

# TOWN OF ELIOT, MAINE

## PLANNING BOARD AGENDA

TYPE OF MEETING: IN PERSON WITH REMOTE OPTION

DATE:

Tuesday, August 17, 2021

PLACE: TOWN HALL/ZOOM

TIME:

7:00 P.M.

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

1) **ROLL CALL**

a) Quorum, Alternate Members, Conflicts of Interest

2) **PLEDGE OF ALLEGIANCE**

3) **MOMENT OF SILENCE**

4) **10-MINUTE PUBLIC INPUT SESSION**

5) **TOWN PLANNER UPDATE ON MEETING ROOM TECHNOLOGY AND REMOTE PARTICIPATION**

6) **REVIEW AND APPROVE MINUTES**

a) August 3, 2021 – if available

7) **NOTICE OF DECISION**

a) 180 Depot Rd. (Map 63/Lot 19) – if available

8) **PUBLIC HEARING**

a) 26 Addison Lane (Map 41/Lot 11), PID # 041-011-000, PB21-20: Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Floats

b) 213 Pleasant Street (Map 4/Lot 2), PID # 004-002-000, PB21-21: Shoreland Zoning Permit Application – Replacement Bait House

c) Draft Ordinance Amendments:

1. Chapter 45 – Zoning, Related to Firewood Sales

2. Chapter 44 – Shoreland Zoning, Related to Shoreline Vegetation and Development Site Photographs

3. Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees

9) **OLD BUSINESS**

10) **NEW BUSINESS**

a) 117 Bolt Hill Road (Map 7/Lot 44), PID # 007-044-000, PB21-24: Site Plan Amendment – Addition of Concrete Pads Next to Workshop

b) 438 Harold L Dow Highway (Map 45/Lot 10), PID # 045-010-000, PB21-26: Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units

c) New Draft Ordinance Amendments:

1. Marijuana Sensitive Uses – Public Facility Clarification

2. Demolition Delay – Historic Buildings

11) **CORRESPONDENCE**

12) **SET AGENDA AND DATE FOR NEXT MEETING**

a) Logistics for August 23, 2021, 3:00pm Site Walk (0 Odiorne Ln.)

b) August 24, 2021

13) **ADJOURN**

**NOTE:** Residents/interested parties may join via Zoom or in-person at the Town Hall. 1333 State Road Eliot, ME 03903

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: **815 3327 7033 #**

2. When prompted to enter Attendee ID **press #**

3. When prompted enter meeting password: **374306 #**

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 – Chairman

1 **ITEM 1 - ROLL CALL**

2  
3 Present: Carmela Braun – Secretary (Acting Chair), Jeff Leathe, Jim Latter, and Lissa  
4 Crichton.

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

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9 Absent: Melissa Magdziasz – Vice Chair.

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11 Voting members: Carmela Braun, Jeff Leathe, Jim Martin, and Lissa Crichton.

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13 **ITEM 2 – PLEDGE OF ALLEGIANCE**

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15 **ITEM 3 – MOMENT OF SILENCE**

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

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19 There was no public input.

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21 **ITEM 5 – ELECTION OF OFFICERS**

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23 **CHAIRMAN:**

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25 Mr. Leathe said that, since Mr. Lentz has retired, I have been giving some thought in  
26 terms of what desirable attributes are of the Planning Board Chair and I came up with ten  
27 of them that I thought would be really, really great to have a Chair will all ten attributes,  
28 which is very tough to find. In going through that exercise, I applied those ten against us  
29 five, including myself to see, essentially, who would score the highest. With that...

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31  
32 **Mr. Leathe nominated Carmela Braun for Chairman, second by Mr. Latter.**

33  
34 There were no more nominations and nominations ceased.

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36 **VOTE**

37 **4-0**

38 **Motion approved**

39 Carmela Braun was elected Chairman.

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41 **VICE CHAIR:**

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43 **Ms. Braun nominated Jeff Leathe for Vice Chair, second by Mr. Latter.**

44  
45 There were no more nominations and nominations ceased.

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**VOTE**  
**4-0**  
**Motion approved**

Jeff Leathe was elected Vice Chair.

**SECRETARY:**

**Ms. Braun nominated Lissa Crichton for Secretary, second by Mr. Latter.**

There were no more nominations and nominations ceased.

**VOTE**  
**4-0**  
**Motion approved**

Lissa Crichton was elected Secretary.

**ITEM 6 – REVIEW AND APPROVE MINUTES**

Mr. Leathe moved, second by Ms. Braun, to approve the minutes of July 27, 2021, as amended.

**VOTE**  
**4-0**  
**Motion approved**

**ITEM 7 – NOTICE OF DECISION**

**A. 242 River Road (Map 19/Lot 3), PB21-14**

Ms. Lemire said that there was no Notice of Decision because the PB made no decision that night on the application for PB21-14. Ms. Crichton moved, and Mr. Latter made a second, to continue that application into the August 17<sup>th</sup> meeting. However, by the end of the discussion, the applicant had withdrawn her application, and we never put closure on the motion. All Ms. Crichton needs to do is request to the Chair that she wished to withdraw her motion made July 27<sup>th</sup> for PB21-14. The Chair would ask if there are any objections and, if there are none, the motion is withdrawn. You don't have to have a second or a vote.

**Ms. Crichton requested of the Chair to withdraw the motion she made on July 27, 2021 to continue PB21-14.**

**The Chair asked if there were any objections.**

**There were none.**

**Hearing none, the motion is withdrawn.**

93 **ITEM 8 – PUBLIC HEARING**

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95       There were no public hearings.

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97 **ITEM 9 – OLD BUSINESS**

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99       **A. Administrative Item: Ch. 35 – Post-construction Stormwater Management.**

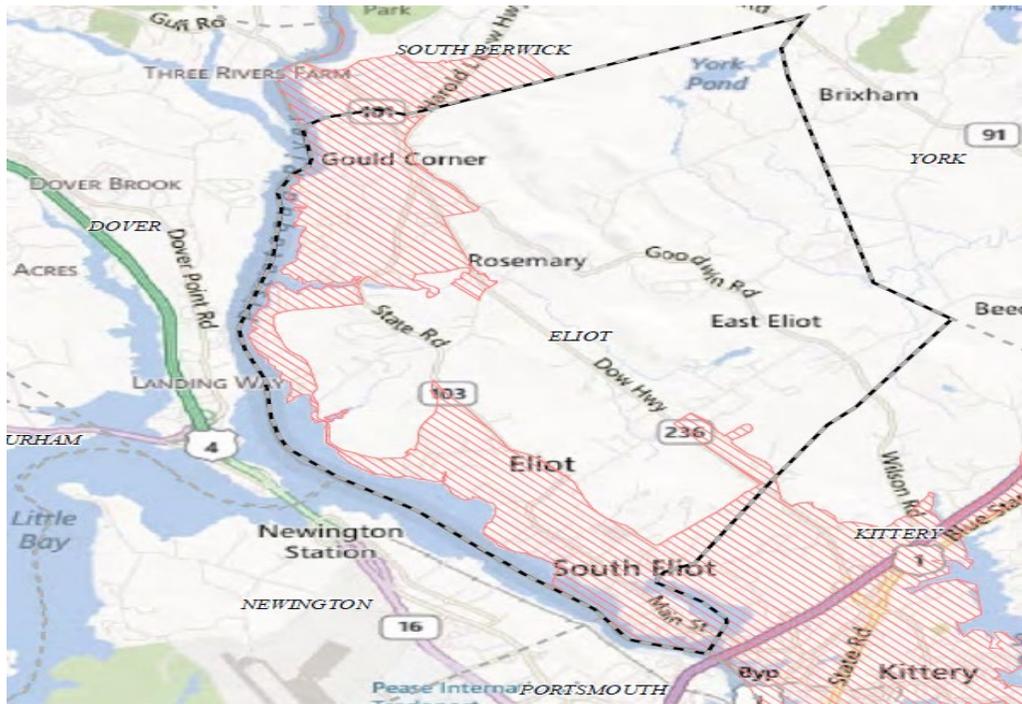
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101       Mr. Brubaker said that Ms. Rabasca is with us, who is our stormwater guru and does a lot  
102       of stormwater consulting across the State. I am going to do a few introductory slides and  
103       then turn it over to Ms. Rabasca.

104  
105       Mr. Brubaker said for the new PB members, when an application comes before the PB,  
106       there are a number of Town code provisions that allow you to review an application for  
107       stormwater management, erosion control & sedimentation control, and so forth.  
108       Applicants are required to submit a drainage plan and a soil erosion & sedimentation  
109       control plan unless the PB waives them. There are a number of provisions that allow you  
110       to review developments on whether they are providing adequate stormwater management  
111       and soil erosion & sedimentation control. That applies in Chapter 33, which is our site  
112       plan review standard that applies in Chapter 45, which is our zoning performance  
113       standards. There are then, in subdivisions, water quality standards. That is all for before  
114       the project is built. If the project is approved, we then have Chapter 35, which is post-  
115       construction stormwater management. This is for after when projects are built and it  
116       generally requires individual property owners or others, such as lessees or homeowner's  
117       associations, to enter into a stormwater management facility maintenance agreement with  
118       the Town. This is to make sure that, once these stormwater facilities are built, they are  
119       cleaned, maintained, operated, and kept in a state of good repair. There are a lot of  
120       stormwater facilities, as many in this room full-well know, if you leave them go, they  
121       tend to stop working. Bio-retention filters might clog up, swales might get filled with  
122       sediment or junk. So, it's all about making sure that these stormwater facilities are  
123       protecting other adjacent property owners from stormwater impacts and they are doing  
124       what they should be doing. Chapter 35 requires the property owner to use a qualified  
125       stormwater inspector to conduct annual inspections of their facilities and then to annually  
126       certify compliance back to the Town so that they are complying with this post-  
127       construction stormwater maintenance agreement. If there are any deficiencies in their  
128       facilities, they are required to repair those and then provide notice back to the Town that  
129       they have repaired them. The Town still has a right to do its own inspections and there is,  
130       for each of these agreements, an associated \$100 annual inspection fee. I know in talking  
131       with our Public Works Department, we talked about whether that's enough to have cost-  
132       recovery for all the staffing on the Town side that needs to go into that, so that's an open  
133       question. The big reason we are here and what Ms. Rabasca is going to talk about is,  
134       based on the fact of our most recent changes in June, the requirement for post-  
135       construction stormwater management only applies in the Urbanized Area (UA), showing  
136       that on the slide. There is a lot of area in the Town that is left out of these requirements.  
137       With that, I will turn it over to Ms. Rabasca so that she can provide an update from her  
138       May presentation and talk about the pros and cons of going back to UA.

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Ms. Rabasca said that I'm here tonight to provide you with some extra information to inform a discussion by the PB around the post-construction stormwater management requirements that are in this Chapter 35 of the Eliot Town code. The specific question that we would like the PB to consider is whether this chapter be applicable Town-wide or should it be limited to the UA only. I will describe what UA is, reiterate the requirements again, and how we got to where we are with where the ordinance stands now. I wanted to start with just a brief discussion to bring everyone up-to-date in their understanding of why stormwater issues are regulated in so many different ways across the United States. She had pictures of undeveloped and developed land as she discussed stormwater impacts. The photo on the left is a lovely, natural environment with very little impact from development. These areas have a very low impervious surface, no paved surfaces, parking lots, or structures, and a low population, which equates to less polluted stormwater run-off, lower volumes of run-off, slower flows with less chance for erosion downstream and, typically in Maine, results in fabulous water quality. Water bodies are meeting their fishable and swimmable standards as defined by the Clean Water Act and the Maine DEP. As soon as we start to develop these areas, with even a medium impervious surface – a few buildings, change things over to grass and landscaped areas, start to increase the population – we're going to get more polluted run-off, higher volumes of run-off, faster flows that increase the chances for erosion – and all of that does equate to a degradation to water quality. In particular, because these developed areas use impervious surfaces, whether you're in a downtown area or in a suburb, as soon as it rains any pollutants that have been building up on those impervious surfaces, the rainwater is going to pick it up and carry it off. All the stormwater in Eliot passes untreated to the natural resources to the small streams like Sturgeon Creek, Piscataqua River and so, even in the suburban areas you do get a lot of pollutants. You get fertilizers or pesticides that have been applied to lawns or left on sidewalks; oil; brake dust; food waste; pet waste, etc. All those pollutants can get picked up, too, even in moderately developed areas. As such, the federal Environmental Protection Agency (EPA) mandated that municipalities the size of Eliot become regulated for their separated stormwater discharges. In Maine, that regulation came to 30 communities in 2003. There is a General Permit (Clean Water Act Permit) that's called the General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems; that we call it the MS4 General Permit. The map showed the 30 communities under MS4 in the Bangor area, most of Lewiston-Auburn-Sabattus, the Portland area, then Berwick, South Berwick, Eliot, Kittery, and York. That's where Chapter 35 came from requiring that people take care of their stormwater infrastructure after it's been built. This post-construction requirement is part of the Clean Water Act that the Town is subject to. The way it works is that it is only applicable in the UAs of Town and that comes from the U.S Census. UA is a U.S. Census definition and then the EPA and Maine DEP adopt that. The UA for Eliot is on your Town website:

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When this ordinance came in in 2009, the original ordinance was passed Town-wide. At the time, that was the preference of the staff, PB, SB, and the Town. The official trigger is for sites that disturb one or more acres of land and will be responsible for their own stormwater infrastructure; that they are, for example, not building a road and then turning all that stormwater infrastructure over to the Town. They have to prepare a post-construction maintenance plan showing how they will maintain everything; that they have to construct it and implement it for the life of the project/infrastructure. When this was first passed, the Town staff decided they didn't want the private owners to do their own inspections so, initially, the Town staff did inspections to make sure the maintenance was getting done. This was a new program and that was a different way to do it than most other people in the State did. As you know, Town staff time is pretty precious these days. There's a lot going on and a lot to do and this is just one small nuance. So, after many discussions with Town staff, the June 2021 Warrant changed to make a few updates to the UA definition because the Census information changed but it also changed over that the Town wasn't going to do the inspections anymore. Instead, the owners are going to certify that they are maintaining their own systems. This also changed the applicability from Town-wide to UAs only. That change was mostly inadvertent on the part of the staff and we are just asking the PB, again, to reconsider if they want to take this back to Town-wide. As Mr. Brubaker said, the stormwater infrastructure that you are seeing coming through the PB process is now more technical. Most developments are now installing systems that are treating stormwater for its quality to remove those pollutants, such as underdrain soil filters. Underdrain soil filters are basically an engineered soil with underdrains underneath; that the engineered soil removes the pollutants, cools the water

213 down, slows the water down, and then allows it to be released out into the natural  
214 resources. Because these are more highly engineered, they require a little more TLC. She  
215 showed the bio-filter at the Berwick Fire Station; that the water is supposed to drain after  
216 24 hours and this had not drained. We had some training with the fire department and  
217 they called the contractor back to help repair the issues. It's the kind of thing that's a little  
218 difficult to see but, when these kinds of treatment systems fail, they are actually doing the  
219 complete opposite of what they ought to be doing, potentially making the water much,  
220 much worse. She showed pictures of the clean water going into the bio-filter and the  
221 coming out of the bio-filter (polluted), a system with standing water (growing algae), and  
222 foam coming out of a pipe outlet. The impact is pretty severe when the systems are not  
223 maintained and those are the kinds of things that the EPA and DEP knew when they  
224 required this ordinance to be passed. She showed pictures of the system at the new South  
225 Berwick Police Department that is functioning very well. She also showed pictures of an  
226 underdrain soil system in a subdivision that is operating well. They had to do some  
227 repairs but it's because they've been doing their inspections and they've had a little bit of  
228 training to understand what they ought to be doing. Every time this MS4 General Permit  
229 gets issued, it's a little more stringent. One of the new requirements that is coming forth  
230 has to do with water bodies that are not meeting their fishable and swimming standards.  
231 They've become impaired. They are in urban areas and so especially regulated by the  
232 State of Maine as Urban-impaired streams. They are listed in DEP Chapter 502. When  
233 water bodies become impaired such that they are listed in this Chapter, it can cost a lot of  
234 money to revert them to their fishable and swimmable standards. Making sure that the  
235 right treatment systems are being installed, the work you are doing on the PB is very  
236 important, and making sure those systems get maintained; that those are very important,  
237 too. Long Creek (South Portland Maine Mall) has a lot of impervious surface and that is a  
238 nationally-recognized impaired water; that they have been doing retrofits on that site for  
239 over 10 years, now, at a cost of anywhere from \$25,000/acre to \$40,000/acre with things  
240 like underdrain soil filters to try to correct those water quality impairments. The MS4  
241 communities under the next permit are being required to assist in these corrections as part  
242 of their permit requirements. Currently, Eliot does not have any Urban Impaired Streams  
243 and we would like to keep it that way. So, those are discussions and considerations. You  
244 would be more protective of water quality if you were to do that. Discussing  
245 considerations on the other side of that, the State of Maine already regulates stormwater,  
246 in addition to the Town's ordinances. The State has their Chapter 500 regulations and  
247 contain a very similar requirement to the Ch. 35 Post-construction requirement. Some of  
248 the differences are that the State requirements apply to larger sites. The State also  
249 requires sites to have a stormwater maintenance plan but only have to certify it back to  
250 the DEP every five years that they are maintaining their infrastructure versus the Town  
251 MS4, which requires annual certification back to the Town. So, that is something to  
252 consider around whether we want to keep the UA because the rest of the Town is already  
253 covered by the State-wide certification requirement. I tried to wrap these considerations  
254 up for you on the table and then I want to talk about how many sites are triggered here.

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**Comparison of DEP to Town Thresholds Table:**

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	<b>DEP sites</b>	<b>Town sites (Town-wide)</b>	<b>Town sites (Urbanized Area only)</b>
Threshold for Post Construction Plan	1 acre of impervious area created or 5-acres or more developed area. (hydrography changed permanently)	1 acre or more disturbance (clear and grub) town wide	1 acre or more disturbance (clear and grub) Urbanized Area only
Number of sites in Eliot currently	3 (Villages, Arc and PSNH)	2 (Arc and PSNH)	1 (PSNH)
Additional sites in PB review now	Unknown	2 in UA, plus 5 (PB 20-04, PB20-05, PB19-32, PB 20-15, PB 20-05)	2 (PB 19-24 and PB 20-2)

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The hydrography change is, for example, going from a forested area to a meadowed area. These are much larger sites than the Town-wide sites. You will have more sites and smaller sites. If you go Town-wide, you will have mote sites than if it is restricted to UA. She clarified that the Villages went through the PB before the ordinance was passed so that is a DEP site, not a Town site. If you go Town-wide, you will have nine sites and, if you stay with UA, you would have three sites under Ch. 35. Other considerations of the other six municipalities in York County who are also regulated under this Clean Water Act permit. Berwick, South Berwick, Kittery, and York all have Town-wide. Biddeford and Saco are city-wide, and Old Orchard Beach (OOB) is UA only. Discussing considerations for Eliot, Ms. Metz will send reminders out to the sites, probably in April or May of next year that they will have to provide the Town with their annual certifications for Ch. 35 that you’ve been doing your maintenance. She will then receive and log the annual certification. It might take her an hour or two to chase these down to make sure she has the right email address, mailing addresses, phone numbers if people aren’t getting back to her. An option would be to do a spot check if you have a new site that comes in; that maybe once a year you might have a few more hours. A few of the communities do have post-construction fees so that, if privately maintained, they do provide 1% of the cost for improvements to the town to cover getting those certifications year after year after year for the next 50 years. If infrastructure is being turned over to the town, these communities are requiring a much larger contribution to help cover the added maintenance. Eliot has a \$100 fee for an annual inspection and you may want to have some discussion about increasing that. I tried to wrap this up with the question: Should

282 this ordinance be applicable Town-wide or UA only?” for your discussion. I’ve put  
283 advantages on this slide  
284

<b>If Urbanized Area Only</b>	<b>If Town-wide</b>
<ul style="list-style-type: none"><li>✓ Will be less time/work for staff (2 sites if UA, 7 sites if Town-Wide)</li><li>✓ Still complies with MS4 General Permit</li><li>✓ DEP 5-year certification requirement still applies to most sites in Eliot</li></ul>	<ul style="list-style-type: none"><li>✓ More protective of water quality<ul style="list-style-type: none"><li>• minimizes potential for costly impairments</li><li>• More sites than just the DEP sites would have Plans</li></ul></li></ul>

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286 She added that these slides are included in the PB packets.

287  
288 Mr. Brubaker thanked Ms. Rabasca for her excellent presentation. Regarding why it was  
289 changed from Town-wide to UA only, I will take the hit on that a little bit. I was still  
290 wrapping my head around it; that I thought that requirement was restricted to UA as part  
291 of our MS4 General Permit but, after we had already locked in the language for the June  
292 ballot, then I saw that we can go Town-wide. So, from my own perspective, I do think we  
293 should go back to Town-wide based on the information that Ms. Rabasca provided. With  
294 that, I will turn it over to PB members.

