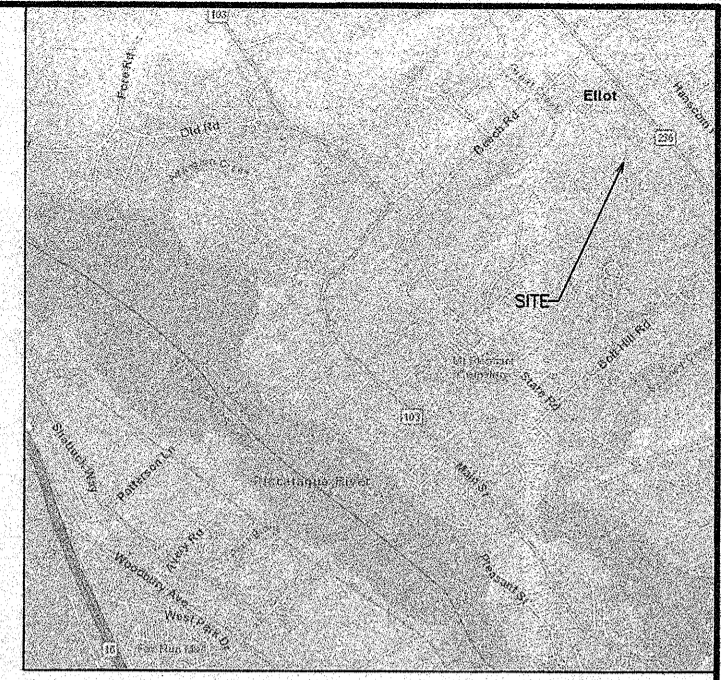
16 Arc Road Eliot, ME 03903

Odor Remediation will be addressed with several methods throughout the interior of the facility as well as the exterior of the facility, if necessary. It remains a priority of ours to ensure that odor is not detectable at all times.

All cultivation, drying, trimming and packaging rooms will be equipped with carbon filtration air scrubbers oversized for each space. All cultivation rooms will also be equipped with Clean Leaf air purification units. All entrance points of the facility will be negative pressure rooms which continually draws air into the HVAC filtration units so that no odors escape while entry doors are opened.

If necessary, we have worked with a scent remediation company, Ambius, which specializes in large-scale commercial applications. Ambius will installed a commercial scent remediation system on the roof of our building which is regularly maintained and serviced by Ehrlich to ensure that no odor are present at all times.

