

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on April 20th, 2021 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach approve a Contract Zone Agreement between Estates at Bay View, LLC and the Town of Old Orchard Beach, for the property located at 211 East Grand Ave., Map 202, Block 2, Lot 2 in the Residential Beachfront District and Residential Activity Shoreland Zoning District, pursuant to 30A M.R.S.A., Section 4352 (8) and Chapter 78, Article IX of the Old Orchard Beach Zoning Ordinance and to amend the most recently adopted Town of Old Orchard Beach General Zoning Map to adopt the Contract Zone 3 district on the property identified as Map 202, Block 2, Lot 2?

The proposed Contract Zone Agreement and Map showing location of Contract Zone 3 are attached to this document.

Per Order of the Municipal Officers this 7th day of April, 2021.

A True Copy

Attest:

s/Kim McLaughlin
Kim M. McLaughlin, Town Clerk

CONTRACT ZONING AGREEMENT
Estates at Bay View, LLC and the Town of Old Orchard Beach

CONTRACT ZONE AGREEMENT made this ___ day of _____, 2021, by and between ESTATES AT BAY VIEW, LLC, a Maine limited liability company with a principal place of business in Saco, County of York and State of Maine, and Timothy Swenson as its principal (hereinafter collectively referred to as “EBV”), and THE TOWN OF OLD ORCHARD BEACH, a municipal corporation located in York County, Maine.

WHEREAS, at the time of application for a contract zone, Timothy Swenson, principal of EBV, has a purchase agreement with the current owners dated October 1, 2020 (“the purchase agreement”) which has been presented to the Council as evidence of right, title or interest in the property; and

WHEREAS, Mr. Swenson’s contractual rights as purchaser under the purchase agreement are assignable, and title to the Property will be taken in the name of EBV or other assignee corporation for which Mr. Swenson has authority; and

WHEREAS, for the purposes of this Agreement, EBV shall refer to Estates at Bay View, LLC or such other corporation acting as assignee under the purchase agreement; and

WHEREAS, EBV proposes to develop a four-lot residential subdivision on 1.37 acres of land located on East Grand Avenue. The proposed project would relocate and preserve an existing residential structure built in 1900, and create three additional lots for single-family residential use; and

WHEREAS, the parcel to be developed is depicted on the Town’s tax maps as Map 202, Block 2, Lot 2 and is located in the Residential Beachfront District (hereinafter “RBD”) and partially within the Shoreland Residential Activity Subdistrict (“RA”);

WHEREAS, the proposed development is consistent with the existing uses and allowed uses within the Residential Beachfront District and Shoreland Residential Activity Subdistrict; and

WHEREAS, EBV has petitioned for a contract zone to amend the Old Orchard Beach Zoning Ordinance for the reasons as follow:

1. EBV seeks the right to develop a four-lot residential subdivision on the above-referenced parcel while preserving the historic residence located on the parcel. Lot size and density standards in the RBD and RA allow for the placement of four residential lots and dwellings on this parcel; however, in order to preserve the existing structure, which has a large footprint, the configuration of the remaining three lots requires minor reductions of net developable area, road frontage and shore frontage to be met on certain of the proposed lots. The proposed lots all meet minimum lot area requirements without need for modification.
2. The proposed development will confer the following benefits to the Town, in keeping with the goals of the Comprehensive Plan.

