

TOWN OF GRAY
ZONING BOARD OF APPEALS
AGENDA • NOVEMBER 29, 2023

**Zoning Board of
Appeals Regular
Meeting**



7:00 PM

I. MEETING COMMENCES

Roll Call

II. MINUTES APPROVAL

Ia.. Zoning Board of Appeals - Regular Meeting - 9/26/2023, 7:00 PM

III. OLD BUSINESS

IV. NEW BUSINESS: ELECTIONS OF CHAIR AND VICE CHAIR

V. NEW BUSINESS: MEETING DATES 2024

Meeting dates 2024

VI. NEW BUSINESS: PUBLIC HEARINGS

a..

LOON ISLAND LLC is requesting a Practical Difficulty Variance from the standards established in the sign ordinance to install one free standing internally illuminated signs located on their property at 59 Portland Road, Gray Tax Map 051-032-022-000, in a Commercial Zoning District.

b..

LOON ISLAND LLC is requesting a Practical Difficulty Variance from the standards established in the sign ordinance to install two free standing internally illuminated signs and eleven internally illuminated wall signs located on their property at 13-15 Main Street, Gray Tax Map 043-402-053-000, in a Village Center Proper Zoning District.

c..

William Chapman and Greg Rand are requesting a Practical Difficulty Variance for additional lot coverage on property 2 Storage Way, Gray Tax Map 028-026-002-000. The subject property is located in the Commercial Zoning District and is owned by GRAYLAND HOLDINGS LLC.

- d.. William Chapman and Greg Rand have filed an administrative appeal of a denial of a driveway permit for property located at 2 Storage Way, Gray Tax Map 028-026-002-000. The subject property is located in the Commercial Zoning District and is owned by GRAYLAND HOLDINGS LLC.

VII. 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
ZONING BOARD OF APPEALS
MINUTES • SEPTEMBER 26, 2023

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

7:00 PM

I) MEETING COMMENCES

ROLL CALL

Attendee Name	Status
Brad Fogg	Present
Derek Shirley	Present
Anthony Grabarz	Present
Tammy Munson	Present
Martin Meaney	Present
Georgia Woodbury	Absent

II) MINUTES APPROVAL

II.a) Zoning Board of Appeals - Regular Meeting - May 24, 2023 7:00 PM

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Brad Fogg
SECONDER	Derek Shirley
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

III) NEW BUSINESS: PUBLIC HEARINGS

III.a) POCH PROPERTIES, LLC is requesting a Practical Difficulty Variance from the standards established in the sign ordinance to install ground sign sign located on their property at 25 Portland Road, Gray Tax Map 043-404-174-000, in a Village Center Zoning District.

Open Hearing

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Derek Shirley
SECONDER	Anthony Grabarz
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Brad Fogg
SECONDER	Derek Shirley
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Derek Shirley
SECONDER	Brad Fogg
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

3. The practical difficulty is not the result of action taken by the petitioner or a prior owner

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Anthony Grabarz
SECONDER	Brad Fogg
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

4. No other feasible alternative to a variance is available to the petitioner;

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Derek Shirley
SECONDER	Anthony Grabarz
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

5. The granting of a variance will not unreasonably adversely affect the natural environment;

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Brad Fogg
SECONDER	Derek Shirley
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

6. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

Motion to approve

RESULT	PASSED [UNANIMOUS]
MOVER	Brad Fogg
SECONDER	Anthony Grabarz
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

III.b) High Road, LLC and Hero Property, LLC have filed an administrative appeal of a Notice of Violation regarding Odor Management, as established in The Town of Gray Zoning Ordinance Chapter 402, on their tenant space in a Village Center Zoning District at 21 Portland Road, Gray Tax Map 043-404-171-003.

Motion to table

RESULT	PASSED [UNANIMOUS]
MOVER	Brad Fogg
SECONDER	Derek Shirley
AYES	Brad Fogg, Derek Shirley, Anthony Grabarz

IV) ADJOURNMENT

Adjourned 7:38 pm

**PLANNING BOARD
2024 MEETING & APPLICATION DEADLINE SCHEDULE**

MONTH	NEW APPLICATION DEADLINE	SKETCH PLAN & EXISTING APPLICATION DEADLINE	MEETING DATE
January	12/15/2023*	12-18-2023*	1-11-2024
February	1-12-2024	1-16-2024*	2-8-2024
March	2-09-2024	2-13-2024	3-07-2024
April	3-15-2024	3-18-2024*	4-11-2024
May	4-12-2024	4-16-2024*	5-9-2024
June	5-17-2024	5-20-2024	6-13-2024
July	6-14-2024	6-17-2024*	7-11-2024
August	7-12-2024	7-15-2024	8-8-2024
September	8-16-2024	8-19-2024	9-12-2024
October	9-13-2024	9-16-2024	10-10-2024
November	10-11-2024	10-15-2024*	11-14-2024
December	11-15-2024	11-18-2024	12-12-2024

**The deadline date has been adjusted to accommodate Holiday*

**ZONING BOARD OF APPEALS
2024 MEETING & APPLICATION DEADLINE SCHEDULE**

MONTH	APPLICATION DEADLINE	MEETING DATE
January	12-29-2023	1-24-2024
February	2-2-2024	2-28-2024
March	3-1-2024	3-27-2024
April	3-29-2024	4-24-2024
May	4-26-2024	5-22-2024*
June	5-31-2024	6-26-2024
July	6-28-2024	7-24-2024
August	7-26-2024	8-21-2024*
September	8-30-2024	9-25-2024
October	9-27-2024	10-23-2024
November	10-25-2024	11-20-2024*
December	11-22-2024	12-18-2024*

**These dates have been adjusted to accommodate Holidays*



**VARIANCE APPLICATION - PRACTICAL DIFFICULTY
ZONING BOARD OF APPEALS
TOWN OF GRAY MAINE**

For Office Use Only
 Date Submitted: 10/10/23
 Tent. Sched. for:
 Amount Paid: \$ 500 *pd 10/13/23*

PROPERTY INFORMATION			
Property Location/Address	<u>59 Ptld Rd</u>	Property Map/Lot	<u>051 .032 .022 .000</u>
Zoning District	<u>Ptld Rd Comm.</u>	Lot Acreage	<u>1.9</u>
Owner Name	<u>Loon Island</u>	Owner Phone Number	<u>207-831-1030</u>
Number of Dwelling Units			

APPLICANT			
Name (IF different than owner)		Email Address	<u>Will@loonislandproperties.com</u>
Mailing Address	<u>P.O. Box 235 Cumberland Me</u>	Contact Phone Number	<u>207-831-1030</u>
Mailing City/State/Zip	<u>04021</u>	Alternate Phone Number	

VARIANCE INFORMATION

Per Gray Zoning Ordinance 402.9.2.B.3:
Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- No other feasible alternative to a variance is available to the petitioner;
- The granting of a variance will not unreasonably adversely affect the natural environment; and
- The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.
 As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Describe request (description may be attached separately- plot plan/site map required to be attached)

Sign Variance For proposed sign.

	Current Requirement	Currently Existing	Proposed
Front Setback			
Rear Setback			
Side Setback			
Other Setback (describe)			
Max. Lot Coverage			
Min. Lot Area			
Min. Street Frontage			
Other (describe)			

CRITERIA- BRIEFLY DESCRIBE HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING:

a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

The sign is existing.

b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

Correct

c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;

Correct.

d. No other feasible alternative to a variance is available to the petitioner;

Correct.

e. The granting of a variance will not unreasonably adversely affect the natural environment; and

Correct.

f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

Correct

Per Gray Zoning Ordinance 402.92.B.4:

Variance Review Criteria: In hearing variance appeals under this section, the Board of Appeals shall determine that the applicant has demonstrated that all of the undue hardship or practical difficulty criteria in sub-Sections 2 and 3 above have been met. Additionally, the Board shall consider the following criteria in its decision to grant any variances or impose conditions:

- a. What effect will be proposed variance have on the prevailing character of the area?
- b. Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?
- c. Will the proposed variance create drainage, erosion or flooding problems?
- d. Will the proposed variance increase water pollution?
- e. Will the proposed variance generate vehicular traffic, access circulation or parking conditions which create hazardous situations?
- f. Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?
- g. Will the proposed variance create to any degree nuisances to abutting property owners?
- h. Is the variance request the least modification of the Zoning Regulations necessary to afford relief?
- i. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

PLEASE REFER TO THE CURRENT FEE SCHEDULE FOR APPLICABLE FEES TO INCLUDE REQUIRED ADVERTISING AND ABUTTER NOTIFICATIONS

Applicant Signature

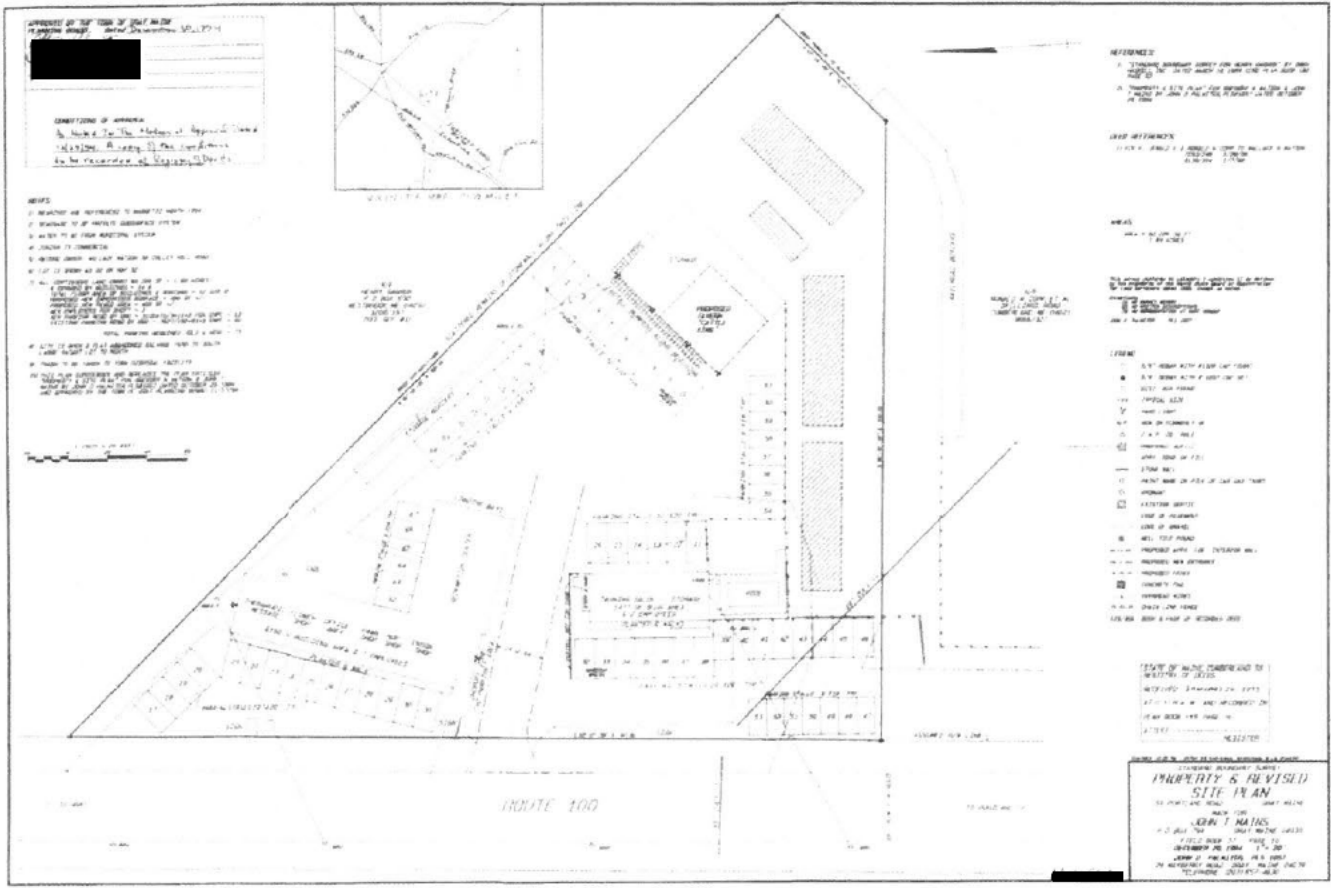


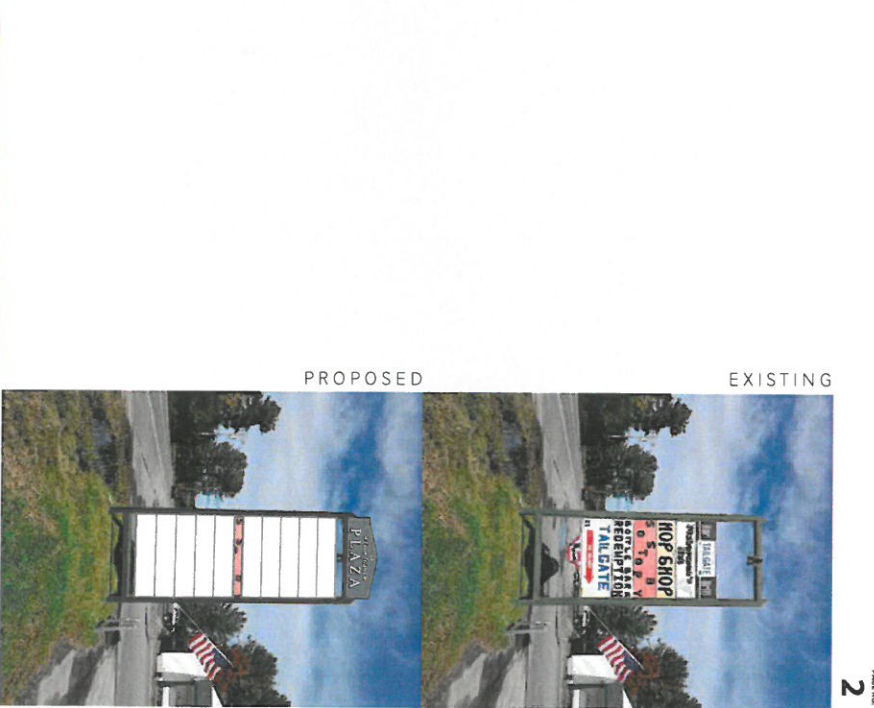
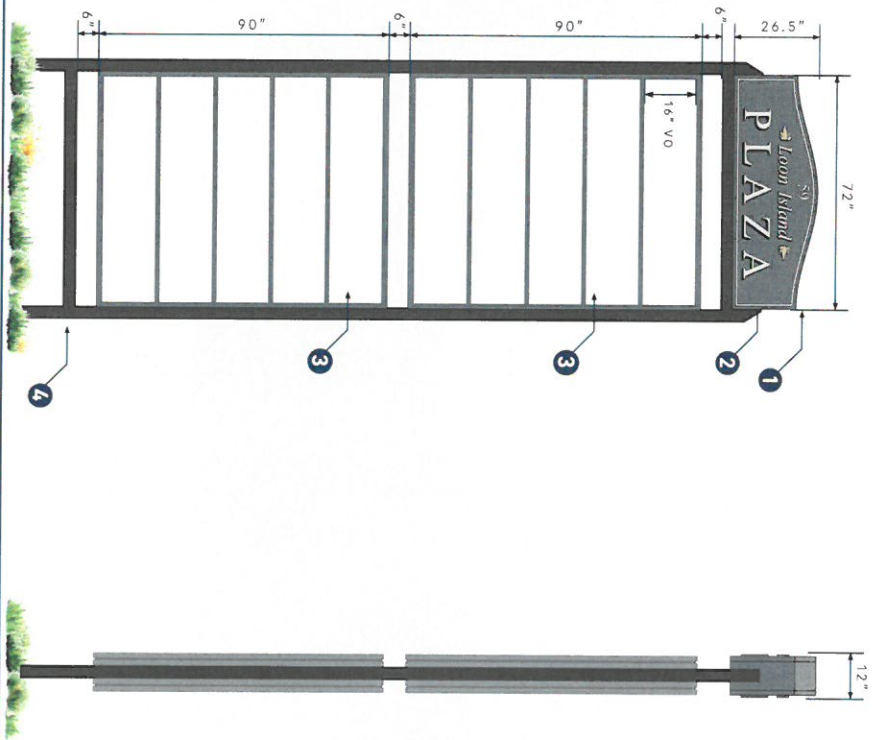
Printed Name

William Boyle

Date

10/10/23





NEW PYLON SIGN
 New double sided, internally illuminated pylon sign.

- MATERIALS**
- 1 Custom Fabricated cabinet with routed face, PTM Pacific Blue. Internally illuminated LED.
 - 2 Face routed with 1/2" acrylic push through letters, cut vinyl application of all details.
 - 3 SignComp® Medium body cabinet with 1-1/2" retainers, PTM Pacific Blue. Acrylic faces with translucent cut vinyl application for tenants.
 - 4 Existing 4x4 steel posts with angular detail at top, PTM Dark Slate.

- FINISH / COLOR**
- Matthews® Dark Slate
 - PANTONE® 431c / to match Pacific Blue Siding
 - White Acrylic
 - PANTONE® Warm Gray 1c / to match Granite Gray siding



2 Kenon Drive, Ste 4
 Westbrook, Maine 04092
 207.784.6111
<http://www.burrsgns.com>
info@burrsgns.com



CLIENT:
 Loon Island Properties

ADDRESS:
 15 Main St & 59 Portland Rd
 Gray, ME 04039

PROJECT MANAGER:
 Drew Sebin

DESIGNER:
 Brandon Crowmover

DATE:
 08.09.23

Approved by: _____

Date: _____

These plans are the exclusive property of Burr Signs and are the result of the original amount of its employees. They are submitted to Burr Signs' client for the sole purpose of consideration of whether to purchase these plans or to purchase from Burr Signs a sign manufactured according to these plans.

Reproduction or alteration of these plans to anyone other than employees of Burr Signs, or use of these plans to construct a sign similar to the one shown here, without the written consent of Burr Signs, is prohibited. Burr Signs reserves the right to be reimbursed \$1500 in compensation for time & effort expended in creating these plans.

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**VARIANCE APPLICATION - PRACTICAL DIFFICULTY
ZONING BOARD OF APPEALS
TOWN OF GRAY MAINE**

For Office Use Only
 Date Submitted: 10/10/23
 Tent. Sched. for: _____
 Amount Paid: \$500 *VS* 10/13/23

PROPERTY INFORMATION

Property Location/Address	<u>1315 17 Main St</u>	Property Map/Lot	<u>043-402-053-000</u>
Zoning District	<u>Village Center</u>	Lot Acreage	<u>1.4</u>
Owner Name	<u>Loon Island</u>	Owner Phone Number	<u>207-831-1030</u>
Number of Dwelling Units			

APPLICANT

Name (IF different than owner)		Email Address	<u>W.11@loonislandproperties.com</u>
Mailing Address	<u>P.O. Box 235</u>	Contact Phone Number	<u>207-831-1030</u>
Mailing City/State/Zip	<u>Cumberland Me 04021</u>	Alternate Phone Number	

VARIANCE INFORMATION

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- The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- No other feasible alternative to a variance is available to the petitioner;
- The granting of a variance will not unreasonably adversely affect the natural environment; and
- The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.
 As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Describe request (description may be attached separately- plot plan/site map required to be attached)
11 Building signs to be replaced.
2nd Entrance sign.

	Current Requirement	Currently Existing	Proposed
Front Setback			
Rear Setback			
Side Setback			
Other Setback (describe)			
Max. Lot Coverage			
Min. Lot Area			
Min. Street Frontage			
Other (describe)			

CRITERIA- BRIEFLY DESCRIBE HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING:

a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

Sign Size, number of tenants, building size

b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

Correct.

c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;

Replacing existing signs.

d. No other feasible alternative to a variance is available to the petitioner;

Correct.

e. The granting of a variance will not unreasonably adversely affect the natural environment; and

Correct.

f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

Correct

Per Gray Zoning Ordinance 402.9.2.B.4:

Variance Review Criteria: In hearing variance appeals under this section, the Board of Appeals shall determine that the applicant has demonstrated that all of the undue hardship or practical difficulty criteria in sub-Sections 2 and 3 above have been met. Additionally, the Board shall consider the following criteria in its decision to grant any variances or impose conditions:

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- b. Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?
- c. Will the proposed variance create drainage, erosion or flooding problems?
- d. Will the proposed variance increase water pollution?
- e. Will the proposed variance generate vehicular traffic, access circulation or parking conditions which create hazardous situations?
- f. Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?
- g. Will the proposed variance create to any degree nuisances to abutting property owners?
- h. Is the variance request the least modification of the Zoning Regulations necessary to afford relief?
- i. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

PLEASE REFER TO THE CURRENT FEE SCHEDULE FOR APPLICABLE FEES TO INCLUDE REQUIRED ADVERTISING AND ABUTTER NOTIFICATIONS

Applicant Signature

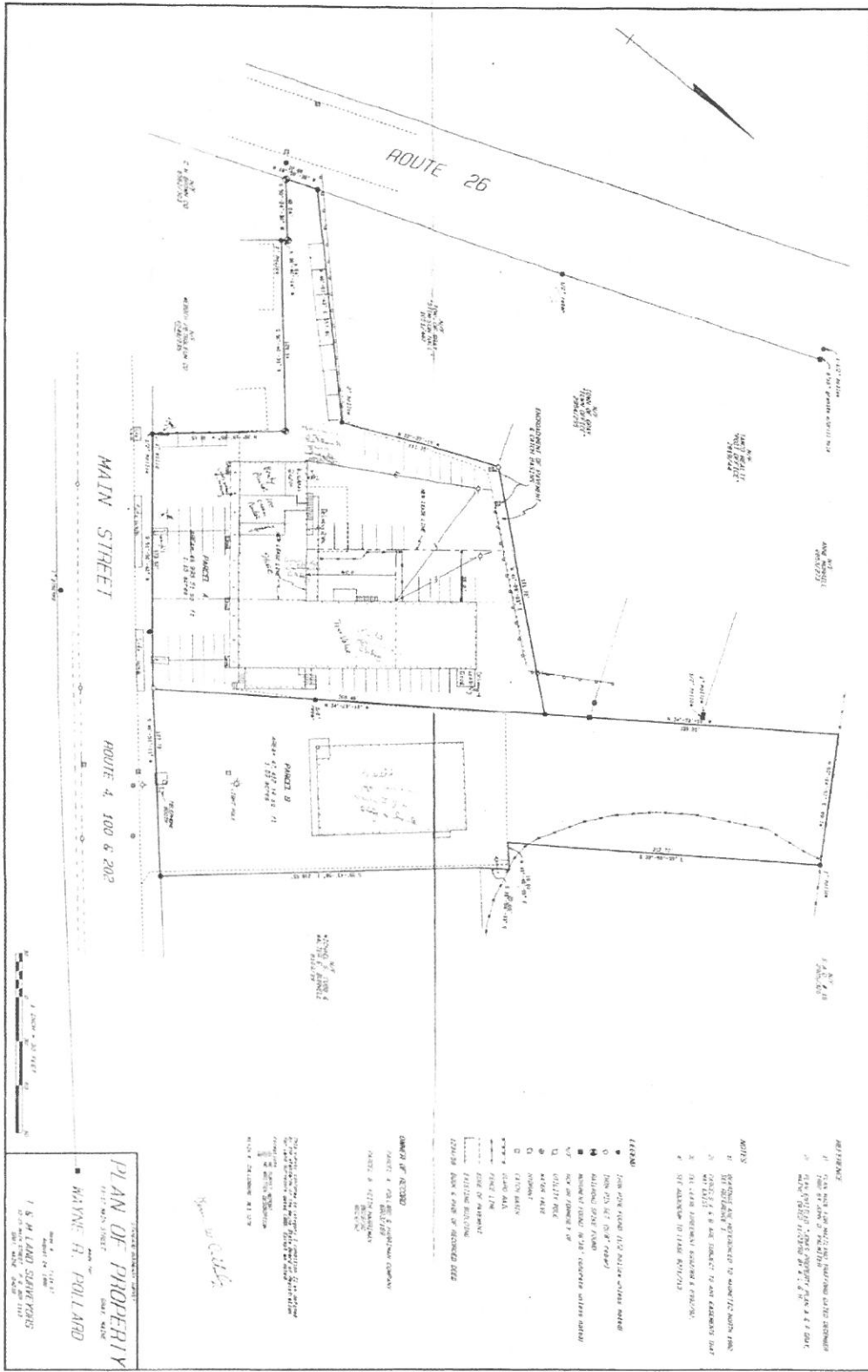


Printed Name

William Boyle

Date

10/10/23



NOTES

1. THIS PLAN IS THE PROPERTY OF THE SURVEYOR AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF THE SURVEYOR.
2. THIS PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSE THAN THAT FOR WHICH IT WAS PREPARED.
3. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND IT TO BE ACCURATELY REPRESENTED ON THIS PLAN.
4. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND IT TO BE ACCURATELY REPRESENTED ON THIS PLAN.

LEGEND

- EXISTING DRIVE
- EXISTING SIDEWALK
- EXISTING BUILDING
- ▨ EXISTING DRIVE
- ▩ EXISTING SIDEWALK
- ▧ EXISTING BUILDING
- ▦ EXISTING DRIVE
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- ▂ EXISTING BUILDING
- ▁ EXISTING DRIVE

OWNER OF RECORD

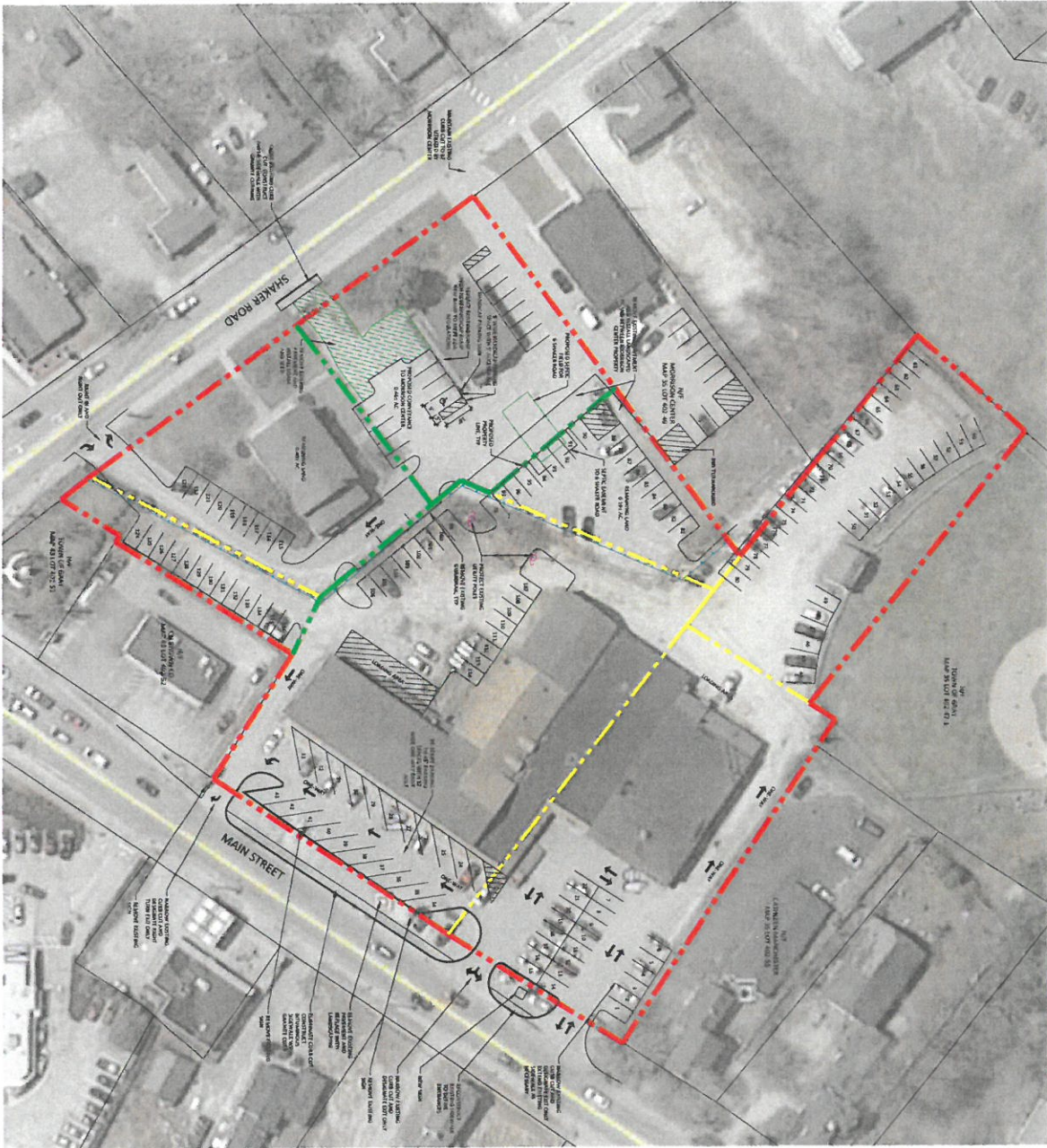
WAYNE R. POLLARD
 1 & 24 LAND SURVEYORS
 1000 N. 10TH ST.
 SUITE 100
 DENVER, CO 80202

PLAN OF PROPERTY

WAYNE R. POLLARD

1 & 24 LAND SURVEYORS

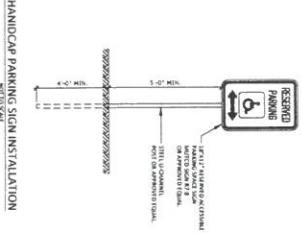
1000 N. 10TH ST.
 SUITE 100
 DENVER, CO 80202



GENERAL NOTES:
 1. ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES.
 2. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS SHALL BE TO CENTERLINE UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
 5. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE SIDEWALK UNLESS OTHERWISE NOTED.
 6. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE DRIVEWAY UNLESS OTHERWISE NOTED.
 7. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE LOT UNLESS OTHERWISE NOTED.
 8. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE BUILDING UNLESS OTHERWISE NOTED.
 9. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE CURB UNLESS OTHERWISE NOTED.
 10. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE DRIVEWAY UNLESS OTHERWISE NOTED.



NOTES:
 1. ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES.
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 9. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE CURB UNLESS OTHERWISE NOTED.
 10. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE DRIVEWAY UNLESS OTHERWISE NOTED.



200550
 JOB NUMBER
 1" = 30'
 3/17/2021
 DATE
 SHEET 1 OF 1
 SK-1

SKETCH PLAN
 GRAY PROPERTIES
 MAIN STREET & SHAKER ROAD
 GREAT BRIDGE
 FOR
 LOON ISLAND, LLC
 P.O. BOX 231
 CHIMBERLAND, MAINE 04221

REV.	DATE	BY	DESCRIPTION
A	11-4-20	JHM	ISSUED FOR PERMITTING
B	7-23-21	JHM	REVISED LOT TO BE COMPLETED
C	7-27-21	JHM	NUMBERED PARKING SPACES

DM ROMA
 CONSULTING ENGINEERS
 P.O. BOX 1116
 WINDHAM, ME 04062
 (207) 510-0506

PERMITTING PLAN
 NOT FOR
 CONSTRUCTION

SQUARE FOOTAGE - 16ft²



PROPOSED



NEW BUILDING CABINETS
 New cabinets on roof above each tenant.
Qty: 7

MATERIALS

- 1 SignComp® Single Face Body cabinet, PTM Dark Slate. Internally illuminated LED.
- 2 Acrylic Faces with curvynyl application for each tenant.
- 3 Custom fabricated mounting brackets using 2x2 stock and 1/4" plate.

FINISH / COLOR

- Matthews® Dark Slate
- PANTONE® 7544c / to match Pacific Blue siding
- White Acrylic



2 Burn Drive, Stop 4
 Westbrook, Maine 04092
 207.596.6111
<http://www.burnsigns.com>
Info@burnsigns.com



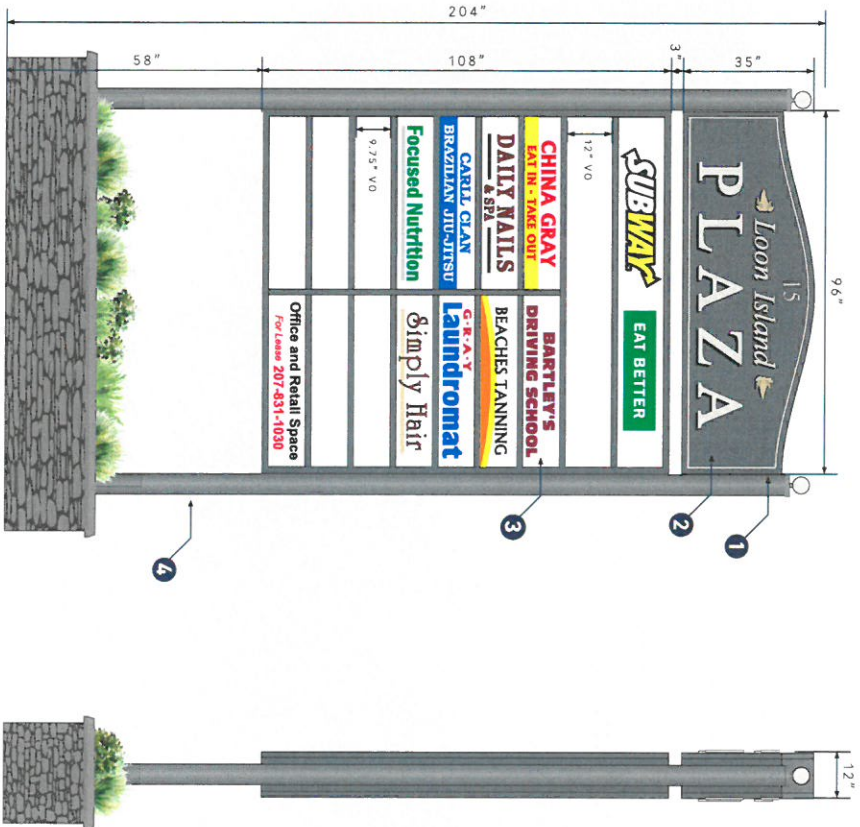
CLIENT:
 Loon Island Properties
ADDRESS:
 15 Main St & 59 Portland Rd
 Gray, ME 04039

PROJECT MANAGER:
 Drew Serbin
DESIGNER:
 Brandon Crowover
DATE:
 08.09.23

Approved by: _____
 Date: _____

These plans are the exclusive property of Burns Signs and are the result of the original artwork of its employees. They are submitted to Burn Sign® client for the sole purpose of consideration of whether to purchase these plans or to purchase from Burn Sign a sign manufactured according to these plans. Distribution or exhibition of these plans to anyone other than employees of said client or one of their clients to construct a sign similar to the one embodied herein, is expressly forbidden. In the event that such exhibition or construction occurs, Burn Signs expects to be reimbursed \$1500 in compensation for time & effort expended in creating this plan. ©2023 reproduction in whole or part is prohibited without permission from Burn Signs - burnsigns.com

SQUARE FOOTAGE - 95.33ft²



Sheet No. 1

NEW PYLON SIGN
 New double sided, internally illuminated pylon sign.
 Qty: 1

- MATERIALS**
- 1 Custom fabricated cabinet with routed face, PTM Pacific Blue. Internally illuminated LED.
 - 2 Face routed with 1/2" acrylic push through letters, cut vinyl application of all details.
 - 3 SignComp® Medium body cabinet with 1-1/2" retainers, PTM Pacific Blue. Acrylic faces with translucent cut vinyl application for tenants.
 - 4 5" round steel posts with ball finial at top, PTM Pacific Blue. Direct buried in concrete with stone planter provided by others.

FINISH / COLOR
 PANTONE: Warm Gray 1c / to match Granite Gray siding
 PANTONE: 431c / to match Pacific Blue siding
 White Acrylic



2 Keron Drive, Stop 4
 Westbrook, Maine 04092
 207.394.6111
 http://www.burrsigns.com
 Info@burrsigns.com



CLIENT:
 Loon Island Properties

ADDRESS:
 15 Main St & 59 Portland Rd
 Gray, ME 04039

PROJECT MANAGER:
 Drew Serbin

DESIGNER:
 Brandon Crowmover

DATE:
 08.09.23

Approved by: _____
 Date: _____

These plans are the exclusive property of Burr Signs and are the result of the original artwork of its employees. They are submitted to Burr Signs' client for the sole purpose of consideration of whether to purchase these plans or to purchase from Burr Signs a sign manufactured according to these plans.
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NEAGLE LAW LLC

76 Orchard Road, Cumberland, ME 04021 · (207) 805-4211

Chris Neagle, attorney
chris@neaglelaw.com

Amy Iris, paralegal
amy@neaglelaw.com

Hand Delivered

October 12, 2023

Zoning Board of Appeals
Town of Gray
Gray Town Office
24 Main Street
Gray, ME 04039

re: Chapman-Rand Appeal of CEO Permit Denial

Greetings:

On behalf of Bill Chapman and Greg Rand, the following documents are enclosed.

1. Two permission statements allowing me to represent them.
2. An application for an administrative appeal.
3. Two alternative variance applications.
4. A check for \$1,000, \$500 for each appeal. If the ZBA never considers the variance applications, can the \$500 be refunded?
5. Ten copies of a memorandum and exhibits supporting the appeals.

I will also send pdf copies of these documents to the Gray Code Enforcement Officer. Contact me with any questions.



Chris Neagle

enclosures
cc Bill Chapman and Greg Rand (email)

NEAGLE LAW
OPERATING ACCOUNT
76 ORCHARD ROAD
CUMBERLAND, ME 04021

52-7439/2112

331

Date OCT 12, 2023

Pay to the
Order of

TOWN OF GRAY

\$ 1,000 ⁰⁰/₁₀₀

ONE THOUSAND DOLLARS ⁰⁰/₁₀₀

Dollars



Security Features
Available
Online and In-Branch

Bangor
Savings Bank

Memo

Chapman / Land

⑆ 211274382⑆ 4022488158⑆

MP

PERMISSION TO REPRESENT PROPERTY OWNER

PROPERTY & OWNER INFO			
Property Location/Address	Lewiston Road	Property Map/Lot	28 - 25 - 30 - 2
Zoning District	Commercial	Lot Acreage	15.43
Number of Dwelling Units		Deed Reference	34280-12
Owner Name	William P. Chapman	Owner Phone Number	

I William P. Chapman, residing at 1124 Castleman Circle
Dunedin, FL 34698, am the deeded owner of the above referenced property.

