

TOWN OF ELIOT, MAINE

PLANNING BOARD AGENDA

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

DATE: Tuesday, April 12th, 2022
TIME: 6:00 P.M.

All in-person attendees are asked to wear face masks

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

- 1) **ROLL CALL**
 - a) Quorum, Alternate Members, Conflicts of Interest
- 2) **PLEDGE OF ALLEGIANCE**
- 3) **MOMENT OF SILENCE**
- 4) **10-MINUTE PUBLIC INPUT SESSION**
- 5) **REVIEW AND APPROVE MINUTES**
 - a) February 1st to March 15th Minutes – if available
- 6) **NOTICE OF DECISION**
- 7) **PUBLIC HEARING**
- 8) **NEW BUSINESS**
 - a) 23 Park Street (Map 6/Lot 30), PID # 006-030-000, PB22-05: Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal; Gangway, and Seasonal Floats
- 9) **OLD BUSINESS**
 - a) 16 Arc Road (Map 45/Lot 17), PID # 045-017-000, PB21-29: Site Plan Review, Change of Use, and Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail Store
- 10) **CORRESPONDENCE**
 - a) Planner update – if available
- 11) **SET AGENDA AND DATE FOR NEXT MEETING**
 - a) April 19th, 2022
- 12) **ADJOURN**

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

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

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

Instructions to join remote meeting:

- a) To participate please call into meeting 5 minutes in advance of meeting start time. Please note that Zoom does state that for some carriers this can be a toll call. You can verify by contacting your carrier.
- b) Please call **1-646-558-8656**
 1. When prompted enter meeting number: **819 3777 8595 #**
 2. When prompted to enter Attendee ID **press #**
 3. When prompted enter meeting password: **618342 #**
- c) Members of the Public calling in, will be first automatically be placed in a virtual waiting room until admitted by one of the members of the Planning Board. Members of the public will be unmuted one at a time to allow for input. Please remember to state your name and address for the record.
- d) Press *9 to raise your virtual hand to speak


Carmela Braun – Chair

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

1 **ITEM 1 - ROLL CALL**

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

5
6 Also Present: Jeff Brubaker, Town Planner.

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8 Voting members: Carmela Braun, Jeff Leathe, Lissa Crichton, and Christine Bennett.

9
10 Note: Ms. Braun welcomed Christine Bennett to the Planning Board.

11
12 Ms. Bennett said that I am pleased to rejoin the PB. I was a PB member for five years.
13 My life took a different track for a bit but now I'm back and really excited to work with
14 this PB and the Planner.

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16 **ITEM 2 – PLEDGE OF ALLEGIANCE**

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18 **ITEM 3 – MOMENT OF SILENCE**

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20 **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

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22 Mr. (Gene) Wypyski, Creek Crossing, said that I am here to support the PB's effort to
23 build a solar energy systems ordinance. I think that industry and those issues are coming
24 at us real hard and fast. I think an effort to develop a solid ordinance that not only serves
25 all the stakeholders in the Town but, as well, gives the PB kind of a recipe so it's a lot
26 more straightforward and the information is out there. What we expect. What the needs
27 are. I just think it's a real good thing you all are doing. My friend, Jeff Brubaker, your
28 Planner, and I have gotten together a couple times on the topic and I'm hoping to add
29 some value to this effort. A second thing is to express, personally, to thank all that you do
30 on the PB. It's a lot of work. It's dedication. Most people don't know but I think all of the
31 Town, the citizens and the residents, all benefit very much from what you do. So, thank
32 you for what you do and keep up the good work.

33
34 Ms. Braun thanked him on behalf of the PB.

35
36 **ITEM 5 – REVIEW AND APPROVE MINUTES**

37
38 There are no minutes tonight.

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40 **ITEM 6 – NOTICE OF DECISION**

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42 There were no Notices approved.

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44 **ITEM 7 – PUBLIC HEARING**

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46 There were no public hearings.

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ITEM 8 – NEW BUSINESS

A. Meeting start time

Mr. Brubaker said that this is an open discussion. We have talked about starting earlier. 6:30PM was thrown out there but also even earlier than that.

Ms. Braun said that 5:30PM has been thrown out there several times.

Mr. Brubaker asked if the PB has always met at 7PM.

Ms. Lemire said yes.

Mr. Brubaker said that, now, with Zoom and with different work schedules these days, it seems there is an opportunity to consider an earlier start time so that, when we have these long evenings, we're not getting out of here so late.

Ms. Braun agreed that was another thing. I think that most of the engineers in Town would be willing to come at 5:30PM as opposed to going home and coming back at 7PM.

Ms. Lemire said that the SB has always met at 5:30PM and it's worked fine.

Ms. Braun agreed that that was another incentive for 5:30PM. The SB does so why can't we. Is everyone in agreement for 5:30PM.

Ms. Bennett suggested 6PM may be better as there are people who work and commute. The traffic is another issue.

The PB discussed reasons back-and-forth for different start times and how the meeting agenda could be designed to accommodate later public hearings.

Mr. Sudak said that 5:30PM wouldn't be a problem for me because I can walk here from work. I work in all the towns in York County and I don't think I know a single one that meets at 5:30PM; that they meet at 6PM and 6:30PM.

Ms. Bennett asked if, hypothetically, a Board member can't make it at 5:30PM but can make it at 6PM, can that Board member join the meeting part way through. I wanted to know if there is anything in our by-laws that would prohibit me, perhaps, not being able to get here at 5:30PM.

Ms. Lemire suggested that might be a consideration for alternates that might want to come on the PB. I don't think there's anything in the ordinances that would prohibit you from participating.

Ms. Braun said that there is nothing in the by-laws.

93

Ms. Lemire said that I know that Board members have either had to leave for a little bit or come in late and I don't remember them ever not participating when they got here. You are prepared when you get here.

97

Ms. Braun said that I can't imagine that, as Chair, I would ever prohibit anyone from participating.

100

Ms. Bennett said that previously I have been shut down a couple of times for being late.

102

Ms. Lemire added unless there is a public hearing and it's already started and it was near the end.

105

Ms. Braun agreed that would be different. The member would wait until we were done with that. We can consider 5:30PM or 6PM.

108

Ms. Bennett said that I am applying for jobs up to an hour away and that might make it difficult to get here by 5:30PM if I get out at, say, 4PM. But, as I said, it was a hypothetical question.

112

Ms. Lemire suggested trying 6PM for six months to see how it works.

114

The PB agreed that would be a good idea and agreed to start meetings at 6PM.

116

Ms. Lemire suggested the change be in March so that the time change could be posted for the residents.

119

Ms. Braun agreed and asked for a motion that the start time change become effective March 1st.

122

Mr. Leathe moved, second by Ms. Bennett, that the Planning Board change the meeting time of the Planning Board to 6PM to begin with our first meeting in March.

126

VOTE

127

4-0

128

Motion passes

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B. Planning Board retreat

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Ms. Braun said that Mr. Brubaker and I have been discussing the possibility of a PB retreat. I mentioned this last week to Mr. Latter and Ms. Crichton, both of whom were in favor. It would be a chance for us to get together, hopefully out of this room and find a different forum, so we could sit in a circle, face one another, and not be...it still would be open to the public but I wanted it to be an open forum where we could discuss certain issues, see how you're feeling, and all of that. I'm also hoping to get some education involved, with soil and HydroCAD and all of that. We've been thinking of asking Michael Cuomo for soil and Ms. Rabasca and some other folks for HydroCAD and, also,

139 Attorney Saucier to come down for some legal issues. Hopefully, we will make this not
140 necessarily a monthly thing but at least bi-annually so that we have a chance, as a group,
141 to find out where we stand and how we're doing. We're thinking of April only because
142 we have one more meeting in February and then, in March, we've got to get the
143 ordinance changes done, with a public hearing and get it to the SB. We're thinking of the
144 first meeting date in April (April 5th). If we have to stay in this room due to technology
145 challenges, we will sit in the middle of the room. We're not going to sit up here like this.

146
147 There was discussion around other workshops having been held in this room.

148
149 Ms. Braun said that that would work. I just want us to be facing one another and to have
150 an open forum. How does everyone feel. I would like to hear your thoughts on that.

151
152 Ms. Bennett said that I think it's a fabulous idea. It's important to take a pause and have a
153 dialogue or an educational piece where we aren't discussing specific applications.

154
155 Ms. Crichton said that I think it's a very good idea.

156
157 Mr. Leathe agreed.

158
159 Ms. Braun said that Mr. Latter was all for it, as well. So, let's plan on a retreat April 5th or
160 around there. The date is subject to change depending on what's happening.

161
162 The PB discussed possible locations and the logistics of moving the technology to other
163 places, as this will be streamed.

164
165 Mr. Brubaker said that I talked with Mr. Sullivan, and he's on board for it, so we'll try to
166 have Mr. Sullivan there to say hi. It looks like Attorney Saucier is available for that
167 Tuesday. Mr. Sullivan suggested getting little pre-recorded video modules from MMA.

168
169 Ms. Braun said that I hadn't thought about MMA. That would be good but the basis is an
170 open forum for us to interact. The education is important but the interaction is more
171 important.

172
173 Mr. Brubaker agreed that too many educational pieces might quickly overwhelm.

174
175 Ms. Braun agreed and suggested having one module.

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177 **ITEM 9 – OLD BUSINESS**

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179 **A. Ordinance Amendments: 1. Solar Energy, 2. Signage, 3. Update on 5G/Small**
180 **Cell and Erosion & Sedimentation Control.**

181
182 **1. Solar Energy:**

183

184 Mr. Brubaker said that I did add a definition for ‘public utility’ and it does reflect State
185 law; that I added ‘as may be amended’.

186
187 Mr. Leathe asked for a quick summary of how that is different from our old definition.

188
189 Mr. Brubaker said that the old definition is in strike-through. It narrows what is defined
190 as a ‘public utility’ because the State law is narrower than the Town code’s definition;
191 that it narrows entities that would be called ‘public utility’ and, therefore, narrows what
192 would be considered a public utility facility when the PB reviews it. Also, by clearly
193 defining ‘solar energy systems’ and then adding Land Use Tables rows for ‘solar energy
194 systems’, there will be no doubt that any future applications that come in would be
195 defined under ‘solar energy systems’ rather than utility.

196
197 Mr. Leathe asked, as we move to 5G, would that be considered a ‘public utility’.

198
199 Mr. Brubaker said that I don’t know for sure but, under State law, I don’t believe it would
200 be because I redacted a little bit of the State definition, which exempts
201 telecommunications from this to some extent. There are other State definitions for
202 wireless structures, small wireless facilities and so forth, so I think the idea would be that,
203 especially with respect to what we want to move forward with, with small wireless
204 facilities and 5G regulation in Town, is that it would soon get its own definition. So,
205 therefore, under the Town’s review, those also wouldn’t be considered a ‘public utility’.
206 Regarding ‘rated nameplate capacity’, Mr. Wypyski suggested this definition. I moved
207 this up in the order. So, when you read about a 500-kw facility opening up, that’s the
208 rated nameplate capacity. Photovoltaic systems produce power in direct current (dc) and
209 then they all have distributors to convert to ac (alternating current).

210
211 Mr. Wypyski said that the legacy regulations for solar energy systems come out of the
212 west coast – Arizona, Nevada – huge and lots of light. The legacy verbiage regulations
213 tend to focus on the amount of square feet or acreage that a given solar energy system
214 would physically take up. So, what I learned is to put it in perspective, a 5-kw system is
215 about 400 square feet of panels, which is roughly what your neighbor’s split level or
216 raised ranch could have on their roof. A lot of the regulations were, you know, the small
217 system was up to 15,000 square feet of space or 87,500 square feet of panels. What that
218 means is that about 100 square feet gives you 1 kw. So, the typical home installation is
219 about a 5- or 6-kw system that’s about 400 to 500 square feet of panels on your roof.
220 From there, you get into ground-mounted systems that can go anywhere from three
221 houses tied up with a couple of ground-mounted, like what Edward Jones has on Route
222 236, to acres of systems. Approximately 2 acres of panels will give you one megawatt of
223 power, and that’s what we’re really talking about regulating. The small system on a guy’s
224 house is going to be a little 5 kw system that will go into batteries for a TV or washer.
225 The systems that are acres are your one-megawatt to 5-megawatt size and they’re the
226 ones plugging into the grid and those are really the ones you have to manage. The little
227 rooftop system on the house is straightforward. What I’m trying to say is...we talk rated
228 nameplate capacity...that’s critical because, if they say they’re going to put up a one-
229 megawatt system, that’s about 2½ acres of panels, which means they need about 4 acres

230 of land. A 5-megawatt system is going to need 15 to 20 acres of land. So, what I learned
231 is to focus on how big these systems are in their rated nameplate capacity as opposed to
232 it's one acre of cells, it's 200 feet of cells. It helps us think about how to size and really
233 regulate these systems.

234
235 Mr. Brubaker discussed the next definition, which defines the sizes, asking if the PB
236 wanted to add rated nameplate threshold to pair with the area thresholds or do you want
237 to replace the area thresholds with just the rated nameplate capacity thresholds. These
238 area thresholds are right from the Audubon; that we could estimate how much power
239 comes from 15,000 square feet and add that. My calculation was about 275 kw and that's
240 just for the panels and obviously you'd need some space for the aisles, and so forth. For 2
241 acres, that's about 1.5 or 1.6 megawatts. Do we want to clarify these size standards by
242 Mr. Wypyski's suggestion to add an approximate megawatt and kilowatt capacity.

243
244 Ms. Braun said that that would make sense to me.

245
246 Ms. Bennett said that I would think, prefer, we would stick with a square-footage figure
247 versus a kilowatt estimation just because, in my experience putting a solar array on my
248 house, the capacity of the panels, themselves, is improving over time such that using
249 square footage...currently, my solar panels are five years old and I could probably get
250 another ½ kilowatt if I just swapped out with new panels, maybe even another kilowatt.,
251 so the technology is evolving. I know we may be coming up against limits on the
252 photovoltaic systems but if we put this into the ordinance we may have to go back in a
253 few years and start changing it when the technology improves, if it continues to improve
254 the way it has.

255
256 Ms. Braun said that something should be noted, I think, for the large scale as far as their
257 rating. Something should be put in that definition beyond the square footage. They are the
258 ones we're really concerned about, in my opinion. Add something, maybe in parenthesis.

259
260 Mr. Brubaker suggested wording, with large-only, that it's something that is equal to or
261 greater than two acres or equal to or greater than approximately 1,675 kilowatts or 1.5 or
262 1.6 megawatts.

263
264 Mr. Braun said yes and asked how everyone else felt about that.

265
266 Mr. Leathe discussed his concern for the impact to our power grid as these get larger and
267 larger. We had talked about poles and distribution and transfer stations needing to be
268 upgraded, and things like that. So, we may be opening up to review of these so we could
269 manage the Town property for large scale and in that case the size and capacity of the
270 system would be more important than it would be for a small-scale. (Was CMP
271 mentioned in your discussion?)

272
273 Ms. Braun said that they said they were having a hard time supplying energy to Eliot,
274 specifically to new businesses as they open on Route 236. We don't want something like
275 this to hamper that and make it worse.

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Mr. Brubaker asked if that would be something where you could require that piece of information from the applicant, where they would have to show their homework, as it were, they have done with CMP.

Mr. Leathe said maybe in addition to the square feet. It would be good for us to know the impact on the grid.

Ms. Braun said that having the knowledge of what they've done with CMP and what CMP has approved should be part of the packet.

Mr. Brubaker suggested putting that under §33-191 Informational Requirements.

Ms. Braun agreed.

Mr. Brubaker said that I will make a note to add 'rated nameplate capacity', as well.

Mr. Leathe asked if the medium-scale reach into those issues, as well.

Ms. Bennett said that I think, as it's written and from the math that you gave us, it sounds like we're talking about a 1-megawatt system in the medium scale. With the past application we just heard, it was often offered by the applicant that there was only 10-megawatt capacity left in the substation that services most of Eliot. That would be 10 medium-scale systems. 2 acres, maybe. It's conceivable that

Mr. Wypyski said that I really look at the investment, consultant, and marketing literature to customers from the industry to see what they're selling. What I discerned from the regulations that this Town needs is basically, forgetting the small-scale, medium-scale, large-scale that I think is obsolete from Audubon. The issue really is that you have roof-mounted, which doesn't change the land use of the property, and then you have systems that plug into a grid, which by definition need to be...and medium-scale is not economically practical. They are either going to do a 2- or 3-megawatt system or you're going to have it on your roof. We don't have to worry about my opinion. We don't have to worry about gradations. You've either got the roof system, which we're all for and doesn't upset anything, and then you have the ground-mounted systems, which could be medium to large; that practically speaking, they're going to be large because they can't make a buck making them smaller than large. We're looking at the 10-megawatt capacity and the transformers in Eliot so we're never going to have a really big installation here. And you Aren't going to have tons of mediums because it's not practical. They will have to be big to get the economies of scale. So, it's almost like we're not really going to have to worry about all kinds of stuff. I think, if this regulation hits your roof-mounted, we love them. They're all behind a meter. And then you've got these big honking systems that are plugging into the grid with investors and subscriptions, and that's really what we've got to manage, in my opinion, reading the literature.

321 Ms. Bennet clarified that not all roof systems are behind meters. I am tied into the grid.
322 That's because the same rules that the commercial solar installers are using are offered to
323 residential, as well, so I am tied in, and most homes are until you either re-wire your
324 house or have a storage system. With a lot of houses, a lot of these roof-top installations
325 start to run up against these limitations of the current infrastructure.

326
327 Mr. Wypyski agreed, asking her how big her system is.

328
329 Ms. Bennett said that I have 7 kilowatts.

330
331 Mr. Wypyski said yes, that they market then in that 5- to 7-kilowatt range.

332
333 Mr. Brubaker addressed a couple points that were raised. Regarding Mr. Leathe's
334 concern, I could add 'd. CMP study/documentation under Information required' (§33-
335 191). Does everyone want to see this for both medium- and large-scale systems.

336
337 Ms. Braun said that I don't know if we need it for large-scale but medium, maybe,
338 depending. Yes, we better. What does the PB think.

339
340 Mr. Leathe said, to your point, having two categories instead of three and, again, I'm not
341 an expert in this, at all, but it does make sense to me for rooftop applications. Everything
342 else is more commercially-oriented and that is we should the focus, I think.

343
344 Ms. Braun agreed.

345
346 Mr. Wypyski said that if it's not commercially oriented then it could become
347 environmentally sensitive. They start digging out the mountain and all of a sudden you
348 have a forest of these huge panels on big concrete bases. That's different than having
349 panels on the top of your houses. To me, that's the big change or where we should
350 address it.

351
352 Ms. Braun said that we should think about consolidating the two.

353
354 Mr. Brubaker said that we could consolidate the two sizes. So, we have the small-scale
355 staying the same, as you see, with 15,000 square feet or less, and then everything else
356 larger. There could be some roof-mounted, like on a commercial building, that's more
357 and that's something, hopefully, we would encourage because it is not causing any
358 additional ground disturbance. Is there a carve-out you would want to see for large roof-
359 mounted systems that are larger than 15,000 square feet.

360
361 Ms. Braun said that we would have to add that in somehow.

362
363 Mr. Brubaker said, regarding the Eliot Business Park on Route 236, that each of those
364 buildings is about 1¼ acres. So, if you took the pitch of the roof, the half that faces
365 southeast, that would be about 2/3 of an acre of panels.

366

367 Mr. Leathe said that I think that's a good point.

368

369 Ms. Lemire said that I can't remember how big it is, but the Town garage (Public Works)
370 has roof-mounted panels on one side.

371

372 Mr. Brubaker said that I'm hearing you want me add some kind of allowance for larger
373 roof-mounted panels. These could be bigger with less rigorous requirements and would
374 primarily come under 'CEO'

375

376 The PB agreed.

377

378 Mr. Brubaker said that I added this Agri voltaic definition and is from one of the
379 American Farmers Association guides. You'll see this language later on but, in general,
380 the ordinance discourages the use of agricultural ground-mounted solar arrays but I
381 thought there could be limited-scale applications of Agri voltaic where an applicant could
382 be encouraged to or a certain applicant might be interested in a small part of their panels
383 ultimately used for crop production. That is why this definition is in there but I'm not
384 sure how I'm going to operationalize it. I added 'photovoltaic systems'. I think the
385 popularity of solar water tanks, for example, has crested a bit so I don't think we're
386 seeing that much. But you might see some and, obviously, there's some other kind of 'out
387 there' solar energy systems that are not photovoltaic that you're unlikely to see here, I
388 think. If you drive west on I-15 from Las Vegas and you cross the California border,
389 you'll see this giant circle of mirrors with an open tower. They all concentrate the sun at a
390 point on this tower. It's very otherworldly. That's a solar energy system.

391

392 Mr. Wypyski suggested an edit. You have "Solar energy system, roof-mounted means a
393 solar energy system that is mounted on the roof of a building or structure and does not
394 change or impact land use". There were words in an ordinance that I read that defined
395 roof-mounted that removed any issue of land use regulation because it doesn't impact any
396 portion of...you have 10% of the land in a building; well, then 10% for your solar
397 system. It's a way to further define what a roof-mounted system is. It really has no land
398 use impact. That's really what makes it unique. Everything else for planning is impacted
399 by those regulatory questions.

400

401 Ms. Braun said that it also clarifies that it doesn't have to come to the PB, that it's Code
402 Enforcement.

403

404 Mr. Brubaker added a note to clarify CEO responsibility. He showed a graph for a typical
405 400-watt capacity panel, saying that this is about 20 square feet. So, just pure panels,
406 without aisles or anything like that, would take about 50 square feet to create a kilowatt
407 capacity. This 77'X39' panel is more like a commercial-size panel. I think residential
408 panels may be in various sizes. I just thought it was interesting that, for about every 50
409 square feet of panel, you get about 1 kilowatt; that that translates to about one acre per
410 megawatt but that includes the aisles and spaces in between, the shade management area.
411 So, if you want 5 megawatts or bigger, you're going to have to have about a 20-acre solar
412 array. He showed the decommissioning plan on the screen:

Sec. 33-191. – Medium- and large-scale ground-mounted solar energy systems

In addition to the required elements in Section 33-127, all medium- and large-scale ground-mounted solar energy system site plan review applications must include the following:

- (a) A decommissioning plan required by, or otherwise consistent with, 35-A MRSA 3491 through 3496.
- (b) Documentation of the financial guarantee required by 35-A MRSA 3491 through 3496. The Town shall have the option to be an obligee on a surety bond or otherwise hold a financial assurance.

[wordsmith the following]

(c) Environmental information:

- (1) Maine Department of Inland Fisheries and Wildlife habitat determination letter
- (2) Delineated wetlands. Wetland delineation for wetlands shown on the site plan

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414

415 Mr. Brubaker said that the PB was interested in having both medium- and large-scale
416 ground-mounted systems submit a decommissioning plan and, shown here, this is what
417 State law requires. The State law requires that 3-acre or more systems submit a
418 decommissioning plan. We have gone further than that in that, as long as you are over
419 15,000 square feet of panels, you need to submit a decommissioning plan. Then, for a
420 financial guarantee, this also piggybacks on the State law section. It requires
421 documentation of a financial guarantee, required by the same section. I think we might
422 need to wordsmith this to make sure we're getting a financial guarantee for the medium-
423 scale systems and I will work on that. With the surety bond, the Town is an obligee so
424 that we can make claims against the surety bond in the case where the Town needs to
425 have the expense to remove the system, itself.

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Mr. Leathe asked if that should be stated in this.

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Mr. Brubaker said that I think that's something that's here but could be wordsmithed a little bit more, if you all agree with that. It would basically be the Town having power in any case of medium- or large-scale systems to be able to properly remove the panel system if the owner/operator doesn't comply.

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Ms. Braun agreed that the Town has to have some guaranty of that.

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Ms. Bennett said that I have looked at a couple ordinances in the State of Maine, one of which was the City of Belfast. In their decommissioning requirements, they put in a definition of what it would mean – abandoned – to let them know that it's time to remove these panels. I thought that was a really good piece to put there. They put in that it is considered abandoned if it fails to operate for 12 or more consecutive months. So, at that point, you don't have someone going belly-up and just walking away and leaving this system to be the problem of the State of Maine nor, specifically, the Town of Eliot.

444 Mr. Brubaker said that that's a good point. It is not in your printed copy but, earlier
445 today, you had provided a Readfield one, and they have a similar one so I put it in this
446 copy:

(10) Decommissioning and removal. All ground-mounted solar energy systems that have discontinued operation shall be removed. For the purpose of this paragraph, "discontinued operation" means that the system has operated at 10 percent or less of its rated nameplate capacity for a continuous period of at least twelve (12) months. The owner or operator shall physically remove the installation no more than 365 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. At minimum, decommissioning shall consist of:

447
448
449 Mr. Brubaker said that, certainly, if there are other insights from Belfast or other
450 ordinances...

451
452 Ms. Bennett said that I think this has more specificity than Belfast has in theirs. This is
453 good.

454
455 Mr. Brubaker said that Readfield has the 10% or less piece, therefore, hopefully an
456 operator, if they need to shut it down temporarily for some major repairs, it wouldn't be
457 caught up in this. But if they go a-wall for 12 months, the Town has the power to
458 basically deem the system subject to decommissioning.

459
460 Ms. Bennett said that, in the Belfast ordinance, the City of Belfast requires that large-
461 scale solar energy systems enter the performance guaranty with the city, not just that the
462 city is an obligee on another's performance guaranty and it says that 'the performance
463 guaranty shall be equal to 150% of the estimated cost of removal'. That accounts for
464 inflation over 20 years. It also says that 'the applicant shall provide the city with that
465 performance guaranty prior to getting a building permit'. So, they have to dot 'I's, cross
466 'T's, and count their costs before they can actually build.

467
468 Mr. Brubaker said that that seems a little bit stronger than just being a dual obligee.

469
470 Ms. Bennett agreed, saying it could take the State years to actually deal with it. Another
471 thing about the Belfast ordinance, they allowed for, in lieu of decommissioning, it to be
472 donated to a community organization. She read from the ordinance that describe the
473 criteria for developing a plan for this.

474
475 Mr. Brubaker asked if that says whether that means, like, the actual re-location of the
476 panels to a community organization land.

477
478 Ms. Bennett said no. I didn't see anything in there that would indicate that someone
479 would be picking it up and moving it. This building (Town Hall) is being electrically
480 supplied by the Transfer Station. There's no wire coming from the Transfer Station to

481 here. It goes into the grid and we get the credits against our consumption It could be
482 degraded down to the point where it isn't producing as much energy as you would want
483 commercially, or profitably, but it could be donated to the Town for additional energy or
484 Marshwood Middle School, which is not tied into our solar array...

485
486 Mr. Brubaker said that it could be this code, with the way it is worded, wouldn't prohibit
487 that from happening.

488
489 Ms. Braun said that your talking donating miles of array but the land that it sits on. That's
490 implied I assume. That gets into a whole other thing, doesn't it.

491
492 Ms. Bennett said that that would be incumbent on the community organization or the
493 array operator if there was an opportunity for them to, instead of decommissioning it, and
494 at least it's still active.

495
496 Mr. Brubaker said that it sounds like a cool idea. It would just be a logistic challenge to
497 determine scenarios. Presumably, they still could under this ordinance. Hopefully, there's
498 nothing tripping them up from donating. Just say that they're honest but just came on
499 hard times from before 12 months, saying we can't do this anymore, we're getting out of
500 the business, and we found this community organization that can take on...maybe there's
501 some kind of agreement where the community organization gets the revenues or the
502 power generation or something like that. I think it's a great idea but I'm wondering if it
503 needs to be codified or whether that would be a choice that the operator could make
504 under our ordinance.

505
506 Ms. Bennett agreed we should keep that in the back of our minds as we craft the
507 ordinance to see that we don't cross out that opportunity.

508
509 Mr. Brubaker said that I will review to make sure that option isn't precluded. That would
510 be a cool idea; that you would rather have the panels change to better hands rather than
511 have them languish.

512
513 Ms. Braun asked if that was a question for Attorney Saucier.

514
515 Mr. Brubaker said that he would eventually review this. I will also talk with our Assessor,
516 as he came from Belfast, and might have some idea of what the options might look like.

517
518 Mr. Brubaker said that I did add archeological resources, basically requiring a sign-off
519 from the State Historic Preservation Commission. In the Standards section for Fencing
520 §45-463(b), there is the 5-inch height (Audubon) opening at the bottom of the fence.

521
522 Ms. Crichton asked if that was standard.

523
524 Mr. Brubaker said that I'm not sure; that the Odiorne application had 6 inches.

525
526 Ms. Braun said that the 6 inches makes more sense to me.

527
528 Mr. Brubaker said that it says at least 5 inches so it wouldn't preclude someone from
529 going up to 6 inches.

530
531 Mr. Leathe said that, regarding fences, with the other application there was another type
532 of fence with the ability to get out of the facility. I don't remember the name of it.

533
534 Ms. Lemire agreed, saying that I'm looking through the minutes because I know they
535 talked about it.

536
537 Mr. Leathe said that it was right at the end. They talked about sort of a man hole or door.

538
539 Ms. Lemire agreed, saying that it had that shape for a human but would also meet the
540 shape of a larger animal.

541
542 Mr. Leathe said yes. I thought that was a good idea.

543
544 Mr. Brubaker said that the Audubon used a term, too, and I did a Google image search
545 and it was really hard to find exactly what they called it.

546
547 There was general consensus to include this.

548
549 Mr. Brubaker said that I add a 'Purpose' and an 'Objectives' section:
(a) *Purpose*. The purpose of this section is to establish performance standards for solar energy systems.
(b) *Objectives*. This section is intended to achieve the following objectives:
(1) Support the goals of the 2009 Comprehensive Plan, such as Critical Natural Resource Policy 1: "Work to preserve rare and endangered plant and animal habitat and other important natural resource systems within Eliot and adjacent communities"
(2) Avoid or minimize potential adverse impacts of solar energy systems on abutting properties and the environment, including rare plant populations; habitat for rare or exemplary natural communities; and large, undeveloped blocks of forestland
(3) Encourage the siting of solar energy systems on land that has already been developed or disturbed, such as:
i. on top of buildings
ii. in parking lots

550
551
552 Mr. Brubaker said that there is a Comprehensive Plan tie-in as well as what we're trying
553 to do with this ordinance. We are trying to really discourage environmental impacts to
554 each of those. We are trying to encourage them on rooftops and already disturbed area.
555 Parking lots, too, that I think I talked about before.

556
557 Ms. Braun said that I think one example was a hospital where they put one in and people
558 were able to park underneath. That would be cool.

559



560 Ms. Crichton asked if there was anything in here regarding pesticides.

561
562 Mr. Brubaker said that that is already in here:
habitat included under the State's Beginning with Habitat program. Native,
pollinator-friendly seed mixtures shall be planted and maintained to the extent
possible. Mowing shall be minimized to the extent practicable. Herbicide and
pesticide use shall be prohibited. Only mechanical means of weed and pest
control is allowed.

563
564
565 Ms. Braun said that suppose somebody does want to put it in a parking lot, that wouldn't
566 change the lot coverage because the lot coverage in the parking lot would have been
567 included at the time. You are putting it on the parking lot.

568
569 Mr. Brubaker said that it would change the lot coverage unless you wanted to fine-tune
570 the ordinance to give a lot coverage incentive for a parking lot system because a paved
571 parking lot would not come against lot coverage. Under our definition that we're adding
572 to the solar ordinance currently, as written, it would add to the lot coverage. If we want to
573 encourage a system like that, then this ordinance needs to change to not disincentivize. It
574 could be put in and would be a carve-out where we say that we want lot coverage to
575 count when you're putting a solar array on a green field but, if it's on something that's
576 already blacktopped, we would want to encourage that.

577
578 Ms. Braun asked Mr. Brubaker to wordsmith that into the ordinance.

579
580 The PB agreed.

581
582 Mr. Brubaker said that that was a great point because, otherwise, that could really put a
583 damper on parking lots.

584
585 Ms. Bennett said that I am an advocate for changing the lot coverage to included
586 impervious surfaces, like other communities do. That blacktop is coverage of the land
587 and should be part of lot coverage.

588
589 Ms. Braun agreed.

590
591 Ms. Bennett said that if we did that, indeed, the incentive we're talking about would be
592 even more of an inducement.

593
594 Ms. Crichton asked if somebody just purchased Littlebrook Airfield.

595
596 Ms. Braun said yes.

597
598 Ms. Crichton said that there is a lot of blacktop out there.

599

600 Ms. Bennett asked if we are to continue the medium-scale size in our ordinance and
601 definition.

602
603 Mr. Brubaker said that I definitely heard comments earlier that it might be good to
604 consolidate those two.

605
606 Ms. Bennett said good. I was just feeling that, regarding the Table of Land Uses, a
607 medium-scale system being under 2 acres was just not appropriate in the Village District
608 where most of the settlement is on half acre lots.

609
610 Mr. Brubaker said that, with medium-scale, I just figured there could be a 15,001 square-
611 foot system that somebody might want to have room for in the Village. I could change
612 that to a 'no'.

613
614 Ms. Bennett said that there were some other things that the City of Belfast required in
615 their final plan, a description of the owner of the system, the operator of the system, and
616 details and qualifications, and the technical ability of that owner or operator to construct
617 and maintain and operate the facility. I think that's just a due diligence piece. The other
618 piece is that, if the operator is leasing the site, they get a copy of the lease agreement.
619 They can redact the financial information, but only that, so that you can know exactly
620 who has what rights and what the terms are, how they trump each other. I think that's an
621 important piece to know about the owner and operator because they could be different
622 people. They also require a construction plan and timeline. They require, on the plan, to
623 identify the methods that the operator will use to manage on-site _____ and preservation
624 so that it's codified on the plan.

625
626 Mr. Brubaker suggested we expand that to more land uses. I actually think that we need
627 to reword the whole affidavit of ownership section. We already have in our code for all
628 site plan review the ownership requirement and, then, the construction timeline. So, I
629 think it's something we could potentially wordsmith for all things, if that makes sense to
630 everybody.

631
632 Ms. Braun agreed that it does.

633
634 Mr. Brubaker said that the affidavit of ownership section, it's weirdly worded where it
635 says, "A deed or a valid option of at least 90 days" but there are lease agreements, lease
636 options, as well, if it's a corporation, we need to know the owners and principals, etc. It
637 just seems to me a little inflexible. We definitely want to see who is behind the
638 application. Maybe I can bring something back to the PB on that front. I have your notes,
639 Ms. Bennett, about on-site management. I think there's an operations plan requirement in
640 there but I can check on that.

641
642 Mr. Wypyski said that I think it's a very good discussion. He asked when we talk about
643 application and permit fees for solar energy systems. I want this to be like cannabis in
644 Eliot. I think that for roof-top small-scale systems it would just be a building permit. For

645 your larger systems, I was thinking \$2,500, which is what Readfield charges for medium,
646 and \$5,000 for large.

647
648 Ms. Braun said that I don't have any problem with your suggestion for fees, as I would
649 like to see the fees increased, as well; that that is something we have to discuss with the
650 SB, I think.

651
652 Mr. Brubaker said that there are two things. Application fees for PB and we would
653 certainly entertain a kind of add-on fee because all applications have to pay the usual site
654 plan review fee. But an add-on fee I think would be a good topic for discussion for solar
655 energy systems because there are some specialized things that need to happen that cause
656 additional staff time.

657
658 Mr. Wypyski said that the second thing is an annual permit fee - \$10/kw.

659
660 Mr. Brubaker said that that's something that would be a SB type of thing.

661
662 Mr. Wypyski said that Ms. Bennett would pay \$70 for her system.

663
664 Ms. Bennett said happily.

665
666 Mr. Wypyski said that the Odiorne array would pay \$29,000/year for their system. The
667 cannabis industry in this Town, which pays \$30,000+, who employs 150 people and
668 hiring more, we're going to have this very solid industry sitting there, the least we can do
669 is get \$29,000/year to have that there to support all the infrastructure the Town is going to
670 have to engage in to run it, manage it, think about it, take care of it, know about it, so
671 someday we can brag to the State that Eliot produces 10 megawatt of power because we
672 know who is doing what and how much they produce. So, that's a recommendation from
673 a concerned citizen.

674
675 Ms. Braun reiterated that I have no problem but we have to follow correct channels.

676
677 Mr. Leathe asked Mr. Wypyski if he was entering into this space where the Maine State
678 Legislature does not require solar developers with medium and large to pay property
679 taxes. The way it works, as I understand, is the State will reimburse the town half of what
680 the proposed tax would be. Are you looking at this from that angle so that towns can get a
681 little bit more of their fair share or is this just a totally separate thought.

682
683 Mr. Wypyski said that I think all of the above. If you look at the code, which I read, we
684 can't do anything to discourage solar and we don't want to. But there are too many good
685 things about this Town that we give away, like the fancy yachts that dock at Dead Duck
686 for nothing and they are half a million-dollar yachts. The point is that solar is both
687 something we should know about very well and regulating it and keeping plugged in to
688 who is who, how much they generate, and the impact on our infrastructure, CMP's boxes,
689 all that. We need to know that. But, as well, I think it's simply an opportunity to make
690 some money because, if you look at the way investors are looking at this industry, they

691 are looking at it, say energy...green, green, green...money. They're all making a buck
692 and they're talking about anywhere from \$20,000 to \$100,000 for 1- to 5-megawatt. Pure
693 profit once it's up and running. I think the Town should get a piece of it and I think we're
694 justified in getting that.

695
696 Mr. Leathe asked if he knew of any other examples of that that are in place in the State of
697 Maine.

698
699 Mr. Wypyski said that Readfield gave me the idea.

700
701 Mr. Leathe said that we should look at that.

702
703 **2. Signage**

704
705 This is not finished.

706
707 **3. 5G/Small Cell**

708
709 Mr. Brubaker said that I've started working on that but that might be more a November
710 thing. State law is kind of up in the air about that right now. Whatever we do, we will be
711 limited on how much we can regulate by FCC rule-making and whatever the State
712 legislation says. Within that there should be some basic parameters for us to explore.