- a. EBV will convey to the Town a four-foot right of way for public access from E. Grand Avenue to the beach. Currently the closest public access point to the beach is 700 feet to the south, and there is no public access point within town limits to the north. The Comprehensive Plan suggests at Section III(H)(1) that “formal access agreements could be negotiated with existing and proposed landowners of key properties” to access natural features. One of the “most important” goals in the Comprehensive Plan is to “protect and upgrade public access ways to the beach.” See preamble to Section IV and Policies A.27; E.9-E.11.
 - b. The existing dwelling will be moved behind the dune line, and the dunes will be restored with supervision from the Department of Environmental Protection. The Comprehensive Plan includes as a local goal to “preserve and protect the shoreline and its associated dune system,” and Policy D.19 calls for continuance of a dune management program.
 - c. The proposed development will allow for preservation of the existing historic dwelling. Policy A.40 of the Comprehensive Plan provides that “the Town should preserve historic structures, neighborhoods, and sites in the community.” Policy A.41 states that the Town should ensure protection of historic structures by “protecting sites identified in the future by State, local, or regional interest groups, or by developers in the development process.”
 - d. Placement of individually owned lots, as proposed, will reduce overall density on this parcel as compared to a condominium form of development, which pursuant to the density standards of the Zoning Ordinance would otherwise allow for placement of fifteen dwelling units on the parcel. The proposal is preferable to other allowable forms of development on the parcel as it will limit impacts to sensitive beachfront areas, surrounding properties, traffic, public utilities and other public services. It will also allow for the preservation of a historic structure.
3. The right-of-way will serve only four residences and, as proposed, will be sufficiently wide to accommodate reasonable traffic to those residences notwithstanding inability to meet the minimum right-of-way width under the Zoning Ordinance.

NOW, THEREFORE, pursuant to the authority found in 30-A M.R.S., Section 4352(8), and Section 1.8, et. seq. of the Old Orchard Beach Zoning Ordinance, and by vote of the Old Orchard Beach Town Council on _____ the following findings are hereby adopted:

1. Town Tax Map 202, Block 2, Lot 2 is a relatively large shorefront lot that would allow for high-density residential development; however, such density would cause additional impacts to sensitive beachfront areas, surrounding properties, traffic, public utilities and other public services as compared to the proposal. The proposal is also necessary to allow for reasonable development of the lot while preserving the existing historic structure located thereon.
2. The proposed rezoning is consistent with the goals set forth in the Old Orchard Beach Comprehensive Plan to use tools including contract zoning to minimize infrastructure needs and development costs, and to protect aesthetic character. It

is also consistent with the goals as stated in the Comprehensive Plan to preserve public access to the beach, to protect historic structures, and to protect and restore the dune system.

3. The conditions hereinafter set forth in this contract and by the Old Orchard Beach Planning Board are sufficient to meet the purposes of contract zoning as set forth in Section 78-2131 of the Zoning Ordinance.
4. The proposed development will serve the purposes of the Shoreland Residential Activity Subdistrict (RA), which Sec. 78-1182 states is suitable for residential development and for less intensive use than in the commercial or general development subdistricts. It also serves the purposes of shoreland zoning by distancing the existing structure from the dune line and restoring the dunes.

WHEREFORE, based on the findings above set forth, the Old Orchard Beach Town Council hereby agrees that this contract shall modify the space and bulk requirements in the RBD and RA district for the parcel currently depicted as Map 202, Block 2, Lot 2 according to the following terms and conditions:

1. Minimum shore frontage for Lots 3 and 4 shall be 75 feet for Lot 3 and 116 feet for Lot 4.
2. Each lot shall own to the centerline of the access road. The access road shall not be deducted in determining net developable area of the lots or required setback.
3. Notwithstanding Section 74-309 of the Zoning Ordinance, the private right-of-way serving the proposed development shall be no less than 18 feet in width, with minimum pavement width of 18 feet.
4. Required road frontage shall be met by the 18-foot access drive rather than by East Grand Avenue. For those lots abutting East Grand Avenue, frontage on East Grand Avenue shall be no less than 70 feet. Frontage for Lot 3, as depicted, shall be reduced to 91 feet.
5. Building height, except for the existing structure, shall be no greater than 35'.
6. EBV agrees to relocate the existing dwelling behind the frontal dune line and to restore the dunes within the property in accordance with guidance and oversight from the Maine Department of Environmental Protection. New development, excepting passive recreation and maintenance/repair of development existing at the time of Town Council approval of this Contract Zoning Agreement, shall not be allowed within the frontal dune.
7. EBV shall, following final approval of the project by the Planning Board and prior to issuance of any building or demolition permit, convey a four-foot wide public access easement to the Town for general public access by foot to the beach along the southern boundary of the Property.
8. The following conditions shall apply to this contract:
 - a. All other applicable space and bulk requirements pertaining to the RBD and/or RA districts shall be met.
 - b. The lots shall be subject to recorded covenants against two-family, multifamily or commercial uses, with language to be approved by the Planning Board.

