

TOWN OF GRAY
PLANNING BOARD
AGENDA • APRIL 11, 2024

**Planning Board
Regular Meeting**

Henry Pennell Municipal Complex
24 Main St., Gray, Maine
also via Teams videoconferencing:
<https://graymaine.link/PB-Meeting>

7:00 PM

I. MEETING COMMENCES

Roll Call

II. MINUTES APPROVAL

a. Planning Board - Regular Meeting Minutes - March 7, 2024

III. INFORMATION EXCHANGE

IV. NEW BUSINESS/PUBLIC HEARING

a. **Public Hearing: Floodplain Management Ordinance**

The Planning Board will host a public hearing on the proposed repeal of the current Floodplain Management Ordinance, Chapter 405, and adoption of the updated Floodplain Management Ordinance and Flood Insurance Rate Map, to become Ordinance Chapter 405.

b. **Public Hearing: Subdivision Amendment Review: Lyons Point Subdivision- Fecteau Lot**

A request by Daniel Fecteau for an amendment to the approved Lyons Point Subdivision, to alter the lot line between lots 4 and 5. Mr. Fecteau owns the 3+/- acre Lot 5 at 121 Lyons Pt. Road at Tax Map 32, Lot 315-068-001, in the Lake zoning district and Limited Residential Shoreland Zoning district. This proposal is subject to subdivision amendment review and Shoreland Zoning.

V. NEW BUSINESS

a. **Sketch Plan Review: Gervais Homes Ramsdell Road Subdivision**

A request by Andrew Gervais of Gervais Homes LLC, represented by BH2M Engineering, for Planning Board sketch plan review of a proposal to create a 13-lot subdivision on his 144 +/-

acre property near 123 Ramsdell Road at Tax Map 41, Lot 13-20, in the Rural Residential and Agricultural zoning district. This proposal is subject to major subdivision review.

VI. ADJOURNMENT

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

TOWN of GRAY
PLANNING BOARD
MINUTES • MARCH 7, 2024

Henry Pennell Municipal Complex
 24 Main Street Gray, ME, 04039

7:00 PM

I) MEETING COMMENCES

ROLL CALL

Attendee Name	Status
Dan Cobb	Present
Kristen Muszynski	Present
Melinda Sheehee	Present
Zhenya Shevchenko	Present

Ben McCall, town attorney present

II) MINUTES APPROVAL

II.a) Planning Board Regular Meeting Minutes February 8, 2024

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Zhenya Shevchenko
SECONDER	Melinda Sheehee
AYES	Dan Cobb, Melinda Sheehee, Zhenya Shevchenko

III) INFORMATION EXCHANGE

Kristen noted that the Open Space joint workshop preceding the meeting was a good discussion and will inform future ordinance amendments as well as implementation of current ordinances. She noted that the joint zoning workshop has not yet been rescheduled, and reminded the board to sign the Aerie Estates final plan at the end of the meeting.

IV) NEW BUSINESS

IV.a) Mayall Road Gervais Subdivision – Sketch Plan Review

A request by Andrew Gervais of Gervais Homes LLC, represented by Austin Fagan of BH2M Engineering, for Planning Board sketch plan review of a proposal to create a 12-lot subdivision on his 60 +/- acre property near 279 Mayall Road, at Tax Map 21, Lot 26-20 in the Rural Residential and Agricultural and Business Development-1 zoning districts. This proposal is subject to major subdivision review.

Walter Pelkey of BH2M engineering addressed the board, representing Andy Gervais for his Mayall Road subdivision proposal. Mr. Pelkey gave an overview of the project, noting that it was previously submitted as a cluster subdivision but they felt the property is better suited for conventional subdivision.

Mr. Pelkey requested board input on staff comment #3, regarding shape of Lot 1, noting that it is not made oddly shaped to get the 80,000 sf required; it is just the nature of the property line. Board agreed that they do not have concerns with the lot's conformance to the ordinance. Dan asked that the applicant show a dotted line in their preliminary plan submittals to show that it meets 80k sf without the odd leg.

Mr. Pelkey noted that building envelopes will be shown in the preliminary plan submittal. Shared driveway for Lots 5/6 could be difficult with wetland; may present an easement from 7 to 5 and then limit to 3 curb cuts along Mayall.

Melinda questioned why the applicant shifted away from a Residential Open Space approach and encouraged retention of open lands as possible. Mr. Pelkey acknowledged and noted they are trying to achieve no wetland impacts on this project.

The board set a site walk of the property for Monday March 25 at 5 p.m. and advised the applicant to stake out centerline of road, salient features such as steep terrain, example lots that might be of interest and driveways on Mayall Road.

IV.b) Lewiston Road Liberty Subdivision – Subdivision and Site Plan Amendments

A request by Scott Liberty, dba Grayland Holdings, LLC, represented by JP Connolly of DM ROMA Consulting Engineers, for amendments to the Lewiston Road Subdivision plan (Plan Book 222/ Page 249) and site plan, regarding the access easement for Lots 2 and 3, Map 28, Lots 26-02-01 and 26-02-00, at 1 Storage Way and 2 Storage Way, respectively; and the abutter easement and impervious calculation on Lot 3. This property is located in a Commercial Zoning District and the application is subject to site plan and subdivision amendment review.

Dan acknowledged the history of this property and the recent Zoning Board of Appeals process, advised those in attendance that the board will stay focused on what is relevant to the application.

Dustin Roma of DM Roma Engineering addressed the board as representative of the applicant, Scott Liberty. He noted that an allowance for impervious is included that would keep Lot 3 within the town ordinance 65% impervious cap. The plan shows new parking spaces on Lot 3, adds the Chapman/Rand easement on Lot 3, and shortens the access easement for Lots 2/3.

Dustin agreed that deeds will be updated and the applicant agrees with staff comments.

Dan asked for history of the impervious calculation change. Dustin noted some reclaim asphalt, rougher edge, was laid out in addition to hard pavement and when that was done, they did measurement by tape to get calculation and it was not actually surveyed. It is surveyed now and accurately reflected on the plans.

Dan reviewed submitted public comment from nearby resident Lynn Gallagher. Kristen reviewed/responded and Dan advised that if there turn out to be any compliance issues staff can handle that separately from this amendment.

Dan recognized the letter from the Chapman/Rand abutting property owners' attorney, Chris Neagle.

V) PUBLIC HEARING

Motion to approve the request by Scott Liberty, dba Grayland Holdings, LLC, represented by JP Connolly of DM ROMA Consulting Engineers, for amendments to the Lewiston Road Subdivision plan (Plan Book 222/ Page 249) and site plan, regarding the access easement for Lots 2 and 3, Map 28, Lots 26-02-01 and 26-02-00, at 1 Storage Way and 2 Storage Way, respectively; and the abutter easement and impervious calculation on Lot 3. This property is located in a Commercial Zoning District and the application is subject to site plan and subdivision amendment review, and subject to the following conditions:

1. The project shall be constructed, operated, and maintained in accordance with the plans, submissions and testimony presented to the Planning Board by the applicant and its representatives.
2. All prior applicable standards and conditions of approval remain in effect.
3. The plan amendments will reflect the easement across Lot #3, benefitting the abutting property owners, Mr. Chapman and Mr. Rand, to include the Cumberland County Registry of Deeds reference, to be reviewed and approved by the Town Planner prior to signing of the final plan by the Planning Board.
4. The plan amendments will reflect the updated impervious calculation for Lot #3 with a note that the total impervious area on Lot #3 is not to exceed the 65% maximum per town ordinance, to be reviewed and approved by the Town Planner prior to signing of the final plan by the Planning Board.
5. The plan amendments will reflect the amended shared access easement between Lots 2 and 3, to be reviewed and approved by the Town Planner prior to signing of the final plan by the Planning Board.
6. The final plan shall be signed and sealed by a licensed professional land surveyor.
7. The applicant shall amend the deeds for Lots 2 and 3 of the subdivision as per below and provide confirmation of filing the amended deeds with the Cumberland County Registry of Deeds to the Code Enforcement Officer, prior to release of the final signed plan. **A.)** Lot 3 deed shall reflect the easement to the abutting Chapman/Rand property **B.)** Both Lot 2 and Lot 3 deeds shall reflect the reduced shared access easement; all easements for access, septic, utility and stormwater drainage, as described in the subdivision narrative submitted to the Board (for the 2022 review process), including the alternate sewage connection from the existing septic leach field on Lot 2 to

the building on Lot 3; and a restriction to limit the water use of the existing septic system to less than 1,000 gallons per day.

8. Note #13 as shown on the submitted subdivision plan shall be struck.
9. The “ZBA Variance Granted” note on the face of the submitted subdivision plan shall be amended to read: On November 29, 2023 the Town of Gray Zoning Board of Appeals granted approval of a variance to allow for up to 6.2 percent of additional impervious coverage for a 20-foot driveway located on Lot 3, Map 028-26-002-000, for the benefit of the adjacent land shown as “N/F William Chapman- Gregory Rand” southeast of the 60-foot-wide access and utility easement, per the certificate of zoning variance approval recording in CCRD book 40525, page 43.
10. The subdivision plan notation within the Chapman/Rand easement area on the southwest corner of Lot 3 shall be amended to add the following language: Proposed impervious area = 2,600 sf.

RESULT	PASSED [UNANIMOUS]
MOVER	Melinda Sheehee
SECONDER	Zhenya Shevchenko
AYES	Dan Cobb, Melinda Sheehee, Zhenya Shevchenko

Dan opened the public hearing at 7:35 pm Chris Neagle, attorney for abutting property owners Chapman/Rand, addressed the board. He advised the board to disregard his comment regarding the 75’ stream setback, as he understands now that it is a NRPA stream setback. He requested an amendment to the ZBA variance plan note, noted that the right of appeal language is difficult to understand and suggested amendments to Note 13. Dan closed the public hearing at 7:44 p.m. The board, applicant and attorneys reviewed and discussed amendments to notes on the plan regarding the impervious area and the Zoning Board of Appeals variance. The board did not have comment on the changes to the access easement or additional parking spots. Dan noted that he normally would have asked for peer review of the impervious calculation, due to the changes, but since the new calculation works for all parties, he will not pursue that. Melinda and Zhenya agree. The town attorney read into the record additional conditions of approval 8, 9 and 10, per discussions in the meeting.

VI) ADJOURNMENT

Motion to adjourn

RESULT	PASSED [UNANIMOUS]
MOVER	Melinda Sheehee
SECONDER	Zhenya Shevchenko
AYES	Dan Cobb, Melinda Sheehee, Zhenya Shevchenko

MEMO

Tuesday, Feb. 20, 2024

TO: Gray Town Council, Town Manager, Planning Board

FROM: Planning Department

RE: Flood Ordinance Updates

INCL: Dept. of Agriculture letter dated January 8; updated floodplain ordinance language; existing Chapter 405 ordinance;

Background

The Federal Emergency Management Agency (FEMA) has updated their flood maps and all municipal ordinances must now be updated to correspond with the adoption of the new maps. The Maine Department of Agriculture notified municipalities of these necessary updates to our floodplain management ordinance, per their letter of January 8 (attached).

The Town of Gray currently has a Floodplain Management Ordinance, Chapter 405, enacted April 20, 1993. The changes before you are an administrative update to repeal the existing ordinance and adopt the new ordinance to bring town ordinances in alignment with the new maps and FEMA standards.

The State has advised that this ordinance must be updated and become effective on June 20, 2024 in order for property owners in Gray to continue participation in the National Flood Insurance Program (NFIP). If the town's ordinance is not in compliance, it can negatively impact homeowners' ability to obtain federal flood insurance and could impact Gray's eligibility for disaster funding.

Review/ Summary of Changes

Town staff have reviewed the new ordinance language as compared with the existing ordinance, and support taking the State's advice in adopting the updated ordinance and associated maps as provided to ensure that it meets all FEMA standards.

The ordinance language provided by the State includes updated references, some additional definitions, and some reorganization that helps with clarity, but does not appear to include any major substantive changes.

Article I: Updated references

Article II: No changes

Article III: Updated references, including to maps in Sections J and K

Article IV: No changes

Article V: Updated references; B3 is new; Section E. replaces State Department of Economic and Community Development with Floodplain Management program/ FEMA; new language in section F

Article VI: Reorganized with headers. Section N and O are new, regarding hydraulic openings and bridges, respectively. Sections F-H reorganized with reference updates. Section J-reorganized with reference updates

Article VII: Minor non-substantive edits

Article VIII: Adds reference to requiring engineering practices that are recognized by FEMA

Article IX: Reference updates, clarification of appeal process. Section H new/reorganized

Articles X, XI, XII: No changes

Article XIII: Definitions

- Removal of “area of shallow flooding” and “breakaway wall.”
- Addition of “accessory structure,” “agricultural structure,” “existing manufactured home park or subdivision,” “minor development,” “National Geodetic Vertical Datum,” “North American Vertical Datum,” “Recreational Vehicle;”
- Updates to definitions of “code enforcement officer,” “development,” “elevated building.”

Article XV is new: Disclaimer of Liability.

Staff Recommendation

The State Department of Agriculture has advised municipalities to repeal the existing ordinance and adopt the ordinance as provided, without changes, to ensure that it is valid for FEMA purposes, and to set the effective date to align with the day the new maps become effective (June 20, 2024).

As noted in their Jan. 8 letter: Any changes to the proposed ordinance language will require review by the State to confirm that all references are correct and FEMA compliance is maintained. *(The letter, as well as the current and proposed versions of the ordinance, are included herein.)*

Town staff are strongly in support of the repeal/replace recommendation, as it is the most efficient way to ensure that the town’s ordinance aligns with the FEMA maps and the National Flood Insurance Program. The State has advised that “FEMA has very specific requirements regarding ordinance language.” By adopting the ordinance as provided, the Town will avoid any potential complications for disaster funding requests and/or for Gray residents using the National Flood Insurance Program.

Recommended Next Steps

1. The council must decide if they support the repeal/replace approach for this ordinance.
2. The council must confirm scheduling for the ordinance change process. Per the suggested schedule below, the ordinance update review/approval process would be on track to be effective for the June 20 date, as suggested by the State, to avoid any complications for homeowners or the town.
 - Notice posted in town hall: March 29
 - First public notice: March 29
 - Second public notice: April 2
 - First read/public hearing at council: April 9

- Planning Board statutory public hearing: April 11
- Second read/final approval at council: April 23
- Effective 30 days later: May 23 (but effective date language would coincide with map effective date of June 20).

This process can take place earlier if the council wishes to finalize it before getting deeper into budget season, as the effective date will remain the same. If the council envisions pursuing any changes, an earlier start to the process is likely advisable to allow time for compliance review.

3. If the council endorses the repeal and replace approach suggested by the State and town staff, a draft motion is provided below for your consideration:

The Town of Gray hereby ordains the repeal of the Floodplain Management Ordinance, Chapter 405, as adopted April 20, 1993, and adoption of the updated Floodplain Management Ordinance and Flood Insurance Rate Map, to become Town of Gray Ordinance Chapter 405, effective June 20, 2024.