I authorize Chris Neagle to represent me & the above referenced property regarding application for driveway entrance permit

Authorization extended to: (Check all that apply)

- Submit application for the Zoning Board of Appeals
- Present case at the scheduled Zoning Board of Appeals / Planning Board Meeting
- Other (please describe) _____

REPRESENTATIVE INFO			
Name of Individual	Chris Neagle	Email Address	chris@neaglelaw.com
Company Name (if applicable)	Neagle Law, LLC	Primary Phone Number	207-805-4211
Mailing Address	76 Orchard Rd	Alternate Phone Number	
Mailing City/State/Zip	Cumberland ME 04021	Other?	

William P. Chapman

Printed Name

Signature

Date

9/21/23

bchapma8@gmail.com

P.O. Box 983 Gray, ME 04039

PERMISSION TO REPRESENT PROPERTY OWNER

PROPERTY & OWNER INFO			
Property Location/Address	Lewiston Road	Property Map/Lot	28 . 25 . 30 . 2
Zoning District	Commercial	Lot Acreage	15.43
Number of Dwelling Units		Deed Reference	34280-12
Owner Name	Gregory Rand	Owner Phone Number	

I Gregory S. Rand, residing at 5 Braysley Way, Gray ME 04039
 _____, am the deeded owner of the above referenced property.

I authorize Chris Neagle to represent me & the above referenced
 property regarding application for driveway entrance permit

Authorization extended to: (Check all that apply)

- Submit application for the Zoning Board of Appeals
- Present case at the scheduled Zoning Board of Appeals / Planning Board Meeting
- Other (please describe) _____

REPRESENTATIVE INFO			
Name of Individual	Chris Neagle	Email Address	chris@neaglelaw.com
Company Name (if applicable)	Neagle Law, LLC	Primary Phone Number	207-805-4211
Mailing Address	76 Orchard Rd	Alternate Phone Number	
Mailing City/State/Zip	Cumberland ME 04021	Other?	

Gregory S. Rand

Printed Name

Signature

9-22-23

Date



**VARIANCE APPLICATION -PRACTICAL DIFFICULTY
ZONING BOARD OF APPEALS
TOWN OF GRAY MAINE**

For Office Use Only
Date Submitted: _____
Tent. Sched. for: _____
Amount Paid: _____

PROPERTY INFORMATION

Property Location/Address	Lewiston	Property Map/Lot	28 - 25 - 30 - 2
Zoning District	Commercial	Lot Acreage	15.43
Owner Name	William P. Chapman /Gregory Rand		
Number of Dwelling Units	1	Owner Phone Number	

APPLICANT

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

VARIANCE INFORMATION

Per Gray Zoning Ordinance 402.9.2.B.3:

Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Describe request (description may be attached separately- plot plan/site map required to be attached)

	Current Requirement	Currently Existing	Proposed
Front Setback			
Rear Setback			
Side Setback			
Other Setback (describe)			
Max. Lot Coverage	65%	65% +	add 6.2%
Min. Lot Area			
Min. Street Frontage			
Other (describe)			

CRITERIA- BRIEFLY DESCRIBE HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

Per Gray Zoning Ordinance 402.9.2.B.4:

Variance Review Criteria: In hearing variance appeals under this section, the Board of Appeals shall determine that the applicant has demonstrated that all of the undue hardship or practical difficulty criteria in sub-Sections 2 and 3 above have been met. Additionally, the Board shall consider the following criteria in its decision to grant any variances or impose conditions:

- a. What effect will be proposed variance have on the prevailing character of the area?
- b. Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?
- c. Will the proposed variance create drainage, erosion or flooding problems?
- d. Will the proposed variance increase water pollution?
- e. Will the proposed variance generate vehicular traffic, access circulation or parking conditions which create hazardous situations?
- f. Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?
- g. Will the proposed variance create to any degree nuisances to abutting property owners?
- h. Is the variance request the least modification of the Zoning Regulations necessary to afford relief?
- i. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

PLEASE REFER TO THE CURRENT FEE SCHEDULE FOR APPLICABLE FEES TO INCLUDE REQUIRED ADVERTISING AND ABUTTER NOTIFICATIONS

Applicant Signature



Printed Name
Chris Neagle

Date
10-12-23

NEAGLE LAW LLC

76 Orchard Road, Cumberland, ME 04021 · (207) 805-4211

Chris Neagle, attorney
chris@neaglelaw.com

Amy Iris, paralegal
amy@neaglelaw.com

TO: Town of Gray Zoning Board of Appeals

FROM: Chris Neagle, Esq., attorney for Gregory S. Rand and William P. Chapman



DATE: October 12, 2023

RE: Administrative Appeal of Denial of Driveway/Entrance Permit Application,
Alternative Variance Requests from Impervious Lot Coverage Limit
Lewiston Road (Route 100), Property Map 28, Lot 25-30-3

Summary of Facts

The Gray Code Enforcement Officer (“CEO”) has violated the constitutional rights of Gregory S. Rand and William P. Chapman (“Applicants”). The CEO denied their 2023 driveway/entrance permit application to develop a driveway to a residence in their 60-foot wide access easement across adjacent land owned by Grayland Holdings, LCC (“Grayland”- owned by Scott Liberty). Grayland created the Applicants’ access easement in 2020 in exchange for a release of a different access easement held by the Applicants that would have interfered with a proposed Grayland project.

In 2022, the Planning Board approved a large commercial project for Grayland on Lot 3 of its new subdivision. The Planning Board apparently allowed Grayland to cover the maximum of 65% of its new Lot 3 with impervious surfaces. However, the Grayland application *failed to disclose* the Applicants’ 2020 access easement and *failed to show it* on the proposed subdivision or site plans, as required by two ordinances. When the Gray Community Planner¹ learned of this problem in July of 2023, she told Scott Liberty that he had to return to the Planning Board to correct it. He didn’t.

¹ The Gray CEO was out on an extended leave.

In September of 2023, the CEO determined the Applicants could not build a driveway in their 2020 access easement on Lot 3 because any driveway would add to the impervious surface on Grayland's lot that the CEO believed was already at 65%. That decision is simply unfair.

To make matters worse for the Applicants, the Town is now considering amending the Commercial Zoning District to prevent residential uses. That change means the Applicants may need to be able to develop a driveway or private road to a commercial development someday.

Scott Liberty's error should be Scott's problem, not the Applicants' problem. The Applicants request that the Zoning Board of Appeals uphold the appeal, order the CEO to issue the driveway/entrance permit to the Applicants and recommend that the CEO follow up on the Gray Community Planner's July 2023 email and demand that Liberty return to the Planning Board to provide reliable information on the amount of existing lot coverage, show the 2020 access easement on the subdivision and site plans, allocate impervious surface area for a driveway in the 2020 access easement, and develop new plans showing coverage of only 65% of Lot 3.

Instead of making Scott Liberty correct his error and go back to the Planning Board, the *CEO has requested* that the Applicants seek a variance from the ZBA from the impervious surface lot coverage limit. The primary problem with that approach is that no one knows how much of Lot 3 has impervious surfaces today. *Scott Liberty has written to Bill Chapman that Lot 3 is now more than 70% covered with impervious surfaces.*

In the alternative, the Applicants also seek a variance from the impervious surface lot coverage limits.

Administrative Appeal

Permit History

The Applicants filed the June 28, 2023 Driveway/Entrance Permit Application. See Exhibit 6, pp 10, 11.² They have supplemented their application in this appeal with information from the MeDOT and an engineer's plan prepared pursuant to the Gray Street Ordinance. See Exhibit 6, pp 12, 13.

The Applicants also filed an August 2023 MeDEP Permit by Rule notification for a minor stream crossing with the CEO. See Exhibit 7, page 14. It was amended an October 2023 MeDEP Permit by Rule notification for two minor stream crossings because the August notification showed an incorrect location of the driveway. See Exhibit 8, page 20.³ On October 10, 2023, the MeDEP acknowledged that the October notification was acceptable. See Exhibit 19, page 61.

The CEO was out of the office dealing with important family matters for some time. On September 18, 2023, she denied the application because of the limits to the amount of impervious surface on Lot 3. See the denial letter. Exhibit 9, page 27.

Applicants' Land

The applicants own about 24 acres of land on Route 100 shown on the 2018 subdivision plan of Trestle Way Acres attached as Exhibit 1, page 1. Their 2017 deed is attached as Exhibit 13, page 33. They conveyed the two lots near Route 100 to third parties in 2017 and 2018. They now own the remaining parcel of land, shown as Parcels A, B and C, as a single lot.

The Applicants' current project is to build a new residence on Parcel C with access directly onto the Lewiston Road over the 2020 access easement over the adjacent Grayland project. The Planning Board specifically authorized the separate entrance in Note 16 of the 2018 plan. See Exhibit 1, page 2.

² The Planning Board only approved the two lots with residences at the intersection of Trestle Way and the Lewiston Road. The first lot was sold in 2017 and the second lot was sold on October 19, 2018. What are shown as Parcels A, B and C were not approved as separate lots. However, on October 20, 2023, Parcel C will become separate lot for subdivision purposes because the applicants do not own Trestle Way.

³ There is table of contents for the exhibits after page 11 of the memo.

Their land was benefitted by a vague 1906 access easement to Route 100, highlighted in yellow on Exhibit 1, over what was then adjacent land of 100 Lewiston Road LLC. See their deed at Exhibit 13, page 37.

Adjacent Land of Scott Liberty

In 2020, Scott Liberty formed two LLCs to purchase the adjacent land from 100 Lewiston Road LLC. He had a 2020 Plan of Lot A and Lot B created from the land later recorded in Plan Book 220, Page 310. See Exhibit 2, Page 3. Odessa Properties, LLC acquired Lot B, and Grayland Properties LLC acquired Lot A⁴ *with the image of the 2020 access easement on it.*

The Liberty LLCs wanted to develop Lot A and Lot B, but the vague 1906 easement held by the Applicants created issues for the project. In exchange for a release of the 1906 easement from the Applicants, in 2020, *Grayland created the new 60-foot wide access easement for the Applicants with a September 18, 2020 Easement Deed.* The two deeds trading easements are attached as Exhibit 3, pages 4 and 5.

Scott Liberty's Adjacent 2022 Project

In March of 2022, Scott Liberty filed an application with the Planning Board for both site plan approval and subdivision approval of the adjacent land owned by his two LLCs. See Section 1 of his application and two of the plans filed with it, attached as Exhibit 15, pages 49 and 50, one of which is also Exhibit 4.

The Section 1 checklist requires the "Easement location, dimensions, documents" be provided. See page 47 of Exhibit 15. *Scott Liberty did not include the 2020 access easement held by the Applicants with his application.* He obviously knew about it due to the 2020 exchange of easement rights that allowed him to develop the site.

Section 402.10.10 of the Gray Zoning Ordinance describes required submissions for Site Plan Review. See Exhibit 16, page 52. Subsection A describes requirements for the site inventory plan that include all existing *easements*. Page 54. The Liberty survey plan (part of Exhibit 15) does not show the Applicants' 60-foot wide access easement.

⁴ See the 2020 deeds attached as Exhibit 14, pages 38 and 41.

Section 401.7.2 of the Gray Subdivision Ordinance describes requirements for the preliminary plan to be reviewed by the Planning Board. Subsection (C)(15) requires the location, name and width of all *easements* on the site. See Exhibit 17, page 55. The proposed Liberty subdivision plan (Exhibit 4, a part of Exhibit 15) also does not show the Applicants' 60-foot wide access easement on Lot 3.

In 2022, Scott Liberty failed to make the required disclosure of an important easement he obviously knew about to the Planning Board. As a result, the recorded plan signed by the Planning Board (Exhibit 5, page 9) did not show the 2020 access easement. *The Planning Board was unable to consider the impact of a paved driveway being constructed on Lot 3 when it considered impervious surface lot coverage issues.* The Planning Board is not to blame.

In 2023, Scott Liberty failed to comply with the Community Planner's request that he return to the Planning Board with complete information so it could consider the impact of the omitted 2020 access easement. See Exhibit 11, page 30.

Grounds for Appeal

The CEO denied the permit application because the driveway pavement would cause the impervious surface on Liberty's Lot 3 to exceed the 65% limit. See highlighted language on page 2 of her Exhibit 9 denial letter.

1. Unconstitutional Taking of Private Property. Neither Scott Liberty's LLCs, the Town of Gray Planning Board, nor the Town of Gray CEO have any lawful authority to prevent the Applicants from exercising their 2020 private access easement rights.

Both the federal and state constitutions prevent any governmental authority from taking away private property rights without compensation. The Town of Gray only has the authority to take private property by eminent domain, and only then for public purposes. The Liberty project is a private business.

The Applicants may have received notice of the 2022 Planning Board meeting to approve the Grayland project, but they generally knew about the project and had no serious concerns with it. They were under no obligation to attend the Planning Board meeting to make sure their easement rights were protected. Any estoppel defense asserted by the Town would fail.

The Town could have brought an enforcement action against Scott Liberty for violating the Gray Zoning Ordinance. Instead, it prevented the Applicants from using an access easement conveyed to them by Scott Liberty's LLC. That decision was fundamentally unfair.

The permit denial by the CEO violated the Applicants' civil rights, including their right to due process, when the CEO prevented the Applicants from exercising their private easement rights for a driveway to a single family residence. As a result, the Applicants now have several causes of action under both federal and state law for money damages. If the Zoning Board of Appeals denies the Applicants' appeal, then in addition to filing a Rule 80B appeal of the denial, the Applicants will be forced to assert these claims against the Town of Gray in court.

2. The CEO had No Solid Evidence of Lot Coverage. The CEO relied on a letter from Scott Liberty's engineer stating that a new driveway would "likely" cause Lot 3 to fall out of compliance due to too much impervious surface area on Lot 3. See Exhibit 10, page 29. Engineers seldom deal in probabilities. *The engineer knew that Liberty had already developed 70% of Lot 3 with impervious surfaces.* See Liberty's July 2023 text to Bill Chapman, attached as Exhibit 12, page 32, which was sent to the CEO on September 9, 2023.

3. Unanswered questions. These facts create many interesting questions:

a. The approved site plan apparently allowed Grayland to cover Lot 3 with the *maximum* of 65% of impervious surfaces. Before the CEO issued occupancy permits for Liberty's new buildings, why didn't the CEO ask for an "as built" plan showing the lot coverage as developed?

b. The Town learned that the Applicants held an access easement on the Liberty project in the summer of 2023⁵, that was not shown on the approved Liberty subdivision and site plans. Why didn't the Town set a deadline for Scott Liberty to go back to the Planning Board to amend his subdivision and site plans? Why didn't the Town demand information on "as built" lot coverage? The Planning Board would likely have demanded that an impervious surface area allowance for the proposed new driveway in the 2020 access easement be included.

⁵ See email to the acting Gray Town Planner attached as Exhibit 11, page 30 which is also listed in the Exhibit 9 denial letter.

c. Now that the CEO has evidence directly from Scott Liberty (Exhibit 12, page 32) that his Lot 3 project has already exceeded the 65% impervious surface lot coverage limit, what will the CEO do about it? See the suggested action in paragraph (b) above. Instead, the CEO apparently has no plans to take any action against Liberty and wants the Applicants to seek a variance.

Summary and Conclusion

Scott Liberty created this mess by failing to file a complete application showing the existence of the Applicant's 2020 60-foot wide access easement as required by two Gray ordinances. He then overdeveloped his lot according to his own words. He ignored a request from the Community Planner to return to the Planning Board. Yet he continues to collect rent from his tenants and the officials at Town Hall do nothing about it.

Meanwhile, the Town's failure to address Liberty's deception caused the Town to prevent the Applicants from exercising their private property rights when its CEO denied the Applicants' driveway permit application in violation of their constitutional rights.

The ZBA now has two choices: (1) grant the appeal, direct the CEO to issue the driveway/entrance permit to the Applicants *and* recommend that the CEO force Scott Liberty to get a revised subdivision plan approved by the Planning Board allowing for lot coverage on the Applicants' access easement or face losing his Lot 3 occupancy permits, or (2) hire lawyers to defend the CEO's flawed decision and the Applicant's civil rights claims in Superior Court.

Variance Request

Background

The Applicants incorporate the narrative from their administrative appeal into this alternate request. The Applicants request that they be given a variance from impervious surface lot coverage calculations.

The Applicants' land is in the Commercial Zoning District and section 402.5.4 of the Gray Zoning Ordinance sets a maximum of 65% of lot coverage with impervious surfaces. The Applicants were told by Scott Liberty that more than 70% of Grayland LLC's Lot 3 is already covered by impervious surfaces. See Exhibit 12, page 32.

The proposed residential driveway is 18 feet wide. See Exhibit 1. However, as described above, the Applicants may be forced to develop their land for commercial purposes only. The minimum width of two-way operation driveways in the Commercial District is 24 feet.⁶ The minimum width of sub-collector streets allowed in subdivisions is 22 feet.⁷

A reasonable driveway that could be used for commercial activities could be as much as 30 feet wide with two 5-foot sidewalks, or 40 square feet of impervious surface per foot of driveway. The 2020 Easement is 109 feet long,⁸ meaning **4,360 square feet** of possible impervious surface. See Exhibit 5, page 17. Lot 3 contains *70,395 square feet*. See Exhibit 11, page 37. $4,360 \text{ divided by } 70,395 = 6.2\% \text{ of additional lot coverage}$.

No matter what the existing lot coverage is, the Applicants request a variance to cover up to another 4,360 square feet of Lot 3 with impervious surfaces within their 60 foot access easement on Grayland's Lot 3.

Variance Arguments

The Gray Zoning Ordinance describes two different kinds of variances and the Applicants meet the standards for both variances. Either variance is acceptable to the Applicants. The applicable review standards are:

Section 402.9.2(B)(2) Standard Variance

The Applicants must show that:

a. That the land in question cannot yield a reasonable return unless a variance is granted: The Applicants own a large C-shaped lot. The proposed residence will use the 2020 access easement for access to the Applicants' new residential project at the very north end of Parcel C. Trestle Way has only been developed with a reclaim gravel road and only as far as the two residences at the south end of the lot. See Exhibit 1, page 1. Before it can be extended, it needs to be improved to town standards. See Exhibit 1, Page 2, paragraph 16. Therefore, to use Trestle Way for access, the Applicants would need to build a 1,600 foot driveway from the new residence to Trestle Way, upgrade the first 400 feet of

⁶ Site Plan Review, Article 13, Section 402.10.11(B)(3).

⁷ Subdivision Ordinance, Table 401.13.16.16-2.

⁸ See the Exhibit 2 plan dimensions.

Trestle Way to town road standards, and build another 1,200 feet of new roadway to town road standards. Building this infrastructure for a single family residence is simply not feasible.

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:* The Planning Board action approving the Grayland project in 2022, which caused the CEO to deny the entrance permit application, is certainly a unique event.

c. *That the granting of a variance will not alter the essential character of the locality:* This section of the Lewiston Road (Route 100) is zoned commercial with mostly residences and several businesses. Adding a driveway to a residence will not affect the character of the locality.

d. *That the hardship is not the result of action taken by the applicant or a prior owner.* The Applicants did nothing wrong. The hardship is due to the error made by Scott Liberty, the Planning Board approval based on inaccurate information, and the CEO's decision not to challenge Scott Liberty's actions.

Section 402.9.2(B)(3): Practical Difficulty Appeal

a. *The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood:* Again, the Planning Board action causing the CEO to deny the entrance permit application is certainly a unique event.

b. *The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties:* Again, this section of the Lewiston Road (Route 100) is zoned commercial with mostly residences and several businesses. Adding a driveway to a residence will not affect the character of the neighborhood and will have no impact on the market value of abutting properties.

c. *The practical difficulty is not the result of action taken by the petitioner or a prior owner:* Again, the Applicants did nothing wrong. The practical difficulty is due to the error made by Scott Liberty, the Planning Board approval based on inaccurate information, and the CEO's decision not to challenge Scott Liberty's actions.

d. *No other feasible alternative to a variance is available to the petitioner:* The Applicants own a large C-shaped lot. The proposed residence will use the 2020 access easement for access to the Applicants' new residential project at the very north end of Parcel C. Trestle Way has only been developed with a reclaim gravel road and only as far as the two residences at the south end of the lot. See Exhibit 1, page 1. Before it can be extended, it needs to be improved to town standards. See Exhibit 1, Page 2, paragraph 16. Therefore, to use Trestle Road for access, the Applicants would need to build a 1,600 foot driveway from the new residence to Trestle Way, upgrade the first 400 feet of Trestle Way to town road standards, and build another 1,200 feet of new roadway to town road standards. Building this infrastructure for a single family residence is simply not feasible.

e. *The granting of a variance will not unreasonably adversely affect the natural environment:* The Applicants have a Permit by Rule from the Maine Department of Environmental Protection ("Maine DEP") under the Protection of Natural Resources Act ("NRPA"). Compliance with the NRPA assures that the natural environment will not be unreasonably adversely affected.

f. *The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.* The Gray Zoning Map is attached as Exhibit 18, page 60. The "x" shows the approximate location of the Applicants' land. No shoreland zoning areas are nearby.

Section 402.9.2(B)(4): Variance Review Criteria

a. *What effect will the proposed variance have on the prevailing character of the area?* As described above, none.

b. *Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?* No. The Applicants want to build a simple residential driveway.

c. *Will the proposed variance create drainage, erosion or flooding problems?* No. These issues are addressed in the Exhibits 7 and 8 MeDEP Permit by Rule applications.

d. *Will the proposed variance increase water pollution?* No. These issues are addressed in the Exhibit 7 and 8 MeDEP Permit by Rule applications.

e. *Will the proposed variance generate vehicular traffic, access, circulation or parking conditions which create hazardous situations?* No. A single driveway off the Lewiston Road where other driveways are located will not create a problem. Parking will be at the residence.

f. *Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?* The GZO has no performance standards for driveways.

g. *Will the proposed variance create to any degree nuisances to abutting property owners?* No. A residential driveway does not create a nuisance.

h. *Is the variance request the least modification of the Zoning Regulations necessary to afford relief?* Yes. The application only seeks a variance to allow for the construction of a 30 foot wide driveway with sidewalks if it is required for additional commercial development someday. Many commercial roadways are even wider.

i. *In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.* There are no conditions required.

Summary and Conclusion

The Applicants are stuck between the Town of Gray and Scott Liberty's LLC for no fault of their own. The Town has refused to enforce what is at best an "error" by Scott Liberty and the Town now refuses to recognize that it had no lawful authority to adversely affect private easements when it approved Grayland's project in 2022.

The Applicants respectfully request a regular or practical difficulty variance from the section 402.5.4 Gray Zoning Ordinance impervious surface lot coverage limits to add up to an additional 4,360 square feet of impervious surface to Grayland's Lot 3.

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Exhibit 5: Scott Liberty's 2022 approved plan.....	page 9.
Exhibit 6: 2023 Driveway/Entrance Permit Application and Supplements.....	page 10.
Exhibit 7: Applicants' August 2023 MeDEP Permit by Rule	page 14.
Exhibit 8: Applicants' Amended October 2023 MeDEP Permit by Rule	page 20.
Exhibit 9: 2023 Town of Gray denial letter.....	page 27.
Exhibit 10: Scott Liberty's 2023 engineer's letter	page 29.
Exhibit 11: Summer 2023 Gray community planner emails.....	page 30.
Exhibit 12: July 2023 Scott Liberty text to Bill Chapman.....	page 32.
Exhibit 13: Applicants' 2017 deed	page 33.
Exhibit 14: 2020 Grayland Holding, LLC & Odessa Properties, LLC deeds.....	page 38.
Exhibit 15: Scott Liberty's 2022 Planning Board application	page 44.
Exhibit 16: Town of Gray site plan review road standards	page 52.
Exhibit 17: Town of Gray subdivision ordinance road standards	page 55.
Exhibit 18: Town of Gray zoning map	page 60.
Exhibit 19: October 10, 2023 MeDEP Permit by Rule receipt.....	page 61.

PLAN BOOK 218 PAGE 445

Sept 2018

PLAN REFERENCES

1. "Boundary & Subdivision Survey on certain Block 1076, known as Block 1076, of the City of..."
2. "Plan of Lot 1 of Block 1076, known as Block 1076, of the City of..."
3. "Map of Block 1076, known as Block 1076, of the City of..."
4. "Map of Block 1076, known as Block 1076, of the City of..."
5. "Plan of Lot 1 of Block 1076, known as Block 1076, of the City of..."

NOTES

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NOTES

1. Owners of record are William P. Chapman & Gregory S. Rand by deed recorded in the Cumberland County Registry of Deeds in book 34,180 page 12.
2. All bearings are Magnetic of the year 1986 as per the plan in reference 4 and calculated from angles of an actual on the ground survey.
3. This property is shown as Lot 25-30 on the Town of Gray Tax Map 28.
4. There is a deeded right of way across land of 100 Lewiston Road , LLC as described in the deed recorded in book 791 page 298.
5. This property is in the Commercial Zoning District.
6. The topography shown on this plan is from the MEGIS LiDar.
7. Soils information is from Mark Hampton Associates, Inc.
8. These lots will be serviced by individual on site wells and septic systems.
9. This property does not fall within any Special Flood Hazard Zone as defined by FEMA.
10. There are no areas on or adjacent to this property listed to be preserved by the Maine Department of Inland Fisheries & Wildlife or the MDEP.
11. There are no areas within this property that are listed or eligible to be listed on the National Register of Historic Places.
12. Utilities along Trestle Way will be extended overhead and underground to the homes.
13. Trestle Way shall remain a private road to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town except for roads that meet the requirements for winter maintenance under a public easement.
14. The lots in this subdivision are for single family homes only.
15. The owners of these lots will be required to join the "Trestle Way" Road Association.
16. There shall be no additional development of the remaining land until Trestle Way is brought up to the applicable street standard in Table 401.13.16-2 of the Town of Gray chapter 401 subdivision ordinance or or an alternative access way meeting Town standards is created.

N/F
CMK, LLC
5,837/297)

**TERMINATION
and
RELEASE OF EASEMENT**

KNOW ALL MEN BY THESE PRESENTS THAT, WILLIAM P. CHAPMAN and GREGORY S. RAND, both of Gray in the County of Cumberland and State of Maine, holders of an easement described in a deed from Frank Fogg to Stanley Bishop by deed dated September 17, 1906 recorded in Cumberland County Registry of Deeds in Book 791, Page 298, do hereby **RELEASE** to **ODESSA PROPERTIES LLC**, its successors and assigns, all our right, title and interest in and to said easement.

The purpose of this deed is to release and expressly terminate said easement. Meaning and intending to convey and hereby conveying our rights in said easement which we obtained by virtue of a Warranty Deed John J. Oteri and Stephen C. Oteri to William P. Chapman and Gregory S. Rand dated July 14, 2017 recorded in said Registry of Deeds in Book 34180, Page 12.

IN WITNESS WHEREOF, WILLIAM P. CHAPMAN and GREGORY S. RAND, have executed this instrument this 18 day of September, 2020.

[Redacted]
Witness

[Redacted]
William P. Chapman
[Redacted]
Gregory S. Rand

STATE OF MAINE
Cumberland, ss.

September 18, 2020

Personally appeared before me the above named William P. Chapman and Gregory S. Rand and acknowledged the foregoing instrument to be their free act and deed.

[Redacted]
Notary Public



Received
Recorded Register of Deeds
Sep 21, 2020 10:49:00A
Cumberland County
Nancy A. Lane

9-18-2020

**RELEASE ~
EASEMENT DEED**

KNOW ALL MEN BY THESE PRESENTS, That **GRAYLAND HOLDINGS LLC**, a Maine limited liability company with a place of business in Gray in the County of Cumberland and State of Maine, for consideration paid, releases and grants to **WILLIAM P. CHAPMAN and GREGORY S. RAND**, both of said Gray, their heirs and assigns, the perpetual right and easement for passage of pedestrian and vehicular traffic and for the installation and transmission of all forms and kinds of utility services, over a strip of land sixty (60) feet in width, extending from Lewiston Road in said Gray, over and across Lot A as shown on Standard Boundary Survey entitled "Property Plan of Lot Division" made for record owner Odessa Properties, LLC by John D. Palmiter dated August 24, 2020 to be recorded herewith, said easement area being more particularly described on Exhibit A attached hereto and incorporated herein by reference. ?

This easement is intended to benefit property owned by the Grantees herein as described in a Warranty Deed from John J. Oteri and Stephen C. Oteri dated July 14, 2017 recorded in Cumberland Count Registry of Deeds in Book 34180, Page 12.

IN WITNESS WHEREOF, **Scott A. Liberty**, duly authorized Manager of **Grayland Holdings LLC**, has executed this instrument this _____ day of September, 2020.

Witness

Grayland Holdings LLC

Scott A. Liberty, Manager

State of Maine
Cumberland, ss.

September 18, 2020

Personally appeared before me the above named **Scott A. Liberty, Manager of Grayland Holdings 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 Grayland Holdings LLC.



Notary Public

EXHIBIT A

A certain sixty (60) foot wide right of way located on the east side of Lewiston Road (Route 100), in the Town of Gray, County of Cumberland & State of Maine, bounded & described as follows:

BEGINNING at a 5/8" rebar with #1278 cap approximately 4 feet North of the north end of a stonewall on the assumed easterly sideline of Lewiston Road (Route 100) as shown on a plan entitled "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County" F.A. Project #11 - Sheet 1 of 3 dated November 1936 per S.H.C. File 3-34 recorded in Cumberland County Registry of Deeds in Plan Book 31, Page 22, said point shown on said map as 33' Rt. of Sta. 684+92± & said rebar being N 18° 44' 55" E, 119.08 feet from the southwest corner of land of the Grantor herein as described in a deed recorded in said Registry of Deeds in Book 36981, Page 120 and the northwest corner of land formerly of Burchard Dunn, et al, as described in Book 4964, Page 215 of said Registry of Deeds;

Thence S 71°15' 05" E 45 feet through land of the Grantor to a point;

Thence S 32° 47' 49" E 75 feet through land of the Grantor to a point on the northwest line of the Grantees herein (Book 34180, Page 12);

Thence S 38° 28' 47" W 63.35 feet along the Grantees herein to a point;

Thence N 32° 47' 49" W 74.41 feet through land of the Grantor to a point;

Thence N 71°15' 05" W 24.07 feet through land of the Grantor to a point in or near a stonewall on the east sideline of Lewiston Road (Route 100);

Thence N 18° 44' 55" E 60 feet along the east sideline of Lewiston Road (Route 100) & following along or near a stonewall the first 56 feet, more or less, to the POINT OF BEGINNING; containing 6,555 square feet or 0.15 acres, more or less.

Meaning and intending to convey and hereby conveying an easement over a portion of the premises described in a deed from 100 Lewiston Road, LLC to Grayland Holdings, LLC by deed dated July 22, 2020 and recorded in said Registry of Deeds in Book 36981, Page 120.

The Grantees herein, **WILLIAM P. CHAPMAN** and **GREGORY S. RAND**, by their acceptance hereof, acknowledge they have been informed by Grayland Holdings LLC that the improvements situated on Lot A will be used by the Grantor for medicinal cannabis cultivation and distribution. Grantees further acknowledge and agree that their use of this 60' easement will never interfere with the Grantor's use of Lot A.

Dated: September 18, 2020

[Redacted Signature] Witness

[Redacted Signature] William P. Chapman

[Redacted Signature] Witness

[Redacted Signature] Gregory S. Rand

STATE OF MAINE
Cumberland, ss.

September 18, 2020

Personally appeared before me the above named **William P. Chapman** and **Gregory S. Rand** and acknowledged the foregoing instrument to be their free act and deed.

[Redacted Signature] Notary Public



Received
Recorded Register of Deeds
Sep 21:2020 10:49:50A
Cumberland County
Nancy A. Lane

end of doc



- REFERENCES**
- 1.) SITE PLAN MADE FOR JAMES & ROSEMARIE CHU DATED APRIL 8, 1990
 - 2.) JUNE STATE HIGHWAY COMMISSION PLAN OF IMPROVED RELOCATION
 - 3.) SURVEY FOR BIRCHARD A. GUNN AND BIRCHARD F. PARKER MADE FOR
- NOTES**
- 1.) BEARINGS AND DISTANCES TO MONUMENT VISIBLE 1990
 - 2.) EXCEPTION AS RECORDED IN BOOK 484, PAGE 452 IS NOW
 - 3.) EXCEPTION AS RECORDED IN BOOK 1918, PAGE 117 IS NOW

OWNER OF RECORD
 100 LEALINER RENE LLC
 BN 28024 / TA 2518
 4.35 ACRES
 18828413 SQ. FT.

- LEGEND**
- REIN FOR FOUND
 - REIN FOR SET
 - UTILITY POLE
 - EDGE OF PAVEMENT
 - EDGE OF DRIVE
 - EXISTING BUILDING
 - EXISTING WALL
 - WELL
 - CATCHBASIN
 - LIGHT POLE

KEVIN W. COLLEENBERG PLS 1278
 STATE OF MAINE
 NOTARY PUBLIC
 COMMISSION EXPIRES 12/31/18

PLAN OF PROPERTY
 MADE FOR
 ROD BOYINGTON
 BY
 COLLEENBERG LAND SURVEYING
 892 OLD DANVILLE ROAD
 AUBURN, MAINE 04210
 (207) 777-1150

1" HIGH = 20' FEET
 0 20 40 60 80

SYMBOL	DESCRIPTION
—	BOUNDARY AS RECORDED
—	REIN FOR FOUND
—	REIN FOR SET
—	UTILITY POLE
—	EDGE OF PAVEMENT
—	EDGE OF DRIVE
—	EXISTING BUILDING
—	EXISTING WALL
■	WELL
■	CATCHBASIN
■	LIGHT POLE





DRIVEWAY/ENTRANCE PERMIT APPLICATION TOWN OF GRAY MAINE

For Office Use Only
Permit No: _____
Date Submitted: _____
Date Paid: _____

APPLICANT

In accordance with the **Town of Gray Entrance and Culvert Policy**, the following person/s make application to construct a driveway/entrance at the location specified below.

Name	Gregory Rand William Chapman	E-Mail Address	greg@glandbuildersme.com
Street Address	5 Braysley Way	City/State/Zip	Gray ME 04039
Phone Number		Work Phone	207-671-7093

LOCATION

Location/Address	Lewiston Rd (Rte 102)	Property Map/Lot	28-25-30-3
Owner Name	Gregory Rand William Chapman	Zoning District	COMMERCIAL 15.43 acres
Number of entrances requested:	1	Proposed width of entrance(s):	18'
Entrance shall be no less than ten (10) feet from property line.		Minimum length of culvert shall be twenty-four (24) feet.	

SIGNATURES

The applicant hereby agrees:

- To pay for any culverts and/or drainage structure which may be necessary for drainage, the size type and length of culverts and size and type of other incidental structures to be as recommended by the Town Manager or Public Works Director of said Town of Gray.
- To construct said driveway approach and install culvert(s) in accordance with Town of Gray Rules and Regulations.
- To provide, erect and maintain all necessary barricades, lights, warning signs and other devices to safe guard traffic property while the work is in progress.
- That the road or street will at no time be closed to traffic.
- No building construction shall take place until Driveway Entrance has been completed and approved and all specifications met.
- A Certificate of Occupancy shall not be issued until Driveway Entrance has been approved and signed by the Road Commissioner or Public Works Director.
- Once driveway is properly staked, please call Code Officer at 657-3112 to leave message.

Further condition of the permit shall be that the applicant shall well and truly pay all damages, fines and penalties for which he shall become liable and shall indemnify and save harmless aid Town of Gray against all suits, claims, damages and proceedings of every kind arising out of the construction of said entrance.

Applicant Signature: _____

Date: 6-28-23

CODE ENFORCEMENT OFFICER APPROVAL

Signature/Title: _____

Date: _____

PUBLIC WORKS APPROVAL

Signature/Title: _____

Date: _____

Culvert(s) Needed: _____ (Qty) @ _____ inches X _____ feet



New Access
Easement
(37,203/177)

N/F
100 Lewiston Roc
(28,024/258)

ROW
driveway

5/8" Capped Rebar
12" tall, #1278

S 71°56'58" E
24.07'

Stake

Lewiston
C 280 100

1/2" Iron Pipe
16" tall

U 2" Iron Pipe
36" tall

5/8" Capped Rebar
15" tall, #1278

5/8" Capped Rebar
18" tall, #1278

60.00' N 18°03'03" E

45.00' W 56°58' E

60.00' N 33°29'42" E

75.00' W 33°29'42" E

66.08' N 33°29'42" E

74.41' W 63.35' N

179.77' E 37°46'54" E

60.34' N 37°46'54" E

90.00' W 49°47'09" E

34.2' N 43°15'32" E

40.03' N 54°30'43" E

33.19' N 41°19'42" E

87.58' N 27°16' E

34.2' W 228.53'

Mailing Address:
Town/State/Zip:
P. O. Box 983
Chapman
Oregon

Name:
AGENT INFORMATION
Permit by Rule Standards, Chapter 305.

September 29, 2023

Subject: Driveway entrance Rte. 100

On September 29, 2023 Bill Chapman spoke with Van @ MDOT at 10:34 a.m. Van confirmed that we DO NOT need a MDOT permit for a driveway entrance off rte. 100 in Gray. He stated that that section of rte. 100 is classified as "urban compact" and permits are issued by the local municipality.

