

**CONTRACT ZONING AGREEMENT BETWEEN
BIRCH POINT PROPERTIES LLC, A.H. GROVER, INC. AND THE
TOWN OF GRAY**

This Contract Zoning Agreement, made this _____ day of _____, 2021, by the TOWN OF GRAY, a body corporate and politic, located in the County of Cumberland and State of Maine, with a mailing address of 24 Main Street, Gray, Maine 04039 (hereinafter “the Town”), Birch Point Properties LLC, a Maine Limited Liability Company with a mailing address of 170 Shaker Road, Gray, Maine 04039 and A.H. Grover, Inc., a Maine Corporation with a mailing address of 80 Pembroke Peak, North Yarmouth, Maine 04097 (hereinafter, collectively, the “Owner”).

WITNESSETH:

WHEREAS, the Owner seeks to develop a 68 +/- acre parcel located in the vicinity of Yarmouth Road and Woodcock Road, identified in the Town tax maps as Map 44, Lot 32-112, as further described in a deed recorded in the Cumberland County Registry of Deeds in Book 36348, Page 165 (the “Property”); and

WHEREAS, the Owner seeks to develop a residential subdivision on the Property, to be known as Stillwater Pines Subdivision; and

WHEREAS, the Owner seeks to modify the Town’s subdivision road standards in the construction of the private road that will serve the subdivision and associated open space; and

WHEREAS, the Owner proposes to construct a multi-use playing field, and associated facilities and access, and to deed the multi-use playing field area and an access easement to the Town; and

WHEREAS, the proposed development addresses, among others, the following goals and guidelines of the Town’s Comprehensive Plan:

- To encourage “orderly growth and development in appropriate areas of Town while protecting the State’s rural character, making efficient use of public services and infrastructure and preventing development sprawl;
- To “work with public and private partners to extend and maintain a network of trails for motorized and non-motorized uses;”
- To “identify priorities for preservation and needs to recreational facilities to meet current and future demands;” and

WHEREAS, the creation of public playing fields and trails will benefit both residents of the new subdivision and residents of the entire Town, both maintaining and expanding the quality and amount of recreational opportunities available and the acquisition of rights for

recreational purposes such as ball fields was identified by a number of Town residents in response to a survey as an appropriate investment by the Town; and

WHEREAS, the proposed residential subdivision and recreational and open space uses are consistent with the existing and permitted uses within the underlying zoning district; and

WHEREAS, the Gray Planning Board reviewed this proposed rezoning and recommended its approval after a public hearing held on _____, 2021; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Comprehensive Plan and will meet the requirements of 30-A M.R.S. § 4352(8) and therefore has authorized the execution of this Contract Zoning Agreement on _____, 2021;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Amendment of Zoning Map. The Town will amend the Zoning Map of the Town of Gray, as amended, a copy of which is on file at the Henry Pennell Municipal Complex and which is incorporated by reference in the Zoning Ordinance, Section 402.3.1, by adopting the map change amendment shown on Exhibit 1. This amendment includes the existing portion of Woodcock Road leading to the Property.
2. Land use requirements. Except as expressly stated herein, the Property shall be used and developed in accordance with the Medium Density zoning district provisions and requirements, as well as other applicable provisions of the Zoning Ordinance and the Subdivision Ordinance.
3. Dimensional Requirements and Uses. Except as otherwise established in this Section 3, development on the Property shall comply with the requirements of the underlying Medium Density District and all applicable Ordinances and performance standards, except:
 - a. The maximum number of dwelling units to be served by the existing portion of Woodcock Road and the proposed extension of Woodcock Road shall be no more than fifty new (50) dwelling units in addition to the existing dwelling units already located on Woodcock Road due to the revisions to the road standards established herein. For purposes of this Agreement, an accessory apartment shall be included in the calculation of the maximum number of dwelling units.
 - b. Municipal uses shall be allowed on the land to be deeded to the Town as described in Section 7.
4. Road standards for Woodcock Road.

