



April 24, 2019

Amanda Lessard, Director of Planning  
Town of Windham  
8 School Road  
Windham, ME 04062

**Re: Final Subdivision Plan Application  
515 Roosevelt Trail Condominium  
JTSH Holdings, LLC. - Applicant**

Dear Amanda:

Enclosed is a Final Subdivision Plan Application for the above referenced project. We have attached the following additional information for your review and consideration:

- Draft Condominium Declaration
- Approved Army Corps Permit for Wetland Fill
- Waiver Request for Nitrate-Nitrogen performance standard
- Nitrate-Nitrogen Assessment
- Maine Natural Areas Program Project Review
- Revised Plan Sheet 4 – Grading and Utility Plan – to address Peer Review comment

Upon your review of this information, please let us know if you have any questions or require any additional information.

Sincerely,

DM ROMA CONSULTING ENGINEERS

*Dustin Roma*

Dustin M. Roma, P.E.  
President

Enc.

**Project Name:** 515 ROOSEVELT TRAIL CONDOMINIUM

**Tax Map:** 48 **Lot:** 30

**Number of lots/dwelling units:** 5 UNITS **Estimated road length:** 290 FEET

**Is the total disturbance proposed > 1 acre?** ☐ Yes ☐ No

**Contact Information**

1. Applicant

Name: JTSH HOLDINGS, LLC

Mailing Address: PO BOX 232, WINDHAM, ME 04062

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

2. Record owner of property

X (Check here if same as applicant)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

3. Contact Person/Agent (if completed and signed by applicant's agent, provide written documentation of authority to act on behalf of applicant)

Name: DUSTIN ROMA

Company Name: DM ROMA CONSULTING ENGINEERS

Mailing Address: PO BOX 1116, WINDHAM, ME 04062

Telephone: 310 - 0506 Fax: \_\_\_\_\_ E-mail: DUSTIN@DMROMA.COM

I certify all the information in this application form and accompanying materials is true and accurate to the best of my knowledge.

Dustin Roma 4-24-19  
Signature Date

Applicant  
t Staff

**Final Plan - Major Subdivision: Submission Requirements****A. Mandatory Written Information**

1	A fully executed application form	X	
2	Evidence that the escrow account balance is greater than 25% of the initial Preliminary Plan deposit	X	
3	If public open space is to be provided, written offers of cession to the Town of Windham shall be provided	N/A	
4	If the subdivider reserves title to spaces within the subdivision, provide copies of agreements or other documents.	N/A	
5	Copies of any outside agency approvals	X	
6	Statement from the Maine Inland Fisheries & Wildlife that no significant wildlife habitat exists on the site	X	
7	Digital transfer of subdivision plan data (GIS format)	X	

**B. Mandatory Plan Information**

1	All information presented on the Preliminary Plan, and any amendments suggested or required by the Board.	X	
2	Map and lot numbers for all lots as assigned by the Town of Windham Assessing Department	X	
3	Seal of the Maine Licensed Professional who prepared the plan	X	
4	All public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by the subdivider	N/A	
5	Location of all permanent monuments	X	

**Electronic Submission**

X

**TOWN OF WINDHAM  
SUBDIVISION & SITE PLAN APPLICATION**

**Performance and Design Standards Waiver Request Form**

(Section 808 – Site Plan Review, Waivers)  
(Section 908 – Subdivision Review, Waivers)

For each waiver request from the Performance and Design Standards detailed in Section 811 or Section 911 of the Town of Windham Land Use Ordinance, as applicable, please submit a separate completed copy of this waiver request form.

**Subdivision or Project Name:** 515 ROOSEVELT TRAIL CONDOMINIUM

**Tax Map:** 48 **Lot:** 30

**Waivers are requested from the following Performance and Design Standards  
(add rows as necessary):**

Ordinance Section	Standard	Mark which waiver this form is for
911-H-1-B	10mg/l NITRATE PLUME MUST REMAIN ON LOT	X

- a. Describe how a waiver from the standard indicated above will improve the ability of the project to take the property's pre-development natural features into consideration. Natural features include, but are not limited to, topography, location of water bodies, location of unique or valuable natural resources, relation to abutting properties or land uses. Attach a separate sheet if necessary.

A NITRATE-NITROGEN ASSESSMENT WAS PERFORMED BY SUMMIT GEOENGINEERING SERVICES WHICH CONCLUDED THAT THE CONCENTRATION OF NITRATE-NITROGEN AT THE PROPERTY BOUNDARY WILL LIKELY EXCEED 10 mg/l BUT DUE TO THE AVAILABILITY OF PUBLIC WATER AND THAT NO KNOWN WELLS ARE LOCATED WITHIN THE VICINITY OF THE NITRATE PLUME, A WAIVER COULD REASONABLY BE GRANTED IN THIS CIRCUMSTANCE.

(continued next page)

Ordinance Section: 911-H-1-B

b. Will the waiver have an impact on any of the following criteria?

	Yes	No
Water or air pollution		X
Light pollution or glare		X
Water supply		X
Soil erosion		X
Traffic congestion or safety		X
Pedestrian safety or access		X
Supply of parking		X
Sewage disposal capacity		X
Solid waste disposal capacity		X
Scenic or natural beauty, aesthetics, historic sites, or rare or irreplaceable natural areas		X
Flooding or drainage issues on abutting properties		X
The Town's ability to provide the subdivision with public safety services (if subdivision)		X

If granting the waiver will result in an impact on any of the criteria above, please provide more detail below.



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS  
696 VIRGINIA ROAD  
CONCORD, MASSACHUSETTS 01742-2751

MAINE GENERAL PERMIT (GP)  
AUTHORIZATION LETTER AND SCREENING SUMMARY

JTSH HOLDINGS, LLC  
P.O. BOX  
WINDHAM, MAINE 04062

CORPS PERMIT # NAE-2019-00735  
CORPS GP ID# non-screen  
STATE ID# exempt

DESCRIPTION OF WORK:

Place permanent fill in 1,702 s.f. of freshwater wetlands off 515 Roosevelt Trail at Windham, Maine in order to construct a road and associated infrastructure for a 5-unit multi-family condominium development. This work is shown on the attached plans entitled "SITE LOCATION MAP" in one sheet dated "03-04-2019", "SUBDIVISION PLAN" and "GRADING AND UTILITY PLAN" in two sheets dated "3-22-2019".

See ADDITIONAL CONDITIONS attached.

LAT/LONG COORDINATES: 43.812309° N -70.421222° W USGS QUAD: NORTH WINDHAM, ME

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. Your work is therefore authorized by the U.S. Army Corps of Engineers under the Federal Permit, the Maine General Permit which can be found at: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/> Accordingly, we do not plan to take any further action on this project.

You must perform the activity authorized herein in compliance with all the terms and conditions of the GP [including any attached Additional Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the enclosed GP carefully, including the GP conditions beginning on page 5, to familiarize yourself with its contents. You are responsible for complying with all of the GP requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 37 of the GP (page 16) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the GP on October 13, 2020. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 13, 2021.

This authorization presumes the work shown on your plans noted above is in waters of the U.S. Should you desire to appeal our jurisdiction, please submit a request for an approved jurisdictional determination in writing to the undersigned.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary.

II. STATE ACTIONS: PENDING [ X ], ISSUED [ ], DENIED [ ] DATE \_\_\_\_\_

APPLICATION TYPE: PBR: \_\_\_\_\_, TIER 1: \_\_\_\_\_, TIER 2: \_\_\_\_\_, TIER 3: \_\_\_\_\_, LURC: \_\_\_\_\_, DMR LEASE: \_\_\_\_\_, NA: X

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: non-screen LEVEL OF REVIEW: CATEGORY 1: X CATEGORY 2: \_\_\_\_\_

AUTHORITY (Based on a review of plans and/or State/Federal applications): SEC 10 \_\_\_\_\_, 404 X, 10/404 \_\_\_\_\_, 103 \_\_\_\_\_

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA n/a, USF&WS n/a, NMFS n/a

If you have any questions on this matter, please contact my staff at 978-318-8676 at our Augusta, Maine Project Office. In order for us to better serve you, we would appreciate your completing our Customer Service Survey located at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=136:4:0](http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0)

Colin M. Greenan  
COLIN M. GREENAN  
PROJECT MANAGER  
MAINE PROJECT OFFICE

Linsdey E. Lefebvre  
LINSDEY E. LEFEBVRE  
CHIEF, PERMITS & ENFORCEMENT BRANCH  
REGULATORY DIVISION

DATE

22 Apr 2019



**US Army Corps  
of Engineers ®**  
New England District

**PLEASE NOTE THE FOLLOWING ADDITIONAL CONDITIONS FOR  
DEPARTMENT OF THE ARMY  
GENERAL PERMIT  
NO. NAE-2019-00735**

1. The permittee shall assure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers jurisdiction.
2. Adequate sedimentation and erosion control devices, such as geotextile silt fences or other devices capable of filtering the fines involved, shall be installed and properly maintained to minimize impacts during construction. These devices must be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices shall be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.
3. All exposed soils resulting from the construction shall be promptly seeded and mulched in order to achieve vegetative stabilization.
4. This permit authorizes impacts to only those areas of wetlands/waterway shown on the attached plans. No other filling, clearing or other disturbance in waters of the United States shall occur without the necessary authorization from the Corps.
5. In the event additional wetland/waterway fill is authorized and the cumulative impacts exceed the more than minimal threshold of the Maine General Permit, the permittee may be responsible to provide appropriate compensatory mitigation to compensate for these impacts.
6. To the maximum extent practicable, tree cutting shall occur between October 16<sup>th</sup> and April 9<sup>th</sup> of any year in order to minimize potential impacts to federally threatened northern long-eared bats.