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF RESOURCE INFORMATION & LAND USE PLANNING
93 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

January 8, 2024

Krista Chappell, Town Council Chair
Town of Gray
Henry Pennell Municipal Complex
24 Main Street
Gray, ME 04039

[E-Mail Return Receipt Requested]

RE: New FEMA Flood Insurance Rate Maps and requirement for adoption into local ordinance for compliance with the National Flood Insurance Program (NFIP)

Dear Town Council Chair Chappell:

Your community should have received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new Digital Flood Insurance Rate Maps (DFIRMs) for Cumberland County for June 20, 2024. The LFD marks the beginning of a six-month time period for communities to update their local Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before June 20, 2024, in order to avoid being immediately suspended from the NFIP.**

Participation in the NFIP provides protection to those members of your community who may be affected by flooding. In addition, federal flood insurance is available to those who have federally backed mortgages in the floodplain. Another important benefit is your community's eligibility for disaster funding and low interest loans when your county is in a declared disaster area. This is all possible by way of your community's commitment to adopt, administer, and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. **Please**

SUE BAKER, PROGRAM MANAGER
MAINE FLOODPLAIN MANAGEMENT PROGRAM
17 ELKINS LANE, WILLIAMS PAVILLION



PHONE: (207) 287-2801
FAX: (207) 287-2353
WWW.MAINE.GOV/DACF/

review this document carefully. The enclosed ordinance contains all the changes that have occurred at the federal and state level since your ordinance was last adopted. Since FEMA has very specific requirements regarding ordinance language, we encourage communities to adopt the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. If the community changes the numbering system, a draft should be provided to this office for review. This is to ensure that the ordinance remains compliant and contains the correct cross references. Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.

We filled in the application fee (Article III) and permitting authority (Article II) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. We highly recommend that the community set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted and certified by the Town Clerk, please send this office an electronic copy (if possible) and one clerk certified printed copy. We will provide copies to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

If you have not already done so, please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for the affected communities. Please contact Janet Parker at 287-9981 or janet.parker@maine.gov as soon as this information is available.

Over the next few months, we expect to host at least one public outreach meeting in the Cumberland County area. This will be a public informational session so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll provide notice so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or sue.baker@maine.gov) or Janet (287-9981 or janet.parker@maine.gov) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM
State NFIP Coordinator

Enclosures: Customized 2023 Model Ordinance

Adoption Instructions
Update of Ordinance Changes
Optional/Alternate Language

Cc: Josh Tiffany, Interim Town Manager
Britt Barton, Town Clerk
Doug Webster, Planning Director
Tammy Munson, Code Enforcement Officer
Katie Rand, FEMA Region I
Greater Portland Council of Governments

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF GRAY, MAINE

ENACTED: _____
Date

EFFECTIVE: _____
Date

CERTIFIED BY: _____
Signature

CERTIFIED BY: _____
Print Name

Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Gray, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Gray, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Gray, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Gray has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Gray having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Gray, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of Gray, Cumberland County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Cumberland County, Maine," dated June 20, 2024, with accompanying "Flood Insurance Rate Map" dated June 20, 2024, as amended, are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Gray, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address, and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing locations of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
 - D. A statement of the intended use of the structure and/or development;
 - E. A statement of the cost of the development including all materials and labor;
 - F. A statement as to the type of sewage system proposed;
 - G. Specification of dimensions of the proposed structure and/or development;
- [Items H-K.2. apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE, from data contained in the "Flood Insurance Study - Cumberland County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.M. and VIII.D.; or,
 - (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.H.2.b., Article VI.I.2.a. or b., or Article VI.J.2.b.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement;
 - 4. lowest machinery and equipment servicing the building; and,
 - 5. level, in the case of non-residential structures only, to which the structure will be floodproofed.
 - I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
 - J. A written certification by:
 - 1. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
 - 2. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.

- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.I.; and other applicable standards in Article VI;
 - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.N.2.a.;
 - 3. a certified statement that bridges will meet the standards of Article VI.O.;
 - 4. a certified statement that containment walls will meet the standards of Article VI.P.
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Cumberland County, Maine," as described in Article I;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.(1); Article VI.M.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
 - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
 - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
 - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an “under construction” Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction for verifying compliance with the elevation requirements of Article VI, paragraphs H., I., or J. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
 - G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities, that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within Zones A and AE, shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation.
- G. **Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.
1. All development projects in Zones AE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.
 2.
 - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.

3. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
4. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

H. **Residential** - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article VIII.D.; or,
 - b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure.

I. **Non-Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; Article VIII.D.; or,

- b. in the absence of all data described in Article VI.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,
- c. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.I.1.a., b., and c.

J. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) All components of the anchoring system described in Article VI.J.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.J.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; Article VIII.D.; or,
- b. in the absence of all data as described in Article VI.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,
- c. meet the anchoring requirements of Article VI.J.1.c.

K. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE, shall either:

- a. be on the site for fewer than 180 consecutive days; and,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.J.1.

L. **Accessory Structures** - New construction or substantial improvement of Accessory Structures, as defined in Article XIII, shall be exempt from the elevation criteria required in Article VI.H. & I. above, if all other requirements of Article VI and all the following requirements are met.

1. Accessory Structures located in Zones A and AE, shall:
 - a. meet the requirements of Article VI.A.1. through 4., as applicable;
 - b. be limited in size to a one-story two car garage;
 - c. have unfinished interiors and not be used for human habitation;
 - d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and, when possible, outside the Special Flood Hazard Area.
 - e. be located outside the floodway;
 - f. when possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
 - g. have hydraulic openings, as specified in Article VI.N.2., in at least two different walls of the accessory structure.

M. **Floodways** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.M.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - c. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

N. **Hydraulic Openings/Flood Vents** - New construction or substantial improvement of any structure in Zones A and AE, that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs H., I., or J. and is elevated on posts, columns, piers, piles, or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

O. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings or columns) is elevated to at least one foot above the base flood elevation; and,
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.M.; and,
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

Q. **Wharves, Piers, and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water, and shall comply with all applicable local, state, and federal regulations.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor for compliance with Article VI, paragraphs H., I., or J.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the Elevation Certificate and the applicant's written notification; and,
 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.

- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will 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, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Gray may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.

- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. the criteria of Article IX.A. through C. and Article VI.M. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article IX.A. through C.; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
 - 1. the development meets the criteria of Article IX.A. through C.; and,
 - 2. the development meets the criteria of Article VI.M. and Article VI.N.
- G. Any applicant who meets the criteria of Article IX.A. through C. and Article IX.D., E., or F. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks, and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- H. Appeal Procedure for Administrative and Variance Appeals
 - 1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Agricultural Structure - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Area of Special Flood Hazard - the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - any area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Containment Wall - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

Development - any man made change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or shear walls; and,

- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.N.

Elevation Certificate - an official form (FEMA Form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

Flood or Flooding -

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

Floodplain Management - the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or,
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.N. of this ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required

utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD) - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical data used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and,
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, and,

- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - a grant of relief by a community from the terms of a floodplain management regulation.

Violation - the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XIV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

ARTICLE XV - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

Alternate Language for State Model Floodplain Management Ordinance

Article IV – Application FEE

In recognition of the varying degree of difficulty and amounts of time required for reviewing and processing flood hazard development permit applications, some communities are inserting language for a split or sliding fee schedule.

Some communities already have fee structures in other ordinances that are set according to the value of the proposed project. In order to promote consistency between their ordinances they might choose to adopt a similar fee structure for the floodplain ordinance. Other communities want the flexibility of allowing their Board of Selectmen to reassess and establish fees annually, without specifying the exact amount within the ordinance. Many communities simply assess a larger fee for new construction or substantial improvement projects (which often require more time and effort to review) and a smaller fee for all other (minor) projects.

Some options may be:

1. Assess a fee that is a percentage of the proposed project value, (i.e. 1%/\$1000)
2. Set fees according to monetary thresholds based on the value of the proposed project

Examples:

\$10 - project value < \$1,000

\$20 - project value ≥ \$1,000 but < \$10,000

\$30 - project value ≥ \$10,000 but < \$25,000

\$40 - project value ≥ \$25,000 but < \$50,000

\$50 - project value ≥ \$50,000

3. Split Fee Example:
A nonrefundable application fee of \$25 for minor development or \$50 for new construction or substantial improvements shall be paid to the City/Town Clerk and a copy of a receipt for the same shall accompany the application.
4. Allowing the Board of Selectman to annually establish a fee.

Example:

A nonrefundable application fee, as established annually by the Board of Selectmen shall be paid to the City/Town Clerk and a copy of a receipt for the same shall accompany the application.

5. Some larger towns or cities may want to consider assessing fees based on the amount of time required to process the application.

Example:

Applications shall be submitted to the Town Clerk accompanied by the prescribed application fee. The application fee shall be determined by the Board of Selectmen upon recommendation of the Planning of Board. The fee shall be designed to approximate the costs incurred by the Town for administering the ordinance. Upon receipt of an application and the required fee, the Town Clerk will stamp the application with the date of receipt and forward the application to the Code Enforcement Officer.

INSTRUCTIONS FOR COMPLETING AND ADOPTING THE MODEL FLOODPLAIN MANAGEMENT ORDINANCE

The enclosed model Floodplain Management Ordinance has been customized, as much as possible, for your community. The Ordinance provided usually designates either the Code Enforcement Officer or the Planning Board as the permitting authority. We customized it according to the ordinance currently in effect for your community. **Please review this document carefully and notify us of any errors.** If the community would like to change the permitting authority or make any other changes to the ordinance, please contact the Floodplain Management Program as we can easily make most changes for you. **If any changes are made locally to the model ordinance, please submit the ordinance to Floodplain Management Staff prior to any public hearing. It is critical that we review the proposed changes to be certain they are consistent with the minimum Federal requirements for participation in the National Flood Insurance Program (NFIP) and state standards.**

In Article IV, the amount of the application fee is strictly a local option but should be sufficient to cover the costs for administering and enforcing this ordinance. It is recommended that the Flood Hazard Development Permit fee be \$50.00 for new construction and substantial improvement and \$25.00 for minor development. It is also acceptable to insert language allowing the Board of Selectmen or the municipal Council to establish the fees annually.

When using a model floodplain management ordinance, make sure all blanks are filled in prior to enacting the ordinance, and that the ordinance references the most current Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) dates, or Flood Hazard Boundary Map date.

The floodplain management ordinance must be adopted in accordance with MRSA Title 30-A § 4352. To enact the floodplain management ordinance, a public hearing to allow for citizen input and comments on the proposed ordinance is required prior to enactment.

In accordance with the above MRSA title, Maine law requires that the municipal reviewing authority must post and publish notice of the required public hearing to meet the following two provisions: **“A) The notice must be posted in the municipal office at least 13 days before the public hearing; B) The notice must be published at least 2 times in a newspaper that complies with Title 1, section 601 and that has a general circulation in the municipality. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing. That notice must be written in plain English, understandable by the average citizen.”**

Following the public hearing, the proposed ordinance shall be attested and posted in the manner provided for town meetings. One copy of the proposed ordinance shall be certified by the municipal officers to the municipal clerk at least seven days prior to the day of meeting to be preserved as a public record. Copies shall be available at that time for distribution to the voters by the municipal clerk as well as at the time of the town meeting.

The subject matter of the proposed ordinance shall be reduced to the question: **“Shall an ordinance entitled ‘Floodplain Management Ordinance’ be enacted?”** and shall be submitted to the town meeting for action either as an article in the warrant or a question on a secret ballot. It is always recommended that the ordinance in effect be repealed and replaced with the new ordinance.

Adoption of New FEMA Maps

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. Please note that is acceptable for the community to set the effective date of the ordinance to coincide with the day the new maps become effective.
(continue reading on page 2)

Upon adoption of a floodplain management ordinance, two complete copies certified as “A True Copy” by the municipal clerk, must be sent to the Maine Floodplain Management Program, Dept. of Agriculture, Conservation & Forestry, 93 SHS, 17 Elkins Lane, Augusta, ME 04333-0093. If possible, please e-mail us an electronic copy of the ordinance.

Joining the NFIP

When a community is first applying to join the NFIP, a resolution to join the Program must be adopted. We will provide the Resolution. The Resolution must be entered as a separate question on the warrant/ballot item and can be worded as follows: “Shall a resolution entitled ‘Resolution for Applying for Flood Insurance’ be adopted?” An application form must also be completed, however, that is not a town meeting action item.

If you have any questions in regard to the above or need additional assistance, please call or e-mail the Maine Floodplain Management Program:

Sue Baker, State Coordinator 287-8063 sue.baker@maine.gov

Janet Parker, Planner II 287-9981 janet.parker@maine.gov

CHAPTER 405
FLOODPLAIN MANAGEMENT ORDINANCE
TOWN OF GRAY, MAINE

Enacted April 20, 1993
Amended December, 1992

STATEMENT OF PURPOSE AND INTENT

Certain areas of the Town of Gray, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of Federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Gray, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in the attached Floodplain Management Ordinance.

It is the intent of the Town of Gray, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to MRSA Title 30A, Sections 3001-3007, 4352 and 4401-4407.

ARTICLE I – ESTABLISHMENT

The Town of Gray, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency (FEMA) and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Gray, Maine.

The areas of special flood hazard, Zones A, A1-30, AE, AO, and AH, identified by FEMA in a report entitled “Flood Insurance Study – Town of Gray, Maine, Cumberland County, “ dated July 6, 1981 with accompanying “flood Insurance Rate Map” dated January 6, 1982 is hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II – PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of Gray, Maine.

ARTICLE III – APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name and address of the applicant;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

- D. A statement of the intended use of the structure;
- E. A statement as to the type of sewage system proposed;
- F. Specification of dimensions of the proposed structure;
- G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones A1-30, AE, AO, and AH from data contained in the “Flood Insurance Study – Town of Gray, Maine,” as described in Article I; or,
 - b. in Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- H. A description of a base flood elevation reference point established on site of all new or substantially improved structures;
- I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;
- J. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Articles III.G.4; VI.G; and other applicable standards in Article VI.
- K. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- L. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV – APPLICATION FEE AND EXPERT’S FEE

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert’s fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

ARTICLE V – REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the “Flood Insurance Study – Town of Gray, Maine,” as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Article III.G.1.b.; Article VI.I; and Article VIII.D, in order to administer Article VI of this Ordinance;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of Community Development prior to any alteration or relocation of a water course;
- F. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a registered Maine surveyor for compliance with the elevation requirements of Article VI, paragraphs F, G, H, and K. Following review of the application, which review shall take place within 72 hours of receipt of the application, the Code Enforcement Officer, shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; and,
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Article VII of this Ordinance.