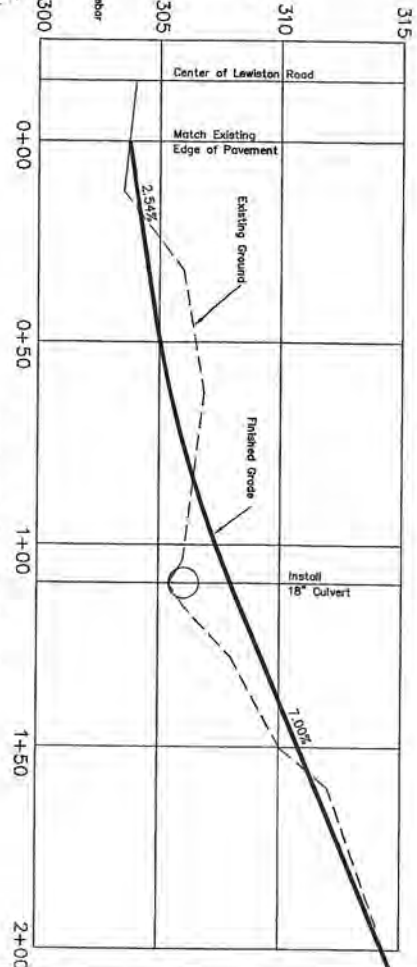
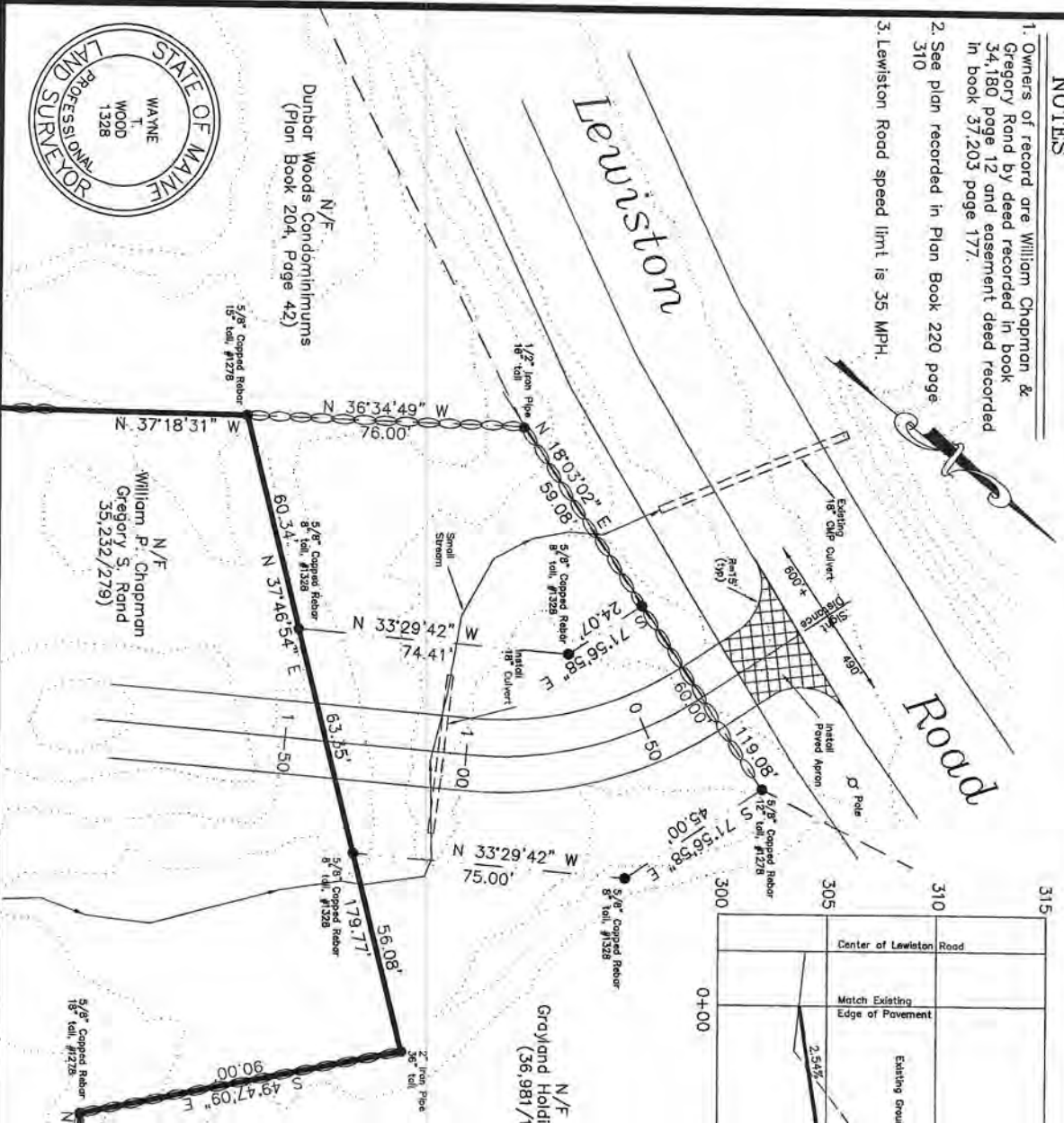
He further mentioned that if our daily trips were to exceed 100 trips per day, then we would need another type of permit from the MDOT. Not an issue at this point.

Bill

MDOT phone # is 207-885-7000

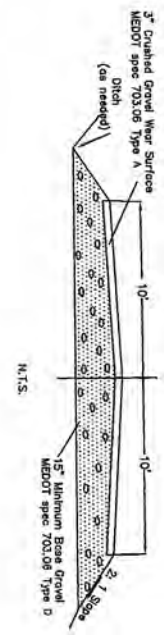
NOTES

1. Owners of record are William Chapman & Gregory Rand by deed recorded in book 34,180 page 12 and easement deed recorded in book 37,203 page 177.
2. See plan recorded in Plan Book 220 page 310
3. Lewiston Road speed limit is 35 MPH.



Typical Road Section

Scale: Horizontal 1" = 30'
Vertical 1" = 3'



TYPICAL ROAD SECTION

Plan & Profile
of
Proposed Entrance
off
Lewiston Road
Gray, Maine
For
Bill Chapman & Greg Rand

Date: October 2023

Scale: 1" = 30'

DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM
 (For use with DEP Regulation, Natural Resources Protection Act - Permit by Rule Standards, Chapter 305)

APPLICANT INFORMATION (Owner)				AGENT INFORMATION (If Applying on Behalf of Owner)			
Name:	Greg Rand & Dave Chapman			Name:	Mark Hampton Associates, Inc.		
Mailing Address:	P. O. Box 983			Mailing Address:	P. O. Box 1931		
Mailing Address:				Mailing Address:			
Town/State/Zip:	Gray, ME 04039			Town/State/Zip:	Portland, ME 04104		
Daytime Phone #:	831-0657	Ext:		Daytime Phone #:	756-2900	Ext:	
Email Address:	bchapma8@gmail.com			Email Address:	mhampto1@maine.rr.com		
PROJECT INFORMATION							
Part of a larger project? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves work below mean low water? (check 1):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Name of waterbody:	unnamed stream
Project Town:	Gray		Town Email Address:	CEO@graymaine.org		Map and Lot Number:	Map 28 Lot 25-30-2
Brief Project Description:	Construction of driveway to service a single family residence. Stream was determined by site visit by Cameron Dufour in July 2023						
Project Location & Brief Directions to Site:	The driveway is located just before 110 Lewiston Road Gray which is a 60 feet wide ROW to access the parcel. The driveway will extend approximately 300 feet into parcel before turning left and crossing stream to building envelope						

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work that meets the requirements for Permit-by-Rule (PBR) under DEP Rules, Chapter 305. I and my agent(s), if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Prot. Natural Res.
<input type="checkbox"/> Sec. (3) Intake Pipes
<input type="checkbox"/> Sec. (4) Replacement of Structures
<input type="checkbox"/> Sec. (6) Movement of Rocks or Veg.
<input type="checkbox"/> Sec. (7) Outfall Pipes
<input type="checkbox"/> Sec. (8) Shoreline Stabilization | <input type="checkbox"/> Sec. (9) Utility Crossing
<input checked="" type="checkbox"/> Sec. (10) Stream Crossing
<input type="checkbox"/> Sec. (11) State Transportation Facilities
<input type="checkbox"/> Sec. (12) Restoration of Natural Areas
<input type="checkbox"/> Sec. (13) F&W Creat./Water Qual. Improv.
<input type="checkbox"/> Sec. (15) Public Boat Ramps | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects
<input type="checkbox"/> Sec. (16-A) Beach Nourishment
<input type="checkbox"/> Sec. (17) Transfer/Permit Extension
<input type="checkbox"/> Sec. (18) Maintenance Dredging
<input type="checkbox"/> Sec. (19) Act. Near SVP Habitat
<input type="checkbox"/> Sec. (20) Act. Near Waterfowl/Bird Habitat |
|--|---|---|

NOTE: Municipal permits also *may* be required. Contact your local code enforcement office for information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS AND FEE

- Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
- Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
- Attach Proof of Legal Name** if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's *registration information* (available at <http://licrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>). Individuals and municipalities are not required to provide any proof of identity.

FEE: Pay by credit card at the [Payment Portal](#). The Permit-by-Rule fee may be found here <https://www.maine.gov/dep/feeschedule.pdf> and is currently \$288.

- Attach** payment confirmation from the [Payment Portal](#) when filing this notification form.

Signature & Certification:

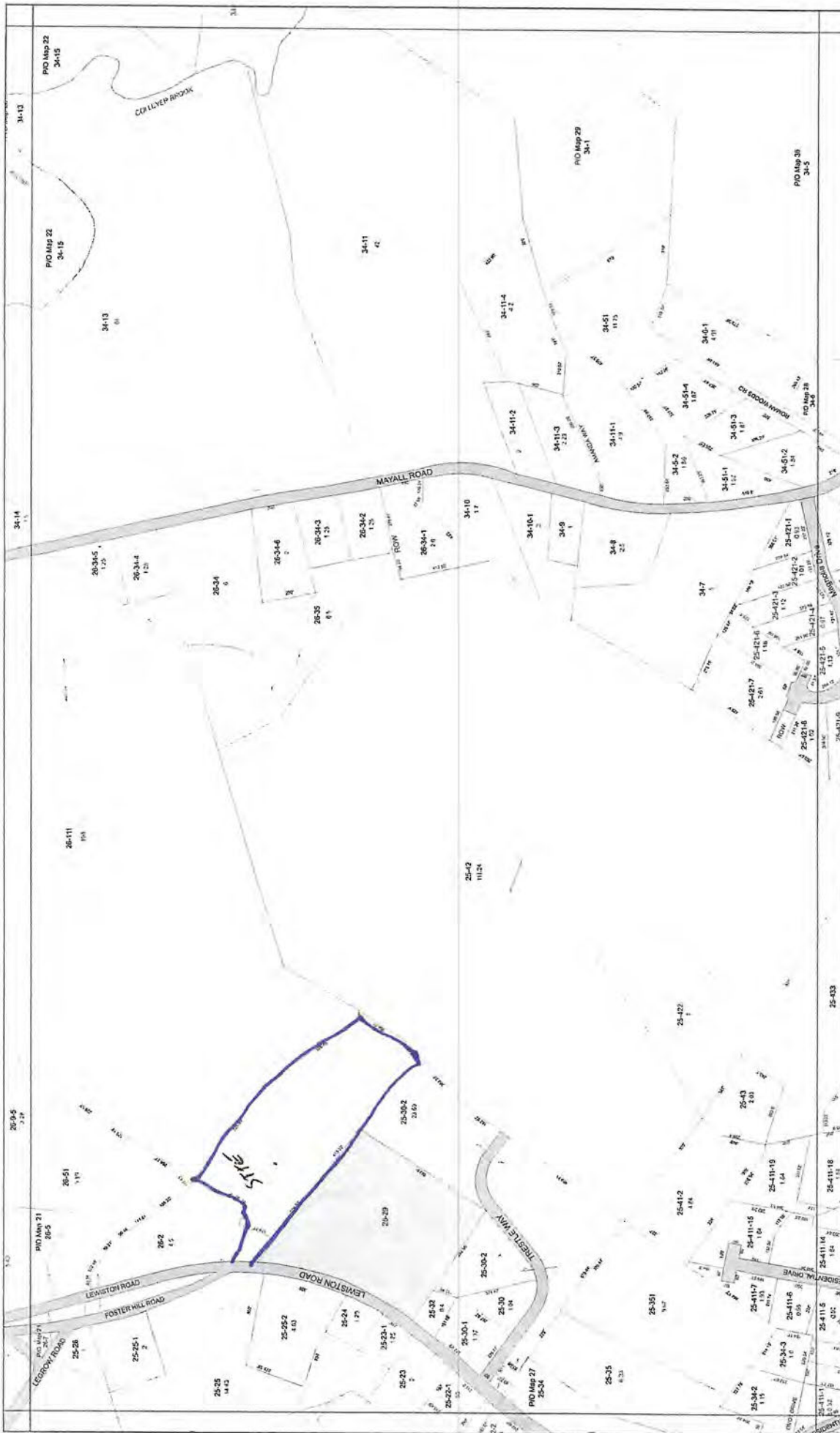
- I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules.
- I understand that this PBR becomes effective 14 calendar days after receipt by the Department of this completed form, the required submissions, and fee, *unless the Department approves or denies the PBR prior to that date.*

By signing this Notification Form, I represent that the project meets all applicability requirements and standards in Chapter 305 rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.

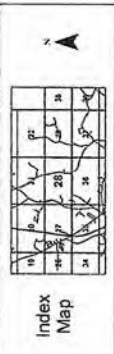
Signature of Agent or Applicant (may be typed):	Mark J. Hampton	Date:	August 18, 2023
---	-----------------	-------	-----------------

Keep a copy as a record of permit. Email this completed form with attachments to DEP at: DEP.PBRNotification@maine.gov. DEP will send a copy to the Town Office as evidence of notification. No further authorization will be issued by DEP after receipt of notice. A PBR is valid for two years. "Permit to Install Structures," are valid for three years. **Work carried out in violation of the Natural Resources Protection Act or any other provision in Chapter 305 is subject to enforcement.**

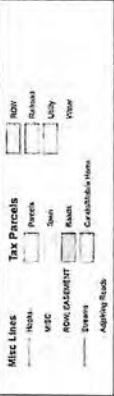




Gray Tax Map
28
 Map updated for April 1, 2019



Town of Gray, Maine



Maps Prepared by: **Spatial Solutions**
 www.spatial-solutions.com
 207.646.1338
 Tax Sheets are intended for assessing purposes only.
 Boundary locations are approximate and should not be used for conveyance of property.

- Misc Lines
- Right of Way
 - Easement
 - Utility
 - View
- Tax Parcels
- Forest
 - Open
 - Blank
 - Cultivated/Forest
- Adding Back
- Right of Way
 - Easement
 - Utility
 - View

7506



MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

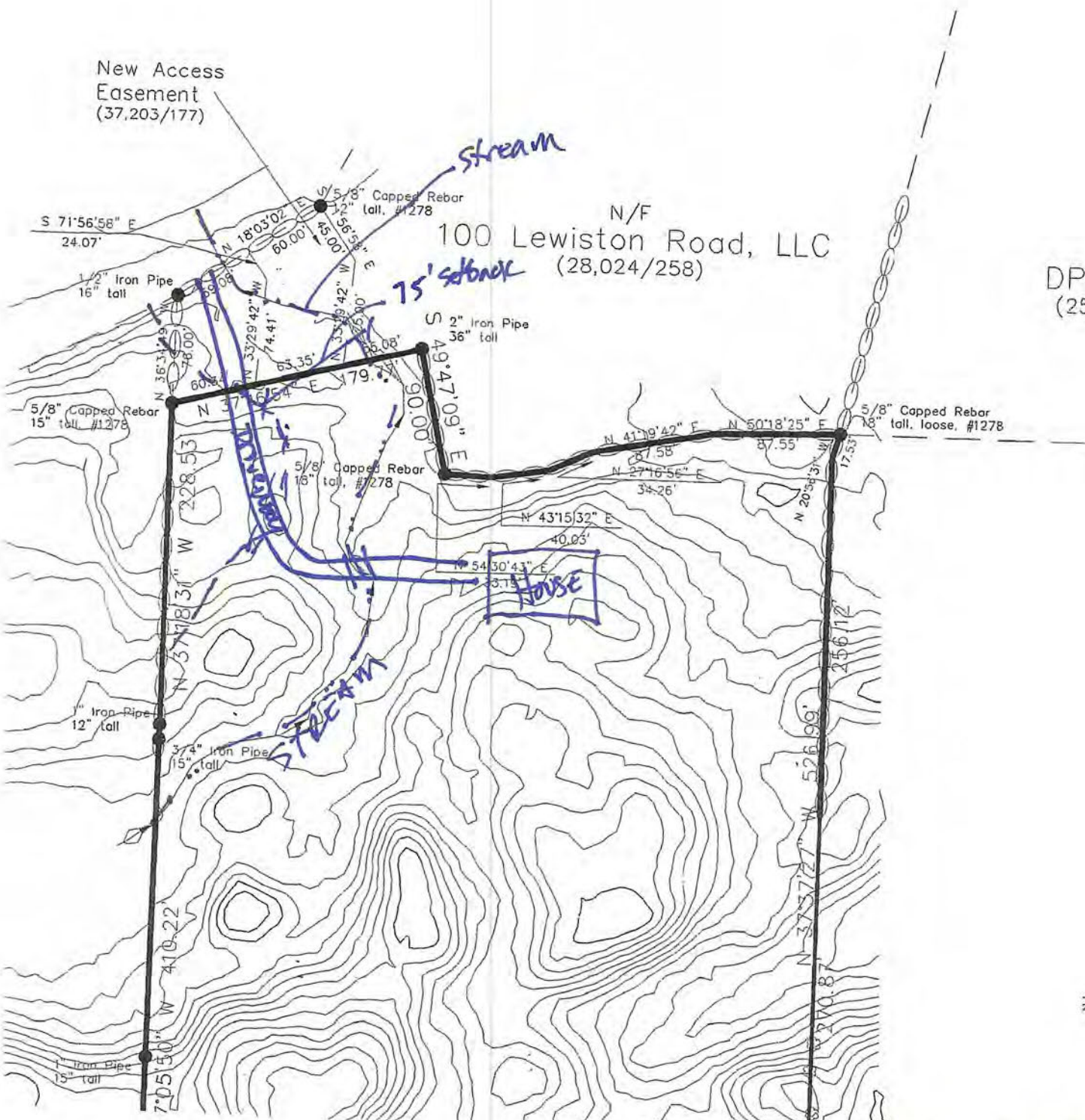
7605

Lewiston Road
Permit By Rule Application

No Practicable Alternative

The access to the lot is a 60 feet wide right-of-way off of Lewiston Road, Route 202. The stream on the parcel runs parallel to the location of this right-of-way. At the intersection of the driveway and Lewiston Road the stream is less than 75 feet, but greater than 25 feet from the proposed limit of disturbance for the driveway construction. The stream bisects the parcel, so there is no option by to cross the stream in order to construct a single family house on the property.

Scale 1" = 100'



MARC Hampton Associates, Inc
 August 18, 2023
 PBE Application

7506



7566



DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM
 (For use with DEP Regulation, Natural Resources Protection Act - Permit by Rule Standards, Chapter 305)

APPLICANT INFORMATION (Owner)		AGENT INFORMATION (If Applying on Behalf of Owner)	
Name:	Greg Rand & Bill Chapman	Name:	Mark Hampton Associates, Inc.
Mailing Address:	P. O. Box 983	Mailing Address:	P. O. Box 1931
Mailing Address:		Mailing Address:	
Town/State/Zip:	Gray ME 04039	Town/State/Zip:	Portland
Daytime Phone #:	831-0657 Ext:	Daytime Phone #:	756-2900 Ext:
Email Address:	bchapma8@gmail.com	Email Address:	mhampto1@maine.rr.com

PROJECT INFORMATION							
Part of a larger project? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves work below mean low water? (check 1):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Name of waterbody:	unnamed stream
Project Town:	Gray	Town Email Address:	CEO@graymaine.org		Map and Lot Number:	Map 28 Lot 25-30-2	
Brief Project Description:	Construction of driveway to service a single family home. Stream was determined by site visit by Cameron Dufour in July 2023						
Project Location & Brief Directions to Site:	The driveway is located just before 110 Lewiston Road Gray. There is a 60 feet wide right of way at this location to access the parcel The driveway will cross the stream twice and will be about 300 feet long.						

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work that meets the requirements for Permit-by-Rule (PBR) under DEP Rules, Chapter 305. I and my agent(s), if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. (9) Utility Crossing | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input checked="" type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (16-A) Beach Nourishment |
| <input type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (11) State Transportation Facilities | <input type="checkbox"/> Sec. (17) Transfer/Permit Extension |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Veg. | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (13) F&W Creat./Water Qual. Improv. | <input type="checkbox"/> Sec. (19) Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. (8) Shoreline Stabilization | <input type="checkbox"/> Sec. (15) Public Boat Ramps | <input type="checkbox"/> Sec. (20) Act. Near Waterfowl/Bird Habitat |

NOTE: Municipal permits also *may* be required. Contact your local code enforcement office for information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS AND FEE

- Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
- Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
- Attach Proof of Legal Name** if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's registration information (available at <http://licrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>). Individuals and municipalities are not required to provide any proof of identity.

FEE: Pay by credit card at the [Payment Portal](#). The Permit-by-Rule fee may be found here <https://www.maine.gov/dep/feeschedule.pdf> and is currently \$288.

- Attach** payment confirmation from the Payment Portal when filing this notification form.

Signature & Certification:	
<ul style="list-style-type: none"> • I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. • I understand that this PBR becomes effective 14 calendar days after receipt by the Department of this completed form, the required submissions, and fee, <i>unless the Department approves or denies the PBR prior to that date.</i> 	
By signing this Notification Form, I represent that the project meets all applicability requirements and standards in Chapter 305 rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.	
Signature of Agent or Applicant (may be typed):	Mark J Hampton
Date:	10/03/2023

Keep a copy as a record of permit. Email this completed form with attachments to DEP at: DEP.PBRNotification@maine.gov. DEP will send a copy to the Town Office as evidence of DEP's receipt of notification. No further authorization will be issued by DEP after receipt of notice. A PBR is valid for two years, except Section 4, "Replacement of Structures," are valid for three years. Work carried out in violation of the Natural Resources Protection Act as any provision in Chapter 305 is subject to enforcement.

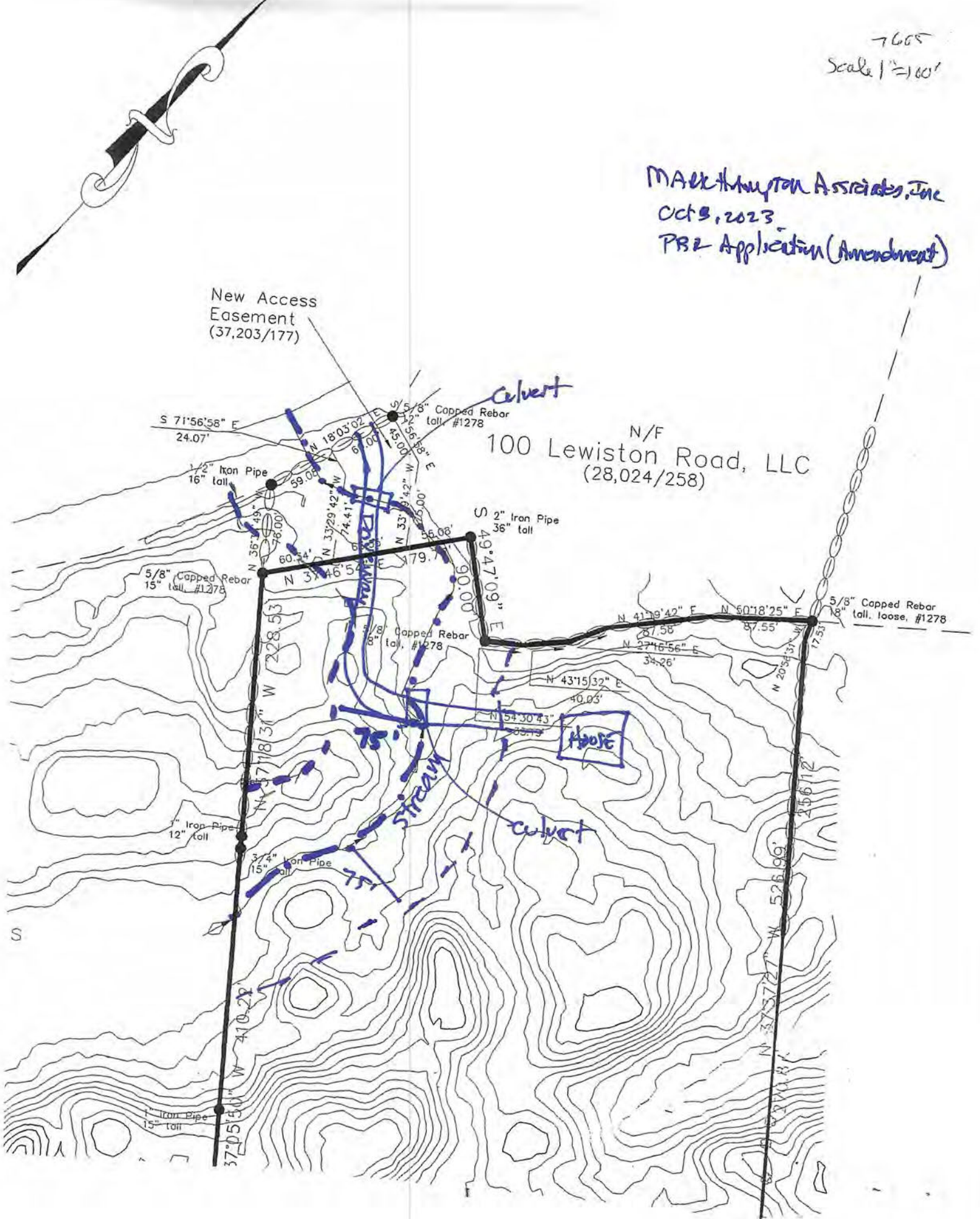


7605
Scale 1"=100'

Mark Hampton Associates, Inc
Oct 9, 2023
PRZ Application (Amendment)

New Access
Easement
(37,203/177)

N/F
100 Lewiston Road, LLC
(28,024/258)





MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7605

Lewiston Road
Permit By Rule Application

No Practicable Alternative

The access to the lot is a 60 feet wide right-of-way off of Lewiston Road, Route 202. The stream on the parcel runs parallel to the location of this right-of-way. At the intersection of the driveway and Lewiston Road the stream is less than 75 feet, but greater than 25 feet from the proposed limit of disturbance for the driveway construction. The stream bisects the parcel, so there is no option by to cross the stream in order to construct a single family house on the property.

7506
7605



~~7556~~
7605



Mark Hampton

From: Payments.DEP@maine.gov
Sent: Tuesday, October 3, 2023 7:02 PM
To: mhampto1@maine.rr.com; Payments.DEP@maine.gov; mhampto1@maine.rr.com
Subject: DEP Payment Confirmation - 1505

DEP Payment Confirmation - 1505

Contact Information: Mark Hampton - P. O. Box 1931 , Portland, ME, 04101
(207) 756-2900
mhampto1@maine.rr.com

Billing Information: Mark Hampton - 193 Ludlow Street , Portland, ME, 04102
(207) 756-2900
mhampto1@maine.rr.com

Product	Reference Number	Customer Number	Payment Amount	Comments
Natural Resources Protection Act (Permit- by-Rule)	N/A		\$288.00	This is an amendment to a PBR filed on August 18, 2023 in the name of Greg Rand and Bill Chapman for Sec. 2. and a stream crossing.

Transaction Summary

Payment	\$288.00
Service Fee	\$2.00
Total	\$290.00

ReceiptID: 1505
Transaction Date: Tuesday, October 3, 2023

Thank you for your successful transaction.
If you have questions or concerns, please call (207) 287-7688
or Email: Payments.DEP@maine.gov



Town of Gray

24 Main Street
Gray, Maine 04039
www.graymaine.org

communitydevelopment@graymaine.org

First Settled
1738

September 18, 2023

Mr. Gregory Rand
Mr. William Chapman
5 Braysley Way
Gray, ME 04039

RE: Denial of Driveway/Entrance Permit at/near 104 Lewiston Road
Tax Map/Lot of proposed entrance location (Grayland Holdings): 28-26-2
Tax Map/Lot of property benefitting from easement (Rand/Chapman): 28-25-30-2

Dear Mr. Rand and Mr. Chapman:

This letter will serve as the denial of the driveway/entrance permit application submitted by you on June 28th, 2023, for the reasons set forth below.

The Town has reviewed several documents:

- ✓ A. Trestle Way Acres subdivision (SD) plan for Rand/Chapman- approved by the Planning Board (PB) on 9-13-18, recorded in the Registry at Plan Book 218, page 445.
- ∅ B. Minutes (excerpt) from 9-13-18 PB meeting regarding approval for Trestle Way Acres.
- ✓ C. Easement deed from Grayland Holdings LLC, signed 9-18-20, to Chapman/Rand for 60' right-of-way (ROW) adjacent to Lewiston Road-recorded in Book 37203, Page 177.
- ✓ D. Acknowledgment from Chapman/Rand, signed 9-18-20, regarding use of 60' right-of-way ROW granted not to interfere with use(s) on property owned by Grayland Holdings LLC (Map 28, lot 26-2), recorded in Book 37203, Page 179.
- ✓ E. Subdivision plan for Odessa Properties LLC-PB approved on 5-10-22, recorded in Plan Book 222, Page 249.
- ✓ F. Driveway Entrance Permit application dated 6-28-23.
- 7. ✓ G. Photographs submitted to town staff by Scott Liberty on 7-24-23 depicting impervious surfaces adjacent to the principal structure located on Tax Map 28, Lot 26-2; formerly 104 Lewiston Road, presently 2 Storage Way.
- ✓ H. Letter from DH ROMA, consulting engineers, dated 7-25-23, addressing impervious lot coverage from Tax Map 28, Lot 26-2 owned by Grayland Holdings LLC.



21

I. E-mail dated 7-31-23 from Chris Neagle Esq., attorney for Chapman/Rand, to Kristen Muszynski (Town Planner)

The location of the proposed driveway entrance permit and the lot upon which it is located adjacent to Lewiston Road is located in the Commercial Zoning District. Table 402.5.4.A of the Zoning Ordinance establishes that the maximum impervious surface for a lot in the Commercial District is 65%. The recorded subdivision plan for Odessa properties, states that the proposed impervious lot coverage for Lot 3 (Tax Map 28, Lot 26-2) is 50.7%.

Based on photographs provided by Mr. Liberty and the letter from the engineering firm, it is clear that the existing impervious cover for lot 3 of the Odessa Properties SD plan already has the 65% maximum impervious surface allowed in the Commercial Zoning District. Further, the final recorded Odessa Properties SD plan does not show or in any way reference the 60' easement adjacent to Lewiston Road. Section 401.6.2 of the Gray Subdivision Ordinance (Chapter 401) requires that all easements affecting the property be submitted.

Gray's Code Enforcement Officer (CEO) is charged with the responsibility of administering and enforcing the provisions of the Zoning Ordinance per 402.9.1.A. (Chapter 402). The CEO also administers various portions of the Street Ordinance (Chapter 400). The CEO does not have the authority to issue permits that do not meet the standards established in both the Zoning Ordinance and Street Ordinance.

Based on the information included above, including the information provided by the engineer, lot 3 (Tax Map 28, Lot 26-2) already has 65% impervious surface. Any increase in impervious surface, such as for the requested driveway, would cause this 65% maximum to be exceeded. The driveway/entrance permit application submitted by Rand/Chapman on 6-28-23 is hereby denied.

In accordance with Gray's Street Ordinance, Chapter 400 Section 400.1.4.A, appeals of the CEO regarding the Street Ordinance are heard by the Zoning Board of Appeals. Section 402.9.2 of the Town's Zoning Ordinance establishes the appeal procedure. Section 402.9.2.C.1 states that any appeal of the CEO's determination be filed within thirty (30) days after the CEO's decision. If you do not file an appeal within this time period, you will have waived your right to appeal this decision.

It is the Town's understanding that over the past several months, you have been attempting to reach a solution to this matter. Given that the two properties directly abut one another, there appear to be several parcel configurations that would meet the requirements of the Zoning Ordinance. The Town strongly encourages efforts by the owners towards a mutually acceptable solution.

Sincerely,



Tammy Munson, Gray Code Enforcement Officer

cc: Josh Tiffany, Gray Interim Town Manager
Town of Gray legal counsel

DM ROMA
CONSULTING ENGINEERS

July 25, 2023

Grayland Holdings LLC.
c/o Scott Liberty
PO Box 963
Gray, ME 04039

Re: Lewiston Road Subdivision, Gray, Maine


Dear Scott:

At your request to evaluate whether the commercial property at Lewiston Road would be capable of supporting additional improvements namely, the construction of a new driveway to access the abutting property identified on Town of Gray Assessor's Map 28 Lot 25-30-2, DM Roma Consulting Engineers reviewed the previous design approved by the Town Planning Board, and project permits issued from the Maine DEP.

Based on the approved plans and permits associated with the "Subdivision Plan for Lewiston Road Subdivision" recorded in the Cumberland County Registry on June 28, 2022 in Plan Book 222, on page 249, DM Roma Consulting Engineers believes that the additional improvements of a paved or gravel driveway would require the project applicant to submit a Stormwater Permit to the Maine DEP that would include construction of an additional stormwater BMP(s) to bring the project into compliance with the DEP's Chapter 500 General Standards. Additionally, the additional driveway would likely cause Lot 3 of the recorded subdivision plan to be in non-conformance with the Town of Gray's Zoning Ordinance Section 402.5.4 "Districts Dimensional Requirements" by exceeding the 65% maximum impervious surface allowed in the Commercial Zoning District.

Sincerely,

DM ROMA CONSULTING ENGINEERS


J.P. Connolly
Senior Project Engineer

Cc: Grayland Holdings, LLC.,
Odessa Properties, LLC.



Chris Neagle

From: Chris Neagle
Sent: Friday, July 21, 2023 10:01 AM
To: 'kmuszynski@graymaine.org'
Cc: 'Bill Chapman'; 'greg@grandbuildersme.com'
Subject: RE: Lewiston Road Subdivision Amendment- Easement to Trestle Way Subdivision

Ms. Muszynski: Bill and Greg have hired me to help them get their driveway permit.

Scott Liberty and/or the Town had no authority to affect my clients' private deeded easement rights. The Town cannot deny their permit application and make them wait until Scott goes to the Planning Board to amend his plan. That position is an unconstitutional taking of their property rights by the Town. Did you get any advice from the Town attorney on that point? The Town should either issue the driveway permit or deny it so we can appeal to the Zoning Board of Appeals.

The Planning Board approval of Scott's project is void because Scott failed to provide the Town with required information on the easement across it. That failure should not be my clients' problem.

Happy to discuss with you and/or the Town attorney any time. Thanks.

Chris Neagle
Neagle Law LLC
76 Orchard Road
Cumberland, Maine 04021
chris@neaglelaw.com
207-805-4211
neaglelaw.com
office hours: Monday – Thursday, 10:00 am to 4:00 pm. Other times by agreement.

From: Kristen Muszynski <kmuszynski@graymaine.org>
Date: June 30, 2023 at 11:08:03 AM EDT
To: Scott Liberty <Scott@scottliberty.com>
Cc: jp@dmroma.com, greg@grandbuildersme.com
Subject: Lewiston Road Subdivision Amendment- Easement to Trestle Way Subdivision

Hello, Mr. Liberty:

We are in receipt of a driveway permit from Mr. Rand and Mr. Chapman, for the Trestle Way subdivision, utilizing an easement over the Odessa Properties/Grayland Holdings self-storage property off Lewiston Road. This easement is filed with the registry as 37,203/177 but is not reflected on the signed and recorded subdivision plan for the Lewiston Road Subdivision.



Our attorney has advised that the easement must be formally approved as an amendment to the subdivision and shown on an updated recorded Lewiston Road subdivision plan before the driveway permit can be issued utilizing said easement.

The easement, even though it was recorded with the Registry in 2020, was not reflected on the plans submitted for the 2022 Planning Board review process for the subdivision. The easement was not brought to our attention until significantly later, when interest in the Trestle Way development was mentioned by another party.

Next steps to address this would be to submit an updated subdivision plan that includes the easement with the appropriate references as well as the lot numbers (these were also mistakenly omitted from the filed plan) and come to the Planning Board for formal approval of an "amendment to an approved subdivision" to add the easement. Once that process is complete, we can allow the driveway permit application to move forward for Mr. Rand and Mr. Chapman.

The [application is here](#) and deadline to get on the August meeting agenda is July 14.

Please give me a call if you have any questions,

Kristen Schulze Muszynski

Community Planner

Town of Gray

207-657-3339 Ext. 114

This electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it, may be considered public records, and may therefore be subject to public record requests for review and copying under Maine's Right to Know Law (Title 1, 401-521 of the Maine Revised Statutes).



Liberty Scott
1:36 PM, Jul 5



Hi Bill. I hope Beth is doing better. i have prayed for her as promised.

The engineer just called me. we are at 70% impervious surface, give or take a tiny fraction either way, but that doesn't count the delineated wetland which comes to approximately 5%. He wasn't sure if the town would make you count the wetland, but if they do then you're at approximately 75%



STATUTORY WARRANTY DEED

WE, JOHN J. OTERI of Melrose, County of Middlesex and Commonwealth of Massachusetts and STEPHEN C. OTERI, of Lynn, County of Essex and Commonwealth of Massachusetts, For Consideration Paid, GRANT with WARRANTY COVENANTS TO WILLIAM P. CHAPMAN, of Gray, County of Cumberland and State of Maine, with a mailing address of P. O. Box 983, Gray, ME 04039 and GREGORY S. RAND, of Gray, County of Cumberland and State of Maine, with a mailing address of 11 Presidential Drive, Gray, Maine 04039, as TENANTS IN COMMON, certain lots or parcels of land situated on or adjacent to Lewiston Road in the Town of Gray, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit A attached hereto and incorporated herein by reference.

WITNESS our hands this 14th day of July, 2017.

Witness

[Redacted Signature]

Stephen C. Oteri

STATE OF MAINE
COUNTY OF CUMBERLAND

July 14, 2017

Then personally appeared the above-named Stephen C. Oteri and acknowledged the foregoing instrument to be his free act and deed.

Before me,

[Redacted Signature]

Notary Public

Printed Name:

Commission Expires:

DARCY L. NEEDHAM
NOTARY PUBLIC - State of Maine
My Commission Expires
January 26, 2023

(continued on page 2)



MAINE REAL ESTATE TAX PAID

Witness

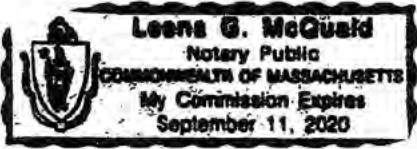
John J. Oteri

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF Middlesex

July 15, 2017

Then personally appeared the above-named **John J. Oteri** and acknowledged the foregoing instrument to be his free act and deed.