**STATE OF MAINE**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY**  
177 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

**JANET T. MILLS**  
GOVERNOR

**AMANDA E. BEAL**  
COMMISSIONER

April 1, 2019

JP Connolly  
DM Roma  
PO Box 1116  
Windham, ME 04062

Via email: [jp@dmroma.com](mailto:jp@dmroma.com)

Re: Rare and exemplary botanical features in proximity to: 5-unit residential condominium, 515 Roosevelt Trail, Windham Maine

Dear Mr. Connolly:

I have searched the Natural Areas Program's Biological and Conservation Data System files in response to your request received March 26, 2019 for information on the presence of rare or unique botanical features documented from the vicinity of the project in Windham, Maine. Rare and unique botanical features include the habitat of rare, threatened, or endangered plant species and unique or exemplary natural communities. Our review involves examining maps, manual and computerized records, other sources of information such as scientific articles or published references, and the personal knowledge of staff or cooperating experts.

Our official response covers only botanical features. For authoritative information and official response for zoological features you must make a similar request to the Maine Department of Inland Fisheries and Wildlife, 284 State Street, Augusta, Maine 04333.

According to the information currently in our Biological and Conservation Data System files, there are no rare botanical features documented specifically within the project area. This lack of data may indicate minimal survey efforts rather than confirm the absence of rare botanical features. You may want to have the site inventoried by a qualified field biologist to ensure that no undocumented rare features are inadvertently harmed.

If a field survey of the project area is conducted, please refer to the enclosed supplemental information regarding rare and exemplary botanical features documented to occur in the vicinity of the project site. The list may include information on features that have been known to occur historically in the area as well as recently field-verified information. While historic records have not been documented in several years, they may persist in the area if suitable habitat exists. The enclosed list identifies features with potential to occur in the area, and it should be considered if you choose to conduct field surveys.

Regarding Small Whorled Pogonia, the nearest mapped occurrence is approximately 2.2 miles to the southwest near Dundee Pond in Gorham. Aerial imagery indicates that the lot for proposed 5-unit residential condominium has been forested for at least the past 20 years. Because of the small size of this lot (~2.12 acres) in the developed landscape along Route 302, along with the forest type and land contour at this site, MNAP does not recommend a survey for this species at this location.

**MOLLY DOCHERTY, DIRECTOR**  
MAINE NATURAL AREAS PROGRAM  
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-8044  
FAX: (207) 287-8040  
[WWW.MAINE.GOV/DACF/MNAP](http://WWW.MAINE.GOV/DACF/MNAP)



This finding is available and appropriate for preparation and review of environmental assessments, but it is not a substitute for on-site surveys. Comprehensive field surveys do not exist for all natural areas in Maine, and in the absence of a specific field investigation, the Maine Natural Areas Program cannot provide a definitive statement on the presence or absence of unusual natural features at this site.

The Natural Areas Program is continuously working to achieve a more comprehensive database of exemplary natural features in Maine. We would appreciate the contribution of any information obtained should you decide to do field work. The Natural Areas Program welcomes coordination with individuals or organizations proposing environmental alteration, or conducting environmental assessments. If, however, data provided by the Natural Areas Program are to be published in any form, the Program should be informed at the outset and credited as the source.

The Natural Areas Program has instituted a fee structure of \$75.00 an hour to recover the actual cost of processing your request for information. You will receive an invoice for \$150.00 for our services.

Thank you for using the Natural Areas Program in the environmental review process. Please do not hesitate to contact me if you have further questions about the Natural Areas Program or about rare or unique botanical features on this site.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristen Puryear".

Kristen Puryear | Ecologist | Maine Natural Areas Program  
207-287-8043 | [kristen.puryear@maine.gov](mailto:kristen.puryear@maine.gov)

## Rare and Exemplary Botanical Features within 4 miles of Project: #18088, 5-unit Condominium, 515 Roosevelt Trail, Windham, Maine

Common Name	State Status	State Rank	Global Rank	Date Last Observed	Occurrence Number	Habitat
<b>Engelmann's Spikerush</b>						
	PE	SH	G4G5	1916-08-31	2	Open wetland, not coastal nor rivershore (non-forested, wetland)
<b>Fern-leaved False Foxglove</b>						
	SC	S3	G5	1902-09-02	13	Dry barrens (partly forested, upland),Hardwood to mixed forest (forest, upland)
<b>Great Blue Lobelia</b>						
	PE	SX	G5	1905-09	3	Forested wetland,Non-tidal rivershore (non-forested, seasonally wet)
<b>Great Rhododendron</b>						
	T	S1	G5	1992	3	Conifer forest (forest, upland),Hardwood to mixed forest (forest, upland)
<b>Horned Pondweed</b>						
	SC	S2	G5	1913-09-13	9	Tidal wetland (non-forested, wetland)
<b>Marsh Milkwort</b>						
	PE	SH	G5T4	1903-08-18	1	Dry barrens (partly forested, upland),Open wetland, not coastal nor rivershore (non-forested, wetland)
<b>Pitch Pine Bog</b>						
	<null>	S2	G3G5	2004-06-21	10	Forested wetland,Coastal non-tidal wetland (non-forested, wetland)
<b>Red Maple Swamp</b>						
	<null>	S5	G3G5	2004-06-21	16	Forested wetland
<b>Scarlet Oak</b>						
	E	S1	G5	1916-08	2	Hardwood to mixed forest (forest, upland)
<b>Small Whorled Pogonia</b>						
	E	S2	G2?	2015-07-22	18	Hardwood to mixed forest (forest, upland)
<b>Spicebush</b>						
	SC	S3	G5	2006-06-11	11	Forested wetland

---

**Rare and Exemplary Botanical Features within 4 miles of  
Project: #18088, 5-unit Condominium, 515 Roosevelt Trail, Windham, Maine**

---

Common Name	State Status	State Rank	Global Rank	Date Last Observed	Occurrence Number	Habitat
Spotted Pondweed						
	T	S1	G5	1995-10-01	3	Open water (non-forested, wetland)

## STATE RARITY RANKS

- S1** Critically imperiled in Maine because of extreme rarity (five or fewer occurrences or very few remaining individuals or acres) or because some aspect of its biology makes it especially vulnerable to extirpation from the State of Maine.
- S2** Imperiled in Maine because of rarity (6-20 occurrences or few remaining individuals or acres) or because of other factors making it vulnerable to further decline.
- S3** Rare in Maine (20-100 occurrences).
- S4** Apparently secure in Maine.
- S5** Demonstrably secure in Maine.
- SU** Under consideration for assigning rarity status; more information needed on threats or distribution.
- SNR** Not yet ranked.
- SNA** Rank not applicable.
- S#?** Current occurrence data suggests assigned rank, but lack of survey effort along with amount of potential habitat create uncertainty (e.g. S3?).

**Note:** **State Rarity Ranks** are determined by the Maine Natural Areas Program for rare plants and rare and exemplary natural communities and ecosystems. The Maine Department of Inland Fisheries and Wildlife determines State Rarity Ranks for animals.

## GLOBAL RARITY RANKS

- G1** Critically imperiled globally because of extreme rarity (five or fewer occurrences or very few remaining individuals or acres) or because some aspect of its biology makes it especially vulnerable to extinction.
- G2** Globally imperiled because of rarity (6-20 occurrences or few remaining individuals or acres) or because of other factors making it vulnerable to further decline.
- G3** Globally rare (20-100 occurrences).
- G4** Apparently secure globally.
- G5** Demonstrably secure globally.
- GNR** Not yet ranked.

**Note:** **Global Ranks** are determined by NatureServe.

## STATE LEGAL STATUS

**Note:** State legal status is according to 5 M.R.S.A. § 13076-13079, which mandates the Department of Conservation to produce and biennially update the official list of Maine's **Endangered** and **Threatened** plants. The list is derived by a technical advisory committee of botanists who use data in the Natural Areas Program's database to recommend status changes to the Department of Conservation.

- E** ENDANGERED; Rare and in danger of being lost from the state in the foreseeable future; or federally listed as Endangered.
- T** THREATENED; Rare and, with further decline, could become endangered; or federally listed as Threatened.

## NON-LEGAL STATUS

- SC** SPECIAL CONCERN; Rare in Maine, based on available information, but not sufficiently rare to be considered Threatened or Endangered.
- PE** Potentially Extirpated; Species has not been documented in Maine in past 20 years or loss of last known occurrence has been documented.

## ELEMENT OCCURRENCE RANKS - EO RANKS

Element Occurrence ranks are used to describe the quality of a rare plant population or natural community based on three factors:

- **Size**: Size of community or population relative to other known examples in Maine. Community or population's viability, capability to maintain itself.
- **Condition**: For communities, condition includes presence of representative species, maturity of species, and evidence of human-caused disturbance. For plants, factors include species vigor and evidence of human-caused disturbance.
- **Landscape context**: Land uses and/or condition of natural communities surrounding the observed area. Ability of the observed community or population to be protected from effects of adjacent land uses.

These three factors are combined into an overall ranking of the feature of **A**, **B**, **C**, or **D**, where **A** indicates an **excellent** example of the community or population and **D** indicates a **poor** example of the community or population. A rank of **E** indicates that the community or population is **extant** but there is not enough data to assign a quality rank. The Maine Natural Areas Program tracks all occurrences of rare (S1-S3) plants and natural communities as well as A and B ranked common (S4-S5) natural communities.

**Note:** **Element Occurrence Ranks** are determined by the Maine Natural Areas Program for rare plants and rare and exemplary natural communities and ecosystems. The Maine Department of Inland Fisheries and Wildlife determines Element Occurrence ranks for animals.

Visit our website for more information on rare, threatened, and endangered species!  
<http://www.maine.gov/dacf/mnap>

March 25, 2019

Summit #18243

Dustin M. Roma, P.E.  
DM Roma Consulting Engineers  
PO Box 1116  
Windham, ME 04062

Reference: Nitrate-Nitrogen Assessment  
515 Roosevelt Trail Condominiums, Windham, Maine

Dear Dustin:

Summit Geoengineering Services (SGS) performed this nitrate-nitrogen assessment to estimate the groundwater quality impact caused by the proposed common subsurface wastewater disposal system serving a five-unit condominium development located at 515 Roosevelt Trail in Windham, Maine. A location map showing the site and vicinity is provided as Attachment 1.

Information used for our evaluation includes a subdivision plan provided by DM Roma Consulting Engineers (DM Roma), a septic system design application, and published geologic maps and literature. The subdivision plan includes the location of property lines, nearby off-site drinking water wells, wetlands, existing grade contours, and soil test pits. A copy of the proposed septic system design application (HHE-200 Form) prepared by Alex A. Finamore (LSE #391) is provided as Attachment 2.