a. The existing portion of Woodcock Road shall be improved and maintained to the following standards:

- i. The travel lane shall be eighteen (18) feet in width.
- ii. There shall be a two (2)-foot wide paved shoulder on both sides of the road.
- iii. There shall be a five (5)-foot wide paved sidewalk on one side of the road, which shall be flush with the shoulder.

b. The extension of Woodcock Road shall be constructed and maintained as follows:

- i. The travel lane shall be eighteen (18) feet in width.
- ii. There shall be a two (2)-foot wide paved shoulder on both sides of the road.
- iii. There shall be five (5)-foot wide paved sidewalk on one side of the road, with curbing and a four (4)-foot wide esplanade on one side of the road, with the sidewalk connecting to the sidewalk to be installed on the existing portion of Woodcock Road.
- vi. Except as modified above, the extension of Woodcock Road shall be constructed in accordance with Village Public Street standards per Table 401.13.16-2 of the Gray Subdivision Ordinance.

c. Cross-sections of the roads shall be substantially in accordance with Exhibit 2, attached to and incorporated as part of this Agreement.

d. The owner shall have the ability to exceed the maximum length of a dead-end street as established in 401.13.16.B.2.f.ii of Gray Subdivision Ordinance

e. The owner shall have the ability to exceed the maximum of homes on a dead-end street as established in 401.13.16.B.2.f.vi of Gray Subdivision Ordinance.

5. Maintenance of Woodcock Road. Woodcock Road shall remain a private road and shall not be accepted by the Town as a public street unless it is upgraded to applicable Town standards in effect at the time that the road is dedicated to the Town. The Owner or any successor in interest may offer to the Town a public easement for winter maintenance, subject to the requirements and conditions of Sections 2.2 and 2.4 of the Town of Gray Street Ordinance, as may be amended, and as modified by this Agreement. Said winter maintenance shall not include maintenance, including plowing and sanding, of the sidewalks. Pavement markings including striping for sidewalks will be the responsibility of the road association and must be maintained to be eligible for winter maintenance. The Town will not be a party in the road association.

6. Requirements for construction of access to property to be deeded to Town. In addition to the requirements for the construction of Woodcock Road, the Owner shall be

responsible for constructing an access to the property to be deeded to the Town described in Section 7. The right-of-way for the access shall be sixty (60) feet in width, with a minimum twenty (20)-foot wide gravel travel lane and shall include a swing gate and turn around to be located before the stream crossing. Boulders shall be tightly spaced at sides of gate to prevent vehicular access This access shall be constructed prior to the conveyance of the at minimum 12.914.8 acre parcel and the access, both as shown on Exhibit 3, to the Town. The cross-section of the access shall be substantially in accordance with Exhibit 2.

7. Grant of land to the Town. The Owner shall grant to the Town a minimum of 12.914.8 acres of land in the southeast corner of the Property, which shall be improved as set forth in Section 8. The Owner may retain a grading easement over this parcel in order to grade it to be level with the abutting gravel pits. The property shall be deeded to the Town no later than three (3) years after the Planning Board grants final approval of Phase 1 of the proposed Stillwater Pines Subdivision. The Owner shall also grant to the Town an access easement in perpetuity over the entire length of Woodcock Road to serve the Town-owned property, including the parking area and the playing field, which easement shall include the right to maintain, improve and utilize utility connections to the property to be deeded to the Town. Any deed covenants and road association or homeowner association documents shall disclose the existence of the Town easement to the property to be deeded to the Town. Prior to the grant of land to the Town, the Owner reserves the right to remove material from this parcel, subject to the construction standards set forth in Section 8. The dedication of the open space and playing fields is an integral part of this Agreement in order to maintain open space and recreational facilities in the Town. The Town may make further improvements to this land in the future, as long as such improvements are related to the public recreational use of the land and associated parking. The playing field area shall serve as the replacement property for purposes of the grant funding previously provided to the Town by the Land and Water Conservation Fund for property located at 10 Libby Hill Road in Gray. Because of this conversion, the playing field shall be held and used consistent with the requirements of that grant.