295  
296 Mr. Latter thanked Ms. Rabasca for her presentation and said that you talked a lot about  
297 Chapter 502 and that was a big stick with the State regulation if we end up having  
298 impaired streams. Does Ch. 502 only apply to UAs.

299  
300 Ms. Rabasca said yes. Ch. 502 actually has two appendices that list the water bodies that  
301 are regulated and those are called Urban-impaired Streams. It doesn’t have anything to do  
302 with our Clean Water Act except that our Clean Water Act is now pointing to that  
303 regulation to say that you have to help correct those impairments now.

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305 Mr. Latter said that, if any of our streams were to ever make that list, it’s not just in UAs  
306 so extending to Town-wide would hopefully give us a mechanism to help prevent having  
307 our streams added to that list.

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309 Ms. Rabasca agreed.

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311 Mr. Leathe said that I was thinking about best management practices (BMP) that are in  
312 the presentation and materials and they talk a lot about level spreaders, swales, and buffer  
313 strips. I was curious to know what a level spreader is.

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315 Ms. Rabasca said that a level spreader can come in a couple different ways. I actually  
316 have some LID (low-impact development) infrastructure behind me but there is not a

317 level spreader in that. It can be as simple as a piece of wood that's installed in the ground  
318 so that when you have a sale coming down that's discharging water, the swale will open  
319 up before hitting the piece of wood and the berm and then the water kind of spills over  
320 and it levels the water out. It basically changes that channelized flow from the swale into  
321 sheet flow as it goes out and gets closer to the resource. It is called a level spreader  
322 because it kind of levels out the water and lets it sheet flow spread. They can also be  
323 stone.

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325 Ms. Crichton said that, at one point, you (Ms. Rabasca) said that, for the UA, it extends  
326 for the post-construction stormwater management for the UA. Then I thought you said  
327 the State covers the rest of the Town. Does that make sense.

328  
329 Ms. Rabasca said yes. The Clean Water Act only requires that we address our UA, which  
330 both I and Mr. Brubaker showed. Really, the very highly populated coastal areas of Eliot.  
331 So, we have the post-construction requirements for our UA. But the State's post-  
332 construction requirements, which are a little more lenient than the Town, apply State-  
333 wide. They don't just apply in the UA; that they apply everywhere else.

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335 Ms. Braun said that the State reporting is only every five years, where the Town is  
336 annually, so in my way of thinking, annual is far superior to five years.

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338 Ms. Rabasca said yes. The most critical time for people to understand what their  
339 requirements are is in the first year. You want to get them started off on the right foot and  
340 make sure that they really understand what it is they have to do. If you let a system go for  
341 five years, it's going to be really overgrown and start to clog. So, the annual certification  
342 does that.

343  
344 Mr. Latter said, regarding annual certification, we moved from a Town inspection to  
345 owner certification. Does that have to be done by a subject matter expert or licensed  
346 expert, not just an affidavit that says we're doing it.

347  
348 Ms. Rabasca said that one of the changes that we made was that, in all of the  
349 municipalities that are regulated, it has to be a qualified post-construction inspector. They  
350 need a State certification or a professional civil engineering license.

351  
352 Ms. Braun thanked Ms. Rabasca for her presentation.

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354 **B. 0 Odiorne Lane (Map 83/Lot 2), PB21-16: Site Plan Review and Change of Use –**  
355 **Public Utility Facility (Ground-mounted Solar Array).**

356  
357 **Received: May 4, 2021**

358 **1<sup>st</sup> Heard: June 22, 2021 (sketch site plan review)**

359 **2<sup>nd</sup> Hearing: August 3, 2021 (sketch plan review continued)**

360 **Public Hearing: \_\_\_\_\_, 2021**

361 **Site Walk: N/A**

362 **Approval: \_\_\_\_\_, 2021**

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364 Mr. (Michael) Sudak, E.I.T. (Attar Engineering) and Mr. (Andrew) Kellar (NH Solar  
365 Garden) were present for this application.  
366

367 Mr. Sudak said that this is a public utility facility and the parcel is about 70 acres between  
368 the end of Odiorne Lane and the end of Bartlett Lane. Generally, the parcel is in the Rural  
369 Zone; that we have Resource Protection Zone off the southeast portion of the property, a  
370 wading waterfowl habitat, the York River on the far east, a Stream Protection overlay,  
371 and then we have a large wetland flood plain to the far west of the property. The rest of  
372 the site is undeveloped and wooded. There is a very large, steep hill kind of on the  
373 northwest of the property that comes off of the old sand & gravel pit and, generally, runs  
374 west to east down towards the array we are proposing. We are proposing a large solar  
375 array of ground-mounted, single-axle tracking panels. To give the new members an  
376 overview, we were before the PB the end of June with a sketch plan application, which  
377 originally called for a slightly larger array right around the order of 19 acres for overall  
378 occupied area. The plans you have on your screen have a light gray hatched area behind  
379 the reduced array that shows where the array used to be. Some policy changes came in  
380 July 4<sup>th</sup> weekend that caused us to pretty considerably reduce the overall size of our site  
381 down from a maximum of 5 megawatts to 2 megawatts. So, we are on the order of 15  
382 acres, now, all things included. That's clearing, shade management, panels, access  
383 easement, etc. We tried to consolidate it to be more southerly on the site, keep it close to  
384 the access road, which hasn't changed since the sketch application; keep the utility core  
385 route the same. Regarding stormwater management, because of the way the DEP  
386 governs, or views, the area underneath panels, we can handle the stormwater  
387 management for the site with a series of vegetative swales to level lip spreaders that Ms.  
388 Rabasca was nice enough to define for everyone. That will then discharge into the  
389 forested sections of the upland that will remain undisturbed before they flow easterly off  
390 the site. We have completed a vernal pool study on the parcel. There is a vernal pool off-  
391 site in the wading waterfowl habitat. Its resource protection setback doesn't affect our  
392 development at all. Regarding the array, itself, the sketch application, the rows and panels  
393 were oriented west to east and they were ground-mounted fixed tilts, so, facing the  
394 southern sky. Now that the policy changes have come through, we realigned the project.  
395 There will be rows running north to south on trackers that follow the sun throughout the  
396 day. Single rows of trackers with 12-foot grassed aisles between each row and a 15-foot  
397 grass perimeter around the array between the array and perimeter fencing. I would be  
398 happy to filed any questions the PB might have.  
399

400 Ms. Crichton said that you have a level lip on the upper side. What do you have on the  
401 lower side, the west side, for stormwater.  
402

403 Mr. Sudak said that for the area where our solar array specifically is, the entirety of it  
404 generally flows from west to east so, really, the level lip spreaders and the vegetative  
405 swales that convey run-off to those lip spreaders have been positioned in such a way that  
406 it catches everything that comes across the site. Anything that is west of the array goes  
407 into that dramatically-steep 30% slope hill, goes up to where the sand & gravel pit is, and  
408 goes off-site to the northwest. So, really, the level spreaders have been positioned in such

409 a way that we catch everything we can catch that is on the upland coming through the  
410 entirety of the array.

411  
412 Ms. Crichton asked if that doesn't flow downhill towards that vernal pool that's not on  
413 your site.

414  
415 Mr. Sudak said that, yes, it does but everything that comes through our developed area  
416 will be received by a swale, go through a level lip spreader, be reintroduced as sheet  
417 flow, and have time to have any increase in flow that there would be attenuated before it  
418 is received by the resource. We have a stormwater plan that shows overall net reduction  
419 in peak run-offs, off-site, and the analysis point that I used in that calculation is the  
420 Resource Protection Zone. All the run-off basically runs from the left of the screen to the  
421 right of the screen and we have three separate level lip spreaders that are receiving run-  
422 off that just comes across the entire site and becomes shallow concentrated flow while it  
423 is beneath the array proper, since it is still meadowed area, but those lip spreaders do  
424 reintroduce it to sheet flows to slow it down before it hits the Resource Protection Zone.

425  
426 Ms. Crichton said that there is no stormwater that is going to come down where you're  
427 going to clear that 100 feet between the array and the fencing. There's no stormwater  
428 that's going to flow down and go towards that vernal pool.

429  
430 Mr. Sudak said that there would be but it wouldn't be anything that would be outside the  
431 existing conditions right now. It would just be falling on the forested upland that it is now  
432 and proceeding towards the Resource Protection Zone.

433  
434 Ms. Crichton asked if you weren't going to clear-cut the area of the array but you aren't  
435 going to stump it.

436  
437 Mr. Sudak said yes; that the shade management area would be cleared but not stumped or  
438 grubbed. There would be a cover-type change within that area. Yes, for that small area,  
439 you could argue that there would be an increase in the curb number that run-off would  
440 exhibit through that area. But, considering the site as a whole, since it is one analysis  
441 point in the entire site proper is going to that analysis point, our calculations have proved  
442 that, overall, there is a reduction in run-off that goes to that resource.

443  
444 Ms. Crichton said that, technically, there are no stormwater features on that west side.

445  
446 Mr. Sudak said beyond the tow of the level lip spreaders and in the shade management  
447 area.

448  
449 Ms. Crichton said just on the east side.

450  
451 Mr. Sudak said yes.

452  
453 Ms. Crichton said that you are talking about two sections of wetlands right in the center  
454 of the array. How will it be different for your posts to go into the ground than it would be

455 on drier land. In other words, you're in the wetlands and how are those posts going to go  
456 in and stay in. How are you going to anchor those posts in there.

457  
458 Mr. Kellar said that the most important detail is that the posts are usually going further  
459 than two feet; that it might be a 12-foot post that goes 8 feet into the ground, sticking out  
460 4-5 feet above the surface. From our experience, the rows work together as a system to  
461 anchor themselves into the ground.

462  
463 Ms. Crichton asked if he was saying that the rows, themselves, are going to be anchored  
464 or each individual post will be anchored.

465  
466 Mr. Sudak said that this array is made up of 210 tables and a table is a structured system  
467 one unit wide by 27 units long. Of those tables, there will be a maximum of 10 posts that  
468 will be driven down into the ground over the course of that entire table. So, while there  
469 may be 5,600 hundred panels by themselves, they won't be as stand-alone in their  
470 foundation as it may seem. There are not 5,600 poles individually driven and anchored  
471 there is a series of tables and those tables will have their foundation secured over a wider  
472 breadth of ground.

473  
474 Ms. Crichton asked if the fencing was going outside of the 100 feet that you are clearing  
475 around the array.

476  
477 Mr. Sudak said no. Within the overall occupied area, you have the array, itself, which are  
478 the tables I've just described and there's a 12-foot-wide grass aisle between each row.  
479 Then, between the perimeter of the array and the extensive clearing limit, there's a  
480 perimeter fence that is set 15 feet back from the perimeter of the array, itself. So, there  
481 will be a travelway, if you will, for whatever maintenance does need to happen to the site.  
482 They won't have to rely on the rows, themselves, there is a perimeter for access. From  
483 the perimeter fencing, there is a variable width of shade management clearing and  
484 clearing for the stormwater management areas that is anywhere between 50 to 100 feet,  
485 depending on what side of the array you are on. Depending on the slope, if the site slopes  
486 down, you may not have to clear as far from the array, itself, for shade management and,  
487 conversely more if you're going upslope.

488  
489 Ms. Crichton said that the fence will have a 6" bottom off the ground allowing animals to  
490 go through there. We've got deer back there, coyotes, fisher cats, fox, possum, beavers  
491 and not a lot of those animals can get underneath the fence to travel through where  
492 they've been living a lot of years. I'm just curious about, when you clear-cut 15 acres,  
493 where all those animals are going to go.

494  
495 Mr. Sudak said that I will just say that, since the plan came through on sketch, we have  
496 come down some 4+ acres and tried to consolidate the array to be as close to the access  
497 we happen to have for both vehicular servicing and the utility easement. It is somewhat of  
498 a challenging site with how steep it is on the west and all the resource that's off to the  
499 east. We are trying to do the best we can with the area that we have there. He invited Mr.  
500 Kellar to comment on the fencing.

501  
502 Mr. Kellar said that in some of these more rural locations there is the ability to do what I  
503 call wildlife-friendly fencing. We do have to abide by specific fence height for the  
504 national electric code. Are we able to completely solve for if there are some animals that  
505 are in those woods today that won't be able to be there tomorrow. No. We're going to do  
506 everything we can to improve the location. One of the plans we have is to incorporate  
507 some pollinator mixes to enhance a different type of habitat for the animals. Around the  
508 perimeter of the site, within the site, itself. My experience with some of our other larger  
509 projects that were wooded parcels is that the small ones move freely under, the larger  
510 ones will move freely around. I have only once in my experience seen any larger animals  
511 get stuck inside the fenced area. So, our real goal is to create an environment around  
512 these properties, projects, that allow for the habitat to actually kind of integrate into the  
513 newer part of it. To Mr. Sudak's point, we did our best on this very large parcel to  
514 minimize our original plan and sketch for the amount of impact so we could reduce and  
515 maintain as much of the natural habitat around where the panels are going to go. Then,  
516 incorporating some of the pollinator mixes inside is a way to create a new habitat that  
517 may not have been there before, such as animals that have never been there before that  
518 might benefit from these types of pollinator mixes. We're always trying to do our best to  
519 improve the situation, enhance it the best way we can but we're not necessarily able to  
520 change the site in a way that will necessarily 100% cover every single animal that might  
521 be in there today.

522  
523 Ms. Crichton said that all of your trucks and the loggers will be going through Odiorne  
524 Lane. Is that correct.

525  
526 Mr. Sudak said that that is correct.

527  
528 Ms. Crichton said that I believe that is a ROW for you so that's pass and re-pass. There's  
529 no construction, there's no tree taking down, there's no power lines. There are CMP lines  
530 in there and you can't touch any of that, correct.

531  
532 Mr. Sudak said that, as far as I understand the terms of the ROW, for the extension of our  
533 access drive and the utility easement but from a travelway perspective, no. From a utility  
534 extension standpoint, there might have to be limb clearing; that there is an overhead pole  
535 very close to where our property line entrance is and, with the extension of that, we will  
536 likely have to create some limb-clearing just for the new poles that need to get out to our  
537 inverter and our transformer. I don't believe that will be on the Odiorne ROW.

538  
539 Ms. Crichton said that you talked about re-doing the road, gravel, and whatnot. That  
540 starts at the end of Odiorne Lane right where your array begins.

541  
542 Mr. Sudak said that our array is serviced by a 16-foot-wide gravel drive. The intent is to  
543 have that access to extend from the end of Odiorne Lane, now, where the gravel drive  
544 ends. That isn't to say that during pre-construction meetings or future iterations of this  
545 project, site assessments, if an improvement needs to be made to Odiorne Lane to get it to

546 that point...I don't anticipate any of that right now but that's a conversation that we may  
547 have to have. The intended project is just the 16-foot extended.

548  
549 Ms. Crichton asked how long you do you think that the loggers would be in and around  
550 that area.

551  
552 Mr. Sudak said that Mr. Kellar and I had a conversation this morning, as I understand  
553 there's been some public comment that, if there's an audience tonight for it, I'd be happy  
554 to entertain or at a future public hearing, about noise related to logging activity. We  
555 would be more than happy to work with the abutters or anyone that has a concern. Like  
556 with how we treat commercial sites with hours of operation, like limit when those trucks  
557 would be coming in and out, which would obviously affect the overall length of the  
558 removal process. But we would be happy to work with anyone to put that noise in a more  
559 amicable window.

560  
561 Ms. Crichton said that I know that the logging trucks can really do some damage on a dirt  
562 road. Would you be repairing that section of Odiorne Lane that is not part of your access.

563  
564 Mr. Sudak said that if such damage took place, yes, absolutely.

565  
566 Mr. Kellar said that I know this type of project is new to your community and we want to  
567 do our best to educate any of the abutters that have any concerns. We can speak to our  
568 past experience with other communities. The logging process is going to be a very small  
569 portion of the process. As Mr. Sudak said, we are absolutely comfortable with and have  
570 worked with other abutters on other projects in the past where we have specific times that  
571 those trucks are coming and going. But once that work is complete, the majority of the  
572 work on these projects is very quiet. There might be a tractor-trailer that might deliver  
573 some of the panels and some of the equipment; that that is brought out to the site and  
574 placed strategically so that, then, the work can be done out in the field. Once the  
575 wracking is installed, the majority of the work from that point on is done by way of hand  
576 labor, basically. So, it's not like a traditional construction site where you might be  
577 hearing pneumatic nail guns months on end building and framing a house. Once the trees  
578 are taken care of and the site is prepped, the majority of that work goes into a quiet, from  
579 an off-site perspective, construction process. I think that if we could plan this like most  
580 construction in New England, we would like to do some of that tree-clearing when the  
581 ground is hard. That would be kind of a stage one and then we would move into the next  
582 stages of construction but these projects don't typically take more than 3 or 4 months. We  
583 would have to check with the logger about how long it would take them to clear that  
584 many trees but it shouldn't be a long-term construction project where there's a lot of  
585 noise affecting the neighbors.

586  
587 Mr. Leathe asked if Odiorne Lane was a private way or is it publicly-maintained by the  
588 Town.

589  
590 Mr. Sudak said that it is private.

591

592 Mr. Leathe asked if there was a homeowner's association that maintains the road.  
593  
594 Mr. Sudak said that I don't know off the top of my head. I see head shakes no.  
595  
596 Mr. Leathe asked who was responsible for maintaining the road.  
597  
598 Ms. (Michele) Meyer said that it was the Meyers, the homeowners.  
599  
600 Mr. Kellar said that some of the discussions we've had as far as the road maintenance, I  
601 know there was some concerns about the road being damaged. As we have always  
602 represented, we would take pictures and video of the road pre-construction, inspect it  
603 along the way, and at the end we would revisit that and any damage done to the road  
604 would be the responsibility of us to maintain. We would want to make sure that the road  
605 is no different when we finish up the project from what it is today. Usually, after the fact,  
606 these projects typically only require maybe 2 or 3 site visits a year from a contractor in a  
607 pickup truck. Using that pollinator mix I referred to allows us to do some of our  
608 operations and maintenance, whereas, a typical site like the one behind me needs to be  
609 mowed down 2 or 3 times a year. Sometimes, if we use these pollinator or wildflower  
610 mixes, that might only be once, or maybe twice, a year. Once the project is installed, they  
611 are very similar to living next to a cemetery. Very little work, very little service is  
612 required, and very little ongoing potential damage to a road or ROW or disturbance to the  
613 community.  
614  
615 Ms. Crichton said that you are purchasing the entire 69.5 acres. What are you going to do  
616 with the rest of it.  
617  
618 Mr. Sudak said that Mr. Brubaker and I have had conversations in the past about  
619 dedicating a portion of it as a conservation easement or something that the Town of Eliot  
620 would accept. Candidly, I'm not sure where that conversation lands in terms of lot  
621 coverage. The biggest contention with this site has been that the Rural Zone has a 10%  
622 lot coverage maximum and the panels, themselves, are considered structures in the Town  
623 ordinance. When we were at sketch previously in that larger array, we were right up  
624 against the 10%. Now, with our reduction/consolidation, we're in the ballpark of 5% to  
625 5.5%, so there is some land that could be dedicated to something like that. We would be  
626 happy to entertain it but I might need an education on where the conservation easement  
627 would...what side of that calculation that would stand on.  
628  
629 Mr. Brubaker said that, off the top of my head, I don't think a conservation easement  
630 would affect the lot coverage calculation.  
631  
632 Mr. Kellar said that just as an additional potential benefit to the community, there's three  
633 different pieces of these solar projects that add additional value to the Town. The first  
634 one, which is sometimes difficult to quantify on a macro level, is that any upgrades to the  
635 lines or to the substation that is in Eliot is the responsibility of this project. I'm sure we  
636 all understand, if you look around the states or different parts of the world, a lot of the  
637 electric grid is old. It was built many, many, many years ago and it is tired. So, when we

638 do these solar projects, one of the benefits to the community is that any line upgrades that  
639 are required, anything done at the substation, which is very costly. To re-do a substation  
640 \$6-, \$8-, \$10-million-dollar-range and that eventually gets passed on to the ratepayer. But  
641 on these solar projects, whenever we have to upgrade, any of the equipment from us back  
642 to the line, that creates some additional new lines and equipment at the substation that can  
643 benefit people in the community, just from a resilience perspective. The second one is  
644 that there is typically a taxing mechanism so there is an ability to enter into a **payment in**  
645 **lieu of tax** with the Town to create some additional tax revenue on this property in the  
646 tune of \$4,000/year on this size project. Finally, a lot of work that I've done over the  
647 years, my original start in this industry was projects at schools, and the project behind me  
648 is on a landfill in Milton, NH. We've always offered an opportunity for any of the  
649 schools to engage the students, at whatever level – science, math, sustainability. This will  
650 likely be one of the only projects in the Town because of some of the State rules that have  
651 changed and the overall impacts on the grid, that it is likely there won't be many more, if  
652 any, projects like this in Town. This could also be another resource for the schools to  
653 benefit from by using this as an educational component. We're more than happy to  
654 engage with the schools and help out the Town. We could pipe in a section that shows  
655 how much power is going into the community because the community, itself, is able to  
656 join these projects and save money on their electric bill, which is technically the fourth  
657 reason to give back to the Town. The Town can join, businesses can join, homeowners  
658 can join to save money on their electric bill. So, it's really meant to be a community solar  
659 project to add value for all the reasons I've already stated but also to help people save on  
660 their electric bill.