ARTICLE VI – DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. New construction or substantial improvement of any structure shall:
 1. be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.
- F. New construction or substantial improvement of any residential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified.
 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.G.1.b.; Article V.B; or Article VIII.D.
- G. New construction or substantial improvement of any non-residential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.J and shall include a record of the elevation above mean sea level of the lowest floor including basement.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; or,
 - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI, paragraph G.1.
4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.G.1.b; Article V.B; or Article VIII.D.

H. New or substantially improved manufactured homes located within:

1. Zones A1-30, AE, or AH shall:
 - a. be elevated on a permanent foundation so that the lowest floor is a least one foot above the base flood elevation; and,
 - b. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (i) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (homes less than 50 feet long require one additional tie per side); or by,
 - (ii) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (homes less than 50 feet long require four additional ties per side).
 - (iii) All components of the anchoring system described in Article VI.H.1 shall be capable of carrying a force of 4800 pounds.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. meet the requirements of Article Vi.H.1. (a) (b).
4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.G.1.b; Article V.B; or Article VIII.D.

I. Floodways

1. In Zones A1-30 and AE encroachments, including fill, new construction substantial improvement, and other development shall not be permitted in riverine areas, for which a regulatory floodway is designated on the community's "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30 and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
3. In Zone A riverine areas, in which the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Article VI, paragraph I.2.

J. New construction or substantial improvement of any structure in Zones A1-30, AE, AO, Ah, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces less than three feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:

1. Walls, with the exception of crawlspaces less than three feet in height, shall not be part of the structural support of the building; and,
2. Enclosed areas are not "basements" as defined in Article XIII; and,
3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
 - a. be certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (ii) the bottom of all openings shall be no higher than one foot above the lowest grade; and,
 - (iii) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means, and,
4. The enclosed area shall not be used for human habitation; and,

5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

ARTICLE VII – CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. The applicant shall submit an Elevation Certificate completed by:
 1. a registered Maine surveyor for compliance with Article VI, paragraphs F, G, H, or K; and,
 2. a registered professional engineer or architect, in the case of floodproofed non-residential structures, for compliance with Article VI.G; and,
- B. The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Code Enforcement Officer.
- C. The Code Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance.

ARTICLE VIII – REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI of this ordinance and that such requirement will be included in any deed, lease, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The construction requirement shall also be stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX – APPEALS AND VARIANCES

The Board of Appeals of the Town of Gray, Maine, may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the existence of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in “undue hardship,” which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character or the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI-I are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued by a community for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Article IX, paragraphs A through D.
- F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant’s decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code

Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

ARTICLE X – ENFORCEMENT AND PENALTIES:

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30A MRSA § 4452.
- B. The penalties contained in 30A MRSA § 4452 shall apply to any violation of this ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 - 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, or ordinance;
 - 3. a statement that the public body making the declaration has authority to do so and a citation to that authority;
 - 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 - 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI – VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XII – CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII – DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

Adjacent Grade – means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of a Shallow Flooding – means a designated AO and AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard – means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood – means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement – means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building – see Structure.

Certificate of Compliance – A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer – any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development – means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building – means a non-basement building:

- 1) built, in the case of a building in Zones A1-30, AE, A, A99, AO, or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers or “stilts;” and
- 2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
- 3) In the case of Zones A1-30, AE, A, A99, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate – An official form (FEMA Form 81-31, 05/90, as amended) that:

- 1) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- 2) is required for purchasing flood insurance.

Flood or Flooding – means:

- 1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a) The overflow of inland or tidal waters.
 - b) The unusual and rapid accumulation or runoff of surface waters from any source.

- 2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

Flood Elevation Study – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study –see Flood Elevation Study.

Floodplain or Flood-prone Area – means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain Ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing – means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway – see Regulatory Floodway.

Floodway Encroachment Lines – mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard – means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure – means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National register;

- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or
 - b) Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum – means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI of this ordinance.

Manufactured Home – means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale..

Mean Sea Level – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate map are referenced.

New Construction – means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood – see Base Flood.

Regulatory Floodway –

- 1) means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- 2) in riverine areas is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area – see Area of Special Flood Hazard.

Start of Construction – means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure – means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage – means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- 1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance – means a grant of relief by a community from the terms of a floodplain management regulation.

Violation – means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XIV – ABROGATION

This Ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.S. 90-488, as amended).

60.3 (c & d)



PLANNING BOARD/STAFF REVIEW COMMITTEE APPLICATION
TOWN OF GRAY MAINE

PROPERTY TO BE DEVELOPED

Property Location/Address	121 Lyons Pt Rd	Property Map/Lot	032-315-068-001
Zoning District		Lot Acreage	
Owner Name	Dan Fecteau	Tax Sheet	
Owner Address	121 Lyon Point Rd	Owner Phone	

APPLICANT

Name (IF different than owner)		Contact Phone Number	
Mailing Address		Alternate Phone Number	
Mailing City/State/Zip		Fax Number	
Email Address			

AGENT/CONSULTANT

Name		Contact Phone Number	
Mailing Address		Alternate Phone Number	
Mailing City/State/Zip		Fax Number	
Email Address			

PROJECT

The undersigned requests that the Town of Gray Planning Board consider the following application for:

<input checked="" type="checkbox"/> Subdivision <input type="checkbox"/> Sketch Plan Review <input type="checkbox"/> Preliminary Plan Review (Major) <input type="checkbox"/> Final Plan Review (Major) <input type="checkbox"/> Minor <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Pre-Application Conference <input type="checkbox"/> Minor <input type="checkbox"/> Major <input type="checkbox"/> Shoreland Zoning Permit	<input checked="" type="checkbox"/> Other (specify) <input type="checkbox"/> Conditional Use <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Extension <input type="checkbox"/> Workshop <input type="checkbox"/> Contract Zone Request <input type="checkbox"/> Appeal
--	--

Project Description / Comments: In order to put the house on the hilly knoll where it would be the only spot for a Daylite Basement in the amount of the home Ursula Friberg who sold us the property said that would be no problem we need about 10' just by the house to give us the 25' side setback

Applicant Signature	Date
---------------------	------

036093

QUIT-CLAIM DEED
with covenants

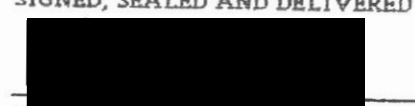
KNOW ALL PERSONS BY THESE PRESENTS that I, Richard B. Friberg of Cape Elizabeth, County of Cumberland and State of Maine in consideration of One Dollar and other valuable consideration paid by Ursula M. Friberg of Gray, County of Cumberland and State of Maine, whose mailing address is RFD # 1, Box 164E, Brown Road, Raymond, Maine, the receipt whereof is hereby acknowledged, do hereby transfer, sell and convey, and forever quit claim unto the said Ursula M. Friberg, her heirs and assigns forever, WITH QUIT CLAIM COVENANTS, the real estate in Gray, Cumberland County, Maine more particularly described in Schedule A attached hereto and incorporated herein by reference.

This conveyance is made pursuant to a divorce action between the parties pending in the Cumberland County Superior Court, and in partial settlement of the parties' interests in their marital property.

To have and to hold the same together with all privileges and appurtenances thereunto belonging to the said Ursula M. Friberg, her heirs and assigns forever.

IN WITNESS WHEREOF, I, the said Richard B. Friberg, relinquishing and conveying all rights in the above premises, have hereunto set my hand and seal this 27th day of July, 1990.

SIGNED, SEALED AND DELIVERED


WITNESS


Richard B. Friberg

STATE OF MAINE
CUMBERLAND, SS.

July 27, 1990

Then personally appeared the above-named, Richard B. Friberg and acknowledged the foregoing instrument to be his free act and deed.

Before me



Notary Public/Attorney-At-Law
Print name: MICHAEL ASEN

BK9269PG0247

SCHEDULE A

A certain lot or parcel of land with the buildings thereon situated in Gray, in the County of Cumberland and State of Maine, being a part of lot numbered fifty-nine (59) in the Fourth Division of lands in said Gray, and being more specifically known as Lot number Four (4) in a plan of lots known as "LYONS POINT SUBDIVISION", recorded in Cumberland County Registry of Deeds, Plan Book 119, Page 56.

Also, a certain lot or parcel of land situated in the Town of Gray, as shown on tax map L15, Lot 72, also as lot #5 LYONS POINT SUBDIVISION recorded in Cumberland County Registry of Deeds, Plan Book 119, Page 56 and more specifically described as follows: Beginning at an iron rod at the southwest corner of Lot #4 Lyons Point Subdivision presently owned by Richard B. Friberg; thence N71°-20'W a distance of 385' to a concrete post, thence N50-48'-30"W a distance of 128.30' to another concrete post, thence on an arc=45.15' Rad.=25' to another concrete post, thence N52°-40'-30"E a distance of 104.49' to another concrete post, thence on an arc=255.07' Rad.=262' to another concrete post, thence S71°-12'-34"E a distance of 251.15' to another concrete post at the N. corner of said lot #4 owned by Richard Friberg. Thence S20°-28'-21"W a distance of 283.36' to the point of beginning. Said lot #5 contains 126,900 S.F.

RECEIVED
REGISTERED REGISTRY OF DEEDS
1990 AUG -6 PH 3:23
CUMBERLAND COUNTY

File No: 2023-3709

"Exhibit A"

A certain lot or parcel of land, together with any buildings or improvements thereon, situated in the Town of Gray, County of Cumberland, and State of Maine, being more particularly described as follows:

Lot 5 in Lyons Point Subdivision recorded in the Cumberland County Registry of Deeds in Plan Book 119, Page 56, being more particularly described as follows: Beginning at an iron rod at the southwest corner of Lot 4 Lyons Point Subdivision presently owned by Richard B. Friberg; thence N 71° 20' W a distance of 385' to a concrete post; thence N 50° 48' 30" W a distance of 128.30' to another concrete post; thence on an arc=45.15' Rad.=25' to another concrete post; thence N 52° 40' 30" E a distance of 104.49' to another concrete post; thence on an arc=255.07' Rad.=262' to another concrete post; thence S 71° 12' 34" E a distance of 251.15' to another concrete post at the N. corner of said lot 4 owned by Richard Friberg; thence S 20° 28' 21" W a distance of 283.36' to the point of beginning.

1002340246466

WARRANTY DEED

Ursula M. Thompson f/k/a Ursula M. Friberg of Gray, Cumberland County, Maine, for consideration paid, grants to Daniel R. Fecteau of Gorham, Cumberland County, Maine (whose mailing address is 11 Sleepy Hollow Drive, Gorham, ME 04038) with Warranty Covenants, the following described real estate:

See "Exhibit A" Attached

Meaning and intending to convey a portion of the premises conveyed in a deed from Richard B. Friberg to the grantor herein, dated July 27, 1990, and recorded in the Cumberland County Registry of Deeds in Book 9269, Page 246.

Any and all other rights, easements, privileges and appurtenance belonging to the granted estate are hereby conveyed.

This conveyance is made subject to the property taxes assessed against the premises, which said taxes are to be prorated between the parties hereto as of the date of delivery of this deed in accordance with 36 M.R.S.A., sec. 558.

Witness my hand and seal this 23rd day of AUGUST, 2023.

WITNESS:

[Redacted signature of Ursula M. Thompson]

Ursula M. Thompson

STATE OF MAINE
CUMBERLAND, ss

AUGUST 23, 2023

Then personally appeared the above-named Ursula M. Thompson and acknowledged the foregoing instrument to be her free act and deed.

Before me,

[Redacted signature of Notary Public/Attorney at Law]

Notary Public/Attorney at Law
Commission Expiration NA

File No.: 2023-3709

PATRICK C. LEVER
STATE OF MAINE
ATTORNEY AT LAW
MAINE BAR NO. 005104

MAINE REAL ESTATE TAX-Paid

Livingston-Hughes



PROFESSIONAL LAND SURVEYING CORP.
Surveyors • Flood Zone Specialists
Mortgage Loan Inspectors

February 22, 2024

Town of Gray
Tammy Munson
Code Enforcement Office
24 Main Street
Gray, Maine 04039

RE: 12 Cole Road, Gray
Lot 4, Lyons Point Subdivision
p/o Tax Map 032-315-068-000
Ursula Thompson

Dear Tammy,

The property known as 12 Cole Road, owned by Ursula Thompson, in the Town of Gray is shown as lot 4 on a Planning Board approved plan entitled, "Lyons Point Subdivision". Said plan is recorded in the Cumberland County Registry of Deeds in Plan Book 119, Page 56. Ursula Thompson is granting a 2653 square foot portion of lot 4 to the abutter, Daniel Fecteau. Daniel Fecteau owns 121 Lyons Point Road, Gray, which is shown as lot 5 on the aforementioned subdivision plan.

After granting this parcel to Daniel Fecteau, Ursula Thompson's remaining land area will be 85,964 square feet and her house will still exceed the 25' setback requirement.

If you have any further questions or concerns please do not hesitate to contact me.