MAP 23 LOT 8
 TIM PICKETT
 135 DOW HIGHWAY
 PO BOX 242
 ELIOT, ME



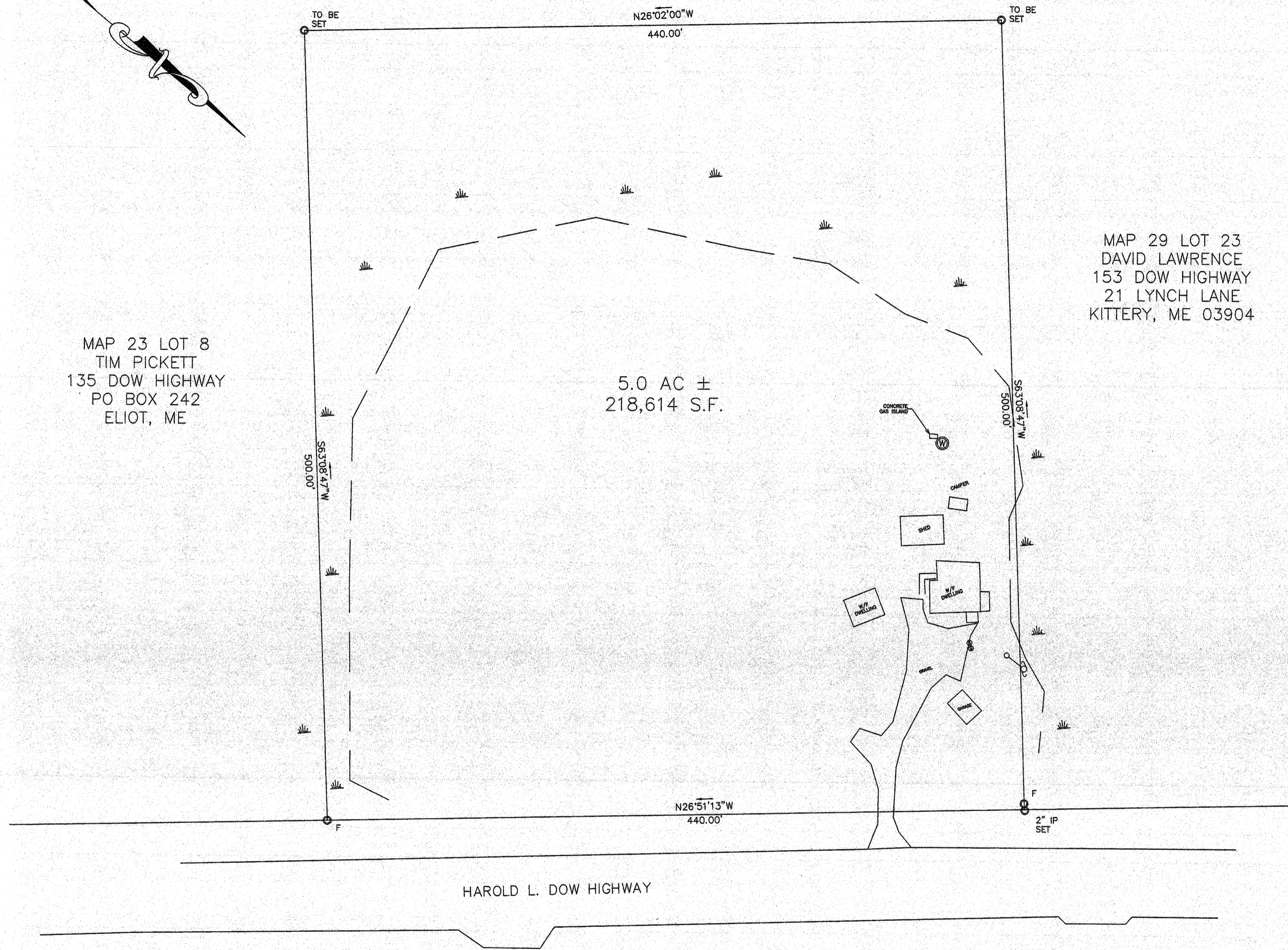
LOCATION MAP NTS

MAP 23 LOT 8
 TIM PICKETT
 135 DOW HIGHWAY
 PO BOX 242
 ELIOT, ME

MAP 29 LOT 23
 DAVID LAWRENCE
 153 DOW HIGHWAY
 21 LYNCH LANE
 KITTERY, ME 03904

5.0 AC ±
 218,614 S.F.

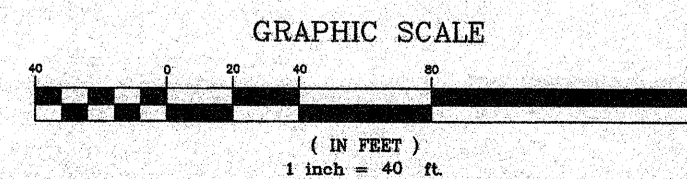
1. THIS PLAN DEPICTS A STANDARD BOUNDARY SURVEY AT 143 DOW HIGHWAY, ELIOT, MAINE. THE ELIOT TAX ASSESSORS DATABASE IDENTIFIES THE PROPERTY AS TAX MAP 23 LOT 25.
2. RECORD DEED YORK COUNTY REGISTRY OF DEEDS BKK 14093 PAGE 823.
3. THE PROPERTY IS LOCATED IN THE COMMERCIAL INDUSTRIAL DISTRICT.
 FRONT YARD 50'
 SIDE/REAR YARD 20'
 THE SETBACK CRITERIA AS DEPICTED IS SUBJECT TO THE IDENTIFICATION OF RESIDENTIAL USE OF ABUTTING PROPERTIES.
4. THE ELIOT ASSESSING DATABASE DEPICTS PORTIONS OF THE PROPERTY WITHIN A FEMA FLOOD ZONE. FEMA COMMUNITY PANEL 2301490010 B IDENTIFIES A FLOOD ZONE OF "A" IN THE AREA, A FLOOD ZONE WITH NO BASE FLOOD ELEVATION ESTABLISHED.
5. THE WETLAND LINE DEPICTED IS APPROXIMATE. PERSONS REQUIRING THE LIMITS OF JURISDICTIONAL WETLANDS SHOULD CONSULT A QUALIFIED WETLAND SCIENTIST.



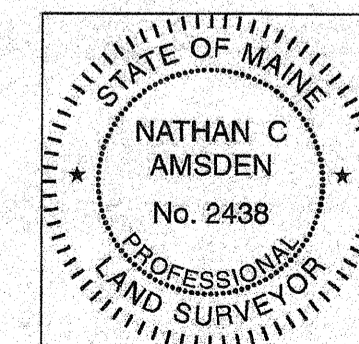
MAP 23 LOT 11
 ENI 114 DOW HWAY
 LLC
 114 DOW HIGHWAY
 2 INTERNATIONAL WAY
 LAWRENCE, MA 01843

MAP 23 LOT 10
 JOHN POLLARD
 CARL ARCHER
 126 DOW HIGHWAY
 PO BOX 61
 ELIOT, ME 03903

MAP 30 LOT 3
 NANCY SHAPLEIGH
 150 DOW HIGHWAY
 28 SANDY HILL LANE
 ELIOT, ME 03903



- STONEWALL SIGN
- - - SPLIT RAIL FENCE
- UTILITY POLE
- IRON PIPE FOUND, SET
- SEWER MANHOLE
- CONCRETE-HIGHWAY BOUND
- DRILL HOLE FOUND, SET



Nathan C. Amstden
 4/21/21

STANDARD BOUNDARY SURVEY

143 DOW HIGHWAY
 ELIOT, MAINE 03903

PREPARED FOR
 TIM PICKETT
 PO BOX 242
 ELIOT, ME 03903

By
 AMSDEN FIELD SURVEY
 103 FRANCETOWN RD.
 GREENFIELD, NH 03047



Flood Map

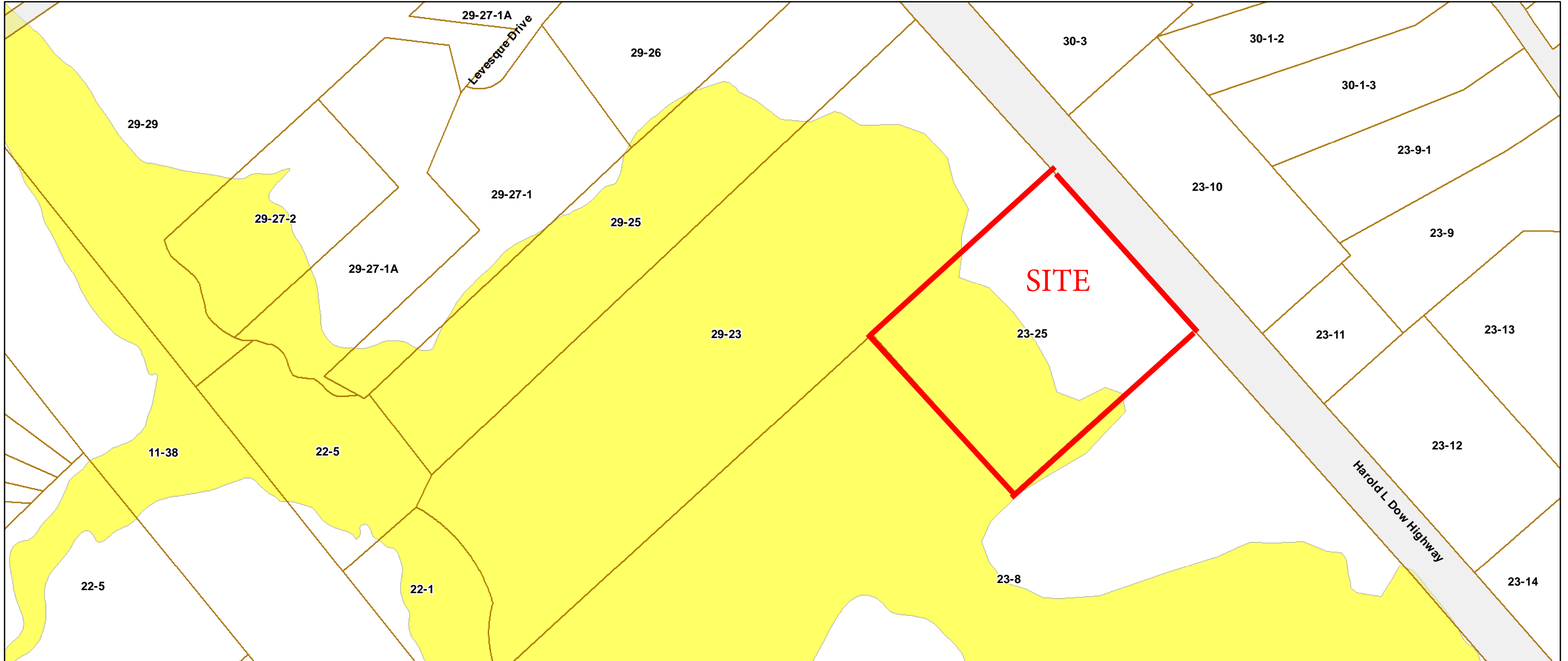
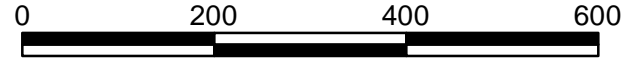
Eliot, ME



April 25, 2022

1 inch = 200 Feet

www.cai-tech.com



	CAI Town Line
	Parcel Lines - No Ortho
	Town Rights-of-Way
	A

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

PROPOSED SITE DEVELOPMENT

143 HAROLD L. DOW HIGHWAY ELIOT, MAINE PERMIT DRAWINGS

OWNER:

TIM A. PICKETT
P.O. BOX 242
ELIOT, ME 03903

APPLICANT:

GREEN TRUCK FARMS 7, LLC
19 BUFFUM ROAD UNIT 6
NORTH BERWICK, ME 03906
TEL: (207) 432-6000

PROPOSED TENANTS:

GREEN TRUCK FARMS 7, LLC
GREEN TRUCK FARMS III, LLC
19 BUFFUM ROAD UNIT 6
NORTH BERWICK, ME 03906
TEL: (207) 432-6000

LAND SURVEYOR & CIVIL ENGINEER:

AMBIT ENGINEERING, INC.
200 GRIFFIN ROAD UNIT 3
PORTSMOUTH, N.H. 03801-7114
TEL: (603) 430-9282
FAX: (603) 436-2315

BUILDING DESIGN/GENERAL CONTRACTOR:

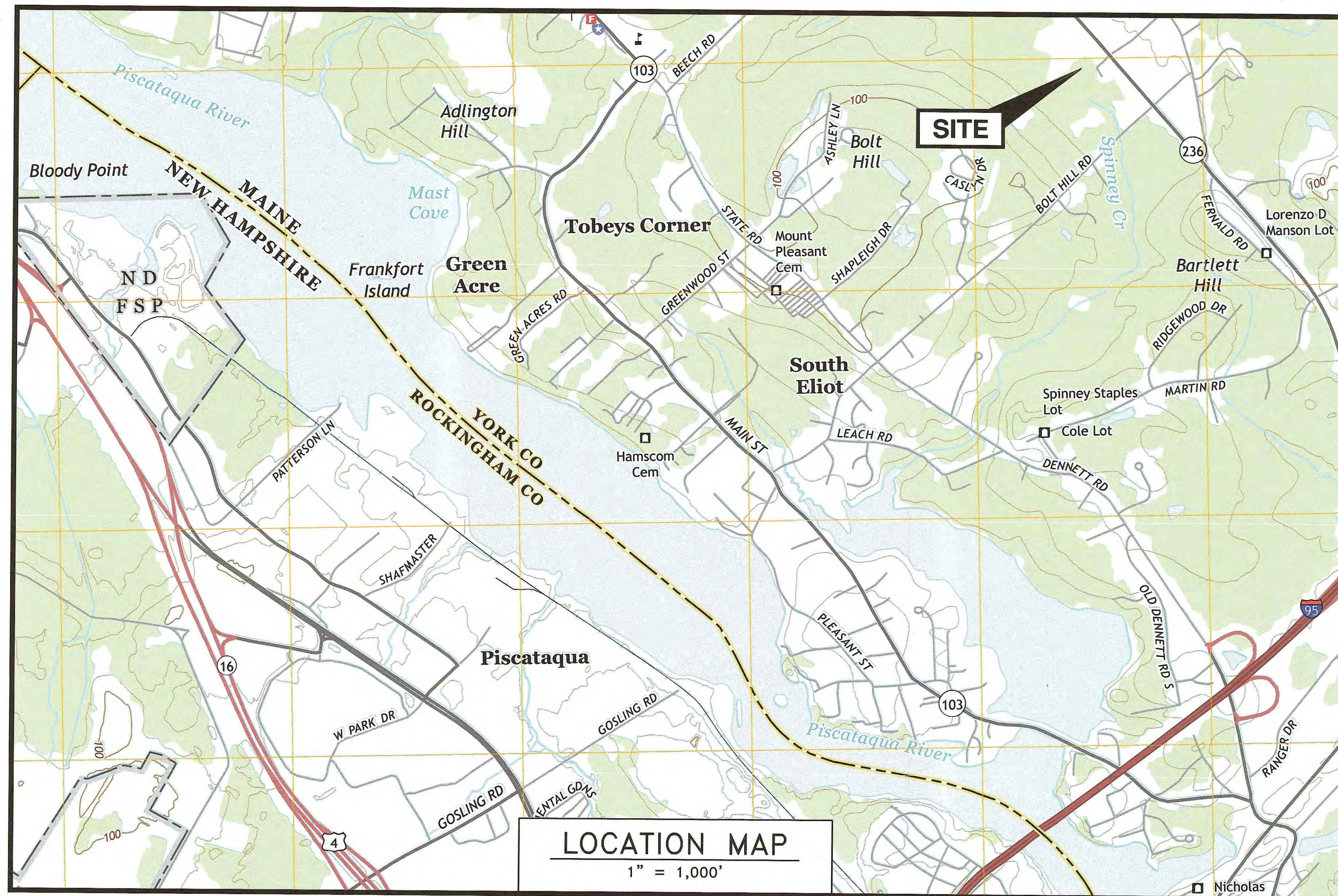
PATCO CONSTRUCTION, INC.
1293 MAIN STREET
SANFORD, MAINE 04073
TEL: (207) 324-5574

