

# TOWN OF ELIOT, MAINE

## PLANNING BOARD AGENDA

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

DATE: Tuesday, June 7<sup>th</sup>, 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) April 12, 2022 ~ May 17<sup>th</sup>, 2022 – if available
- 6) **NOTICE OF DECISION**
- 7) **PUBLIC HEARING**
- 8) **NEW BUSINESS**
  - a) Climate Resilience Partnership
  - b) November 2022 Ordinance Amendments
    1. Erosion & Sedimentation Control
    2. Fees
    3. Event Centers
  - c) Planning Board Ordinance Subcommittee
- 9) **OLD BUSINESS**
  - a) Comprehensive Plan Update
- 10) **CORRESPONDENCE**
- 11) **SET AGENDA AND DATE FOR NEXT MEETING**
  - a) June 21<sup>st</sup>, 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](http://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: **822 8635 8986 #**
  2. When prompted to enter Attendee ID **press #**
  3. When prompted enter meeting password: **715512 #**
- 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](http://eliotmaine.org/planning-board). Town Hall is accessible for persons with disabilities.

1 **ITEM 1 - ROLL CALL**

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

5  
6 Also Present: Jeff Brubaker, Town Planner.

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

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

12  
13 **ITEM 3 – MOMENT OF SILENCE**

14  
15 Note: Ms. Braun said that 22 Arc Road would be taken first under New Business.

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

18  
19 There was no public input.

20  
21 **ITEM 5 – REVIEW AND APPROVE MINUTES**

22  
23 **Mr. Latter moved, second by Ms. Crichton, to approve the minutes of March 1,**  
24 **2022, as amended.**

25 **VOTE**

26 **5-0**

27 **Motion approved**

28 **ITEM 6 – NOTICE OF DECISION**

29  
30 There were no Decision Letters.

31  
32 **ITEM 7 – PUBLIC HEARING**

33  
34 There were no public hearings.

35  
36 **ITEM 8 – NEW BUSINESS**

37  
38 **A. 22 Arc Road (Map 46/Lot 5), PB22-8: Site Plan Amendment – Trailer Tarping**  
39 **Station.**

40  
41 **Received: April 11, 2022**

42 **1<sup>st</sup> Heard: April 19, 2022 (site plan amendment review/minor amendment)**

43 **Site Walk: N/A**

44 **Approval: April 19, 2022**

45  
46 Mr. (Matthew) Hughes, WIN Waste, was present for this application.

47  
48 Mr. Hughes said that, as you recall, with the original tarping station we had gone for  
49 approval last month. After we submitted it, our engineers were looking at it and came up  
50 with a slightly better location. I submitted the drawing to the Planner. It's actually a  
51 better spot to put the tarping station. So, it's the same equipment, no interference with the  
52 airport, and moved just slightly south closer to one of our buildings. Also, there is a wider  
53 right-of-way between the side of the road and the building. I've also submitted that to the  
54 Fire Chief for his input ahead of time.

55  
56 Ms. Crichton asked if the applicant paid the application fee.

57  
58 Mr. Hughes said that we paid the original one. I've got a check request submitted for the  
59 second one but I'm not sure I've got the second one back to you, yet. I didn't get a  
60 chance to check on that today.

61  
62 Ms. Braun asked if Mr. Hughes had heard back from the Fire Chief.

63  
64 Mr. Hughes said that I have not.

65  
66 Ms. Braun asked if Mr. Hughes thought he would have any issues with this.

67  
68 Mr. Hughes said that I do not. He came out and looked at where we originally proposed  
69 to put it and thought it was okay. This actually has more space than where we were going  
70 to originally put it so I don't think he's going to have a problem with it but I have to  
71 follow up with him. I'll get that nailed down.

72  
73 Ms. Braun asked for feedback from the PB.

74  
75 Mr. Leathe was good with the change.

76  
77 Ms. Bennett said that I like this better than what we approved.

78  
79 Ms. Braun agreed.

80  
81 All PB members agreed.

82  
83 Ms. Braun said that the Chair would accept a motion.

84  
85 **Mr. Leathe moved, second by Mr. Latter, that the Planning Board approve PB22-8**  
86 **as a Minor Site Plan Amendment and Change of Use to add a trailer tarping station**  
87 **at 22 Arc Road at the relocated location relative to PB22-1. The Planning Board**  
88 **finds that the proposed revisions are minor and do not result in any substantial**  
89 **changes to the approved development or further impact abutters, with the following**  
90 **conditions of approval:**

91 **1. The property may be developed and used only in accordance with the plans,**  
92 **documents, material submitted, and representations of the applicant made to the**



139 Mr. Popescu, Cedar Road, said that I am here for a change of use. I am the owner of  
140 MPCHVAC. I'm originally from eastern Europe and arrived here about seven years ago  
141 and started working. After working for many reputable businesses in the area, I decided  
142 to open my own business in 2020. We operate on the residential side doing mini-splits.  
143 The same year I opened my business I found a property in Eliot and purchased it. Living  
144 here, I realized I wanted to contribute more to the community and I wanted to expand my  
145 business in the area by gathering more customers locally, and we grew the business. I  
146 also realized that I needed to expand and, unfortunately, there are not a lot of properties  
147 for sale now-a-days. This got me started looking closer to my home, considering I have  
148 about 1.01 acres of land that has been pretty abandoned for many years. One of my first  
149 steps when I purchased the house was to clear out the whole place that was pretty much  
150 just abandoned. I realized that about 70% of the surrounding area of my property is pretty  
151 much businesses. Businesses that were probably placed in a time of less regulation, an  
152 excavation company and others, and wondered if I could open a business, as well.  
153 There's no impact but that is up to you to decide. With my business, we try to do a lot of  
154 energy efficient options, like mini-splits; that we're very focused on efficiency, high  
155 efficiency boilers, pretty much everything the State of Maine is big on; and rebates. We  
156 want to do more business in Maine and I am licensed in Maine. Right now, we are  
157 located in North Hampton. We'd like to add a new business to the Town by building a  
158 small barn construction that would fit into the dynamic that would create no impact for  
159 the surrounding neighbors and would actually create benefits for the houses that are along  
160 the remaining part of the area that is small business because it would actually hide the  
161 massive construction site and excavation site and the machinery that's already over there.  
162 Pretty much, what I have is a building and the drawings do not really show what I'm  
163 trying to do because it's just a building I could find online. Showing new pictures, this  
164 one is one that is a little more eye-pleasing and fits a little better into that area. What I  
165 have there is a 1,600 square-foot metal building. And once again, if I'm allowed to do  
166 this, I can make the building look like anything you want it to. There would be no impact  
167 to the neighbors. I have a really good relationship with all of them and I have since I  
168 moved there. I just want to open a business in the area and actually bring a business that  
169 previously was opened. Open another LLC in Maine and start servicing more of the local  
170 community. So that's why I am here today.