713
714 **4. Erosion & Sedimentation Control.**

715
716 Mr. Brubaker said that we're still waiting on the model ordinance to come from the
717 Southern Maine Stormwater Working Group. I expect that to be mid to late this month. I
718 then think the idea would be, if you all are up for it, to have Ms. Rabasca Zoom in, or
719 come here, on March 1st to present that. The prior meeting with her is a general idea of
720 what is in this. We don't have to have this on the June ballot; that we were just trying to
721 be proactive to get it in place. It is kind of a turn-key ordinance so we are semi-required
722 to adopt something like it. We can make the case that we can change it but I'd rather just
723 trust Southern Maine Stormwater Working Group. Ms. Rabasca does good work.

724
725 Ms. Braun agreed.

726
727 Mr. Leathe said that the sense I got was that we should endeavor to get ahead of some
728 newer issues that may be coming along, whether it's erosion & sedimentation, telecom,
729 solar stuff. Be a little more proactive to put some ordinances in place that may not be
730 perfect but at least we have something.

731
732 There was general agreement.

733
734 Mr. Brubaker said that I do what I can but I definitely appreciate the need, a lot of input
735 and help. Because we're doing a lot of heavy lifting. We're making a lot of changes to

736 the ordinances to update them. Anywhere you turn in the ordinance there's language that
737 needs to be updated.

738
739 Ms. Braun said they contradict one another all the time.

740
741 Mr. Brubaker said that the more engage the PB, or a potential subcommittee, could be in
742 helping with these changes would be good.

743
744 **ITEM 10 – CORRESPONDENCE**

745
746 There was no correspondence.

747
748 **ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING**

749
750 Ms. Crichton will be gone but will Zoom in for the next meeting.

751
752 *****

753
754 Mr. Leathe said that one thing I've been wondering about is whether the PB should form
755 an ordinance review and amendment committee – subcommittee or working group – to
756 start to take a more diligent approach and a more supportive approach to review our
757 ordinances, which are old, antiquated, and contradictory. The school board has a policy
758 committee that meets once or twice a month and they are really tight on keeping their
759 policies up-to-date. It might be a good model for us. It's more work for whoever is
760 involved in it but, even to do just some of that every month would be better than doing
761 nothing.

762
763 Ms. Braun said that I think that would be an excellent idea. It would be helpful all the
764 way around, especially for Mr. Brubaker as he doesn't have enough help. I'm concerned
765 with the workload for Mr. Brubaker and hoping he would get some help; that the best
766 thing we can do is support the Town Manager's budget. Hopefully, we will see a respite,
767 now from complex applications and ordinance amendments.

768
769 There was general agreement to discuss further a subcommittee to work on ordinances.

770
771 **Meeting schedule and submission deadlines.**

772
773 Mr. Brubaker said that you have been working extremely hard. I always appreciate your
774 efforts and how you serve the Town. We're looking at a little bit of a slow-down in
775 terms of meetings because we've done four meetings in five weeks. It will just be the
776 normal two in February and March and the second one in March will be the ordinance
777 public hearing. We talked about flipping March so the first March meeting will be
778 application review and then the ordinance public hearings on the 15th. Then, there is a
779 fifth Tuesday in March so there will be three weeks off and then the retreat in April.
780 Then back to a kind of normal two-meetings-a-month schedule. I thought, in June, we
781 could have two meetings but, if we needed to, maybe have a third the end of June. We

782 could then do like we did last summer and have a kind of summer break in most of July,
783 with the exception of that last week in July.

784
785 Ms. Braun said, regarding submissions, we need to stick to it for all of our sakes. We've
786 got to be that way. I know some people won't be happy but, for all of our sanity, we've
787 got to stick to them.

788
789 Ms. Lemire said that, in order for you to do your due diligence, you need that time. It's
790 just that simply.

791
792 Ms. Braun agreed, saying that I can't get something this morning for tonight's meeting.
793 That is why I have been pushing submission scheduling. Also, application fees paid at
794 the time of application. Both of those things are sticking points for me.

795
796 Mr. Brubaker said that we've started doing better with tracking. We have a fee-tracking
797 spreadsheet now. I still believe that our code basically allows sketch plan review to
798 happen before the fee period. Then, when they go to full site plan review, they should
799 have all of their fees paid.

800
801
802 The next regular Planning Board Meeting is scheduled for February 15, 2022 at 7PM.

803
804 **ITEM 13 – ADJOURN**

805
806 The meeting adjourned at 8:37 PM.

807
808
809
810
811 **Lissa Crichton, Secretary**
812 **Date approved:** _____

813
814
815 **Respectfully submitted,**
816
817 **Ellen Lemire, Recording Secretary**

818
819
820

1 **ITEM 1 - ROLL CALL**

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

5
6 Also Present: Jeff Brubaker, Town Planner.

7
8 Absent: Lissa Crichton – Secretary (excused).

9
10 Voting members: Carmela Braun, Jeff Leathe, Jim Latter, and Christine Bennett.

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

13
14 **ITEM 3 – MOMENT OF SILENCE**

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

17
18 Mr. (Jay) Meyer, Odiorne Lane, said that I have addressed this in the past to you
19 regarding the public not having a package available here at our meetings. I think it's very
20 important that you provide the public a package. This has been a policy that has been in
21 place for a long time and I am really concerned that that is not available to the public.
22 I've brought this up on a couple of occasions, now, and I would like an explanation as to
23 why that's not available to us.

24
25 Mr. Brubaker said that, with regard to your suggestion that the press have a packet, if the
26 press started coming to these meetings, I'd be happy to print a packet for them. We do
27 make the packet available online. With that said, I think I can talk with our Admin
28 Assistant about having an additional printed packet available for the public.

29
30 Ms. Braun asked if there was anything else, Mr. Meyer.

31
32 Mr. Meyer said no, other than the fact that I brought this up on several occasions and it's
33 the same story. So, are we going to do it or are we not going to do it. Could we put a
34 policy in place that we do that.

35
36 Ms. Braun said that, as Mr. Brubaker stated, we will discuss it with the Land Use
37 Administrator and go forward from there.

38
39 Mr. Meyer asked whose responsibility is that in making sure that gets done.

40
41 Ms. Braun said that it is my and Mr. Brubaker's responsibility to speak to that and we
42 will do so.

47 **ITEM 5 – REVIEW AND APPROVE MINUTES**

48
49 **Mr. Latter moved, second by Ms. Bennett, to approve the minutes of January 4,**
50 **2022, as amended.**

51 **VOTE**
52 **4-0**
53 **Motion approved**

54
55 **ITEM 6 – NOTICE OF DECISION**

56
57 PB21-36 was deferred until the next meeting (March 1, 2022) as it was not placed on
58 tonight’s agenda.

59
60 Mr. Brubaker said that I think the saving grace is that, as part of your motion and it’s
61 represented here in the Notice of Decision, you did authorize the Chair to work with the
62 Planner in getting a letter out. I think that that was important, timing-wise, for Ms. Raitt,
63 because we had the ability to send out that letter (State of Maine form acknowledging PB
64 approval.)

65
66 **ITEM 7 – NEW BUSINESS**

67
68 **A. 25 Alden Lane (Map 1/Lot 36), PB22-02: Shoreland Zoning Permit application –**
69 **Garage Replacement.**

70
71 **Received: January 18, 2022**
72 **1st Heard: February 15, 2022 (Shoreland Zoning Permit Application/postponed)**
73 **2nd Heard: _____, 2022**
74 **Site Walk: N/A**
75 **Approval: _____, 2022**

76
77 Mr. (Nick) Gray, applicant/contractor, was present for this application.

78
79 Mr. Gray said that we are going to postpone it for now and, hopefully, have it for the next
80 meeting in March. We need to try to pull it to the 75-foot setback. Currently, the garage is
81 only about 65 feet from the high-water mark and we were wanting to add a second story
82 to it so we can’t change that because of the 20-foot requirements between 65 feet and 75
83 feet. So, I would just like to postpone it until the next meeting.

84
85 Ms. Braun said that that was fine as long as you get together with Mr. Brubaker on your
86 application.

87
88 Mr. Gray thanked the PB.

89
90 **B. 72 Harold L. Dow Highway (Map 23/Lot 15), PB22-04: Retail Store in an**
91 **Existing Building**

92

93 **Received: January 26, 2022**
94 **1st Heard: February 15, 2022 (site plan amendment review/approved as minor**
95 **change)**
96 **Site Walk: N/A**
97 **Approval: February 15, 2022**

98
99 Ms. (Aly) Eardley, applicant, was present for this application.

100
101 Ms. Eardley said that I'm looking to open a small retail shop at 72 Dow Highway, which
102 is currently Randolph's Upholstery Shop. He's been there for about 40 years and he's
103 getting ready to wind down his business and retire. I've been talking with him about
104 renting the front half of his shop. I'll be looking to open the retail shop probably a couple
105 days a week and I'll be selling home décor, painted furniture, gifts, and that kind of thing.
106 I think it's never truly been a retail store before and that's why I'm here.

107
108 Ms. Braun asked if she was going to have a sign.

109
110 Ms. Eardley said that I would like to have a sign. Mr. Randolph is planning to take down
111 at least one of his; that he has multiple signs on one stand so he offered me the top place.
112 He will be taking down the other one eventually.

113
114 Ms. Braun said that the parking is sufficient but they are just not marked.

115
116 Ms. Eardley said that it's a big parking lot and I think we will put in curb bumpers, or
117 something like that, to show people where to park.

118
119 Ms. Braun said that I would do this as a minor change and asked what other PB members
120 thought.

121
122 Ms. Bennett said that from the existing use right now, even though it hasn't been a robust
123 retail location, it's still a retail establishment. It's a modification. They are not changing
124 the footprint or adding anything.

125
126 Ms. Braun agreed that they are not changing anything.

127
128 The PB members agreed.

129
130 **Mr. Latter moved, second by Mr. Leathe, that the Planning Board Approve PB22-4**
131 **as a Minor Site Plan Amendment and Change of Use for a retail store (furniture,**
132 **home décor, and gifts) in an existing building. The Planning Board finds that the**
133 **approved revisions are minor and do not result in any substantial changes to the**
134 **approved development or further impact abutters. The following are conditions of**
135 **approval:**

- 136 **1. The property may be developed and used only in accordance with the plans,**
137 **documents, material submitted, and representations of the applicant made**
138 **to the Planning Board. All elements and features of the use as presented to**

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

186
187 **C. Ordinance Amendments was deferred to the end of the meeting agenda.**

188
189
190 **ITEM 8 – OLD BUSINESS**

191
192 **A. 771-778 Main Street (Map 6/Lot 43, 44) PB21-30: Subdivision with Nineteen (19)**
193 **Elderly Housing Units and Two (2) Single-Family Units.**

194
195 **Received: October 14, 2021 (updated December 9, 2021)**
196 **1st Heard: December 14, 2021 (sketch site plan review)**
197 **2nd Hearing: January 25, 2022 (sketch plan review)**
198 **3rd Hearing: February 15, 2022 (sketch plan review)**
199 **4th Hearing: _____, 2022**
200 **Public Hearing: _____, 2022**
201 **Site Walk: _____, 2022**
202 **Approval: _____, 2022**

203
204 NOTE: This application has been withdrawn.

205
206 **B. 16 Arc Road (Map 45/Lot 17), PB21-29: Site Plan Review, Change of Use, and**
207 **Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and**
208 **Medical Marijuana Caregiver Retail Store.**

209
210 **Received: November 15, 2021 (update January 13, 2022)**
211 **1st Heard: January 25, 2022 (sketch plan review)**
212 **2nd Hearing: February 15, 2022**
213 **3rd Hearing: _____, 2022**
214 **Public Hearing: _____, 2022**
215 **Site Walk: _____, 2022**
216 **Approval: _____, 2022**

217
218 Mr. (John) Chagnon, (Project Engineer, Ambit Engineering, Inc.) was present for this
219 application.

220
221 Mr. Chagnon asked if Ms. (Rebecca) Brown could be let into the meeting. We were here
222 last month and went over a proposal to amend an approval granted in 2021. The PB had a
223 couple questions about the application and we've made some changes to the plan set to
224 address those. Specifically, we moved the ADA space that was on the back side of the
225 6,000 square-foot building to the west end of the northerly rear parking area so it is not
226 utilizing the loading area as the parking space laydown. We then added a walkway to the
227 rear entrance door from that location and put a light on the door (Sheet C-2). On Sheet C-
228 3 Facility Operations Plan, we revised the operational notes to eliminate references to

229 plant waste. There is no cultivation that will occur at this facility. The applicant did
230 provide some information about waste that may occur in regards to the retail operation.
231 On Sheet C-4 Grading, Drainage & Erosion Control Plan, we adjusted the grading
232 slightly in the area of that new walkway to the rear door just to make everything up to
233 speed and current. The Septic Location Plan Sheet C-5, we added a note to be very clear
234 that there will be a pump with an alarm. With the Lighting Plan L-1, we added the
235 photometric light intensities to the plan with the new light (new back door). All the other
236 sheets remain unchanged. We did submit some additional information. The updated
237 ownership disclosure. An adult use license. That additional disposal information I
238 mentioned. Light fixture specifications. Then, the PB at the last meeting asked the
239 applicant to engage a traffic engineer to do a study based on anticipated site use and trip
240 generation. You should have a copy of that and Rebecca Brown is here. She was the
241 traffic engineer and I will let her take it away.

242
243 Ms. Brown thanked the PB for allowing her to join virtually. I want to briefly go over the
244 traffic study we put together and then, if you have any specific questions, I'd be happy to
245 answer those. The traffic study we put together really was intended to review the _____
246 (CCDN 28:35) operations of Arc Road as it intersects Route 236 in order to ensure it can
247 handle the traffic that will be generated by the proposed marijuana use. Arc Road now is
248 roughly 24 feet wide for the majority of its length but it does narrow in some places to 20
249 to 21 feet, which provides roughly a 10-foot travel lane in each direction. That does meet
250 AASHTO's design guidelines for low volume roadways and will allow for passenger
251 vehicles and the trucks that are currently on the roadway to safely pass each other. That is
252 supported by the fact that trucks are passing each other safely today. We did do a review
253 of collisions occurring based on Maine DOT's crash total record for the seven-year
254 period from 2015 to 2020, which showed that a total of three crashes had occurred in the
255 vicinity of the Arc Road intersection over that seven-year period. I understand that there
256 was another one that may have been coded incorrectly. Two of the crashes involved deer
257 and one involved the driveway into the Auto Sales business (Heritage) that's right on that
258 corner there. Overall, pretty low occurrence of crashes that really don't indicate a
259 particular safety concern there. We did also review sight lines at the intersection of Arc
260 Road with Route 236 as well as at the site roadway intersection with Arc Road and both
261 the intersection sight distance and the stopping sight distance at both locations did exceed
262 actual recommendations for safe operations. So, based on those three elements, the
263 geometry, the collisions, and the sight lines, we do not see any safety concerns that would
264 arise from this proposal. The next thing we looked at was the trip generation and I
265 understand that an estimate was previously provided based on a mix of different land
266 uses. We have provided a trip generation estimate based on the Institute of Transportation
267 Engineering (ITE) data, which is the leading source for data for trip generation
268 information throughout the country. This is a relatively new land use to ITE and the
269 majority of data is taken in Colorado, Oregon, and California, with a couple of sample
270 sites in Massachusetts. We did provide an additional trip generation assessment based on
271 some empirical trip generation data that was collected at a similar co-located facility in
272 Lowell, Massachusetts that's operated by PatriotCare. That location has both medical
273 marijuana sales and adult recreational sales, similar to the one being proposed. Overall,
274 based on that data what we found was that the site would generate roughly 40 to 50

275 vehicle trips during the peak hour, during those weekday evening peak periods and
276 Saturday mid-day peak periods. When you think about a vehicle trip, it means one
277 vehicle entering or one vehicle exiting. So, that is essentially 20 cars coming to the site,
278 20 to 25 cars over the course of an hour. So, we took that traffic generated by the project
279 and added that on to the existing trips that are traveling along Route 236 at the Arc Road
280 intersection and ran an analysis using the Synchro analysis software to assess the ques,
281 the radius, and the level of service at that intersection. What we found was that all of the
282 movement through the intersection would operate at low levels of service with traffic on
283 Route 236 operating at levels of service 'A' and 'B' during the analysis time period and
284 traffic coming out of Arc Road operating at a level of service 'E' or better during all of
285 those time periods, with ques coming out of Arc Road, not exceeding two vehicles during
286 those peak hours. Based on the safety review that showed there was no significant safety
287 concerns and the traffic operations analysis that showed that the traffic could be handled
288 on the adjacent roadways, we did conclude that the intersection there at Route 236 and
289 Arc Road, as well as the Arc Road in and of itself could safely handle the traffic that we
290 generated on this project. So, if you have any specific questions on the traffic study, I'd
291 be happy to answer those for you, as well.

292
293 Ms. Bennett asked for clarification of what was the weekday evening peak hour.

294
295 Ms. Brown said that we looked at the traffic counts on the adjacent roadway, which was
296 peaking out from 4PM to 5PM. Arc Road was actually peaking at a little bit later; that I
297 believe it was 4:45PM to 5:45PM. So, we combined the Arc Road peak traffic with the
298 Route 236 peak traffic because we were looking at a worst-case scenario.

299
300 Mr. Latter asked, when you figure out vehicle trips, do you differentiate between existing
301 traffic that might be utilizing this facility with people who are out of the total traffic
302 volume by making the specific trip here. Do you differentiate between trips.

303
304 Ms. Brown said that I think you may be talking about pass-by trips, potential. Somebody
305 who is already on the roadway and might decide to stop here on their way to another
306 location. Is that it.

307
308 Mr. Latter said yes.

309
310 Ms. Brown said that we did not assume any pass-by trips although we would anticipate
311 that there will be some. So, there will be someone that may stop here on their way home
312 from work or while they're out and about shopping on a Saturday. But we did not take
313 any credit for that. We assumed everyone coming here is entirely new and, then, to be
314 conservative and give a worst-case scenario of what the traffic might be.

315
316 Mr. Brubaker said that, overall, I think it was a very thorough traffic impact assessment. I
317 think the big question here is Maine DOT's traffic movement requirement. I thought that
318 the TIA did a good job of mixing the ITE trip rates with an empirical study of the Lowell
319 dispensary because, as Ms. Brown mentioned, the ITE Manual is still catching up in
320 terms of good data for marijuana trip generation. But I do think this needs a little bit more

321 time so that we can see what the results of the traffic movement permit processes and
322 think more about what may or may not need to be done with regard to Arc Road,
323 including its intersection at Route 236. I thought the TIA did a good job of mentioning
324 that there is an existing off-premise sign near the intersection. It's for the ARC property -
325 WinWaste Solutions – that is the current corporation that owns the ARC property. I just
326 want to mention that I've talked about that sign with our CEO and she will be following
327 up with WinWaste Solutions on that, clarifying that that doesn't have anything to do with
328 this application.

329
330 Mr. Chagnon said that I think the second comment is relating to the observation from the
331 traffic engineer that that sign might be blocking some sight distance.

332
333 Mr. Brubaker agreed.

334
335 Mr. Chagnon said that, in regard to the first comment as far as the TIA study. Ms. Brown
336 is prepared to address that process and what it means. We would like to move this along
337 while that is ongoing. We think that would be a reasonable condition of the approval so
338 could you tell us a little about that.

339
340 Ms. Brown said that, essentially, that process means filing a traffic movement permit
341 (TMP) application, which is essentially a re-packaging of the traffic study that we already
342 did, with specific sections that the DOT asked for and submitting that to them. There
343 would be a scoping meeting held where they could potentially ask for some additional
344 analysis. We don't really anticipate much additional analysis based on the number of trips
345 that the project generates so we wouldn't exceed any of their volume thresholds to look at
346 intersections beyond the Arc Road intersection. But what we would end up needing to
347 meet is a 10-year volume projection so that would ultimately be included in that TMP
348 application. We don't anticipate that much will come out of that process based on the
349 findings of this traffic impact study and certainly that process could be a condition of
350 approval if the PB wanted to say that obviously this project would be conditioned on the
351 Maine DOT approving the traffic movement permit.

352
353 Mr. Chagnon said that I think, if I understand correctly, the results of that would be
354 whether or not to widen Arc Road or put in a signal or some other thing that's sufficient
355 with the intersection. But we don't anticipate that that's going to happen. The intersection
356 has been operating with the ARC facility in place. The ARC facility approval did produce
357 traffic studies. In the traffic studies, they claimed that they didn't need to address this
358 with the State because municipal waste facilities are exempt from the requirement of
359 obtaining this approval from the Highway Department. I think that we would request that
360 this be a condition and that this get moved along to the public hearing. Mr. Brubaker, you
361 said that you talked to the district engineer; that I don't know what that discussion
362 involved but was there something that was brought up that you think warrants some
363 additional time.

364
365 Mr. Brubaker said just the traffic movement permit process, itself. Seeing how that at
366 least starts off before that PB starts that timeclock.

367
368 Mr. Chagnon asked if it was more of a ‘this is a needed part of this’. It wasn’t related to
369 ‘we need to do this because there seems to be an issue’.

370
371 Mr. Brubaker said that I don’t know. I’m kind of on the fence. I think you’ve presented a
372 lot of good information in favor of the existing infrastructure being able to handle these
373 additional trips. But, I also, because of the nature of Arc Road, the variable width and
374 how it dips down into the bridge over Sturgeon Creek, I’m just trying to envision what
375 traffic would be like there when you have the existing ARC trucks mixing with the retail
376 customers. Intuitively, I’m kind of on the fence about just how well that would work
377 along Arc Road and then at the intersection where you have a two-lane facility without
378 turn lanes on the main line of Route 236. I’m just thinking about some of that additional
379 traffic. One of the things that was mentioned in the TIA was the level of service at the
380 stop control intersection of Arc Road and Route 236. I’ve had some experience with
381 reviewing TIAs and level of service ‘e’ isn’t very good. At the same time, I think you see
382 that a lot. It’s somewhat normal to see stop control, the minor approach of stop control
383 intersections, have a level of service ‘e’ so I think it’s not as bad as if the traffic signal
384 had level of service ‘e’ because that’s the second worst grade. So, I’m on the fence about
385 that, too. I guess I just want a little more air time for us to think about the traffic impact,
386 even though I think they’ve made a good case in a lot of ways that the traffic impacts can
387 be potentially acceptable with the additional trips. I think there’s some sensitivity right
388 now in Town with regard to traffic generated by marijuana retail stores so I think I’m a
389 little extra cautious just based on anecdotal evidence from that.

390
391 Mr. Latter said that that was my question about the pass-by traffic versus specific
392 destination traffic.

393
394 Mr. Brubaker said that pass-by trips are a good consideration for TIAs. The thing,
395 though, is that if you imagine the pass-by trips in certain circumstances, what that does is
396 that it takes a through-movement on Route 236 and turns it into a couple of turning
397 movements. So, you actually have additional turning movements on the stop control
398 approach as opposed to the person who had continued home from work.

399
400 Mr. Chagnon said that this is the nature of development on Route 236. If you’re going to
401 be adding businesses to Route 236 and improving the commercial use of that corridor, it
402 is going to result in trips and the corridor has a volume of traffic, which is significant. It
403 is an arterial street that carries a lot of traffic flowing through Eliot. So, I don’t think this
404 is unlike any other business proposition that is trying to locate in Eliot. And they know
405 that coming in.

406
407 Ms. Braun asked if you have talked with the Conservation Committee (CC), yet.

408
409 Mr. Chagnon said that we’ve reached out to the Chair to put us on the agenda for the
410 March 2nd meeting.

411

412 Ms. Braun said that we don't have their comments, either. We need comments from
413 them. Have you (Joshua Seymour) gotten your license renewed, because all that is in the
414 packet is your photo ID.

415
416 Mr. Seymour said yes. That was my adult use identification card. That is all updated.
417 Regarding my adult use conditional license, we're waiting for the State OMP to produce
418 that. The application has been submitted and there was a letter from my lawyer stating the
419 progress of it. We felt that could also be condition of approval, as we are just waiting on
420 the OMP to deliver that to us.

421
422 Mr. Chagnon said that the attorney sent that on the 11th and thought that I was submitting
423 it and, then, I thought she was submitting it.

424
425 Mr. Seymour said that I am a little confused, as I know on the Maine DOT traffic
426 movement requirement, with 100 cars at peak hour, they require that study; that I saw on
427 our schedule that it was 52 during the Saturday peak. Am I missing something, here, as to
428 why it's required when we're having half as many cars generated.

429
430 Mr. Brubaker said that, in my communication with the DOT engineer, he didn't specify
431 why, but he may have been looking at the per 1,000 square feet trip generation. That's
432 not to say that I actually... I think there's merit in the per register and the per 1,000
433 square feet trip generation, so I think that was a great aspect of the TIA. I just imaging he
434 may have been narrowing in on the per 1,000 square feet.

435
436 Mr. Seymour asked if he assumed that based on 6,000 square feet or the actual retail
437 space of the dispensaries; that we're a lot lower than 6,000. We're around 4,200,
438 considering only retail space.

439
440 Mr. Brubaker said that I don't know. But, as you guys work with DOT, you could clarify
441 that and, perhaps, see if there's a way to get out of that requirement.

442
443 Mr. Seymour said that I'm just wondering if a traffic movement study is necessary at all
444 if there's a permit discussion we have with the DOT, explain the situation a little bit
445 more, or the square footage a little bit more, and maybe we could have our engineer
446 discuss with them directly to see if there is a further need for that study.

447
448 Mr. Brubaker said that I'm completely neutral on you voluntarily reaching out to the
449 DOT to do what you need to do.

450
451 Mr. Seymour said that I could be completely wrong but it seemed like, when we looked
452 at the numbers, that we are generating half as much traffic as required to create one of
453 these traffic movement studies. When we look at the timeline of these things, we're
454 stretching out four months almost for a traffic movement study. So, I'm wondering if the
455 DOT would actually require that or that was just a general conversation that you may
456 have had.

457

458 Mr. Brubaker said that I think the TIA had both the standard and the innovative way of
459 measuring trips. I think that the innovative way was per register and, if the empirical data
460 bears that up, that's great for the profession but I just wonder if the DOT may have been
461 honing in on that per 1,000 square feet because it's more familiar. Ms. Brown, you may
462 want to chime in on this if you want to say something further. That's just what I assumed
463 the DOT engineer said.

464
465 Mr. Seymour said that I just want to be clear that it may not be based on 6,000 square
466 feet. I believe it is based on the retail space and not including break rooms or product
467 storage or areas that consumers cannot access. So, would the PB be okay making that a
468 condition of approval in the event we may not actually have to have a traffic movement
469 study done with the DOT.

470
471 Ms. Braun said that we're not ready for approval; that we haven't even done
472 completeness yet.

473
474 Mr. Seymour said that I understand; that that would just be listed as a condition, if
475 approved.

476
477 Ms. Brown said that there were a couple of things that were brought up as concerns for
478 the traffic movement permitting and why we may want to wait for it. I did want to
479 address a couple of those items. One was the idea that there are no turning lanes right
480 now out on Route 236. Right now, Route 236 does have pretty wide travel lanes as well
481 as an 8-foot shoulder immediately adjacent to the travel lanes so there's adequate width
482 there that if there is a left turn that's waiting to turn in to Arc Road, somebody can
483 maneuver around them. The other thing that was brought up was the level of service 'e'
484 that's there which was mentioned that really, for unsignalized intersections, isn't that
485 much of a concern. That really is true. The level of service is really a measure of the
486 delay through the intersection and all that that level of service really means is that there's
487 over a certain threshold of delay for somebody that's traveling through the intersection.
488 What we tend to look at more as the volume-to-capacity ratio to assess whether the traffic
489 volume exceeds the capacity of that road and, right now, it's less than half when we add
490 the traffic that will be generated by this development. We also look at the ques because,
491 obviously, we don't want to be creating extreme wrong ques there. But based on the level
492 of service 'e', you typically would not warrant a traffic signal. I know that Mr. Chagnon
493 had mentioned that a traffic movement permit would look at whether or not a traffic
494 signal would be needed at that location. Typically, you're at a level of service 'f' with
495 very long delays and ques before a traffic signal warrant is met because it takes a lot of
496 volume coming in on the side street. With the volumes we're seeing out here, a traffic
497 signal would not be warranted at that intersection. It wouldn't meet any of the volume-
498 related criteria or the safety-related criteria to warrant installation of a traffic signal there.
499 The only other thing that the Maine DOT might ask us for would be sight-returning lanes
500 on Arc Road, as it comes out. They tend not to ask for that unless we do have a level of
501 service 'f' and one of the reasons for that is because, when you have two vehicles that are
502 queued up next to each other in an unsignalized condition, they are blocking sight lines for
503 each other and you start seeing this competitive thing happening where people are slowly

504 inching forward next to each other for vehicles to see around each other. WE don't
505 anticipate that either of those conditions are going to be met that would warrant
506 improvements at that location. In terms of the DOT requirement for a TMP, we hadn't
507 initially applied for one because, based on trip generation, we thought we were well
508 below the threshold but, certainly, we would be re-packaging this information, providing
509 it to them, and asking for verification of whether or not it does meet the thresholds for
510 going through the TMP process. They could potentially come back after reviewing our
511 trip generation information and say that what we've provided is adequate and does not
512 require a traffic movement permit at that point. They definitely appear to be looking at
513 the scenario that looks at square footage and I think that's because that is their typical
514 standard to go based on the ITEP, the square footage. But they are open to accepting
515 empirical trip generation data from more local sites and very often prefer it for certain
516 land uses like, for example, Dunkin' Donuts. So, it is possible that they will not ask for
517 one at all.

518
519 Mr. Latter said, to address that point as a matter of process, if we were to make this a
520 condition, would the DOT give you something to give to us that says they have reviewed
521 the data and you don't need the study. We just do not want to grant final approval if the
522 study is necessary before we get it.

523
524 Ms. Brown said that we would ask them to provide a determination. So, they would
525 provide us a letter that says yes, we do need a permit or no we don't need it. So yes, that
526 would be something we are able to provide.

527
528 Mr. Latter said that the condition would be for either the study or a determination from
529 the DOT that none is needed.

530
531 Ms. Brown said yes. You could condition it as either a determination that no TMP is
532 required or issuance of a TMP.

533
534 Mr. Chagnon added whatever improvement that would require, if there was one, which
535 wouldn't affect the site plan per se.

536
537 Ms. Braun asked how long it typically takes for them to study before they decide you
538 have to do one.

539
540 Ms. Brown said that it typically is about a four-month process to go through the TMP
541 permitting process for us to provide them with all the information that they need, the
542 scoping meeting to be held, all the materials to be reviewed, then the permit to be issued.

543
544 Ms. Braun asked, if the DOT decides they need to do the study and it's a four-month
545 process, if we approve this facility what does the study do to our approval.

546
547 Mr. Brubaker said that I think the discussion was about a condition of approval where the
548 study would be done after approval and the result of that study be furnished to the Town.

549 Any potential improvements that may be required would be a potential condition of
550 approval, as well.

551
552 Mr. Chagnon said, if I could, it's not that we're going to wait to start this until the
553 approval, we would start this now. If you approved this now, subject to this condition,
554 typically it would be a condition subsequent and has to be met before a building permit is
555 issued. That would be the way to do it. Then they could proceed with their final building
556 plans, get the building in to the CEO for that review, do the Fire Marshall review. Those
557 things are going to take time and they will come together but they won't hold up the other
558 processes that have to occur to get to a building permit.

559
560 Ms. Braun thanked Mr. Chagnon. She asked what the PB would like to do. Are we ready
561 to say that the application is complete. If not, what else would we like to have.

562
563 Mr. Leathe asked to ask some basic questions regarding the site walk we did a while ago,
564 as I missed the first meeting. Did you folks talk about signage.

565
566 Mr. Chagnon said that the plans show a conforming sign location that is at the end of the
567 driveway along Arc Road. Then there's a note on the plan (Note #12) that talks about if
568 there is a business sign desired on Route 236 that they would have to go through a
569 process I believe would be an application to the Board of Appeals (BOA). There's
570 nothing on the plans that you're asked to approve that indicate a sign other than a
571 conforming sign at the site drive.

572
573 Mr. Leathe said that I recall that driveway going into that existing facility as being really
574 narrow, not big, with a culvert where I think part of the creek flows underneath. What is
575 the thought in terms of what that is going to look like, after the fact. Are you going to
576 clear around it, widen it significantly. How are you going to handle the water flow.

577
578 Mr. Chagnon said that, with the project, this is probably the fourth approval of this site
579 that I've been involved with. From the beginning, it was designed to be an 18- to 20-foot-
580 wide gravel drive. It wasn't built that way. So, at this point with this more intense use, the
581 plans show expanding that to an 18-foot-wide gravel drive, which the Fire Chief has
582 accepted. The culverts will be extended and re-laid. It's not the creek but just some off-
583 site run-off that does pass through from the solid waste facility to the north. The edge of
584 the facility is probably 30 feet away from the property line.

585
586 Mr. Leathe asked if there was any wetlands impact as you extend that driveway and build
587 the building.

588
589 Mr. Chagnon said that it was previously-approved wetland impact and there is no wetland
590 impact for building the building and doing the site work. On the site walk there were
591 some disturbed soils up there that show hydrophytic vegetation but that was because they
592 were imported and moved around. There isn't a wetland and there wasn't a wetland in the
593 middle of the site.

594

595 Mr. Leathe said that I remember about mid-way up from where the driveway opens into
596 the clearing on the left, I thought there was a wet area.

597
598 Mr. Chagnon said correct; that it's the product of somebody moving hydrophytic soil and
599 dumping it. It was never a wetland and it's not a part of a wetland complex.

600
601 Mr. Leathe asked about the detention pond that was built and never hooked up. Are you
602 going to use that detention pond and this time it will be functional.

603
604 Mr. Chagnon said that it was partially constructed and, in this latest plan, we're
605 impacting less area with impervious surface than the one that was approved in 2021. So,
606 we're actually going to be making that pond even better, re-building it and raising up the
607 grade of the bottom.

608
609 Mr. Leathe said that I have concerns with the visibility of this site. Are you going to do
610 anything to make it more visible from Arc Road or is it going to be left as it is.

611
612 Mr. Chagnon said that there are no plans to clear a big path to the site.

613
614 Mr. Seymour said that we don't mind the privacy back there so we wouldn't open it any
615 more than we need to for the driveway.

616
617 Mr. Chagnon said that, given its proximity to not be directly on the highway, it's a
618 destination site.

619
620 Mr. Brubaker said that I thought I heard you (Mr. Chagnon) say that the driveway would
621 remain gravel but I see in the details that you would pave the driveway.

622
623 Mr. Chagnon said that that's correct. It is currently gravel but it will be paved.

624
625 Mr. Latter said, just to follow up, that the original larger project before the PB last year
626 also had a paved driveway.

627
628 Mr. Chagnon said yes.

629
630 Ms. Braun asked what the PB would like to do with the application. Are we ready to say
631 it's complete.

632
633 Mr. Brubaker said that I think the applicant has provided a lot of good responses with
634 regard to traffic. That doesn't mean that there are no more questions to be answered.
635 Obviously, you have to at least begin the process with the DOT and see how they
636 respond. I think the main thing for you to decide in terms of completeness is the
637 conditional license question, whether you're satisfied by what has been provided in lieu
638 of the actual renewed license. Now, to their credit, they did provide an active conditional
639 license when the application was started and that conditional license was valid.

640

641 Mr. Seymour said that it expired on February 4th but we had already submitted for re-
642 approval. The OMP is just so overwhelmed with all of these approvals that they just still
643 haven't gotten back to us. I certainly expect that that would be a condition of approval, as
644 well.

645
646 Mr. Brubaker said, again, that our code says that you can't start reviewing adult
647 marijuana applications until they have their conditional license. In this case, they did. It's
648 just during the course of the review it expired.

649
650 Ms. Braun agreed and they are now just waiting for the renewal to come through. I'll
651 bring it back to the PB. What would we like to do.

652
653 Mr. Latter said that I think I'm ready to move forward. I don't think that the traffic
654 impact, just from the data I saw, is onerous. I do have some concern over the conditional
655 license but they seem to be acting in good faith in trying to get that moved forward as
656 rapidly as they can. Any of these issues would be made a condition of approval. The only
657 thing I'm worried about is our 75-day timeline. If we get to having to make a decision
658 and we still don't have the information that we really need, we would either have to make
659 it a condition of approval or we say 'We needed to see this before we could approve it.
660 We haven't seen it and now we can't approve it.' I don't want to be in that conundrum
661 with that situation.

662
663 Ms. Braun agreed regarding the timeframe.

664
665 Mr. Chagnon asked if that wasn't something the applicant could agree to waive. If you
666 ask the applicant if he's willing to wait another 30 days and he says yes, that's not an
667 acceptable way to move it forward at that time.

668
669 Mr. Brubaker said that is similar to what happened on another project with our attorney
670 backing it. I would say that, as long as the applicant agrees, the PB could extend that
671 deadline.

672
673 Ms. Braun said that the only thing that concerns me is how many times we can go back to
674 the well and say we need to extend it another 30 days.

675
676 Mr. Brubaker said that, unless State law says otherwise, it could hypothetically be done
677 indefinitely but obviously, for practical purposes, for the purposes of the people's time
678 and stuff like that, we'd eventually want to say no more extensions. Like Mr. Latter said,
679 we either need to approve with conditions, with a condition satisfying the sufficiency for
680 a denied permit.

681
682 Ms. Braun said that, if the PB is ready to accept completeness, the Chair will accept a
683 motion.

684
685 **Mr. Latter moved, second by Ms. Braun, that the Planning Board consider PB21-29**
686 **for 16 Arc Road Site Plan Review and Change of Use Shoreland Zoning Application**

687 **for Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail**
688 **Store application is complete for the purpose of moving forward to a public hearing.**

689
690 DISCUSSION

691
692 Mr. Leathe said that I am going to abstain from this vote as I was not at the meeting
693 where it was presented.

694
695 DISCUSSION ENDED

696 **VOTE**
697 **3-0-1 (Mr. Leathe abstained)**
698 **Motion approved**

699
700 The Public Hearing is scheduled for March 15, 2022.

