TOWN OF ELIOT, MAINE

POSTED 3/30/21

PLANNING BOARD AGENDA

TYPE OF MEETING: REMOTE **DATE: Tuesday, April 6, 2021**
PLACE: ZOOM ONLINE MEETING **TIME: 7:00 P.M.**

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

1) **ROLL CALL**
   a) Quorum, Alternate Members, Conflicts of Interest
2) **PLEDGE OF ALLEGIANCE**
3) **MOMENT OF SILENCE**
4) **10-MINUTE PUBLIC INPUT SESSION**
5) **REVIEW AND APPROVE MINUTES**
   a) March 16, 2021 – if available
6) **NOTICE OF DECISION**
7) **PUBLIC HEARING**
8) **OLD BUSINESS**
   a) 28-32 Brook Road (Map 37/Lot 2-3), PID # 037-002-003, PB21-02: Shoreland Zoning Permit Application, Site Plan Amendment/Review, and Change of Use – Adult Use Marijuana Cultivation, Manufacturing, and Retail Store
9) **NEW BUSINESS**
   a) 9 Bradstreet Lane (Map 45/Lot 01), PID # 045-001-000, PB21-04: Site Plan Amendment and Change of Use – Professional Offices
   b) 1336 State Road (Map 21/Lot 10), PID # 021-010-000), PB21-05: Home Business Application – Garlic Growing and Processing – sketch plan review
   c) 483 Harold L. Dow Highway (Map 54/Lot 02), PID # 054-002-000: Site Plan Amendment/Review and Change of Use – Adult Use Marijuana Cultivation
   d) Appeal of Planning Board Decision – PB20-27 (21 Foxbrush Dr.) – and consideration of written argument to be submitted to the Board of Appeals
10) **CORRESPONDENCE**
11) **SET AGENDA AND DATE FOR NEXT MEETING**
   a) April 20, 2021
12) **ADJOURN**

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

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

Instructions to join remote meeting:

a) **To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.**
b) **Please call 1-646-558-8656**
   1. **When prompted enter meeting number: 933 2345 5762 #**
   2. **When prompted to enter Attendee ID press #**
   3. **When prompted enter meeting password: 144129 #**
c) **Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at time to allow for input. Please remember to state your name and address for the record.**
d) **Press *9 to raise your virtual hand to speak**

Denny Lentz – Chair

TOWN OF ELIOT, MAINE

PLANNING BOARD NOTICE OF DECISION

CASE #: **PB21-03 - REQUEST FOR PLANNING BOARD ACTION/MINOR CHANGE FOR HOURS/DAYS OF OPERATION**	MAP/LOT: **23/12**	DATE OF DECISION: **03-02-2021**

_____, 2021

DRAFT

ENI 100 HLD HWY, LLC
ATTN: Jeff Black
2 International Way
Lawrence, MA 01843

Toro Properties, LLC
ATTN: Doug Anderson
9 Park Street
Eliot, ME 03903

Attorney Sandra Guay
22 Free Street
Portland, ME 04101

To: Jeff Black
Doug Anderson
Attorney Guay

This letter is to inform you that the Planning Board has acted on your **Request for Planning Board Action to change the days and hours of operation, with limited operations on Sundays and with potential for emergency evening deliveries.**

APPLICATION DOCUMENTS AND SUPPORTING MATERIAL SUBMITTED:

SUBMITTED FOR MARCH 2, 2021:

1. Request for Planning Board Action Application, received February 3, 2021.
2. Nature of Request Letter.
3. Letter of Authorization from Jeff Black, dated January 2020, authorizing Attorney Sandra Guay and engineers Greenman-Pederson, Inc. as permit and appeal signatories and as his agents for this application.
4. Letter of Authorization from Douglas Anderson, dated January 20, 2020, authorizing ENI 100 HLD HWY, LLC and its attorneys and/or agents as his permit and appeals signatories and agents for this application.
5. Copy of Notice of Decision Letter approval for PB20-2 for the bulk storage facility, dated May 26, 2020.
6. Copy of Ground Lease Agreement, dated October 29, 2019.
7. Copy of Site Plan, prepared by Greenman-Pederson.
8. Warranty Deed, Book 17527/Page 783, registered at the York County Registry of Deeds, dated July 31, 2017. Book 392/Page 9.
9. Copy of email communication between the Town Planner and Attorney Guay, dated February 23, 2021.
10. Memo from Jeff Brubaker, Town Planner, dated February 24, 2021.

FINDINGS OF FACT:

1. The owner of the property is: Toro Properties, LLC (Doug Anderson) (mailing address: 9 Park Street, Eliot, ME 03903).
2. The applicant is: ENI 100 HLD HWY, LLC (Jeff Black) (mailing address: 2 International Way, Lawrence, MA 01843.
3. The applicant was represented by Attorney Sandra Guay (mailing address: 22 Free Street, Portland, ME 04101) and Greenman-Pedersen, Inc. (mailing address: 44 Stiles Road, Suite One, Salem, NH 03079).
4. The property is located at: 100 Harold L. Dow Highway and is 3.01 acres.
5. Property can be identified as: Assessor's Map 23/ Lot 12 and is located in the Commercial/Industrial Zoning District.
6. The applicant proposes to amend a previously approved Site Plan (PB20-2, Bulk Propane Storage Facility, approved May 26, 2020) to change the days and hours of operation to 7AM to 6PM Monday through Saturday, with limited operations on Sundays and with potential for emergency evening deliveries.
7. Applicant believes that the current listed hours/days of operation in previous approval reflect an error in testimony from an ENI representative and that the proposed schedule was not known by ENI operations staff. The applicant believes the current approved schedule listed in the previous approval will severely restrict the ability of ENI to successfully operate its facility.
8. Regarding a review question about potential noise impacts of expanded hours of operation from the Planner, Attorney Guay replied: "There is actually very little noise generated by the use of the propane facility. They have a delivery truck come and go a couple times during the week (ENI has said that they will not have the truck delivery on Saturday). Other than that, the bobtail trucks go out once in the morning, come back in at midday to refuel and then back at approximately 5:30 for the night. The most sound is probably when the bobtails back into their parking area for the evening. Nothing about this will change."
9. Revised hours of operation are 7AM to 6PM Monday through Saturday, with limited operations on Sundays and with the potential for emergency evening deliveries.
10. Saturday deliveries will not necessarily be year-round, as it is weather-dependent. Sunday deliveries would generally be for weather-dependent "essential" deliveries.
11. The Planning Board reviewed the application at the following regular meeting:
    - March 2, 2021.
12. On March 2, 2021, the Planning Board agreed by consensus that the proposed revisions to the previously approved Site Plan (PB20-2) were minor, did not result in any substantial changes to the approved development, or further impact abutters and, therefore, did not require full site plan review.
13. There was no site walk or public hearing held.
14. The following fees have been paid by the applicant:
    - Site Plan Amendment Fee: $100.00 (2/3/2021)
    - Public Hearing Fee: $175.00 (2/3.2021) To be refunded.
15. Copies of the application and supporting materials were sent to the Code Enforcement Office, Public Works, Town Manager, Police Department and Fire Department. There were no comments submitted.

CONCLUSIONS:

1. Revisions to previously approved Site Plans are allowed with Planning Board approval under Section 33-140 (Revisions to final Site Plans after Planning Board approval).
2. All applicable criteria and/or ordinance requirements of Chapter 45 and Chapter 33 have been addressed by the Planning Board during review of this application.
3. The Board determined that the proposed revision to the approved site plan was minor and did not result in any substantial changes to the approved development or further impact abutters and, therefore, did not require full site plan review.

DECISION:

Based on the above facts and conclusions, on **March 2, 2021**, the Planning Board voted to approve your application to amend a previously approved site plan (PB20-2) to change the days and hours of operation (7AM to 6PM Monday through Saturday), with limited operations on Sundays and with potential for emergency evening deliveries for the bulk propane storage facility on the property.

DRAFT

CONDITIONS OF APPROVAL:
The applicant must comply with all requirements of the Town of Eliot Land Use Ordinances. In addition, to further promote the purposes of the (Eliot Zoning Ordinances), the Planning Board has voted to impose the following conditions on the approval of this application:

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

APPEALS:

This decision can be appealed to the Board of Appeals within 30 days after **March 2, 2021** by an aggrieved person or party as defined in Sec. 1-2 and Sec. 45-50(b) of the Eliot Zoning Ordinance. Computation of time shall be in accordance with general provisions of the Town of Eliot Municipal Code of Ordinances, section 1-2.

Sincerely,

_____
Dennis Lentz, Chair
This letter reviewed and approved by the Planning Board on _____, 2021.

CC: Martine Painchaud, Tax Assessor
Shelly Bishop, Code Enforcement Officer
Jay Muzeroll, Fire Chief
Elliott Moya, Police Chief
Steve Robinson, Public Works Director

DRAFT

ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Melissa Magdziasz – Vice Chair, Carmela Braun - Secretary, Mallory Strange – Alternate.

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

Absent: Bill Olsen (excused), Jeff Leathe – Alternate (excused).

Voting members: Dennis Lentz, Melissa Magdziasz, Carmela Braun, and Mallory Strange (appointed).

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public input.

ITEM 5 – REVIEW AND APPROVE MINUTES

Ms. Braun moved, second by Ms. Horner, to approve the minutes of February 2, 2021, as amended.

VOTE
4-0
Motion approved

ITEM 6 – NOTICE OF DECISION

There were no Notices.

ITEM 7 – OLD BUSINESS

A. Review of Draft Ordinance Amendments

1) Auto Graveyards, Auto Recycling Operations and Auto Hobbyists.

Mr. Brubaker said that I've been struggling a bit with interpreting some of the State laws, here. One of the changes I would recommend is probably getting rid of 'Auto Recycling Operation, Limited' and just consolidating 'Auto Recycling Operation' into one definition, one set of standards. Our Town currently has 'Auto Recycling Operation' and 'Auto Recycling Operation, Limited' and I talked with our Town Manager about that; that he said that pre-dates him and not aware of the reason why. I think it would be cleaner if we stuck with one definition for 'Auto Recycling Operation', with a certain site plan area threshold. On page 3, you see that any lot that uses more than 25% of the lot for

auto recycling is an 'Auto Recycling Operation' and anything less than that is an 'Auto Recycling Operation, Limited'. I think I was trying to put together too many things in terms of what is currently in our Town Code and what's in State law. I would recommend keeping the principal 'Auto Recycling Operation', principal, the first definition there; getting rid of 'Limited', and if you are doing less than 25% of your site 'Auto Recycling Operation' and you have cars out there, you'd still be considered an 'auto graveyard' and regulated under that.

Mr. Lentz said that I would tend to agree with that. The simpler we can make it and the more precise, the better off we are. If we get into too many details, it becomes more confusing. How does the rest of the PB feel.

Ms. Braun agreed. We don't want to complicate it and, if we're just repeating it, it makes sense to eliminate it.

Mr. Lentz said that, hearing nothing else, I think you should go ahead with your recommendation and remove 'Limited'.

Mr. Brubaker said that it will be such that you are either an 'auto recycling operation' or, if you've got cars out there that are unregistered and uninspected and you're working on them, dismantling them, you're still an 'auto graveyard'. So, either way you're going to be subject to this new, thorough set of regulations to protect abutting property owners and the environment.

Ms. Magdziasz asked if the stipulations listed underneath 'Limited', those 14 items that were struck out are those captured somewhere else.

Mr. Brubaker said yes. The spirit of them and I think most of them are captured under principle 'auto recycling operation' and many are also captured under 'auto graveyard'. So, either way you are facing a similar set of standards you have to meet.

Mr. Lentz said I agree I wouldn't want to see us throw standards out but, if they are captured elsewhere, that's fine.

Ms. Magdziasz said that even like the #10 or #5 or #14; that I think they're all important but those are like the big ones. I just want to make sure those are captured. I can't think of anywhere that, like #5 screening is listed but that's a pretty straightforward, solid standard.

Mr. Lentz said that I agree, even #14 lot size is basically very important. If you could check on those but, if we're covered on those, I would think we are okay.

Mr. Brubaker said that Ms. Magdziasz brings up a good point. In consolidating, I will check to make sure none of those important strike-out list things fall through the cracks. The other one, and I've been emailing with Mr. Pettigrew on this, is should we place a maximum number of vehicles an 'auto hobbyist' can have. One quick thing before we do

this discussion, remember that 'auto hobbyist; is meant, in State law, as a carve-out or an exception. So, if I have five vehicles sitting out there in my yard, it's an 'auto graveyard'. But State law says, basically, that if those vehicles are horseless carriages, you can be an 'auto hobbyist' and you can get out of being an 'auto graveyard'.

Mr. Lentz asked what Mr. Brubaker recommended.

Mr. Brubaker said that, first of all, I wanted to start with a floor of three or more vehicles because, if you have one or two vehicles out there, under State law you are not an 'auto graveyard'. By starting at three and going up you are making the carve-out effective. So, you're basically saying that you can have three or more sitting out there but they've got to be 'these' specific types of vehicles. Even then, you still have to screen them, keep them away from wetlands, still have to get an operating permit. So, even 'auto hobbyists' are subject to the standards of §45-468.3 as well as operating permit standards in Chapter 16 but they are a little less rigorous than 'auto graveyard'. Now, with an upper limit of vehicles, Mr. Pettigrew gave me the Vassalboro ordinance that is really informative. They place an upper limit of five; so, the question is, if you are an 'auto hobbyist', can you have as many as vehicles as you can fit on your lot as long as they fall under the definition of 'auto hobbyist'. You still have to screen them. You still have to keep them away from wetlands. You still have to properly dispose of the liquids. Or should we place a cap saying that, if you are an 'auto hobbyist', you can only have up to five vehicles, up to four, or up to ten, or something like that.

Mr. Lentz said that I'm all for limiting the number but I guess I would ask the question…for example, if I wanted to have three vehicles as an 'auto hobbyist', is that an accumulative number with an 'auto graveyard' for example. Can I have three as an 'auto graveyard' and three as an 'auto hobbyist'.

Mr. Brubaker said no. If you have three unregistered and uninspected vehicles, you would be an 'auto graveyard' unless you demonstrate that those vehicles were the specific type of vehicles that were an 'auto hobbyist'. If you had two unregistered, uninspected vehicles and three 'auto hobbyist' vehicles, you would be an 'auto hobbyist'. Either way you couldn't have any three vehicles that are unregistered or uninspected. You couldn't have them sitting out there, that you would have to screen them no matter what. It would be a maximum of two vehicles, total, sitting out on any one lot, excepting you registered, inspected vehicles you drive around and have sit in your driveway like everybody else.

Ms. Braun said that maybe I'm interpreting this wrong but I thought an 'auto hobbyist' had to have "vintage cars" that were the original; that they couldn't have put blinkers on something that didn't come with blinkers, as an example, and that they had to prove that, if they were putting them back to original condition, that they were working on them.

Mr. Brubaker said that there is some language like that in State law; that it's in there to protect against that very thing.

Ms. Braun asked if we are using that definition for 'auto hobbyist' as well.

Mr. Brubaker said that we are. On page 3 it lists the vehicles and says, "as defined in 29-A M.R.S.A. §101".

Ms. Braun said that that's where they say it has to be original condition.

Mr. Brubaker said yes.

Mr. Lentz said that I know that, in going back over all of these documents and trying to decide what I heard was important, I think one of the things that was the most important to me was to be able to clarify, particularly for the CEO. My hope was that, when we did this, we would make her job much easier by being a lot more specific on what is right and what is wrong when she goes out to do inspections, and stuff. Have we accomplished that.

Mr. Brubaker said no. I have to clean this up more to make it clearer.

Mr. Lentz said that I understand that but, overall, are we to a point now where we're ready to say we can finish this thing and go on and get a public hearing going, and when we're done with even more changes that we need to make, have we really made it easier for the CEO.

Mr. Brubaker said yes, I believe so, because it removes the subjectivity in our Town Code with regard to 'auto graveyard' and it replaces it with two objective criteria - unregistered and uninspected. It clarifies and it very specifically enumerates the vehicles you would need to have in order to be an 'auto hobbyist' instead of an 'auto graveyard'. Once 'auto recycling operation' is cleaned up, it will very clearly delineate when something is an 'auto recycling operation' and not just an 'auto graveyard'.

Mr. Lentz said that I keep thinking back that there was an appeal won by the folks and that appeal, in my mind, judged on the existing ordinances, before we actually started making changes. I'm wondering if they were good enough for them to make a decision like that, have we really improved them all. I think we have.

Mr. Brubaker agreed. Currently, there's hardly any standards in the current ordinance for 'auto graveyard', 'auto recycling operation', and 'auto hobbyist storage area'. State law requires, in addition to those land use standards, that you have an operating permitting process as an additional layer and this tries, as much as possible, to sync State law with our Town Code. It gives an extra protection so that, if someone is violating the operating standards for any of these things, it's not just Code Enforcement but she has the backing of the SB, and the whole Town. The Town can suspend or revoke an operating permit, and I think that's what State law was getting at when they prescribed this all for municipalities.

Ms. Lemire asked if this limited the number of vehicles per lot or per owner.

Mr. Brubaker said that I think the implication would be per lot.

Mr. Lentz said that I think we should move this to public hearing. He asked if Mr. Pettigrew was still with us.

Mr. Pettigrew said yes. I really think that the limit should be one. The reason being that, as the State law says, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles, two is a graveyard. Three is 50% more so it is, in fact, less restrictive. Let's be honest, here, really who can restore multiple vehicles outdoors. I really think that the goal, here, should be to respect the rights of the abutters that have to deal with this because this whole hobbyist issue was basically shoved down our throats by the State due to SEMA lobbyists. And we're supposed to be a Home Rule State. Under liberal construction, laws are supposed to be liberally construed. Likewise, under the standard of preemption, the legislature shall not…they won't take away the power of municipalities. So, by saying that two is an auto graveyard…say that three is an auto graveyard and you shouldn't have to deal with that…okay, you're a hobbyist, then four or more puts you over the edge. I would like to see something saying like it has to be a Home Business where it has to actually be at the residence and it has to be a secondary use so you don't have them on vacant land. There was one thing I was looking at that I think would actually make us run afoul of State law. It is a prohibited use in the Village District, therefore, if you're not allowing it in the Village District, that's definitely more restrictive because you're saying that you can't have it at all. Does that make sense.

Mr. Lentz said that it does. I understand your point. Perhaps you and Mr. Brubaker could talk about this for a bit in the next couple of weeks before we get into the public hearing.

Mr. Pettigrew apologized for hi-jacking you guys. I was under the impression that this was sort of a public hearing.

Mr. Lentz said that it's quite alright and we're always willing to listen to someone. So, if you wouldn't mind, we're going to take back over the meeting.

Mr. Pettigrew said that I will just stay in contact with Mr. Brubaker and see if I can't wrangle him a little bit.

Ms. Magdziasz said that I don't know if I'm overstepping and I certainly don't mean to come off as rude but I do feel that our Planner is busy with a bunch of other stuff and the public hearing is an appropriate time for folks to speak. I think if there's a difference of opinion between Mr. Pettigrew and Mr. Brubaker then that's not something that should be taking up our Planner's time. It sounds like Mr. Pettigrew has made his case very clear to our Planner and it might be wise for him to just come to the public hearing and state his case to the Town, since the Town is going to be voting on this. I don't think the PB is going to be changing the '3 or more vehicles' any time between now and the public hearing. So, if there's a difference of opinion, I don't think that should be taking up our Planner's time while he's working at the office when there's a public hearing coming up.

Mr. Lentz thanked Ms. Magdziasz and asked if there was anything else to Mr. Pettigrew.

Mr. Pettigrew said that, if you don't want me to email him, that's fine. But I think there's still some misunderstandings of the actual hobbyist issue.

Mr. Lents said that I think if it clarifies things, it's okay to do. On the other hand, I do agree with Ms. Magdziasz. I think the Planner is certainly professional enough to know when he's up to his neck and when he isn't up to his neck.

Mr. Pettigrew said that that is completely fine and I completely understand Ms. Magdziasz's point. Thank you for listening.

Mr. Lentz said that I think there was a letter written by Michael Kristi and he had 5 or 6 points, there, that I read and I believe in your correspondence back to him you pretty much took care of those points that he had, or at least answered them. Thank you for that. Would we make that part of the record, his letter, He did want it read and I don't think I'm going to do that.

Ms. Lemire said that I can include it at the end of the minutes.

Mr. Lentz said okay. This is not a public hearing so I'm not going to read the letter. I do think everyone got a copy and you should have seen his responses back to those points.

This will be moved to a public hearing.

2) Accessory Dwelling Units (ADU)

Mr. Lentz said that Mr. Brubaker has put together all kinds of information and I believe the only thing that we changed, at this point, was the square footage. We went from 650 to 800 square feet, asking if there was any other change.

Mr. Brubaker shared his screen. In this draft, per the PB direction, I did go from 40% to 50%. I did put in a minimal rental term of 30 days. Again, I know there's a difference of opinion on this amongst PB members, and other stakeholders, and I think there's reasonable opinions on all sides. But, listening to the balance of opinion, talking with the Town Manager, and taking a look at the other Maine communities this is currently what's in the draft. What I'm trying to do, here, is balance a little more restriction with a little bit more flexibility. This was purely my professional judgement, but I looked at (c)(6) under the ADU section and it basically has this thing about home occupation/home businesses can be an accessory to either the ADU or the principal dwelling unit (PDU), but not both. This looks like it's in other ordinances (York has it) but, to me, it seems like it's a little redundant because both home occupation and home business regulations in our Town Code already have limitations on the scale with each of those. I think the question then is why restrict the principal dwelling unit from having a home occupation and the accessory dwelling unit from having a home business if they face other restrictions on the scale.

The last change is that it deletes the old occupancy limits that were pegged to ADU size and replaces it with a 2-per-bedroom standard but with the ability to go up if approved by the CEO and Fire Chief after an inspection. This is similar to Kittery's and would, again, allow you to do, for example, 3 for a one-bedroom ADU if you have two parents and a newborn; that they just have to go through that application and inspection, and as long as the CEO and Fire Chief would be okay with that. They can go up an occupancy from the 2-per-bedroom standard.

Ms. Lemire said, regarding the Fair Housing Act, I was pretty surprised at how explicit they were with some of what they talked about in this particular area.

Mr. Brubaker agreed that that was an informative resource that you sent and this gives some more flexibility. Ms. Magdziasz made a good point previously. If you are a couple living in an ADU and you have a kid, you're in the wrong size cohort, it's not like the Town would be kicking you out. He briefly described the graph showing overall cap in square feet versus percent of principal dwelling unit amongst several area towns. The next screen showed a table comparing 40% square footage of the PDU (former draft) versus 50% square footage of the PDU (current draft). I think the cap is important because ADUs are clearly secondary and you do want to create a sense of proportion between the main house and the ADU. The next screen discussed the 30-day rental minimum. Our existing Code does provide some flexibility already in terms of occupying the PDU or ADU and renting out the other. ADUs are recognized nationally and in our 2009 Comprehensive Plan as an affordable housing strategy. The 30-day minimum rental term may help preserve affordable mid- and long-term options while generating income for the property owner. Obviously, it presents those different, flexible opportunities for living next to a family member or caregiver, aging in place, and so forth. The 30-day minimum is similar to other communities, including Kittery, Scarborough, and Bangor. And just a note that, if someone wants to operate a bed & breakfast in Town, they are SPR uses and would apply to the PB where ADUs are CEO uses and, in most cases, would not go before the PB. The last slide reflects that I did reach out to Kittery and York and this screen is a summary of what they said about their own ADU ordinances as they had to do with short-term rentals (STR). In Kittery they said no new STRs after April 2020 but, if you have one, you are grandfathered in. Kittery does have a license process with an annual cap on the number of STRs granted.

Mr. Lentz asked, regarding (c)(6), could I have a home occupation in an ADU and a home business in a PDU.

Mr. Brubaker said that you couldn't, currently; not because of the ADU section but because of the home business section. This came up with one of the current applications that we have. Our home business regulations allow more than one home businesses but not a home occupation and a home business, even on properties independent of an ADU.

Mr. Lentz asked if the PB had questions or feel we need to put more into this. Are we satisfied that we covered the initial goal.

Ms. Braun said that I think Mr. Brubaker ahs done a good job. Going from 800 square feet and then 50% is even better.

Ms. Magdziasz asked if we are not bringing up the setbacks, and all, in the Village and different zones.

Mr. Lentz said that I think we've talked about that. I'd have to look at my notes.

Ms. Magdziasz said that she can go back through her notes. I have all the numbers written down that we talked about forever ago on what made sense in each zone in Eliot. The idea was that we were trying to support the Comp Plan by creating a higher density in the Village and not impacting those out on Brixham Road in the Rural Zone. People could still do that but folks in the Village that are on .2 acres, it doesn't make a lot of sense for them to meet the same 30-foot setback, for instance, that people in the Rural District have to meet on their 4 acres of property. I thought it was, I don't know if fair is the right word, but the setback and lot coverage stuff doesn't seem fair to folks in the Village and sitting on .2 acres and trying to put an ADU in their house and have to meet the same requirements that somebody does in the Suburban Zone.

Ms. Lemire said that, regarding the lots in the Village, the sizes and shapes to them are much worse than they are in any other district in the Town, too. It's a very specific issue down there where people are really limited to what they can do because of the way it is set up.

Mr. Lentz asked if you think this is an ADU discussion or is this a general density discussion for the Village.

Ms. Magdziasz said that I think it's both. But, we're in the ADUs right now and so it seems…I think that, somewhere in here, it says that it has to meet the requirements.

Mr. Brubaker said that I think you're looking at the end of (c)(1) where it says, "Any structure containing an accessory dwelling unit must meet minimum yard and setback requirements for principal structure."

Ms. Magdziasz said that I don't know what percentage of the Village, or even Suburban, that would be tricky. But especially down in the Village, peoples lots are weird shapes. On one side of my house my property line is 10 feet out the door and on the other side it's 200 feet. They're not all pretty squares from farmland. If someone has a single-family home already on their property with a garage, at some point, they were allowed to build that garage, right or wrong. But maybe it doesn't meet the codes we have now so, now, they can't use their garage because they don't meet the 20-foot setback or whatever it is. I guess I'm asking for special treatment in each zone that gets its own requirements. Like, maybe if it's already an existing footprint on the property maybe there aren't any setback requirements. If you've got a garage that's already been there, why should you have to meet the setbacks, if it doesn't, to put an ADU in.

Mr. Brubaker said that you're right. That would restrict people in a lot of cases in the Village from locating an ADU on certain parts of their lot. I think that, if you are in the Village District right now some, not all, could pursue an attached ADU in the principal dwelling unit. Some could seek a variance but that doesn't mean they would get it. If you have an existing garage that is legally nonconforming there is a question as to how that would play out in terms of legally nonconforming. You're not expanding in the direction of nonconformity and you want to stick an ADU in there. Let's say you already have a loft area, for example, that you could make some minor modifications to without actually expanding the footprint, I think I would want to confirm how that nonconformity would play out in that case.

Mr. Lentz asked if these same conversations wouldn't apply if you were talking about an ADU or you were talking about putting a new garage up.

Ms. Magdziasz said no. I'm specifically speaking to the homes that don't meet the changes in our code now but have been in Town for many years.

Mr. Brubaker said that, if you're building a new garage in the Village District, you only have to meet those 30-10-10 setbacks. But, if you're putting a new ADU in there, because of that last sentence in (c)(1), you're then back to 30-20-30 for a new structure.

Mr. Lentz said that the answer to my question, then, is that this mostly applies to the ADUs. It is not an 'in general' concern. The lots and setbacks we're talking about mostly apply to the ADUs.

Mr. Brubaker said yes. If you are a garage, alone, with no ADU, it would just be 30-10-10. With the ADU, then you would have to find an extra 10 feet of setback on the side and an extra 20 feet in the rear. I think Ms. Magdziasz makes a good point. Is it too onerous for the Village people to try and get an ADU on their property, given the variance that they would need to get, or some folks homes might not be well-suited for an attached ADU. If that's the case, do you feel like that extra flexibility for that district would be warranted. I think that's really a policy discussion for you guys. I think Ms. Magdziasz is making the case that, yes, there should be more flexibility there beyond the existing tools that you might have.

Ms. Magdziasz said that it mostly comes down to the Comp Plan, the density, the existing Village District that's already here and the fact that the Village is already on Town sewer. Town water, Town sewer…why not.

Mr. Brubaker said that you're saying that it's clear that the Comp Plan calls for ADUs as an affordable housing strategy and more density. The fact that ADUs have to follow principal building setbacks is almost like de facto prohibition for a lot of people for ADUs.

Mr. Lentz said yes. It's an interesting subject that Ms. Magdziasz brings up. It seems to me that there's a good deal of conversation and research involved to come to a solution to

this, also. I'm wondering if we can break it off from the current ADU and let's get what we have done over for a public hearing. We can always go back and talk about those other numbers. Is that a suitable path forward or are we better off to delay this and go into some more conversation about how to make this work.

Mr. Brubaker said that I would be glad to research it further concurrently with the draft and maybe another decision could be made in March, when this goes forward for the public hearing. I certainly could research what other communities have done on this topic and add to my excel worksheet on this. I think it's an important question.

Mr. Lentz agreed.

Ms. Lemire said that even the BOA supports the direction you are going in.

Mr. Lentz agreed we should have Mr. Brubaker do some more research and we will kind of hold this one up for awhile and see where we come from for next time. Is that satisfactory to the PB.

The PB agreed that it was.

Mr. Lentz encouraged PB members to give any ideas to Mr. Brubaker in the meantime.

3) Stormwater

Mr. Brubaker said that there are just a few things. On page 2, there is now a definition of a 'qualified post-construction stormwater inspector'. In summary, this basically says that we are now requiring private property owners to self-inspect and certify. When they do that self-inspection, it has to be done by a qualified stormwater professional so that you get a pretty strong certification.

Mr. Lentz asked if there is documentation that needs to be signed off when the homeowner does his inspection.

Mr. Brubaker said that that would be in Appendix 2. So, they would submit something like Appendix 2 to self-certify all of those points that their stormwater facilities are working properly.

Mr. Lentz asked if they would have training in this.

Mr. Brubaker said that the property owner might not but they would be required to contract out to a stormwater professional who could do that.

Mr. Lentz said that the monies to have this done now falls on the homeowner.

Mr. Brubaker said not really the homeowner. It would mainly be larger properties in the MS4 area that would sign a post-construction stormwater maintenance agreement. The one that is in Appendix 1.

Ms. Braun asked, if they have to hire a professional who is certified to do these inspections, wouldn't it make sense to have that same inspector fill out the stormwater certification in Appendix 2 and sign it.

Mr. Brubaker said that that's a great question. If you look at #3 (Appendix 2), it does give the option to circle contractor or consultant hired by the same.

Ms. Braun said that you're still giving them the option of them just signing it themselves or having the paid professional sign it.

Mr. Brubaker said yes. If they sign it, themselves, we would need to come back to them and ask them if they are a qualified stormwater inspector. If they aren't, we need to have this form resubmitted by a qualified stormwater inspector. We would hold their feet to the fire to make sure the stormwater inspection was done properly.

Ms. Magdziasz said that, at the beginning of this, it says that the inspector can't have a financial interest in it so it seems redundant.

Mr. Brubaker said that, regarding a financial interest, an engineering firm, itself, owned the property and they were self-inspecting, they couldn't do that. When you hire a consultant, they would not have to be financially associated with the property owner; that they would have to be independent. The idea here is that they, themselves, wouldn't have an interest in that property.

Ms. Braun said that you are then policing them. If the individual signs it and it was done by a professional, then you are looking at it and policing it by going back to them and asking the question, and asking them to resubmit it. So, what kind of time and money are you saving by doing that.

Mr. Brubaker said that what you are saying is that this certification shouldn't even give the option; that it should be more clear that, if you are putting pen to this paper, you have to be a qualified stormwater professional.

Ms. Braun said right. You have to have the license and the expertise and they would have to put their stamp on it, like the engineers do.

Mr. Brubaker said that I think that's a good point. I see your point. I see that there is a bit of a weak point in the text, here, so what I can do is go back and talk with Ms. Rabasca about how to make this stronger that it can't just be the property owner and make crystal clear that even the qualified stormwater professional doesn't have a financial interest in the property.

Ms. Lemire said that in that first sentence it says it can't be the property owner (under the definition). "The Inspector shall not have any ownership or financial interest in the property being inspected…" So, an owner can't do it, even if he has the background or he is a P.E. or however that may qualify him, they still can't do it. It has to be someone who is completely neutral, which means no ownership, no financial investment. It would have to be someone from the outside. At least that's my reading of it.

Mr. Brubaker said that, in other words, Ms. Braun's point still stands so the problem with #3 is that it is superfluous; that you don't even want to have that text there – owner, operator, tenant, lessee of the land – it would basically have to be, yeah.

Ms. Lemire said that it would have to be the professional that fills out and signs that form because it's his name, his reputation, or his license that's on the line.

Mr. Brubaker said that I will talk with Ms. Rabasca, again, about this language to make sure there won't be any grey areas.

Ms. Magdziasz said that it would be good to know if the professional can even do that type of work; that she has seen situations where 'professionals' have done work but been unwilling to sign off on it.

Mr. Lentz said that, as things have been in the past, the Town has done the inspection and wrote the certification. Now, it's someone else that's going to do that certification inspection and introduce the certificate to the Town. It looks like we passed the cost and responsibility from the Town personnel to whoever we assign or hire to do that job. If there are multiple properties that come together at one of these stormwater pits that they've created, as a landowner, who is responsible out of the four or five properties to certify it or get someone to certify it.

Mr. Brubaker said that a lot of this is currently in the Town Code. That would all be specified in the stormwater management plan and maintenance agreement if there was more than one owner sharing the same stormwater management facility.

Mr. Lentz said that the Town is no longer the designee for stormwater inspections. It's someone else, now, that's going to do the inspections, certify it, and send it to the Town.

Mr. Brubaker said that the responsibility would be on the private property owner. The Town would still retain the right to inspect, make findings and engage with the property owner about repairing stormwater management facilities. The annual base responsibility would still be on the property owner. Again, with these recent changes, their responsibility would have to be filled by a stormwater professional and, if every professional in the area refuses to do it, I don't know.

Mr. Lentz asked if there were any more questions. I'm satisfied.

Ms. Magdziasz asked if this was a State-wide move or is this an Eliot thing.

Ms. Lemire said that it is by the State and for all the MS4 communities.

Ms. Magdziasz clarified that that was what she meant. All of us in this are shifting the onus from the Town to the professional.

Mr. Brubaker said yes.

Ms. Magdziasz suggested we call the other towns to see how they are doing it.

Mr. Lentz said that, without opposition, I think this is far enough ahead that we can schedule this one for a public hearing.

4) Mobile Vendors

Ms. Braun said that some towns have distinguished between food trucks and other mobile vendors. Are we looking to do the same thing. In my mind, I would say so but I don't know how the rest of you feel.

Mr. Lentz said that I'm in agreement; that it's a question I had the last time we talked about this. There are multiple types vendors. Stay away from yard sales, for example. Then, there is the food truck, the ice cream truck that goes from spot to spot. And then there is the home craft business, I call it, that has a little card table, chair, and sign and sits along side the road selling their wares or their products. So, I think there's different types of vendors to talk about.

Ms. Braun said that I know that York doesn't allow food trucks in town.

Mr. Lentz agreed, adding that Kittery does.

Ms. Braun said that Portland requires that food trucks get a State license from the health inspector. They also have a health and fire inspection as part of their licensing process.

Ms. Magdziasz asked if there was an outcry in Eliot for mobile vendors or food trucks. Have people been coming in to the Town Hall asking why they can't have their food trucks here, or restaurants.

Mr. Lentz said that I don't know the answer. I haven't heard anything.

Ms. Strange said that I did see, when I was reviewing the 2009 Comprehensive Plan, that they were trying to find new ways to promote local businesses and I do think that this is a very helpful way for businesses to, if you will, extend their business outside of their four walls. In that respect, Ms. Magdziasz, maybe that lends to your question.

Ms. Magdziasz asked why we are talking about this. I'm supportive of talking about this but I would really like to know why.

Ms. Strange said that the only other thing is finding new ways to add value to the community so that Eliot residents are able to stay within their own community and have engaging, valuable events

Mr. Brubaker said that I think that's a good point. So far, what I've heard is that Eliot Commons is interested in having mobile vendors. I received an inquiry from someone who wants to set up at Eliot Commons and sell seafood. I also believe that there are two instances that have been reported to me where people are selling goods out of their home that haven't gone in for home business approval. Not to get too specific down to those two examples, I think, in general, the idea here would be that people that want to sell goods at a scale and type that is not allowed by a home business but also may not have the means to lease a brick-and-mortar location, this might be a third option. I am thinking about two instances, currently, where people are selling goods out of their home and it seems like they've got really cool ideas but, at the same time, the neighbors have reported impacts to them.

Ms. Braun said that you aren't talking about a flea market.

Mr. Brubaker said that I wasn't thinking about that but, certainly, whatever we do with this, I do think Eliot should have basic provisions for mobile vendors, as long as you feel we should go forward with this, the slate is open for the PB to define what types of vendors you would want and what types of vendors you don't think would fit. I do think there would be benefits to creating options for folks.

Mr. Lentz said that my likes would be more of what we call a farmer's market. It's a place on a Saturday or Sunday morning where people can come and sell crafts, farm products, but it's a defined space. It's not all over the place that you do this. There are defined hours, defined days, and I think that's the same kind of thing I would do with food trucks. If you're going to have food trucks, they're stationary. You wouldn't want them running all over the streets, ringing their bells and stopping in peoples' driveways. The immediate place that I think about is the Boat Launch in the summertime. On Saturday morning you could put some card tables out, with signs, and sell green peppers, or something.

Ms. Magdziasz said that there's nothing stopping anyone from doing that now, though, because they could just get that gathering license from the SB.

Ms. Lemire said that that has parameters.

Ms. Magdziasz asked if there was anything stopping Taco Cat from parking down at the Boat Basin right now.

Mr. Lentz said no, that I don't think there is.

Ms. Magdziasz asked if there was anything stopping the Chili Cheesedog from parking at the Eliot Commons right now…nope. I'm all for it but, to be perfectly honest with you and I may be wrong, it kind of feels like a bit of wasted effort if there's not some huge outcry for this in Town and there's nothing stopping people from doing this, anyway. Why are we creating rules to allow it when they can already do it.

Mr. Lentz said that I tend to see what you're saying and I don't disagree. I think the thing that would stop the Chili Cheesedog truck down at the Common would be the hours he would be there, amount of noise, the lights, the parking issue.

Ms. Strange said that one of the things we talked about last time was the number of people it would attract or serve. I don't know if that has any significance in differentiating but that may also be something we want to consider.

Ms. Magdziasz said that I just do not see Eliot right now as a hub for food truck gatherings. That one in Kittery is barely hanging on, and I support that place. Don't get me wrong PB and Planner, I'm all for working on something like this but I will say again that it just seems like a huge waste of effort when somebody could already do that. Somebody could call up five of their food truck friends, get permission from Mr. Forsley at Eliot Commons, and go park there. No one can stop them from doing that right now until someone is upset about it, then maybe, someone could push back that it's not something that's allowed. But on what grounds are they not allowed to park in a private parking lot.

Ms. Strange said that those are some really great considerations. To address an earlier point, I do think that, as a spillover from the Portsmouth and Kittery Foreside area, especially because I think our downtown village area is very centrally located, if we did have a weekly or monthly type of food truck pod event, I think it would actually draw quite a few people if it was marketed correctly. That said, to your point of what stops five of them from just gathering, quite frankly, if I was a business owner, I would be concerned with being directly next to the police station, that if someone did make a squawk, then you're shutting down business while you're trying to figure out the code enforcement when would it make more sense if you just had the paperwork in place that says I'm allowed to be here.

Mr. Lentz said good points.

Ms. Magdziasz said that that doesn't go to your point abut someone wanting to organize an event in downtown Eliot. They'd still have to do more things to go before the SB. Then you're spot-checking downtown. So, then, if we say it's okay to do that, is it okay to do that at 2PM when the kids are getting out of school. I don't know. Is it okay to do it there in June, probably; then why can't they park there on a nice day in May. I would be interested to see someone's attempt at this that could blanket the Town and not show preferential treatment to certain areas of Town. Because then you're going to get people who say why can't we do it at Raitt Farm. Why can we do it at the Boat Basin but not at Riverside Farms, for example.