INDEX OF SHEETS

C1 - EXISTING CONDITIONS
C2 - SITE PLAN

APPROVED BY THE ELIOT PLANNING BOARD

CHAIRMAN _____ DATE _____

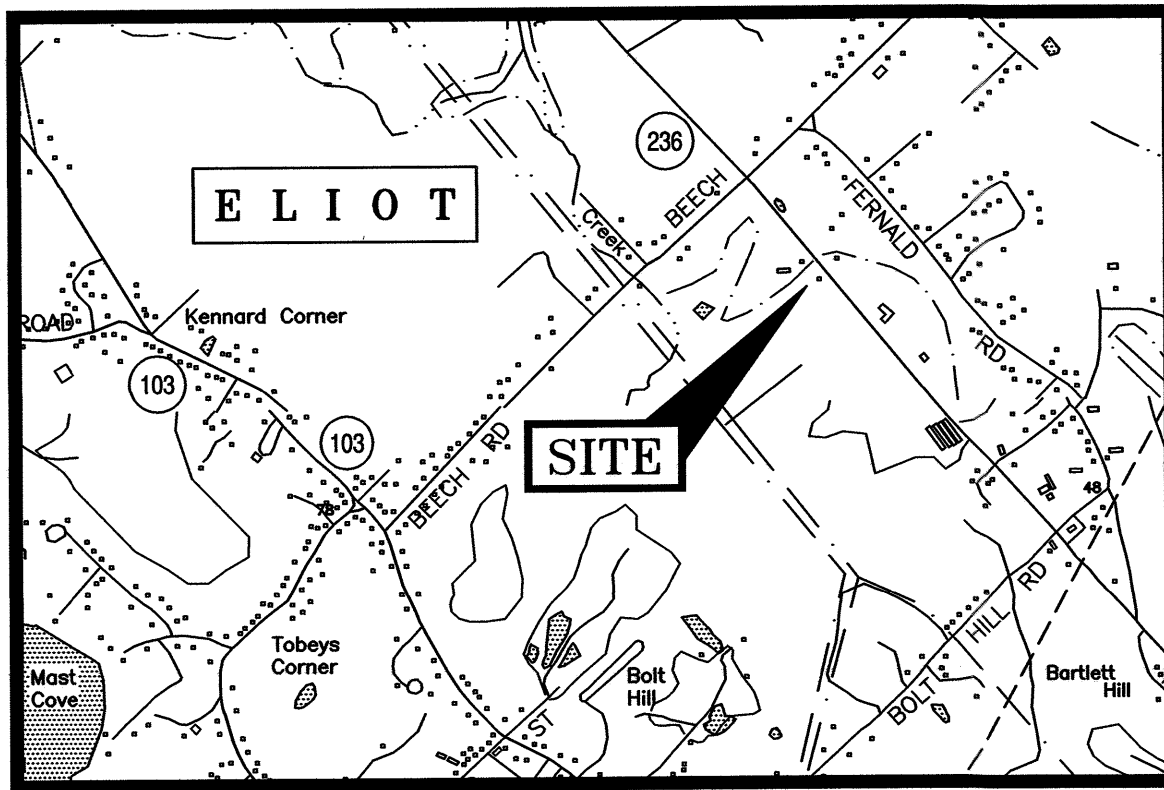


LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
YCRD	YORK COUNTY REGISTRY OF DEEDS
(11/21)	MAP 11/LOT 21
RR SPK FND	RAILROAD SPIKE FOUND / SET
IR FND	IRON ROD FOUND / SET
IP FND	IRON PIPE FOUND / SET
DH FND	DRILL HOLE FOUND
BND w/DH	BOUND WITH DRILL HOLE
ST BND w/DH	STONE BOUND WITH DRILL HOLE
RR SPK SET	
IR SET	
IP SET	
DH SET	
BND w/DH	
ST BND w/DH	
FM	FORCE MAIN
S	SEWER LINE
G	GAS LINE
D	STORM DRAIN
W	WATER LINE
UGC	UNDERGROUND ELECTRIC
	OVERHEAD ELECTRIC/WIRES
	UNDERGROUND COMMUNICATION
	EDGE/A OF WATER BODY
	EDGE OF WETLAND
	EDGE OF RESOURCE PROTECTION AREA
	AREA OF WETLAND DISTURBANCE
	OF DITCH/SWALE
100	CONTOUR
97x3	SPOT ELEVATION
	EDGE OF PAVEMENT (EP)
	WOODS / TREE LINE
	UTILITY POLE
	WATER SHUT OFF/CURB STOP
	GAS SHUT OFF
	GATE VALVE
	HYDRANT
	CATCH BASIN
	TELEPHONE MANHOLE
	SEWER MANHOLE
	DRAIN MANHOLE
	WELL
AC	ASBESTOS CEMENT PIPE
CI	CAST IRON PIPE
CPP	CORRUGATED PLASTIC PIPE
CMP	CORRUGATED METAL PIPE
COP	COPPER PIPE
DI	DUCTILE IRON PIPE
PVC	POLYVINYL CHLORIDE PIPE
RCP	REINFORCED CONCRETE PIPE
VC	VITRIFIED CLAY PIPE
EL	ELEVATION
EP	EDGE OF PAVEMENT
FF	FINISHED FLOOR
INV	INVERT
TBM	TEMPORARY BENCH MARK
TYP	TYPICAL
CL	CENTERLINE
TBD	TO BE DETERMINED

SKETCH PLAN
TAX MAP 23 - LOT 25
143 HAROLD L. DOW HIGHWAY
ELIOT, MAINE

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

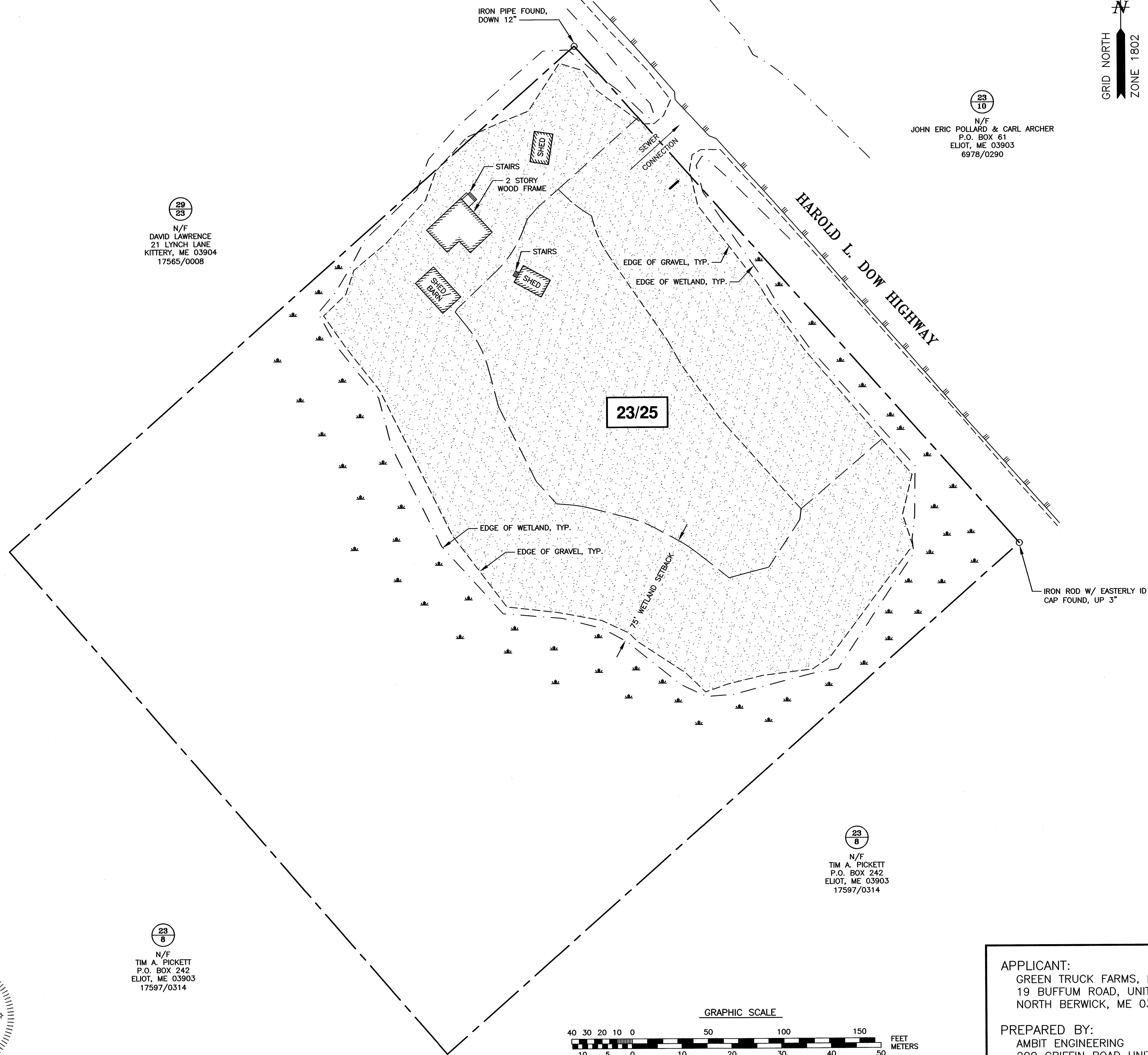


LOCATION MAP 1" = 2000'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- YCRD YORK COUNTY
- RR SPK RAILROAD SPIKE
- MAP 11/LOT 21
- IR FND IRON ROD FOUND
- IP FND IRON PIPE FOUND
- IR SET IRON ROD SET
- DH FND DRILL HOLE FOUND
- DH SET DRILL HOLE SET
- OHU OVERHEAD UTILITY WIRES
- 100 CONTOUR
- EDGE OF PAVEMENT (EP)
- WOODS / TREE LINE
- UTILITY POLE
- WATER SHUT OFF/CURB STOP
- GAS SHUT OFF
- GATE VALVE
- HYDRANT
- CATCH BASIN
- TELEPHONE MANHOLE
- SEWER MANHOLE
- DRAIN MANHOLE
- WELL
- EDGE OF WETLAND FLAGGING
- SWAMP / MARSH
- AC ASBESTOS CEMENT PIPE
- CI CAST IRON PIPE
- CMP CORRUGATED METAL PIPE
- COP COPPER PIPE
- DI DUCTILE IRON PIPE
- PVC POLYVINYL CHLORIDE PIPE
- RCP REINFORCED CONCRETE PIPE
- VC VITRIFIED CLAY PIPE
- EL. ELEVATION
- EP EDGE OF PAVEMENT
- FF FINISHED FLOOR
- INV INVERT
- TBM TEMPORARY BENCH MARK
- TYP TYPICAL
- CL CENTERLINE

PLAN REFERENCE:
 1) STANDARD BOUNDARY SURVEY 143 DOW HIGHWAY ELIOT, MAINE 03903. PREPARED BY AMSDEN FIELD SURVEY. SCALE: 1"=40'. DATED 4/4/22.