### **Wastewater Disposal and Water Supply**

The proposed development includes five (5) two-bedroom condominium units each with a septic tank and pump station that convey treated septic tank effluent to a common subsurface wastewater disposal field. The proposed disposal field measures 23 feet by 52 feet and has a design flow of 900 gallons per day.

The site and surrounding area are served by public water.

### **Site Setting**

The site is located in a gently sloping forested area between Roosevelt Trail and Ditch Brook as shown on Figure 1 in Attachment A. Review of Maine Geological Survey maps<sup>1</sup> indicates the surficial geology at the site and vicinity is mapped as the Presumpscot Formation, and no mapped significant sand and gravel aquifers are in the immediate vicinity of the site. The Presumpscot Formation consists of massive to laminated silt and clay, and locally may contain minor sand and gravel, that was deposited on the sea floor during late-glacial marine submergence.

---

<sup>1</sup> <https://www.maine.gov/dacf/mgs/pubs/index.shtml>

According to the Natural Resources Conservation Service Web Soil Survey<sup>2</sup>, soils on the property are derived from marine sediments and are predominately classified as Lamoine (formerly known as Buxton) and Scantic silt loam soils series. Soil at the proposed disposal field location consists of a sandy loam and very fine sandy loam topsoil and substratum overlying a silt loam hardpan.

### **Nitrate-Nitrogen Assessment**

A nitrate-nitrogen assessment was performed to estimate the distance from the disposal fields at which the concentration in groundwater would reach the Federal National Primary Drinking Water Standard and the Maine Maximum Exposure Guideline of 10 milligrams nitrogen per liter (mg-N/L). The average concentration of nitrate-nitrogen in septic tank effluent discharged from the disposal field used in this assessment is 40 mg-N/L.<sup>3</sup>

Based on our understanding of site geology, septic tank effluent will drain to the disposal field and infiltrate downward through unsaturated soil until a seasonally perched water table in the hydraulically restrictive (hardpan) material is encountered. Thereupon flow is lateral and hydraulically downgradient in an easterly direction towards Ditch Brook.

The distance at which groundwater downgradient of the disposal field reaches 10 mg-N/L (plume length) was estimated using a three-dimensional analytical solution<sup>4,5</sup> for a point source in a uniform flow field. Variables used for the calculations include the permeability and effective porosity of soils, groundwater seepage velocity, and the daily mass of nitrate-nitrogen applied to groundwater. No allowance for nitrogen removal by soil microbes, vegetation or sorption is included in the plume length calculations as a conservative measure. Input parameters for the analytical point source solution are summarized in the table below.

**Analytical Solution Input Parameters**

Parameter	Value	Source Reference
Permeability	0.8 ft/day	Estimated to be 0.8 feet per day (ft/day) based on the range of permeabilities for Buxton silt loam (0.4 to 4.0 ft/day) listed in the Cumberland County Soil Survey <sup>6</sup>
Effective Porosity	0.18	Published average value for silt <sup>7</sup>
Hydraulic Gradient	0.02	Half of the average topographic gradient between the disposal field and Ditch Brook.

<sup>2</sup> <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

<sup>3</sup> MEDEP, Site Location of Development Permit Application (October 2015) Section 17.B.2.(a).

<sup>4</sup> Baetsle, L.H. (1969), Migration of Radionuclides in Porous Media; Progress in Nuclear Energy, Series SIL, Health Physics. Pergamon Press, pp. 707-730.

<sup>5</sup> Chang, et al. (1998). Utilizing Baetsle's Equation to Model the Fate and Transport of MTBE in Groundwater, Proceedings of the Petroleum Hydrocarbons and Organic Chemicals in Ground Water Prevention, Detection, and Remediation Conference, Houston, TX.

<sup>6</sup> USDA Soil Conservation Services (1974), Soil Survey of Cumberland County, Maine.

<sup>7</sup> Fetter, C.W. (1994). Applied Hydrogeology, 3<sup>rd</sup> Edition, Prentice Hall

The three-dimensional analytical solution was adapted to simulate a 50-foot-long linear source area (disposal field) by assuming the direction of groundwater flow is perpendicular to the length of the field and calculating the additive effects of injecting nitrate-nitrogen into groundwater at 6-point sources located 10 feet apart along the downgradient side of the disposal field. For each point source, the steady state nitrate concentration was calculated for a regularly-spaced grid of points (point cloud) extending 5 feet apart along the plume center line to a distance of 350 feet, and at points located 5 feet apart extending cross gradient from the plume center line to a distance of 125 feet. The additive effects of each point source were then calculated by superimposing the point clouds, adding concentration values, and using data for points along the plume center line to determine the estimated plume length. The 10 mg-N/L nitrate plume lengths were calculated based on an assumed background nitrate concentration of 1 mg-N/L.

The estimate 10 mg-N/L plume length for the proposed disposal field is 250 feet, as shown on the enclosed Site Plan provided as Attachment 3.

**Conclusion:**

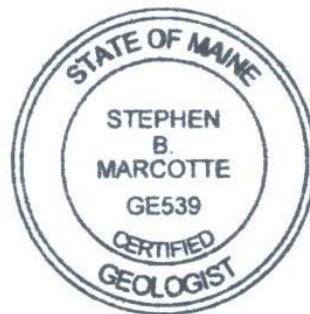
Results of our analysis indicate the proposed subsurface wastewater disposal system will result in an increase of nitrate-nitrogen above 10 mg/L in groundwater at the property boundary. Given that public water is available to properties in the vicinity and there are no known water supply wells near the plume, we proposed that the applicant request a waiver to the Town of Windham Land Use Ordinance for meeting the nitrate-nitrogen drinking water standard requirement at the property line.

Our findings are based on our interpretation of site conditions and the information provided to us. If there are changes in lot layout or proposed septic system design flows, we request the opportunity to review the changes and conduct further analysis as necessary to confirm the changes do not alter our conclusions.

Sincerely yours,  
**Summit Geoengineering Services**



Stephen B. Marcotte, C.G., L.S.E.  
Senior Geologist



Enclosures




## Attachment 1 Site Location Map

USGS TOPOGRAPHIC MAP FOR NORTH  
WINDHAM, MAINE 7.5-MINUTE QUADRANGLE

515 ROOSEVELT TRAIL - WINDHAM, ME  
PREPARED FOR

DATE: 3-25-2019	DRAWN BY: SBM	CHECKED BY: SBM
JOB: 19089	SCALE: 1" = 2000'	FILE: 19089 MAP

173 PLEASANT STREET  
ROCKLAND, ME 04841  
Tel.: (207) 318-7761



**SUMMIT**  
**GEOENGINEERING SERVICES**  
[www.summitgeoeng.com](http://www.summitgeoeng.com)

## Attachment 2

### Septic System Design Application

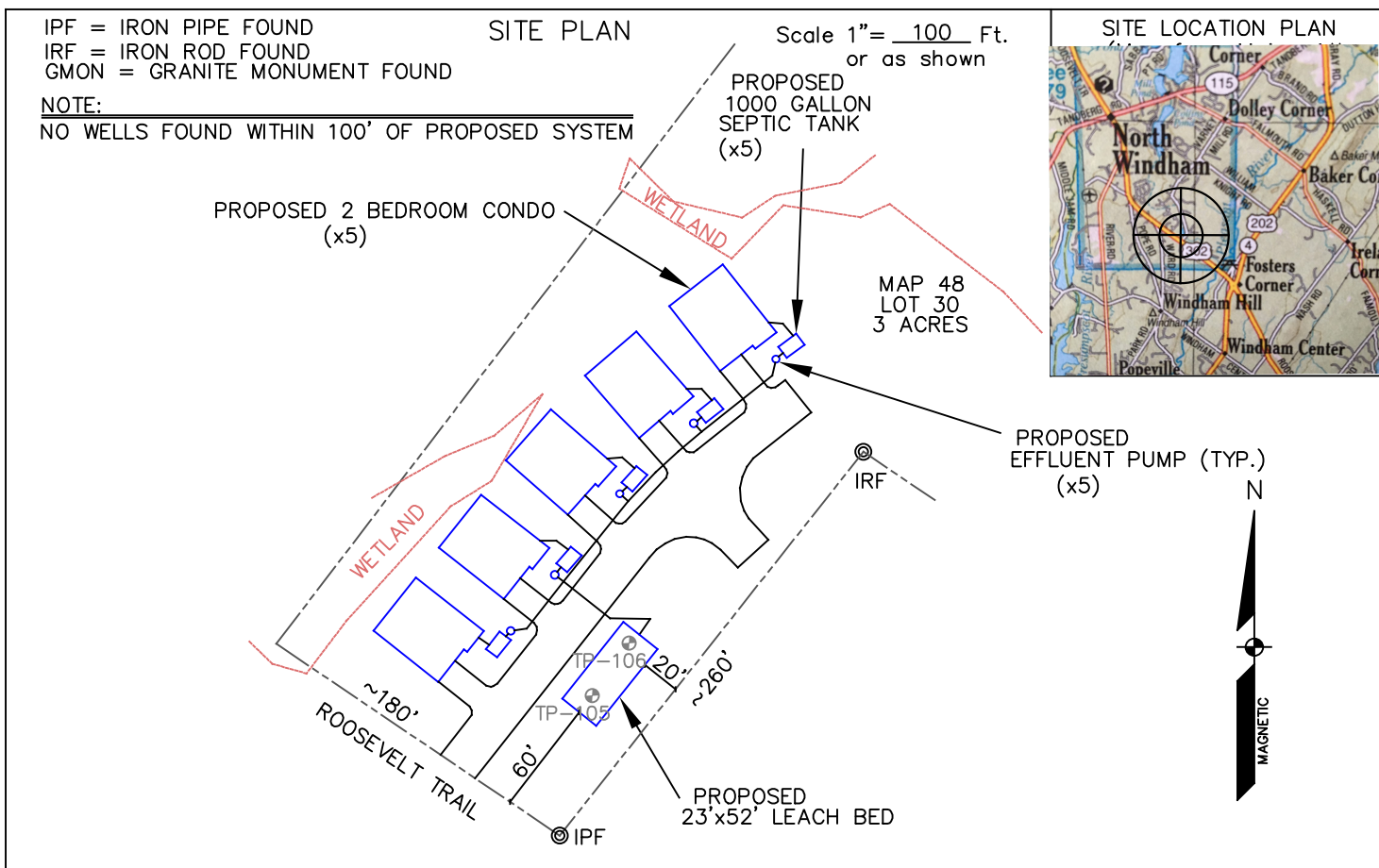


# SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Department of Human Services  
Division of Health Engineering, 10 SHS  
(207) 287-5672 Fax: (207) 287-3165