171  
172 Mr. Brubaker said that I think Mr. Popescu gave you a good background and talked about  
173 the project. This is the Suburban Zone. No Shoreland Zoning on the property. It's a mix  
174 of land uses but I think you can see from the information provided that there's a lot of  
175 commercial and industrial land uses around, with some residential parcels to the south.  
176 It's on Cedar Road but it's kind of where Cedar is a de facto frontage road for Route 236  
177 so it does really face Route 236. It looks out at the NB Rent, the Kubota Tractor place.  
178 Again, this is sketch plan review so there's no formal motion at this point. One of the key  
179 questions for the PB is what is the use as defined in our code. You can see in my staff  
180 report that there is a table, there, with various definitions – business office, professional  
181 office, home occupation. Mr. Popescu and I talked about this during a pre-application  
182 review. Our code is a little unclear and a little bit of a gray area on these various  
183 definitions. They all do kick back to SPR (Site Plan Review) use assuming that it's  
184 agreed upon. I do think it's reasonable, assuming it's agreed upon, that this property does

185 abut Route 236, effectively. Something for us to talk about. Other than that, I think a lot  
186 of the dimensional requirements are met based on the sketch plan Mr. Popescu provided.  
187 I have some additional information in my staff report but, with that, I will stop and happy  
188 to answer any questions.

189  
190 Ms. Crichton said that you have an existing well. Septic, and leach field. If you were to  
191 put this new building in, would you put in a new septic and well.

192  
193 Mr. Popescu said that the plan is to upgrade what is there. I know there is some talk of  
194 Route 236 sewer but I'm not making my decision on that. I would like to upgrade my  
195 leech field, which is old and outdated, that already serves the duplex at 15 Cedar Road  
196 and add a secondary tank.

197  
198 Ms. Crichton said that on your diagram it said 'new well'.

199  
200 Mr. Popescu said yes, in the back.

201  
202 Ms. Crichton asked if he was going to use it just for the building.

203  
204 Mr. Popescu said yes, just for the building. He pointed out the location of the well for his  
205 house, explaining that the excavation part of doing something like this would require  
206 clearances from the leech field.

207  
208 Ms. Crichton asked if any of these buildings are existing that you have here.

209  
210 Mr. Brubaker said that the house and garage are existing.

211  
212 Mr. Leathe said that, with the potential new building, you will go past your house, take a  
213 left-hand turn into the right-of-way, and this new building will be set back towards that  
214 far neighbor and commercial use.

215  
216 Mr. Popescu said yes, that it will block the view of several neighbors. There is a 50-foot  
217 right-of-way and enough space to build a road into my property.

218  
219 Mr. Leathe, talking to Mr. Brubaker, said that when I think about Route 236 and whether  
220 this would be on Route 236 or not, it is separated by Cedar Road and, now that I  
221 understand it better, it's towards the back of that lot which is where there's another  
222 commercial development. I'm wondering, because it's all contiguous in that one parcel, I  
223 guess it qualifies for road frontage on Route 236 but the project, itself, is not and I don't  
224 know if that matters.

225  
226 Mr. Brubaker said that I think if you look at the definition, if you look at the language in  
227 the code, it talks about if the property abuts Route 236. So, even if it's in the back portion  
228 of the property...but it seems to be a kind of reasonable interpretation either way. It just  
229 seemed to me, in this case, it seems reasonable to interpret this property effectively  
230 abutting Route 236, although others might come to another conclusion reasonably. It just

231 seemed to me that this kind of fell into the safe harbor of abutting Route 236 for this  
232 property.

233  
234 Ms. Braun said that we have to decide if this is a home business, professional office, or  
235 home occupation. We haven't determined that, as yet, unless I'm missing something.

236  
237 Mr. Brubaker said that, at this point, it's just sketch plan review so it's really informal  
238 feedback on what the use is. The final determination on what the use is happens when the  
239 PB takes an overall action on the project. I think it's good to get some initial feedback  
240 from you guys to the applicant.

241  
242 Ms. Bennett said that I'm wondering if we can ask the applicant to describe a little more  
243 what kind of business is going to happen, that is proposed in this new garage.

244  
245 Mr. Popescu said that 99% of our work is in our customer's house. The garage would  
246 mostly be for parking our two vans, stocking inventory, receive deliveries, having a place  
247 to gather. There are very few people that come and visit in any case. Usually, I go around  
248 and do the estimates; that the check is mailed. What we will be doing there is meetings,  
249 plan reviews with the crew. If there's something that needs to be designed, it will happen,  
250 but there's no environmental impact. We mostly deal with energy-efficient solutions,  
251 such as mini-splits. It's pretty much for us to have a location in Maine that would  
252 position us closer to this community, closer to the seacoast, where we already do a lot of  
253 business.

254  
255 Ms. Bennett said to correct me if I'm wrong but what I'm hearing is the structure you  
256 want to build really will be predominately a garage where you have a place to receive  
257 HVAC material, also where you can bring your two vans and keep them there. You  
258 would gather your crew to pick up materials and go over the plans and go off.

259  
260 Mr. Popescu said exactly. There will be a secretary over there working. There will be a  
261 place, once we make the place pretty, to possibly encourage some customers to deliver  
262 checks personally. People want that like they do in our office in North Hampton.

263  
264 Ms. Braun asked if the secretary would be the only employee in the office.

265  
266 Mr. Popescu said yes, and probably me.

267  
268 Ms. Braun said no other personnel.

269  
270 Mr. Popescu said no, at least not at this point but if the business grows. This is what I'm  
271 trying to see right now in determining my location because I can very well have all the  
272 staff in North Hampton. I just want to keep an organization of my business by keeping it  
273 close to my house because I'm not moving from Eliot any time soon. So, if I had it right  
274 there, it would be easier for me to control and work on my productivity; have inventory,  
275 everything shipped to Maine.

276

277 Mr. Latter said that I want to say that you've presented yourself very well. I can't  
278 imagine coming from another country, being here for seven years, and starting your own  
279 business, then trying to grow your business in a situation like this. You're to be  
280 commended. You're basically building a garage to put your stuff in. You are a tradesman,  
281 you're estimating, you have a couple crews on the road. You're not trying to put a retail  
282 showroom in. You're looking for a place to receive your stuff, put it in a truck, and send  
283 your crews out to install it.

284  
285 Mr. Popescu said exactly. In the last two years of being in business, I've only had one  
286 customer delivering a check. Sometimes they feel uncomfortable with sending that much  
287 money through the mail. I would like to put this in a good envelope that would be  
288 pleasing to me and my neighbors. I'd be able to conduct my business, everything will  
289 look better for all the neighbors around.

290  
291 Mr. Latter said that I think you've presented well. I think, in a general way, it seems to  
292 make sense. Our role now is that we have to double-check all the rules to make sure that  
293 this is, in fact, the kind of thing we can approve and allow to go forward.

294  
295 Mr. Leathe asked where the office will be.

296  
297 Mr. Popescu said that the office will most likely be above. What I envision is a big room,  
298 with two bays that you could pull the vans in, then you'd have the stairs, with a small  
299 office and a bathroom. Then below there would be shelving pretty much all the way  
300 around because there are hundreds and thousands of components needed, many of which  
301 are very small parts that we can't keep organized because we don't have enough space.  
302 That impacts productivity because the guys spend a lot of time going to the supply house  
303 and getting more stuff, or looking for stuff. By having more space to organize it, that will  
304 make our lives much easier.

305  
306 Mr. Leathe asked how long you think this facility will be available to you before it gets  
307 too small as your business continues to grow.