661  
662 Ms. Braun said that I have one question about the vernal pool that's outside the area. If it  
663 is impacted at all during this process, you will then get the Maine Department of Inland  
664 Fisheries involved very soon.

665  
666 Mr. Sudak said yes. If some unforeseen impact does happen, we would have to pursue a  
667 separate NRPA, I believe, for impacting that 250-foot critical terrestrial habitat.

668  
669 Ms. Braun said that the other question was that, in the last review, there were boundary  
670 questions. Has that been taken care of now.

671  
672 Mr. Sudak said yes. Part of the reason for contention was the lot coverage that I brought  
673 up earlier. The secondary issue that was included in my application was the 3-page  
674 Easterly Survey that was performed back in 2005, I believe, wasn't certified. We have  
675 reached out and it has been indicated to us that a survey certification will be provided for  
676 that boundary survey. It is not in your packet tonight but it is forthcoming; that he is on  
677 vacation this week. You will get a copy of it for your files.

678  
679 Mr. Leathe said that you talked about 15 acres, I believe, for the total site, including from  
680 the fencing in. Is that correct.

681  
682 Mr. Sudak said 'occupied area', more of a DEP term than a Town term. That is basically  
683 everything that we touch, or cut, or anything, that includes shade management,

684 stormwater areas, areas outside the perimeter fencing that includes our utility easement,  
685 our access easement, the 16-foot gravel drive, the array, itself, everything. I believe it's  
686 just over 15 acres. The array, itself, is on the order of 9 acres.

687  
688 Mr. Leathe said that you are clearing for the shade area but you aren't stumping. Is there  
689 a reason for that. Is it cost. Is it environmental protection. What is all that about.

690  
691 Mr. Sudak said that the areas within the perimeter fencing are all cleared, stumped, and  
692 grubbed just for the very few times they do need to be serviced and accessed for  
693 maintenance we have that vehicle, if you will, to provided that. The area outside the  
694 fencing is exclusively for shade management. It might be a cost but it also might be  
695 giving that area a little bit more of a head start in becoming a more established forest,  
696 again, or a more hardy environment as opposed to just a meadow that the area within the  
697 perimeter fencing is going to be.

698  
699 Mr. Leathe said that he was curious as to the genesis of the 6" bottom of the fence. Who  
700 decides 6" is better than no inches is better than 2 feet.

701  
702 Mr. Kellar said that that was a really good question and I don't have a direct answer why  
703 6" made sense. I don't know if it had to do with the general public. Is it easy for an adult  
704 to crawl under a fence that's 6" up or 16" up. What is that right size where it maintains  
705 the integrity of the electrical code but allows the smaller animals to move freely and not  
706 get stuck. I'm going to guess that it's probably a combination of those different reasons.

707  
708 Mr. Leathe said that, at the last meeting, you talked about additional lines and poles  
709 needing to be installed and I think you used the term "transfer station" and I don't know  
710 if that's the right terminology, or not, but how much infrastructure outside of the facility,  
711 along Odiorne, and maybe Goodwin Road is going to take place.

712  
713 Mr. Kellar said that we've already gone through the CMP engineering process and what  
714 they call an impact study process that's been complete. We're going through a short re-  
715 study because of the system size change due to the State policy but that's only going to  
716 decrease some of our costs because the system is smaller. What we learned from that  
717 study was that most of the improvements are going to be on upgrading some of the lines  
718 down Goodwin Road and bringing the lines from Goodwin Road up to the site. That  
719 doesn't necessarily mean that they are going to be big, ugly, nasty poles there. They are  
720 the standard type of poles that CMP places anywhere around your community. The  
721 substation reference I made is way back down in Town. It's not anywhere near the site,  
722 so, we're not building a substation at the site. We're not putting bigger poles. We're  
723 using whatever infrastructure is already there and upgrading only where it is necessary to  
724 make sure that, for the protection of the community, the amount of power being put back  
725 on those lines can be supported. There will be some line upgrades and there could be a  
726 couple of old poles out there that have been there for 50 years that could be replaced.  
727 Once we get into the construction planning process with CMP, we follow their normal  
728 course of business processes that they do every day in Town. The only portion of the  
729 equipment that is related to the solar is that CMP typically requires three poles close to

730 the site, close to where the array is and that drops down to a typical transformer right next  
731 to where the panels are and then everything else goes underground and into the site from  
732 there. To reiterate, no poles will be allowed that are larger than what they are today and  
733 any improvements are only going to be for the benefit of the community and the safety of  
734 the community.

735  
736 Mr. Leathe said, just to clarify, are you expecting any work on Goodwin Road in terms of  
737 upgrading that power grid.

738  
739 Mr. Kellar said that the only portion that I remember from the report...there is 3-phase  
740 power on Goodwin Road...I believe there is a short section where the size of the wire  
741 needs to be changed, I believe, but that doesn't change the poles.

742  
743 Mr. Leathe asked about the status of the two DEP permits and the timeline on that.

744  
745 Mr. Sudak said that this project is subject to the NRPA Tier I for the wetland impact that  
746 we are leveraging on the site and an individual stormwater management permit. That  
747 second one has a 45-day review period, which we submitted back in May; however, the  
748 policy changes that have impacted this project required me to re-submit some of our  
749 determination values to them in mid-July, which would put us somewhere around mid-  
750 September, late September. I expect it will be similar for the NRPA, as well.

751  
752 Mr. Leathe said that the applicant has asked for a waiver of the High Intensity Soils  
753 Survey and asked for the Planner's take on that.

754  
755 Mr. Brubaker said that I would primarily turn that over to the applicant to make a case for  
756 that waiver. I do think that this is a site that obviously has a pretty large developed area in  
757 terms of the solar arrays, size being 9 acres. At the same time, the applicant has talked  
758 about how each solar table will only be on monopoles and they've talked about how that  
759 would work in terms of the stability of the ground they would be putting them in. So, I  
760 can see pros and cons of not requiring a High Intensity Soils Survey. Other than that. I  
761 would turn it over to the applicant to talk about.

762  
763 Mr. Sudak said that, in my opinion, the High Intensity Soils Survey is more warranted for  
764 a residential development where you need the residential density calculation and the lots  
765 are more informed by what your underlying soil type is, septic-related. Mr. Kellar went  
766 over, and Mr. Brubaker just highlighted, the manner of anchoring won't change  
767 regardless of the boundary line soil type. We had a Medium Intensity Soils Survey from  
768 the county that informs our stormwater assessment, the curve numbers there and how we  
769 would gauge run-off flow going to our BMPs. It's my belief that that is adequate  
770 enough to cover our defense of our stormwater management. I do formally request the  
771 waiver.

772  
773 Mr. Leathe said that I would like to suggest we do a site walk.

774  
775 The PB agreed.

776  
777  
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Mr. Brubaker said that the earliest, to meet notice, would be August 16<sup>th</sup>, the day before the August 17<sup>th</sup> PB meeting. We could also schedule it for a later date.

Ms. Braun asked if we continue this application to the 17<sup>th</sup>, what else is on the schedule for that date.

Mr. Brubaker said that the 17<sup>th</sup> meeting is getting tight and putting this on that meeting would depend on the PB's appetite. We will have to do a public hearing on our ordinance amendments. We'll have to re-do the public hearings for the shoreland applications and I'm expecting one or two other site plan reviews. So, it is going to be a pretty busy meeting. Our next meeting would not be until September unless you would want to hold an additional meeting. I have a placeholder for a potential overflow meeting on the 24<sup>th</sup> but that is totally up to the PB.

Mr. Leathe said that I will unfortunately be out of the country that week, the next meeting, so I wouldn't be able to make the site walk or the meeting.

Mr. Brubaker suggested there might be a site walk and an extra meeting on the 24<sup>th</sup> if you all are available for that.

PB members all agreed that they would be available for that.

Ms. Braun asked if August 23 for a site walk and meeting on August 24<sup>th</sup> was acceptable to the applicant.

Mr. Sudak said that that is agreeable. Concerning the site walk, what would the PB like to have staked.

Ms. Braun asked if he could stake out pretty much where the array is going to be. She also asked if there was any way he could stake out one of the swales so that we could get a visual.

Mr. Sudak agreed. Would we have the public hearing at the August 24<sup>th</sup> meeting.

Ms. Braun said that we haven't decided that the application is complete, yet, and we haven't voted on your waiver. I think the site walk will determine what we do about the waiver.

Ms. Braun asked if Ms. Moore from the Conservation Commission would like to weigh in on anything.

Ms. Moore said that we were at the last meeting in June. We expressed some concerns about habitat fragmentation, especially in this area of State-wide ecological significance in the York River headwaters focus area. Those concerns still remain. I appreciate the attempts to build up new habitats through using the pollinator mixes but I still think

822 you're changing from a forested system and introducing a new habitat, which I don't  
823 really think is a compatible use in this area, from a habitat standpoint. I have some  
824 concerns about the wetlands, the survey; that we still haven't seen a report and I don't  
825 know if you have submitted that. I had seen that they did a wetlands survey in 2007,  
826 asking if that was going to be a re-do. It wasn't clear. Does he have the boundaries and  
827 these are jurisdictional. Has this been confirmed.

828  
829 Mr. Sudak said that I can get data on that.

830  
831 Ms. Moore asked what is the total wetland impact. It's actually three different wetland  
832 pieces that are all part of a larger forested wetland so that is another concern. You talked  
833 about the shade area and I just want to make sure it's clear to everyone that it will never  
834 return to forest in the shade management areas if you don't want trees. The lack of  
835 stumping and grubbing is positive from a ground disturbance standpoint but I just want to  
836 make sure it's clear that that will not be forested. There is also that waterfowl breeding  
837 area, which is outside the construction area but still something that has stormwater so  
838 that's another concern, especially being in the watershed. Back to the forest  
839 fragmentation, we really believe this an irretrievable effect on the natural resources in our  
840 community. We still have concern about that. I still can't wrap my mind around why  
841 we're putting this in the middle of a forested wetland. You have a 70-acre parcel, and I  
842 don't know what's on the rest or it but it looks like may be parts of it are less forested.  
843 I'm not sure what the overall area is that comprises that 70 acres but, if you get a  
844 boundary for our meeting tomorrow, that would help our discussion tomorrow night at  
845 the Commission. So, those are just some of my concerns. I could go on and on but I  
846 won't. I just thought those were important for you to consider from our discussions.

847  
848 Ms. Braun said that, hopefully, by the 24<sup>th</sup> the applicant will have more information on  
849 your DEP status permits and you will have the certified boundary survey.

850  
851 Mr. Sudak said yes. As soon as I know, you will know.

852  
853 Ms. Meyer said that I'm very pleased that the PB will be conducting a site walk. I would  
854 just like to put it out there that Odiorne Lane is a private road that runs through our  
855 property. As you come up onto Odiorne Lane and you hit Backfields Farm (our property),  
856 it functions as our driveway. So, coming up to your site walk, you will need to traverse  
857 Odiorne Lane through our property and we have livestock and dogs and, sometimes,  
858 grandchildren in the road that is functioning as our driveway. You will go down to the  
859 parcel and you'll park on our property because you're not going to be able to get your  
860 vehicles in and you will walk and onto the parcel. So, I say this because you're going to  
861 schedule a site walk, which I strongly approve of, so you can see what you are being  
862 asked to approve but I would also ask that the date and time is something you can discuss  
863 with us, as well, so it is convenient for us because you are coming onto our driveway,  
864 traversing our property where we live.

865  
866 Ms. Braun asked if 3PM is acceptable.

867

868 Ms. Meyer said that I'll have to take a look at our schedule for that day but, right now, it  
869 doesn't seem like we have any obstacles to that.

870  
871 Ms. Braun asked her to let Mr. Brubaker know as soon as possible because we do have to  
872 notice it.

873  
874 Ms. Meyer said sure. I can email you by tonight.

875  
876 Mr. Sudak asked that he be notified, as well.

877  
878 Mr. Brubaker said that the applicant has paid his fees.

879  
880 **C. 7 Maclellan Lane (Map 37/Lot 19), PB21-18: Site Plan Amendment and Change**  
881 **of Use – Adult Use Marijuana Manufacturing.**

882  
883 **Received: May 11, 2021**  
884 **1<sup>st</sup> Heard: June 22, 2021 (sketch site plan review)**  
885 **2<sup>nd</sup> Hearing: August 3, 2021 (site plan review)**  
886 **Public Hearing: \_\_\_\_\_, 2021**  
887 **Site Walk: N/A**  
888 **Approval: \_\_\_\_\_, 2021**

889  
890 Mr. (Brian) Nielsen, E.I.T. (Attar Engineering, Inc.) was present for this application.

891  
892 Mr. Nielsen said that the primary purpose of this site plan amendment is to get an adult  
893 use marijuana manufacturing facility in operation within the existing building that's  
894 onsite. I believe that in mid-February of this year this site was approved for an 8,000-  
895 square-foot addition and the uses are manufacturing and retail. We're not proposing any  
896 changes to the addition. The goal of this application is to allow the owner of the property  
897 to maintain their ability to build the addition but to also to allow their tenant, NEK  
898 Assets/Sweet Dirt, to operate within the existing building should, or should not, that  
899 addition be built. This site plan amendment changes the use in the existing structure from  
900 manufacturing to adult use marijuana manufacturing. We propose no site changes or any  
901 use to the approved addition. There will be some site changes for the immediate use,  
902 primarily in parking striping. Mr. Brubaker asked me to include some phasing notes on  
903 the site plans and detailed report of post construction and it looks like he has those up  
904 now.

905  
906 Mr. Brubaker showed the site plan on the screen while Mr. Nielsen read the notes for  
907 Phase One, located on Sheet 1 of 2:

908  
909

## PHASING NOTES

1. THE PURPOSE OF THE PROPOSED PHASE CONSTRUCTION IS TO ALLOW THE OPERATION OF A MARIJUANA ESTABLISHMENT AHEAD OF FULLY COMPLETING ALL OF THE SITE IMPROVEMENTS REQUIRED IN THE CURRENTLY APPROVED SITE PLAN (REFERENCE 2). THIS PLAN IN NO WAY SEEKS TO REMOVE OR REDUCE THE REQUIRED SITE IMPROVEMENTS SHOULD THE 8,000 SQUARE FOOT ADDITION BE BUILT.
  2. CONSTRUCTION TO BE DONE IN TWO PHASES.
    - 2.1. PHASE 1: RENOVATION OF EXISTING APPROVED MANUFACTURING BUILDING FOR ADULT-USE MARIJUANA MANUFACTURING.
    - 2.2. PHASE 2: APPROVED ADDITION AND ASSOCIATED SITE IMPROVEMENTS PER THE CURRENTLY APPROVED SITE PLAN (REFERENCE 2).
  3. PHASE 1
    - 3.1. CONCRETE PADS DIRECTLY OUTSIDE OF EXISTING BUILDING TO REMAIN. PARKING PROPOSED IN THESE AREAS FOR THIS PHASE.
    - 3.2. EXISTING ASPHALT TO REMAIN THIS PHASE.
    - 3.3. DURING THE CONSTRUCTION OF THE ADDITION, MANUFACTURING OPERATIONS WILL CONTINUE IN THE EXISTING BUILDING. PARKING, UTILITIES, SECURITY AND OTHER OPERATIONAL REQUIREMENTS TO BE COORDINATED WITH CONSTRUCTION CONTRACTOR AND ELIOT CODE OFFICE IN A PRE-CONSTRUCTION MEETING.
    - 3.4. LIGHTING TO BE PROVIDED ON ALL SIDES OF EXISTING BUILDING PER ELIOT CODE OF ORDINANCES CHAPTER 33-190(4)(f). ALL LIGHTING TO BE DARK SKY COMPLIANT AND SHALL MEET ALL PERFORMANCE REQUIREMENTS OF ELIOT CODE OF ORDINANCES CHAPTER 45-410.
    - 3.5. ALL SECURITY MEASURES PER ELIOT CODE OF ORDINANCES CHAPTER 33-190(4)(f) SHALL BE INSTALLED AHEAD OF RECEIVING A CERTIFICATE OF OCCUPANCY.
  4. PHASE 2
    - 4.1. SITE IMPROVEMENTS PER SHEET 2 AND REFERENCE 2.
    - 4.2. POROUS PAVEMENT FOR PARKING TO BE COMPLETED FIRST TO ALLOW MARIJUANA MANUFACTURING EMPLOYEES TO PARK DURING PHASE 2 CONSTRUCTION. THIS WOULD PROVIDE THE 15 REQUIRED SPACES.
  5. PARKING REQUIRED PHASE 1  
MANUFACTURING: 1 SPACE/EMPLOYEE X 15 EMPLOYEES = 15 SPACES (16 PROVIDED)
- TOTAL SPACES REQUIRED 15 WITH 16 SPACES PROVIDED.
- 

910

911

912

Mr. Nielsen clarified that Phase 2 is all of the things that the PB worked together to get approved with Mr. Chagnon and Ambit Engineering on the site.

913

914

915

Ms. Braun said that I noticed you were proposing vegetation along Maclellan.

916

917

Mr. Nielsen said correct. That is the same vegetation per the approved site plan. Speaking with Mr. Brubaker, he suggested that portion of the site isn't really seeing a lot of excavation in the final site plan so there's really nothing stopping the installation of plants there at this point. The only objection would be along Route 236. There's a good amount of grading proposed, with stormwater management, in and along those lines so any landscaping put there would likely be destroyed and have to be re-planted.

918

919

920

921

922

923

924

Mr. Brubaker said that I agree with phasing. I think that makes sense. You wouldn't want to plant trees and then have uproot them to put in the stormwater management facilities when Phase 2 comes along.

925

926

927

928

Ms. Braun asked if we have any idea when Phase 2 would be coming along.

929

930

Mr. Brubaker said that that would be up to the applicant, although there are certain timelines for, once you get an approved plan, getting under substantial construction in

931

932 Chapter 33. That was approved back in February so they would either have to meet those  
933 timelines or seek an extension of their approved plan.

934  
935 Mr. Nielsen said that, now that you mention it, it would probably be worth reaching out  
936 to the owner and explain that, especially since we've seen a lot of applications on hold,  
937 for obvious reasons – COVID, manufacturing, lumber costs. So, I will reach out to the  
938 owner and explain the current situation, just in case.

939  
940 Ms. Braun said that that is one of my concerns where this was previously approved for a  
941 larger building for primarily retail space; that there are all kinds of requirements and now  
942 we're putting in a marijuana manufacturing facility, which has its own performance  
943 standards. How are they going to blend in.

944  
945 Mr. Nielsen said that the currently approved site plan is for manufacturing in the existing  
946 structure.

947  
948 Mr. Brubaker gave a quick history. The existing car wash, way back in 2019, was  
949 approved for industrial hemp manufacturing and botanical oil manufacturing. Hemp and  
950 botanical oils are not a marijuana use. The property came back before the PB late last  
951 year/early this year and that's when they got a site plan amendment to add the 8,000-  
952 square-foot addition. The use approved for that addition was retail sales and they retained  
953 the approved industrial hemp and botanical oils manufacturing for the car wash building.  
954 So, this current application isn't saying anything about the addition's approved use. It's  
955 just saying that we want to add this additional use into the existing car wash building,  
956 which is marijuana products manufacturing.

957  
958 Ms. Braun said that my question still is how these are going to blend.

959  
960 Mr. Nielsen explained that, if you were to approach a manufacturing building (forgetting  
961 about marijuana) for the approved use, it's going to be employee-facing only, so you will  
962 only have parking for employees; exterior lighting that they have on their lighting plan,  
963 and security requirements will be there. As far as the exterior of the building, parking  
964 requirements, site it's all going to be pretty much the same, except for the enhanced  
965 security and lighting requirements per the State/Town of Eliot marijuana code. Those are  
966 the performance standards that NEK Assets is required to meet and those are all the ones  
967 we are proposing as part of the application. Our lighting specifications are included, our  
968 security specifications, odor, waste, wastewater, they are all part of the application. All  
969 those performance standards will absolutely be met with the current site conditions.

970  
971 Mr. Latter said that the ask, here, is to change the existing approved uses approved use to  
972 be marijuana manufacturing irrespective of whether the retail space ever gets built or not.

973  
974 Mr. Brubaker said that it would be to add a new, approved use to the list, whether the  
975 retail space gets built.

976

977 Mr. Latter said that I don't have a problem, just trying to understand what they are  
978 asking.

979  
980 Mr. Brubaker said that this is neutral on the retail space in terms of approved uses. It  
981 would add marijuana products manufacturing to the existing structure.

982  
983 Ms. Braun asked if there is going to be any signage.

984  
985 Mr. Nielsen said that I don't believe there is any intended signage. It's only going to be  
986 for employees.

987  
988 Ms. Braun said that I know you are putting in the dumpster where we had said before to  
989 move it away. Is it going to be locked.