Ms. Strange said that I think that makes an excellent point that maybe we should have parameters around it to say where does it make sense, where does it not disrupt transit activity, where does it present safety issues. I think that's a great argument around why we should have a little regulation around it.

Ms. Magdziasz said that the Kittery food pod has a permit to do that. What's stopping someone from coming to Eliot to say we want to set up a food truck pod here on X days, for X time, for X amount of hours. Somebody could come to Town and do that. I just think it's dangerous to overlay the whole Town. It seems like way too big of a bite to chew.

Ms. Lemire asked if we have a mechanism for that.

Ms. Magdziasz clarified, for a food truck pod, I have no idea. It would be a mass gathering event, wouldn't it.

Ms. Lemire said no; that you have to have a lot of people with a mass gathering.

Ms. Magdziasz said that I think a permitting system might make more sense instead of an ordinance. The ordinance feels way too complicated. Maybe an example would be a permit for every weekend for a farmer's market from May to July.

Ms. Strange said that I do agree with that.

Mr. Lentz said that I may be wrong but I don't believe we have any ordinances at all. Even if you went to the SB and asked for a gathering permit, I don't think there is an ordinance that covers that. How many people can you have at one of these gatherings, no alcoholic beverages; that if you start I think there's a whole laundry list of parameters that could be set, and then they vary from the type of activity to type of activity. I think this is great conversation. It sounds like we'd like to do this, maybe, and don't know where to start or how to start.

Ms. Magdziasz said permitting.

Mr. Lentz said that I think that's part of it.

Ms. Lemire asked if the Comp Plan said anything about this.

Ms. Strange said not enough to be specific.

Ms. Magdziasz said that it seems as though we have enough in our ordinances that we could come up with a permitting checklist. When you go before the SB, you have to have a map, the parking, the hours, where the stuff is going to go, all that kind of framework. Then, if something pops up, I think it's on the SB to say well, where are the port-a-potties going.

Ms. Lemire said like Eliot Festival Day.

Ms. Magdziasz said exactly. How does the Town do that. Do we do just do it because it's for Eliot or does Eliot have to apply for its own permit.

Ms. Strange said that I would be curious to talk with some of the local food truck vendors. Maybe it is working with the Town of Kittery to understand what are some of the stop guards that they are worried about coming to Eliot versus another city.

Ms. Magdziasz suggested that Ms. Strange might contact Kittery and see what they do.

Mr. Brubaker said that they do have a permitting process for lunch wagons and food vendors. It is part of their ordinance. Eliot doesn't have this but in Kittery there's a whole business licensing chapter and underneath that chapter are all different types of businesses. In Kittery, they have about 15 different business licenses, with associated regulations, and one of them is their mobile food vendor/lunch wagon type of business.

Mr. Lentz said that I'd like to start this with what the purpose would be, what is the scope of it. What is our objective in putting together an ordinance or standards of this type. Then, to generically break down the type of businesses that we see participating. You have your Chili Cheesedog truck. You have Joe Smith from the farm with his tomatoes and pickles. You have the Girl Scouts there selling their cookies.

Ms. Magdziasz said yes but, at the end of the day, you need someone to organize that every weekend. It's not Bob and his tomatoes, well, maybe it is, but if somebody wants to do that every weekend, they're going to have to get a permit. We don't have any mechanism for that in Town to let the Boat Basin have a farmer's market there every weekend.

Mr. Lentz said that I know what Portsmouth does in one of theirs. There's no one who actually runs it. There is a space provided for these things to happen and you do get a permit. Along with the permit, it gives you the rules and the regulations. And that's basically it. They pretty much police themselves. I think that's maybe how we could start off. I think we should set some standards or, at least, talk about setting some standards because right now it's the wild west. Ms. Magdziasz is right. Nobody is complaining.

Ms. Magdziasz asked where are all these people and how am I missing the food trucks and Bob's tomatoes.

Ms. Strange said that I think, maybe to that point, what is the hesitation for people to have a formal farmer's market. What is stopping people from doing that.

Ms. Magdziasz said it's because it's happening everywhere around us. They are there.

Ms. Strange agreed. She asked if you wouldn't want that in your own town. If I was a local business, I certainly would want to see that in my own district.

Ms. Magdziasz said that it's not about what the public wants in Town, it's about who's going to come to the farmer's market when they're making beaucoup bucks over in York and Portsmouth every weekend, or Kittery. I'm just saying, from a business standpoint.

Ms. Braun said that there are a lot of Eliot residents who do sell at the Kittery Farmer's Market every week. And they make a lot of money.

Ms. Strange said sure. And if there was a second one in Eliot during the same week, wouldn't you sell there, too.

Ms. Braun said that I don't know. If we do go forward with this ordinance, and we have an ordinance, then where do the people go. Do they come before the PB to get the permit, or whatever is necessary. Is it Code Enforcement. Is it SB. Is it the Fire Chief. Who is going to police it after that.

Mr. Lentz said that I kind of think, as I said, I see it as a self-policing thing to start. I think the people who are participating in this, the people who would be the vendors, could go to the Town Hall and get a permit. All you're doing is paying $5 for the day and signing an 'I'm not liable' kind of thing; that you're provided with a place to do this and the regulations. I think for those that want to participate there's money to be made. Then, I look at the other side and it's a nice community event on a nice day to get people outside to just stand around and talk to your neighbor and buy a hotdog, or something.

Ms. Braun said that, if you're talking about food trucks, then you have to think about the number of people you would serve, where are they going to sit, what about the trash that's being generated. What about the noise. All of that has to come into play.

Ms. Magdziasz said that I love this idea. I just think it's a little bit fluffy and it's not needed because, if a couple of people in Eliot wanted to get together and sell their vegetables at the Boat Basin one weekend, go down and do it. There is nothing stopping anyone from doing these things right now in Eliot.

Mr. Lentz said that there is a place that has a farmer's market when the weather is nice and, if I go by there on a weekend, it is packed with cars. Parking in the field and buying these things, whatever they're selling. So, there is a call for it and it's all been kept very quiet. I don't know if it's all word-of-mouth. I've never seen it advertised. Some people are enjoying it because they stand around in the field talking to each other and it's like a day out, or something.

Ms. Lemire said that we do have a lot of people in Town who are producing things out of their homes and their farms.

Mr. Brubaker said that one thing we do have in our Town Code is 'seasonal sales of locally-produced produce and plants' and are 'yes' across the board in our land use table. You can do that without a permit and your secret spot doesn't need to be secret.

Mr. Lentz asked if there could be a central location for these people to go to where they're safe, they're together, they're available for people to buy their goods. There are no parking problems. They're not making a lot of noise.

Mr. Brubaker said do you mean specifically produce sales on farms.

Ms. Brun said any type of vendor-type thing.

Mr. Brubaker said any kind of mobile vendor or table that sells produce.

Ms. Braun said yes, or any kind of goods, not necessarily just produce.

Mr. Brubaker said that I can't comprehensively remember everything that the CEO has been dealing with so I can't 100% answer that question. But again, not directly complaining about mobile vending, I just wanted to mention that I felt that this would be one way to address these situations where people are selling stuff out of their home on a scale larger than what would be permitted as a home business but might not be able to afford a brick-and-mortar location.

Ms. Magdziasz asked if that was a produce thing.

Mr. Brubaker said no. One case, it's home goods and in another case, it's artwork.

Mr. Lentz asked what would be our next step. It's a good conversation. Let's decide if we're going somewhere with this or if we are going to back off.

Mr. Brubaker said that I want to emphasize there's something to be said for not creating regulations and a licensing process where there's not an issue. I think the idea would be to proactively provide a harbor for these types of vendors so they can have places where they can set up. Also, by going through a licensing process, both have to comply with certain standards like inspection standards, parking and access noise, hours of operation. But then, if they were able to abide by all those, they'd be protected against complaints to some extent because they would be fully licensed. That would be my elevator speech in terms of why this is needed, in addition to some of the things I wrote in my 2-page memo.

Ms. Magdziasz said that I do not feel that it's our job, as the PB, to create space for people to be bad neighbors. Whether I'm selling art work, or not, at my house, or whatever, if I'm having 40 or 50 of my friends driving in and out every day, hanging out, playing loud music, I'm selling my tomatoes, and I'm making my neighbors mad, I don't want to be able to go to the Town and ask, "Is this cool as long as I can show you where everybody is going to park?" There seems to be a real fine line, here, about what we're

talking about, creating space for people that are making their neighbors mad by being bad neighbors. Maybe they should be better neighbors or limit access or meet them at the Kittery traffic circle. It just seems like there are so many other options for people instead of getting the Town involved to write an ordinance for them.

Mr. Brubaker said that I should be more specific. What I was thinking was taking that sales activity away from the home and finding a different location that would be more suitable for the customer volume. In one particular case, they're pretty close to the Library. Would it make sense for them to transport their goods to the Library and have a tent, or a van, where they could sell their goods in the parking lot rather than having 40 cars driving down their cul-de-sac and parking there.

Ms. Magdziasz asked why they can't do that now. Why can't they go to the Library and ask them to host them.

Mr. Brubaker said that it's like any other thing, they could, but I would say it is better if they did that through an official licensing process so that there could be some reasonable standards put forth. There could be clear locations identified, hours of operation committed to, so that when they do it, they're fully sanctioned by the Town.

Ms. Magdziasz asked what does the Town care if someone sells their artwork at the Library or Dead Duck.

Mr. Brubaker said that I think the idea, again, would be that there would be some certainty as to the operating standards that these vendors would follow. Certainly, other towns have this similar type of permitting process so I would presume they see a benefit in having a licensing process laid out in their codes. As with any use, it could be illicitly done until somebody complains and then the Town has to deal with what to do in each of those cases.

Mr. Lentz said that my view is very simple, I guess, the more I think about it and the more I listen to people talk. If we could provide some gathering places, some type of permitting process; not expensive, but something that would make them go and sign up for the days, times, hours, weeks, whatever they're going to do and they would get a list of all the regulations. It's a self-policing thing. It's safe for people. The police would know where they are on certain days and certain nights. People could go there for their social outing. I don't see a lot of very stringent regulations, or anything, with this. To me, it's promoting a place to do your thing and providing some controls. I'm with Ms. Magdziasz. I don't think that takes a lot of regulation to do that but, on the other hand, I think you have to have some standards just to maintain the control. I don't see people going there that are going to drink a case of beer while they're selling their wares. It's just not going to happen. I don't see that happening, although it could.. I'm open. We can do this or we don't have to do it. I think it's a good thing to do and I'd like to see it started. Like I said, I would start with what's our vision or what's our scope. How big is this thing and, then, what is our objective. I've already stated the objectives, as far as I'm concerned. But certainly, you could promote safety, promote community spirit. There's a

lot of things besides selling the wares. I think people would go there just because it's a social outing. That's my old-fashioned thinking.

Ms. Magdziasz said that, okay, food trucks are allowed with a $5 permit, as long as they have their State of Maine health stuff, at any Town-owned property any time they want (said with a smile) and people can gather at Dead Duck any time they want for a $10 permit and everyone has to pick up their own trash (also said with a smile).

Mr. Lentz said that I want to here from you guys. If we don't want to do it, we don't have to do it, that's for sure. Nobody is twisting our arms. If you want to do it, then we need to step up and begin to talk about it. That's all.

Ms. Magdziasz said that I do like the idea of having a permitting process for anyone who wants to go to, for example, Frost Tufts or the Boat Basin, it would be Town-owned property. So, if they're having a hard time, o whatever, they can create a pop-up store or something.

Ms. Braun said that I think just a permitting process is easier and I think people would be more apt to do it as opposed to an ordinance.

Mr. Lentz asked, if you're going to permit it, would you put it at certain places.

Ms. Braun said that it would have to be certain places.

Mr. Lentz said that, if you got your permit, you would have some rules that go along with the permitting.

Ms. Braun said yes. Pick up your trash and that kind of stuff.

Mr. Lentz said that that's kind of where I'm at, too.

Ms. Braun asked if you would allow mobile tasting rooms.

Ms. Strange said, to that point, would that require any sort of State licensing because of the liquor license.

Ms. Braun said that I would think so.

Mr. Lentz agreed.

Ms. Braun said that I know that, in some places, you're not allowed to sell alcohol outside.

Ms. Lemire said that Eliot Festival Day sells alcohol outside within that tent area, now. They got a permit from the Town.

Ms. Strange said that I am definitely open to permitting, as well. I think that's a great idea and, quite frankly, I'm not opposed to certain times and places for selling alcohol, as well. I think, again, there just needs to be some very clear boundaries put on all of this discussion.

Mr. Lentz asked Mr. Brubaker if we gave you some ideas.

Mr. Brubaker said yes. Do you want to see this, again, or do you want this to be something the SB handles. Do you guys actually want to run with this or do you want to wash your hands of it, at this point.

The PB agreed that they would like to be involved and make our recommendations, when we're done, and give them to the SB.

ITEM 8 – NEW BUSINESS

There was nothing for this tonight.

ITEM 9 – CORRESPONDENCE

There was no correspondence.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

There are four public hearings.

The next regular Planning Board Meeting is scheduled for February 16, 2021 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:54 PM.

_____
Carmela Braun, Secretary
Date approved: _____

Respectfully submitted,

Ellen Lemire, Recording Secretary

PB21-2: 28-32 Brook Rd. (Map 37/Lot 2-3): Shoreland Zoning Permit Application, Site Plan Amendment Application, and Change of Use – Adult Use Marijuana Cultivation, Manufacturing, and Retail Store

TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Michael J. Sudak, EIT, Attar Engineering, Applicant's Representative
OBI Labs, LLC/Oracle Industries, LLC, Applicant
Randy Townsend, BMT Enterprises, Applicant/Property Owner
Shelly Bishop, Code Enforcement Officer
Kearsten Metz, Land Use Administrative Assistant
Date: March 31, 2021 (report date)
April 6, 2021 (meeting date)
Re: PB21-2: 28-32 Brook Rd. (Map 37/Lot 2-3): Shoreland Zoning Permit Application, Site Plan Amendment Application, and Change of Use – Adult Use Marijuana Cultivation, Manufacturing, and Retail Store

Adapted from previous report for March 2, 2021, Planning Board meeting

Application Details/Checklist Documentation	
✓ Address:	28-32 Brook Rd.
✓ Map/Lot:	37/2-3
✓ PB Case#:	PB21-2
✓ Zoning:	Commercial/Industrial (C/I)
✓ Shoreland Zoning:	Limited Commercial (LC) Protected resource in the shoreland zone: Freshwater wetland > 10 acres
✓ Owner Name:	BMT Enterprises
✓ Applicant Name:	OBI Labs, LLC/Oracle Enterprises, LLC, BMT Enterprises
✓ Proposed Project:	Shoreland Zoning Permit, Site Plan Amendment Application, and Change of Use – Adult Use Marijuana Cultivation, Manufacturing, and Retail Store
✓ Application Received by Staff:	January 25, 2021 (sketch plan) March 18, 2021 (site plan), March 30, 2021 (supplemental information)
✓ Application Fee Paid and Date:	$125 ($100 – Site Plan Amendment/Shoreland Zoning Application; $25 – Change of Use) January 28, 2021
✓ Application Sent to Staff Reviewers:	February 4, 2021 (sketch plan) March 25, 2021 (site plan)
✓ Application Heard by PB Found Complete by PB	March 2, 2021 – sketch plan review April 6, 2021 (scheduled) TBD

PB21-2: 28-32 Brook Rd. (Map 37/Lot 2-3): Shoreland Zoning Permit Application, Site Plan Amendment Application, and Change of Use – Adult Use Marijuana Cultivation, Manufacturing, and Retail Store

Site Walk	N/A
Site Walk Notice Publication	N/A
Public Hearing	TBD
Public Hearing Notice Publication	TBD
Deliberation	TBD
✓ Reason for PB Review:	Site Plan Amendment, Shoreland Zoning Permit, Change in Use, Site Plan Review for Marijuana Establishment

Overview

Applicants OBI Labs, LLC/Oracle Industries, LLC, and BMT Enterprises (property owner) are seeking approval of a Shoreland Zoning Permit Application, Site Plan Amendment, and Change of Use to allow for marijuana establishments (adult use marijuana cultivation, extraction/manufacturing, and retail store) in existing buildings on the approximately 5.2-acre property at 28-32 Brook Rd. (Map 37, Lot 2-3).

The application package includes a cover letter, SPR Application; Shoreland Zoning Permit Application; 100-foot abutters list; location maps (1"=500'; 1"=2000'); 2007 and 2019 subsurface wastewater disposal system applications; DEP- and stormwater-related correspondence; conditional licenses from the state Office of Marijuana Policy (OMP); schematic floor plans for each building; applicant correspondence on odor management and noise; signage information; and a site plan set. The site plan set includes previous plans, a current site plan and existing conditions plan, a grading and utilities plan, and site details.

The current uses on the property are commercial lobster processing, sales, and distribution. The proposal seeks to transition to adult use marijuana in the three existing buildings on site. Building 1 would have cultivation and retail; Building 2 would have products manufacturing; and Building 3 would have cultivation. While the current building footprints would mostly stay the same, a 300-sq. ft. decontamination room is proposed to be added to Building 3, while some existing paved areas would be revegetated.

Zoning and previous Planning Board actions

Map 37, Lot 2-3 is in the C/I district and almost entirely within the Limited Commercial (LC) shoreland zoning district. It also includes a >10-acre freshwater wetland. Marijuana establishments are SPR uses in the C/I district. The land use table (44-34) prohibits medical marijuana (nonprofit medical marijuana dispensary) in the shoreland zone, but it does not include a row for marijuana establishment. "Commercial (not listed elsewhere)" is an SPR use in the LC district. Industrial uses are prohibited in the land use table and the LC description in 44-33(c). Again, this proposal is primarily for existing buildings.

While industrial uses are prohibited in LC, they have been in longstanding use on the property, and the Planning Board record shows they have been previously approved. In

December 2001, the Planning Board approved the first two buildings, toward the front of the site along Brook Rd. with a Conditional Use Permit (CUP). The record shows that the proposal was clearly industrial in nature, and that the SPR application sought approval for industrial use. On June 19, 2007, the Planning Board approved an amendment to add Building 3, the warehouse building in the rear of the site. The lot was created via a commercial subdivision approved by the Planning Board.

Type of review needed

This meeting is for Site Plan Review. The Planning Board may wish to review the application in full, make a determination on application completeness, and, if complete, schedule a public hearing.

Nonconforming uses in the shoreland zone

Section 44-32(d)(3) allows an existing nonconforming use to be changed to another nonconforming use "provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the planning board." This requires the applicant to provide written documentation required in 44-32(c)(5): "regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses."

In their March 30, 2021, letter, the applicant provides the following information:

> As described above in the "Parking" section, the Change of Use development proposes to reduce the overall footprint of non-vegetated surfaces within the Shoreland Zone, through the revegetation of the two above-mentioned locations depicted on the Plan Set. All other areas of probable effects listed in §44-32(c)(5) remain unchanged between the existing and proposed conditions, as the proposed development utilizes the same building envelopes, utilities, access, access routes, cover types, and impervious footprint (aside from what is noted above).

Conditional licenses

Before an application can be found complete, a conditional license from OMP for the proposed marijuana use must be provided. The application package includes the following OMP conditional licenses:

- Oracle Industries, LLC (dba Aura Co.), ACD541, Cultivation Facility, Tier 4 (expires 1/14/22)
    - Owner: Nicholas Delorey (100%)
- OBI Labs, LLC (dba Aura Co.), AMF540, Products Manufacturing Facility (expires 1/14/22)
    - Owner: Nicholas Delorey (100%)

- Oracle Industries, LLC (dba Aura Co.), AMS542, Marijuana Store (expires 1/14/22)
    - Owner: Nicholas Delorey (100%)

Wetlands

A freshwater wetland > 10 acres associated with Great Brook exists within and around the site and can be seen on the existing conditions plan and site plan. In 2002, DEP concluded that a Natural Resources Protection Act (NRPA) permit-by-rule (PBR) form was not needed relating to wetland impacts. While no major changes to buildings are proposed in this application, I recommended that the applicant contact DEP to confirm that their previous review is still applicable and clarify to what extent any other DEP review is needed. The applicant's March 17 email correspondence with DEP is included in the packet. DEP's Regional Licensing and Compliance Manager concludes that "that aspect of the NRPA has not changed. A person can work adjacent to a freshwater wetland without obtaining a permit from DEP, provided that the wetland is not a peatland and it does not contain 20,000 sq ft or more of open water/emergent vegetation."

Stormwater

The 2001 site plan included stormwater management facilities such as a swale, catch basins, plunge pool and level spreader, and erosion and sedimentation control notes. The current site plan includes revegetation of two areas of the site, resulting in a net decrease in impervious surface. This helps to address 44-35(b)(4) by decreasing the total footprint area of all structures, driveways, parking areas and other nonvegetated surfaces within the shoreland zone. The catch basins can be seen on the current site plan, and the site details sheet includes erosion and sedimentation control details and standards. I hope to clarify with the applicant, before or at the April 6 meeting, the status of the 2001-approved stormwater management facilities and overall stormwater management status for the site.

Co-location

During sketch plan review, it was noted that Building 1 will need to reflect state requirements for co-locating an adult use marijuana cultivation facility and a store in the same building via a clear delineation of the two uses, single lockable door, and product tracking system. You can see that now in the floor plan schematic for Building 1.

Sensitive use separation

The March 18 letter speaks to compliance with the sensitive use buffering/separation requirements applicable to an adult use marijuana retail store [33-190(5)]. See also site plan Note 4.

Traffic and transportation

The addition of a retail component brings additional trip generation to the site. The applicant has provided the trip generation calculations for the existing vs. proposed

conditions in Note 7 on the site plan. The increase in peak-hour trips would be from 14 under the existing conditions to 22 under the proposed conditions, primarily due to the introduction of 13 new trips associated with the new retail store.

Parking

The parking calculations are in Note 5 of the site plan. The total spaces required are 28, and 36 are provided, a surplus of 8. Most of the spaces are associated with the up-to-20 employees proposed for the cultivation and manufacturing uses.

45-487 requires that parking meet setback requirements for front, rear, or side yards. On a previous version of the site plan, there were 10 spaces shown within the Brook Rd. front setback. These spaces are also in existence today. There is some indication they were on previous site plans but is not fully clear on which approved site plan they first appeared. In my second review letter, I recommended that they be removed as part of the current plan. The applicant is proposing to remove and revegetate 3 of the 10 spaces closest to Great Brook; they are also making the case that the remaining 7 (near Building 2) remain. Per their March 30 letter: "Concerning the remaining (7) parking spaces located south of Building 2, these spaces have been present since the 2004 Sketch Plan application for Building 2 and have remained in existing use for employees of that building since that time." I recommend that the Planning Board consider 45-487 and the applicant's explanation and making a finding on this.

Note the ADA space provisions on the site plan detail sheet. Note also that the parking lot is proposed to remain gravel as exists today (site plan note 17).

Sign

A 3'x4' company sign is proposed to be located above the pedestrian door on Building 1. This meets/is under the allowable commercial establishment sign area maximum (45-405). The applicant has also proposed an off-premise sign at the intersection of Route 236-Brook Rd., where an Island Seafood sign exists today. However, 45-529 essentially requires signs to be on-premise, unless otherwise determined by the Board of Appeals. The applicant has kept this off-premise sign in their submittal and site plan but added notation stating that it would only be installed subject to positive determinations by the Board of Appeals. See site plan Note 14 (also indicates compliance with sign performance standards).

Other information

- Security – see security cameras on the grading and utilities plan and Notes 9-10
- Lighting – see site plan Note 13: all existing exterior lighting is proposed to remain. The Planning Board may wish to ask if additional lighting is needed given the new marijuana uses and 33-190(4)f.
- Dumpster – note relocation and site plan Note 11
- Water – note well near Building 1. The March 18 letter notes that a "water service connection to Building #3 was proposed and approved with the 2007 application,

was never constructed with that development, but is proposed with this application". That connection can be seen on the grading and utilities plan.

- Sewer – note two SSWDS applications in the application packet. The March 18 letter notes: "Buildings #1 and #2 are also currently serviced by an on-site subsurface wastewater disposal system located south of Building #1. This system was expanded with the 2007 application approval, and no service connection currently exists to Building #3. A new expanded system was proposed and approved by the Town of Eliot Code Enforcement Officer on August 5th, 2019, located in the position of the current system, and sized to adequately service all three buildings in the proposed use." See also site plan Notes 14-15.
- Hours of operation – see site plan Note 8

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

ATTAR
ENGINEERING, INC
CIVIL STRUCTURAL MARINE

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

March 30th, 2021
Project No. C033-21

RE: Site Plan Amendment Application – Review Letter 2 Comment Revisions
28-32 Brook Road (Tax Map 37, Lot 2-3)
Eliot, Maine

Dear Mr. Brubaker:

On behalf of BMT Enterprises, I am providing a revised Plan Set and supporting narrative to address comments presented in the March 29th, 2021 Review Letter 2 from the Town Planner. Response items are presented in the order that they were received in the referenced letter.

Sign:

- General Note #14 on Sheet 2 has been revised to indicate that the proposed additional company sign off-property at the intersection of Harold L. Dow Highway and Brook Road is under separate review by the Board of Appeals, and shall only be installed upon receiving a positive determination on all applicable sections of the Town Ordinance for its placement.

Parking:

- The overall Plan Set has been revised to depict the (3) parking spaces located west of the Brook Road entrance being revegetated as requested. Concerning the remaining (7) parking spaces located south of Building 2, these spaces have been present since the 2004 Sketch Plan application for Building 2 and have remained in existing use for employees of that building since that time.

- While the parking calculation does suggest that these additional (7) spaces could be removed and have the application still comply with the required minimum, the Applicant would like to respectfully suggest having these existing parking spaces remain in use, as the overall employee count for the change of use development shall not be changing, and parking demands for the site are expected to increase in the front of the development where the Retail space is proposed. Relative to the existing conditions, this development proposes the revegetation of two locations (the holding tank east of Building #1 and the above-mentioned 3 parking spaces) which provides an overall reduction in footprint of non-vegetated surfaces within the Shoreland Zone as referenced in §44-35(b)(4).

- Concerning the ADA spaces depicted on the Plan Set, it is the Applicant's opinion that the currently-presented information in the proposed design (Existing Gravel Base and Subbase Detail, appropriate ADA signage and details, and clear marking of cover types and ADA areas) satisfies the Town Standard of §33-179(b) as well as ADA Standards §302 and §502.4. We would welcome discussion on both parking items during the Planning Board meeting.

Trip Generation:

- General Note #7 on Sheet 1 has been revised to include the current and expected deliveries for the respective existing and proposed uses. The Sheet revision now provides the full spectrum of trips and deliveries being visited on the site in both conditions.

Dumpster:

- General Note #11 on Sheet 2 has been revised to include the requested language for keeping the proposed dumpster locked at all times not in use.

Indoor-Only Activity:

- General Note #18 has been added to Sheet 2 to explicitly acknowledge the requested Ordinance sections regarding indoor-only activities and no existence of drive-through or home-delivery services.

Nonconforming Uses:

- As described above in the "Parking" section, the Change of Use development proposes to reduce the overall footprint of non-vegetated surfaces within the Shoreland Zone, through the revegetation of the two above-mentioned locations depicted on the Plan Set. All other areas of probable effects listed in §44-32(c)(5) remain unchanged between the existing and proposed conditions, as the proposed development utilizes the same building envelopes, utilities, access routes, cover types, and impervious footprint (aside from what is noted above).

We look forward to discussing this project with you at the April 6th Planning Board meeting. If any additional information is required, please contact me. Thank you for your assistance.

Sincerely;

Michael J. Sudak, E.I.T.
Staff Engineer

cc: BMT Enterprises
C033-21 Cover Amend Rev 30Mar2021

ATTAR
ENGINEERING, INC
CIVIL STRUCTURAL MARINE

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

March 18th, 2021
Rev. March 30th, 2021
Project No. C033-21

RE: Application Package – Site Plan Amendment, Change of Use, Shoreland Zoning
28-32 Brook Road (Tax Map 37, Lot 2-3)
Eliot, Maine

Dear Mr. Brubaker:

On behalf of BMT Enterprises, I have enclosed an Application for Site Plan Amendment and Shoreland Zoning Permit, along with additional supporting documentation for the above-referenced project. The 5.2 acre parcel, located at 32 Brook Road, is in the Commercial/Industrial, Limited Commercial, and Shoreland Overlay (Stream and Wetland) Protection Districts. It is not located in a flood hazard zone.

This site has been before the Planning Board with several past applications in development of the current use as a live lobster holding and processing facility. Building #1 was approved and constructed in 2002, Building #2 was approved and constructed in 2004, and Building #3 was approved and constructed in 2007. Additionally, the above-referenced application package was reviewed before the Planning Board as a Sketch Application on March 2nd, 2021.

The applicant is proposing to repurpose all three existing buildings. Building #1 is proposed to change from a live lobster holding facility to a co-located Adult-Use Marijuana Cultivation and Adult-Use Marijuana Retail facility. Building #2 is proposed to change from a lobster processing facility to an Adult-Use Marijuana Manufacturing facility. Building #3 is proposed to change from a live lobster holding facility to an Adult-Use Marijuana Cultivation facility. All proposed changes of use shall take place within the existing footprint of each respective building, with the exception of a 300 sq. ft. Decontamination Room being added to Building #3 in the area of an existing concrete loading area, resulting in no change in cover type.

Buildings #1 and #2 are currently serviced by an on-site drilled well located east of Building #1. A water service connection to Building #3 was proposed and approved with the 2007 application, was never constructed with that development, but is proposed with this application. Buildings #1 and #2 are also currently serviced by an on-site subsurface wastewater disposal system located south of Building #1. This system was expanded with the 2007 application approval, and no service connection currently exists to Building #3. A new expanded system was proposed and approved by the Town of Eliot Code Enforcement Officer on August 5th, 2019, located in the position of the current system, and sized to adequately service all three buildings in the proposed use.

The facility is not within 500' of the property line of an existing public school, private school, residential property, childcare facility, place of worship, or a public facility (see attached USGS Map). The proposed changes result in a net decrease in impervious cover on-site – the only proposed addition (to Building #3) occurs over an existing concrete pad, and the removal of Building #1's loading ramp and concrete holding tank shall see much of that area revegetated.

The overall development will employ approximately 18-20 employees, with the hours of operation as follows:

- Retail Use: 7 days/week, 8:00am – 8:00pm
- Cultivation and Manufacturing Uses: 7 days/week, 6:00am – 8:00pm, with deliveries scheduled at all hours of the day

Traffic generated by the facility will include the same 20 concurrent employees per shift that are present in the existing condition, and deliveries will alter from 10 deliveries per day (existing) to 1-2 deliveries per week (proposed). Traffic generated by the facility will not impact the adjacent existing traffic on H.L. Down Highway, approximately 17,000 vehicles per day (Source: MDOT 2017 "Maine Transportation Count Book" – ADT 2016 & 2013). See General Note #7 on Sheet 1.

A narrative addressing Odor Control practices that will be put in-place for this development is attached. A narrative addressing Noise management on-site for the proposed development is also attached. The original and updated HHE-200 Form for the proposed wastewater disposal system expansion is attached. A Boundary Survey of the parcel is also attached; there have been no changes to the boundary and the original owner is the current owner.

A proposed Company Sign plan is attached showing dimensions and makeup. As depicted on the plans, this sign shall be located on the eastern face of Building #1, above the proposed pedestrian door. An additional nonconforming sign exists at the intersection of Brook Road and Harold L. Dow Highway, and is used for the existing development as a landmark for deliveries and business identification. The Applicant is undergoing a separate Board of Appeals process to use this nonconforming sign as an additional company sign. See General Note #14 on Sheet 2 for additional information on this off-property sign.

The following additional supporting documentation is attached:

- Boundary Survey prepared by Easterly Surveying, Inc.
- The 2007-approved Plan prepared by Oak Point Associates
- Existing and Approved HHE-200 Forms for Subsurface Wastewater Disposal System
- Correspondence with Maine DEP at Planning Board request
- The Conditional Licenses associated with this site
- An Interior Floor Plan Layout of the all three Buildings
- An Odor Control narrative
- A Development Noise narrative
- The dimensions and makeup of the proposed Company Sign, as located in the Plan Set

We look forward to discussing this project with you, and respectfully request our Application to be heard before the Planning Board on their April 6th, 2021 meeting. If any additional information is required, please contact me. Thank you for your assistance.

Sincerely;

Michael J. Sudak, E.I.T.
Staff Engineer

cc: BMT Enterprises
C033-21 Cover Amend Rev 18Mar2021

ATTAR
ENGINEERING, INC
CIVIL STRUCTURAL MARINE

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

March 18th, 2021
Project No. C033-21

RE: Application Package – Site Plan Amendment, Change of Use, Shoreland Zoning
28-32 Brook Road (Tax Map 37, Lot 2-3)
Eliot, Maine

Dear Mr. Brubaker:

On behalf of BMT Enterprises, I have enclosed an Application for Site Plan Amendment and Shoreland Zoning Permit, along with additional supporting documentation for the above-referenced project. The 5.2 acre parcel, located at 32 Brook Road, is in the Commercial/Industrial, Limited Commercial, and Shoreland Overlay (Stream and Wetland) Protection Districts. It is not located in a flood hazard zone.

This site has been before the Planning Board with several past applications in development of the current use as a live lobster holding and processing facility. Building #1 was approved and constructed in 2002, Building #2 was approved and constructed in 2004, and Building #3 was approved and constructed in 2007. Additionally, the above-referenced application package was reviewed before the Planning Board as a Sketch Application on March 2nd, 2021.

The applicant is proposing to repurpose all three existing buildings. Building #1 is proposed to change from a live lobster holding facility to a co-located Adult-Use Marijuana Cultivation and Adult-Use Marijuana Retail facility. Building #2 is proposed to change from a lobster processing facility to an Adult-Use Marijuana Manufacturing facility. Building #3 is proposed to change from a live lobster holding facility to an Adult-Use Marijuana Cultivation facility. All proposed changes of use shall take place within the existing footprint of each respective building, with the exception of a 300 sq. ft. Decontamination Room being added to Building #3 in the area of an existing concrete loading area, resulting in no change in cover type.

Buildings #1 and #2 are currently serviced by an on-site drilled well located east of Building #1. A water service connection to Building #3 was proposed and approved with the 2007 application, was never constructed with that development, but is proposed with this application. Buildings #1 and #2 are also currently serviced by an on-site subsurface wastewater disposal system located south of Building #1. This system was expanded with the 2007 application approval, and no service connection currently exists to Building #3. A new expanded system was proposed and approved by the Town of Eliot Code Enforcement Officer on August 5th, 2019, located in the position of the current system, and sized to adequately service all three buildings in the proposed use.

The facility is not within 500' of the property line of an existing public school, private school, residential property, childcare facility, place of worship, or a public facility (see attached USGS Map). The proposed changes result in a net decrease in impervious cover on-site – the only proposed addition (to Building #3) occurs over an existing concrete pad, and the removal of Building #1's loading ramp and concrete holding tank shall see much of that area revegetated.

The overall development will employ approximately 18-20 employees, with the hours of operation as follows:

- Retail Use: 7 days/week, 8:00am – 8:00pm
- Cultivation and Manufacturing Uses: 7 days/week, 6:00am – 8:00pm, with deliveries scheduled at all hours of the day

Traffic generated by the facility will include the 20 concurrent employees per shift and 1-2 deliveries per week, which will result in a decrease in trips generated from the existing condition of the same employee count and 10 deliveries per day. Traffic generated by the facility will not impact the adjacent existing traffic on H.L. Down Highway, approximately 17,000 vehicles per day (Source: MDOT 2017 "Maine Transportation Count Book" – ADT 2016 & 2013).

A narrative addressing Odor Control practices that will be put in-place for this development is attached. A narrative addressing Noise management on-site for the proposed development is also attached. The original and updated HHE-200 Form for the proposed wastewater disposal system expansion is attached. A Boundary Survey of the parcel is also attached; there have been no changes to the boundary and the original owner is the current owner.

A proposed Company Sign plan is attached showing dimensions and makeup. As depicted on the plans, this sign shall be located on the eastern face of Building #1, above the proposed pedestrian door. An additional nonconforming sign exists at the intersection of Brook Road and Harold L. Dow Highway, and is used for the existing development as a landmark for deliveries and business identification. The Applicant would like to request that this sign remain in its existing location and be utilized for the proposed use – to attract prospective consumers from the Route 236 corridor and also direct customers to the place of business.

The following additional supporting documentation is attached:

- Boundary Survey prepared by Easterly Surveying, Inc.
- The 2007-approved Plan prepared by Oak Point Associates
- Existing and Approved HHE-200 Forms for Subsurface Wastewater Disposal System
- Correspondence with Maine DEP at Planning Board request
- The Conditional Licenses associated with this site
- An Interior Floor Plan Layout of the all three Buildings
- An Odor Control narrative
- A Development Noise narrative
- The dimensions and makeup of the proposed Company Sign, as located in the Plan Set

We look forward to discussing this project with you, and respectfully request our Application to be heard before the Planning Board on their April 6th, 2021 meeting. If any additional information is required, please contact me. Thank you for your assistance.

Sincerely;

Michael J. Sudak, E.I.T.
Staff Engineer

cc: BMT Enterprises
C033-21 Cover Amend Rev 18Mar2021

Case No._____
Site review? Yes No

APPLICATION FOR SITE PLAN REVIEW
TOWN OF ELIOT PLANNING BOARD

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

Tax Map 37 Lot# 2-3 Lot Size 5.2 ac. Zoning District: C/I & Shoreland

Your Name BMT Enterprises Your mailing address P.O. Box 574 Eliot ME 03903

City/Town Eliot State: ME Zip: 03903 Telephone: 207.252.2295

Who owns the property now? BMT Enterprises

Address (Location) of the property 32 Brook Road

Property located in a flood zone? _____Yes __X__No
(If yes, please complete the attached Flood Hazard Development Application and return it with your completed application)

☑ **Step 2 (establish your legal interest in the property)**

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

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

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:

Grow Adult-Use Marijuana in Buildings 1 & 3 and have a marijuana extraction facility in Building 2.

Case No._____
Site review? Yes No

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

- ☑ All zoning districts
- ☑ The location of all existing and/or proposed buildings
- ☑ The setbacks of all existing and proposed structures or uses.
- ☑ The location of proposed signs, their size, and direction of illumination.
- ☑ The location of all existing and/or proposed entrances and exits.
- ☑ All existing and/or proposed parking areas (parking is permitted in the front, rear and side of the premises, so long as it does not violate setback requirements.)
- ☑ Plans of buildings, sewage disposal facilities, and location of water supply.

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

Applicant _____ Date 3/18/21

Property Owner _____ Date _____

☐ **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. MDEP

- ☐ 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).

FOR OFFICE USE ONLY:
PERMIT NO.: _____
ISSUE DATE: _____
FEE AMOUNT: _____

TOWN OF ELIOT
SHORELAND ZONING PERMIT APPLICATION

GENERAL INFORMATION

1. APPLICANT	2. APPLICANT'S ADDRESS	3. APPLICANT'S TEL. #
OBI Labs,LLC Oracle Industries LLC BMT Enterprises	28 / 32 Brook Road, Eliot, Maine 03903	207-439-8508 cell 207-252-2295
4. PROPERTY OWNER	5. OWNER'S ADDRESS	6. OWNER'S TEL. #
BMT Enterprises	10 Nordic Lane Rollingsford, NH 03869	207-252-2295
7. CONTRACTOR	8. CONTRACTOR'S ADDRESS	9. CONTRACTOR'S TEL. #
BMT Enterprises	28/32 Brook Road, Eliot, ME 03903	207-439-8508 cell 207-252-2295

10. LOCATION/ADDRESS OF PROPERTY	11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED	12. ZONING DISTRICT
28/32 Brook Road, Eliot, ME 03903	Map 37 Lot 2-3 Book 15809 / pg 646 created 7/28/1995	commercial / industrial

13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3).

Looking for a site plan change of use or amendment to grow adult use marijuana in two exisiting buildings 1 and 3 at 32 Brook Road. Put an adult use marijuana store in part of building 1. Refit the existing building 2 into an adult use marijuana products manufacturing facility.

All buildings are located on Map 37 Lot 2-3.