- c. The right-of-way serving the proposed development shall remain private and shall never be offered for acceptance by the Town of Old Orchard Beach. EBV shall present for consideration and approval by the Planning Board draft covenants, easements and homeowners' association documents and/or road maintenance agreements sufficient to demonstrate that responsibility for maintenance of the right-of-way will be borne by EBV and/or the lot owners.
- d. All details shown on the plans and referenced in the Findings of Fact approved by the Old Orchard Beach Planning Board on April 8, 2021 and Site Plan and Subdivision Applications Findings of Fact approved by the Old Orchard Beach Planning Board on _____ are incorporated into this contract by reference. The site shall be developed substantially in conformance with those plans. Any variation from subdivision and site plan review proposals, plans, supporting documents and representations are subject to review and approval by the Planning Board, provided that de minimis variation is subject to review and approval by the Town Planner. If it is determined by the Planning Board that the changes constitute a change in the contract, then EBV shall also be required to obtain Town Council approval of the changes.
- e. These amendments affect only the parcel of land identified as Tax Map 202, Block 2, Lot 2 on the Town of Old Orchard Beach tax maps.
- f. This contract and its provisions shall specifically and exclusively apply to the contract zone request submitted by EBV. Approval of this contract zone is in part based on the technical qualifications of EBV as submitted to the Town. Accordingly, without the prior written consent of the Town Council, which consent shall not unreasonably be withheld, this contract and the contract zone it creates shall not be transferable by EBV.
- g. This Agreement is conditioned upon approval of the contract zone by the Maine Department of Environmental Protection as a deviation from the Town's otherwise applicable shoreland zoning ordinance standards.
- h. Failure of EBV to secure subdivision approval from the Planning Board, and any and all other permits or approvals that may be required by the Town or other regulatory agencies including but not limited to the Maine Department of Environmental Protection within one year of the approval of this contract by the Town Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of EBV, this one year deadline may be extended by one year upon written request to the Town Council submitted by EBV prior to the expiration of the original one-year period, and in the event the final permits or approvals are delayed due to the pendency of an appeal, the one year deadline shall start to run from the date the appeal(s) are determined and such permits or approvals become final.
- i. Failure of EBV to initiate substantial construction of the project within two (2) years from the date of final approval of this contract zone, or within two (2) years from the date the permits and approvals referred to in Subparagraph (e) above become final, whichever shall last occur, shall render this contract null and void. In the event that permits or approvals are delayed due to

