

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
Docket No. PORSC-AP-2025-55

MAXINE SCLAR,)
)
 Plaintiff,)
)
 v.)
)
 TOWN OF WINDHAM,)
)
 Defendant.)

CONSENT JUDGMENT

By consent of the Parties, the Court hereby enters judgment as follows:

BACKGROUND

1. Plaintiff Maxine Sclar is an individual who owns real property located at 22 Lake Avenue in Windham (the “Property”). The Property is more particularly identified on the Tax Maps of the Town of Windham as Map 76, Lot 28.

2. Defendant Town of Windham (the “Town”) is a municipality organized and existing under the laws of the State of Maine and is located in Cumberland County.

3. The entirety of the Property is located within 250 feet of the normal high-water line of Sebago Lake and is therefore subject to Chapter 185, Shoreland Zoning of the Code of the Town of Windham (the “Code”).

4. The principal home on the Property (the “Structure”) was built in 1924, prior to the enactment of Chapter 185. The Structure is located less than 100 feet from the normal highwater line of Sebago Lake, making it a legally nonconforming structure under § 185-12C of the Code.

5. On or about May 19, 2025, the Town issued a shoreland zoning permit to Sclar, permitting a “remodel (redo) of existing house, plus replace addition that was demolished” (the “Permit”). Attached to the Permit application

was a set of building plans that showed the complete demolition and rebuilding of the Structure in place (the “Plans”).

6. The Town’s Code Enforcement Officer (the “CEO”) issued a notice of violation to Sclar on or about November 3, 2025 (the “NOV”), pertaining to the scope of work performed by Sclar under the Permit.

7. The parties disagree as to the scope of work allowed by the Permit. The Town contends that the Permit allows a remodeling of the Structure, but not complete demolition and reconstruction, which would require relocation of the new structure consistent with § 185-12C(4)(a) of the Code. Sclar contends that because the Plans were attached to the shoreland permit application, which showed the complete reconstruction of the Structure, that the Town had permitted the same.

8. Sclar filed a timely appeal of the NOV to the Windham Board of Appeals and to this Court under M.R. Civ. P. 80B – as notices of violation issued under Chapter 185 of the Code are not appealable locally. See Code § 185-16I(1)(a). To avoid further litigation on this matter, the parties submitted, and the Court has accepted the following resolution of this matter:

RESOLUTION

9. Attached hereto as **Exhibit A** and incorporated herein by reference is a revegetation plan for the entire Property (the “Revegetation Plan”). The Town has determined that the Revegetation Plan meets the requirements of § 185-15S of the Code. All required revegetation shall be completed consistent with the Revegetation Plan on or before **November 1, 2026**. At least **80%** of each category of vegetation shown on the Revegetation Plan, *i.e.*, trees, shrubs, and ground cover, as well as at least **80%** of the mature trees planted between the Structure and Sebago Lake pursuant to the Revegetation Plan, must survive for at least **5 years** from the date of planting. Any replanting required to be performed to maintain this percentage shall be completed without unreasonable delay at Sclar’s sole expense.

10. Attached hereto as **Exhibit B** and incorporated herein by reference is a plan for installation of rain gardens which is based on the “Lakescaping Report,” prepared for Angie Sclar by the Portland Water District, dated January 28, 2022 (the “Rain Garden Plan”). On or before **November 1, 2026**, Sclar shall install rain gardens on the Property as shown on the Rain Garden Plan.

11. Attached hereto as **Exhibit C** and incorporated herein by reference is a Site Plan prepared for Sclar by Tandem Landscape Architects dated May 1, 2026, and is incorporated by reference herein (the “Site Plan”). The Town accepted the Site Plan by virtue of its attachment to this Consent Judgment on July 14, 2026 and issued or will issue all required permits for the work identified on the Site Plan. On or before **November 1, 2026**, Sclar shall remove all portions of the gravel drive currently existing on the Property that are not shown on the Site Plan.

12. The CEO shall reinspect the Property on or before **November 2, 2026**, to determine compliance with Paragraphs 9, 10 and 11. Sclar also agrees to allow the CEO to enter the Property at reasonable hours to inspect the same for compliance with the terms of this Consent Judgment.