Very truly yours,

David L. J. Hughes
PLS #2234



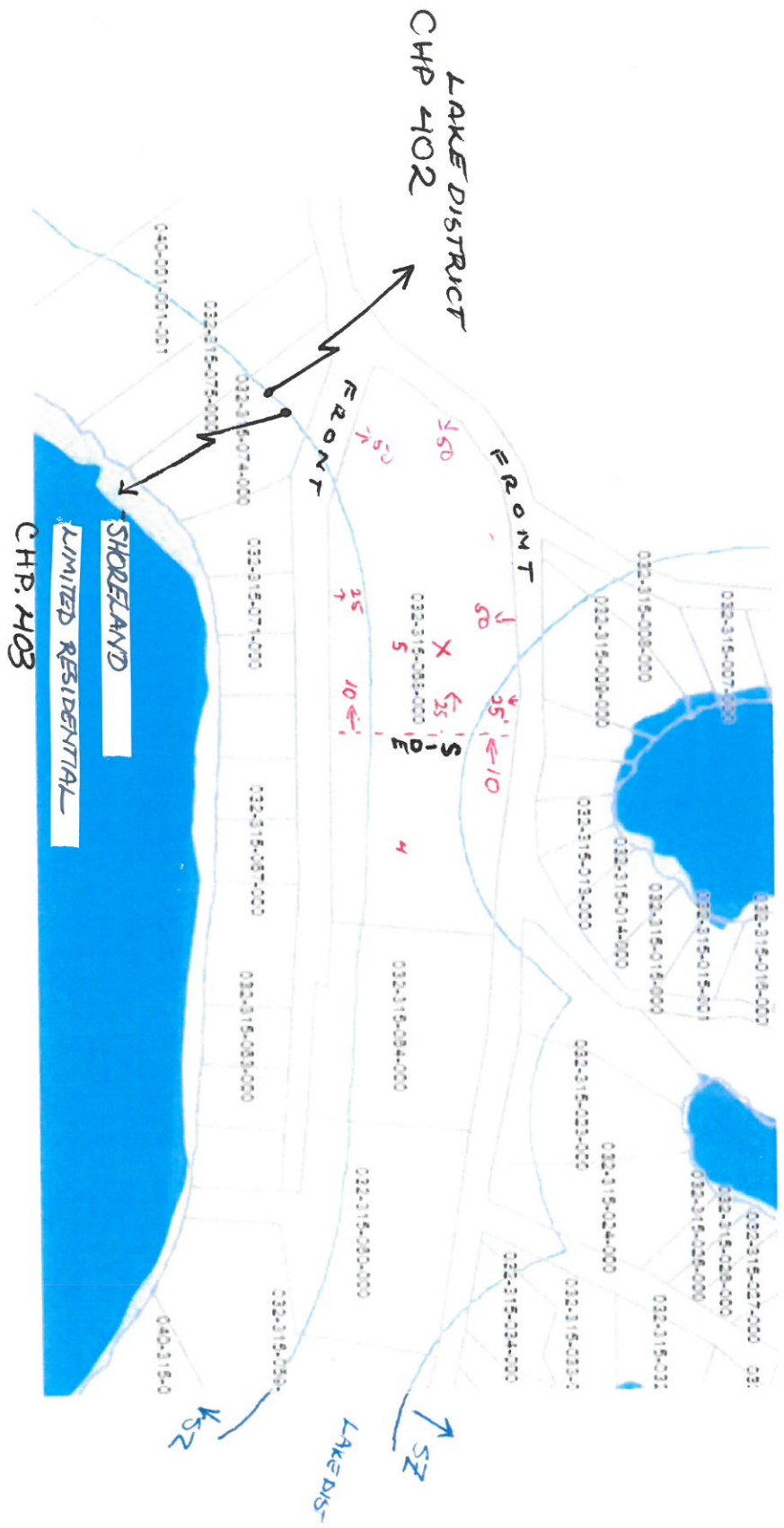
3-8-24

To whom it may
concern:

I am in agreement
with the lotline change
in order for Dan
Feteau to meet side-
line setbacks, so the
house can be positioned
where it is now.

Regards,

[REDACTED]



CEO Determination

THIS IS NOT A BOUNDARY SURVEY

SKETCH OF: DEED BOOK 40319 PAGE 63 COUNTY Cumberland
PLAN BOOK 119 PAGE 56 LOT 5

ADDRESS: 121 Lyons Point Road, Gray, Maine

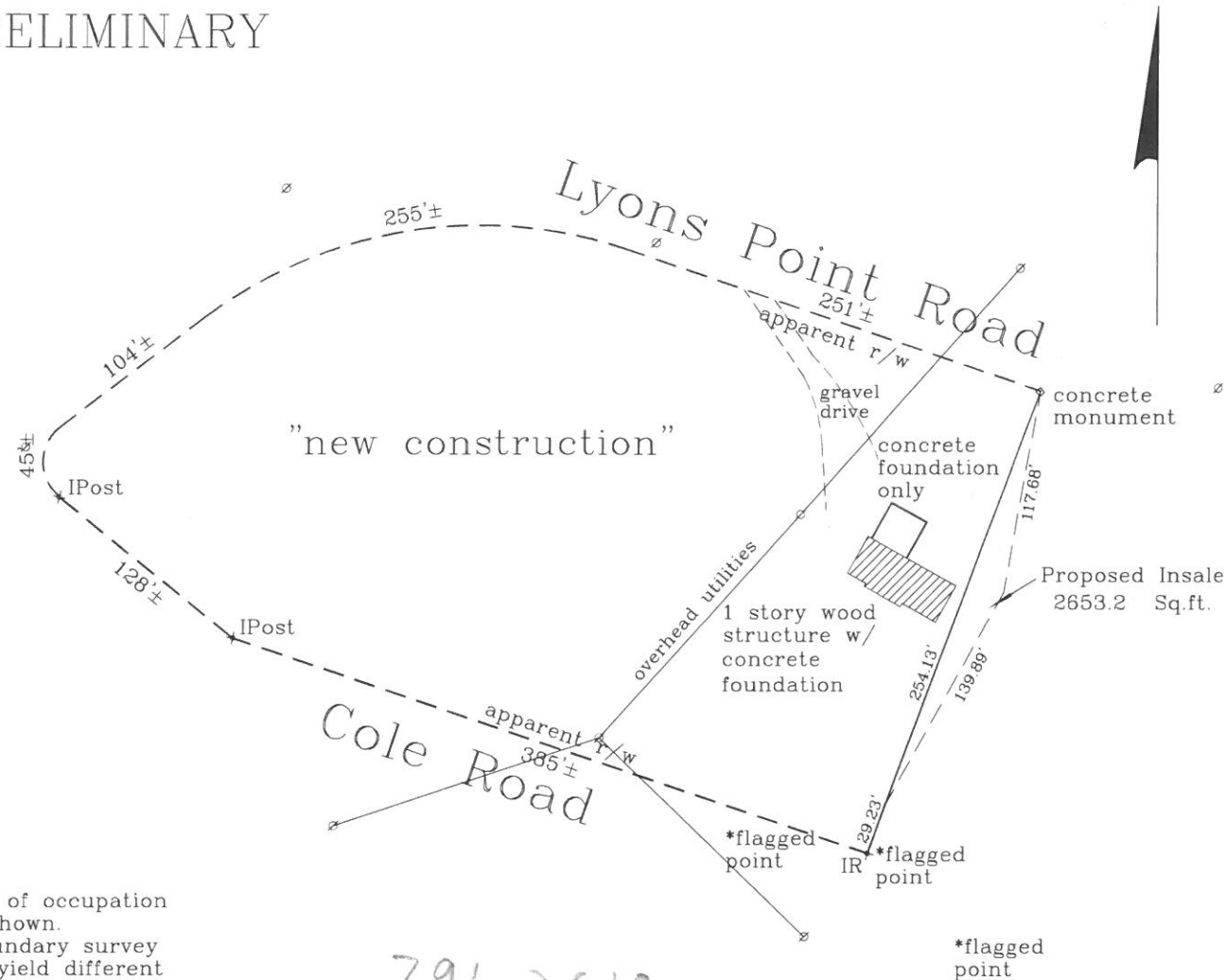
Job Number: 1229-28-A

Date: 02-01-24

Scale: 1" = 100'

Prepared for: Dennis Fecteau

PRELIMINARY



Note:
Lines of occupation are shown.
A boundary survey may yield different results.

Note: Some detail may be lost due to snow cover.

391-2618

APPARENT EASEMENTS AND RIGHTS OF WAY ARE SHOWN. OTHER ENCUMBRANCES, RECORDED OR NOT, MAY EXIST. THIS SKETCH WILL NOT REVEAL ABUTTING DEED CONFLICTS, IF ANY.

Livingston-Hughes

Professional Land Surveyors
88 Guinea Road
Kennebunkport, Maine 04046

207-967-9761 phone 207-967-4831 fax
www.livingstonhughes.com

PRELIMINARY

Proposed Insale
Lyons Point Road, Gray

A certain lot or parcel of land located on the southwesterly side of Lyons Point Road, in the Town of Gray, County of Cumberland, and State of Maine, being more specifically bounded and described as follows:

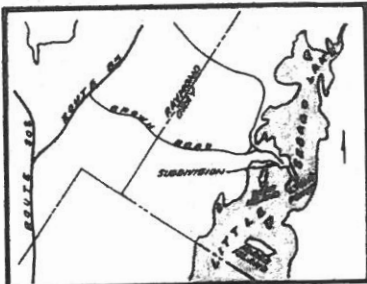
BEGINNING at a point marked by a concrete monument on the southwesterly sideline of said Lyons Point Road, said point being the northeasterly corner of Lot 5 and the northwesterly corner of Lot 4 on a plan known as Lyons Point Subdivision, which is recorded in the Cumberland County Registry of Deeds Plan Book 119, Page 56, said point also being the northwesterly corner of the grantor and the northeasterly corner of the grantee;

THENCE, **South 20° 28' 21" West**, along the division line between said Lot 5 and Lot 4, a distance of **254.13'** to a point, said point being located **North 20° 28' 21" East**, a distance of **29.23'** from an iron rod on the northeasterly sideline of Cole Road;

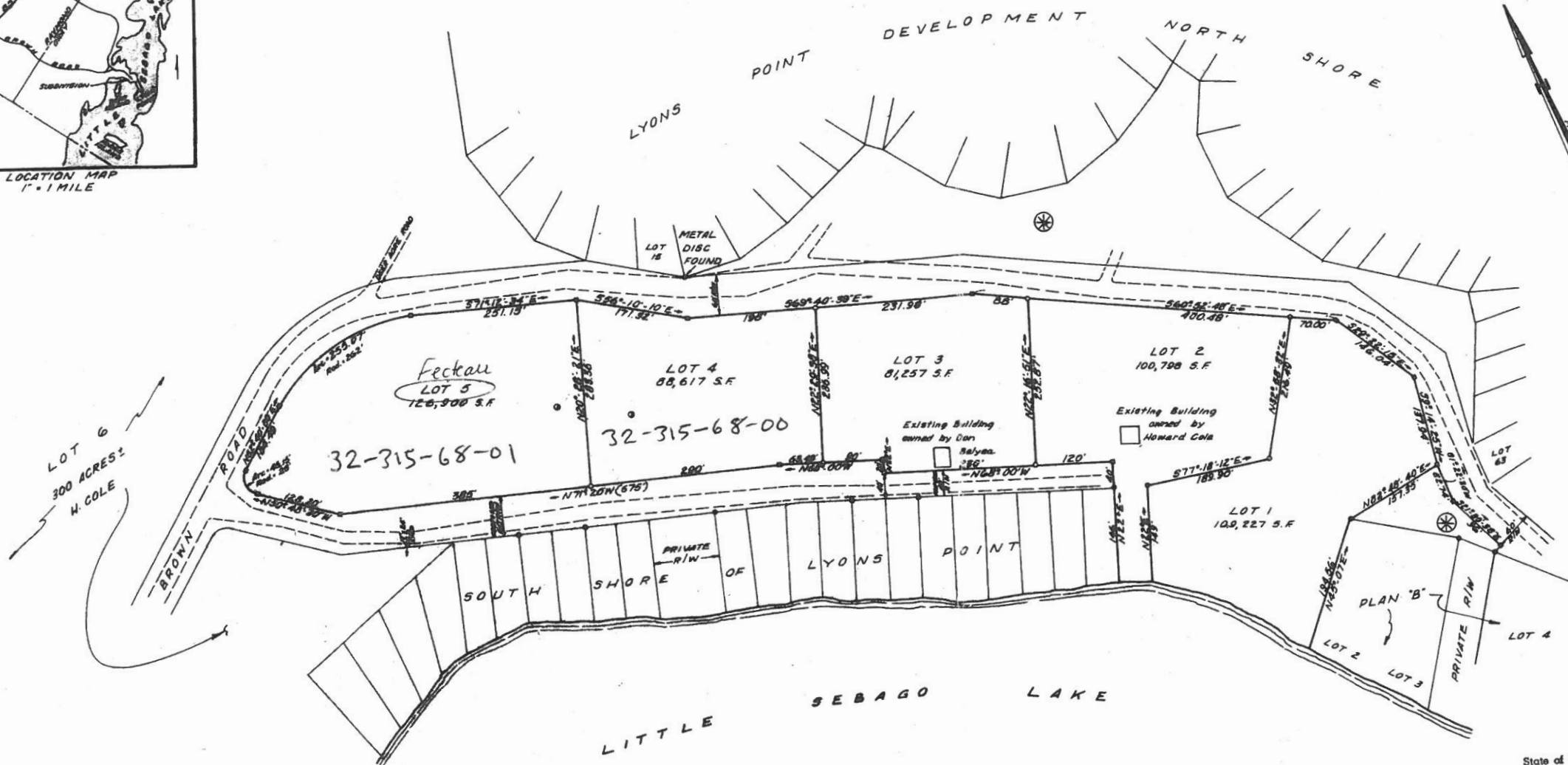
THENCE, **North 29° 03' 23" East**, across the land of the grantor, a distance of **139.89'** to a point;

THENCE, **North 10° 15' 07" East**, across the land of the grantor, a distance of **117.68'** to the **POINT OF BEGINNING**.

The above-described parcel of land contains 2653 sq.ft., more or less.



LOCATION MAP 1/4 MILE



APPROVED BY TOWN OF GRAY PLANNING BOARD



DATE 2/9/78

NOTE
1. TAX MAP-L513
A PORTION OF LOT 44

- LEGEND:
- ⊙ IRON PIPE FOUND
 - ⊙ IRON PIPE TO BE SET
 - ⊙ PERMANENT MARKER
 - ⊙ HOWARD COLE PROPERTY TO BE DEDED TO ABUTTERS.
 - ⊙ SOIL TEST PIT