701
702 **D. Ordinance Amendments – documents update only – discussion only as time**
703 **allows.**

704 **1. Signs**

705
706 Mr. Brubaker said that this just tries to clarify sign setbacks, particularly along
707 Route 236. We had some issues with clarity on where signs should be placed and
708 where signs are placed along Route 236. The idea is to clarify in our dimensional
709 standards table, which is §45-405, that there is no lot line setback for signs in the
710 C/I District. So basically, you can put a sign up as long as it is fully on your lot
711 and not in the DOT ROW. There was a reference later in Chapter 45 suggesting
712 that you may need to put signs 8 feet back from the lot line. Many signs out there
713 today aren't doing that. It is very **contiguous** saying there is no setback for a sign
714 in the C/I District but what is important is to make sure that we don't have signs
715 close to the edge of pavement and, so, you see that language in there. This is just
716 starter language for discussion but requires signs to be at least 20 feet from the
717 edge of pavement. If you go to page 7, you see some new language, here, stating:

- (h) **For properties abutting Route 236, permanent pole-mounted or monument signs that are anchored to the ground and not designed, according to applicable safety standards, to break away in the event of a motor vehicle collision shall not be located within the Route 236 right-of-way boundary and shall not be located nearer than 20 feet from the edge of Route 236 pavement. In other locations, such a A-sign shall not be located nearer than eight feet from the right-of-way boundary or nearer than eight feet from the edge of the travelled way, and A lesser distance from the edge of pavement may be allowed by the permit-issuing authority upon written justification by a qualified, licensed engineer that such a sign complies with applicable clear zone standards for the adjacent roadway's design speed.**

718
719 20 feet is generally following the AASHTO site design guide.

720
721 Mr. Leathe asked, when you talk about the Route 236 ROW, what do you mean
722 by that geometrically.

723

724 Mr. Brubaker said that it's generally on the publicly-owned way about 100 feet. It
725 varies but often it's 100 feet wide. It's owned by the Maine DOT. So, 20 feet
726 away from edge of pavement but, in some cases, the ROW is actually further
727 back. So, 20 feet away from edge of pavement is the absolute floor how close you
728 can place a non-breakaway sign because you really don't want those heavy,
729 concrete-mounted poles or monument signs closer than that for vehicle safety.

730
731 Mr. Leathe said that, if it was 100 feet with a sign within the 20 feet, there could
732 be 10 feet from the ROW, or something like that.

733
734 Mr. Brubaker said that, if the ROW line between the ROW and the property was
735 more than 20 feet back from edge of pavement, they would actually have to be
736 further back because they couldn't encroach on the DOT's ROW. This is just a
737 language draft so the idea is that the language could be smoothed a bit.

738
739 Mr. Leathe asked if you think the setback is clear enough.

740
741 Mr. Brubaker said maybe not and I would welcome any wording.

742
743 Mr. Latter asked if we can define 'in no case shall it be closer than 20 feet from
744 the edge of pavement'.

745
746 Mr. Brubaker said yes, we could. That's what the intention was generally. It has
747 the offramp for breakaway signs. Just very small signs that would be plowed over
748 by a vehicle are less of a concern. We wouldn't want monument signs that close
749 to the edge of pavement. There are some signs out there that I'm a little concerned
750 with but the idea is to make sure those are set far enough back so that, if you have
751 a run-off-the-road, the vehicle would have an adequate clear zone, as they say, to
752 recover or slow down before hitting such a sign.

753
754 Mr. Latter said that you say 'in other locations, a sign shall not be located closer
755 than 8 feet...'.
756

757 Mr. Brubaker said yes, other locations not abutting Route 236. If you notice in
758 other zoning districts, there is an 8-foot sign setback. This tried to focus on Route
759 236 but if we want to make changes to those other zoning districts...obviously
760 those other zoning districts with a lot of residential roads, you don't see many
761 business signs. You do have some home business-type signs.

762
763 Mr. Leathe said that you mentioned there were some signs on Route 236,
764 according to this new approach, that would be not in compliance. Is there any
765 situation where there are signs along Route 236 that are totally passive and should
766 be addressed in some way or is it that they are somewhat grandfathered.

767
768 Mr. Brubaker said that from my understanding just speaking in rough estimates,
769 it's a real mix where we have some signs that are permitted and in the right

770 location. You have a number of signs that are unpermitted but still in the right
771 location. It's just that the property owner didn't go through the sign-permitting
772 process. Then you have other signs that are unpermitted and also not really in
773 locations that they should be. I think it would be good to take it to know how this
774 ordinance could address it, basically where signs are unpermitted but generally in
775 good locations could seek after-the-fact permits. That wouldn't be a free pass for
776 those signs of greater concern to stay where they are. In other words, the CEO
777 would still have the ability to do a code violation potentially or work with them to
778 re-locate the sign to a proper location.

779
780 Ms. Lemire said that I know when PBs have gone through ordinance changes like
781 this in the past, sometimes they put in language that allows someone who is
782 actually in violation a year to bring it back into compliance.

783
784 Mr. Brubaker said that that might be a good thing to add. How does everybody
785 feel about that.

786
787 Ms. Braun said that that would be fine.

788
789 Mr. Latter said that if anybody had a sign that was concrete would have to
790 comply with whatever the new ordinance is. It is also grandfathered from before
791 the ordinance was ever put in place.

792
793 Mr. Brubaker said that I think the idea is, if there are some signs that are not in
794 compliance now but would be in compliance with the more flexible setback
795 standard but just didn't happen to go through the sign-permitting process, this
796 would kind of bring them into the fold.

797
798 Mr. Latter asked what the cost was for as sign permit.

799
800 Mr. Brubaker said that I believe the permit fee is \$50.

801
802 Ms. Braun asked, if you have people who have signs that were unpermitted and
803 now, they want to bring them into compliance, should they then pay a fine of
804 some sort if they haven't been permitted for however long they've had them.

805
806 Mr. Brubaker said that the CEO has the power to charge an after-the-fact fee and
807 that's double the usual permit fee. Depending on the permitting sign, she also has
808 the ability to issue warnings and violations if they don't comply.

809
810 Mr. Latter said that I think the carrot-and-stick is the one-year moratorium to give
811 them a year to get caught up. After that, we charge them double.

812
813
814
815

816 **2. Additional Marijuana Performance Standards**

817
818 Mr. Brubaker said that this one isn't adding a whole lot because we do have some
819 pretty rigorous performance standards. It does add a requirement that the
820 applicant submit a wastewater disposal plan. Again, a number of these
821 requirements are also State requirements but I still think it holds more to have it
822 as a Town requirement, too, and it shouldn't be too hard for the applicant, either.
823 The next change is on page 4:

For the purpose of this section, if a property with a principal commercial use in the Commercial-Industrial zoning district includes an existing, lawfully permitted and-or legally nonconforming accessory residential use, such property shall not be considered a "residential property" under subparagraph (5)b. above. No marijuana establishment or medical marijuana establishment may be located on any property that has an unpermitted residential use.

824
825
826 Mr. Brubaker said that we have the 500-foot rule that specifies that certain
827 marijuana uses can't be located within 500 feet of a residential property. This just
828 clarifies that, if you have a commercial property and a marijuana entity wants to
829 set up shop on that very property, if there is also an accessory residential on that
830 property, that property would not be considered a residential property. In other
831 words, that property wouldn't be allergic to itself with regard to the 500-foot rule.
832 It does say that if there is an unpermitted residential use on the property, then no
833 marijuana business would be able to open up there.

834
835 Mr. Latter said that they would have to get rid of the unpermitted residential use.

836
837 Mr. Brubaker said or they could make it permitted somehow.

838
839 Ms. Lemire said can I ask why this change.

840
841 Mr. Brubaker said that it's a fairness thing where I think that, if there is a
842 residential use on the same property and presumably everybody is cool on that
843 property with a marijuana use opening, that the sensitive use standard in that
844 narrow instance is kind of pointless. But it also tries to compel unpermitted
845 residential uses.

846
847 Mr. Leathe said, following up on the question, I really still am not clear about the
848 rationale for this. Have we seen a situation like this before. What's the principle
849 concern about having residential use mixed in with a marijuana facility.

850
851 Mr. Brubaker said that the importance of the rule in general is to make sure that
852 residential properties are protected and the impact mitigated of the marijuana
853 facility. Again, currently in our ordinance, the 500-foot rule only applies to
854 marijuana retail stores, medical marijuana dispensaries, and medical marijuana
855 caregiver retail stores. Marijuana cultivation and manufacturing are exempt from

856 all of these rules except for the public and private schools, which is State law. I
857 think that the 500-foot rule is very important. This just carves out an exemption.
858 Let's say that you had a commercial property and you have no other residential
859 properties within 500 feet from where the marijuana business building would be
860 located but you had an accessory apartment on that very property. I think a
861 reasonable case could be made that that same accessory apartment doesn't need to
862 be protected because presumably, if it's the same property, the person living there
863 may be the property owner or may be related to the property owner or something
864 like that.

865
866 Mr. Leathe said, taking that to an extreme, if someone had a marijuana facility
867 and then wanted to put in a small residential apartment, would they be allowed to
868 do that. Or is this only in the case of existing.

869
870 Mr. Brubaker said that they couldn't, probably, because our zoning doesn't allow
871 it. Our zoning typically doesn't allow much residential in our C/I District, as it is.
872 It does allow for non-conforming residential uses to continue so it is possible to
873 get permitted for an accessory apartment if there's been a resident who has lived
874 in the C/I District.

875
876 Mr. Latter said that it allows them to continue but does not allow them to be
877 created. You can't create a non-conforming residential use in the C/I District.

878
879 Mr. Brubaker said that that was correct.

880
881 Ms. Lemire said, to that point, this ADU would only be allowed if it was already
882 there but it could still be rented to anybody.

883
884 Mr. Brubaker said that, if it's a legally non-conforming residential use, that can
885 continue in the C/I District. Correct.

886
887 Ms. Lemire said that, potentially, the rationale for having the 500 feet could be
888 defeated that way. Part of the reason for the 500-foot sensitive boundaries is to
889 keep it away from kids, away from schools, and that sort of thing.

890
891 Mr. Brubaker said right. So, the idea would be that, if a family was living on that
892 property, they would either be the property owner or they would have a lease
893 relationship. It would mean that potentially there could be a landlord who decides
894 to...I don't know. I think this is an unlikely scenario.

895
896 Mr. Latter asked if we just say that any property with a non-conforming accessory
897 residential use is not eligible to be a marijuana facility, then stop. There can't be
898 that many. Down in Massachusetts, people had to decide if they wanted to be a
899 marijuana facility or rent out to a family, as you can't do both. If you don't
900 prohibit him from doing it, he might not intend to, but he's capable of it.

901

902 Mr. Brubaker said that there would be a number of things limiting the options
903 here. You couldn't invite a new residential use in the C/I District. We do have an
904 exception for elderly housing subdivisions but that's a little bit different. I don't
905 think we'd see that applying here, in this case. We're talking about an already
906 commercial property. You couldn't build a new accessory apartment. It would
907 already have to be in the C/I District. You couldn't build a single-family house in
908 the C/I District, currently. What you can have is a legally non-conforming
909 residential use in the C/I District continue.

910
911 Mr. Latter said that what I'm saying is could we then prohibit using those
912 particular properties from any use of marijuana retail sales.

913
914 Mr. Brubaker said that I guess the question is, then, why prohibit those properties
915 from having a marijuana use if other properties in the C/I District could have
916 them.

917
918 Mr. Latter said that at least you wouldn't have a residence on the same property.

919
920 Ms. Braun said but if they're already there on a commercial piece of property.

921
922 Mr. Latter said that we aren't saying they can't use it for some other use. We're
923 just saying specifically for marijuana use. If you have a residential property, and
924 I'm not saying I agree with it, it was just to address.

925
926 Ms. Braun said that, if it is in the commercial zone and there is already a non-
927 conforming residence on the property, they could still do cultivation. They don't
928 necessarily have to do retail. They could still do cultivation and still have the non-
929 conforming residence. Cultivation would make more sense to me than retail. With
930 retail you run into the traffic, and all of that. Not with cultivation.

931
932 Mr. Brubaker asked if the concern is about a malicious landlord scenario where a
933 family, anyone, living in a legally non-conforming situation in the C/I District on
934 a commercial property, the landlord basically wants to annoy them and decides to
935 open a marijuana retail store next to them.

936
937 Ms. Braun said that I would think that anybody that is living in a non-conforming
938 residence on a commercial property would be related somehow to the owner.

939
940 Ms. Bennett said not necessarily.

941
942 Ms. Braun said that I think that they would either work for the owner in a
943 different capacity or they are related to them somehow

944
945 Mr. Brubaker said that I can certainly take this out if there's a concern about this
946 enabling that situation where somebody is happily living in a commercial

947 property in the C/I District and they don't own the property and they are legally
948 living there.

949
950 Mr. Latter asked if anyone ever tried to get a permit for a marijuana facility on a
951 property that has a residence.

952
953 Ms. Braun said not that I know of.

954
955 Mr. Brubaker said no; that currently we would tell them they can't. I've heard
956 stories about unpermitted residential but, if we knew definitively that there was a
957 permitted residential use there, we would say you can't because of the 500-foot
958 rule.

959
960 Ms. Braun asked if this is something we want to run by Attorney Saucier.

961
962 Mr. Latter said that this is so the non-conforming use doesn't trigger the 500-foot
963 setback on the properties or **itself** (1:37:54).

964
965 Mr. Brubaker said that is because the property owner can control their own
966 property but can't control others. But I can see there being some concern, here, so
967 I might delete it or think more about the wording here, as I don't want to
968 inadvertently open up Pandora's Box with other issues.

969
970 Ms. Braun said no. Maybe talk about the wording with Attorney Saucier and see
971 what he thinks about it. That might be a better path to see what the legal issues are
972 on that.

973
974 Mr. Brubaker said okay.

975
976 Ms. Lemire said that long-term was what I was thinking about, a carve-out.
977 You're making a special exception to something that the Town voted to keep in
978 place. People tend to like to take advantage of those types of things and try to
979 open them up a little bit more. That is the only thing I'm thinking of. What are the
980 unintended consequences down the road, potentially. That's all. Probably not
981 anything.

982
983 Mr. Brubaker said that I'm going to take it out, for now, and mention it to
984 Attorney Saucier.

985
986 Ms. Braun said yes, if you wouldn't mind, please.

987
988 Mr. Latter said so leave well enough alone.

989
990 Mr. Brubaker said that the next one is that applications for new marijuana retail
991 stores shall include a traffic impact assessment, and you can read the rest of the
992 wording, there:

(10) Applications for new marijuana retail stores (or existing marijuana retail stores seeking site plan amendments involving a potential change to trip generation or traffic circulation) shall include a traffic impact assessment that addresses, at minimum, Sections 33-153 and 45-406. Unless waived by the Planning Board, any approval motion shall include a condition requiring the applicant to collect turning movement counts for all site driveways for, at minimum, one full weekday and one full weekend day that the marijuana retail store is open, and submit such data to the Town Planner. Such count data shall be disaggregated by the hour, or a shorter time period, to show peaking characteristics. Nothing in this paragraph is intended to prevent the Planning Board from requiring traffic information or otherwise exercising its review authority under the aforementioned sections when reviewing applications for other marijuana or medical marijuana establishments.

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Ms. Braun said that I agree with that.

There was general PB agreement.

Ms. Bennett said that I was wondering, as we're looking at our marijuana ordinance right now, if we could have a discussion about §4(b) about odor management. When we adopted the ordinance, we were pretty explicit: "Odor management. For all *marijuana* establishments and medical *marijuana* establishments, *odor of marijuana* must not be perceptible at the exterior of the building at the premises or at any adjoining use of the property." We obviously have a problem that this requirement is not being met. I don't know if it's all of the facilities, or just one, but we have a real problem going on with odor.

Mr. Brubaker said that I agree with that.

Ms. Bennett said that I don't know what we can do, if there is adequate allowance in our ordinance to start to levy fines or inspections or have the actual establishment take odor readings outside their building. I think a lot of people in our community are upset about the fact that you can drive down Route 236 and you are overwhelmed by the smell of marijuana. If you go to the transfer station, you can be overwhelmed sometimes, with certain wind directions, with the smell of marijuana. That was a big concern when we drafted this ordinance because it wasn't stretching outside the bounds of what is really going to happen with these and we didn't want to disturb people with this commercial activity. So, I just put that out there. Is there any way, if anyone has any ideas of how we can somehow get our rules to be enforceable or stricter or something around that.

Mr. Brubaker said that I fully agree. I've smelled it, too, and I know that others have.

1025 Ms. Braun asked if that doesn't come under code enforcement. The rules are in
1026 place. They're supposed to have all this once the rules are established. It's really
1027 out of our hands, isn't it, to enforce it.

1028
1029 Ms. Bennett said but what if they are in violation of their permit. Why don't we
1030 pull their permits until they stop smelling.

1031
1032 Ms. Braun agreed, saying that that is out of our purview. I think it's code
1033 enforcement's purview.

1034
1035 Mr. Brubaker said that it is code enforcement's purview but I think I interpret
1036 what Ms. Bennett is saying is that is there a way to sharpen our pencils with this
1037 language. I don't know but there might be.

1038
1039 Mr. Latter asked what can we do once we've granted someone their permit. They
1040 get the building permit, they're there, they're not complying. We set the condition
1041 on the site plan.

1042
1043 Ms. Bennett said that I was wondering if there's some way; that when applicants
1044 come in, they always have whatever the measurement is for the odor and say we
1045 will be able to filter with our system and we are all impressed with that because
1046 that sounds like they are going to mitigate and eliminate any odor and, yet, it's not
1047 working. So, maybe the onus needs to be on these establishments that they go out
1048 and take an odor reading of whatever there is. There's probably some device that
1049 can detect the scent of marijuana and they would submit their log to the Town.
1050 Some sort of regular reporting to the Town. I'm just spit-balling about it, here, but
1051 it's becoming a problem in our community. Frankly, the only reason I voted for
1052 this ordinance is because it had this in it.

1053
1054 Mr. Latter asked if there is anything else that we do that requires a property owner
1055 to submit data.

1056
1057 Several said stormwater management.

1058
1059 Ms. Braun said that, even with the new rules on stormwater management, it might
1060 necessitate one dedicated employee to do that type of stuff. So, you're adding
1061 another employee and another issue. But, once they know all the rules and they
1062 submit all of their data, it's out of our hands, at that point, unless you can figure
1063 out a way to make this more stringent.

1064
1065 Mr. Brubaker said that I fully agree with everything the PB is saying. The tricky
1066 thing with odor is the subjectivity factor. As I understand it, there is a leading
1067 product for odor detection but it's basically almost like a cornucopia-type device
1068 that somebody holds up to their nose to better detect faint scents. So, there's still
1069 an element of subjectivity. But I would be enthusiastic about any ideas that you

1070 guys have for innovative ways to kind if sharpen the pencil for this ordinance,
1071 especially meeting the challenge of the subjectivity factor of odors.
1072

1073 Mr. Leathe asked if Mr. Brubaker has heard of this as an issue in any other towns
1074 or cities that have marijuana cultivation. I don't imagine that we're unique.
1075

1076 Mr. Brubaker said no, that we're not.
1077

1078 Mr. Leathe said, as a comment, one of the things that I've thought about a lot for
1079 our community is we do our best to come up with ordinances and rules that we
1080 want these folks to follow, to find out later that it's not exactly the way we
1081 thought it was going to be. I always think that we, as a committee, are not able to
1082 do anything about it because there's no loop of communication on feedback once
1083 a project is done that comes back to the PB and says okay now that it's done tells
1084 us how we are doing. It would be interesting to see if there was a way to put a
1085 feedback loop into some of these projects so that, after-the-fact, we actually can
1086 start to address any impacts. It seems that code enforcement is somewhat
1087 independent of what we do and, when folks leave here with an approval, we sort
1088 of wash our hands and we're done and then it's the CEO's problem to follow up. I
1089 just wonder if that process could be enhanced in some way.
1090

1091 Mr. Brubaker said that I think it's a couple things and a great point. You're right.
1092 A lot of PB approvals are set-it-and-forget-it. I don't mean that in a bad way. Part
1093 of that is because the approval runs with the land and it would be administratively
1094 difficult if you were receiving various topical reports every meeting. But, with
1095 regard to a more sensitive discussion use like marijuana, I think the closest thing
1096 we have to that is the annual licensing process. Once the PB approves, the project
1097 goes through the licensing process with the SB and that would be an area where,
1098 if there are some pretty clear code violations that if not addressed right up front by
1099 a code violation like they have been, certainly once they get to renewal of their
1100 license and they're back in this room before the SB, that that could be a leverage
1101 that the Town has to then revoke the license.
1102

1103 Ms. Lemire said that that is already in the language. Isn't it.
1104

1105 Mr. Brubaker said yes. That's all in Chapter 11 of the code. But you're right. A
1106 lot of these times, these approvals have been done and then there's no more
1107 feedback to the PB.
1108

1109 Mr. Leathe said that I don't know, in these small towns, if the SB is in the loop
1110 enough on these projects to begin with because they're not in the same process,
1111 the initial approval process, and wonder whether there should be some integration
1112 or something between us and them, if that's how the licensing goes, so that maybe
1113 we're asked for an opinion on every license renewal pr marijuana license renewal,
1114 just like we do with the Conservation Commission. Maybe ask if we have any
1115 questions about this marijuana renewal. It just seems there just has to be some

1116 way to get our arms around some of these things that just seem to explode after
1117 they leave the room.

1118
1119 Mr. Latter said that the SB isn't going to look at the site plan and review the
1120 documentation. They're going to ask if everything is okay...yep, okay.

1121
1122 Ms. Lemire said that they depend on a response from the Town Manager and the
1123 Police.

1124
1125 Mr. Latter said that I'm just speculating that none of these folks are looking back
1126 at the site plan review process, and any conditions. With the building permit and
1127 certificate of occupancy, those folks are looking at it. Once again, once that
1128 moves forward, unless inspection services are keyed in on something, nobody is
1129 going back and looking at any conditions we put on it once they're open.

1130
1131 Mr. Brubaker said that it's partially incumbent upon Town staff to keep track of
1132 that. I sent a pretty strongly-worded email, about a week and a half ago, with
1133 regard to the traffic situation on Route 236 and copied a lot of people on that
1134 email. But it certainly is a mix where the PB really strongly scrutinizes the
1135 application during your review and the SB should at least be checking some
1136 things when they review the license; that it is also the responsibility of the staff to
1137 review all applications and red flags before the respective board.

1138
1139 Ms. Braun asked if we could make the suggestion to the SB that, prior to a
1140 marijuana license coming up for renewal, that they ask us for input.

1141
1142 Mr. Brubaker said that we could. I just know that the workload has been a lot.

1143
1144 Ms. Braun said that I understand but, if that is the only way we have of
1145 controlling some of these things.

1146
1147 Mr. Brubaker said that one thing that we could do is have a kind of informational
1148 agenda item where I would almost call it a consent agenda item where the written
1149 information is provided in the agenda packet and we don't necessarily take time
1150 to discuss it but, certainly, a PB member could decide to bring...do you know
1151 consent agendas.

1152
1153 Ms. Braun said that I don't think so.

1154
1155 Mr. Brubaker said that in some towns you have kind of a long list; that this tends
1156 to be not big cities but larger towns. You have a long list of items put forth as a
1157 batch for approval by the governing body and they would tend to be minor things
1158 like licenses or permits or approval of a new pumper truck or something like that.
1159 Basically, the whole consent agenda gets approved as a batch but each member
1160 has the ability hold an item if they've reviewed it and don't like consent agenda
1161 item e. I have a question about this and I will pull it. What usually happens is that

1162 the board says that we approve items a through d and items f through g to get
1163 those items out of the way then talk about the issues we have with item e.

1164
1165 Ms. Lemire said that it's actually a really nice tool.
1166

1167 Mr. Brubaker said that one of the things I can do is put on the PB agenda a 'for
1168 your information, here is an upcoming license' because they have them a lot. Ms.
1169 Albert does great work keeping track of all that. For the purposes of not cluttering
1170 the discussions, you could say you don't have anything you want to say about
1171 'this particular license renewal' but, since it is on the agenda, you would have the
1172 ability to pull it and discuss it.

1173
1174 Ms. Braun suggested we try that.
1175

1176 Mr. Latter said that we might send a communication to the SB prior to renewal
1177 that says 'they said they would have 4-foot shrubs and they still don't'.
1178

1179 Ms. Braun agreed, saying that we should try that and see how that works.
1180

1181 Mr. Latter, going back to odor, said that there is no objective data gathering for
1182 obnoxious gases and fumes. There's no way to measure this objectively with
1183 standards.
1184

1185 Mr. Brubaker said that I'm not aware of any for marijuana. I don't know if Ms.
1186 Bennett might be aware of any.
1187

1188 Ms. Bennett said that I will Google it right now. I don't know that there is.
1189

1190 Ms. Braun agreed that the odor is bad. I know that the CEO is busy but it does
1191 come within her purview, in my opinion.
1192

1193 Ms. Bennett said that I would love for us to think about it a little more. Maybe it's
1194 the annual licensing process or induce the establishments to up their game with
1195 their filtration systems. I know, from their applications, they have some pretty
1196 high-tech scrubbers going on there. Maybe they're not cleaning them. Maybe
1197 they're not always running them. Maybe they're not replacing the carbon filters.
1198 Just some operational missteps that are happening that are causing this. You
1199 know, it gets embarrassing when other people say they just drove through Eliot
1200 and it smells like a marijuana field.

1201
1202 Mr. latter said that it's almost like an audit in that it is incumbent on the person
1203 doing the work to prove to the auditor what they're doing.
1204

1205 Ms. Bennett agreed. The SB would be the auditor for the annual permit and they
1206 (business) would have to submit the information.
1207

1208 Mr. Latter said that it's up to them to figure out how to prove it. It's not up to us
1209 to figure out how we want them to prove it.

1210
1211 Ms. Braun said that, if they are coming up for license renewal, there should be an
1212 audit of the performance standards to see if they are complying; that the business
1213 would have to prove their compliance.

1214
1215 Ms. Bennett suggested it may be as simple as surveying neighboring properties
1216 because our ordinance says it can't go onto neighboring properties. We could also
1217 have a letter to abutters asking for their experiences with odor or lack of. I don't
1218 know.

1219
1220 Ms. Braun said, again, you are coming up against a staffing issue.

1221
1222 Ms. Bennett described a situation on Route 236 near a marijuana retail where the
1223 neighboring business owner could smell marijuana on his drivers and wouldn't let
1224 them drive but it wasn't the drivers, they weren't smoking. It was the odor from
1225 an unpermitted grow marijuana facility. So, there is an instance where an abutter,
1226 a neighbor, felt that they had no power. The only power he had was to come to us
1227 and plead with us. I think that maybe there may be people who don't want to
1228 contest with their neighbors but are sort of suffering in silence right now.

1229
1230 Mr. Brubaker said that that's a good point. The SB does hold public hearings on
1231 renewals.

1232
1233 Ms. Lemire agreed, saying that nobody ever shows up.

1234
1235 Mr. Brubaker said that, again, it may be a case where people are a little shy.

1236
1237 Ms. Bennett added that they may not know that we have a rule that it's not
1238 supposed to smell; that the ordinance section says it's not supposed to smell
1239 beyond your property line or even the exterior of the building. The people may
1240 not be empowered enough to speak up for themselves in this matter.

1241
1242 Mr. Brubaker said that I will throw this out there. Do we entertain moving back
1243 from 500 feet to 1,000 feet or some increment between for residential properties.

1244
1245 Ms. Braun said that I was always for 1,000 feet.

1246
1247 Ms. Lemire asked how much of a potential impact might that have on future
1248 approvals.

1249
1250 Mr. Brubaker said that it could have a big impact.

1251
1252 Ms. Braun asked me what was going in down at Eliot Commons and, as it's
1253 public knowledge, I told her it was a marijuana retail store. Her comment was

1254 “How many more of those do we need in Town? How much more can the Town
1255 support?” A breakfast place is what she said would be ideal. I get that a lot from
1256 people.

1257
1258 Mr. Latter asked if there is any thought to limiting the number of retail licenses.
1259

1260 Ms. Braun said that that was brought up and turned down but I can’t remember
1261 what the rationale was.

1262
1263 Mr. Latter said that, down in Massachusetts, communities that approved
1264 recreational marijuana had to give at least 10% of however many licenses there
1265 were, I think there were 48 liquor establishments, and so we had to approve 5
1266 marijuana establishments. We could have approved more but that was how the
1267 legislation came through. Is there any way to change this.
1268

1269 Ms. Lemire said that you would have to revise the ordinance but you can do it.
1270 That was a major discussion point when they were putting it together; that some
1271 people wanted the limit and some people wanted to, because there is so much
1272 wetland out there and Shoreland and residential and schools and all of that, it was
1273 a belief that that would limit them and it didn’t work.
1274

1275 Mr. Brubaker said that, if I or Ms. Metz could count up the times that we have
1276 told people no...it is working with regard to our zoning districts. We tell a lot of
1277 people no, even on Route 236 because they’re in a different zone than C/I. So, it
1278 is working to some extent and the 500-foot rule that is very important to the
1279 community, is working on some properties, too, and doing what it should be
1280 doing. I had an inquiry right when I started about the IDH boat storage and they
1281 couldn’t do it because there’s residential properties on Hanscom Road. I had an
1282 inquiry about within the mall building of Eliot Commons and they couldn’t do it
1283 so there is some limiting going on. I can understand why people perceive that
1284 Route 236 is becoming the “green mile”.
1285

1286 Ms. Lemire said that it’s known as that now. I’ve heard 2 or 3 people who have
1287 actually said that.
1288

1289 Mr. Latter said that I’ve heard that from friends that I grew up with when I told
1290 them I moved top Eliot. They said that they go up there all the time.
1291

1292 Ms. Braun said that that is what we were trying to avoid, having that terminology
1293 based on Eliot.
1294

1295 Ms. Bennett said to remember that it’s all C/I Zone, if you think about it. It’s not
1296 very big. It’s somewhat compact and there are a lot of wetlands so they aren’t
1297 going to be able to expand far. It seems, no matter what intentions anybody may
1298 have, it’s become a monoculture just as the used car businesses were one and all
1299 up and down the road. There are some scattered uses in our C/I Zone but it’s now

1300 going the way of marijuana. It is encouraging to hear that the ordinance is
1301 working as intended and it isn't unfettered.
1302
1303 Ms. Lemire agreed that it is and I didn't mean to imply that it wasn't.
1304
1305 Mr. Brubaker said that it's not a shield and it's not a cargo net; that it's kind of a
1306 sieve.
1307
1308 Ms. Braun said that I think holding up their commercial renewal license using the
1309 audit system is the only way to go.
1310
1311 Mr. Latter said that I do think that, if it weren't for the smell, people would have
1312 less issue with it.
1313
1314 Ms. Braun said the smell and the traffic. The traffic is getting bad with it being
1315 backed up all the way sometimes. It's very dangerous.
1316
1317 Ms. Bennett said that unfortunately, and Mr. Brubaker is our transportation
1318 Planning expert, we don't have much say what happens on Route 236 because it's
1319 a State arterial road and those roads have to get really bad. The transportation
1320 engineer with the last applicant said that it's an 'e', that it's not even an 'f' yet. It
1321 has to get really, really bad before the State before the State will do anything.
1322
1323 Mr. Brubaker said that I have on my list, and if you agree, an update on Route 236
1324 plans and ideas for our coming meeting.
1325
1326 Ms. Braun said yes, please. I would like to hear that.
1327
1328 Mr. Brubaker said that there is a meeting on Thursday that will hopefully bring
1329 some interesting information.
1330
1331 Ms. Braun asked if we were getting any closer to anything.
1332
1333 Mr. Brubaker said that we'll see. There's been some back-and-forth
1334 communications between both Kittery and Eliot and the DOT in recent months.
1335
1336 Mr. Latter wondered whether the amount of traffic generated with marijuana was
1337 comparative to other businesses.
1338
1339 Mr. Brubaker said that I think we're still learning that nationwide. I think the
1340 applicant's engineering consultant did an excellent TIA, overall, because they did
1341 try and pare that very not high sample size ITE data with empirical data on the
1342 Lowell dispensary.
1343

1344 Mr. Latter said that what we really need is for New Hampshire to legalize
1345 recreational marijuana. If we're just licensing recreational marijuana for the local
1346 population, we're not going to get seventeen.
1347

1348 Ms. Braun said that I don't think that most of it is to the local population. If you
1349 look at it, it is out-of-state people that are coming here to open marijuana facilities
1350 because they can't open them in their own state. It makes me wonder how much
1351 of the income that's generated from those facilities is remaining in Eliot as
1352 opposed to going home with the owners, and our infrastructure is suffering.
1353

1354 Mr. Brubaker said that it will be interesting to see a couple of things. One is that
1355 Kittery will before too long have some adult use marijuana retail stores, including
1356 one out on Route 236. Secondly, the legislature is considering allowing deliveries
1357 of adult use marijuana retail, although it might just be medical, but some type of
1358 delivery where the delivery could occur in any municipality, whether they opted
1359 in or not.
1360

1361 **3. Site Plan Content Requirements**

1362

1363 Mr. Brubaker said that this one is pretty much just revising the Affidavit of
1364 ownership section to clarify the companies involved, the chain of ownership to
1365 the property and the applicant so the PB knows he has legal authority and
1366 standing to the PB so that you know they have the legal standing to develop it but
1367 also, I have prima facie review of the documents. So, there's a limit of how far
1368 you want to reasonably dig into the legal standing of deeds, purchase & sales
1369 agreements, and so forth. There has to be some level of trust put in for the
1370 documents presented, too, and certainly if others are concerned about something
1371 happening in the chain of title long ago, that would affect the current applicant's
1372 standing, they would have legal means to pursue that. So, it's a balancing act.
1373

1374 Ms. Lemire said that it's also one of the standard conditions of approval that it's
1375 their responsibility it is taken care of.
1376

1377 Mr. Leathe said that I think this is absolutely terrific. I've been concerned for a
1378 while, now, that these applicants are coming in with a lack of clarity about who
1379 owns what and who is involved. In section 5, it says: "If any corporations are
1380 involved...". Does that mean C Corporations, S Corporations, LLC's,
1381 Partnerships. You might want to make sure you have a product to capture any
1382 corporation. They come in all sizes and shapes and clarifying them would be
1383 good.
1384

1385 Mr. Brubaker said that you will notice that, with the strikethrough, this is carry-
1386 over language from what's in the existing code.
1387

1388 Ms. Bennett said that, in that same section you put forward, I just had a
1389 suggestion that we also include the details we need to receive standing, some

1390 proof of a license or an application for a license. There are certain land uses that
1391 require licenses, such as daycares, marijuana businesses, and solar, to give proof
1392 that that applicant has standing with the State of Maine and the Utilities
1393 Commission, or at least a verified vendor. We can put that in there and, if it's not
1394 applicable, we just say that's not applicable. I think it would be good for us to
1395 know that the person actually is a recognized vendor.

1396
1397 Mr. Latter said that I know, with daycares, that the State wants the applicant to
1398 show that they have an approved site plan before they can apply for a license.

1399
1400 Mr. Brubaker said that, in that case, the applicant could say that they wanted to
1401 but I have to get your approval first.

1402
1403 Ms. Braun said that we can also put it in there that they have to produce it when
1404 they have it. That can be a condition of approval.

1405
1406 Mr. Brubaker said that I like that idea. Because we talked about it, Arc Road is
1407 like the example from our ordinance. They did the right thing where they had
1408 their conditional license right at the beginning.

1409
1410 Ms. Bennett said that I also had another comment. The '§33-127 Contents;
1411 required information', with (4) Perimeter Survey, we have written down "existing
1412 easements, buildings, watercourses, and other essential existing physical
1413 features." I think that some of the features that sometimes aren't on there are
1414 environmental features. We look at the wetlands sometimes, we have whether
1415 they're treed or not treed, but things like ledges are an environmental feature that
1416 development perhaps shouldn't go near or any other historic, archeological, or
1417 protected resources. If we could just spell that out to them. They are simple things
1418 for a surveyor to find.

1419
1420 Mr. Brubaker said sure. I can add something under (4).

1421
1422 Ms. Bennett agreed that could be part of (4). It could even be in brackets to check
1423 for environmental, historic, and archeologic resources.

1424
1425 Mr. Brubaker said that I can add that. On page 3, this is really getting at starting to
1426 take a look at picking up on aesthetics. Sometimes you've seen applicants
1427 voluntarily provide this. This would require any new buildings to structures or
1428 additions to actually submit side profiles so you get to see the look of the walls. It
1429 would only be for site plan review use in itself.

1430
1431 Ms. Braun said that we have had come through that showed the actual wall and
1432 that's been very helpful.

1433
1434 Mr. Brubaker said that one of the things I think that some applications can do
1435 better is really locking in what is the height of your building to make sure they are

1436 meeting the code. Then, (20) is just some flexibility. We kind of do this
1437 informally already. This just establishes flexibility for Home Businesses. The
1438 presumption is that they don't have to do a high intensity soils survey, and some
1439 of this other stuff.

1440
1441 The PB agreed that they liked this.

1442
1443 Mr. Brubaker said that this is a rough draft and I will bring a revised copy to the
1444 March 1st meeting.

1445
1446 *****

1447
1448 Ms. Braun said that, due to no fault of our own, that we are starting our meetings
1449 at the new time of 6PM was not posted anywhere. So, I'm not personally
1450 comfortable with starting this on the 1st (March) without the public having
1451 sufficient notice that we are doing this, especially consider that in March we're
1452 having a public hearing on ordinances. The public is used to 7PM. My comfort
1453 level would be to begin this in April but I would like to hear what you folks have
1454 to say about that.

1455
1456 Ms. Bennett said that I think it's a prudent step to take. You would hate to catch
1457 people unaware on something this important as a public hearing and the public
1458 comes an hour into it, or for an application.