ME SPC
 NAD83(2011)
 GRID NORTH
 ZONE 1802

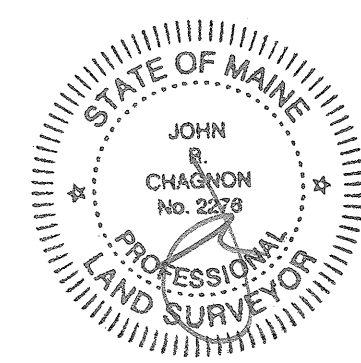
23
10
N/F
JOHN ERIC POLLARD & CARL ARCHER
P.O. BOX 61
ELIOT, ME 03903
6978/0290

29
28
N/F
DAVID LAWRENCE
21 LYNCH LANE
KITTEERY, ME 03904
17565/0008

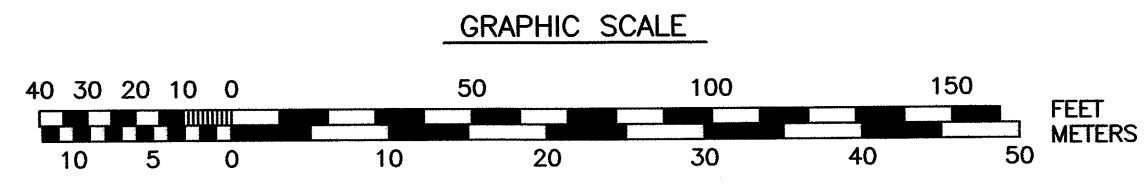
23
8
N/F
TIM A. PICKETT
P.O. BOX 242
ELIOT, ME 03903
17597/0314

23
6
N/F
TIM A. PICKETT
P.O. BOX 242
ELIOT, ME 03903
17597/0314

THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CHAPTER 90 STANDARDS OF PRACTICE, EFFECTIVE DATE APRIL 1, 2001 EXCEPT AS NOTED ON THIS PLAN.



JOHN R. CHAGNON, PLS #2276
 DATE 6/6/22



AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, N.H. 03801-7114
 Tel (603) 430-8282
 Fax (603) 436-2315

- NOTES:**
- 1) PARCEL IS SHOWN ON THE TOWN OF ELIOT ASSESSOR'S MAP 23 AS LOT 25.
 - 2) OWNER OF RECORD:
 TIM A. PICKETT
 P.O. BOX 242
 ELIOT, ME 03903
 14093/0823
 APPLICANT:
 GREEN TRUCK FARMS, LLC
 19 BUFFUM ROAD, UNIT 6
 NORTH BERWICK, ME 03906
 - 3) PARCEL IS IN A FLOOD HAZARD ZONE (ZONE A) AS SHOWN ON FIRM PANEL 2301490010B. EFFECTIVE DATE JUNE 5, 1989. PARCEL IS ONLY PARTIALLY IN FLOOD ZONE A ON THE TO BE ADOPTED FLOOD ZONE MAP.
 - 4) EXISTING LOT AREA:
 218,614 S.F.
 5.0 ACRES
 - 5) PARCEL IS LOCATED IN THE COMMERCIAL/INDUSTRIAL DISTRICT.
 - 6) DIMENSIONAL REQUIREMENTS:
 MIN. LOT AREA: 3 ACRES
 FRONTAGE: 300 FT
 SETBACKS: FRONT 50 FEET
 SIDE 20 FEET
 REAR 20 FEET
 MAXIMUM STRUCTURE HEIGHT: 55 FEET
 MAXIMUM LOT COVERAGE: 50%
 - 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 23 LOT 25 IN THE TOWN OF ELIOT.
 - 8) DATUM: NAVD88 REDUNDANT GPS OBSERVATIONS.
 - 9) CURRENT SITE USE IS RESIDENTIAL- NO OTHER RESIDENTIAL USES ABOUT THE SITE.

GREEN TRUCK FARMS
 143 H.L. DOW HIGHWAY
 ELIOT, ME 03903

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	6/6/22
REVISIONS		

APPLICANT:
 GREEN TRUCK FARMS, LLC
 19 BUFFUM ROAD, UNIT 6
 NORTH BERWICK, ME 03906
 PREPARED BY:
 AMBIT ENGINEERING
 200 GRIFFIN ROAD UNIT 3
 PORTSMOUTH, N.H. 03801

SCALE: 1"=40' APRIL 2022

EXISTING CONDITIONS PLAN **C1**

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



This certifies that


GREEN TRUCK FARMS 7, LLC
License Number AMS1272

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

NOTE: THIS IS NOT AN ACTIVE LICENSE

Issued on:
June 14, 2022

Expires on:
June 13, 2023



Erik Gundersen, Director
OFFICE OF CANNABIS POLICY
MAINE ADULT USE CANNABIS
PROGRAM

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

The Conditional License for AMS1272 has been issued based on the following organizational structure:

Principals:

JOSHUA J. SEYMOUR, MANAGER

Owners:

81.17% - JOSHUA SEYMOUR
17.65% - DAVIS DROLET
1.18% - ANDREW BEASLEY

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



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

June 14, 2022

Mr. John Chagnon, PE, LLS
200 Griffin Road, Unit 3
Portsmouth, NH 03801

Mr. Josh Seymour
Green Truck Farms 7, LLC
19 Buffum Rd., Unit 6
North Berwick, ME 03906

Subject: PB22-13: 143 Harold L. Dow Hwy.: Site Plan Review and Change of Use – Adult Use Marijuana Retail Store and Medical Marijuana Dispensary – Review Letter 1

Dear Mr. Chagnon and Mr. Seymour:

I have reviewed the sketch plan submittal for the subject application, received June 3, 2022, and have the following questions/comments. Unless otherwise noted, numerical citations are to the Eliot Town Code.

1. A valid OCP Conditional License is needed for Planning Board site plan review to begin [33-190].
2. Since the proposal includes a co-located adult use marijuana retail store and medical marijuana dispensary, please provide information sufficient to show compliance with Adult Use Marijuana Program Rule 2.4.6. It is requested that this be provided in a separate submittal marked confidential as this may require providing the identity of a caregiver.
3. 500-ft. separation should be confirmed per 33-190(5)b. It appears that a residential property is within 500 ft. of the proposed building – 150 Harold L. Dow Hwy. (Map 30, Lot 3). Property records indicate that the building on this property has at least one apartment.
4. The parking calculation for retail sales is 1 space per 150 square feet. Sheet C2, Note 11, should be modified accordingly.
5. Note that, pending voter approval, a revised parking requirement of 1 space per 100 square feet, minimum 10 spaces, will apply to marijuana retail stores, and marijuana retail store applications will be required to have traffic impact assessments. For the specific language, see Article #26 on the June 14, 2022, Town Meeting Warrant.
6. What is the source of the wetland boundaries? Has a recent wetland delineation been completed?
7. Confirm the status of DEP review related to stormwater and wetland alteration.