990  
991 Mr. Nielsen said yes; that that is State and local requirements. There will also be a  
992 security camera.

993  
994 Ms. Crichton said that when you go down Route 236 by Sweet Dirt, you can smell it with  
995 the windows up. Is this going to have the same filters in place for odor control that Sweet  
996 Dirt has.

997  
998 Mr. Nielsen said that it will. So, it will be activated charcoal filters. I believe it is the  
999 industry standard.

1000  
1001 Ms. Braun said that I noticed that you are asking for a boatload of waivers. Would you  
1002 like to give your rationale for that.

1003  
1004 Mr. Nielsen said that the primary theme, here, is that Ambit took care of it in their initial  
1005 approved site plan. The Perimeter Survey was completed by Ambit Engineering. The  
1006 Contour Lines, I don't know how Mr. Brubaker would like to handle this as the contours  
1007 are shown so I don't think we need to ask for a waiver for this, since they are already part  
1008 of the approved site plan.

1009  
1010 Mr. Brubaker said that I would agree that Contour Lines would not be applicable in this  
1011 specific application, mainly because they are not constructing any new buildings or  
1012 creating any new disturbed area.

1013  
1014 Mr. Nielsen said that, with the Drainage Plan or the Stormwater Plan, we are not  
1015 introducing any deviations to the site so the Drainage Plan that is currently approved is to  
1016 remain as-is. That goes the same for the Soil Erosion & Sediment Control Plan and High  
1017 Intensity Soils Report. We are making use of the existing septic, septic load for the  
1018 proposed use is far below the previous use from the car wash. There would be much less  
1019 water and other wastes going to the septic system, so, the current system is more than  
1020 adequate. No other structures or any other need for an intense soil report.

1021  
1022 Ms. Braun asked how everybody felt about these waivers.

1023  
1024 The PB was in agreement to waive.

1025  
1026 **Mr. Latter moved, second by Ms. Crichton, that the Planning Board accept the**  
1027 **waivers for §33-127(4), (6), (8), (11), (12), (13), (14), (15), and (16).**

1028  
1029 **VOTE**  
1030 **4-0**  
1031 **Motion approved**

1032  
1033  
1034 Ms. Braun said that we would need a motion for completeness. Is there anything else that  
1035 we need or does everybody feel this is a completed application.

1036  
1037 The PB was satisfied that the application was complete.

1038  
1039 **Ms. Braun moved, second by Ms. Crichton, that the Planning Board find PB21-18**  
1040 **as complete.**

1041  
1042 **VOTE**  
1043 **4-0**  
1044 **Motion approved**

1045  
1046 The Public Hearing was scheduled for August 24, 2021.

1047  
1048 **ITEM 10 – NEW BUSINESS**

1049  
1050 Mr. Brubaker suggested, as we have had two members of the school district waiting  
1051 patiently for their application to be heard, that we take them out of order.

1052  
1053 The PB agreed.

1054  
1055 **A. 180 Depot Road (Map 63/Lot19), PB21-25: Site Plan Amendment – Addition of**  
1056 **Offices and Storage in the MSAD #35 Superintendent’s Office Building.**

1057  
1058 **Received: July 21, 2021**  
1059 **1<sup>st</sup> Heard: August 3, 2021 (minor site plan amendment review)**  
1060 **Public Hearing: N/A**  
1061 **Site Walk: N/A**  
1062 **Approval: August 3, 2021**

1063  
1064 Mr. (Ryan) Cormier (MSAD #35 Business Manager) was present for this application.

1065  
1066 Mr. Cormier said that our original site plan included a first floor and about 10 offices.  
1067 The building, as constructed, is a 2-story. We’re just asking to finish the upstairs of one

1068 half of the building, add three additional offices and a closet, which will be used for  
1069 storage and a small network rack.

1070

1071 Ms. Braun said that you are not making any other changes to the exterior.

1072

1073 Mr. Cormier said that the exterior will not be impacted.

1074

1075 Ms. Braun said that I would imagine that any impact to your sewer system would be  
1076 minimal.

1077

1078 Mr. Cormier said that there would be no additional bathrooms.

1079

1080 Ms. Braun said that I see this as a minor site plan adjustment. How does the rest of the  
1081 PB feel.

1082

1083 The PB agreed with the Chair.

1084

1085 **Mr. Leathe moved, second by Mr. Latter, that the Planning Board approve PB21-25**  
1086 **as a Minor Site Plan Amendment to finish the unfinished attic at the**  
1087 **Superintendent's office to include three (3) additional offices and a storage closet.**

1088 **The Planning Board finds that the proposed revisions are minor and do not result in**  
1089 **any substantial changes to the approved development or further impact abutters.**

1090 **The Planning Board also makes the following Shoreland Zoning findings of fact (in**  
1091 **addition to other applicable findings of fact to be included in the Notice of Decision:**

- 1092 **1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and**  
1093 **Shoreland Zoning Permit Application have been or will be met; and**  
1094 **2. Based on the information presented by the applicant and in accordance with**  
1095 **§44-44, the Planning Board finds that the proposed use:**  
1096 **a) Will maintain safe and healthful conditions;**  
1097 **b) Will not result in water pollution, erosion, or sedimentation to surface**  
1098 **waters;**  
1099 **c) Will adequately provide for the disposal of all wastewater;**  
1100 **d) Will not have an adverse impact on spawning grounds, fish, aquatic**  
1101 **life, bird, or other wildlife habitat;**  
1102 **e) Will conserve shore cover and visual, as well as actual, points of access**  
1103 **to inland and coastal waters;**  
1104 **f) Will protect archaeological and historic resources as designated in the**  
1105 **comprehensive plan;**  
1106 **g) Will avoid problems associated with floodplain development and use;**  
1107 **and**  
1108 **h) Is in conformance with the provisions of §44-35, land use standards.**

1109 **And with the following conditions of approval:**

- 1110 **3. The property may be developed and used only in accordance with the**  
1111 **plans, documents, material submitted, and representations of the**  
1112 **applicant made to the Planning Board. All elements and features of the**  
1113 **use as presented to the Planning Board are conditions of approval and**



1160 something I know York Woods is already doing, and I hope everybody is already doing  
1161 it, which is keeping those firewood sales sourced from in-State or, if out-of-state, certify  
1162 that they are not spreading any borers or other insect pests. I don't know if we need that,  
1163 that it might be useful to have in our code but I see it as totally optional. I think the bulk  
1164 of this is simply changing that 'no' to a 'yes' and making firewood sales allowed. No  
1165 motion needs to be made on it tonight. It's just for your review.

1166  
1167 Mr. Latter asked if the firewood sales isn't covered by State law.

1168  
1169 Mr. (Mike) Lewis said that I believe the Town of Eliot code is that you can process  
1170 firewood in residential, residential/commercial, and commercial/industrial land. You can  
1171 have someone come to residential, commercial, residential/commercial to pick firewood  
1172 up and take it away. But, with commercial/industrial land, you can only sell it if you load  
1173 it into your truck and physically deliver it to them. I do a whole bunch of wood products.  
1174 So, whether I cut it and split it and it goes out in a truck or I grind it up and chip it and  
1175 goes out in woodchip form, there's no difference here going on. It's just a matter of  
1176 wording. If there's any place in the Town of Eliot, the C/I land is where this type of  
1177 operation should perform. We already have a plethora of people coming into the yard  
1178 picking up top soils, mulches, different products. We can't sell firewood to the public  
1179 when, just down the street at Cumberland Farms or Irving, they can sell bundles of wood.  
1180 It's not a big deal but we would like to be able to sell firewood to our customers.

1181  
1182 Ms. Braun said that that didn't make any sense, especially in the Commercial/Industrial  
1183 District.

1184  
1185 Mr. Latter said that it sounds like it was a situation never intended to be prohibited but it  
1186 was just never specifically allowed.

1187  
1188 Ms. Braun said to Mr. Brubaker that your §45-424 I agree with. I think we should have it  
1189 in the code, where Maine is so concerned with out-of-state wood.

1190  
1191 Mr. Lewis agreed. We have to deal with State and federal laws about transporting wood.  
1192 As of now, I know we can bring wood in that's log-linked, out-of-state, with the majority  
1193 from Maine, but we can't bring it back over there (NH) unless it's kiln-dried. It's in the  
1194 quarantined areas that the wood is staying. From what I understand from the State, you  
1195 can't bring it back, which makes no sense, because it's already there. He explained that it  
1196 isn't so much coming out of Dover (local wood), it's people coming off Highway 95  
1197 from Georgia, Texas, Massachusetts, etc.

1198  
1199 Mr. Brubaker said that we would have a public hearing for the ordinance amendments on  
1200 either the 17<sup>th</sup> or the 24<sup>th</sup>; that it would then go on the November ballot.

1201  
1202 Mr. Brubaker said that the **Site Photos** amendment is just a DEP request. As you know,  
1203 DEP has to approve any Shoreland Zoning changes. When they approved ours, they said  
1204 that everything looked good but, by the way, you should do this little thing.

1205

1206 Mr. Brubaker said that **Post-construction Stormwater** Management was regarding  
1207 changing it back to Town-wide. Again, no motions needed tonight but just for your  
1208 review and we will see, again, on the 17<sup>th</sup>.

1209  
1210 **ITEM 11 – CORRESPONDENCE**

1211  
1212 There was no correspondence.

1213  
1214 **ITEM 12 – SET AGENDA AND DATE FOR NEXT MEETING**

1215  
1216 Planning Board Submission Deadlines – this is informational for the PB.

1217  
1218 Mr. Latter said that I am in Florida for November 10<sup>th</sup> and 17<sup>th</sup>.

1219  
1220 Ms. Crichton will also be away in November.

1221  
1222 There was a reminder that they could Zoom into those meetings.

1223  
1224  
1225  
1226  
1227 The next regular Planning Board Meeting is scheduled for August 17, 2021 at 7PM.

1228  
1229 **ITEM 13 – ADJOURN**

1230  
1231 **Mr. Leathe moved, second by Mr. Latter, that the Planning Board adjourn.**

1232  
1233 **VOTE**  
1234 **4-0**  
1235 **Motion approved**

1236  
1237  
1238 The meeting adjourned at 9:28 PM.

1239  
1240  
1241  
1242  
1243 **Lissa Crichton, Secretary**  
1244 **Date approved: \_\_\_\_\_**

1245  
1246  
1247 **Respectfully submitted,**  
1248  
1249 **Ellen Lemire, Recording Secretary**

1250  
1251



# TOWN OF ELIOT MAINE

PLANNING OFFICE  
1333 State Road  
Eliot ME, 03903

POSTED  
8/4/21  
KLL

## PUBLIC HEARING NOTICE

**AUTHORITY:** Eliot, Maine Planning Board  
**PLACE:** Town Hall (1333 State Rd.) with Remote Zoom Option  
**DATE OF HEARING:** August 17<sup>th</sup>, 2021  
**TIME:** 7:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, August 17<sup>th</sup>, 2021 at 7:00 PM for the following application(s) and draft ordinance amendments:

- **26 Addison Lane (Map 41/Lot 11), PID # 041-011-000, PB21-20:** Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Floats
  - Applicant: Zieja Family Revocable Trust
  - Property Owner: Zieja Family Revocable Trust
  
- **213 Pleasant Street (Map 4/Lot 2), PID # 004-002-000, PB21-21:** Shoreland Zoning Permit Application – Replacement Bait House
  - Applicant: Long Reach Landing, LLC
  - Property Owner: Long Reach Landing, LLC
  
- **Draft Ordinance Amendments:**
  - Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales
  - Proposed Town Code Amendments of Chapter 44 – Shoreland Zoning, Related to Shoreline Vegetation and Development Site Photographs
  - Proposed Town Code Amendments of Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability

Interested persons may be heard and written communication received regarding this application at this hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. The meeting agenda and information on how to participate using the remote (Zoom) option 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.

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Please include: notice text, publication name and date to publish along with your contact info.

**Legals**

**Greenland School District Notice of Public Hearing**

The Greenland School Board will hold a Public Hearing, in compliance and conformance with RSA 198:20-c, at the Greenland Central School, on Monday, August 16, 2021 at 6:30 p.m. for the purpose of potential expenditures for the network wiring to update wireless infrastructure from the Greenland Expendable Technology Expendable Trust Fund.

Greenland School Board  
August 6, 2021

**Legals**

**LEGAL NOTICE EXETER ZONING BOARD OF ADJUSTMENT AGENDA**

The Exeter Zoning Board of Adjustment will meet on Tuesday, August 17<sup>th</sup>, 2021 at 7:00 P.M. in the Nowak Room located in the Exeter Town Offices, 10 Front Street, Exeter, to consider the following:

**NEW BUSINESS:**  
The application of ZV Investments, LLC for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses and Article 5, Section 5.2 to permit the conversion of an existing single family home and accessory structure into four (4) residential condominiums. The subject property is located at 50 Newfields Road, in the R-1, Low Density Residential zoning district. Tax Map Parcel # 35-. Case #21-9.

**OTHER BUSINESS:**  
- Approval of Minutes: July 20, 2021

**EXETER ZONING BOARD OF ADJUSTMENT**  
Kevin M. Baum, Chairman  
Posted 08/06/21: Exeter Town Office and Town of Exeter website

**\*ZOOM PUBLIC ACCESS INFORMATION**  
Virtual Meetings can be watched on Channel 22 and on Exeter TV's Facebook and YouTube pages.  
To access the meeting, click this link: <https://exeternh.zoom.us/j/89536724309>  
To access the meeting via telephone, call: +1 646 558 8656 and enter the Webinar ID: 895 3672 4309  
Please join the meeting with your full name if you want to speak.  
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More instructions for how to access the meeting can be found here: 847 6088 7203 <https://www.exeternh.gov/townmanager/virtual-town-meetings>  
Contact us at extvg @ exeternh.gov or 603-418-6425 with any technical issues.

**Legals**

**LEGAL NOTICE Public Hearing**  
Tuesday August 17th, 2021 7:00PM

Notice is hereby given in accordance with RSA 676:4 & 675:7 that the Milton Planning Board will hold a public hearing for an Amended Site Plan Application for Shortridge Re Holdings LLC at 619 Governors Road (Map 25, Lot 2) on Tuesday August 17th at 7:00PM. The meeting will be held at the Milton Town Hall during a regular meeting of the Board.

Shortridge Academy is asking for approval from the board to alter their existing site plan application to approve an expansion on an current facility to include an additional 32 bed student dormitory and new student union building.

Should a decision not be reached at the public hearing, this application will stay on the Planning Board agenda until such time as it is either approved or disapproved.

If you have any questions about the application please reach out to the Landuse Clerk or visit <https://www.miltonnh-us.com/planning-board/pages/applications-under-review-planning-board>.

**Legals**

**PUBLIC HEARING NOTICE**

**AUTHORITY:** Eliot, Maine Planning Board  
**PLACE:** Town Hall (1333 State Rd.) with Remote Zoom Option  
**DATE OF HEARING:** August 17th, 2021  
**TIME:** 7:00PM

Notice is hereby given that the Planning Board of the Town of Eliot, Maine will hold a public hearing on Tuesday, August 17th, 2021 at 7:00 PM for the following application(s) and draft ordinance amendments:

- 26 Addison Lane (Map 41/Lot 11), PID # 041-011-000, PB21-20: Shoreland Zoning Permit Application - Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Floats  
o Applicant: Zieja Family Revocable Trust  
o Property Owner: Zieja Family Revocable Trust
- 213 Pleasant Street (Map 4/Lot 2), PID # 004-002-000, PB21-21: Shoreland Zoning Permit Application - Replacement Bait House  
o Applicant: Long Reach Landing, LLC  
o Property Owner: Long Reach Landing, LLC
- Draft Ordinance Amendments:  
o Proposed Town Code Amendments of Chapter 45 - Zoning, Related to Firewood Sales  
o Proposed Town Code Amendments of Chapter 44 - Shoreland Zoning, Related to Shoreline Vegetation and Development Site Photographs  
o Proposed Town Code Amendments of Chapter 35 - Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability

Interested persons may be heard and written communication received regarding this application at this hearing. The application is on file and available for review in the Planning Office at Eliot Town Hall, 1333 State Road, Eliot, ME 03903. The meeting agenda and information on how to participate using the remote (Zoom) option 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.

**Autos for Sale**

2006 BUICK LACROSSE CXS 122K. 6 cyl, heated leather seats, AC, PW, sunroof, no rust, non-smoker. Asking \$6,000 or BRO. Call 603-664-7675.

Alpine white, av.MPG 44.4 annual cost \$1,300 excellent condition garaged, Black interior, the List price was \$58,000. 13,250 miles jchdunlop@gmail.com 1.603.234.3313

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2015 VESPA Sprint scooter (150cc) - \$3750. EXCELLENT way to scoot around town or campus. EZ to park and fuel efficient (gets about 90 mpg). Extras included: cargo trunk, windscreens, rain cover, two helmets and a safety motorcycle jacket. Everything you need to get your motor runnin' .... [dkwessel@gmail.com](mailto:dkwessel@gmail.com) or text 603-923-0245.

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Newington, NH  
[cs@greatbaymarine.com](http://cs@greatbaymarine.com)

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Front Desk Person: Now hiring Full and Part-time Health Ins. & 401K available.

[unionbluff.com](http://unionbluff.com) or 207-363-1333  
BEACH STREET, YORK BEACH Maine

**Help Wanted Restaurant & Bar**

DISHWASHER: Full and Part-time \$17.HR. Must be reliable and available on weekends Health Ins. & 401K available.

[unionbluff.com](http://unionbluff.com) or 207-363-1333  
BEACH STREET, YORK BEACH Maine

**Items for Sale**

Folding quilters table on wheels \$50. 5 gal fish tank w/access \$10. Kitchen table, 4 chairs, 3 bar stools \$75. Portable fire pit \$15. Wedding gown, ivory, size 9-10, \$300. New Toyota Camry headlight assembly set \$20. Skylanders video characters 2 large boxes \$80. Child's bedside protector-Elmo & cookie monster \$5. Bicycle for tween \$15. Nerf Terra Scout remote control robot w/charger, live video feed, shoots Nerf bullets \$100. Avon's Mrs Albee statues 2009, 2010, 2013, 2014 \$40 each. Call 603-534-2292

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JOHN'S FIREWOOD Green Oak - Cut, split & FREE delivered North of Sullivan Bridge \$275 a full cord. Call (603)923-1320

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HAND TOOLS WANTED ALL Trades- axes, chisels collections, estate lots, etc Liberty Tool 888-405-2292

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BEST SATELLITE TV with 2-Year Price Guarantee! \$59.99/mo with 190 channels and 3 months free premium movie channels! Free next day installation! Call 888-986-4740

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BECOME A PUBLISHED AUTHOR! We edit, print and distribute your work internationally. We do the work, you reap the Rewards! Call for a FREE Author's Submission Kit: 844-261-5841

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ARE YOU BEHIND \$10k OR MORE ON YOUR TAXES? Stop wage & bank levies, liens & audits, unfiled tax returns, payroll issues, & resolve tax debt FAST. Call 855-820-8878

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DONATE YOUR CAR TO CHARITY. Receive maximum value of write off for your taxes. Running or not! All conditions accepted. Free pickup. Call for details. 855-986-8602

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Over \$10K in debt? Be debt free in 24-48 months. Pay a fraction of what you owe. A+ BBB rated. Call National Debt Relief 877-278-4861.

**Announcements**

SelectQuote is dedicated to finding a Medicare plan right for you and your wallet. Call 844-361-4727 today and receive a free quote from one of our multiple carriers.

**Apartment Unfurnished**

**COUNTRY BROOK**  
Spacious Sparkling 1 & 2 bedroom apts. situated in a lovely country setting across from the Rochester Country Club.  
1BR \$1,000/mo. plus utilities  
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**Mobile Homes for Sale**

Buy now while prices are low! Save \$6,000 or more on all homes 14 w/des from \$57,995! 28 w/des from \$97,995! Mods from \$134,995! See our ad at WWW.CM-H.com Camellot Homes Rt 3, Tilton, NH exit 20 on Rt 1-93.

**Land for Sale**

**We Buy Land For Cash**  
Top Prices Paid for Residential, Commercial & Wildlife Mgt. Land We Can Close Quickly If Needed, No Contingencies  
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Over 30 Years Experience  
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Attract customers to sell your stuff by advertising in Seacoast Classifieds. We deliver the most bang for your buck with this outstanding print and on-line package!

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3) Call 1-888-736-4062

**Yard Sales**

**Garage & Yard Sales**

**MULTI-FAMILY YARD SALE**  
WHEN: 8 AM until 12 noon, Saturday, August 7  
WHERE: 21 Locke Road, Hampton  
ITEMS: Games, puzzles, books, fishing equipment, housewares, file cabinets, craft supplies, clothes, jewelry and many other items

**NORTH HAMPTON - 79 South Road, Sat. 8/7 from 8-1. Phase Two of enormous barn sale! Watch for dramatic red star mark-downs! Many additional items added. Great items for home and cottages including: chairs, tables, bureaus, beds, and dinnerware. BICYCLES GALORE! Large selection of NEW items toys and decorations. Come have fun with us again!**

**North Hampton Barn Sale**  
@ 281 Atlantic Ave. Sat. 8/7 8am-3pm; Sun. 8am-noon; no early birds please. Large selection antiques inc. cottage bureaus, commodes, drop leaf tables, corner cabinet, chairs & rockers, baskets, lighting, frames & prints, 4-poster bed, stoneware, pottery, vintage Xmas & Easter, books, glassware, forged pot rack, garden, advertising, bottles, china, architectural, pewter, tools & loads of boxes yet to be unpacked!