Building 1 was built in 2002
Building 2 was built in 2004
Builidng 3 was built in 2007

14. PROPOSED USE OF PROJECT 33190 / marijuana extablishment	15. ESTIMATED COST OF CONSTRUCTION

SHORELAND AND PROPERTY INFORMATION

16. LOT AREA (SQ. FT.) 232,174	17. FRONTAGE ON ROAD (FT.) 292.5 '
18. SQ. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES no more than currently existing	19. ELEVATION ABOVE 100 YR. FLOOD
20. FRONTAGE ON WATERBODY (FT.) see attached sketch / site plan	21. HEIGHT OF PROPOSED STRUCTURE No new structures proposed Three buildings currently exisitng
22. EXISTING USE OF PROPERTY	23. PROPOSED USE OF PROPERTY

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

Not needed

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

(% INCREASE = $\frac{B+C}{A}$ x 100) _____%	(%INCREASE = $\frac{B+C}{A}$ X 100) _____%

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

SITE PLAN

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

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

See Attached

Proposed 33190 within existing buildings

SCALE: ____ = ____ FT.

FRONT OR REAR ELEVATION

SIDE ELEVATION

See sketch / site plan

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

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

---- PLANNING BOARD REVIEWAPPROVAL
(e.g. Subdivision, Site Plan Review)

---- BOARD OF APPEALS REVIEWAPPROVAL

---- FLOOD HAZARD DEVELOPMENT PERMIT

---- EXTERIOR PLUMBING PERMIT
(Approved HHE 200 Application Form)

---- INTERIOR PLUMBING PERMIT

---- DEP PERMIT (Site Location,
Natural Resources Protection Act)

---- ARMY CORPS OF ENGINEERS PERMIT
(e.g. Sec. 404 of Clean Waters Act)

OTHERS:

---- _____

---- _____

---- _____

---- _____

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

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

RT — 3/18/21

APPLICANT'S SIGNATURE — DATE

AGENT'S SIGNATURE (if applicable) — DATE

APPROVAL OR DENIAL OF APPLICATION _____ MAP ____ LOT #

(For Office Use Only)

THIS APPLICATION IS: _____APPROVED _____DENIED

IF DENIED, REASON FOR DENIAL:

_____

_____

_____

_____

IF APPROVED, THE FOLLOWING CONDITIONS ARE PRESCRIBED:

_____

_____

_____

_____

_____

NOTE: IN APPROVING A SHORELAND ZONING PERMIT, THE PROPOSED USE SHALL COMPLY WITH THE PURPOSES AND REQUIREMENTS OF THE SHORELAND ZONING ORDINANCE FOR THE TOWN OF ELIOT.

_____ _____

CODE ENFORCEMENT OFFICER DATE

☒

NOTE: THIS CHECKLIST IS INTENDED TO ASSIST THE CEO IN TRACKING A SHORELAND ZONING PERMIT THROUGH THE REVIEW PROCESS

SHORELAND ZONING PERMIT CHECKLIST

CHECKOFF FOR ALL STRUCTURES:

---- COMPLETE SHORELAND ZONING PERMIT APPLICATION

---- PAY APPROPRIATE FEE

---- LOT AREA

---- % OF LOT COVERED BY NON-VEGETATED SURFACES

---- HEIGHT OF STRUCTURE

---- SETBACK FROM HIGH WATER LINE

---- ELEVATION SETBACK FROM SIDE AND REAR LOT LINES

---- % INCREASE OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK

---- COPY OF INTERIOR AND EXTERIOR PLUMBING PERMITS

---- COPY OF DEED

---- ELEVATION OF LOWEST FLOOR TO 100 YEAR FLOOD ELEVATION

---- COPY OF ADDITIONAL PERMIT(S) AS REQUIRED
(See Page 5 of Application Form)

---- SOIL EROSION CONTROL PLAN PROVIDED

CHECKOFF FOR FURTHER REVIEW:

---- COPY OF FILE TO BOARD OF APPEALS IF VARIANCE OR SPECIAL EXCEPTION IS REQUIRED

---- COPY OF FILE TO PLANNING BOARD IF PLANNING BOARD REVIEW IS REQUIRED

CHECK OFF FOR SITE VISITS BY CEO:

---- PRIOR TO CLEARING AND EXCAVATION

---- PRIOR TO FOUNDATION POUR

---- PRIOR TO FINAL LANDSCAPING

---- PRIOR TO OCCUPANCY

NOTE: WHERE THE SHORELAND ZONING ORDINANCE REQUIRES A VARIANCE, A CONDITIONAL USE, OR SPECIAL EXCEPTION BY THE BOARD OF APPEALS OR THE PLANNING BOARD, THEN THIS SPECIAL PERMIT SHALL BE COMPLETED BY THE APPROPRIATE BOARD AND ATTACHED TO THE SHORELAND PERMIT APPLICATION.

100 foot Abutters List Report

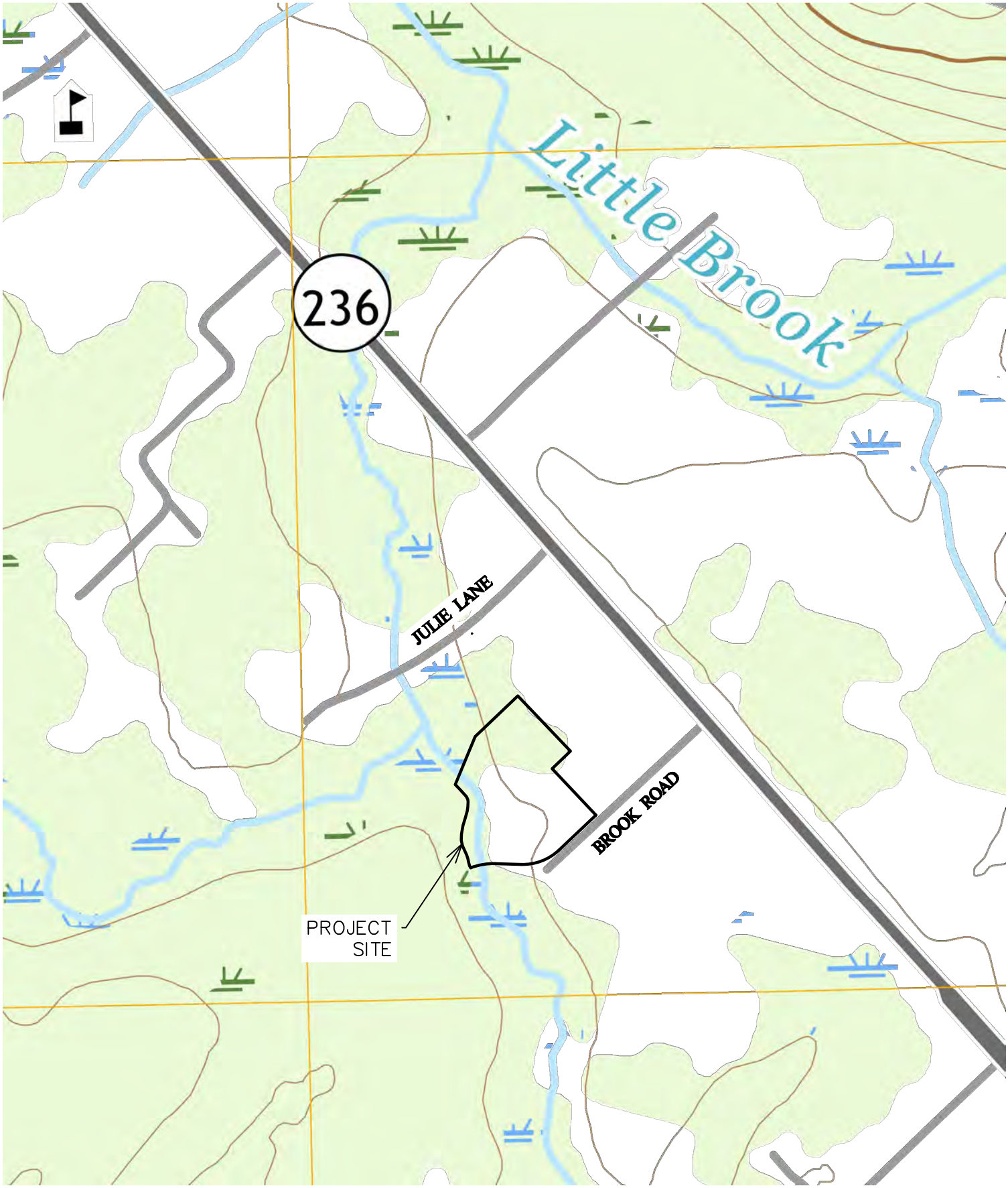
Eliot, ME
March 17, 2021

Subject Property:

Parcel Number:	037-002-003	Mailing Address:	BMT ENTERPRISES
CAMA Number:	037-002-003		10 NORDIC LN
Property Address:	28 BROOK DR		ROLLINSFORD, NH 03869

Abutters:

Parcel Number:	036-009-005	Mailing Address:	JULIE LANE LLC
CAMA Number:	036-009-005		113 GOVERNMENT ST
Property Address:	61 JULIE LN		KITTERY, ME 03904
Parcel Number:	036-009-006	Mailing Address:	BMT ENTERPRISES
CAMA Number:	036-009-006		10 NORDIC LN
Property Address:	38 JULIE LN		ROLLINSFORD, NH 03869
Parcel Number:	037-001-000	Mailing Address:	CHURCHILL, EVAN A/ROSALIE B
CAMA Number:	037-001-000		REVOCABLE TR EVAN A AND ROSALIE
Property Address:	265 HAROLD L DOW HWY		B CHURCHILL TRUSTEES
			1288 STATE RD
			ELIOT, ME 03903
Parcel Number:	037-002-001	Mailing Address:	PAOLUCCI REALTY TRUST PETER J &
CAMA Number:	037-002-001		CARMEN S PAUL TRUSTEES
Property Address:	291 HAROLD L DOW HWY		291 HAROLD L DOW HWY
			ELIOT, ME 03903
Parcel Number:	037-002-002	Mailing Address:	MORIARTY, MARIE
CAMA Number:	037-002-002		23 LANDING DR
Property Address:	4 BROOK DR		METHUEN, MA 01844-5825
Parcel Number:	037-002-004	Mailing Address:	GORANSSON, PAUL GORANSSON,
CAMA Number:	037-002-004		HLEN
Property Address:	BROOK DR		255 DEPOT RD
			ELIOT, ME 03903
Parcel Number:	037-003-001	Mailing Address:	NATURAL ROCKS SPRING WATER ICE
CAMA Number:	037-003-001		CO INC
Property Address:	299 HAROLD L DOW HWY		299 HAROLD L DOW HWY
			ELIOT, ME 03903



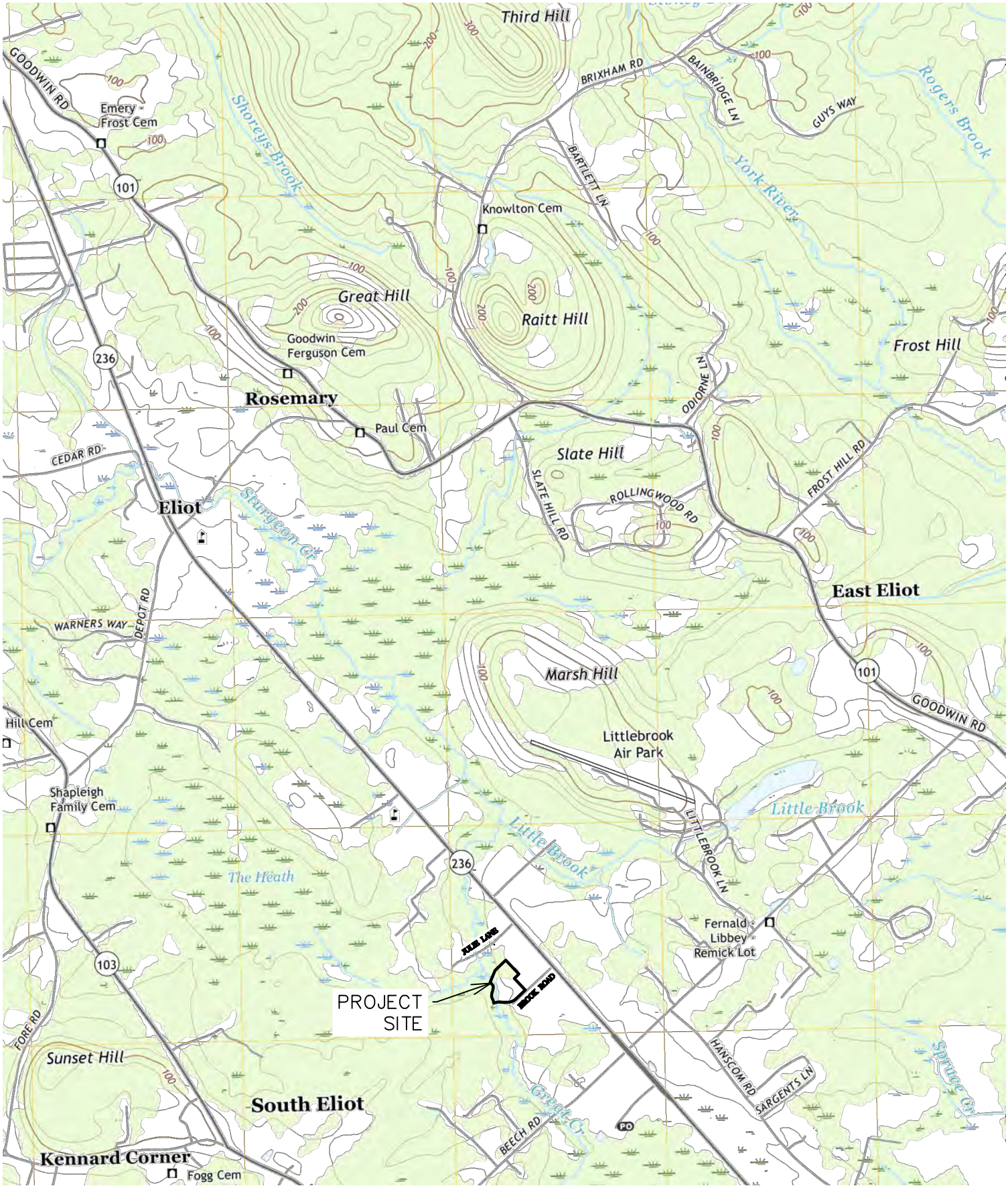
ATTAR ENGINEERING, INC.
CIVIL ◆ STRUCTURAL ◆ MARINE ◆ SURVEYING
1284 STATE ROAD – ELIOT, MAINE 03903
PHONE: (207)439–6023 FAX: (207)439–2128

SCALE: 1" = 500'	APPROVED BY:	DRAWN BY: MJS
DATE: 02/26/21		REVISION DATE: – : –
JOB NO: C033–21	FILE: BROOK ROAD USGS.DWG	SHEET: 1

LOCATION:
OBI LAB / NORTHEAST GOLD
BROOK ROAD, ELIOT, MAINE
TAX MAP 37, LOT 2–3

INFORMATION:
USGS LOCATION MAP
7.5–MINUTE SERIES
DOVER EAST QUADRANGLE

BMT ENTERPRISES
P.O. BOX 574
ELIOT, MAINE 03903



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

SCALE: 1" = 2000'	APPROVED BY:	DRAWN BY: MJS
DATE: 02/26/21		REVISION DATE: – : –
JOB NO: C033–21	FILE: BROOK ROAD USGS.DWG	SHEET: 2

LOCATION:
OBI LAB / NORTHEAST GOLD
BROOK ROAD, ELIOT, MAINE
TAX MAP 37, LOT 2–3

INFORMATION:
USGS LOCATION MAP
7.5–MINUTE SERIES
DOVER EAST QUADRANGLE

BMT ENTERPRISES
P.O. BOX 574
ELIOT, MAINE 03903

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering
(207) 287-5672 FAX (207) 287-4172

PROPERTY LOCATION

Town or Plantation	ELIOT
Street Subdivision Lot *	LOT 3 BROOK ROAD LIBBEY SUBDIVISION

PROPERTY OWNER'S NAME

Last:	First:
Applicant's Name	ISLAND SEAFOOD
Mailing Address of Owner	
Daytime Tel. *	

Caution: Permit Required

The Subsurface Wastewater Disposal System shall not be installed until a Permit is attached here by the Local Plumbing Inspector. The Permit shall authorize the owner or installer to install the disposal system in accordance with this application and the Maine Subsurface Wastewater Disposal Rules.

Municipal Tax Map * _____ Lot * _____

Owner Statement

I state that the information submitted is correct to the best of my knowledge and understand that any falsification is reason for the Department and/or Local Plumbing Inspector to deny a permit

Signature of Owner/Applicant _____ Date _____

Caution: Inspection Required

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

Local Plumbing Inspector Signature _____ Date Approved _____

PERMIT INFORMATION

TYPE OF APPLICATION:

1. ☐ First Time System
2. ☐ Replacement System
   Type Replaced _____
   Year Installed _____
3. ☒ Expanded System
   ☒ a. one time exempted
   ☐ b. non exempted
4. ☐ Experimental System
5. ☐ Seasonal Conversion

THIS APPLICATION REQUIRES:

1. ☒ No Rule Variance
2. ☐ First Time System Variance
   ☐ a. Local Plumbing Inspector approval
   ☐ b. State & Local Plumbing Inspector approval
3. ☐ Replacement System Variance
   ☐ a. Local Plumbing Inspector approval
   ☐ b. State & Local Plumbing Inspector approval
4. ☐ Minimum Lot Size Variance
5. ☐ Seasonal Conversion Approval

DISPOSAL SYSTEM COMPONENT(S)

1. ☒ Non-Engineered System
2. ☐ Primitive System(graywater & alt toilet)
3. ☐ Alternative Toilet _____
4. ☐ Non-Engineered Treatment Tank
5. ☐ Holding Tank _____ Gallons
6. ☐ Non-Engineered Disposal Area (only)
7. ☐ Separated Laundry System
8. ☐ Engineered System (+2000 gpd)
9. ☐ Engineered Treatment Tank (only)
10. ☐ Engineered Disposal Area (only)
11. ☐ Pretreatment

SIZE OF PROPERTY

5.35

SHORELAND ZONING

☐ Yes ☒ No

DISPOSAL SYSTEM TO SERVE:

1. ☐ Single Family Dwelling Unit
2. ☐ Multiple Family Dwelling: Number of Units _____
3. ☒ Other BUSINESS

TYPE OF WATER SUPPLY

ONSITE WELL

DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)

TREATMENT TANK

1. ☒ Concrete
   ☐ a. Regular
   ☐ b. Low Profile
2. ☐ Plastic
3. ☐ Other _____

SIZE 1000 Gallons

DISPOSAL AREA TYPE / SIZE

1. ☒ Bed 840 Sq. Ft.
2. ☐ Proprietary Device _____ Sq. Ft.
   ☐ Cluster ☐ Linear
   ☐ Regular ☐ H-20
3. ☐ Trench
4. ☐ Other _____

GARBAGE DISPOSAL UNIT

1. ☒ No
2. ☐ Yes
   ☐ Multi-compartment tank
   ☐ Tank in series
   ☐ Increase in tank capacity
   ☐ Filter on tank outlet

CRITERIA USED FOR DESIGN FLOW (Show Calculations)

PLACE OF EMPLOYMENT
13 EMPLOYEES @ 15 GPD
3 EMPLOYEES @ 20 GPD
TOTAL = 255 GPD
255 x 3.3 = 841 SQ. FT. REQUIRED
20' x 42' BED = 840 SQ. FT. PROVIDED

DESIGN FLOW: 255 (Gallons/Day)

PROFILE & DESIGN CLASS

PROFILE	DESIGN
3	C

DEPTH TO MOST LIMITING FACTOR 24"

DISPOSAL AREA SIZING

1. ☐ Small - 2.00
2. ☐ Medium - 2.60
3. ☒ Medium-Large - 3.30
4. ☐ Large - 4.10
5. ☐ Extra-Large - 5.20

PUMPING

1. ☐ Not required
2. ☐ May be required
3. ☒ Required

DOSE 50 Gallons

SITE EVALUATOR'S STATEMENT

On 6/15/07 (date) I completed a site evaluation on this property and state that the data reported is accurate and that the proposed sytem is in compliance with the Subsurface Wastewater Disposal Rules.

Kenneth D. Markley Site Evaluator Signature	S-244 SE *	6/15/07 Date
KENNETH D. MARKLEY Site Evaluator Name Printed	207-439-6333 Telephone	

STATE OF MAINE ★ KENNETH D. MARKLEY #244 LICENSED SITE EVALUATOR

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering
(207) 287-5672 FAX (207) 287-4172

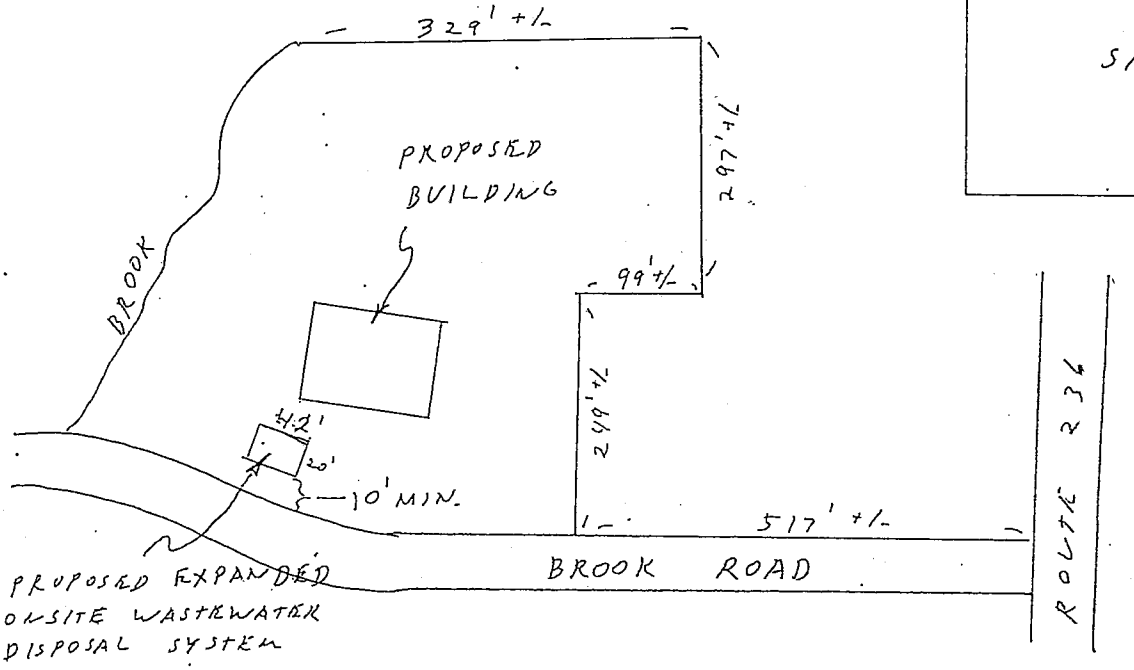
Town, City, Plantation: ELIOT

Street, Road Subdivision: LOT 3 LIBBEY SUBD. OFF RTE 236

Owner's Name: ISLAND SEAFOOD

SITE PLAN

Scale 1" = N/A Ft. or as shown



SITE LOCATION PLAN

(Map from Maine Atlas recommended)

SEE ATTACHED SHEET

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

Observation Hole A ☒ Test Pit ☐ Boring

2 " Depth of Organic Horizon Above Mineral Soil

Depth below mineral soil surface (inches)	Texture	Consistency	Color	Mottling
0	SILTY	FRIABLE	DARK BROWN	
10	FINE		YELLOW	NONE
20	SANDY		LIGHT	COMMON
30	LOAM	FIRM	YELLOWISH	DISTINCT
40			BROWN	
50				

Soil Classification	Slope	Limiting Factor	
3 Profile / C Condition	8 %	24"	☒ Ground Water ☐ Restrictive Layer ☐ Bedrock ☐ Pit Depth

Observation Hole 4 ☒ Test Pit ☐ Boring

2 " Depth of Organic Horizon Above Mineral Soil

Depth below mineral soil surface (inches)	Texture	Consistency	Color	Mottling
0	SILTY	FRIABLE	DARK BROWN	
10	FINE		YELLOW	
20	SANDY		LIGHT YELLOWISH	COMMON DISTINCT
30	LOAM	FIRM	BROWN	
40				
50				

Soil Classification	Slope	Limiting Factor	
3 Profile / C Condition	8 %	20"	☒ Ground Water ☐ Restrictive Layer ☐ Bedrock ☐ Pit Depth

Kenneth D. Mallo
Site Evaluator Signature

S-244
SE #

6/15/07
Date

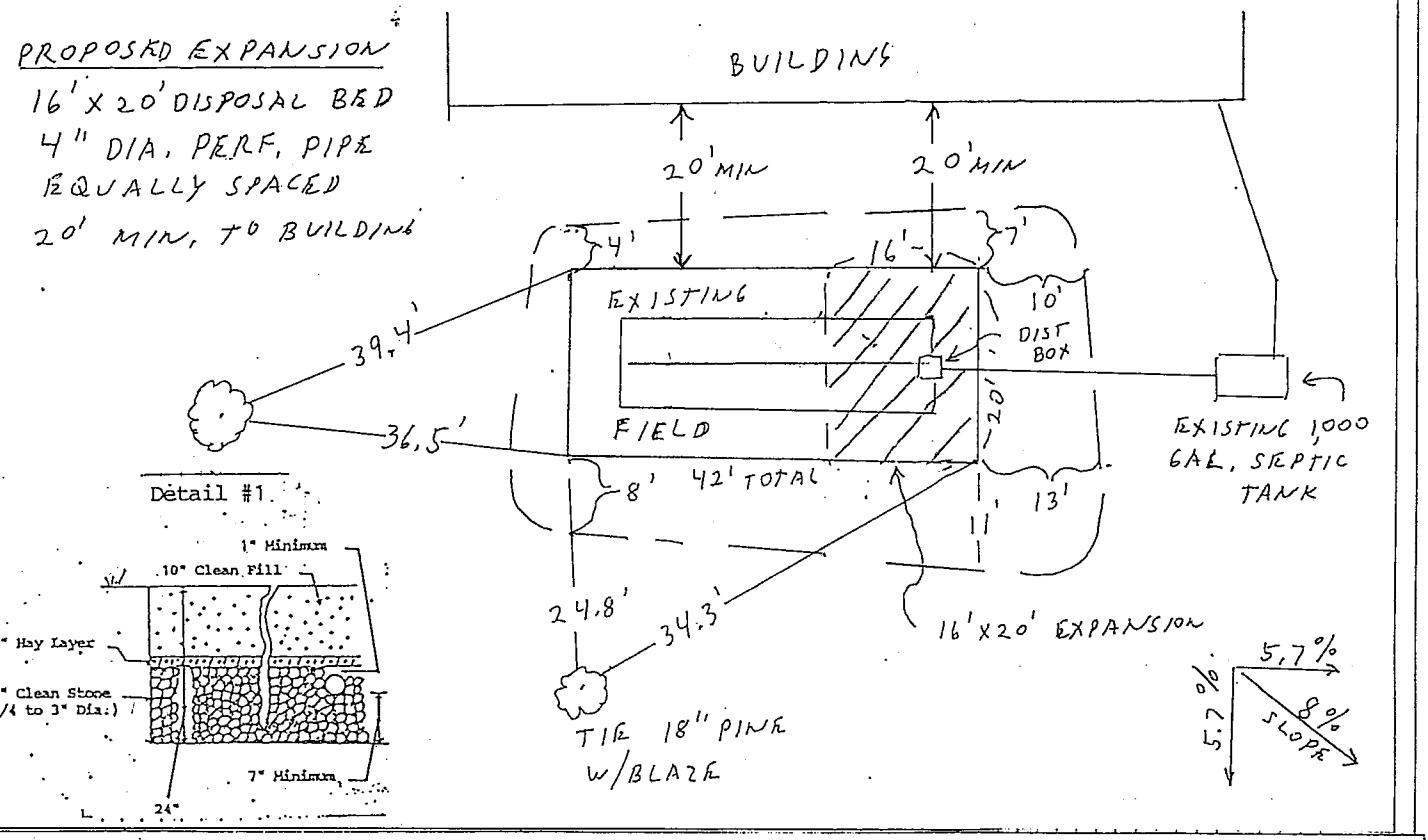
SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Human Services
Division of Health Engineering
(207) 287-5672 FAX (207) 287-4172

Town, City, Plantation	Street, Road, Subdivision	Owner's Name
ELIOT	LOT 3 LIBBEY SUB'D. BROOK ROAD	ISLAND SEAFOOD

SUBSURFACE WASTEWATER DISPOSAL PLAN

SCALE 1" = ____ FT.

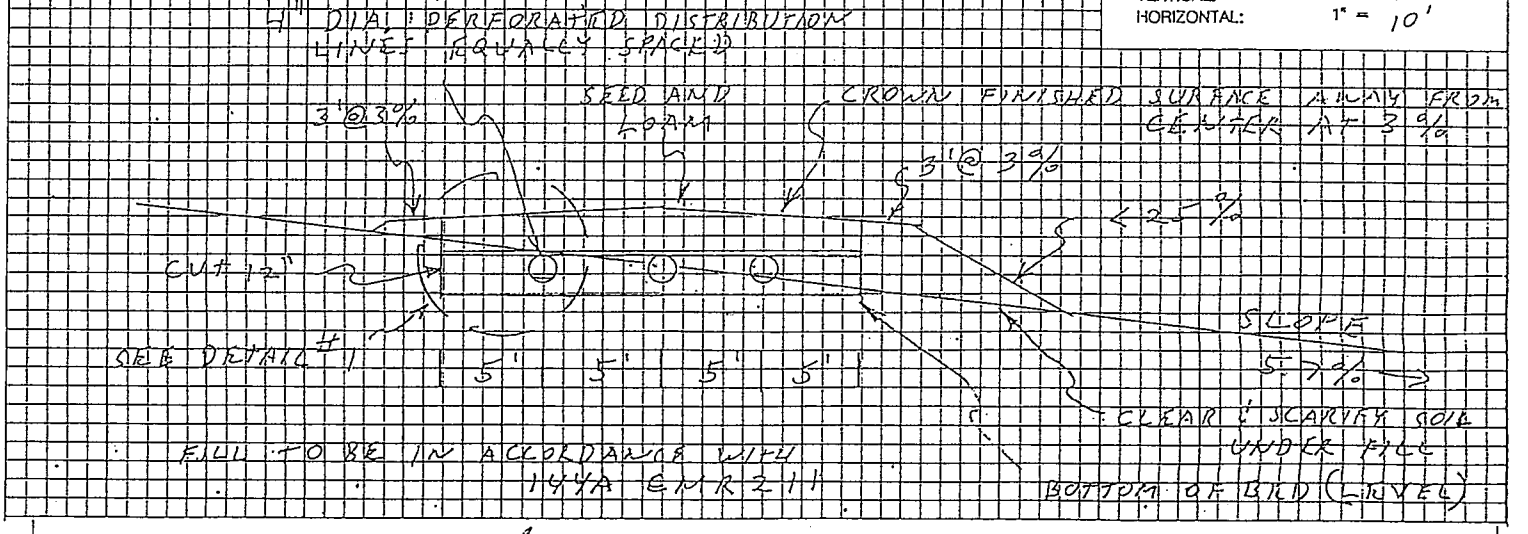


Detail #1.

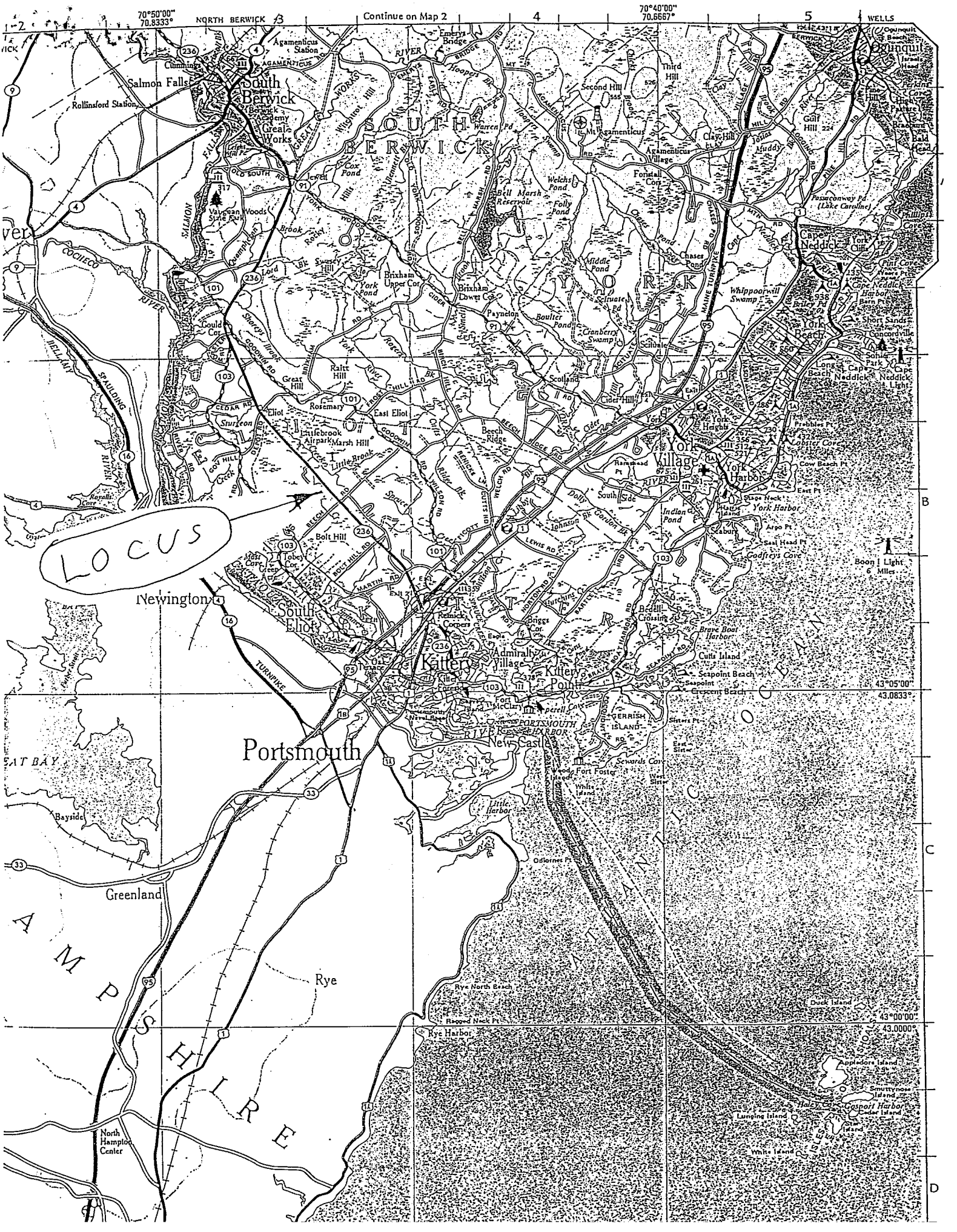
FILL REQUIREMENTS		CONSTRUCTION ELEVATIONS		ELEVATION REFERENCE POINT
Depth of Fill (Upslope)	12"	Finished Grade Elevation	-20"	Location & Description NAIL IN 30" OAK 12" ABOVE GROUND
Depth of Fill (Downslope)	24"	Top of Distribution Pipe or Proprietary Device	-33"	
		Bottom of Disposal Area	-44"	Reference Elevation 00"

DISPOSAL AREA CROSS SECTION

SCALE:
VERTICAL: 1" = 5'
HORIZONTAL: 1" = 10'



Kenneth D. Markley — Site Evaluator Signature
S244 — SE #
6/15/07 — Date



70°50'00"
70.8333°
NORTH BERWICK
Continue on Map 2
70°40'00"
70.6667°
WELLS
Salmon Falls
South Berwick
Rollinsford Station
Agamenticus Station
Emerys Bridge
Ogunquit
Second Hill
Third Hill
Mt Agamenticus
Agamenticus Village
Clay Hill
Gulf Hill
Cape Neddick
York Beach
Short Sands
Concordville
Long Beach
Cape Neddick Light
Whippoorwill Swamp
Cranberry Swamp
Scituate
Scotland
Cider Hill
York Village
York Harbor
Indian Pond
Seabury
Godfreys Cove
Boon I Light
6 Miles
Brave Boat Harbor
Cutts Island
Seapoint Beach
Crescent Beach
Kittery
Kittery Point
Admiralty Village
Fort McClary
Portsmouth Harbor
New Castle
Fort Foster
Sewards Cove
Little Harbor
Odiornes Pt
Newington
South Eliot
Bolt Hill
Tobey Cor
Portsmouth
Bayside
Greenland
Rye
Rye North Beach
Ragged Neck Pt
Rye Harbor
North Hampton Center
Appledore Island
Smuttynose Island
Gosport Harbor
Cedar Island
Lunging Island
White Island
Duck Island
43°05'00"
43.0833°
43°00'00"
43.0000°
LOCUS
SOUTH BERWICK
YORK
ATLANTIC OCEAN
AMPSHIRE
TURNPIKE
COCHECO RIVER
SPAULDING

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Dept Health & Human Services
Div of Environmental Health, 11 SHS
(207) 287-5672 Fax: (207) 287-4172

PROPERTY LOCATION

City, Town, or Plantation: Eliot
Street or Road: 32 Brook Rd
Subdivision, Lot #: Island Seafood.

OWNER/APPLICANT INFORMATION

Name (last, first, MI): Townsend Randy ☑ Owner ☐ Applicant
Mailing Address of Owner/Applicant: P.O. Box 574
Eliot, ME 03903
Daytime Tel. #:

>> CAUTION: LPI APPROVAL REQUIRED <<

Town/City: Eliot Permit #: 19-052
Date Permit Issued: 8/5/19 Fee: $150.- Double Fee Charged [ ]
Local Plumbing Inspector Signature: Shelly Bishop L.P.I. #: 1837
☐ Owner ☐ Town ☐ State

The Subsurface Wastewater Disposal System shall not be installed until a Permit is issued by the Local Plumbing Inspector. The Permit shall authorize the owner or installer to install the disposal system in accordance with this application and the Maine Subsurface Wastewater Disposal Rules.

Municipal Tax Map # 37 Lot # 2-3

OWNER OR APPLICANT STATEMENT

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

Signature of Owner or Applicant: [signature] Date: 7/8

CAUTION: INSPECTION REQUIRED

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

Local Plumbing Inspector Signature: _____ (1st) date approved: _____ (2nd) date approved: _____

PERMIT INFORMATION

TYPE OF APPLICATION

☐ 1. First Time System
☑ 2. Replacement System
Type replaced: Bed
Year installed: 2001
☐ 3. Expanded System
☐ a. <25% Expansion
☐ b. ≥25% Expansion
☐ 4. Experimental System
☐ 5. Seasonal Conversion

THIS APPLICATION REQUIRES

☑ 1. No Rule Variance
☐ 2. First Time System Variance
☐ a. Local Plumbing Inspector Approval
☐ b. State & Local Plumbing Inspector Approval
☐ 3. Replacement System Variance
☐ a. Local Plumbing Inspector Approval
☐ b. State & Local Plumbing Inspector Approval
☐ 4. Minimum Lot Size Variance
☐ 5. Seasonal Conversion Permit

DISPOSAL SYSTEM COMPONENTS

☐ 1. Complete Non-engineered System
☐ 2. Primitive System (graywater & alt. toilet)
☐ 3. Alternative Toilet, specify: _____
☐ 4. Non-engineered Treatment Tank (only)
☐ 5. Holding Tank, _____ gallons
☑ 6. Non-engineered Disposal Field (only)
☐ 7. Separated Laundry System
☐ 8. Complete Engineered System (2000 gpd or more)
☐ 9. Engineered Treatment Tank (only)
☐ 10. Engineered Disposal Field (only)
☐ 11. Pre-treatment, specify: _____
☐ 12. Miscellaneous Components

SIZE OF PROPERTY

≈2 ☐ SQ. FT. ☑ ACRES

SHORELAND ZONING

☐ Yes ☑ No

DISPOSAL SYSTEM TO SERVE

☐ 1. Single Family Dwelling Unit, No. of Bedrooms: ____
☐ 2. Multiple Family Dwelling, No. of Units: ____
☑ 3. Other: Employees - Picking area (specify)
Current Use ☐ Seasonal ☑ Year Round ☐ Undeveloped

TYPE OF WATER SUPPLY

☑ 1. Drilled Well ☐ 2. Dug Well ☐ 3. Private
☐ 4. Public ☐ 5. Other

DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)

TREATMENT TANK

☑ 1. Concrete
☑ a. Regular
☐ b. Low Profile
☐ 2. Plastic
☐ 3. Other: Existing
CAPACITY: 1500 GAL.
Insure water tight

DISPOSAL FIELD TYPE & SIZE

☐ 1. Stone Bed ☐ 2. Stone Trench
☑ 3. Proprietary Device Concrete Chambers
☑ a. cluster array ☐ c. Linear
☐ b. regular load ☑ d. H-20 load
☐ 4. Other: _____
SIZE: 768 ☑ sq. ft. ☐ lin. ft.