Sincerely,

Jeff Brubaker, AICP, Town Planner

Cc: Planning Board
Shelly Bishop, Code Enforcement Officer
Kearsten Metz, Land Use Administrative Assistant

From: [Michelle DelMar, Business Lawyer](#)
To: [Jeff Brubaker](#)
Cc: [Kearsten Metz](#); [John Chagnon](#); [Josh Seymour - Green Truck](#)
Subject: Response to Review Letter 1; Re: PB22-13; 143 Dow Highway Sketch Plan
Date: Tuesday, June 14, 2022 3:33:29 PM
Attachments: [Confidential-medical-operations-info-for-town.pdf](#)

Dear Jeff,

This email and attachment is forwarded in pursuit of responding to each item of Review Letter 1:

- 1.) Conditional License was submitted today separately. Issue resolved.
- 2.) Please see attachment marked Confidential, pursuant to your request. Note on last page there is date text that was scrambled when converting to pdf - I will work on getting you a clean copy of that email.
- 3.) Response will be provided separately.
- 4.) Response will be provided separately.
- 5.) If and when the new ordinance is adopted, we are willing and aware that we may need to either reduce the size of the structure or increase the amount of parking required under the new ordinance.
- 6.) The source of the wetland boundaries are a combination of sources originating with the standard boundary survey provided by Amsden Field Survey. Ambit Engineering also performed a wetland review and drafted wetland boundary lines which we provided in the application. It is further depicted from the Town's GIS maps with the wetland boundary layer, although the accuracy is not that of a civil engineer and soils scientist.
- 7.) The following information is *provided by Joshua Seymour, Manager of the Applicant: Based on information received from the administrator of the York County DEP division in May, as well as two separate field inspectors, regarding this property, the admin indicated that DEP has not performed wetland field visits regarding establishing wetland setbacks for several years, due to being extremely short staffed. She recommended that we engage a soil scientist to determine this information. She actually laughed at my request as if it was completely unreasonable. I asked if she would be willing to provide a letter stating their policy so that I could provide it to the Town if requested.*

Please let me know if further information is required and as to Items 3 and 4 when do you need this by.

Thank you.

Sincerely,
Michelle

[Michelle L. DelMar, Esq.](#)
[DelMar Law Offices](#)
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On Tue, Jun 14, 2022 at 1:58 PM Jeff Brubaker <jbrubaker@eliotme.org> wrote:

That's incorrect.

Please see attached review letter (previously sent to Josh and John) and Planning Board submission deadlines.

Jeff Brubaker, AICP

(207) 439-1817 x112

From: Michelle DelMar, Business Lawyer <michelle@contactmylawyer.com>
Sent: Tuesday, June 14, 2022 12:47 PM
To: Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Kearsten Metz <kmetz@eliotme.org>; John Chagnon <jrc@ambitengineering.com>;
Josh Seymour - Green Truck <seymour.josh@gmail.com>
Subject: PB22-13; 143 Dow Highway Sketch Plan

Hi Jeff,

Based on your letter from today, it appears that the Conditional License is the only item needed to get PB22-13 on to the Agenda for the next Planning Board Meeting. I submitted the Conditional License earlier today.

Please confirm that PB22-13 is on that Agenda.

Thank you.

Sincerely,

Michelle

[Michelle L. DelMar, Esq.](#)

[DelMar Law Offices](#)

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Portland, Maine 04101

USA

----- Forwarded message -----

From: **Josh Seymour** <josh@greentruckfarm.com>
Date: Tue, Jun 14, 2022 at 12:22 PM
Subject: Fwd: 143 Dow Highway Sketch Plan
To: Michelle Grenier <michelle@contactmylawyer.com>

----- Forwarded message -----

From: **Jeff Brubaker** <jbrubaker@eliotme.org>
Date: Tue, Jun 14, 2022 at 12:19 PM
Subject: RE: 143 Dow Highway Sketch Plan
To: John Chagnon <jrc@ambitengineering.com>
CC: Josh Seymour <josh@greentruckfarm.com>, Kearsten Metz <kmetz@eliotme.org>, Shelly Bishop <sbishop@eliotme.org>

John and Josh,

Please see attached initial review letter. Let me know if you have any questions.

Jeff

Jeff Brubaker, AICP

(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Thursday, June 2, 2022 4:37 PM
To: Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Josh Seymour <josh@greentruckfarm.com>; Michelle DelMar, Business Lawyer <michelle@contactmylawyer.com>
Subject: [143 Dow Highway](#) Sketch Plan

Jeff;

Attached Sketch Plan Application for consideration.

I will drop off the required paper copies and the \$300 Fee Check later this evening into the Towns Drop Box.

LMK if you need anything else.

Thank you,

John Chagnon, PE, LLS

Ambit Engineering

[200 Griffin Road](#)

[Unit 3](#)

[Portsmouth, NH 03801](#)

603-430-9282 (308)

FAX 603-436-2315

jrc@ambitengineering.com

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--

Josh Seymour

Green Truck Farms, LLC

207-432-6000

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254 Commercial Street, Suite 245
Portland, Maine 04101
ContactMyLawyer.com
Tel: 617-728-9800

Michelle L. DelMar, Esq.
Michelle@ContactMyLawyer.com
Admitted in Maine and Massachusetts

July 20, 2022

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

RE: Application for Site Plan Review; Green Truck Farms 7, LLC; 143 Harold Dow Hwy

Dear Jeff:

You indicated that 150 Harold Dow Highway has an apartment, that prevents the above-referenced Application from moving forward. Upon review of the Town of Eliot files pertaining to 150 Harold Dow Highway, it appears there is an error on the Town Property Card for that property. Specifically, there is no current applicable apartment use allowed on the property and such has not been included in any of the multiple applications for that property going back to 1985. The Property Card further indicates code 3400, Office Building 100%.

In light of the foregoing, the costs inherent in further delay and in the interest of fair treatment, it is important that the above Application be put on the agenda for the next Planning Board Meeting. Also, please correct the Property Card to eliminate references to apartment, to avoid further delay. Kindly confirm at your earliest opportunity.

Thank you for your time, attention and consideration with regard to this matter. Please do not hesitate to contact me with any questions or concerns.

Respectfully,



Michelle DelMar, Esq.
cc: Town of Eliot Planning Board
Joshua Seymour, Green Truck Farms 7, LLC
John Chagnon, Ambit Engineering

From: [Michelle DelMar, Business Lawyer](#)
To: [Kearsten Metz](#)
Cc: [Jeff Brubaker](#)
Subject: OCP expediting the matter; Sketch Phase; Site Plan Review; Green Truck Farms 7, LLC
Date: Tuesday, June 14, 2022 12:13:23 PM
Attachments: [Ltr to JB re qtf 7 license 6-14-2022.pdf](#)

Hi Jeff,

I had meant to copy Kearsten on below email. Also note, OCP is expediting the matter so that we have the Certificate today. Please confirm you received my email below and letter.

Sincerely,
Michelle

[Michelle L. DelMar, Esq.](#)
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----- Forwarded message -----

From: **Michelle DelMar, Business Lawyer** <michelle@contactmylawyer.com>

Date: Tue, Jun 14, 2022 at 12:05 PM

Subject: Time Sensitive; Sketch Phase; Site Plan Review; Green Truck Farms 7, LLC

To: Jeff Brubaker <jbrubaker@eliotme.org>

Cc: Josh Seymour - Green Truck <seymour.josh@gmail.com>

Dear Jeff,

Please see letter attached.

Letter Summary: Given that (a) the OCP has deemed the above-referenced OCP license application complete, (b) the actual certificate for Conditional Adult Use Store License has been issued and will be received today, as early as this afternoon and (c) the preliminary nature of the Sketch Plan Review phase of the project, kindly consider allowing this Application to begin the Sketch Plan Review process at the next Planning Board Meeting.