# Tax-Free Sales

# Event on windows!

**Early bird special!** ★

**Before August 14th!** ★





**Early bird special, before Aug. 14<sup>th</sup>**

1

**SAVE \$330** on every window<sup>1</sup>

**SAVE \$725** on every patio and entry door<sup>1</sup>

Minimum purchase of four.

AND

2

**6.25% OFF** your entire project<sup>1</sup>

Minimum purchase of four.

★ PLUS another ★

3

**\$0 DOWN** Monthly Payments

**0% INTEREST FOR 1 YEAR!**

Minimum purchase of four. Interest accrues from the purchase date but is waived if paid in full within 12 months.

We're celebrating our **Tax-Free Sales Event** this month, and **before August 14<sup>th</sup> you'll get our early bird special!**

**Save \$330 on every window and save \$725 on every patio and entry door plus 6.25% off your entire project and pay nothing for a whole year.<sup>1</sup> And when you set your appointment by August 14<sup>th</sup>, you'll get another \$150 off your entire project!<sup>1</sup>**

- From last year we know that these appointments fill up quickly, so call today
- You must call by August 14<sup>th</sup>

**FREE Appointment - Call Today!** 1-800-226-8233





**FREE Appointment - Call Today!** 1-800-226-8233

<sup>1</sup>DETAILS OF OFFER: Offer expires 9/18/2021. You must set your appointment by 8/14/2021 and purchase by 9/18/2021. Not valid with other offers or prior purchases. Get \$330 off each window and \$725 off each entry/patio door and 12 months \$0 down, 0 monthly payments, 0% interest when you purchase four (4) or more windows or entry/patio doors between 8/1/2021 and 9/18/2021. Get 6.25% off your entire purchase, taken after initial discount(s), when you purchase four (4) or more windows or entry/patio doors between 8/1/2021 and 9/18/2021. Additional \$150 off your project, taken after initial discount(s), when you set your appointment by 8/14/2021 and purchase four (4) or more windows or entry/patio doors by 9/18/2021. Military discount applies to all active duty, veterans and retired military personnel. Military discount equals \$300 off your entire purchase and applies after all other discounts, no minimum purchase required. Subject to credit approval. Interest is billed during the promotional period, but all interest is waived if the purchase amount is paid before the expiration of the promotional period. Financing for GreenSky® consumer loan programs is provided by federally insured, federal and state chartered financial institutions without regard to age, race, color, religion, national origin, gender or familial status. Savings comparison based on purchase of a single

**PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing**



**TOWN OF ELIOT MAINE**

PLANNING OFFICE  
1333 State Road  
Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: Steven D. Riker, CWS, Ambit Engineering, Applicant’s Representative  
 Shelly Bishop, Code Enforcement Officer  
 Kearsten Metz, Land Use Administrative Assistant  
 Date: August 10, 2021 (report date)  
 August 17, 2021 (meeting date)  
 Re: PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – **Public Hearing**

<b>Application Details/Checklist Documentation</b>	
✓ Address:	26 Addison Ln.
✓ Map/Lot:	41/11
✓ PB Case#:	21-20
✓ Zoning:	Suburban
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Zieja Family Revocable Trust
✓ Applicant Name:	Zieja Family Revocable Trust
✓ Proposed Project:	Access ramp, landing, and stairway; permanent fixed pier, seasonal gangway, and seasonal floats
✓ Application Received by Staff:	May 19, 2021
✓ Application Fee Paid and Date:	\$225 (Shoreland Zoning Permit Application – \$175; Residential Pier – \$50)
✓ Application Sent to Staff Reviewers:	June 14, 2021
✓ Application Heard by PB	June 29, 2021
✓ Found Complete by PB	June 29, 2021
Site Walk	N/A
Site Walk Notice Publication	N/A
Public Hearing	July 27, 2021 (held); August 17, 2021 (scheduled again with newspaper notice)
✓ Public Hearing Publication	July 17, 2021 (submitted to newspaper but not published); August 6, 2021
Deliberation	August 17, 2021 (scheduled)
✓ Reason for PB Review:	Shoreland Zoning Permit Application, Permanent Residential Pier (SPR use)

**PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing**

***Summary for August 17***

- The public hearing notice was published in the newspaper – see packet. Town building notice postings and abutter mailings occurred as usual.
- See the updated site plan, which includes the narrower 4-ft.-wide access ramp, landing, and stairway.
- DEP and US Army Corps of Engineers review is in progress.

***Summary for July 27***

- Public Hearing: consider public input, if any, at this meeting, but...
- **We need to hold a new public hearing: the newspaper did not publish our public hearing notice on July 17 as requested. I recommend the item be continued to August 17 to allow for the public hearing notice to be re-published. However, we did send out abutter mailings and post notices in the usual locations in town, so there may still be people wishing to provide input at this meeting. So the public hearing should be held but no final action on the application should be made.**
- The updated site plan now shows required riparian lines and, visually, the pier system appears to meet riparian setbacks.
- The permanent fixed pier has been shortened by 16 ft. (from 90 ft. to 74 ft.) to the mean low water line, as required by Ch. 44, and a 6'x16' landing float between the gangway and main float has been added.
- Based on Section 44-35(b)(6) and DEP correspondence, the plans will be revised to show a maximum 4 ft. wide accessway (ramp, landing, and stairs)

***June 29 report with updates***

**Overview**

Applicant and property owner Zieja Family Revocable Trust (agent: Ambit Engineering, Inc.) is seeking review of a Shoreland Zoning Permit Application for a new permanent residential pier with an access ramp, landing, and stairway; a seasonal gangway; and a seasonal float at 26 Addison Ln. (Map 41, Lot 11) to “provide safe boating access to the Piscataqua River while having only minimal impact to the tidal wetland resource, and avoidance of any navigational interference”.

The 2.36-acre lot along the river currently includes a single-family residence built in 2015. Heading toward the shore, the site has a forested slope down to a tidal area including a tidal saltmarsh, mud flat, and subtidal flat. The access ramp, landing, and stairway would be built on piles heading down the slope to the tidal area. The pier would be built on piles on the salt marsh and mud flat. The float would be secured with helical moorings and chains.

# PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing

## Application package contents

- Shoreland Zoning Permit Application
- NRPA Individual Permit Application package
  - Cover letter
  - Agent authorization letter for Maine DEP and Town applications for Riverside & Pickering Marine Contractors, Inc. and Ambit Engineering, Inc.
  - NRPA Individual Permit Application
  - Field survey checklists
  - Project description worksheet
  - Notice of Intent to File
  - Public Notice Filing and Certification
  - Alternatives analysis
  - Construction details/sequence
  - Wetland functions and values assessment
  - Location maps
  - Abutters list; letters to abutters and reviewing agencies
  - Site photos
  - Warranty deed
  - Endangered/threatened/candidate species and critical habitats list
  - Site plan with location map
  - Site details, side elevation drawings, and construction notes

## Dimensions

- Access ramp: 6' x 36'
- Landing: 6' x 8'
- Access stairway: 6' x 16'
- Permanent fixed pier: 6' x 90'
- Seasonal gangway: 3' x 35'
- Seasonal float: 10' x 20'

**July 27 update:** The permanent fixed pier has been shortened by 16 ft. (from 90 ft. to 74 ft.) to the mean low water line, as required by Ch. 44, and a 6'x16' landing float between the gangway and main float has been added.

**August 17 update:** The access ramp, landing, and stairway have been reduced from 6 ft. to 4 ft. wide, per Town Code and DEP correspondence.

## Zoning

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

**PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing**

**Uses**

Permanent residential piers are SPR uses in the shoreland zone.

**Type of review needed by Planning Board (August 17 update)**

Public Hearing: receive and consider public comment; consider overall action on the application. See motion templates below.

**Status of other agency reviews**

The applicant has submitted a NRPA Individual Permit Application to DEP, with a cover letter dated May 13, as well as a US Army Corps of Engineers (ACOE) permit application. DEP is currently reviewing the NRPA permit application and has contacted review agencies, including the Town and ACOE, for comments. Comment deadline is July 22.

August 17 update: Revised plans have been sent to DEP and ACOE. The new DEP review deadline is October 13. The approval motion template includes a condition regarding DEP and ACOE approval being provided prior to, or along with, the building permit application.

**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 (150 ft. as reported in the application; 150 ft. is the standard for the Suburban district)	Only one is proposed
(2)	Developed on appropriate soils so as to control erosion	The pier will be located on tidal saltmarsh and mudflat, the access structures on the forested slope.  “No erosion control devices are required for this project. There will be no exposed soils or vegetation removal

**PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing**

		required to complete the construction.” (NRPA application)  Note that the pier and accessway will be built on piles.
(3)	N/A – pertains to beach areas	
(4)	Minimize adverse effects on fisheries	The site is “directly adjacent to Tidal Wading Bird and Waterfowl Habitat and Shellfish Beds” (NRPA cover letter). The wetland functions and values assessment reports no impact on fish migration.
(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	N/A – 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.	<b>The proposed pier appears to be about 15 ft. beyond the mean low water mark and will need to be shortened to that point or further back.</b>  Proposed pier is 6 ft. in width  <i>July 27 update:</i> The fixed pier has been shortened by 16 ft. to the mean low water mark, and a 6’x16’ landing float between the gangway and main float has been added.
(10b)	Pier (+ temporary float) length restricted to 200 ft., 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 145 ft. and the float is located at a depth of about 3-5 ft. at mean low water.
(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 exceptions)	<b>Applicant has represented this in the NRPA permit package but should show riparian lines and setbacks on the site</b>

**PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing**

		<p>plan per 44-35(c)'s "Method of Establishing Riparian Lines".</p> <p><i>July 27 update:</i> The updated site plan now shows riparian lines, and while the setback lines aren't shown, visually it appears that the pier system is compliant with the setbacks.</p>
(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	Likely N/A – Float is at a depth at mean low water of about 3-5 ft.
(14)	Required reflectors	Yes – see note 12 of the site plan (sheet C1). Reflectors on pier at 1 per 20 ft.

**Access ramp, landing, and stairway**

The access ramp, landing, and stairway are proposed to be located on a bluff indicated as stable by the Maine Geological Survey (<https://www.maine.gov/dacf/mgs/pubs/digital/bluffs.htm>). The application and site plan show a 6 ft. width for these but a 4 ft. width may be required by 44-35(b)(6). This section refers to "stairways or similar structures" that may be permitted by the CEO that "provide shoreline access in areas of steep slopes or unstable soils", provided they are max. 4 ft. in width, don't extend below the normal high-water line (unless permitted otherwise by DEP), and no reasonable alternative access is demonstrated. On the latter point, see the applicant's alternatives analysis in their NRPA application package. Consulting with DEP may be able to shine more light on the 4 ft. vs. 6 ft. width question.

*July 27 update:* DEP is requiring a max. 4-ft.-wide accessway. I also believe that this is the most reasonable interpretation of Section 44-35(b)(6). The applicant will be revising the plans accordingly.

*August 17 update:* The plans have been updated to show the 4 ft. width.

**Tree removal**

The site plan shows trees (with caliper measurements) that would need to be removed for the construction of the access ramp, landing, and stairway. The site photos in the NRPA package also show the trees. Note many trees would be preserved, including >40" caliper white pines. Clearing and removal of vegetation for activities other than timber harvesting within the RP district is "limited to that which is necessary for uses expressly authorized in the district", per Section 44-35(p)(1). Recall that within 75 ft. of the shore, this section allows selective tree cutting as long as a "well-distributed stand of trees and other natural vegetation is maintained". The latter is demonstrated by the "tree score" calculation (recall that this was presented to the Board in the recent review of the Riverview Dr. shoreline stabilization projects). A tree score calculation is recommended

**PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing**

for the area around the stairway/landing/ramp. I have raised this with the applicant’s representative; you may see this during the sketch plan review presentation. The impact to trees may change based on the narrowing of the stairway/landing/ramp to 4 ft.

**Other review considerations**

- ACOE may require restricting the construction season to fall outside of the rearing period for northern long-eared bat pups (the only identified threatened/endangered species in the area). This should not be an issue as the rearing period occurs through July (if I understand correctly) and permitting would not be complete until well after that.
- For more details on how the project would be built, see the “Construction Details-Sequence” document in the NRPA package.
- For more information about the tidal wetland system and impact assessment, see the “Wetland Functions and Values Assessment” in the NRPA package.

**Motion templates (August 17 update)**

*Approval with shoreland zoning findings (in addition to other findings of fact to be included in the NOD) and conditions*

To approve the Shoreland Zoning Permit Application for PB21-20, with the following findings of fact (in addition to other applicable findings of fact to be included in the Notice of Decision):

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and Shoreland Zoning Permit Application have been or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
  - a. Will maintain safe and healthful conditions;
  - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
  - c. Will adequately provide for the disposal of all wastewater;
  - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
  - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
  - g. Will avoid problems associated with floodplain development and use;
  - h. Is in conformance with the provisions of section 44-35, land use standards.

The approval includes the following conditions:

1. [Standard conditions]

**PB21-20: 26 Addison Lane (Map 41, Lot 11): Shoreland Zoning Permit Application – Permanent Fixed Pier and Pier Access, Seasonal Gangway, and Seasonal Float – Public Hearing**

2. [If needed] The applicant shall provide an approved Maine Department of Environmental Protection (DEP) Natural Resources Protection Act (NRPA) permit and U.S. Army Corps of Engineers (ACOE) authorization for the project prior to, or along with, their building permit application.
3. [Other conditions as desired]

*Denial*

To deny the Shoreland Zoning Permit Application for PB21-20, for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_ [etc.]

*Continuance*

To continue review of PB21-20 to the September 7, 2021, meeting.

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

AMALFI COAST NOMINEE TRUS  
DAVID J BALLOU TRUSTEE  
408 US ROUTE 1 SECOND FLR  
YORK, ME 03909

LILLIS, BART  
33 BRANNEN LN  
ELIOT, ME 03903

AMAROSA, JON RICHARD J  
AMAROSA, EMILY  
604 RIVER RD  
ELIOT, ME 03903

LILLIS, BART  
33 BRANNEN LN  
ELIOT, ME 03903

BATEMAN, ROBIN J  
BATEMAN, DAVID H  
17 BRANNEN LANE  
ELIOT, ME 03903

LOPEZ, MICHAEL A  
LOPEZ, TAWNYA J  
29 ADDISON LN  
ELIOT, ME 03903

BECK, AMY B  
583 RIVER RD  
ELIOT, ME 03903

MARTIN, KYLE D  
MARTIN, ANDREA T  
7 OLD COTTAGE LN  
ELIOT, ME 03903

BROWNE, DANNA ELISE  
BROWNE, BENJAMIN  
14 OLD COTTAGE LN  
ELIOT, ME 03903

NADEAU, PAUL E  
NADEAU, KRISTINE E  
13 MADISON AVE  
KINGSTON, NH 03848

BROX, ERIC R  
BROX, DEBRA CARR  
15 OLD COTTAGE LN  
ELIOT, ME 03903

PERKINS, CRAIG F  
7 ADDISON LN  
ELIOT, ME 03903

COLLINS, PATRICK R JR  
COLLINS, EVA M  
616 RIVER RD  
ELIOT, ME 03903

STEIN, GRETCHEN L  
21 OLD COTTAGE LN  
ELIOT, ME 03903

LEDLOW, E LEE  
LEDLOW, COLLETTE L  
4 LEIGHTON LN  
ELIOT, ME 03903

WOOD, KENNETH A  
WOOD JUDY P  
11 BRANNEN LN  
ELIOT, ME 03903

LETELLIER, THERESE  
596 RIVER RD  
ELIOT, ME 03903

LILLIS, BART  
33 BRANNEN LN  
ELIOT, ME 03903

**PB21-21: 213 Pleasant St. (Map 4, Lot 2): Shoreland Zoning Permit Application – Bait House Replacement – Public Hearing**



**TOWN OF ELIOT MAINE**

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: Kuerstin Fordham, Riverside & Pickering Marine Contractors, Applicant's Representative  
 Shelly Bishop, Code Enforcement Officer  
 Kearsten Metz, Land Use Administrative Assistant  
 Date: August 10, 2021 (report date)  
 August 17, 2021 (meeting date)  
 Re: PB21-21: 213 Pleasant St. (Map 4, Lot 2): Shoreland Zoning Permit Application – Bait House Replacement – **Public Hearing**

<b>Application Details/Checklist Documentation</b>	
✓ Address:	213 Pleasant St.
✓ Map/Lot:	4/2
✓ PB Case#:	21-21
✓ Zoning:	Village
✓ Shoreland Zoning:	Resource Protection, Limited Residential
✓ Owner Name:	Long Reach Landing, LLC
✓ Applicant Name:	Long Reach Landing, LLC
✓ Proposed Project:	Replace existing bait house, overhang, entrance, and bait cooler in-kind. Replace foundation in-kind. Raise building 1 ft. above FEMA 100-year flood line.
✓ Application Received by Staff:	May 27, 2021
✓ Application Fee Paid and Date:	\$350 June 1, 2021
✓ Application Sent to Staff Reviewers:	June 14, 2021
✓ Application Heard by PB	June 29, 2021
✓ Found Complete by PB	June 29, 2021
Site Walk	N/A
Site Walk Notice Publication	N/A
Public Hearing	July 27, 2021 (held); August 17, 2021 (scheduled again with newspaper notice)
✓ Public Hearing Publication	July 17, 2021 (submitted to newspaper but not published); August 6, 2021
Deliberation	August 17, 2021 (scheduled)
✓ Reason for PB Review:	Shoreland Zoning Permit Application

## **PB21-21: 213 Pleasant St. (Map 4, Lot 2): Shoreland Zoning Permit Application – Bait House Replacement – Public Hearing**

### ***Summary for August 17***

- The public hearing notice was published in the newspaper – see packet. Town building notice postings and abutter mailings occurred as usual.

### ***Summary for July 27***

- Public Hearing: consider public input prior to deliberation on application
- Motion templates are at the end of this report for your reference
- Legally nonconforming building: if an approval motion is entertained, it is recommended that the Board make a finding of fact either that the bait house replacement complies with the water body setback to the greatest practical extent, or that the building is functionally water-dependent and therefore not subject to the setback requirement (I see the latter as being more appropriate in this case)
- A flood hazard development permit will be needed. See the condition in the approval motion template.

### ***June 29 report with updates***

#### **Overview**

Applicant and property owner Long Reach Landing, LLC (authorized representative: Douglas Anderson; agent/approval process representative: Riverside & Pickering Marine Contractors) is seeking review of a Shoreland Zoning Permit Application to remove the existing bait house, overhang, entrance, and bait cooler at 213 Pleasant St. and replace them in-kind. The project would also include replacing the foundation and lifting the building on piles to be 1 ft. above the FEMA 100-year flood line.

The ~1.4-acre marina property is located along the Piscataqua River about halfway down the Pleasant St. loop. It also includes a 1-story wood frame building, other accessory structures, commercial dock, and parking. A high-tension electric power line runs just north of the property, with a portion of the power line easement traversing the property.

The applicant reports that they would like to continue to use the new bait house “as a marina storage and bait shed to support Long Reach Landing Marina, LLC and its tenants”.

#### **Application package contents**

- Shoreland Zoning Permit Application
- Agent authorization letter (Riverside & Pickering Marine Contractors)
- Letter of intent for new bait house from Long Reach Landing, LLC
- FEMA Elevation Certificate with building photos
- Property card
- Warranty deed
- Location maps

## **PB21-21: 213 Pleasant St. (Map 4, Lot 2): Shoreland Zoning Permit Application – Bait House Replacement – Public Hearing**

- Additional site/building photos
- Existing conditions plan and site plan
- Building sketches

### **Zoning**

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

### **Uses**

The use of the property is a marina and the bait house serves the marina use.

### **Type of review needed by Planning Board (August 17 update)**

Public Hearing: receive and consider public comment; consider overall action on the application. See motion templates below.

### **Status of other agency reviews**

See FEMA Elevation Certificate.

*July 27 update: The applicant reports that a DEP permit is not needed for this structure.*

### **Nonconformance (July 27 update)**

The bait house is a legally nonconforming structure, and the project involves replacing it in-kind and replacing the foundation with a new (raised) foundation. Within the shoreland zone, legally nonconforming structures not meeting the water body setback (and their foundations) can be replaced subject to limitations, including that the replacement is in compliance with the water body setback to the greatest practical extent as determined by the Planning Board [44-32(c)(2) and (4)].

However, the setback requirements do not apply to “structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses” [44-35(b)(1)]. At the June 29 meeting, the applicant stated that the bait house “serves directly the function of the marina”.