13. Upon entry of this Consent Judgment onto the docket, the Town shall formally withdraw the NOV within **30 days**. Withdrawal of the NOV will render Sclar’s administrative appeal to the Windham Board of Appeals moot and the same shall be considered formally withdrawn.

14. This Consent Judgment does not and shall not be interpreted to constitute a waiver of the Town’s right to bring any land use enforcement action against Sclar regarding the Property in the future for any violations of the Code, or other ordinance, statute, or regulation adopted by or enforceable by the Town, that is not set forth herein.

15. The Court retains jurisdiction of this matter to oversee and enforce the terms of this Consent Judgment, which shall bind Sclar, her heirs, successors, assigns, and successors-in-interest to the Property. The terms of this Consent Judgment shall constitute a restrictive covenant on the Property for the benefit of the Town (and not for the benefit of any third parties) and

shall inure to the benefit of the Town in perpetuity. A copy of this Consent Judgment may, at the option of the Town, be recorded in the Cumberland County Registry of Deeds at its expense.

16. This Consent Judgment may be enforced by either party by filing a Motion to Enforce with the Court, which shall not be considered a Motion for Contempt reviewable under Rule 66 of the Maine Rules of Civil Procedure. If following a hearing on such motion, the Town proves by a preponderance of the evidence that Sclar has failed or refused to comply with the requirements imposed by Paragraphs 9, 10 or 11 of this Consent Judgment, the Town shall be entitled to civil penalties of between \$100.00 and \$2,500.00 for each day that Sclar remains in violation of the requirements of such paragraphs. The prevailing party on such a motion to enforce shall be entitled to reimbursement of its expenses, including reasonable attorney fees.

17. Should any ambiguity exist within the terms of this Consent Judgment, such ambiguity shall not be interpreted against either party.

18. This Consent Judgment shall be incorporated onto the docket by reference, consistent with M.R. Civ. P. 79(a).

[Space Left Intentionally Blank; Signatures on Following Page]

SEEN TO AND AGREED:

Daniel L. Rosenthal, Bar No. 8618
MARCUS CLEGG
16 Middle Street, Unit 501
Portland, ME 04101
(207) 828-8000
dlr@marcusclegg.com

Attorney for Plaintiff,
Maxine Sclar

Benjamin T. McCall, Bar No. 5780
DRUMMOND WOODSUM
84 Marginal Way, Suite 600
Portland, ME 04101
(207) 772-1941
bmccall@dwmlaw.com

Attorney for Defendant,
Town of Windham

APPROVED:

Dated: _____, 2026

Justice, Maine Superior Court

SHORELINE TREE SCHEDULE

BOTANICAL NAME	COMMON NAME	QTY	PROP. SIZE	NOTES
SHORELINE DECIDUOUS TREES				
ACER RUBRUM	RED MAPLE	1	2" CAL.	SINGLE STEM
NYSSA SYLVATICA	BLACK GUM	2	2" CAL.	SINGLE STEM
QUERCUS RUBRA	RED OAK	1	2" CAL.	SINGLE STEM

SHORELINE PLANTING NOTES

CONSENT JUDGMENT

SHORELINE TREE PLANTINGS SHOWN ON THIS PLAN ARE REQUIRED PURSUANT TO THE CONSENT JUDGMENT AND SHALL BE INSTALLED IN THE LOCATIONS AND QUANTITIES INDICATED.

EROSION CONTROL DURING INSTALLATION

ALL PLANTINGS SHALL BE INSTALLED IN A MANNER THAT MINIMIZES DISTURBANCE AND PREVENTS EROSION. CONTRACTOR SHALL STABILIZE SOILS IMMEDIATELY FOLLOWING PLANTING AND SHALL NOT LEAVE EXPOSED SOILS ON SLOPES OR ALONG THE SHORELINE.

TREE RELOCATION FROM ORIGINAL REMOVAL AREAS

TO MINIMIZE SOIL DISTURBANCE AND PRESERVE EXISTING VEGETATION ON THE STEEP SHORELINE SLOPE, REPLACEMENT TREES HAVE BEEN LOCATED AS CLOSE AS PRACTICABLE TO THE AREAS WHERE TREES WERE REMOVED. CONSISTENT WITH THE SHORELAND ZONING ORDINANCE, THE TREES REMAIN WITHIN THE SAME SHORELINE SEGMENT AND HAVE BEEN POSITIONED GENERALLY IN LINE WITH THE REMOVED TREES, SHIFTED LAKEWARD TO AREAS OF FLATTER GRADE WHERE THEY CAN BE INSTALLED WITH LESS DISTURBANCE WHILE MAINTAINING THE INTENDED SHORELINE SCREENING FUNCTION.