<b>PROPERTY LOCATION</b>		<b>&gt;&gt; CAUTION: PERMIT REQUIRED - ATTACH IN SPACE BELOW &lt;&lt;</b>	
City, Town, or Plantation	Windham	Town _____	Permit# _____
Street or Road	515 Roosevelt Trail	Date Permit Issued ____/____/____	Fee: \$ _____ Double Fee Charged [ ]
Subdivision, Lot #	Map 48, Lot 30	L.P.I. # _____	
<b>OWNER/APPLICANT INFORMATION</b>		Local Plumbing Inspector _____	
Name (last, first, MI) _____		<input type="checkbox"/> Owner <input type="checkbox"/> Town <input type="checkbox"/> State	
Owner JTS Holdings, LLC		The Subsurface Wastewater Disposal System <b>shall not</b> be installed until a Permit is attached HERE by the Local Plumbing Inspector. The Permit shall authorize the owner or installer to install the disposal system in accordance with this application and the Maine Subsurface Wastewater Disposal Rules.	
Mailing Address of Owner/Applicant			
PO Box 232 Windham, ME 04062			
Daytime Tel. # (207)-310-0506		Municipal Tax Map # <u>48</u> Lot # <u>30</u>	
<b>OWNER OR APPLICANT STATEMENT</b>		<b>CAUTION: INSPECTION REQUIRED</b>	
I state and acknowledge that the information submitted is correct to the best of my knowledge and understand that any falsification is reason for the Department and/or Local Plumbing Inspector to deny a Permit.  _____ Signature of Owner or Applicant _____ Date _____		I have inspected the installation authorized above and found it to be in compliance with the Subsurface Wastewater Disposal Rules Application. _____ (1st) date approved	
		_____ Local Plumbing Inspector Signature _____ (2nd) date approved	
<b>PERMIT INFORMATION</b>			
<b>TYPE OF APPLICATION</b>	<b>THIS APPLICATION REQUIRES</b>	<b>DISPOSAL SYSTEM COMPONENTS</b>	
<input checked="" type="checkbox"/> 1. First Time System 2. Replacement System Type replaced: _____ Year installed: _____ 3. Expanded System a. Minor Expansion b. Major Expansion 4. Experimental System 5. Seasonal Conversion	<input checked="" type="checkbox"/> 1. No Rule Variance 2. First Time System Variance a. Local Plumbing Inspector Approval b. State & Local Plumbing Inspector Approval 3. Replacement System Variance a. Local Plumbing Inspector Approval b. State & Local Plumbing Inspector Approval 4. Minimum Lot Size Variance 5. Seasonal Conversion Permit	<input checked="" type="checkbox"/> 1. Complete Non-engineered System 2. Primitive System (graywater & alt. toilet) 3. Alternative Toilet, specify: _____ 4. Non-engineered Treatment Tank (only) 5. Holding Tank, _____ gallons 6. Non-engineered Disposal Field (only) 7. Separated Laundry System 8. Complete Engineered System (2000 gpd or more) 9. Engineered Treatment Tank (only) 10. Engineered Disposal Field (only) 11. Pre-treatment, specify: _____ 12. Miscellaneous Components	
<b>SIZE OF PROPERTY</b>	<b>DISPOSAL SYSTEM TO SERVE</b>	<b>TYPE OF WATER SUPPLY</b>	
3 SQ. FT. X ACRES	1. Single Family Dwelling Unit, No. of Bedrooms: _____ 2. Multiple Family Dwelling, No. of Units: _____ <input checked="" type="checkbox"/> 3. Other: <u>5 x 2 bedroom condos</u> (specify) Current Use Seasonal <input checked="" type="checkbox"/> Year Round Undeveloped		
<b>SHORELAND ZONING</b>			
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		1. Drilled Well 2. Dug Well 3. Private <input checked="" type="checkbox"/> 4. Public 5. Other	
<b>DESIGN DETAILS (SYSTEM LAYOUT SHOWN ON PAGE 3)</b>			
<b>TREATMENT TANK</b>	<b>DISPOSAL FIELD TYPE &amp; SIZE</b>	<b>GARBAGE DISPOSAL UNIT</b>	<b>DESIGN FLOW</b>
<input checked="" type="checkbox"/> 1. Concrete <input checked="" type="checkbox"/> 2. Regular b. Low Profile 2. Plastic 3. Other: _____ CAPACITY: <u>5x1,000</u> GAL.	1. Stone Bed 2. Stone Trench <input checked="" type="checkbox"/> 3. Proprietary Device x a. cluster array c. Linear b. regular load d. H-20 load 4. Other: _____ SIZE: <u>3,690</u> sq. ft. lin. ft.	<input checked="" type="checkbox"/> 1. No 2. Yes 3. Maybe If Yes or Maybe, specify one below: a. multi-compartment tank b. _____ tanks in series c. increase in tank capacity d. Filter on Tank Outlet	<u>900</u> gallons per day BASED ON: <input checked="" type="checkbox"/> 1. Table 501.1 (dwelling unit(s)) 2. Table 501.2 (other facilities) SHOW CALCULATIONS for other facilities 2 bedrooms @ 180 gpd x 5 units = 900 gpd
<b>SOIL DATA &amp; DESIGN CLASS</b>	<b>DISPOSAL FIELD SIZING</b>	<b>EFFLUENT/EJECTOR PUMP</b>	<b>LATITUDE AND LONGITUDE</b>
PROFILE CONDITION 8 / C at Observation Hole # <u>TP-1</u> Depth <u>28</u> " of Most Limiting Soil Factor	1. Small---2.0 sq. ft. / gpd 2. Medium---2.6 sq. ft. / gpd 3. Medium---Large 3.3 sq. ft. / gpd <input checked="" type="checkbox"/> 4. Large---4.1 sq. ft. / gpd 5. Extra Large---5.0 sq. ft. / gpd	1. Not Required <input checked="" type="checkbox"/> 2. May Be Required 3. Required Specify only for engineered systems: DOSE: _____ gallons	
<b>ATTACH WATER METER DATA</b>			
<b>SITE EVALUATOR STATEMENT</b>			
I certify that on <u>3/12/19</u> (date) I completed a site evaluation on this property and state that the data reported are accurate and that the proposed system is in compliance with the State of Maine Subsurface Wastewater Disposal Rules (10-144A CMR 241).			
<u>Alexander A. Finamore</u> Site Evaluator Signature		391 SE #	<u>3/12/19</u> Date
Alexander A. Finamore Site Evaluator Name Printed		(207) 650-4313 Telephone Number	alfinamore@yahoo.com E-mail Address
<b>Note: Changes to or deviations from the design should be confirmed with the Site Evaluator.</b>			

<h1 style="margin: 0;">SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION</h1>		Maine Department of Human Services Division of Health Engineering, 10 SHS (207) 287-5672    FAX (207) 287-3165
Town, City, Plantation Windham	Street, Road, Subdivision 515 Roosevelt Trail	Owner or Applicant Name JTSH Holdings, LLC



SOIL DESCRIPTION AND CLASSIFICATION				(Location of Observation Holes Shown Above)							
Observation Hole <u>TP-105</u> <input checked="" type="checkbox"/> Test pit <input type="checkbox"/> Boring				Observation Hole <u>TP-106</u> <input type="checkbox"/> Test pit <input checked="" type="checkbox"/> Boring							
<u>1</u> " Depth of Organic Horizon Above Mineral Soil				<u>1</u> " Depth of Organic Horizon Above Mineral Soil							
DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling	DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling		
	0	SANDY LOAM	FRIABLE	DARK BROWN		NONE OBSERVED	0	SANDY LOAM	FRIABLE	DARK BROWN	NONE OBSERVED
	10			STRONG BROWN			10			STRONG BROWN	
	20	VERY FINE SANDY LOAM		LIGHT YELLOWISH BROWN			20			LIGHT YELLOWISH BROWN	
	30	SILT LOAM		OLIVE		COMMON, MEDIUM, & DISTINCT	30	SILT LOAM		OLIVE	COMMON, MEDIUM, & DISTINCT
	40	LIMIT OF EXCAVATION = 40"					40	LIMIT OF EXCAVATION = 40"			
	50						50				
Soil Classification		Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water	Soil Classification		Slope	Limiting Factor	<input checked="" type="checkbox"/> Ground Water		
<u>8</u> <u>C</u>		<u>2</u> %	<u>28</u> "	<input type="checkbox"/> Restrictive Layer	<u>8</u> <u>C</u>		<u>2</u> %	<u>29</u> "	<input type="checkbox"/> Restrictive Layer		
Profile      Condition				<input type="checkbox"/> Bedrock	Profile      Condition				<input type="checkbox"/> Bedrock		
				<input type="checkbox"/> Pit Depth					<input type="checkbox"/> Pit Depth		