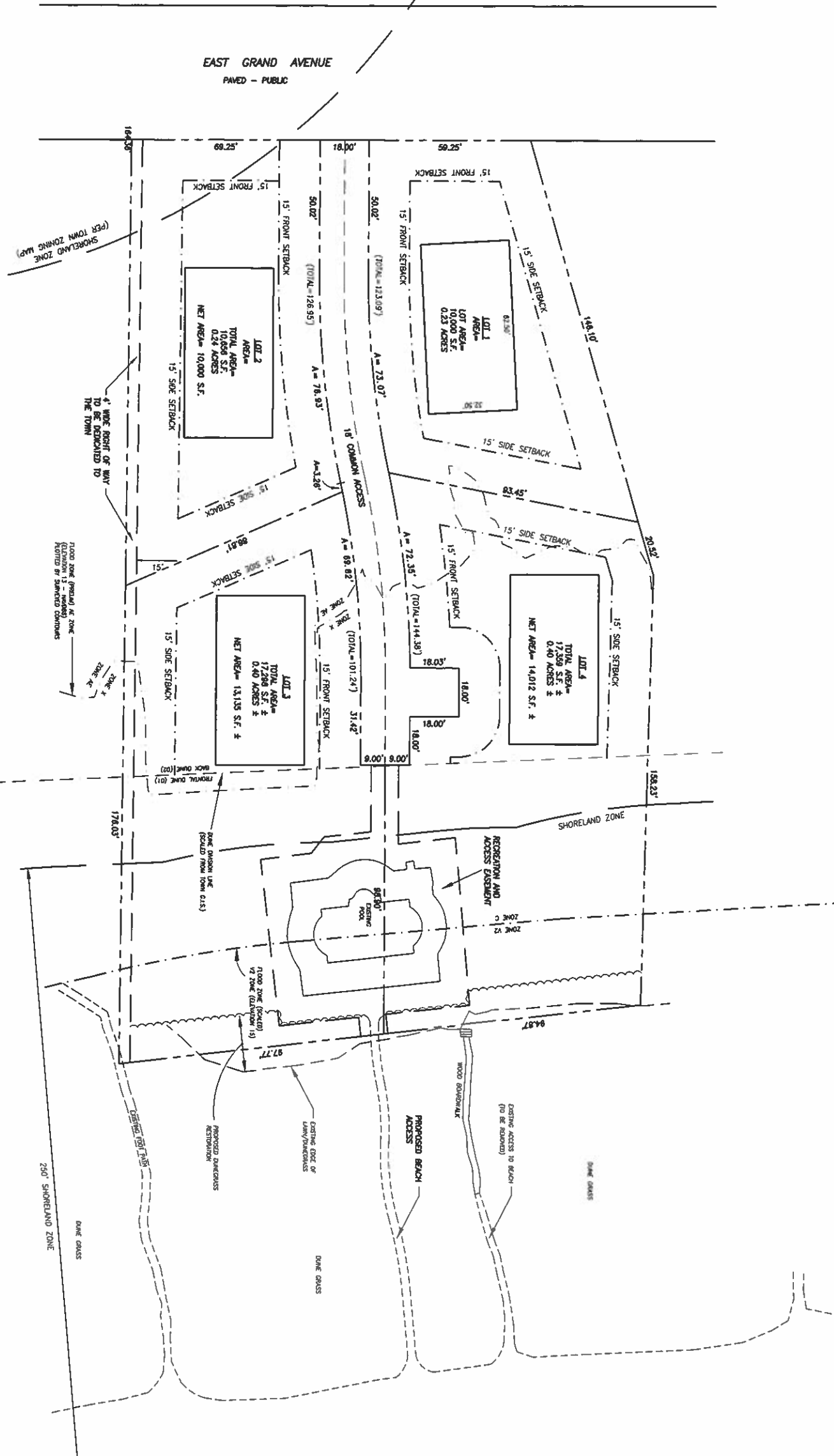
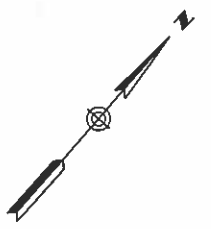
circumstances beyond control of EBV, this two-year deadline may be extended by one year upon written request to the Town Council submitted by EBV prior to the expiration of the original two-year period.

- j. Breach of these conditions and restrictions by EBV shall constitute a breach of the contract. Should EBV seek to modify these conditions or restrictions, it shall be required to apply for a contract modification. Failure to apply for and obtain a modification shall constitute a zoning violation, subject to enforcement action.

Based on the above findings, conditions and restrictions, the Town Council hereby incorporates this contract zoning agreement into the Old Orchard Beach Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein. The above restrictions, provisions and conditions are an essential part of the rezoning of the property, shall run with the land, shall bind Timothy Swenson, Estates at Bay View, LLC, and their respective successors in interest and assigns of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Old Orchard Beach.

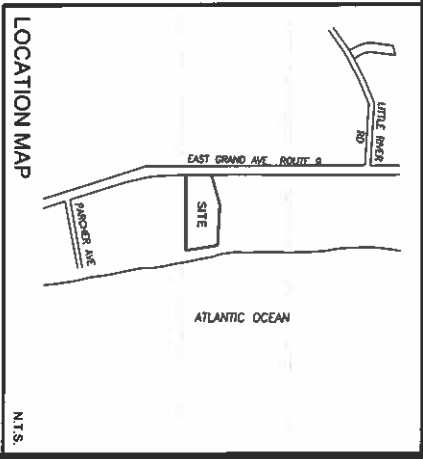
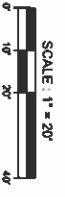
Adopted by the Old Orchard Beach Town Council on _____.