1459
1460 Ms. Braun said that I'm trying so hard to make the public feel included in the
1461 process that, if we start at 6PM and they haven't had sufficient time to absorb it, it
1462 just destroys everything we've accomplished so far. My suggestion would be to
1463 put it on the website, outside of this room, outside at the kiosk, and Ms. Bennett
1464 suggested the e-alerts, which I think would be wonderful for those folks on that.
1465 I'm going to need a motion to change the new meeting time from March 1st to
1466 April 1st.

1467
1468 **Mr. Latter moved, second by Ms. Bennett, that the Planning Board change**
1469 **our meeting time of March 1st and March 15th meetings to 7PM.**

1470 **VOTE**
1471 **4-0**
1472 **Motion approved**

1473
1474 *****

1475
1476 Ms. Bennett said that she had a couple questions for the Planner. She asked if we
1477 are going to get a revised draft at the next meeting.

1478
1479 Mr. Brubaker said yes.

1480

1481 Ms. Bennett said that I tried to watch the SB meeting last week and it didn't
1482 include the part of it. The reason I wanted to was because there was a PB item on
1483 there for ancillary counsel. Could you tell me what that is.

1484
1485 Mr. Brubaker said yes. I was here in my office when the meeting started and I
1486 realized that the live stream wasn't working. So, I ran in there and got the
1487 livestream working. This isn't necessarily just for the PB although I think it would
1488 often apply to the PB. The idea would be to have a back-up legal counsel on-call
1489 in the case where Bernstein Shur had a conflict of interest or was otherwise
1490 unavailable. What we did with Odiorne Solar was a sole-source procurement as
1491 we needed legal counsel very quickly. Ideally, we would have somebody locked
1492 in on-call and just issue a quick task order to them.

1493
1494 Ms. Braun asked if they passed that.

1495
1496 Ms. Lemire said that they were very supportive of that.

1497
1498 Mr. Brubaker said that we will be pursuing that.

1499
1500 There was discussion around having a dialogue with the SB to understand each
1501 other's positions.

1502
1503 Ms. Lemire said that that has happened on several occasions.

1504
1505 Ms. Braun suggested a workshop situation.

1506
1507 Mr. Latter asked if we should ask to schedule one once a year if for no other
1508 reason than to touch base. I'm sure there are a lot of agenda items that touch us
1509 even if it's not super actionable. At least both bodies would have a chance to
1510 understand some of the perspectives of the other.

1511
1512 Ms. Braun said that I think that's a good idea. Even every six months would be
1513 ideal, as far as I'm concerned, with the way the workload has been going lately.
1514 Stuff could fall through the cracks. Could that suggestion be made.

1515
1516 Mr. Brubaker said sure. I will talk to Mr. Sullivan about it.

1517
1518 Ms. Lemire asked if the work to be done on Route 236 would impact Arc Road.

1519
1520 Mr. Brubaker said that that remains to be seen. The sewer and water project pretty
1521 much stops at Arc Road. I think that someday in the future there is some interest
1522 in eventually connecting the Middle School.

1523
1524 Ms. Braun said that any construction that goes on at Arc Road is certainly going
1525 to affect their business and what goes on there, and it's going to affect the traffic

1526 coming in and out of there because there is going to be no shoulder that they can
1527 go onto to wait.

1528
1529 Ms. Lemire said that I was thinking about that when Mr. Chagnon was doing his
1530 presentation, and listening to Ms. Brown. I was thinking how is it going to be re-
1531 designed because it's going to be impacted to some degree and I just don't know.

1532
1533 Mr. Brubaker said that what's been discussed for over a year, a couple of years
1534 actually, and our recent Route 236 study was just finalized that I will be
1535 presenting to you on the 1st, is a set of improvements within the existing edge of
1536 pavement on Route 236, including as a centerpiece, a center turn lane where their
1537 driveway is. There are various intersection improvements proposed but the
1538 consultant felt very strongly that, for access management and safety reasons, that
1539 a center turn lane should be considered in a number of different places. The idea
1540 was to advocate to the DOT that they could do that when they resurface. So, the
1541 current plan is that the DOT has had this resurfacing project getting ready to go
1542 and they will be doing a resurfacing of Route 236 from downtown South Berwick
1543 to Arc Road this coming summer. It also looks like they will be putting a traffic
1544 light at the 91 intersection because it is a high-crash intersection.

1545
1546 Everyone was glad for that.

1547
1548 Mr. Brubaker said that, then, the resurfacing for Arc Road to I-95 will occur in the
1549 summer of 2023. We expect in the next two to three weeks to go out to bid for the
1550 first phase of the Route 236 Water & Sewer Project. Then, we have also gotten
1551 some ARPA funding to start moving forward with the Town Walk & Bicycling
1552 project so we will be looking over the next few weeks to procure an engineer
1553 consultant to begin this.

1554
1555 **ITEM 9 – CORRESPONDENCE**

1556
1557 There was no correspondence.

1558
1559 **ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**

1560
1561 Mr. Latter will not be at the March 15th meeting.

1562
1563
1564 The next regular Planning Board Meeting is scheduled for March 1, 2022 at 7PM.

1565
1566 **ITEM 11 – ADJOURN**

1567
1568 **Mr. Latter moved, second by Ms. Bennett, that the Planning Board adjourn.**

1569 **VOTE**

1570 **4-0**

1571 **Motion approved**

1572
1573
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1588

The meeting adjourned at 9:46 PM.

Lissa Crichton, Secretary
Date approved: _____

Respectfully submitted,
Ellen Lemire, Recording Secretary

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: Ryan M. McCarthy, PE, PLS, Tidewater Engineering & Surveying, Inc., Applicant's Representative
 Shelly Bishop, Code Enforcement Officer
 Kearsten Metz, Land Use Administrative Assistant
 Date: April 5, 2022 (report date)
 April 12, 2022 (meeting date)
 Re: PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats

Application Details/Checklist Documentation	
✓ Address:	23 Park St.
✓ Map/Lot:	6/30
✓ PB Case#:	22-5
✓ Zoning:	Village
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Susan P. and Steven P. Wittrock
✓ Applicant Name:	Susan P. and Steven P. Wittrock
✓ Proposed Project:	Permanent fixed pier, seasonal gangway, and seasonal floats
✓ Application Received by Staff:	March 10, 2021
✓ Application Fee Paid and Date:	\$225 (Shoreland Zoning Permit Application, Residential Pier – \$50; Public Hearing – \$175) March 10, 2022
Application Sent to Staff Reviewers:	Not yet sent, but Town Planner discussed with Harbor Master 4/4/22 – no concerns raised during this discussion
Application Heard by PB	April 12, 2022 (scheduled)
Found Complete by PB	TBD
Site Walk	TBD
Site Walk Notice Publication	TBD
Public Hearing	TBD
Public Hearing Publication	TBD
✓ Reason for PB Review:	Shoreland Zoning Permit Application, Permanent Residential Pier (SPR use)

Overview

Applicants Susan P. and Steven P. Wittrock (agent: Tidewater Engineering & Surveying, Inc.) are seeking review and approval of a proposed docking structure at their residential property at 23 Park St. (Map 6, Lot 30), which would consist of a permanent fixed pier, seasonal gangway, and seasonal

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats

floats. The purpose of the structure is to provide the applicants with “safe and efficient access to the coastal resource for recreational purposes such as boating, rowing and fishing.” The proposal includes the removal of existing stairs and old pilings and the construction of new stairways and landings for access to both the pier and the shoreline. The floats would be held by positional float piles driven into the subtidal surface.

The ~0.33-acre lot along the river currently includes a single-family residence built in 1965 (per Town tax records). Along the shore, there is a vegetated slope leading down to the tidal area, with large boulders and the old pilings/old stairs that will be removed. Between the house and the slope there is a developed lawn area.

Application package contents

- Cover letter dated March 10, 2022
- Shoreland Zoning Permit Application
- Site plan (proposed pier & float plan), dated January 11, 2022
- US Army Corps of Engineers (ACOE) Authorization Letter & Screening Summary
- Attachment #9 – site condition report
- Attachment #10 – Notice of Intent to File, certification, and abutter notices
 - Public notice and supporting documents
- Attachment #11 – for ACOE
 - Federal threatened and endangered species list
 - US Fish & Wildlife Service verification letter re: northern long-eared bat

NRPA Individual Permit Application package

- NRPA Individual Permit Application
- Table of contents
- DEP fee payment receipt
- Agent authorization letter to Town, DEP, and ACOE for Tidewater Engineering & Surveying, Inc. and Riverside & Pickering Marine Contractors, Inc.
- Warranty deed
- Attachment #1 – project description
- Attachment #2 – alternatives analysis
- Attachment #3 – location maps
- Attachment #4 – site photos
- Attachment #7 – construction plan
- Attachment #8 – erosion control plan
- Attachment #13 – functional assessment
- Attachment #14 – compensation
- Appendix A – DEP visual evaluation field survey checklist
- Appendix B – DEP coastal wetland characterization intertidal & shallow subtidal field survey checklist
- Appendix D – NRPA application project description worksheet
- (also labeled Appendix D) – Slip & Mooring Requests

Dimensions of proposed docking structure components

- Landing: 4' x 4'
- Stairs to pier and stairs to beach: 4' x ~13' each
- Permanent fixed pier: 4' x 85'
- Seasonal gangway: 3' x 40'
- Seasonal landing float and main float (perpendicular to landing float): 8' x 30' each

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats

Zoning

Village; Resource Protection (RP), Limited Residential (LR)

Uses

Permanent residential piers and other structures and uses extending over or below the normal high-water line or within a wetland are SPR uses in the shoreland zone.

Type of review needed by Planning Board

Initial review: ask questions of the applicant, seek more info if needed, consider completeness motion

Status of other agency reviews

The applicant submitted a NRPA Individual Permit Application to DEP, dated February 7, 2022 (see packet). As of this report, DEP is reviewing the application. The applicant requests concurrent PB/DEP review.

The applicant received US Army Corps of Engineers (ACOE) approval on February 18, 2022. The ACOE General Permit authorization letter is included in your packet. In addition to general conditions, the ACOE approval includes a special condition requiring low-water installation of piles.

Section 44-35(c) review considerations

This section has the land use standards for piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line of a water body or within a wetland. The Planning Board may wish to review the application with regard to applicable provisions of this section. Some notes as follows (paragraph numbers under 44-35(c) are in parentheses; some sections are not exact wording in the Code):

44-35(c) para. #	Summary of paragraph	Evaluation of application
(1)	No more than one pier/dock/wharf/similar structure per lot given the amount of shoreline frontage (100 ft. is the standard for the Village district)	Only one is proposed. This lot has about ~70-75 ft. of shoreline, per the site plan and GIS. A minimum of 100 ft. is ordinarily needed in the Village zoning district, but 44-32(e)(1) allows nonconforming lots (not contiguous with any other lot in the same ownership) – with respect shore frontage, lot area, and lot width – to be built upon, without a variance. Standard appears to be met.

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats

(2)	Developed on appropriate soils so as to control erosion	Attachment #8 of the NRPA application is the Erosion Control Plan. This document states: “As the proposed activity does not include grading, bulldozing, digging, scraping the earth or filling, it is [contractor Riverside & Pickering’s] opinion that erosion control measures are not necessary for this project due to the minimal ground disturbance anticipated...Overall, Riverside & Pickering Marine Contractors anticipates minimal sedimentation or suspension of sediments from the installation of the docking system.” The plan states that “No open excavation is proposed or necessary within the resource or below the highest annual tide.” With use of a barge for installation, foot traffic on the shoreline will be limited, and installation of erosion control measures themselves (e.g. silt fence, filtration socks) “will exceed the disturbance from installing the pilings”. Standard appears to be met regarding pier, but PB members may want to ask for more information on the construction of the landing and stairs. Slope is unstable per ME Geo Survey Bluff Map (ref. site plan note 12).
(3)	N/A – pertains to beach areas	
(4)	Minimize adverse effects on fisheries	No (or minimal) adverse effects are apparent.
(5)	N/A – pertains to nontidal waters	
(6)	No new structure on/over/abutting a pier/wharf/dock/etc. unless it requires direct access to the water	No such structure proposed
(7)	N/A – pertains to nontidal waters	
(8)	No existing structure on/over/abutting a pier/wharf/dock/etc. may be converted to a residential dwelling unit	N/A
(9)	Structures built on on/over/abutting a pier/wharf/dock/etc. may not exceed 20 ft. in height above pier/wharf/dock/etc.	N/A
(10a)	Residential piers shall not extend beyond the mean low water mark and are limited to a maximum width of 6 ft.	Proposed pier is 4 ft. in width and does not extend beyond the mean low water mark. Standard appears to be met.
(10b)	Pier (+ temporary float) length restricted to 200 ft. (measured from NHWL), or a length that will provide 6 ft. of water depth for outermost float at mean low water, whichever is shorter; shall not extend more than halfway to mean low water deep channel centerline	The total length from the start of the pier to the end of the float is about 185 ft. (85’ pier + 40’ gangway + 30’ landing float + 30’ main float, though there is some overlap with the pier going landward of the NHWL, and between the gangway and landing float). Standard appears to be met.
(10c)	N/A – pertains to LC and GD districts	
(11)	No structure (including temporary ramps/floats and pilings) shall extend more than halfway to the deep channel centerline at mean low water	Visually, this appears to be met.
(12)	25 ft. setbacks from riparian lines for neighboring properties (with lesser setback allowed with mutual agreement with neighbor)	Riparian lines are shown on the site plan. Main float encroaches on 25 ft. setback from south riparian line shared with Map 6, Lot 17. See site plan Note 18 regarding neighbor letter of concurrence. NRPA application Attachment #1 – Project Description – also references the letter, which is in your packet.

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats

(13)	Temporary/seasonal floats which sit on the bottom at low tide must be built per DEP guidelines to minimize harm to marsh grass/marine life living in the mud	The floats would mostly not touch the river bed. NRPA Application Attachment #1 – Project Description notes that the “proposed floats are positioned beyond mean lower-low water to minimize contact with substrate during most tides. This will reduce scour, turbulence and substrate impacts”. However, the landward side of the landing float could touch the bottom during extreme low tides. See site plan side elevation, which notes that float stops will be installed on the positioning pilings to address this.
(14)	Required reflectors on piers and floats: 3+ in. diameter, not more than 12 in. from each corner. At least 1 per 20 ft. on each side of piers >40 ft.	Yes – see note 17 of the site plan.

Stairways

The stairways and landings are proposed to be located on a bluff indicated as unstable by the Maine Geological Survey (<https://www.maine.gov/dacf/mgs/pubs/digital/bluffs.htm>).

44-35(b)(6) check for stairways to access the shoreline in areas of steep slopes or unstable soils

44-35(b)(6) standard	Evaluation of application
Max. 4 ft. in width	Met. Stairways proposed to be 4 ft. wide.
Structure does not extend below or over the normal high-water line, unless permitted by DEP	Stairway proposed to the shoreline extends below the NHWL, will need DEP approval. If approved by PB, a condition of approval could address this.
Applicant demonstrates that no reasonable access alternative exists on the property	See Attachment #2 of NRPA Application – Alternatives Analysis

Trees

From NRPA Application Attachment #1 – Project Description: “The uplands adjacent to the proposed pier are developed as lawn area and will not require the removal of any trees to provide access to the proposed dock system.”

Motion templates

Complete application

Motion to accept the shoreland zoning permit application for PB22-5 (23 Park St.) as complete. A public hearing is set for:

- May 3
- [or other] _____

[If needed] A site walk is set for:

- May 2
- [or other] _____

PB22-5: 23 Park St. (Map 6, Lot 30): Shoreland Zoning Permit Application – Permanent Fixed Pier, Seasonal Gangway, and Seasonal Floats

Incomplete application

Motion to consider the shoreland zoning permit application for PB22-5 (23 Park St.) incomplete. The following information and materials are needed to make the application complete:

- _____
- _____
- _____

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

March 10, 2022



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

Re: Shoreland Application: Proposed Fixed Pier & Seasonal Floats
23 Park Street, Eliot ME 03903 (Tax Map 6 Lot 30)- Reference No. 21-163

Dear Mr. Brubaker:

Tidewater Engineering & Surveying, Inc. is pleased to submit the enclosed Shoreland Application on behalf of Susan P. & Steven P. Wittrock. The applicant is seeking approval of a proposed docking structure at their residence at 23 Park Street, Eliot ME 03903 (Tax Map 6 Lot 30) to provide recreational access to the Piscataqua River.

A Natural Resources Protection Act permit application was submitted to the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers for review on February 7, 2022. Approval from the U.S. Army Corps of Engineers was received February 18, 2022. Maine DEP is currently in the process of reviewing the application, however we will submit their approval to the Town once received.

We respectfully request that the review by the Town occur concurrently with Maine DEP's review to expedite the permitting process. To aid in your review, we have enclosed a copy of the application that was submitted to Maine DEP. Please refer to this MDEP application to satisfy the Town's submittal requirements and for more detailed information including, but not limited to, a project description, alternatives analysis, location map, photographs and site condition report.

The following documents are enclosed.

1. Shoreland Zoning Permit Application & Fees
2. Proposed Pier & Float Plan dated February 2, 2021
3. US ACOE Maine General Permit Approval
4. MDEP NRPA Permit Application Submittal

Thank you for considering this application. Should you have any questions while reviewing the enclosed documents, please do not hesitate to contact me.

March 10, 2022

Sincerely,



Ryan M. McCarthy, P.E., P.L.S.

President
Tidewater Engineering & Surveying, Inc.
(207) 439-2222
ryan@tidewatercivil.com

Enclosures

cc w/ Enclosures Susan P. & Steven P. Wittrock
Riverside Marine Construction, Inc.



FOR OFFICE USE ONLY:

PERMIT NO.: _____

ISSUE DATE: _____

FEE AMOUNT: _____

TOWN OF ELIOT
SHORELAND ZONING PERMIT APPLICATION

GENERAL INFORMATION

1. APPLICANT Agent: Tidewater Engineering & Surveying, Inc.	2. APPLICANT'S ADDRESS - Agent Address: 1021 Goodwin Road, Unit 1 Eliot, ME 03903	3. APPLICANT'S TEL. # - Agent Telephone: (207) 439-2222
4. PROPERTY OWNER Susan P. & Steven P. Wittrock	5. OWNER'S ADDRESS 23 Park Street, Eliot, ME 03903	6. OWNER'S TEL. # (860) 287-1329
7. CONTRACTOR Riverside & Pickering Marine Contractors	8. CONTRACTOR'S ADDRESS 34 Patterson Lane Newington, NH 03801	9. CONTRACTOR'S TEL. # (603) 427-2824
10. LOCATION/ADDRESS OF PROPERTY 23 Park Street Eliot, ME 03903	11. TAX MAP/PAGE & LOT # AND DATE LOT WAS CREATED Tax Map 6 Lot 30 (1925 +/-)	12. ZONING DISTRICT Village District Shoreland Overlay Resource Protection
13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3). Installation of a 4' x 85' permanent fixed timber pier, 3' x 40' seasonal gangway, 6' x 30' seasonal landing float and an 8' x 30' main float extending off the applicant's property. Access to the timber pier will be via permanent timber steps that connect to the pier via a permanent 4' x 4' landing at the top of the bank. Timber steps are also proposed to provide access to the beach and shoreline.		

14. PROPOSED USE OF PROJECT Residential/Recreational access to water	15. ESTIMATED COST OF CONSTRUCTION TBD
---	---

SHORELAND AND PROPERTY INFORMATION

16. LOT AREA (SQ. FT.) 17,848 SF	17. FRONTAGE ON ROAD (FT.) N/A
18. SO. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES N/A	19. ELEVATION ABOVE 100 YR. FLOOD 21" +/- to bottom of fixed pier
20. FRONTAGE ON WATERBODY (FT.) 73 feet +/-	21. HEIGHT OF PROPOSED STRUCTURE N/A
22. EXISTING USE OF PROPERTY Residential	23. PROPOSED USE OF PROPERTY Residential

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

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

$(\% \text{ INCREASE} = \frac{B+C}{A} \times 100)$ <hr style="width: 50%; margin: auto;"/> N/A %	$(\% \text{ INCREASE} = \frac{B+C}{A} \times 100)$ <hr style="width: 50%; margin: auto;"/> N/A %
---	---

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 SITE PLAN

SCALE: _____ = _____ FT.

FRONT OR REAR ELEVATION

SIDE ELEVATION

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

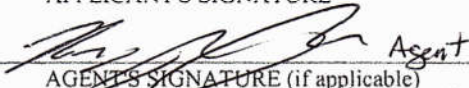
OTHERS:

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

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

APPLICANT'S SIGNATURE

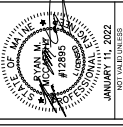
DATE


AGENT'S SIGNATURE (if applicable)

3/8/2022

DATE

Ryan McCarthy on behalf of Tidewater Engineering
and the applicant.



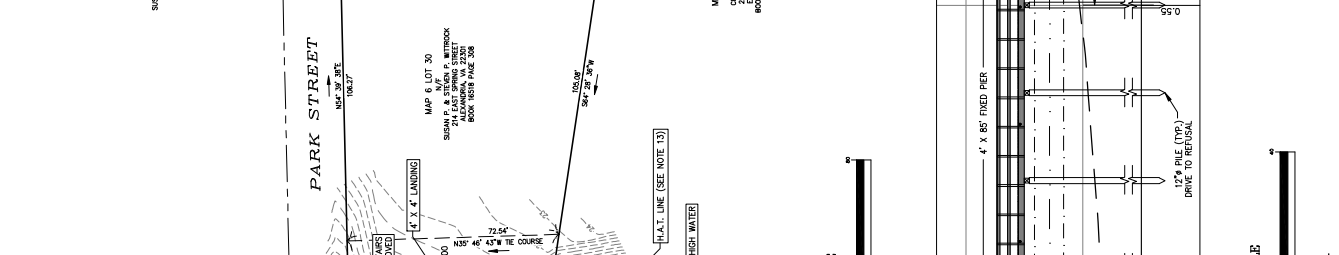
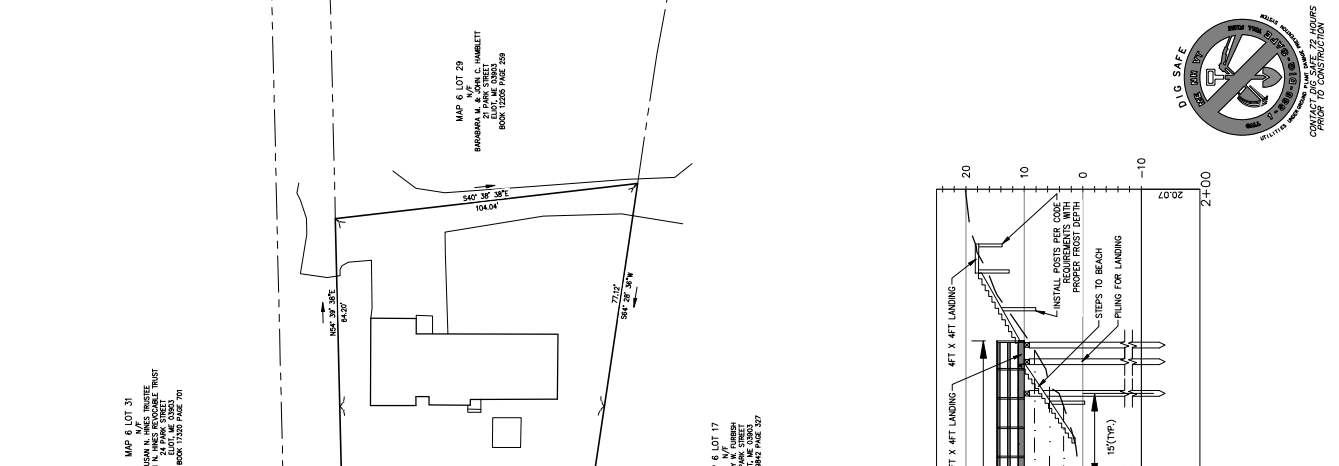
NO. DATE SUBMISSION/REVISION DESCRIPTION

PROJECT NO. 2022-01
 PREPARED FOR: SUSAN P. & STEVEN P. WITBROCK
 214 EAST SPRING STREET
 ELIOT, YORK COUNTY, MAINE
 ALEXANDRIA, VA 22301
 PREPARED BY: SUSAN P. WITBROCK
 214 EAST SPRING STREET
 ELIOT, YORK COUNTY, MAINE
 ALEXANDRIA, VA 22301
 DATE: JAN 11, 2022
 SCALE: 1" = 20'
 SHEET: 1 OF 1

PROPOSED PIER & FLOAT PLAN
 ON 1/2 ACRES OF LAND
 23 PARK STREET
 ELIOT, YORK COUNTY, MAINE



101 PAVED DRIVE
 ELIOT, MAINE 04022
 JANUARY 11, 2022



LEGEND

- SUBJECT PARCEL PROPERTY LINE
- APPROXIMATE ADJACENT'S LINE
- EDGE OF PAVEMENT
- EDGE OF GRAVEL
- LIMIT RESOURCE PROTECTION ZONE
- EXISTING STONE WALL
- EXISTING SEWER LINE
- CONTOUR: POSITIVE ELEVATION
- CONTOUR: NEGATIVE ELEVATION
- IRON PIPE, ROD, OR DISK FOUND
- DRILL HOLE FOUND
- GRAVEL/CONCRETE BOUND
- UTILITY POLE

GENERAL NOTES:

- THE PURPOSE OF THIS PLAN IS TO DEPICT THE LOCATION OF A PROPOSED PIER, SEASONAL GANWAY, SEASONAL LANDING FLOAT, AND SEASONAL LANDING. THE PROPOSED STRUCTURES ARE TO BE LOCATED ON MAP 6 LOT 30 IN ELIOT, ME. SAID PLAN SHALL BE USED FOR APPLYING FOR PERMITS FROM THE TOWN OF ELIOT, MAINE ENGINEERS.
- OWNER OF RECORD: SUSAN P. & STEVEN P. WITBROCK
214 EAST SPRING STREET
ALEXANDRIA, VA 22301
Y.C.R.D. BOOK 16318 PAGE 308
- THE PROPERTY IS LOCATED WITHIN THE TOWN OF ELIOT, MAINE ZONING REGULATIONS ARE SUBJECT TO CHANGE. OWNER SHALL CONFIRM ALL ZONING REGULATIONS WITH THE TOWN OF ELIOT PRIOR TO ANY DEVELOPMENT.
- DATE OF BEARING IS MAINE STATE PLANE (NAD83) WEST ZONE, US FOOT.
- ELEVATIONS AND TOPOGRAPHY SHOWN HEREON CORRESPOND TO MATHS.
- THE BOUNDARY SHOWN HEREON IS BASED ON REFERENCE PLAN 1, TIDEWATER ENGINEERING & SURVEYING, INC. HAS NOT COMPLETED A SURVEY TO VERIFY THE ACCURACY OF THE BOUNDARY ON REFERENCE PLAN 1.
- THE BIPARTICULAR LIMITS SHOWN HEREON WERE CALCULATED USING THE COLONIAL METHOD.
- THE INTENT OF THE TIE COURSE SHOWN HEREON IS TO PROVIDE A MATHEMATICAL MEANS OF RESOLVING THE PROPERTY SIZE AND BOUNDARY. THE OWNER MAY HAVE TO THE LAND EXTENDING BEHIND THE TIE COURSE TO LOW WATER.
- ADJUTER LINES SHOWN HEREON SHALL BE CONSIDERED APPROXIMATE. ADJUTER LINES SHALL NOT BE RELEI UPON AS BOUNDARY INFORMATION.
- EASEMENTS OR UNWRITTEN RIGHTS MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY NOT SHOWN HEREON.
- UTILITY LOCATIONS SHOWN ON THESE PLANS ARE APPROXIMATE AND MAY NOT BE ENTIRELY ACCURATE OR COMPLETE.
- MAINE GEOLOGICAL SURVEY HAS IDENTIFIED THE EASTERN BANK OF THE PORTSMOUTH QUADRANGLE FILE NO. 02-207 7202.
- THE 2018 HIGHEST ANNUAL TIDE (HAT) ELEVATION PUBLISHED BY MAINE DEP FOR THE PISCATAQUA RIVER BETWEEN PORTSMOUTH AND DEBAUVE THE UP AND DOWN OF THE COASTAL RESOURCE ZONING REGULATORY PURPOSES UNDER THE MANDATORY SHORELAND ZONING ACT.
- THE FOLLOWING ELEVATIONS WERE DETERMINED BY INTERPOLATION RESULTS:
 MEAN HIGHER-HIGH WATER (MHHW) 3.68'
 MEAN HIGH WATER (MHW) 3.20'
 MEAN LOWER-LOW WATER (MLLW) -4.21'
 LOWEST ASTRONOMICAL TIDE (LAT) -6.473'
- THE 100-YEAR FLOOD ELEVATION OF THE PISCATAQUA RIVER IS 10.00' PER THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP). ELEVATION DATA PROVIDED PER TOWN RECORDS (MAP 6) (NAD83).
- THE PROPOSED DEVELOPMENT SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVAL BY THE TOWN OF ELIOT, MAINE DEP AND U.S. ARMY CORPS OF ENGINEERS. OWNER/CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVAL BY THE TOWN OF ELIOT, MAINE DEP AND U.S. ARMY CORPS OF ENGINEERS. OWNER/CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLYING WITH ALL CONDITIONS OF SAID PERMITS.
- REFLECTOR SHALL BE NO LESS THAN 3 INCH DIAMETER AND SHALL BE INSTALLED AS FOLLOWS:
 • 12 INCHES FROM END OF PIER, BOTH SIDES
 • 12 INCHES FROM END OF GANWAY
 • 12 INCHES FROM END OF EACH CORNER
 • 12 INCHES FROM END OF EACH CORNER
- THE PROPOSED DEVELOPMENT SHOWN HEREON REQUIRES A LETTER OF CONFORMANCE FROM THE OWNER OF MAP 16 LOT 17 FOR THE PORTION OF THE STRUCTURES THAT ARE LOCATED WITHIN THE 25 FOOT RIPARIAN SETBACK.

INTERPOLATION RESULTS:

MEAN HIGHER-HIGH WATER (MHHW) 3.68'
 MEAN HIGH WATER (MHW) 3.20'
 MEAN LOWER-LOW WATER (MLLW) -4.21'
 LOWEST ASTRONOMICAL TIDE (LAT) -6.473'

THE 100-YEAR FLOOD ELEVATION OF THE PISCATAQUA RIVER IS 10.00' PER THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP). ELEVATION DATA PROVIDED PER TOWN RECORDS (MAP 6) (NAD83).

THE PROPOSED DEVELOPMENT SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVAL BY THE TOWN OF ELIOT, MAINE DEP AND U.S. ARMY CORPS OF ENGINEERS. OWNER/CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVAL BY THE TOWN OF ELIOT, MAINE DEP AND U.S. ARMY CORPS OF ENGINEERS. OWNER/CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLYING WITH ALL CONDITIONS OF SAID PERMITS.

REFLECTOR SHALL BE NO LESS THAN 3 INCH DIAMETER AND SHALL BE INSTALLED AS FOLLOWS:

- 12 INCHES FROM END OF PIER, BOTH SIDES
- 12 INCHES FROM END OF GANWAY
- 12 INCHES FROM END OF EACH CORNER
- 12 INCHES FROM END OF EACH CORNER

THE PROPOSED DEVELOPMENT SHOWN HEREON REQUIRES A LETTER OF CONFORMANCE FROM THE OWNER OF MAP 16 LOT 17 FOR THE PORTION OF THE STRUCTURES THAT ARE LOCATED WITHIN THE 25 FOOT RIPARIAN SETBACK.

REFERENCE PLANS:

- MAP 6 OF PISCATAQUA RIVER FLOAT MARKS PREPARED BY CONSULTANTS DATED JULY 3, 1985 AND RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS (Y.C.R.D.) IN PLAN BOOK 138 PAGE 21.

101 PAVED DRIVE
 ELIOT, MAINE 04022
 JANUARY 11, 2022

PROPOSED PIER & FLOAT PLAN
 ON 1/2 ACRES OF LAND
 23 PARK STREET
 ELIOT, YORK COUNTY, MAINE

TIDEWATER ENGINEERING & SURVEYING, INC.
 1027 H-39-2222 • WWW.TIDEWATERINC.COM

SUSAN P. & STEVEN P. WITBROCK
 214 EAST SPRING STREET
 ELIOT, YORK COUNTY, MAINE
 ALEXANDRIA, VA 22301

PREPARED FOR: SUSAN P. & STEVEN P. WITBROCK
 214 EAST SPRING STREET
 ELIOT, YORK COUNTY, MAINE
 ALEXANDRIA, VA 22301

PREPARED BY: SUSAN P. WITBROCK
 214 EAST SPRING STREET
 ELIOT, YORK COUNTY, MAINE
 ALEXANDRIA, VA 22301

DATE: JAN 11, 2022
SCALE: 1" = 20'
SHEET: 1 OF 1



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

MAINE GENERAL PERMITS (GPs)
AUTHORIZATION LETTER AND SCREENING SUMMARY

SUSAN AND STEVEN WITTRUCK
P.O. BOX 235
CUMBERLAND, MAINE 04021

CORPS PERMIT # NAE-2022-00447
CORPS GP# 3
STATE ID# NRPA

DESCRIPTION OF WORK:

Construct and maintain a 4-ft. wide x 84-ft. long pile-supported pier with a 3-ft. wide x 40-ft. long ramp leading to a 6 ft. x 30 ft. landing float and an 8 ft. x 30 ft. main float all below the mean high water mark of the Piscataqua River off 23 Park Street at Eliot, Maine. In addition, 4 float piles and 2 batter piles will be installed in order to secure the floats. This work is shown on the attached plans entitled "USGS PROJECT LOCATION MAP" and "TOWN GIS PROJECT LOCATION MAP" in two sheets undated and "PROPOSED PIER & FLOAT PLAN" in one sheet dated "JAN. 11, 2022".

See GENERAL and SPECIAL CONDITIONS attached.

LAT/LONG COORDINATES: 43.106679° N -70.787198° W USGS QUAD: PORTSMOUTH

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. **Your work is therefore authorized by the U.S. Army Corps of Engineers under the Federal Permit, the Maine General Permits (GPs) which can be found at: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/Maine-General-Permit/>** Accordingly, we do not plan to take any further action on this project.

You must perform the activity authorized herein in compliance with all the terms and conditions of the GP [including any attached Special Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the GPs, including the GPs conditions beginning on page 5, to familiarize yourself with its contents. You are responsible for complying with all of the GPs requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 45 of the GPs (page 19) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the GPs on October 14, 2025. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 14, 2026.

This authorization presumes the work shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to the undersigned.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary.

II. STATE ACTIONS: PENDING [], ISSUED [], DENIED [] DATE _____

APPLICATION TYPE: PBR: , TIER 1: , TIER 2: , TIER 3: , LURC: DMR LEASE: NA:

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 17FEB2022 LEVEL OF REVIEW: SELF-VERIFICATION: PRE-CONSTRUCTION NOTIFICATION:

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 , 404 10/404 , 103

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA_NO , USF&WS_NO , NMFS_NO

If you have any questions on this matter, please contact my staff at 978-318-8676 at our Augusta, Maine Project Office. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at: http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0

COLIN M. GREENAN
PROJECT MANAGER
MAINE PROJECT OFFICE

FRANK J. DEL GIUDICE
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DIVISION



**US Army Corps
of Engineers**[®]
New England District

**PLEASE NOTE THE FOLLOWING GENERAL AND SPECIAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
MAINE GENERAL PERMIT 3
PERMIT NO. NAE-2022-00447**

GENERAL CONDITIONS

11. Navigation. a. There shall be no unreasonable interference with general navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. b. Work in, over, under, or within a distance of three times the authorized depth of an FNP shall specifically comply with GC 10. c. Any safety lights and/or signals prescribed by the U.S. Coast Guard, State of Maine or municipality, through regulations or otherwise, shall be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the U.S. d. The permittee understands and agrees that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

31. Storage of Seasonal Structures. Seasonal or recreational structures such as pier sections, floats, aquaculture structures, etc. that are removed from the waterway for a portion of the year shall be stored in an upland location and not in wetlands, tidal wetlands, their substrate, or on mudflats. These seasonal structures may be stored on the fixed, pile-supported portion of a structure that is waterward of the mean high water mark or the ordinary high water mark, e.g. the storage of a ramp or gangway on the pile-supported pier. Seasonal storage of structures in navigable waters, e.g., in a protected cove, requires prior Corps approval and local harbormaster approval.

33. Permit(s)/Authorization Letter On-Site. The permittee shall ensure that a copy of the terms and conditions of these GPs and any accompanying authorization letter with attached plans are at the site of the work authorized by these GPs whenever work is being performed and that all construction personnel performing work which may affect waters of the U.S. are fully aware of the accompanying terms and conditions. The entire permit authorization shall be made a part of any and all contracts and subcontracts for work that affects areas of Corps jurisdiction at the site of the work authorized by these GPs. This shall be achieved by including the entire permit authorization in the specifications for work. The term "entire permit authorization" means all terms and conditions of the GPs, the GPs, and the authorization letter (including its drawings, plans, appendices and other attachments) and subsequent permit modifications as applicable. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or subcontract. Although the permittee may assign various aspects of the work to different contractors or subcontractors, all contractors and subcontractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire GP authorization, and no contract or subcontract shall require or allow unauthorized work in areas of Corps jurisdiction.

34. Inspections. The permittee shall allow the Corps to make periodic inspections at any time deemed necessary in order to ensure that the work is eligible for authorization under these GPs, is being, or has been performed in accordance with the terms and conditions of these GPs. To facilitate these inspections, the permittee shall complete and return to the Corps the Work-Start Notification Form and the Compliance Certification Form when either is provided with an authorization letter. **These forms are attached after the plans.**

SPECIAL CONDITION

1. Piles shall be installed during periods of low water when the site is in-the-dry in order to prevent potential effects to endangered marine species.

APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN **BLACK INK ONLY**

1. Name of Applicant: Susan P. & Steven P. Wittrock		5. Name of Agent: Tidewater Engineering & Surveying, Inc.	
2. Applicant's Mailing Address: 42 Kennedy St., Alexandria, VA 22305		6. Agent's Mailing Address: 1021 Goodwin Road, Unit #1, Eliot, ME 03903	
3. Applicant's Daytime Phone #: (860) 287-1329		7. Agent's Daytime Phone #: (207) 439-2222	
4. Applicant's Email Address (Required from either applicant or agent): spwittrock4@gmail.com		8. Agent's Email Address: ryan@tidewatercivil.com	
9. Location of Activity: (Nearest Road, Street, Rt.#) 23 Park Street		10. Town: Eliot	11. County: York
12. Type of Resource: (Check all that apply)	<input checked="" type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input checked="" type="checkbox"/> Coastal Wetland <input type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain		13. Name of Resource: Piscataqua River Direct Impacts
	<input type="checkbox"/> Forested <input type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input checked="" type="checkbox"/> Open Water <input checked="" type="checkbox"/> Other <u>Tidal</u>		14. Amount of Impact: (Sq.Ft.) Fill: 15 sf pilings Dredging/Veg Removal/Other: 880 sf +/- pier/floats/ramp/steps Potential Indirect Impacts →
15. Type of Wetland: (Check all that apply)		FOR FRESHWATER WETLANDS	
		<i>Tier 1</i>	<i>Tier 2</i>
		<input type="checkbox"/> 0 - 4,999 sq ft. <input type="checkbox"/> 5,000-9,999 sq ft <input type="checkbox"/> 10,000-14,999 sq ft	<input type="checkbox"/> 15,000 – 43,560 sq. ft. <input checked="" type="checkbox"/> > 43,560 sq. ft. or smaller than 43,560 sq. ft., not eligible for Tier 1
16. Brief Activity Description:		Construct a 4' x 85' permanent timber pier, 3' x 40' seasonal gangway, 6' x 30' seasonal landing float and 8' x 30' main float extending off the applicant's property. Access to the timber pier will be via permanent timber steps that connect the pier to a permanent 4' x 4' landing at the top of the bank. Timber steps are also proposed to provide access to the beach and shoreline.	
17. Size of Lot or Parcel & UTM Locations:		<input type="checkbox"/> _____ square feet, or <input checked="" type="checkbox"/> 0.41 acres UTM Northing: 4774214 UTM Easting: 354576	
18. Title, Right or Interest:		<input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement	
19. Deed Reference Numbers:		20. Map and Lot Numbers:	
Book#: 16518 Page: 308		Map #: 6 Lot #: 30	
21. DEP Staff Previously Contacted:		22. Part of a larger project:	
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
23. Resubmission of Application?:		25. Previous Wetland Alteration:	
<input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
24. Written Notice of Violation?:		26. Detailed Directions to the Project Site:	
<input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		South on Rt. 95 to Eliot (Rt. 236) take exit 2 onto Rt. 236 North. Follow Rt. 236 for 3 Miles to intersection with Bolt Hill Road. Turn left onto Bolt Hill Rd. and follow for 1.5 miles to Main Street (Route 103). Turn right onto Main Street and follow for 0.2 miles to Park Street. Turn left onto Park Street and follow for 0.1 miles. Site is located at the end of the road.	
27. TIER 1		TIER 2/3 AND INDIVIDUAL PERMITS	
<input checked="" type="checkbox"/> Title, right or interest documentation <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Narrative Project Description <input checked="" type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input checked="" type="checkbox"/> Photos of Area <input checked="" type="checkbox"/> Statement of Avoidance & Minimization <input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC		<input checked="" type="checkbox"/> Title, right or interest documentation <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Copy of Public Notice/Public Information Meeting Documentation <input type="checkbox"/> Wetlands Delineation Report (Attachment 1) that contains the information listed under Site Conditions <input checked="" type="checkbox"/> Alternatives Analysis (Attachment 2) including description of how wetland impacts were Avoided/Minimized <input checked="" type="checkbox"/> Erosion Control/Construction Plan <input type="checkbox"/> Functional Assessment (Attachment 3), if required <input type="checkbox"/> Compensation Plan (Attachment 4), if required <input checked="" type="checkbox"/> Appendix A and others, if required <input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC <input type="checkbox"/> Description of Previously Mined Peatland, if required	
28. FEES Amount Enclosed:		(CODE 4P) \$451 + \$113 = \$564	

CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2

IMPORTANT: IF THE SIGNATURE BELOW IS NOT THE APPLICANT'S SIGNATURE, ATTACH LETTER OF AGENT AUTHORIZATION SIGNED BY THE APPLICANT.

By signing below the applicant (or authorized agent), certifies that he or she has read and understood the following :

DEP SIGNATORY REQUIREMENT

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor a permit be issued.


CORPS SIGNATORY REQUIREMENT

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is subject to this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

DEP SIGNATORY REQUIREMENT

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Further, I hereby authorize the DEP to send me an electronically signed decision on the license I am applying for with this application by emailing the decision to the address located on the front page of this application (see #4 for the applicant and #8 for the agent)."

 Agent: Tidewater Engineering Date: 02/07/2022
SIGNATURE OF AGENT/APPLICANT

NOTE: Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.



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Robert Hopkinson

From: noreply@informe.org
Sent: Monday, February 7, 2022 4:31 PM
Subject: DEP Payment Receipt

Payment Receipt Confirmation

Your payment was successfully processed.

Transaction Summary

Description	Amount
DEP Payment Portal	\$564.00
Service Fee	\$2.00
Maine.gov Total	\$566.00

Customer Information

Customer Name Ryan McCarthy
Company Name Tidewater Engineering & Surveying, Inc.
Local Reference ID 0721295735
Receipt Date 2/7/2022
Receipt Time 04:31:05 PM EST

Payment Information

Payment Type Credit Card
Credit Card Type VISA
Credit Card Number *****2300
Order ID 60189184
Billing Name Ryan McCarthy

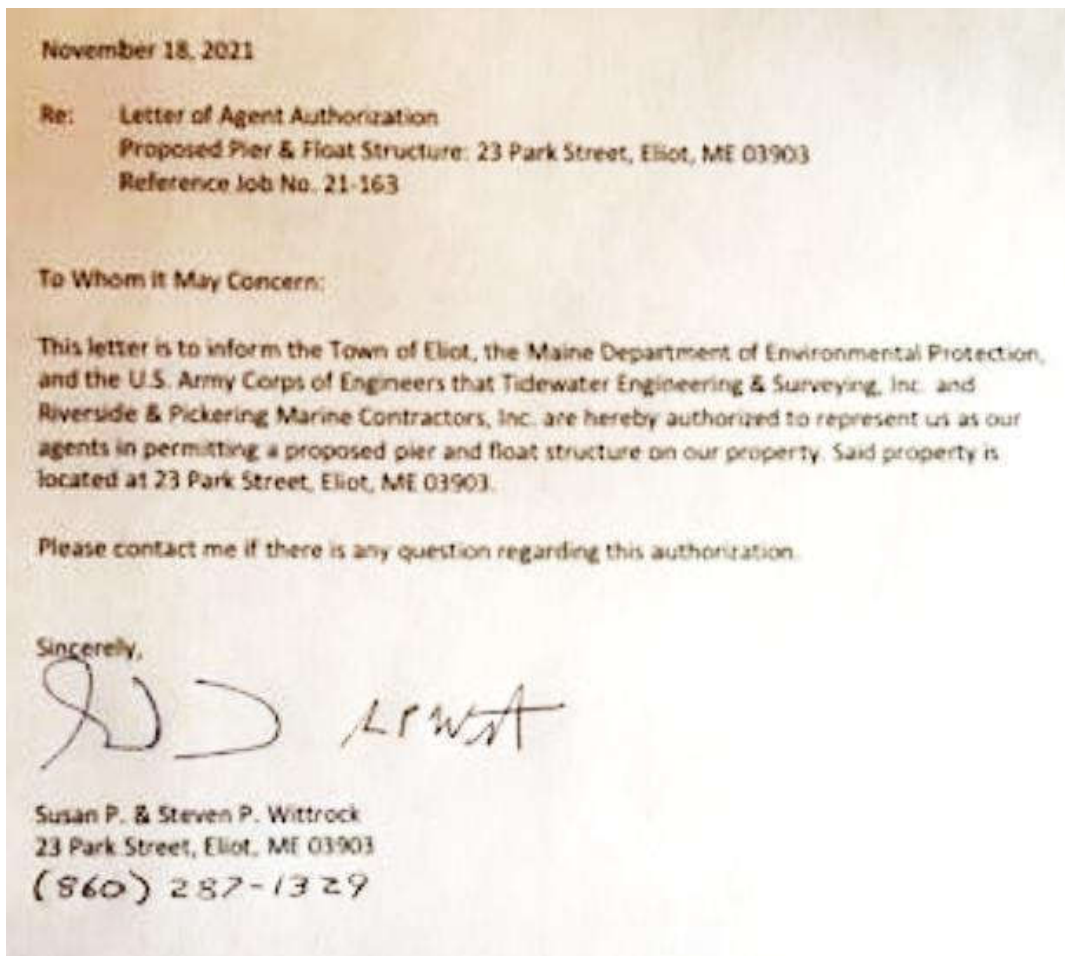
Billing Information

Billing Address 1021 Goodwin Road,
Unit#1
Billing City, State Eliot, NH
ZIP/Postal Code 03903
Country US
Phone Number 207-439-2222
This receipt has been emailed to the address below.
Email Address rob@tidewatercivil.com

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



AGENT LETTER OF AUTHORIZATION



MAINE DEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



PROPERTY DEED

2p →

RECORD AND RETURN TO:
Great Oak Title Services, LLC
99 Bow Street, Suite 300E
Portsmouth NH 03801
File No. 13-0266
Parcel No. Map 6 Lot 30

Doc# 2013004371
Bk 16518 Pg 308 - 309
Received York SS
01/28/2013 3:39PM
Debra L. Anderson
Register of Deeds

Maine R.E. Transfer Tax Paid

WARRANTY DEED

KNOW ALL BY THESE PRESENTS that I,

Kenneth Anderson, of 23 Park Street, Town of Eliot, County of York and the State of Maine 03903
for consideration paid, grants to

Susan P. Wittrock and Steven P. Wittrock, as joint tenants with rights of survivorship
of 20 Old Cottage Lane, Town of Eliot, County of York and State of Maine 03903, with WARRANTY
COVENANTS, the land and buildings in York County, Maine, described as follows:

A certain parcel of land, with the buildings thereon, situated in the Town of Eliot, County of York and
State of Maine. Tax Map 6 Lot 30 as shown on a "Plan of Land of Kenneth Anderson, 23 Park Street,
Eliot, York County, Maine" prepared by Civil Consultants and recorded at the York County Registry of
Deeds as Doc# 23 Plan BK 359 Pg 10 and more particularly described as follows:

Beginning at a point in the Northeasterly corner of the within described premises located along Park
Street at a 5/8" diameter iron rebar w/cap set PLS 1302; then running South 40 degrees 38' 38" East
a distance of 104.04 feet to a 5/8" diameter iron rebar w/cap set PLS 1302 and along a 10.00 foot right of
way as shown on said plan; thence turning and running South 64 degrees 28' 36" West for a distance of
77.12 feet to a 5/8" diameter iron rebar w/cap set PLS 1302; thence continuing South 64 degrees 28' 36"
West for a distance of 105.08 feet to a 5/8" diameter iron rebar w/cap set PLS 1302; thence continuing
South 64 degrees 28' 36" West for a distance of 35.81 to the high water line; thence turning and running
Northwesterly along said high water line for 66.51 feet; thence turning and running North 54 degrees 39'
38" East for a distance of 31.56 feet to a 5/8" diameter iron rebar w/cap set PLS 1302; thence continuing
along said Park Street North 54 degrees 39' 38" West for a distance of 106.27 feet to a 5/8" diameter iron
rebar w/cap set PLS 1302; thence continuing along North 54 degrees 39' 38" West for a distance of 64.20
along said Park Street to the point of beginning.


Subject to a right of way 10 feet in width running along the Northeasterly boundary of the above
described premises for the benefit of Tax Map 6, Lot 17.

Meaning and intending to convey the same premises conveyed to me by Deed recorded at
Book 15754, Page 66 of the Register of Deeds of York County, Maine.

MAINE DEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



Dated this 28th day of January, 2013.




Kenneth Anderson {SEAL}

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this the 28th day of January, 2013 personally appeared **Kenneth Anderson**, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same as his free act and deed.

Before me,
Notary Public
Printed Name:





End of Document

ATTACHMENT #1- PROJECT DESCRIPTION:

A. INTRODUCTION/PURPOSE:

The subject parcel has frontage on the Piscataqua River in Eliot, Maine and the owner/applicant is seeking approval of a proposed docking structure to provide them with safe and efficient access to the coastal resource for recreational purposes such as boating, rowing and fishing. The applicant intends to purchase a 24' center console once requisite permits for a dock are successfully obtained. They will also use the dock to launch their kayaks and paddleboards.

B. PROJECT SUMMARY:

The proposed project consists of installing a 4' x 4' landing and a 4' x 13' access stairway that will provide access to a 4' x 85' permanent fixed timber pier. The fixed pier will be supported by sixteen (16) 12" diameter timber piles, twelve (12) of which are located below the H.A.T. line. A 3' x 40' aluminum gangway will extend from the end of the fixed pier to a 6' x 30' landing float and an 8' x 30' main float. The main float will be oriented perpendicular to the landing float and will extend entirely to the south of the float and pier, allowing for boats to be docked on either side of the float. Two (2) float piles will secure the landward end of the landing float. The main float will be secured in place with a float pile and batter pile on each end. As the proposed main float will be partially located within the 25 foot riparian setback, a letter of concurrence from the owner of Map 6 Lot 17 is required (see Attachment 2B). No other docking structure is proposed.

C. HISTORICAL KNOWLEDGE:

The property was purchased by the applicant in 2013 and the historical use or access to the water is unknown. Review of aerial photographs from 1992 to present do not show evidence of previously existing docks on the property. Photos 1 and 2 attached below show existing pilings among piled boulders. It is assumed that some type of structure existed in this location prior to 1992. Stairs currently provide access down the embankment to the shore and intertidal zone. Additionally, a make-shift aluminum boat rail system allows the applicant to bring boats from the embankment area to the intertidal zone.

D. IMPACT CALCULATIONS:

The total permanent impacts below the H.A.T. is estimated as follows...

18 piles @ 12" diameter = 15 sf

The total indirect impacts below the H.A.T. is estimated as follows...

Fixed Pier = (4' x 85') = 303 sf (portion below the HAT line)

Gangway = (3' x 40') = 310 sf

Fixed steps = 42 sf

Landing Float = (6' x 30') = 108 sf

Main Float = (8' x 30') = 240 sf

Total Indirect Impacts = 880 sf +/-

E. ADJACENT STRUCTURES:

Northwest Abutter- Tax Map 6 Lot 31: Contains an 80 foot +/- fixed pier with float.

Southeast Abutter- Tax Map 6 Lot 16: Contains a 75 foot +/- fixed pier.

F. OFF-SEASON STORAGE:

During the off-season, the 3' x 40' gangway will be stored on the fixed pier. The 6' x 30' landing float and 8' x 30' main float will be removed and stored off-site on uplands by a third-party company.

G. LOCATION-BASED IMPACT MITIGATION:

After thoroughly evaluating the shoreline, intertidal and subtidal zone along this property, we are recommending the proposed docking structure location shown on the enclosed plans for the following reasons:

- 1) Provides the shortest length required to reach a sufficient depth of water for their watercraft at low tide, thereby minimizing impacts to the resource.
- 2) The proposed floats are positioned beyond mean lower-low water to minimize contact with substrate during most tides. This will reduce scour, turbulence and substrate impacts.
- 3) The proposed fixed pier does not extend beyond the mean low water mark and will remain in the intertidal zone.
- 4) Access to the pier will be via a 4' x 4' landing and 4' x 13' stairway that extends from the upland lawn area to the fixed pier. This will provide direct, safe access to the pier, gangway, landing and main float from the lawn, reducing impact from foot traffic in the sensitive intertidal zone.
- 5) The uplands adjacent to the proposed pier are developed as lawn area and will not require the removal of any trees to provide access to the proposed dock system.

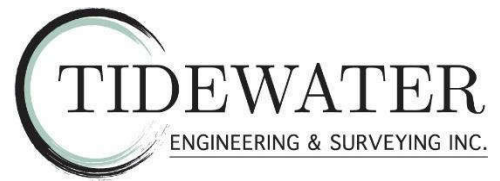
ATTACHMENT #2- ALTERNATIVES ANALYSIS:

- 1) Do Nothing: This alternative would be for the applicant to continue to access the shoreline and waterway directly, without using a dock or float system. This alternative was not pursued for the following reasons:
 - a. The existing shoreline and tide fluctuations do not provide safe access and berthing of motorized vessels. Vessels would rest directly on the intertidal surface, causing direct impacts and damage to the intertidal zone.
 - b. Without a docking structure that permits access to deep water, owners would have to drag smaller boats across the sensitive intertidal habitat instead. This has caused more cumulative impacts to the resource than the proposed option.
 - c. The owners will be limited in the type of activities they seek to enjoy on the Piscataqua River and connected waterbodies.

- 2) Seasonal Dock and Float System: This alternative would be for the applicant to purchase and install a seasonal docking system that would allow access to the Piscataqua River during a portion of the year. This alternative was not pursued for the following reasons:
 - a. The installation and removal of a seasonal dock system would cause bi-annual impact to the intertidal zone when sections of the dock are installed and removed during spring and fall months.
 - b. The nature of the intertidal zone at the site would require a seasonal dock system that was prohibitively long (similar in length to the proposed permanent fixed pier) to allow watercraft to remain waterborne during low tides. A seasonal dock of such length would be subject to extreme tidal forces and weather conditions, beyond the structural capacity of most seasonal dock systems.
 - c. A shortened seasonal dock system would mean any watercrafts attached to the seasonal floats would sit on the surface of the intertidal zone during low tide, increasing impacts to the sensitive resource and habitats.

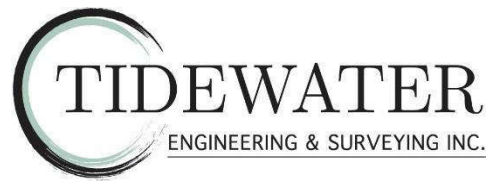
- 3) Reduce Length: Another alternative would be to reduce the length of the proposed docking structure. This was not pursued for the following reasons:
 - a. The main float will rest on the surface of the intertidal zone during low tide, increasing impacts to the sensitive resource and habitats.
 - b. Any watercrafts attached to the floats will also sit on the surface of the intertidal zone, increasing impacts to the sensitive resource and habitats.
 - c. The surface of the intertidal zone consists of a mixture of exposed ledge, rock, gravel, sand and mud. These surfaces will cause the floats to sit unbalanced and increase the likelihood of damage. The watercrafts could

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
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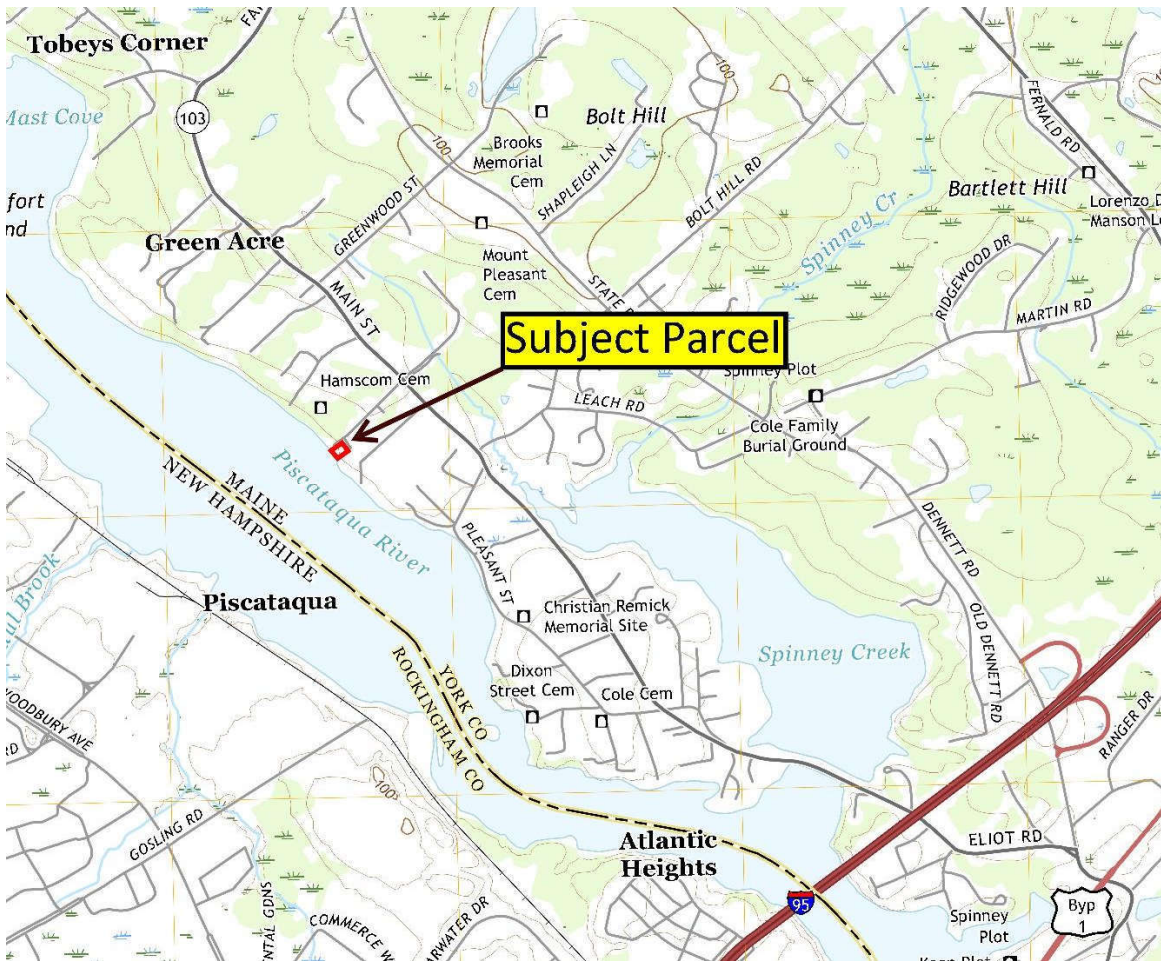
also rest, rock and scrape on the abrasive ledge, rock and gravel surface and cause significant damage to the hull of the watercrafts. This could lead to holes in the hull, submerging the watercraft and potential discharge of fuel into the river, all of which would be harmful to the resource.

MAINE DEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



ATTACHMENT #3- LOCATION MAPS:

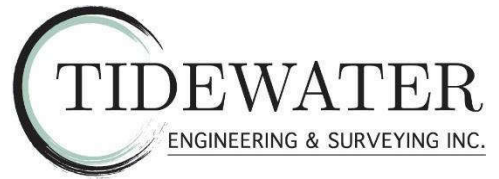
A. USGS PROJECT LOCATION MAP



B. TOWN GIS PROJECT LOCATION MAP



MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



ATTACHMENT #4- PROJECT SITE PHOTOS:

Photo 1: View showing proposed dock location (8/4/2021)



MAINEDEP NRPA PERMIT APPLICATION
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Photo 2: View existing beachfront, facing southeast (11/11/2021)



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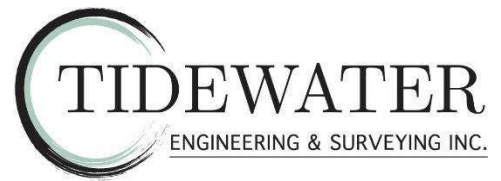


Photo 3: View showing mudflat, facing northwest (11/11/2021)



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Photo 4: View showing proposed dock location (8/4/2021)



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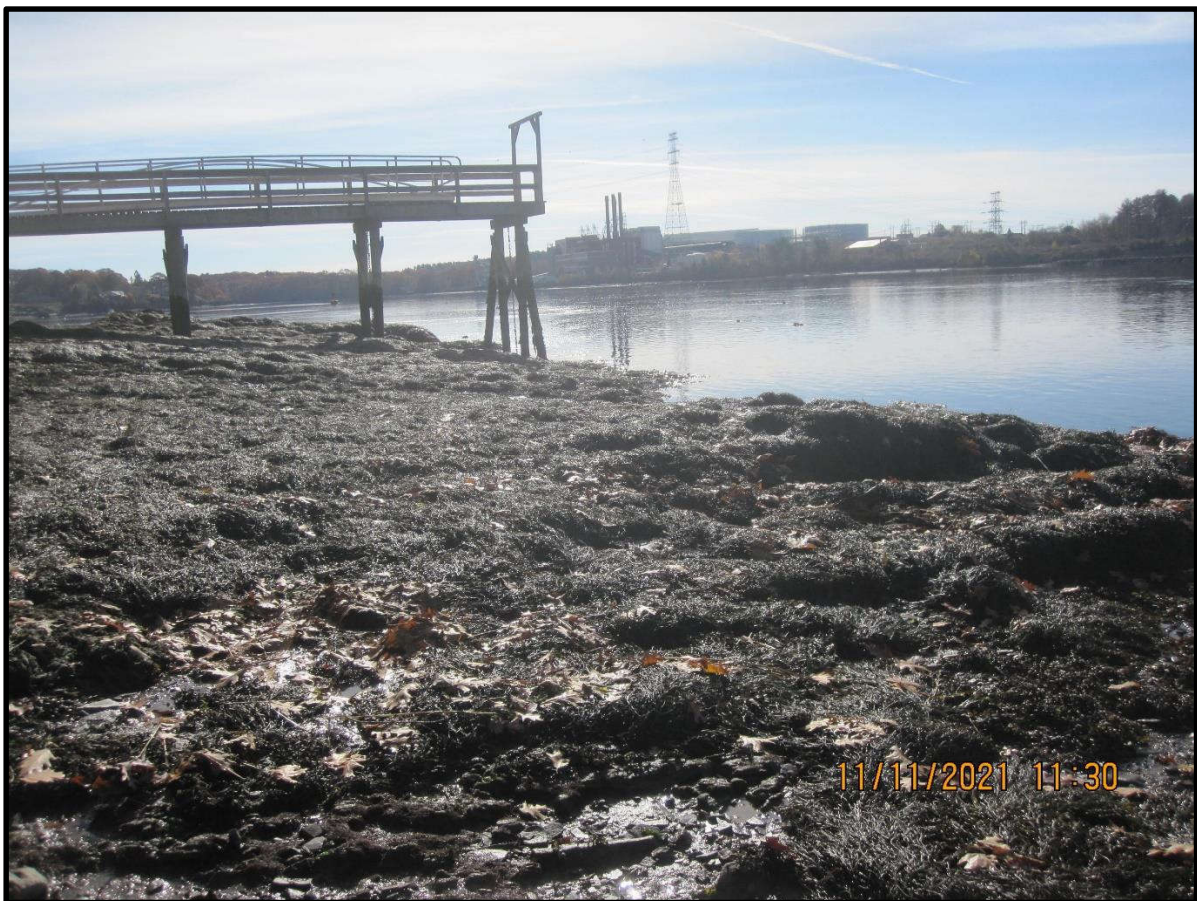
Photo 5: View of Abutter’s Pier (Tax Map 6 Lot 31), facing north (11/11/2021)



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Photo 6: View of Abutter's Pier (Tax Map 6 Lot 16), facing south (11/11/2021)



MAINE DEP NRPA PERMIT APPLICATION
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LOCATION: 23 PARK STREET, ELIOT, ME 03903



ATTACHMENT #7- CONSTRUCTION PLAN:

The construction and installation of the fixed pier, gangway and floats shall take place from the water side of the property. A small barge mounted crane will be brought to the site via the Piscataqua River. This barge will be used to position/install the pilings and deliver materials. Following mobilization, the first step in the process is to install the pilings. This is completed using a crane mounted vibrator hammer for pilings driven in earthen substrates. If the pilings are located on a ledge surface, the pilings are secured into position using pins and chains, as needed, depending on site conditions. Pilings will be made of pressure treated southern yellow pine.

Construction of the fixed pier occurs immediately following installation of the piles. This includes the joists, decking, bracing, railings, hardware and post caps. The installation of the fixed pier primarily occurs from the barge and from staging supported by the pilings. This allows for the crew to stay above the water during periods of high tide and minimizes foot traffic on the surface of the intertidal zone. All dimensional lumber will be made of pressure treated southern yellow pine. The owner may choose to install untreated decking and rails as an alternate to pressure-treated products.

The gangway and floats are constructed offsite and brought to the site. The aluminum gangway is connected directly to both the fixed timber pier and the main float. Four precast concrete mooring blocks with chains connect to and secure the main float in the proper position.

The last step in the process is the installation of the access stairway and landing that extend from the fixed pier to the lawn area. All materials will be constructed from pressure treated southern yellow pine, unless the owner specifies the use of alternative decking products.

The following is an estimate of the construction duration for each phase.

Piling Installation	3 days
Fixed Pier Installation	5 days
Gangway/Float Installation	3 days
Access Stairs/Landings`	5 days
Total Construction Duration	16 days

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



ATTACHMENT #8- EROSION CONTROL PLAN:

Riverside & Pickering Marine Contractors will construct the docking system for the applicant. They have many years of experience installing pier and float systems throughout New England. As the proposed activity does not include grading, bulldozing, digging, scraping the earth or filling, it is their opinion that erosion control measures are not necessary for this project due to the minimal ground disturbance anticipated.

The dock system will be supported by pilings either driven in earth or pinned to the ledge surface. No open excavation is proposed or necessary within the resource or below the highest annual tide. Installation of the fixed pier primarily occurs from the barge and from staging supported by the pilings/pier to minimize foot traffic on the intertidal substrate. As such, the disturbance from foot traffic and digging on the resource to install siltation barriers (i.e. silt fence, filtration socks, etc.) around the perimeter of the project site will exceed the disturbance from installing the pilings. In addition, maintaining said siltation measures through tide cycles, strong currents and wave action would be difficult and result in further foot traffic on the resource.

Overall, Riverside & Pickering Marine Contractors anticipates minimal sedimentation or suspension of sediments from the installation of the docking system.

ATTACHMENT #9- SITE CONDITION REPORT

The site plan enclosed as Attachment 10 depicts one-foot contours, existing resource boundaries, the area of the resource to be altered, activity location and dimensions and wetland/waterbody classification. The permanent section of the proposed docking system is located within both upland areas and the intertidal zone. The fixed pier is supported on timber pilings and extends approximately 78 feet beyond the highest annual tide line. The main float is located approximately 147 feet from the H.A.T. line. The fixed pier is not proposed to extend beyond mean low water as depicted on the site plan.

As this project is associated with a coastal resource subject to tidal action, the upland edge of the resource was delineated by the highest annual tide (HAT) elevation published by Maine DEP for 2018. The HAT for this section of the Piscataqua River between Portsmouth and Dover Point is elevation 5.7' referenced to the North American Vertical Datum of 1988 (NAVD88). This method for delineating the coastal resource is widely accepted by the State of Maine pursuant to the Mandatory Shoreland Zoning Act.

The surface of the resource and intertidal zone within the project limits includes rocky shoreline, gravel (mixed coarse & fine aggregates) and substrates with high clay content (mud). Large boulders are scattered close to the shoreline embankment and at the site of three existing pilings. As you extend further toward the Piscataqua River, the substrate transitions to finer aggregates with higher clay content. Rockweed was found on exposed rocks and boulder within the intertidal zone. For more detailed information, please refer to the enclosed *Appendix B: MDEP Coastal Wetland Characterization: Intertidal and Shallow Subtidal Field Survey Checklist*.

A profile view of the proposed docking system is provided within Attachment 10. This view provides a clear representation of the proposed docking system with respect to the substrate and the tidal elevations experienced at this site, including LAT, MLW, MHW, HAT and the 100-year flood elevation. The 100-year flood elevation published by FEMA is elevation 9.0' feet (NGVD29) which corresponds to elevation 8.25' (NAVD88), the elevation datum depicted on the plans. As depicted in the profile view, the bottom surface of the lowest horizontal member of the pier is located approximately 21 inches above the 100-year flood elevation.

The embankment along the subject property's shoreline is heavily vegetated. The permanent fixed pier will be supported by pilings located near the toe of this vegetated embankment. The proposed access stairs will be supported on the upper end by a 4 ft x 4 ft landing at the top of the slope and on the lower end by the fixed pier. Intermediate posts will be installed as necessary per building code.

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



ATTACHMENT #10- NOTICE OF INTENT TO FILE, CERTIFICATION & ABUTTER NOTICES:

The following documents are enclosed under this section...

- A. PUBLIC NOTICE: NOTICE OF INTENT TO FILE
- B. PUBLIC NOTICE FILING AND CERTIFICATION
- C. TAX MAP
- D. LIST OF ABUTTERS
- E. ABUTTER CERTIFIED MAIL RECEIPTS

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



A. PUBLIC NOTICE OF INTENT TO FILE

08/08

PUBLIC NOTICE:
NOTICE OF INTENT TO FILE

Please take notice that

Susan P. & Steven P. Wittrock, 42 Kennedy St., Alexandria VA 22305

Agent: Tidewater Surveying & Engineering, Inc. Phone: (207) 439-2222
(Name, Address and Phone # of Applicant)

is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A thru 480-BB on or about

1/12/2022
(anticipated filing date)

The application is for

Construct an 4' x 85' fixed pier, a 3' x 40' seasonal gangway, a 6' x 30' seasonal landing float and an
(description of the project)
8' x 30' man float. Timber steps are also proposed to provide access to the beach and shoreline.

at the following location:

23 Park Street, Eliot, ME 03903 (Tax Map 6 Lot 30)
(project location)

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over this application must be received by the Department in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

For Federally licensed, permitted, or funded activities in the Coastal Zone, review of this application shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act, 16 U.S.C. § 1456. (Delete if not applicable.)

The application will be filed for public inspection at the Department of Environmental Protection's office in (Portland, Augusta or Bangor) (circle one) during normal working hours. A copy of the application may also be seen at the municipal offices in Eliot, Maine.
(town)

Written public comments may be sent to the regional office in Portland, Augusta, or Bangor where the application is filed for public inspection:

MDEP, Central Maine Regional Office, 17 State House Station, Augusta, Maine 04333
MDEP, Southern Maine Regional Office, 312 Canco Road, Portland, Maine 04103
MDEP, Eastern Maine Regional Office, 106 Hogan Road, Bangor, Maine 04401

(goldenrod)



B. PUBLIC NOTICE FILING AND CERTIFICATION

08/08

PUBLIC NOTICE FILING AND CERTIFICATION

Department Rules, Chapter 2, require an applicant to provide public notice for all Tier 2, Tier 3 and individual Natural Resources Protect Act projects. In the notice, the applicant must describe the proposed activity and where it is located. “**Abutter**” for the purposes of the notice provision means any person who owns property that is BOTH (1) adjoining and (2) within one mile of the delineated project boundary, including owners of property directly across a public or private right of way.

1. **Newspaper:** You must publish the Notice of Intent to File in a newspaper circulated in the area where the activity is located. The notice must appear in the newspaper within 30 days prior to the filing of the application with the Department. You may use the attached Notice of Intent to File form, or one containing identical information, for newspaper publication and certified mailing.
2. **Abutting Property Owners:** You must send a copy of the Notice of Intent to File by certified mail to the owners of the property abutting the activity. Their names and addresses can be obtained from the town tax maps or local officials. They must receive notice within 30 days prior to the filing of the application with the Department.
3. **Municipal Office:** You must send a copy of the Notice of Intent to File and a **duplicate of the entire application** to the Municipal Office.

ATTACH a list of the names and addresses of the owners of abutting property.

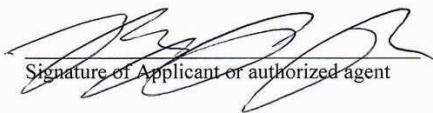
CERTIFICATION

By signing below, the applicant or authorized agent certifies that:

5. A Notice of Intent to File was published in a newspaper circulated in the area where the project site is located within 30 days prior to filing the application;
6. A certified mailing of the Notice of Intent to File was sent to all abutters within 30 days of the filing of the application;
7. A certified mailing of the Notice of Intent to File, and a duplicate copy of the application was sent to the town office of the municipality in which the project is located; and
8. Provided notice of and held a public informational meeting, if required, in accordance with Chapter 2, Rules Concerning the Processing of Applications, Section 13, prior to filing the application. Notice of the meeting was sent by certified mail to abutters and to the town office of the municipality in which the project is located at least ten days prior to the meeting. Notice of the meeting was also published once in a newspaper circulated in the area where the project site is located at least seven days prior to the meeting.

The Public Informational Meeting was held on N/A Date

Approximately N/A members of the public attended the Public Informational Meeting.


Signature of Applicant or authorized agent

1/11/2022
Date

Order Receipt

Seacoast Media Group

P.O. Box 223592
Pittsburgh, PA 15251-2592

Phone: 866-470-7133 Option #3

Tidewater Engineering & Surveying, Inc.
89 Route 236
Suite 3
Kittery, ME 03904

Acct #: 00064897
Phone: (207)439-2222
Date: 01/12/2022
Ad #: 00541743
Salesperson: ISCEB Ad Taker: ISCJJ1

Class: 60445

Ad Notes:

Sort Line: NOI Request

Description	Start	Stop	Ins.	Cost/Day	Amount
S3043016 Portsmouth Herald	01/14/2022	01/14/2022	1	431.21	431.21
S3043762 SMG Digital Internet	01/14/2022	01/14/2022	1	30.00	30.00

Ad Text:

LEGAL NOTICE
PUBLIC NOTICE:
NOTICE OF INTENT TO FILE

Payment Reference:

Please take notice that
Susan P. & Steven P. Wittrock, 42 Kennedy St., Alexandria VA 22305
Agent: Tidewater Surveying & Engineering, Inc. Phone: (207)439-2222
is intending to file a Natural Resources Protection Act permit
application with the Maine Department of Environmental Protection
pursuant to the provisions of 38 M.R.S.A. §§ 480-A thru 480-BB on or

Total: 461.21
Tax: 0.00
Net: 461.21
Prepaid: 0.00

Total Due 461.21

Items for Sale

BEIGE SOFA 2 years old asking \$200 or best offer. Cushions are washable. Call anytime 603-534-1172.