8. Construction of playing fields and parking area. The Owner shall construct on the land to be conveyed to the Town at least a 150-foot by 300-foot multi-use playing field and twenty (20) parking spaces and a level overflow parking area to serve the field in locations substantially in accordance with Exhibit 3. The field area shall be loamed to a minimum depth of three (3) inches and seeded until full grass coverage has occurred. The Owner shall extend electrical conduit and public water to the area to be deeded to the Town, with services stubbed to allow the Town to connect to them in the future if the Town decides to make such connections. All required improvements shall be completed to the satisfaction of the Town prior to the conveyance of the at minimum 12.914.8 acre parcel and access easement to the Town. The Owner shall be responsible for acquiring all required permits and approvals for these improvements.

As part of the construction of Phase 1 of the residential subdivision, the Owner shall be responsible for permitting and construction of the required stream crossing substantially in accordance with Exhibit 4 to include straight runs of Schedule 40 electrical conduit with no elbows for utilities to the playing field to be part of the crossing including at a minimum: one (1)

4" conduit for the water line, two (2) 3" conduits for loop electric feeds, and two (2) 2" conduits for communication facilities. Ends of the conduits to be waterproof-capped and marked with re-bar at all ends to locate in future.

9. Future loop to Yarmouth Road or ring road to Portland Road. The Owner shall reserve a right-of-way to allow the future looping of Woodcock Road to Yarmouth Road or a ring road to Portland Road. The area of the reserved right-of-way shall be established as part of the Town's subdivision review of the Property.

10. Trails. The existing trail system located within the designated open space on the Property shall be maintained by the homeowner's association and shall be open for use by the public. Some minor rerouting of the trail system shall be allowed, with final locations to be established as part of subdivision review. Any future trails established within the open space will be available for public use. The Town Council shall review and approve any proposed regulations or restrictions on the use of the trails. The Town will not be subject to or a party to the homeowner's association or responsible for trail maintenance. Motorized vehicles of any type shall not be allowed on trails. Final trail locations shall adhere to subdivision standards as determined by the Planning Board.

11. Extension of public water. The Owner shall be responsible for extending public water to serve the proposed development and shall offer to the existing homeowners on Woodcock Road the ability to connect to such service at their own expense.

12. Site work prior to construction. Once the grading of the site is complete, the Owner shall place a berm along the property lines separating the minimum of 12.914.8 acre parcel to be conveyed to the Town from the abutting gravel pits substantially in accordance with Exhibit 3. The berm shall be placed and maintained on the minimum of 12.914.8 acre parcel to be conveyed to the Town as depicted on Exhibit 3. The berm shall be two-thirds of the final excavation depth built two (2) feet horizontally for every vertical foot (2:1 slope). The berm along the southwest property line shall be at least seven hundred (700) feet long and a minimum of twelve (12) to eighteen (18) feet in height above the multi-use field elevation. The berm along the southeastern property line shall be a minimum of nine hundred and thirty one thousand (9301,000) feet in length and decrease gradually in height from eighteen (18) feet above the field elevation to a minimum height of twelve (12) feet above the field elevation at the most easterly property corner, both berms substantially in accordance with Exhibit 3. Boulders a minimum of two (2) feet in diameter shall be placed three (3) or less feet apart on the berm at a location approved by the Planning Board with input from the Owner and abutting property owners, with said approval to occur as part of the Planning Board's review of the project, with input from the Owner and abutting property owners to be considered. The berm must be stabilized.

13. Timing of Improvements. The subdivision and associated improvements, including those to the property to be conveyed to the Town, shall be completed substantially in accordance with the phasing and improvements plan included as Exhibit 3, hereby incorporated as part of this Agreement.

14. Agreement to be Recorded. The Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to

the Gray Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

15. Amendments to Agreement. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the parties or any successors in interest to the Property.