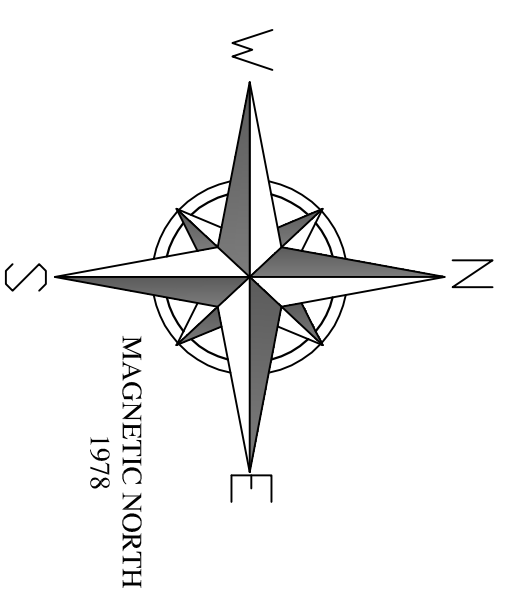


LYONS POINT SUBDIVISION
BY HOWARD COLE
IN GRAY, MAINE

SURVEY BY:
ROBERT N. FARTHING
REG. LAND SURVEYOR #586
SCALE: 1"=100' JANUARY 1978

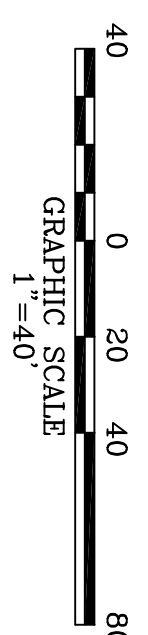
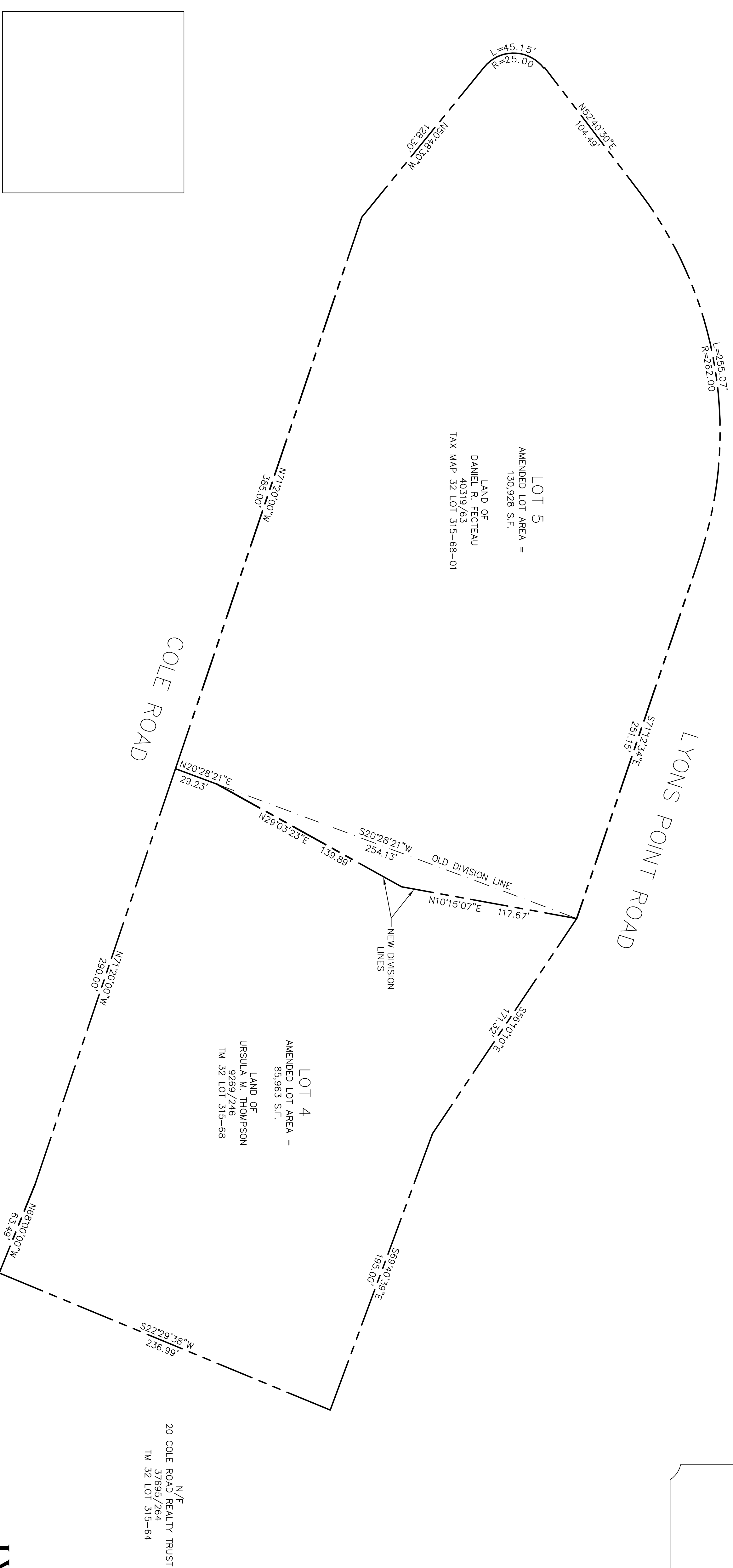
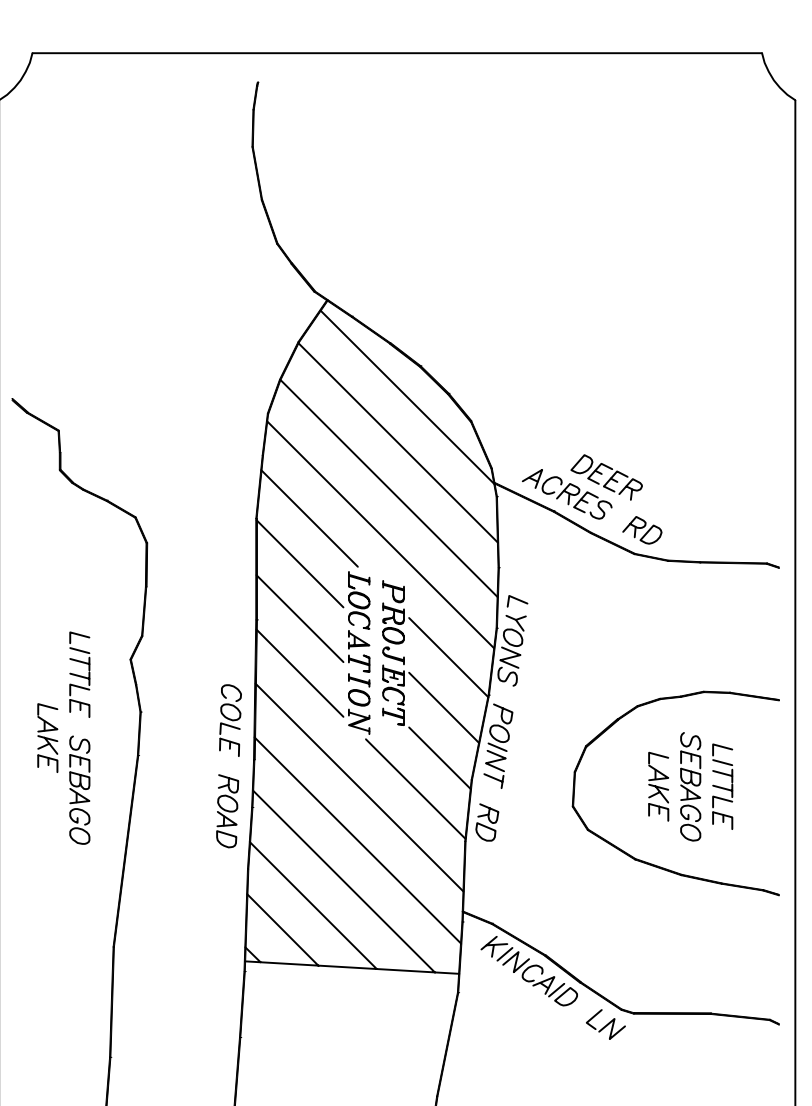
State of Maine, Cumberland ss.
Registry of Deeds
Received May 25 1978
at 2:45 P.M. and recorded in
Plan Book 119 Page 56
Attest: [Signature] Register

PB PG.
119/56



PLAN REFERENCE:
(1) LYONS POINT SUBDIVISION BY HOWARD COLE IN GRAY, ME. SURVEY BY: ROBERT FARTHING DATED 1978 AND RECORDED IN PLAN BOOK 119 PAGE 50 IN THE CUMBERLAND COUNTY REGISTER OF DEEDS.

SURVEY NOTES:
(1) THE OWNERS OF RECORD ARE DANIEL R. FECTEAU AS DESCRIBED IN A DEED RECORDED IN BOOK 403 PAGE 68 (LOT 5 PLAN REFERENCE 1) AND URSULA THOMPSON AS DESCRIBED IN A DEED RECORDED IN BOOK 3289 PAGE 246 (LOT 4 PLAN REFERENCE 1) IN THE CUMBERLAND COUNTY REGISTER OF DEEDS.
(2) THE PARCELS ARE DERIVED AS BEING A PORTION OF LOTS 315-068 ON THE TOWN OF GRAY ASSESSORS MAP 32.
(3) BEARINGS ARE MAGNETIC 1978 PER PLAN REFERENCE.



APPROVED BY THE TOWN OF GRAY, MAINE
PLANNING BOARD

DATE

NOTE

THE PURPOSE OF THIS AMENDED SUBDIVISION PLAN IS TO REVISE THE DIVISION LINE BETWEEN LOTS 4 AND 5 AS SHOWN ON LYONS POINT SUBDIVISION BY HOWARD COLE IN GRAY, MAINE, DATED JANUARY 1978 BY ROBERT FARTHING, RECORDED IN PLAN BOOK 119, PAGE 50 IN THE CUMBERLAND COUNTY REGISTER OF DEEDS. THE PROJECT SHALL BE CONSTRUCTED, OPERATED AND MAINTAINED IN ACCORDANCE WITH THE PLANS. TEXTUAL SUBVISIONS AND TESTIMONY PRESENTED TO THE PLANNING BOARD BY THE APPLICANT.

CERTIFICATION:

I CERTIFY THAT THIS SURVEY CONFORMS TO THE STANDARDS OF THE MAINE BOARD OF LICENSES FOR PROFESSIONAL LAND SURVEYORS AND IS CORRECT TO THE BEST OF MY KNOWLEDGE.
INFORMATION

WILLIAM C. SHIPPEN
2118
3-18-24



**AMENDMENT TO
LYONS POINT SUBDIVISION**
LYONS POINT ROAD
GRAY, MAINE

FOR:
DENNIS FECTEAU
104 NORTHERN OAKS
RAYMOND, MAINE 04071
(CLIENT)
DANIEL R. FECTEAU
11 SLEEPY HOLLOW DRIVE
GORHAM, MAINE 04038
(RECORD OWNER)

SURVEY BY:
SURVEY, INC.

P.O. BOX 210
WINDHAM, ME 04062
(207) 892-2556
INFO@SURVEYINCORPORATED.COM
DWM:DRR
DATE: MARCH 2024
CHK:WCS
JOB NO. 23152

SKETCH PLAN APPLICATION PACKET

**Ramsdell Road
13-Lot Subdivision
Ramsdell Road
Gray, Maine**

FOR

**Gervais Homes, LLC
52 Whites Bridge Road
Standish, Maine 04084**

March 2024

Prepared By:

**Berry Huff McDonald Milligan, Inc.
Engineers Surveyors Planners
380B Main Street
Gorham, ME 04038
207-839-2771
afagan@bh2m.com**



Civil Engineering | Surveying

March 18, 2024

Kristen Muszynski
Community Planner – Town of Gray
Henry Pennell Municipal Complex
24 Main Street
Gray, Maine 04039

Re: Sketch Plan Application
Proposed 13-Lot Subdivision
Ramsdell Road

Dear Kristen;

BH2M has been retained by Gervais Homes, LLC to provide surveying, engineering, and permitting services for a proposed 13-lot single family residential subdivision located off Ramsdell Road in Gray. Enclosed please find 10 copies of the following materials:

- Attachment 1 – Pre-App/Sketch Plan Application & Agent Authorization
- Attachment 2 – Parcel Deed
- Attachment 3 – Purchase and Sale Agreement
- Attachment 4 – Figures
- Attachment 5 – Sketch Plan

Existing Conditions

The proposed project is located off Ramsdell Road and lies within the Rural Residential and Agricultural District. The existing parcel is undeveloped woodlands that are bounded by Ramsdell Road to the north, residential properties to the east and west, and woodlands to the south. Onsite wetlands and soils have not been delineated at this time, but approximate onsite streams have been shown based on lidar topography and online natural resources information.

Proposed Project

The project proposes 13 conventional lots, 5 with frontage on Ramsdell Road, and 8 with frontage on a proposed roadway that will be approximately 1,360 linear feet. All lots will utilize conventional dimensional requirements.

We anticipate that the project will require the following permits:

- Subdivision Permit (Town of Gray)
- Maine DEP NRPA PBR and Tier 1 permit
- ACOE Maine General Permit

The applicant met with staff to discuss the project in January and determined that the ditch along Ramsdell Road will require upgrades to accommodate the development of this project. The applicant understands this will entail creating approximately 250' of ditch along Ramsdell Road to facilitate drainage.

The applicant is looking to discuss the project with the board and schedule a site walk to familiarize everyone with the project.

We look forward to discussing this project with Staff and the Board. We would like to request being placed on the next available Planning Board Agenda.

Sincerely,



Austin G. Fagan, PE
Project Engineer

Encl.
Cc A. Gervais

Attachment 1
Pre-App Sketch Plan Application & Agent Authorization



**PLANNING BOARD/STAFF REVIEW COMMITTEE APPLICATION
TOWN OF GRAY MAINE**

PROPERTY TO BE DEVELOPED

Property Location/Address		Property Map/Lot	_____ - _____ - _____
Zoning District		Lot Acreage	
Owner Name		Tax Sheet	
Owner Address		Owner Phone	

APPLICANT

Name (IF different than owner)		Contact Phone Number	
Mailing Address		Alternate Phone Number	
Mailing City/State/Zip		Fax Number	
Email Address			

AGENT/CONSULTANT

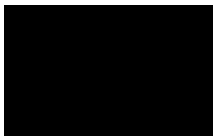
Name		Contact Phone Number	
Mailing Address		Alternate Phone Number	
Mailing City/State/Zip		Fax Number	
Email Address			

PROJECT

The undersigned requests that the Town of Gray Planning Board consider the following application for:

<input type="checkbox"/> Subdivision <input type="checkbox"/> Sketch Plan Review <input type="checkbox"/> Preliminary Plan Review (Major) <input type="checkbox"/> Final Plan Review (Major) <input type="checkbox"/> Minor <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Pre-Application Conference <input type="checkbox"/> Minor <input type="checkbox"/> Major <input type="checkbox"/> Shoreland Zoning Permit	<input type="checkbox"/> Other (specify) <input type="checkbox"/> Conditional Use <input type="checkbox"/> Amendment <input type="checkbox"/> Extension <input type="checkbox"/> Workshop <input type="checkbox"/> Contract Zone Request
--	--

Project Description / Comments:



Steve Blake - Vice President BH2M

Applicant Signature (agent)	Date 3/14/2024
------------------------------------	-----------------------

Agent Authorization

Property Description	Physical Address/Location	Ramsdell Road Gray, ME	Map 41	
			Lot 13-20	
Applicant Information	Name	Andrew Gervais	Mailing Address	52 Whites Bridge Road Standish, Maine 04084
	Phone	(207) 756-5520		
	Email	ajgervais1@gmail.com		
Owner Information	Name	Gervais Homes LLC	Mailing Address	52 Whites Bridge Road Standish, Maine 04084
	Phone	(207) 756-5520		
	Email	ajgervais1@gmail.com		
Applicant's Agent Information	Name	Austin Fagan	Business Name	BH2M
	Phone	(207) 839-2771	Mailing Address	380B Main Street Gorham, Maine 04038
	Email	afagan@bh2m.com		

The above-listed company/agents may represent me to expedite and complete the approval of the permits/applications required for development for this parcel.