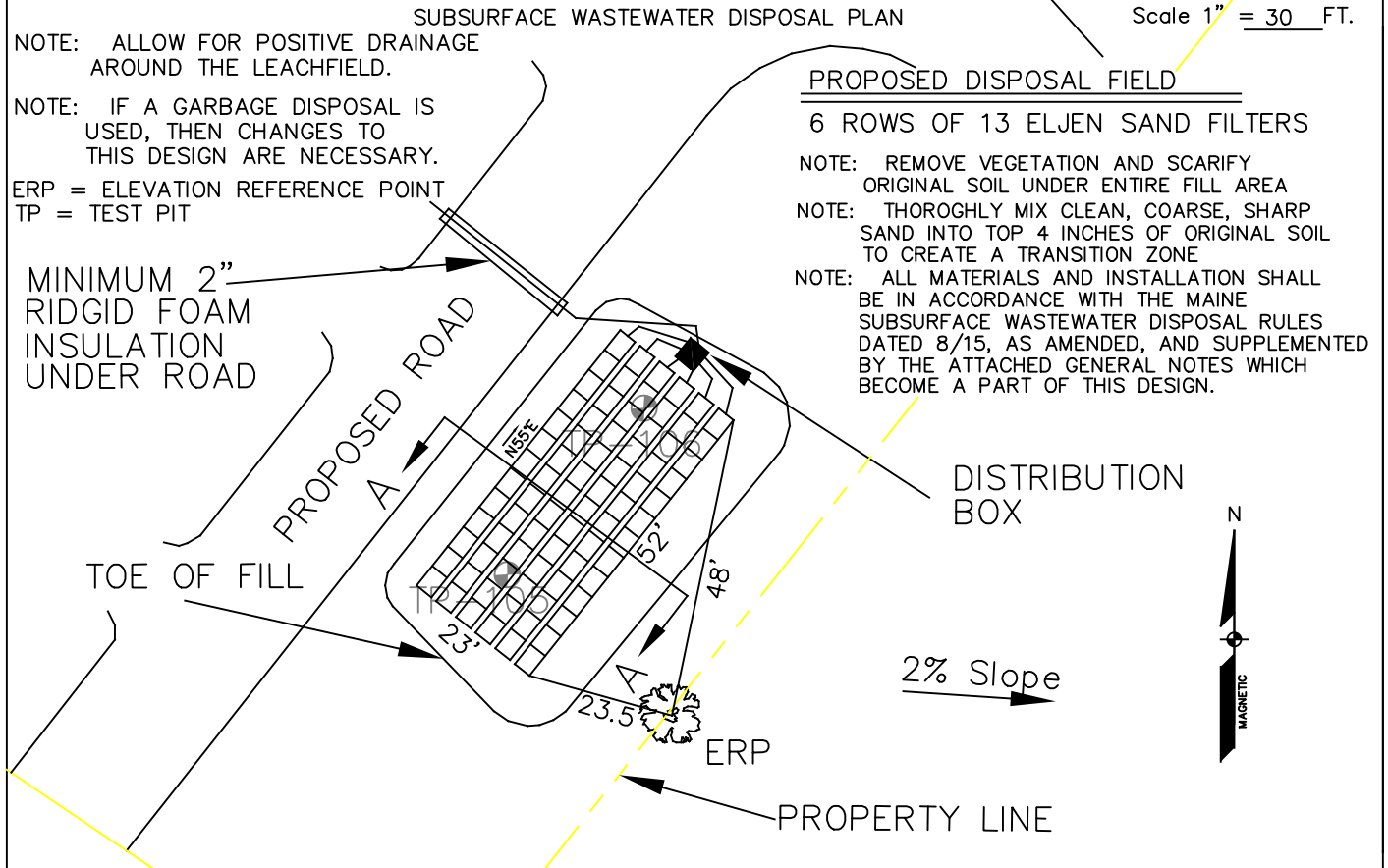
# SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION

Maine Department of Human Services  
Division of Health Engineering, 10 SHS  
(207) 287-5672 FAX (207) 287-3165

Town, City, Plantation  
Windham

Street, Road, Subdivision  
515 Roosevelt Trail

Owner or Applicant Name  
JTSH HOLDINGS, LLC



## BACKFILL REQUIREMENTS

Depth of Fill (Upslope) varies 8-9"  
Depth of Fill (Downslope) varies 16"-19"

## CONSTRUCTION ELEVATIONS

Finished Grade Elevation  
Top of Distribution Pipe or Proprietary Device  
Bottom of Disposal Area (Bottom of Sand)

-35"  
-43"  
-60"

## ELEVATION REFERENCE POINT

Location & Description Nail up 64"  
in a 8" Red Maple  
Reference Elevation 0"

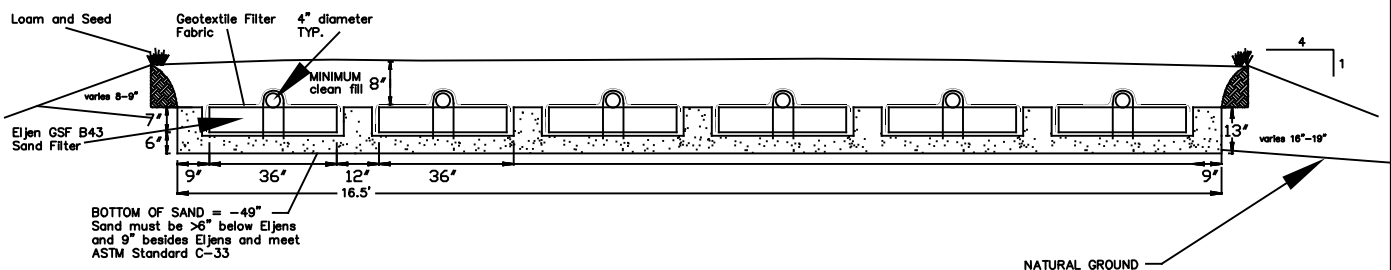
## DISPOSAL FIELD CROSS SECTION

### CROSS SECTION A-A'

12" SEPARATION USED IN DESIGN

## SCALE:

VERTICAL: 1" = 3'  
HORIZONTAL: 1" = 5'



*Alan D.*  
Site Evaluator Signature

391

SE #

3-12-19

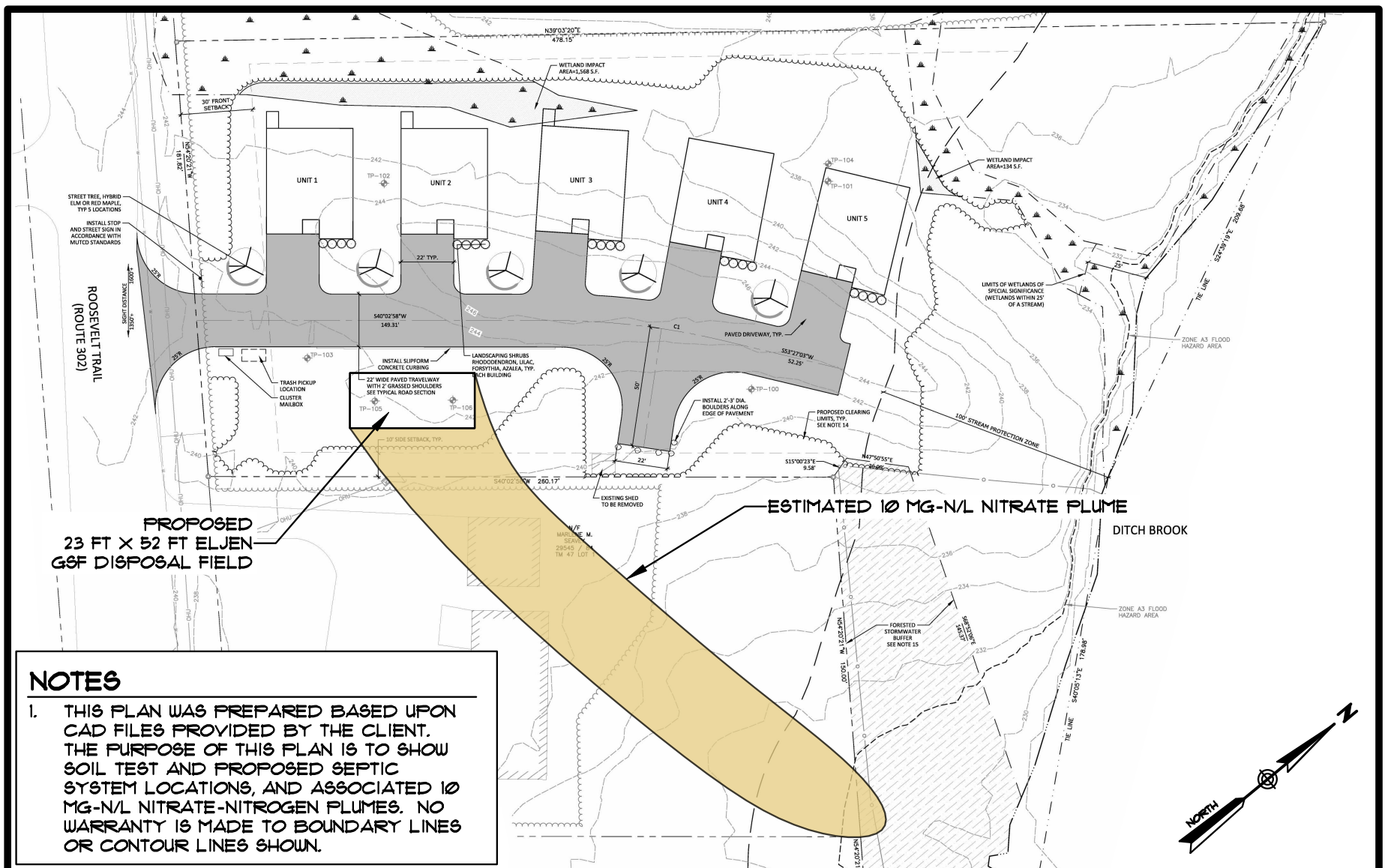
Date

Page 3 of 3

HHE-200 Rev. 2/2011

## Attachment 3

### Nitrate-Nitrogen Assessment Site Plan



DATE: 3/25/2019  
 JOB: 19089  
 FILE: 19089 NITRATE  
 DRAWN BY: SBM  
 CHECKED BY: SBM  
 SCALE: 1" = 60'

145 LEBON ST. - SUITE 101  
 LEWISTON, ME 04240  
 Tel.: (207) 516-3313

**SUMMIT**  
 GEOENGINEERING SERVICES  
[www.summitgeoeng.com](http://www.summitgeoeng.com)

173 PLEASANT STREET  
 ROCKLAND, ME 04841  
 Tel.: (207) 318-1161

**NITRATE-NITROGEN ASSESSMENT**  
**515 ROOSEVELT TRAIL CONDOMINIUMS**  
 515 ROOSEVELT TRAIL - WINDHAM, MAINE  
 PREPARED FOR  
**DM ROMA CONSULTING ENGINEERS**