16. Site Plan and Subdivision Review. Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required under those Ordinances.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Owners, their successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives. If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use, development and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance, the Subdivision Ordinance and all other applicable Town ordinances. This contract rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S. § 4452) and the Town's land use ordinances. Following any determination of a zoning or other land use violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind the Contract Zone and rezone the Property to the prior or any successor zoning districts.

In the event that the Owner fails to develop the Property in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include, without limitation, a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, the Property shall then be used only for such other uses as are otherwise allowed by law.

WITNESS:

TOWN OF GRAY

By: _____
Nathaniel Rudy, Town Manager,
(duly authorized by vote of the Gray
Town Council on _____, 2021)

BIRCH POINT PROPERTIES, LLC

By: _____

Allen Hamilton, its Member

A.H. GROVER, INC.

By: _____

Benjamin Grover, its
Vice-President

STATE OF MAINE
CUMBERLAND, ss

_____, 2021

Personally appeared the above-named Nathaniel Rudy, in his capacity as Town Manager for the Town of Gray, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Town of Gray.

Notary Public/Attorney at Law

Print Name

STATE OF MAINE
CUMBERLAND, ss

_____, 2021

Personally appeared before me the above-named Allen Hamilton, in his capacity as Member of Birch Point Properties LLC and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Notary Public/Attorney at Law

Print Name

STATE OF MAINE
CUMBERLAND, ss

_____, 2021

Personally appeared before me the above-named Benjamin Grover, in his capacity as Vice-President of A.H. Grover, Inc., and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Notary Public/Attorney at Law