Town of Old Orchard Beach	Estates at Bay View, LLC
By	By Timothy J. Swenson
By	
By	
By	
By	
By	
By	



GENERAL NOTES

1. OWNER OF RECORD: MARIN LIFE
211 EAST GRAND AVENUE
OLD ORCHARD BEACH, MAINE
TAX MAP 202 LOT 2-2
F.C.R.C. BOOK 16234 PAGE 403
2. BEGINNINGS ARE BASED ON STATE PLANE COORDINATE SYSTEM, MAINE WEST ZONE, AND AS PER POST PROCESSED GPS OBSERVATION.
3. ELEVATIONS ARE BASED ON MGD 1929 PER POST PROCESSED GPS OBSERVATION.
4. DUNE DIVISION LINE SHOWN HEREON SCALED FROM TOWN GIS.



ATLANTIC OCEAN

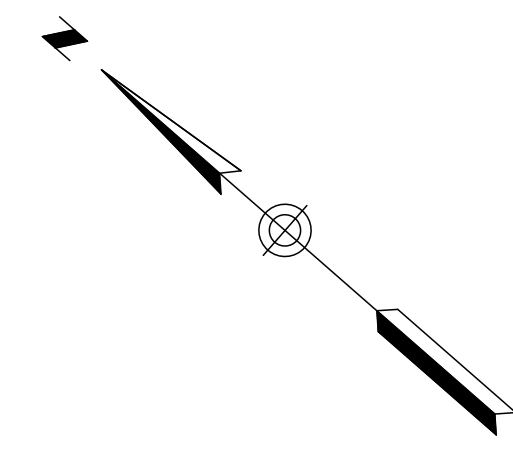
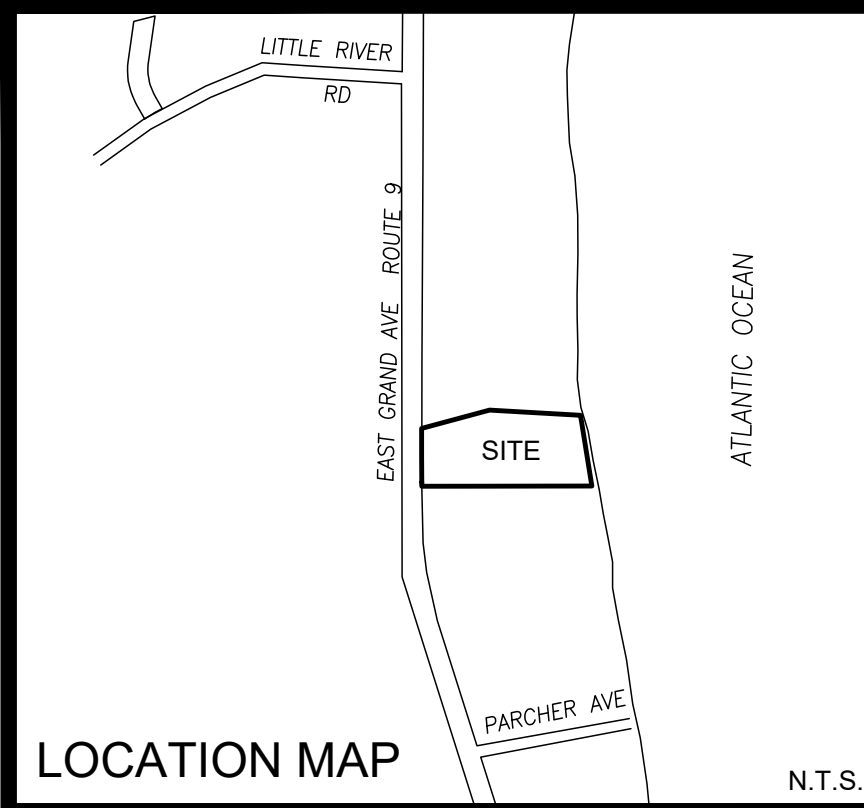
Conceptual Lot Division

At
211 East Grand Avenue
Old Orchard Beach, Maine
Made for
Tim Swenson
P.O. Box 314, Old Orchard Beach, Maine