Prepared by:  
Law Offices of Robert E. Danielson  
65 W. Commercial Street, Ste. 106  
Portland, ME 04101

**Declaration of Condominium**  
  
**of**  
  
**Brook View<sup>[NCI]</sup> Condominium**

JTSH, LLC, Declarant  
April \_\_, 2019

## **Table of Contents**

### **Article 1. Submission: Defined Terms**

Section 1.1.	Submission: Defined Terms.....	1
Section 1.2.	Defined Terms .....	1
Section 1.3.	Name and Address of Condominium.....	2
Section 1.4.	Notice to Unit Owners .....	2
Section 1.5.	Interpretation .....	2

### **Article 2. Buildings on the Land; Unit Boundaries and Uses; Allocated Interests; Maintenance Responsibilities**

Section 2.1.	Location and Dimensions of Buildings and Units .....	3
Section 2.2.	Units, Buildings .....	3
Section 2.3.	Fraction of Common Element Interest.....	3
Section 2.4.	Use and Conditions .....	3
Section 2.5.	Unit Boundaries .....	5
Section 2.6.	Architectural Control and Safety of Property .....	5
Section 2.7.	Maintenance Responsibilities .....	5
Section 2.8.	Rules and Regulations.....	6
Section 2.9.	Relocation of Unit Boundaries and Subdivision of Units.....	7

### **Article 3. Common Elements and Expenses: Use of Common Elements by Declarant**

Section 3.1.	Common and Limited Common Elements .....	7
Section 3.2.	Assessments for Common Expenses .....	8

### **Article 4. Easements**

Section 4.1.	Easements for Access and Support .....	9
Section 4.2.	Right to Grant Easements and to Relocate Existing Easements within the Common Elements of the Property.....	10
Section 4.3.	Location of Existing Easements.....	10

### **Article 5. Declarant's Right to Convey Units.....10**

### **Article 6. Special Declarant Rights; Declarant Control Period; Transfer**

Section 6.1.	Special Declarant Rights.....	10
Section 6.2.	Board of Directors; Declarant Control Period .....	10

### **Article 7. No Obligations.....11**

**Article 8.      Amendment to Condominium Instruments: Required Consent**

Section 8.1.	Amending Process .....	11
Section 8.2.	Certificate of Amendment.....	12
Section 8.3.	Further Provisions .....	12

**Article 9.      Rights of Secured Lenders .....13**

**Article 10.    Miscellaneous.....13**

**Exhibits**

**Exhibit A    Property Description**

**Exhibit B    Schedule of Unit Owner Interests**

**Declaration of Condominium  
Brook View Condominium**

**Article 1 - Submission: Defined Terms**

**Section 1.1. Submission of Property.** JTSH, LLC, a Maine limited liability company with a principal place of business in Windham, County of Cumberland, State of Maine (the "Declarant"), owner in fee simple of the land described in **Exhibit A** annexed hereto (the "Property"), located within the Town of Windham, County of Cumberland, State of Maine ("Land"), hereby submits the Land, together with improvements, easements, rights and appurtenances hereinafter provided to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, as amended, known as the Maine Condominium Act ("Condominium Act"), and hereby creates "Brook View Condominium" (hereinafter the "Condominium"). The Property is shown on the Subdivision Plan entitled "\_\_\_\_\_", dated \_\_\_\_\_, \_\_\_\_\_ and recorded in the Cumberland County Registry of Deeds in Plan Book \_\_, Page \_\_, and is also shown on the Condominium Plat entitled "Condominium Plat, Brook View Condominium, Windham, Maine" dated \_\_\_\_\_, 2019 and recorded in said Registry of Deeds in Plan Book \_\_, Page \_\_, [NC2]both prepared for JTSH, LLC by [DM Roma, Consulting Engineers][NC3], and includes any amendments and supplements as may from time to time be recorded in said Registry, collectively referred to as the "Plat and Plans".

The Property is conveyed and declared subject to:

- (i) Easements, Conditions, Covenants and Restrictions as shown on the Plat and Plans.
- (ii) The easements, covenants, restrictions and reservations contained in and created by this Declaration, said Plat and Plans and the Bylaws of the Association.
- (iii) The Common Elements and Limited Common Elements created by this Declaration.

**Section 1.2. Defined Terms.** As provided in Section 1601-103 of the Condominium Act, terms not otherwise defined herein, as the same may be amended from time to time, or in said Plat and Plans, shall have the meaning specified in Section 1601-103 of the Condominium Act. The following terms shall have the meanings ascribed to them:

**Association.** Brook View Condominium Association, a non-profit and non-stock corporation organized and existing under Title 13-B of the Maine Revised Statutes Annotated, as amended. The Association is the governing body for all the Unit Owners with

respect to the administration, maintenance, repair, replacement, cleaning and management of the Common Elements. The membership of the Association at all times shall consist exclusively of all Unit Owners. Upon the purchase of a Unit, each Unit Owner shall automatically become a member of the Association and will remain a member for as long as they are a Unit Owner. Upon the sale of the Unit, Unit Owner's membership and any interest in the Common Elements shall automatically terminate, transfer and inure to the benefit of the succeeding Unit Owner. The Association shall have all the powers granted pursuant to Section 1603-102 of the Condominium Act including the powers to assign its right to future income.

**Board of Directors.** Shall mean the Board of Directors of the Association.

**Buildings.** Means the physical improvements on the Land which form a part of the Property.

**Bylaws.** Shall mean the Bylaws of the Association.

**Condominium Instruments.** This Declaration and all exhibits attached hereto and instruments incorporated by reference herein, including the Plat and Plans and the Bylaws, and any amendments, restatements, or supplements thereto.

**Declarant Control Period.** The entire time period which extends from the date of recording of the Declaration until (unless previously terminated by the Declarant) the earlier of (i) Sixty (60) days after the date of conveyance of Seventy-Five Percent (75%) of the Units to an Owner or Owners other than the Declarant, or (ii) Seven (7) years following the conveyance of the first Unit to an owner other than the Declarant, all as provided in Sections 6.1 and 6.2 herein.

**Declarant Rights.** Declarant reserves the right to add real estate to the Condominium; to create Units, Common Elements or Limited Common Elements within the Condominium; to subdivide Units or convert Units into Common Elements; or to withdraw real estate from the Condominium.

**Special Declarant Rights.** Declarant reserves their rights under Section 1601-103 of the Condominium Act, and reserves rights as further defined in Article 6 of the Declaration.

**Unit.** When capitalized, shall refer to a condominium unit created under this Declaration.

**Unit Owner.** A person who is an owner or co-owner of a Unit other than as security for an obligation.

**Section 1.3. Name and Address of Condominium.** The name of the Condominium is Brook View Condominium ("Condominium"). The mailing address of the Condominium is P.O. Box 232, Windham, Maine[NC4] 04062.

**Section 1.4. Notice to Unit Owners.** Notice of matters affecting the Condominium shall be given to Unit Owners from the Association by delivery in hand or by prepaid United States Mail to the mailing address of each Unit or to any other mailing address designated in writing by the Unit Owner and provided to the Association.

**Section 1.5. Interpretation.** In the event of any conflict or discrepancy between this Declaration and said Plat and Plans, this Declaration shall govern.

**Article 2 - Buildings on the Land; Unit Boundaries and Uses;**  
**Allocated Interests; Maintenance Responsibilities**

**Section 2.1. Location and Dimensions of Buildings and Units.** The location and dimensions of the Buildings and Units on the Land are depicted on the Plat and Plans recorded or to be recorded as hereinafter provided and which are specifically incorporated herein by reference.

**Section 2.2. Units, Buildings.** The Condominium, as contemplated by the filing of this Declaration, means the Land as described in **Exhibit "A"** attached hereto and the Buildings and Units to be placed thereon as shown on the Plat and Plans. The Condominium shall consist of \_\_\_\_\_ ( ) Units, being Units 1 through \_\_\_\_\_. [NC5] Also included in this Condominium as hereby submitted and declared are all improvements now existing or to be placed within the boundaries of the Land, as described in Exhibit "A" and all easements and leases benefitting the Land as described in Exhibit "A". The location of the Units within the Condominium and their horizontal and vertical boundaries, floor plans, elevations and dimensions are shown on the Plat and Plans.

**Section 2.3. Fraction of Common Element Interest.** The percentage interest in the Common Elements and the vote appurtenant to each Unit, determined on the basis of relative square foot area of the Units, is attached as **Exhibit "B"** hereto. The square foot area shall be determined by measuring floor area on all floors within the Unit, but not including basement, porch or patio areas. The percentage of the undivided interest of each Unit Owner in the Common Elements as shown on said Exhibit "B" shall have a permanent character as expressed herein notwithstanding any variance between the percentages set forth in Exhibit "B" and the actual relative square foot area of the Units, and shall not be altered without the consent of all Unit Owners expressed in an amendment to this Declaration duly recorded. The percentage of the undivided interest in the Common Elements shall not be separated from the Unit to which it pertains and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

**Section 2.4. Use and Conditions.** Each Unit is intended to serve as a self-contained living unit solely for residential purposes, intended for occupancy by the Owner or Owners thereof. Accordingly:

(a) No Unit shall be leased for a term of less than thirty (30) days and is subject to any such terms and conditions regarding leases as contained in this Declaration, the Bylaws or any Rules or Regulations adopted by the Association.

(b) No commercial use of any type, including use by professionals or other home occupation shall be permitted.

(c) Except for those uses reserved for and to the Declarant, if any, the Common Elements shall be used only for the furnishing of the services, facilities and activities for which they are reasonably suited, and which are incident to the use and occupancy of the Units.

(d) Nothing shall be done or kept in any Unit or the Common Elements that will cause the cancellation of or an increase in the rate of insurance on any other Unit or the Common Elements or the contents thereof, which would obstruct or interfere with the rights of other occupants or annoy them by unreasonable lights, noises or otherwise, which would be in violation of any law.