GARBAGE DISPOSAL UNIT

☑ 1. No ☐ 2. Yes ☐ 3. Maybe
If Yes or Maybe, specify one below:
☐ a. multi-compartment tank
☐ b. ___ tanks in series
☐ c. increase in tank capacity
☐ d. Filter on Tank Outlet

DESIGN FLOW

460 gallons per day
BASED ON:
☐ 1. Table 4A (dwelling unit(s))
☐ 2. Table 4C(other facilities)
SHOW CALCULATIONS for other facilites
30 Employees @ 12 gpd = 360
Washdown - 100 gpd
460 gpd
☐ 3. Section 4G (meter readings)
ATTACH WATER METER DATA

SOIL DATA & DESIGN CLASS

PROFILE CONDITION 3" Fill over
3 / C
at Observation Hole # 1
Depth 30 "
of Most Limiting Soil Factor

DISPOSAL FIELD SIZING

☐ 1. Medium—2.6 sq. ft. / gpd
☑ 2. Medium—Large 3.3 sq. f.t / gpd
☐ 3. Large—4.1 sq. ft. / gpd
☐ 4. Extra Large—5.0 sq. ft. / gpd

EFFLUENT/EJECTOR PUMP

☐ 1. Not Required
☐ 2. May Be Required
☑ 3. Required - Existing
Specify only for engineered systems:
DOSE: _____ gallons

LATITUDE AND LONGITUDE

at center of disposal area
Lat. 43 d 8 m 0 s
Lon. 70 d 46 m 48 s
if g.p.s, state margin of error: ± 20 FT.

SITE EVALUATOR STATEMENT

I certify that on 6-27-19 (date) I completed a site evaluation on this property and state that the data reported are accurate and that the proposed system is in compliance with the State of Maine Subsurface Wastewater Disposal Rules (10-144A CMR 241).

Site Evaluator Signature: [signature] SE #: 73 Date: 7-1-19

Site Evaluator Name Printed: Kenneth Gardner Telephone Number: 207-637-2260 E-mail Address:

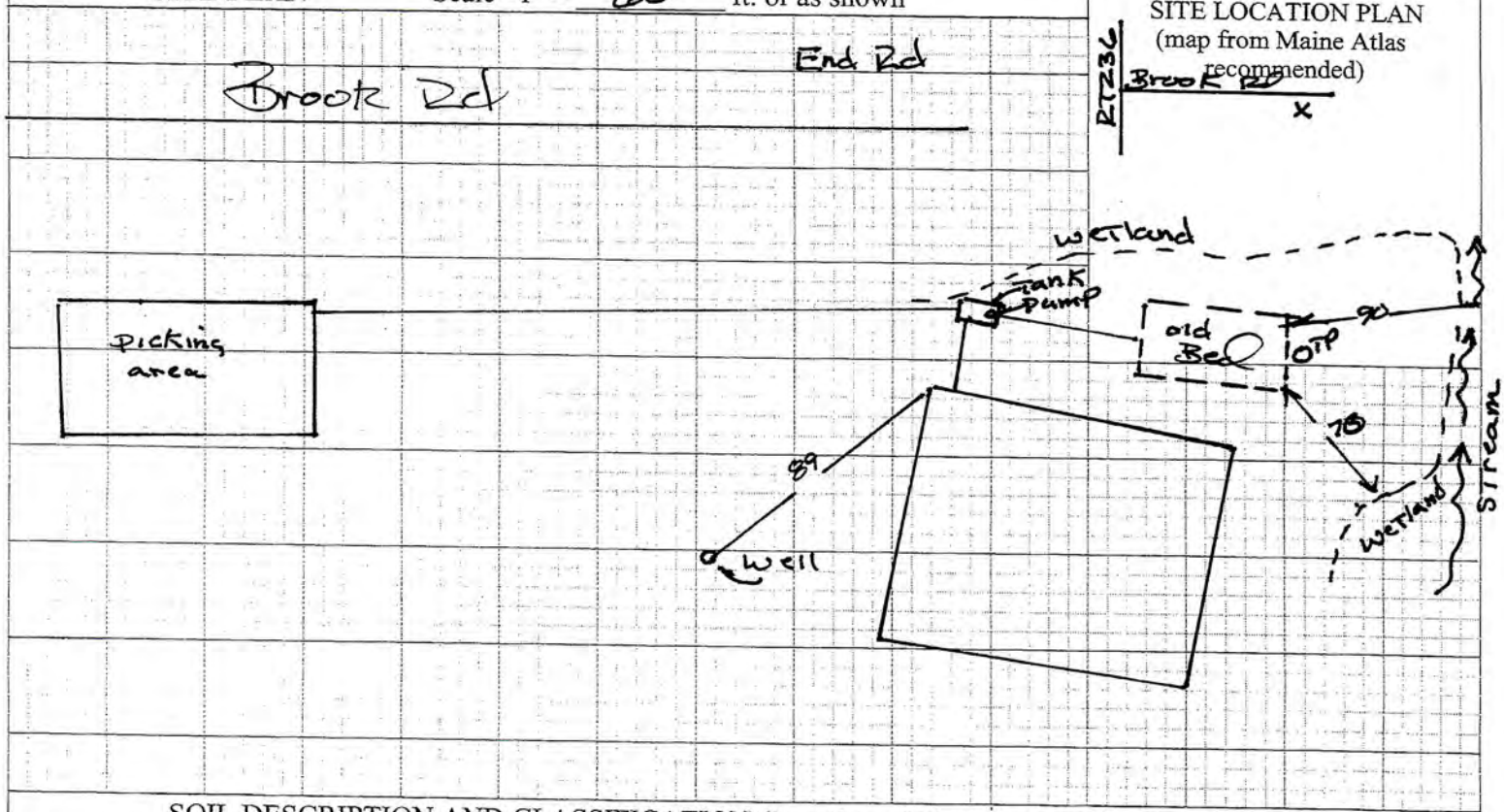
Note : Changes to or deviations from the design should be confirmed with the Site Evaluator.

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Department of Health & Human Services
Division of Environmental Health
(207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation	Street, Road, Subdivision	Owner's Name
Eliot	32 Brook Rd	Randy Townsend

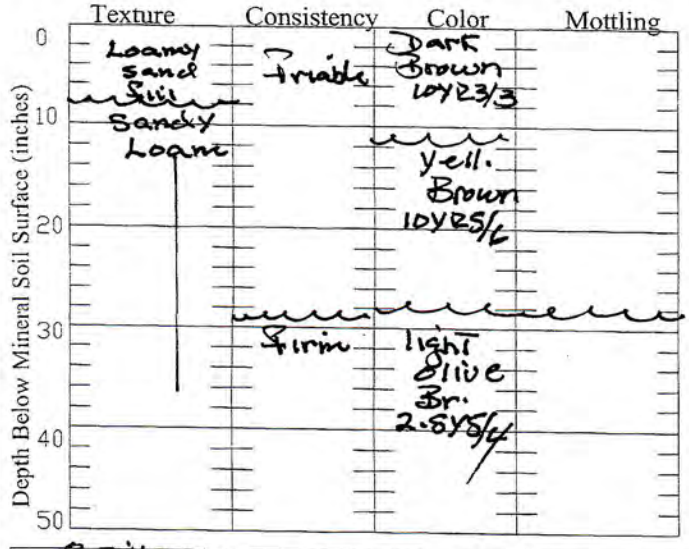
SITE PLAN Scale 1" = 60' ft. or as shown



SITE LOCATION PLAN
(map from Maine Atlas recommended)

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

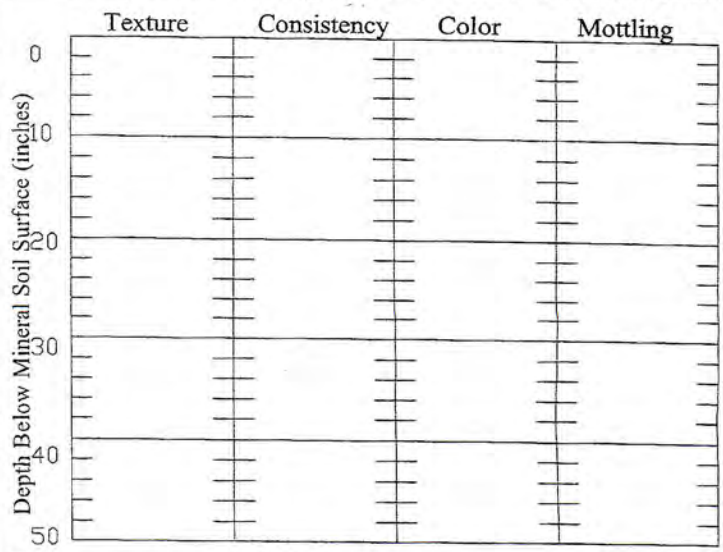
Observation Hole 1 ☑ Test Pit ☐ Boring
0 " Depth of Organic Horizon Above Mineral Soil



8 Fill out

Soil Classification	Slope	Limiting Factor	
3 C (Profile / Condition)	2-5%	30 "	[4] Ground Water [ ] Restrictive Layer [ ] Bedrock [ ] Pit Depth

Observation Hole _____ ☐ Test Pit ☐ Boring
_____ " Depth of Organic Horizon Above Mineral Soil



Soil Classification	Slope	Limiting Factor	
_____ _____ (Profile / Condition)	_____ %	_____ "	[ ] Ground Water [ ] Restrictive Layer [ ] Bedrock [ ] Pit Depth

Kimball A. Gardner 23 7-1-19

SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

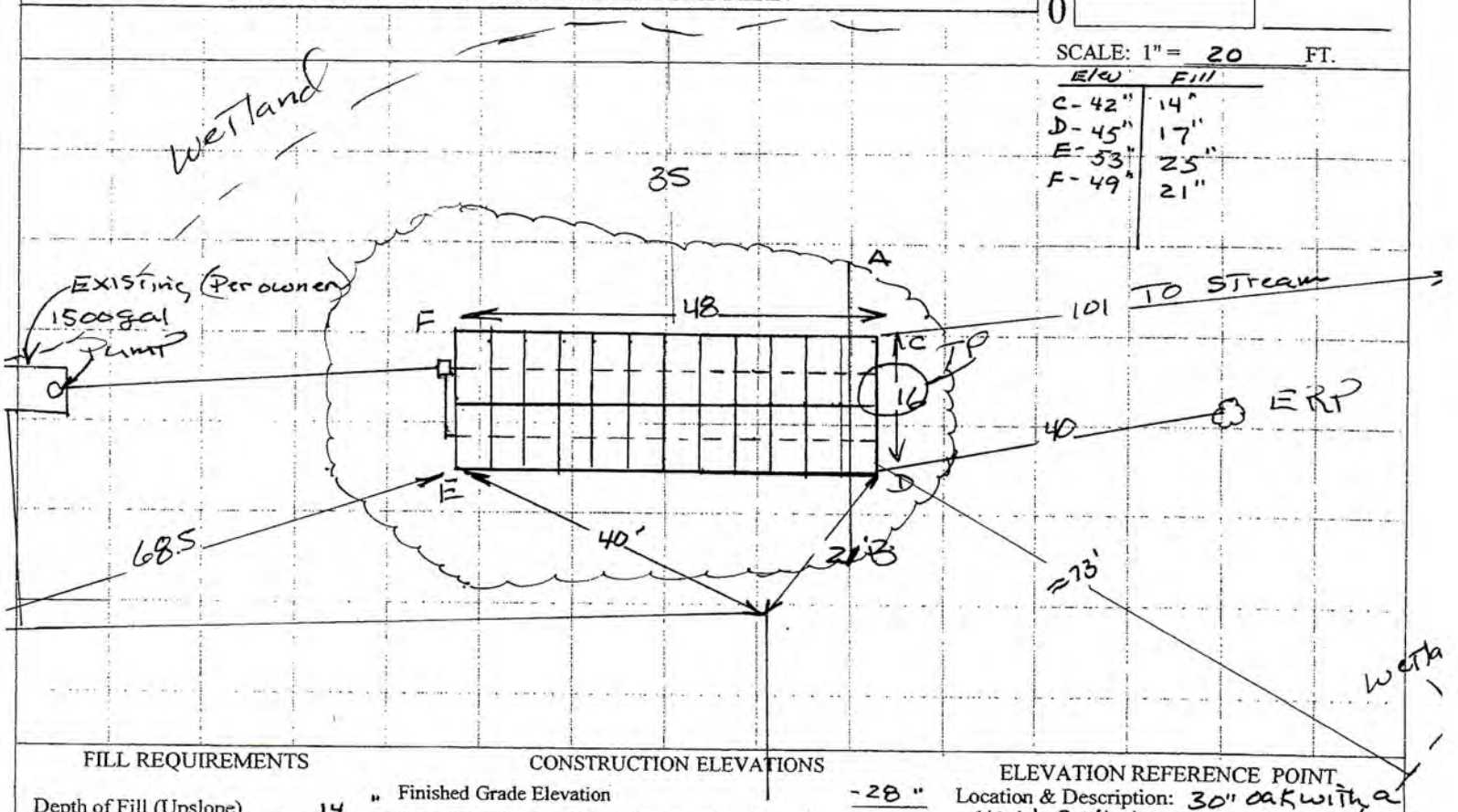
Department of Health & Human Services
Division of Environmental Health
(207) 287-5672 Fax: (207) 287-3165

Town, City, Plantation	Street, Road, Subdivision	Owner's Name
Eliot	3 Brook Rd	Randy Townsend

SUBSURFACE WASTEWATER DISPOSAL PLAN

SCALE: 1" = 20 FT.

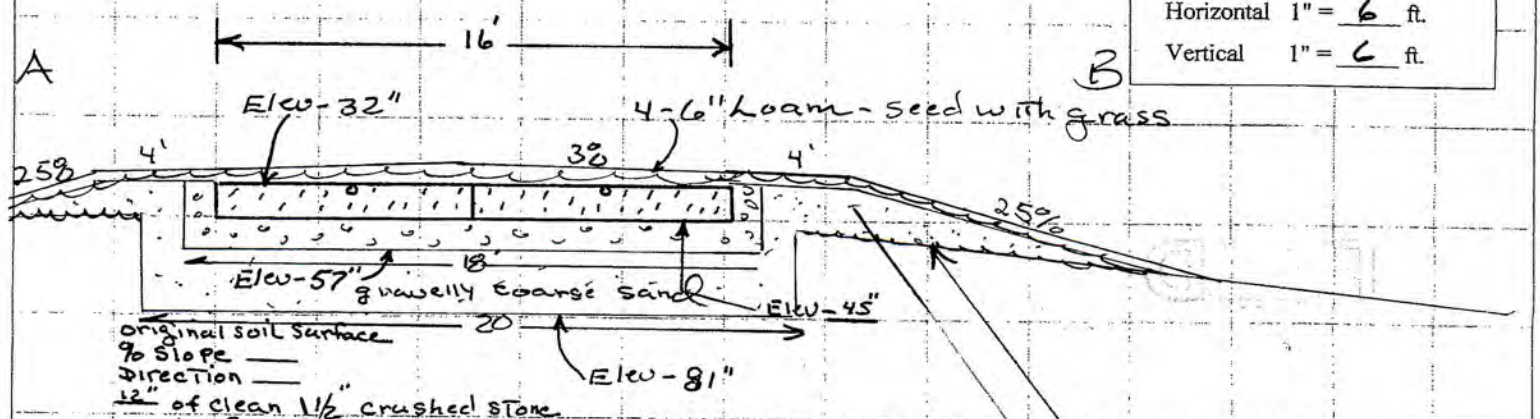
Elev	Fill
C - 42"	14"
D - 45"	17"
E - 53"	25"
F - 49"	21"



FILL REQUIREMENTS		CONSTRUCTION ELEVATIONS		ELEVATION REFERENCE POINT
Depth of Fill (Upslope)	14 "	Finished Grade Elevation	-28 "	Location & Description: 30" oak with a nail 30" above the ground at
		Top of Distribution Pipe or Proprietary Device	-32 "	
Depth of Fill (Downslope)	17 "	Bottom of Disposal Area	-57 "	Reference Elevation: Elev 0"

DISPOSAL AREA CROSS SECTION

Scale
Horizontal 1" = 6 ft.
Vertical 1" = 6 ft.



① Place diversion ditch uphill of system as needed.
② When fill is required remove vegetation and scarify the surface
③ Mix fill with original soil to a depth of 6" - Transitional Horizon
④ Fill shall be gravelly coarse sand, 4-8% passing a # 200 sieve
⑤ Install per the Rules.
⑥ Insulate D. Box and Pipe from the Tank.

Kenneth Gruder — 73 — 7-1-19

Site Evaluator Signature — SE # — Date

ATTAR ENGINEERING, INC.
CIVIL * STRUCTURAL * MARINE

3 BRANNEN LANE
ELIOT, MAINE 03903
(207) 439-6023
FAX 439-2128

TRANSMITTAL

Town of Eliot, Maine
141 State Road
Eliot, Maine 03903

January 23, 2002
Project No.: C047-02

Attn: Carol LaBella, Town Planner,
Tony Manero, Chairman, Planning Board
and all Board Members

Re.: Island Seafood
Dow Highway, Route 236
Eliot, Maine

Dear Ms. LaBella, Chairman Manero and all Board Members:

At the January 15, 2002 Planning Board meeting the Board approved the referenced project.

One Condition of Approval required the applicant to obtain a Permit by Rule (PBR) from the Maine DEP under the Natural Resources Protection Act (NRPA). The Board felt that the permit was required for soil disturbance adjacent to a freshwater wetland. I responded that the permit was not required and that the Condition should be to obtain a permit, if required.

A NRPA PBR is not required for this project. The February 14, 2000 revision of the NRPA PBR standards only requires a permit when working adjacent to a freshwater wetland containing at least 20,000 Sq.Ft. of aquatic vegetation, emergent marsh vegetation or open water. The subject wetland is a forested wetland. I have enclosed a letter from Dawn Hallowell, of the Maine DEP and a copy of the February 14, 2000 rules for your review. Accordingly, please remove the Condition requiring the permit from your approval.

Thank you for your consideration. Please contact me if any additional information or clarifications are required.

Sincerely;

Kenneth A. Wood, P.E.
President

cc: Island Seafood, Randy Townsend

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.
GOVERNOR

MARTHA KIRKPATRICK
COMMISSIONER

January 17, 2002

Ken Wood
Attar Engineering, Inc.
3 Brannen Lane
Eliot ME 03903

RE: soil disturbance adjacent to freshwater wetlands

Dear Ken:

This letter serves to follow-up our telephone conversation of earlier today. The applicability section of Section 2, Permit by Rule (PBR), last revised February 14, 2000, describes when a PBR must be filed when disturbing soil adjacent to freshwater wetlands. A PBR is only required when working adjacent to freshwater wetlands that contain: (1) under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments or (2) peatlands dominated by shrubs, sedges and sphagnum moss. If the soil disturbance activity is taking place adjacent to any other type of freshwater wetland than no permits are required.

I am enclosing a copy of the latest PBR Standards, if you have further questions regarding this issue feel free to call me at 822-6324.

Sincerely,

Dawn E. Hallowell
Division of Land Resource Regulation
Bureau of Land & Water Quality

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-1507

web site: www.state.me.us/dep

printed on recycled paper

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL RESOURCES PROTECTION ACT

Permit By Rule Standards

Chapter 305

Bureau of Land and Water Quality
No. DEPLW12-C2000

Effective: February 1989
Revised: February 14, 2000

2. Soil disturbance

A. Applicability

(1) This section applies to an activity involving soil disturbance or fill placement adjacent to, but not in:

(a) A coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland; or

(b) Freshwater wetlands consisting of or containing:

(i) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or

(ii) Peatlands dominated by shrubs, sedges and sphagnum moss.

NOTE: The Natural Resources Protection Act ("NRPA") regulates activities adjacent to the protected natural resources only if operated in such a manner that material or soil may be washed into them. If existing barriers (i.e. ice berms, retaining walls) or site conditions (i.e. negative slope) are such that material or soil could not wash into the resource, then the activity is not regulated under the NRPA. The use of silt fence and hay bale barriers does not change the law's applicability to an activity.

(2) This section does not apply to an activity where sustained slopes are steeper than 3 horizontal feet: 1 vertical foot (approximately 33% slope) between the normal high water line or upland edge of the protected resource and the soil disturbance.

(3) Activities that qualify for permit by rule under another section are not required to comply with this section unless expressly stated in that section.

(4) A soil disturbance activity performed or supervised by individuals currently certified in erosion control practices by the DEP is exempt from the 14 day waiting period required in Section 1(C)(1).

(5) This section does not apply to an activity that is not or will not be in compliance with the terms and conditions of a permit issued under the Site Location of Development Law, 38 M.R.S.A. Sections 481 to 490, the Storm Water Management Law, 38 M.R.S.A. Section 420-D, or the Natural Resources Protection Act, 38 M.R.S.A. Sections 480-A to 480-Z.

(6) This section does not apply to an activity that does not conform to the local shoreland zoning ordinance.

NOTE: Contact the local Code Enforcement Officer for information on local shoreland zoning requirements. In most shoreland areas, a 75 or 100 foot undisturbed buffer strip is required between the disturbed areas and the water or wetland.

B. Submissions

(1) The applicant is required to submit photographs of the area which will be affected by the activity proposed.

(2) Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labelled with the applicant's name and the town in which the activity took place.

C. Standards

(1) A 25 foot setback must be maintained between the normal high water line or upland edge of the protected natural resource and the activity. Existing vegetation within the setback zone may not be disturbed. Areas that have slopes of 3 horizontal feet: 1 vertical foot (approximately 33% slope), or steeper, may not be counted when determining the 25 foot setback.

(2) The setback requirement does not apply to:

(a) The planting of vegetation for the purpose of controlling erosion;

(b) The removal or replacement of underground storage tanks when performed in accordance with 38 M.R.S.A. Section 566-A;

(c) The placement or replacement of a foundation or supports for a legally existing structure or addition that is not closer to a protected natural resource than the existing structure. Any fill, other than that required to maintain the integrity of the structure such as foundation backfill, must meet the 25 foot setback standard; or

(d). The closure of a landfill in conformance with the DEP's solid waste management rules.

(3) The following measures must be taken to prevent erosion of soil or fill material from disturbed areas into the 25 foot buffer and the resource:

(a) Staked hay bales or silt fence must be properly installed between the area of soil disturbance and the edge of the 25 foot buffer to the resource before the activity begins;

(b) Hay bales or silt fence barriers must be maintained until the disturbed area is permanently stabilized;

(c) Within 7 calendar days following the completion of any soil disturbance, and prior to any storm event, mulch must be spread on any exposed soils;

(d) All disturbed soils must be permanently stabilized; and

(e) Within 30 days of final stabilization of the site, any silt fence must be removed.

NOTE: For guidance on erosion and sedimentation controls, consult the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991. This handbook and other references on silt fence or hay bale installation and site stabilization are available from the DEP.

D. Definitions. The following terms, as used in this chapter, have the following meanings, unless the context indicates otherwise:

(1) Fill. a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a water body or wetland.

(2) Land adjacent to a protected natural resource. Any land area within 100 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.

(3) Structure. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.

(4) Upland edge. The boundary between upland and wetland.

NOTES:

(1) Section 480-Q(15-A) of the NRPA exempts the installation, removal or repair of a septic system from permitting requirements as of March 1, 1995, as long as the system complies with all requirements of the subsurface wastewater disposal rules adopted by the Department of Human Services pursuant to 22 M.R.S.A. Section 42(3).

(2) The placement of wastewater treatment facilities or disposal systems by people in possession of an overboard discharge license or conditional discharge permit is exempt from the NRPA, subject to certain conditions (see Chapter 596 of DEP Regulations "Overboard Discharges: Licensing, Relicensing, Transfer and Abandonment of Licenses").

PB01-32

Ross A. Cudlitz, PE
PO Box 794
So. Freeport, Maine 04078

Engineering Assistance & Design (EA&D), Inc.
Phone/Fax: 207 - 846 - 0839
Cell / Voice Mail: 207-653-3211

December 5, 2001

Mr. Ken Wood, PE
ATTAR Engineering, Inc.
3 Brannen Lane
Eliot, Maine 03903

RE: "Peer Review for Island Seafood" - Eliot, Maine

Dear Ken:

Pursuant to your request that I review the subject project's conformity to the water quality section of the Maine DEP, "Srtormwater Management for Maine Best Management Practices", I have completed my review. On behalf of the Town of Eliot I have the following comments:

The riprap apron/spreader outlet from the upper piped system should be moved back as far as possible from the flagged wetland edge. Primary discharge of parking lot runoff is not permitted directly into a wetland resource, though the separation (measured in feet) is not specifically in the guidelines or standards.

With the aforementioned in mind, your use, interpretation and reference to the Stormwater BMPs is accurate and consistent with the intent of the guidelines.

If I may be of further assistance do not hesitate to call. I believe this addresses the Town's concerns at this time.

Sincerely,

Ross A. Cudlitz, PE

Cc: Carol Labella

ATTAR ENGINEERING, INC.
CIVIL * STRUCTURAL * MARINE

3 BRANNEN LANE
ELIOT, MAINE 03903
(207) 439-6023
FAX 439-2128

Mr. Ross Cudlitz, P.E.
Engineering Assistance and Design
10 North Road
Yarmouth, Maine 04096

November 21, 2001
Project No.: C084-01

RE: Water Quality Review
Island Seafood, Eliot, Maine

Dear Mr. Cudlitz:

At last night's Planning Board meeting, Board members requested that you review the referenced project for water quality concerns.

Specifically, the Board was concerned that the two culvert outfalls outlet to a forested wetland area. Our design considered that these wetland areas qualify as forested buffer Best Management Practices (BMP's), in accordance with the guidelines of Stormwater Management for Maine Best Management Practices, issued by the Maine Department of Environmental Protection. The wetland areas are forested and do not exhibit any permanent pool during any part of the year; as the areas contain slopes ranging from 6% to 10%. The wetland soils are classified as Scantic (Sc) and, I believe wetland characteristics are evident because of a restrictive layer within the soil regime.

The ten year, twenty-four hour storm event yields a total of 4.2 CFS or about 2.1 CFS per culvert system. This discharge will be converted to sheet flow via the level spreader proposed downstream of the outfall, and upstream of the wetland. Each level spreader is 10' long, which is more than adequate to allow for .25 CFS/Lin. Ft. for the ten year event (2.1 CFS/.25 CFS/' = 8.4' required).

I have enclosed a Site Plan, a Stormwater Management Report and the TSS Removal Efficiency Table form the BMP Manual.

Please contact the Eliot Town Planner, Carol LaBella @ 439-1813, or me for any additional information. Your comments may be sent to Carol at 141 State Road, Eliot, Maine 03903. Thank you, again, for your assistance and consideration.

Sincerely,

Kenneth A. Wood, P.E.
President

cc: Town of Eliot Planning Board, Randy Townsend, Island Seafood

Table 6-1 Buffer Removal Efficiencies	(Percent removal of TSS)/(Percent removal of phosphorus)

Use the table below for all Soil Types (no soil survey required)

BUFFER SLOPE	"WOODED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'	"NONWOODED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'	"SEEDED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'
0-3%	50/20	62/30	72/45	78/55	83/65	10/0	32/10	57/25	66/35	72/45	20/0	30/0	40/0	40/0	40/0
3-8%	32/10	57/25	66/35	72/45	78/55	10/0	20/5	50/20	57/25	66/35	10/0	20/0	30/0	30/0	30/0
8-15%	20/5	50/20	62/30	69/40	75/50	10/0	10/0	42/15	50/20	57/25	10/0	10/0	20/0	20/0	20/0
15-30%	10/0	42/15	50/20	62/30	69/40	10/0	10/0	20/5	32/10	42/15	10/0	10/0	10/0	10/0	10/0

Use the four tables below when Class A Soil Survey Information is available for the site.

HYDROLOGIC GROUP A & B SOILS

BUFFER SLOPE	"WOODED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'	"NONWOODED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'	"SEEDED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'
0-3%	75/50	80/60	90/80	99/90	99/95	50/20	75/50	80/60	85/70	90/80	30/0	40/0	50/0	50/0	50/0
3-5%	62/30	75/50	85/70	93/85	99/95	42/15	62/30	75/50	83/65	90/80	20/0	30/0	40/0	40/0	40/0
8-15%	50/20	69/40	80/60	90/80	99/90	32/10	50/20	66/35	72/45	80/90	10/0	20/0	30/0	30/0	30/0
15-30%	50/20	57/25	69/40	78/55	85/70	20/5	32/10	42/15	50/20	69/40	10/0	10/0	20/0	20/0	20/0

HYDROLOGIC GROUP C Soils

Category 1

HSG C Soils with water table, hard pan or bedrock limitation at greater than 16 inches depth.

BUFFER SLOPE	"WOODED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'	"NONWOODED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'	"SEEDED" BUFFER WIDTH [a] 25'	50'	100'	150'	250'
0-3%	62/30	75/50	83/60	88/70	93/85	42/15	50/20	69/40	80/60	90/80	20/0	30/0	40/0	40/0	40/0
3-8%	50/20	66/35	78/55	83/65	88/75	32/10	42/15	66/35	75/50	83/65	10/0	20/0	30/0	30/0	30/0
8-15%	32/10	57/25	72/45	80/60	88/75	20/5	32/10	57/25	72/45	80/60	10/0	10/0	20/0	20/0	20/0
15-30%	20/5	50/20	62/30	72/45	78/55	10/0	20/5	42/15	50/20	69/40	10/0	10/0	10/0	10/0	10/0

[a] The *width* referred to in this table should be considered as the length of treatment or flow along the fall-line

PB01-32

ATTAR ENGINEERING, INC.
CIVIL * STRUCTURAL * MARINE

3 BRANNEN LANE
ELIOT, MAINE 03903
(207) 439-6023
FAX 439-2128

TRANSMITTAL

Town of Eliot, Maine
141 State Road
Eliot, Maine 03903

December 11, 2001
Project No.: C084-01

Attn: Carol LaBella, Town Planner,
Tony Manero, Chairman, Planning Board
and all Board Members

Via: Hand Delivery

Re.: Island Seafood
Dow Highway, Route 236
Eliot, Maine

Dear Ms. LaBella, Chairman Manero and all Board Members:

I have enclosed a revised plan for the referenced project.

The revisions include showing the road approved by the Planning Board in 1995 on the plan, as discussed at the December 1, 2001 site walk. Also, the level spreader has been relocated out of the wetland, as suggested by Ross Cudlitz's peer review letter.

I have also attached this letter and a revised Purchase and Sales Agreement.

Please contact me if any additional information or clarifications are required.

Sincerely;

Kenneth A. Wood, P.E.
President

cc: Island Seafood

Ross A. Cudlitz, PE
PO Box 794
So. Freeport, Maine 04078

Engineering Assistance & Design (**EA&D**), Inc.
Phone/Fax: 207 - 846 - 0839
Cell / Voice Mail: 207-653-3211

December 5, 2001

Mr. Ken Wood, PE
ATTAR Engineering, Inc.
3 Brannen Lane
Eliot, Maine 03903

RE: "Peer Review for Island Seafood" - Eliot, Maine

Dear Ken:

Pursuant to your request that I review the subject project's conformity to the water quality section of the Maine DEP, "Srtormwater Management for Maine Best Management Practices", I have completed my review. On behalf of the Town of Eliot I have the following comments:

The riprap apron/spreader outlet from the upper piped system should be moved back as far as possible from the flagged wetland edge. Primary discharge of parking lot runoff is not permitted directly into a wetland resource, though the separation (measured in feet) is not specifically in the guidelines or standards.

With the aforementioned in mind, your use, interpretation and reference to the Stormwater BMPs is accurate and consistent with the intent of the guidelines.

If I may be of further assistance do not hesitate to call. I believe this addresses the Town's concerns at this time.

Sincerely,

Ross A. Cudlitz, PE

Cc: Carol Labella

DUPLICATE

October 31, 2001

Mr. Randy Townsend
Island Seafood, Inc.
PO Box 276
Kittery, ME 03904

BY FAX to 207-439-6809

Dear Randy,

As discussed today, the Seller of the Eliot, Me property, Mr. Albert Libbey agrees to extend the closing date of the purchase and sale agreement for the 5.35 acre Eliot land parcel until January 15, 2002. The original date of the agreement is May 7, 2001.

All other terms and conditions of the agreement remain unchanged.

Please sign and date below to indicate your approval of the new closing date and fax back to me.

Sincerely,

Peter Bilipp, Broker

Agreed and accepted this 31st day of October 2001.

BUYER: BMT Enterprises Randy Townsend, duly authorized 10/31/01

SELLER: Albert H. Libbey 10/31/01

ATTAR ENGINEERING, INC.
CIVIL * STRUCTURAL * MARINE

3 BRANNEN LANE
ELIOT, MAINE 03903
(207) 439-6023
FAX 439-2128

TRANSMITTAL

Town of Eliot, Maine
141 State Road
Eliot, Maine 03903

December 10, 2001

Attn: Mr. Jay P. Muzeroll, Fire Chief
Mr. Almon S. Boston, Chief of Police
Mr. William E. Shapleigh

Re.: **Island Seafood**
Route 236, Eliot, Maine

Gentlemen:

I have enclosed a site plan of the referenced project for your review and comment. Please provide comments directly to Carol LaBella, the Town Planner. Please provide a copy to us.

Please contact me for any additional information. Thank you for your review.

Sincerely,

Kenneth A. Wood, P.E.
President

cc: Tony Manero, Chairman Planning Board
Randy Townsend, Island Seafood

From: Hallowell, Dawn
To: Mike Sudak; Sirois, Alison
Subject: RE: Island Seafood - Brook Road, Eliot ME
Date: Wednesday, March 17, 2021 4:32:40 PM

Mike – Thanks for the attachment, I don't remember what I did yesterday, forget about what happened in 2002.

I reviewed the information and can confirm that that aspect of the NRPA has not changed. A person can work adjacent to a freshwater wetland without obtaining a permit from DEP, provided that the wetland is not a peatland and it does not contain 20,000 sq ft or more of open water/emergent vegetation.

You'll find that stated in §480-C(1):
http://www.mainelegislature.org/legis/statutes/38/title38sec480-C.html

Dawn Hallowell
Regional Licensing & Compliance Manager, Land Bureau
Maine Department of Environmental Protection
(207) 557-2624
www.maine.gov/dep

From: Mike Sudak <mike@attarengineering.com>
Sent: Wednesday, March 17, 2021 12:32 PM
To: Sirois, Alison <Alison.Sirois@maine.gov>; Hallowell, Dawn <Dawn.Hallowell@maine.gov>
Subject: Island Seafood - Brook Road, Eliot ME

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.
Good Afternoon Dawn, Alison,

I'm writing to follow up on a voicemail left at Dawn's desk. Attached please find an old correspondence between our offices from early 2002.
To briefly summarize (please don't hesitate to call if you'd like to discuss further), the Eliot Planning Board requested Attar to provide the opinion of the Maine DEP on whether or not the activities proposed with our 2002 application warranted a NRPA PBR. Presently we are back before the Planning Board with a Change of Use application, and recently at our Sketch Plan hearing the Board has requested that we provide an update from the Maine DEP on if the opinion that was granted in the Attached from back in 2002 is still the agency's stance.

I'd be happy to provide any information that you need to oblige this request. Alison, I have CC'd you because I am guessing that at some point between 2002 and now, Dawn switched to the Central Maine region? If that is not the case and Dawn is equipped to provide the agency response, then please disregard.

Let me know if you have any questions/concerns.
Thanks and take care.
-Mike

Michael J. Sudak, EIT
Civil Engineer
Attar Engineering, Inc.
1284 State Road
Eliot, Maine 03903
Ph: (207) 439-6023
Fax: (207) 439-2128
Cell: (978) 317-3398

§480-C. Prohibitions

1. Prohibition. A person may not perform or cause to be performed any activity listed in subsection 2 without first obtaining a permit from the department if the activity is located in, on or over any protected natural resource or is located adjacent to any of the following:

A. A coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland; or [PL 1995, c. 460, §4 (RPR); PL 1995, c. 460, §12 (AFF).]

B. Freshwater wetlands consisting of or containing:

(1) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or

(2) Peatlands dominated by shrubs, sedges and sphagnum moss. [PL 1995, c. 460, §4 (RPR); PL 1995, c. 460, §12 (AFF).]

A person may not perform or cause to be performed any activity in violation of the terms or conditions of a permit.
[PL 2001, c. 618, §2 (AMD).]

2. Activities requiring a permit. The following activities require a permit:

A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials; [PL 1987, c. 809, §2 (NEW).]

B. Draining or otherwise dewatering; [PL 1987, c. 809, §2 (NEW).]

C. Filling, including adding sand or other material to a sand dune; or [PL 1987, c. 809, §2 (NEW).]

D. Any construction, repair or alteration of any permanent structure. [PL 1987, c. 809, §2 (NEW).]
[PL 1987, c. 809, §2 (NEW).]

3. Application.

[PL 1993, c. 721, Pt. F, §1 (RP); PL 1993, c. 721, Pt. H, §1 (AFF).]

4. Significant groundwater well. A person may not perform or cause to be performed the establishment or operation of a significant groundwater well without first obtaining a permit from the department.
[PL 2007, c. 399, §11 (NEW).]

5. Small-scale wind energy development. A person may not construct or cause to be constructed a wind energy development requiring certification under Title 35-A, section 3456 without first obtaining a permit from the department under section 480-II.
[PL 2015, c. 264, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 809, §2 (NEW). PL 1989, c. 430, §4 (AMD). PL 1989, c. 838, §4 (AMD). PL 1989, c. 890, §§A40,B70 (AMD). PL 1993, c. 721, §F1 (AMD). PL 1993, c. 721, §H1 (AFF). PL 1995, c. 460, §4 (AMD). PL 1995, c. 460, §12 (AFF). PL 2001, c. 618, §2 (AMD). PL 2007, c. 399, §11 (AMD). PL 2015, c. 264, §2 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 129th Maine Legislature and is current through October 1, 2020. The

text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

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

This certifies that

ORACLE INDUSTRIES LLC

License Number ACD541

DBA: AURA CO.

has been issued a CONDITIONAL license as an
ADULT USE MARIJUANA CULTIVATION FACILITY, TIER 4
under 28-B MRS. This does NOT permit the licensee to engage in any activity.

NOTE: THIS IS NOT AN ACTIVE LICENSE

Issued on:
January 15, 2021

Expires on:
January 14, 2022

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

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

The Conditional License for ACD541 has been issued based on the following organizational structure:

Principals:

NICHOLAS JAMES DELOREY, SOLEPROP

Owners:

100.00% - NICHOLAS DELOREY

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

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

This certifies that

ORACLE INDUSTRIES LLC

License Number AMS542

DBA: AURA CO.

has been issued a CONDITIONAL license as an
ADULT USE MARIJUANA 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:
January 15, 2021

Expires on:
January 14, 2022

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

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

The Conditional License for AMS542 has been issued based on the following organizational structure:

Principals:

NICHOLAS JAMES DELOREY, SOLEPROP

Owners:

100.00% - NICHOLAS DELOREY

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

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

This certifies that

OBI LABS, LLC

License Number AMF540

DBA: AURA CO.