308  
309 Mr. Popescu said that that's a very hard question for me. I can tell you that, in the last  
310 two years, we've done more than I was expecting and I truly hope that it's going to keep  
311 like that. I'm not willing to take more risks right now with the circumstances. It's very  
312 hard to conduct an HVAC business the way it is right now with the supply chain, etc., so  
313 I can't predict where my business is going to be. I hope it's going to do as well as it's  
314 been doing so far. No one knows what can happen. Construction may stop. We do a lot of  
315 infrastructure. People may choose to repair their system versus install and our numbers  
316 will go down.

317  
318 Mr. Leathe said that the question wasn't well-phrased. But I was thinking about if you  
319 outgrew this in a few years what would you do next.

320  
321 Mr. Popescu said that, if I'm centrally located in the people's community, I'll be able to  
322 reach more people. People who feel more comfortable when they visit us. For example,



323 we get probably 80% of our customers within 15 miles of our business office. If I have a  
324 business right here then I want to incentivize the people who work in this community to  
325 go with us. Mostly because all the HVAC contractors in Eliot are trying to retire. I'm  
326 trying to step in and get those customers. If I can only do so much in Eliot, I'll have this  
327 operation in Eliot and the operation in North Hampton, and my plan is not to shut my  
328 doors in North Hampton. My plan is to expand by adding another LLC in Maine. If I  
329 outgrow this, I might have another LLC in Hampton and have it split, which many  
330 companies do.

331  
332 Mr. Leathe said that it appears to me that there isn't enough room to build a bigger  
333 building there, and I may be wrong about that. But if you were constrained by space in a  
334 fairly short period of time, ideally it would be nice to have a building that was  
335 expandable; that I'm not sure this one is. So, I sort of hate to see you get into a project  
336 like this and then, in a few years, you would have to find another space.

337  
338 Mr. Popescu said that I can tell you that we don't have any space right now. We work  
339 mostly with inventory in our vans and directly in the client houses, so, any space, even  
340 this room with shelving all around. It's not like we're storing cars. We don't need a lot of  
341 space. The items are so small you can stack them and we can probably put \$200,000  
342 worth of material in this room. All we need is a place where we can put a bunch of  
343 shelving and have product available and mostly stock that product because we're facing a  
344 big shortage of a lot of the things. I work for a company in Eliot that is a pretty big  
345 company and they work out of a space kind of like what I'm proposing here. I'm really  
346 hoping that my business just goes boom but it takes a lot of time and effort. I know, in the  
347 last two years, I'm not really willing to go at that rate because it's just too much. I want  
348 to slow down a little bit, perfect our operation, and go from there.

349  
350 Ms. Crichton asked, regarding the ROW, if we need something from abutters.

351  
352 Mr. Brubaker said that that is referenced in your deed so I would just review the deed. He  
353 did include it in his application packet and is easy enough to print off for the Registry of  
354 Deeds.

355  
356 PB members did not have it in their packets and the Planner will include for the next  
357 meeting.

358  
359 Ms. Bennett asked if we know what the square footage is of the residence.

360  
361 Mr. Popescu said that the duplex is about 2,800 square feet. I live there and rent the other  
362 side.

363  
364 Ms. Bennett said that the reason I asked is because I'm looking at this table Mr. Brubaker  
365 provided and puzzling back and forth whether this is a business office or a home office or  
366 home business, perhaps, under that. I'm also looking at home occupation. Under 'home  
367 occupation', regarding an accessory structure, if it is incidental to the residence. It seems

368 to me that if you restricted the structure to 1,500 square feet, it would still be an  
369 incidental structure to a primary structure of 2,800 square feet.

370  
371 Mr. Brubaker said that, if it is deemed a 'home occupation', and I think if you read the  
372 definition, there is some suggestion that it might be, that they could face that 25%  
373 maximum. Now that's the maximum of total area of all the structures, and there's a house  
374 and garage, so I believe the applicant would be able to maximize to the fullest extent the  
375 existing buildings or structures on the property. Then have that calculation determine the  
376 25% allowance and then that would determine the size of the garage.

377  
378 Ms. Braun asked what is the maximum height of the building. Do you know yet.

379  
380 Mr. Popescu said no more than 25 feet. But truly I would need at least 20 feet. Not  
381 anything extreme.

382  
383 Ms. Braun said that we would need to know what that is. You will need to do the  
384 calculation for lot coverage and, also, the 25% so we know what size the garage can be.  
385 The other thing is whether you propose to put a sign there.

386  
387 Mr. Popescu said no. There will probably be a small sign on the office coming from the  
388 front above the door. Something small just to identify what it is but no business sign.  
389 Nothing visible from Route 236 unless there is a requirement.

390  
391 Ms. Braun said that the Town has requirements for sign size.

392  
393 Mr. Popescu said yes but I know that I'm not going to do a sign there.

394  
395 Ms. Braun said that another thing would be buffers around the building; that you would  
396 need to buffer it from the neighbors and things like that. The other issue would be the  
397 pitch of the roof and how the water is going to be routed once it comes down –  
398 stormwater management for that water.

399  
400 Mr. Popescu said that, along the ROW, there is underground drainage already existing,  
401 pointing to the diagram to show its location. The plan is to make sure everything 'here' is  
402 cleaned out (to improve drainage), which would be better for the business on the other  
403 side of the ROW, as well. Regarding the building, I have an engineer that I will hire once  
404 I see if it's feasible to spend money and time into this project.

405  
406 Ms. Crichton said that we need the information but other than that I'm okay.

407  
408 Mr. Latter said that I don't see any reason to say don't put any more effort into this. I  
409 think this should move forward as long as we get into the details of the zoning, the rules,  
410 and the this and the that to flesh it out. I don't have any problems with this at all.

411  
412 Ms. Bennett said that I think we need to land on what sort of use we are going to  
413 characterize this before we start the site plan review. In my mind, it's kind of a

414 fascinating puzzle to fit this into our ordinance or have our ordinance guide us in this  
415 particular situation because it is Suburban but there is a lot of commercial abutting this  
416 property and surrounding very close to it. It is visible from Route 236. Cedar Road is like  
417 a little access road to Route 236, at this point, that our ordinance doesn't recognize. So,  
418 I'm just puzzling back and forth whether to treat this as a business office or a home  
419 occupation. Mr. Brubaker, do you have any thoughts as to which one gives us more or  
420 less latitude.

421  
422 Mr. Brubaker said the business office, or professional office, have the same allowability  
423 in Chapter 45. That would give the applicant more latitude with regard to certain size  
424 questions. The home occupation definition would give, I think, a moderate amount of  
425 really good latitude but we may want to talk openly about this at the meeting because, if  
426 it is classified as a home occupation, one of the standards that the PB has alluded to is  
427 that there is a 25% area maximum and that might mean a slightly smaller garage. The  
428 other one that I noticed was a 5-employee maximum. You may want to express that you  
429 have concerns about either of those if the PB goes in that direction.

430  
431 Mr. Popescu said that right now, including me, it's five of us. I would prefer business  
432 office if there is a path there. I would take all the steps necessary to get there. That's why  
433 I'm trying to be transparent and see if it's even possible before I put in more effort. My  
434 drawings for the dimensions of the building are based on the 15% coverage, that or less.  
435 I'm not an engineer and just put this together to see if there's even a chance. Like I said,  
436 I'm not trying to create a mega structure. We mostly work with small stuff. I much prefer  
437 to be a business office. We have five employees. If you ask me in ten years where I want  
438 to be, I want to tell you I want to have 30 employees but most likely I'm going to have  
439 12-15; that that is what the regular growth curve on those businesses shows; and this  
440 project would still be a place that would serve the future.

