

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

## MEMO

DATE: December 18, 2013

TO: Tony Plante, Town Manager

FROM: Ben Smith, Assistant Town Planner *BWS*

Cc: Rick Jones, Jones Associates

RE: Zoning Amendment Request – Brey property, Tax Map 22; Lot 7

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The Planning Department has received a zoning amendment request to rezone a portion of the property at 151 Brown Cove Road, Tax Map 22; Lot 7. The property is located near the end of Brown Cover Road, and the property has frontage on Little Sebago Lake. The request is to change the zoning for a portion of the property from Resource Protection (RP) to Limited Residential (LR).

The applicant's representative has stated in the attached letter dated December 4, 2013, that a portion of this property on Little Sebago Lake should not be in the RP zone, and that the LR zone would be more appropriate, based on recent wetland delineation and survey elevation work. A 1.3 acre portion of the property next to Little Sebago Lake has been determined to be "upland area" and is so noted on the attached plans dated December 4, and December 10, 2013.

Both the RP and LR districts are shoreland zoning districts. All wetlands in the shoreland zone are considered "wetlands of special significance" by the Department of Environmental Protection (DEP), meaning that they may not be disturbed without rigorous review by the DEP.

### **Zoning Amendment Process**

If the Town Council chooses to start this request through the zoning amendment process, the Planning Board will review the submitted information and make a recommendation to the Town Council. A public hearing will be part of the Planning Board's review.

The recommendation from the Planning Board will be sent back to the Town Council for final action. Only the Town Council can make changes to the zoning map or zoning standards.

**JONES  
ASSOCIATES**  
Foresters, Surveyors and  
Environmental Consultants



December 4, 2013

Ben Smith, AICP  
Town of Windham  
Planning Department  
8 School Road  
Windham, ME 04062

Dear Ben,

Thank you for meeting with me earlier this week. This letter is to request a zone change for a portion of property located on Tax Map 22, Lot 7. Based on a wetland delineation and survey elevation work, we have determined that the area does not meet the criteria for Resource Protection (RP) and is better suited to be zoned as Limited Residential (LR). Per the Windham Shoreland Zoning Chapter 199, Section 199-13, A, the Resource Protection District criteria includes the following:

1. Area located within MDIF&W inland wading bird and waterfowl habitat (IWWH) which are rated “moderate” or “high” value. *Per a review of the State of Maine’s GIS and MDIF&W records and consultation with MDEP, the proposed area to be rezoned is not located within the MDIF&W IWWH mapped areas.*
2. Area located within the 100 year flood plain. *Based on the FEMA Flood Zone Insurance Rate Map #230189-0015B for the Town of Windham, the 100 year flood elevation is at 287.6 feet NGVD 1929. Our firm performed a topographic survey to establish the location of the high water elevation and flood plain elevation of Little Sebago Lake adjacent to the proposed rezone area. Development within the proposed rezone area shall be located outside of the 100 year flood plan elevation.*
3. Areas with sustained slopes of 20% or greater. *The rezone area does not have sustained slopes of 20% or greater. Within the proposed rezone area sustained slopes are approximately 0 to 2%.*

63 Tucker Lane  
Poland Spring, Maine 04274  
(207) 998-5242

4. Areas of two or more acres supporting wetland vegetation and hydric soils. *Our firm performed a wetland delineation for the entire lot that included the proposed 1+/- acre rezone area. The proposed rezone area is considered upland which does not support wetland vegetation and hydric soils. Wetland/upland boundaries were identified and delineated according to U.S. Army Corps of Engineers (ACOE) Wetlands Delineation Manual (Environmental Laboratory 1987) and the Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, October 2009. Wetlands were identified based on the presence of hydric soil (inundated or saturated soil conditions resulting from permanent or periodic inundation by ground water or surface water), hydrology (movement and distribution of water), and predominance of hydrophytic species (Hydrophytes: vegetation typically adapted for life in saturated soil conditions). Wetland delineation consists of transecting the property, examining periodic soil samples, observing any evidence of hydrology and assessing each stratum of vegetation for its percentage of hydrophytic species. If all three factors were evident, the study plot was considered wetland habitat.*
  