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

NOTE: THIS IS NOT AN ACTIVE LICENSE

Issued on:
January 15, 2021

Expires on:
January 14, 2022

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

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

The Conditional License for AMF540 has been issued based on the following organizational structure:

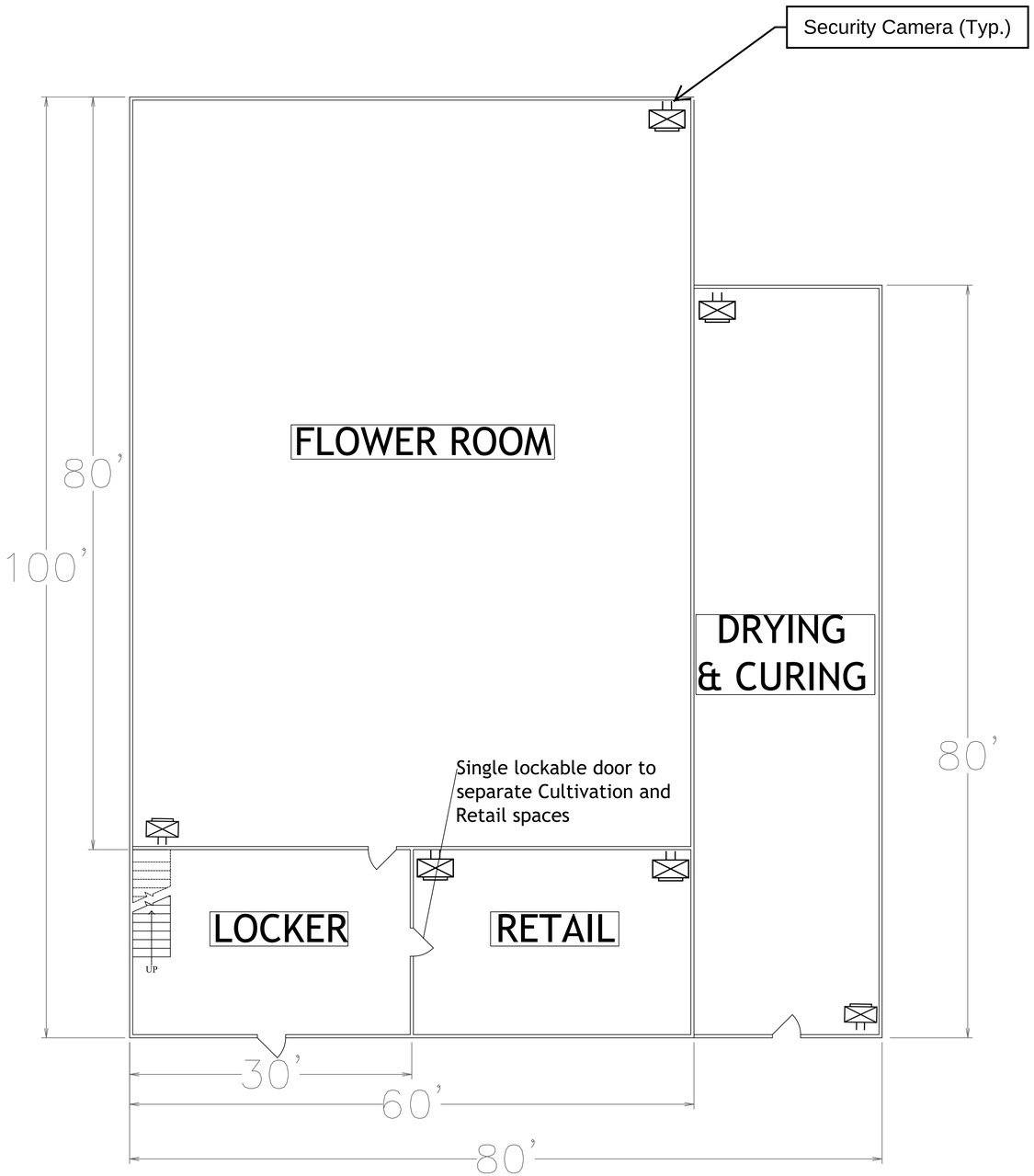
Principals:

NICHOLAS JAMES DELOREY, SOLEPROP

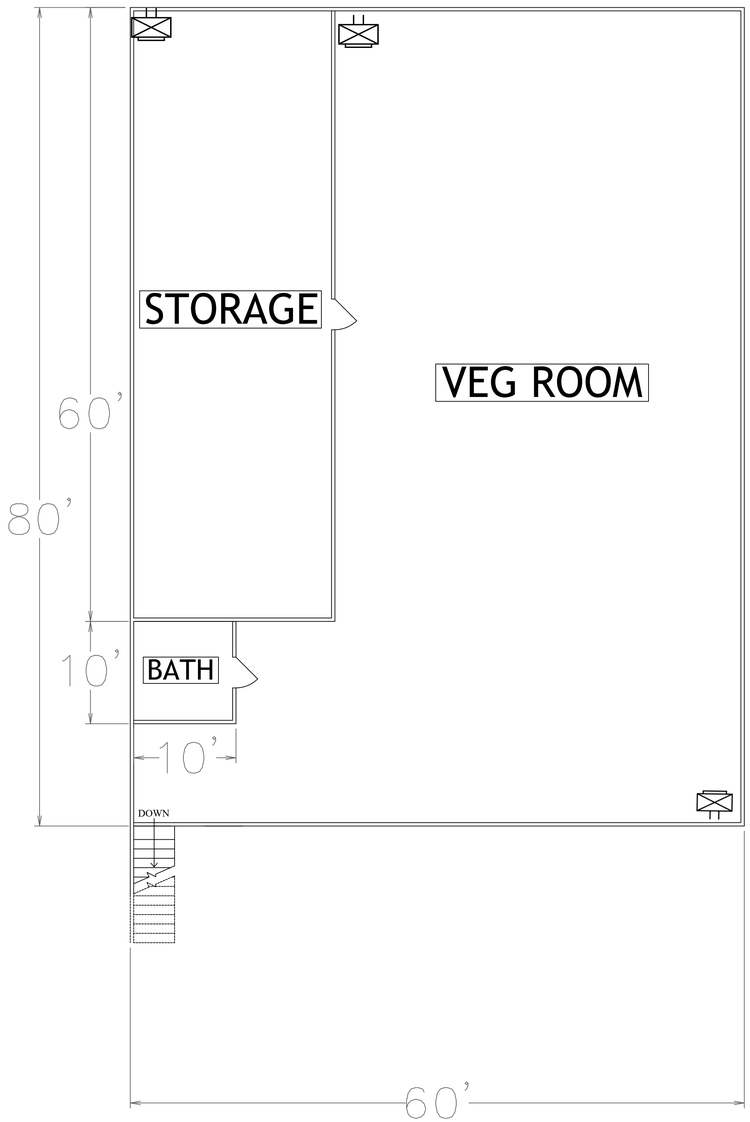
Owners:

100.00% - NICHOLAS DELOREY

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



1 Building #1 - Floor 1 - Cultivation and Retail Co-Location
scale: none



2 Building #1 - Floor 2 - Cultivation
scale: none

Lifespring MICROCLIMATES
1400 Hotel Road
AUBURN, MAINE 04210
Tel. (207)782–4197

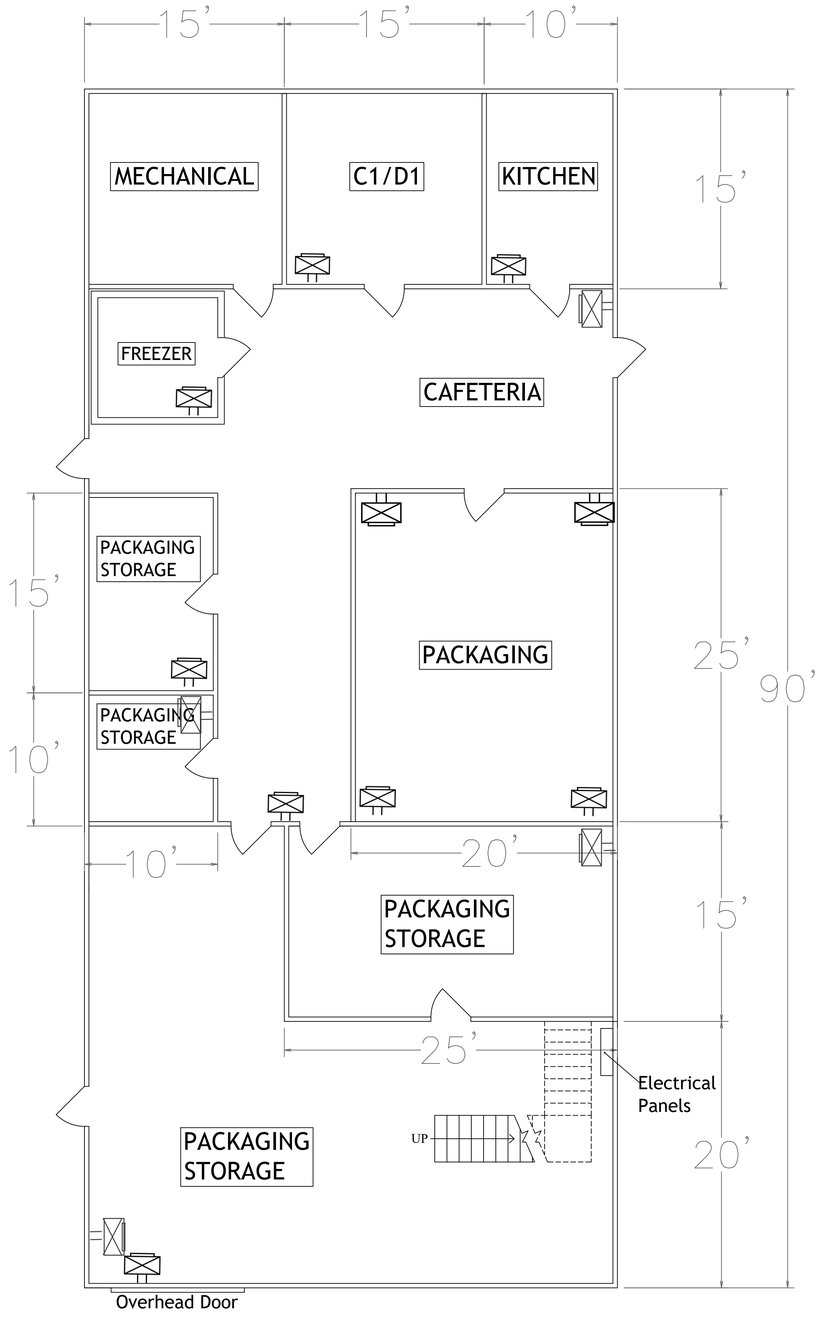
Interior Floor Plan Layout is subject to change prior to issuance of Construction Set

REV.	DESCRIPTION	DATE
1	Permitting Set– Not for Construction	2/18/21

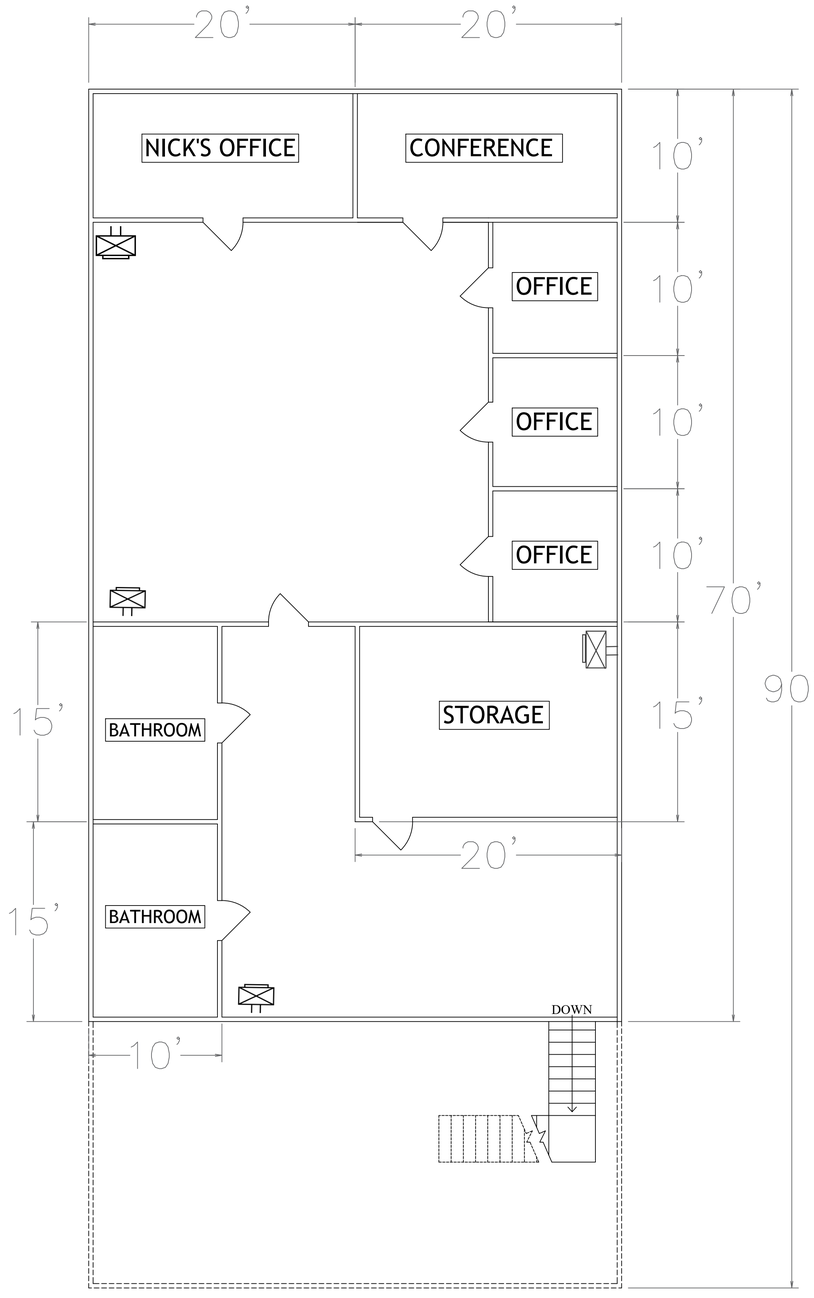
PROJECT:
Obi Lab/Northeast Gold
32 Brook Road
Eliot, ME 03903

SHEET TITLE:
Building #1 Layout

SCALE: NONE	DATE: 2/18/21
PROJECT MANAGER: MS	
JOB CAP/DRAWN: MS	
E OF RECORD: D.THAYER,P.E.	SHEET No. A–1
THAYER CAD FILE A–1	



1 Building #2 - Floor 1 - Manufacturing
scale: none



2 Building #2 - Floor 2 - Offices
scale: none

Lifespring MICROCLIMATES

1400 Hotel Road
AUBURN, MAINE 04210
Tel. (207)782-4197

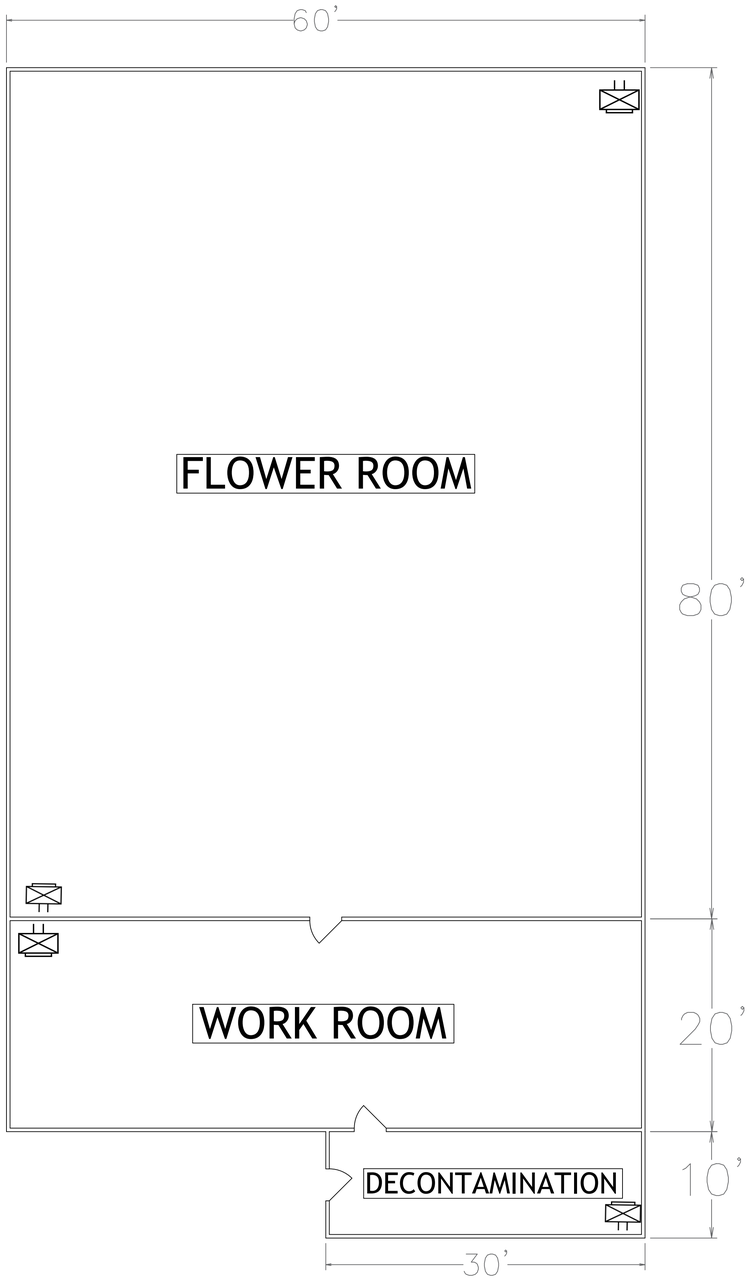
Interior Floor Plan Layout is subject to change prior to issuance of Construction Set

REV.	DESCRIPTION	DATE
1	Permitting Set- Not for Construction	2/18/21

PROJECT:
Obi Lab/Northeast Gold
32 Brook Road
Eliot, ME 03903

SHEET TITLE:
Building #2 Layout

SCALE:	NONE	DATE:	2/18/21
PROJECT MANAGER:	MS		
JOB CAP./DRAWN:	MS		
E OF RECORD:	D.THAYER, P.E.	SHEET No.	A-2
THAYER CAD FILE	A-2		



1 Building #3 - Cultivation
scale: none

Lifespring MICROCLIMATES

1400 Hotel Road
AUBURN, MAINE 04210
Tel. (207)782-4197

Interior Floor Plan Layout is subject to change prior to issuance of Construction Set

REV.	DESCRIPTION	DATE
1	Permitting Set- Not for Construction	2/18/21

PROJECT:
Obi Lab/Northeast Gold
32 Brook Road
Eliot, ME 03903

SHEET TITLE:
Building #3 Layout

SCALE:	NONE	DATE:	2/18/21
PROJECT MANAGER:	MS		
JOB CAP/DRAWN:	MS		
E OF RECORD:	D.THAYER,P.E.	SHEET No.	A-3
THAYER CAD FILE	A-3		

Lifespring
MICROCLIMATES

2/26/2021

To whom it may concern,

Obi Lab/Northeast Gold intends to install, maintain, and operate an engineered odor control system at its proposed facility at Brook Road in Eliot, ME. This system consists of a several features that operate synergistically. This is an overview of the technology, design and intended operation.

A brief background on the control odor may be helpful. The characteristic odors from the cannabis sativa plant are called terpenes, the aromatic volatile organic compound (VOC) that the plant evolved through natural selection as a means of attracting plant pollinators and repel pests. This family of terpene odors are familiar to most of us as the characteristic smell of lemon (limonene) and pine smell (pinene). Although these are only two of the cannabis blends of terpenes, these are two typical major constituents. These terpenes are not noxious unless artificially concentrated at exceptionally high levels yet some find the odors objectionable thus Obi Lab/Northeast Gold wishes to use engineering best practices to minimize or eliminate the odors from being objectionable to neighboring occupants and visitors.

The first practice used to control odors is sealing the building envelope to minimize unintended pathways between the terpene producing plants and the neighboring spaces outside the building.

The next practice used is dynamic control of the building pressurization through a coordinated exhaust and make-up-air (MUA) system. This assures that these is no unintended leakage of terpene laden air from the indoors to outside regardless of the level of building sealing. The exhaust collects air from the most terpene concentrated areas and routes it through a combination of adsorption and oxidizing devices to remove and destroy any terpenes in the exhaust airstream. The MUA operates in conjunction with the exhaust adjusting to any changing conditions to maintain a controlled depressurization of the building.

The manufacturing area occasionally has terpene odors from the handling of the previously dried/cured and trimmed plant material. Plant material is stored in airtight containers until readied for the manufacturing process. The odors are thus released in a controlled manner in a relatively confined area. These area(s) are equipped with local "point source control" exhausts routed through the same filtration and destruction systems.

The information contained herein is considered confidential, proprietary and the intellectual property of Lifespring Microclimates, LLC (LSMC), Thayer Corporation, and any subsidiaries, providing for the sole purpose of sharing our technical approach, means and methods for permitting and/or approval of the authority having jurisdiction (AHJ). The confidential information contained herein may not be shared, copied and/or distributed without the expressed written consent of the Lifespring Microclimates or Thayer Corporation.

Lifespring
MICROCLIMATES

Terpenes from the cultivation, drying and curing areas are reduced through local source capture and reduction from adsorption and/or oxidation. Common areas such as service hallways or work rooms are exhausted through additional systems for adsorption and/or oxidation.

All systems used in the capture and elimination of terpene odors will operate continuously and be proactively serviced on a quarterly basis with a skilled and trained HVAC technician. Any discrepancies between deign performance criteria and actual performance will be brough to the attention of the responsible party(s) for direction.

Respectfully submitted,

Dan Thayer

Dan Thayer, P.E., CIAQP
CEO
Professional Engineer
Certified Indoor Air Quality Professional

The information contained herein is considered confidential, proprietary and the intellectual property of Lifespring Microclimates, LLC (LSMC), Thayer Corporation, and any subsidiaries, providing for the sole purpose of sharing our technical approach, means and methods for permitting and/or approval of the authority having jurisdiction (AHJ). The confidential information contained herein may not be shared, copied and/or distributed without the expressed written consent of the Lifespring Microclimates or Thayer Corporation.

BMT Enterprises

32 Brook Road

Eliot, ME 03903

March 18, 2021

Dear Eliot Planning Board,

Please accept this letter as a notice to any noise issue resulting from converting the BMT Enterprise buildings located at 28-32 Brook Road, Eliot, ME.

Currently BMT / Island Seafood operates air blowers to circulate air into the existing lobster tanks in Bldg 1 and Bldg. 3. There are two operating 24 hrs / 7 days located on the exterior of each building. These four 10 HP blowers operate between 2850-3450 RPM's . These blowers will be removed in the building conversions being proposed. Additionally, two freezers and a cooler, all with exterior compressors will also be removed in the proposed building conversion.

Best Regards,

Randy Townsend

BMT Enterprises

32 Brook Road

Eliot, Maine , 03903

INVOICE

207-384-8484 207-384-2363
109 Railroad Ave Ext. P.O. Box 231
South Berwick, Maine 03908
signsbymo@yahoo.com

CLIENT: AURA ME

ADDRESS: 32 Brook Road Eliot ME

PHONE: _____ DATE: 3/16/2021

E-MAIL: _____

QUANTITY	PROJECT DESCRIPTION	PRICE
1	1x4x3/4 2-sided PVC header address sign	$325
1	36x48x3/4 2-sided PVC main sign	$695
2	4x4 pressure treated posts with 5x5 PVC sheathing and Federation caps	$950
	Total =	$1970
	Installation &125 per hour	

Award Winning Design Since 1969

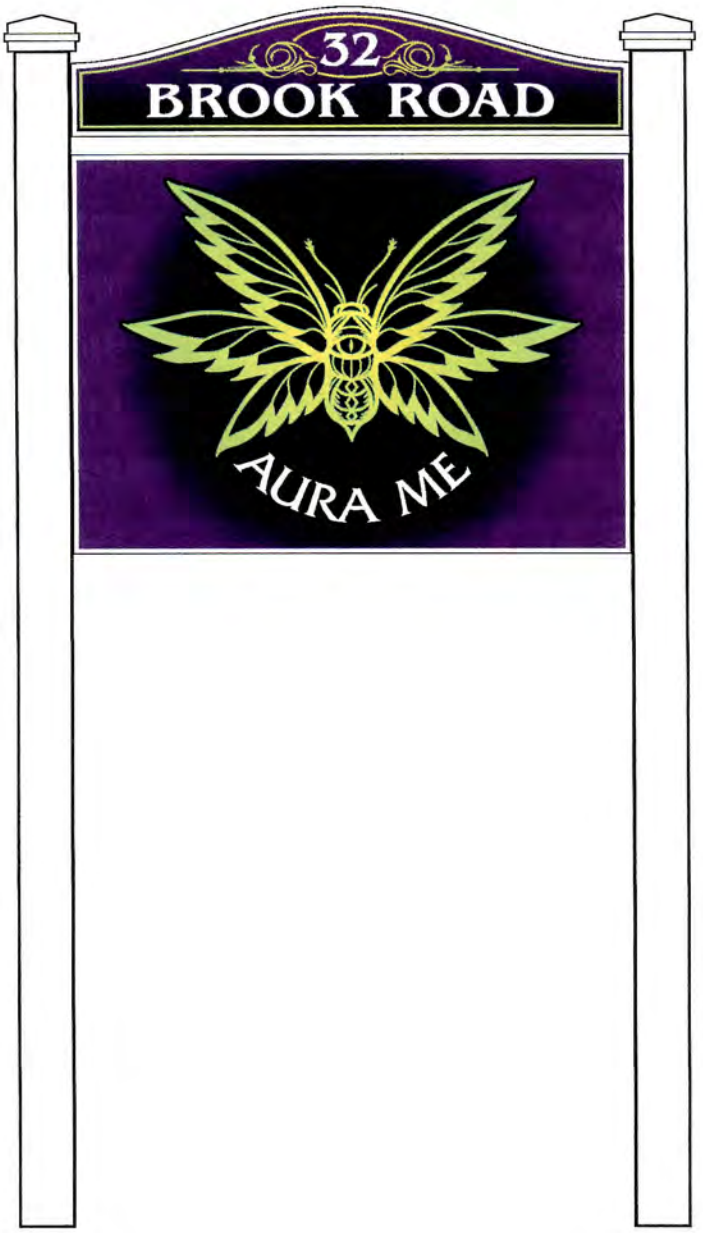
50% deposit required on all work ordered. Balance due upon completion. Sorry, we do not accept credit cards.

Deposit	Balance	Installation

50% deposit required on all work ordered. Balance due upon completion.

THE CLIENT agrees to pay all costs of collection in the event of default of payment by the client, including a reasonable attorney's fee. In the event of delinquent payments, the client will be charged a rate of 5% interest for every month after the first 30 days. Any returned checks will be subject to a $35 processing fee.

Thank You!



Signs by MO
207-384-8484 207-384-2363
109 Railroad Ave Ext. P.O. Box 231
South Berwick, Maine 03908
signsbymo@yahoo.com

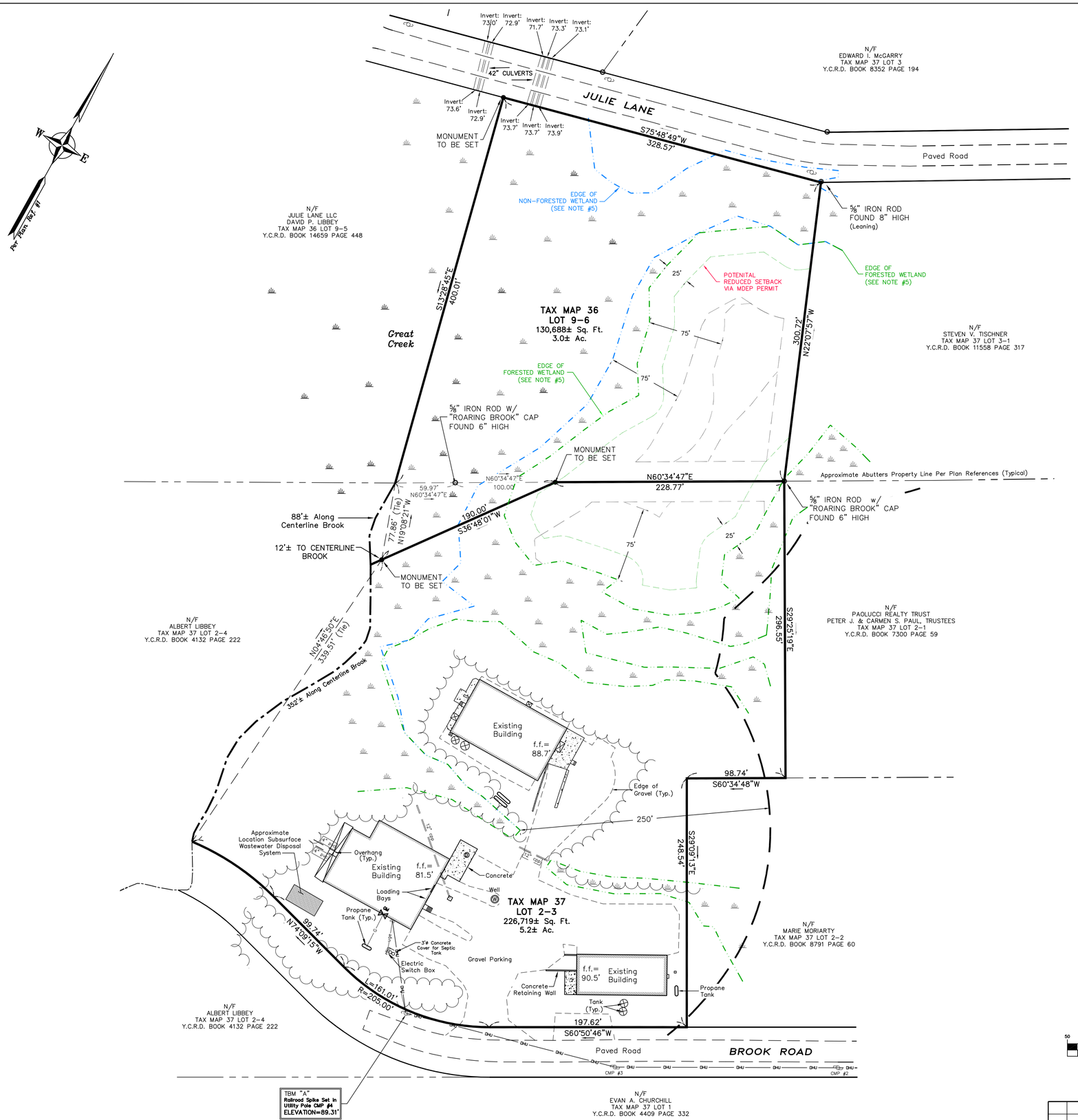
Designed Exclusively For: AURA ME	Date: 3/16/2021
Address:	Phone:

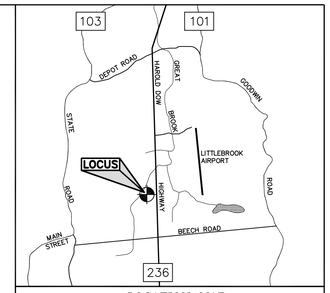
The prices, specifications & conditions as described are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Signature: Date:

50% DEPOSIT REQUIRED ON ALL WORK.
BALANCE DUE UPON COMPLETION.

This design is the property of the designer and may not be reproduced in any manner without the purchase of the design or written permission. We Do Not Accept Credit Cards.





LOCATION MAP
(not to scale)

ZONING DATA PER TOWN OF ELIOT ZONING ORDINANCE
(LAST AMENDED: 11/19/2015)(SEE NOTE #6)

ZONE: COMMERCIAL/INDUSTRIAL DISTRICT (C/I)

REQUIREMENTS: *
MINIMUM LAND AREA: 130,680 Sq Ft
MINIMUM FRONT SETBACK: 30 Ft
MINIMUM SIDE SETBACK: 20 Ft
MINIMUM REAR SETBACK: 20 Ft
MAXIMUM BUILDING HEIGHT: 55 Ft
MAXIMUM LOT COVERAGE: 50%
MINIMUM STREET FRONTAGE: 300 Ft

PLAN REFERENCES:

1. "SUBDIVISION PLAN, LIBBEY SUBDIVISION, MAP 37 LOT 2, ROUTE 236, ELIOT, MAINE FOR ALBERT LIBBEY" BY ATTAR ENGINEERING Inc. DATED 7/28/95, LAST REVISED 8/9/95 AND RECORDED AT Y.C.R.D. PLAN BOOK 227 PAGE 2.

2. "PLAN AND LOTS, DAVID LIBBEY, MAP 37 LOT 3 AND TAX MAP 36 LOT 9, ROUTE 236, ELIOT, MAINE" PREPARED BY ROARING BROOK CONSULTANTS DATED 2/22/1996, AND RECORDED AT Y.C.R.D. PLAN BOOK 228 PAGE 15.

3. "AMENDED FINAL PLAN, GREAT CREEK SUBDIVISION, ROUTE 236, ELIOT, MAINE FOR DAVID LIBBEY" BY ATTAR ENGINEERING Inc. DATED 2/1/2005, AND RECORDED AT Y.C.R.D. PLAN BOOK 300 PAGE 12.

4. "SITE PLAN, ISLAND SEAFOOD, LIBBEY ROAD, ELIOT, MAINE FOR ISLAND SEAFOOD" BY ATTAR ENGINEERING Inc. DATED 10/05/01, LAST REVISED 12/4/01.

5. "EXISTING CONDITIONS FOR PROPERTY AT 32 BROOK ROAD ELIOT, YORK COUNTY, MAINE FOR ISLAND SEAFOOD ROUTE 236 ELIOT, MAINE 03904" PREPARED BY NORTH EASTERLY SURVEYING, INC., DATED 9/25/2003.

NOTES:

1. OWNER OF RECORD:

TAX MAP 36 LOT 9-6
BMT ENTERPRISES
Y.C.R.D. BOOK 15036 PAGE 887
DATED DECEMBER 13, 2006

TAX MAP 37 LOT 2-3
BMT ENTERPRISES
Y.C.R.D. BOOK 15809 PAGE 646
DATED FEBRUARY 1, 2002

2. BASIS OF BEARING IS PER PLAN REFERENCE #1.

3. THE PERIMETER BOUNDARY OF TAX MAP 37 LOT 2-3 WAS TAKEN FROM PLAN REFERENCE #1 AND THE PERIMETER BOUNDARY OF TAX MAP 36 LOT 9-5 WAS DERIVED FROM PLAN REFERENCES #2 & #3 AND HAVE NOT BEEN VERIFIED BY THIS FIRM.

4. BROOK ROAD AND JULIE LANE RIGHT OF WAYS ARE 50 FEET IN WIDTH AS SHOWN ON THE RECORDED SUBDIVISION PLANS, SEE PLAN REFERENCES #1, #2 & #3.

5. THE WETLAND BOUNDARY AS DEPICTED ON THIS PLAN WAS DELINEATED/FLAGGED BY JOSEPH W. NOEL, ME CERTIFIED SOIL SCIENTIST #209, IN OCTOBER 2017. THE FLAGS WERE SURVEY LOCATED BY NORTH EASTERLY SURVEYING INC. IN OCTOBER 2017. THE DELINEATION WAS CONDUCTED IN ACCORDANCE WITH THE U.S. ARMY CORPS OF ENGINEERS DOCUMENT CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, (1987) ALONG WITH THE REQUIRED REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND MANUAL: NORTHCENTRAL AND NORTHEAST REGION, (VERSION 2, JANUARY 2012).

HYDRIC SOIL DETERMINATIONS WERE CONDUCTED IN ACCORDANCE WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE DOCUMENT FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 7.0 (2010) ALONG WITH THE MANUAL FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND (VERSION 3, APRIL 2004).

PLANT SPECIES INDICATOR STATUS WAS BASED ON THE U.S. ARMY CORPS OF ENGINEERS PUBLICATION THE NATIONAL WETLAND PLANT LIST (2013).

6. ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF ELIOT PRIOR TO DESIGN OR CONSTRUCTION.

GRAPHIC SCALE

50 0 25 50 100 200

(IN FEET)
1 inch = 50 ft.
Vertical Datum is Assumed
Contour Interval = 1'

REV.	DATE	STATUS	BY	CHKD	APPD.

EXISTING CONDITIONS PLAN

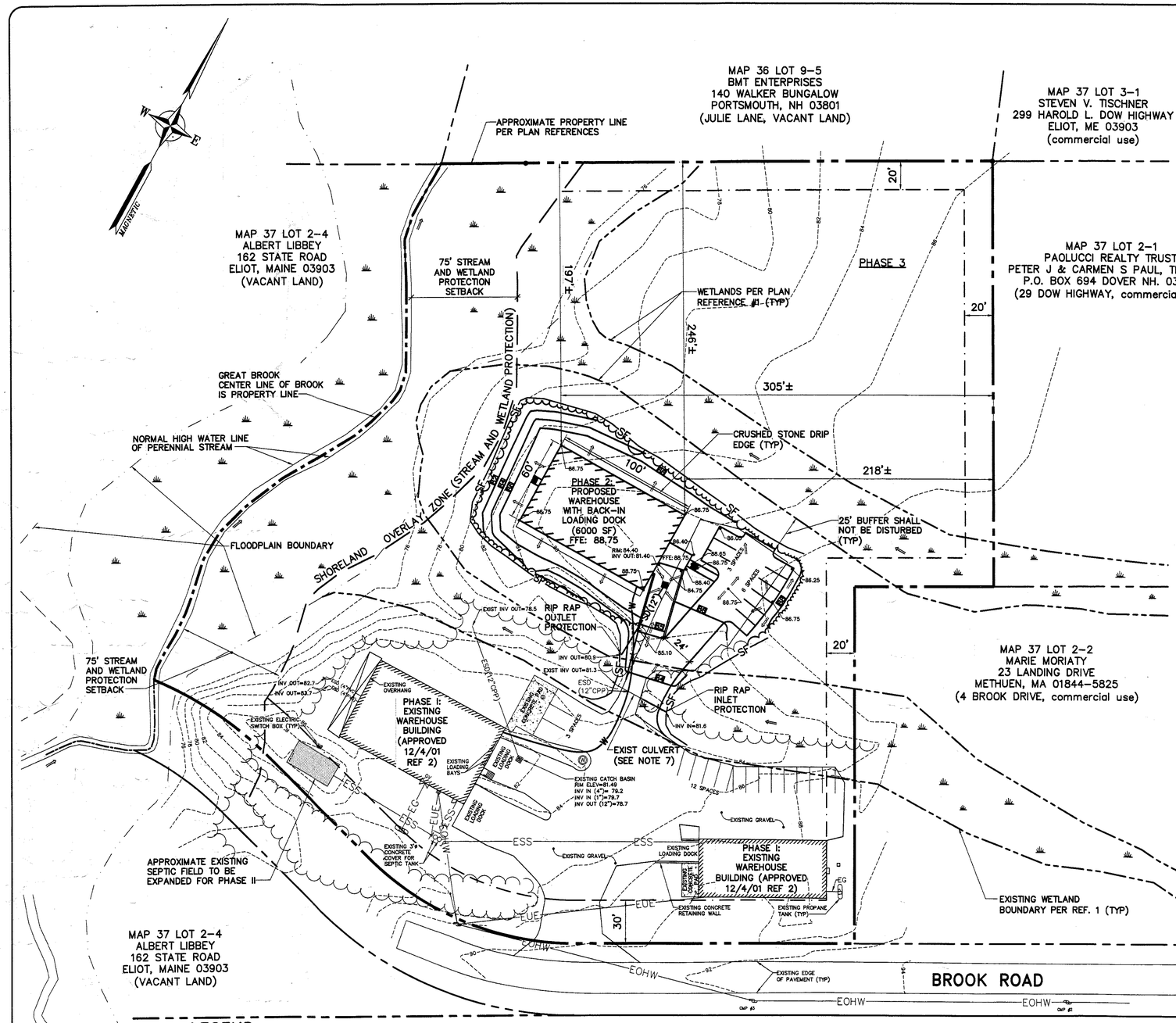
FOR PROPERTY AT
6 Julie Lane & 32 Brook Road
Eliot, York County, Maine
OWNED BY:
BMT Enterprises
c/o Randy Townsend
32 Brook Road, Eliot, Maine 03903

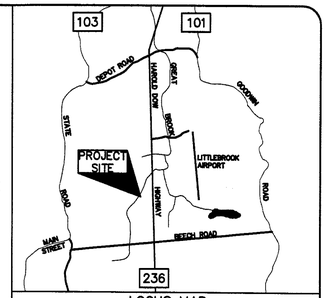
North
W EASTERLY
SURVEYING, Inc.
SURVEYORS IN N.H. & MAINE
(207) 439-6333
191 STATE ROAD, SUITE #1
KITTERY, MAINE 03904

SCALE:	PROJECT NO.	DATE:	SHEET:	DRAWN BY:	CHECKED BY:
1" = 50'	17739	2/15/18	1 OF 1	P.J.T.	A.M.P.