Print Name

Exhibit 1: Stillwater Pines Contract Zoning Agreement Map



Yarmouth Road/State Route 115

Woodcock Road

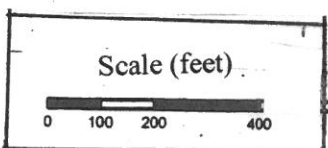
BRANDY ALLEY

Partridge Lane

GERALDS WAY

**Parcel subject to
Contract Zone**

Gray Tax Map 44, Lot 32-112
68 +/- Acres



P/O Map 52
32-12

32-12
36

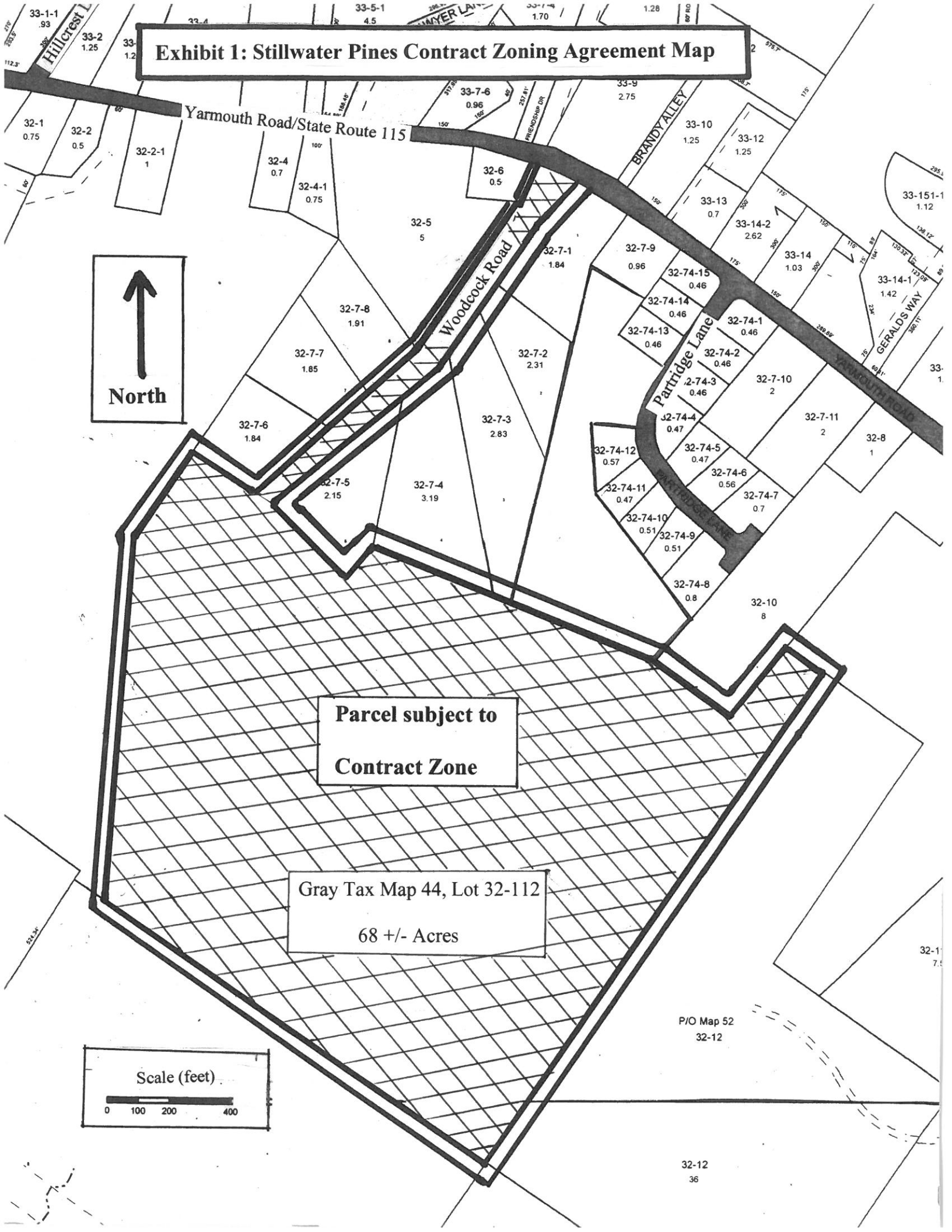
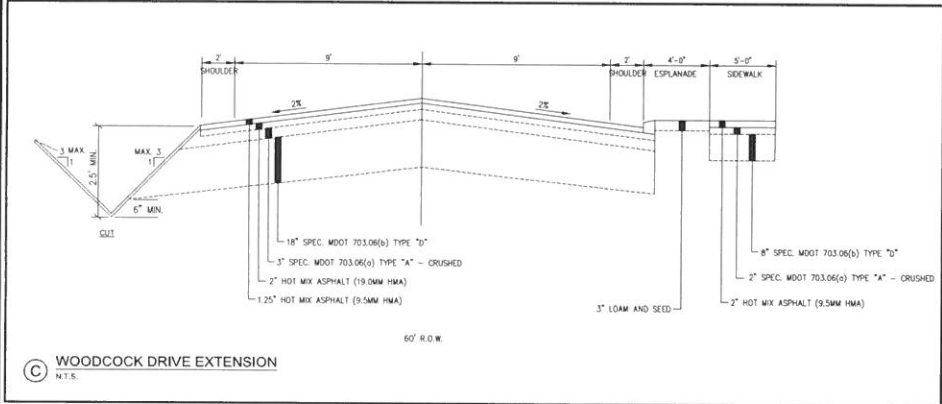
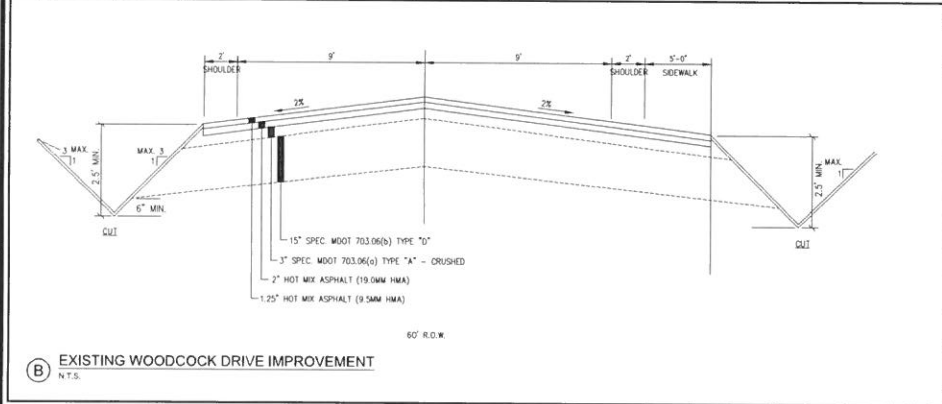
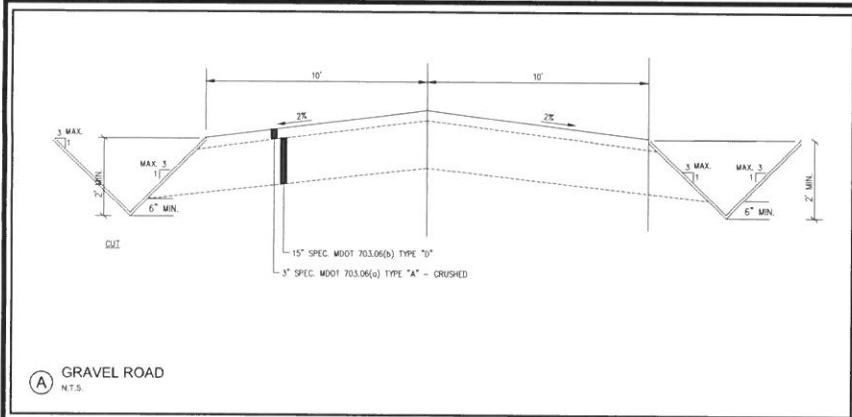