Husqvarna 30" Snow Blower. Electric start, 9.6 hp, heated hand grips. \$875. 603-964-5612

Antiques & Collectibles

Big Guy Auctions is looking for items for upcoming spring auctions. All antiques wanted but what does the best in Silverware and sterling silver, jewelry, advertising, paper, of all kinds, toys, marbles, knives, all fishing items, military sports and non-sports cards, C&G mail today at 603-703-1778. I'm a teacher so leave a message or better yet text me. There are no charges for house calls to see what you have. NH License #4079.

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Steve 603-964-8528

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Cleaning & Lining • Repairs • Insured • 603-926-8991

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Sean Boyle General Contractor
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- Robotic Demolition
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haley@reconindustries.com

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A-1 Firewood
Camp wood, green and seasoned available. \$300 & up. Call 603-978-5012

Handyman Services

The Seacoast Handyman
Roof Ice and Snow Removal
Call 207-439-6416

Painting

Free estimates, 32 years experience. Senior Discounts, references. Salfway Hwy. Diner. 603-964-1826

Plumbing & Heating

Licensed and Insured
Plumber-kinking small renovations or repair jobs. Furnace, boiler replacements. (603)833-3166.

Pump & Well Service

EPPING WELL & PUMP
Your Water Professionals
Pump, Certified Testing, Treatment, Irrigation. 603-679-5299, eppingwell.com

Roofing Services

ARMOR ROOFING
Single, Metal, Roofing Experts. Free Quotes. NH, ME & MA 603-234-7995

Snow Removal

A-1 Snowplowing
Ranchester & all surrounding towns within 10 miles. Residential/commercial (603)978-5012

Real Estate

COMMERCIAL OPPORTUNITY
BIDDEFORD, ME: 7,500+- square foot warehouse situated on 3.3 acres lot and ready for occupation. Large lot with the potential for an additional building envelope. Plenty parking in front and backout for your fleet, loading dock, offices, storage, potential retail space, water, and the building has 3 phase electricity easily accessible.
Call Tristan Swanson - cell: 603.944.1368 Offered at \$1,999,000

Real Estate

LAKES RESTAURANT & BLDG
LACONIA, NH: Very successful, thriving restaurant in the heart of NH Lakes and Mountains is a great breakfast or lunch destination. Voted best breakfast in the Lakes Region consistently. Busy year-round, turn key property with full liquor license. Family owned and operated for more than 30 years. Solely residential building. Real Estate, Fixtures and Good Will, Laconia downtown revitalization makes the future very bright. Owner is L.S. RE Agent.
Call Ted Roy - cell: 603.630.3958 Offered at \$1,799,000

Real Estate

CUSTOM CONTEMPORARY
RYE, NH: Lovely wooded setting with a large 50' x 40' and best tubs. The open floor plan with cathedral ceilings is great for entertaining. Natural light pours in from all angles. Mature landscaping with a maintenance of flowering trees, shrubs and plants. This central seacoast location offers it all, a short walk to the Abenaki Country Club & Sawyer's Beach, and the wonderfully low Rye property tax rate.
Call Maureen Carey - cell: 603.944.7834 Offered at \$1,299,900

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Top Prices Paid for Residential, Commercial & Wildlife Mgt. Land. We Can Close Quickly If Needed. No Contingencies.
Green & Company
Over 30 Years Experience
603.765.6515

Real Estate

NEAR THE BEACH
SEABROOK BEACH, NH: Year round, 4 bed, cottage on 3.3 acres fronting the Atlantic Ocean. Great town owned access at the top of the street. Owned by the same family for 75 years as their vacation home. Enjoy the large rear deck 19x29' and patio in the rear yard. A covered porch in the front. An enjoyable way to pass the time. Use "as is" or build your dream home.
Call Lauren Carey - cell: 603.944.1368 Offered at \$799,900

Real Estate

LUXURY NEW CONSTRUCTION
HAMPTON, NH: Only 1 Unit Left! The restaurant in the heart of NH Lakes and Mountains is a great breakfast or lunch destination. Voted best breakfast in the Lakes Region consistently. Busy year-round, turn key property with full liquor license. Family owned and operated for more than 30 years. Solely residential building. Real Estate, Fixtures and Good Will, Laconia downtown revitalization makes the future very bright. Owner is L.S. RE Agent.
Call Ted Roy - cell: 603.630.3958 Offered at \$1,799,000

Real Estate

BUILD YOUR DREAM
ALTON, NH: Home sites ranging from 1.0 acre to 2+ acres. Adjacent to conservation land, privately set back by 85 acres of woodlands with second home potential. Work with our builder or bring your own. Enjoy as a vacation home destination or year-round. 3.5 miles to Lake Umbagog, Alton's low taxes, nearby marinas, groceries, and recreational activities in this four-season region. Active in this four-season region.
Call Wendy McHugh - cell: 603.986.6331 Options from \$115,000 - \$150,000

Real Estate

LEGAL NOTICE
INVITATION TO BID

The Town of Durham Department of Public Works is requesting bids from qualified contractors for the Wastewater Treatment Facility Odor Control Upgrade. This work involves the addition of a new activated carbon odor control system for the sludge processing building.

Legal Notice

LEGAL NOTICE
INVITATION TO BID

The Town of Durham Department of Public Works is requesting bids from qualified contractors for the Wastewater Treatment Facility Odor Control Upgrade. This work involves the addition of a new activated carbon odor control system for the sludge processing building.

Looking for something?

Browse the classifieds for free - at Seacoastonline.com

To advertise, call 1-888-736-4062 or visit www.seacoastonline.com/placead

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Legal Notice

City of Portsmouth, NH INVITATION TO BID

Sealed bid proposals, plainly marked, "Bid #08-22 Chemical Shed Roofing and siding" on the outside of the mailing envelope as well as the sealed bid envelope, delivered to the front desk at City Hall, 1 Juniks Avenue, Portsmouth, New Hampshire, 03801, addressed to the Finance/Purchasing Department, will be accepted until February 4, 2022 at 9:30 a.m., at which time all bids will be publicly opened and read aloud.

Legal Notice

LEGAL NOTICE
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE

NOTICE IS HEREBY GIVEN that the Planning Board will hold a public hearing on the following applications on Thursday, January 27, 2022 at 7:00 p.m., in the Eileen Dondero Foley Council Chambers, City Hall, Municipal Center, 1 Juniks Avenue, Portsmouth, New Hampshire.

Legal Notice

LEGAL NOTICE
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE

PLEASE note that this is a second notice for the January Planning Board Meeting. THE DATE OF THE MEETING HAS CHANGED TO JANUARY 27, 2022 due to significant IT issues which disrupted the timeline for providing Legal Notification. Both order and content of the following new business remains the same. All bid business will also be moved to the meeting on January 27, 2022.

Legal Notice

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PORTSMOUTH, NEW HAMPSHIRE

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Looking for something?

Browse the classifieds for free - at Seacoastonline.com

To advertise, call 1-888-736-4062 or visit www.seacoastonline.com/placead

Legal Notice

CITY OF DOVER REQUEST FOR PROPOSAL

The City of Dover will accept sealed bids for the following item(s) until such time indicated below:

RFP# B22033 Tires and Related Services

All bids must be received by **February 1, 2022 at 2:00 PM EST**

Specifications for the above are available for review in the Purchasing Office, City of Dover, 288 Central Avenue, Dover, NH 03820 or by visiting our website at www.dover.nh.gov, January 14, 2022

Legal Notice

LEGAL NOTICE
PUBLIC NOTICE:
NOTICE OF INTENT TO FILE

Please take notice that Susan P. & Steven P. Wittrock, 42 Kennedy St., Alexandria VA 22305 Agent: Tidewater Surveying & Engineering, Inc. Phone: (207) 439-2222 is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A thru 480-BB on or about

Legal Notice

LEGAL NOTICE
NOTICE OF PUBLIC HEARING
LEE USA SPEEDWAY

Pursuant to the Town of Lee's Racetrack Ordinance the Select Board will hold a Public Hearing to review the License Application to Operate a Speedway, submitted by New Lee USA Speedway for their 2022 racing season. The Public Hearing will take place on Monday, January 24, 2022 6:00 pm at the Public Safety Complex 20 George Bennett Road Lee, NH. You or your counsel are invited to appear in person to offer input regarding this matter. Written correspondence may be submitted to the Select Board's Office or emailed to ddval@leehn.org before 4:00 pm on January 21, 2022.

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NOTICE OF PUBLIC HEARING
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AFFIDAVIT OF PUBLICATION

I hereby certify that the legal notice regarding Susan P. & Steven P. Wittrock
Was published 1 times in the Portsmouth Herald
On January 14, 2022 and the last day on _____.

Toby Sherman

Toby Sherman

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Sworn on this 4th day of February, 2022

SANDRA S. TITUS
Notary Public - New Hampshire
My Commission Expires September 5, 2023

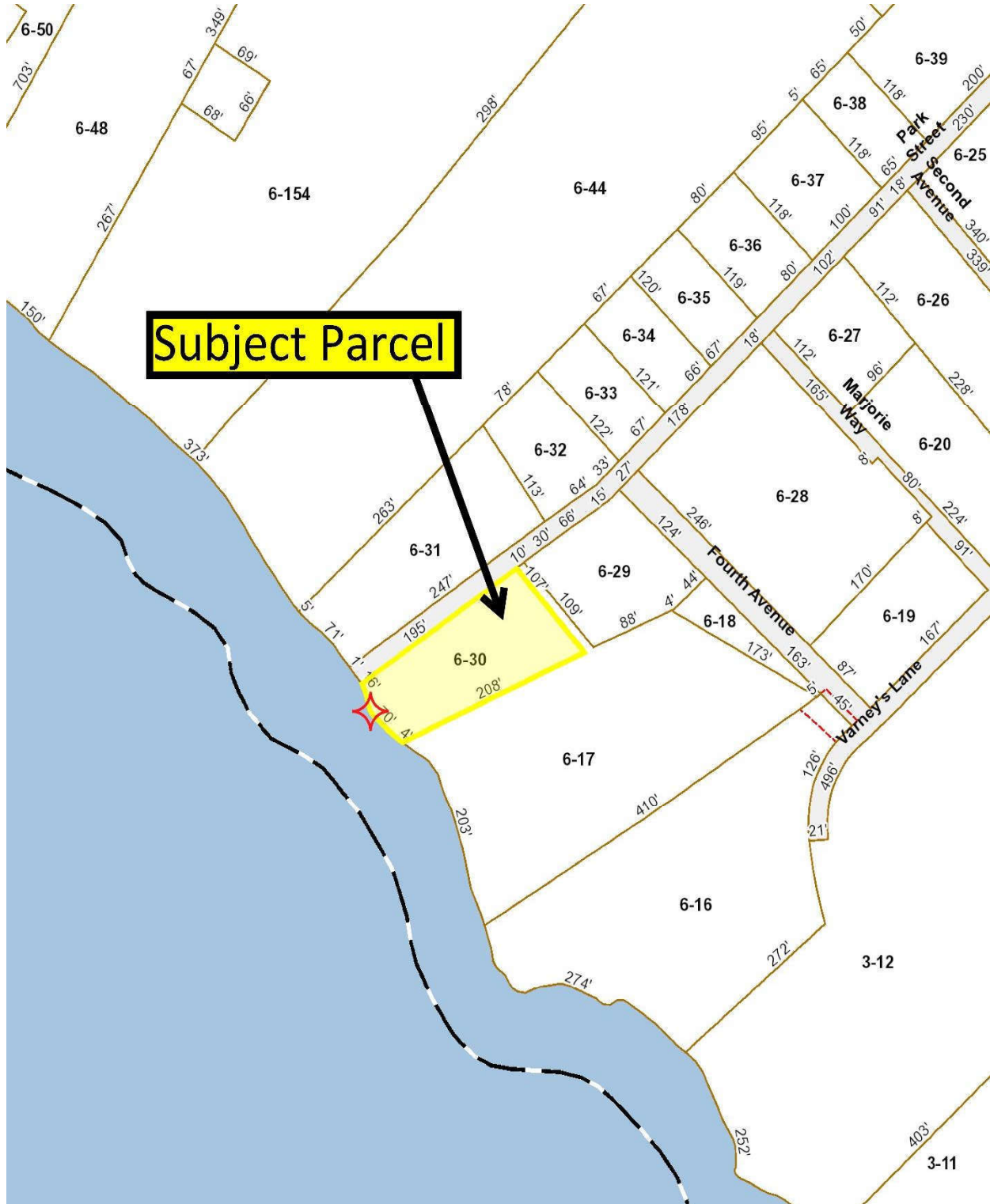
Before me,

Sandra S Titus

Notary Public



C. TAX MAP





D. ABUTTERS LIST



Abutters List Report

Eliot, ME
November 22, 2021

Subject Property:

Parcel Number: 006-030-000
CAMA Number: 006-030-000
Property Address: 23 PARK ST

Mailing Address: WITTROCK, SUSAN P WITTROCK,
STEVEN P
214 EAST SPRING ST
ALEXANDRIA, VA 22301

Abutters:

Parcel Number: 006-017-000
CAMA Number: 006-017-000
Property Address: 25 PARK ST

Mailing Address: FURBISH, CINDY W
25 PARK ST
ELIOT, ME 03903

Parcel Number: 006-018-000
CAMA Number: 006-018-000
Property Address: 6 FOURTH AVE

Mailing Address: FURBISH, JEFFREY H
6 FOURTH AVE
ELIOT, ME 03903

Parcel Number: 006-029-000
CAMA Number: 006-029-000
Property Address: 21 PARK ST

Mailing Address: HAMBLETT, BARBARA M HAMBLETT,
JOHN C
21 PARK ST
ELIOT, ME 03903

Parcel Number: 006-031-000
CAMA Number: 006-031-000
Property Address: 24 PARK ST

Mailing Address: HINES, SUSAN N REVOCABLE TRUST
SUSAN N HINES TRUSTEE
24 PARK ST
ELIOT, ME 03903

Parcel Number: 006-032-000
CAMA Number: 006-032-000
Property Address: 22 PARK ST

Mailing Address: SAURMAN, JANET A SAURMAN, BRYAN
D & MCNEIL, EMILY L
22 PARK ST
ELIOT, ME 03903



www.cai-tech.com

11/22/2021

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

Page 1 of 1

Abutters List Report - Eliot, ME

MAINEDEP NRPA PERMIT APPLICATION
 APPLICANT: SUSAN P. & STEVEN P. WITTRICK
 LOCATION: 23 PARK STREET, ELIOT, ME 03903



E. ABUTTER NOTIFICATION RECEIPTS

7020 1810 0001 1674 6761

**U.S. Postal Service™
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 Eliot, ME 03903

Certified Mail Fee \$3.75
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 Return Receipt (electronic) \$0.00
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 Adult Signature Restricted Delivery \$0.00
 Postage \$0.58
 Total Postage and Fees \$4.33

Postmark Here
 JAN 11 2022
 ELIOT ME 03903

Sent To
 SUSAN HINES
 Street and Apt. No., or PO Box No.
 24 PARK STREET
 City, State, ZIP+4®
 ELIOT, ME 03903

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7020 1810 0001 1674 6778

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 Adult Signature Required \$0.00
 Adult Signature Restricted Delivery \$0.00
 Postage \$0.58
 Total Postage and Fees \$4.33

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Sent To
 CINDY FURBISH
 Street and Apt. No., or PO Box No.
 25 PARK STREET
 City, State, ZIP+4®
 ELIOT, ME 03903

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



ATTACHMENT #11- FOR ARMY CORPS OF ENGINEERS:

A copy of the entire application package has been submitted to the MHPC and the five recognized Native American tribes simultaneously with filing it with other agencies. Any correspondence received will be forwarded to the Army Corps of Engineers immediately. Also enclosed as Attachment 11A is the EPA IPaC "Official Species List" that was requested by Ryan McCarthy using the email address ryan@tidewatercivil.com.

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



A. USFWS IPAC OFFICIAL SPECIES LIST



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Maine Ecological Services Field Office
P. O. Box A
East Orland, ME 04431
Phone: (207) 469-7300 Fax: (207) 902-1588
<http://www.fws.gov/mainefieldoffice/index.html>
Submitted via ryan@tidewatercivil.com



In Reply Refer To:
Consultation Code: 05E1ME00-2022-SLI-0219
Event Code: 05E1ME00-2022-E-00817
Project Name: Wittrock: Proposed Dock System

November 22, 2021

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies the threatened, endangered, candidate, and proposed species and designated or proposed critical habitat that may occur within the boundary of your proposed project or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC Web site at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the Endangered Species Consultation Handbook at: <http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

This species list also identifies candidate species under review for listing and those species that the Service considers species of concern. Candidate species have no protection under the Act but are included for consideration because they could be listed prior to completion of your project. Species of concern are those taxa whose conservation status is of concern to the Service (i.e., species previously known as Category 2 candidates), but for which further information is needed.

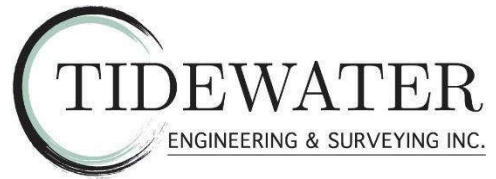
If a proposed project may affect only candidate species or species of concern, you are not required to prepare a Biological Assessment or biological evaluation or to consult with the Service. However, the Service recommends minimizing effects to these species to prevent future conflicts. Therefore, if early evaluation indicates that a project will affect a candidate species or species of concern, you may wish to request technical assistance from this office to identify appropriate minimization measures.

Please be aware that bald and golden eagles are not protected under the Endangered Species Act but are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.). Projects affecting these species may require development of an eagle conservation plan: http://www.fws.gov/windenergy/eagle_guidance.html Information on the location of bald eagle nests in Maine can be found on the Maine Field Office Web site: <http://www.fws.gov/mainefieldoffice/Project%20review4.html>

Additionally, wind energy projects should follow the wind energy guidelines: <http://www.fws.gov/windenergy/> for minimizing impacts to migratory birds and bats. Projects may require development of an avian and bat protection plan.

Migratory birds are also a Service trust resource. Under the Migratory Bird Treaty Act, construction activities in grassland, wetland, stream, woodland, and other habitats that would result in the take of migratory birds, eggs, young, or active nests should be avoided. Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm> and at:

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



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<http://www.towerkill.com>; and at:

<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



11/22/2021

Event Code: 05E1ME00-2022-E-00817

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Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Maine Ecological Services Field Office

P. O. Box A
East Orland, ME 04431
(207) 469-7300

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



11/22/2021

Event Code: 05E1ME00-2022-E-00817

2

Project Summary

Consultation Code: 05E1ME00-2022-SLI-0219

Event Code: Some(05E1ME00-2022-E-00817)

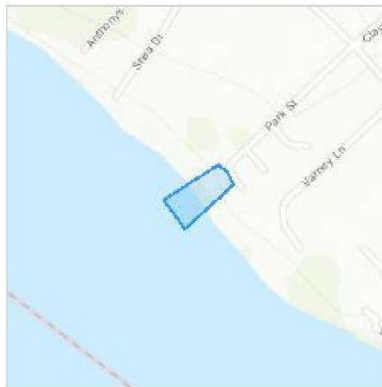
Project Name: Wittrock: Proposed Dock System

Project Type: SHORELINE USAGE FACILITIES / DEVELOPMENT

Project Description: Construction of a fixed pier, gangway, and main float for recreational use and access to the Piscataqua River.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.10669235,-70.78730108290429,14z>



Counties: York County, Maine



Endangered Species Act Species

There is a total of 2 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRUCK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



B. USFWS VERIFICATION LETTER



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Maine Ecological Services Field Office
P. O. Box A
East Orland, ME 04431

Phone: (207) 469-7300 Fax: (207) 902-1588

<http://www.fws.gov/mainefieldoffice/index.html>

Submitted via ryan@tidewatercivil.com



In Reply Refer To:
Consultation code: 05E1ME00-2022-TA-0219
Event Code: 05E1ME00-2022-E-00818
Project Name: Wittrock: Proposed Dock System

November 22, 2021

Subject: Verification letter for the 'Wittrock: Proposed Dock System' project under the January 5, 2016, Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-eared Bat and Activities Excepted from Take Prohibitions.

Dear Ryan McCarthy:

The U.S. Fish and Wildlife Service (Service) received on November 22, 2021 your effects determination for the 'Wittrock: Proposed Dock System' (the Action) using the northern long-eared bat (*Myotis septentrionalis*) key within the Information for Planning and Consultation (IPaC) system. This IPaC key assists users in determining whether a Federal action is consistent with the activities analyzed in the Service's January 5, 2016, Programmatic Biological Opinion (PBO). The PBO addresses activities excepted from "take"⁽¹⁾ prohibitions applicable to the northern long-eared bat under the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.).

Based upon your IPaC submission, the Action is consistent with activities analyzed in the PBO. The Action may affect the northern long-eared bat; however, any take that may occur as a result of the Action is not prohibited under the ESA Section 4(d) rule adopted for this species at 50 CFR §17.40(o). Unless the Service advises you within 30 days of the date of this letter that your IPaC-assisted determination was incorrect, this letter verifies that the PBO satisfies and concludes your responsibilities for this Action under ESA Section 7(a)(2) with respect to the northern long-eared bat.

Please report to our office any changes to the information about the Action that you submitted in IPaC, the results of any bat surveys conducted in the Action area, and any dead, injured, or sick northern long-eared bats that are found during Action implementation. If the Action is not completed within one year of the date of this letter, you must update and resubmit the information required in the IPaC key.

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTROCK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



11/22/2021

Event Code: 05E1ME00-2022-E-00818

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This IPaC-assisted determination allows you to rely on the PBO for compliance with ESA Section 7(a)(2) only for the northern long-eared bat. It **does not** apply to the following ESA-protected species that also may occur in the Action area:

- Roseate Tern *Sterna dougallii dougallii* Endangered

If the Action may affect other federally listed species besides the northern long-eared bat, a proposed species, and/or designated critical habitat, additional consultation between you and this Service office is required. If the Action may disturb bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act is recommended.

[1]Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct [ESA Section 3(19)].

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

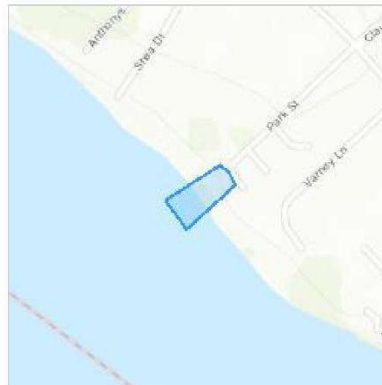
Wittrick: Proposed Dock System

2. Description

The following description was provided for the project 'Wittrick: Proposed Dock System':

Construction of a fixed pier, gangway, and main float for recreational use and access to the Piscataqua River.

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.10669235,-70.78730108290429,14z>



Determination Key Result

This Federal Action may affect the northern long-eared bat in a manner consistent with the description of activities addressed by the Service's PBO dated January 5, 2016. Any taking that may occur incidental to this Action is not prohibited under the final 4(d) rule at 50 CFR §17.40(o). Therefore, the PBO satisfies your responsibilities for this Action under ESA Section 7(a)(2) relative to the northern long-eared bat.

Determination Key Description: Northern Long-eared Bat 4(d) Rule

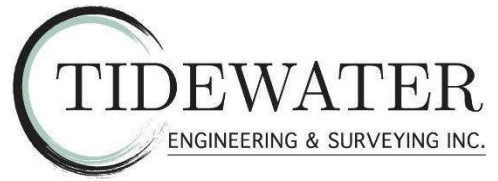
This key was last updated in IPaC on May 15, 2017. Keys are subject to periodic revision.

This key is intended for actions that may affect the threatened northern long-eared bat.

The purpose of the key for Federal actions is to assist determinations as to whether proposed actions are consistent with those analyzed in the Service's PBO dated January 5, 2016.

Federal actions that may cause prohibited take of northern long-eared bats, affect ESA-listed species other than the northern long-eared bat, or affect any designated critical habitat, require ESA Section 7(a)(2) consultation in addition to the use of this key. Federal actions that may

MAINE DEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



11/22/2021

Event Code: 05E1ME00-2022-E-00818

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affect species proposed for listing or critical habitat proposed for designation may require a conference under ESA Section 7(a)(4).



Determination Key Result

This project may affect the threatened Northern long-eared bat; therefore, consultation with the Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat.884, as amended; 16 U.S.C. 1531 et seq.) is required. However, based on the information you provided, this project may rely on the Service's January 5, 2016, *Programmatic Biological Opinion on Final 4(d) Rule for the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions* to fulfill its Section 7(a)(2) consultation obligation.

Qualification Interview

1. Is the action authorized, funded, or being carried out by a Federal agency?
Yes
2. Have you determined that the proposed action will have "no effect" on the northern long-eared bat? (If you are unsure select "No")
No
3. Will your activity purposefully **Take** northern long-eared bats?
No
4. [Semantic] Is the project action area located wholly outside the White-nose Syndrome Zone?
Automatically answered
No
5. [Semantic] Is the project action area located within 0.25 miles of a known northern long-eared bat hibernaculum?
Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency
Automatically answered
No
6. [Semantic] Is the project action area located within 150 feet of a known occupied northern long-eared bat maternity roost tree?
Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency
Automatically answered
No



Project Questionnaire

If the project includes forest conversion, report the appropriate acreages below. Otherwise, type '0' in questions 1-3.

1. Estimated total acres of forest conversion:

0

2. If known, estimated acres of forest conversion from April 1 to October 31

0

3. If known, estimated acres of forest conversion from June 1 to July 31

0

If the project includes timber harvest, report the appropriate acreages below. Otherwise, type '0' in questions 4-6.

4. Estimated total acres of timber harvest

0

5. If known, estimated acres of timber harvest from April 1 to October 31

0

6. If known, estimated acres of timber harvest from June 1 to July 31

0

If the project includes prescribed fire, report the appropriate acreages below. Otherwise, type '0' in questions 7-9.

7. Estimated total acres of prescribed fire

0

8. If known, estimated acres of prescribed fire from April 1 to October 31

0

9. If known, estimated acres of prescribed fire from June 1 to July 31

0

If the project includes new wind turbines, report the megawatts of wind capacity below. Otherwise, type '0' in question 10.

10. What is the estimated wind capacity (in megawatts) of the new turbine(s)?

0

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



ATTACHMENT #13- FUNCTIONAL ASSESSMENT:

It is our understanding that the impacts associated with the proposed docking structure does not meet the threshold for requiring compensation, therefore it is assumed this attachment is not required. As such, a functional assessment has not been completed by the applicant. If this is not the case, please contact us and a functional assessment will be completed.

ATTACHMENT #14- COMPENSATION:

It is our understanding that the impacts associated with the proposed docking structure are too minor to warrant compensation. If this is not the case, please contact us to discuss compensation requirements.

MAINE DEP NRPA PERMIT APPLICATION
 APPLICANT: SUSAN P. & STEVEN P. WITTRICK
 LOCATION: 23 PARK STREET, ELIOT, ME 03903



APPENDIX A:

**APPENDIX A - MDEP VISUAL EVALUATION
 FIELD SURVEY CHECKLIST**
 (Natural Resources Protection Act, 38 M.R.S. §§ 480 A - Z)

Name of applicant: Susan P. & Steven P. Wittrock Phone: (860) 287-1329
 Application Type: NRPA- Individual
 Activity Type: (brief activity description) Permanent timber pier, seasonal gangway, landing & main float at 23 Park Street, Eliot ME
 Activity Location: Town: Eliot County: York
 GIS Coordinates, if known: N 43° 6'24.12" W 70°47'14.05"
 Date of Survey: 11/11/2021 Observer: Ryan McCarthy, P.E. Phone: (207) 439-2222

	Distance Between the Proposed Visibility Activity and Resource (in Miles)		
	0-¼	¼-1	1+
1. Would the activity be visible from:			
<i>A. A National Natural Landmark or other outstanding natural feature?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>B. A State or National Wildlife Refuge, Sanctuary, or Preserve or a State Game Refuge?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>C. A state or federal trail?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>D. A public site or structure listed on the National Register of Historic Places?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>E. A National or State Park?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>F. 1) A municipal park or public open space?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>2) A publicly owned land visited, in part, for the use, observation, enjoyment and appreciation of natural or man-made visual qualities?</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>3) A public resource, such as the Atlantic Ocean, a great pond or a navigable river?</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. What is the closest estimated distance to a similar activity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. What is the closest distance to a public facility intended for a similar use?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Is the visibility of the activity seasonal? (i.e., screened by summer foliage, but visible during other seasons)		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
5. Are any of the resources checked in question 1 used by the public during the time of year during which the activity will be visible?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

(blue)

MAINE DEP NRPA PERMIT APPLICATION
 APPLICANT: SUSAN P. & STEVEN P. WITTRICK
 LOCATION: 23 PARK STREET, ELIOT, ME 03903



APPENDIX B:

**APPENDIX B: MDEP COASTAL WETLAND CHARACTERIZATION:
 INTERTIDAL & SHALLOW SUBTIDAL FIELD SURVEY CHECKLIST**

NAME OF APPLICANT: Susan P. & Steven P. Wittrock PHONE: (860) 287-1329
 APPLICATION TYPE: NRPA- Individual
 ACTIVITY LOCATION: TOWN: Eliot COUNTY: York

ACTIVITY DESCRIPTION: fill pier lobster pound shoreline stabilization
 dredge other: _____

DATE OF SURVEY: 11/11/21 OBSERVER: Ryan McCarthy, P.E.
 TIME OF SURVEY: 11:27 am TIDE AT SURVEY: Low: -2.92 (NAVD88)

SIZE OF DIRECT IMPACT OR FOOTPRINT (square feet):
 Intertidal area: 9.5 SF +/- (12 piles) Subtidal area: 4.7 SF +/- (6 piles)

SIZE OF INDIRECT IMPACT, if known (square feet):
 Intertidal area: 352 SF +/- Subtidal area: 528 SF +/-
(pier & steps) (gangway, landing float & main float)

HABITAT TYPES PRESENT (check all that apply):
 sand beach boulder/cobble beach sand flat mixed coarse & fines salt marsh
 ledge rocky shore mudflat (sediment depth, if known: _____)

ENERGY: protected semi-protected partially exposed exposed

DRAINAGE: drains completely standing water pools stream or channel

SLOPE: >20% 10-20% 5-10% 0-5% variable

SHORELINE CHARACTER:
 bluff/bank (height from spring high tide: 14 ft +/-) beach rocky vegetated

FRESHWATER SOURCES: stream river wetland stormwater

MARINE ORGANISMS PRESENT:

	absent	occasional	common	abundant
mussels	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
clams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
marine worms	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
rockweed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
eelgrass	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
lobsters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
other	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> Snails, Crabs

SIGNS OF SHORELINE OR INTERTIDAL EROSION? yes no

PREVIOUS ALTERATIONS? yes no Steps and Pilings Present

CURRENT USE OF SITE AND ADJACENT UPLAND:
 undeveloped residential commercial degraded recreational

PLEASE SUBMIT THE FOLLOWING:
 Photographs Overhead drawing (pink)

APPENDIX D:

**Natural Resource Protection Act Application
APPENDIX D: Project Description Worksheet for a Dock, Pier or Wharf Application.**



Help us process your application more efficiently by completing this worksheet, which is supplemental to a NRPA application for a dock, pier or wharf. A completed Appendix D may be substituted for Block 14 of the application page.



THIS IS AN APPLICATION FOR A.....

- Commercial wharf
If yes, indicate type of commercial activity: _____
License number: _____
Number of fishermen using this wharf: _____
- Public pier, dock or wharf
- Common or shared recreational pier, dock or wharf
- Private recreational pier, dock or wharf
- Expansion or modification of an existing structure
- Other, please indicate: _____



TELL US ABOUT YOUR BOAT....

My boat(s) requires a draft of 1.2 feet.
My boat(s) is 24' feet long.

The applicant intends to purchase a 24' center-console once permits have been successfully obtained.



TELL US ABOUT YOUR PROJECT SITE.... For coastal piers and wharves, please complete Appendix B of the NRPA application. For freshwater docks, please describe the substrate and any vegetation: _____



SCENIC CONSIDERATIONS... Please complete Appendix A of the NRPA application.



WHAT FACILITIES ARE NEARBY?

The nearest public boat launch is located in Eliot approximately 1.0 miles from the project location.
(town) (distance)

The nearest public, commercial, or private marina is located in Eliot approximately 1.3 miles from the project location.
(distance) (town)

- I have inquired about slip or mooring availability at the nearest marina or public facility.
 - Yes, a slip or ~~mooring~~ is available. No, a slip or mooring is not available.
 - Approximate expected time on waiting list: 4 month wait for mooring. Slips unavailable for 2022 season
- I have contacted the local Harbor Master.

MAINE DEP NRPA PERMIT APPLICATION
 APPLICANT: SUSAN P. & STEVEN P. WITTRICK
 LOCATION: 23 PARK STREET, ELIOT, ME 03903



Name: Thomas Phillips Phone: (207) 475-8488

I currently use the following for my boat: Mooring Marina Neither



TELL US ABOUT YOUR PROPOSED PIER, DOCK OR WHARF...

MATERIALS:

- The structure will be supported by pilings.
(fixed pier) 16 pilings of 12 inches in diameter
(main & landing float) 6 pilings of 12 inches in diameter to hold main float in position
- The structure will be supported by stacked, flow-through granite cribs.
 _____ blocks, measuring _____ feet by _____ feet
- The structure will be supported by solid fill.
 _____ square feet of solid fill
- Other: _____

DIMENSIONS:

Length of fixed section: 85 feet
 Width of fixed section: 4 feet
 Length of ramp: 40 feet
 Dimensions of float: Landing Float: 6x30' Main Float: 8 feet wide by 30 feet long
 Distance the structure will extend below mean low water (MLW): 0 feet
 Depth of water at the fixed end of the structure: 0 feet
 Depth of water at the float at low tide: 1.5' - 4' +/- feet
 Depth of water at the float at high tide: 8' - 12' +/- feet
 Dimensions of any proposed buildings (e.g. bait shed): Not Applicable
 _____ feet high by _____ feet wide by _____ feet long

ACCESS:

During construction, my project site will be accessed via:

- Land
- Beach/intertidal area
- Water/barge

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



APPENDIX D- SLIP & MOORING REQUESTS:

From: Great Cove Boat Club <greatcove@comcast.net>
Sent: Tuesday, January 11, 2022 10:52 AM
To: Kuerstin Fordham <kuerstin@riversideandpickering.com>
Subject: Available Slips

Hi Kuerstin we at Great Cove Boat Club have all slips and moorings leased for the 2022 season and have a waitlist of close to 100 names of people looking for any space if it comes available John "Butch" Madden Operations manager GCBC

-----Original Message-----

From: Kuerstin Fordham [mailto:kuerstin@riversideandpickering.com]
Sent: Monday, January 10, 2022 3:45 PM
To: 'Butch Madden (greatcove@comcast.net)'
Subject: Available Slips

Hi Butch,

I am reaching out to local marinas in search of any available slips for boat rentals for the upcoming year . When you have a moment please let me know what you have available for rentals.

If you have any questions do not hesitate to contact me.

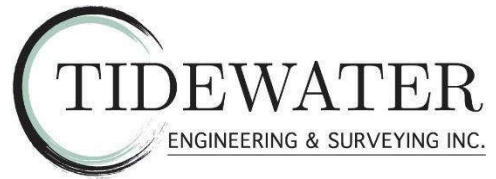
Thanks again for your help Butch.

Best,

Kuerstin Fordham
Construction Administrator
Riverside & Pickering Marine Contractors
34 Patterson Lane
Newington, NH 03801
603-427-2824 ext. 1000 Office
866-571-7132 Fax
(A division of Riverside Marine Construction Inc)

Confidentiality Notice: This communication, together with any attachments hereto or links contained herein, is for the sole use of the intended recipients and may contain information that is confidential, valuable and/or legally protected. If you are not the intended recipient, you are hereby notified that any review, copying, dissemination, distribution, or use of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email message and delete the original and all copies of the communication including but not limited to those in the Delete Folder, along with any attachments hereto or links herein, from your system.

MAINEDEP NRPA PERMIT APPLICATION
APPLICANT: SUSAN P. & STEVEN P. WITTRICK
LOCATION: 23 PARK STREET, ELIOT, ME 03903



APPENDIX D- SLIP & MOORING REQUESTS:

From: Sean McKenna <sean@greatbaymarine.com>
Sent: Tuesday, January 11, 2022
To: Kuerstin Fordham <kuerstin@riversideandpickering.com>
Subject: Lack of Dockage In The Area

Kuerstin,

I am writing to let you know that Great Bay Marine is totally full for slips and moorings for the coming boating season as well having sold out earlier than ever before. We also have over 190 on a waiting list for space here at the marina for future years. I do not know of any space on either the Maine or New Hampshire sides of the river.

Regards,

Sean

Sean McKenna, CMM
Great Bay Marine, Inc
61 Beane Lane
Newington, NH 03801
(603) 436-5299 Main

(603) 380-9242 Direct
Greatbaymarine.com

January 25, 2022

Cindy Furbish
25 Park Street
Eliot, ME 03903

RE: Maine Department of Environmental Protection, Natural Resources Protection Act Permit Application for tidal docking structure for 23 Park Street Eliot, ME 03903.

This letter is to inform the Maine Department of Environmental Protection (DEP), in accordance with State Law that our abutter, Steve Wittrock, has shown us plans dated 1/11/2022 depicting the proposed tidal docking structure on their property (Tax Map 6, Lot 3) prepared by Tidewater Engineering & Surveying, Inc. We are aware that the proposed tidal docking structure is located within 25 feet of the littoral boundary line that we share with Steve Wittrock. In addition, we are also aware that any boat secured to the eastern/southern side of the proposed float, may also extend into the 25 foot setback.