DRAWING No: 17739_SITE
FIELD BOOK No: "Eliot #10"

Tax Map 37 Lot 2-3 / Tax Map 36 Lot 9-6





LOCUS MAP
(NOT TO SCALE)

REFERENCES:

1. EXISTING CONDITIONS AND SHORELAND ZONE DELINEATION PROVIDED BY THE PLAN ENTITLED "EXISTING CONDITIONS FOR PROPERTY AT 32 BROOK ROAD, ELIOT, YORK COUNTY, MAINE" PREPARED BY EASTERLY SURVEYING, INC. DATED 9/25/03.
2. EXISTING PREVIOUSLY APPROVED BUILDING AND SITE INFORMATION PROVIDED BY THE PLAN ENTITLED "SITE PLAN ISLAND SEAFOOD LIBBY ROAD, ELIOT MAINE" PREPARED BY ATTAR ENGINEERING DATED 10/05/01 REVISED 12/04/01.
3. EXISTING CONDITIONS AND TOPOGRAPHIC SURVEY PROVIDED BY NORTHEASTERLY SURVEYING, INC. DATED 6/2007

GENERAL NOTES

1. PHASE ONE APPROVAL BY TOWN OF ELIOT ON DECEMBER 4, 2001 BASED ON PLAN REFERENCE 2.
2. ZONE: COMMERCIAL AND INDUSTRIAL DISTRICT (CI)
   SHORELAND OVERLAY ZONE (STREAM AND WETLAND) PROTECTION DISTRICT
   LOT: MAP 37 LOT 2-3

	REQUIRED	PROPOSED
MINIMUM LOT SIZE (AC)	3	5.35
FRONT YARD (FT)	30	30
SIDE YARD (FT)	20	20
REAR YARD (FT)	20	20
MAXIMUM BUILDING HEIGHT (FT)	35	35
MAXIMUM LOT COVERAGE (%)	50	7.8 (PHASE 1 & 2)
MINIMUM LOT FRONTAGE (FT)	300	385
PARKING SPACES(1)	16	24
LOADING BAY	1/UNIT	1/UNIT

3. PARKING CALCULATIONS:
   EXISTING WAREHOUSE UNITS 1 & 2: 12 EMPLOYEES = 12 SPACES
   NEW WAREHOUSE: 4 EMPLOYEES = 4 SPACES
   TOTAL = 16 SPACES
4. PROPOSED USES: WAREHOUSING, DRY PROCESS MANUFACTURING AND EQUIPMENT STORAGE
5. ALL DISTURBED AREAS SHALL BE RESTORED WITH 4" TOPSOIL SEED AND MULCH UNLESS NOTED OTHERWISE. EROSION CONTROL SHALL CONFORM TO MAINE EROSION AND SEDIMENT CONTROL BMP MANUAL.
6. AN ON-SITE WASTE WATER DISPOSAL SYSTEM HAS BEEN DESIGNED BY KEN MARKLEY TO EXPAND THE EXISTING PHASE 1 SYSTEM WITH A CAPACITY SUITABLE FOR UP TO 16 EMPLOYEES.
7. EXISTING CULVERT SIZED AND INSTALLED BY OWNER AS PART OF PHASE 1.

APPROVED BY TOWN OF ELIOT CODE ENFORCEMENT OFFICER

BY: _____ DATE: _____

LEGEND

- 82 EXISTING CONTOUR LINE
- 82 CONTOUR LINE
- EXISTING STRUCTURE LINE
- NEW STRUCTURE LINE
- EXISTING EDGE OF GRAVEL
- NEW EDGE OF GRAVEL
- EUE EXISTING UNDERGROUND ELECTRIC LINE
- EOHW EXISTING OVERHEAD WIRE
- ESS EXISTING SANITARY SEWER LINE
- ESD(4"PVC) EXISTING STORM DRAINAGE LINE (SIZE AND TYPE AS NOTED)
- EG EXISTING UNDERGROUND GAS LINE
- SF SILT FENCE (REFER TO GENERAL NOTE 5)
- SD STORM DRAIN LINE
- W WATER LINE
- EXISTING DRAINAGE FLOW
- NEW DRAINAGE FLOW
- EXISTING WELL
- EXISTING GAS VALVE
- EXISTING UTILITY POLE

1 C1 PHASE 2 SITE PLAN
SCALE: 1"=40'

NO.	DATE	DESCRIPTION	BY
1	6/27/06	MINOR CHANGES	WAL

GRAPHIC SCALE
1"=40' 0 20' 40' 80' 120'
CHECK GRAPHIC SCALE BEFORE USING

C:\DFILE\20704.10-CONCEPT1.dwg 6/7/2007 10:37:02 AM EDT

OAK POINT ASSOCIATES
ARCHITECTS - ENGINEERS - SURVEYORS
73 COURT STREET, PORTSMOUTH, NEW HAMPSHIRE 03801

ISLAND SEAFOOD PROPERTY
32 BROOK ROAD, ELIOT, ME
CLIENT: RANDY TOWNSEND
ISLAND SEAFOOD
32 BADGERS ISLAND WEST
KITTERY, ME 03904

DATE:	6/11/07
DESIGN:	SJT
DRAWN:	JSD
CHECKED:	JLG
SCALE:	AS NOTED
JOB:	20704.10

PHASE 2
SITE PLAN

C1
1 OF 1

N/F
JULIE LANE LLC
113 GOVERNMENT STREET
KITTERY, MAINE 03904
MAP 36 LOT 9-5
Y.C.R.D BOOK 14659 PAGE 448

N/F
BMT ENTERPRISES
10 NORDIC LANE
ROLLINSFORD, NEW HAMPSHIRE 03869
MAP 36 LOT 6-9
Y.C.R.D BOOK 15036 PAGE 887

N/F
NATURAL ROCKS SPRING WATER ICE CO.
299 HAROLD L. DOW HIGHWAY
ELIOT, MAINE 03903
MAP 37 LOT 3-1
Y.C.R.D BOOK 16400 PAGE 290

N/F
PAOLUCCI REALTY TRUST
PETER J. & CARMEN S. PAUL, TRUSTEES
291 HAROLD L. DOW HIGHWAY
ELIOT, MAINE 03903
MAP 37 LOT 2-1
Y.C.R.D BOOK 7300 PAGE 59

N/F
PAUL & HLEN GORANSSON
255 DEPOT ROAD
ELIOT, MAINE 03903
MAP 37 LOT 2-4
Y.C.R.D BOOK 17299 PAGE 550

N/F
MARIE MORIARTY
23 LANDING DRIVE
METHUEN, MASSACHUSETTS 01844
MAP 37 LOT 2-2
Y.C.R.D BOOK 8791 PAGE 60

N/F
EVAN A. & ROSALIE B. CHURCHILL REVOCABLE TRUST
EVAN A. & ROSALIE B. CHURCHILL, TRUSTEES
1288 STATE ROAD
ELIOT, MAINE 03903
MAP 37 LOT 1
Y.C.R.D BOOK 16296 PAGE 62

PER REF. 1

EXT. ABUTTER BOUNDARY (TYP.)

EXT. PROPERTY BOUNDARY (TYP.) SEE REFERENCE 1

20' REARYARD SETBACK (TYP.)

EXT. NON-FORESTED WETLAND BOUNDARY (TYP.)

EXT. FORESTED WETLAND BOUNDARY (TYP.) FRESHWATER WETLAND OF ≥10 ACRES (AS PER TOWN OF ELIOT ZONING MAP)

500' PUBLIC FACILITY SETBACK (SEE GENERAL NOTE #4)

EXT. PROPERTY BOUNDARY FOLLOWS ℄ OF GREAT BROOK

GREAT BROOK

SHORELAND OVERLAY ZONE (STREAM AND WETLAND) PROTECTION DISTRICT

LIMITED COMMERCIAL DISTRICT

APPROX. EXT. WETLAND BOUNDARY PER REFERENCE 2

EXT. BROOK ℄ (TYP.)

EXISTING BUILDING 3
(6,000 SQ. FT. FOOTPRINT)
ADULT USE CULTIVATION

PRP. DECONTAMINATION ROOM
300 SQ. FT.

EXT. OHD. DOOR TO BE REMOVED

EXT. BUILDING OVERHANG (TYP.)

EXT. CONCRETE PAD AND HOLDING TANK TO BE REMOVED AND REVEGETATED

PRP. SCREENED DUMPSTER

EXISTING BUILDING 1
(7,600 SQ. FT. FOOTPRINT)
ADULT USE CULTIVATION
& ADULT USE RETAIL

EXT. RAMP CATCH BASIN AND OUTLET TO BE REMOVED

EXT. TIPDOWN LOADING RAMP TO BE REMOVED

EXT. PED. DOOR TO BE REMOVED

EXT. OHD. DOOR TO BE REMOVED

PRP. 6' PARKING WHEEL STOP (TYP.)

PRP. 3'x4' COMPANY SIGN TO BE LOCATED ON BUILDING ABOVE PRP. PEDESTRIAN DOOR. SEE GENERAL NOTE 14

PRP. ADA SIGN "VAN ACCESSIBLE LOADING AREA" SEE DETAIL SHEET 4

PRP. SIGN "ADA PARKING SPACE" (TYP.) SEE DETAIL SHEET 4

EXT. EMPLOYEE PARKING AREA TO BE REMOVED AND REVEGETATED

EXT. VEGETATION (TYP.)

EXT. EDGE OF PAVEMENT (TYP.)

EXT. CONCRETE RETAINING WALL AND RAMP TO REMAIN

PRP. 9'x20' PARKING SPACE (TYP.)

20' SIDEYARD SETBACK (TYP.)

EXT. EDGE OF GRAVEL (TYP.)

EXT. DUMPSTER TO BE RELOCATED

PRP. SIGN "ADA PARKING SPACE" (TYP.) SEE DETAIL SHEET 4

PRP. STEEL BOLLARD (TYP. x3)

EXT. CONCRETE RETAINING WALL AND RAMP TO REMAIN

EXISTING BUILDING 2
(3,600 SQ. FT. FOOTPRINT)
ADULT USE MANUFACTURING

EXT. PED. DOOR TO REMAIN

EXT. OHD. DOOR TO REMAIN

PRP. PED. DOOR

30' FRONTYARD SETBACK (TYP.)

LIMITED COMMERCIAL DISTRICT
COMMERCIAL/INDUSTRIAL DISTRICT

SIGHT DISTANCE
← RIGHT - 747' LEFT

BROOK ROAD
(20 MPH - 50' R.O.W.)

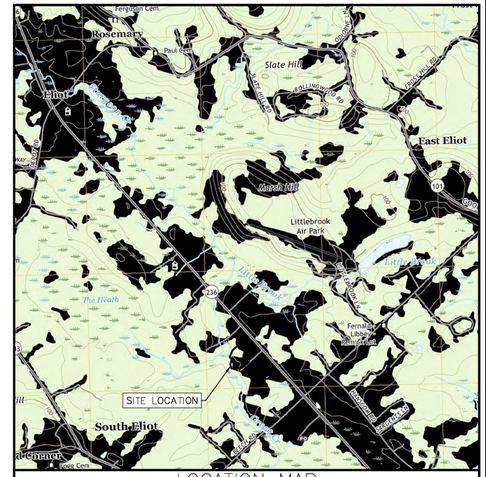
LEGEND

- PROPERTY LINE
- SETBACK
- EXT. ABUTTER LINE
- EXT. PAVEMENT
- EXT. GRAVEL
- EXT. BUILDING
- PRP. BUILDING
- PRP. PARKING
- PRP. STOCKADE FENCE
- EXT. CONCRETE PAD
- EXT. TREELINE
- EXT. WETLAND BNDY
- EXT. WETLAND AREA
- PRP. STEEL BOLLARD

STATE OF MAINE - YORK COUNTY
ss. REGISTRY OF DEEDS
RECEIVED_____, 20___
AT___h,___m,___M, AND RECORDED IN
PLAN BOOK_____, PAGE_____

ATTEST_____REGISTER

GRAPHIC SCALE
0 30 60 90 120 (FEET)



LOCATION MAP
APPROX. SCALE: 1" = 2,000'

GENERAL NOTES:

1.) THIS PLAN PROVIDES A PROPOSED SITE PLAN AMENDMENT AND CHANGE-OF-USE TO THE PROPERTY LOCATED AT 32 BROOK ROAD IN ELIOT, MAINE. SEE EXISTING CONDITIONS PLAN SHEET 2 FOR THE CURRENT USE DESCRIPTIONS. THIS PROJECT RECEIVED APPROVAL FOR ITS EXISTING USES ON JUNE 11, 2007, PER REFERENCE 2. THE PROPOSED USES OF THE PROPERTY ARE THE MANUFACTURING, CULTIVATION, AND SALE OF ADULT-USE MARIJUANA. THE PROPOSED SITE AMENDMENT INCLUDES CHANGING BUILDING 1 INTO A CO-LOCATED ADULT-USE MARIJUANA CULTIVATION FACILITY AND RETAIL STOREFRONT, BUILDING 2 INTO AN ADULT-USE MARIJUANA MANUFACTURING FACILITY, AND BUILDING 3 INTO AN ADULT-USE MARIJUANA CULTIVATION FACILITY.

2.) THE PARCEL IS IDENTIFIED ON THE TOWN OF ELIOT, MAINE, TAX MAP 37 AS LOT 2-3 AND IS LOCATED IN THE COMMERCIAL/ INDUSTRIAL (C/I) DISTRICT AND SHORELAND OVERLAY (STREAM AND WETLAND) PROTECTION DISTRICT. THE PARCEL IS 5.2 ACRES IN SIZE.

3.) DIMENSIONAL STANDARDS - AS PER §45-405, UNLESS NOTED OTHERWISE:

COMMERCIAL/INDUSTRIAL (C/I) DISTRICT	
MINIMUM LOT SIZE	= 3 AC.
FRONT YARD SETBACK (INTERIOR STREET)	= 30 FT.
SIDE YARD SETBACK	= 20 FT.
REAR YARD SETBACK	= 20 FT.
MAXIMUM BUILDING HEIGHT	= 55 FT.
STREET FRONTAGE	= 300 FT.
MAXIMUM SIGN SIZE	= 100 SQ. FT.
MAXIMUM LOT COVERAGE	= 50%

4.) AS PER §33-190.(5): NO MARIJUANA STORE SHALL BE SITED WITHIN 500 FEET OF THE LOT LINES OF A PUBLIC FACILITY. THE LOT LINE OF THE NEAREST PUBLIC FACILITY (SLATE HILL RECYCLING LLC) IS MEASURED APPROXIMATELY 825 FEET FROM BUILDING 3.

5.) PARKING CALCULATIONS (AS PER §45-495) - SEE ATTACHED INTERIOR BUILDING LAYOUTS:

§45-495.(7):	RETAIL SALES 600 SQ. FT.	= 1 SPACE/150 SQ. FT. => [600/150] => 4 SPACES
§45-495.(9):	OFFICE SPACE 700 SQ. FT.	= 1 SPACE/200 SQ. FT. => [700/200] => 3.5 SPACES
§45-495.(11):	COMMERCIAL/INDUSTRIAL USE 20 EMPLOYEES MAX.	= 1 SPACE/ANTICIPATED EMPLOYEE => 20 SPACES
	TOTAL SPACES REQUIRED TOTAL SPACES PROVIDED	= 27.5 => 28 SPACES => 36 SPACES

6.) EXISTING CONDITIONS, ON-SITE LAYOUT, BOUNDARY INFORMATION, AND TOPOGRAPHIC INFORMATION PER REFERENCES 1 AND 2.

7.) TRAFFIC GENERATION CALCULATION (AS PER §33-153):

EXISTING CONDITION:
- ITE 150: 'WAREHOUSING' = 0.19 TRIPS PER 1,000 SQ. FT. = (24,800/1,000)*0.19 => 4.71
- ITE 712: 'SMALL OFFICE BUILDING' = 2.45 TRIPS PER 1,000 SQ. FT. = (3,600/1,000)*2.45 => 8.82 = (4.71+8.82) = 13.5 => 14 PEAK TRIPS

DEVELOPED CONDITION:
- ITE 140: 'MANUFACTURING' = 0.67 TRIPS PER 1,000 SQ. FT. = (3,925/1,000)*0.67 => 2.63
- ITE 150: 'WAREHOUSING' = 0.19 TRIPS PER 1,000 SQ. FT. = (23,175/1,000)*0.19 => 4.40
- ITE 712: 'SMALL OFFICE BUILDING' = 2.45 TRIPS PER 1,000 SQ. FT. = (700/1,000)*2.45 => 1.71
- ITE 882: 'MARIJUANA DISPENSARY' = 21.83 TRIPS PER 1,000 SQ. FT. = (600/1,000)*21.83 => 13.10 = (2.63+4.40+1.71+13.10) => 22 PEAK TRIPS

DELIVERIES:
- EXISTING CONDITION: 10 DELIVERIES PER DAY
- DEVELOPED CONDITION: 1-2 DELIVERIES PER WEEK

8.) HOURS OF OPERATION:
RETAIL USE: 7 DAYS/WEEK, 8:00AM - 8:00PM
CULTIVATION & MANUFACTURING USES: 7 DAYS/WEEK, 6:00AM - 8:00PM, WITH DELIVERIES BEING SCHEDULED AT ALL HOURS OF THE DAY

- GENERAL NOTES CONTINUED ON SHEET 2 -

PLAN REFERENCES:

1.) "EXISTING CONDITIONS PLAN FOR PROPERTY AT 6 JULIE LANE & 32 BROOK ROAD, ELIOT, YORK COUNTY, MAINE" PREPARED BY EASTERLY SURVEYING, INC. PLAN DATED FEBRUARY 15, 2018.

2.) "PHASE 2 - SITE PLAN, ISLAND SEAFOOD PROPERTY, 32 BROOK ROAD, ELIOT, ME" PREPARED BY OAK POINT ASSOCIATES. PLAN DATED JUNE 11, 2007.

NO.	DESCRIPTION	DATE
A	TOWN PLANNER REVIEW REVISIONS	03/30/21

REVISIONS

STATE OF MAINE
KENNETH W. WOOD
No. 9982
REGISTERED
PROFESSIONAL ENGINEER

TAX MAP 37, LOT 2-3

SITE PLAN
OBI LAB/NORTHEAST GOLD
32 BROOK ROAD, ELIOT, MAINE 03903

FOR:
BMT ENTERPRISES
P.O. BOX 574
ELIOT, MAINE 03903

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

SCALE:	APPROVED BY:	DRAWN BY:
1" = 30'		MJS
DATE:		REVISION DATE:
03/18/21		A : 03/30/21
JOB NO: C033-21	FILE: BROOK ROAD BASE.DWG	SHEET: 1 OF 4

N/F
JULIE LANE LLC
113 GOVERNMENT STREET
KITTERY, MAINE 03904
MAP 36 LOT 9-5
Y.C.R.D BOOK 14659 PAGE 448

N/F
BMT ENTERPRISES
10 NORDIC LANE
ROLLINSFORD, NEW HAMPSHIRE 03869
MAP 36 LOT 6-9
Y.C.R.D BOOK 15036 PAGE 887

N/F
NATURAL ROCKS SPRING WATER ICE CO.
299 HAROLD L. DOW HIGHWAY
ELIOT, MAINE 03903
MAP 37 LOT 3-1
Y.C.R.D BOOK 16400 PAGE 290

N/F
PAOLUCCI REALTY TRUST
PETER J. & CARMEN S. PAUL, TRUSTEES
291 HAROLD L. DOW HIGHWAY
ELIOT, MAINE 03903
MAP 37 LOT 2-1
Y.C.R.D BOOK 7300 PAGE 59

N/F
PAUL & HLEN GORANSSON
255 DEPOT ROAD
ELIOT, MAINE 03903
MAP 37 LOT 2-4
Y.C.R.D BOOK 17299 PAGE 550

N/F
MARIE MORIARTY
23 LANDING DRIVE
METHUEN, MASSACHUSETTS 01844
MAP 37 LOT 2-2
Y.C.R.D BOOK 8791 PAGE 60

N/F
EVAN A. & ROSALIE B. CHURCHILL REVOCABLE TRUST
EVAN A. & ROSALIE B. CHURCHILL, TRUSTEES
1288 STATE ROAD
ELIOT, MAINE 03903
MAP 37 LOT 1
Y.C.R.D BOOK 16296 PAGE 62

PER REF. 1

EXT. PROPERTY BOUNDARY (TYP.) SEE REFERENCE 1

EXT. ABUTTER BOUNDARY (TYP.)

S60°31'56"W 228.77'

20' REARYARD SETBACK (TYP.)

S36°45'11"W 202.19'

EXT. NON-FORESTED WETLAND BOUNDARY (TYP.)

EXT. FORESTED WETLAND BOUNDARY (TYP.) FRESHWATER WETLAND OF >10 ACRES (AS PER TOWN OF ELIOT ZONING MAP)

500' PUBLIC FACILITY SETBACK (SEE GENERAL NOTE #4)

N59°26'06"W 296.55'

EXT. PROPERTY BOUNDARY FOLLOWS ℄ OF GREAT BROOK

GREAT BROOK

SHORELAND OVERLAY ZONE (STREAM AND WETLAND) PROTECTION DISTRICT

LIMITED COMMERCIAL DISTRICT

EXISTING BUILDING 3 (6,000 SQ. FT.) (SEE NOTE #1 FOR EXT. USE)

60'

100'

EXT. POLE-MOUNTED SPOTLIGHT

EXT. CATCH BASIN RIM ELEV. = 84.25' INV. OUT = 81.50'

EXT. OVERFLOW PARKING

N60°31'58"E 98.74'

20' SIDEYARD SETBACK (TYP.)

APPROX. EXT. WETLAND BOUNDARY PER REFERENCE 2

75'

EXT. BUILDING OVERHANG (TYP.)

EXT. 12" CPP CULVERT INV. IN = 81.65' INV. OUT = 81.25'

EXT. BROOK ℄ (TYP.)

L=98.71', R=254.99'

EXISTING BUILDING 1 (7,600 SQ. FT.) (SEE NOTE #1 FOR EXT. USE)

80'

60'

EXT. CONCRETE PAD & HOLDING TANK

EXT. EDGE OF GRAVEL (TYP.)

EXT. DUMPSTER TO BE RELOCATED

EXT. FULL-SHIELD WALL PACK LIGHT (TYP.)

EXT. WELL

EXT. POLE-MOUNTED SPOTLIGHT

APPROX. LOCATION OF EXT. S.S.W.D.S.

EXT. CATCH BASIN RIM ELEV. = 81.50' INV. OUT = 78.80'

N29°12'04"W 288.34'

EXT. EMPLOYEE PARKING

S74°09'51"E 59.17'

EXT. BUILDING-MOUNTED SECURITY CAMERA (TYP.)

EXISTING BUILDING 2 (3,600 SQ. FT.) (SEE NOTE #1 FOR EXT. USE)

90'

40'

EXT. 1,500 GAL. SEPTIC TANK

EXT. CONCRETE PAD (TYP.)

EXT. EMPLOYEE PARKING

EXISTING TREELINE (TYP.)

L=161.01', R=205.00'

EXT. EMPLOYEE PARKING

30' FRONTYARD SETBACK (TYP.)

N60°47'55"E 197.62'

LIMITED COMMERCIAL DISTRICT
COMMERCIAL/INDUSTRIAL DISTRICT

EXT. POWER POLE & OVERHEAD ELECTRIC (TYP.)

SIGHT DISTANCE
RIGHT- 747' LEFT

BROOK ROAD
(20 MPH - 50' R.O.W.)

EXT. EDGE OF PAVEMENT (TYP.)

GRAPHIC SCALE
0 30 60 90 120 (FEET)

GENERAL NOTES (CONT):

9.) AS PER §33-190.(4).(f): SECURITY CAMERAS MUST BE PERMANENTLY FIXED AT THE FOLLOWING LOCATIONS:

A. ALL EXIT/ENTRY POINTS (SUFFICIENT TO IDENTIFY INDIVIDUALS ENTERING AND EXITING THE PREMISES AND LIMITED ACCESS AREAS).
B. EACH POINT OF SALE – A SUFFICIENT NUMBER OF CAMERAS MUST BE PERMANENTLY FIXED TO ALLOW VIEWING OF THE FOLLOWING:
   - ANY AREA WHERE MARIJUANA, MARIJUANA PLANTS, IMMATURE MARIJUANA PLANTS, SEEDLINGS, SEEDS, MARIJUANA CONCENTRATE OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, MANUFACTURED, STORED, AND/OR PREPARED FOR TRANSFER OR SALE (THE AREA MUST BE VIEWED IN ITS ENTIRETY).
   - ANY AREA WHERE WASTE IS STORED.
   - ALL AREAS OF THE PREMISES WITHIN 10 FEET OF THE EXTERIOR FENCY AND GATES OF A CULTIVATION FACILITY WITH OUTDOOR GROWING.
C. THE SURVEILLANCE SYSTEM STORAGE DEVICE MUST BE SECURED ON THE PREMISES IN A LOCKBOX, CABINET OR CLOSET, OR MUST BE ON A THIRD-PARTY SERVER OR SECURED IN ANOTHER MANNER TO PROTECT FROM EMPLOYEE TAMPERING OR CRIMINAL THEFT.
D. ALL SURVEILLANCE RECORDINGS MUST BE KEPT FOR A MINIMUM OF 45 DAYS ON THE LICENSEE'S RECORDING DEVICE.

10.) AS PER §33-190.(4).(f): ALL EXTERIOR DOORS TO BE LOCKED WITH CARD ACCESS FOR EMPLOYEES. KEY CARD AND KEYS WILL BE PROVIDED FOR EMERGENCY PERSONNEL IN KNOX-BOX AT FRONT OF BUILDING.

11.) AS PER §33-190.(4).(e): FACILITY WASTE PRODUCTS TO BE PLACED IN DUMPSTER SHOWN ON SITE PLAN. ANY PLANT MATERIAL TO BE GROUND UP INTO A COMPOSTABLE FORM AND DISPOSED OF AS SUCH. OTHER WASTE TO BE PACKAGING MATERIAL AND STANDARD FARM DEBRIS. DUMPSTER WILL BE FENCED IN, MONITORED BY SECURITY CAMERAS, AND LOCKED AT ALL TIMES NOT IN USE. SPECIFIC WASTE PROCEDURES UNDER REVIEW BY MDEP.

12.) THERE IS NO ADDITIONAL IMPERVIOUS PROPOSED FOR THIS DEVELOPMENT. IMPACTS ADJACENT TO EXISTING FORESTED WETLANDS WILL COMPLY WITH SECTION 2 "ACTIVITIES ADJACENT TO PROTECTED NATURAL RESOURCES" OF THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION (MDEP) CHAPTER 305: NATURAL RESOURCES PROTECTION ACT – PERMIT BY RULE (NRPA PBR).

13.) ALL EXISTING EXTERIOR LIGHTING IS DEPICTED ON THE PLANS, AND SHALL REMAIN AS SHOWN. NO ADDITIONAL LIGHTING IS PROPOSED.

14.) PROPOSED COMPANY SIGNS ARE DEPICTED ON THE PLANS. ALL PROPOSED SIGNS SHALL BE DESIGNED AND PLACED IN COMPLIANCE WITH §33-190.(3) 'PERFORMANCE STANDARDS FOR MARIJUANA FACILITIES, §45-405.j 'DIMENSIONAL STANDARDS', AND ARTICLE XI, §45-532 'SIGN PLACEMENT'.

OUTSIDE OF THE SUBJECT PARCEL, AN ADDITIONAL COMPANY SIGN IS PROPOSED AT THE INTERSECTION OF HAROLD L. DOW HIGHWAY AND BROOK ROAD. THIS SIGN IS UNDER SEPARATE REVIEW BY THE BOARD OF APPEALS, AND WOULD ONLY BE INSTALLED IF A POSITIVE DETERMINATION IS REACHED ON §45-529 AND VARIANCES §45-532(h) AND §45-405 FOR PLACEMENT AND SETBACK STANDARDS, RESPECTIVELY.

15.) SEWER DEMAND CALCULATION – AS PER THE STATE OF MAINE SUBSURFACE WASTEWATER DISPOSAL RULES, §10-144 CMR 241, TABLE 4C "DESIGN FLOWS FOR OTHER FACILITIES":
BUILDING 1: 200 GPD CULTIVATION USE & 60 GPD EMPLOYEES
BUILDING 2: 120 GPD EMPLOYEES
BUILDING 3: 200 GPD CULTIVATION USE & 60 GPD EMPLOYEES

16.) PROPOSED 1,500 GALLON SEPTIC TANK TO SERVICE THE CULTIVATION USE OF BUILDING 3 HAS BEEN SITED IN ACCORDANCE WITH §10-144 CMR 241, SECTION 7 "FIRST TIME SYSTEMS".

17.) THE PROPOSED DEVELOPMENT SHALL BE SERVICED BY THE EXISTING GRAVEL TRAVELWAYS AND PARKING LOTS. SEE DETAIL SHEET 4 FOR A CROSS-SECTION OF THE EXISTING GRAVEL DRIVE AND SUBBASE.

18.) IN COMPLIANCE WITH §33-190(4)a AND §33-190(9), ALL MARIJUANA ACTIVITIES (INCLUDING SALES) SHALL BE CONDUCTED EXCLUSIVELY INDOORS, AND THERE SHALL BE NO DRIVE-THROUGH OR HOME-DELIVERY SERVICES ASSOCIATED WITH THE PROPOSED DEVELOPMENT.

EXISTING CONDITIONS NOTES:

1.) THE EXISTING USE OF EACH BUILDING WITHIN THE DEVELOPMENT IS AS FOLLOWS:

BUILDING 1: LIVE LOBSTER HOLDING FACILITY
PARKING FACILITY
COMMERCIAL OFFICES
U.S. CUSTOMS BONDED WAREHOUSE

BUILDING 2: LOBSTER PROCESSING FACILITY
COMMERCIAL KITCHEN
COMMERCIAL OFFICES

BUILDING 3: LIVE LOBSTER HOLDING FACILITY
U.S. CUSTOMS BONDED WAREHOUSE

LEGEND

PROPERTY LINE
SETBACK
EXT. ABUTTER LINE
EXT. PAVEMENT
EXT. GRAVEL
EXT. BUILDING
EXT. CONCRETE PAD
EXT. DRILLED WELL
EXT. POWER POLE
EXT. OVERHEAD ELEC — OHU
EXT. U.G. ELECTRIC — UGU
EXT. SEWER LINE — S
EXT. STORM LINE — D
EXT. CATCH BASIN
EXT. EXTERIOR LIGHT
EXT. SECURITY CAMERA
EXT. MINOR CONTOUR — XXX
EXT. MAJOR CONTOUR — XXX
EXT. TREELINE
EXT. WETLAND BNDY — UPLAND / WETLAND
EXT. WETLAND AREA
FOUND PIPE OR IRON ROD
FOUND STONE OR CONCRETE MONUMENT

STATE OF MAINE – YORK COUNTY
ss. REGISTRY OF DEEDS
RECEIVED_____, 20___
AT___h,___m,___M, AND RECORDED IN
PLAN BOOK_____, PAGE_____
ATTEST_____REGISTER

NO.	DESCRIPTION	DATE
A	TOWN PLANNER REVIEW REVISIONS	03/30/21
	REVISIONS	

STATE OF MAINE
KENNETH M. WOOD
No. 8992
LICENSED PROFESSIONAL ENGINEER

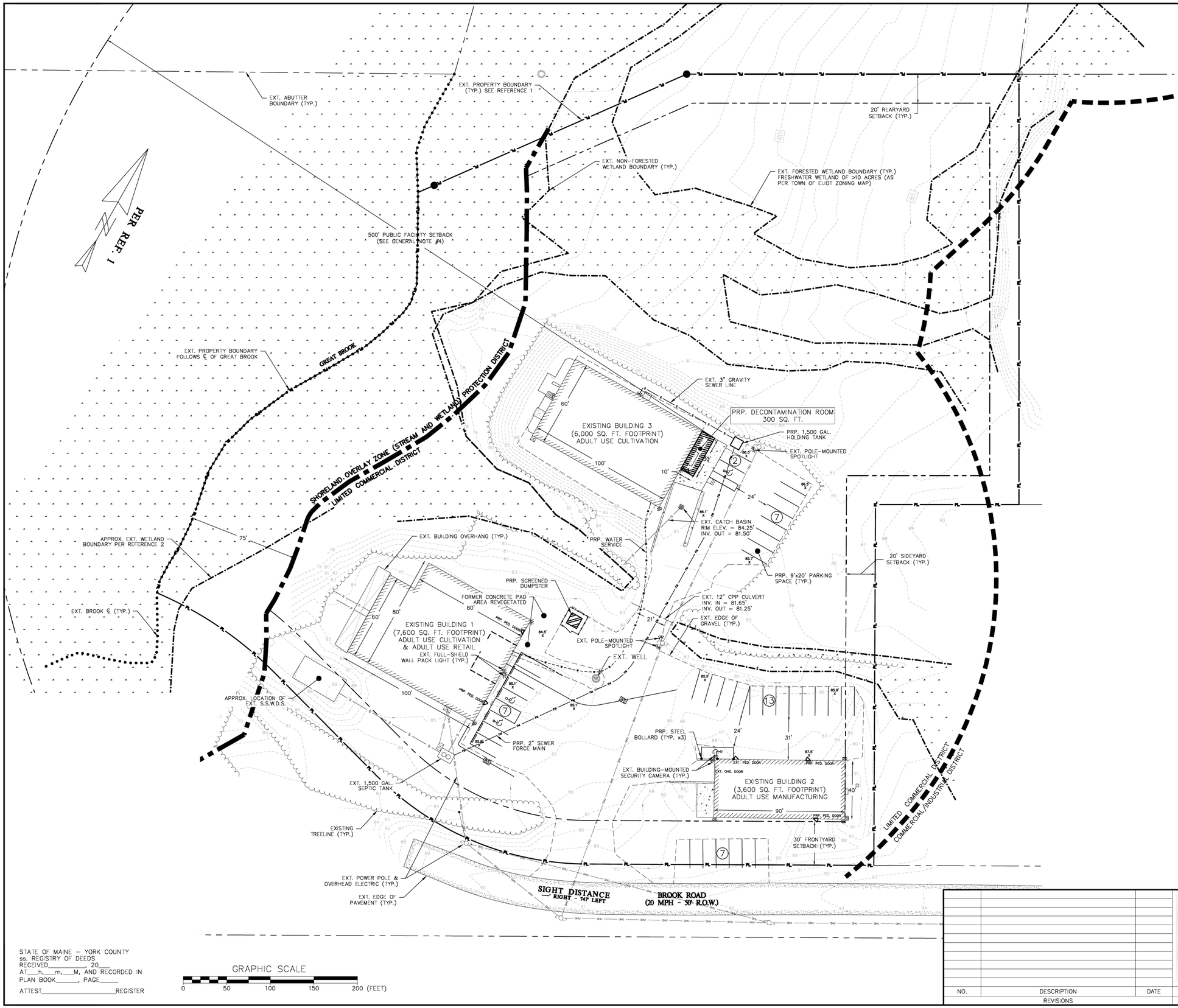
TAX MAP 37, LOT 2-3

EXISTING CONDITIONS PLAN
OBI LAB/NORTHEAST GOLD
32 BROOK ROAD, ELIOT, MAINE 03903

FOR: BMT ENTERPRISES
P.O. BOX 574
ELIOT, MAINE 03903

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

SCALE:	APPROVED BY:	DRAWN BY:
1" = 30'		MJS
DATE:		REVISION DATE:
03/18/21		A : 03/30/21
JOB NO: C033-21	FILE: BROOK ROAD BASE.DWG	SHEET: 2 OF 4



LEGEND

PROPERTY LINE	
SETBACK	
EXT. ABUTTER LINE	
EXT. PAVEMENT	
EXT. GRAVEL	
EXT. BUILDING	
PRP. BUILDING	
PRP. PARKING	
PRP. STOCKADE FENCE	
EXT. CONCRETE PAD	
EXT. DRILLED WELL	
EXT. POWER POLE	
EXT. OVERHEAD ELEC	OHU
EXT. U.G. ELECTRIC	UGU
EXT. SEWER LINE	S
EXT. STORM LINE	D
EXT. CATCH BASIN	
PRP. WATER LINE	W
PRP. FORCE MAIN	FM
PRP. STEEL BOLLARD	
EXT. EXTERIOR LIGHT	
EXT. SECURITY CAMERA	
EXT. MINOR CONTOUR	XXX
EXT. MAJOR CONTOUR	XXX
PRP. MAJOR CONTOUR	XXX
PRP. MINOR CONTOUR	XXX
PRP. SPOT GRADE	102.0' x
EXT. TREELINE	
EXT. WETLAND BNDY	UPLAND WETLAND
EXT. WETLAND AREA	

TAX MAP 37, LOT 2-3

STATE OF MAINE – YORK COUNTY
ss. REGISTRY OF DEEDS
RECEIVED_____, 20___
AT___h,___m,___M, AND RECORDED IN
PLAN BOOK_____, PAGE_____
ATTEST_____REGISTER

GRAPHIC SCALE
0 50 100 150 200 (FEET)

NO.	DESCRIPTION	DATE
	REVISIONS	

STATE OF MAINE
KENNETH A. WOOD
No. 6992
LICENSED
PROFESSIONAL ENGINEER

GRADING & UTILITIES PLAN
OBI LAB/NORTHEAST GOLD
32 BROOK ROAD, ELIOT, MAINE 03903

FOR: BMT ENTERPRISES
P.O. BOX 574
ELIOT, MAINE 03903

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

SCALE: 1" = 30'	APPROVED BY:	DRAWN BY: MJS
DATE: 03/18/21		REVISION DATE: – : –
JOB NO: C033-21	FILE: BROOK ROAD BASE.DWG	SHEET: 3 OF 4

TOWN OF ELIOT MAINE
PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Rebecca Hennessy, Applicant
Date: March 31, 2021 (report date)
April 6, 2021 (meeting date)
Re: PB21-05: 1336 State Rd. (Map 21, Lot 10) – Garlic Growing and Processing Home Business – **Sketch Plan Review**

Application Details/Checklist Documentation	
✓ Address:	1336 State Rd.
✓ Map/Lot:	21/10
✓ PB Case#:	21-05
✓ Zoning District:	Village (rear portion of property in Suburban)
✓ Shoreland Zoning:	N/A
✓ Owner Name:	Ronald CJ Cogswell
✓ Applicant Name:	Rebecca Hennessy
✓ Proposed Project:	Site Plan Review for the following: • Home Business Application
✓ Application Received by Staff:	2/18/21
✓ Application Fee Paid and Date:	$200 ($25 home business; $175 public hearing) 2/18/21
✓ Application Sent to Staff Reviewers:	3/4/21
Application Heard by PB Found Complete by PB	Date: 4/6/21 (scheduled) Date: TBD
Site Walk	Date: TBD
Public Hearing	Date: TBD
Public Hearing Publication	Date: TBD
Deliberation	Date: TBD
Notice of Decision	Date: TBD
✓ Reason for PB Review:	Home Business Application

Overview: This application is for a garlic growing and processing home business to be located at 1336 State Rd. (Map 21, Lot 10). The applicant is Rebecca Hennessy of Backyard Garlic, LLC. 1336 State Rd. is located primarily in the Village zoning district, though a small portion of the rear of the property is within the Suburban district. The ~1-acre lot contains an existing single-family residence, a 2-car garage, and a driveway with existing paved parking pad.

Backyard Garlic, LLC, is an existing business that sells its garlic products online, at farmers markets, at festivals, in retail stores, and wholesale. Products include dehydrated garlic in grinder jars and refill bags. At 1336 State Rd., the applicant proposes to have garlic growing from October to July and garlic processing (dehydration) from July to October. Included in the application package is a purchase and sale agreement (plus garage access addendum) with the current property owner of record, with a closing date of June 15, 2021. One of the conditions of the agreement is "contingent upon buyer receiving written approval from the town of Eliot for buyer's proposed business use at property".

The applicant proposes to use 400 square feet of home business space. A sketch plan included in the packet shows how the proposed dehydration equipment would be located in the existing garage. Also in the packet are photos of the equipment submitted by the applicant, including a sink/washing station and commercial dehydrator. The applicant stated that this equipment takes up under 100 square feet. The sketch plan also shows the outdoor garlic growing areas on the northwest side of the house.