APPLICANT SIGNATURE


3/14/24
DATE

Andrew Gervais
PRINTED NAME

CO-APPLICANT SIGNATURE (if applicable)

DATE

PRINTED NAME


AGENT SIGNATURE

 3/14/2024
DATE

Steve Blake - Vice President BH2M

PRINTED NAME

Attachment 2
Parcel Deed

TRUSTEE’S DEED

DIANNA RIDLON, sole Trustee of the CARLENE E. DURGIN Living Trust dated September 27, 2021, with a mailing address of 4 Chelsey Lane, Gray, ME 04039, for consideration paid, grants, conveys and forever quitclaims to **CHELSEY LAPLANTE, sole Trustee, or her successors in trust under the CARLENE E. DURGIN Living Trust for the benefit of CHELSEY LAPLANTE under Declaration of Trust dated September 27, 2021** and **DIANNA RIDLON, sole Trustee, or her successors in trust under the CARLENE E. DURGIN Living Trust for the benefit of DIANNA RIDLON under Declaration of Trust dated September 27, 2021**, with a mailing address of 3 Chelsey Lane, Gray, Maine 04039, with quitclaim covenants, each a **50%** interest in certain lot or parcel of land situated in the Town of Gray, County of Cumberland and State of Maine, more particularly bounded and described as follows in the attached Exhibit A:

See Exhibit A attached hereto and made a part of

IN WITNESS WHEREOF, Grantor has caused this Trustee’s Deed to be executed _____, 2023.

**CARLENE E. DURGIN Living Trust dated
September 27, 2021**

WITNESS

DIANNA RIDLON, Trustee

STATE OF MAINE
COUNTY OF CUMBERLAND

Before me, a Notary Public in and for said County and State, personally appeared DIANNA RIDLON, who acknowledged execution of the foregoing Trustee’s Deed to be her free act and deed in her said capacity and the free act and deed of the Carlene E. Durgin Living Trust.

Notary Public/Attorney-at-Law

Print Name: _____

My commission expires: _____

(146.51 acres on Ramsdell Road in Gray, Maine)

A certain lot or parcel of land situate on the Southwesterly side of the Ramsdell Road in the Town of Gray, County of Cumberland and State of Maine being more particularly described as follows:

Beginning at a 5/8" capped rebar (# 1328) found set in the ground at the Easterly comer of land now or formerly of Georgette L. Kanach (3 I, 184/185) on the assumed Southwesterly side line of the Ramsdell Road;

Thence S 37°41 '02" E along the said side line of the Ramsdell Road 997.80 feet to a point; Thence S 37°30'49" E continuing along the said side line of the Ramsdell Road 579.77 feet to a 5/8" capped rebar (#1328) set in the ground.

Thence S 52°09'32" W across land of the Grantor 2039.32 feet to a 5/8" capped rebar (#1328) set in the ground;

Thence S 37°30'49" E continuing across land of the Grantor 540.00 feet to a 5/8" capped rebar (#1328) set in the ground on the Northwesterly side line of land now or formerly of Raymond Gary Parks (22,717/227);

Thence S 52°09'32" W along land of the said Parks 7 I 8.38 feet to a 3/4" rebar found set in the ground at the Westerly comer of land of the said Parks and the Northerly comer of land now or formerly of James Davis (31,853/248);

Thence S 51°39'20" W along land of the said Davis 1326.92 feet to a 3/4" rebar found set in the ground at an angle in the side line of land of the said Davis;

Thence N 38°17'34" W continuing along land of the said Davis 1090.50 feet to a 3/4" rebar found set in the ground on the Southeasterly side line of land now or formerly of Diana L. Timmons (35,596/65);

Thence N 51°39'20" E along land of the said Timmons 1325.39 feet to a 5/8" capped rebar (# 1328) set in the ground at the Easterly comer of the land of the said Timmons;

Thence N 38°20'40" W continuing along land of the said Timmons 1077.79 feet to a 5/8" capped rebar (#1328) set in the ground at the Southerly comer of land now or formerly of Cynthia A. Rogers (26.004/63 Parcel #12);

Thence N 52°40' 56" E along land of the said Rogers 694.23 feet to an iron axle found set in the ground;

Thence N 53°30' 12" E continuing along land of the said Rogers 332.46 feet to a pile of stones at the Easterly corner of land of the said Rogers;

Thence N 53°41 '17" E across land of the Granter 914.81 feet to a 5/8" capped rebar (#1328) found set in the ground at the Southerly corner of other land of the said Rogers (26,004/63 Parcel #I!);

Thence N 52°01 '55" E along the said other land of the said Rogers and land now or formerly of Georgette L. Kanach (31,184/185) a total distance of 675.60 feet to a 5/8" capped rebar (#1057) found set in the ground;

Thence N 56°44'24" E along land of the said Kanach, in part by a stone wall, 170.33 feet to the point of beginning. Containing 146.51 acres.

All bearings are Magnetic of the year 1988.

Meaning and intending to convey a portion of the premises conveyed to this Granter by deeds recorded in the Cumberland County Registry of Deeds in book 25,475 page 98, book 38030 page 101, and book 39,186 pages 174 &176

Attachment 3
Purchase and Sale Agreement

CONTRACT FOR SALE OF REAL ESTATE

NOTICE TO THE BUYER AND SELLER

Be sure you understand this contract BEFORE you sign it. If you do not completely understand it, discuss it with your attorney. Once you sign this contract, it becomes a BINDING agreement, enforceable under the laws of the State of Maine.

This Agreement (referred to as the *contract* in this document) is made between the SELLER(S), Dianna Ridlon sole trustee under the Carlene E Durgin Living Trust for the benefit of Dianna Ridlon under Declaration of Trust dated September 27, 2021 & Chelsey LaPlante sole trustee under the Carlene E Durgin Living Trust for the benefit of Chelsey LaPlante under Declaration of Trust dated September 27, 2021 of the City/Town of Gray, County of Cumberland, State of Maine, and the BUYER(S), Gervais Homes, LLC of the City/Town of Standish, County of Cumberland, State of Maine. In consideration of the mutual promises made between the Seller and Buyer, the Seller and Buyer agree as follows:

1. **REAL ESTATE:** The Seller agrees to sell and the Buyer agrees to purchase: a certain lot or parcel of land, consisting of 144. 51 acres, with the building(s) situated thereon, situated in the City/Town of Gray, County of Cumberland, and State of Maine, being shown on 10/13/2023 City/ Town Tax Maps as Map 41 Lot 13-20 and described in a deed recorded in the Cumberland County Registry of Deeds in Book 40434 Page 91 also known as TBD Ramsdell Rd, Gray, ME 04039.

2. **PERSONAL PROPERTY:** NA

1. **PURCHASE PRICE:** Subject to any adjustments or pro-rations stated in this contract, the Buyer agrees to pay the total purchase price of ~~\$775,000~~ in the following manner:

a. **DEPOSIT: \$ 10,000** as an earnest money deposit and part payment on account toward the total purchase price. The earnest money shall be paid by the Buyer at the time this contract is signed and is to be held in escrow by: Twerogy & Baldacci.

b. **CASH AT CLOSING: \$ 90,000** which is the balance due of the down payment. The balance due shall be paid at closing in the form of certified or cashier's check. The remaining ~~\$675,000~~ will be financed by the seller. Terms of financing are as follows: ~~6% interest only payments for a maximum of 35 years. Monthly payment amount of \$3,975.00 with the first of the 35 months.~~ The buyer will pay \$75,000 towards the principal amount with the sale of each subdivided lot.

4. **CLOSING DATE:** A closing shall be conducted on or before 1/30/2024. The seller agrees to allow the buyer to attend the first planning board meeting to confirm the town will allow the subdivision of at least 7 buildings lots on Ramsdell Road. The closing shall be held at Trewogy & Baldacci, or at such other place and time as may be agreed upon, in writing, by the Buyer and Seller. At the closing, the Buyer shall pay the total purchase price as stated in this contract and sign all papers necessary for completion of the Buyer's purchase. At closing, the Buyer shall receive a commitment for title insurance from a reputable and financially sound title insurer, which policy will insure good and marketable title to the property, free and clear of all encumbrances, except those of record.

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4. ~~BUYER FINANCING: From the seller, \$675,000 will be financed by the seller. Terms of financing are as follows: 6% interest rate, payments for a max term of 5 years, monthly payment amount of \$3,378.00. Will be due on the 7th of every month. The buyer will pay \$75,000 towards the principal amount with the sale of each subdivided lot.~~

5. SELLER FINANCING: N/A

6. BUYER INSPECTIONS: The seller agrees to allow the buyer to attend the first planning board meeting to confirm the town will allow the subdivision of at least 7 buildings lots on Ramsdell Road. The buyer estimates this will take 90 days, but could take longer and may require the closing date to extend past 1/30/2024, But not to exceed March 15th, 2024.

7. BUYER AND SELLER COSTS & PRO-RATIONS: At closing, the Buyer and Seller shall be responsible for the following costs and pro-rations:

BUYER:

SELLER:

N/A

N/A

9. DELIVERY OF DEED: The Seller shall convey the property to the Buyer by Trustee **DEED**, which deed shall convey good and marketable title to the property in accordance with current Maine Bar Association Title Standards, Free and clear of all encumbrances, excepting building or zoning restrictions of record, restrictive covenants of record and usual public utilities servicing the property which do not adversely affect the use and occupancy of the property as now constructed or for its intended use by the Buyer. The acceptance of the deed by the Buyer shall be considered to be full performance and shall discharge every agreement and obligation in this contract, excepting only those terms stated to survive the closing.

10. TITLE DEFECT(S): If a title search of the property reveals a defect which causes the title not to conform to Maine Bar Association Title Standards, as amended, and the defect cannot be corrected on or before the closing date, the Buyer shall promptly give written notice of the defect to the Seller or Seller's attorney. This contract shall then be extended a reasonable period of time not to exceed **sixty (60) days** to allow the Seller time to correct the defect. If the Seller cannot correct the defect in title within the time allowed, the Buyer may choose to withdraw all earnest money deposited, and the Buyer and Seller shall then be relieved of all obligations under this contract. The Buyer may also choose to close, regardless of the defect in title that exists.

11. POSSESSION: The Seller shall give possession of the property to the Buyer immediately at closing, free of all leases, tenancies or occupancies by any person. The property shall then be in the same condition as of the date of the Seller's final acceptance of this contact, excepting only reasonable wear and tear. If at closing the Seller fails to make the property conform or to

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deliver possession, this contract shall be null and void, unless the Buyer elects in writing, before the time for performance, to accept the property.

12. **REPRESENTATIONS AND WARRANTIES OF THE SELLER:** The Seller warrants and represents that the Seller has had no dealings with any real estate broker or agent in connection with the sale of the property, and further covenants and agrees to pay, hold harmless and indemnify the Buyer from and against any and all cost, expense (including reasonable attorney's fees) or liability for any compensation, commission or charges claimed by any broker or agent in connection with the sale of the property. If the Seller has used a real estate broker or agent, the Seller shall be responsible for any commission due. This article shall survive the closing.
13. **BUYER WARRANTIES AND REPRESENTATIONS:** The Buyer warrants and represents that the Buyer has had no dealings with any real estate broker or agent in connection with the purchase of real estate, and further covenants and agrees to pay, hold harmless and indemnify the Seller from and against any and all costs, expense (including reasonable attorney's fees) or liability for any compensation, commission or charges claimed by any broker or agent. If the Buyer has used a real estate broker or agent, the Buyer shall be responsible for any commission due. This article shall survive the closing.
14. **RISK OF LOSS:** This risk of loss or damage to the property or tangible personal property remains the responsibility of the Seller until delivery of the deed of conveyance, and the Seller shall keep the property insured against fire and other extended coverage risks until closing. If the property is damaged by fire or casualty, the Buyer may choose to accept title to the property in its damaged condition or declare this contract null and void. If the Buyer declares this contract null and void, the earnest money deposit shall be returned to the Buyer, and thereafter the Buyer and Seller shall thereafter be relieved of all further obligations under this contract. If the Buyer chooses to accept title to the property in its damaged condition, the Seller shall either pay over or assign to the Buyer, with delivery of the deed of conveyance, all amounts recovered or recoverable by insurance, minus any amounts reasonably spent for any partial restoration made by the Seller, except that if as a mortgage holder, lender will not allow all or any portion of the insurance proceeds to be used to restore the property to its former condition or to be paid over or assigned to the Buyer, the Seller shall give the Buyer a credit against the purchase price equal to the amount recovered or recoverable by the mortgage holder, minus any amounts reasonably spent for any partial restoration made by the Seller.
15. **DEFAULT:**
Buyer's Default. If the Buyer fails to observe any or all of the terms and conditions of this contract or if there is as a material breach of any warranty or representation made by the Buyer under this contract, then the Buyer shall be in default. If the Buyer fails to cure the default within **thirty (30) days** after written notice is give to the Buyer by the Seller, then the Seller shall have the right to choose one of the following remedies: (1) to retain all earnest money deposited as full and final liquidated damages in lieu of any other legal or equitable remedy, the Buyer and Seller agreeing that damages would be difficult to assess and ascertain, at which time this contract will then terminate and the Buyer and Seller will be under no further obligation to each other; (2) to apply all earnest money deposited and proceed with an action at law for damages; or (3) to proceed in a court of equity for the specific performance of this contract.

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Seller's Default. If the Seller fails to observe any or all of the terms and conditions of this contract or if there is a material breach of any warranty or representation made by the Seller under this contract, then the Seller shall be in default. If the Seller fails to cure the default within **thirty (30) days** after written notice is given to the Seller by the Buyer, then the Buyer shall be entitled to a return of the full earnest money deposited, as full and final liquidated damages and in lieu of any and all other legal or equitable remedy, the Buyer and Seller agreeing that damages would be difficult to assess and ascertain, at which time this contract will then terminate and the Buyer and Seller will be under no further obligation to each other.

16. **OUT-OF-STATE SELLER WITHHOLDING:** The Seller confirms that the Seller is a resident of the State of Maine and is therefore not subject to Maine withholding.

17. **NOTICES:** In order to be effective, all notices, demands or other communication authorized or required by this contract shall be made in writing to the Buyer and Seller at the following addresses:

SELLERS:

Dianna Ridlon
4 Chelsey Lane
Gray, ME 04039

Chelsey LaPlante
3 Chelsey Lane
Gray, ME 04039

BUYER:

Gervais Homes, LLC
52 Whites Bridge Rd.
Standish, ME 04084

The notice, demand or other communication shall be considered to have been properly given: (1) on the date of service if delivered personally to the other party or (2) on the first day after mailing if mailed by United States Service first-class mail, postage prepaid, registered or certified with return receipt requested.

18. **MISCELLANEOUS:**

- a. Unless otherwise specifically stated, any reference made to *days* in this contract shall mean *business days*.
- b. The Buyer, upon reasonable notice to the Seller, may enter upon the property as necessary for purposes of inspection, or otherwise.
- c. The Buyer and Seller agree to make all reasonable and good-faith efforts to satisfy the conditions stated in this contract within the time periods specified and further agree to execute any and all documents, instruments or writings necessary to give effect to the intent and purpose of this contract. The Seller shall execute whatever affidavits and/or indemnity agreements are required by the Buyer's title insurance company in order to remove the so-called *parties-in-possession* and *mechanics' lien* exceptions to title insurance coverage.

