

Town of Livermore Subdivision Ordinance
Proposed Amendments
[Adopted June 16, 2011]

[Note: Underlined material (like this) shall be added to the existing ordinance;
strikethrough material (like this) shall be removed.]

Amendment # 1-Open Space Subdivisions

Add a new Section 202 as follows:

Section 202. Open Space Subdivisions

202.1. Policy

It is the policy of the Town of Livermore to encourage the use of open space subdivisions in order to preserve a sense of space, provide for agriculture and forestry as well as recreational land, preserve other resources identified in the Town of Livermore Comprehensive Plan, and harmonize new development with the traditional open, wooded, agricultural and village landscapes of the Town.

This performance standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout and design, placement of residential structures and road frontage requirements and by allowing the Planning Board to expedite procedure and to waive or reduce certain otherwise applicable standards and provisions of this ordinance and the Town of Livermore Building Ordinance if such landowners commit to the permanent preservation of important open space resources. It shall not be construed as granting variances to relieve hardship when the Planning Board grants waivers provided for in this section. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design that will promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

202.2. Purposes

An open space subdivision achieves the purposes of this performance standard by reducing the lot size, frontage and setback requirements as contained in Building Ordinance, modifying the road design and clustering housing and uses in those areas where they have the least impact on identified environmental, agricultural and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions or conservation easements that run with the land. The cluster principle can be applied to subdivisions of any size.

To qualify as an open space subdivision, a subdivision must achieve those of the following purposes that the Planning Board determines to be applicable to its specific circumstances:

- a. Long-term protection and preservation of existing natural and other resources and landscapes identified in the Town of Livermore Comprehensive Plan and this Ordinance, including, but not limited to:

- (1) State-defined critical areas and unique features and areas identified in the Comprehensive Plan;
 - (2) Historic land use patterns and historic structures;
 - (3) Points of visual access to or from water bodies, scenic vistas as identified in the Comprehensive Plan and points of access to water bodies;
 - (4) Agricultural land.
- b. Maintenance or establishment of compatibility with surrounding land uses and the overall character of the Town as defined by the Comprehensive Plan;
 - c. Provision of adequate buffers for adjoining properties where needed;
 - d. Contribution to town wide open space planning by creating a system of permanently preserved open spaces both within large parcels of land and among such parcels throughout the Town and by encouraging linkages between open space areas;
 - e. Preservation of land suitable for production agriculture and forestry uses particularly where the open space subdivision borders active agricultural or forestry land or land suitable for the same;
 - f. Preservation of traditional land uses;
 - g. Construction of affordable housing;
 - h. Provision of recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard; and
 - i. Attainment of planned variety and coordination in the location of structures, architectural styles and building forms and relationships.

202.3. Grouping Contiguous Parcels

In order to increase design flexibility, two or more contiguous parcels of land under the same or different ownership, including parcels separated by a public or private road, may be grouped together as one open space subdivision, if the Planning Board finds that such grouping and will help to achieve the purposes set forth in Section 202.2.a-i.

202.4. Planning Board Review

The Planning Board shall review the application in accordance with Title 30-A M.R.S.A. Section 4404 and this Ordinance as modified by the provisions of this section.

- a. Pre-application Procedure

- (1) Any applicant for an open space subdivision is encouraged but not required to submit a pre-application that includes a complete build-out plan for the entire parcel.
- (2) After review of the pre-application, if the Planning Board determines that the proposed open space subdivision meets the purposes set forth in Section that are applicable to the proposed subdivision as well as other applicable provisions of this section, this Ordinance, the Subdivision Ordinance and the Comprehensive Plan, the Board shall encourage or permit, as appropriate, the applicant to proceed with an application for an open space subdivision.
- 3) If a complete build-out plan for the parcel has been submitted, the Planning Board shall encourage, if appropriate, consideration of long-range planning to make the most effective use of the design standards and timing mechanisms available to accomplish the purposes set forth in Section 202.2.a-i and to maximize the economic benefits to the applicant and the Town over time.

b. Application Procedure

- (1) Required Plans: The submissions for an open space subdivision shall include all plans and materials required under this Ordinance.

c. General Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Ordinance and the Town of Livermore Building Ordinance.

(1) Allowable Density

The overall density of the subdivision shall not exceed the density requirements of the zone in which it is located. In calculating overall density the land area contained in road rights-of-ways that are proposed for public acceptance shall be deducted prior to determining density. In the case where the road rights-of-ways will be less than 40 feet in width and to remain as privately owned, that land area may be counted in determining density.