The applicant proposes to have one non-occupant employee employed at the home business. There would be two additional parking spaces for the home business, to be located on the existing parking pad off of the driveway. No business sign, business-related vehicles, or external storage of material (other than the garlic growing areas) are proposed. In the fluids, solids, and gases storage section of the home business application, the applicant describes how the garlic is processed, stored, and prepared for sale.

Type of Review Needed: This meeting is for sketch plan review. The Planning Board may wish to ask clarifying questions of the applicant, request additional information if needed, and provide review comments. The Board may also wish to make a determination of application completeness and schedule a public hearing.

Town Planner's Review Notes: I believe the relevant issues for the Planning Board to consider and discuss include, but are not limited to, the following:

> **Zoning:** This is a property that spans two zoning districts – Village and Suburban – according to the Town's official zoning map. For these types of properties, the Planning Board must apply the more restrictive district (45-225). However, in this case, the requirements for home business site plan review between the two districts are the same in the land use table (45-290, "SPR 8"). The proposed use in the application is "agriculture". Both "agriculture, except animal breeding and care" and "produce and plants raised locally, seasonal sales" from the land use table are allowed in both the Village and Suburban districts. Notably, the Section 1-2 definition of the latter is:
>
> > agricultural products (for example, wool or flowers) that have been produced or grown locally, especially by farming, processed and then sold.
>
> It should be noted that almost all of the property, except for a ~0.1-acre sliver at the back of the property, is in the Village district.
>
> **Home business area limit:** As Planning Board members know from recent reviews, home businesses – individually or cumulatively on the same parcel – cannot exceed 1,500 square

feet in total area [45-456.1(b) and (c)] ("area limit"). While this application reports 400 square feet of home business space with the dehydration facility in the garage, you may have a question about how the growing areas (garlic garden beds) relate to the area limit. I believe that a reasonable interpretation of 45-456.1(c) is that the growing areas can be *excluded* from the area limit. That subsection refers to "structures used to support or conduct the home business". The Section 1-2 definition of structure includes references to "support, shelter or enclosure" and is "exclusive of fences". Open-air garden beds on the ground would reasonably be interpreted as not falling under this chain of definitions. Also, 45-456.1 clearly intends to exempt other home business elements from the 1,500 sq. ft. area limit, such as the allowable non-resident employee/customer parking spaces.

Parking: The applicant proposes two non-resident employee/customer parking spaces, under the allowable maximum of four.

Garlic processing: Question 11 in the application addresses how all fluids, solids, and gases unique to the business are going to be used and stored: "Peeled garlic is washed in water, chopped, placed in the dehydrator. After dehydration, the garlic is stored in food safe containers before being jarred and bagged for sale. We process 1500+ pounds of garlic." A neighbor to the home business location has contacted me with concerns about odor from the processing, and it is my understanding the applicant has been in contact with that neighbor as well. The Planning Board may wish to ask the applicant to describe the process further, including whether any odors from processing would be able to be smelled or otherwise impact neighboring properties. Section 45-409 include the odor performance standard in the zoning regulations.

Home business sales of merchandise and products: As Board members have discussed with recent home business applications, four types of sales of merchandise or products are allowed. Based on a review of the application, the types of sales proposed are allowable under 45-456.1(h).

Affidavit of ownership: 45-456.1(f) requires at least one person engaged in a permitted home business must occupy the dwelling unit, and 33-106 requires submittal of an affidavit of ownership or valid option of at least 90 days with sketch plan submittal for site plan review applications. I believe the latter has been met since the applicant submitted the application on 2/18/21 including the aforementioned purchase and sale agreement with the home business condition and closing date of 6/15/21.

Planner's Recommendation for the 4/6/21 meeting: The Planning Board should review the application and sketch plan, discuss the above (and any other relevant) issues, and determine what, if any, further information is needed from the applicant. Otherwise, the Planning Board may wish to make a motion on application completeness and setting of a public hearing.

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

TOWN OF ELIOT, MAINE

Case# _____

RECEIVED
FEB 18 2021
By

HOME BUSINESS APPLICATION

☐ Date Submitted _____

☐ Applicant Name(s) Rebecca Hennessy

☐ Mailing Address 93 Walker Bungalow Road Porstmouth, NH Phone 603-498-6075

☐ If you prefer to receive meeting notices and other communications via email please provide your email below:

Email address rehennessy@gmail.com @ _____ .com

☐ Property Owner(s) Rebecca Hennessy

☐ Mailing Address same as above Phone same as above

☐ Property Location/Address 1336 State Road Eliot, ME

☐ Map 21-10 Lot 10 Size (acres) 1.01

☐ Zoning District? *(circle all that apply)* Village Rural Suburban

☐ Is any portion of the property in a Shoreland zoning district? YES NO

☐ If yes, which Shoreland zoning district? *(check all that apply)*

- ☐ Limited Commercial
- ☐ Limited Residential
- ☐ Stream Protection
- ☐ General Development
- ☐ Resource Protection

☐ Non-conforming lot? YES NO

☐ Home business located in a non-conforming structure? YES NO

☐ Establish your legal interest in the property by attaching a copy of the deed, purchase and sales agreement, tax records, or signed lease.

☐ Describe the business and its operation *(nature of business, hours of operation, etc.))*

Backyard Garic LLC grows and processes garlic through dehydration. Growing Oct - July. Processing July - Oct.

☐ What permitted use as listed in the Table of Land Use (Sec. 45-290) are you applying for? *(note: cannot be "home business" or "home occupation")* If your proposed use is not listed, which one is it most similar to?

Argiculture

☐ Complete the attached checklist to see if your application complies with the ordinance and return to the Planning Assistant with ten (10) copies of application and plans plus a fee of $200.00 *($25 application fee + $175 for advertising and public hearing expenses)*

☐ **Applicant Signature** _____ **Date** Feb 17, 2021

☐ **Property owner Signature** *(if different)* _____ **Date** _____

☐ **Application received by PA** _____ **Date** _____

TOWN OF ELIOT, MAINE

Eliot Planning Board Home Business Checklist

Please explain how your proposed Home Business meets the ordinance requirements by filling in the blocks below.

Sec. 45-456. Home Businesses.
Home Businesses are uses that provide space for commercial activity that is in scale and character with neighborhoods and areas that are primarily residential. Home Businesses must comply with the following requirements:

Item	Section 45-456 Requirement	Explain how your proposal meets this requirement
1.	**a.** The Home Business must be clearly secondary to the residential use of the property. This means that there must be a dwelling unit on the property, and the dwelling unit must be occupied by an owner of the Home Business during the months of the year that the business is in operation. (As used in this paragraph, the term owner includes a principal of a corporation, limited liability company or other legal entity that owns a business.)	Provide a statement concerning your relationship (owner, renter) to the dwelling unit on the property. Provide the months of the year that you occupy the dwelling unit on the property. Rebecca Hennessy owns 1336 State Road as her year round residence.
2.	**b.** The Home Business cannot exceed 1500 square feet in total area. The total area includes all portions of all structures used to support or conduct the Home Business.	How many square feet are you planning to use? 400 square feet.
3.	**c.** All structures used as part of a Home Business must meet minimum yard and set back requirements for principal structures.	Provide a sketch showing the outline of the property and of all structures on the property, dimensions of the property and of all structures, and dimensions from all structures to the lot lines.

4.	**d.** Any use that is not listed in the Table of Land Uses, Section 45-290 may be permitted as a Home Business provided the following requirements are met: (1) The applicant must provide a rationale, acceptable to the Planning Board, substantiating that the proposed use is similar to a permitted use as allowed in the applicable zoning district. AND (2) The application must be approved by a concurring vote of at least three members of the Planning Board as being similar to a use listed in the Table of Land Uses as allowed in the applicable zoning district.	Is your proposed use in the land use table? If not, why do think it is similar to a use that is listed? Argiculture. Backyard Garlic grows and dehydrates garlic.
5.	**e.** At least one person engaged in the Home Business use must occupy the dwelling unit.	Provide a list of the occupants of the dwelling unit who will be engaged in the Home Business? Rebecca Hennessy
6.	**f.** No more than two persons not occupying the dwelling unit shall be employed on site in the Home Business.	In addition to persons dwelling on the site, how many others will be employed in the Home Business? One

7.	**g.** A Home Business may engage in selling of merchandise and products as follows: (1) On-site sales of merchandise and products that are created, grown, built, or substantially altered as part of the Home Business. (2) On-site sales of merchandise and products that are customarily incidental to the services or products provided by a Home Business. (3) Off-site, phone, mail, and internet, or similar sales of merchandise and products. (4) On-site wholesale distribution of merchandise and products to dealer/sales representatives who sell the merchandise and products off site.	Will you be selling merchandise or products as part of the Home Business? If so, describe the merchandise and products and how they will be sold. Backyard Garlic sells dehydrated garlic is grinder jars and refill bags. We have these two products. Backyard Garlic sells online, farmers markets, festivals, retail, and wholesale.
8.	**h.** Parking shall not exceed four spaces in addition to the spaces required for parking by occupants of the dwelling unit. Parking must meet setback requirements with the exception of two spaces that may be allowed within the front setback only.	How many parking places will you have in addition to those needed by persons residing at the dwelling unit? (Show it on the sketch) Two parking spaces.

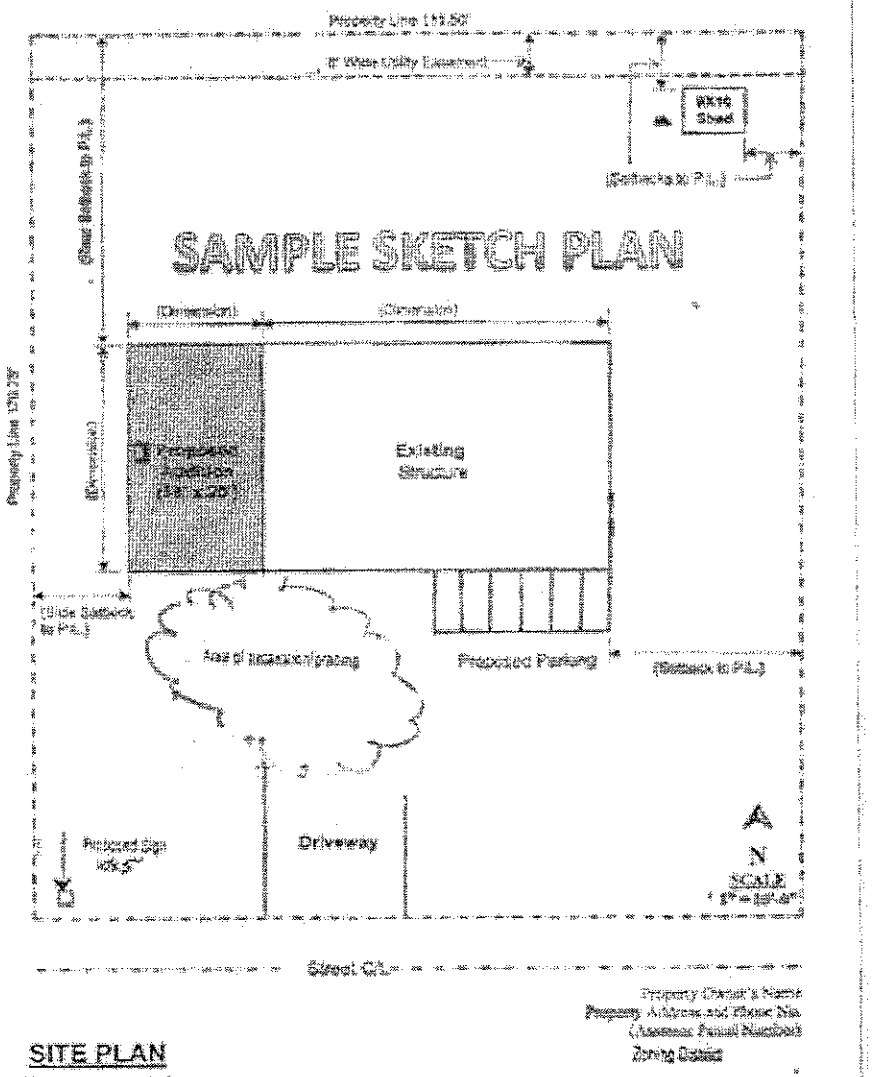
9.	**i.** Sign dimensions must meet Sec. 45-405 residential (non-commercial) requirement and shall be a maximum of 6 sq. ft. in area.	Are you going to have a sign? If so, how big will it be? No sign.
10.	**j.** Storage of material associated with the Home Business use and any other external evidence of the business, must be located or screened such that it is not visible from the street or neighboring residences. Signage, lobster traps, boat storage (in accordance with Home Businesses, Water Dependent) and one business related van, pickup truck, or passenger car shall be exempt from screening requirements.	Describe how all external (outside) evidence of the business will be screened from the street and neighboring residences. Describe all business-related vehicles. Garlic growing on the property. No business related vehicles.
11.	**k.** Application must identify how all fluids, solids, and gases unique to the business are going to be used and stored. Location and quantity of highly flammable or explosive liquids, solids, or gases shall be identified on the application and referred to the Eliot Fire Chief for review and comment. Material Safety Data Sheets (MSDS) shall be provided by the applicant as required by the Planning Board.	Provide a list of all fluids, solids, and gases that will be used in conducting your business. Describe how these materials will be used, where they will be stored, and the expected quantity. Peeled garlic is washed in water, chopped, placed in the dehydrator. After dehydration, the garlic is stored in food safe containers before being jarred and bagged for sale. We process 1500+ pounds of garlic.

TOWN OF ELIOT, MAINE

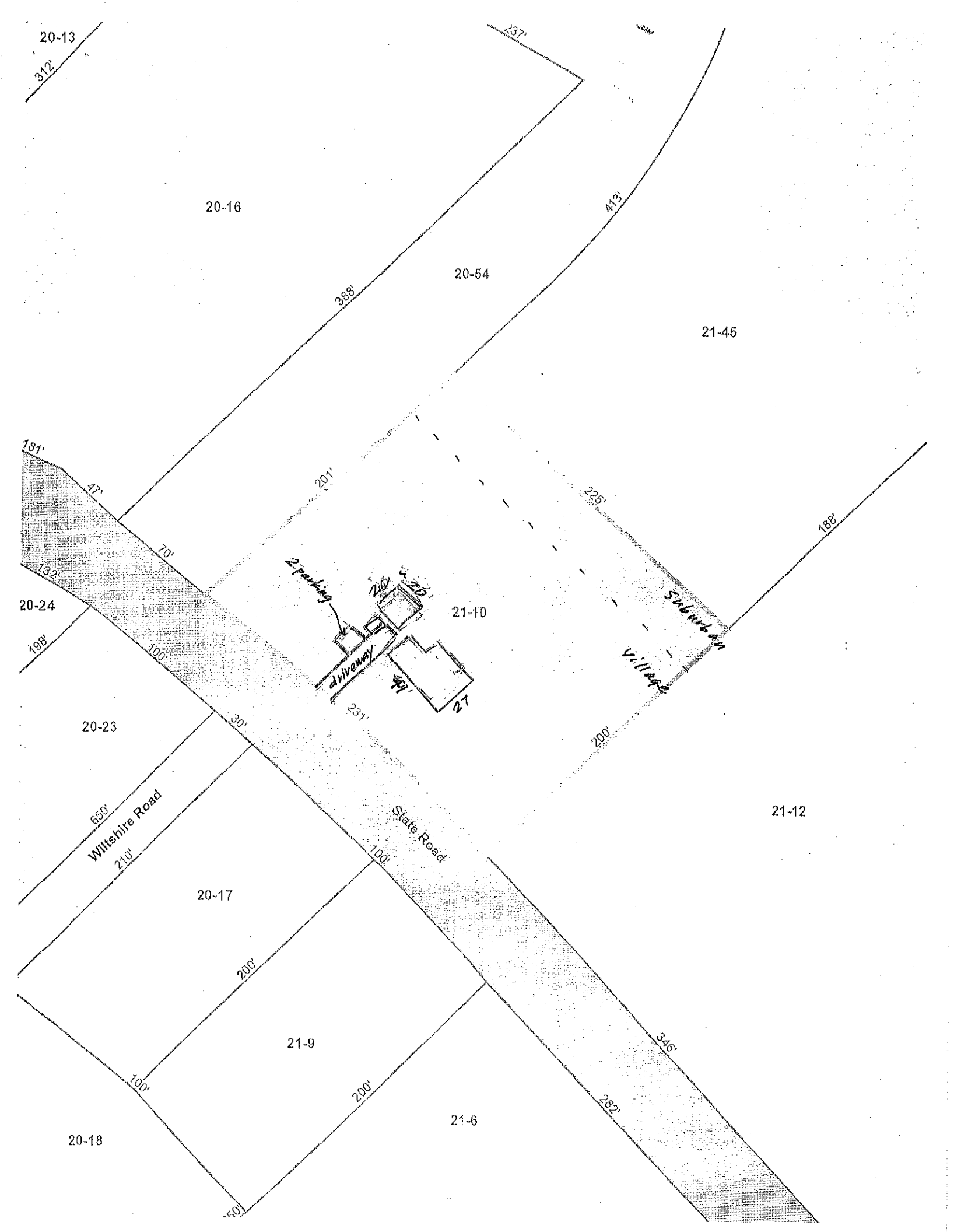
Case# _____

☑ SKETCH PLAN REQUIREMENTS

- ☐ Approximate dimensions of all zoning districts
- ☐ Existing and proposed structures
- ☐ All existing and proposed land uses
- ☐ Existing and proposed parking areas
- ☐ Existing and proposed streets and entrances
- ☐ Existing and proposed setbacks
- ☐ Proposed lot divisions
- ☐ Proposed open space to be preserved
- ☐ Common areas
- ☐ Public improvements/facilities
- ☐ Areas of excavation and grading



SITE PLAN
(Sample Only)


20-13
312'
237'
20-16
413'
20-54
368'
21-45
181'
47'
201'
225'
188'
70'
132'
2 parking
20'
22'
21-10
Suburban
Village
20-24
198'
100'
driveway
40'
27
231'
30'
200'
20-23
650'
Wiltshire Road
210'
State Road
100'
21-12
20-17
200'
21-9
100'
200'
346'
282'
21-6
20-18
50'

DocuSign Envelope ID: A1DB37E6-5B11-4851-AE0D-34BD94A69248

ADDENDUM _____ TO AGREEMENT

Addendum to contract dated **February 3, 2021**

between **Ronald C. J. Cogswell**

(hereinafter "Seller")

and **Rebecca E. Hennessy**

(hereinafter "Buyer")

property located at **1336 State Rd, Eliot, ME 03903-1320**

Seller agrees that Buyer has permission to access the garage and basement of the home located at 1336 State Road and to begin work to properly build out the garage for buyer's business use beginning May 1st, 2021. Garage to be empty by May 1st, 2021.

Parties acknowledge Agency's advice to seek legal, tax and other professional advice as necessary in connection with sale/purchase of property.

DocuSigned by:
Rebecca E. Hennessy
65C0C56E930C473...

Buyer	Date	Seller	Date
Rebecca E. Hennessy 2/12/2021		**Ronald C. J. Cogswell**	
Buyer	Date	Seller	Date
Buyer	Date	Seller	Date
Buyer	Date	Seller	Date

Maine Association of REALTORS®/Copyright © 2021.
All Rights Reserved. Revised 2020.

REALTOR®

EQUAL HOUSING OPPORTUNITY

HARVEST
SAVER
TRAY
DRYER

HARVEST
SAVER

Approximate dimensions of all zoning districts:

Existing and proposed structures: No proposed structures

All existing and proposed land uses: Growing areas 1 and 2

All existing and proposed parking areas: No changes

Existing and proposed streets and entrances: No changes

Existing and proposed setbacks:

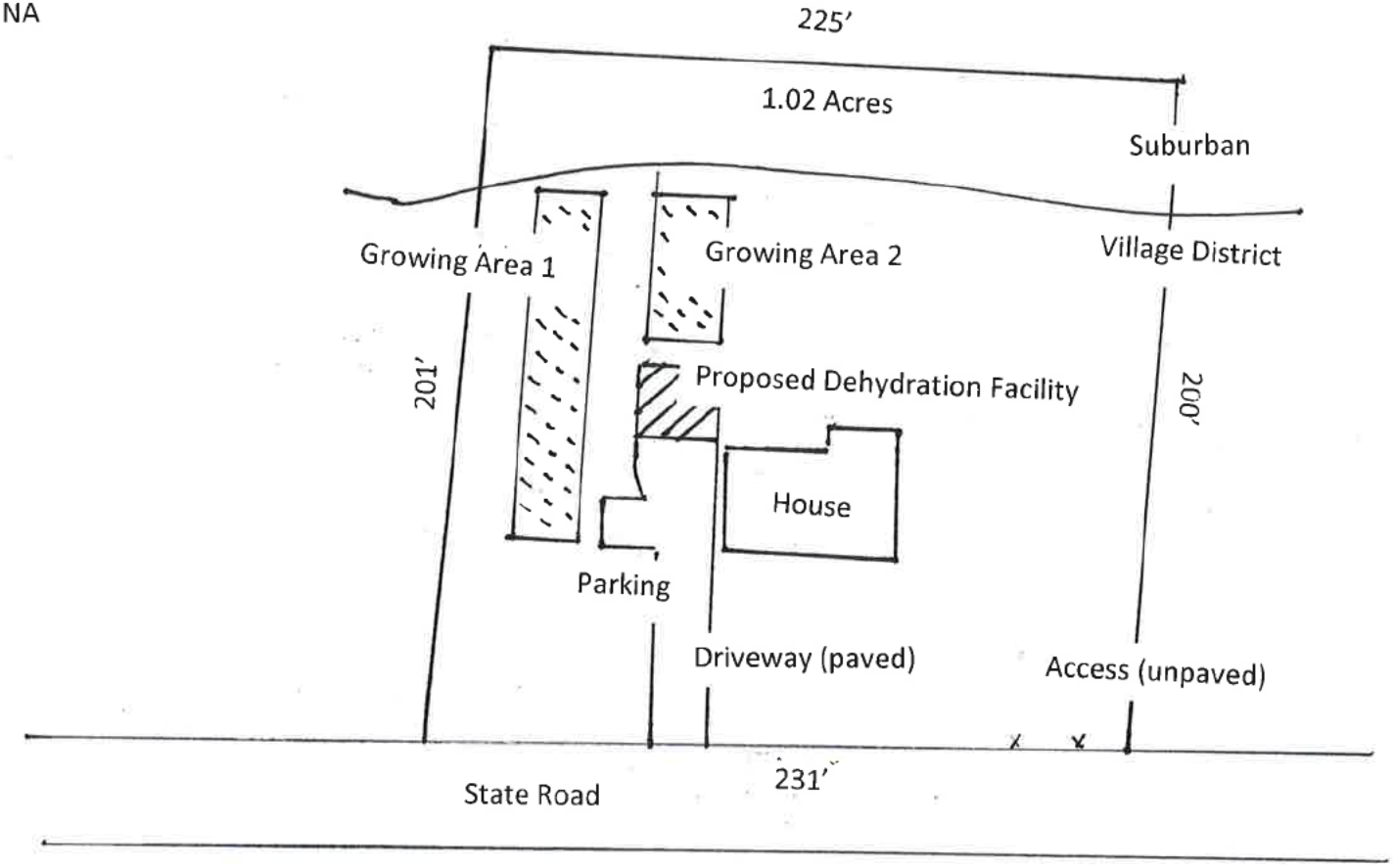
Proposed lot division: NA

Proposed open space to be preserved:NA

Common areas: NA

Public improvements/facilities: NA

Areas of excavation and grading: NA



PB21-6: 483 Harold L. Dow Hwy. (Map 54/Lot 2): Site Plan Amendment/Review and Change of Use – Adult Use Marijuana Cultivation

TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
From: Jeff Brubaker, AICP, Town Planner
Cc: Brian Nielsen, EIT, Applicant's Representative
Justice Rines, Applicant
Shelly Bishop, Code Enforcement Officer
Kearsten Metz, Land Use Administrative Assistant
Date: April 1, 2021 (report date)
April 6, 2021 (meeting date)
Re: PB21-6: 483 Harold L. Dow Hwy. (Map 54/Lot 2): Site Plan Amendment/Review and Change of Use – Adult Use Marijuana Cultivation – **Site Plan Review**

Application Details/Checklist Documentation	
✓ Address:	483 Harold L. Dow Hwy.
✓ Map/Lot:	54/2
✓ PB Case#:	PB21-6
✓ Zoning:	Commercial/Industrial (C/I)
✓ Shoreland Zoning:	N/A
✓ Owner Name:	Flower Company Properties Inc.
✓ Applicant Name:	NEK Assets, LLC
✓ Proposed Project:	Site Plan Amendment/Review and Change of Use – Adult Use Marijuana Cultivation
✓ Application Received by Staff:	February 16, 2021; February 25, 2021 (revisions)
✓ Application Fee Paid and Date: Application Fee Paid and Date:	$100 (Site Plan Amendment) February 17, 2021 $25 (Change of Use) Not yet paid as of this report
✓ Application Sent to Staff Reviewers:	March 4, 2021
Application Heard by PB Found Complete by PB	April 6, 2021 (scheduled) TBD
Site Walk	TBD
Site Walk Notice Publication	TBD
Public Hearing	TBD
Public Hearing Notice Publication	TBD
Deliberation	TBD
✓ Reason for PB Review:	Site Plan Amendment/Review, Change of Use, Marijuana Establishment

PB21-6: 483 Harold L. Dow Hwy. (Map 54/Lot 2): Site Plan Amendment/Review and Change of Use – Adult Use Marijuana Cultivation

Overview

Applicant NEK Assets, LLC (agent: Attar Engineering) is seeking approval of a Change of Use to Adult Use Marijuana Cultivation and a Site Plan Amendment to expand the leased area on the 3.0-acre property at 483 Harold L. Dow Hwy. (Map 54, Lot 2).

The application package includes a cover letter dated 2/16/21; a Request for Planning Board Action; a Site Plan Review Submissions Checklist; a landlord statement of permission; a conditional license from the state Office of Marijuana Policy (OMP); an OMP Local Authorization Form with Section 1 completed; site planset; and security plan information (redacted from the Planning Board packet, where requested as confidential). A revised site planset and cover letter were submitted on 2/25/21.

Zoning

The property is the C/I district with no shoreland zoning. Marijuana establishments are SPR uses in the C/I district.

Conditional licenses

Before an adult use marijuana application can be found complete, a conditional license from OMP for the proposed marijuana use must be provided. The application package includes the following OMP conditional licenses:

- Sweet Dirt 2, LLC (ACB596) – Cultivation Facility, Tier 2 (expires 12/10/21)
    - Owner: Northeast Kind Holdings LLC

Previous Planning Board reviews (recent)

- September 1, 2020 (approved)
    - Change of Use to convert two existing greenhouses from medical marijuana cultivation to medical plus adult use marijuana cultivation
    - Site Plan Amendment to add 8'x40' detached, fixed structure for drying, curing, and bulk packaging, with additional security (current application excludes this structure)
- February 18, 2020 (approved)
    - Change of Use from Wholesale Business Facility to Registered Primary Caregiver for the purpose of medical marijuana cultivation
    - Site Plan Amendment

Review needed

This is the initial review for this submittal. All marijuana uses require "full" site plan review (33-190). The Board may wish to ask questions of the applicant, request additional information, or make a determination on application completeness and setting of a public hearing (and site walk if desired).

Cultivation tier limit

The Tier 2 cultivation conditional license allows up to 2,000 sq. ft. of mature plant canopy. The previous (9/1/20) approval included adult use and medical marijuana cultivation in both 3,000 sf greenhouses, but the front warehouse building did not have cultivation proposed at that time. The current (2/22/21) site plan shows 1,400 sq. ft. for adult use cultivation as a room in the warehouse building along with the note: "Limit of Tier 2 license footprint." It is recommended that the plant canopy be clearly apportioned on the site plan.

Medical and adult use co-location

Based on the state Adult Use Program Rule, the site plan or additional documentation should show how medical and adult use cultivation in the greenhouses will be differentiated and include the specific information required under Section 2.4.6(D) of the rule, e.g. distinct areas for adult use vs. medical, and this should be consistent with the adult use plant canopy limit.

Water and septic load

More information has been sought from the applicant about how water and septic load will stay the same if cultivation is being expanded into the existing building [33-127(14); checklist states "no additional sewer or water load"]. The Planning Board may wish to discuss this with the applicant.

Security

Per 33-190(4)f., security information has been provided via notes on the site plan and in a security plan that has been omitted from the agenda packet per the applicant's request for confidentiality. Security was also discussed during previous reviews. The Planning Board may wish to inquire about any additional security measures you believe should be added. Note the new layout of the security fence around the perimeter of the greenhouses with Knox Box entry location to be determined after review by the Eliot Fire Dept.

Lighting plan

A lighting plan is included in the site planset. It is suggested that additional lighting be installed between the two greenhouses as that is an exterior space that currently shows little to no illuminance. [33-190(4)(f)4.]

Parking

No changes to the existing parking spaces are proposed.

Dumpster

Note the new location of the proposed screened dumpster toward the rear of the buildings.

Requested waivers

Numbers in parentheses refer to paragraphs in 33-127

- (4) – Perimeter survey
- (6) – Contour lines
- (8) – Storm drainage plan
- (11) – Soil erosion and sediment control plan
- (12) – High intensity soils report
- (13) – Sewers and water mains, culverts and drains
- (14) – Water supply connection
- (15) – Sanitary sewerage system connection
- (16) – Location and results of subsurface soil and groundwater tests for private sewage disposal system

Note other information requirements marked as "N/A".

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

ATTAR
ENGINEERING, INC
CIVIL • STRUCTURAL • MARINE

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

February 24th, 2021
Project No.: C065-21

Re: Sweet Dirt, Inc. 483 Harold Down Highway
Site Plan Narrative

Dear Mr. Brubaker:

Please find attached to this letter an updated site plan for the property located at 483 Harold Dow Highway for your review.

The attached plan is nearly the same as the one submitted on February 16th, 2021 (last week). The main difference is that Sweet Dirt is now leasing the remainder of the existing building. The uses of the additional space will remain as shown on the site plan (warehouse and equipment storage and office space). These spaces will support marijuana cultivation in other spaces. No marijuana cultivation or storage shall take place in the warehouse and equipment storage space nor the office space.

Please reach out with any questions related to the proposed changes.

We look forward to further discussion of this project at the next available meeting. Please contact me for any additional information or clarifications required.

Sincerely,

Brian Nielsen, EIT
Staff Engineer

cc: Sweet Dirt, Inc.

2021-02-24 - 483 Harold Dow Sweet Dirt Site Plan Update

ATTAR
ENGINEERING, INC
CIVIL • STRUCTURAL • MARINE

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

February 16th, 2021
Project No.: C065-21

Re: Sweet Dirt, Inc. 483 Harold Down Highway
Site Plan Narrative

Dear Mr. Brubaker:

Please find attached to this letter a site plan for the property located at 483 Harold Dow Highway for your review.

Attached is a proposed change of use and site plan amendment to the currently approved site plan (September 2020). The previously proposed small work trailer from the currently approved plan will not be constructed. We propose to expand the co-located (medical and adult-use) marijuana cultivation into the first bay of the existing building and to have exclusively adult-use marijuana cultivation in the second bay (layout and dimensions shown on the attached site plan).

As you will note, we have marked our Adult Use Camera and access control plan as confidential due to the sensitive nature of this security plan.

Several waivers are requested as the project proposes no construction. These are listed in the attached application.

We look forward to further discussion of this project at the next available meeting. Please contact me for any additional information or clarifications required.

Sincerely,

Brian Nielsen, EIT
Staff Engineer

cc: Sweet Dirt, Inc.

2021-02-16 - 483 Harold Dow Sweet Dirt Site Plan NarrativeSite Plan Narrative

TOWN OF ELIOT

1333 STATE RD. , ELIOT, ME 03903

REQUEST FOR PLANNING BOARD ACTION

(FOR MISCELLANEOUS USES OR CHANGES)

☑ Applicant NEK Assets, LLC

Mailing Address 987 Harold L Dow Highway City Eliot State ME Zip 03903

Telephone # (917) 805-0444 Email address jrines@northeastkind.com
(TO RECEIVE MEETING NOTICES)

☑ Property Owner The Flower Companies, Inc

Mailing Address 9 Island Way City Kittery State ME Zip 03904

☑ Property address 483 Harold L Dow Highway Tax Map # 54 Lot # 2

Size (acres) 3.21 Zoning District Commercial/ Industrial Shoreland Overlay District? No

☑ Conforming Lot? YES (NO) Conforming Use? (YES) NO Conforming Structure? (YES) NO

☑ Legal interest in property identified by applicant by:

- ☐ Owner (copy of deed &/or tax records)
- ☐ Pending Owner (copy of purchase & sale agreement)
- ☑ Lease (copy of lease agreement with owners & applicants signature)
- ☐ Corporate Officier (letter from corporation)
- ☐ Other (identify: _____)

☑ Nature of action requested:

(Example: *Request to amend a a previously approved site plan by adding a 10' x 20' addition*)

Request to amend a previously approved site plan by changing the use to adult use marijuana cultivation and expanding the leased area. See attached site plan for details.

☑ Attach ten (10) copies of sketch plan of property showing in approximate dimensions, all zoning districts, existing/proposed structures, parking areas, streets, entrances, existing and proposed setbacks, proposed lot divisions, proposed open space to be preserved, common areas, site & public improvements and facilities, any areas of excavation and grading, and any other criteria needed to evaluate request. Sketch plan is not required if so advised by the Planning Assistant.

☑ Applicants signature _____ COO-NEK Assets, LLC Date 2/16/2021

☐ Property owners signature _____ Date _____

TO BE COMPLETED BY PLANNING ASSISTANT

Date application received by PA _____ PA signature _____

Sketch plan required? YES NO

FEE AMOUNT $ _____ DATE PAID:_____ FORM OF PAYMENT: _____

REVISED 10/2016

Site Plan Review Submissions Checklist

Applicant Name: NEK Assets, LLC

Address & Map/Lot: 483 Harold Dow Highway, Tax Map 54 Lot 2

This is a working document, to be used with applicants and staff to ensure information provided is consistent and complete. It should be used as a guide in assembling the information necessary for a site plan review. Once the checklist is completed, applicable waivers indicated, and the information provided, it should be submitted with the application materials.

Instructions for Applicants:

1. Indicate if the information has been submitted by checking the appropriate box in column 1.
2. The Planner and Board will use this checklist with the applicant to determine if the application presented is complete.
3. If you believe that a required submission is not applicable to your proposed project, please discuss this matter with the Planner. If the staff agrees the submission to be not applicable, the staff member will check the appropriate category and indicate the reason the item is not applicable.
4. If a staff member denies a waiver request, that staff member will check the box in column 4 and the Planning Board will make the determination at the meeting.
5. The developer shall submit two originals of a site plan, drawn at a scale of 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 written request of the applicant.

Section Number of Ordinances	Item Description from Ordinances	1 Submitted by the Applicant	2 Submission Determined to be Sufficient by the Planning Board	3 Submission Determined Not Applicable by the Planner	4 Applicant Requests Waiver of Submission Requirement
33-127(1)	Development name or identifying title and name of the Town	X			
33-127(2)	Name & Address of Record Owners, Developer and Designer	X			
33-127(3)	Names & Addresses of All Abutters and Their Present Land Use	X			
33-127(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	Waiver requested, no construction near lot boundaries			

	Acreage, Existing Easements, Buildings, Watercourses & Other Essential Existing Physical Features	X			
33-127(5)	The Location of Temporary Markers Adequate to Enable the Planning Board to locate readily and appraise the basic layout in the field	To be placed			
33-127(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	Waiver requested, no change to existing topography			
33-127(7)	Provisions of Chapter 45 of this Code applicable to the area to be developed and any zoning district boundaries affecting the development	X			
33-127(8)	Provisions for collecting and discharging storm drainage, in the form of a drainage plan	Waiver requested, no change to impervious area or drainage paths			
33-127(9)	Preliminary designs of any bridges or culverts which may be required	N/A			
33-127(10)	The location of all natural features or site elements to be preserved	X			
33-127(11)	A soil erosion and sediment control plan	Waiver requested, no change to existing topography			
33-127(12)	A high intensity soils report 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	Waiver requested, no additional septic proposed			

	compliance with any recommendations included in such report				
33-127(13)	The locations & size of any existing sewers & water mains, culverts & drains on the property to be developed	Waiver requested, no additional drainage sewer or water load			
33-127(14)	Connection with existing water supply or alternative means of providing water supply to the proposed development	Waiver requested, no additional water load			
33-127(15)	Connection with existing sanitary sewerage system or alternative means of treatment & disposal proposed	Waiver requested, no additional sewer or water load			
33-127(16)	If a private sewage disposal system is proposed, location & results of tests to ascertain subsurface soil & groundwater conditions, depth to maximum groundwater level, location & results of soil testing	Waiver requested, no additional sewer or water load			
33-127(17)	An estimated progress schedule				
33-127(18)	Construction drawings sufficient to enable the Code Enforcement Officer to verify the following information:				
a.	Total floor area, ground coverage & location of each proposed building, structure or addition	X			
b.	All existing & proposed setback dimensions	X			
c.	The size, location, direction & intensity of illumination of all major outdoor lighting apparatus & signs	X			
d.	The type, size & location of all incineration devices	N/A			
e.	The type, size & location of all machinery likely to generate appreciable noise beyond the lot lines	N/A			
f.	The amount & type of any raw, finished or waste	N/A			

	materials to be stored outside of roofed buildings, including their physical & chemical properties, if appropriate				
g.	The location, type & size of all curbs, sidewalks, driveways, fences, retaining walls, parking space areas & the layouts together with all dimensions	X			
h.	All landscaped areas, fencing & size & type of plant material proposed to be retained or replanted	X			
i.	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.	N/A			
j.	Applications for subdivisions shall include all applicable submission requirements above, in addition to those required by chapter 41 of this code. If these submission requirements conflict with the requirements of chapter 41, the stricter standards shall apply.	N/A			
33-127(19)	Site plans and construction drawings for new and existing structures listed as SPR in section 45-290 shall	X			

	be submitted to the Eliot Fire Chief for review and comment prior to final approval by the Planning Board				

In addition to the above, when applicable, the Planning Board may require detailed interior plans including dimensional measurements and uses of all interior spaces, placement of equipment, counters, etc. and when applicable, seating charts indicating table/chair arrangements and the number of requested tables and seats.

The Planner will work with the applicant to ensure this checklist is complete before a Site Plan Review application is scheduled for review by the Planning Board.

_____ _____

Town Planner Date

Staff Section Only:

Address:	
Map/Lot:	
PB Case #:	
Zoning District:	
Shoreland Zoning:	
Owner Name:	
Applicant Name:	
Proposed Project:	
Application Received by Staff:	
Application Fee Paid and Date:	
Application Received/Found Complete by PB:	
Site Walk Date:	
Public Hearing Date:	
Public Hearing Publication Date:	
Reason for PB Review:	

LANDLORD STATEMENT OF PERMISSION

I, Jacqueline Nooney, am the (authorized agent of the record owner/record owner) of the property at 483 Harold L. Dow Hwy., Eliot, Maine (the "Property").

NEK Assets, LLC ("Tenant"), is a lawful tenant at the Property (the "Rented Unit"). I give Tenant permission to operate and develop Medical, or Adult Use or Co-Located Marijuana Establishment(s) pursuant to applicable State and local laws and regulations and to sublease such Property to its affiliates to operate such Marijuana Establishments as indicated on the Town application to which this Statement is attached; including the expanded leased premises footprint.

I have reviewed the relevant portions of the Town Code and understand the potential consequences of Tenant's use of the Rented Unit as a Marijuana Establishment(s).

Date: 2/16/21 Signature: Jacquelyn Nooney

Title: President Printed name: Jacquelyn Nooney

Personally appeared before me the above-named affiant and made oath that the foregoing affidavit is true and correct to his/her personal knowledge.

Date: 2/16/21 Signature:

Notary Public/Attorney at Law

ME BAR ID → 006124

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

This certifies that

SWEET DIRT 2, LLC

License Number ACB596

has been issued a CONDITIONAL license as an
ADULT USE MARIJUANA CULTIVATION FACILITY, TIER 2
under 28-B MRS. This does NOT permit the licensee to engage in any activity.