5. Land areas along rivers subject to severe erosion. *The proposed rezone area is not located within an area that is subject to severe erosion.*

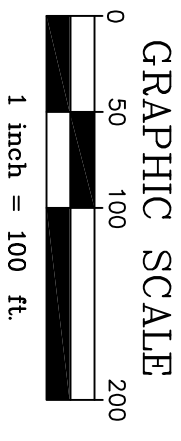
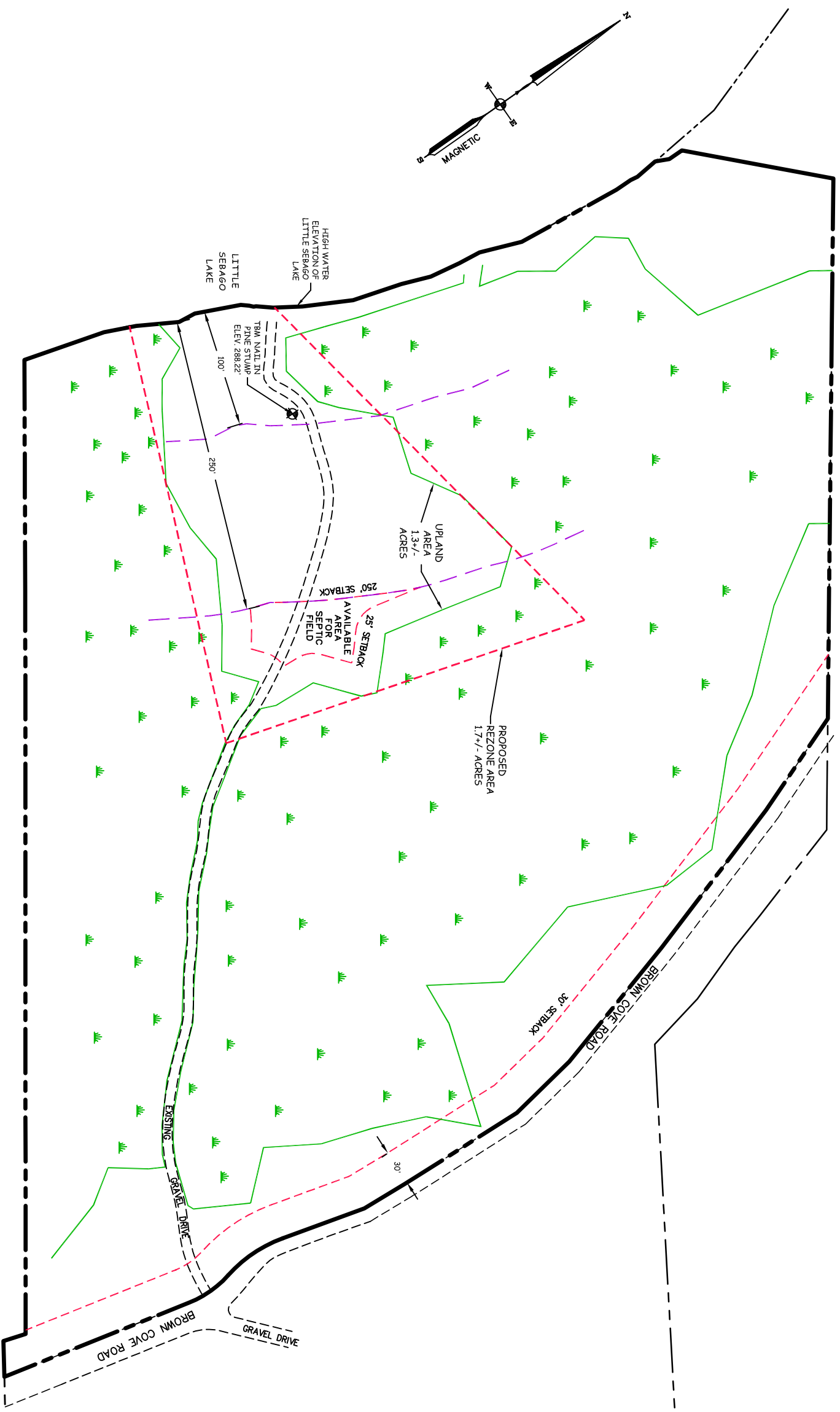
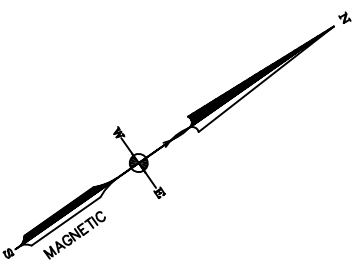
Based on our elevation survey and wetland delineation of the proposed rezoning area, we respectfully request that the area be rezoned to Limited Residential. I am attaching a plan that shows the area which we are requesting the zone change. If you feel the information we are providing is sufficient I would request that we be placed on the next available opening in the Planning Board's agenda. If you have any questions, please do not hesitate to contact our office.