If an approval motion is entertained, I recommend that the Planning Board include a finding either that the replacement meets the water body setback to the greatest practical extent, or that the bait house is a functionally water-dependent use. I believe that the latter would be more applicable in this case. A note in Section 44-34 states:

The term “functionally water-dependent use” as defined, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by

**PB21-21: 213 Pleasant St. (Map 4, Lot 2): Shoreland Zoning Permit Application – Bait House Replacement – Public Hearing**

water or use water for cooling, to traditional commercial fishing enterprises, and public shorefront parks.

**Flood hazard development permit (*July 27 update*)**

The project will need a flood hazard development permit in accordance with Chapter 25. See the recommended condition in the approval motion template. (The applicant's representative has previously submitted this permit application, and it could be re-submitted if the application is approved by the Planning Board.)

**Motion templates (*July 27 update*)**

*Approval with shoreland zoning findings (in addition to other findings of fact to be included in the NOD) and conditions*

To approve the Shoreland Zoning Permit Application for PB21-21, with the following findings of fact (in addition to other applicable findings of fact to be included in the Notice of Decision):

1. All applicable sections of the Shoreland Zoning Ordinance (Chapter 44) and Shoreland Zoning Permit Application have been or will be met.
2. Based on the information presented by the applicant and in accordance with Sec. 44-44, the Planning Board finds that the proposed use:
  - a. Will maintain safe and healthful conditions;
  - b. Will not result in water pollution, erosion, or sedimentation to surface waters;
  - c. Will adequately provide for the disposal of all wastewater;
  - d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
  - e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
  - f. Will protect archaeological and historic resources as designated in the comprehensive plan;
  - g. Will avoid problems associated with floodplain development and use;
  - h. Is in conformance with the provisions of section 44-35, land use standards.
3. In addition to the above, the Planning Board specifically finds that the bait house is a functionally water-dependent use, based on the definition in Section 44-34 and the applicant's description of the use of the structure. Based on Section 44-35(b)(1), it is not subject to water body setback requirements.

The approval includes the following conditions:

1. [Standard conditions]
2. The replacement bait house shall be constructed in accordance with Article VI of Ch. 25 of the Town Code – Floodplain Management Ordinance. A flood hazard development permit shall be obtained from the code enforcement officer prior to

**PB21-21: 213 Pleasant St. (Map 4, Lot 2): Shoreland Zoning Permit Application – Bait House Replacement – Public Hearing**

beginning construction. The Town of Eliot may enforce any violation of the construction requirement. These requirements and enforcement information shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure. The construction requirement shall also be clearly stated on the approved site plan.

3. [Other conditions as desired]

*Denial*

To deny the Shoreland Zoning Permit Application for PB21-21, for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_ [etc.]

*Continuance*

To continue review of PB21-21 to the September 7, 2021, meeting.

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner

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PO BOX 78  
ELIOT, ME 03903

PUBLIC SERVICE CO OF NH  
DBA EVERSOURCE ENERGY  
PO BOX 270  
HARTFORD, CT 06141-0270

ANDERSON, JENNIFER  
224 PLEASANT ST  
ELIOT, ME 03903

GHAMAMI REVOCABLE TRUST  
SHEILA GRANT TRUSTEE  
238 PARSONS RD  
RYE, NH 03870

PUBLIC SERVICE CO OF NH  
DBA EVERSOURCE ENERGY  
PO BOX 270  
HARTFORD, CT 06141-0270

AUGULEWICZ, JOHN A  
AUGULEWICZ, KATHLEEN  
181 PLEASANT ST  
ELIOT, ME 03903

GRAHAM, NANCY L REVOCABLE  
NANCY L GRAHAM TRUSTEE  
201 PLEASANT ST  
ELIOT, ME 03903-0215

RUSSELL, RICHARD W  
RUSSELL, JEANNE  
238 PLEASANT ST  
ELIOT, ME 03903

BELAND, GEORGE  
855 ISLINGTON ST  
PORTSMOUTH, NH 03801

HALL, EVERETT F  
368 MAIN ST  
ELIOT, ME 03903

RYAN, PETER W  
RYAN, KRIS A  
234 PLEASANT ST  
ELIOT, ME 03903

BOGANNAM, DANIEL C REVOCA  
DANIEL C BOGANNAM TRUSTEE  
17 ELDREDGE RD  
ELIOT, ME 03903

HARRINGTON, DAVID  
187 PLEASANT ST  
ELIOT, ME 03903

SANDERS, DEBRA A  
207 PLEASANT ST  
ELIOT, ME 03903

BOGANNAM, PETER C  
19 ELDREDGE RD  
ELIOT, ME 03903

HUDSON, KYLE W  
DRAGON, KIMBERLY A  
200 PLEASANT ST  
ELIOT, ME 03903

SHULMAN, RICHARD J & MART  
RICHARD J & MARTHA J SHUL  
40 MITRA AVE  
ELIOT, ME 03903

BRADSTREET, ELIZABETH A  
BRADSTREET, DAVID  
195 PLEASANT ST  
ELIOT, ME 03903

JURGIELEWICZ, CHRISTINE M  
190 PLEASANT ST  
ELIOT, ME 03903

STEWART, JAMES E HRS OR D  
194 PLEASANT ST  
ELIOT, ME 03903

BRICKETT, ALEXANDER JAMES  
208 PLEASANT ST  
ELIOT, ME 03903

MAGDZIASZ, MELISSA  
16 ALVIN LN  
ELIOT, ME 03903

TICE, DONNA L  
TICE, ROBERT J  
191 PLEASANT ST  
ELIOT, ME 03903

BRICKETT, BENJAMIN P  
BRICKETT, DEBRA H  
208 PLEASANT ST  
ELIOT, ME 03903-2133

MOWER, LOWELL M  
WALSH, KATHLEEN ELIZABETH  
202 PLEASANT ST  
ELIOT, ME 03903

BRICKETT, BENJAMIN P  
208 PLEASANT ST  
ELIOT, ME 03903-2133

PESCHEL, DEAN M  
BROWN, JANICE A  
7 BADGERS ISLAND WEST  
KITTEERY, ME 03904

**DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales**

*Draft for Planning Board public hearing – August 17, 2021*

*Initial Planning Board review – August 3, 2021*

*Legal review – August 9, 2021*

**ARTICLE #**     : Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales” be enacted?

**Background and rationale**

This amendment adds firewood sales as an allowed use in the Commercial-Industrial (C/I) zoning district. This creates consistency since firewood sales are allowable in other zoning districts, and the C/I district’s purpose (Section 45-289) includes encouraging commercial uses.

**(New text underlined in bold)**

~~Deleted text in strikethrough~~

*[Use updated table when it is available via MuniCode]*

Sec. 45-290. - Table of permitted and prohibited uses. **[OLD TABLE]**

The following table of land uses designates permitted uses by a yes and prohibited uses by a no. Any use not listed is a prohibited use. The letters CEO, SPR, and SD are explained in section 45-402.

*Table of Land Uses*

Land uses	R	S	V	C/I
Accessory dwelling unit	CEO	CEO	CEO	CEO
Agriculture, except animal breeding and care	yes	yes	yes	no
Animal breeding	yes <sup>1</sup>	12	SPR <sup>1&amp;8</sup>	no
Animal husbandry	yes <sup>1</sup>	yes <sup>1</sup>	yes <sup>1</sup>	no
Apartment house, see multiple-family dwelling	—	—	—	—
Apartment, see single-family dwellings	—	—	—	—
Aquaculture	13	13	SPR <sup>8</sup>	no
Assisted living facility	no	SPR/SD	SPR/SD	SPR/SD
Auto graveyards	SPR	no	no	no
Auto junkyard	no	no	no	no
Auto recycling business	9	9	no	SPR
Auto recycling operation	9	no	no	SPR
Auto recycling operation, limited	9	9	no	SPR
Auto repair garages	14	14	SPR <sup>8</sup>	SPR

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales

Auto service stations	no	9	no	SPR
Banks	no	no	SPR	SPR
Bathhouse	11	11	no	no
Bathing beach	yes	yes	yes	no
Bed and breakfasts	14	14	SPR <sup>8</sup>	SPR
Boarding homes, see lodging businesses	—	—	—	—
Boarding kennel	no	no	no	SPR
Bulk oil fuel tanks	no	no	no	SPR <sup>2</sup>
Business office	14	14	SPR <sup>8</sup>	SPR
Campgrounds	SPR	no	no	no
Cemeteries	SPR	SPR	SPR	no
Clearing	yes	yes	yes	yes
Clinics	no	no	no	SPR
Clustered housing	SPR	no	no	no
Commercial adult enterprise	no	no	no	SPR
Commercial establishment, 2 or more where allowed	-	9	no	SPR
Day nurseries	SPR	16	SPR <sup>8</sup>	SPR
Earth material removal, less than 100 cubic yards	yes	yes	yes	yes
100 cubic yards or greater	SPR	SPR	SPR	SPR
Elderly housing	no	SPR/SD	SPR/SD	SPR/SD
Emergency operations	yes	yes	yes	yes
Equipment storage, trucks, 3 or more	no	no	no	yes

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales

Essential services	yes	yes	yes	yes
Expansion of an existing telecommunication structure or collocation of antenna on a existing telecommunication structure or alternate tower structure	CEO	CEO	CEO	CEO
Farm equipment stores	SPR	10	no	SPR
Fences	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>	yes <sup>5</sup>
Firewood sales	yes	13	SPR <sup>8</sup>	<del>no</del> <u>yes</u>
Fireworks sales	no <sup>20</sup>	no <sup>20</sup>	no <sup>20</sup>	no <sup>20</sup>
Forest management, except timber harvesting	yes	yes	yes	yes
Funeral establishment	no	no	SPR	SPR
Gambling casino	no	no	no	no
Gardening	yes	yes	yes	yes
Gasoline stations	no	9	no	SPR
Governmental buildings or uses	SPR	SPR	SPR	SPR
Grain or feed stores	SPR	10	no	SPR
Harvesting wild crops	yes	yes	yes	yes
Home business	SPR <sub>8</sub>	SPR <sup>8</sup>	SPR <sup>8</sup>	no
Home occupations	10	10	no	no
Home office	CEO	CEO	CEO	CEO
Hospitals	no	no	no	SPR
Indoor commercial, recreational and amusement facilities	no	no	no	SPR
Industrial and business research laboratory	no	no	no	SPR

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales

Industrial establishments and uses	no	no	no	SPR
Institutional buildings and uses, indoor	no	9	no	no
Junkyards	no	no	no	no
Landfill, dump	no	no	no	no
Libraries	SPR	SPR	SPR	SPR
Life care facility	no	SPR/SD	SPR/SD	SPR/SD
Lodging businesses, including bed and breakfasts, boarding homes or houses, hotels, inns, lodginghouses, rooming homes, and the like	14	14	SPR <sup>8</sup>	SPR
Manufacturing	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR <sup>8</sup>	SPR
Marijuana establishment*	no	no	no	SPR <sup>21</sup>
Mobile home parks	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	SPR/SD <sup>7</sup>	no
Motel	no	no	no	SPR
Multiple-family dwelling	no	SPR	SPR	no
Museums	SPR	SPR	SPR	SPR
New construction of telecommunication structure 70 feet and higher	9	9	no	SPR
New construction of telecommunication structure less than 70 feet high	CEO	CEO	CEO	CEO
Nonprofit medical marijuana dispensary	no	no	no	SPR <sup>19</sup>
Nurseries, plants	CEO	17	SPR <sup>8</sup>	no
Nursing facility	no	SPR	SPR	SPR
Off-site parking	no	no	no	no

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales

Parks	SPR	SPR	SPR	no
Places of worship	SPR	SPR	SPR	SPR
Playgrounds	SPR	SPR	SPR	no
Printing plant	14	14	SPR <sup>8</sup>	SPR
Produce and plants raised locally, seasonal sales	yes	yes	yes	no
Professional offices	14	14	SPR <sup>8</sup>	SPR
Public utility facilities	SPR	SPR	SPR	SPR
Recreational facilities, nonintensive	SPR	SPR	SPR	no
Recreational use not requiring structures	SPR	yes	yes	no
Restaurant	9	9	SPR <sup>8</sup>	SPR
Restaurant, takeout	no	no	no	SPR
Retail stores, local, other	18	18	SPR <sup>8</sup>	SPR
Road construction	CEO	CEO	CEO	SPR
Schools	SPR	SPR	SPR	SPR
Sewage disposal systems, private	CEO	CEO	CEO	CEO
Signs, 6 square feet	CEO	CEO	CEO	CEO
Signs, other	CEO	CEO	CEO	CEO
Single-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Small wind energy system	SPR	SPR	SPR	SPR
Solar energy system	CEO	CEO	CEO	CEO
Surveying and resource analysis	yes	yes	yes	yes
Timber harvesting	yes	yes	yes	yes

DRAFT Proposed Town Code Amendments of Chapter 45 – Zoning, Related to Firewood Sales

Truck terminals and storage	no	no	no	SPR
Two-family dwellings	CEO	CEO	CEO	no <sup>6</sup>
Veterinary hospital	15	15	No	SPR
Warehouse	no	no	no	SPR
Waste containers	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>	CEO <sup>3</sup>
Wholesale	no	no	no	SPR
Wholesale business facilities	no	no	no	SPR
Uses similar to allowed uses	CEO	CEO	CEO	CEO
Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
Uses similar to uses requiring a planning board permit	SPR	SPR	SPR	SPR

\*Marijuana establishment is defined in section 11-3 of this Code.

*Notes:*

1. Buildings housing animals shall be no less than 100 feet from property lines.
2. Each bulk oil fuel tank shall not exceed 50,000 gallons in size and use shall be limited to local use only.
3. Only as an accessory to an allowed principal use on the lot. Must conform to the requirements of 45-422, Waste containers.
4. Individual stores shall not have more than 2,500 square feet of gross floor area, except stores located on Route 236 may have up to 5,000 square feet. Customer sales areas shall be confined to one floor.
5. Must conform to the requirements of section 45-423.
6. See section 45-192(b) for an exception on accessory uses and structures.
7. See division 2 of article V of chapter 41 of this Code for specific areas where mobile home parks are allowed.
8. Must conform to the requirements of section 45-456.1 Home business.

9. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
10. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
11. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) non-commercial properties.
12. Use is "SPR 1 & 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 1" and must be visually screened from abutting (same street side) non-commercial properties.
13. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "yes" and must be visually screened from abutting (same street side) non-commercial properties.
14. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties.
15. Use is prohibited unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) non-commercial properties in accordance with Sec. 33-175(a). Overnight boarding and outdoor kenneling of animals is prohibited in the rural and suburban zoning districts.
16. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR" and must be visually screened from abutting (same street side) noncommercial properties.
17. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "CEO" and must be visually screened from abutting (same street side) noncommercial properties.
18. Use is "SPR 8" unless property abuts Route 236. If property abuts Route 236, use is "SPR 4" and must be visually screened from abutting (same street side) noncommercial properties.
19. Must conform to the requirements of section 33-189.
20. See chapter 12 for additional regulations pertaining to the sale and use of fireworks.
21. Must conform to the requirements of section 33-190.

(T.M. of 11-2-82; T.M. of 6-26-85; T.M. of 11-23-85; T.M. of 11-4-86; T.M. of 4-21-87; T.M. of 3-19-88; T.M. of 12-20-89, (§ 207); T.M. of 12-15-93; Amend. of 3-25-95; T.M. of 3-27-99(1), § 5; Ord. of 3-25-00(1); T.M. of 3-16-02, (art. 3), (art. 4); T.M. of 6-19-01, (art. 6), (art. 7); T.M. of 11-5-02; T.M. of 11-4-03; T.M. of 11-4-03; T.M. of 3-20-04; T.M. of 6-14-08; T.M. of 6-12-2010(3); T.M. of 6-18-2011(6); T.M. of 11-8-2011; T.M. of 6-16-2012(1); T.M. of 6-16-2012(2); T.M. of 11-5-2019(5); T.M. of [7-14-2020\(5\)](#))

**Cross reference**— Review procedures and standards for site review requirements in the zoning table of uses, § 33-56 et seq.

DRAFT Proposed Town Code Amendments of Chapter 44 – Shoreland Zoning, Related to Shoreline Vegetation and Development Site Photographs

**DRAFT Proposed Town Code Amendments of Chapter 44 – Shoreland Zoning, Related to Shoreline Vegetation and Development Site Photographs**

*Draft for Planning Board public hearing – August 17, 2021*

*Initial Planning Board review – August 3, 2021*

*Legal review – August 9, 2021*

*Initial DEP review – July 29, 2021*

**ARTICLE #**     : Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 44 – Shoreland Zoning, Related to Shoreline Vegetation and Development Site Photographs” be enacted?

**Background and rationale**

In accordance with state law – 38 MRSA §439-A(10) – this amendment adds a requirement to Chapter 44 – Shoreland Zoning requiring that an applicant for a shoreland zoning permit provide preconstruction photos and, no later than 20 days after completion of the development, postconstruction photos of the shoreline vegetation and the development site. The post-construction photo requirement would be a standard condition of approval of any shoreland zoning permit.

**(New text underlined in bold)**

~~Deleted text in strikethrough~~

Sec. 44-43. - Permit application.

- (a) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in section 44-34. A fee in the amount established by the fee schedule in section 1-25 shall be submitted with the application.
- (b) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (c) All applications shall be dated, and the code enforcement officer or planning board, as appropriate, shall note upon each application the date and time of its receipt.
- (d) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.
- (e) When an excavation contractor will perform an activity that requires or results in more than one cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.
- (f) **All applications shall include preconstruction photographs clearly showing shoreline vegetation on the property and the site(s) of any proposed development. If the Planning Board or Code Enforcement Officer, as appropriate, approves an application, they shall include a condition of approval requiring that, no later than 20 days after completion of the development, the applicant provide postconstruction photographs of the same shoreline vegetation and developed site(s).**

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees

**DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees**

*Draft for Planning Board public hearing – August 17, 2021*

*Initial Planning Board review – August 3, 2021*

*Legal review – pending, update to be provided at the meeting*

**ARTICLE # [REDACTED]**: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees” be enacted?

**Background and rationale**

This amendment extends post-construction stormwater management requirements in Chapter 35 of the Town Code from the Urbanized Area only to town-wide. For developments subject to Chapter 35 that install stormwater management facilities, property owners (or other responsible entities, such as homeowners’ associations) are responsible for maintaining the facilities so they continue to function properly. Chapter 35 applies to development or redevelopment that disturbs one acre or more of land, or development that disturbs less than one acre if the development is part of a larger common plan of development or sale – but only for development in the Urbanized Area, which is a U.S. Census-based designation that only covers a part of the town. These amendments would change Section 35-3 so that all parts of town would be covered. The general “one acre or more of disturbed area” threshold would stay the same. While the Town of Eliot and nearby communities are subject to state stormwater rules that only apply to Urbanized Areas, many of these nearby communities have a town-wide scope for their post-construction stormwater management requirements.

This amendment also changes the current stormwater management facility annual inspection fee toward recovering Town staff costs related to post-construction stormwater management agreements. Estimated staff time per site per year to send annual certification reminder letters and log, review, and follow up on annual inspections done by property owners is five (5) hours. This would be covered by a “base fee”. The amendment also establishes fees for Town staff or third-party stormwater consultant inspections, as needed. These inspections may be needed if the stormwater facilities are reported to be not working properly, if the annual certification and inspection report has deficiencies, or for other reasons. The current fee is \$100. The amendment establishes a base fee of \$250, with additional per-inspection cost recovery fees if Town staff or third-party consultant inspection is needed: \$300 for a Town staff inspection; \$900 for a third-party consultant inspection. Finally, this amendment modifies Appendices 1 and 2 of Ch. 35 to add requirements that the annual certification be accompanied by the inspection report.

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees

**(New text underlined in bold)**

~~Deleted text in strikethrough~~

[use actual Municode updated version when available]

Sec. 1-25. - Fee schedule.

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

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees

Sec. 35-3. - Applicability.

(a) *In general.* This chapter applies to:

- (1) Development or redevelopment that disturbs one acre or more of land within the ~~Urbanized Area~~ **municipality**; and
- (2) Development that disturbs less than one acre if the development is part of a larger common plan of development or sale within the ~~Urbanized Area~~ **municipality**.

**APPENDIX 1**

**Maintenance Agreement for  
Stormwater Management Facilities**

This Maintenance Agreement is made this \_\_\_ day of \_\_\_\_\_ 20\_\_\_ by and between \_\_\_\_\_ and the Town of Eliot, Maine.

The project name is \_\_\_\_\_ .

The location is: \_\_\_\_\_ , Eliot, Maine.

The project's Tax Map and Lot Numbers are Tax Map Lot \_\_\_\_\_

The project is shown on a plan entitled " \_\_\_\_\_ " dated \_\_\_\_\_ and most recently revised on \_\_\_\_\_, approved by the \_\_\_\_\_ [Municipal Permitting Board] on \_\_\_\_\_ and recorded in the \_\_\_\_\_ County Registry of Deeds in Plan Book \_\_\_\_\_ Page \_\_\_\_\_ (the "Project").