(e) No waste shall be permitted in the Common Elements.

(f) Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside of walls of a Unit, and no signs, awnings, canopies, radio or television antennas or similar devices may be affixed to or placed on the exterior walls, roofs, balconies or decks or any part thereof without the prior written consent of the Board of Directors.

(g) No pets other than dogs, cats and other household pets kept for domestic purposes only, may be kept in the units, subject to further limitation, condition or specification as determined by the Board of Directors, which shall be empowered, in its discretion, and as part of its rule making authority as provided in Section 2.8 hereinafter to place reasonable conditions upon such permission, or to withhold or withdraw such information. Pets shall not be unleashed or at large on the Common Elements or Limited Common Elements.

(h) No hedge or fence may be erected within or upon any Limited Common Element exceeding three feet in height.

(i) No porches, decks or balconies may be constructed by Unit Owners without the prior written consent of the Board of Directors.

(j) Unit Owners may not erect signs, television antennas, clotheslines or other structures, plant or remove trees or shrubs or do any other thing that affects the external appearance of the building or grounds, including the Limited Common Elements, except as provided in this Declaration or with prior written consent of the Board of Directors.

(k) No temporary structure shall be used as a residence or placed upon any Unit for more than two (2) consecutive nights, without prior written consent of the Board of Directors.

(l) All Units shall be maintained in a neat, attractive manner and kept in good repair.

(m) All construction activities and the use of any Unit shall be in accordance with all local and state laws, codes, ordinances and regulations.



(n) No motor vehicles which requires a registration in order to be utilized on any public road shall be kept on the Property in any unregistered condition for a period of more than fourteen (14) days.

**Section 2.5. Unit Boundaries.** The boundaries of each Unit are as follows:

(a) **Upper and Lower (Horizontal) Boundaries:** The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

(1) **Upper Boundary:** The Upper Boundary of each Unit shall be the horizontal plane of the ceiling in the uppermost level of the Unit.

(2) **Lower Boundary:** The Lower Boundary of each Unit shall be the horizontal plane at the top surface of the undecorated floor.

(b) **Vertical (Perimetric) Boundaries:** The vertical boundaries of the Unit shall be the vertical plane at the stud line at the back surface of the gypsum-board, sheetrock, or other wall materials forming its perimetric walls, extended to the intersections with each other and with the upper and lower boundaries. The boundary line shall also be the exterior surface of window and door glass and storm windows.

**Section 2.6. Architectural Control and Safety of Property.** In no event shall any Unit Owner permit or do any work which may jeopardize the soundness or safety of his or her Unit or any of the Property without the prior written consent of the Board of Directors or the Association.

**Section 2.7. Maintenance Responsibilities.** Each Unit Owner shall furnish and be responsible for, at his or her own expense, all maintenance, repairs and replacements within his or her own Unit; provided, however, such maintenance, repair and replacements as may be required for the installation and transmission of utility services, such as water, gas, electricity and sewer to the Unit shall be furnished by the Association and assessed against the Unit Owner as a Special Charge. Maintenance, repair and replacement of refrigerators, stoves and other kitchen appliances, indoor lighting fixtures, plumbing fixtures, and other electrical or mechanical appliances of any kind located in the Unit shall be at the expense of the Unit Owner. Maintenance, repair and replacement of the Common Elements, including the exterior surfaces of all Units, shall be furnished by the Association

and assessed against each Unit Owner as part of Common Expenses. Maintenance, repair and replacement of Limited Common Elements shall be furnished by the Association and assessed against each Unit Owner as a Special Charge.

Each Unit Owner shall pay for his or her own telephone, electricity, cable and water service, and other utilities which are separately metered or billed to the Unit Owner by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses. Each Unit Owner shall be responsible for the cleaning, maintenance, repair and replacement (interior and exterior) of all windows and doors to his or her Unit and any air conditioning, heating or gas vents, or any other intake and exhaust vents. If a Unit Owner fails to clean, maintain, repair and/or replace such items, the Association may do so and add any costs incurred to the assessment billed to the Unit Owner. If due to the negligence of a Unit Owner or visitor of such Unit Owner, damage is caused to the Common Elements or to a Unit or Units owned by others, then the repair and replacement of such Common Elements that would otherwise be a Common Expense, shall be paid by such Unit Owner, as may be determined by the Association.

**Section 2.8. Rules and Regulations.** Each Unit Owner shall comply with (1) the Bylaws and the Rules and Regulations adopted by the Board of Directors; (2) covenants, conditions and restrictions set forth in this Declaration and in the deed to his or her Unit. Failure to comply shall be grounds for action to recover damages or for injunctive relief, or both, maintainable by the Board of Directors on behalf of the Association or by an aggrieved Unit Owner.

**Section 2.9. Relocation of Unit Boundaries and Subdivision of Units.** Relocation of boundaries between Units is not permitted and the subdivision or combining of Units is not permitted.

### **Article 3 - Common Elements and Expenses;**

#### **Use of Common Elements by Declarant**

#### **Section 3.1. Common and Limited Common Elements.**

(a) **Common Elements:** The location of the Common Elements to which each Unit has direct access is shown on the Plat and Plans. The Common Elements shall consist of all of the

Property, except the individual Units and shall include the Land, Buildings, foundations, roofs, outside walls, pipes, ducts, electrical wiring and conduits, public and private utility systems, and utility lines, floors and ceilings (other than the portion of the floors and ceilings which constitute a part of the Units in accordance with Section 1602-102(1) of the Maine Condominium Act), perimeter walls of the Units (other than the portion of the walls which constitute a part of the Units in accordance with Section 1602-102(1) of the Maine Condominium Act), structural parts of the building, including structural columns, girders, beams and supports; easements, if any, for parking, access and utilities; and in addition, all other parts of the Property necessary and convenient to its existence, maintenance and safety, normally in common use as defined in the Maine Condominium Act, except such parts of the Property as may be specifically excepted or reserved herein or in any Exhibit attached hereto. Each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners, as may be required for the purposes of ingress and egress to and use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. such rights shall extend to members of the Unit Owner's immediate family, guests and other authorized occupants or visitors of the Unit Owner. The right of a Unit Owner to use the Common Elements shall be subject to and governed by the provisions of the Maine Condominium Act, this Declaration, and the Bylaws and Rules and Regulations of the Association as hereinafter described. Such rights shall extend to members of the Unit Owner's immediate family, guests and other authorized occupants and visitors of the Unit Owner.

(b) **Limited Common Elements:** Limited Common Elements are designated portions of the Common Elements which are reserved for the exclusive use of a particular Unit or Units, to the exclusion of other Units. Statutory Limited Common Elements are designated in the Maine Condominium Act, Section 1602-102(2) as follows:

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

Any shutters, awnings, window boxes, doorsteps, stoops and all other exterior doors and windows attached to a Unit are part of that Unit and not part of the Limited Common Elements. All other Limited Common Elements shall be as shown on the Plat and Plans.

(c) **Alteration of Common Elements by Declarant.** The Declarant reserves the right to modify, alter, remove or improve portions of the Common Elements, including, without limitation, any equipment, fixtures and appurtenances thereto, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the Declarant Control Period.

### **Section 3.2. Assessments for Common Expenses.**

(a) An assessment necessary to fund the obligations of the Association, including, but not limited to, maintenance, repair and operation of the Common Elements and establishment of a reasonable reserve for replacement of the Common Elements shall be determined annually and collected from each Unit Owner. The Declarant, acting for and on behalf of the Association, shall make the initial assessment. Assessments shall be made by the Association on or before the anniversary date of the initial assessment, based on a budget adopted by the Association no earlier than sixty (60) days prior to the assessment. The Board of Directors shall annually adopt a proposed budget, and, within thirty (30) days of adoption shall provide a summary of the budget to all Unit Owners. The Board of Directors shall also set a meeting of the Association to consider ratification of the budget no less than fourteen (14) days before or more than thirty (30) days after each summary is provided to Unit Owners. With respect to any Unit(s) owned by the Declarant, the Declarant shall pay a monthly assessment determined in the same manner as the monthly assessment is determined for all other Unit Owners.

(b) Except for assessments under subsection (c) below, Common Expenses shall be assessed against all the Units in accordance with the allocations set forth on Exhibit "B" attached hereto and pursuant to Section 1602-107 of the Condominium Act. No Unit Owner may exempt himself or herself from liability for its contribution toward Common Expenses by giving up the use or enjoyment of any of the Common Elements or by abandoning his or her Unit. Any past due Common Expense assessment, or installment thereof, shall bear interest at the rate established by the Association not to exceed eighteen percent (18%) per year.

(c) The following shall also apply to assessments:

(1) Any expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Unit or Units to which that Limited Common Element is assigned or allocated and where allocated to more than one Unit, each of said Units shall be assessed a share of the expense equal to the Unit's proportionate share of the sum of Common Element interests of all Units to which the Limited Common Element is allocated;

(2) Any payment of fees or charges for the use, rental or operation of any Common Element shall be applied first to reduce the Common Expense Liability relating to such Common Element. Any excess funds remaining thereafter shall then be applied to Common Expenses generally;

(3) Assessments to pay a judgment against the Association (Section 1603-117, subsection (a) of the Condominium Act) shall be made only against the Units in the Condominium that were in existence at the time the judgment was entered, at a rate in proportion to the Unit's Common Expense Liability;

(4) If any Common Expense is caused by the misconduct of a Unit Owner, or any guest of a Unit Owner, the Association may assess that expense exclusively against such Unit Owner and their Unit; and

(5) If Common Expense Liabilities are reallocated, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liabilities.

(d) The Association shall have a lien on any Unit for any unpaid assessment or other charges against that Unit or fines imposed against its Unit Owner from the time the charge or fine becomes due, and shall have all rights as provided in Section 1603-116 of the Condominium Act.