Exhibit 2: Road Cross-Sections and Information



C. TABLE 401.13.16-2

ITEM	Sub-collector Streets	Village Public Street	Rural Public Street	Rural Public Easement Street	Minor Rural Street
A. Minimum width right of way ¹	60 ft	60 ft	50 ft	50 ft ⁵	50 ft
B. Minimum grade	.5 percent ²	.5 percent ²	1 percent	1 percent	1 percent
C. Maximum grade	8 percent	8 percent	10 percent	10 percent ³	10 percent ³
D. Maximum grade within 75 ft of intersection	3 percent	3 percent	3 percent	3 percent	3 percent
E. Width of shoulders on each side	4 ft (paved)	4 ft (paved)	4 ft (paved)	2 ft (gravel)	2 ft (gravel)
F. Minimum travel way width	22 ft	20 ft	20 ft	18 ft	16 ft
G. Aggregate sub-base course gravel	15 inches	15 inches	15 inches	15 inches	15 inches
H. Aggregate upper base crushed gravel	3 inches	3 inches	3 inches	3 inches	3 inches
I. Bituminous paving	3-1/4 inches	3-1/4 inches	3-1/4 inches	3-1/4 inches	
J. Sidewalks (one side min.):					
Minimum width	5 ft	5 ft			
Aggregate sub-base course gravel	8 inches	8 inches			
Aggregate upper base crushed gravel	2 inches	2 inches			
Bituminous paving	2 inches	2 inches			
K. Minimum curb radii:					
90 degree intersections	40 ft	25 ft	25 ft	15 ft	15 ft
Less than 90 degrees	40 ft	30 ft	30 ft	20 ft	20 ft
L. Minimum dwelling units	51	4	26	11	2
M. Maximum dwelling units	100 ⁴	50	50	25	10

STILLWATER PINES SUBDIVISION WOODCOCK DRIVE, MAINE 04261		Atlantic Resource Consultants 541 US Route One Freeport, ME 04032 Tel: 207.869.9050	
ROAD SECTION SCHEMATIC		DRAWN: MPV DESIGNED: CEBMPY CHECKED: JAV/CEB FILE NAME: 171 SHAKER ROAD CRIST, MAINE 04261	
DATE: 1/1/2021		DATE: JANUARY 2021	
REVISIONS		SCALE: N.T.S.	
		JOB NO. 20-012	
		SHEET: 5K-1	