Before me, ✓



Notary Public
Printed Name: Leena G. McQuaid
Commission Expires: 09/11/2020

SEAL

EXHIBIT A

(Land on the Southeasterly side of the Lewiston Road in the Town of Gray)

Certain lots or parcels of land situated on the southeasterly side of the Lewiston Road in the town of Gray being more particularly described as follows:

PARCEL 1

Beginning at the Westerly corner of land now or formerly of Thomas & Ann Baiocchi (4373/236) on the assumed Southeasterly side line of the said Lewiston Road;

Thence S 45°44'34" E along land of the said Baiocchi 197.76 feet to the Southerly corner of land of the said Baiocchi;

Thence N 34°07'29" E continuing along land of the said Baiocchi, in part by a stone wall 113.46 feet to a point on the Southwesterly side line of land of Dunbar Woods Condominiums as recorded in plan book 204 page 42;

Thence S 40°33'12" E along land of the said Dunbar Woods Condominiums 444.95 feet to an iron pipe found set in the ground at the Southerly corner of land of the said Dunbar Woods Condominiums on the Northwesterly side line of land now or formerly of the heirs of H. Norman and Warren Cole (9463/7);

Thence S 67°48'13" W along land of the said Cole heirs 313.16 feet to a point;

Thence continuing Westerly along land of the said Cole heirs following a curve to the right having a radius of 170.00 feet a distance of 219.70 feet to a point;

Thence N 38°08'52" W continuing along land of the said Cole heirs 376.77 feet to a point on the said side line of the Lewiston Road;

Thence N 56°07'04" E along the said side line of the Lewiston Road 272.25 feet to the point of beginning. Containing 4.64 acres.

PARCEL 2

Beginning at an iron pin found set in a stone wall intersection located at the Northerly corner of land now or formerly of Catherine E. Lee & Mark W. Emery (10,863/160, 10,842/216), the Easterly corner of land now or formerly of Pollard Real Estate Company (20,637/9) and the Westerly corner of other land of the said Pollard Real Estate Company (20,636/349);

Thence N 52°23'02" E along the said other land of Pollard Real Estate Company, in part by a stone wall 659.71 feet to the Southerly corner of land now or formerly of the heirs of H. Norman & Warren Cole (9463/7);

Thence N 37°36'58" W along land of the said Cole heirs 116.74 feet to a point;

Thence Westerly continuing along land of the said Cole heirs following a curve to the left having a radius of 170.00 feet a distance of 221.28 feet to a point;

Thence S 67°48'13" W continuing along land of the said Cole heirs 313.16 feet to a point;

Thence Westerly continuing along land of the said Cole heirs following a curve to the right having a radius of 230.00 feet a distance of 297.25 feet to a point;

Thence N 38°08'52" W continuing along land of the said Cole heirs 262.44 feet to other land of the said Cole heirs;

Thence S 51°51'09" W along the said other land of the Cole heirs 83.08 feet to a point in a stone wall marking the Northeasterly side line of land now or formerly of Bradley W. Pollard, Jeffrey M. Pollard, Gary J. Pollard and David C. Pollard (13961/257);

Thence S 38°08'51" E along land of the said Pollards and the said stone wall 275.00 feet to a large pine tree at the end of the said stone wall;

Thence S 39°30'08" E along land of the said Pollards and land of the said Pollard Real Estate Company and in part by a stone wall 570.44 feet to the point of beginning. Containing 6.04 acres.

PARCEL 3

Beginning at a 5/8" capped rebar (#1278) found set in a stone wall intersection being the Easterly corner of land now or formerly of 100 Lewiston Road, LLC (28/024/258), the Southerly corner of land now or formerly of DPCMK, LLC (25,837/297) and the Westerly corner of land now or formerly of Gene D. Humphrey (8284/176);

Thence S 50°18'25" W along land of the said 100 Lewiston Road, LLC and the said stone wall 87.55 feet to a point;

Thence S 41°19'42" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 87.58 feet to a point;

Thence S 27°16'56" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 34.26 feet to a point;

Thence S 43°15'32" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 40.03 feet to a point;

Thence S 54°30'43" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 33.19 feet to a 5/8" capped rebar (#1278) found set in a stone wall corner;

Thence N 49°47'09" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 90.00 feet to an iron pipe found set in the ground;

Thence S 37°46'54" W continuing along land of the said 100 Lewiston Road, LLC 179.77 feet to a 5/8" capped rebar (#1278) found set in the ground on the Northeasterly side line of land now or formerly of Dunbar Woods Condominiums as recorded in plan book 204 page 42;

Thence S 37°18'31" E along land of the said Dunbar Woods Condominiums, in part by a stone wall 228.53 feet to an iron pipe found set in the ground;

Thence S 37°05'50" E continuing along land of the said Dunbar Woods Condominiums 410.22 feet to a 5/8" capped rebar (#1057) found set in the ground at the Easterly corner of land of the said Dunbar Woods Condominiums;

Thence S 49°44'41" W continuing along land of the said Dunbar Woods Condominiums 693.50 feet to an iron pipe found set in the ground at the Southerly corner of land of the said Dunbar Woods Condominiums on the Northwesterly side line of land of the heirs of H. Norman & Warren Cole (9463/7);

Thence Easterly along land of the said Cole heirs following a curve to the right having a radius of 230.00 feet a distance of 299.38 feet to a point;

Thence S 37°36'58" E continuing along land of the said Cole heirs 116.73 feet to a point in a stone wall marking the Northwesterly side line of land now or formerly of Pollard Real Estate Company (20,636/349);

Thence N 53°09'34" E along land of the said Pollard Real Estate Company and the said stone wall 162.92 feet to a stone wall corner;

Thence N 61°49'57" E continuing along land of the said Pollard Real Estate Company 363.33 feet to an iron pipe found set in the ground;

Thence N 67°35'18" E continuing along land of the said Pollard Real Estate Company following the remains of an old wire fence 66.06 feet to a point;

Thence N 50°28'15" E continuing along land of the said Pollard Real Estate Company and the said wire fence 266.51 feet to point on the Southwesterly side line of land of the said Humphrey;

Thence N 62°23'16" W along land of the said Humphrey and the remains of an old wire fence 36.53 feet to a point;

Thence N 20°06'44" W continuing along land of the said Humphrey and the said wire fence 526.46 feet to a point;

Thence N 37°37'27" W continuing along land of the said Humphrey and the said wire fence 270.87 feet to the end of a stone wall;

Thence continuing N 37°37'27" W along land of the said Humphrey and the said stone wall 256.12 feet to a point;

Thence N 20°56'31" E continuing along land of the said Humphrey and the said stone wall 17.53 feet to the point of beginning. Containing 15.43 acres.

This conveyance is made together with the rights in and to a right of way along the "Woods Road" crossing land of the said 100 Lewiston Road, LLC . See deed recorded in book 791 page 298.

1906
ESMT

This conveyance is made together with the rights in common with others to use the 60 foot wide strip of land owned by the said Cole heirs as described in a deed recorded in book 9463, page 7.

TRESTLE
WAY

All bearings are Magnetic of the year 1988.

Meaning and intending to convey the same premises conveyed to these Grantors by deed recorded in the Cumberland County Registry of Deeds in book 12,342 page 250.

217045-1

Received
Recorded Register of Deeds
Jul 24, 2017 03:05:38P
Cumberland County
Nancy A. Lane

7-22-2020

Lot A
2020 plan

WARRANTY DEED
Maine Statutory Short Form

MAINE REAL ESTATE TAX PAID

KNOW ALL MEN BY THESE PRESENTS, That 100 Lewiston Road, LLC of Jackman in the County of Somerset and State of Maine, for consideration paid, grants to Grayland Holdings LLC, a Maine limited liability company with a mailing address of PO Box 963, Gray, ME 04039, with **WARRANTY COVENANTS**, the real property situated in Gray, County of Cumberland and State of Maine more particularly described in Schedule A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this instrument has been executed by **Rodney Boyington**, Managing Member of **100 Lewiston Road, LLC**, this 22nd day of July, 2020.

100 Lewiston Road, LLC

[Redacted Signature]

[Redacted Signature]

Witness to all
John H. Branson

Rodney Boyington, Managing Member

State of Maine
County of Cumberland, ss.

July 22, 2020

Personally appeared before me the above named **Rodney Boyington, Managing Member of 100 Lewiston Road, 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 **100 Lewiston Road, LLC**.

[Redacted Signature]
Notary Public/Attorney at Law

SUSAN GACE KNEEDLER
Notary Public, Maine
My Commission Expires November 22, 2025



SCHEDULE A

A certain lot or parcel of land, with the buildings and other improvements thereon, located in the Town of Gray, County of Cumberland, and State of Maine, and bounded and described as follows:

BEGINNING at a stonewall corner on the assumed east sideline of Route 100 (Lewiston Road) as shown on a plan entitled "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County" F.A. Proj #11 - sheet 1 of 3 dated November 1936 per S.H.C. File 3-34 - CCRD plan book 31 page 22, said point shown on said map as the corner between Martha C. Bishop Estate and Margie E. Fogg and said point being now the southwest corner of the grantor (100 Lewiston Road, LLC 28024-258) and being the north corner of land formerly of Burchard A. Dunn, et al (Book 4964, Page 215);

Thence N18°-44'-55"E, 119.08' along the old 1936 Route 100 right of way ("R/W") and following along or near a stonewall to a 5/8" rebar with #1278 cap;

Thence N10°-19'-35"W, 46.55' along the old 1936 Route 100 R/W to a 5/8" rebar with #1278 cap;

Thence northerly 130' by a 1306.58' radius non-tangential curve left along the new 1936 Route 100 R/W to a point;

Thence S79°-17'-26"E, 250' thru grantors (100 Lewiston Road, LLC 28024-258) to a point;

Thence S33°-06'-09"E, 90' thru grantors (100 Lewiston Road, LLC 28024-258) to a point in a stonewall on the northwest line of William Chapman, et al (35232-279);

Thence S42°-01'-35"W, 87.58' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence S27°-58'-49"W, 34.26' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence S43°-57'-25"W, 40.03' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence S55°-12'-36"W, 33.19' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a stonewall corner and a 5/8" rebar with #1278 cap;

Thence N49°-05'-16"W, 90' along Chapman, et al (35232-279) and following along or near a stonewall the first 74± to a 5/8" rebar to a 5/8" rebar with #1278 cap;

Thence S38°-28'-47"W, 179.77' along Chapman, et al (35232-279) to a 5/8" rebar with #1278 cap at the west corner thereof and being on the northeast line of land formerly of Burchard Dunn, et al 4964-215;

Thence N35°-52'-56"W, 76' along Dunn and following along or near a stonewall the last 65'± to POINT OF BEGINNING, containing 67,340 SF or 1.55 acres and is a portion of land conveyed by Key Bank National Association to 100 Lewiston Road, LLC by deed dated 8-25-2010 CCRD book 28024 page 258.

All bearings refer to the magnetic meridian as observed in 1990.

SUBJECT TO easement rights in a 50' wide R/W for ingress, egress, utilities and all purposes for which a public way may be used, the north line of which is bounded and described as follows:

BEGINNING at the northwest corner of lot herein described and conveyed; thence S79°-17'-26"E, 50' along said north line to terminus of herein described 50' wide R/W; the south line contracted or projected to intersect the east R/W line of Route 100 (Lewiston Road).

BEING the same premises described and depicted as "Lot A" on a certain "Sketch Plan for Lot Division" Prepared by John D. Palmiter for Scott Liberty, to be recorded in the Cumberland County Registry of Deeds.

ALSO BEING a portion of the same premises described in a Quitclaim Deed from KeyBank National Association to 100 Lewiston Road, LLC dated August 25, 2010 and recorded in Book 28024, Page 258 in the Cumberland County Registry of Deeds.

Received
Recorded Register of Deeds
Jul 28, 2020 11:17:15A
Cumberland County
Nancy A. Lane

2

Lot B

2070 12m

WARRANTY DEED
Maine Statutory Short Form

MAINE REAL ESTATE TAX PAID

KNOW ALL MEN BY THESE PRESENTS, That **100 Lewiston Road, LLC** of Jackman in the County of Somerset and State of Maine, for consideration paid, grants to **Odessa Properties LLC**, a Maine limited liability company with a mailing address of 23 Country Way, Gray, Maine 04039, with **WARRANTY COVENANTS**, the real property situated in Gray, County of Cumberland and State of Maine more particularly described in Schedule A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this instrument has been executed by **Rodney Boyington, Managing Member of 100 Lewiston Road, LLC**, this 22nd day of July, 2020.

100 Lewiston Road, LLC

[Redacted signature]

[Redacted signature]

Witness to all
John H. Branson

Rodney Boyington, Managing Member

State of Maine
County of Cumberland, ss.

July 22, 2020

Personally appeared before me the above named **Rodney Boyington, Managing Member of 100 Lewiston Road, 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 **100 Lewiston Road, LLC**.

[Redacted signature]

Notary Public/Attorney at Law
SUSAN COGE KNEDLER
Notary Public, Maine
My Commission Expires November 22, 2025

7

SCHEDULE A

One or more lots or parcels of land, with the buildings and other improvements thereon, located in the Town of Gray, County of Cumberland, and State of Maine, and bounded and described as follows:

PARCEL ONE:

BEGINNING at a 5/8" rebar with #1278 cap at the west end of a stonewall corner on the assumed east sideline of Route 100 (Lewiston Road) as shown on a plan entitled "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County" F.A. Proj #11 - sheet 1 of 3 dated November 1936 per S.H.C. File 3-34 - CCRD plan book 31 page 22, said point shown on said map as 33' Rt. of Sta. 684+92± and said point being now the northwest corner of the grantor (100 Lewiston Road, LLC, Book 28024, Page 258);

Thence S76°-30'-59"E, 57.69' along a jog in Lewiston Road (Route 100) from 33' to 50' and along the south line of DPCMK, LLC (25837-297), formerly Margie E. Fogg and following along or near a stonewall to a point;

Thence southeasterly and southerly by the southwest and west line of DPCMK, LLC (25837-297), formerly Margie E. Fogg and following along or near a stonewall with occasional gaps the following courses:

- S40°-50'-17"E, 122.48'
- S31°-50'-37"E, 89.24'
- S21°-45'-28"E, 96.46'
- S14°-55'-56"E, 141.81'

Thence S23°-51'-46"E, 188.35' to a 5/8" rebar with #1278 cap near the northeast end of a stonewall at the west corner of Lawrence Humphrey (4964-215) and being the north corner of William Chapman, et al (35232-279);

Thence S51°-00'-18"W, 87.55' along the northwest line of William Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence N33°-06'-09"W, 90' thru grantor (100 Lewiston Road, LLC 28024-258) to a point;

Thence N79°-17'-26"W, 250' thru grantor (100 Lewiston Road, LLC 28024-258) to a point on the east line of Route 100 (Lewiston Road) per aforementioned "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County";

Thence northerly 189.50' by a nontangential 1306.58' radius curve left to a point;

Thence N01°-55'-58"E, 325.94' along said east line of Route 100 (Lewiston Road) to POINT OF BEGINNING, containing 121,944 SF or 2.80 acres and is a portion of land conveyed by Key Bank National Association to 100 Lewiston Road, LLC by deed dated 8-25-2010 CCRD book 28024 page 258.

All bearings refer to the magnetic meridian as observed in 1990.

Benefitted by easement rights in a 50' wide right of way ("R/W") for ingress, egress, utilities and all purposes for which a public way may be used the north line of which is bounded and described as follows: BEGINNING at the southwest corner of lot herein described and conveyed; thence S79°-17'-26"E, 50' along said south line to terminus of herein described 50' wide R/W; the south line contracted or projected to intersect the east R/W line of Route 100 (Lewiston Road).

BEING the same premises described and depicted as "Lot B" on a certain "Sketch Plan for Lot Division" prepared by John D. Palmiter for Scott Liberty, to be recorded in the Cumberland County Registry of Deeds.

ALSO BEING a portion of the same premises described in a Quitclaim Deed from KeyBank National Association to 100 Lewiston Road, LLC dated August 25, 2010 and recorded in Book 28024, Page 258 in the Cumberland County Registry of Deeds.

PARCEL TWO:

ALL and the same premises conveyed to Portland, Gray and Lewiston Railroad Company by Stanley Bishop by deed dated December 11, 1909, and recorded in the Cumberland County Registry of Deeds in Book 849, Page 492, as the same is located within the bounds of land owned by the Grantor.

MEANING AND INTENDING TO CONVEY to the Grantee herein, and hereby conveying to the Grantee herein, all the real property conveyed to the Grantor herein by Quitclaim Deed from KeyBank National Association dated August 25, 2010 and recorded in Book 28024, Page 258 in the Cumberland County Registry of Deeds, together with any improvements thereto, EXCEPTING AND EXCLUDING all the real property conveyed by the Grantor herein to Grayland Holdings LLC by Warranty Deed on this date.

Received
Recorded Register of Deeds
Jul 28, 2020 11:18:02A
Cumberland County
Nancy A. Lane

SECTION 1

TOWN APPLICATIONS AND CHECKLIST





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

PROPERTY TO BE DEVELOPED

Property Location/Address	100 & 104 LEWISTON ROAD	Property Map/Lot	28 - .26-2 & .26-2-1
Zoning District	COMMERCIAL & LMOD	Lot Acreage	4.35 AC,
Owner Name	GRAYLAND HOLDINGS, LLC	Tax Sheet	
Owner Address	& ODESSA PROPERTIES, LLC	Owner Phone	

APPLICANT

Name (IF different than owner)	ODESSA PROPERTIES, LLC	Contact Phone Number	
Mailing Address	P.O. BOX 963	Alternate Phone Number	
Mailing City/State/Zip	GRAY, MAINE	Fax Number	
Email Address	SCOTT@SCOTTLIBERTY.COM		

AGENT/CONSULTANT

Name	DM ROMA ENGINEERS	Contact Phone Number	207-591-5055
Mailing Address	PO BOX 1116	Alternate Phone Number	760-840-0997
Mailing City/State/Zip	WINDHAM, MAINE 04062	Fax Number	
Email Address	JP@DMROMA.COM		

PROJECT

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

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

Project Description / Comments:
SEE ATTACHED COVER LETTER

Applicant Signature [Redacted]

Date 3-23-2022



SITE PLAN REVIEW CHECKLIST TOWN OF GRAY MAINE

For Office Use Only
Date Received: _____
Received by: _____

APPLICANT/PROJECT

Name	LEWISTON ROAD SUBDIVISION	Date	3-23-2022
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This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. The checklist, however, does not substitute for the requirements of Article 10 of the Zoning Ordinance. The Planning Board will also use the checklist to ensure your application is complete. Indicate if the information has been submitted or if a waiver is requested. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. Detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans, however, may best be presented on a separate sheet or sheets. **This checklist does not address the standards that the site plan must meet.**

SITE PLAN REVIEW SUBMISSION REQUIREMENTS

	Submitted by Applicant	Not Applicable	Applicant Request to be Waived	Reviewed by Planner/Engineer	Waived by Planning Board
402.10.10.A SITE INVENTORY PLAN					
A.1 Owner name(s), address(es), phone number(s)	✓				
A.2 Consultant name(s) & address(es)	✓				
A.3 Evidence of right, title, or interest in property	✓				
A.4 Fourteen (14) copies of accurate scale inventory plan showing:	✓				
a. The name of the development, north arrow, date and scale.	✓				
b. The boundaries of the parcel and existing zoning.	✓				
c. The relationship of the site to the surrounding area .	✓				
d. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site.	✓				
e. The major natural features of the site and within five hundred (500) feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state).	✓				
f. Existing buildings, structures, or other improvements on the site (if none, so state).	✓				
g. Existing restrictions or easements on the site (if none, so state).	✓				
h. The location and size of existing utilities or improvements servicing the site (if none, so state).	✓				
i. Mapping of all wetlands and/or potential vernal pools on site regardless of size.	✓				
j. A Class B high intensity soil survey if any portion of the site is located in a resource protection district or has wetlands covering more than ten (10%) percent of the site.			✓		
k. A Class D medium intensity soil survey if vernal pools and/or significant wetlands are not present.	✓				

402.10.10.B SITE ANALYSIS PLAN

- B.1** Fourteen (14) copies of a site analysis plan identifying: ✓
 - a. Portions of the site that are unsuitable for development or use; ✓
 - b. Portions of the site that are unsuitable for on- site sewage disposal; ✓
 - c. Areas of the site that have environmental limitations that must be addressed in the development plan; ✓
 - d. Areas that may be subject to off-site conflicts or concerns; and which areas are well suited to the proposed use. ✓
- B.2** Fourteen (14) copies of site description narrative ✓
- B.3** Submission requirement waiver requests, if any ✓

402.10.10.C APPLICATION SUBMISSION REQUIREMENTS

- C.1** Signed/Executed Application ✓
- C.2** Evidence of payment of the application fee and technical review escrow. ✓
- C.3** Fourteen (14) copies of written materials and maps/drawings ✓
- C.4** Report/Maps/Drawings: General Information ✓
 - a. Owner contact information ✓
 - b. Setback, yard, and buffer locations ✓
 - c. Abutter contact information ✓
 - d. Map: general site location ✓
 - e. Contiguous property boundaries ✓
 - f. Map/Lot Number ✓
 - g. Deed/proof of ownership/interest in property ✓
 - h. Plan preparer name, registration #, seal ✓
 - i. Evidence of technical & financial means ✓
- C.5** Reports/Maps/Drawings: Existing Conditions ✓
 - a. Zoning Classification ✓
 - b. Property lines bearings & length ✓
 - c. Location of utilities (water, sewer, electric, etc.) ✓
 - d. Street name(s), location(s), width(s) ✓
 - e. Building location(s), dimensions, and photo(s) ✓
 - f. Driveway location(s), dimensions ✓
 - g. Location of intersecting roads/driveways ✓
 - h. Location of important or unique natural site features ✓
 - i. Direction of surface water drainage ✓
 - j. Sign location(s), front view(s), dimensions ✓
 - k. Easement location, dimensions, documents ✓

- l. Fire hydrant or fire protection water supply location ✓
- C.6 Reports/Maps/Drawings: Proposed Development** ✓
- a. Water/Sewage estimated demands/provisions ✓
- b. Direction of proposed surface water drainage ✓
- c. Solid waste disposal provisions ✓
- d. Driveway/parking plans/provisions ✓
- e. Proposed landscaping & buffering ✓
- f. Proposed building/building expansion plans ✓
- g. Proposed sign plans ✓
- h. Proposed exterior lighting ✓
- i. Location of utilities & fire protection systems ✓
- j. General description of proposed use/activity ✓
- k. Traffic estimates ✓
- l. Stormwater, erosion & sedimentation control, and water quality management provisions ✓

C.7 Reports/Maps/Drawings: Site Plan ✓

402.10.10.D ADDITIONAL REQUIREMENTS FOR MAJOR DEVELOPMENTS

- D.1** Proposed development narrative ✓
- D.2** Grading plan ✓
- D.3** Stormwater drainage & erosion control program ✓
- D.4** Groundwater impact analysis ✓
- D.5** Plan preparer name/registration number/seal ✓
- D.6** Utility plan ✓
- D.7** Planting schedule ✓
- D.8** Traffic impact analysis ✓
- D.9** Gray Water District statement of supply adequacy ✓
- D.10** Estimated cost of development/proof of financial capacity ✓

402.10.10.E WAIVER OF SUBMISSION REQUIREMENTS [WRITE IN WAIVER REQUESTS]

- NOTES**
- 1) REFERENCES ARE REFERENCED TO MAGNETIC NORTH 1980.
 - 2) EXISTING AS RECORDED IN BOOK 544, PAGE 497 AS NOW RECORDED AS RECORDED IN BOOK 584, PAGE 17 IS NOW ROUTE 100 AND OLD ROUTE 100.
 - 3) ROUTE 100 AS RECORDED IN BOOK 584, PAGE 17 IS NOW ROUTE 100 AND OLD ROUTE 100.

- REFERENCES**
- 1) SITE PLAN MADE FOR JAMES & ROSEMARIE CAR DATED APRIL 8, 1980 BY T & W LAND SURVEYORS.
 - 2) MAINE STATE HIGHWAY COMMISSION PLAN OF PROPOSED RELOCATION OF ROUTE 100, AS RECORDED IN THE CONGRESSIONAL COUNTY REGISTER OF DEEDS IN PLAIN BOOK 31, PAGE 22.
 - 3) SURVEY FOR BIRCHBANK & OLIVE AND REVISED F. BARTON ROUTE 100 AS RECORDED IN THE CONGRESSIONAL COUNTY REGISTER OF DEEDS IN PLAIN BOOK 31, PAGE 21.

OWNER OF RECORD
 100 LESLIEWAY ROAD LLC
 BK 28024 / PL 158
 AREA
 A 35 14444
 182204 13 54.11.

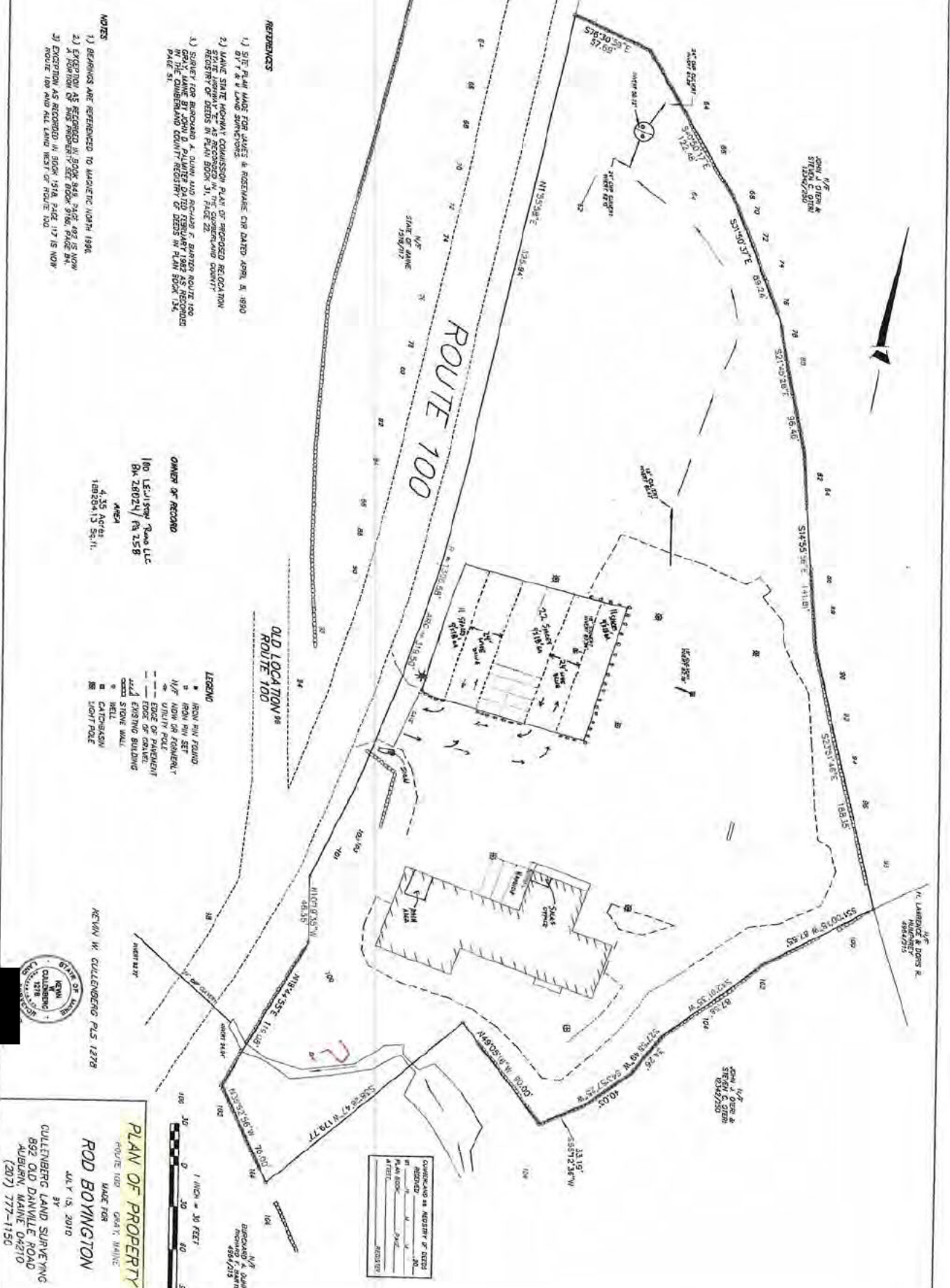
LEGEND

- BOUNDARY POINT
- CENTER POINT
- UTILITY POLE
- EDGE OF PAVEMENT
- EXISTING BUILDING
- STONE WALL
- WELL
- CATCH BASIN
- CURB POLE

PLAN OF PROPERTY
 MADE FOR
 ROD BOYINGTON
 JULY 15, 2010
 CULLENBERG LAND SURVEYING
 892 OLD DANVILLE ROAD
 AUBURN, MAINE 04210
 (207) 777-1150

1" = 40' = 30 FEET
 0 10 20 30 40 50
 100 200 300 400 500

CHECKED AS ACCURATE BY DEEDS
 PLAN BOOK 584, PAGE 17
 REGISTER



- k. A Class D medium intensity soil survey if vernal pools and/or significant wetlands are not present.

B. Site Analysis Plan

The site analysis must contain, at a minimum, the following information:

1. Twelve (12) copies of a site analysis plan at the same quantity, size, and scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to identify:
 - a. Portions of the site that are unsuitable for development or use;
 - b. Portions of the site that are unsuitable for on- site sewage disposal;
 - c. Areas of the site that have environmental limitations (steep slopes, flat poorly drained areas, wetlands, vernal pools, aquifers, wildlife habitat, floodplains, drainage, etc.) that must be addressed in the development plan;
 - d. Areas that may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are well suited to the proposed use.
2. Twelve (12) copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
3. Any requests for waivers from the submission requirements for the site plan review application.

C. Site Plan Review Application Submission Requirements

Applications for site plan review must be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Planner. In addition to the site inventory and analysis, the submission must contain at least the following exhibits and information, unless specifically waived in writing:

1. A fully executed and signed copy of the application for development review.
2. Evidence of payment of the application and technical review fees.
3. Twelve (12) copies of written materials plus twelve (12) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria. Three (3) full sets of plans or drawings shall be submitted that are not more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development. The remaining nine (9) full sets shall be 11 x 17 inch copies. One (1) universally accessible digital format e.g. PDF of all plans shall also be submitted.
4. The bound report and maps or drawings shall contain the following general information (Note: asterisks (*) following an item indicate information to be included on the approved Site Plan):
 - a. Record owner's name, address, and phone number and applicant's name, address and phone number, if different.*

the District shall also be notified. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.

- G. Public Hearing Notices - If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
- H. Time Frame for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. Conditions of Preliminary Approval - When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
1. The specific changes which it will require in the final plan;
 2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
- J. Relationship of Preliminary Approval to Final Plan - Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

401.7.2 - REQUIRED SUBMISSIONS FOR PRELIMINARY PLAN

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12 for waivers. Twelve (12) copies of all materials shall be delivered to the Town Office, at least twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda.

X:\ORDINANCE



AMENDED MAY 16, 2017 / EFFECTIVE JUNE 15, 2017
CH 401 SUBDIVISION ORDINANCE.UPDATE MARCH 2023.DOCX 19

- A. Application Form - The application form and any accompanying information.
- B. Location Map - The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
1. Existing subdivisions in the proximity of the proposed subdivision.
 2. Locations and names of existing and proposed streets.
 3. Boundaries and designations of zoning districts.
 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary Plan Format & Content - The preliminary plan shall be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. Three (3) sets of plans shall be no larger than 24 by 36 inches in size. Nine (9) sets of 11 by 17 inch copies and one (1) universally accessible digital format e.g. PDF of all plans shall be submitted. The application materials for preliminary plan approval shall include the following information:
1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
 2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five (5) years, as required by Title 30-A M.R.S.A. section 4401. Any parcels that have been sold or transferred in the prior five years shall be so noted on the plan.
 4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 5. A copy of any proposed deed restrictions intended to cover all or part of the lots, dwellings, or common land in the subdivision.
 6. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
 7. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
 8. The date the plan was prepared, north point, and graphic map scale.

9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
10. Wetland areas shall be delineated on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
16. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management.
20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
21. The proposed driveway access to the area of each lot that will be developed as indicated in Subsection 20, and any drainage or topographic features that must be crossed to access the proposed home site. [Adopted May 18, 2004]
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
23. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
24. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the

and services related to its review of the application. Such refund of remaining monies shall be made no later than sixty (60) days after the Planning Board's final decision with regard to the application.

C. Establishment of Fees

The Town Council may, from time to time and after consultation with the Board, establish the appropriate fees following posting of the proposed schedule of fees and conducting a public hearing.

402.10.10 Required Submissions for Site Plan Review

Site Inventory and Analysis: The site inventory and analysis is intended to provide both the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. This analysis will result in a development plan that reflects the conditions of the site; ensuring that those areas most suitable for the proposed use will be utilized, while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site and an analysis of that information.

A. Site Inventory Plan

The site inventory must contain, at a minimum, the following information:

1. The names, addresses, and phone numbers of the record owner and the applicant.
2. The names and addresses of all consultants working on the project.
3. Evidence of right, title, or interest in the property.
4. Three (3) copies of an accurate scale inventory plan of the parcel at a scale of not more than one hundred (100) feet to the inch, one universally accessible digital format e.g. PDF, and twelve (12) 11 x 17 inch copies showing as a minimum:
 - a. The name of the development, north arrow, date and scale.
 - b. The boundaries of the parcel and existing zoning.
 - c. The relationship of the site to the surrounding area (i.e., access roads and abutting uses).
 - d. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many instances, submittal of the U.S.G.S. contours will be adequate);
 - e. The major natural features of the site and within five hundred (500) feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state).
 - f. Existing buildings, structures, or other improvements on the site (if none, so state).
 - g. Existing restrictions or easements on the site (if none, so state).
 - h. The location and size of existing utilities or improvements servicing the site (if none, so state).
 - i. Mapping of all wetlands and/or potential vernal pools on site regardless of size.
 - j. A Class B high intensity soil survey if any portion of the site is located in a resource protection district or has wetlands covering more than ten (10%) percent of the site.



- b. The location of all required building setbacks, yards, and buffers.*
 - c. Names and addresses of all property owners within five hundred (500 ft.) feet of any and all property boundaries.
 - d. Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
 - e. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
 - f. The tax map and lot number of the parcel or parcels on which the project is to be located.*
 - g. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
 - h. The name, registration number and seal of the person who prepared the plan, if applicable.*
 - i. Evidence of the applicant's technical and financial capability to carry out the project as proposed.
5. The bound report and maps and drawings shall contain the following information pertaining to existing conditions of the site:
- a. Zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district.*
 - b. The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.*
 - c. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
 - d. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.*
 - e. The location and dimensions and photographs of all existing buildings on the site.
 - f. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
 - g. Location of intersecting roads or driveways within two hundred (200) feet of the site.
 - h. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

- i. The direction of existing surface water drainage across the site.
 - j. The location, front view, dimensions, and lighting of existing signs.
 - k. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
 - l. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.
6. The bound report and maps and drawings shall contain the following information pertaining to proposed development of the site:
- a. Estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data for on-site sewage disposal.
 - b. The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.
 - c. Provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities.*
 - d. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.*
 - e. Proposed landscaping and buffering.
 - f. The location, dimensions, ground floor plan, and architectural elevations of all proposed buildings or building expansion proposed on the site.*
 - g. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign(s).
 - h. Location and type of exterior lighting.*
 - i. The location of all utilities, including fire protection systems.
 - j. A general description of the proposed use or activity.
 - k. An estimate of the peak hour and daily traffic to be generated by the project.
 - l. Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection, if the project is located in the Wellhead Protection or Business Transitional 2 Districts, or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.
7. One drawing of the plan set shall be labeled as the Site Plan and shall contain the following information:
- a. All mapping information contained in subsections 4, 5, and 6 above that are followed by an asterisk (*).
 - b. Space provided on the plan drawing for the signatures of the Planning Board and date, together with the following words, "Approved: Town of Gray Planning Board."

D. Additional Engineering Information Required for Major Developments

In addition to the information required for all applicants, an application for a major development must contain the following additional information:

1. A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis.
2. A grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.
3. A stormwater drainage and erosion control program showing:
 - a. The existing and proposed method of handling stormwater runoff.
 - b. The direction of flow of the runoff, through the use of arrows.
 - c. The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
 - d. Engineering calculations used to determine drainage requirements based upon the twenty-five (25) year twenty-four (24) hour storm frequency; this is required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
 - e. Methods of controlling erosion and sedimentation during and after construction.
4. A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
5. The name, registration number, and seal of the architect, engineer, landscape architect and/or similar professional who prepared the plan.
6. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.
7. A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.
8. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project or expansion will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generator manual of the Institution of Traffic Engineers.
9. A written statement from the Gray Water District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, if public water will be utilized.
10. Estimated cost of the proposed development and evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed or available, and individual's or institution's interest in financing the project or in the form of a letter from a

certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.

E. Waiver of Submission Requirements

The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria. Provisions for waivers of the performance standards of the following Sections 402.10.11 through 402.10.14 are contained in Section 402.10.15.