#### **Article 4 - Easements**

In addition to the easements created by Sections 1602-114 and 1602-116 of the Condominium Act and the rights reserved in Article 6 of this Declaration, the following easements are hereby granted:

##### **Section 4.1. Easements for Access and Support.**

(a) The Declarant reserves, in favor of the Association and/or any other person authorized by the Board of Directors, the right to access any Unit as provided in Section 1603-107(a) of the Condominium Act and any applicable provision of the Bylaws. In case of emergency, such entry shall be immediate whether or not the Unit Owner is present at the time.

(b) Each Unit or Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element.

(c) The Association shall have an easement for access through any and all Limited Common Elements for the purpose of accessing the Common Elements and for the purpose of fulfilling its duties under the Condominium Instruments.

(d) Each Unit or Common Element shall be subject to an easement in favor of the Association for the repair, replacement, installation and maintenance of any pipes, electrical wiring and other conduits for utilities which may be located therein serving any one or more of the other Units or any one or more of the Common Elements.

**Section 4.2. Right to Grant Easements and to Relocate Existing Easements within the Common Elements of the Property.** The Declarant shall have the right, prior to the expiration of the Declarant Control Period, to grant and reserve easements and rights-of-way through, under, over and across the Property, (a) for construction purposes, and (b) for the installation, maintenance and inspection of the lines and appurtenances for public and private water, sewer, drainage, gas, electricity, telephone, television, and other utilities. Declarant also reserves the right to relocate existing easements and rights of way encumbering the Common Elements of the Property. After the expiration of the Declarant Control Period, the Association shall have the right to grant easements for the purposes stated in (b) above and to relocate existing easements and rights of way encumbering the Property within the Common Elements, but such right shall not be exercised so as to disrupt a Unit, and the Association will be responsible for any damages that occur to the Common Elements or to any Unit as a result of the exercise of this right.

**Section 4.3. Location of Existing Easements.** Easements and obligations benefitting the Condominium and easements and obligations burdening the Condominium are as shown on the Plat and Plans.

### **Article 5 - Declarant's Right to Convey Units**

The Declarant shall own in fee simple each Condominium Unit to which legal title has not been conveyed or otherwise transferred to another person or entity. The Declarant retains the right to convey any of the Units owned by the Declarant.

### **Article 6 - Special Declarant Rights; Declarant Control Period.**

**Section 6.1. Special Declarant Rights.** Special Declarant Rights are those rights reserved for the benefit of the Declarant as provided for in the Condominium Act and the Condominium Instruments and shall include, without limitation, the right to approve or disapprove any acts of the Board of Directors of the Association during the Declarant Control Period.

#### **Section 6.2 Board of Directors; Declarant Control Period.**

(a) Subject to the provisions of the Condominium Act, this Declaration and the Bylaws, the Board of Directors shall have the power to act on behalf of the Association. The initial Board of Directors shall consist of three (3) members. The members of the initial Board of Directors shall be appointed, removed and replaced from time to time by the Declarant. During the Declarant Control Period the Declarant shall have the right to allow or prohibit any acts of the Association or the Board of Directors; including but not limited to any proposed amendment to this Declaration, the Bylaws or the Rules and Regulations.

(b) The Declarant Control Period may be extended by the Declarant but in no event shall it extend beyond the earlier of (i) sixty (60) days after the conveyance of seventy-five percent (75%) of the maximum number of Units that may be created under this Declaration, other than a conveyance to a successor Declarant or (ii) seven (7) years following conveyance of the first Unit to a Purchaser. Upon expiration of the Declarant Control Period, the Unit Owners shall elect a Board of Directors of no fewer than three (3) members and no more than five (5) members. The Directors shall serve until the first regular election of the Board of Directors is held at the first regular meeting of the Association. In accordance with the Bylaws, one or two Directors shall be elected to serve a one (1) year term; one Director shall serve a two (2) year term and one or two Directors shall serve a three (3) year term. Thereafter, the terms of a Director shall be for three (3) years.

### **Article 7 - No Obligations**

Nothing contained in the Condominium Instruments shall be deemed to impose upon the Declarant or its successors and assigns, any obligation of any nature to build, construct or provide any improvements except to the extent required by the Condominium Act.

### **Article 8 - Amendment to Condominium Instruments: Required Consent**

**Section 8.1. Amendment Process.** The provisions of this Declaration may be amended from time to time upon approval of such amendment or amendments by the Association pursuant to a resolution, or written consent, approving such amendment or amendments given by Unit Owners to which not less than sixty percent (60%) in the aggregate of the votes in the Association are allocated and the approval of eligible lien holders representing not less than Fifty-One Percent (51%) of the votes of the Association; provided, however, that if the Condominium Act or this Declaration requires the consent or agreement of a greater percentage of the Unit Owners or lien holders, then such amendment shall require the greater percentages as provided in the Condominium Act or in this Declaration.

**Section 8.2. Certificate of Amendment.** A copy of each amendment to this Declaration shall be certified by at least two officers of the Association as having been duly adopted, and shall be effective when recorded in the Cumberland County Registry of Deeds (the "Certificate"). Copies of the Certificate shall be mailed to each Unit Owner and its mortgagee, if known to the Board of Directors, but failure to send such notices shall not affect the validity of the amendment.

**Section 8.3. Further Provisions.** No amendment shall be made to any Condominium Instrument during the Declarant Control Period without the prior written consent of the Declarant. No amendment to the Condominium Instruments shall diminish or impair the rights of the Declarant under the Condominium Instruments without the prior written consent of the Declarant. No amendment may modify this Article or the rights of any person hereunder. Except as specifically provided in the Condominium Instruments, no provision of the Condominium Instruments shall be construed to grant to any Unit Owner, or to any other person, any priority over any rights of mortgagees.



### **Article 9 - Rights of Secured Lenders**

Secured Lenders and eligible Mortgage Holders shall have all of the rights of Secured Lenders as set forth in 33 M.R.S.A. Section 1602-119, as amended, and shall have the following rights to act for and on behalf of the Unit Owner or Owners whose Unit secures a debtor obligation of the Secured Lender:

1. To establish the annual budget of the Association;
2. To increase or reduce the annual budget adopted by the Association;
3. To send bills with respect to assessments to Unit Owners in accordance with the terms of the Declaration and Bylaws, and to enforce collection of assessments in accordance with the Declaration and Bylaws; and
4. To pay budgeted expenses and extraordinary expenses required to protect the operations and property of the Association and the Units.

Secured Lenders may elect to assign all (but not less than all) of the rights herein to a designee who is the qualified holder of rights under the Declaration of Affordable Housing Covenants with respect to the Property recorded contemporaneously herewith. Secured Lenders shall provide written notice to the Association of any assignment of their respective rights hereunder to a qualified holder. Secured Lenders or the qualified holder, as applicable, shall exercise any of the rights afforded hereunder by written notice to the Association within ten (10) days of receipt of notice of action by the Board of Directors or Association with respect to matters as to which Secured Lenders have rights under this Article 9.

### **Article 10 - Miscellaneous**

If the provisions of this Declaration, the Bylaws or the Rules and Regulations conflict with any applicable law, including, but not limited to, the Condominium Act, then the law shall be deemed controlling; but the validity of the remainder of this Declaration, the Bylaws and Rules and Regulations shall not be affected thereby.

The rights and obligations established by this Declaration and the Bylaws shall be deemed to be covenants running with the land, so long as the Property remains subject to the provisions of the Condominium Act and shall inure to the benefit of and be binding upon each Unit Owner and their respective heirs, representatives, successors, assigns, purchasers, lessees, grantees and mortgagees. By the recording of, or by the acceptance of a Deed conveying a Unit or any interest therein, the Grantee, his or her heirs, successors or assigns shall be deemed to accept and agree to be bound by

and subject to all of the provisions of the Maine Condominium Act, this Declaration, and the Bylaws. Acceptance of such Deed shall also constitute waiver of minor discrepancies in the Plat and Plan.

Any dispute or disagreement between Unit Owners with respect to interpretation or application of this Declaration, the Bylaws or Rules and Regulations shall be determined by the Board of Directors, whose determination shall be final and binding on all parties.

If any term, covenant, provision, phrase or other element of this Declaration, the Bylaws, any deed to a Unit, or the Rules and Regulations is held to be invalid or unenforceable for any reason whatsoever, such holdings shall not affect, alter, modify or impair in any manner, any other term, covenant or provision, phrase or other element of such documents.

The Board of Directors may prescribe by resolution a form of lease or specific provisions to be included in any lease of a Unit, and thereafter no Unit Owner shall execute a lease of their own Unit not in compliance with such resolution.

Any Unit Owner in default in the payment of any amount due the Association or in violation of any provision of the Condominium Act, this Declaration, the Bylaws, or the Rules and Regulations of the Association, which violation continues for Thirty (30) days after notice thereof by the Association to the Unit Owner may be prohibited by the Board of Directors from the use and enjoyment of any and all of the Common Elements not essential to the access of the Unit, in addition to all other remedies available to the Board of Directors.

If in any dispute between one or more Unit Owners and the Declarant regarding the Common Elements, the Board of Directors shall act for the Unit Owners, and any agreement with respect thereto by the Board of Directors shall be conclusive and binding upon the Unit Owners.

**[Signature Page Attached]**

**In Witness Whereof**, the Declarant has caused this Declaration to be executed by Todd J. Hayman, its Authorized Member hereunto duly authorized this \_\_\_\_ day of \_\_\_\_\_, 2019.

**JTSH, LLC**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: Todd J. Hayman, its Authorized Member

State of Maine  
Cumberland, ss.

\_\_\_\_\_, 2018

Personally appeared before me the above-named Todd J. Hayman, Authorized Member of JTSH, LLC and acknowledged the foregoing Declaration to be his free act and deed in his said capacity, and the free act and deed of said Limited Liability Company.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

Print name: \_\_\_\_\_

## **Exhibit "A"**

### **Property Description**

A certain lot or parcel of land together with the improvements thereon, situated in the Town of Windham, County of Cumberland and State of Maine, bounded and described as follows:

[INSERT LEGAL<sub>[NC6]</sub>]

**Exhibit "B"**

**Schedule of Unit Owner Interests**

<b><u>Unit</u></b>	<b><u>Percentage Interest of Each Owner in Common Elements</u></b>
--------------------	--

[CONFIRM NUMBER OF UNITS<sub>[NC7]</sub>]