441  
442 Mr. Latter asked if there were any road blocks that would deter a business office. Is there  
443 anything that would prohibit this project, moving forward, to designating it a business  
444 office as opposed to a home office.

445  
446 Mr. Brubaker said that, if it's a business office or a conventional office, those both have  
447 very general definitions, as you can see, and they also have the same zoning allowability.  
448 Nothing jumps out at me to say that you couldn't go down that road with either of those  
449 definitions. One thing to consider is that our code does allow for the same lot to have two  
450 principal uses. So, it is at least possible under the definition in our code to have a single  
451 lot that has a principal residential use and also a principal professional office use. Then  
452 again, the home occupation definition also seems like a good fit. So, this is one of those  
453 challenges for the PB, and myself and everybody, to kind of work through with these  
454 series of vague definitions what it fits into. Because the code does allow for the same lot  
455 to have more than one principal use nothing jumps out at me right now to say that he  
456 couldn't make the case for a professional office or a business office.

457  
458 Mr. Latter said as it exists, it's a duplex. So, it's not as if it's a residential building is  
459 exclusively his. It's partially his and partially an investment.

460  
461 Ms. Braun asked if you wouldn't have to count the whole building for lot coverage.

462  
463 Mr. Brubaker said that he could list the total area for all buildings. So, total area of  
464 finished and unfinished space of the duplex, the total area of the garage, and then the total  
465 area of the proposed business garage. Based on those three numbers, calculate whether  
466 the business garage is 25%, or more, of that; that you would need to stay at 25%, or less.  
467 Separately from that, he has and he's already presented, made a case, that he has 15% lot  
468 coverage standard, which I think he's shown he's intending to meet. A lot of things to  
469 think about. It's one of those things where, if I had to choose one, it seems like it would  
470 be a home occupation but I can't sit here right now and say it clearly isn't a professional  
471 office or business.

472  
473 Ms. Braun said that, if we went with professional office building, it would still be 25%.

474  
475 Mr. Brubaker said no. That 25% only applies to a home occupation. It would basically be  
476 that you would still have to meet the 15% lot coverage standard but would not be  
477 encumbered by that 25% area standard nor the 5-employee maximum of a home  
478 occupation.

479  
480 Ms. Bennett said that I'm actually leaning towards business office because that captures  
481 those professional without sort of a narrow definition of professional that is in the  
482 professional office definition and the clerical duties. The applicant wants to have a  
483 secretary so, in my mind, it's a business office location. In my experience in applying that  
484 has been you look at people who are a chiropractor or a lawyer or bookkeeper. That is  
485 sort of how that's been interpreted in the past because it's primarily the training or  
486 knowledge of; that what they're selling is their training and knowledge.

487  
488 Mr. Popescu said that HVAC requires a lot of licensing and there's a lot of regulation  
489 behind that. When I was in business school in Portugal, I thought I had to go to school in  
490 America for another three years to even be able to hold the licenses that allow me to run  
491 gas in the State of Maine, which is one of the hardest licenses to get. A lot of people  
492 don't have it. There are other licenses that are accepted by Efficiency Maine in order to  
493 conduct business in Maine. So, we do have a lot of training that we have to go through.  
494 Our business is not entirely assembling things but the knowledge behind assembling  
495 things is what makes it different. A homeowner can assemble things and then they call us  
496 to fix it because they don't have the knowledge.

497  
498 Ms. Bennett agreed that the applicant is a licensed professional within his trade and I  
499 think that business office kind if captures that in a general sense and would allow the  
500 clerical component we are looking at.

501  
502 Mr. Brubaker said that that gels with...I had a phone conversation with Attorney Saucier  
503 today and he said similar – professional office – more for that face for the customer  
504 you're facing – dentist, chiropractor. So, business office in that sense would make more  
505 sense. He also said that we should change the code.

506  
507 Ms. Braun asked if everyone agreed that it should be consider business office as opposed  
508 to home occupation.

509  
510 The PB agreed that this would be considered a ‘business office’.

511  
512 Ms. Braun said that we will need all the information we have asked for and that this will  
513 go to full site plan review. She asked Mr. Brubaker to work with the applicant and put it  
514 on the schedule when it is ready.

515  
516 Ms. Bennett questioned whether they had enough information at this stage.

517  
518 Mr. Brubaker reviewed what had been submitted and discussed saying that I think that is  
519 pretty good information at this level. A quirk in our code is that Chapter 33 doesn’t  
520 require approval of a sketch plan for a non-subdivision sketch plan.

521  
522 **C. 0 Harold L. Dow Highway/Pine Tree Business Park (Map 29/Lot 31), PB21-35: Site**  
523 **Plan Amendment/Review and Change of Use – Adult Use Marijuana Retail Store –**  
524 **Sketch Plan Review.**

525  
526 **Received: November 23, 2021 (original; March 28, 2022 (updated)**  
527 **1<sup>st</sup> Heard: April 19, 2022 (sketch plan review)**  
528 **2<sup>nd</sup> Hearing: \_\_\_\_\_, 2022 (site plan review/completeness)**  
529 **3<sup>rd</sup> Hearing: \_\_\_\_\_, 2022 (continued review)**  
530 **Public Hearing: \_\_\_\_\_, 2022**  
531 **4<sup>th</sup> Hearing: \_\_\_\_\_, 2022**  
532 **Site Walk: N/A**  
533 **Approval: \_\_\_\_\_, 2022**

534  
535 Mr. (Brian) Nielsen, E.I.T. (Attar Engineering, Inc. and Mr. (Ian) Schlotman (owner)was  
536 present for this application.

537  
538 Mr. Brubaker said that this is in the Pine Tree Business Park on Passamaquoddy Lane. It  
539 was approved under PB19-23 in June 2020 (Pine Tree Business Park) and that included  
540 nine units plus a tenth unit abutting Route 236, with the nine commercial condo units set  
541 back on this new Passamaquoddy Lane. Also, some propane storage tanks. The site is  
542 under construction and the propane tanks have been built, although Ms. Nielsen might be  
543 able to speak more to that. The proposal is an adult use marijuana retail store. You have  
544 the business representative here, Mr. Schlotman, and his conditional license is included in  
545 the packet. Again, this is sketch plan review. They did provide a Purchase & Sale  
546 Agreement. We decided to redact from the pdf version but you can see the paper copy in  
547 your packet. They’ve provided a parking calculation. Obviously, there’s a large parking  
548 pool shared by the commercial units but this particular use would require 10 spaces. I am  
549 under the belief and I think that all these marijuana retail stores should do the traffic  
550 study. That is something the PB can require with any use you believe will have a  
551 potentially significant impact on Town ways or State highways with fast moving traffic

552 but that's up to the PB. Regarding building setbacks, you can see that this building is  
553 proposed to meet the 30-foot front yard setback. It appears that when Pine Tree Business  
554 Park was initially approved, it was only held to a 20-foot setback, and that is why some  
555 buildings on the site plan are shown as still being 20 feet from Passamaquoddy Lane; that  
556 I think those are permitted. 'This' building and the adjacent building along  
557 Passamaquoddy Lane will be separated back. They have shown a diagram that shows  
558 they meet the 500-foot sensitive use setbacks from some residential lots and pretty far  
559 away from the church that is across Route 236.