402.10.11 Site Development Standards for Site Plan Review

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

B. Traffic Access and Parking

1. Adequacy of Road System - Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development.

Levels of service rankings are similar to the academic ranking system where an 'A' represents little control delay and an 'F' represents extensive delay. A level of service 'D' and higher is desirable for a signalized intersection, although in urban areas, specific movements often operate at a level of service 'E' or 'F'. [Adopted 1/19/10]

The following tables summarize the relationship between control delay and level of service:
[Adopted 1/19/10]

Table 1A - Level of Service Criteria for Signalized Intersections

Chris Neagle

From: Swett, Sierra M <Sierra.M.Swett@maine.gov>
Sent: Tuesday, October 10, 2023 1:29 PM
To: Mark Hampton
Cc: 'Bill Chapman'; 'Greg Rand'; Chris Neagle
Subject: RE: Gray, ME Permit By Rule Amendment
Attachments: PBRReviewRand.pdf; Ch 305 Section 10.pdf; Ch 305 Section 2.pdf

Dear Greg Rand, Bill Chapman and Mark Hampton,

Thank you for submitting this application with all required submission details required for Section 2 and 10 permitting. Your Permit-By-Rule Notification Form was received and reviewed by the DEP and was found to be acceptable under the conditions to which were stated within this plan and with the Natural Resource Protection Act criteria. The attached information is important to note as you begin this project.

NOTE: Stream crossings allowable under this section but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM) must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a crossing may be required to pass a 100-year flood event.

Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the town in which the activity took place.

Please be sure that you have read and understand all the conditions of your permit and feel free to reach out to the department if you have any questions or concerns.

Reminder: Unannounced compliance checks are within DEP jurisdiction and can occur at any time during or after the project is completed.

Sierra Swett

Sierra Swett
Environmental Specialist III
Maine Department of Environmental Protection
Southern Maine Office
312 Canco Road, Portland, ME 04103

Phone: (207) 450-4563

Email: Sierra.M.Hopkins@maine.gov

www.maine.gov/dep





From: Mark Hampton <mhampto1@maine.rr.com>
Sent: Tuesday, October 3, 2023 8:22 PM
To: DEP, PBR Notification <DEP.PBRNotification@maine.gov>
Cc: 'Bill Chapman' <bchapma8@gmail.com>; 'Greg Rand' <greg@grandbuildersme.com>; 'Chris Neagle' <chris@neaglelaw.com>
Subject: Gray, ME Permit By Rule Amendment

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Here is an amended permit by rule application for a driveway crossing a stream twice and soil disturbance within 75 feet but greater than 25 feet to a stream. Original permit by rule application was filed on August 18, 2023 under the same applicant information. I made the mistake of starting the driveway at Route 202 in the wrong location. The new location will require an additional stream crossing.

Mark

Mark Hampton Associates, Inc.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Permit-by-Rule & Notice of Intent Review Form

Natural Resources Protection Act
Stormwater Management Law
Maine Construction General Permit

PBR # 78006
PBR #
NOI #

Applicant: Greg Rand and Bill Chapman
Project Address: 110 Lewiston Road

Town: Gray
Tax Map/Lot #: 28/25-30-2

NRPA PBR Sections – Ch. 305

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. 2 Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. 9 Utility Crossing | <input type="checkbox"/> Sec. 16 Coastal Sand Dune Project |
| <input type="checkbox"/> Sec. 3 Intake Pipes | <input checked="" type="checkbox"/> Sec. 10 Stream Crossing | <input type="checkbox"/> Sec. 17 Transfer/Permit Extension |
| <input type="checkbox"/> Sec. 4 Replacement of Structures | <input type="checkbox"/> Sec. 11 State Transport. Facilities | <input type="checkbox"/> Sec. 18 Maintenance Dredging |
| <input type="checkbox"/> Sec. 6 Movement of Rocks or Veg. | <input type="checkbox"/> Sec. 12 Restoration Natural Areas | <input type="checkbox"/> Sec. 19 Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. 7 Outfall Pipes | <input type="checkbox"/> Sec. 13 F&W Creat./Water Quality | <input type="checkbox"/> Sec. 20 Act. Near Waterfowl/Bird Habitat |
| <input type="checkbox"/> Sec. 8 Shoreline Stabilization | <input type="checkbox"/> Sec. 15 Public Boat Ramps | |

Notes:

- A permit will be required from the US Army Corps of Engineers for the following types of projects:
 - o (a) Any activity involving impacts (direct and secondary) to freshwater wetlands; or
 - o (b) An activity within a river, stream or brook between October 2 and July 14.
- A bridge or culvert must provide an opening with a cross-sectional area at least equal to 3 times the cross-sectional area of the stream channel or sufficient in size to accommodate 25-year frequency water flows.
- (6) Road surfaces must be constructed in a manner to prevent erosion of material into the river, stream or brook.
- (7) Surface water on or adjacent to crossing approaches must be diverted through vegetative filter areas at least 25 feet long to avoid sedimentation of the watercourse. Roadside ditches may not extend to the resource being crossed.
- (10) Culvert crossings must:
 - o (a) Be limited to 75 feet in length. This limit may not be exceeded within a half-mile length of the stream or within the length of stream controlled by the applicant, if less;
 - o (b) Follow the alignment and grade of the existing stream channel where possible. On perennial streams the culvert's gradient may not exceed 1%;
 - o (c) Have the bottom of the entire culvert installed at or below stream bed elevation, except for additional culverts at the same crossing;
 - o (d) Where two or more culverts are installed, be offset in order to concentrate low flows into the culvert within the natural channel;
 - o (e) Be seated on firm ground, or on geotextiles, logs or other materials used to stabilize the ground;
 - o (f) Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater;
 - o (g) Have the soil compacted at least halfway up the side of the culvert; and
 - o (h) Have the inlet and outlet ends stabilized by riprap in accordance with Section 8 Shoreline stabilization standards to avoid erosion of material around the culvert.
- Disturbance within the resource must be minimized.
- All work is limited to the location and extent depicted on the plan or plans submitted pursuant to subsection B(4) of this section.

Reviewer:
Reviewer: Sierra Swett

Deficient Date: NRPA SW NOI
Accepted Date: 10/10/2023 NRPA SW NOI

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2. Activities adjacent to protected natural resources**A. Applicability**

- (1) This section applies to an activity adjacent to, but not in:
 - (a) A coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland; or
 - (b) Freshwater wetlands consisting of or containing:
 - (i) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or
 - (ii) Peatlands dominated by shrubs, sedges and sphagnum moss.
- (2) This section does not apply to an activity where sustained slopes are steeper than 3 horizontal feet: 1 vertical foot (approximately 33% slope) between the normal high water line or upland edge of the protected resource and the soil disturbance.
- (3) Activities that qualify for permit by rule under another section are not required to comply with this section unless expressly stated in that section.
- (4) This section does not apply to an activity that is not or will not be in compliance with the terms and conditions of a permit issued under the Site Location of Development Law, 38 M.R.S.A. Sections 481 to 490, the Storm Water Management Law, 38 M.R.S.A. Section 420-D, or the Natural Resources Protection Act, 38 M.R.S.A. Sections 480-A to 480-Z.
- (5) This section does not apply to an activity that does not conform to the local shoreland zoning ordinance.

NOTE: Contact the local Code Enforcement Officer for information on local shoreland zoning requirements. In most shoreland areas, a 75 or 100 foot undisturbed buffer strip is required between the disturbed areas and the water or wetland.

B. Submissions

- (1) The applicant is required to submit photographs of the area which will be affected by the activity proposed.
- (2) Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the town in which the activity took place.
- (3) A brief narrative explaining why there is no practicable alternative to location of the activity within the 75 foot setback, and how the impact on the remaining buffer and the resource will

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be minimized. This narrative is not required for those activities presumed to have no practicable alternative as listed in paragraph C(1) of this section.

- (4) A scaled plan or drawing of the area affected, including information such as:
- (a) The entire property on which the activity will take place, including property lines, the 75 foot setback, and the boundaries or location of protected natural resources such as streams and wetlands;
 - (b) Proposed and existing development on the parcel including buildings, parking areas, roads, fill areas, landscaped areas, etc.; and
 - (c) Any site constraints limiting development beyond the 75 foot setback, such as steep slopes.

It is not necessary to have the plan professionally prepared. However, it must be legible and drawn to a scale that allows clear representation of distances and measurements on the plan.

C. Standards

- (1) No activity or portion of an activity may be located within the 75 foot setback if there is a practicable alternative location on the parcel that would cause or result in less impact on the environment. The following activities are presumed to have no practicable alternative location on the parcel.
- (a) The planting of vegetation for the purpose of controlling erosion or for establishing a vegetative buffer.
 - (b) The removal or replacement of underground storage tanks when performed in accordance with 38 M.R.S.A. Section 566-A.
 - (c) The replacement of a structure or the placement or replacement of a foundation or supports for a legally existing structure or addition that is not closer to a protected natural resource than the existing structure provided the municipality has approved the location of the replaced or modified structure. However, any fill, other than that required to maintain the integrity of the structure such as foundation backfill, must meet the 75 foot setback standard unless otherwise approved by the DEP pursuant to this section.

NOTE: In most cases when a structure is being replaced or a foundation is being put under an existing structure that does not meet the setback requirements of the Municipal Shoreland Zoning Ordinance, the applicant is required by the municipality to move the structure back from the natural resource to the maximum extent practicable.

- (d) The closure of a landfill in conformance with the DEP's solid waste management rules.
- (e) Access way consisting of a footpath, stairway, or steps to the resource.

- (2) Except for those activities listed in Section 2(C)(1)(a)-(e) above, a 25 foot setback must be maintained between the normal high water line or upland edge of the protected natural resource and the activity. Areas that have slopes of 3 horizontal feet: 1 vertical foot (approximately 33% slope), or steeper, may not be counted when determining the 25 foot setback. Existing vegetation within the setback may not be disturbed except for cutting activity meeting the exemption requirements in 38 M.R.S.A. Section 480-Q(23).
- (3) Disturbance within the setback must be minimized.
- (4) The following measures must be taken to prevent erosion of soil or fill material from disturbed areas:
 - (a) Staked hay bales or silt fence must be properly installed at the edge of disturbed areas between the activity and the resource before the activity begins;
 - (b) Hay bales or silt fence barriers must be maintained until the disturbed area is permanently stabilized;
 - (c) Within 7 calendar days following the completion of any soil disturbance, and prior to any storm event, mulch must be spread on any exposed soils;
 - (d) All disturbed soils must be permanently stabilized; and
 - (e) Within 30 days of final stabilization of the site, any silt fence must be removed.
- (5) A footpath to the resource is limited to 6 feet in width and stairs or steps are limited to 4 feet in width.
- (6) All work is limited to the location and extent depicted on the plan or plans submitted pursuant to subsection B(4) of this section.

NOTE: For guidance on erosion and sedimentation controls, consult the Maine Erosion and Sediment Control BMPs, dated March 2003. This handbook and other references are available from the DEP.

D. Definitions. The following terms, as used in this chapter, have the following meanings, unless the context indicates otherwise:

- (1) **Fill.** a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a water body or wetland.
- (2) **Land adjacent to a protected natural resource.** Any land area within 75 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.

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- (2-A) **Practicable.** Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.
- (3) **Structure.** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.
- (4) **Upland edge.** The boundary between upland and wetland.

NOTE:

Section 480-Q(15-A) of the NRPA exempts the installation, removal or repair of a septic system from permitting requirements as of March 1, 1995, as long as the system complies with all requirements of the subsurface wastewater disposal rules adopted by the Department of Human Services pursuant to 22 M.R.S.A. Section 42(3).

10. Stream crossings (bridges, culverts and fords)**A. Applicability**

- (1) This section applies to the construction of a bridge span or culvert crossing of a river, stream or brook, and associated accessway construction within 25 feet of the river, stream or brook crossing excluding the following:
- (a) Crossings of outstanding river segments identified in 38 M.R.S.A. Section 480-P;
 - (b) Crossings of any river as defined by 38 M.R.S.A. Section 436-A(11), the Mandatory Shoreland Zoning Act (information is available at the Town Office); or
 - (c) Crossings of any portion of a river, stream or brook that experiences tidal action.

NOTE: Temporary structures do not require a permit from the department under the Natural Resources Protection Act (NRPA) provided no filling and minimal soil disturbance occurs. All crossings involving filling in and adjacent to a river, stream or brook, such as culvert crossings, are subject to the NRPA and must first receive a permit before construction.

- (2) This section also applies to the establishment of a permanent stream ford for purposes of timber harvesting, livestock, agriculture and construction and maintenance of a utility line.
- (3) A stream crossing constructed between July 15 and October 1 that is associated with forest management activities is exempt from the 14 day waiting period required in Section 1(C)(1).
- (4) A stream crossing constructed between July 15 and October 1 that is performed or supervised by individuals currently certified in erosion control practices by the DEP is exempt from the 14 day waiting period required in Section 1(C)(1).
- (5) Multiple stream crossings may be submitted on one PBR notification form as long as all of the crossing activities are located within one town.
- (6) This section does not apply to an activity that is not or will not be in compliance with the terms and conditions of permits issued under the Site Location of Development Law, 38 M.R.S.A. Sections 481 to 490, the Storm Water Management Law, 38 M.R.S.A. Section 420-D, or the Natural Resources Protection Act, 38 M.R.S.A. Sections 480-A to 480-Z.
- (7) This section does not apply to an activity that will not conform to the local shoreland zoning ordinance.

NOTES:

- (1) Contact the local Code Enforcement Officer for information on local shoreland zoning requirements.

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- (2) Maintenance and repair of a public or private crossing of a river, stream or brook is exempt from the NRPA provided that:
 - (a) Erosion control measures are taken to prevent sedimentation of the water;
 - (b) The crossing does not block fish passage in the water course; and
 - (c) Any replaced culvert is not more than 25% longer than the culvert being replaced and is not longer than 75 feet.
- (3) A permit will be required from the US Army Corps of Engineers for the following types of projects:
 - (a) Any activity involving impacts (direct and secondary) to freshwater wetlands; or
 - (b) An activity within a river, stream or brook between October 2 and July 14.

A copy of the PBR notification form and original photographs, not photocopies, should be submitted to the Corps of Engineers for these activities (US Army Corps of Engineers, 675 Western Avenue, Suite #3, Manchester, ME 04351. Tel. (207) 623-8367).

B. Submissions

- (1) For any crossing involving trenching or disturbance of substrate in a river, stream or brook that occurs between October 2 and July 14, the proposed dates for construction of the crossing must be clearly identified on the notification form under "Description of Project".
- (2) Except for crossings associated with forest management activities, the applicant is required to submit photographs of the area that will be affected by the activity proposed.
- (3) Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the town in which the activity took place.

C. Standards

- (1) The following measures must be taken to prevent erosion of soil or fill material from disturbed areas into the resource:
 - (a) Staked hay bales or silt fence must be properly installed between the area of soil disturbance and the resource before the activity begins;
 - (b) Hay bales or silt fence barriers must be maintained until the disturbed area is permanently stabilized;
 - (c) Within 7 calendar days following the completion of any soil disturbance, and prior to any storm event, mulch must be spread on any exposed soils;

- (d) All disturbed soils must be permanently stabilized; and
- (e) Within 30 days of final stabilization of the site, any silt fence must be removed.

NOTE: For guidance on erosion and sedimentation controls, consult the Maine Erosion and Sediment Control BMPs, dated March 2003. This handbook and other references are available from the DEP.

- (2) If a perennial watercourse to be crossed is used for navigation, the crossing must consist of a bridge span or pipe arch with at least 4 feet of clearance during normal high water for boat traffic.
- (3) If the stream to be crossed is a perennial watercourse and has a slope of more than 2%, a bridge or a pipe arch must be used to maintain the natural streambed.
- (4) Fill sideslopes in a stream or floodplain wetland must be maintained at a slope no shallower than 3 horizontal to 1 vertical and no steeper than 1.5 horizontal to 1 vertical. Fill sideslopes must be stabilized at the completion of the activity.

NOTE: Uncompacted soils or sandy soils that are saturated at the toe of a slope will be unstable at a 1.5 to 1 slope.

- (5) A bridge or culvert must provide an opening with a cross-sectional area at least equal to 3 times the cross-sectional area of the stream channel or sufficient in size to accommodate 25-year frequency water flows.

NOTE: Stream crossings allowable under this section but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM) must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a crossing may be required to pass a 100-year flood event.

- (6) Road surfaces must be constructed in a manner to prevent erosion of material into the river, stream or brook.
- (7) Surface water on or adjacent to crossing approaches must be diverted through vegetative filter areas at least 25 feet long to avoid sedimentation of the watercourse. Roadside ditches may not extend to the resource being crossed.

NOTE: Surface water on or adjacent to crossing approaches should be diverted through vegetative filter areas to avoid sedimentation of the watercourse. Because roadside ditches may not extend to the resource being crossed, filter areas should be established in accordance with the following tables:

Average slope of land between
exposed mineral soil and

Width of strip between ditch terminus
and normal high water mark

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normal high water mark (percent)	(feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

- (8) A stream ford must be lined with crushed stone, blasted ledge, washed stone, gabion blankets or geotextile material for erosion control when the natural stream bed does not consist of ledge or rock.
- (9) A stream ford must allow for fish passage at all times of the year and may not impound water. The fords must also allow for maintenance of normal stream flows.
- (10) Culvert crossings must:
- Be limited to 75 feet in length. This limit may not be exceeded within a half-mile length of the stream or within the length of stream controlled by the applicant, if less;
 - Follow the alignment and grade of the existing stream channel where possible. On perennial streams the culvert's gradient may not exceed 1%;
 - Have the bottom of the entire culvert installed at or below stream bed elevation, except for additional culverts at the same crossing;
 - Where two or more culverts are installed, be offset in order to concentrate low flows into the culvert within the natural channel;
 - Be seated on firm ground, or on geotextiles, logs or other materials used to stabilize the ground;
 - Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater;
 - Have the soil compacted at least halfway up the side of the culvert; and
 - Have the inlet and outlet ends stabilized by riprap in accordance with Section 8 Shoreline stabilization standards to avoid erosion of material around the culvert.

NOTE: For guidance on riprap installation, consult the Maine Erosion and Sediment Control BMPs, dated March 2003. This handbook and other references are available from the DEP.

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- (11) Wheeled or tracked equipment may not operate in the water. Equipment operating on the shore may, where necessary, reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (12) Work below the normal high water line must be done during periods of low water level or flow.
- (13) If the crossing involves trenching or disturbance of substrate in a river, stream or brook between October 2 and July 14, the activity must occur during the time period approved by the DEP. The approved time period may be the time period proposed by the applicant or an alternative time period approved by the DEP. An alternative time period will be required where it appears an unreasonable impact on water quality or fisheries may result at the point of crossing or immediately downstream of the crossing. The applicant will be notified by the DEP within 14 days if an alternative time period, other than the one proposed by the applicant, is required for constructing the crossing.
- (14) If work is performed in a river, stream or brook that is less than three feet deep at the time of the activity and at the location of the activity, the applicant must provide for temporary diversion of flow to the opposite side of the channel while work is in progress.
 - (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene or geotextiles from the bank to midstream on the upstream side of the activity. No more than two-thirds (2/3) or 25 feet of stream width, whichever is less, may be diverted at one time.
 - (b) Any material used to divert water flow must be completely removed upon completion of the activity, and the stream substrate must be restored to its original condition.
 - (c) A pump may be operated, where necessary, for a temporary diversion. The pump outlet must be located and operated such that erosion or the discharge of sediment to the water is prevented.
- (15) All wheeled or tracked equipment that must travel or work in a vegetated wetland area must travel and work on mats or platforms in order to protect wetland vegetation.
- (16) All excavated material must be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence must be used, where necessary, to prevent sedimentation.
- (17) The use of untreated lumber is preferred. Lumber pressure treated with chromated copper arsenate (CCA) may be used only if necessary and only if use is allowed under federal law and not prohibited from sale under 38 M.R.S.A. 1682, and provided it is cured on dry land in a way that exposes all surfaces to the air for a period of at least 21 days prior to construction. Wood treated with creosote or pentachlorophenol may not be used where it will contact water.

D. Definitions. The following terms, as used in this chapter, have the following meanings, unless the context indicates otherwise:

- (1) **Cross-sectional area.** The cross-sectional area of a stream channel is determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight line distance from the normal high water line on one side of the channel to the normal high water line on the opposite side of the channel. The average stream channel depth is the average of the vertical distances from a straight line between the normal high water marks of the stream channel to the bottom of the channel.
- (2) **Crossing.** Any activity extending from one side to the opposite side of a protected natural resource, or to an island or upland within a protected natural resource whether under, through or over that resource. Such activities include, but are not limited to roads, fords, bridges, culverts, utility lines, water lines, sewer lines and cables, and the clearing and removal of vegetation necessary to install and maintain these crossings.
- (3) **Fill.** a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a water body or wetland.
- (4) **Ford.** A permanent crossing of a stream utilizing an area of existing, non-erodible substrate of the stream, such as ledge or cobble, or by placing non-erodible material such as stone or geotextile on the stream bottom.
- (5) **Perennial watercourse.** A river, stream or brook depicted as a solid line on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15 minute series topographic map.
- (6) **Riprap.** Heavy, irregularly-shaped rocks that are fit into place, without mortar, on a slope. Square or rectangular rocks with flat faces, such as quarry stone or manufactured blocks, do not qualify as "irregularly-shaped".
- (7) **Used for navigation.** Those rivers, streams or brooks used by motorized watercraft.

NEAGLE LAW LLC

76 Orchard Road, Cumberland, ME 04021 · (207) 805-4211

Chris Neagle, attorney
chris@neaglelaw.com

Amy Iris, paralegal
amy@neaglelaw.com

Hand Delivered

October 12, 2023

Zoning Board of Appeals
Town of Gray
Gray Town Office
24 Main Street
Gray, ME 04039

re: Chapman-Rand Appeal of CEO Permit Denial

Greetings:

On behalf of Bill Chapman and Greg Rand, the following documents are enclosed.

1. Two permission statements allowing me to represent them.
2. An application for an administrative appeal.
3. Two alternative variance applications.
4. A check for \$1,000, \$500 for each appeal. If the ZBA never considers the variance applications, can the \$500 be refunded?
5. Ten copies of a memorandum and exhibits supporting the appeals.

I will also send pdf copies of these documents to the Gray Code Enforcement Officer. Contact me with any questions.

Sincerely,


enclosures
cc Bill Chapman and Greg Rand (email)

PERMISSION TO REPRESENT PROPERTY OWNER

PROPERTY & OWNER INFO			
Property Location/Address	Lewiston Road	Property Map/Lot	28 . 25 . 30 . 2
Zoning District	Commercial	Lot Acreage	15.43
Number of Dwelling Units		Deed Reference	34280-12
Owner Name	William P. Chapman	Owner Phone Number	

I William P. Chapman, residing at 1124 Castlemeay Circle
Dunedin, FL 34698, am the deeded owner of the above referenced property.

I authorize Chris Neagle to represent me & the above referenced property regarding application for driveway entrance permit


Authorization extended to: (Check all that apply)

- Submit application for the Zoning Board of Appeals
- Present case at the scheduled Zoning Board of Appeals / Planning Board Meeting
- Other (please describe) _____

REPRESENTATIVE INFO			
Name of Individual	Chris Neagle	Email Address	chris@neaglelaw.com
Company Name (if applicable)	Neagle Law, LLC	Primary Phone Number	207-805-4211
Mailing Address	76 Orchard Rd	Alternate Phone Number	
Mailing City/State/Zip	Cumberland ME 04021	Other?	

William P. Chapman

Printed Name


Signature

9/21/23
Date

bchapma@gmail.com
P.O. Box 983 Gray, ME 04039

PERMISSION TO REPRESENT PROPERTY OWNER

PROPERTY & OWNER INFO			
Property Location/Address	Lewiston Road	Property Map/Lot	28 . 25 . 30 . 2
Zoning District	Commercial	Lot Acreage	15.43
Number of Dwelling Units		Deed Reference	34280-12
Owner Name	Gregory Rand	Owner Phone Number	

I Gregory S. Rand, residing at 5 Braysley Way, Gray ME 04039
 _____, am the deeded owner of the above referenced property.

I authorize Chris Neagle to represent me & the above referenced
 property regarding application for driveway entrance permit

Authorization extended to: (Check all that apply)

- Submit application for the Zoning Board of Appeals
- Present case at the scheduled Zoning Board of Appeals / Planning Board Meeting
- Other (please describe) _____

REPRESENTATIVE INFO			
Name of Individual	Chris Neagle	Email Address	chris@neaglelaw.com
Company Name (if applicable)	Neagle Law, LLC	Primary Phone Number	207-805-4211
Mailing Address	76 Orchard Rd	Alternate Phone Number	
Mailing City/State/Zip	Cumberland ME 04021	Other?	

Gregory S. Rand

 Printed Name

 Signature

9-22-23

 Date



**APPLICATION FOR ADMINISTRATIVE APPEAL
ZONING BOARD OF APPEALS
TOWN OF GRAY MAINE**

For Office Use Only
Date Submitted: _____
Date Paid/Initials: _____
Amount Paid: _____

CONTACT INFORMATION			
Name	Chris Neagle	E-Mail Address	chris@neaglelaw.com
Street Address	76 Orchard Rd	City/State/Zip	Cumberland, ME 04021
Phone Number	207-805-4211	Work Phone	
Name of owner on property which is subject to appeal:		William P. Chapman and Gregory S. Rand	

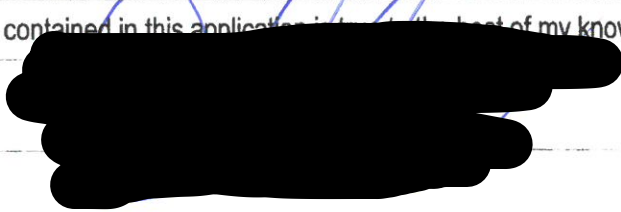
APPEAL

Please describe in detail the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what actions you want the board of appeals to take in this matter. If additional space is needed, please continue on a separate sheet of paper and attach it to this application.

See attached memorandum

CERTIFICATION

I certify that the information contained in this application is true to the best of my knowledge and belief.

Applicant Signature		Date	10-12-23
---------------------	--	------	----------


NEAGLE LAW LLC

76 Orchard Road, Cumberland, ME 04021 · (207) 805-4211

Chris Neagle, attorney
chris@neaglelaw.com

Amy Iris, paralegal
amy@neaglelaw.com

TO: Town of Gray Zoning Board of Appeals

FROM: Chris Neagle, Esq., attorney for Gregory S. Rand and William P. Chapman 

DATE: October 12, 2023

RE: Administrative Appeal of Denial of Driveway/Entrance Permit Application,
Alternative Variance Requests from Impervious Lot Coverage Limit
Lewiston Road (Route 100), Property Map 28, Lot 25-30-3

Summary of Facts

The Gray Code Enforcement Officer (“CEO”) has violated the constitutional rights of Gregory S. Rand and William P. Chapman (“Applicants”). The CEO denied their 2023 driveway/entrance permit application to develop a driveway to a residence in their 60-foot wide access easement across adjacent land owned by Grayland Holdings, LCC (“Grayland”- owned by Scott Liberty). Grayland created the Applicants’ access easement in 2020 in exchange for a release of a different access easement held by the Applicants that would have interfered with a proposed Grayland project.

In 2022, the Planning Board approved a large commercial project for Grayland on Lot 3 of its new subdivision. The Planning Board apparently allowed Grayland to cover the maximum of 65% of its new Lot 3 with impervious surfaces. However, the Grayland application *failed to disclose* the Applicants’ 2020 access easement and *failed to show it* on the proposed subdivision or site plans, as required by two ordinances. When the Gray Community Planner¹ learned of this problem in July of 2023, she told Scott Liberty that he had to return to the Planning Board to correct it. He didn’t.

¹ The Gray CEO was out on an extended leave.

In September of 2023, the CEO determined the Applicants could not build a driveway in their 2020 access easement on Lot 3 because any driveway would add to the impervious surface on Grayland's lot that the CEO believed was already at 65%. That decision is simply unfair.

To make matters worse for the Applicants, the Town is now considering amending the Commercial Zoning District to prevent residential uses. That change means the Applicants may need to be able to develop a driveway or private road to a commercial development someday.

Scott Liberty's error should be Scott's problem, not the Applicants' problem. The Applicants request that the Zoning Board of Appeals uphold the appeal, order the CEO to issue the driveway/entrance permit to the Applicants and recommend that the CEO follow up on the Gray Community Planner's July 2023 email and demand that Liberty return to the Planning Board to provide reliable information on the amount of existing lot coverage, show the 2020 access easement on the subdivision and site plans, allocate impervious surface area for a driveway in the 2020 access easement, and develop new plans showing coverage of only 65% of Lot 3.

Instead of making Scott Liberty correct his error and go back to the Planning Board, the *CEO has requested* that the Applicants seek a variance from the ZBA from the impervious surface lot coverage limit. The primary problem with that approach is that no one knows how much of Lot 3 has impervious surfaces today. *Scott Liberty has written to Bill Chapman that Lot 3 is now more than 70% covered with impervious surfaces.*

In the alternative, the Applicants also seek a variance from the impervious surface lot coverage limits.

Administrative Appeal

Permit History

The Applicants filed the June 28, 2023 Driveway/Entrance Permit Application. See Exhibit 6, pp 10, 11.² They have supplemented their application in this appeal with information from the MeDOT and an engineer's plan prepared pursuant to the Gray Street Ordinance. See Exhibit 6, pp 12, 13.

The Applicants also filed an August 2023 MeDEP Permit by Rule notification for a minor stream crossing with the CEO. See Exhibit 7, page 14. It was amended an October 2023 MeDEP Permit by Rule notification for two minor stream crossings because the August notification showed an incorrect location of the driveway. See Exhibit 8, page 20.³ On October 10, 2023, the MeDEP acknowledged that the October notification was acceptable. See Exhibit 19, page 61.

The CEO was out of the office dealing with important family matters for some time. On September 18, 2023, she denied the application because of the limits to the amount of impervious surface on Lot 3. See the denial letter. Exhibit 9, page 27.

Applicants' Land

The applicants own about 24 acres of land on Route 100 shown on the 2018 subdivision plan of Trestle Way Acres attached as Exhibit 1, page 1. Their 2017 deed is attached as Exhibit 13, page 33. They conveyed the two lots near Route 100 to third parties in 2017 and 2018. They now own the remaining parcel of land, shown as Parcels A, B and C, as a single lot.

The Applicants' current project is to build a new residence on Parcel C with access directly onto the Lewiston Road over the 2020 access easement over the adjacent Grayland project. The Planning Board specifically authorized the separate entrance in Note 16 of the 2018 plan. See Exhibit 1, page 2.

² The Planning Board only approved the two lots with residences at the intersection of Trestle Way and the Lewiston Road. The first lot was sold in 2017 and the second lot was sold on October 19, 2018. What are shown as Parcels A, B and C were not approved as separate lots. However, on October 20, 2023, Parcel C will become separate lot for subdivision purposes because the applicants do not own Trestle Way.

³ There is table of contents for the exhibits after page 11 of the memo.

Their land was benefitted by a vague 1906 access easement to Route 100, highlighted in yellow on Exhibit 1, over what was then adjacent land of 100 Lewiston Road LLC. See their deed at Exhibit 13, page 37.

Adjacent Land of Scott Liberty

In 2020, Scott Liberty formed two LLCs to purchase the adjacent land from 100 Lewiston Road LLC. He had a 2020 Plan of Lot A and Lot B created from the land later recorded in Plan Book 220, Page 310. See Exhibit 2, Page 3. Odessa Properties, LLC acquired Lot B, and Grayland Properties LLC acquired Lot A⁴ *with the image of the 2020 access easement on it.*

The Liberty LLCs wanted to develop Lot A and Lot B, but the vague 1906 easement held by the Applicants created issues for the project. In exchange for a release of the 1906 easement from the Applicants, in 2020, *Grayland created the new 60-foot wide access easement for the Applicants with a September 18, 2020 Easement Deed.* The two deeds trading easements are attached as Exhibit 3, pages 4 and 5.

Scott Liberty's Adjacent 2022 Project

In March of 2022, Scott Liberty filed an application with the Planning Board for both site plan approval and subdivision approval of the adjacent land owned by his two LLCs. See Section 1 of his application and two of the plans filed with it, attached as Exhibit 15, pages 49 and 50, one of which is also Exhibit 4.

The Section 1 checklist requires the "Easement location, dimensions, documents" be provided. See page 47 of Exhibit 15. *Scott Liberty did not include the 2020 access easement held by the Applicants with his application.* He obviously knew about it due to the 2020 exchange of easement rights that allowed him to develop the site.

Section 402.10.10 of the Gray Zoning Ordinance describes required submissions for Site Plan Review. See Exhibit 16, page 52. Subsection A describes requirements for the site inventory plan that include all existing *easements*. Page 54. The Liberty survey plan (part of Exhibit 15) does not show the Applicants' 60-foot wide access easement.

⁴ See the 2020 deeds attached as Exhibit 14, pages 38 and 41.

Section 401.7.2 of the Gray Subdivision Ordinance describes requirements for the preliminary plan to be reviewed by the Planning Board. Subsection (C)(15) requires the location, name and width of all *easements* on the site. See Exhibit 17, page 55. The proposed Liberty subdivision plan (Exhibit 4, a part of Exhibit 15) also does not show the Applicants' 60-foot wide access easement on Lot 3.

In 2022, Scott Liberty failed to make the required disclosure of an important easement he obviously knew about to the Planning Board. As a result, the recorded plan signed by the Planning Board (Exhibit 5, page 9) did not show the 2020 access easement. *The Planning Board was unable to consider the impact of a paved driveway being constructed on Lot 3 when it considered impervious surface lot coverage issues.* The Planning Board is not to blame.

In 2023, Scott Liberty failed to comply with the Community Planner's request that he return to the Planning Board with complete information so it could consider the impact of the omitted 2020 access easement. See Exhibit 11, page 30.

Grounds for Appeal

The CEO denied the permit application because the driveway pavement would cause the impervious surface on Liberty's Lot 3 to exceed the 65% limit. See highlighted language on page 2 of her Exhibit 9 denial letter.

1. Unconstitutional Taking of Private Property. Neither Scott Liberty's LLCs, the Town of Gray Planning Board, nor the Town of Gray CEO have any lawful authority to prevent the Applicants from exercising their 2020 private access easement rights.

Both the federal and state constitutions prevent any governmental authority from taking away private property rights without compensation. The Town of Gray only has the authority to take private property by eminent domain, and only then for public purposes. The Liberty project is a private business.

The Applicants may have received notice of the 2022 Planning Board meeting to approve the Grayland project, but they generally knew about the project and had no serious concerns with it. They were under no obligation to attend the Planning Board meeting to make sure their easement rights were protected. Any estoppel defense asserted by the Town would fail.

The Town could have brought an enforcement action against Scott Liberty for violating the Gray Zoning Ordinance. Instead, it prevented the Applicants from using an access easement conveyed to them by Scott Liberty's LLC. That decision was fundamentally unfair.

The permit denial by the CEO violated the Applicants' civil rights, including their right to due process, when the CEO prevented the Applicants from exercising their private easement rights for a driveway to a single family residence. As a result, the Applicants now have several causes of action under both federal and state law for money damages. If the Zoning Board of Appeals denies the Applicants' appeal, then in addition to filing a Rule 80B appeal of the denial, the Applicants will be forced to assert these claims against the Town of Gray in court.

2. The CEO had No Solid Evidence of Lot Coverage. The CEO relied on a letter from Scott Liberty's engineer stating that a new driveway would "likely" cause Lot 3 to fall out of compliance due to too much impervious surface area on Lot 3. See Exhibit 10, page 29. Engineers seldom deal in probabilities. *The engineer knew that Liberty had already developed 70% of Lot 3 with impervious surfaces.* See Liberty's July 2023 text to Bill Chapman, attached as Exhibit 12, page 32, which was sent to the CEO on September 9, 2023.

3. Unanswered questions. These facts create many interesting questions:

a. The approved site plan apparently allowed Grayland to cover Lot 3 with the *maximum* of 65% of impervious surfaces. Before the CEO issued occupancy permits for Liberty's new buildings, why didn't the CEO ask for an "as built" plan showing the lot coverage as developed?

b. The Town learned that the Applicants held an access easement on the Liberty project in the summer of 2023⁵, that was not shown on the approved Liberty subdivision and site plans. Why didn't the Town set a deadline for Scott Liberty to go back to the Planning Board to amend his subdivision and site plans? Why didn't the Town demand information on "as built" lot coverage? The Planning Board would likely have demanded that an impervious surface area allowance for the proposed new driveway in the 2020 access easement be included.

⁵ See email to the acting Gray Town Planner attached as Exhibit 11, page 30 which is also listed in the Exhibit 9 denial letter.

c. Now that the CEO has evidence directly from Scott Liberty (Exhibit 12, page 32) that his Lot 3 project has already exceeded the 65% impervious surface lot coverage limit, what will the CEO do about it? See the suggested action in paragraph (b) above. Instead, the CEO apparently has no plans to take any action against Liberty and wants the Applicants to seek a variance.

Summary and Conclusion

Scott Liberty created this mess by failing to file a complete application showing the existence of the Applicant's 2020 60-foot wide access easement as required by two Gray ordinances. He then overdeveloped his lot according to his own words. He ignored a request from the Community Planner to return to the Planning Board. Yet he continues to collect rent from his tenants and the officials at Town Hall do nothing about it.

Meanwhile, the Town's failure to address Liberty's deception caused the Town to prevent the Applicants from exercising their private property rights when its CEO denied the Applicants' driveway permit application in violation of their constitutional rights.

The ZBA now has two choices: (1) grant the appeal, direct the CEO to issue the driveway/entrance permit to the Applicants *and* recommend that the CEO force Scott Liberty to get a revised subdivision plan approved by the Planning Board allowing for lot coverage on the Applicants' access easement or face losing his Lot 3 occupancy permits, or (2) hire lawyers to defend the CEO's flawed decision and the Applicant's civil rights claims in Superior Court.

Variance Request

Background

The Applicants incorporate the narrative from their administrative appeal into this alternate request. The Applicants request that they be given a variance from impervious surface lot coverage calculations.

The Applicants' land is in the Commercial Zoning District and section 402.5.4 of the Gray Zoning Ordinance sets a maximum of 65% of lot coverage with impervious surfaces. The Applicants were told by Scott Liberty that more than 70% of Grayland LLC's Lot 3 is already covered by impervious surfaces. See Exhibit 12, page 32.