Sincerely,



Rick Jones

Cc: Shane Brey



**NOTE:**

1. THIS IS NOT A BOUNDARY SURVEY.
2. PROPERTY BOUNDARY IS BASED ON MAINE GIS COVERAGE OF PARCELS FOR TOWN OF WINDHAM.
3. PROPERTY WESTERLY OF BROWN COVE ROAD IS 11.5+/- ACRES

REVISIONS		
NO.	DATE	DESCRIPTION

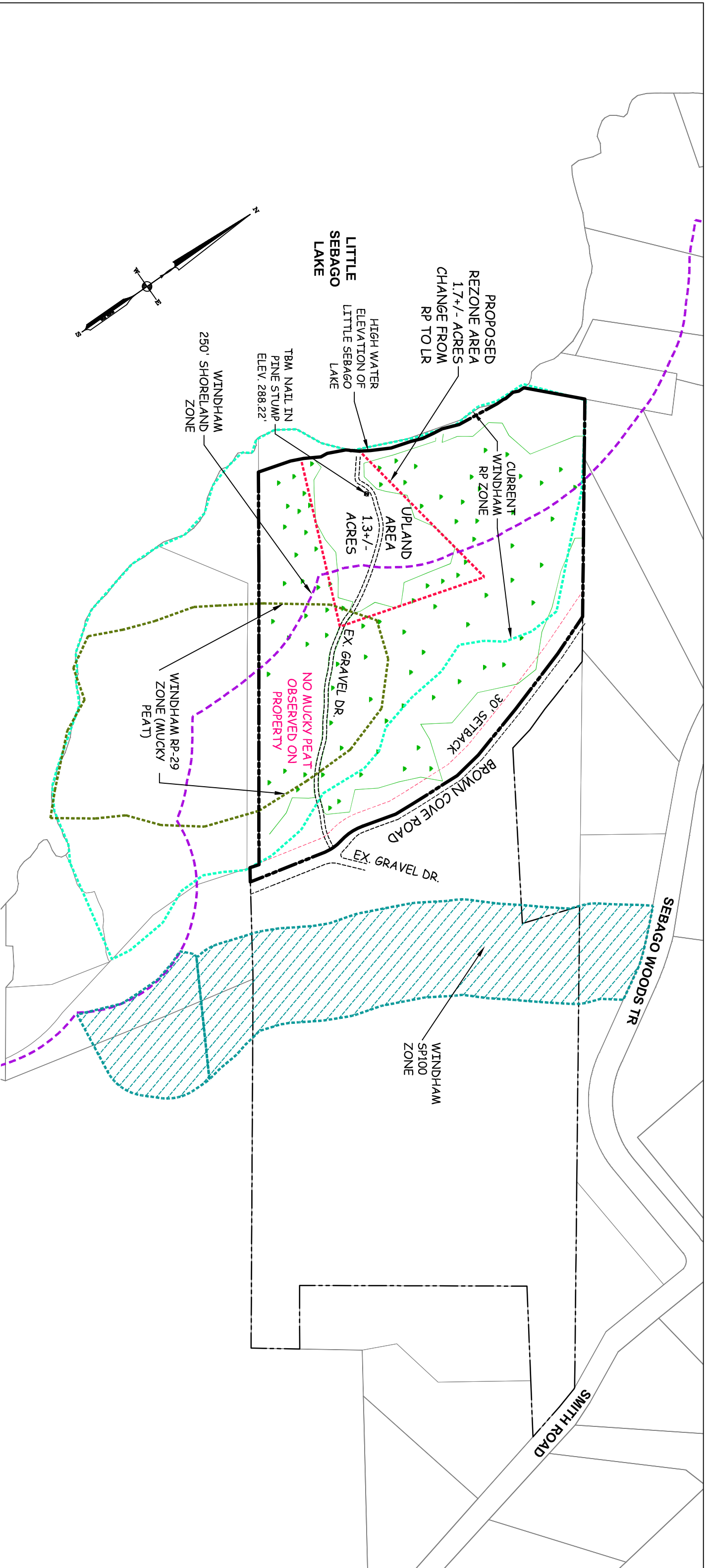
**SKETCH PLAN**

PREPARED FOR:  
**SHANE BREY**  
 151 BROWN COVE ROAD  
 WINDHAM, ME

PREPARED BY:  
**JONES ASSOCIATES INC.**  
 Foresters, Surveyors And  
 Environmental Consultants

63 TUCKER LANE, POLAND SPRING, MAINE 04274  
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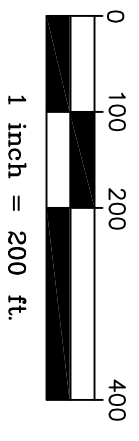
PLAN DATE: 12/4/2013  
 FIELD WORK DATE: 10/29/2013  
 SCALE: 1"=100'  
 PROJ. #: 13-063W1



**NOTE:**

1. THIS IS NOT A BOUNDARY SURVEY.
2. PROPERTY BOUNDARY IS BASED ON MAINE GIS COVERAGE OF PARCELS FOR TOWN OF WINDHAM.