560  
561 Mr. Nielsen said that the building we are proposing is a single-story, 1,374 square-foot  
562 building. It will have two employees, with the ADA parking right up front. As far as the  
563 standard marijuana setback, after everything, the only thing that was really close with the  
564 500-foot setback was the neighbor on the left, looking at the site plan. The road in is  
565 approximately 1,000 feet long and that really pushes us way out of the setback for  
566 anything off of Route 236. As far as the rest of the site plan goes, re-arranging some of  
567 the existing buildings and re-locating the existing entrance to make everything a lot safer  
568 and more feasible. I agree with the traffic study. Just with local knowledge, we've seen  
569 what happens on some busy days on Route 236. So, I think better just to get that going.

570  
571 Mr. Leathe said that I'm curious as to the status of Passamaquoddy Lane. I did notice  
572 some construction and I think about overhead power lines and underground power lines,  
573 other projects, and things of that nature. Is this well-constructed road ready to go into this  
574 project.

575  
576 Mr. Nielsen said that, currently, Passamaquoddy Lane is constructed and it has overhead  
577 power. Comes from Route 236 with overhead power lines every so often and does feed  
578 into the site. There is temporary construction power available at the site right now. I  
579 believe the water line is also in. We'll have to make adjustments to that water line right as  
580 it comes in. Other parts of the site that are constructed: all of the parking is constructed,  
581 the propane tanks are constructed. The foundation of Building #4 is currently in but no  
582 other building foundations are in. The large wet pond at the bottom of the site is there.

583  
584 Mr. Latter asked if there were any retail uses in this when it was originally approved.

585  
586 Ms. Braun said no. The owner said he was going to sell as people wanted them.

587  
588 Mr. Nielsen added a minor correction. There was one space. It is a disjointed site.  
589 Building #1 at the front has some space dedicated to retail.

590  
591 Ms. Crichton said that you are going to be strictly Building 2B.

592  
593 Mr. Nielsen said yes.

594  
595 Ms. Crichton asked if you are purchasing that or leasing it.

596

597 Mr. Schlotman said that it will be purchased. It almost looks like it's two buildings on it,  
598 there, so the both of those buildings are part of the same pad.

599  
600 Ms. Crichton asked if there was a usage to the second building, yet.

601  
602 Mr. Schlotman said hopefully, if things go well, there will potentially be a grow there as  
603 part of the land use, as well. One step at a time here.

604  
605 Mr. Nielsen said that that potential grow is not part of this application.

606  
607 Ms. Bennett said that Building 2A you may acquire, as well, or build out.

608  
609 Mr. Schlotman said yes, that it's part of the same pad. There is nothing built.

610  
611 Ms. Bennett said you are purchasing the pad and you have the possibility with 2A.

612  
613 Mr. Schlotman said yes.

614  
615 Ms. Braun asked about the performance standards.

616  
617 Mr. Nielsen said, regarding buffering, we'll add some landscaping around the foundation  
618 once the final building design is good to go. So, as part of the site plan application, we  
619 will do foundation plantings. The remaining buffering will be 'as approved'. We will  
620 adjust the lighting plan, especially to comply with the State security rules around  
621 marijuana. You have to have lighting at all entrances and dumpsters, all your security  
622 areas lit. That will all be in compliance.

623  
624 Ms. Braun asked about hours of operation.

625  
626 Mr. Schlotman said that it will be 9AM to 9PM, seven days a week.

627  
628 Ms. Braun asked if I could ask a question that has nothing to do with this application but  
629 I'm curious. Why this site.

630  
631 Mr. Schlotman said that I was basically looking in southern Maine. I tried to start  
632 something similar to this in Massachusetts, went through a few meetings, and it was  
633 much more of a higher money thing to start going down there so it kind of fell through,  
634 and there were a lot of other hurdles. I always wanted to come to Maine but I just didn't  
635 think, with the money and everything, it would be worthwhile up here until I realized that  
636 southern Maine, and particularly Eliot, was a great spot for it. So, I was just scouring the  
637 area all the time and kind of fell on this. It wasn't originally going to work because there  
638 were some buffering issues. The original lot was actually all by **Passamaquoddy** there and  
639 the road was in the perfect spot for a 500-foot buffer but it was almost like jammed in  
640 there. So, we came up with this idea and it meshed better. Mike Estes (landowner) came  
641 up with it. He actually liked the idea because he thought it made a lot of sense to do this

642 in general just based on the way the road comes in. It's a much straighter shot to get into  
643 that business park where before it was a little bit of a wrap-around.

644  
645 Ms. Braun said that it seems it is off the beaten track.

646  
647 Mr. Schlotman said that it's really not too bad. I think with internet now I don't think it's  
648 going to be too hard to find. I think it's just marketing.

649  
650 Ms. Braun reiterated that it was just curiosity.

651  
652 Mr. Schlotman said that I'm happy to talk; that I'm excited about this.

653  
654 Ms. Braun said that Mr. Nielsen has already agreed to the traffic study. Is that alright  
655 with you (Mr. Schlotman).

656  
657 Mr. Schlotman said that that is the first that I've thought about this because there was  
658 already a store there and I didn't think it would be too big a deal. I don't know what a  
659 traffic study entails.

660  
661 Ms. Braun said that Mr. Nielsen can tell you about that.

662  
663 Mr. Nielsen said that we will also have to talk about to what level that needs to occur, as  
664 well, because there's a difference between a trip generation to check that it's reasonable  
665 or a full-on traffic study.

666  
667 Mr. Brubaker said that I would just say that §33-153 has some of the parameters for what  
668 that would look like.

669  
670 Ms. Braun said to take a look at that and decide but, as far as I'm concerned, that's a must  
671 to have.

672  
673 Mr. Latter asked if this pad could be subdivided or do we care. Could 2A and 2B be  
674 separated. Could you sell 2A.

675  
676 Mr. Schlotman said that I don't believe so.

677  
678 Mr. Nielsen said that is more of a legal question. I believe it will be essentially business  
679 condos so they will act as separate properties. So, depending on what agreement Mr.  
680 Schlotman and Mr. Estes come up with. I don't think there's any restriction on that as  
681 long as it meshes in with our site plan approvals.

682  
683 Mr. Latter said that that was the second part of my question, do we care, and we may not.

684  
685 Mr. Brubaker said that that is my understanding of it, too. I wasn't the Planner when it  
686 was initially approved but it is business condos. Essentially Mr. Estes owns the land and  
687 then sells the pads/units.