WHEREAS, the approval of the Project includes Stormwater Management Facilities which requires periodic maintenance; and

WHEREAS, in consideration of the approval of the Project the Town of Eliot requires that periodic maintenance be performed on the Stormwater Management Facilities;

NOW, THEREFORE, in consideration of the mutual benefits accruing from the approval of the Project by the Town and the agreement of \_\_\_\_\_ to maintain the Stormwater Management Facilities, the parties hereby agree as follows:

1. \_\_\_\_\_, for itself, and its successors and assigns, agrees to the following:
  - (a) To use a Qualified Post-Construction Storm Water Inspector to inspect the Stormwater Management Facilities; and to clean, maintain, and repair the Stormwater Management Facilities, which includes, to the extent they exist, parking areas, catch basins, detention basins or ponds, drainage swales, pipes and related structures, at least annually, to prevent the build up and storage of sediment and debris in the system as described in the Post-Construction Maintenance Plan for the facilities;
  - (b) To provide a certification of inspection to the Town by July 1 each year. **The Qualified Post-Construction Storm Water Inspector's inspection report must be provided along with the certification.**
  - (c) To repair any deficiencies in the Stormwater Management Facilities noted during the annual inspection and provide notice to the Town of the repairs within 60 days of identification or within a schedule approved by the Code Enforcement Officer; and
  - (d) For subdivisions, to create a homeowners' association for the purpose of maintaining the Stormwater Management Facilities.

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees

2. For subdivisions, upon creation of the homeowners' association, the homeowners' association shall become responsible for compliance with the terms of this Agreement.
3. This Agreement shall constitute a covenant running with the land, and \_\_\_\_\_ shall reference this Agreement in all deeds to lots and/or units within the Project.

 _____ Witness	By: _____ Its:  TOWN OF ELIOT, MAINE
 _____ Witness	By: _____ Its:
STATE OF MAINE _____, ss.	_____, 20__

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

	Before me,  _____ Notary Public/Attorney at Law
Print Name:	_____
STATE OF MAINE _____, ss.	_____, 20__

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of the Town of \_\_\_\_\_, and acknowledged the foregoing Agreement to be said his/her free act and deed in said capacity.

	Before me, _____ Notary Public/Attorney at Law
Print Name:	_____

**APPENDIX 2**

**Inspection Certification for  
Stormwater Management Facilities**

I, \_\_\_\_\_ (print or type name), certify the following:

1. I am making this Annual Stormwater Management Facilities Certification for the following property: \_\_\_\_\_ (print or type name of subdivision, condominium or other development) located at \_\_\_\_\_ (print or type address), (the “Property”);

2. The owner, operator, tenant, lessee or homeowners’ association of the Property is: \_\_\_\_\_ (names of owner, operator, tenant, lessee, homeowners’ association or other party having control over the Property);

3. I am (circle one):

a. a Qualified Post-Construction Stormwater Inspector hired by the person or party specified in #2, and have reviewed the approved Stormwater Management Plan for the facility and have inspected the Stormwater Management Facilities;

or,

b. the person (or a duly authorized representative of the party) specified in #2, and I have hired a Qualified Post-Construction Stormwater Inspector and received and reviewed a copy of their inspection report;

4. On \_\_\_\_\_, 20\_\_\_, the Stormwater Management Facilities were inspected, including but not limited to parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures required by the approved Stormwater Management Plan for the Property;

5. At the time of the inspection (check one and complete any required information):

a. \_\_\_ The Stormwater Management Facilities were adequately maintained and functioning as intended, or

b. \_\_\_ The Stormwater Management Facilities required maintenance, which was completed within the required 60-day time period, and were functioning as intended after maintenance was completed, or

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 35 – Post-Construction Stormwater Management, Related to Post-Construction Stormwater Management Applicability and Fees

- c. \_\_\_\_ The Stormwater Management Facilities required maintenance which was not completed within the required 60-day time period. (Attach additional sheets as necessary to describe the maintenance required, proposed schedule for completion, and an appropriate contact person. The Code Enforcement Officer will contact them to confirm or adjust the schedule to complete the maintenance and any needed further course of action.)

Date: \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_ (Signature)

( Print Name\_

Personally appeared the above-named \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged the foregoing Agreement to be said person's free act and deed in said capacity.

	Before me, _____ Notary Public/Attorney at Law
Print Name:	_____
STATE OF MAINE _____, ss.	_____, 20__

The Town of Eliot requires this form, **along with the associated inspection report**, to be sent to the Code Enforcement Officer by July 1 each year.

**PB21-24: 117 Bolt Hill Road (Map 7/Lot 44) – Site Plan Amendment – Addition of Concrete Pads Next to Workshop**



**TOWN OF ELIOT MAINE**

PLANNING OFFICE

1333 State Road

Eliot ME, 03903

To: Planning Board  
 From: Jeff Brubaker, AICP, Town Planner  
 Cc: CLL, LLC, Applicant  
     Shelly Bishop, Code Enforcement Officer  
     Kearsten Metz, Land Use Administrative Assistant  
 Date: August 10, 2021 (report date)  
     August 17, 2021 (meeting date)  
 Re: PB21-24: 117 Bolt Hill Road (Map 7/Lot 44) – Site Plan Amendment – Addition of Concrete Pads Next to Workshop

<b>Application Details/Checklist Documentation</b>	
✓ Address:	117 Bolt Hill Rd.
✓ Map/Lot:	7/44
✓ PB Case#:	21-24
✓ Zoning:	Village
✓ Shoreland Zoning:	Limited Residential
✓ Owner Name:	CLL, LLC
✓ Applicant Name:	CLL, LLC
✓ Proposed Project:	Addition of Concrete Pads Next to Workshop
✓ Application Received by Staff:	July 21, 2021
Application Fee Paid and Date:	\$100 – site plan amendment Not yet paid
✓ Application Sent to Staff Reviewers:	August 2, 2021
Application Heard by PB	August 17, 2021 (scheduled)
Found Complete by PB	TBD – not needed if deemed minor amendment
Deliberation	TBD
✓ Reason for PB Review:	Site Plan Amendment

## **PB21-24: 117 Bolt Hill Road (Map 7/Lot 44) – Site Plan Amendment – Addition of Concrete Pads Next to Workshop**

### **Overview**

Applicant and property owner CLL, LLC is seeking review of an application to amend a site plan to show the addition of concrete pads next to an existing workshop at 117 Bolt Hill Rd. – Sanctuary Arts. The concrete pads would be 12'x16' and 20'x30' in size. The workshop is in the northeast corner of the property.

The application includes a Request for Planning Board Action and sketch plan.

### **Zoning**

Village; shoreland zoning (Limited Residential) exists on the other side of the property but the proposed concrete pads are not in shoreland zoning.

### **Type of review needed**

Sec. 33-140 allows for amended site plan review by the Planning Board. Subsection (b) states, in part:

...if the planning board determines that the proposed revisions are minor and do not result in any substantial changes to the approved development or further impact abutters, 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.

The Planning Board should decide if the amendment request is minor and does not result in further impacts to abutters, in which case the Board may wish to entertain a motion at this meeting, or if the changes are substantial, in which case the applicant would need to go through “full” site plan review. See motion templates below.

### **Previous Planning Board approvals**

October 16, 2001 – conditional use permit (CUP) to construct a 30'x36' pole barn consisting of an “open” art studio, art classes, gallery, client workspace, and art workshops

2015 – application to amend CUP to construct 12'x15' concrete pad attached to existing metal building (not clear in the Planning Board file if this was approved)

**PB21-24: 117 Bolt Hill Road (Map 7/Lot 44) – Site Plan Amendment – Addition of Concrete Pads Next to Workshop**

**Motion templates**

*Approval as a minor site plan amendment, with conditions*

Motion to approve PB21-24 as a Minor Site Plan Amendment to add two (2) concrete pads, one approximately 12 ft. by 16 ft. and one approximately 20 ft. by 30 ft. in size, next to the rear workshop building. The Planning Board finds that the proposed revisions are minor and do not result in any substantial changes to the approved development or further impact abutters. The following are conditions of approval:

1. [Standard conditions]
2. [Other conditions if desired]

*Major Site Plan Amendment needing to go through the Site Plan Review process*

Motion to find that the revisions proposed in PB21-24 are substantial. The applicant must seek approval through a site plan review process, beginning with submittal of a Site Plan Review application.

*Disapproval*

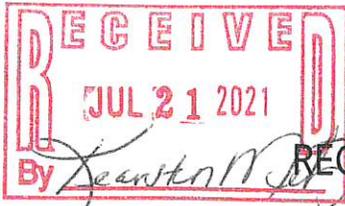
Motion to disapprove PB21-24 for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner



TOWN OF ELIOT

1333 STATE RD. , ELIOT, ME 03903

REQUEST FOR PLANNING BOARD ACTION

(FOR MISCELLANEOUS USES OR CHANGES)

Applicant CLL, LLC (Lauren+Josh Dow)  
Mailing Address 117 Bolt Hill Rd City Eliot State ME Zip 03903  
Telephone # 617-750-8705 Email address laladow@gmail.com  
(TO RECEIVE MEETING NOTICES)

Property Owner CLL, LLC  
Mailing Address 117 Bolt Hill Rd City Eliot State ME Zip 03903

Property address 117 Bolt Hill Rd Tax Map # 7 Lot # 44  
Size (acres) 3.13 Zoning District village Shoreland Overlay District? \_\_\_\_\_

Conforming Lot? (YES)NO Conforming Use? (YES)NO Conforming Structure? (YES)NO

- Legal interest in property identified by applicant by:  
 Owner (copy of deed &/or tax records)  
 Pending Owner (copy of purchase & sale agreement)  
 Lease (copy of lease agreement with owners & applicants signature)  
 Corporate Officer (letter from corporation)  
 Other (identify: \_\_\_\_\_)

Nature of action requested:  
(Example: Request to amend a previously approved site plan by adding a 10' x 20' addition)  
Request to amend a previously approved site plan by adding 2  
concrete pads. 12x16' & 20x30'

Attach ten (10) copies of sketch plan of property showing in approximate dimensions, all zoning districts, existing/proposed structures, parking areas, streets, entrances, existing and proposed setbacks, proposed lot divisions, proposed open space to be preserved, common areas, site & public improvements and facilities, any areas of excavation and grading, and any other criteria needed to evaluate request. Sketch plan is not required if so advised by the Planning Assistant.

Applicants signature Laladow Date 7/14/21  
Property owners signature Laladow Date 7/14/21

TO BE COMPLETED BY PLANNING ASSISTANT  
Date application received by PA \_\_\_\_\_ PA signature \_\_\_\_\_  
Sketch plan required? YES NO  
FEE AMOUNT \$ \_\_\_\_\_ DATE PAID: \_\_\_\_\_ FORM OF PAYMENT: \_\_\_\_\_



**PB21-26: 438 Harold L. Dow Highway (Map 45/Lot 10): Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units**



**TOWN OF ELIOT MAINE**

PLANNING OFFICE  
1333 State Road  
Eliot ME, 03903

To: Planning Board  
From: Jeff Brubaker, AICP, Town Planner  
Cc: Adam Beth, Applicant  
Shelly Bishop, Code Enforcement Officer  
Kearsten Metz, Land Use Administrative Assistant  
Date: August 11, 2021 (report date)  
August 17, 2021 (meeting date)  
Re: PB21-26: 438 Harold L. Dow Highway (Map 45/Lot 10): Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units

<b>Application Details/Checklist Documentation</b>	
✓ Address:	438 Harold L. Dow Highway
✓ Map/Lot:	45/10
✓ PB Case#:	21-26
✓ Zoning:	Commercial/Industrial (C/I)
✓ Shoreland Zoning:	Limited Commercial, Resource Protection
✓ Owner Name:	David Beth
✓ Applicant Name:	Adam Beth
✓ Proposed Project:	60'x60' addition consisting of 3 commercial rental units; creation of 2 additional commercial rental units within part of the existing building
✓ Application Received by Staff:	June 14, 2021
Application Fee Paid and Date:	\$125 (\$100 – site plan amendment; \$25 – change of use) Not yet paid at the time of this report
✓ Application Sent to Staff Reviewers:	August 2, 2021
Application Heard by PB	August 17, 2021 (scheduled)
Found Complete by PB	TBD – not needed if deemed minor amendment
Deliberation	TBD
✓ Reason for PB Review:	Site Plan Amendment, Change of Use

**Overview**

Applicant Adam Beth (property owner: David Beth) has applied for a Site Plan Amendment and Change of Use to create a 60 ft. by 60 ft. addition to the existing building at 438 Harold L. Dow Hwy. to serve three (3) commercial rental units. Also shown are two (2) additional commercial rental units created by renovation of a portion of the existing

## **PB21-26: 438 Harold L. Dow Highway (Map 45/Lot 10): Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units**

building. The property is located in the north corner of the Route 236-Arc Rd. intersection and currently has an auto repair business.

The application package includes a Request for Planning Board Action; a draft purchase and sale agreement; and a sketch plan.

### **Zoning**

Commercial/Industrial; shoreland zoning (Limited Commercial and Resource Protection) associated with an Inland Wading and Waterfowl Habitat exists at the rear of the property, but the building addition would be outside of these zones.

### **Proposed uses**

The application states that the applicant would like to add “use of having commercial rentals” to the currently approved use (auto repair and sales). I discussed with the applicant what potential specific uses for the units he would like to seek approval for, based on the land use table in Section 45-290. The following is the list discussed (all SPR uses in the C/I district).

- Commercial establishment, 2 or more where allowed
- Warehouse
- Wholesale
- Wholesale business facilities
- Professional offices
- Industrial establishments and uses
- Business office
- Auto service station – but only related to auto body detailing, or the sale or repair of car audio or other minor car accessories

Should the Planning Board entertain an approval motion, I recommend that it incorporate these uses to specify and delimit the types of approved uses for these units. That would provide for flexibility for various tenants without the applicant having to go back to the Planning Board for a Change of Use solely for tenant turnover, as long as the new tenant falls under the approved uses and there is no other proposed or required change to the approved site plan (e.g. new tenant would require more parking than provided).

### **Type of review needed**

Sec. 33-140 allows for amended site plan review by the Planning Board. Subsection (b) states, in part:

...if the planning board determines that the proposed revisions are minor and do not result in any substantial changes to the approved development or further impact abutters, the planning board may approve the amended site plan. If the planning board determines that the changes are substantial, then the planning board shall

## **PB21-26: 438 Harold L. Dow Highway (Map 45/Lot 10): Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units**

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.

The Planning Board should decide if the amendment request is minor and does not result in further impacts to abutters, in which case the Board may wish to entertain a motion at this meeting, or if the changes are substantial, in which case the applicant would need to go through “full” site plan review. See motion templates below.

### **Previous Planning Board approvals**

More information may be provided at the meeting.

### **Setbacks**

Lot line setbacks appear to be met by the proposed addition. For this site, setback requirements are 30 ft. for the front lot lines along Route 236 and Arc Rd. (private) and 20 ft. for the side and rear lot lines (45-405).

### **Building height**

The addition would be under the 55 ft. building height maximum for the C/I district. The sketch plan notes that the addition will be at the same height as the existing building, which is one story with a gable roof.

### **Parking and loading**

For the building addition, two perpendicular parking spaces per unit are proposed to be located along the Arc Rd. side, with additional parking available in the rear of the building. For the two units to be located in the existing building, two perpendicular parking spaces per unit are shown in front of the units on the Route 236 side. The spaces meet the parking space size requirement (180 sq. ft., Section 45-487).

Loading bays, each with a 10’x10’ bay door, are shown for each unit (45-494).

Some notes for the Planning Board’s consideration on parking:

- Parking is not allowed within lot line setbacks (45-487)
- Parking should also be arranged so that it is unnecessary for vehicles to back out into the street (45-488)
- There should only be one entrance and exit onto the street (45-489).

Because of this, at the time of this report, I believe more information is needed from the applicant to show how the proposed parking and associated parking access will meet these standards, and how adequate parking will be provided for all units given some of the lot being dedicated to auto repair and used car display. Currently, the Arc Rd. side of the property has a relatively open access to the street with multiple driveways. It may be beneficial to consolidate some of this access (to reduce the likelihood of vehicles backing out directly into the street) and channel access/egress to a more specific location. More information on this based on my further discussion with the applicant may be provided at

**PB21-26: 438 Harold L. Dow Highway (Map 45/Lot 10): Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units**

the meeting.

*Required parking for certain uses, based on unit size and 45-495*

Table row	Use	Parking space standard	Application to 20'x60' (1200 sf) unit based on proposed uses
7	Wholesale or retail sales, or service establishment	1 space for each 150 square feet of retail floor area	20'x50' wholesale floor area would require 7 spaces. Retail not proposed.
8	Automobile, truck and tractor repair and filling stations	1 parking space for each regular employee plus 1 space for each 50 square feet of floor area used for service work	Auto detailing/car audio business parking space requirement would depend on employees and any dedicated service space
9	Public building and professional offices (excluding medical and dental offices), nonprofit medical marijuana dispensaries	1 parking space for each 200 square feet, or major fraction thereof, of floor area exclusive of bulk storage areas	Professional office use could require up to 6 spaces; public building and marijuana uses not proposed
11	Commercial and industrial uses not specifically enumerated	1 space for each person employed or anticipated to be employed on the largest shift	Parking space requirement would depend on # of employees/shift
15	Adequate spaces shall be provided to accommodate customers, patrons, and employees for permitted uses not listed above		

**Fire Safety**

The sketch plan shows a fire access road around the property. Any additional comments from the Fire Chief may be relayed at the meeting.

**Screening**

Vegetative screening should be provided (per 33-175) along front and side yards. I have discussed with the applicant the existing and potential additional vegetation along frontage. As seen in the sketch plan there is an interest in continuing to have used car display along Route 236. The potential for additional screening may be a topic of discussion for the Board’s review.

**Lighting**

The sketch plan notes that exterior lighting would be installed above every exterior entry/exit door.

**PB21-26: 438 Harold L. Dow Highway (Map 45/Lot 10): Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units**

**Motion templates**

*Approval as a minor site plan amendment, with conditions*

To approve PB21-26 as a Minor Site Plan Amendment and Change of Use to construct a 60 ft. by 60 ft. building addition consisting of three (3) commercial rental units and create two (2) additional commercial rental units within a portion of the existing building. The following uses from Section 45-290 are approved to apply to the commercial rental units:

- Commercial establishment, 2 or more where allowed
- Warehouse
- Wholesale
- Wholesale business facilities
- Professional offices
- Industrial establishments and uses
- Business office
- Auto service station – limited to auto body detailing, or the sale or repair of car audio or other minor car accessories

No other uses shall occur in the commercial rental units unless allowed by subsequent Planning Board approval.

The Planning Board finds that the proposed revisions are minor and do not result in any substantial changes to the approved development or further impact abutters. The following are conditions of approval:

1. [Standard conditions]
2. [Other conditions if desired]

*Major Site Plan Amendment needing to go through the Site Plan Review process*

To find that the revisions proposed in PB21-26 are substantial. The applicant must seek approval through a site plan review process, beginning with submittal of a Site Plan Review application.

*Disapproval*

Motion to disapprove PB21-26 for the following reasons:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

**PB21-26: 438 Harold L. Dow Highway (Map 45/Lot 10): Site Plan Amendment and Change of Use – Building Addition and Commercial Rental Units**

\* \* \*

Respectfully submitted,

Jeff Brubaker, AICP  
Town Planner



# TOWN OF ELIOT

1333 STATE RD., ELIOT, ME 03903



## REQUEST FOR PLANNING BOARD ACTION

(FOR MISCELLANEOUS USES OR CHANGES)

(TO RECEIVE MEETING NOTICES)

Applicant Adam Beth  
 Mailing Address 342 Beech Rd. City Eliot State ME Zip 03903  
 Telephone # 207-219-2073 Email address Abbl21379@Ada.Com

Property Owner David Beth  
 Mailing Address 512 Sanborn Rd. City Acton State ME Zip 04001

Property address 438 Harold Dow Highway Tax Map # 45 Lot # 10  
 Size (acres) 4.2 Zoning District C/I Shoreland Overlay District? no

Conforming Lot? YES/NO Conforming Use? YES/NO Conforming Structure? YES/NO

- Legal interest in property identified by applicant by:
- Owner (copy of deed &/or tax records)
  - Pending Owner (copy of purchase & sale agreement)
  - Lease (copy of lease agreement with owners & applicants signature)
  - Corporate Officer (letter from corporation)
  - Other (identify: \_\_\_\_\_)

Nature of action requested:  
 (Example: Request to amend a previously approved site plan by adding a 10' x 20' addition)  
I would like to put up a 60' x 60' Addition  
consisting of (3) 20' x 60' Commercial Rental units. Also,  
I would like to add the "use of having commercial  
rentals" added to the existing use of Auto Repair & Sales.