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- d. No modification or waiver of any of the terms and conditions of this contract shall be valid unless made in writing and signed by the Buyer and Seller.
- e. Time is an essential part of this contract.
- f. This contract shall be governed for all purposes by the laws of the State of Maine. If any provision in this contract is later determined to be invalid or unenforceable, the validity or enforceability of the remaining provisions shall not be affected.
- g. If any dispute or claim arises concerning the terms or obligations of under this contract or in regards to the property, or performance by the Buyer or Seller, the Buyer and Seller agree to settle such dispute or claim by the method initialed by them below:

OPTION A: _____ BINDING ARBITRATION as regulated by the Maine Uniform Arbitration Act. The Buyer and Seller agree to accept as final the arbitrator's decision and to jointly pay all costs associated with such arbitration;

OPTION B: _____ NONBINDING ARBITRATION as regulated by the Maine Uniform Arbitration Act. The Buyer and Seller are free to not accept the arbitrator's decision and to seek satisfaction through other means including a lawsuit. The Buyer and Seller agree to jointly pay all costs associated with such arbitration;

OPTION C: MEDIATION as regulated through a neutral mediator. The Buyer and Seller agree to enter into good faith negotiations in order to attempt to resolve such dispute or claim. The Buyer and Seller agree to jointly pay all costs associated with such mediation.

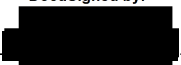
- h. This contract, and its terms and conditions, shall be binding and inure to the benefit of the heirs, executors, administrators, Personal Representatives, successors and assigns of both the Buyer and Seller.
- i. The Buyer and Seller shall not assign, whether voluntarily or involuntarily, the Buyer's or Seller's rights in this contract without the prior written consent of the other party.
- j. This contract constitutes and expresses the entire understanding and agreement made between the Buyer and Seller and supersedes any and all prior written or oral negotiations or agreements made between the Buyer and Seller.
- k. More than one contract may be signed in original form, and each signed, original contract shall be considered to be an original contract.
- l. Removing the property from tree growth will be the buyer's responsibility.

Three DocuSign signature boxes are shown at the bottom of the page. Each box contains a signature and the letters 'DS' in the top right corner. The first box contains the initials 'AG', the second contains 'DR', and the third contains 'U'.

m. Both the Buyer and Seller shall receive as a signed, original of this contract. By signing this contract, the Buyer and Seller confirm that each has received a signed original.

BUYER: We hereby agree to purchase the property at the price and upon the terms and conditions set forth herein.

DATED: November 2, 2023 | 7:43 AM EDT

Buyer: 
8939F6DF3D86464...


Buyer: _____


Social Security #: _____

Social Security #: _____

SELLER: I hereby accept this offer and agree to deliver the property at the price and upon the terms and conditions set forth herein. The date of my signature represents the Effective Date of this contract.

EFFECTIVE DATE: November 2, 2023 | 5:29 AM PDT

Seller: 
4C1EE379866C4AD...

Seller: 
9F07A8DFFE88433...

ESCROW AGENT: I hereby acknowledge receipt of _____ earnest money, which deposit shall be held in escrow pending closing. Said deposit will be paid out or returned only in accordance with the terms of this contract.

Signed: _____

Dated: _____

ADDENDUM TO SALES CONTRACT

Extension of Closing Date

The undersigned parties to A Sales Contract dated November 2, 2023 on property know as TBD Ramsdell Rd, Gray ME 04039, here by mutually agree to amend said contract as follows:

The closing date on line 4 of the contract are hereby amended to read May 1, 2024.

All other terms and conditions of the Real Estate Sales Contract to remain the same.

DocuSigned by:
[Redacted Signature]
4C1EE370866C4AD...

Seller

DocuSigned by:
[Redacted Signature]
9F07A8DFEE0403...

Seller

March 20, 2024 | 6:14 AM PDT

Date

DocuSigned by:
[Redacted Signature]
8999F0DF3D00404...

Purchaser

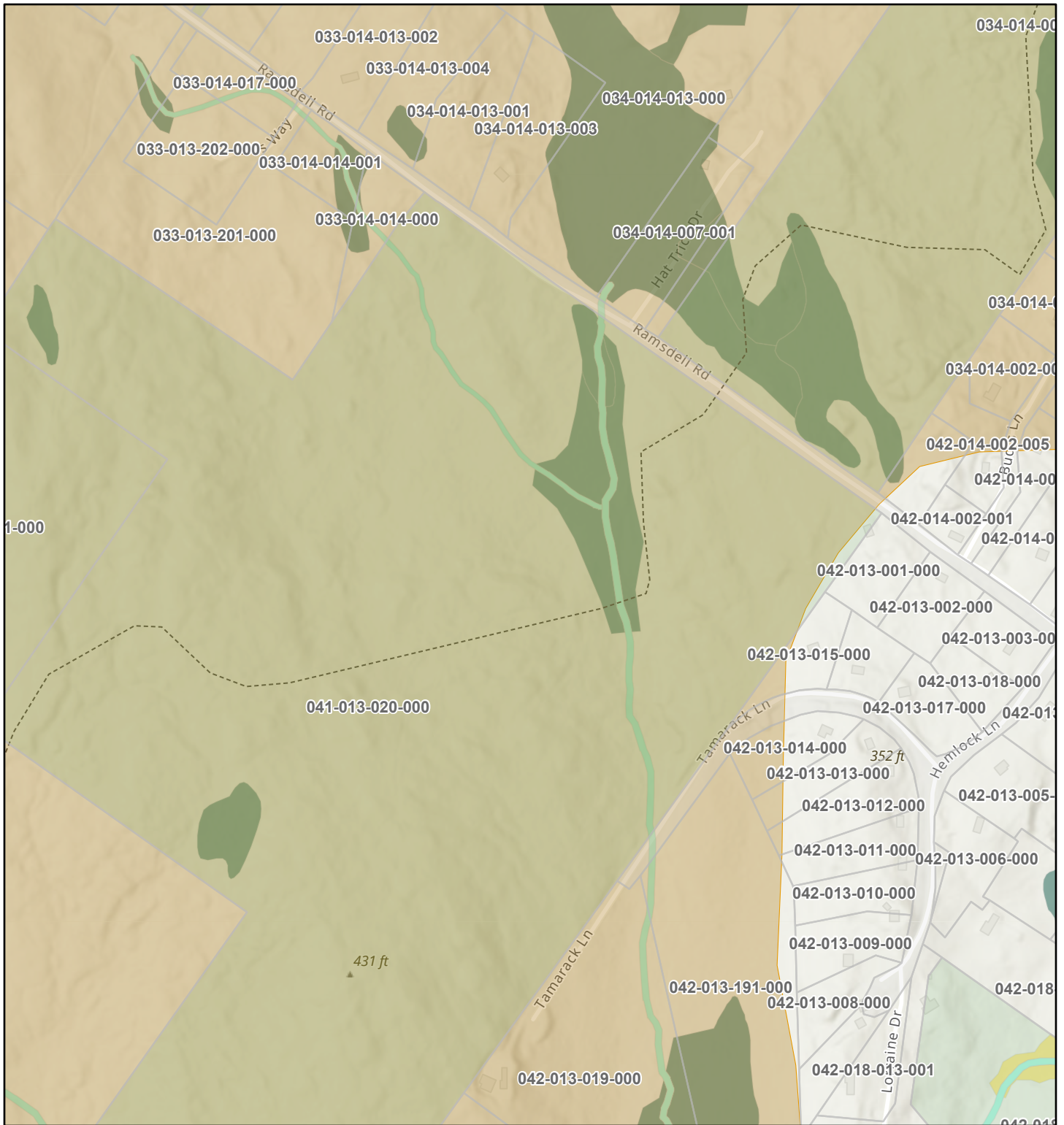
Purchaser

March 20, 2024 | 9:00 AM EDT

Date

Attachment 4
Figures

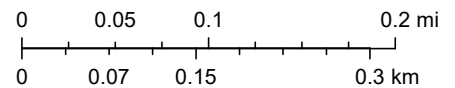
Town of Gray Parcels



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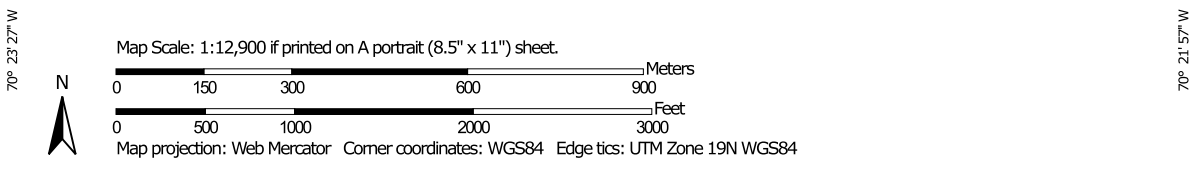
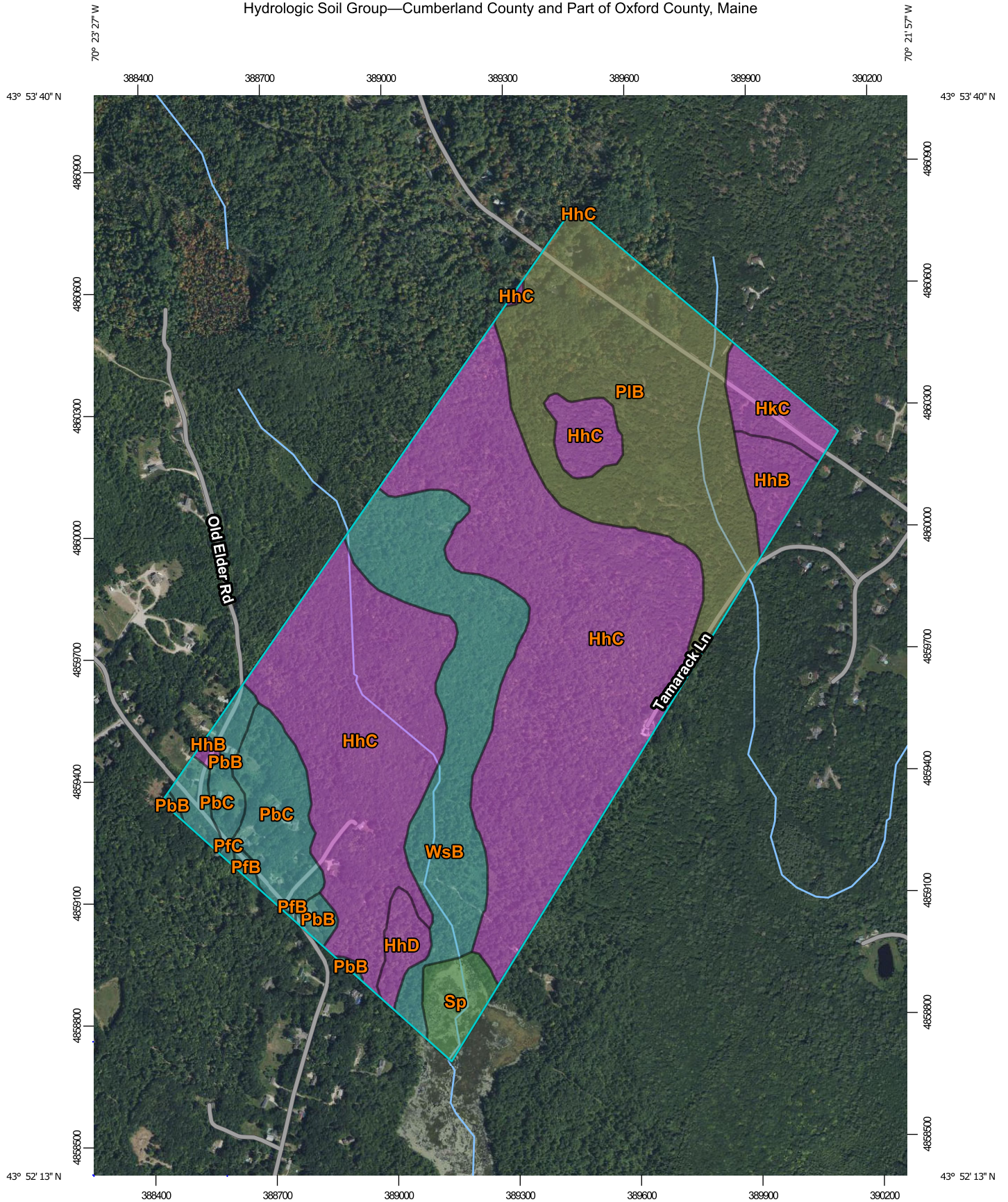
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- | | |
|--------------------|-----------------------------------|
| Tax Parcels (2023) | Deer Wintering Areas |
| Tree Growth | Freshwater Forested/Shrub Wetland |
| Road; Road Isle | Riverine |
| Parcels | Freshwater Emergent Wetland |
| Gray Trails | |
| Snowmobile/ATV | |



































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Hydrologic Soil Group—Cumberland County and Part of Oxford County, Maine



MAP LEGEND

- Area of Interest (AOI)**
 -  Area of Interest (AOI)
- Soils**
 - Soil Rating Polygons**
 -  A
 -  A/D
 -  B
 -  B/D
 -  C
 -  C/D
 -  D
 -  Not rated or not available
 - Soil Rating Lines**
 -  A
 -  A/D
 -  B
 -  B/D
 -  C
 -  C/D
 -  D
 -  Not rated or not available
 - Soil Rating Points**
 -  A
 -  A/D
 -  B
 -  B/D
- Soil Rating Polygons**
 -  C
 -  C/D
 -  D
 -  Not rated or not available
- Water Features**
 -  Streams and Canals
- Transportation**
 -  Rails
 -  Interstate Highways
 -  US Routes
 -  Major Roads
 -  Local Roads
- Background**
 -  Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL:
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Cumberland County and Part of Oxford County, Maine
 Survey Area Data: Version 20, Sep 5, 2023

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 22, 2021—Oct 7, 2021

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
HhB	Hermon sandy loam, 0 to 8 percent slopes, very stony	A	8.7	2.2%
HhC	Hermon sandy loam, 8 to 15 percent slopes, very stony	A	201.1	50.1%
HhD	Hermon sandy loam, 15 to 35 percent slopes, very stony	A	5.3	1.3%
HkC	Hermon sandy loam, 8 to 20 percent slopes, extremely stony	A	9.4	2.3%
PbB	Paxton fine sandy loam, 3 to 8 percent slopes	C	8.9	2.2%
PbC	Paxton fine sandy loam, 8 to 15 percent slopes	C	21.9	5.5%
PfB	Paxton very stony fine sandy loam, 3 to 8 percent slopes	C	0.8	0.2%
PfC	Paxton very stony fine sandy loam, 8 to 15 percent slopes	C	0.3	0.1%
PIB	Peru fine sandy loam, 0 to 8 percent slopes, very stony	C/D	84.8	21.1%
Sp	Sebago mucky peat	A/D	8.1	2.0%
WsB	Woodbridge very stony fine sandy loam, 0 to 8 percent slopes	C	52.3	13.0%
Totals for Area of Interest			401.6	100.0%

Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

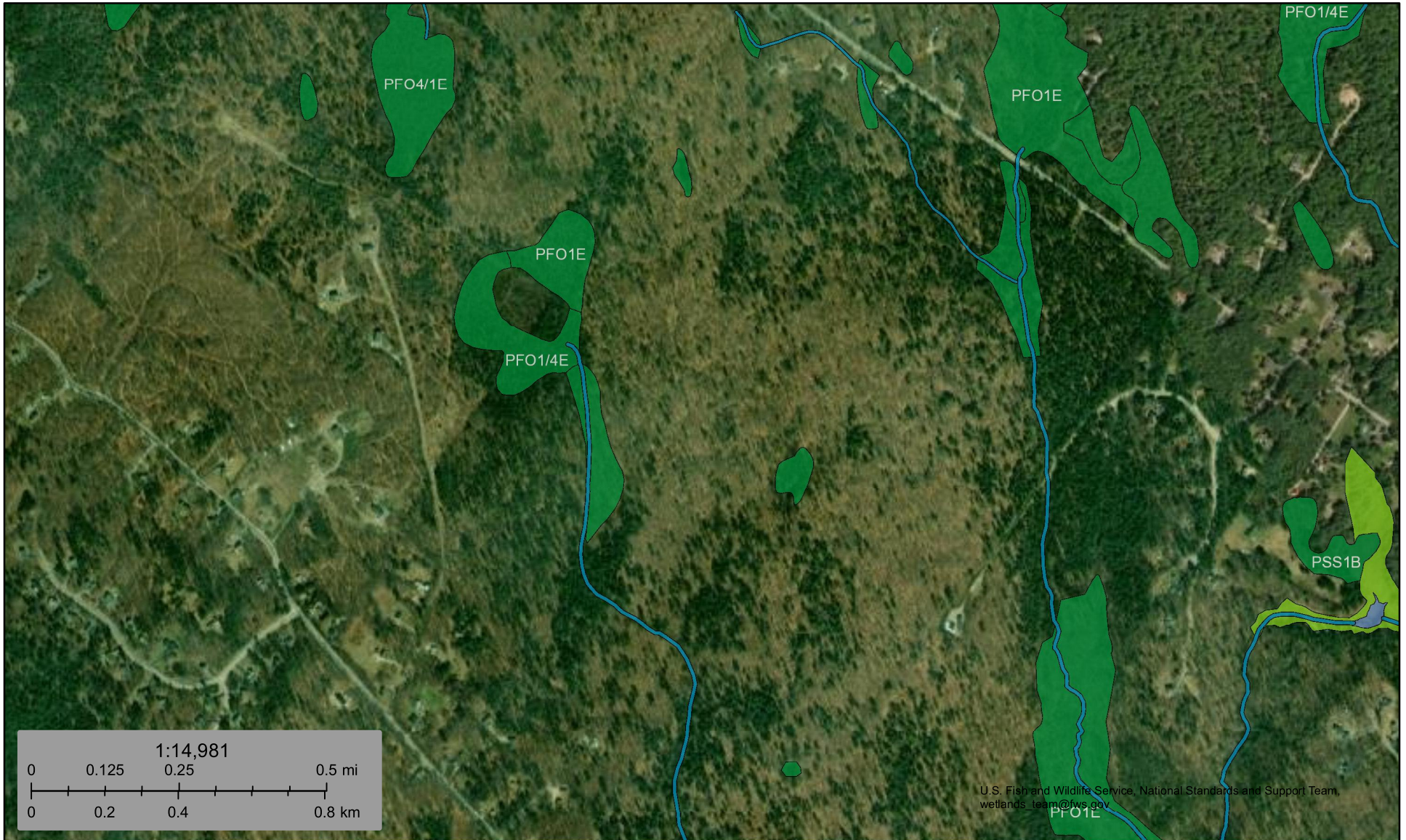
If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher



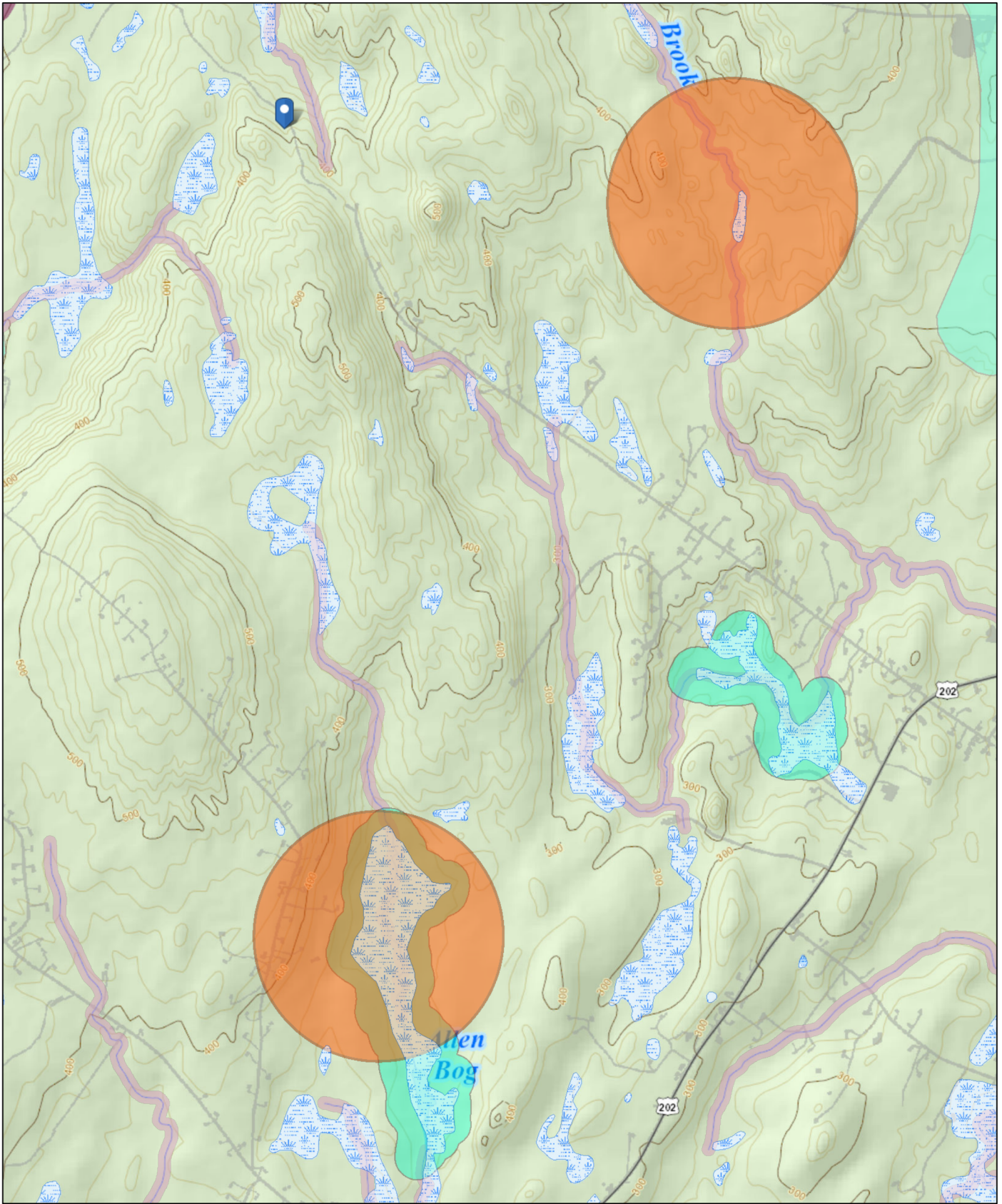
December 4, 2023

Wetlands















- Estuarine and Marine Deepwater
- Freshwater Forested/Shrub Wetland
- Lake
- Freshwater Emergent Wetland
- Freshwater Pond
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

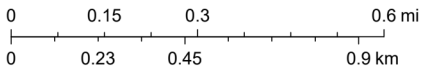
Beginning With Habitat



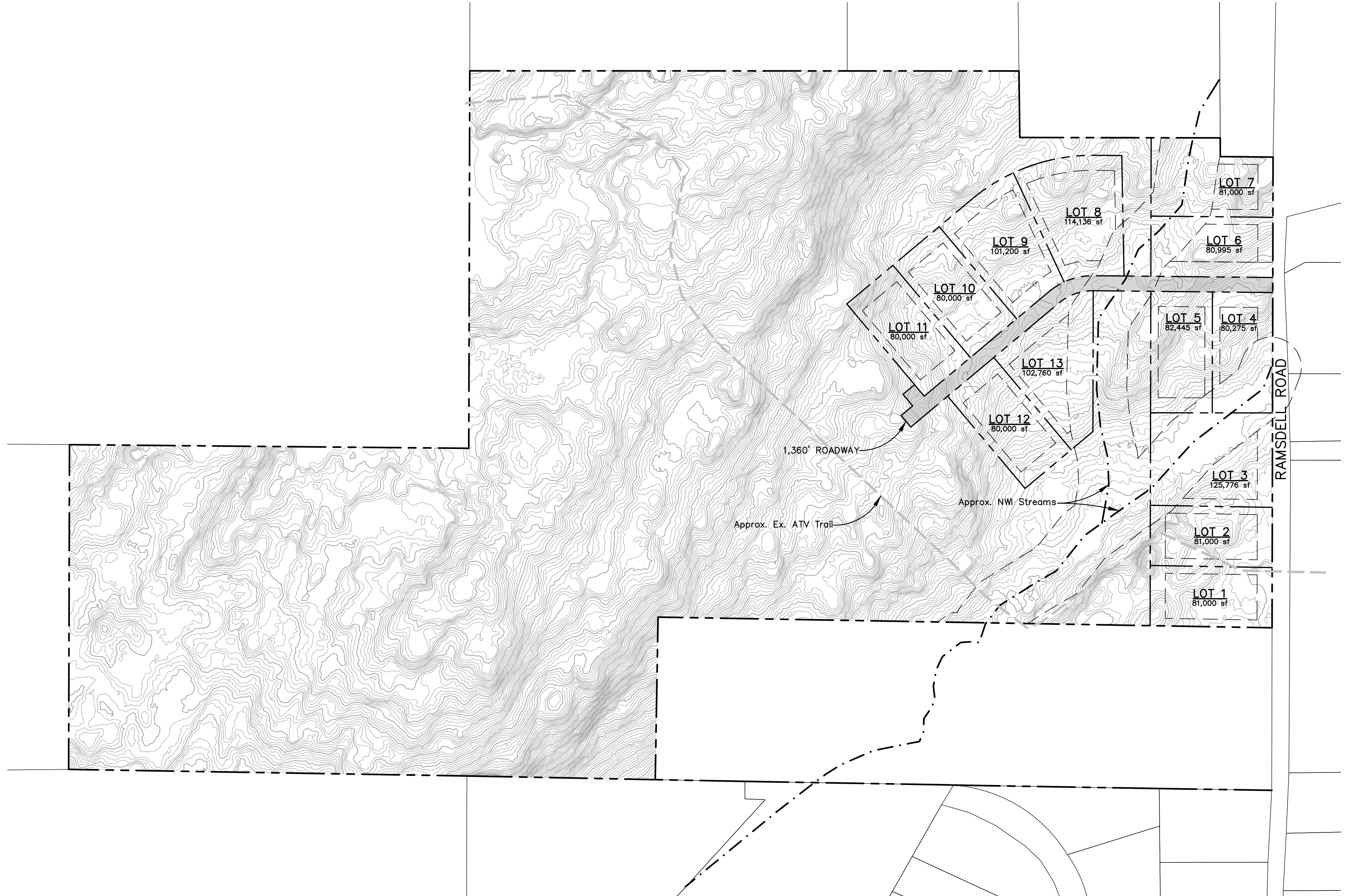
December 4, 2023

- | | |
|---|---|
|  Aquifers |  Seabird Nesting Island |
|  National Wetlands Inventory Wetlands |  Tidal Waterfowl / Wading Bird Habitat |
|  Shellfish Beds |  Inland Waterfowl / Wading Bird Habitat |
|  Stream Buffer (75 feet) |  Significant Vernal Pools |
|  Great Ponds, Rivers and Coastal Buffer (250 feet) |  Deer Wintering Areas |
|  Atlantic Salmon Habitat |  Essential Wildlife Habitats |
|  Shorebird Habitat |  Endangered, Threatened, and Special Concern Species |

1:18,056

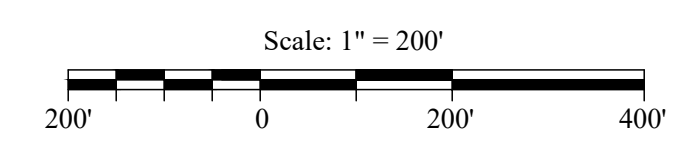


Attachment 5
Sketch Plan



- NOTES:**
1. OWNER/APPLICANT: ANDREW GERVAIS
52 WHITES BRIDGE ROAD
STANDISH, MAINE 04084
 2. ENGINEER: AUSTIN G. FAGAN, PE #16523
BH2M
380B MAIN STREET
GORHAM, MAINE 04038
 3. ZONING: RURAL RES. AND AGRICULTURAL (RRA)
 4. PROPOSED USE: SINGLE FAMILY LOTS
 5. MIN. STANDARDS: RRA DISTRICT
MIN. LOT SIZE: 80,000 S.F.
MIN. LOT AREA PER DWELLING UNIT: 40,000 S.F.
MIN. STREET FRONTAGE: 200 FT
MIN. FRONT YARD: 50 FT
MIN. SIDE YARD: 25 FT
MIN. REAR YARD: 50 FT
MAX. BUILDING HEIGHT: 35'
MAX. BUILDING COVERAGE: 10%
 6. SEWER SERVICE: INDIVIDUAL SUBSURFACE DISPOSAL SYSTEM
 7. WATER: INDIVIDUAL DOMESTIC WELL

LEGEND	
SYMBOL	DESCRIPTION
---	PROPERTY LINE
- - - -	ABUTTER'S PROPERTY LINE
- . - . - .	APPROXIMATE STREAM
- - - - -	STRUCTURE SETBACK



NO.	DATE	REVISION DESCRIPTION

BH2M
 Berry, Huff, McDonald, Milfigan Inc.
 Engineers, Surveyors
 28 State Street
 Gorham, Maine 04038
 Tel: (207) 839-2771
 Fax: (207) 839-8250

FOR
 Andy Gervais
 52 Whites Bridge Road
 Standish, Maine

SKETCH PLAN
 RAMSDELL ROAD
 RAMSDELL ROAD
 GRAY, MAINE

DESIGNED A. Fagan	DATE Sept. 2023
DRAWN A. Fagan	SCALE 1"=200'
CHECKED W. Pelkey	JOB. NO. ---

SHEET
1

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