688  
689 Ms. Crichton said that you have Building 2B and you have four spaces and a handicap  
690 spot. Is that correct.  
691  
692 Mr. Nielsen said yes.  
693  
694 Ms. Crichton asked, if you do something with the other building, is there enough room  
695 for parking spaces for that other building.  
696  
697 Mr. Nielsen said that that is current approved uses, whether commercial, general, or  
698 warehousing, it does have enough spaces. If there were to be another type of use  
699 proposed, for instance a retail or if we did go for a grow facility. A grow facility  
700 definitely has enough spaces because that's a per employee and square footage and you  
701 don't have too many employees. So, long story short, it depends on what use you want to  
702 get approved there. Currently, it does have enough.  
703  
704 Ms. Crichton asked if they would have access to any of these other parking spaces.  
705  
706 Mr. Nielsen said that, to my knowledge, the parking spaces aren't designated. I believe  
707 that customers coming in would have access to those spaces.  
708  
709 Ms. Crichton asked if these buildings are already purchased.  
710  
711 Mr. Nielsen said no.  
712  
713 Ms. Crichton said that they're going to be office condos or living condos.  
714  
715 Mr. Nielsen said there would be no residential on the site.  
716  
717 Mr. Nielsen said that the grow facility is not a part of this application.  
718  
719 Ms. Crichton asked if there was going to be a dumpster.  
720  
721 Mr. Nielsen said that we will locate a secure dumpster. He reiterated that the building  
722 would be 1,370 square feet.  
723  
724 Ms. Crichton asked how many employees you will have.  
725  
726 Mr. Schlotman said not more than three but, right now, two.  
727  
728 Ms. Crichton asked if employees will park right in front where the parking spaces are.  
729  
730 Mr. Schlotman said that there is a ton of parking over there so parking really isn't an  
731 issue with this whole thing. There's actually a lot more room to build more parking spots.  
732 I don't know if that's ever going to come up in the future. As it stands with no building  
733 being sold or no other pad being sold, there's going to be that many open spots all the

734 time. I think those couple of spots for handicap parking will be saved and not have  
735 employees park right there.

736  
737 Ms. Crichton asked if this was going to be on Town sewer.

738  
739 Mr. Nielsen said eventually. Right now, there is a built system that will cover everything.  
740 The plan is to get on Town sewer once it is put in. It is on Town water.

741  
742 Mr. Brubaker said that the Town water and sewer project on Route 236 would plan to put  
743 gravity sewer down Passamaquoddy Lane. That is part of the project.

744  
745 Ms. Crichton asked about the application fee.

746  
747 Mr. Nielsen said that the sketch plan fee is paid and we will have the site plan fee in once  
748 we submit.

749  
750 Ms. Braun asked for the height of the building.

751  
752 Mr. Nielsen said that I don't think we have a chosen elevation, yet, but I will certainly  
753 comply. It's only going to be a single story.

754  
755 Ms. Braun asked about a sign.

756  
757 Mr. Brubaker said that I think there's going to be a shared sign out on Route 236 with the  
758 businesses in the Business Park.

759  
760 Mr. Brubaker said that if the sign is on-premise, and they do have some frontage on  
761 Route 236, it doesn't need to go to the Appeals Board (BOA), unless there's a sign side  
762 area. If it's off-premise, then it would need to go to the BOA.

763  
764 Ms. Braun said that there wouldn't be a sign on the outside of the building.

765  
766 Mr. Nielsen said that we'll have to work with the designer. I imagine they'll want some  
767 sort of signage on the building.

768  
769 Mr. Schlotman agreed.

770  
771 Ms. Braun said that I'm sure you know about the regulations for that.

772  
773 Mr. Nielsen said yes.

774  
775 Ms. Braun said that when you come back with the site plan, all of this will be noted on  
776 the site plan.

777  
778 Mr. Nielsen said yes.

779

780 Ms. Crichton asked if the propane tanks are just for the facility.

781

782 Mr. Nielsen said no.

783

784 Ms. Braun said that that is Estes Oil.

785

786 Mr. Leathe said that Passamaquoddy Lane is a private road.

787

788 Mr. Nielsen said yes.

789

790 Mr. Leathe asked who is responsible for the maintenance, safety, and repair, do you  
791 know.

792

793 Mr. Nielsen said that, to my knowledge, not at this point. I believe Mr. Estes and Mr.  
794 John Collard (Pollard) share that. I might be getting the name wrong. There's an owner  
795 on the other side of Passamaquoddy Lane and I believe they share ownership and  
796 maintenance.

797

798 Ms. Bennett asked if Passamaquoddy Lane go all the way around to Beech Road.

799

800 Mr. Nielsen said that it connects with Ruth Lane, which connects to Beech Road. Ruth  
801 Lane is a private access to several residences as well as HO Bouchard. I will include the  
802 documentation for ownership of Passamaquoddy Lane in the site plan.

803

804 Mr. Leathe said that I think we need a site walk.

805

806 The PB and applicant agreed.

807

808 The site walk is scheduled for May 10<sup>th</sup> at 3:15 PM. The pad will be marked off.

809

810 Ms. Braun asked for a motion to do the traffic study.

811

812 **Mr. Latter moved, second by Ms. Bennett, that the Planning Board, for application**  
813 **PB21-35, ask the applicant to provide a traffic study.**

814

815 **VOTE**

816 **5-0**

817 **Motion approved**

818

## 819 **ITEM 9 – OLD BUSINESS**

820

821 There was no Old Business.

822

823

824

825

826 **ITEM 10 – CORRESPONDENCE**

827  
828  
829  
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870

**A. Town Planner Update (written or verbal), if available.**

Mr. Brubaker said that I know that several of you are tracking the **housing bill** in the legislature. I believe it was just approved by the House.

Mr. Latter said that I believe the Senate passed it, as well.

Ms. Braun asked how that would impact us.

Mr. Brubaker said that the most recent language I saw would have some things that would require us to change our code. A requirement of two units for every lot where a single family is allowed. Basically, a pathway for approval of up to two ADUs and I think it has to be one attached and one detached. Regarding the growth area thing, I think it means only if you have a designated growth area.

Mr. Latter said that, as I understood it, we would have to designate a growth area. From what I understand from the previous master plan (Comp Plan) recommended there be one but none have been enacted.

Ms. Bennett added that, if you have a growth zone then, by law, you would be allowed to have four units (multi-family).

Ms. Braun asked if we would have to designate a growth zone.

Ms. Bennett said if you want to go forward with that. If you do create a growth zone then you would be opening up, by default/State law, for this.

Mr. Latter said that I don't believe the Town is obliged to create it but only if we were to do one, they would be able to put four units by right.

Ms. Braun said that that's a discussion point for the next Admin meeting, whether we want it or not, and the potential ordinance work.

Ms. Bennett said that the enactment timeline is July 1, 2023 so we have time.

Mr. Brubaker said that you were interested in tracking the **large Kittery development**. I did have a conversation with Adam Causey the Planning Director in Kittery and I believe their PB is going to have their next sketch plan review of the development on the 28<sup>th</sup>. I did mention to him that we may want to see if we could get a courtesy review of some sort so I'll keep you posted on that. If you're interested, you may want to check out the video or stop by there to view the sketch plan discussion. I think, tentatively, it is their April 28<sup>th</sup> meeting.

871 Ms. Braun said that they've already cleared the lot out to the turnpike. She asked if  
872 Kittery would be receptive to a courtesy review.

873  
874 Mr. Brubaker said yes; that it would just be what the timing would be and what exactly  
875 that would mean.

876  
877 Mr. Brubaker said that I do have some more information, if you want to review it at the  
878 next meeting, on the Comp Plan update.

879  
880 The PB agreed.

881  
882 Mr. Brubaker discussed two legal notes. I'll be talking about active litigation so just keep  
883 that in mind with any comments or questions you may have. We've had one PB case in  
884 litigation for awhile and that's the **21 Foxbrush** Shoreland Zoning Permit application  
885 decision. The York Superior Court did issue a ruling in the Town's favor. That has since  
886 been appealed to the State Supreme Court. Then, the **Odiorne Solar** case was appealed  
887 so we have received a copy of that appeal (York Superior Court).