Thank you.

Sincerely,
Michelle

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From: [Planner](#)
To: [Michelle DelMar, Business Lawyer](#)
Cc: [Josh Seymour](#); [John Chagnon](#); [Shelly Bishop](#); [Kearsten Metz](#)
Subject: RE: 143 Harold Dow Sensitive Area Setbacks
Date: Tuesday, July 26, 2022 1:33:00 PM

Michelle,

The 143 HL Dow application sketch plan review has been scheduled for the August 2, 2022, Planning Board meeting. This is the first available, practicable review meeting for the application given the timing of application and OCP conditional license submittal; additional information needed from the applicant; Planning Board administrative and application review workload; Town Code review requirements; and ongoing review of applications submitted before your client's.

Please let me know if you have any questions.

Jeff

From: Michelle DelMar, Business Lawyer <michelle@contactmylawyer.com>
Sent: Monday, July 25, 2022 6:02 PM
To: Planner <jbrubaker@eliotme.org>
Cc: Josh Seymour <josh@greentruckfarm.com>; John Chagnon <jrc@ambitengineering.com>; Shelly Bishop <sbishop@eliotme.org>; Kearsten Metz <kmetz@eliotme.org>
Subject: Re: 143 Harold Dow Sensitive Area Setbacks

Dear Jeff,

Please confirm receipt of the letter and emails from me dated July 20, 2022 and July 21, 2022 and that the Planning Board has received a copy.

Also, please confirm your intentions regarding the same.

Thank you.

Sincerely,
Michelle

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On Thu, Jul 21, 2022 at 2:16 PM Michelle DelMar, Esq. <michelle@contactmylawyer.com> wrote:

Dear Jeff,

I understand that your office is closed tomorrow. Please let us know today, your intentions concerning putting the Application (that was submitted more than a month ago) on the agenda for the next Planning Board meeting.

Each day this process is further delayed, causes significant real monetary losses for the Applicant and the Applicant's prospective employees, who rely on employment to support their families.

Kindly forward a copy of my emails from yesterday and today, to the Planning Board.

Thank you for your time, efforts and consideration.

Sincerely,
Michelle

Michelle DelMar, Esq.
DelMar Law Office PC
Trademarks Contracts Cannabis Corporations
International Business
Office: (617) 728-9800

On Jul 21, 2022, at 2:17 AM, Michelle DelMar, Business Lawyer
<michelle@contactmylawyer.com> wrote:

Dear Jeff,

Further to the letter I sent to you yesterday, given the preliminary nature of the Sketch Plan Review phase of the project, this matter should only require a brief time slot on the agenda of the next Planning Board Meeting. Also, equity and fairness dictate that, given the past costly delays arising out of Town error, the Town should put the Greens Truck Farms Application on the agenda for the *next* Planning Board meeting. Please confirm.

Thank you.

Sincerely,
Michelle

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On Wed, Jul 20, 2022 at 3:00 PM Michelle DelMar, Business Lawyer
<michelle@contactmylawyer.com> wrote:

Dear Jeff,

Please see letter attached and forward a copy to the Planning Board.

Thank you.

Sincerely,
Michelle

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On Fri, Jun 17, 2022 at 10:50 AM Jeff Brubaker <jbrubaker@eliotme.org> wrote:

Josh,

I do recall our meeting and the discussion of the 500-ft. buffering/separation standard with regard to certain properties. While my goal in such pre-application meetings is to help prospective applicants as much as I can to interpret certain land use regulations in the context of their proposals, those meetings do not constitute formal decision-making. The formal decision-making is done by the permit-issuing authority, in this case the Planning Board (advised by me and informed by technical reviews and public input) in reviewing a Site Plan Review application. Each applicant bears the responsibility of due diligence in evaluating a property they are seeking to develop, the surrounding context, and applicability to the Town's land use regulations as they prepare their PB submittals.

I have learned more about 150 HL Dow in recent months, as the property itself has an active Site Plan Review application. (This is related to the business I think you are referencing toward the end of your email; the proprietor of the excavation business has been informed by our Code Enforcement Officer, the Town Manager, and myself that he will need to seek PB review for his current use of the property.) My current understanding is that the apartment (or apartments)/residential use in the building, which are reflected in the Vision

property card PDF previously shared, date back to the 1970s and have long been used by the Shapleigh/Widi family, potentially predating applicable zoning. [Also, note [45-192\(b\)](#) regarding legally nonconforming accessory residential uses in the C/I district.] You are welcome to come to Town Hall to peruse the PB and property files for the property.

Regarding agenda scheduling, there does not appear to be enough room on the June 28 agenda for sketch plan review of this application. I have discussed this with the PB Chair and she concurs. Two other “New Business” applications are slated for review; both of those were submitted prior to your application. Your application was submitted after the published submission deadline of May 31, and the OCP Conditional License was not submitted until June 14. There is also a public hearing slated for June 28 under the Town’s Demolition Delay Ordinance for Historic Structures ([45-136](#)), as the Town has recently received a demolition permit application subject to that ordinance. Finally, there are administrative matters to attend to as the PB needs to continue reviewing proposed ordinance amendments for the November ballot and likely receive updates on long-range planning efforts.

Thanks for your understanding, and I look forward to continuing our review correspondence. If you’d like to set up an appointment to review those 150 HL Dow files, please reach out to Kearsten Metz, copied here.

Have a good weekend,
Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Josh Seymour <josh@greentruckfarm.com>

Sent: Thursday, June 16, 2022 1:13 PM

To: Jeff Brubaker <jbrubaker@eliotme.org>; John Chagnon <jrc@ambitengineering.com>; Michelle Grenier <michelle@contactmylawyer.com>

Subject: 143 Harold Dow Sensitive Area Setbacks

Hi Jeff,

I'm following up regarding your concern about 150 Harold Dow Highway being considered a residential property. You may recall the meeting that we had in your office with you, myself and my business partner David, at the end of December regarding several lots along Rt. 236 that I was requesting confirmation on eligibility for Adult-use retail. I provided you with this map and I sat right at your desk and you measured out each individual lot that I had targeted and was going to pursue purchasing.

Please see the map below and you may recall our meeting and the amount of time that I put into this search to locate these potential properties. Based on our conversation you confirmed to David and I that Tim Picketts property was not located within any 500' sensitive area setback. There was also the Propane lot 37-4, Natural Rocks & Ice property Lot 37-3-1, as well as several lots behind that property that are eligible. I would not make an offer on any property without first getting your confirmation that the lot would be eligible.

The property that you're now referring to at 150 Harold Dow was approved to be a Retail Store, specifically a non-profit thrift shop, and there was no mention of any apartments or residential occupancy on that approval that you sent us. Is there something that you can provide me with that shows this is a legal apartment?

What are the requirements for a property owner to convert the use of commercial property to residential apartments and does that require a certificate of occupancy for the apartment?

It appears that the thrift shop has been closed and now a construction business seems to be operating out of the property. Is there a license or a different site plan approval for this business to operate?

Please provide any and all documentation regarding 150 Harold Dow Highway as it appears that this is an illegal apartment that was not approved and there is now a different business operating there that may not be licensed either.