In accordance with DEP rules, we hereby sign this letter to indicate our acceptance of the proposed tidal docking structure within 25 feet of our shared boundary and the possibility of a boat attached to the proposed float extending into the 25 foot setback associated with the boundary that we share with 23 Park Street Eliot, ME 03903

Sincerely,



Cindy Furbish
25 Park Street
Eliot, ME 03903

By: _____

Printed Name & Title

PB21-29: 16 Arc Rd. (Map 45, Lot 17): Site Plan Review, Change of Use, and Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail Store



TOWN OF ELIOT MAINE

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board
 From: Jeff Brubaker, AICP, Town Planner
 Cc: John Chagnon, PE, Ambit Engineering, Applicant's Representative
 Shelly Bishop, Code Enforcement Officer
 Kearsten Metz, Land Use Administrative Assistant
 Date: April 7, 2022 (report date)
 April 12, 2022 (meeting date)
 Re: PB21-29: 16 Arc Rd. (Map 45, Lot 17): Site Plan Review, Change of Use, and Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail Store

Application Details/Checklist Documentation	
✓ Address:	16 Arc Rd.
✓ Map/Lot:	45/17
✓ PB Case#:	21-29
✓ Zoning:	Commercial/Industrial (C/I) District
✓ Shoreland Zoning:	Resource Protection (RP), Limited Commercial (LC)
✓ Owner Name:	JD Investments, LLC
✓ Applicant Name:	Green Truck Farms III, LLC
✓ Proposed Project:	Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail Store (Marijuana Establishment and Medical Marijuana Establishment)
✓ Application Received by Staff:	November 15, 2021 (original); January 13, 2022 (updated)
✓ Application Fee Paid and Date:	\$300 (\$100: Site Plan Amend./Shoreland App.; \$25 – Change of Use; \$175: Public Hearing); November 16, 2021
✓ Application Sent to Staff Reviewers:	February 10, 2022
✓ Application Heard by PB	January 25, 2022; February 15, 2022; March 15, 2022 (public hearing); April 12, 2022 (scheduled)
✓ Found Complete by PB	February 15, 2022
Site Walk	N/A
Site Walk Publication	N/A
✓ Public Hearing	March 15, 2022
✓ Public Hearing Publication	March 4, 2022 (Weekly Sentinel)
Deliberation	TBD
✓ Reason for PB Review:	Site Plan Amendment, Change of Use, Marijuana Establishment (SPR use), Shoreland Zoning Permit Application

April 12 updates

- Please note the applicant’s attorney’s letter to me and my response letter (with attached email correspondence)
- Updated site plan (sheet C2) in packet shows slightly modified location of the propane tank with addition of boulders, per PB review comment
- The applicant’s Traffic Movement Permit (TMP) application to DOT is expected to be submitted prior to the meeting. Once received, it will be provided to the PB.
- Recommendation and motion templates to be provided after receipt of expected additional information from applicant.

Overview (4/12 update)

Applicants Green Truck Farms II, LLC and Green Truck Farms III, LLC (property owner: JD Investments, LLC; agent: Ambit Engineering, Inc.) seek a Site Plan Amendment, Site Plan Review, a Change of Use, and a Shoreland Zoning Permit for a marijuana establishment and medical marijuana establishment at 16 Arc Rd. (Map 45, Lot 17). The cover letter summarizes the proposed development, existing conditions, and recent PB review history as follows:

The site is previously developed with a 3,762 square foot building on the premises. Most recently the site was approved as Marijuana Establishment - Cultivation under Case PB-20-22. This is an amendment to that approval to eliminate production and focus on retail. This project consists of the construction of a new free standing 6,000 SF one story building at the site with the associated site improvements. The existing building will remain.

Application contents

Submitted January 13, 2022 (updated version of November 15, 2021 submittal)

- Cover letter with completeness summary (Section 33-127), dated 1/13/22
- Site Plan Review (SPR) Application
- Shoreland Zoning Permit Application
- Warranty Deed, The Kind Land, LLC, to JD Investments, LLC
- Authorizing resolutions for JD Investments, Green Truck Farms II, LLC, and Green Truck Farms III, LLC – Joshua Seymour
- Ownership disclosure
- Information and correspondence between applicant’s representative and state Office of Marijuana Policy (OMP) regarding co-location of a medical marijuana caregiver retail store and adult use marijuana retail store
- Caregiver registration card (redacted by Town staff for confidentiality)

- OMP conditional license – Green Truck Farms II, LLC; License # AMS622; Adult Use Marijuana Retail Store (expires February 4, 2022)
 - Joshua J. Seymour, Principal and 100% Owner
- Security Plan
- Disposal Plan
- Odor Remediation Plan
- Drainage Analysis, including Erosion & Sediment Control Practices
- Subsurface Wastewater Disposal System Application (SSWDS), total design flow: 980 gpd
- Soil Survey
- Trip Generation Memo from Ambit Engineering, dated 1/10/22
- Site plan set

Submitted February 7, 2022

- Cover letter dated 2/7/22

PB21-29: 16 Arc Rd. (Map 45, Lot 17): Site Plan Review, Change of Use, and Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail Store

- Updated versions of various application package contents
- Ownership disclosure
- Caregiver registration card (redacted by Town staff for confidentiality)
- Waste disposal plan
- Luminaire specifications
- Traffic Impact Assessment from GPI, including appendices
- Updated site plan set

Submitted March 4, 2022

- Revised Site Plan (Sheet C2)

Submitted March 14, 2022

- Renewed OMP Conditional License

Submitted April 5, 2022

- Letter from applicant’s attorney

Submitted April 7, 2022

- Updated site plan (sheet C2)

Expected to be submitted on or before April 12, 2022

- TMP application to DOT

Type of review needed (4/12 update)

Continued review after public hearing per 33-131(a). An overall action is needed on the application at this meeting, unless the applicant agrees to extend the 33-131(a) time windows.

Zoning

Commercial-Industrial (C/I); Shoreland: Resource Protection (RP) and Limited Commercial (LC)

Use

Marijuana establishments and medical marijuana establishments are SPR uses in the C/I district. Marijuana stores and medical marijuana caregiver retail stores are SPR uses in the LC shoreland zoning district.

Affidavit of ownership (33-106)

The deed and authorizing resolutions are in your previous packet. An ownership/lease chart related to JD Investments, Green Truck Farms II, LLC, and Green Truck Farms III, LLC, was in your previous packet and is in your current packet as it was resubmitted by the applicant.

Recall that your previous packet had correspondence between the applicant’s legal counsel and OMP’s legal counsel regarding the following State co-location regulation (Adult Use Program Rule 2.4.6.A):

No licensee may sell or offer for sale to consumers adult use marijuana and adult use marijuana products within the same facility or building in which the licensee also sells or offers for sale to qualifying patients marijuana and marijuana products for medical use pursuant to 22 MRS, chapter 558-C.

OMP’s legal counsel confirmed that the following statement from the applicant’s legal counsel was correct:

A Medical Marijuana Store and Adult Use Store may exist in the same building in separate units, provided that there is a registered caregiver for the Medical Marijuana Store and the registered Caregiver is neither that Adult Use Store Licensee nor an owner of that Adult Use Store Licensee.

PB21-29: 16 Arc Rd. (Map 45, Lot 17): Site Plan Review, Change of Use, and Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail Store

OMP Conditional License (4/12 update)

The applicant submitted their renewed license (AMS1217, expires March 10, 2023) to the Planning office on March 14 and it was reviewed at the March 15 meeting. It is included in the packet.

Summary of documented previous land use actions

Most recently, the property was approved on May 18, 2021, by the Planning Board for an adult use marijuana cultivation facility.

Dimensional requirements (45-405)

Dimension	Standard	Met?
Min lot size (ac)	3	Yes (~8.4 acres)
Lot line setbacks (ft)	30 front/rear, 20 side	Apparent from visual analysis of site plan
Max building height (ft)	35 (shoreland zoning)	Yes, see #21 on Shoreland Zoning Permit Application and site plan showing 1-story building
Max lot coverage	10%	Yes, 2.7% shown on Plan Sheet C2, Note 7
Min street frontage (ft)	300	Yes, >300 ft. along Arc Rd.
Max sign area (sf)	Max. 50 sf for wall-mounted, 100 sf for common freestanding	Need more info from applicant on proposed signage. See Note 12 on Plan Sheet C2. Per 45-529, off-premise signs need Board of Appeals approval and written authorization from the owner of the land on which the sign will be placed. <i>3/15 update: Note 12 has been changed on revised Sheet C2 to reference the Board of Appeals approval requirement in Section 45-529 for off-premise signs.</i>

Traffic (45-406) (4/12 update)

Safe access to and from public and private roads

Arc Rd. is a private, paved road leading to the site and has traffic from adjacent commercial parcels that use it as an access. As noted in the Traffic Impact Assessment (TIA), previously reviewed by the PB, Arc Rd. has about 24 ft. paved width with 1-2 ft. gravel shoulders.

To my understanding, Arc Rd. is owned by WIN Waste Innovations/Wheelabrator, owner and operator of the ARC site (22 Arc Rd.), and right-of-way is referenced in the 16 Arc Rd. deed previously provided by the applicant. (Referencing a 1989 deed from Hardy to Dow with access/egress and utility installation/maintenance rights.)

On 3/8, I conducted a site visit with the applicant team to discuss traffic and the width and condition of Arc Rd. Spot measurements were taken of pavement width near the driveway and the Sturgeon Creek crossing. Measurements exceeded 20 ft. of pavement, but in some cases pavement deterioration, potholes, and dirt patches narrowed the “effective width” of the road. Some parts of the shoulder were observed to not slope properly away from the pavement edge, creating possible puddling areas. There is also no stop sign at the road’s approach to Route 236. While my own summary is not an engineering assessment, it seems that some pavement and shoulder restoration, and a stop sign installation at the Arc Rd. approach to Route 236, would be beneficial.

However, questions remain about who would be responsible for what (on this private road) and how this does and doesn't relate to the PB's review of 16 Arc Rd. under this performance standard. You have the applicant's perspective and the TIA to reference, and my summary/quotes below, including the TIA conclusion that "No project-specific [traffic] mitigation is warranted..." You may agree and conclude that this standard is met with no further requirements of the applicant. Similarly, I would caution against concluding that deteriorated pavement *alone* along a development's only access is enough to say that this standard *isn't* met. However, the consideration of existing and projected traffic along with the existing condition of the road may warrant a further discussion of whether this standard is met, or would be met subject to a reasonable condition of approval. Can Arc Rd. "work" in its current state with the ARC facility truck traffic plus the retail customer and employee traffic at 16 Arc Rd.?

Also under consideration is the applicant's ongoing communications with MaineDOT about the Traffic Movement Permit, and I have sought more information from WIN Waste on if they have any road upgrade plans this year. Finally, there is the question of the WIN Waste sign at Route 236, which the Code Enforcement Officer and I have been in contact with WIN Waste about. More updates to be provided at the meeting if received. I also took some photos of Arc Rd. that can be referenced at the meeting if necessary.

Some potential options for the PB:

- Continue the item to allow more time to review this topic and the Traffic Movement Permit process
- Conclude that this standard is met, given the findings of the TIA
- Conclude that this standard is met, given the findings of the TIA, subject to a condition related to repairs of Arc Rd. up to the 16 Arc driveway (e.g. pavement restoration, shoulder repair, stop sign, etc.) needed to adequately support expected traffic volumes. For example, if WIN Waste and Green Truck Farms were to agree to share the cost of such upgrades, the condition could address that.

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

See TIA and my review.

Assure safe interior circulation within the site

See proposed parking area aisles (typical 20 ft. in width) and turnaround bays.

4/12 updates:

Regarding Arc Rd., excerpt from a March 29, 2022, email from John Chagnon (bold in original) to me and Matt Hughes of WIN Waste Innovations, copying Kearsten Metz and members of the applicant team:

Jeff;

We are in discussions with the Win Waste team. Please let me frame what I believe is appropriate in regards to the application before the Board as it regards this issue. We plan to work on a framework of agreement regarding the condition of the existing road which will involve **repair of pavement, repair of shoulders, and repair of the culvert at Route 236**. Please confirm that this scope covers your concerns.

I will let Rebecca Brown, our traffic engineer, update you on the TMP at the appropriate time.

My response:

Thank you, John (and Matt). I'm encouraged by this scope related to addressing the Section 45-406 – Traffic performance standard.

Please provide as much info as possible on the status of this framework, your and WIN's discussions, and the TMP permit/scoping by April 5, so it can be included in the April 12 Planning Board packet. Is DOT aware of plans for the Route 236 culvert?

Excerpt from the April 5 letter from the applicant's attorney, Michelle DelMar:

Please consider allowing these Applications to go before the Board at the next meeting, specifically April 12, 2022 and encourage the Board to grant approval for the Applications with reasonable, fair and equitable conditions as set forth on the attached Addendum A (Conditions).

[...]

[from Addendum A: Conditions]

- a. Repair of road pavement;
- b. Repair of road shoulders;
- c. Repair of the culvert at Route 236;
- d. Resolve WIN Waste sign issue related to site distance; and
- e. If necessary, obtain DOT Traffic Movement Permit.

Traffic Impact Assessment (TIA) review

To address the PB's requirement for a traffic study under 33-153, the applicant has included a Traffic Impact Assessment (TIA) from consultant GPI, dated February 7, 2022. My summary and comments are as follows:

- Arc Rd. is a paved road, unstriped, ~24 ft. wide with 1-2 ft. gravel shoulders
- Route 236 in the area has an average annual daily traffic (AADT) of about 15,000
- There are no STOP signs or STOP lines at the (assumed) stop-controlled approach of Arc Rd. to Route 236
- Between 2015-2021, three (3) reported crashes occurred, 2 with deer and 1 rear-end collision. TIA concludes: "These collisions do not indicate a particular collision pattern and the low occurrence of crashes in the vicinity of the intersection indicates no significant safety issue exists."
- Available sight distances at the Driveway-Arc Rd. and Arc-236 intersections are currently adequate, except for an existing ARC / Shipyard Waste Solutions sign partially blocking sight distance for drivers on Arc Rd. looking left (east) down Route 236.
 - My review: I have followed up with the Code Enforcement Officer (CEO) on the status of this sign, which isn't the applicant's sign
- Traffic counts from 2019 near Route 236-Beech and ARC facility trip generation from a previous TIA for the ARC facility informed the TIA's background traffic volumes

- Trip generation estimates used the ITE Trip Generation Manual’s (11th Ed.) “marijuana dispensary” land use code as well as empirical traffic data collected from a similarly-sized medical+adult use dispensary in Lowell, MA. The TIA argues that the number of cash registers, rather than the size of the facility, are a more consistent way to project trips. The TIA states: “As the proposed facility will provide large display cases and areas for viewing products, as well as large lounge areas for customers to wait for order to be processed, the proposed facility is likely to generate fewer trips per square foot as compared to facilities with more compact customer spaces.”

Time Period/Direction	ITE Trip Rates (LUC 882) ^a	Empirical Trip Rates	
		Per 1,000 SF ^b	Per Register ^c
Weekday Daily	1,266	912	441
Weekday AM Peak Hour:			
<i>Enter</i>	33	24	11
<i>Exit</i>	30	22	11
<i>Total</i>	63	46	22
Weekday PM Peak Hour:			
<i>Enter</i>	57	41	20
<i>Exit</i>	57	41	20
<i>Total</i>	114	82	40
Saturday Daily	1,556	948	458
Saturday Midday Peak Hour:			
<i>Enter</i>	87	53	26
<i>Exit</i>	86	53	25
<i>Total</i>	173	106	51

^a ITE LUC 882 (Marijuana Dispensary) based on 6,000 SF.

^b Based on empirical trip generation rates per 1,000 SF collected at Patriot Care in Lowell, MA, applied to 6,000 SF proposed facility.

^c Based on empirical trip generation rates per register collected at Patriot Care in Lowell, MA.

Figure 1. Excerpt from TIA showing trip generation per 1000 sf and per register (5 registers proposed)

- 16 Arc Rd. site projected trip generation (trips distributed to network to create “Build” scenario turning movements):
 - AM weekday peak hour: 22
 - PM weekday peak hour: 40
 - Saturday midday peak hour: 51
- At 236-Arc Rd. under Build scenario using Synchro software:
 - All traffic on 236 will operate at level of service (LOS) A or B (the two highest or best traffic “grades”)
 - Traffic exiting Arc Rd. will operate at LOS D during the AM peak hour and LOS E during the PM peak hour
 - Volume-to-capacity ratio will be below 1.0 and queues are not expected to be longer than 2 vehicles
 - The TIA explains the counterintuitive reason the Synchro model shows an improvement in LOS with more traffic under the “Build” scenario, i.e. that the mix of vehicles would be expected to shift to have a greater percentage of cars vs. trucks, and cars can more easily find gaps in the 236 traffic stream. So the “average” LOS shows improvement despite more traffic.
- Note the conclusions bullet list and overall conclusion: “Based on the findings above, the proposed marijuana dispensary can be safely and efficiently accommodated along the existing roadway network. No project-specific mitigation is warranted based on the incremental impacts of the Project.”

My additional comments:

- From measuring the aeriels, it looks like Arc Rd. is closer to 20 ft. than 24 but spot measurements are recommended. Maneuverability is more of a concern if the road is a narrower 20 ft. with waste trucks passing by retail traffic.
- The 4/18/2020 intersection movement injury crash is shown located at 476 HL Dow (Transfer Station) but the MaineDOT online Public Crash Query Tool map puts it at Arc Rd.
- Note that the overall weekday PM peak hour trips for the Lowell dispensary was 79 and the Saturday peak hour trips were 102. This dispensary had 7 retail points of sale and 3 medical.
- I appreciate the TIA's use of both ITE rates (still a work in progress with regard to marijuana use trip data) and empirical data. However, it would be good to see the Northeast ITE conference presentation on the pros of using "per cash register" rates instead of "per 1000 sf" rates. This assumption drastically lowers the 16 Arc Rd. trip generation. Also, assuming cash registers are a reliable independent variable for estimating trip generation, it is difficult to keep track of cash registers under normal building inspection frequencies.
- I may have other comments at the meeting, but PB members are encouraged to review and comment on the TIA.

Noise (45-407)

No review comments at this time.

Dust, fumes, vapors, gases (45-408)

No review comments at this time, but see Odor Remediation Plan in previous packet.

Odor (45-409)

See Odor Remediation Plan provided previously.

Glare (45-410)

See lighting plan with illuminance levels at lot lines and proposed lighting on the buildings.

2/7 cover letter notes: "Lighting Plan Sheet L1: Added a new light at the rear entrance door to the proposed building with updated site photometric". The 2/7 submittal also includes a luminaire specification.

Stormwater runoff (45-411)

See site plan and drainage analysis. Similar to PB20-22, a stormwater detention pond, storm berm level spreader, and emergency spillway are proposed. P. 5 of the drainage analysis shows reductions in peak runoff for both analysis points for the 50-year storm (Town of Eliot standard).

4/12 update: Total cleared area is 90,865 sf. (>2 acres). See Site Plan (Sheet C2), note 10.

Erosion control (45-412)

See plansheet, sheet D1 and drainage analysis.

Preservation of landscape (45-413)

Plan shows the building setback from the normal high-water line of adjacent Sturgeon Creek, and percent of non-vegetated surface staying under 20% in the shoreland zone (calculated value is 11%), per 44-35(b)(4).

Relation of buildings to environment (45-414)

N/A – applies to village and suburban districts

Soil suitability for construction (45-415)

See soils report in previous packet.

Sanitary standards for sewerage (45-416)

See SSWDS (septic) application in packet for a design flow of 980 gpd, with similar proposed leach field location as with PB20-22. On January 25, it was clarified that as shown in the details on Sheet C5, the septic system will have an alarm. See also additional information on Sheet C5 noted by the 2/7 cover letter.

Buffers and screening (45-417)

Forested buffer appears on all sides of the lot in Sheet C2.

Explosive materials (45-418)

No such liquids, solids, or gases proposed or apparent in the submittal.

4/12 update: Small propane tank – has been slightly relocated in the site plan (Sheet C2) away from the parking lot pavement edge, and boulders have been added in between.

Water quality (45-419)

No such discharges or chemical storage facilities proposed

Conservation Commission review

ECC reviewed at their March 1 meeting. Topics included the location of the driveway with regard to wetlands, native plantings (see planting schedule in updated Sheet C2), and the current condition of the site (as seen by the PB and ECC members who were on the 2021 site walk for the previous proposal for property).

Parking

While the required calculation is 1 space per 150 sf, not 1 per 300 as shown in Sheet C2, Note 9, the calculation arrives at about the same number required by the Town Code because it also calculates spaces for employees. So the parking requirement in Section 45-495 is met.

Note that per PB feedback the ADA space location has changed to reduce its mixing with the vehicle loading zone and give it an access aisle to an accessible entrance.

If the actual trip generation is significantly higher than estimated in the TIA, for example on Saturday peak hours (40 trips), I can see situations where parking demand would be over capacity. There are 25 spaces available for customers, but 40 trips over a peak hour would probably see some turnover within the hour. However if actual peaks are significantly higher even with turnover there may be some at-or over-capacity parking situations.

Requested information waivers

None

Recommendation

[To be provided on or before PB meeting after review of information yet to provided by applicant]

Motion templates

[To be provided on or before PB meeting after review of information yet to provided by applicant]

* * *

Respectfully submitted,

Jeff Brubaker, AICP
Town Planner

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



This certifies that


GREEN TRUCK FARMS II, LLC
License Number AMS1217

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:
March 11, 2022

Expires on:
March 10, 2023



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 AMS1217 has been issued based on the following organizational structure:

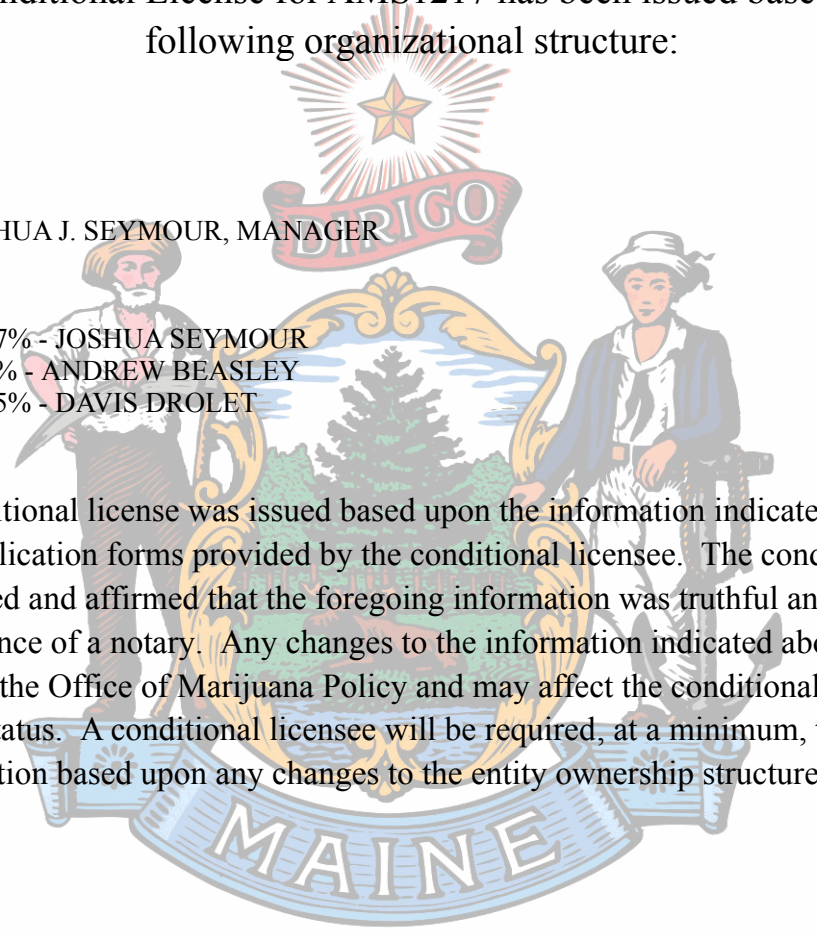
Principals:

JOSHUA J. SEYMOUR, MANAGER

Owners:

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

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.



DELMAR LAW OFFICES
Merrill's Wharf
254 Commercial Street, Suite 245
Portland, Maine 04101
ContactMyLawyer.com
Tel: 617-728-9800

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

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

April 5, 2022

Via Email: jbrubaker@eliotme.org

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

**RE: PB Case # 21-29; Application for Site Plan Review; Change of Use; Shoreland Zoning Permit Application;
Applicant: JD Investments, LLC; 16 Arc Road, Eliot**

Dear Mr. Brubaker:

It has come to my attention that my client, JD Investments, LLC, again faces the possibility of delay in obtaining approval from the Planning Board (the "Board") for the above-referenced Applications. It also appears that requirements you are requesting JD Investments to satisfy, are not being applied fairly or equitably.

The Board recently approved without issue, other sites with the same or similar circumstances and/or subject matter. One example, is the Board's recent approval of an application of JD Investments' neighbor, WIN Waste, for a new installation of a Tarping Station. As you know, WIN Waste and JD Investments share the same road that has been the subject of delay for JD Investments, but not for WIN Waste. WIN Waste's approved use includes an 'open to the public' use and WIN Waste's recent application to add a Tarping Station was approved by the Board with little or no push back and no mention of the road being suitable for the public traffic. On the other hand, there continues to be significant delays in providing a conditional approval from the Board for JD Investments' Application concerning the very same road.

In addition, JD Investments' Application has been delayed for various other matters, that have been mere conditions of approval for other applicants within the Town. It appears from your recent correspondence and other activities, that there is no end to the delays and that you are planning to delay the processing of the Application further.

Furthermore, when abutters are required to be notified of an Application, they are notified in writing, and the contents of that notice is available to the public, including the Applicant. Your

telephone call directly to WIN Waste management and your *private* discussion by telephone with WIN Waste, during which you discussed and alleged negative affects of JD Investments' business plans, amounts to, at the very least, inappropriate solicitation of opposition against the approval of JD Investments' Applications. As you know, JD Investments did NOT receive a telephone call from you to privately discuss the potential affects of WIN Waste's application for a Tarping Station. Moreover, WIN Waste's Application moved through the process and obtained Board approval without issue and with little or no discussion. Finally, your requirement that JD Investments keep you updated with the status of discussions and/or agreements between JD Investments and WIN Waste is also inappropriate.

The Board is acting arbitrarily and capricious in its unfair and inequitable application of requirements, the continuous addition of new/modified requirements and refusal to provide JD Investments with conditional approval for the Applications and the resulting blocking of JD Investments with regard to moving forward with the Building Permit process. As you know there are laws against such arbitrary and capricious acts that thwart property owner's use of their property and result in damages to the property owners.

Please consider allowing these Applications to go before the Board at the next meeting, specifically April 12, 2022 and encourage the Board to grant approval for the Applications with reasonable, fair and equitable conditions as set forth on the attached Addendum A (Conditions).

Kindly provide the Planning Board with a copy of this letter. Thank you for your time, attention and consideration with regard to this matter. Please do not hesitate to contact me with any questions.

Respectfully,



Michelle DelMar, Esq.

Attachments: Addendum A, Conditions

cc: The Town of Eliot Planning Board
Joshua Seymour, Manager, JD Investments, LLC
John Chagnon, PE, Ambit Engineering, Inc.

Addendum A

Conditions

- a. Repair of road pavement;
- b. Repair of road shoulders;
- c. Repair of the culvert at Route 236;
- d. Resolve WIN Waste sign issue related to site distance; and
- e. If necessary, obtain DOT Traffic Movement Permit.



TOWN OF ELIOT MAINE

PLANNING OFFICE
1333 State Road
Eliot ME, 03903

April 7, 2022

Michelle L. DelMar, Esq.
DelMar Law Offices
ContactMyLawyer.com

10 Post Office Square
Suite 800-S
Boston, MA 02109 USA

via email to: michelle@contactmylawyer.com

Dear Ms. DelMar:

This letter responds to your letter of April 5, 2022, regarding your client's application before the Eliot Planning Board ("Board") in Case # PB21-29: Site Plan Review, Change of Use, and Shoreland Zoning Permit Application – Adult Use Marijuana Retail Store and Medical Marijuana Caregiver Retail Store at 16 Arc Rd. (Map 45, Lot 17) (collectively the "Application" or "PB21-29"). At your request, your letter is being shared with the Board. This response letter will also be shared with the Board to ensure that Board members and the public have accurate information. Sentences in quotation marks and italics are direct quotes from your letter. Numerical citations are from the Eliot Town Code, unless otherwise specified.

Background information on the Board's review of the Application is important here. As with any application, the Board must review your client's Application in an objective, quasi-judicial manner in accordance with the Town Code. The Board's review is subject to certain timelines, e.g. those referenced in 33-130 and -131 and 44-44. However, the Board can never arbitrarily rush its review (for example, when pressured to do so by an applicant or applicant's representative) and, in so doing, ignore applicable performance standards or otherwise compromise thoroughness and objectivity.

Per 33-190 and 45-290, all marijuana establishments and medical marijuana establishments require site plan review and approval from the Board. A full site plan review process involves sketch plan review (33-63 and 33-101 et seq.), site plan review (33-126 et seq.), a public hearing (33-129 and -130), and deliberation and decision (33-131). Accordingly, full site plan review typically requires a minimum of three Board meetings (or two at the bare minimum). However, depending on the application, there are several situations that warrant extending review beyond three meetings. For example:

- The Board may request additional information from the applicant that it feels is needed before it can deem an application complete (33-127)

- The Board may feel the need to hold a site walk (33-64)
- The Board may make the determination to hire a technical consultant for third-party review (33-128)
- The Board may wish to receive advisory review and input from the Conservation Commission
- The Board may require that a traffic engineering study be done, should any proposal have a potentially significant impact upon any town streets or state-maintained or state-funded highways where fast-moving traffic occurs (33-153). This was the case with PB21-29.

Full site plan review differs from what is often referred to as a “minor amendment”. Depending on the nature of the application, under 33-140(b), the Board may have the ability to “determine[] that the proposed [site plan] revisions are minor and do not result in any substantial changes to the approved development or further impact abutters”. If so, “the planning board may approve the amended site plan. If the planning board determines that the changes are substantial, then the planning board shall process the application for the amended site plan in the same fashion as an application for review of a site plan under division 4 of this article III [of Ch. 33].” This process clearly outlines different levels of rigor of review and makes clear why revisions deemed minor do not have to revisit every performance standard in Ch. 33, 45, or elsewhere in the Code, or go through the full site plan review process, including a new sketch plan, an application completeness determination, and a public hearing. Case # PB22-1, regarding WIN Waste Innovations’ proposed trailer tarping station at 22 Arc Rd. (“PB22-1”), was just such a minor amendment.

Another consideration is the advance time needed between application submittal and agendaing for a Board meeting. Typically, a month advance time is reasonable for more complex applications. This allows for initial review by the Town Planner, additional information to be submitted by the applicant, courtesy review by other staff if needed, the drafting of a staff report, and finalizing the Board agenda a week before the meeting. Planning Board submission deadlines for upcoming meetings are posted in the Planning office and available to anyone who requests them.

The Board typically meets twice a month. In addition to application review responsibilities, the Board must also devote time to administrative matters, including the development of land use ordinance amendments recommended for the warrant at the next Town Election & Referendum or Town Meeting; the discussion of long-range planning topics; and Board member training. To juggle these responsibilities, the Board typically devotes one of the two meetings to administrative matters and one to application review. However, during periods of heavy application review, the Board can sometimes review applications at both meetings, or schedule additional meetings within the month. Also, the Board does not review any one application in a vacuum. Typically, it has a list of several applications to review. To be fair, it needs to devote sufficient review time to each application. When there are several active applications, especially when one or more of those is complex, sometimes one or more applications need to be deferred to a future meeting. Keep in mind that the Board is made up of dedicated volunteer civil servants. It is therefore reasonable to avoid overloading any one agenda, as Board members must use some of their spare time to prepare for a meeting. A thorough, objective review is aided by the ability to focus on a reasonable number of applications at any one meeting.

All applicants deserve to be heard by the Board in a timely manner. As described in the Maine Municipal Association’s *Manual for Local Planning Boards: A Legal Perspective* (“MMA Manual”), Boards must strike a balance to avoid unreasonable delays for the applicant but also not succumb to an applicant’s, or applicant’s representative’s, improper pressure to rush approval of their application in a way that abdicates or erodes their review responsibilities:

Taking Adequate Time to Make a Decision; Seeking Technical and Legal Advice

Although the [planning] board should avoid unreasonable delays in making a decision and should not “string the applicant along,” the board should not feel pressured into making a decision at the first meeting. This is especially true where the meeting has been very emotional because of a controversial proposal. The board should take time to visit the site of the proposed project where that would be helpful. (See discussion of site visits in this chapter.) The board should consider seeking technical advice from its regional planning commission, from a State agency (such as the Department of Environmental Protection), or other experts that the board is authorized to consult, and legal advice from the municipality’s lawyer or the legal department at Maine Municipal Association, particularly if the applicant or another party is represented by a lawyer. [pp. 30-31]

I am confident that our current Board does well at striking that balance, considering that more complex or potentially impactful proposals often need longer reviews. These longer reviews are not arbitrary delays. Rather, they ensure that the Board’s fact finding, information gathering, application of zoning and site plan review provisions, and decision-making are done carefully, objectively, and deliberatively to promote the soundness of the process, to protect abutters and the environment from potentially adverse impacts, and to protect the health and well-being of the community.

I will now summarize the review process to date for your client’s Application. Your client recently (in 2021) received approval from the Board for a marijuana cultivation facility at the same property under Case # PB20-22. He subsequently changed his mind and submitted the current Application. A sketch plan was submitted by Ambit Engineering on November 15, 2021. Ambit’s engineer and I then had an email dialogue wherein I stated (in a December 9, 2021, email):

Unfortunately we were not able to fit 16 Arc in on the Dec. 14 agenda. We have 2 old business items (including 1 public hearing) plus 2 new business items for application submittals from Oct. 14 and Nov. 9. Your application was timely, but we just have a bit of a backlog. Trying to get as much in as we can without overwhelming the agenda and [Planning Board] members.

I expect your application would be heard (Sketch Plan Review) in January.

Ambit’s engineer replied, “Understand”, and we discussed the process for Ambit to submit a “full” site plan review application (along with shoreland application) for completeness review by the Board in January. Indeed, despite several other active, complex applications to review and ordinance amendment work to be done, the Board scheduled a third January meeting (January 25) in which they reviewed the application – only 12 days after Ambit’s January 13 submission.

At this meeting, according to the approved minutes of that meeting (pp. 10-13), the Board recommended the traffic study per 33-153, and the applicant and Board talked about the scope of that traffic study (or traffic impact assessment – TIA). Your client mentioned that he conducted a traffic study for a similar proposal in Kittery. Other information was requested as well (e.g. updated lighting, ADA space changes, Fire Chief recommendation, DEP information). It was then discussed that your client would come back with more information for the February 15 meeting.

Ambit submitted an updated site plan review submission (including the TIA) on the afternoon of February 7. Despite the fact that this provided me only about one business day to review the submittal before finalizing the February 15 agenda, your client’s Application was kept on the agenda. At this meeting, the Board approved a motion that the Application was complete, despite concern that the

applicant's OMP Conditional License had lapsed and a renewed license had not yet been provided. The public hearing was set for March 15, within 30 days of the completeness determination, per 33-130. Your client emailed the Conditional License on March 14, a day before the public hearing.

During the public hearing, a representative of WIN Waste Innovations provided comments and concerns to the Board and requested that they have more time to discuss the project with Ambit and your client prior to the Board taking any action. My staff report also recommended continuance. Here, it is important to reiterate that the Board is under no obligation to immediately take action on an application after a public hearing. The Board has 30 days to do that under 33-131, though if the applicant agrees to waive that provision, the Board may extend that time. The post-public hearing time is important deliberation time for any planning board. During this time, they can reflect on any public comments submitted and discuss whether an applicant has met all the performance standards. They may well feel that more information or a site plan change is yet needed, opting to continue deliberation to a subsequent meeting, allowing the applicant to provide that information or update their site plan.

Among other performance standards, the Board has a responsibility to review projects for the 45-406 – Traffic standard, which states, in part:

The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight distances, intersections, schools, and other traffic generators. The proposed development shall not have an unreasonable adverse impact on the town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.

45-406 has been covered extensively in my staff reports to the Board, which are sent/available to your client and his team, and traffic generally has been extensively discussed during Board reviews. During the course of review, since MaineDOT provided input that the project was subject to a Traffic Movement Permit (TMP), the outcome of the TMP process is an important aspect of the Board's review of 45-406. I also met with your client and his team on-site at Arc Rd. on March 8, 2022, to review Arc Rd. and further discuss the topic of traffic and the condition of Arc Rd.

In summary, I believe the review has been timely and constructive so far, given the Board workload in late 2021 and early 2022, the complexity and potential impacts of the application, the comments raised during the public hearing, the additional permitting requirements (e.g. DOT and DEP), and the Board's duties of quasi-judicial review. In fact, the Board's scheduling of an extra meeting in January, the quick turnaround of review acceptable for the February 7 submission in advance of the February 15 meeting, and the acceptance of the renewed OMP Conditional License only a day before the March 15 public hearing may all arguably be seen as going above and beyond normal effort to accommodate the progress of the review.

With this background in mind, I would like to address various claims in your letter.

* * *

"It has come to my attention that my client, JD Investments, LLC, again faces the possibility of delay in obtaining approval from the Planning Board (the "Board") for the above-referenced Applications."

I am confused by the phrases "It has come to my attention..." and "possibility of delay" because you

do not articulate who said that to you or what they meant by that. Every applicant technically faces “the possibility of delay in obtaining approval from the Planning Board” because it is possible the Board may not have the information it needs to make findings of fact sufficient to justify approval. Under 33-131, the Board then has the option to disapprove the project, approve with conditions if such conditions would satisfy the deficiency per 33-131(c), or continue review, asking the applicant to agree to extend the 30-day and 75-day windows in 33-131(a), if necessary.

At the March 15 public hearing, the Board decided that the review would be continued to April 12. This has not changed. In fact, the April 12 agenda has been signed and posted, and PB21-29 is on it. If someone told you the application was not going to be agendaized on April 12, that is incorrect.