FIELD ADJUSTMENTS

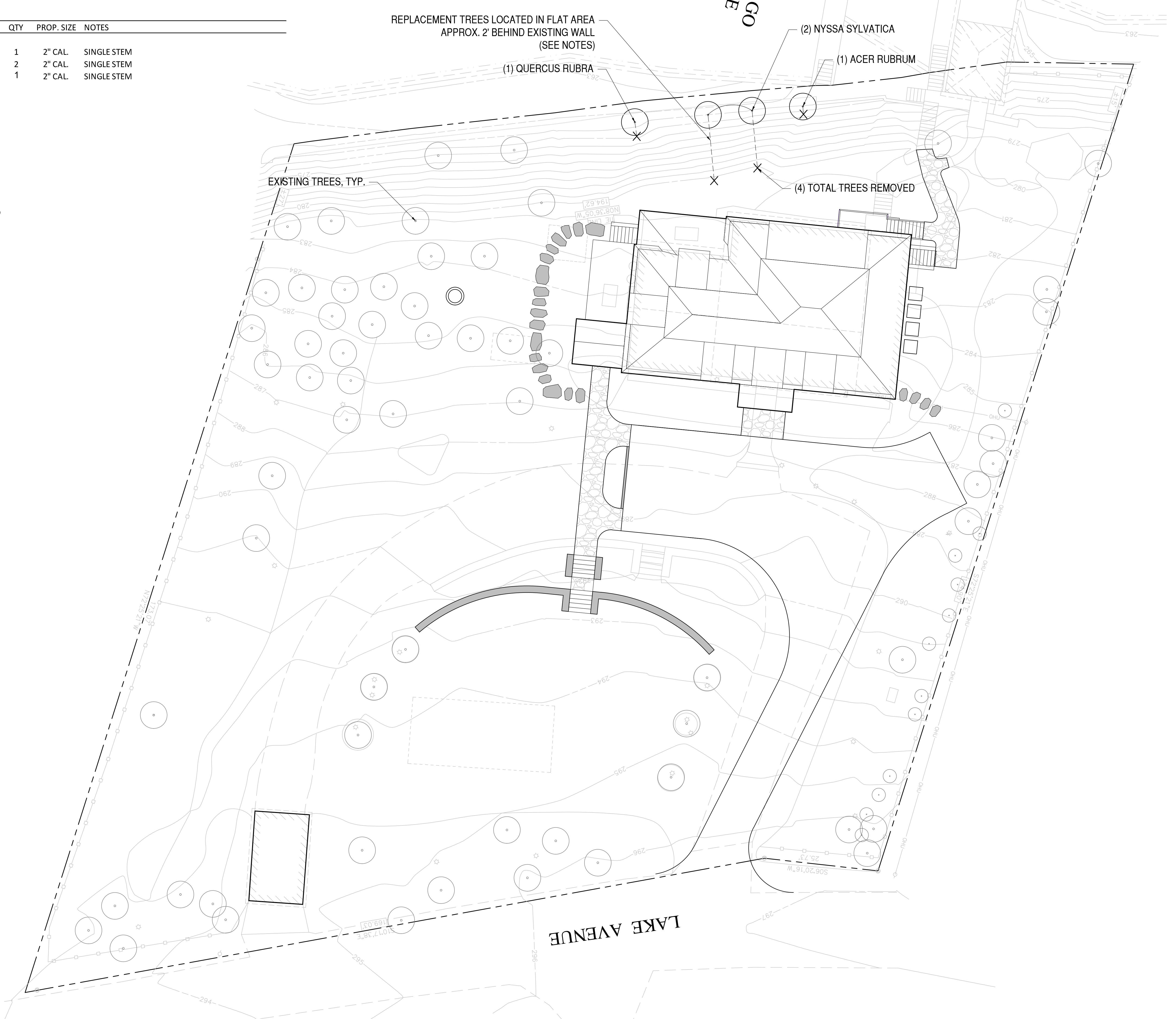
PLANT LOCATIONS SHOWN ON THIS PLAN SHALL BE FOLLOWED AS CLOSELY AS PRACTICABLE. MINOR FIELD ADJUSTMENTS MAY BE MADE TO ACCOMMODATE EXISTING ROOTS, LEDGE, BOULDERS, OR OTHER SITE CONDITIONS ENCOUNTERED DURING INSTALLATION, PROVIDED THE INTENT OF THE PLAN AND THE REQUIREMENTS OF THE CONSENT JUDGMENT ARE MAINTAINED.