888  
889 Mr. Latter said, back to the housing bill, it did pass the State Senate with a 20-13 vote but  
890 it says that more votes are necessary. That's what the local news says.

891  
892 **ITEM 11 – SET AGENDA AND DATE FOR NEXT MEETING**

893  
894  
895 The next regular Planning Board Meeting is scheduled for May 3, 2022 at 7PM.

896  
897 **ITEM 12 – ADJOURN**

898  
899 The meeting adjourned at 7:38 PM.

900  
901  
902  
903  
904 **Lissa Crichton, Secretary**  
905 **Date approved:** \_\_\_\_\_

906  
907  
908 **Respectfully submitted,**  
909  
910 **Ellen Lemire, Recording Secretary**

911  
912  
913





**COMMUNITY RESILIENCE  
PARTNERSHIP ENROLLMENT –  
KICKOFF MEETING**

**May 18, 2022**



# Community Resilience Partnership

- \$4.75 million for local, tribal, and regional grants to reduce carbon emissions and prepare for climate change impacts
- **Community action grants:** for planning and implementing climate and resilience actions
- Communities must enroll in the partnership to be eligible for grants



# CRP Enrollment Process:



## Once Joined:





# Service Provider Grant

- Grant to help your communities to enroll in CRP and apply for grants
- Budget: \$42,500, plus 15% match of SMPDC staff time
- Activities:
  - Completing required assessments
  - Community workshop to identify priority community climate and energy projects
  - Adopting a municipal resolution to join the CRP
  - Completing and submitting enrollment documentation
  - Coordinating to identify potential joint or cohort-wide projects
  - Grant application assistance for Community Action Grants



# SMPDC Service Provider Grant Timeline

Communities of Berwick, Eliot, Fryeburg, Old Orchard Beach

## Task 1

- Identify community lead
- Onboarding

## Task 2

- Community resilience self-assessment
- Review of community actions list

## Task 3

- Community resilience workshops

## Tasks 4 & 5

- List of local priority actions
- List of regional actions

*CRP Action Grant  
Deadline:  
March*

MAY

JUN

JUL

AUG

SEPT

OCT

NOV

DEC

JAN

FEB

MAR

2022

2023

*CRP Action Grant  
Deadline:  
Sept 20*

## Tasks 6 & 7

- Municipal resolution
- CRP enrollment application

## Task 8

- Apply for funding for priority projects



# Task 1 – Identify Community lead and Onboarding

- Timeline: May – June
- Activities
  - Identify community lead
  - Determine community needs for process (workshop format, educational materials)
  - Determine stakeholders for assessments and workshop





## Task 2 – Assessment and Evaluation

- Timeline: July - September
- Activities
  - Engage stakeholders for completing assessments
  - Facilitate assessment completion
  - Review and finalize assessments





## Task 3 – Community Resilience Workshop(s)

- Timeline: Late September - November
- Activities
  - Plan workshop(s) with community lead
  - Direct outreach to stakeholders
  - Deliver workshops





## Task 4 – Develop List of Priority Actions

- Timeline: December - January
- Activities
  - Develop list based on workshop
  - Organize list (difficulty, impact, funding)
  - Review and revise priority list



## Task 5 – Develop List of Cohort Actions

- Timeline: December - January
- Activities
  - Plan and facilitate meeting with community leads
  - Compile and organize list of multi-community actions
  - Review and revise priority list



## Task 6 – Passing Municipal Resolution

- Timeline: January - February
- Activities
  - Draft municipal resolution
  - Assist with bringing resolution before Town governing body





## Task 7 – Enrollment Application

- Timeline: January - February
- Activities
  - Compile enrollment documentation
  - Submit enrollment documentation



## Task 8 – Assist with funding priority projects

- Timeline: February - March
- Activities
  - Assist with identifying and applying for next round of CAGs
  - Develop/utilize list of relevant and current funding opportunities





# SMPDC Service Provider Grant Timeline

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MAR

2022

2023

*CRP Action Grant  
Deadline:  
Sept 20*

## Tasks 6 & 7

- Municipal resolution
- CRP enrollment application

## Task 8

- Apply for funding for priority projects



# Next Step

Identify **Community Lead** to support SMPDC in the enrollment process and grant activities.

➤ Purpose:

- Ensuring process is well coordinated with municipal activities, schedules, and needs
- Ensuring stakeholder/community engagement fits the needs of your community

➤ Role/responsibilities:

- Help tailor the enrollment process to the needs of your community
- Provide input and feedback on stakeholder and community engagement efforts
- Review and provide feedback on project deliverables and enrollment materials
- Time commitment: ~5 hours per month (hours more at beginning & end of process)

## CRP Enrollment Kickoff Meeting

May 18, 2022

Karina Graeter, James Bellissimo (Berwick), Mike Sullivan (Eliot), Diana Asanza (OOB), Mike Foster (OOB), Katie Haley (Fryeburg), Sherri Billings (Fryeburg)

### Introductions:

- **Mike Sullivan, Town Manager:** Did attend statewide webinar last week, went through a similar process in another state, this grant is unique in that there is implementation grants down the line
- **Jeff Brubaker, Town Planner:** Eliot is also comp planning, interested in dovetailing
- **Sherri Billings, Conservation Committee:** looking forward to making a difference in the community with new policy changes
- **Katie Haley, Town Manager:** Feels that Fryeburg has been a bit behind, looking forward to finding out what the town can do better
- **James Bellissimo, Town Manager:** interested in getting an understanding of carbon emissions, doing a comp plan currently so good timing, community interested in open space & resilience
- **Diana Asanza, Town Manager:** new to the role, important step for the town to start looking at resilience, a first for the community, also currently comp planning
- **Mike Foster, Assistant Planner:** Interested in exploring resilience, incorporating into comp planning

### Timeline & Tasks Feedback

- Diana: Task 2, Self-assessments, will there be packets coming to each community?
  - o The CRP has put them together, SMPDC will send them out to each community, but can also help fill out the assessment
- Jeff: What kind of stakeholders?
  - o Mostly questions about past efforts in the community, but for the most part that will probably be committee members, municipal staff, elected officials, anyone who has a good understanding of the history of work on these issues
- Mike Sullivan: Resolution doesn't need to go to town meeting?
  - o Correct, just to select board (this may depend on the type of government of each community (council vs. board) are all of these communities the same??)
  - o Creating a list of priorities seems to be the most difficult part, important to get some kind of unity on a committee, as singular and polarizing opinions will be hard to marry.
    - What may be helpful is that this can be a large list of possible actions, considering what makes sense capacity wise. Hopefully this will not be limiting, and can include many different possible actions
- Sherri Billings: Are the assessment packets ready? How soon can we get them? Town may want to go for the September deadline
  - o We can get Fryeburg this info ASAP since you already have a lead

**Next Steps:**

- Identify community leads, send out assessment info, and set up individual meetings
- Sept is ambitious, but can be possible for individual communities if that's a priority

**Community Leads:**

- Fryeburg = Sherri!
- Nobody else has identified yet

**SMPDC Contacts:**

- Fryeburg: Karina ([kgraeter@smpdc.org](mailto:kgraeter@smpdc.org))
- Berwick: Karina ([kgraeter@smpdc.org](mailto:kgraeter@smpdc.org))
- Old Orchard Beach: Abbie ([asherwin@smpdc.org](mailto:asherwin@smpdc.org))
- Eliot: Abbie ([asherwin@smpdc.org](mailto:asherwin@smpdc.org))

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

**June 7, 2022, Planning Board review DRAFT**

*Planning Board recommends* \_\_\_\_\_  
*Select Board recommends* \_\_\_\_\_

**Short title**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

**Ballot question – Annual Town Election & Referendum, November 8, 2022**

ARTICLE # \_\_ : Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control” be enacted?