“It also appears that requirements you are requesting JD Investments to satisfy, are not being applied fairly or equitably.”

This is incorrect. All applicants going through full site plan review are subject to all applicable requirements of Ch. 33, 44, and 45, or other provisions in the land use regulations in the Town Code.

“The Board recently approved without issue, other sites with the same or similar circumstances and/or subject matter. One example, is the Board’s recent approval of an application of JD Investments’ neighbor, WIN Waste, for a new installation of a Tarping Station.”

I disagree that the Board approved PB22-1 (22 Arc Rd.) “without issue”. The Board listened to a WIN Waste Innovations representative describe the proposed tarping station, asked several questions (e.g. about fire safety and Fire Chief review), reviewed my staff report, and included conditions of approval for the project as a minor amendment. I strongly disagree with the unsupported claim that the addition of a proposed tarping station (dual platforms through which a truck drives) to an existing waste management operation, in a non-shoreland area, constitutes “the same or similar circumstances and/or subject matter” as the construction of a new 6,000 sf co-located marijuana retail store and medical marijuana caregiver retail store building – with 39,558 sf of devegetated surface area, 41 parking spaces, between 441 and 948 daily trips, and hours of operation spanning Monday through Saturday, 7:00 am to 8:00 pm, and Sunday, 8:00 am to 4:00 pm – within the shoreland zone.

Although the aforementioned claim implies that there are several “other sites” that the Board supposedly approved “without issue”, only the (arguably very different) PB22-1 is mentioned to support the claim.

“As you know, WIN Waste and JD Investments share the same road that has been the subject of delay for JD Investments, but not for WIN Waste. WIN Waste’s approved use includes an ‘open to the public’ use and WIN Waste’s recent application to add a Tarping Station was approved by the Board with little or no push back and no mention of the road being suitable for the public traffic.”

I disagree with the characterization that Arc Rd. “has been the subject of delay for JD Investments, but not for WIN Waste”. This claim lacks context. 16 Arc Rd. is the proposed use that would be generating between 441 and 948 daily trip ends, and between 22 and 106 peak hour trip ends, according to the applicant team’s own TIA. All of these trip ends would use Arc Rd., the site’s only vehicular access. If you or the applicant team felt that there was reason to believe that the trailer

tarping station reviewed in PB22-1 would have generated a significant traffic impact, you were welcome to raise that with the Board either through written correspondence or at the meeting. It was the same meeting at which your client's Application had a public hearing, and which several members of your client's team attended. Since it appears that you still have concerns about the PB22-1 approval, you have the option to appeal the Board's decision to the Eliot Board of Appeals under Chapter 45, Article II. As of this letter, it appears you are still within the allowable 30-day appeal window. If you would like an appeal form, please contact our Code Enforcement Officer or Land Use Administrative Assistant.

"On the other hand, there continues to be significant delays in providing a conditional approval from the Board for JD Investments' Application concerning the very same road."

I refer you to the above background and summary of the Board's review of PB21-29 to date, as well as the whole of the record of Board review, which is publicly available. I will note that the phrase "significant delays" is offered without supporting evidence.

"In addition, JD Investments' Application has been delayed for various other matters, that have been mere conditions of approval for other applicants within the Town. It appears from your recent correspondence and other activities, that there is no end to the delays and that you are planning to delay the processing of the Application further."

Again, I refer you to the above background and summary of the Board's review of PB21-29 to date, as well as the whole of the record of Board review, which is publicly available. You also fail to specify what you mean by "various other matters", whom you mean by "other applicants within the Town", and what alleged "recent correspondence and other activities" from me that you mean. I also strongly object to the unsupported claims that "there is no end to the delays and that you are planning to delay the processing of the Application further". Again, put more simply, PB21-29 had a public hearing on March 15; review was continued to April 12; and indeed, it is on the agenda for April 12. I am not aware of any notion or suggestion from the Board or Town staff that it not be on the April 12 agenda.

Overall, I object to the "straw person" argument inherent in the above claims to the extent of falsely projecting vague positions onto me and then raising generalized objections to them.

"Furthermore, when abutters are required to be notified of an Application, they are notified in writing, and the contents of that notice is [sic] available to the public, including the Applicant."

You may be referring or alluding to public hearing notice requirements in 33-130. The March 15 Board packet includes an abutter mailing label sheet showing that abutter Wheelabrator Holdco 1 Inc. (related to WIN Waste Innovations) indeed was notified of the PB21-29 public hearing on March 15. As has already been noted, a representative of WIN Waste Innovations did speak at the public hearing, expressing concerns and asking that Board review be continued. This is how the process is supposed to work.

"Your telephone call directly to WIN Waste management and your private discussion by telephone with WIN Waste, during which you discussed and alleged negative affects [sic] of JD Investments' business plans, amounts to, at the very

least, inappropriate solicitation of opposition against the approval of JD Investments' Applications." [*underline in original*]

I corresponded with WIN Waste toward reviewing their application under PB22-1 and informing them of the Board's review of your client's Application. Email correspondence toward that end is attached. I disagree with the characterizations in the above claim, including, but not limited to, the suggestion that my correspondence amounted to "inappropriate solicitation of opposition against the approval of JD Investments' Applications." I never suggested or implied that WIN Waste Innovations should take a stance – in favor or against – your client's Application. WIN Waste Innovations, other abutters, and the public have a right to speak at public hearings and take whatever stance they want to. Clearly, the Board's review of 45-406 relates to Arc Rd., including its condition and ability to "provide for safe access to and from public and private roads." That includes safe access for existing and potential future traffic, such as WIN Waste Innovations customers and employees and marijuana/medical marijuana retail customers and employees. I have been encouraged by recent email correspondence, initiated by Ambit, indicating that the PB21-29 applicant team is working with WIN Waste Innovations on the topic of Arc Rd. and the TMP. Given these seemingly constructive discussions, I am surprised at the claims in your letter, which seem to contradict the collaborative and constructive efforts of your own team members.

"As you know, JD Investments did NOT receive a telephone call from you to privately discuss the potential affects [sic] of WIN Waste's application for a Tarping Station."

While abutters are notified by certified mail about public hearings, abutters are not entitled to telephone calls from Town staff to solicit feedback about potential effects. As noted above, JD Investments or other members of the applicant team could have, at their discretion, provided written correspondence, or sought to make verbal comments at the March 15 meeting, to the Board with any concerns you might have had about PB22-1. I will reiterate that PB22-1 was reviewed and approved (with conditions) as a minor amendment, that Board agendas and meetings are public, and that members of your client's team were in attendance at the meeting where PB22-1 was reviewed.

"Moreover, WIN Waste's Application moved through the process and obtained Board approval without issue and with little or no discussion."

I refer you to the above discussions regarding the difference between full site plan review and a minor amendment, and the obvious differences in land use and scale between the PB22-1 trailer tarping station and the PB21-29 6,000 sq. ft. marijuana retail store and medical marijuana caregiver retail store in the shoreland zone.

"Finally, your requirement that JD Investments keep you updated with the status of discussions and/or agreements between JD Investments and WIN Waste is also inappropriate."

I cannot issue *requirements* in Board reviews. I advise the Board as they review applications. Because I advise the Board, it is reasonable to *request* an update from an applicant on matters related to performance standards applicable to the Board's review, such as 45-406. Furthermore, Ambit's

engineer has already provided a status update. Reference, for example, his March 29, 2022, email on which you were copied.

“The Board is acting arbitrarily and capricious [sic] in its unfair and inequitable application of requirements, the continuous addition of new/ modified requirements and refusal to provide JD Investments with conditional approval for the Applications and the resulting blocking of JD Investments with regard to moving forward with the Building Permit process.”

Again, I refer you to the above background and summary of the Board’s review of PB21-29 to date, as well as the whole of the record of Board review, which is publicly available; the above discussions regarding the difference between full site plan review and a minor amendment; and the obvious differences in land use and scale between the PB22-1 trailer tarping station and the PB21-29 6,000 sq. ft. marijuana retail store and medical marijuana caregiver retail store in the shoreland zone.

It bears reiterating generally that the Board has reviewed your client’s Application, asked for additional information, required you to conduct a study (which the Board has the authority to require under 33-153), deemed the Application complete, scheduled a public hearing, held a public hearing, and scheduled continued review of the Application within the timeline prescribed by 33-131. Your letter fails to cite the particular requirements you believe are being unfairly and inequitably applied. If you are referring to 45-406, please explain why you believe the applicant should be exempt from that requirement. Again, it seems from recent correspondence that other members of the applicant team are rightly cognizant that 45-406 does apply to the Application.

Also, because you fail to cite specifics, I am unclear on what you mean by “new/modified requirements”. The current Town Code contains the requirements that apply to applications. Land use regulations are modified by voters at a Town Election & Referendum or Town Meeting, after review and recommendation from the Select Board and Planning Board and a public hearing. Your letter implies either that I, as Town Planner, or perhaps the Planning Board (“Board”), can unilaterally modify the Town Code. Neither implication is true.

Your claim that the Board has “refus[ed] to provide JD Investments with conditional approval for the Applications” is misleading. The Board’s review of the Application is active and ongoing. As outlined above, the Board has already deemed the Application complete, and it has set and held a public hearing. For the same reasons, your claim that the Board is “blocking... JD Investments with regard to moving forward with the Building Permit process” is false.

“As you know there are laws against such arbitrary and capricious acts that thwart property owner’s [sic] use of their property and result in damages to the property owners.”

As noted above, the Town Code specifies that all marijuana and medical marijuana uses undergo full site plan review by the Board. The Board’s review is ongoing. Again, I refer you to the above background and summary of the Board’s review of PB21-29 to date, as well as the whole of the record of Board review, which is publicly available; the above discussions regarding the difference between full site plan review and a minor amendment; and the obvious differences in land use and scale between the PB22-1 trailer tarping station and the PB21-29 6,000 sq. ft. marijuana retail store and medical marijuana caregiver retail store in the shoreland zone.

I disagree with the implication that mere site plan review by a planning board constitutes an “arbitrary and capricious act[] that thwart[s]” a property owner’s use of their property. Zoning is a legitimate police power that has existed in some form for over a century. The Board is authorized with review of development applications per Ch. 33 of the Town Code. Ch. 33 is enacted pursuant to authority vested in the town by 30-A M.R.S.A. § 3001 (33-62). If an applicant is not happy with a Board decision (once reached), they have the option to appeal that decision to the Eliot Board of Appeals via either 45-46 et seq. or 44-47 for shoreland zoning permit decisions.

“Please consider allowing these Applications to go before the Board at the next meeting, specifically April 12, 2022 and encourage the Board to grant approval for the Applications with reasonable, fair and equitable conditions as set forth on the attached Addendum A (Conditions).”

As discussed above, the Application was expected to be, and is, on the April 12 agenda. I am obligated to base my recommendation to the Board on the information presented as part of the review and applicable land use regulations.

* * *

Thank you for your time and attention to considering these clarifications on the Board’s ongoing review of your client’s Application, the progress the review has already made, the ways in which the Board has gone over and above normal effort to aid that progress, the significant workload of the Board, and the Board’s inability to rush to a decision in a way that compromises their responsibilities to provide an objective, quasi-judicial review under applicable land use regulations. Thank you also for your suggested conditions of approval. I appreciate that and other information your client’s team has provided to date to inform the Board’s review.

Please let me know if you have any further questions.

Sincerely,



Jeff Brubaker, AICP
Town Planner

Cc: Planning Board
Michael Sullivan, Town Manager
Philip Saucier, Shareholder, Bernstein Shur (Town legal counsel)
Kearsten Metz, Land Use Administrative Assistant

(attachments)

Jeff Brubaker

From: Jeff Brubaker
Sent: Monday, March 7, 2022 11:05 AM
To: John Chagnon; Jeff Brubaker
Cc: Land Use; Rebecca Brown (rebeccabrown@gpinet.com); josh@greentruckfarm.com; Michelle Grenier
Subject: RE: 16 Arc Road Revised Plans

John,

I believe the driveway question regarded whether it could be nudged north a bit (toward the ARC property) – or not -- and whether that might result in lesser impact to the wetlands.

Looking forward to discussing the DOT permit tomorrow morning.

Also, have you received your renewed OMP conditional license yet? Apologies if you emailed this and I missed it.

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Monday, March 7, 2022 9:29 AM
To: Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>; josh@greentruckfarm.com; Michelle Grenier <michelle@contactmylawyer.com>
Subject: Re: 16 Arc Road Revised Plans

Jeff,
I spoke with Kari about the meeting. I'm not sure about your comment regarding the location of the driveway. Other than explaining that the driveway needed to be expanded she didn't have any other comments. Can you please explain what the issue is?
The Traffic permit is being handled by our traffic consultant. She will be on site tomorrow to answer those questions.
John

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From: Jeff Brubaker <jbrubaker@eliotme.org>
Sent: Monday, March 7, 2022 7:51:55 AM
To: John Chagnon <jrc@ambitengineering.com>
Cc: Kearsten Metz <kmetz@eliotme.org>
Subject: FW: 16 Arc Road Revised Plans

Thank you, John. Forwarding to Kearsten for inclusion in the March 15 packet.

The big outstanding issue for me is traffic. Have you begun correspondence with DOT regarding your Traffic Movement Permit? Also, specifically the width of Arc Rd. which we will talk about tomorrow during our 9am site visit.

I shared your application with Win Waste Innovations for comment. Communication is ongoing with them, our CEO, and myself about their off-premise sign partially blocking ISD at the intersection (as described in your TIA).

Also, besides their native landscaping comment, can you address the ECC's comments about locating the driveway with respect to the wetlands? Steve kind of spoke to this at the meeting but I'm wondering if you could be ready to address it for the PB. Finally, as Kari forwarded Brian Burris's letter to me I will plan to include that in the PB packet.

Thanks,

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>

Sent: Friday, March 4, 2022 2:57 PM

To: Jeff Brubaker <jbrubaker@eliotme.org>; Kari Schank <kschank@yahoo.com>

Cc: Josh Seymour <josh@greentruckfarm.com>; Michelle DelMar, Business Lawyer <michelle@contactmylawyer.com>;
Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>

Subject: 16 Arc Road Revised Plans

Jeff;

Please find attached a Revised landscaping Plan for submission to the Planning Board for the Public Hearing. The revision is a result of a request from the Conservation Commission that we use only native landscaping at the site. Paper copies will be delivered Monday.

I reviewed my notes and I don't see any other plan changes as a result of the Preliminary Review by the Board. Please LMK if there is something I am missing.

Sincerely,

John Chagnon, PE, LLS
Ambit Engineering
200 Griffin Road
Unit 3
Portsmouth, NH 03801
603-430-9282 (308)
FAX 603-436-2315
jrc@ambitengineering.com

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Jeff Brubaker

From: Planner
Sent: Monday, January 3, 2022 8:02 AM
To: John Chagnon; Josh Seymour
Subject: RE: 16 Arc Road Sketch Plan Application

Good morning John and Josh and Happy New Year,

Yes, I am available to meet at 2:00pm today in person with Josh, and then, Josh, we could Zoom in my office with John at 2:30.

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Thursday, December 30, 2021 12:59 PM
To: Josh Seymour <josh@greentruckfarm.com>
Cc: Planner <planner@eliotme.org>
Subject: RE: 16 Arc Road Sketch Plan Application

Josh;
I will still be in quarantine so I will have to Zoom meet.

John Chagnon, PE, LLS
Ambit Engineering
200 Griffin Road
Unit 3
Portsmouth, NH 03801
603-430-9282 (308)
FAX 603-436-2315
jrc@ambitengineering.com

From: Josh Seymour [<mailto:josh@greentruckfarm.com>]
Sent: Thursday, December 30, 2021 11:33 AM
To: John Chagnon <jrc@ambitengineering.com>
Cc: Planner <planner@eliotme.org>
Subject: Re: 16 Arc Road Sketch Plan Application

John, thank you for your flexibility next week.

Jeff, would you be available to meet following our 2:00pm meeting on Monday? I would prefer to meet in person regarding the additional potential properties but we could follow up with a Zoom meeting with John if that is preferable.

Please let me know what works best for your schedule and I'm happy to accommodate.

Thank you,

Josh

On Thu, Dec 30, 2021 at 8:49 AM John Chagnon <jrc@ambitengineering.com> wrote:

Jeff;

Thanks for the reply. We would be pleased and appreciate a Zoom meeting to review our application for completeness and conformance. I am currently available every afternoon of next week; just let us know the time and I can set up a Zoom; or you can set it up and just send the link.

Thanks, and Happy New Year.

John Chagnon, PE, LLS

Ambit Engineering

200 Griffin Road

Unit 3

Portsmouth, NH 03801

603-430-9282 (308)

FAX 603-436-2315

jrc@ambitengineering.com

From: Planner [mailto:planner@eliotme.org]
Sent: Thursday, December 23, 2021 10:28 AM
To: John Chagnon <jrc@ambitengineering.com>
Cc: Josh Seymour <josh@greentruckfarm.com>
Subject: RE: 16 Arc Road Sketch Plan Application

John,

I'm sorry I let my response to your email slip.

You would certainly be able to submit a "full" SPR package to the Planning Board and make the case for completeness at that meeting, but I think you would want to be extra thorough in going over 33-127 to make

sure that there is no missing information, or that you would be ready to request waivers for any information you believe to be not applicable.

Among the important additions would be to include the full SPR application, ensure you have all shoreland calculations (e.g. 20% nonvegetated surface standard, which is already addressed in your SLZ app), stormwater modeling, expected trip generation, and going through all of the 33-190 standards to ensure you have addressed all applicable ones. Not a comprehensive list, however.

I suggest we meet or zoom sometime the first full week in January for an application review meeting. I am hoping to recommend agendizing for Jan. 18. I will be out for the rest of the week/holiday weekend, and in the office 2 days next week, otherwise back on Mon, 1/3/22.

Jeff

Jeff Brubaker, AICP

(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Thursday, December 9, 2021 6:38 PM
To: Planner <planner@eliotme.org>
Cc: Josh Seymour <josh@greentruckfarm.com>
Subject: RE: 16 Arc Road Sketch Plan Application

Jeff;

Understand. Then we would like to submit an updated package that would be closer to a Preliminary Submission and ask the Board to go to that step next. Your thoughts?

John Chagnon, PE, LLS

Ambit Engineering

200 Griffin Road

Unit 3

Portsmouth, NH 03801

603-430-9282 (308)

FAX 603-436-2315

jrc@ambitengineering.com

From: Planner [<mailto:planner@eliotme.org>]
Sent: Thursday, December 09, 2021 2:38 PM
To: John Chagnon <jrc@ambitengineering.com>
Cc: Josh Seymour <josh@greentruckfarm.com>
Subject: RE: 16 Arc Road Sketch Plan Application

Hi John,

Unfortunately we were not able to fit 16 Arc in on the Dec. 14 agenda. We have 2 old business items (including 1 public hearing) plus 2 new business items for application submittals from Oct. 14 and Nov. 9. Your application was timely, but we just have a bit of a backlog. Trying to get as much in as we can without overwhelming the agenda and PB members.

I expect your application would be heard (Sketch Plan Review) in January.

Jeff

Jeff Brubaker, AICP

(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Thursday, December 9, 2021 11:12 AM
To: Planner <planner@eliotme.org>
Cc: Josh Seymour <josh@greentruckfarm.com>
Subject: 16 Arc Road Sketch Plan Application

Jeff;

Did you determine if we will be on the agenda for this month's meeting?

John Chagnon, PE, LLS

Ambit Engineering

200 Griffin Road

Unit 3

Portsmouth, NH 03801

603-430-9282 (308)

FAX 603-436-2315

jrc@ambitengineering.com

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Jeff Brubaker

From: John Chagnon <jrc@ambitengineering.com>
Sent: Thursday, March 3, 2022 10:36 AM
To: Jeff Brubaker; Josh Seymour
Cc: Kearsten Metz; Rebecca Brown (rebeccabrown@gpinet.com)
Subject: RE: 16 Arc Rd

I can meet there.

John Chagnon, PE, LLS
Ambit Engineering
200 Griffin Road
Unit 3
Portsmouth, NH 03801
603-430-9282 (308)
FAX 603-436-2315
jrc@ambitengineering.com

From: Jeff Brubaker [mailto:jbrubaker@eliotme.org]
Sent: Thursday, March 03, 2022 9:47 AM
To: John Chagnon <jrc@ambitengineering.com>; Josh Seymour <josh@greentruckfarm.com>
Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>
Subject: RE: 16 Arc Rd

I won't be at my office that day. I will be working remotely. To clarify I was hoping we could meet on Arc Rd. by the proposed development driveway to talk about the road width, traffic, and perhaps conduct field measurements of the road width at a few point. All – let me know if that works for you.

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Wednesday, March 2, 2022 4:42 PM
To: Jeff Brubaker <jbrubaker@eliotme.org>; Josh Seymour <josh@greentruckfarm.com>
Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>
Subject: RE: 16 Arc Rd

See you than at your office.

John Chagnon, PE, LLS
Ambit Engineering
200 Griffin Road
Unit 3
Portsmouth, NH 03801
603-430-9282 (308)
FAX 603-436-2315
jrc@ambitengineering.com

From: Jeff Brubaker [<mailto:jbrubaker@eliotme.org>]

Sent: Wednesday, March 02, 2022 4:21 PM

To: John Chagnon <jrc@ambitengineering.com>; Josh Seymour <josh@greentruckfarm.com>

Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>

Subject: RE: 16 Arc Rd

Yes, that works for me.

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>

Sent: Wednesday, March 2, 2022 3:29 PM

To: Jeff Brubaker <jbrubaker@eliotme.org>; Josh Seymour <josh@greentruckfarm.com>

Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>

Subject: RE: 16 Arc Rd

Jeff;

I am currently available Tuesday at 9 AM to meet, if that works for you.

John Chagnon, PE, LLS
Ambit Engineering
200 Griffin Road
Unit 3
Portsmouth, NH 03801
603-430-9282 (308)
FAX 603-436-2315
jrc@ambitengineering.com

From: Jeff Brubaker [<mailto:jbrubaker@eliotme.org>]

Sent: Wednesday, March 02, 2022 2:53 PM

To: John Chagnon <jrc@ambitengineering.com>; Josh Seymour <josh@greentruckfarm.com>

Cc: Kearsten Metz <kmetz@eliotme.org>

Subject: 16 Arc Rd

John and Josh,

Is there a time we could meet on Arc Rd. by the proposed development entrance sometime tomorrow, or next Monday or Tuesday? I'd like to look more closely at road width and discuss the TIA findings.

Also, do you anticipate any updates or additional submittals for the March 15 public hearing? Those should be in to our office (and sent electronically) by Monday COB so they can be reviewed and get into the packet.

FYI, I'll be on vacation next Wednesday, 3/9, through the morning of 3/15, so any development review aspects you'd like to discuss with me should happen before next Wednesday.

Thanks,
Jeff

Jeff Brubaker, AICP
Town Planner

Town of Eliot
(207) 439-1817 x112

Office Hours: Mon-Thurs, 8:30am-3:30pm walk-in, 7:00am-5:00pm by appointment

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Jeff Brubaker

From: Jeff Brubaker
Sent: Thursday, March 31, 2022 9:20 AM
To: 'Susannah Theriault'; Rebecca Brown
Subject: RE: 16 Arc Road Revised Plans


Sounds good, thanks.

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Susannah Theriault <stheriault@gpinet.com>
Sent: Thursday, March 31, 2022 9:10 AM
To: Jeff Brubaker <jbrubaker@eliotme.org>; Rebecca Brown <rebeccabrown@gpinet.com>
Subject: RE: 16 Arc Road Revised Plans

Yes, it is still being finalized, but I will send over as soon as it is ready!

Thank you,
Susie

 Susannah E. Theriault, P.E.
d 978.570.2982
An Equal Opportunity Employer


From: Jeff Brubaker <jbrubaker@eliotme.org>
Sent: Thursday, March 31, 2022 9:08 AM
To: Susannah Theriault <stheriault@gpinet.com>; Rebecca Brown <rebeccabrown@gpinet.com>
Subject: RE: 16 Arc Road Revised Plans

Yeah, can you send the PDF so I can review first? Maybe there's a way we can have less than 360 double-sided pages printed.

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Susannah Theriault <stheriault@gpinet.com>
Sent: Thursday, March 31, 2022 9:04 AM
To: Jeff Brubaker <jbrubaker@eliotme.org>; Rebecca Brown <rebeccabrown@gpinet.com>
Subject: RE: 16 Arc Road Revised Plans

It does not include the TIA. Would you still like 10 copies? We can send you a PDF version as well.

 Susannah E. Theriault, P.E.
d 978.570.2982
An Equal Opportunity Employer

From: Jeff Brubaker <jbrubaker@eliotme.org>
Sent: Thursday, March 31, 2022 9:00 AM

To: Susannah Theriault <stheriault@gpinet.com>; Rebecca Brown <rebeccabrown@gpinet.com>

Subject: RE: 16 Arc Road Revised Plans

Does that include the TIA itself? If so, that was previously shared with the Planning Board and can be omitted.

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Susannah Theriault <stheriault@gpinet.com>

Sent: Thursday, March 31, 2022 8:59 AM

To: Jeff Brubaker <jbrubaker@eliotme.org>; Rebecca Brown <rebeccabrown@gpinet.com>

Subject: RE: 16 Arc Road Revised Plans

The application package is 72 pages.

GPI Susannah E. Theriault, P.E.
d 978.570.2982
An Equal Opportunity Employer

From: Jeff Brubaker <jbrubaker@eliotme.org>

Sent: Thursday, March 31, 2022 8:57 AM

To: Susannah Theriault <stheriault@gpinet.com>; Rebecca Brown <rebeccabrown@gpinet.com>

Subject: RE: 16 Arc Road Revised Plans

Good morning Susie,

We typically need 10. How many pages is the app?

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Susannah Theriault <stheriault@gpinet.com>

Sent: Thursday, March 31, 2022 8:55 AM

To: Jeff Brubaker <jbrubaker@eliotme.org>; Rebecca Brown <rebeccabrown@gpinet.com>

Subject: RE: 16 Arc Road Revised Plans

Hi Jeff,

We are wrapping up our TMP Application for the 16 Arc Road project and I was wondering how many hard copies the Town will need.

Thank you!
Susie

GPI Susannah E. Theriault, P.E.
d 978.570.2982
An Equal Opportunity Employer

From: Jeff Brubaker <jbrubaker@eliotme.org>

Sent: Thursday, March 17, 2022 3:45 PM

To: Rebecca Brown <rebeccabrown@gpinet.com>
Cc: Susannah Theriault <stheriault@gpinet.com>
Subject: RE: 16 Arc Road Revised Plans

438 HL Dow/Heritage Auto did not. I'm looking for the information for 505 HL Dow, but I don't believe it would be many trips. That approval was for adult use marijuana manufacturing only, with 15 employees total.

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Rebecca Brown <rebeccabrown@gpinet.com>
Sent: Thursday, March 17, 2022 9:54 AM
To: Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Susannah Theriault <stheriault@gpinet.com>
Subject: RE: 16 Arc Road Revised Plans

Hi Jeff,

Thank you for this information. Do you have any details on the size of the two developments? Did either of these developments prepare any type of traffic analysis?

Thank you.

GPI Rebecca Brown, P.E.
d 603.766.5223 | c 603.370.8532
An Equal Opportunity Employer

From: Jeff Brubaker <jbrubaker@eliotme.org>
Sent: Tuesday, March 15, 2022 6:33 PM
To: Rebecca Brown <rebeccabrown@gpinet.com>
Cc: Susannah Theriault <stheriault@gpinet.com>
Subject: RE: 16 Arc Road Revised Plans

Hi Rebecca,

Nice to meet you in person as well. The only other projects in the vicinity I can think of are 505 HL Dow Hwy – Sweet Dirt's Marijuana Manufacturing Facility, currently under construction, and 438 HL Dow – at the corner of Arc rd. and Route 236 – Heritage Auto has recently been approved to renovate to include 2 commercial rental units.

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Rebecca Brown <rebeccabrown@gpinet.com>
Sent: Wednesday, March 9, 2022 9:48 AM
To: Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Susannah Theriault <stheriault@gpinet.com>
Subject: RE: 16 Arc Road Revised Plans

Hi Jeff,

It was nice to meet you in person yesterday. During our discussions, you mentioned the project to add a tarping station to the waste facility adjacent to our site. One of the items that we need to include in the MaineDOT TMP Application is a list of any projects that have been approved or are proposed in the surrounding area that might add traffic to Route 236 near Arc Road. Other than the tarping station, are you aware of any other projects that have been approved or proposed that we should include?

Thank you.



From: Jeff Brubaker <jbrubaker@eliotme.org>
Sent: Monday, March 7, 2022 11:05 AM
To: John Chagnon <jrc@ambitengineering.com>; Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown <rebeccabrown@gpinet.com>; josh@greentruckfarm.com;
Michelle Grenier <michelle@contactmylawyer.com>
Subject: RE: 16 Arc Road Revised Plans

John,

I believe the driveway question regarded whether it could be nudged north a bit (toward the ARC property) – or not -- and whether that might result in lesser impact to the wetlands.

Looking forward to discussing the DOT permit tomorrow morning.

Also, have you received your renewed OMP conditional license yet? Apologies if you emailed this and I missed it.

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Monday, March 7, 2022 9:29 AM
To: Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (<rebeccabrown@gpinet.com> <rebeccabrown@gpinet.com>); josh@greentruckfarm.com; Michelle Grenier <michelle@contactmylawyer.com>
Subject: Re: 16 Arc Road Revised Plans

Jeff,
I spoke with Kari about the meeting. I'm not sure about your comment regarding the location of the driveway. Other than explaining that the driveway needed to be expanded she didn't have any other comments. Can you please explain what the issue is?
The Traffic permit is being handled by our traffic consultant. She will be on site tomorrow to answer those questions.
John

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From: Jeff Brubaker <jbrubaker@eliotme.org>
Sent: Monday, March 7, 2022 7:51:55 AM
To: John Chagnon <jrc@ambitengineering.com>

Cc: Kearsten Metz <kmetz@eliotme.org>

Subject: FW: 16 Arc Road Revised Plans

Thank you, John. Forwarding to Kearsten for inclusion in the March 15 packet.

The big outstanding issue for me is traffic. Have you begun correspondence with DOT regarding your Traffic Movement Permit? Also, specifically the width of Arc Rd. which we will talk about tomorrow during our 9am site visit.

I shared your application with Win Waste Innovations for comment. Communication is ongoing with them, our CEO, and myself about their off-premise sign partially blocking ISD at the intersection (as described in your TIA).

Also, besides their native landscaping comment, can you address the ECC's comments about locating the driveway with respect to the wetlands? Steve kind of spoke to this at the meeting but I'm wondering if you could be ready to address it for the PB. Finally, as Kari forwarded Brian Burris's letter to me I will plan to include that in the PB packet.

Thanks,

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>

Sent: Friday, March 4, 2022 2:57 PM

To: Jeff Brubaker <jbrubaker@eliotme.org>; Kari Schank <kschank@yahoo.com>

Cc: Josh Seymour <josh@greentruckfarm.com>; Michelle DelMar, Business Lawyer <michelle@contactmylawyer.com>; Rebecca Brown (<rebeccabrown@gpinet.com>) <rebeccabrown@gpinet.com>

Subject: 16 Arc Road Revised Plans

Jeff;
Please find attached a Revised landscaping Plan for submission to the Planning Board for the Public Hearing. The revision is a result of a request from the Conservation Commission that we use only native landscaping at the site. Paper copies will be delivered Monday.

I reviewed my notes and I don't see any other plan changes as a result of the Preliminary Review by the Board. Please LMK if there is something I am missing.

Sincerely,

John Chagnon, PE, LLS
Ambit Engineering
200 Griffin Road
Unit 3
Portsmouth, NH 03801
603-430-9282 (308)
FAX 603-436-2315
jrc@ambitengineering.com

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Jeff Brubaker

From: Matt Hughes <mhughes@win-waste.com>
Sent: Thursday, March 3, 2022 4:53 PM
To: Jeff Brubaker
Cc: Adam Brickett
Subject: Re: 22 Arc Rd application - Trailer tarping station

Thanks Jeff.

Matt Hughes
Director, Environmental Compliance
WIN Waste Innovations

On Mar 3, 2022, at 16:08, Jeff Brubaker <jbrubaker@eliotme.org> wrote:

*** EXTERNAL email. Please be cautious and evaluate before you click on links, open attachments, or provide credentials. ***

Matt,

Thank you for confirming regarding the flight path and runway.

You can make the request for the minor amendment at the meeting. I will also speak to that in my staff report.

You can find more about the proposed marijuana retail store here:

https://www.eliotmaine.org/sites/g/files/vyhlf4386/f/pages/pb_packet_-_2-15-22.pdf. Starts on p. 87.

If you have any specific questions about it I can try to answer them. However, I did want to call your attention to a finding in their Traffic Impact Assessment about Intersection Sight Distance at Route 236: "The ISD looking east (left) exiting Arc Road onto Harold Dow Highway (Route 236) is partially obstructed by the existing SWS / ARC sign on the northeast corner of the intersection when sight lines are measured 14.5 feet from the edge of the travelway."

I have spoken to our Code Enforcement Officer about the sign and I believe she will be following up with you on that soon.

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: Matt Hughes <mhughes@win-waste.com>
Sent: Thursday, March 3, 2022 2:48 PM
To: Jeff Brubaker <jbrubaker@eliotme.org>
Cc: Adam Brickett <abrickett@win-waste.com>
Subject: RE: 22 Arc Rd application - Trailer tarping station

Jeff:

The tarping station will not have any impact on the airport for the reason you state, it is well below the flight path of any plane as it relates to the airport.

Do I make the request for a minor modification when this comes up in the meeting or is this something to file ahead of time?

If you can share the current info on the retail store at 16 Arc Rd that would be great.

I am told that our sign vendor did get with the Code Enforcement Officer last fall. I will note that the sign footprint is what it was before the change in the graphics.

Thanks.



PERFORMANCE FOR THE PLANET

Matt Hughes | Director, Environmental Compliance

Tel 603.929.3328 | Cell 603.303.0721
90 Arboretum Drive, Suite 300 | Portsmouth, NH 03801
www.win-waste.com



We have rebranded as WIN Waste Innovations! Please help us stay connected by notifying your IT department and/or email company to whitelist our new domain name (DNS) win-waste.com, effective immediately.



From: Jeff Brubaker <jbrubaker@eliotme.org>
Sent: Thursday, March 3, 2022 13:00
To: Matt Hughes <mhughes@win-waste.com>
Subject: 22 Arc Rd application - Trailer tarping station

You don't often get email from jbrubaker@eliotme.org. [Learn why this is important](#)

*** EXTERNAL email. Please be cautious and evaluate before you click on links, open attachments, or provide credentials. ***

Good afternoon Matt,

Regarding your Eliot Planning Board application, are you (or designated representative) able to present this to the Planning Board meeting on Tuesday, March 15? The meeting starts at 7:00pm.

I just have a few review comments and questions:

- Do you expect any impact on the adjacent runway? I assume not, since the station will only be 10 ft. off the ground and based on the topography, but I wanted to confirm
- You have the opportunity to request a "minor amendment" from the Board, which would allow them to approve that same night if they believe the change is minor
- We are also reviewing an application for a marijuana retail store at 16 Arc Rd. Would Win Waste/Wheelabrator have any comments on that or like to get more info? (e.g. about projected traffic on Arc Rd.)
- Have you been in touch with our Code Enforcement Officer about the Win Waste sign on Route 236?

Thank you,

Jeff Brubaker, AICP
Town Planner
Town of Eliot
(207) 439-1817 x112

Office Hours: Mon-Thurs, 8:30am-3:30pm walk-in, 7:00am-5:00pm by appointment

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Jeff Brubaker

From: Jeff Brubaker
Sent: Tuesday, March 29, 2022 8:59 AM
To: 'John Chagnon'; Matt Hughes
Cc: Kearsten Metz; Rebecca Brown (rebeccabrown@gpinet.com); josh@greentruckfarm.com; Michelle Grenier
Subject: RE: 16 Arc Road Revised Plans

Thank you, John (and Matt). I'm encouraged by this scope related to addressing the [Section 45-406 – Traffic](#) performance standard.

Please provide as much info as possible on the status of this framework, your and WIN's discussions, and the TMP permit/scoping by April 5, so it can be included in the April 12 Planning Board packet. Is DOT aware of plans for the Route 236 culvert?

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112

From: John Chagnon <jrc@ambitengineering.com>
Sent: Tuesday, March 29, 2022 7:59 AM
To: Jeff Brubaker <jbrubaker@eliotme.org>; Matt Hughes <mhughes@win-waste.com>
Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>; josh@greentruckfarm.com; Michelle Grenier <michelle@contactmylawyer.com>
Subject: RE: 16 Arc Road Revised Plans

Jeff;
We are in discussions with the Win Waste team. Please let me frame what I believe is appropriate in regards to the application before the Board as it regards this issue. We plan to work on a framework of agreement regarding the condition of the existing road which will involve **repair of pavement, repair of shoulders, and repair of the culvert at Route 236**. Please confirm that this scope covers your concerns.

I will let Rebecca Brown, our traffic engineer, update you on the TMP at the appropriate time.

John Chagnon, PE, LLS
Ambit Engineering
200 Griffin Road
Unit 3
Portsmouth, NH 03801
603-430-9282 (308)
FAX 603-436-2315
jrc@ambitengineering.com

From: Jeff Brubaker [<mailto:jbrubaker@eliotme.org>]
Sent: Monday, March 28, 2022 1:05 PM
To: John Chagnon <jrc@ambitengineering.com>
Cc: Kearsten Metz <kmetz@eliotme.org>; Rebecca Brown (rebeccabrown@gpinet.com) <rebeccabrown@gpinet.com>;

josh@greentruckfarm.com; Michelle Grenier <michelle@contactmylawyer.com>

Subject: RE: 16 Arc Road Revised Plans

All,

Are there any updates on your discussions with WIN Waste about Arc Rd. or on the DOT Traffic Movement Permit?

Thanks,

Jeff

Jeff Brubaker, AICP
(207) 439-1817 x112