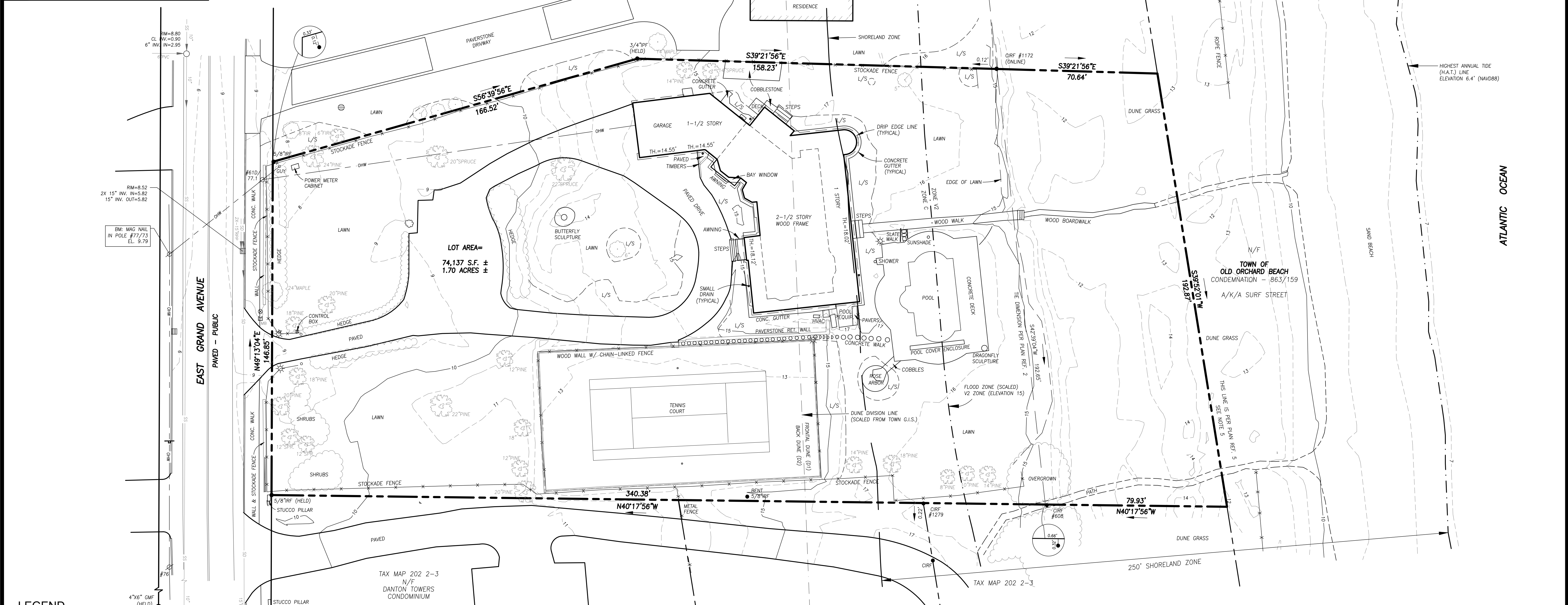
OWEN HASKELL, INC.
PROFESSIONAL LAND SURVEYORS

REV 01	1-14-21	ADDED PRELIMINARY ZONE, ADDED SHORELAND ZONE
REV 02	3-3-21	ADDED EASEMENT TO BE DEDICATED TO THE TOWN
REV 03	2-18-21	ADJUSTED LOT LINES

390 US ROUTE 1, UNIT 10, FALMOUTH, ME 04105 TEL: 207.774.0424
DRAWN BY: SDC DATE: 12/1/2020 JOB NO.: 2020-234
CHECKED BY: SDC SCALE: 1" = 20' DRAWING NO.: 1



TAX MAP 202 2-1
N/F
WILLIAM H. JOHNSON
MARGARET A. JOHNSON
13476/232



LOT AREA=
74,137 S.F. ±
1.70 ACRES ±

- LEGEND**
- IRON PIPE OR ROD FOUND
 - MONUMENT FOUND
 - UTILITY POLE
 - MANHOLE
 - MAILBOX
 - SIGN
 - CATCH BASIN
 - LIGHT POLE
 - DECIDUOUS TREE
 - CONIFEROUS TREE
 - FENCE
 - CURB
 - SD STORM DRAIN
 - SS SANITARY SEWER
 - 1' CONTOUR
 - IFF/IRF IRON PIPE OR ROD FOUND
 - N/F NOW OR FORMERLY
 - 000/000 DEED BOOK / PAGE