ESTABLISHMENT AND MAINTENANCE

ALL PLANTED AREAS SHALL BE MAINTAINED AS NECESSARY TO ENSURE ESTABLISHMENT AND LONG-TERM SURVIVAL. MAINTENANCE SHALL INCLUDE WATERING, REPLANTING OF FAILED MATERIALS, AND STABILIZATION OF ANY AREAS SHOWING SIGNS OF EROSION UNTIL VEGETATION IS FULLY ESTABLISHED.

NATIVE, NON-INVASIVE PLANT MATERIAL

ALL PLANT SPECIES SHALL BE NATIVE TO THE REGION AND NON-INVASIVE. NO INVASIVE OR POTENTIALLY INVASIVE SPECIES SHALL BE INSTALLED.



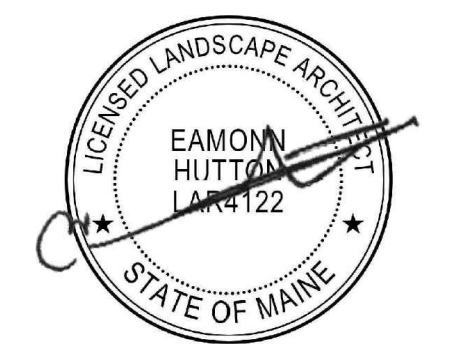
Tandem

Landscape Architects

PO BOX 26

Kennebunk, ME, 04043

207-479-0279

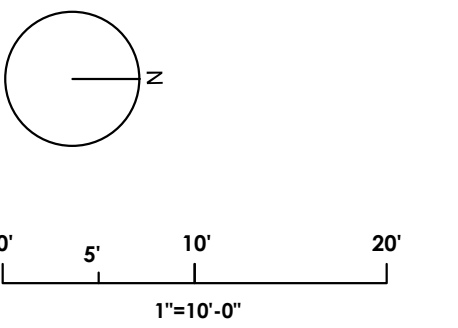


Project

22 LAKE AVE
WINDHAM, ME
04062

Revisions
UPDATED WITH MAINE DEP
COMMENTS 6/3/2026

Revegetation Plan



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DATE	2026.06.05
SHEET	

EX. A

RAIN GARDEN PLANT SCHEDULE

BOTANICAL NAME	COMMON NAME	QTY	PROP. SIZE
DRY EDGE			
SHRUBS			
DIERVILLA LONICERA	BUSH HONEYSUCKLE	3	#5
RHUS AROMATICA	FRAGRANT SUMAC	6	#5
GROUNDCOVERS			
ARCTOSTAPHYLOS UVA-URSI	BEARBERRY	14	#1
VACCINIUM ANGUSTIFOLIUM	LOWBUSH BLUEBERRY	14	#1
PERENNIALS			
ASTER NOVAE-ANGLIAE	NEW ENGLAND ASTER	11	#1
ECHINACEA PURPUREA	CONEFLOWER	12	#1
PHLOX SUBULATA	MOSS PHLOX	12	#1
RUDBECKIA HIRTA	BLACK-EYED SUSAN	14	#1
SOLIDAGO SPP.	GOLDENROD	9	#1
GRASS			
SCHIZACHYRIUM SCOPARIUM	LITTLE BLUESTEM	12	#1
MOIST MIDDLE			
SHRUBS			
ARONIA MELANOCARPA	BLACK CHOKEBERRY	1	#5
CEPHALANTHUS OCCIDENTALIS	BUTTONBUSH	1	#5
CLETHRA ALNIFOLIA	SUMMERSWEET	3	#5
CORNUS SERICEA	REDOSIER DOGWOOD	3	#5
PERENNIALS			
ASTER NOVAE-ANGLIAE	NEW ENGLAND ASTER	12	#1
EUPATORIUM PERFOLIATUM	BONESET	14	#1
MONARDA DIDYMA	BEE BALM	13	#1
VERBENA HASTATA	BLUE VERVAIN	8	#1
SOLIDAGO SPP.	GOLDENROD	10	#1
GRASS			
PANICUM VIRGATUM	SWITCHGRASS	12	#1
WET BOTTOM			
PERENNIALS			
IRIS VERSICOLOR	BLUE FLAG IRIS	6	#1
LOBELIA CARDINALIS	CARDINAL FLOWER	14	#1
ASCLEPIAS INCARNATA	SWAMP MILKWEED	12	#1
CHELONE GLABRA	WHITE TURTLEHEAD	9	#1
CALTHA PALUSTRIS	MARSH MARIGOLD	7	#1
SEDGES			
CAREX STRICTA	TUSsock SEDGE	9	#1
CAREX VULPINOIDEA	FOX SEDGE	12	#1