NOTE: THIS IS NOT AN ACTIVE LICENSE

Issued on:
December 11, 2020

Expires on:
December 10, 2021

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

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

The Conditional License for ACB596 has been issued based on the following organizational structure:

Principals:

HUGHES SPENCER POPE, DIRECTOR
KRISTIN ANN POPE, DIRECTOR
JAMES F. HENRY, DIRECTOR
ROGER PHILLIP CARNIE, JR, DIRECTOR
DIANA LYNN HUFFMAN, DIRECTOR

Owners:

100.00% - NORTHEAST KIND HOLDINGS LLC

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

OFFICE OF MARIJUANA POLICY
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Maine Adult Use Local Authorization Form

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

If the authorized local official in receipt of this Form has not recently met with the Office of Marijuana Policy to discuss the local authorization process and OMP's expectations for completion of this Form, please contact Tracy Jacques, Director of Licensing, at Licensing.OMP@maine.gov or (207) 530-7389 prior to filling it out.

Section 1: License Information. Information generated by the Office of Marijuana Policy.

Business Legal Name:	Business DBA:	Conditional License Number:
SWEET DIRT 2, LLC		ACB596

License Type:
ADULT USE MARIJUANA CULTIVATION FACILITY, TIER 2

Mailing Address:	Facility Phone:
84 MARGINAL WAY STE 600 PORTLAND, ME 04101-2473	+1 (207) 253-0598
	Primary Contact Person: HANNAH E. KING
	Primary Contact Email: mdumas@dwmlaw.com

Section 2: Marijuana Establishment and Local Authorization Information. This section to be completed by the Municipality/Maine Land Use Planning Commission in receipt of request for Local Authorization.

Physical Location of Establishment (include unit number)	Municipality/Town/Plantation/Township	County	State	ZIP

Tax Map #:	Tax Lot #:

Owner of Record of the Physical Location Listed Above:

Date Local Authorization Form Presented to the Municipality/Maine Land Use Planning Commission:	Date Local Authorization Form Approved by Municipality/Maine Land Use Planning Commission:

If you are requesting Local Authorization from a *municipality*, complete Section 3.

If you are requesting Local Authorization from a *town, plantation or township in the unorganized and deorganized areas* through the Maine Land Use Planning Commission, complete Section 4.

Section 3: Local Authorization of Marijuana Establishments within Municipalities. This section to be completed by the Municipality in receipt of request for Local Authorization.

Section 3(a): Request for local authorization to operate marijuana establishment in municipality prohibited unless authorized by municipal ordinance or warrant article. A person seeking to operate a marijuana establishment within a municipality may not request local authorization to operate the marijuana establishment and a municipality may not accept as complete the person's request for local authorization unless the following questions are answered in the affirmative.

1. Has the legislative body of the municipality voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including the type of marijuana establishment the person seeks to operate as indicated in the "License Type" box of Section 1 of this form?

☐ Yes ☐ No

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

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

1. Is the marijuana establishment proposed to be located equal to or greater than 1,000 feet of the property line of a preexisting public or private school? If the municipality by ordinance or other regulation prohibits the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies.
☐ Yes ☐ No

2. Has the person requesting local authorization to operate the marijuana establishment demonstrated possession or entitlement to possession of the proposed licensed premises of the marijuana establishment?
☐ Yes ☐ No

If yes, briefly explain:
_____
_____

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

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

2. Is a list and copy of all applicable approvals, permits, or licenses with the issuance and expiration dates attached or included with the submission of this form? The Office of Marijuana Policy encourages the municipality to coordinate the issuance date of a local license with the Office when appropriate.
☐ Yes ☐ No

Section 4: Local Authorization of Marijuana Establishments within Towns, Plantations and Townships in the Unorganized and De organized Areas. This section to be completed by the Maine Land Use Planning Commission in receipt of request for Local Authorization.

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

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

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

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

1. Is the marijuana establishment proposed to be located equal to or more than 1,000 feet of the property line of a preexisting public or private school? If the Maine Land Use Planning Commission prohibits the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies.
☐ Yes ☐ No

2. Has the person requesting local authorization to operate the marijuana establishment demonstrated possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a ☐ lease, ☐ rental agreement or ☐ other arrangement for possession of the premises (specify:_____) or ☐ by virtue of ownership of the premises?
☐ Yes ☐ No

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

1. Has the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located, certified to the Maine Land Use Planning Commission that the person has obtained all applicable local approvals, permits or licenses **not** relating to land use planning and development?
☐ Yes ☐ No

2. Is a copy of the certification including a list of all applicable approvals, permits, or licenses **not** relating to land use planning and development with the issuance and expiration dates attached or included with the submission of this form?
☐ Yes ☐ No

3. Has the person obtained all applicable Maine Land Use Planning Commission approvals, permits, or licenses that are required for the operation of this type of adult use marijuana establishment? By selecting "yes" below, the Maine Land Use Planning Commission is affirming that all Maine Land Use Planning Commission approvals, permits, or licenses have been approved, granted, or issued and no further action by the Maine Land Use Planning Commission is required prior to the Office of Marijuana Policy's issuance of an active license. The Office of Marijuana Policy encourages the Maine Land Use Planning Commission to coordinate the issuance date of a local license with the Office when appropriate.
☐ Yes ☐ No

4. Is a list and copy of all applicable Maine Land Use Planning Commission approvals, permits, or licenses with the issuance and expiration dates attached or included with the submission of this form? The Office of Marijuana Policy encourages Maine Land Use Planning Commission to coordinate the issuance date of a local license with the Office when appropriate.
☐ Yes ☐ No

Statutory Guidance for Municipalities/Maine Land Use Planning Commission

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

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

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

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

Municipality/LUPC Representative

Legal Name and title of Municipality/LUPC Representative:	City:	County:

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

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

Notarization

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

Name of Notary Public (Printed):	Signature of Notary Public:
Notary Public, State of Maine My commission expires:	_____ _____ **STAMP/SEAL**

Written Security Plan, Cultivation, 483 Harold Dow Highway Eliot, Maine 03903.

Sweet Dirt takes the safety and security of its customers, employees, guests, and neighbors very seriously. We have a central security office which works with several outside contractors to plan, monitor, and upgrade security programs for any of our facilities. The space in question is approximately 32,832 sq. ft. and will be completely equipped with more than sufficient and appropriate security measures to:

1. Provide a safe and secure environment for patients, visitors, and staff.
2. Deter and prevent unauthorized entrance into areas containing marijuana.
3. Deter and prevent the theft of marijuana.

Addressing the specific requirements outlined in Sec. 33-190(d)(5) and (6):

Disposal of marijuana and byproducts

In the event that any marijuana needs to be disposed of from this location, it is stored in an area within the facility that is under camera until the product is rendered unusable. Any marijuana or byproduct that needs to be disposed then undergoes a safe and sanitary disposable process following all Sweet Dirt operational plans for proper disposal of marijuana and byproducts, leaving any product completely unusable. It is then disposed in a dumpster with a lid that is kept under lock and key at all times and screened from public view. The dumpsters are also covered by security cameras.

Security Surveillance Cameras:

At least 30 security surveillance cameras will be installed and will be operating twenty-four (24) hours a day, seven (7) days a week, and retain a minimum of forty-five (45) days video storage. The surveillance cameras will be recording at a minimum of 720p resolution and fifteen (15) frames per second (FPS). These surveillance cameras 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.

Alarm System:

The building will be equipped, regulated and monitored by a commercial combination control panel with an audible alarm that is monitored by a Professional Security Company and alarm notification capabilities with smart phone monitoring, with notifications that are sent immediately and directly to both the Eliot Police Department and one of our managers from Sweet Dirt, so that they may assist Eliot Police as needed to resolve the alarm. The building alarm will be maintained in good working condition by a combination of security employees, management staff, and professional security company.

All doors and windows are equipped with burglar contacts and motion detectors to prevent unauthorized entrance after hours.

The building is also outfitted with silent panic alarms that staff can utilize in the event of an emergency. These are directly monitored by our security company 24 hours a day and in the event, one is activated, Eliot Police would be notified immediately.

Security Fencing:

All greenhouse activities are contained within a six-foot galvanized chain link fence with barbed-wire along the top to discourage and prevent unauthorized access pursuant to applicable state law and regulation.

Exterior Lighting:

LED wall pack lighting will be installed on the exterior of the building that will illuminate the exterior walls and fenced in area of the premises during dusk to dawn. These lights will be installed around the entire facility and turn on automatically at dusk and shuts down after sunrise.

Deadbolt Locks and Locking Windows:

All exterior doors will be secured with a deadbolt to provide an additional security measure.

Police Chief or Designee Notifications:

Sweet Dirt will provide the Eliot Police Chief (or designee) with the name and phone number of our 24-hour on-call staff person as well as the names and phone numbers of the 2nd and 3rd responsible employees in the security call queue.

A confidential security plan was previously recorded here. At the applicant's request for confidentiality, this document was removed from the packet posted online.

For more information, please contact Kearsten Metz, Land Use Administrative Assistant at landuse@eliotme.org or 207-439-1817 x 109.

Site Plan Review Submissions Checklist

Applicant Name: NEK Assets, LLC

Address & Map/Lot: 483 Harold Dow Highway, Tax Map 54 Lot 2

This is a working document, to be used with applicants and staff to ensure information provided is consistent and complete. It should be used as a guide in assembling the information necessary for a site plan review. Once the checklist is completed, applicable waivers indicated, and the information provided, it should be submitted with the application materials.

Instructions for Applicants:

1. Indicate if the information has been submitted by checking the appropriate box in column 1.
2. The Planner and Board will use this checklist with the applicant to determine if the application presented is complete.
3. If you believe that a required submission is not applicable to your proposed project, please discuss this matter with the Planner. If the staff agrees the submission to be not applicable, the staff member will check the appropriate category and indicate the reason the item is not applicable.
4. If a staff member denies a waiver request, that staff member will check the box in column 4 and the Planning Board will make the determination at the meeting.
5. The developer shall submit two originals of a site plan, drawn at a scale of 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 written request of the applicant.

Section Number of Ordinances	Item Description from Ordinances	1 Submitted by the Applicant Planner	2 Submission Determined to be Sufficient by the Planning Board	3 Submission Determined Not Applicable by the Planner	4 Applicant Requests Waiver of Submission Requirement
33-127(1)	Development name or identifying title and name of the Town	X X			
33-127(2)	Name & Address of Record Owners, Developer and Designer	X X			
33-127(3)	Names & Addresses of All Abutters and Their Present Land Use	X Shown on site plan			
33-127(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	Waiver requested, no construction near lot boundaries			

	Acreage, Existing Easements, Buildings, Watercourses & Other Essential Existing Physical Features	X X			
33-127(5)	The Location of Temporary Markers Adequate to Enable the Planning Board to locate readily and appraise the basic layout in the field	✓ To be placed			
33-127(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	Waiver requested, no change to existing topography		X waiver Ok →	
33-127(7)	Provisions of Chapter 45 of this Code applicable to the area to be developed and any zoning district boundaries affecting the development	X X			
33-127(8)	Provisions for collecting and discharging storm drainage, in the form of a drainage plan	Waiver requested, no change to impervious area or drainage paths		X waiver Ok → (see review letter for related review)	
33-127(9)	Preliminary designs of any bridges or culverts which may be required	N/A		X	
33-127(10)	The location of all natural features or site elements to be preserved	X show additional tree lines			
33-127(11)	A soil erosion and sediment control plan	Waiver requested, topography	no change to existing		waiver Ok (see review ltr)
33-127(12)	A high intensity soils report 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	Waiver requested, no additional septic proposed ✓			OK

	compliance with any recommendations included in such report				
33-127(13)	The locations & size of any existing sewers & water mains, culverts & drains on the property to be developed	Waiver requested, no additional drainage sewer or water load			OK
33-127(14)	Connection with existing water supply or alternative means of providing water supply to the proposed development	Waiver requested, no additional water load			See review ltr
33-127(15)	Connection with existing sanitary sewerage system or alternative means of treatment & disposal proposed	Waiver requested, no additional sewer or water load			"
33-127(16)	If a private sewage disposal system is proposed, location & results of tests to ascertain subsurface soil & groundwater conditions, depth to maximum groundwater level, location & results of soil testing	Waiver requested, no additional sewer or water load			"
33-127(17)	An estimated progress schedule			X	
33-127(18)	Construction drawings sufficient to enable the Code Enforcement Officer to verify the following information:				
a.	Total floor area, ground coverage & location of each proposed building, structure or addition	X ✓			
b.	All existing & proposed setback dimensions	X ✓			
c.	The size, location, direction & intensity of illumination of all major outdoor lighting apparatus & signs	X ✓ (see review ltr)			
d.	The type, size & location of all incineration devices	N/A		X	
e.	The type, size & location of all machinery likely to generate appreciable noise beyond the lot lines	N/A		X	
f.	The amount & type of any raw, finished or waste	N/A ✓		(Dumpster location + note on plan)	

	materials to be stored outside of roofed buildings, including their physical & chemical properties, if appropriate				
g.	The location, type & size of all curbs, sidewalks, driveways, fences, retaining walls, parking space areas & the layouts together with all dimensions	X ✓ (see review ltr)			
h.	All landscaped areas, fencing & size & type of plant material proposed to be retained or replanted	X ✓			
i.	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.	N/A		X	
j.	Applications for subdivisions shall include all applicable submission requirements above, in addition to those required by chapter 41 of this code. If these submission requirements conflict with the requirements of chapter 41, the stricter standards shall apply.	N/A		X	
33-127(19)	Site plans and construction drawings for new and existing structures listed as SPR in section 45-290 shall	X ✓ (need Fire Chief review)			

	be submitted to the Eliot Fire Chief for review and comment prior to final approval by the Planning Board				

In addition to the above, when applicable, the Planning Board may require detailed interior plans including dimensional measurements and uses of all interior spaces, placement of equipment, counters, etc. and when applicable, seating charts indicating table/chair arrangements and the number of requested tables and seats.

The Planner will work with the applicant to ensure this checklist is complete before a Site Plan Review application is scheduled for review by the Planning Board.

Town Planner

3-24-21
Date

Staff Section Only:

Address:	483 HL Dow Hwy
Map/Lot:	54/2
PB Case #:	21-6
Zoning District:	C/I
Shoreland Zoning:	N/A
Owner Name:	The Flower Company Properties, Inc.
Applicant Name:	NEK Assets, LLC
Proposed Project:	Site Plan Amend. / Chg. of Use - Marijuana
Application Received by Staff:	2/17/21
Application Fee Paid and Date:	Partial paid 2/17/21
Application Received/Found Complete by PB:	
Site Walk Date:	
Public Hearing Date:	
Public Hearing Publication Date:	
Reason for PB Review:	

LANDLORD STATEMENT OF PERMISSION

I, Jacqueline Nooney, am the (authorized agent of the record owner/record owner) of the property at 483 Harold L. Dow Hwy., Eliot, Maine (the "Property").

NEK Assets, LLC ("Tenant"), is a lawful tenant at the Property (the "Rented Unit"). I give Tenant permission to operate and develop Medical, or Adult Use or Co-Located Marijuana Establishment(s) pursuant to applicable State and local laws and regulations and to sublease such Property to its affiliates to operate such Marijuana Establishments as indicated on the Town application to which this Statement is attached; including the expanded leased premises footprint.

I have reviewed the relevant portions of the Town Code and understand the potential consequences of Tenant's use of the Rented Unit as a Marijuana Establishment(s).

Date: 2/16/21 Signature: Jacquelyn Nooney

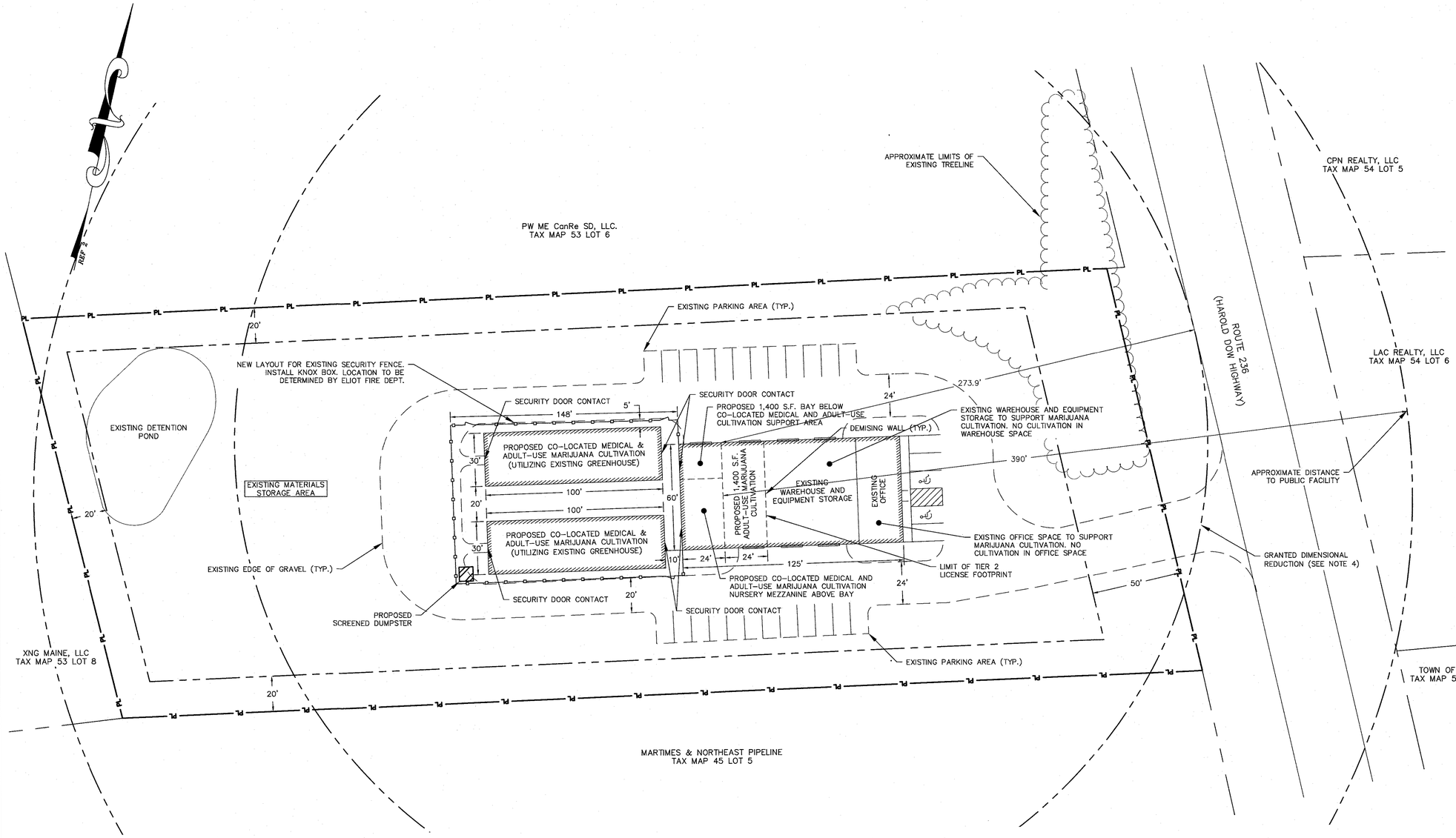
Title: President Printed name: Jacquelyn Nooney

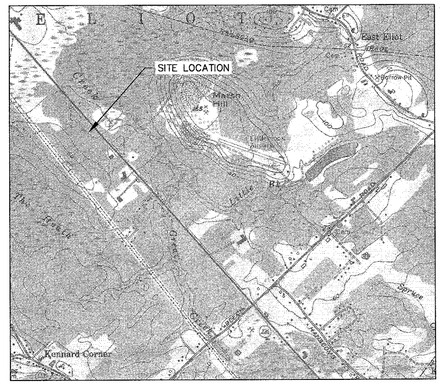
Personally appeared before me the above-named affiant and made oath that the foregoing affidavit is true and correct to his/her personal knowledge.

Date: 2/16/21 Signature:

Notary Public/Attorney at Law

ME BAR ID → 006124





GENERAL NOTES

1. THE PLAN PROVIDES A PROPOSED SITE PLAN AMENDMENT AND CHANGE OF USE TO THE PROPERTY LOCATED AT 483 HAROLD DOW HIGHWAY (ROUTE 236) IN ELIOT, MAINE. THE PROPOSED AMENDMENT INCLUDES AN EXPANSION OF CO-LOCATED (MEDICAL AND ADULT-USE) MARIJUANA CULTIVATION INTO ONE BAY OF THE EXISTING BUILDING, ADDITIONAL ADULT-USE MARIJUANA CULTIVATION, AND THE REMOVAL OF THE 8'x40' TRAILER. THE EXISTING WAREHOUSE, EQUIPMENT STORAGE, AND OFFICE SPACES TO SUPPORT MARIJUANA CULTIVATION.

2. BOUNDARY LINES, EXISTING CONDITIONS AND TOPOGRAPHY WERE ESTIMATED FROM REFERENCE 1.

3. THE SITE IS IDENTIFIED ON TOWN OF ELIOT TAX MAP 54 AS LOT 2 AND IS APPROXIMATELY 3.0 ACRES IN AREA. THE PARCEL IS LOCATED IN THE COMMERCIAL/INDUSTRIAL (C/I) DISTRICT.

4. DIMENSIONAL REQUIREMENTS:

COMMERCIAL/INDUSTRIAL (C/I) DISTRICT	
MINIMUM LOT SIZE	3 ACRES
FRONT YARD SETBACK	50 FEET
SIDE YARD SETBACK	20 FEET
REAR YARD SETBACK	20 FEET
MAXIMUM BUILDING HEIGHT	55 FEET
STREET FRONTAGE	300 FEET
MAXIMUM LOT COVERAGE	50%

500' SETBACK FROM PUBLIC FACILITY REDUCED BY 227 FEET (SEE BOA NOTICE OF DECISION 1-23-2020).

5. GENERAL LAYOUT AND BOUNDARY LINES APPROXIMATED FROM FROM REFERENCE 1.

6. SECURITY CAMERAS MUST BE PERMANENTLY FIXED AT THE FOLLOWING LOCATIONS IN THE ESTABLISHMENT:

1. ALL EXIT/ENTRY POINTS (SUFFICIENT TO IDENTIFY INDIVIDUALS ENTERING AND EXITING THE PREMISES AND LIMITED ACCESS AREAS).

2. EACH POINT OF SALE-A SUFFICIENT NUMBER OF CAMERAS MUST BE PERMANENTLY FIXED TO ALLOW VIEWING OF THE FOLLOWING:

1. ANY AREA WHERE MARIJUANA, MARIJUANA PLANTS, IMMATURE MARIJUANA PLANTS, SEEDLINGS, SEEDS, MARIJUANA CONCENTRATE OR MARIJUANA PRODUCTS ARE CULTIVATED, PROCESSED, MANUFACTURED, STORED, AND/OR PREPARED FOR TRANSFER OR SALE (THE AREA MUST BE VIEWED IN ITS ENTIRETY).

2. ANY AREA WHERE MARIJUANA WASTE IS STORED.

3. ALL AREAS OF THE PREMISES WITHIN 10 FEET OF THE EXTERIOR FENCE AND GATES OF A CULTIVATION FACILITY WITH OUTDOOR GROWING.

3. THE SURVEILLANCE SYSTEM STORAGE DEVICE MUST BE SECURED ON THE PREMISES IN A LOCKBOX, CABINET OR CLOSET, OR MUST BE ON A THIRD-PARTY SERVER OR SECURED IN ANOTHER MANNER TO PROTECT FROM EMPLOYEE TAMPERING OR CRIMINAL THEFT.

4. ALL SURVEILLANCE RECORDINGS MUST BE KEPT FOR A MINIMUM OF 45 DAYS ON THE LICENSEE'S RECORDING DEVICE.

7. ALL EXTERIOR DOORS TO BE LOCKED WITH CARD ACCESS FOR EMPLOYEES. KEY CARD AND KEYS WILL BE PROVIDED FOR EMERGENCY PERSONNEL IN KNOX-BOX AT FRONT OF BUILDING.

8. FACILITY WASTE PRODUCTS TO BE PLACED IN DUMPSTER SHOWN ON SITE PLAN. ANY PLANT MATERIAL TO BE GROUND UP INTO A COMPOSTABLE FORM AND DISPOSED OF AS SUCH. OTHER WASTE TO BE PACKAGING MATERIAL AND STANDARD FARM DEBRIS. DUMPSTER WILL BE FENCED IN AND MONITORED BY SECURITY CAMERAS. SPECIFIC WASTE PROCEDURES UNDER REVIEW BY MDEP.

REFERENCES

1. "COMMERCIAL LANDSCAPE BUSINESS, ROUTE 236, ELIOT, MAINE" PREPARED BY OAK POINT ASSOCIATES FOR JACQUELYN NOONEY, C/O FLOWER PROPERTIES, INC.

LEGEND

PROPERTY LINE	PL
SETBACK	
EXT. ABUTTER LINE	
PRP. STOCKADE FENCE	
EXT. GRAVEL	
EXT. BUILDING	
PRP. BUILDING	

GRAPHIC SCALE
0 30 60 90 120 (FEET)

SIGNATURE	DATE
CHAIR	

OWNER OF RECORD: JACQUELYN NOONEY — TAX MAP 54, LOT 2

NO.	DESCRIPTION	DATE
D	SITE PLAN AMENDMENT	2/16/2021
C	PLANNING DEPARTMENT REVISIONS	9/01/2020
B	CHANGE OF USE	7/08/2020
A	PLANNING DEPARTMENT REVISIONS	2/17/2020

REVISIONS

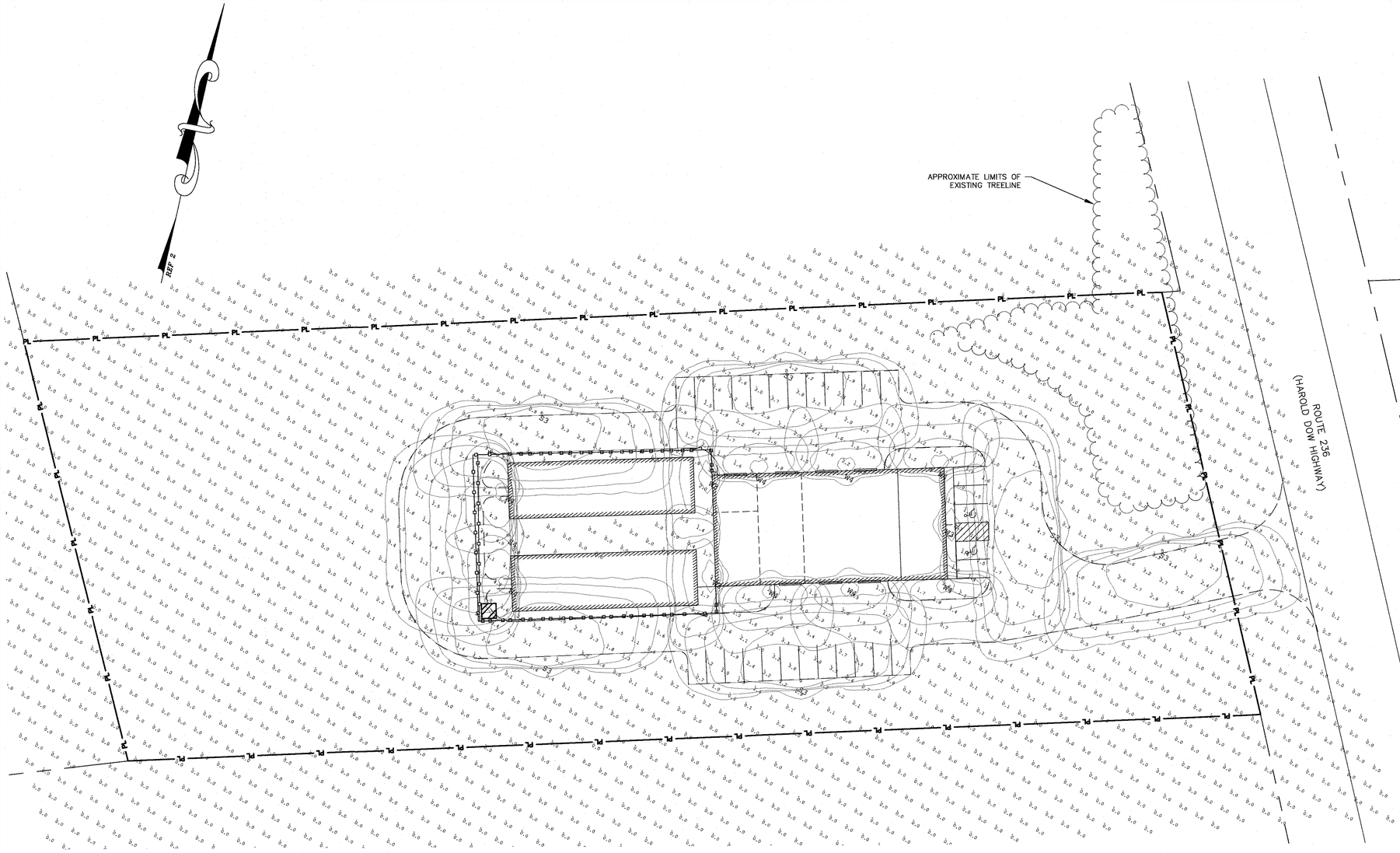
STATE OF MAINE — KENNETH A. WOOD No. 5992 — LICENSED PROFESSIONAL ENGINEER

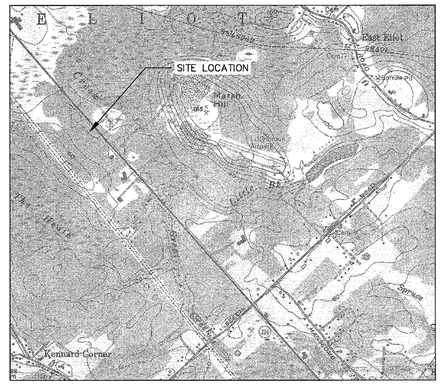
SITE PLAN – TIER 2
SWEET DIRT, INC.
483 HAROLD DOW HIGHWAY, ELIOT, MAINE 03903

FOR: NEK ASSETS, LLC
987 HAROLD DOW HIGHWAY
ELIOT, MAINE 03903

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

SCALE:	APPROVED BY:	DRAWN BY:
1" = 30'		BRN
DATE: 12/19/2019		REVISION DATE: D: 2/22/2021
JOB NO: C065-21	FILE: SD 483-RT236 BASE.DWG	SHEET: 1 OF 2





REFERENCES

1. "COMMERCIAL LANDSCAPE BUSINESS, ROUTE 236, ELIOT, MAINE" PREPARED BY OAK POINT ASSOCIATES FOR JACQUELYN NOONEY, C/O FLOWER PROPERTIES, INC.

b.o

Luminaire Schedule				
Symbol	Qty	Label	Arrangement	Description
	6	S3	SINGLE	GLEON-AF-02-LED-E1-SL3-HSS/ SSS4A20SFN1 (20' AFG)
	1	S4	SINGLE	GLEON-AF-02-LED-E1-SL4-HSS/ SSS4A20SFN1 (20' AFG)
	3	W3	SINGLE	ISS-AF-350-LED-E1-SL3/ WALL MTD 12' AFG
	8	W4	SINGLE	ISS-AF-350-LED-E1-SL4/ WALL MTD 12' AFG

LEGEND

- PROPERTY LINE — PL
- SETBACK
- EXT. ABUTTER LINE
- PRP. STOCKADE FENCE
- EXT. GRAVEL
- EXT. BUILDING
- PRP. BUILDING

GRAPHIC SCALE

0 30 60 90 120 (FEET)

SIGNATURE	DATE
CHAIR	

OWNER OF RECORD: JACQUELYN NOONEY

TAX MAP 54, LOT 2

NO.	DESCRIPTION	DATE
D	SITE PLAN AMENDMENT	2/16/2021
C	PLANNING DEPARTMENT REVISIONS	9/01/2020
B	CHANGE OF USE	7/08/2020
A	PLANNING DEPARTMENT REVISIONS	2/17/2020

REVISIONS

KENNETH A. WOOD No. 5982 LICENSED PROFESSIONAL ENGINEER STATE OF MAINE

LIGHTING PLAN – TIER 2
SWEET DIRT, INC.
483 HAROLD DOW HIGHWAY, ELIOT, MAINE 03903

FOR: NEK ASSETS, LLC
987 HAROLD DOW HIGHWAY
ELIOT, MAINE 03903

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

SCALE:	APPROVED BY:	DRAWN BY:
1" = 30'		BRN
DATE: 1/13/2020		REVISION DATE: D: 2/22/2021
JOB NO: C065-21	FILE: SD 483-RT236 BASE.DWG	SHEET: 2 OF 2

To: Board of Appeals
From: Planning Board
Subject: Planning Board Response to Appeal of 21 Foxbrush Drive Decision (PB 20-27)
Date: April 15, 2021 (Board of Appeals hearing date)

[To be confirmed] On April 6, 2021, the Planning Board approved this correspondence and directed that it be submitted to the Board of Appeals for its April 15, 2021, hearing

---

Consistent with Section 44-47 of the Town Code, the Planning Board is submitting this written argument to the Board of Appeals for an anticipated item on the April 15, 2021, Board of Appeals agenda: a Request for Administrative Appeal, submitted by Terrie Harman, Trustee, Terrie Harman Revocable Trust, 6 Oak St., Exeter, NH, of a decision of the Planning Board regarding property located at 21 Foxbrush Drive, Tax Map 50, Lot 19, in the Shoreland Zone. The Planning Board is submitting the written argument because a Planning Board decision is the subject of this anticipated appellate hearing. The argument relies on the record of proceedings before the Planning Board or evidence otherwise presented to the Planning Board, and it makes references to the Town Code as necessary.

Terrie Harman, Trustee, Terrie Harman Revocable Living Trust (the "appellant") submitted a Request for Administrative Appeal (received March 15, 2021, with additional documents received March 31, 2021) of the February 16, 2021, decision of the Planning Board (case # PB20-27) to approve a Shoreland Zoning Permit Application submitted by Charles and Cheryl Tewell (the "applicant") to replace, on the lot addressed as 21 Foxbrush Drive (Map 50, Lot 19), an existing nonconforming residential structure and build a new residential structure further away from the Piscataqua River and replace the subsurface wastewater disposal system. This application included a revised site plan compared to the one submitted with a previous Shoreland Zoning Permit Application for case # PB20-8, which was approved by the Planning Board on July 21, 2020.

The following is the Planning Board's responses to specific statements of the appeal of the PB20-27 decision (quoted, in italics). Lack of response to a specific statement is not intended to imply concurrence with that statement.

> *Appeal: "A public hearing is required, 33-129"*

According to the approved Notice of Decision ("NOD", dated March 8, 2021; approval date: March 2, 2021), "In accordance with §33-130, a public hearing was advertised in the Portsmouth Herald/Seacoast Online on February 6, 2021 and held on February 16, 2021. Abutting land owners were notified via certified mail."

> *Appeal: "Because 26 Foxbrush, abutter, did not get notification via certified mail, return receipt requested, as per 33-130 (a), the Planning Board's decision of 7/21/20 regarding 21 Foxbrush must be invalidated. All subsequent amendments to the original application are void because of lack of notice from the very start. Notice problems render this entire proceeding void."*

This statement references a case (PB20-8) that is not currently before the Board of Appeals. The Planning Board refers to the September 2020 Board of Appeals meeting and decision.

> *Appeal: "Abutter received certified mail of the PB 2/16/21 (amended) hearing on 2/8/21, less than 10 days prior to the hearing."*

Section 33-130(a) states: "Within 30 days following a finding that the application for the site plan is complete, the planning board shall hold a public hearing. 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 a plan is located within 500 feet of a municipal boundary. Abutters shall be notified by certified mail, return receipt requested." The public hearing notice was posted on February 1, 2021, and published in Seacoast Online/Portsmouth Herald on February 6, 2021. The February 16, 2021, Planning Board packet includes copies of the public hearing notice and newspaper excerpt with the published notice.

Nothing in Section 33-130(a) requires a certified mail public hearing notice to be received by abutters 10 or more days prior to the public hearing. Even so, it is noted that certified mail notice for the public hearing was mailed with a postmark of February 1, 2021, and the Town has a record of Mr. Thomas McCarron signing to confirm receipt of the mail.

Although Section 33-130(a) does not specify an advance receipt of 10 days or more by abutters for certified mail, and even so, certified mail to the abutter was postmarked February 1, 2021, it is further noted that Section 33-130(c) of the Town Code states: "The abutters or owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the planning board."

> *Appeal: [reference to entire Section II.]*

Except for Paragraph F, this section references a case (PB20-8) that is not currently before the Board of Appeals. Regarding Paragraph F (*quote from appeal: "The Town notified 26 Foxbrush only 8 days prior to the 2/16/21 hearing."*), see above.

> *Appeal: [under III., B.] "2. Maintenance of such nonconforming structure is permitted, but expansion of such nonconforming structure is not permitted. 44-32 (b)(2)."*

This wording misrepresents subsection 44-32(b)(2). The full text of this subsection states:

> Repair and maintenance. This chapter allows, following permitting requirements detailed in the tables of land uses in chapters 44 and 45, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations which do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

The clause, "which do not involve expansion of the nonconforming use or structure" clearly qualifies what proceeds it: "the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations". The clause does not supersede other language in the section that clearly allows for some degree of expansion within limitations, e.g. subsection 44-32(c)'s use of "may be added to or expanded". Subsection 44-32(c)(1)c.1's limitation on footprint expansion allows footprints of "1,000 square feet or 30 percent larger than the footprint that existed on January 1, 1989, whichever is greater".

> *Appeal: [under III. B., in part]: "4. Building permit number 95-91 expanded the 1989 footprint of 669 square feet to in excess of 130% of the 1989 footprint. Therefore, the existing structure is fully expanded for its lifetime…"*

Nothing in Subsection 44-32(c)(1)c.1 states that a previous expansion of a structure's 1989 footprint that is excluded from the 1989 baseline footprint of a subsequent allowable footprint expansion calculation preempts that footprint expansion. Even so, Subsection 44-32(c)(1)c.1 clearly allows a combined total footprint of at least up to 1,000 square feet regardless of the existing combined total footprint. As indicated in the NOD, the Planning Board approval in PB20-27 references a replacement structure footprint of 999 square feet.

While the full record before the Planning Board in this case is relevant, in response to references in the appeal to the footprint of the proposed residential structure and distance from the river, the Planning Board calls particular attention to the following findings in the Notice of Decision:

> 11. One abutter discussed concern regarding what appeared to be different criteria used for structure location distances from the Piscataqua River. Concern was satisfactorily addressed.
> […]
> 16. Majority of parcel is within the 75-foot setback from the Piscataqua River. Proposed structure to be located further away from the Piscataqua River to the greatest extent practicable.
> […]
> 18. Proposed structure location distance will be 29 feet from highest annual tide line and entirely within setbacks, making it more conforming to the greatest extent practical.
> 19. The existing front deck, which has no recorded Town permit, is not used in the expansion calculations. The existing timber steps and brick patio (water side) were also removed from the footprint calculations.
> 20. Existing non-conforming structures in the Shoreland Zone (and structures replacing existing non-conforming structures) are allowed to expand, in accordance with §44-32. Under §44-32(c)(1)C.1., the maximum combined total footprint for all structures located less than 75 feet from the normal high water line may be expanded, relative to the footprint that existed on January 1, 1989, by as much as 30% or up to 1,000 square feet, whichever is greater. For this application:
>
> a. An expansion of up to 1,000 square feet (at least) is allowed.
> b. Shoreland Impervious Surface Coverage: reduced from 20.3% to 19.9%.
> c. Building Coverage: Maximum is 15% - existing is 11.1% and proposed is 9.4%.
> d. Shoreland Structure Height: existing is 20.65 feet and proposed is 20.5 feet.
> e. Septic System located where proposed structure to be located. New state-of-the-art BioBarrier System with pre-treatment proposed that allows for a smaller leach field footprint. Where new septic system is located, existing tree to be removed and replaced closer to the river.
> f. Parcel will retain the existing private well.
> g. Parking area (driveway) reconfigured from 1,320 square feet to 1,108 square feet.
> h. Existing deck structure was not used as part of the expansion calculation.

* * *

The Planning Board appreciates the opportunity to present this written argument to the Board of Appeals. Overall, the Planning Board believes its decision to approve the application in PB20-27 was sound, consistent with Ch. 44 and other applicable sections of the Town Code, and reasonable and proper given the application, other information it consulted in its review, and the context of the site. Accordingly, the Planning Board requests that the Board of Appeals uphold its decision.

DRAFT