3. ZONING BOUNDARIES FROM TOWN OF WINDHAM GIS.
4. LOT SIZE 11.5+/- ACRES
5. NO PEATLAND OBSERVED ON PROPERTY. (MDEP DEFINITION OF PEATLAND: "A FRESHWATER WETLAND, TYPICALLY CALLED A BOG OR FEN, DOMINATED BY ERICACEOUS SHRUBS (HEATH FAMILY), SEDGES AND SPHAGNUM MOSS AND USUALLY HAVING A SATURATED WATER REGIME.")
6. WETLAND BOUNDARIES WERE IDENTIFIED AND DELINEATED BY JONES ASSOCIATES INC ACCORDING TO U.S. CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL (1987) AND INTERIM REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION DATED OCTOBER 2009 (ERDC/EL TR-09-19).

**GRAPHIC SCALE**



**SKETCH PLAN**

PREPARED FOR:  
**SHANE BREY**  
 151 BROWN COVE ROAD  
 WINDHAM, ME

PREPARED BY:  
**JONES ASSOCIATES INC.**  
 Foresters, Surveyors And  
 Environmental Consultants

PLAN DATE:  
 12/10/2013

FIELD WORK DATE:  
 10/29/2013

SCALE: 1"=200'

PROJ. #: 13-063W1