RAIN GARDEN PLANTING NOTES

CONSENT JUDGMENT

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ESTABLISHMENT AND MAINTENANCE

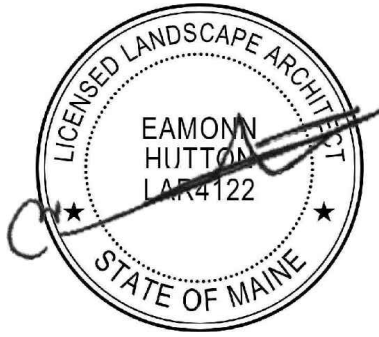
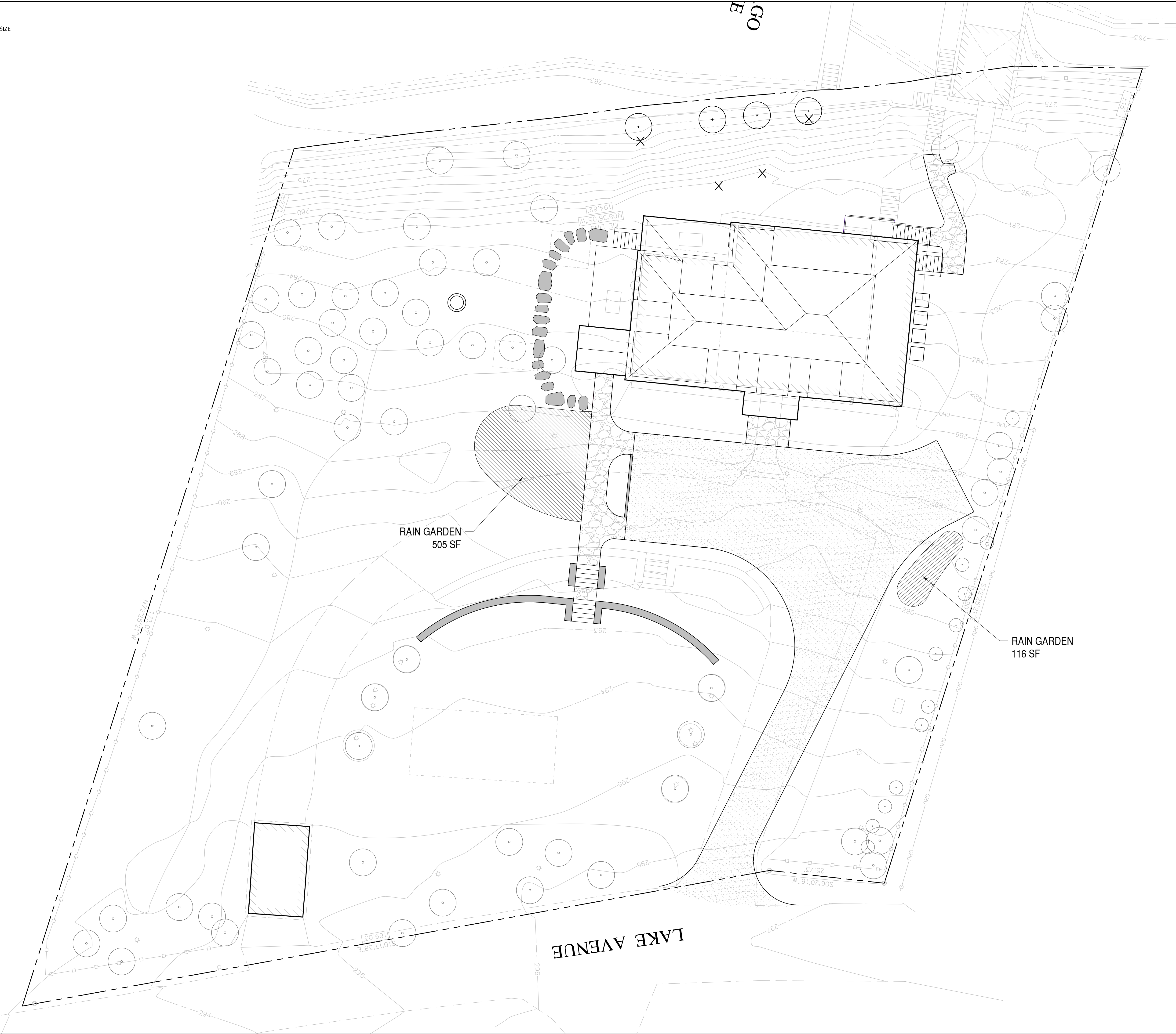
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PLANTING FLEXIBILITY