The proposed residential driveway is 18 feet wide. See Exhibit 1. However, as described above, the Applicants may be forced to develop their land for commercial purposes only. The minimum width of two-way operation driveways in the Commercial District is 24 feet.⁶ The minimum width of sub-collector streets allowed in subdivisions is 22 feet.⁷

A reasonable driveway that could be used for commercial activities could be as much as 30 feet wide with two 5-foot sidewalks, or 40 square feet of impervious surface per foot of driveway. The 2020 Easement is 109 feet long,⁸ meaning **4,360 square feet** of possible impervious surface. See Exhibit 5, page 17. Lot 3 contains *70,395 square feet*. See Exhibit 11, page 37. $4,360 \text{ divided by } 70,395 = 6.2\% \text{ of additional lot coverage}$.

No matter what the existing lot coverage is, the Applicants request a variance to cover up to another 4,360 square feet of Lot 3 with impervious surfaces within their 60 foot access easement on Grayland's Lot 3.

Variance Arguments

The Gray Zoning Ordinance describes two different kinds of variances and the Applicants meet the standards for both variances. Either variance is acceptable to the Applicants. The applicable review standards are:

Section 402.9.2(B)(2) Standard Variance

The Applicants must show that:

a. That the land in question cannot yield a reasonable return unless a variance is granted: The Applicants own a large C-shaped lot. The proposed residence will use the 2020 access easement for access to the Applicants' new residential project at the very north end of Parcel C. Trestle Way has only been developed with a reclaim gravel road and only as far as the two residences at the south end of the lot. See Exhibit 1, page 1. Before it can be extended, it needs to be improved to town standards. See Exhibit 1, Page 2, paragraph 16. Therefore, to use Trestle Way for access, the Applicants would need to build a 1,600 foot driveway from the new residence to Trestle Way, upgrade the first 400 feet of

⁶ Site Plan Review, Article 13, Section 402.10.11(B)(3).

⁷ Subdivision Ordinance, Table 401.13.16.16-2.

⁸ See the Exhibit 2 plan dimensions.

Trestle Way to town road standards, and build another 1,200 feet of new roadway to town road standards. Building this infrastructure for a single family residence is simply not feasible.

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:* The Planning Board action approving the Grayland project in 2022, which caused the CEO to deny the entrance permit application, is certainly a unique event.

c. *That the granting of a variance will not alter the essential character of the locality:* This section of the Lewiston Road (Route 100) is zoned commercial with mostly residences and several businesses. Adding a driveway to a residence will not affect the character of the locality.

d. *That the hardship is not the result of action taken by the applicant or a prior owner.* The Applicants did nothing wrong. The hardship is due to the error made by Scott Liberty, the Planning Board approval based on inaccurate information, and the CEO's decision not to challenge Scott Liberty's actions.

Section 402.9.2(B)(3): Practical Difficulty Appeal

a. *The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood:* Again, the Planning Board action causing the CEO to deny the entrance permit application is certainly a unique event.

b. *The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties:* Again, this section of the Lewiston Road (Route 100) is zoned commercial with mostly residences and several businesses. Adding a driveway to a residence will not affect the character of the neighborhood and will have no impact on the market value of abutting properties.

c. *The practical difficulty is not the result of action taken by the petitioner or a prior owner:* Again, the Applicants did nothing wrong. The practical difficulty is due to the error made by Scott Liberty, the Planning Board approval based on inaccurate information, and the CEO's decision not to challenge Scott Liberty's actions.

d. *No other feasible alternative to a variance is available to the petitioner:* The Applicants own a large C-shaped lot. The proposed residence will use the 2020 access easement for access to the Applicants' new residential project at the very north end of Parcel C. Trestle Way has only been developed with a reclaim gravel road and only as far as the two residences at the south end of the lot. See Exhibit 1, page 1. Before it can be extended, it needs to be improved to town standards. See Exhibit 1, Page 2, paragraph 16. Therefore, to use Trestle Road for access, the Applicants would need to build a 1,600 foot driveway from the new residence to Trestle Way, upgrade the first 400 feet of Trestle Way to town road standards, and build another 1,200 feet of new roadway to town road standards. Building this infrastructure for a single family residence is simply not feasible.

e. *The granting of a variance will not unreasonably adversely affect the natural environment:* The Applicants have a Permit by Rule from the Maine Department of Environmental Protection ("Maine DEP") under the Protection of Natural Resources Act ("NRPA"). Compliance with the NRPA assures that the natural environment will not be unreasonably adversely affected.

f. *The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.* The Gray Zoning Map is attached as Exhibit 18, page 60. The "x" shows the approximate location of the Applicants' land. No shoreland zoning areas are nearby.

Section 402.9.2(B)(4): Variance Review Criteria

a. *What effect will the proposed variance have on the prevailing character of the area?* As described above, none.

b. *Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?* No. The Applicants want to build a simple residential driveway.

c. *Will the proposed variance create drainage, erosion or flooding problems?* No. These issues are addressed in the Exhibits 7 and 8 MeDEP Permit by Rule applications.

d. *Will the proposed variance increase water pollution?* No. These issues are addressed in the Exhibit 7 and 8 MeDEP Permit by Rule applications.

e. *Will the proposed variance generate vehicular traffic, access, circulation or parking conditions which create hazardous situations?* No. A single driveway off the Lewiston Road where other driveways are located will not create a problem. Parking will be at the residence.

f. *Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?* The GZO has no performance standards for driveways.

g. *Will the proposed variance create to any degree nuisances to abutting property owners?* No. A residential driveway does not create a nuisance.

h. *Is the variance request the least modification of the Zoning Regulations necessary to afford relief?* Yes. The application only seeks a variance to allow for the construction of a 30 foot wide driveway with sidewalks if it is required for additional commercial development someday. Many commercial roadways are even wider.

i. *In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.* There are no conditions required.

Summary and Conclusion

The Applicants are stuck between the Town of Gray and Scott Liberty's LLC for no fault of their own. The Town has refused to enforce what is at best an "error" by Scott Liberty and the Town now refuses to recognize that it had no lawful authority to adversely affect private easements when it approved Grayland's project in 2022.

The Applicants respectfully request a regular or practical difficulty variance from the section 402.5.4 Gray Zoning Ordinance impervious surface lot coverage limits to add up to an additional 4,360 square feet of impervious surface to Grayland's Lot 3.

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Exhibit 5: Scott Liberty's 2022 approved plan.....	page 9.
Exhibit 6: 2023 Driveway/Entrance Permit Application and Supplements.....	page 10.
Exhibit 7: Applicants' August 2023 MeDEP Permit by Rule	page 14.
Exhibit 8: Applicants' Amended October 2023 MeDEP Permit by Rule	page 20.
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Exhibit 10: Scott Liberty's 2023 engineer's letter	page 29.
Exhibit 11: Summer 2023 Gray community planner emails.....	page 30.
Exhibit 12: July 2023 Scott Liberty text to Bill Chapman.....	page 32.
Exhibit 13: Applicants' 2017 deed	page 33.
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Exhibit 15: Scott Liberty's 2022 Planning Board application	page 44.
Exhibit 16: Town of Gray site plan review road standards	page 52.
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Exhibit 18: Town of Gray zoning map	page 60.
Exhibit 19: October 10, 2023 MeDEP Permit by Rule receipt.....	page 61.

PLAN BOOK 218 PAGE 445

Sept 2018

PLAN REFERENCES

1. "Boundary & Subdivision Survey on certain Block 1019, known as Block 1019, of the City of..."
2. "Plan of Lot 1 of Block 1019, known as Block 1019, of the City of..."
3. "Map of Block 1019, known as Block 1019, of the City of..."
4. "Plan of Lot 1 of Block 1019, known as Block 1019, of the City of..."
5. "Plan of Lot 1 of Block 1019, known as Block 1019, of the City of..."

NOTES

1. During the record one block... (text continues)
2. A block is the subject of this plan... (text continues)
3. There is a double line of any other... (text continues)
4. This plan is a... (text continues)
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LEGEND

- New lot in this plan
- Old lot in this plan
- New lot in this plan
- Old lot in this plan
- New lot in this plan
- Old lot in this plan

WAVNE

City of...
 Lewisville Road
 Grey, White
 Wood & Co.
 December 2015

Approved by the Town of Grey Planning Board

Signed: *[Signature]*

Peloro Real Estate Company
 N/A
 19843709

Peloro Real Estate Company
 N/A
 19843709

Danbur Woods Condominiums
 N/A
 19843709

Map 2018
 Lot 1019-2
 1.12 acres

Map 2018
 Lot 1019-2
 1.12 acres

Map 2018
 Lot 1019-2
 1.12 acres

Map 2018
 Lot 1019-2
 1.12 acres

Map 2018
 Lot 1019-2
 1.12 acres

Map 2018
 Lot 1019-2
 1.12 acres

Map 2018
 Lot 1019-2
 1.12 acres

Map 2018
 Lot 1019-2
 1.12 acres

NOTES

1. Owners of record are William P. Chapman & Gregory S. Rand by deed recorded in the Cumberland County Registry of Deeds in book 34,180 page 12.
2. All bearings are Magnetic of the year 1986 as per the plan in reference 4 and calculated from angles of an actual on the ground survey.
3. This property is shown as Lot 25-30 on the Town of Gray Tax Map 28.
4. There is a deeded right of way across land of 100 Lewiston Road , LLC as described in the deed recorded in book 791 page 298.
5. This property is in the Commercial Zoning District.
6. The topography shown on this plan is from the MEGIS LiDar.
7. Soils information is from Mark Hampton Associates, Inc.
8. These lots will be serviced by individual on site wells and septic systems.
9. This property does not fall within any Special Flood Hazard Zone as defined by FEMA.
10. There are no areas on or adjacent to this property listed to be preserved by the Maine Department of Inland Fisheries & Wildlife or the MDEP.
11. There are no areas within this property that are listed or eligible to be listed on the National Register of Historic Places.
12. Utilities along Trestle Way will be extended overhead and underground to the homes.
13. Trestle Way shall remain a private road to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town except for roads that meet the requirements for winter maintenance under a public easement.
14. The lots in this subdivision are for single family homes only.
15. The owners of these lots will be required to join the "Trestle Way" Road Association.
16. There shall be no additional development of the remaining land until Trestle Way is brought up to the applicable street standard in Table 401.13.16-2 of the Town of Gray chapter 401 subdivision ordinance or or an alternative access way meeting Town standards is created.

N/F
CMK, LLC
(5,837/297)

**TERMINATION
and
RELEASE OF EASEMENT**

KNOW ALL MEN BY THESE PRESENTS THAT, WILLIAM P. CHAPMAN and GREGORY S. RAND, both of Gray in the County of Cumberland and State of Maine, holders of an easement described in a deed from Frank Fogg to Stanley Bishop by deed dated September 17, 1906 recorded in Cumberland County Registry of Deeds in Book 791, Page 298, do hereby **RELEASE** to **ODESSA PROPERTIES LLC**, its successors and assigns, all our right, title and interest in and to said easement.

The purpose of this deed is to release and expressly terminate said easement. Meaning and intending to convey and hereby conveying our rights in said easement which we obtained by virtue of a Warranty Deed John J. Oteri and Stephen C. Oteri to William P. Chapman and Gregory S. Rand dated July 14, 2017 recorded in said Registry of Deeds in Book 34180, Page 12.

IN WITNESS WHEREOF, WILLIAM P. CHAPMAN and GREGORY S. RAND, have executed this instrument this 18 day of September, 2020.

[Redacted]
Witness

[Redacted]
William P. Chapman
[Redacted]
Gregory S. Rand

STATE OF MAINE
Cumberland, ss.

September 18, 2020

Personally appeared before me the above named William P. Chapman and Gregory S. Rand and acknowledged the foregoing instrument to be their free act and deed.

[Redacted]
Notary Public



Received
Recorded Register of Deeds
Sep 21, 2020 10:49:00A
Cumberland County
Nancy A. Lane

9-18-2020

**RELEASE ~
EASEMENT DEED**

KNOW ALL MEN BY THESE PRESENTS, That **GRAYLAND HOLDINGS LLC**, a Maine limited liability company with a place of business in Gray in the County of Cumberland and State of Maine, for consideration paid, releases and grants to **WILLIAM P. CHAPMAN and GREGORY S. RAND**, both of said Gray, their heirs and assigns, the perpetual right and easement for passage of pedestrian and vehicular traffic and for the installation and transmission of all forms and kinds of utility services, over a strip of land sixty (60) feet in width, extending from Lewiston Road in said Gray, over and across Lot A as shown on Standard Boundary Survey entitled "Property Plan of Lot Division" made for record owner Odessa Properties, LLC by John D. Palmiter dated August 24, 2020 to be recorded herewith, said easement area being more particularly described on Exhibit A attached hereto and incorporated herein by reference. ?

This easement is intended to benefit property owned by the Grantees herein as described in a Warranty Deed from John J. Oteri and Stephen C. Oteri dated July 14, 2017 recorded in Cumberland Count Registry of Deeds in Book 34180, Page 12.

IN WITNESS WHEREOF, **Scott A. Liberty**, duly authorized Manager of **Grayland Holdings LLC**, has executed this instrument this _____ day of September, 2020.

Witness

Grayland Holdings LLC

Scott A. Liberty, Manager

State of Maine
Cumberland, ss.

September 18, 2020

Personally appeared before me the above named **Scott A. Liberty, Manager of Grayland Holdings 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 Grayland Holdings LLC.



Notary Public

EXHIBIT A

A certain sixty (60) foot wide right of way located on the east side of Lewiston Road (Route 100), in the Town of Gray, County of Cumberland & State of Maine, bounded & described as follows:

BEGINNING at a 5/8" rebar with #1278 cap approximately 4 feet North of the north end of a stonewall on the assumed easterly sideline of Lewiston Road (Route 100) as shown on a plan entitled "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County" F.A. Project #11 - Sheet 1 of 3 dated November 1936 per S.H.C. File 3-34 recorded in Cumberland County Registry of Deeds in Plan Book 31, Page 22, said point shown on said map as 33' Rt. of Sta. 684+92± & said rebar being N 18° 44' 55" E, 119.08 feet from the southwest corner of land of the Grantor herein as described in a deed recorded in said Registry of Deeds in Book 36981, Page 120 and the northwest corner of land formerly of Burchard Dunn, et al, as described in Book 4964, Page 215 of said Registry of Deeds;

Thence S 71°15' 05" E 45 feet through land of the Grantor to a point;

Thence S 32° 47' 49" E 75 feet through land of the Grantor to a point on the northwest line of the Grantees herein (Book 34180, Page 12);

Thence S 38° 28' 47" W 63.35 feet along the Grantees herein to a point;

Thence N 32° 47' 49" W 74.41 feet through land of the Grantor to a point;

Thence N 71°15' 05" W 24.07 feet through land of the Grantor to a point in or near a stonewall on the east sideline of Lewiston Road (Route 100);

Thence N 18° 44' 55" E 60 feet along the east sideline of Lewiston Road (Route 100) & following along or near a stonewall the first 56 feet, more or less, to the POINT OF BEGINNING; containing 6,555 square feet or 0.15 acres, more or less.

Meaning and intending to convey and hereby conveying an easement over a portion of the premises described in a deed from 100 Lewiston Road, LLC to Grayland Holdings, LLC by deed dated July 22, 2020 and recorded in said Registry of Deeds in Book 36981, Page 120.

The Grantees herein, **WILLIAM P. CHAPMAN** and **GREGORY S. RAND**, by their acceptance hereof, acknowledge they have been informed by Grayland Holdings LLC that the improvements situated on Lot A will be used by the Grantor for medicinal cannabis cultivation and distribution. Grantees further acknowledge and agree that their use of this 60' easement will never interfere with the Grantor's use of Lot A.

Dated: September 18, 2020

[Redacted Signature] Witness

[Redacted Signature] William P. Chapman

[Redacted Signature] Witness

[Redacted Signature] Gregory S. Rand

STATE OF MAINE
Cumberland, ss.

September 18, 2020

Personally appeared before me the above named **William P. Chapman** and **Gregory S. Rand** and acknowledged the foregoing instrument to be their free act and deed.

[Redacted Signature] Notary Public



Received
Recorded Register of Deeds
Sep 21:2020 10:49:50A
Cumberland County
Nancy A. Lane

end of doc



- REFERENCES**
- 1.) SITE PLAN MADE FOR JAMES & ROSEMARIE CHU DATED APRIL 8, 1990
 - 2.) MAINE STATE HIGHWAY COMMISSION PLAN OF IMPROVED RELOCATION
 - 3.) SURVEY FOR BIRCHWOOD & QUINN AND BIRCHWOOD & PARKER ROUTE 100
- NOTES**
- 1.) BEARINGS AND DISTANCES TO MONUMENTS VARIOUS 1993
 - 2.) EXCEPTION AS RECORDED IN BOOK 484, PAGE 452 IS NOW A PORTION OF THIS PROPERTY SEE BOOK 516, PAGE 152 NOW ROUTE 100 AND ALL LAND WEST OF ROUTE 100

OWNER OF RECORD
 100 LEALINE ROAD LLC
 BN 2578 / TA 2578
 18828413 SQ. FT.
 4.35 ACRES

- LEGEND**
- REIN FOR FOUND
 - REIN FOR SET
 - UTILITY POLE
 - EDGE OF PARCELS
 - EDGE OF DRIVE
 - EXISTING BUILDING
 - EXISTING WALL
 - WELL
 - CATCHBASIN
 - LIGHT POLE

KEVIN W. COLLEENBERG PLS 1278
 18828413 SQ. FT.

PLAN OF PROPERTY
 MADE FOR
 ROD BOYINGTON
 BY
 COLLEENBERG LAND SURVEYING
 892 OLD DANVILLE ROAD
 AUBURN, MAINE 04210
 (207) 777-1150

1" = 20' FEET
 0 20 40 60 80

NO.	RECORDED IN	BOOK	PAGE	DATE	DESCRIPTION
1	18828413	516	152	07/15/2010	RELOCATION





DRIVEWAY/ENTRANCE PERMIT APPLICATION TOWN OF GRAY MAINE

For Office Use Only
 Permit No: _____
 Date Submitted: _____
 Date Paid: _____

APPLICANT

In accordance with the **Town of Gray Entrance and Culvert Policy**, the following person/s make application to construct a driveway/entrance at the location specified below.

Name	Gregory Rand William Chapman	E-Mail Address	greg@glandbuildersme.com
Street Address	5 Braysley Way	City/State/Zip	Gray ME 04039
Phone Number		Work Phone	207-671-7093

LOCATION

Location/Address	Lewiston Rd (Rte 102)	Property Map/Lot	28-25-30-3
Owner Name	Gregory Rand William Chapman	Zoning District	COMMERCIAL 15.43 acres
Number of entrances requested:	1	Proposed width of entrance(s):	18'
Entrance shall be no less than ten (10) feet from property line.		Minimum length of culvert shall be twenty-four (24) feet.	

SIGNATURES

The applicant hereby agrees:

- To pay for any culverts and/or drainage structure which may be necessary for drainage, the size type and length of culverts and size and type of other incidental structures to be as recommended by the Town Manager or Public Works Director of said Town of Gray.
- To construct said driveway approach and install culvert(s) in accordance with Town of Gray Rules and Regulations.
- To provide, erect and maintain all necessary barricades, lights, warning signs and other devices to safe guard traffic property while the work is in progress.
- That the road or street will at no time be closed to traffic.
- No building construction shall take place until Driveway Entrance has been completed and approved and all specifications met.
- A Certificate of Occupancy shall not be issued until Driveway Entrance has been approved and signed by the Road Commissioner or Public Works Director.
- Once driveway is properly staked, please call Code Officer at 657-3112 to leave message.

Further condition of the permit shall be that the applicant shall well and truly pay all damages, fines and penalties for which he shall become liable and shall indemnify and save harmless aid Town of Gray against all suits, claims, damages and proceedings of every kind arising out of the construction of said entrance.

Applicant Signature: _____

Date: 6-28-23

CODE ENFORCEMENT OFFICER APPROVAL

Signature/Title: _____

Date: _____

PUBLIC WORKS APPROVAL

Signature/Title: _____

Date: _____

Culvert(s) Needed: _____ (Qty) @ _____ inches X _____ feet



New Access
Easement
(37,203/177)

N/F
100 Lewiston Roc
(28,024/258)

ROW
driveway

5/8" Capped Rebar
12" tall, #1278

S 71°56'58" E
24.07'

Stake

Lewiston
C 280 100

1/2" Iron Pipe
16" tall

U 2" Iron Pipe
36" tall

5/8" Capped Rebar
18" tall, #1278

5/8" Capped Rebar
15" tall, #1278

N 18°03'03" E
60.00'

W 45.00'

N 33°29'42" E
75.00'

N 33°29'42" E
66.08'

N 37°46'54" E
63.35'

N 179°77'00" E
90.00'

N 49°47'09" E
90.00'

N 54°30'43" E
33.19'

N 43°15'32" E
40.03'

N 27°16'34" E
34.2'

N 41°19'42" E
87.58'

N 54°30'43" E
33.19'

N 43°15'32" E
40.03'

N 27°16'34" E
34.2'

N 41°19'42" E
87.58'

Mailing Address:
Town/State/Zip:
Name:
P. O. Box 983
William
Chapman

Permit by Rule Standards, Chapter 305.
AGENT INFORMATION

September 29, 2023

Subject: Driveway entrance Rte. 100

On September 29, 2023 Bill Chapman spoke with Van @ MDOT at 10:34 a.m. Van confirmed that we DO NOT need a MDOT permit for a driveway entrance off rte. 100 in Gray. He stated that that section of rte. 100 is classified as "urban compact" and permits are issued by the local municipality.

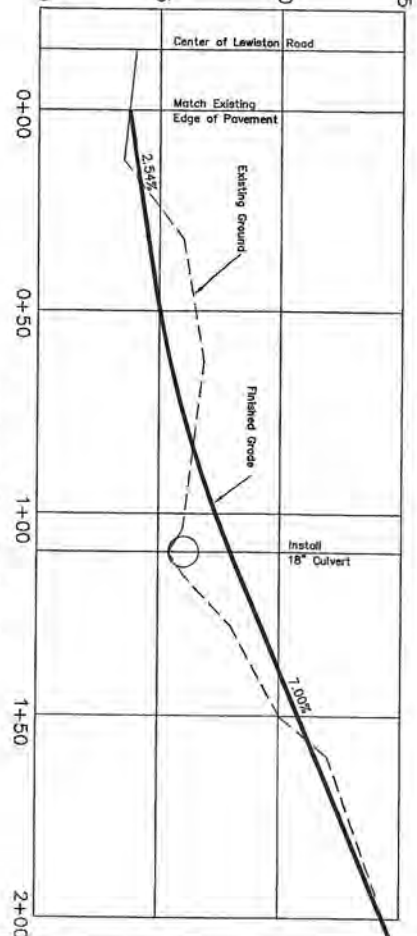
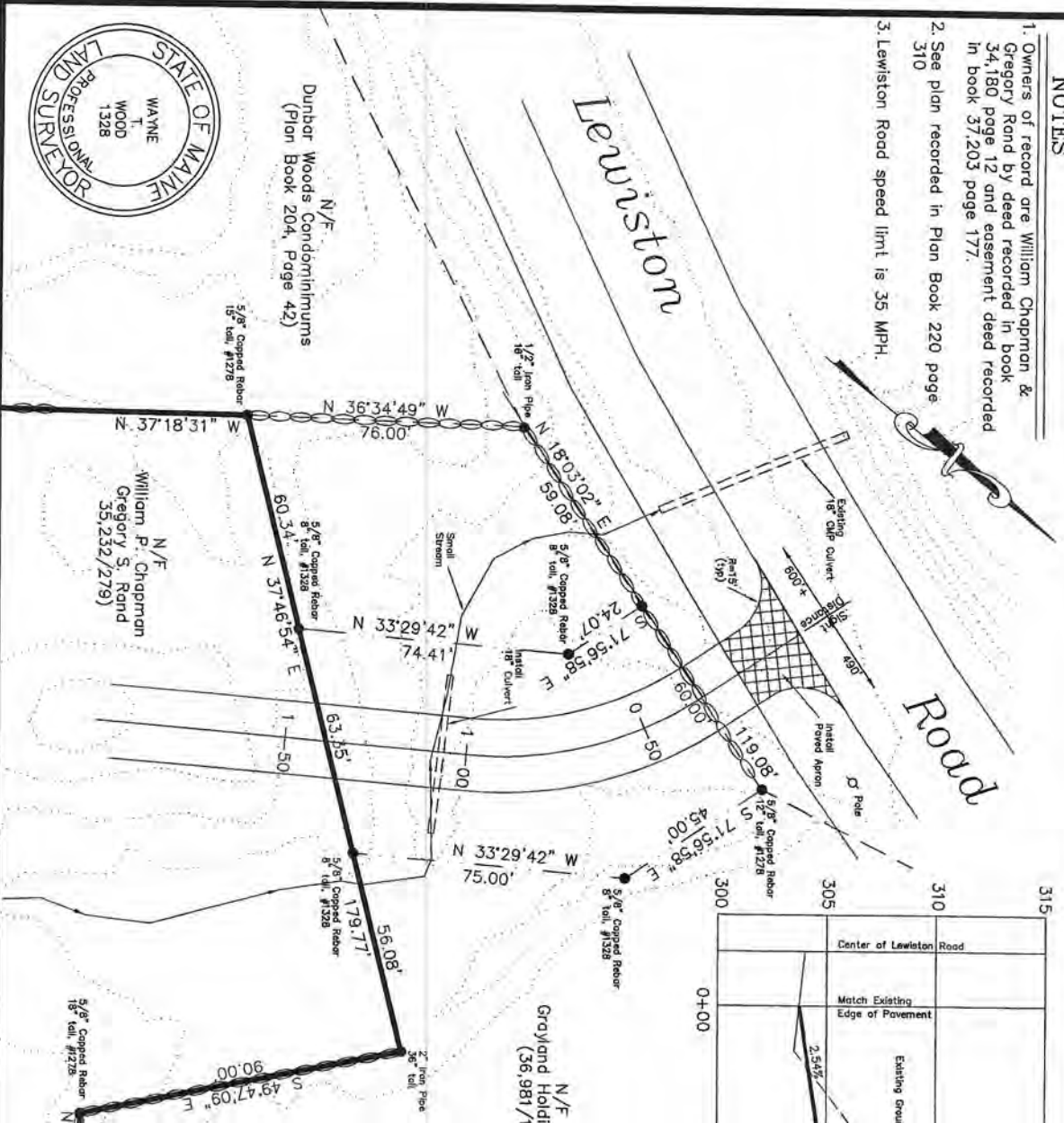
He further mentioned that if our daily trips were to exceed 100 trips per day, then we would need another type of permit from the MDOT. Not an issue at this point.

Bill

MDOT phone # is 207-885-7000

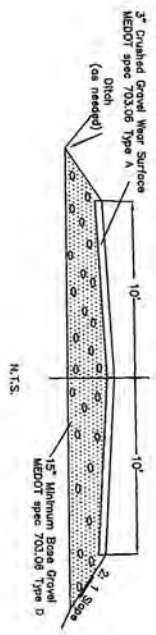
NOTES

1. Owners of record are William Chapman & Gregory Rand by deed recorded in book 34,180 page 12 and easement deed recorded in book 37,203 page 177.
2. See plan recorded in Plan Book 220 page 310
3. Lewiston Road speed limit is 35 MPH.



Typical Road Section

Scale: Horizontal 1" = 30'
Vertical 1" = 3'



Plan & Profile
of
Proposed Entrance
off
Lewiston Road
Gray, Maine
For
Bill Chapman & Greg Rand

Date: October 2023

Scale: 1" = 30'

DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM
 (For use with DEP Regulation, Natural Resources Protection Act - Permit by Rule Standards, Chapter 305)

APPLICANT INFORMATION (Owner)				AGENT INFORMATION (If Applying on Behalf of Owner)			
Name:	Greg Rand & Dave Chapman			Name:	Mark Hampton Associates, Inc.		
Mailing Address:	P. O. Box 983			Mailing Address:	P. O. Box 1931		
Mailing Address:				Mailing Address:			
Town/State/Zip:	Gray, ME 04039			Town/State/Zip:	Portland, ME 04104		
Daytime Phone #:	831-0657	Ext:		Daytime Phone #:	756-2900	Ext:	
Email Address:	bchapma8@gmail.com			Email Address:	mhampto1@maine.rr.com		
PROJECT INFORMATION							
Part of a larger project? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves work below mean low water? (check 1):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Name of waterbody:	unnamed stream
Project Town:	Gray		Town Email Address:	CEO@graymaine.org		Map and Lot Number:	Map 28 Lot 25-30-2
Brief Project Description:	Construction of driveway to service a single family residence. Stream was determined by site visit by Cameron Dufour in July 2023						
Project Location & Brief Directions to Site:	The driveway is located just before 110 Lewiston Road Gray which is a 60 feet wide ROW to access the parcel. The driveway will extend approximately 300 feet into parcel before turning left and crossing stream to building envelope						

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work that meets the requirements for Permit-by-Rule (PBR) under DEP Rules, Chapter 305. I and my agent(s), if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Prot. Natural Res.
<input type="checkbox"/> Sec. (3) Intake Pipes
<input type="checkbox"/> Sec. (4) Replacement of Structures
<input type="checkbox"/> Sec. (6) Movement of Rocks or Veg.
<input type="checkbox"/> Sec. (7) Outfall Pipes
<input type="checkbox"/> Sec. (8) Shoreline Stabilization | <input type="checkbox"/> Sec. (9) Utility Crossing
<input checked="" type="checkbox"/> Sec. (10) Stream Crossing
<input type="checkbox"/> Sec. (11) State Transportation Facilities
<input type="checkbox"/> Sec. (12) Restoration of Natural Areas
<input type="checkbox"/> Sec. (13) F&W Creat./Water Qual. Improv.
<input type="checkbox"/> Sec. (15) Public Boat Ramps | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects
<input type="checkbox"/> Sec. (16-A) Beach Nourishment
<input type="checkbox"/> Sec. (17) Transfer/Permit Extension
<input type="checkbox"/> Sec. (18) Maintenance Dredging
<input type="checkbox"/> Sec. (19) Act. Near SVP Habitat
<input type="checkbox"/> Sec. (20) Act. Near Waterfowl/Bird Habitat |
|--|---|---|

NOTE: Municipal permits also *may* be required. Contact your local code enforcement office for information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS AND FEE

- Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
- Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
- Attach Proof of Legal Name** if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's *registration information* (available at <http://licrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>). Individuals and municipalities are not required to provide any proof of identity.

FEE: Pay by credit card at the [Payment Portal](#). The Permit-by-Rule fee may be found here <https://www.maine.gov/dep/feeschedule.pdf> and is currently \$288.

- Attach** payment confirmation from the [Payment Portal](#) when filing this notification form.

Signature & Certification:

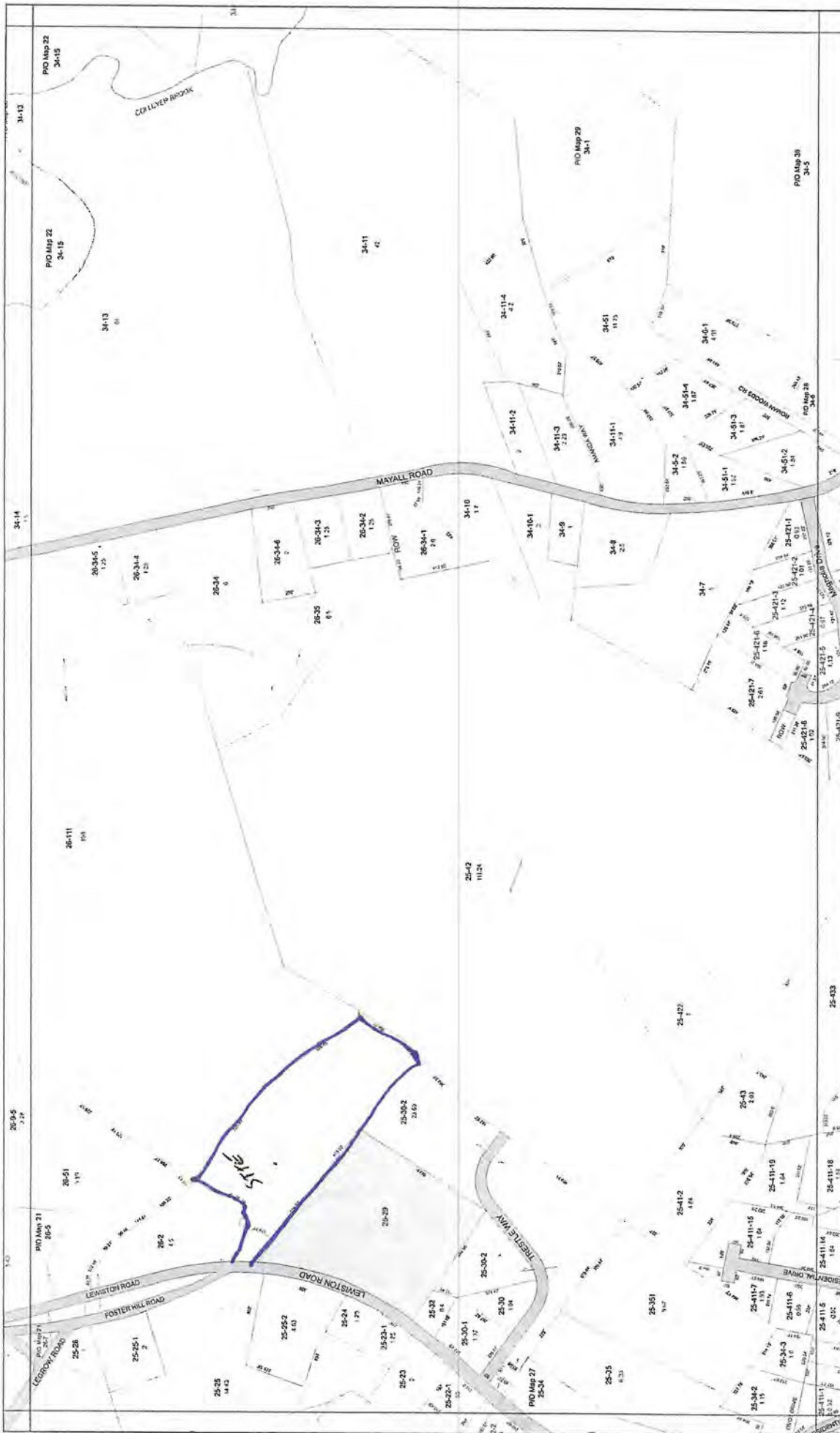
- I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules.
- I understand that this PBR becomes effective 14 calendar days after receipt by the Department of this completed form, the required submissions, and fee, *unless the Department approves or denies the PBR prior to that date.*

By signing this Notification Form, I represent that the project meets all applicability requirements and standards in Chapter 305 rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.

Signature of Agent or Applicant (may be typed):	Mark J. Hampton	Date:	August 18, 2023
---	-----------------	-------	-----------------

Keep a copy as a record of permit. Email this completed form with attachments to DEP at: DEP.PBRNotification@maine.gov. DEP will send a copy to the Town Office as evidence of notification. No further authorization will be issued by DEP after receipt of notice. A PBR is valid for two years. "Permit to Install Structures," are valid for three years. **Work carried out in violation of the Natural Resources Protection Act or any other provision in Chapter 305 is subject to enforcement.**



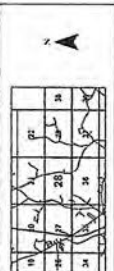


Maps Prepared by: **Spatial Solutions**
 www.spatial-solutions.com
 207.646.1338
 Tax Sheets are intended for assessing purposes only.
 Boundary locations are approximate and should not be used for conveyance of property.

- Misc Lines**
- Right of Way
 - MISC
 - ROW: GAS/SEWER
 - Drains
 - Applying Road
- Tax Parcels**
- Forest
 - Park
 - Blank
 - Cultivated/Forest
 - Not
 - Residential
 - Utility
 - Water

Town of Gray, Maine

Index Map



Gray Tax Map
28
 Map updated for April 1, 2019

7506



MARK HAMPTON ASSOCIATES, INC.

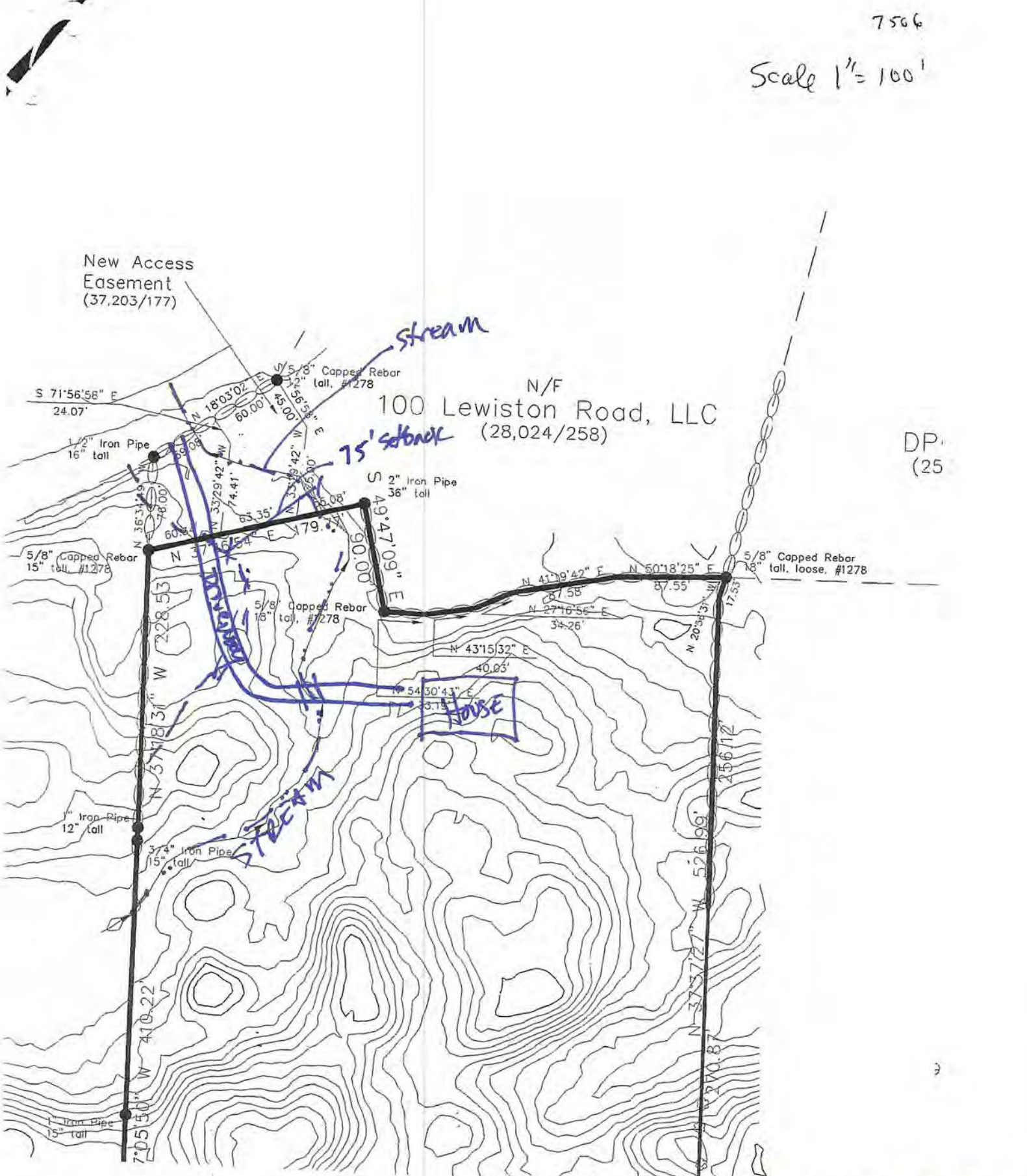
SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7605

Lewiston Road
Permit By Rule Application

No Practicable Alternative

The access to the lot is a 60 feet wide right-of-way off of Lewiston Road, Route 202. The stream on the parcel runs parallel to the location of this right-of-way. At the intersection of the driveway and Lewiston Road the stream is less than 75 feet, but greater than 25 feet from the proposed limit of disturbance for the driveway construction. The stream bisects the parcel, so there is no option by to cross the stream in order to construct a single family house on the property.