GENERAL NOTES

- OWNER OF RECORD: MARM LLC
211 EAST GRAND AVENUE
OLD ORCHARD BEACH, MAINE
TAX MAP 202 LOT 2-2
Y.C.R.D. BOOK 16234 PAGE 403
- BEARINGS ARE BASED ON STATE PLANE COORDINATE SYSTEM, MAINE WEST ZONE, NAD 83 PER POST PROCESSED GPS OBSERVATION.
- ELEVATIONS ARE BASED ON NGVD 1929 PER POST PROCESSED GPS OBSERVATION.
- DUNE DIVISION LINE SHOWN HEREON SCALED FROM TOWN G.I.S.
- THE BEACH SIDE BOUNDARY LINE IS BASED ON PLAN REFERENCE 5 AND IS APPROXIMATE. PLAN REFERENCE 6 SHOWS THAT THE TOWN BOUNDARY LINE WAS MONUMENTED AT THE TIME OF THAT SURVEY IN 1973/1974. NO ATTEMPT TO FIND AND SURVEY THESE MARKS HAS BEEN MADE BY THIS SURVEYOR. THE LINE PER PLAN REF. 5 MATCHES CLOSELY TO PLAN REF. 6 UTILIZING STATE PLANE COORDINATES LISTED ON SAID PLAN REF. 6.

PLAN REFERENCES

- "PLAN OF LAND IN OLD ORCHARD BEACH, MAINE E. GRAND AVE. FOR WILLIAM DIBIASE" MAY 1984 REV. 2, 6/24/85 BY OWEN HASKELL, INC.
- "PLAN OF PROPERTY AT OLD ORCHARD BEACH MADE FOR MINNIE LEWIS," BY E.C. JORDAN SURVEYORS DATED JUNE 1953.
- "SURVEY MADE FOR DR. S.H. WEEKS, SCARBORO, MAINE OCT. 1898"
- "STATE OF MAINE DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, STATE HIGHWAY '112' OLD ORCHARD BEACH YORK COUNTY FEDERAL AID PROJECT NO. STP-6516(01)X OCTOBER 1996 D.O.T. FILE NO. 16-361" RECORDED IN YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 274 PAGES 39 AND 40.
- "STANDARD BOUNDARY SURVEY PLAN SHOWING A PROPOSED DIVISION OF LAND ON EAST GRAND AVENUE IN OLD ORCHARD BEACH, MAINE, PREPARED FOR WILLIAM DANTON," PREPARED BY OAK POINT ASSOCIATES, DATED JUNE 11, 1998 AND REVISED THROUGH JUNE 18, 1999. RECORDED IN YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 251, PAGE 10.
- "OLD ORCHARD BEACH, BEACH FRONT SURVEY BY DOW & COULOMBE, INC., DATED JUNE 1973 AND JAN 1974, SHEETS 1 & 10-12. UNRECORDED.

UTILITY NOTE

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEY HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. CALL 1-888-DIGSAFE AT LEAST THREE BUSINESS DAYS BEFORE PERFORMING ANY CONSTRUCTION. DUE TO OSHA CONFINED SPACE REQUIREMENTS, ALL INVERTS AND PIPE SIZES MUST BE VERIFIED PRIOR TO ANY CONSTRUCTION.

CERTIFICATE

OWEN HASKELL, INC. HEREBY CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

DATE 11/5/2020
SAMUEL D. GLIDDEN, PLS #2520



REV. 1 | 3/9/2021 | UPDATED BEACH SIDE BOUNDARY LINE

Boundary & Topographic Survey
At
211 East Grand Avenue
Old Orchard Beach, Maine
Made for
Tim Swenson
P.O. Box 314, Old Orchard Beach, Maine

OWEN HASKELL, INC.
PROFESSIONAL LAND SURVEYORS
390 US ROUTE 1, UNIT 10, FALMOUTH, ME 04105 TEL. 207-774-0424
DRAWN BY: SDG/JLW DATE: NOV. 5, 2020 JOB NO. 2020-234 OOB-Y
CHECKED BY: SDG SCALE: 1" = 20' DRWG. NO. 1