Thank you,
Josh

--

Josh Seymour
CEO, Green Truck™

[2074326000](tel:2074326000) | www.greentruckfarm.com

[19 Buffum Rd. North Berwick. ME 03906](https://www.google.com/maps/place/19+Buffum+Rd,+North+Berwick,+ME+03906)

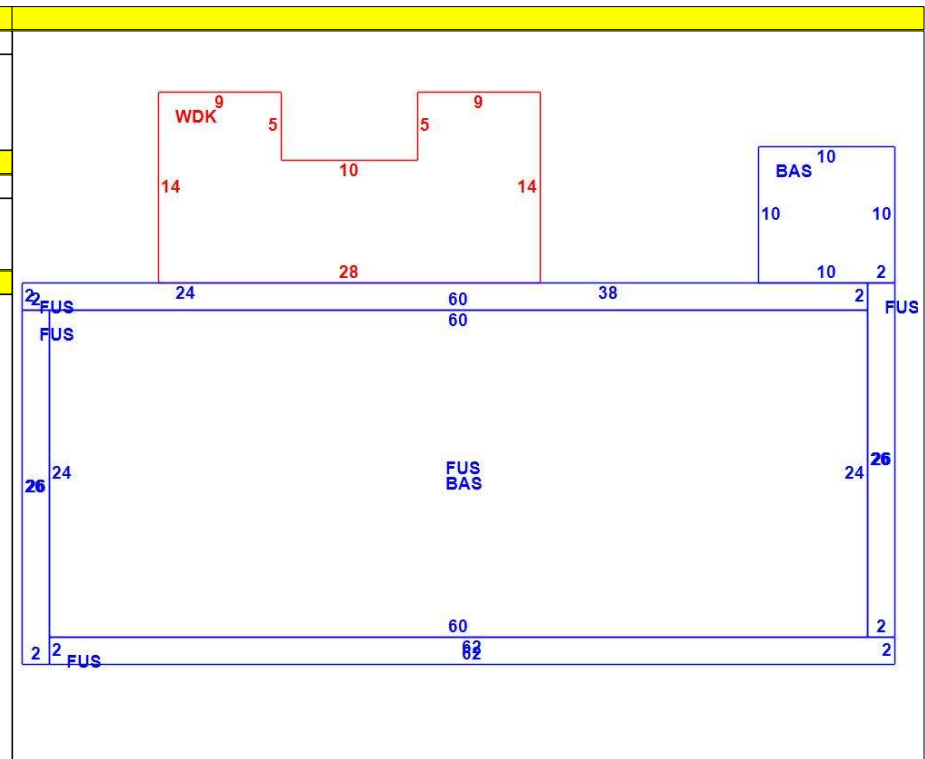
Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request,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

CURRENT OWNER		TOPO		UTILITIES		STRT / ROAD		LOCATION		CURRENT ASSESSMENT									
SHAPLEIGH, NANCY E		1	Level	5	Well	1	Paved	2	Suburban	Description	Code	Appraised	Assessed	4509 ELIOT, ME VISION					
28 SANDY HILL LN				6	Septic					COMMERC.	3400	131,500	131,500						
ELIOT ME 03903		SUPPLEMENTAL DATA								COM LAND	3400	219,000	219,000						
Alt Prcl ID STYLE GROSS EFFEC PHOTO GIS ID 30-3		PRECINC HEART TIF TOWN:TOWN OF		Assoc Pid#						COMMERC.	3400	4,000	4,000						
											Total	354,500	354,500						
RECORD OF OWNERSHIP				BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)									
SHAPLEIGH, NANCY E				2136 0489	07-01-1976	U	V	0		Year	Code	Assessed	Year	Code	Assessed	Year	Code	Assessed	
											2021	3400	131,500	2020	3400	169,900	2019	3400	169,900
												3400	219,000		3400	164,400		3400	164,400
												3400	4,000		3400	3,800		3400	3,800
											Total	354500	Total	338100	Total	338100	Total	338100	
EXEMPTIONS				OTHER ASSESSMENTS				This signature acknowledges a visit by a Data Collector or Assessor											
Year	Code	Description		Amount	Code	Description	Number	Amount	Comm Int										
				Total	0.00														
ASSESSING NEIGHBORHOOD										APPRAISED VALUE SUMMARY									
Nbhd		Nbhd Name			B		Tracing			Batch			Appraised Bldg. Value (Card)					131,500	
0001													Appraised Xf (B) Value (Bldg)					0	
											Appraised Ob (B) Value (Bldg)					4,000			
											Appraised Land Value (Bldg)					219,000			
											Special Land Value					0			
											Total Appraised Parcel Value					354,500			
											Exemption					0			
											Valuation Method					C			
											Total Appraised Parcel Value					354500.00			
BUILDING PERMIT RECORD										VISIT / CHANGE HISTORY									
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments			Date	Id	Type	Is	Cd	Purpost/Result			
02-69	05-22-2002	AD	10X10 10X20 A	7,500	06-12-2003	100					05-08-1997	FG			00	Measur+Listed			
LAND LINE VALUATION SECTION																			
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	I. Factor	Site Index	Cond.	Nbhd.	Nbhd Adj	Notes			Location Adjustment		Adj Unit Pric	Land Value	
1	3400	OFFICE BLD	C/I		43,560 SF	2.45	1.80000	G	1.00		1.000				0		4.41	192,100	
1	3400	OFFICE BLD	C/I		1.870 AC	8,000	1.80000	G	1.00		1.000				0		14,400	26,900	
Total Card Land Units					2.870 AC	Parcel Total Land Area: 2.8700					Total Land Value					219,000			

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Style:	80	Comm/Apartment			
Model	94	Commercial			
Grade	03	Average			
Stories:	2				
Occupancy	4.00				
Exterior Wall 1	25	Vinyl Siding			
Exterior Wall 2					
Roof Structure	03	Gable/Hip			
Roof Cover	03	Asph/F Gls/Cmp			
Interior Wall 1	05	Drywall/Sheet			
Interior Wall 2	04	Plywood Panel			
Interior Floor 1	14	Carpet			
Interior Floor 2					
Heating Fuel	04	Electric			
Heating Type	07	Electr Basebrd			
AC Type	01	None			
Bldg Use	3400	OFFICE BLD			
Total Rooms					
Total Bedrms	05				
Total Baths	3				
Heat/AC	00	NONE			
Frame Type	02	WOOD FRAME			
Baths/Plumbing	02	AVERAGE			
Ceiling/Wall	06	CEIL & WALLS			
Rooms/Prtns	02	AVERAGE			
Wall Height	8.00				
% Conn Wall	0.00				
1st Floor Use:	3400				

MIXED USE		
Code	Description	Percentage
3400	OFFICE BLD	100
		0
		0

COST / MARKET VALUATION		
RCN		274,026
Year Built		1970
Effective Year Built		1987
Depreciation Code		F
Remodel Rating		
Year Remodeled		
Depreciation %		42
Functional Obsol		10
Economic Obsol		0
Trend Factor		1
Condition		
Condition %		
Percent Good		48
RCNLD		131,500
Dep % Ovr		
Dep Ovr Comment		
Misc Imp Ovr		
Misc Imp Ovr Comment		
Cost to Cure Ovr		
Cost to Cure Ovr Comment		



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Good	Grade	Grade Adj	Appr. Value
PAV1	PAVING-ASPH	L	2,000	2.00	2008		100		0.00	4,000

BUILDING SUB-AREA SUMMARY SECTION							
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value	
BAS	First Floor	1,540	1,540	1,540	0		
FUS	Upper Story, Finished	1,792	1,792	1,792	0		
WDK	Deck, Wood	0	342	34	0		
Ttl Gross Liv / Lease Area		3,332	3,674	3,366			