MARC Hampton Associates, Inc
 August 18, 2023
 PBE Application

7506



7566



**DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM**
(For use with DEP Regulation, Natural Resources Protection Act - Permit by Rule Standards, Chapter 305)

APPLICANT INFORMATION (Owner)				AGENT INFORMATION (If Applying on Behalf of Owner)			
Name:	Greg Rand & Bill Chapman			Name:	Mark Hampton Associates, Inc.		
Mailing Address:	P. O. Box 983			Mailing Address:	P. O. Box 1931		
Mailing Address:				Mailing Address:			
Town/State/Zip:	Gray ME 04039			Town/State/Zip:	Portland		
Daytime Phone #:	831-0657	Ext:		Daytime Phone #:	756-2900	Ext:	
Email Address:	bchapma8@gmail.com			Email Address:	mhamp1@maine.rr.com		
PROJECT INFORMATION							
Part of a larger project? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check 1):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project involves work below mean low water? (check 1):	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Name of waterbody:	unnamed stream
Project Town:	Gray		Town Email Address:	CEO@graymaine.org		Map and Lot Number:	Map 28 Lot 25-30-2
Brief Project Description:	Construction of driveway to service a single family home. Stream was determined by site visit by Cameron Dufour in July 2023						
Project Location & Brief Directions to Site:	The driveway is located just before 110 Lewiston Road Gray. There is a 60 feet wide right of way at this location to access the parcel The driveway will cross the stream twice and will be about 300 feet long.						

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work that meets the requirements for Permit-by-Rule (PBR) under DEP Rules, Chapter 305. I and my agent(s), if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. (9) Utility Crossing | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input checked="" type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (16-A) Beach Nourishment |
| <input type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (11) State Transportation Facilities | <input type="checkbox"/> Sec. (17) Transfer/Permit Extension |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Veg. | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (13) F&W Creat./Water Qual. Improv. | <input type="checkbox"/> Sec. (19) Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. (8) Shoreline Stabilization | <input type="checkbox"/> Sec. (15) Public Boat Ramps | <input type="checkbox"/> Sec. (20) Act. Near Waterfowl/Bird Habitat |

NOTE: Municipal permits also *may* be required. Contact your local code enforcement office for information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS AND FEE

- Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
- Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
- Attach Proof of Legal Name** if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's registration information (available at <http://licrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>). Individuals and municipalities are not required to provide any proof of identity.

FEE: Pay by credit card at the Payment Portal. The Permit-by-Rule fee may be found here <https://www.maine.gov/dep/feeschedule.pdf> and is currently \$288.

- Attach** payment confirmation from the Payment Portal when filing this notification form.

Signature & Certification:	
<ul style="list-style-type: none"> • I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. • I understand that this PBR becomes effective 14 calendar days after receipt by the Department of this completed form, the required submissions, and fee, <i>unless the Department approves or denies the PBR prior to that date.</i> 	
By signing this Notification Form, I represent that the project meets all applicability requirements and standards in Chapter 305 rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.	
Signature of Agent or Applicant (may be typed):	Mark J Hampton
Date:	10/03/2023

Keep a copy as a record of permit. Email this completed form with attachments to DEP at: DEP.PBRNotification@maine.gov. DEP will send a copy to the Town Office as evidence of DEP's receipt of notification. No further authorization will be issued by DEP after receipt of notice. A PBR is valid for two years, except Section 4, "Replacement of Structures," are valid for three years. **Work carried out in violation of the Natural Resources Protection Act as any provision in Chapter 305 is subject to enforcement.**

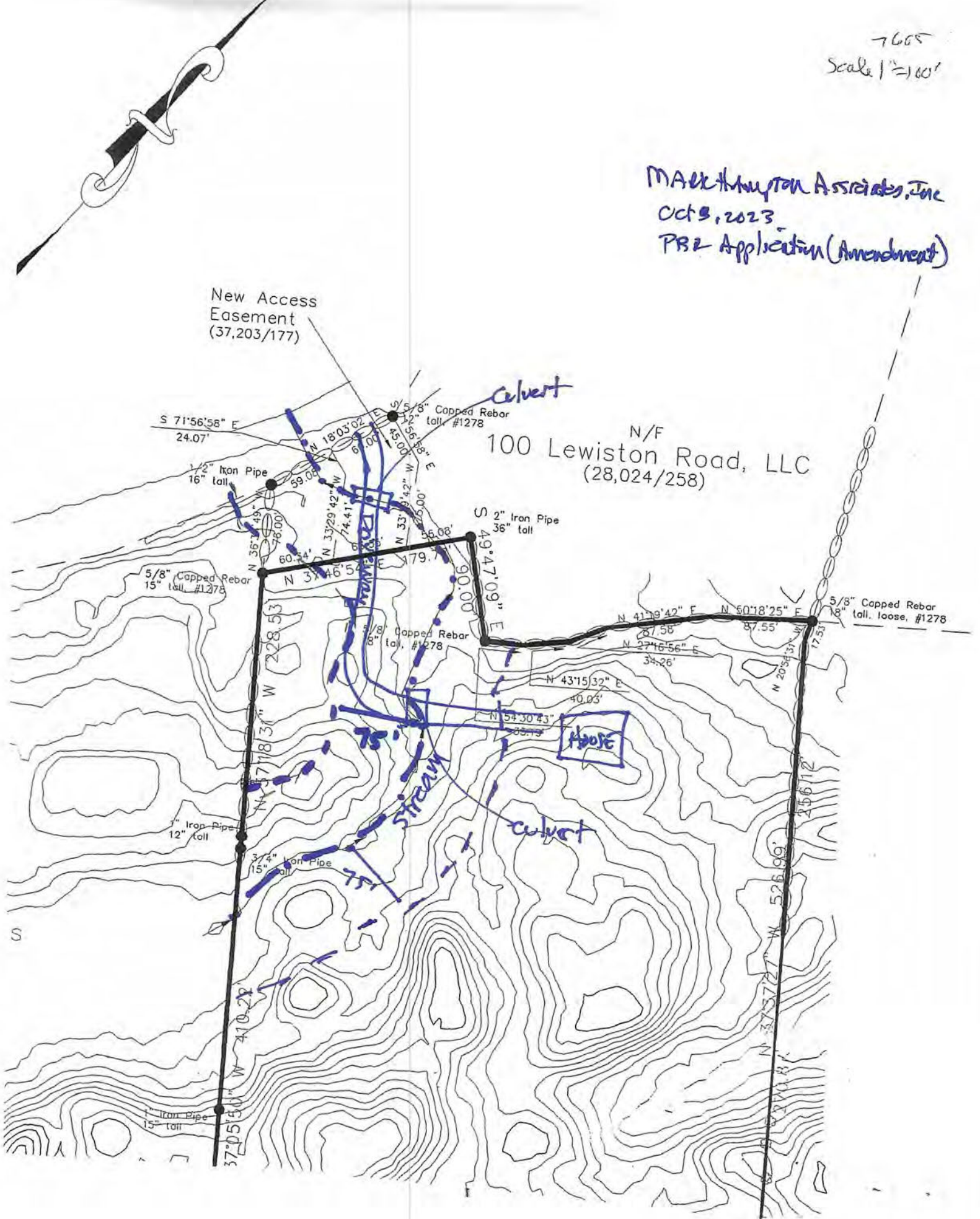


7605
Scale 1"=100'

Mark Hampton Associates, Inc
Oct 9, 2023
PRZ Application (Amendment)

New Access
Easement
(37,203/177)

N/F
100 Lewiston Road, LLC
(28,024/258)





MARK HAMPTON ASSOCIATES, INC.

SOIL EVALUATION • WETLAND DELINEATIONS • SOIL SURVEYS • WETLAND PERMITTING

7605

Lewiston Road
Permit By Rule Application

No Practicable Alternative

The access to the lot is a 60 feet wide right-of-way off of Lewiston Road, Route 202. The stream on the parcel runs parallel to the location of this right-of-way. At the intersection of the driveway and Lewiston Road the stream is less than 75 feet, but greater than 25 feet from the proposed limit of disturbance for the driveway construction. The stream bisects the parcel, so there is no option by to cross the stream in order to construct a single family house on the property.

7506
7605



~~7556~~
7605



Mark Hampton

From: Payments.DEP@maine.gov
Sent: Tuesday, October 3, 2023 7:02 PM
To: mhampto1@maine.rr.com; Payments.DEP@maine.gov; mhampto1@maine.rr.com
Subject: DEP Payment Confirmation - 1505

DEP Payment Confirmation - 1505

Contact Information: Mark Hampton - P. O. Box 1931 , Portland, ME, 04101
(207) 756-2900
mhampto1@maine.rr.com

Billing Information: Mark Hampton - 193 Ludlow Street , Portland, ME, 04102
(207) 756-2900
mhampto1@maine.rr.com

Product	Reference Number	Customer Number	Payment Amount	Comments
Natural Resources Protection Act (Permit- by-Rule)	N/A		\$288.00	This is an amendment to a PBR filed on August 18, 2023 in the name of Greg Rand and Bill Chapman for Sec. 2. and a stream crossing.

Transaction Summary

Payment	\$288.00
Service Fee	\$2.00
Total	\$290.00

ReceiptID: 1505
Transaction Date: Tuesday, October 3, 2023

Thank you for your successful transaction.
If you have questions or concerns, please call (207) 287-7688
or Email: Payments.DEP@maine.gov



Town of Gray

24 Main Street
Gray, Maine 04039
www.graymaine.org

communitydevelopment@graymaine.org

First Settled
1738

September 18, 2023

Mr. Gregory Rand
Mr. William Chapman
5 Braysley Way
Gray, ME 04039

RE: Denial of Driveway/Entrance Permit at/near 104 Lewiston Road
Tax Map/Lot of proposed entrance location (Grayland Holdings): 28-26-2
Tax Map/Lot of property benefitting from easement (Rand/Chapman): 28-25-30-2

Dear Mr. Rand and Mr. Chapman:

This letter will serve as the denial of the driveway/entrance permit application submitted by you on June 28th, 2023, for the reasons set forth below.

The Town has reviewed several documents:

- A. Trestle Way Acres subdivision (SD) plan for Rand/Chapman- approved by the Planning Board (PB) on 9-13-18, recorded in the Registry at Plan Book 218, page 445.
- B. Minutes (excerpt) from 9-13-18 PB meeting regarding approval for Trestle Way Acres.
- C. Easement deed from Grayland Holdings LLC, signed 9-18-20, to Chapman/Rand for 60' right-of-way (ROW) adjacent to Lewiston Road-recorded in Book 37203, Page 177.
- D. Acknowledgment from Chapman/Rand, signed 9-18-20, regarding use of 60' right-of-way ROW granted not to interfere with use(s) on property owned by Grayland Holdings LLC (Map 28, lot 26-2), recorded in Book 37203, Page 179.
- E. Subdivision plan for Odessa Properties LLC-PB approved on 5-10-22, recorded in Plan Book 222, Page 249.
- F. Driveway Entrance Permit application dated 6-28-23.
- G. Photographs submitted to town staff by Scott Liberty on 7-24-23 depicting impervious surfaces adjacent to the principal structure located on Tax Map 28, Lot 26-2; formerly 104 Lewiston Road, presently 2 Storage Way.
- H. Letter from DH ROMA, consulting engineers, dated 7-25-23, addressing impervious lot coverage from Tax Map 28, Lot 26-2 owned by Grayland Holdings LLC.



21
I. E-mail dated 7-31-23 from Chris Neagle Esq., attorney for Chapman/Rand, to Kristen Muszynski (Town Planner)

The location of the proposed driveway entrance permit and the lot upon which it is located adjacent to Lewiston Road is located in the Commercial Zoning District. Table 402.5.4.A of the Zoning Ordinance establishes that the maximum impervious surface for a lot in the Commercial District is 65%. The recorded subdivision plan for Odessa properties, states that the proposed impervious lot coverage for Lot 3 (Tax Map 28, Lot 26-2) is 50.7%.

Based on photographs provided by Mr. Liberty and the letter from the engineering firm, it is clear that the existing impervious cover for lot 3 of the Odessa Properties SD plan already has the 65% maximum impervious surface allowed in the Commercial Zoning District. Further, the final recorded Odessa Properties SD plan does not show or in any way reference the 60' easement adjacent to Lewiston Road. Section 401.6.2 of the Gray Subdivision Ordinance (Chapter 401) requires that all easements affecting the property be submitted.

Gray's Code Enforcement Officer (CEO) is charged with the responsibility of administering and enforcing the provisions of the Zoning Ordinance per 402.9.1.A. (Chapter 402). The CEO also administers various portions of the Street Ordinance (Chapter 400). The CEO does not have the authority to issue permits that do not meet the standards established in both the Zoning Ordinance and Street Ordinance.

Based on the information included above, including the information provided by the engineer, lot 3 (Tax Map 28, Lot 26-2) already has 65% impervious surface. Any increase in impervious surface, such as for the requested driveway, would cause this 65% maximum to be exceeded. The driveway/entrance permit application submitted by Rand/Chapman on 6-28-23 is hereby denied.

In accordance with Gray's Street Ordinance, Chapter 400 Section 400.1.4.A, appeals of the CEO regarding the Street Ordinance are heard by the Zoning Board of Appeals. Section 402.9.2 of the Town's Zoning Ordinance establishes the appeal procedure. Section 402.9.2.C.1 states that any appeal of the CEO's determination be filed within thirty (30) days after the CEO's decision. If you do not file an appeal within this time period, you will have waived your right to appeal this decision.

It is the Town's understanding that over the past several months, you have been attempting to reach a solution to this matter. Given that the two properties directly abut one another, there appear to be several parcel configurations that would meet the requirements of the Zoning Ordinance. The Town strongly encourages efforts by the owners towards a mutually acceptable solution.

Sincerely,



Tammy Munson, Gray Code Enforcement Officer

cc: Josh Tiffany, Gray Interim Town Manager
Town of Gray legal counsel

DM ROMA
CONSULTING ENGINEERS

July 25, 2023

Grayland Holdings LLC.
c/o Scott Liberty
PO Box 963
Gray, ME 04039

Re: Lewiston Road Subdivision, Gray, Maine


Dear Scott:

At your request to evaluate whether the commercial property at Lewiston Road would be capable of supporting additional improvements namely, the construction of a new driveway to access the abutting property identified on Town of Gray Assessor's Map 28 Lot 25-30-2, DM Roma Consulting Engineers reviewed the previous design approved by the Town Planning Board, and project permits issued from the Maine DEP.

Based on the approved plans and permits associated with the "Subdivision Plan for Lewiston Road Subdivision" recorded in the Cumberland County Registry on June 28, 2022 in Plan Book 222, on page 249, DM Roma Consulting Engineers believes that the additional improvements of a paved or gravel driveway would require the project applicant to submit a Stormwater Permit to the Maine DEP that would include construction of an additional stormwater BMP(s) to bring the project into compliance with the DEP's Chapter 500 General Standards. Additionally, the additional driveway would likely cause Lot 3 of the recorded subdivision plan to be in non-conformance with the Town of Gray's Zoning Ordinance Section 402.5.4 "Districts Dimensional Requirements" by exceeding the 65% maximum impervious surface allowed in the Commercial Zoning District.

Sincerely,

DM ROMA CONSULTING ENGINEERS


J.P. Connolly
Senior Project Engineer

Cc: Grayland Holdings, LLC.,
Odessa Properties, LLC.



Chris Neagle

From: Chris Neagle
Sent: Friday, July 21, 2023 10:01 AM
To: 'kmuszynski@graymaine.org'
Cc: 'Bill Chapman'; 'greg@grandbuildersme.com'
Subject: RE: Lewiston Road Subdivision Amendment- Easement to Trestle Way Subdivision

Ms. Muszynski: Bill and Greg have hired me to help them get their driveway permit.

Scott Liberty and/or the Town had no authority to affect my clients' private deeded easement rights. The Town cannot deny their permit application and make them wait until Scott goes to the Planning Board to amend his plan. That position is an unconstitutional taking of their property rights by the Town. Did you get any advice from the Town attorney on that point? The Town should either issue the driveway permit or deny it so we can appeal to the Zoning Board of Appeals.

The Planning Board approval of Scott's project is void because Scott failed to provide the Town with required information on the easement across it. That failure should not be my clients' problem.

Happy to discuss with you and/or the Town attorney any time. Thanks.

Chris Neagle
Neagle Law LLC
76 Orchard Road
Cumberland, Maine 04021
chris@neaglelaw.com
207-805-4211
neaglelaw.com

office hours: Monday – Thursday, 10:00 am to 4:00 pm. Other times by agreement.

From: Kristen Muszynski <kmuszynski@graymaine.org>
Date: June 30, 2023 at 11:08:03 AM EDT
To: Scott Liberty <Scott@scottliberty.com>
Cc: jp@dmroma.com, greg@grandbuildersme.com
Subject: Lewiston Road Subdivision Amendment- Easement to Trestle Way Subdivision

Hello, Mr. Liberty:

We are in receipt of a driveway permit from Mr. Rand and Mr. Chapman, for the Trestle Way subdivision, utilizing an easement over the Odessa Properties/Grayland Holdings self-storage property off Lewiston Road. This easement is filed with the registry as 37,203/177 but is not reflected on the signed and recorded subdivision plan for the Lewiston Road Subdivision.



Our attorney has advised that the easement must be formally approved as an amendment to the subdivision and shown on an updated recorded Lewiston Road subdivision plan before the driveway permit can be issued utilizing said easement.

The easement, even though it was recorded with the Registry in 2020, was not reflected on the plans submitted for the 2022 Planning Board review process for the subdivision. The easement was not brought to our attention until significantly later, when interest in the Trestle Way development was mentioned by another party.

Next steps to address this would be to submit an updated subdivision plan that includes the easement with the appropriate references as well as the lot numbers (these were also mistakenly omitted from the filed plan) and come to the Planning Board for formal approval of an "amendment to an approved subdivision" to add the easement. Once that process is complete, we can allow the driveway permit application to move forward for Mr. Rand and Mr. Chapman.

The [application is here](#) and deadline to get on the August meeting agenda is July 14.

Please give me a call if you have any questions,

Kristen Schulze Muszynski

Community Planner

Town of Gray

207-657-3339 Ext. 114

This electronic mail message and any attachments hereto, as well as any electronic mail message(s) that may be sent in response to it, may be considered public records, and may therefore be subject to public record requests for review and copying under Maine's Right to Know Law (Title 1, 401-521 of the Maine Revised Statutes).



Liberty Scott
1:36 PM, Jul 5



Hi Bill. I hope Beth is doing better. i have prayed for her as promised.

The engineer just called me. we are at 70% impervious surface, give or take a tiny fraction either way, but that doesn't count the delineated wetland which comes to approximately 5%. He wasn't sure if the town would make you count the wetland, but if they do then you're at approximately 75%



STATUTORY WARRANTY DEED

WE, **JOHN J. OTERI** of Melrose, County of Middlesex and Commonwealth of Massachusetts and **STEPHEN C. OTERI**, of Lynn, County of Essex and Commonwealth of Massachusetts, For Consideration Paid, GRANT with WARRANTY COVENANTS TO **WILLIAM P. CHAPMAN**, of Gray, County of Cumberland and State of Maine, with a mailing address of P. O. Box 983, Gray, ME 04039 and **GREGORY S. RAND**, of Gray, County of Cumberland and State of Maine, with a mailing address of 11 Presidential Drive, Gray, Maine 04039, as **TENANTS IN COMMON**, certain lots or parcels of land situated on or adjacent to Lewiston Road in the Town of Gray, County of Cumberland and State of Maine, being more particularly bounded and described on Exhibit A attached hereto and incorporated herein by reference.

WITNESS our hands this 14th day of July, 2017.

Witness

[Redacted Signature]

Stephen C. Oteri

STATE OF MAINE
COUNTY OF CUMBERLAND

July 14, 2017

Then personally appeared the above-named **Stephen C. Oteri** and acknowledged the foregoing instrument to be his free act and deed.

Before me,

[Redacted Signature]

Notary Public

Printed Name:

Commission Expires:

DARCY L. NEEDHAM
NOTARY PUBLIC - State of Maine
My Commission Expires
January 26, 2023

(continued on page 2)



MAINE REAL ESTATE TAX PAID

Witness

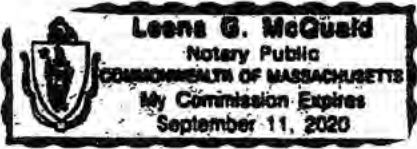
John J. Oteri

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF Middlesex

July 15, 2017

Then personally appeared the above-named **John J. Oteri** and acknowledged the foregoing instrument to be his free act and deed.

Before me, ✓



Notary Public
Printed Name: Leena G. McQuaid
Commission Expires: 09/11/2020

SEAL

EXHIBIT A

(Land on the Southeasterly side of the Lewiston Road in the Town of Gray)

Certain lots or parcels of land situated on the southeasterly side of the Lewiston Road in the town of Gray being more particularly described as follows:

PARCEL 1

Beginning at the Westerly corner of land now or formerly of Thomas & Ann Baiocchi (4373/236) on the assumed Southeasterly side line of the said Lewiston Road;

Thence S 45°44'34" E along land of the said Baiocchi 197.76 feet to the Southerly corner of land of the said Baiocchi;

Thence N 34°07'29" E continuing along land of the said Baiocchi, in part by a stone wall 113.46 feet to a point on the Southwesterly side line of land of Dunbar Woods Condominiums as recorded in plan book 204 page 42;

Thence S 40°33'12" E along land of the said Dunbar Woods Condominiums 444.95 feet to an iron pipe found set in the ground at the Southerly corner of land of the said Dunbar Woods Condominiums on the Northwesterly side line of land now or formerly of the heirs of H. Norman and Warren Cole (9463/7);

Thence S 67°48'13" W along land of the said Cole heirs 313.16 feet to a point;

Thence continuing Westerly along land of the said Cole heirs following a curve to the right having a radius of 170.00 feet a distance of 219.70 feet to a point;

Thence N 38°08'52" W continuing along land of the said Cole heirs 376.77 feet to a point on the said side line of the Lewiston Road;

Thence N 56°07'04" E along the said side line of the Lewiston Road 272.25 feet to the point of beginning. Containing 4.64 acres.

PARCEL 2

Beginning at an iron pin found set in a stone wall intersection located at the Northerly corner of land now or formerly of Catherine E. Lee & Mark W. Emery (10,863/160, 10,842/216), the Easterly corner of land now or formerly of Pollard Real Estate Company (20,637/9) and the Westerly corner of other land of the said Pollard Real Estate Company (20,636/349);

Thence N 52°23'02" E along the said other land of Pollard Real Estate Company, in part by a stone wall 659.71 feet to the Southerly corner of land now or formerly of the heirs of H. Norman & Warren Cole (9463/7);

Thence N 37°36'58" W along land of the said Cole heirs 116.74 feet to a point;

Thence Westerly continuing along land of the said Cole heirs following a curve to the left having a radius of 170.00 feet a distance of 221.28 feet to a point;

Thence S 67°48'13" W continuing along land of the said Cole heirs 313.16 feet to a point;

Thence Westerly continuing along land of the said Cole heirs following a curve to the right having a radius of 230.00 feet a distance of 297.25 feet to a point;

Thence N 38°08'52" W continuing along land of the said Cole heirs 262.44 feet to other land of the said Cole heirs;

Thence S 51°51'09" W along the said other land of the Cole heirs 83.08 feet to a point in a stone wall marking the Northeasterly side line of land now or formerly of Bradley W. Pollard, Jeffrey M. Pollard, Gary J. Pollard and David C. Pollard (13961/257);

Thence S 38°08'51" E along land of the said Pollards and the said stone wall 275.00 feet to a large pine tree at the end of the said stone wall;

Thence S 39°30'08" E along land of the said Pollards and land of the said Pollard Real Estate Company and in part by a stone wall 570.44 feet to the point of beginning. Containing 6.04 acres.

PARCEL 3

Beginning at a 5/8" capped rebar (#1278) found set in a stone wall intersection being the Easterly corner of land now or formerly of 100 Lewiston Road, LLC (28/024/258), the Southerly corner of land now or formerly of DPCMK, LLC (25,837/297) and the Westerly corner of land now or formerly of Gene D. Humphrey (8284/176);

Thence S 50°18'25" W along land of the said 100 Lewiston Road, LLC and the said stone wall 87.55 feet to a point;

Thence S 41°19'42" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 87.58 feet to a point;

Thence S 27°16'56" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 34.26 feet to a point;

Thence S 43°15'32" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 40.03 feet to a point;

Thence S 54°30'43" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 33.19 feet to a 5/8" capped rebar (#1278) found set in a stone wall corner;

Thence N 49°47'09" W continuing along land of the said 100 Lewiston Road, LLC and the said stone wall 90.00 feet to an iron pipe found set in the ground;

Thence S 37°46'54" W continuing along land of the said 100 Lewiston Road, LLC 179.77 feet to a 5/8" capped rebar (#1278) found set in the ground on the Northeasterly side line of land now or formerly of Dunbar Woods Condominiums as recorded in plan book 204 page 42;

Thence S 37°18'31" E along land of the said Dunbar Woods Condominiums, in part by a stone wall 228.53 feet to an iron pipe found set in the ground;

Thence S 37°05'50" E continuing along land of the said Dunbar Woods Condominiums 410.22 feet to a 5/8" capped rebar (#1057) found set in the ground at the Easterly corner of land of the said Dunbar Woods Condominiums;

Thence S 49°44'41" W continuing along land of the said Dunbar Woods Condominiums 693.50 feet to an iron pipe found set in the ground at the Southerly corner of land of the said Dunbar Woods Condominiums on the Northwesterly side line of land of the heirs of H. Norman & Warren Cole (9463/7);

Thence Easterly along land of the said Cole heirs following a curve to the right having a radius of 230.00 feet a distance of 299.38 feet to a point;

Thence S 37°36'58" E continuing along land of the said Cole heirs 116.73 feet to a point in a stone wall marking the Northwesterly side line of land now or formerly of Pollard Real Estate Company (20,636/349);

Thence N 53°09'34" E along land of the said Pollard Real Estate Company and the said stone wall 162.92 feet to a stone wall corner;

Thence N 61°49'57" E continuing along land of the said Pollard Real Estate Company 363.33 feet to an iron pipe found set in the ground;

Thence N 67°35'18" E continuing along land of the said Pollard Real Estate Company following the remains of an old wire fence 66.06 feet to a point;

Thence N 50°28'15" E continuing along land of the said Pollard Real Estate Company and the said wire fence 266.51 feet to point on the Southwesterly side line of land of the said Humphrey;

Thence N 62°23'16" W along land of the said Humphrey and the remains of an old wire fence 36.53 feet to a point;

Thence N 20°06'44" W continuing along land of the said Humphrey and the said wire fence 526.46 feet to a point;

Thence N 37°37'27" W continuing along land of the said Humphrey and the said wire fence 270.87 feet to the end of a stone wall;

Thence continuing N 37°37'27" W along land of the said Humphrey and the said stone wall 256.12 feet to a point;

Thence N 20°56'31" E continuing along land of the said Humphrey and the said stone wall 17.53 feet to the point of beginning. Containing 15.43 acres.

This conveyance is made together with the rights in and to a right of way along the "Woods Road" crossing land of the said 100 Lewiston Road, LLC . See deed recorded in book 791 page 298.

1906
ESMT

This conveyance is made together with the rights in common with others to use the 60 foot wide strip of land owned by the said Cole heirs as described in a deed recorded in book 9463, page 7.

TRESTLE
WAY

All bearings are Magnetic of the year 1988.

Meaning and intending to convey the same premises conveyed to these Grantors by deed recorded in the Cumberland County Registry of Deeds in book 12,342 page 250.

217045-1

Received
Recorded Register of Deeds
Jul 24, 2017 03:05:38P
Cumberland County
Nancy A. Lane

7-22-2020

Lot A
2020 plan

WARRANTY DEED
Maine Statutory Short Form

MAINE REAL ESTATE TAX PAID

KNOW ALL MEN BY THESE PRESENTS, That 100 Lewiston Road, LLC of Jackman in the County of Somerset and State of Maine, for consideration paid, grants to Grayland Holdings LLC, a Maine limited liability company with a mailing address of PO Box 963, Gray, ME 04039, with **WARRANTY COVENANTS**, the real property situated in Gray, County of Cumberland and State of Maine more particularly described in Schedule A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this instrument has been executed by **Rodney Boyington**, Managing Member of **100 Lewiston Road, LLC**, this 22nd day of July, 2020.

100 Lewiston Road, LLC

[Redacted Signature]

[Redacted Signature]

Witness to all
John H. Branson

Rodney Boyington, Managing Member

State of Maine
County of Cumberland, ss.

July 22, 2020

Personally appeared before me the above named **Rodney Boyington, Managing Member of 100 Lewiston Road, 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 **100 Lewiston Road, LLC**.

[Redacted Signature]
Notary Public/Attorney at Law

SUSAN GACE KNEEDLER
Notary Public, Maine
My Commission Expires November 22, 2025



SCHEDULE A

A certain lot or parcel of land, with the buildings and other improvements thereon, located in the Town of Gray, County of Cumberland, and State of Maine, and bounded and described as follows:

BEGINNING at a stonewall corner on the assumed east sideline of Route 100 (Lewiston Road) as shown on a plan entitled "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County" F.A. Proj #11 - sheet 1 of 3 dated November 1936 per S.H.C. File 3-34 - CCRD plan book 31 page 22, said point shown on said map as the corner between Martha C. Bishop Estate and Margie E. Fogg and said point being now the southwest corner of the grantor (100 Lewiston Road, LLC 28024-258) and being the north corner of land formerly of Burchard A. Dunn, et al (Book 4964, Page 215);

Thence N18°-44'-55"E, 119.08' along the old 1936 Route 100 right of way ("R/W") and following along or near a stonewall to a 5/8" rebar with #1278 cap;

Thence N10°-19'-35"W, 46.55' along the old 1936 Route 100 R/W to a 5/8" rebar with #1278 cap;

Thence northerly 130' by a 1306.58' radius non-tangential curve left along the new 1936 Route 100 R/W to a point;

Thence S79°-17'-26"E, 250' thru grantors (100 Lewiston Road, LLC 28024-258) to a point;

Thence S33°-06'-09"E, 90' thru grantors (100 Lewiston Road, LLC 28024-258) to a point in a stonewall on the northwest line of William Chapman, et al (35232-279);

Thence S42°-01'-35"W, 87.58' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence S27°-58'-49"W, 34.26' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence S43°-57'-25"W, 40.03' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence S55°-12'-36"W, 33.19' along the northwest line of Chapman, et al (35232-279) and following along or near a stonewall to a stonewall corner and a 5/8" rebar with #1278 cap;

Thence N49°-05'-16"W, 90' along Chapman, et al (35232-279) and following along or near a stonewall the first 74± to a 5/8" rebar to a 5/8" rebar with #1278 cap;

Thence S38°-28'-47"W, 179.77' along Chapman, et al (35232-279) to a 5/8" rebar with #1278 cap at the west corner thereof and being on the northeast line of land formerly of Burchard Dunn, et al 4964-215;

Thence N35°-52'-56"W, 76' along Dunn and following along or near a stonewall the last 65'± to POINT OF BEGINNING, containing 67,340 SF or 1.55 acres and is a portion of land conveyed by Key Bank National Association to 100 Lewiston Road, LLC by deed dated 8-25-2010 CCRD book 28024 page 258.

All bearings refer to the magnetic meridian as observed in 1990.

SUBJECT TO easement rights in a 50' wide R/W for ingress, egress, utilities and all purposes for which a public way may be used, the north line of which is bounded and described as follows:

BEGINNING at the northwest corner of lot herein described and conveyed; thence S79°-17'-26"E, 50' along said north line to terminus of herein described 50' wide R/W; the south line contracted or projected to intersect the east R/W line of Route 100 (Lewiston Road).

BEING the same premises described and depicted as "Lot A" on a certain "Sketch Plan for Lot Division" Prepared by John D. Palmiter for Scott Liberty, to be recorded in the Cumberland County Registry of Deeds.

ALSO BEING a portion of the same premises described in a Quitclaim Deed from KeyBank National Association to 100 Lewiston Road, LLC dated August 25, 2010 and recorded in Book 28024, Page 258 in the Cumberland County Registry of Deeds.

Received
Recorded Register of Deeds
Jul 28, 2020 11:17:15A
Cumberland County
Nancy A. Lane

2

Lot B

2070 12m

WARRANTY DEED
Maine Statutory Short Form

MAINE REAL ESTATE TAX PAID

KNOW ALL MEN BY THESE PRESENTS, That 100 Lewiston Road, LLC of Jackman in the County of Somerset and State of Maine, for consideration paid, grants to Odessa Properties LLC, a Maine limited liability company with a mailing address of 23 Country Way, Gray, Maine 04039, with WARRANTY COVENANTS, the real property situated in Gray, County of Cumberland and State of Maine more particularly described in Schedule A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this instrument has been executed by Rodney Boyington, Managing Member of 100 Lewiston Road, LLC, this 22nd day of July, 2020.

100 Lewiston Road, LLC

[Redacted Signature]

[Redacted Signature]

Witness to all
John H. Branson

Rodney Boyington, Managing Member

State of Maine
County of Cumberland, ss.

July 22, 2020

Personally appeared before me the above named Rodney Boyington, Managing Member of 100 Lewiston Road, 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 100 Lewiston Road, LLC.

[Redacted Signature]

Notary Public/Attorney at Law
SUSAN COGE KNEDLER
Notary Public, Maine
My Commission Expires November 22, 2025

File Number 2020-651

7

SCHEDULE A

One or more lots or parcels of land, with the buildings and other improvements thereon, located in the Town of Gray, County of Cumberland, and State of Maine, and bounded and described as follows:

PARCEL ONE:

BEGINNING at a 5/8" rebar with #1278 cap at the west end of a stonewall corner on the assumed east sideline of Route 100 (Lewiston Road) as shown on a plan entitled "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County" F.A. Proj #11 - sheet 1 of 3 dated November 1936 per S.H.C. File 3-34 - CCRD plan book 31 page 22, said point shown on said map as 33' Rt. of Sta. 684+92± and said point being now the northwest corner of the grantor (100 Lewiston Road, LLC, Book 28024, Page 258);

Thence S76°-30'-59"E, 57.69' along a jog in Lewiston Road (Route 100) from 33' to 50' and along the south line of DPCMK, LLC (25837-297), formerly Margie E. Fogg and following along or near a stonewall to a point;

Thence southeasterly and southerly by the southwest and west line of DPCMK, LLC (25837-297), formerly Margie E. Fogg and following along or near a stonewall with occasional gaps the following courses:

- S40°-50'-17"E, 122.48'
- S31°-50'-37"E, 89.24'
- S21°-45'-28"E, 96.46'
- S14°-55'-56"E, 141.81'

Thence S23°-51'-46"E, 188.35' to a 5/8" rebar with #1278 cap near the northeast end of a stonewall at the west corner of Lawrence Humphrey (4964-215) and being the north corner of William Chapman, et al (35232-279);

Thence S51°-00'-18"W, 87.55' along the northwest line of William Chapman, et al (35232-279) and following along or near a stonewall to a point;

Thence N33°-06'-09"W, 90' thru grantor (100 Lewiston Road, LLC 28024-258) to a point;

Thence N79°-17'-26"W, 250' thru grantor (100 Lewiston Road, LLC 28024-258) to a point on the east line of Route 100 (Lewiston Road) per aforementioned "Maine State Highway Commission Plan of Proposed Relocation State Highway "E" Gray - Cumberland County";

Thence northerly 189.50' by a nontangential 1306.58' radius curve left to a point;

Thence N01°-55'-58"E, 325.94' along said east line of Route 100 (Lewiston Road) to POINT OF BEGINNING, containing 121,944 SF or 2.80 acres and is a portion of land conveyed by Key Bank National Association to 100 Lewiston Road, LLC by deed dated 8-25-2010 CCRD book 28024 page 258.

All bearings refer to the magnetic meridian as observed in 1990.

Benefitted by easement rights in a 50' wide right of way ("R/W") for ingress, egress, utilities and all purposes for which a public way may be used the north line of which is bounded and described as follows: BEGINNING at the southwest corner of lot herein described and conveyed; thence S79°-17'-26"E, 50' along said south line to terminus of herein described 50' wide R/W; the south line contracted or projected to intersect the east R/W line of Route 100 (Lewiston Road).