[illegible]

CURRENTLY UNDEVELOPED LAND PROPOSED USE: BRIDGE PARK, OPEN SPACE (DETACHED) ZONE: M-D MEDIUM DENSITY DISTRICT (WITH PUBLIC WATER)			
APPLICABLE AS-PLACED REGULATIONS		UNDEVELOPED	PROPOSED
LOT AREA	30,000 S.F.	> 30,000 S.F.	
STREET FRONTAGE	100'	> 100'	
ON-GRADIENT FRONTAGE	N/A	N/A	
LOT WIDTH	100'	> 100'	
PRINCIPAL STRUCTURE			
FRONT SETBACK	15 FT.	15 FT.	
SIDE SETBACK	15 FT.	15 FT.	
REAR SETBACK	15 FT.	15 FT.	
ACCESSORY STRUCTURE			
FRONT SETBACK	15 FT.	15 FT.	
SIDE SETBACK	15 FT.	15 FT.	
REAR SETBACK	15 FT.	15 FT.	
		MAXIMUM	PROPOSED
BUILDING COVER	20%	< 20%	
BUILDING HEIGHT	15 FT.	35 FT.	
ACCESSORY STRUCTURE HEIGHT	15 FT.	15 FT.	

TOTAL PARCEL AREA	2,310.328 D.F.
AREAS UNAVAILABLE IN NATURAL STATE	
- WETLANDS/WATER COURSES & FLOODPLAIN	170.727 D.F.
- STEEP SLOPES OVER 30%	0 D.F.
AREAS REMOVED FOR:	
- ACCESS ROAD/JOVE	127.880 D.F.
- EASEMENTS	0 D.F.
REMAINING/AVAILABLE	2,004.161 D.F.
MINIMUM LOT AREA IN MEDIAN DENSITY DISTRICT WITH PUBLIC WATER= 30,000 S.F.	
NET DEVELOPMENT DENSITY CALCULATION: 2,004,161/250,000 = 8.01 UNITS	
PROPOSED LOTS = 13 UNITS	

SYMBOL	DESCRIPTION	SYMBOL
BOUNDARY LINE, O.W.	BOUNDARY LINE, O.W.	
ADJUTER LINE, O.W.	ADJUTER LINE, O.W.	
STAKE	STAKE	
EASEMENT	EASEMENT	
IRON PIPE, 60	IRON PIPE, 60	
BUILDING	BUILDING	
WETLAND	WETLAND	
SEW	SEW	
EDGE PAVEMENT	EDGE PAVEMENT	
EDGE CONCRETE	EDGE CONCRETE	
PAVEMENT PAINT	PAVEMENT PAINT	
GRAVEL ROAD	GRAVEL ROAD	
CURBLINE	CURBLINE	
TREELINE	TREELINE	
CONTOUR	CONTOUR	
SPOT GRADE	SPOT GRADE	
STORMWATER FLOW	STORMWATER FLOW	
STORM DRAIN	STORM DRAIN	
WATER MANSERVICE	WATER MANSERVICE	
UTILITY	UTILITY	
OVERHEAD UTILITY	OVERHEAD UTILITY	
UTILITY POLE	UTILITY POLE	
TRANSFORMER	TRANSFORMER	

REV	DATE	DESCRIPTION
		INVENTORY

EXHIBIT 3
SITE LAYOUT

Atlantic Resource Consultants
541 US Route One
Freeport, ME 04032
Tel: 207.869.9050

DRAWN: MPVJCEB	DATE:
DESIGNED: CEBMPV	SCALE: 1" = 120'
CHECKED: JAVJCEB	JOB NO. 20-012
FILE NAME:	
SHEET: EXHIBIT-3	