**Background and rationale**

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

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

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

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

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

SMSWG developed a Model Ordinance that can be incorporated into each municipality’s municipal code. These ordinance amendments rely on the Model Ordinance, which will help them comply with the MS4 Permit and achieve uniformity with respect to other communities’ ordinances and DEP requirements. Section 45-412 has the Town’s current erosion control performance standards, which require seven (7) best management practices. However, this section has not been updated since 1989, according to its amendment history annotation. These amendments would overhaul Section 45-412 to reflect the Model Ordinance.

[To be expanded]

DRAFT



Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

**(New text underlined in bold)**

~~Deleted text in strikethrough~~

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

*[abridged to only show changes]*

*[...]*

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

*[...]*

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

*[...]*

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

*[...]*

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

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

[...]

*Discharge (chapters 31 and 35)* means any spilling, leaking, pumping, pouring, emptying, dumping, disposing, or other addition of pollutants to “waters of the state,” **not including groundwater.** *[left out “within the Municipality’s Urbanized Area” because Eliot has town-wide enforcement. “not including groundwater” is from the Model Ordinance]*

[...]

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

[...]

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

[...]

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

[...]

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

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

[...]

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

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

[...]

**Parcel (Chapter 34) means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or Parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971. [from model ordinance, dovetail with current “Lot” definition?]**

[...]

*Person* means an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity. **[current definition]**

**[model ordinance] Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency, or other legal entity which creates, initiates, originates, or maintains a discharge authorized or regulated by the General Permit.**

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

[...]

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

[...]

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

[...]

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

[...]

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

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

**Add a new chapter to the Town Code:**

**Chapter 34 – Erosion and Sedimentation Control**

**Section 34-1. – Purpose**

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

**Section 34-2. – Applicability**

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

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

*["or, 2,000 square feet of new Impervious Area regardless of total Disturbed Area." – additional "blue" option given in model ordinance, not recommended at this time.]*

**Section 34-3. – Procedure**

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

Proposed Town Code Amendments of Chapter 1 – General Provisions, Chapter 33 – Planning and Development, Chapter 35 – Post-Construction Stormwater Management, Chapter 44 – Shoreland Zoning, and Chapter 45 – Zoning, and the Creation of a New Chapter 34 – Erosion and Sedimentation Control, Related to Erosion and Sedimentation Control

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

The Enforcement Authority or Permitting Authority, as appropriate, will review the Erosion and Sedimentation Control Plan for compliance with the standards of Section 5, Section 6, and Appendix 1 of this Ordinance and may provide comments where standards have not been met. Once an applicant has submitted an Erosion and Sedimentation Control Plan that the Enforcement Authority or Permitting Authority finds is in compliance with the standards of Section 5, Section 6, and Appendix 1 of this Ordinance, the Enforcement Authority or Permitting Authority shall provide written confirmation to the applicant. The Enforcement Authority or Permitting Authority may approve the Erosion and Sedimentation Control Plan, approve it with conditions, or deny the Erosion and Sedimentation Control Plan, and that decision shall be in writing and supported by findings of fact and conclusions of law. Appeals from decisions of the Enforcement Authority regarding the Erosion and Sedimentation Control Plan may be taken within 30 days of the date of decision to the Board of Appeals as provided under the Municipality's Zoning Ordinance; appeals from decisions of the Permitting Authority regarding the Erosion and Sedimentation Control Plan may be taken within 30 days of the date of decision in the same manner as appeals are taken under the Municipality's subdivision or site plan ordinance, as appropriate.

#### 4.4 Pre-Construction Meeting

At least ten (10) days prior to commencing Construction Activity, the applicant shall request a pre-construction meeting with the Enforcement Authority. At a minimum, attendance at the meeting is required by the Enforcement Authority and the applicant or their representative in charge of construction. If the representative in charge of construction is not the primary earthwork contractor, a representative of the earth work contractor must also attend the pre-construction meeting. Meeting minutes must be prepared by the Municipality's representative and distributed to all attendees and the Municipality's Planner.

#### 4.5 Compliance with Requirements

The applicant shall implement and comply with the Erosion and Sedimentation Control Plan as approved throughout all phases of Construction Activity.

#### 4.6 Notice of Permanent Stabilization

The applicant shall provide notice to the Enforcement Authority when permanent stabilization of the Site has been achieved to allow for final inspection per Section 7 of this Ordinance.

# Eliot Comprehensive Plan Update

Eliot Planning Board

June 7, 2022

Jeff Brubaker, AICP, Town Planner

## Upcoming tasks & anticipated timeline

- June
  - Board/committee updates (ECC update on 6/1)
  - Release RFP for consulting assistance
  - Draft Comp Plan Update Committee structure, including number of members and topical subcommittees
- Summer (preparation)
  - Recruit Comp Plan Committee members
  - Consultant contract
- Fall (start of Update)
  - Eliot Festival Days table
  - Community survey open
  - Begin existing conditions inventory

## Other considerations

- Update, not a full re-write (limited budget)
- Opportunity to re-affirm (or modify some) goals, policies, strategies
- ECC: Once adopted, ensure implementation – implementation plan
- Duration: expected 1 to 1.5 years
- Dovetail with Climate Resilience Project
- Document format, layout, graphics, “look”

## Public participation

- 2009 Comp Plan Update
  - Comprehensive Planning Committee
  - 4 public meetings
  - Survey to all households (3300 total, 650 responses)
- 2022-23 Update considerations
  - Mix traditional meetings with non-traditional outreach
  - Avoid “meeting fatigue”
  - Meet people where they are
  - Ensure everyone feels welcome, disadvantaged groups have a voice
- Public participation ideas:
  - Community survey (PB recommended)
  - Comp Plan Committee meetings
  - Town staff/Dept Head input
  - Event tabling
  - Stakeholder interviews
  - Community walks, bike rides, Walking Office Hours
  - Boat trip along the river
  - Pop-up tables, kiosks
  - Social media
  - Community guest speakers
- Other ideas?



## 2009 Comp Plan themes: Inventory and Goals, Policies, & Strategies

- Population and Demographic Changes in Eliot
- Land Use in Eliot
- Economy and Labor Force
- Eliot Housing
- Transportation
- Recreation in Eliot / Outdoor and Active Recreation Resources
- Marine Resources
- Water Resources
- Critical Natural Resources
- Historical and Archaeological
- Agriculture and Forestry Resources
- Public Facilities and Services
- Energy
- Fiscal Capacity

## Potential subcommittees

- Land use
- Transportation
- Agriculture
- Parks and recreation and public facilities
  - ECC: Conservation land, Town forest management
- Housing
- Economic development
- Climate change and environment
- Historic and cultural resources
- Youth advisory group
- Ideas for changes or additions?