BEING the same premises described and depicted as "Lot B" on a certain "Sketch Plan for Lot Division" prepared by John D. Palmiter for Scott Liberty, to be recorded in the Cumberland County Registry of Deeds.

ALSO BEING a portion of the same premises described in a Quitclaim Deed from KeyBank National Association to 100 Lewiston Road, LLC dated August 25, 2010 and recorded in Book 28024, Page 258 in the Cumberland County Registry of Deeds.

PARCEL TWO:

ALL and the same premises conveyed to Portland, Gray and Lewiston Railroad Company by Stanley Bishop by deed dated December 11, 1909, and recorded in the Cumberland County Registry of Deeds in Book 849, Page 492, as the same is located within the bounds of land owned by the Grantor.

MEANING AND INTENDING TO CONVEY to the Grantee herein, and hereby conveying to the Grantee herein, all the real property conveyed to the Grantor herein by Quitclaim Deed from KeyBank National Association dated August 25, 2010 and recorded in Book 28024, Page 258 in the Cumberland County Registry of Deeds, together with any improvements thereto, EXCEPTING AND EXCLUDING all the real property conveyed by the Grantor herein to Grayland Holdings LLC by Warranty Deed on this date.

Received
Recorded Register of Deeds
Jul 28, 2020 11:18:02A
Cumberland County
Nancy A. Lane

SECTION 1

TOWN APPLICATIONS AND CHECKLIST





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

PROPERTY TO BE DEVELOPED

Property Location/Address	100 & 104 LEWISTON ROAD	Property Map/Lot	28 . . . 26-2 & . 26-2-1
Zoning District	COMMERCIAL & LMOD	Lot Acreage	4.35 AC,
Owner Name	GRAYLAND HOLDINGS, LLC	Tax Sheet	
Owner Address	& ODESSA PROPERTIES, LLC	Owner Phone	

APPLICANT

Name (IF different than owner)	ODESSA PROPERTIES, LLC	Contact Phone Number	
Mailing Address	P.O. BOX 963	Alternate Phone Number	
Mailing City/State/Zip	GRAY, MAINE	Fax Number	
Email Address	SCOTT@SCOTTLIBERTY.COM		

AGENT/CONSULTANT

Name	DM ROMA ENGINEERS	Contact Phone Number	207-591-5055
Mailing Address	PO BOX 1116	Alternate Phone Number	760-840-0997
Mailing City/State/Zip	WINDHAM, MAINE 04062	Fax Number	
Email Address	JP@DMROMA.COM		

PROJECT

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

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

Project Description / Comments:
SEE ATTACHED COVER LETTER

Applicant Signature [Redacted]

Date 3-23-2022



SITE PLAN REVIEW CHECKLIST TOWN OF GRAY MAINE

For Office Use Only
Date Received: _____
Received by: _____

APPLICANT/PROJECT

Name	LEWISTON ROAD SUBDIVISION	Date	3-23-2022
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This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. The checklist, however, does not substitute for the requirements of Article 10 of the Zoning Ordinance. The Planning Board will also use the checklist to ensure your application is complete. Indicate if the information has been submitted or if a waiver is requested. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. Detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans, however, may best be presented on a separate sheet or sheets. **This checklist does not address the standards that the site plan must meet.**

SITE PLAN REVIEW SUBMISSION REQUIREMENTS

	Submitted by Applicant	Not Applicable	Applicant Request to be Waived	Reviewed by Planner/Engineer	Waived by Planning Board
402.10.10.A SITE INVENTORY PLAN					
A.1 Owner name(s), address(es), phone number(s)	✓				
A.2 Consultant name(s) & address(es)	✓				
A.3 Evidence of right, title, or interest in property	✓				
A.4 Fourteen (14) copies of accurate scale inventory plan showing:	✓				
a. The name of the development, north arrow, date and scale.	✓				
b. The boundaries of the parcel and existing zoning.	✓				
c. The relationship of the site to the surrounding area .	✓				
d. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site.	✓				
e. The major natural features of the site and within five hundred (500) feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state).	✓				
f. Existing buildings, structures, or other improvements on the site (if none, so state).	✓				
g. Existing restrictions or easements on the site (if none, so state).	✓				
h. The location and size of existing utilities or improvements servicing the site (if none, so state).	✓				
i. Mapping of all wetlands and/or potential vernal pools on site regardless of size.	✓				
j. A Class B high intensity soil survey if any portion of the site is located in a resource protection district or has wetlands covering more than ten (10%) percent of the site.			✓		
k. A Class D medium intensity soil survey if vernal pools and/or significant wetlands are not present.	✓				

402.10.10.B SITE ANALYSIS PLAN

- B.1** Fourteen (14) copies of a site analysis plan identifying:
 - a. Portions of the site that are unsuitable for development or use; ✓
 - b. Portions of the site that are unsuitable for on- site sewage disposal; ✓
 - c. Areas of the site that have environmental limitations that must be addressed in the development plan; ✓
 - d. Areas that may be subject to off-site conflicts or concerns; and which areas are well suited to the proposed use. ✓
- B.2** Fourteen (14) copies of site description narrative ✓
- B.3** Submission requirement waiver requests, if any ✓

402.10.10.C APPLICATION SUBMISSION REQUIREMENTS

- C.1** Signed/Executed Application ✓
- C.2** Evidence of payment of the application fee and technical review escrow. ✓
- C.3** Fourteen (14) copies of written materials and maps/drawings ✓
- C.4** Report/Maps/Drawings: General Information
 - a. Owner contact information ✓
 - b. Setback, yard, and buffer locations ✓
 - c. Abutter contact information ✓
 - d. Map: general site location ✓
 - e. Contiguous property boundaries ✓
 - f. Map/Lot Number ✓
 - g. Deed/proof of ownership/interest in property ✓
 - h. Plan preparer name, registration #, seal ✓
 - i. Evidence of technical & financial means ✓
- C.5** Reports/Maps/Drawings: Existing Conditions
 - a. Zoning Classification ✓
 - b. Property lines bearings & length ✓
 - c. Location of utilities (water, sewer, electric, etc.) ✓
 - d. Street name(s), location(s), width(s) ✓
 - e. Building location(s), dimensions, and photo(s) ✓
 - f. Driveway location(s), dimensions ✓
 - g. Location of intersecting roads/driveways ✓
 - h. Location of important or unique natural site features ✓
 - i. Direction of surface water drainage ✓
 - j. Sign location(s), front view(s), dimensions ✓
 - k. Easement location, dimensions, documents ✓

- l. Fire hydrant or fire protection water supply location ✓
- C.6 Reports/Maps/Drawings: Proposed Development** ✓
- a. Water/Sewage estimated demands/provisions ✓
- b. Direction of proposed surface water drainage ✓
- c. Solid waste disposal provisions ✓
- d. Driveway/parking plans/provisions ✓
- e. Proposed landscaping & buffering ✓
- f. Proposed building/building expansion plans ✓
- g. Proposed sign plans ✓
- h. Proposed exterior lighting ✓
- i. Location of utilities & fire protection systems ✓
- j. General description of proposed use/activity ✓
- k. Traffic estimates ✓
- l. Stormwater, erosion & sedimentation control, and water quality management provisions ✓

C.7 Reports/Maps/Drawings: Site Plan ✓

402.10.10.D ADDITIONAL REQUIREMENTS FOR MAJOR DEVELOPMENTS

- D.1** Proposed development narrative ✓
- D.2** Grading plan ✓
- D.3** Stormwater drainage & erosion control program ✓
- D.4** Groundwater impact analysis ✓
- D.5** Plan preparer name/registration number/seal ✓
- D.6** Utility plan ✓
- D.7** Planting schedule ✓
- D.8** Traffic impact analysis ✓
- D.9** Gray Water District statement of supply adequacy ✓
- D.10** Estimated cost of development/proof of financial capacity ✓

402.10.10.E WAIVER OF SUBMISSION REQUIREMENTS [WRITE IN WAIVER REQUESTS]

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- k. A Class D medium intensity soil survey if vernal pools and/or significant wetlands are not present.

B. Site Analysis Plan

The site analysis must contain, at a minimum, the following information:

1. Twelve (12) copies of a site analysis plan at the same quantity, size, and scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to identify:
 - a. Portions of the site that are unsuitable for development or use;
 - b. Portions of the site that are unsuitable for on- site sewage disposal;
 - c. Areas of the site that have environmental limitations (steep slopes, flat poorly drained areas, wetlands, vernal pools, aquifers, wildlife habitat, floodplains, drainage, etc.) that must be addressed in the development plan;
 - d. Areas that may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are well suited to the proposed use.
2. Twelve (12) copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
3. Any requests for waivers from the submission requirements for the site plan review application.

C. Site Plan Review Application Submission Requirements

Applications for site plan review must be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Planner. In addition to the site inventory and analysis, the submission must contain at least the following exhibits and information, unless specifically waived in writing:

1. A fully executed and signed copy of the application for development review.
2. Evidence of payment of the application and technical review fees.
3. Twelve (12) copies of written materials plus twelve (12) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria. Three (3) full sets of plans or drawings shall be submitted that are not more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development. The remaining nine (9) full sets shall be 11 x 17 inch copies. One (1) universally accessible digital format e.g. PDF of all plans shall also be submitted.
4. The bound report and maps or drawings shall contain the following general information (Note: asterisks (*) following an item indicate information to be included on the approved Site Plan):
 - a. Record owner's name, address, and phone number and applicant's name, address and phone number, if different.*

the District shall also be notified. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.

- G. Public Hearing Notices - If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
- H. Time Frame for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. Conditions of Preliminary Approval - When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the final plan;
 - 2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
- J. Relationship of Preliminary Approval to Final Plan - Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

401.7.2 - REQUIRED SUBMISSIONS FOR PRELIMINARY PLAN

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12 for waivers. Twelve (12) copies of all materials shall be delivered to the Town Office, at least twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda.

X:\ORDINANCE



AMENDED MAY 16, 2017 / EFFECTIVE JUNE 15, 2017

CH 401 SUBDIVISION ORDINANCE.UPDATE MARCH 2023.DOCX 19

- A. Application Form - The application form and any accompanying information.
- B. Location Map - The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
1. Existing subdivisions in the proximity of the proposed subdivision.
 2. Locations and names of existing and proposed streets.
 3. Boundaries and designations of zoning districts.
 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary Plan Format & Content - The preliminary plan shall be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. Three (3) sets of plans shall be no larger than 24 by 36 inches in size. Nine (9) sets of 11 by 17 inch copies and one (1) universally accessible digital format e.g. PDF of all plans shall be submitted. The application materials for preliminary plan approval shall include the following information:
1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
 2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five (5) years, as required by Title 30-A M.R.S.A. section 4401. Any parcels that have been sold or transferred in the prior five years shall be so noted on the plan.
 4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 5. A copy of any proposed deed restrictions intended to cover all or part of the lots, dwellings, or common land in the subdivision.
 6. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
 7. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
 8. The date the plan was prepared, north point, and graphic map scale.

9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
10. Wetland areas shall be delineated on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
16. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management.
20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
21. The proposed driveway access to the area of each lot that will be developed as indicated in Subsection 20, and any drainage or topographic features that must be crossed to access the proposed home site. [Adopted May 18, 2004]
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
23. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
24. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the

and services related to its review of the application. Such refund of remaining monies shall be made no later than sixty (60) days after the Planning Board's final decision with regard to the application.

C. Establishment of Fees

The Town Council may, from time to time and after consultation with the Board, establish the appropriate fees following posting of the proposed schedule of fees and conducting a public hearing.

402.10.10 Required Submissions for Site Plan Review

Site Inventory and Analysis: The site inventory and analysis is intended to provide both the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. This analysis will result in a development plan that reflects the conditions of the site; ensuring that those areas most suitable for the proposed use will be utilized, while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site and an analysis of that information.

A. Site Inventory Plan

The site inventory must contain, at a minimum, the following information:

1. The names, addresses, and phone numbers of the record owner and the applicant.
2. The names and addresses of all consultants working on the project.
3. Evidence of right, title, or interest in the property.
4. Three (3) copies of an accurate scale inventory plan of the parcel at a scale of not more than one hundred (100) feet to the inch, one universally accessible digital format e.g. PDF, and twelve (12) 11 x 17 inch copies showing as a minimum:
 - a. The name of the development, north arrow, date and scale.
 - b. The boundaries of the parcel and existing zoning.
 - c. The relationship of the site to the surrounding area (i.e., access roads and abutting uses).
 - d. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many instances, submittal of the U.S.G.S. contours will be adequate);
 - e. The major natural features of the site and within five hundred (500) feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state).
 - f. Existing buildings, structures, or other improvements on the site (if none, so state).
 - g. Existing restrictions or easements on the site (if none, so state).
 - h. The location and size of existing utilities or improvements servicing the site (if none, so state).
 - i. Mapping of all wetlands and/or potential vernal pools on site regardless of size.
 - j. A Class B high intensity soil survey if any portion of the site is located in a resource protection district or has wetlands covering more than ten (10%) percent of the site.



- b. The location of all required building setbacks, yards, and buffers.*
 - c. Names and addresses of all property owners within five hundred (500 ft.) feet of any and all property boundaries.
 - d. Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
 - e. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
 - f. The tax map and lot number of the parcel or parcels on which the project is to be located.*
 - g. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
 - h. The name, registration number and seal of the person who prepared the plan, if applicable.*
 - i. Evidence of the applicant's technical and financial capability to carry out the project as proposed.
5. The bound report and maps and drawings shall contain the following information pertaining to existing conditions of the site:
- a. Zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district.*
 - b. The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.*
 - c. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
 - d. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.*
 - e. The location and dimensions and photographs of all existing buildings on the site.
 - f. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
 - g. Location of intersecting roads or driveways within two hundred (200) feet of the site.
 - h. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

- i. The direction of existing surface water drainage across the site.
 - j. The location, front view, dimensions, and lighting of existing signs.
 - k. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
 - l. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.
6. The bound report and maps and drawings shall contain the following information pertaining to proposed development of the site:
- a. Estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data for on-site sewage disposal.
 - b. The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.
 - c. Provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities.*
 - d. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.*
 - e. Proposed landscaping and buffering.
 - f. The location, dimensions, ground floor plan, and architectural elevations of all proposed buildings or building expansion proposed on the site.*
 - g. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign(s).
 - h. Location and type of exterior lighting.*
 - i. The location of all utilities, including fire protection systems.
 - j. A general description of the proposed use or activity.
 - k. An estimate of the peak hour and daily traffic to be generated by the project.
 - l. Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection, if the project is located in the Wellhead Protection or Business Transitional 2 Districts, or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.
7. One drawing of the plan set shall be labeled as the Site Plan and shall contain the following information:
- a. All mapping information contained in subsections 4, 5, and 6 above that are followed by an asterisk (*).
 - b. Space provided on the plan drawing for the signatures of the Planning Board and date, together with the following words, "Approved: Town of Gray Planning Board."

D. Additional Engineering Information Required for Major Developments

In addition to the information required for all applicants, an application for a major development must contain the following additional information:

1. A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis.
2. A grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.
3. A stormwater drainage and erosion control program showing:
 - a. The existing and proposed method of handling stormwater runoff.
 - b. The direction of flow of the runoff, through the use of arrows.
 - c. The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
 - d. Engineering calculations used to determine drainage requirements based upon the twenty-five (25) year twenty-four (24) hour storm frequency; this is required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
 - e. Methods of controlling erosion and sedimentation during and after construction.
4. A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
5. The name, registration number, and seal of the architect, engineer, landscape architect and/or similar professional who prepared the plan.
6. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.
7. A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.
8. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project or expansion will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generator manual of the Institution of Traffic Engineers.
9. A written statement from the Gray Water District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, if public water will be utilized.
10. Estimated cost of the proposed development and evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed or available, and individual's or institution's interest in financing the project or in the form of a letter from a

certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.

E. Waiver of Submission Requirements

The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria. Provisions for waivers of the performance standards of the following Sections 402.10.11 through 402.10.14 are contained in Section 402.10.15.

402.10.11 Site Development Standards for Site Plan Review

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

B. Traffic Access and Parking

1. Adequacy of Road System - Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development.

Levels of service rankings are similar to the academic ranking system where an 'A' represents little control delay and an 'F' represents extensive delay. A level of service 'D' and higher is desirable for a signalized intersection, although in urban areas, specific movements often operate at a level of service 'E' or 'F'. [Adopted 1/19/10]

The following tables summarize the relationship between control delay and level of service:
[Adopted 1/19/10]

Table 1A - Level of Service Criteria for Signalized Intersections

Chris Neagle

From: Swett, Sierra M <Sierra.M.Swett@maine.gov>
Sent: Tuesday, October 10, 2023 1:29 PM
To: Mark Hampton
Cc: 'Bill Chapman'; 'Greg Rand'; Chris Neagle
Subject: RE: Gray, ME Permit By Rule Amendment
Attachments: PBRReviewRand.pdf; Ch 305 Section 10.pdf; Ch 305 Section 2.pdf

Dear Greg Rand, Bill Chapman and Mark Hampton,

Thank you for submitting this application with all required submission details required for Section 2 and 10 permitting. Your Permit-By-Rule Notification Form was received and reviewed by the DEP and was found to be acceptable under the conditions to which were stated within this plan and with the Natural Resource Protection Act criteria. The attached information is important to note as you begin this project.

NOTE: Stream crossings allowable under this section but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM) must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a crossing may be required to pass a 100-year flood event.

Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the town in which the activity took place.

Please be sure that you have read and understand all the conditions of your permit and feel free to reach out to the department if you have any questions or concerns.

Reminder: Unannounced compliance checks are within DEP jurisdiction and can occur at any time during or after the project is completed.

Sierra Swett

Sierra Swett
Environmental Specialist III
Maine Department of Environmental Protection
Southern Maine Office
312 Canco Road, Portland, ME 04103

Phone: (207) 450-4563

Email: Sierra.M.Hopkins@maine.gov

www.maine.gov/dep





From: Mark Hampton <mhampto1@maine.rr.com>
Sent: Tuesday, October 3, 2023 8:22 PM
To: DEP, PBR Notification <DEP.PBRNotification@maine.gov>
Cc: 'Bill Chapman' <bchapma8@gmail.com>; 'Greg Rand' <greg@grandbuildersme.com>; 'Chris Neagle' <chris@neaglelaw.com>
Subject: Gray, ME Permit By Rule Amendment

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Here is an amended permit by rule application for a driveway crossing a stream twice and soil disturbance within 75 feet but greater than 25 feet to a stream. Original permit by rule application was filed on August 18, 2023 under the same applicant information. I made the mistake of starting the driveway at Route 202 in the wrong location. The new location will require an additional stream crossing.

Mark

Mark Hampton Associates, Inc.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Permit-by-Rule & Notice of Intent Review Form

Natural Resources Protection Act
Stormwater Management Law
Maine Construction General Permit

PBR # 78006
PBR #
NOI #

Applicant: Greg Rand and Bill Chapman
Project Address: 110 Lewiston Road

Town: Gray
Tax Map/Lot #: 28/25-30-2

NRPA PBR Sections – Ch. 305

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Sec. 2 Act. Adj. to Prot. Natural Res. | <input type="checkbox"/> Sec. 9 Utility Crossing | <input type="checkbox"/> Sec. 16 Coastal Sand Dune Project |
| <input type="checkbox"/> Sec. 3 Intake Pipes | <input checked="" type="checkbox"/> Sec. 10 Stream Crossing | <input type="checkbox"/> Sec. 17 Transfer/Permit Extension |
| <input type="checkbox"/> Sec. 4 Replacement of Structures | <input type="checkbox"/> Sec. 11 State Transport. Facilities | <input type="checkbox"/> Sec. 18 Maintenance Dredging |
| <input type="checkbox"/> Sec. 6 Movement of Rocks or Veg. | <input type="checkbox"/> Sec. 12 Restoration Natural Areas | <input type="checkbox"/> Sec. 19 Act. Near SVP Habitat |
| <input type="checkbox"/> Sec. 7 Outfall Pipes | <input type="checkbox"/> Sec. 13 F&W Creat./Water Quality | <input type="checkbox"/> Sec. 20 Act. Near Waterfowl/Bird Habitat |
| <input type="checkbox"/> Sec. 8 Shoreline Stabilization | <input type="checkbox"/> Sec. 15 Public Boat Ramps | |

Notes:

- A permit will be required from the US Army Corps of Engineers for the following types of projects:
 - o (a) Any activity involving impacts (direct and secondary) to freshwater wetlands; or
 - o (b) An activity within a river, stream or brook between October 2 and July 14.
- A bridge or culvert must provide an opening with a cross-sectional area at least equal to 3 times the cross-sectional area of the stream channel or sufficient in size to accommodate 25-year frequency water flows.
- (6) Road surfaces must be constructed in a manner to prevent erosion of material into the river, stream or brook.
- (7) Surface water on or adjacent to crossing approaches must be diverted through vegetative filter areas at least 25 feet long to avoid sedimentation of the watercourse. Roadside ditches may not extend to the resource being crossed.
- (10) Culvert crossings must:
 - o (a) Be limited to 75 feet in length. This limit may not be exceeded within a half-mile length of the stream or within the length of stream controlled by the applicant, if less;
 - o (b) Follow the alignment and grade of the existing stream channel where possible. On perennial streams the culvert's gradient may not exceed 1%;
 - o (c) Have the bottom of the entire culvert installed at or below stream bed elevation, except for additional culverts at the same crossing;
 - o (d) Where two or more culverts are installed, be offset in order to concentrate low flows into the culvert within the natural channel;
 - o (e) Be seated on firm ground, or on geotextiles, logs or other materials used to stabilize the ground;
 - o (f) Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater;
 - o (g) Have the soil compacted at least halfway up the side of the culvert; and
 - o (h) Have the inlet and outlet ends stabilized by riprap in accordance with Section 8 Shoreline stabilization standards to avoid erosion of material around the culvert.
- Disturbance within the resource must be minimized.
- All work is limited to the location and extent depicted on the plan or plans submitted pursuant to subsection B(4) of this section.

Reviewer:
Reviewer: Sierra Swett

Deficient Date: NRPA SW NOI
Accepted Date: 10/10/2023 NRPA SW NOI

63

2. Activities adjacent to protected natural resources**A. Applicability**

- (1) This section applies to an activity adjacent to, but not in:
 - (a) A coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland; or
 - (b) Freshwater wetlands consisting of or containing:
 - (i) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds or impoundments; or
 - (ii) Peatlands dominated by shrubs, sedges and sphagnum moss.
- (2) This section does not apply to an activity where sustained slopes are steeper than 3 horizontal feet: 1 vertical foot (approximately 33% slope) between the normal high water line or upland edge of the protected resource and the soil disturbance.
- (3) Activities that qualify for permit by rule under another section are not required to comply with this section unless expressly stated in that section.
- (4) This section does not apply to an activity that is not or will not be in compliance with the terms and conditions of a permit issued under the Site Location of Development Law, 38 M.R.S.A. Sections 481 to 490, the Storm Water Management Law, 38 M.R.S.A. Section 420-D, or the Natural Resources Protection Act, 38 M.R.S.A. Sections 480-A to 480-Z.
- (5) This section does not apply to an activity that does not conform to the local shoreland zoning ordinance.

NOTE: Contact the local Code Enforcement Officer for information on local shoreland zoning requirements. In most shoreland areas, a 75 or 100 foot undisturbed buffer strip is required between the disturbed areas and the water or wetland.

B. Submissions

- (1) The applicant is required to submit photographs of the area which will be affected by the activity proposed.
- (2) Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the town in which the activity took place.
- (3) A brief narrative explaining why there is no practicable alternative to location of the activity within the 75 foot setback, and how the impact on the remaining buffer and the resource will

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be minimized. This narrative is not required for those activities presumed to have no practicable alternative as listed in paragraph C(1) of this section.

- (4) A scaled plan or drawing of the area affected, including information such as:
- (a) The entire property on which the activity will take place, including property lines, the 75 foot setback, and the boundaries or location of protected natural resources such as streams and wetlands;
 - (b) Proposed and existing development on the parcel including buildings, parking areas, roads, fill areas, landscaped areas, etc.; and
 - (c) Any site constraints limiting development beyond the 75 foot setback, such as steep slopes.

It is not necessary to have the plan professionally prepared. However, it must be legible and drawn to a scale that allows clear representation of distances and measurements on the plan.

C. Standards

- (1) No activity or portion of an activity may be located within the 75 foot setback if there is a practicable alternative location on the parcel that would cause or result in less impact on the environment. The following activities are presumed to have no practicable alternative location on the parcel.
- (a) The planting of vegetation for the purpose of controlling erosion or for establishing a vegetative buffer.
 - (b) The removal or replacement of underground storage tanks when performed in accordance with 38 M.R.S.A. Section 566-A.
 - (c) The replacement of a structure or the placement or replacement of a foundation or supports for a legally existing structure or addition that is not closer to a protected natural resource than the existing structure provided the municipality has approved the location of the replaced or modified structure. However, any fill, other than that required to maintain the integrity of the structure such as foundation backfill, must meet the 75 foot setback standard unless otherwise approved by the DEP pursuant to this section.

NOTE: In most cases when a structure is being replaced or a foundation is being put under an existing structure that does not meet the setback requirements of the Municipal Shoreland Zoning Ordinance, the applicant is required by the municipality to move the structure back from the natural resource to the maximum extent practicable.

- (d) The closure of a landfill in conformance with the DEP's solid waste management rules.
- (e) Access way consisting of a footpath, stairway, or steps to the resource.

- (2) Except for those activities listed in Section 2(C)(1)(a)-(e) above, a 25 foot setback must be maintained between the normal high water line or upland edge of the protected natural resource and the activity. Areas that have slopes of 3 horizontal feet: 1 vertical foot (approximately 33% slope), or steeper, may not be counted when determining the 25 foot setback. Existing vegetation within the setback may not be disturbed except for cutting activity meeting the exemption requirements in 38 M.R.S.A. Section 480-Q(23).
- (3) Disturbance within the setback must be minimized.
- (4) The following measures must be taken to prevent erosion of soil or fill material from disturbed areas:
 - (a) Staked hay bales or silt fence must be properly installed at the edge of disturbed areas between the activity and the resource before the activity begins;
 - (b) Hay bales or silt fence barriers must be maintained until the disturbed area is permanently stabilized;
 - (c) Within 7 calendar days following the completion of any soil disturbance, and prior to any storm event, mulch must be spread on any exposed soils;
 - (d) All disturbed soils must be permanently stabilized; and
 - (e) Within 30 days of final stabilization of the site, any silt fence must be removed.
- (5) A footpath to the resource is limited to 6 feet in width and stairs or steps are limited to 4 feet in width.
- (6) All work is limited to the location and extent depicted on the plan or plans submitted pursuant to subsection B(4) of this section.

NOTE: For guidance on erosion and sedimentation controls, consult the Maine Erosion and Sediment Control BMPs, dated March 2003. This handbook and other references are available from the DEP.

D. Definitions. The following terms, as used in this chapter, have the following meanings, unless the context indicates otherwise:

- (1) **Fill.** a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a water body or wetland.
- (2) **Land adjacent to a protected natural resource.** Any land area within 75 feet, measured horizontally, of the normal high water line of a great pond, river, stream or brook or the upland edge of a coastal wetland or freshwater wetland.

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- (2-A) **Practicable.** Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.
- (3) **Structure.** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. Examples of structures include buildings, utility lines and roads.
- (4) **Upland edge.** The boundary between upland and wetland.

NOTE:

Section 480-Q(15-A) of the NRPA exempts the installation, removal or repair of a septic system from permitting requirements as of March 1, 1995, as long as the system complies with all requirements of the subsurface wastewater disposal rules adopted by the Department of Human Services pursuant to 22 M.R.S.A. Section 42(3).

10. Stream crossings (bridges, culverts and fords)**A. Applicability**

- (1) This section applies to the construction of a bridge span or culvert crossing of a river, stream or brook, and associated accessway construction within 25 feet of the river, stream or brook crossing excluding the following:
- (a) Crossings of outstanding river segments identified in 38 M.R.S.A. Section 480-P;
 - (b) Crossings of any river as defined by 38 M.R.S.A. Section 436-A(11), the Mandatory Shoreland Zoning Act (information is available at the Town Office); or
 - (c) Crossings of any portion of a river, stream or brook that experiences tidal action.

NOTE: Temporary structures do not require a permit from the department under the Natural Resources Protection Act (NRPA) provided no filling and minimal soil disturbance occurs. All crossings involving filling in and adjacent to a river, stream or brook, such as culvert crossings, are subject to the NRPA and must first receive a permit before construction.

- (2) This section also applies to the establishment of a permanent stream ford for purposes of timber harvesting, livestock, agriculture and construction and maintenance of a utility line.
- (3) A stream crossing constructed between July 15 and October 1 that is associated with forest management activities is exempt from the 14 day waiting period required in Section 1(C)(1).
- (4) A stream crossing constructed between July 15 and October 1 that is performed or supervised by individuals currently certified in erosion control practices by the DEP is exempt from the 14 day waiting period required in Section 1(C)(1).
- (5) Multiple stream crossings may be submitted on one PBR notification form as long as all of the crossing activities are located within one town.
- (6) This section does not apply to an activity that is not or will not be in compliance with the terms and conditions of permits issued under the Site Location of Development Law, 38 M.R.S.A. Sections 481 to 490, the Storm Water Management Law, 38 M.R.S.A. Section 420-D, or the Natural Resources Protection Act, 38 M.R.S.A. Sections 480-A to 480-Z.
- (7) This section does not apply to an activity that will not conform to the local shoreland zoning ordinance.

NOTES:

- (1) Contact the local Code Enforcement Officer for information on local shoreland zoning requirements.

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- (2) Maintenance and repair of a public or private crossing of a river, stream or brook is exempt from the NRPA provided that:
 - (a) Erosion control measures are taken to prevent sedimentation of the water;
 - (b) The crossing does not block fish passage in the water course; and
 - (c) Any replaced culvert is not more than 25% longer than the culvert being replaced and is not longer than 75 feet.
- (3) A permit will be required from the US Army Corps of Engineers for the following types of projects:
 - (a) Any activity involving impacts (direct and secondary) to freshwater wetlands; or
 - (b) An activity within a river, stream or brook between October 2 and July 14.

A copy of the PBR notification form and original photographs, not photocopies, should be submitted to the Corps of Engineers for these activities (US Army Corps of Engineers, 675 Western Avenue, Suite #3, Manchester, ME 04351. Tel. (207) 623-8367).

B. Submissions

- (1) For any crossing involving trenching or disturbance of substrate in a river, stream or brook that occurs between October 2 and July 14, the proposed dates for construction of the crossing must be clearly identified on the notification form under "Description of Project".
- (2) Except for crossings associated with forest management activities, the applicant is required to submit photographs of the area that will be affected by the activity proposed.
- (3) Photographs showing the completed project and the affected area must be submitted within 20 days of the activity's completion. The photographs must be sent with a copy of the notification form or labeled with the applicant's name and the town in which the activity took place.

C. Standards

- (1) The following measures must be taken to prevent erosion of soil or fill material from disturbed areas into the resource:
 - (a) Staked hay bales or silt fence must be properly installed between the area of soil disturbance and the resource before the activity begins;
 - (b) Hay bales or silt fence barriers must be maintained until the disturbed area is permanently stabilized;
 - (c) Within 7 calendar days following the completion of any soil disturbance, and prior to any storm event, mulch must be spread on any exposed soils;

- (d) All disturbed soils must be permanently stabilized; and
- (e) Within 30 days of final stabilization of the site, any silt fence must be removed.

NOTE: For guidance on erosion and sedimentation controls, consult the Maine Erosion and Sediment Control BMPs, dated March 2003. This handbook and other references are available from the DEP.

- (2) If a perennial watercourse to be crossed is used for navigation, the crossing must consist of a bridge span or pipe arch with at least 4 feet of clearance during normal high water for boat traffic.
- (3) If the stream to be crossed is a perennial watercourse and has a slope of more than 2%, a bridge or a pipe arch must be used to maintain the natural streambed.
- (4) Fill sideslopes in a stream or floodplain wetland must be maintained at a slope no shallower than 3 horizontal to 1 vertical and no steeper than 1.5 horizontal to 1 vertical. Fill sideslopes must be stabilized at the completion of the activity.

NOTE: Uncompacted soils or sandy soils that are saturated at the toe of a slope will be unstable at a 1.5 to 1 slope.

- (5) A bridge or culvert must provide an opening with a cross-sectional area at least equal to 3 times the cross-sectional area of the stream channel or sufficient in size to accommodate 25-year frequency water flows.

NOTE: Stream crossings allowable under this section but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM) must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a crossing may be required to pass a 100-year flood event.

- (6) Road surfaces must be constructed in a manner to prevent erosion of material into the river, stream or brook.
- (7) Surface water on or adjacent to crossing approaches must be diverted through vegetative filter areas at least 25 feet long to avoid sedimentation of the watercourse. Roadside ditches may not extend to the resource being crossed.

NOTE: Surface water on or adjacent to crossing approaches should be diverted through vegetative filter areas to avoid sedimentation of the watercourse. Because roadside ditches may not extend to the resource being crossed, filter areas should be established in accordance with the following tables:

Average slope of land between
exposed mineral soil and

Width of strip between ditch terminus
and normal high water mark

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normal high water mark (percent)	(feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

- (8) A stream ford must be lined with crushed stone, blasted ledge, washed stone, gabion blankets or geotextile material for erosion control when the natural stream bed does not consist of ledge or rock.
- (9) A stream ford must allow for fish passage at all times of the year and may not impound water. The fords must also allow for maintenance of normal stream flows.
- (10) Culvert crossings must:
- Be limited to 75 feet in length. This limit may not be exceeded within a half-mile length of the stream or within the length of stream controlled by the applicant, if less;
 - Follow the alignment and grade of the existing stream channel where possible. On perennial streams the culvert's gradient may not exceed 1%;
 - Have the bottom of the entire culvert installed at or below stream bed elevation, except for additional culverts at the same crossing;
 - Where two or more culverts are installed, be offset in order to concentrate low flows into the culvert within the natural channel;
 - Be seated on firm ground, or on geotextiles, logs or other materials used to stabilize the ground;
 - Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater;
 - Have the soil compacted at least halfway up the side of the culvert; and
 - Have the inlet and outlet ends stabilized by riprap in accordance with Section 8 Shoreline stabilization standards to avoid erosion of material around the culvert.

NOTE: For guidance on riprap installation, consult the Maine Erosion and Sediment Control BMPs, dated March 2003. This handbook and other references are available from the DEP.

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- (11) Wheeled or tracked equipment may not operate in the water. Equipment operating on the shore may, where necessary, reach into the water with a bucket or similar extension. Equipment may cross streams on rock, gravel or ledge bottom.
- (12) Work below the normal high water line must be done during periods of low water level or flow.
- (13) If the crossing involves trenching or disturbance of substrate in a river, stream or brook between October 2 and July 14, the activity must occur during the time period approved by the DEP. The approved time period may be the time period proposed by the applicant or an alternative time period approved by the DEP. An alternative time period will be required where it appears an unreasonable impact on water quality or fisheries may result at the point of crossing or immediately downstream of the crossing. The applicant will be notified by the DEP within 14 days if an alternative time period, other than the one proposed by the applicant, is required for constructing the crossing.
- (14) If work is performed in a river, stream or brook that is less than three feet deep at the time of the activity and at the location of the activity, the applicant must provide for temporary diversion of flow to the opposite side of the channel while work is in progress.
 - (a) Diversion may be accomplished by placing sandbags, timbers, sheet steel, concrete blocks, 6+ mil polyethylene or geotextiles from the bank to midstream on the upstream side of the activity. No more than two-thirds ($2/3$) or 25 feet of stream width, whichever is less, may be diverted at one time.
 - (b) Any material used to divert water flow must be completely removed upon completion of the activity, and the stream substrate must be restored to its original condition.
 - (c) A pump may be operated, where necessary, for a temporary diversion. The pump outlet must be located and operated such that erosion or the discharge of sediment to the water is prevented.
- (15) All wheeled or tracked equipment that must travel or work in a vegetated wetland area must travel and work on mats or platforms in order to protect wetland vegetation.
- (16) All excavated material must be stockpiled either outside the wetland or on mats or platforms. Hay bales or silt fence must be used, where necessary, to prevent sedimentation.
- (17) The use of untreated lumber is preferred. Lumber pressure treated with chromated copper arsenate (CCA) may be used only if necessary and only if use is allowed under federal law and not prohibited from sale under 38 M.R.S.A. 1682, and provided it is cured on dry land in a way that exposes all surfaces to the air for a period of at least 21 days prior to construction. Wood treated with creosote or pentachlorophenol may not be used where it will contact water.

D. Definitions. The following terms, as used in this chapter, have the following meanings, unless the context indicates otherwise:

- (1) **Cross-sectional area.** The cross-sectional area of a stream channel is determined by multiplying the stream channel width by the average stream channel depth. The stream channel width is the straight line distance from the normal high water line on one side of the channel to the normal high water line on the opposite side of the channel. The average stream channel depth is the average of the vertical distances from a straight line between the normal high water marks of the stream channel to the bottom of the channel.
- (2) **Crossing.** Any activity extending from one side to the opposite side of a protected natural resource, or to an island or upland within a protected natural resource whether under, through or over that resource. Such activities include, but are not limited to roads, fords, bridges, culverts, utility lines, water lines, sewer lines and cables, and the clearing and removal of vegetation necessary to install and maintain these crossings.
- (3) **Fill.** a. (verb) To put into or upon, supply to, or allow to enter a water body or wetland any earth, rock, gravel, sand, silt, clay, peat, or debris; b. (noun) Material, other than structures, placed in or adjacent to a water body or wetland.
- (4) **Ford.** A permanent crossing of a stream utilizing an area of existing, non-erodible substrate of the stream, such as ledge or cobble, or by placing non-erodible material such as stone or geotextile on the stream bottom.
- (5) **Perennial watercourse.** A river, stream or brook depicted as a solid line on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15 minute series topographic map.
- (6) **Riprap.** Heavy, irregularly-shaped rocks that are fit into place, without mortar, on a slope. Square or rectangular rocks with flat faces, such as quarry stone or manufactured blocks, do not qualify as "irregularly-shaped".
- (7) **Used for navigation.** Those rivers, streams or brooks used by motorized watercraft.