RAIN GARDEN SPECIES AND QUANTITIES MAY BE ADJUSTED BASED ON NURSERY AVAILABILITY AND SITE CONDITIONS. ADJUSTMENTS SHALL MAINTAIN THE OVERALL PLANTING DENSITY, DESIGN INTENT, AND COMPLIANCE WITH PORTLAND WATER DISTRICT (PWD) REQUIREMENTS.

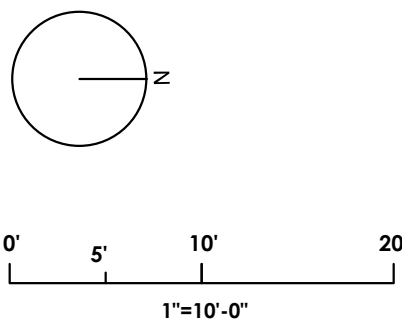


Project

22 LAKE AVE
WINDHAM, ME
04062

Revisions

Rain Garden Plan

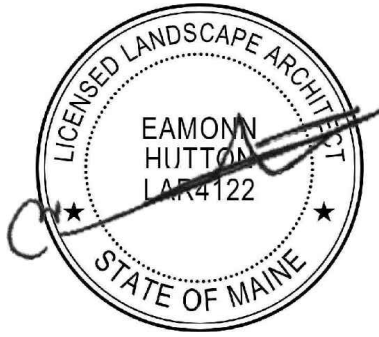
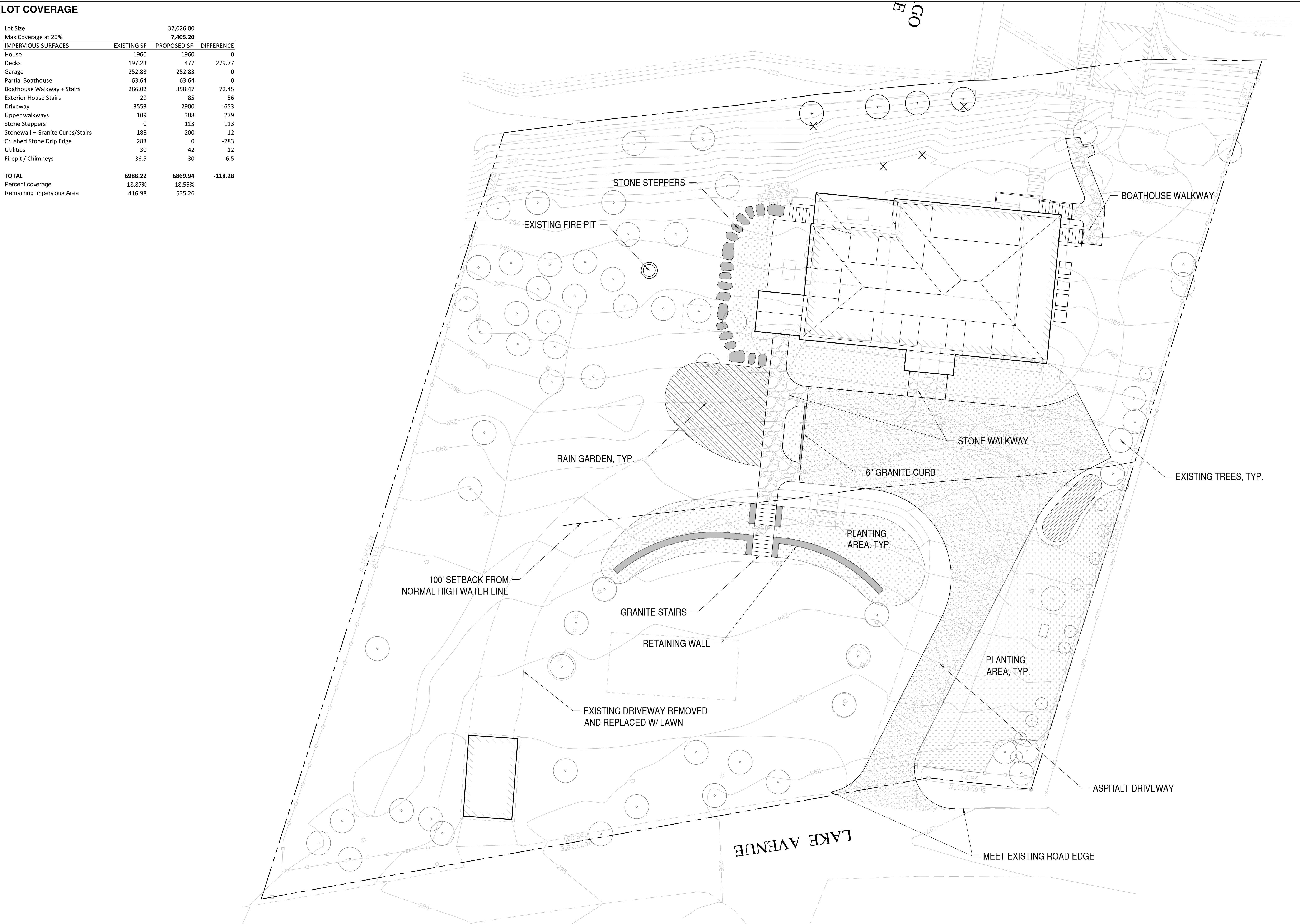


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DATE 2026.06.05
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EX. B

LOT COVERAGE

Lot Size	37,026.00		
Max Coverage at 20%	7,405.20		
IMPERVIOUS SURFACES	EXISTING SF	PROPOSED SF	DIFFERENCE
House	1960	1960	0
Decks	197.23	477	279.77
Garage	252.83	252.83	0
Partial Boathouse	63.64	63.64	0
Boathouse Walkway + Stairs	286.02	358.47	72.45
Exterior House Stairs	29	85	56
Driveway	3553	2900	-653
Upper walkways	109	388	279
Stone Steppers	0	113	113
Stonewall + Granite Curbs/Stairs	188	200	12
Crushed Stone Drip Edge	283	0	-283
Utilities	30	42	12
Firepit / Chimneys	36.5	30	-6.5
TOTAL	6988.22	6869.94	-118.28
Percent coverage	18.87%	18.55%	
Remaining Impervious Area	416.98	535.26	

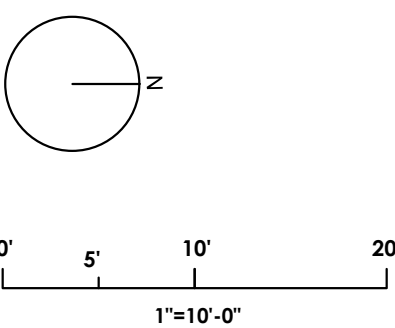


Project

22 LAKE AVE
WINDHAM, ME
04062

Revisions

Site Plan



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DATE	2026.06.05
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EX. C