Attach ten (10) copies of sketch plan of property showing in approximate dimensions, all zoning districts, existing/proposed structures, parking areas, streets, entrances, existing and proposed setbacks, proposed lot divisions, proposed open space to be preserved, common areas, site & public improvements and facilities, any areas of excavation and grading, and any other criteria needed to evaluate request. Sketch plan is not required if so advised by the Planning Assistant.

Applicants signature Adam Beth Date 6-14-21  
 Property owners signature David J Beth Date 6/5-21

TO BE COMPLETED BY PLANNING ASSISTANT			
Date application received by PA _____	PA signature _____		
Sketch plan required? YES NO			
FEE AMOUNT \$ _____	DATE PAID: _____	FORM OF PAYMENT: _____	

**AGREEMENT**  
**PURCHASE AND SALE OF REAL ESTATE**

This Agreement is made and entered into this day by and between, **David J. Beth** of 512 Sanborn Road, Acton, ME 04001 ("Seller") and **Adam B. Beth** of 342 Beech Road, Eliot, ME 03903, ("Buyer"), in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**PURCHASE AND SALE PREMISES.** Seller agrees to sell and Buyer agrees to buy, on the terms and conditions hereinafter set forth, the premises located at 438 Harold Dow Hwy, Eliot, Maine, together with all improvements and fixtures thereon and all rights appurtenant thereto, being more particularly described in a deed recorded at the York County Registry of Deeds in Book 15545, Page 628 (the "Premises").

**PURCHASE PRICE.** Subject to any adjustments and prorations hereinafter described, Buyer agrees to pay for the Premises the sum of **ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS AND 00/100** (\$125,000.00), which shall be paid to Seller as follows: Buyer shall deliver to Seller a promissory note in the total amount of \$125,000.00, less any amount paid as of the closing date. Buyer shall execute and deliver a mortgage deed to Seller securing said note.

1. **CLOSING.** The closing shall take place at the offices of Bergen & Parkinson, LLC in Kennebunk, Maine on September 4, 2020 at 2 p.m., or if the Buyer and Seller shall mutually agree in advance and in writing, at another time and place. Buyer and Seller intend to exchange documents and funds by mail prior to that date and time, so the closing will most likely be completed by mail prior to that date. That date, time and place is the deadline and official place of closing.

2. **TITLE.** Seller shall convey the Premises to Buyer at the closing in fee simple with good and marketable title or insurable title, free and clear of liens and encumbrances. In the event that Buyer determines upon examining title to the Premises that Seller would be unable to convey title as aforesaid, Seller shall have a reasonable period of time after notice from Buyer, not to exceed thirty (30) days, in which to remedy any title defects. Seller agrees to use his best efforts at his expense to remedy any such title defects. In the event that said defects cannot be corrected or remedied within said time period, then the Deposit shall be returned to Buyer and this Agreement shall terminate. Buyer may, however, elect to close notwithstanding such defects as may exist. Seller and Buyer understand and agree that any mortgages and liens on the Premises shall not be considered title defects provided that the same shall be discharged at or prior to the closing at Seller's expense. Seller may use purchase money proceeds for this purpose. Seller agrees that it will not further encumber or permit to be encumbered the Premises by any liens, mortgages, attachments, covenants, restrictions or easements after the date of this Agreement.

At the closing, Seller shall execute and deliver to Buyer, against payment of the purchase price, a Warranty Deed to the Premises (the "Deed").

Seller further agrees to execute and deliver to Buyer at the closing such Affidavits and Certificates as are reasonably necessary for Buyer's acquisition and financing of the Premises, if requested by Buyer, including without limitation a Certificate of Non-Foreign Status (as required by Internal Revenue Service regulations), an affidavit regarding underground storage tanks (as required by Maine Laws), a recent certificate of trust, and a title insurance "Seller's Affidavit" regarding mechanics liens and persons in possession.

3. **CONDITION OF PROPERTY.** The property shall be sold and conveyed strictly on an "as is", "where is" and "with all defects" basis, without representation, warranty or covenant, express, implied or statutory, of any kind whatsoever, including, without limitation, representation, warranty or covenant as to condition (structural, environmental, mechanical or otherwise), past or present use, construction, development, lease performance, investment potential, tax ramifications or consequences, income, compliance with law, habitability, tenancies, merchantability or fitness or suitability for any purpose, all of which are hereby expressly disclaimed. The washer-dryer unit is broken at this time. Without limiting the generality of the foregoing, Buyer acknowledges that Seller has made no representations, warranties or covenants as to the compliance of the Property with any federal, state, municipal or local statutes, laws, rules, regulations or ordinances, including, without limitation, those pertaining to construction, rent control, building and health codes, land use (or permits issued in connection therewith), zoning, lead paint, urea formaldehyde foam insulation, asbestos, hazardous or toxic wastes or substances, pollutants, contaminants or other environmental matters, other than the disclosures in the attached Exhibit A, Notice Concerning Underground Tanks.

4. **RISK OF LOSS, DAMAGE AND INSURANCE.**

a. All risk of loss to the Premises prior to the closing shall be borne by Seller. Seller shall keep the Premises fully insured against fire and other extended coverage risks until the closing.

b. In the event that, prior to closing, the improvements which are part of the Premises are destroyed or, in the opinion of Seller, substantially damaged, then Seller reserves the right to terminate this Agreement in which case Seller shall return the Deposit to Buyer and there shall be no further obligations between the parties related to this Agreement.

c. In the event that, prior to the closing, the improvements which are part of the Premises are destroyed or, in the opinion of Buyer, substantially damaged, Buyer may either (i) terminate this Agreement and receive back the earnest money deposit, or (ii) accept the insurance proceeds payable by reason of such damage, destruction or taking and close this transaction notwithstanding the same. Seller agrees and hereby assigns any proceeds payable pursuant hereto to Buyer, and shall name Buyer as an additional insured as Buyer's interest may appear.

5. **POSSESSION OF THE PREMISES AND LEASES**. The Premises shall be delivered to the Buyer at the time of the closing free and clear of all tenancies or occupancies by any person or entity.

6. **REPRESENTATIONS AND WARRANTIES OF SELLER**. Seller represents and warrants to Buyer that the following are true as of the date of this Agreement and will be true as of the closing:

a. There are no outstanding pending or threatened liens, claims, rights of first refusal, or encumbrances against the Premises.

b. All outstanding bills and/or accounts payable concerning the Premises are either paid or will be paid prior to or at the time of closing.

c. There are no outstanding claims, losses or demands against Seller by any tenant or other person respecting Seller's ownership, use and/or occupancy of the Premises.

d. The Premises, or portion thereof, are not correctly classified as Farm Land, Open Space or Tree Growth under applicable provisions of Title 36 M.R.S.A., nor are there any unpaid receptive or other penalties arising from the withdrawal or reclassification of the Premises.

e. There are rights of ingress and egress in perpetuity from the Premises to public highways or roads for both vehicular and pedestrian traffic and utilities sufficient for Buyers intended use.

f. The Premises or portion thereof either do not now, and will not as of the closing date, abut any farmland registered under 7 M.R.S.A. §51-59 or if the Premises do abut any such registered farmland they are, and shall be as of the closing date, exempt from the provisions thereof.

g. There are no endangered or threatened wildlife, plant habitats, rivers, streams, great ponds, other bodies of water or wetlands or coastal sand dunes on or adjacent to the Premises which, under applicable law would prohibit, limit or restrict Buyer's intended residential use of the Premises.

h. There are no boundary disputes or encroachments affecting the Premises.

7. **DEFAULT AND REMEDIES**. The parties agree that Buyer shall be entitled to the remedy of specific performance. In the event Seller defaults in the performance of its obligations hereunder, Buyer shall receive back its Deposit and this Agreement will terminate and neither party will be under any further obligation hereunder. In the event that Buyer fails to close hereunder for a reason other than the default of the Seller, Seller shall retain the deposit, it being understood, however, the Seller's acceptance thereof shall not constitute a waiver of any other legal or equitable remedy available to Seller.

8. **CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE.**

The obligation of Buyer to close is subject to the satisfaction at or before the closing of all of the following conditions:

- a. All representations and warranties of Seller contained in this Agreement shall be true as of the closing.
- b. The Premises shall be in the same or better condition at the time of closing as they are in as of the date of this Agreement, normal wear and tear excepted.
- d. Buyer having obtained a property/casualty insurance policy/Binder in form and substance satisfactory to Buyer and Buyer's Bank, if any.

In the event that any of the foregoing conditions is not satisfied prior to or at the closing, Buyer shall have the option of terminating this Agreement and receiving back the Deposit.

10. **BROKERAGE.** Seller and Buyer represent and warranty to each other that neither party has engaged the services of any real estate broker with respect to this transaction.

11. **ADJUSTMENTS, PRORATIONS AND CLOSING COSTS.**

- a. Real estate taxes shall be prorated as of the closing.
- b. The Maine real estate transfer tax shall be paid by Seller and Buyer in accordance with 36 M.R.S.A. § 4641-A.
- c. The recording fee for the deed of conveyance will be paid by Buyer.
- d. A portion of the purchase price shall be withheld at the closing by Buyer if required by 36 M.R.S.A. § 5250-A.
- e. Utilities shall be not prorated as of the closing date.

12. **MISCELLANEOUS.** The parties further agree as follows:

- a. **Binding Agreement / Assignment.** This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors, and assigns.

This Agreement is not assignable by either party.

- b. **Amendment.** This Agreement shall not be changed in any respect except by written instrument signed by the parties hereto.

- c. **Governing Law / Jurisdiction.** This Agreement and all rights and obligations hereunder, including matters of construction, validity, and performance, shall be governed by the laws of the State of Maine and the parties recognize Maine as the sale forum having jurisdiction.
- d. **Severability.** If any term, condition, or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable according to the law, then the remaining terms, conditions, and provisions of this Agreement, or the application of any such invalid or unenforceable terms, condition or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term, condition, and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- e. **Headings.** The descriptive headings of the sections of this Agreement have been inserted for convenience and reference only and shall not control or affect the meaning or construction of any of the contents hereof.
- f. **Integration.** This Agreement may be executed in multiple originals and embodies the entire understanding of the parties. All prior discussions and representations are merged herein.
- g. **Notice.** Any demand or notice required or permitted hereunder, shall be effective if either: (i) hand-delivered to the addressee, or (ii) deposited in the mail, registered or certified, return receipt requested and postage prepaid, or delivered to a private express company addressed to the addressee: (A) at the address shown below, or (B) if such party has provided the other in writing with a change of address, at the last address so provided. Any notice or demand mailed as provided in this paragraph shall be deemed given and received on the earlier of:
  - (i) the date received, or
  - (ii) the dated of delivery, refusal or non-delivery as indicated on the return receipt, if sent by mail or private express as provided above;

All notices required to be given, or which may be given hereunder, shall be in writing and if mailed, shall be sent by mail to the party to be notified as follows:

BUYER: Adam B. Beth  
c/o Bergen & Parkinson, LLC  
62 Portland Road, Suite 25  
Kennebunk, ME 04043

SELLER: David J. Beth  
512 Sanborn Road

Acton, ME 04001

or to such other addresses as one party may from time to time hereafter designate by like notice to the other.

- h. Gender and Number. All words denoting gender or number shall be construed to include any other gender or number as the context and facts require.
- i. Survival / Merger. All representatives of Seller survive closing unless extinguished by their terms at closing.

Acceptance of the Deed by Buyer merges all provisions of this Agreement and satisfies all obligations of Seller pursuant hereto.

- j. Time. Time is of the essence in this Agreement.
- k. Professional Advice. Each party hereby acknowledges that they have read and understand this Agreement and have had an opportunity to obtain professional advice regarding the same.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

SELLER:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
David J. Beth

BUYER:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Adam B. Beth

EXHIBIT A

NOTICE CONCERNING UNDERGROUND TANKS

The Seller hereby files this written notice with the Buyer, in accordance with Title 38 M.R.S.A. Section 563(6):

- \_\_\_\_\_ A. To the best of Seller's knowledge, no underground storage facility for the storage of oil or petroleum products exists on the Property.
- \_\_\_\_\_ B. An underground oil storage facility exists on the Property.
  - B1. The State of Maine Registration numbers for all oil storage facilities on the Property are as follows:
    - No. \_\_\_\_\_
    - No. \_\_\_\_\_
    - No. \_\_\_\_\_
    - No. \_\_\_\_\_
  - B2. (check one) The oil storage facilities have \_\_\_\_\_ have not \_\_\_\_\_ been abandoned in place (taken out of service for more than 12 months), pursuant to 38 M.R.S.A. § 566-A.
  - B3. The facility is subject to regulation, including registration requirements, by the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. § 561 and following.

SELLER:

BUYER'S ACKNOWLEDGEMENT OF RECEIPT

Date	Date
Date	Date



**DRAFT Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Clarifying the Status of a Public Facility as a Sensitive Use Relative to Certain Marijuana and Medical Marijuana Establishments**

*Draft for Planning Board review – August 17, 2021*

**ARTICLE #\_\_**: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 11 – Marijuana Establishments and Chapter 33 – Planning and Development, Related to Clarifying the Status of a Public Facility as a Sensitive Use Relative to Certain Marijuana and Medical Marijuana Establishments” be enacted?

**Background and rationale**

The separation (buffering) performance standard in Section 33-190(5) provides that no marijuana store, medical marijuana caregiver retail store, or medical marijuana dispensary shall be sited within 500 feet of certain sensitive uses. One of these sensitive uses is a public facility. To provide a clear reference for this standard, the amendment adds a citation in Section 33-190(5) to the definition of “public facility” in Section 11-3. It also modifies Section 11-3 to provide greater clarity on what would and would not constitute a public facility for the purpose of the separation (buffering) performance standard. Specifically, only a public facility that is (or might be in the future, based on its design, voter approval, or designation in an adopted Town planning document) open to the public and regularly visited by the public would be considered a public facility that is subject to the separation (buffering) standard. The amendment also explicitly excludes a street, town way or public way (as currently defined in Section 1-2) from the Section 11-3 public facility definition. While a previous amendment approved by voters already served to exclude an explicit reference to roads from the definition, the current definition is still open to interpretation – for example, by referencing “property...owned...or otherwise operated, or funded by a governmental body or public entity.” The amendment addresses that lack of clarity. All other parts of the Section 33-190(5) separation (buffering) standard would stay the same.

**(New text underlined in bold)**

~~Deleted text in strikethrough~~

*[Note: section abridged to only show definitions proposed to be modified by this ordinance amendment]*

Sec. 11-3. - Definitions.

[...]

*Public facility* shall mean any facility, including, but not limited to, a buildings, property, or ~~and~~ recreation areas, which is owned, leased, or otherwise operated, or funded by a governmental body or public entity, **and which is, is designed to be, is approved in a Town referendum to be, or is planned (in a Town planning document that has been adopted by the Select Board or approved by voters) to be, open to the public and regularly visited by the public. For the purpose of this definition, a street, town way or public way (as defined in Section 1-2) shall not be considered a public facility.**

[...]

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

*[Note: section abridged to show only the portion of it that is proposed to be modified by this ordinance amendment]*

*[...]*

- (5) Separation (buffering) from sensitive uses.
- a. No marijuana establishment or medical marijuana establishment shall be sited within 500 feet of the lot lines of a public or private school. This standard may not be relaxed by variance or waiver.
  - b. No marijuana store, medical marijuana caregiver retail store, or medical marijuana dispensary shall be sited within 500 feet of the lot lines of any public facility **(as defined in Section 11-3)**, place of worship, residential property, or childcare facility.

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

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

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

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

*[...]*

**DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning, Related to Demolition of Historic Structures**

*Draft for Planning Board review – August 17, 2021*

**ARTICLE #\_\_**: Shall an Ordinance entitled “Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning, Related to Demolition of Historic Structures” be enacted?

**Background and rationale**

This ordinance amendment establishes a 120-day delay period applicable to a demolition permit application for a building or portion of a building that is 50 years in age or older, or that is located on a property listed on the National Register of Historic Places, so that alternatives to demolition of potentially historically significant buildings can be explored. The delay period would start upon receipt of a complete demolition permit application. It would not apply to buildings deemed dangerous that may need to be demolished quickly. To that end, the amendment adds a definition of “dangerous building” in Section 1-2, modeled on a state law definition, and includes an exemption from the delay period for dangerous building demolition.

The delay period allows time for consultation to occur between the applicant for the demolition and-or property owner, Town staff, a local historical society, the Planning Board, and the public to explore potential demolition alternatives. It does not, and is not intended to, prohibit or indefinitely delay anyone from demolishing or altering historically significant or sensitive structures. It includes a Planning Board public hearing so that abutting property owners and other members of the public have an opportunity to provide input on the proposed demolition. The Planning Board would be able to issue an advisory opinion to inform the Code Enforcement Officer’s review of the permit application. During the delay period, the applicant and-or property owner are encouraged to seek alternative options that will preserve, rehabilitate, restore, or move the building. If demolition is to be the final result, historically/architecturally significant buildings would need to have a recordation of the property done either by the applicant-owner or a local historical society, and the applicant/owner would be encouraged to salvage building materials.

DRAFT Proposed Town Code Amendments of Chapter 1 – General Provisions and Chapter 45 – Zoning, Related to Demolition of Historic Structures

**New text in bold underline**

~~Deleted text in strikethrough~~

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

*[Note: Section abridged to only show an added definition]*

Add a new definition to the section in alphabetical order:

**Dangerous building means a building that is structurally unsafe, unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property.**

**State Law reference—Definition based on 17 M.R.S.A. § 2851(2-A) at the time of adoption**

Add a new section:

**Section 45-136. – Demolition Delay for Historic Structures**

- (a) *Purposes:* The purposes of this section are to help preserve historically significant structures in the community, increase town involvement in the preservation of the town’s unique cultural and historical assets (2009 Comprehensive Plan Historic and Archaeological Policy 1), and help provide town decision-makers with the necessary support to protect the town’s most valued historical assets (2009 Comprehensive Plan Historic and Archaeological Policy 2). This section does not, and is not intended to, prohibit or indefinitely delay anyone from demolishing or altering historically significant or sensitive structures. It is intended to delay the issuance of a demolition permit for certain structures, or parts of structures, for a short period of time to allow for the exploration of alternatives to demolition.
- (b) Except as described in paragraph (c), no permit for the demolition, in whole or in part, of a building (or its additions, ells, or wings) that is 50 years in age or older, or that is located on a property listed on the National Register of Historic Places, shall be issued until at least one-hundred (120) days after a complete application for demolition has been received by the Code Enforcement Officer.
- (c) The delay period referenced in paragraph (b) shall not apply to the demolition of a dangerous building as defined in Section 1-2. Nothing in this section shall be interpreted as delaying the review of a demolition permit for such a building. The applicant for a demolition permit for a building subject to this section shall include with their application a statement, with supporting information, that the building is a dangerous building. The statement must be signed or endorsed by a licensed building inspector or other professional qualified to assess buildings based on the dangerous building definition. The delay period also shall not apply, and the dangerous building statement shall not be required, for buildings ordered to be demolished or deemed dangerous buildings or life safety hazards by the Code Enforcement Officer or Fire Chief.
- (d) After receiving a complete application for demolition that is subject to paragraph (b), the Code Enforcement Officer shall date the application and determine if it applies to paragraph (c) relating to demolition of a dangerous building. If the Code Enforcement Officer deems that it does not apply to paragraph (c):
  - a. The Code Enforcement Officer, or designee, shall:
    - i. Notify the applicant of the delay period and its start and end dates and
    - ii. Forward a copy of the application to a local historical society and the Planner
  - b. Within sixty (60) days of receipt of the complete application, the Planning Board shall hold a public hearing on the permit application for the purpose

of discussing the historical significance of the building and inviting comment from the public and abutting property owners. Notice for a public hearing shall be given in compliance with Section 33-130. Prior to the public hearing, the applicant shall pay the Planning Board public hearing fee specified in Section 1-25.

- c. After the public hearing, the Planning Board, at its discretion, may issue an advisory opinion on the building's historical significance and possible alternatives to demolition.
- (e) During the 120-day delay period, the applicant is encouraged to work with any interested parties to explore possible alternatives to demolition. The applicant and-or property owner are encouraged to seek alternative options that will preserve, rehabilitate, restore, or move the building.
- (f) The 120-day delay period may be lessened or waived if it is determined that the building or portion thereof that is contemplated for demolition is deemed to be non-contributing or not architecturally or historically significant. The Planning Board may make recommendations in this regard to the Code Enforcement Officer, who then may waive or lessen the prescribed 120-day delay period.
- (g) If a building or portion thereof is deemed to be contributing or significant architecturally or historically, and demolition will be the final result, prior to issuance of the demolition permit, the applicant or owner shall prepare and submit a historical building recordation of the property consistent with the intent of the Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation. The purpose of this recordation is to preserve an accurate record of historic properties that can be used in research and other historic preservation activities. This requirement may be waived if a local historical society, working with the applicant or owner, prepares and submits a similar recordation of the property.
- (h) The owner or applicant is encouraged to work with interested parties to salvage, recycle, and reuse as many of the building materials as possible.
- (i) Once the review process has been completed and, if required, the historical building recordation has been submitted, the Code Enforcement Officer may issue the demolition permit.