- (2) A lot for a dwelling unit created as part of an open space subdivision shall not be further subdivided, except that a lot for a dwelling unit created as part of an open space subdivision where such lot shall have within its bounds designated open space may not be further subdivided if the original approved plan shall have reserved future development of such lot, but any such further subdivision shall only be made in accordance with this performance standard.

202.5 Layout and Siting Standards

In planning the location and siting of residential structures in an open space subdivision, priority should be given to the preservation of the open space for its natural resource value with human habitation activity located and sited on the lower valued natural resource portion of a parcel taking into account the contours of the land and the reasonableness of slopes.

The building lots and/or residential structures shall be laid out and be sited according to the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

- a. In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where agricultural, forestry, or recreational, existing or future uses, are particularly sought to be preserved;
- b. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, to provide shade in the summer, and shelter as well as solar gain in the winter, and to enable new residential development to be visually absorbed by natural landscape features;
- c. In such manner that the boundaries between residential lots and/or structures and active agricultural or forestry land are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural or forestry uses;
- d. In locations where buildings may be oriented with respect to identified scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development, scenic vistas may be addressed by creating at least one scenic window per development with at least one turnout suitable for public use;
- e. In locations that provide compatibility in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development;
- f. In locations such that diversity and originality in lot layout and individual building, street, parking layout is encouraged; and
- g. So that individual lots, buildings, street and parking areas shall be designed and situated to minimize alterations of the natural site, to avoid the adverse effects of shadows, noise and traffic on the residents of the site, to conserve energy and natural resources, and to relate to surrounding properties, so as to improve the view from and of buildings.

202.6 Space Standards

- a. Shore frontage, shore setback and shoreland density requirements shall not be reduced below the minimum required by the Shoreland Zoning Ordinance.
- b. Distances between residential structures shall be a minimum of the height of the tallest adjacent structure.

- c. When individual lots will be laid out, the required minimum lot size or minimum land area per dwelling unit for the building envelope may be reduced to 20,000 sq.ft. provided subsurface sewage disposal complies with the State of Maine Subsurface Wastewater Disposal Rules. The building envelope shall contain a minimum of 20,000 sq.ft. of land area which does not include 100 year floodplains, areas of two or more acres of sustained slopes greater than 20 percent or wetlands as defined by the Natural Resource Protection Act.
- d. Minimum road frontage requirements may be waived or modified by the Planning Board provided that:
1. Any applicable provisions regarding roads in Section 202.8. below are satisfied; and
 2. Adequate access and turnaround to and from all parcels and/or structures by fire trucks, ambulances, police cars and other emergency vehicles can be ensured by private roads and/or common driveways; and
 3. No common driveway shall provide access to more than four (4) lots or dwelling units, except as provided in Section 202.8. below.
- e. A reduction of required setback distances may be allowed at the discretion of the Planning Board, based upon the public benefits to be achieved from the design provided that the front and rear setbacks shall be no less than 20 feet. Overall development setback shall not be reduced below the minimum front, side and rear setbacks required in the Zone unless the Planning Board determines a more effective design of the project can better accomplish the purposes of this performance standard.
- f. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

202.7 Utilities

At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots, residential structures and open space, utilities including individual wells and septic systems may be located on designated portions of the open space, if necessary, provided they shall not unreasonably interfere with the open space purposes or uses to be achieved under this section and for the particular parcel(s) that is the subject to the application for Open Space Subdivision.

- a. All structures requiring plumbing in the development shall be connected to individual septic systems or a private central collection and treatment system in accordance with the minimum standards set forth in the State of Maine Subsurface Wastewater Disposal Rules. Proposed systems shall in no way endanger ground water supplies which are currently being utilized as a water source for any existing development or which are to be utilized as a common or individual water supply for the proposed development.

- b. If a private central collection system is proposed, the applicant must show either that at least one designated site for each lot, in the open space or on the lot, has adequate soils and land area suitable for subsurface waste disposal for each lot in accordance with the minimum standards set forth in the State of Maine Subsurface Wastewater Disposal Rules, or that a second site on the parcel has the size, location and soil characteristics, to accommodate a system similar to the one originally proposed. In the case of the use of chambers, there shall be designed an excess capacity of thirty (30) percent.
- c. If a private central collection system is proposed, the system shall be maintained by an homeowners' association or under an agreement of the lot or unit owners in the same fashion required for maintenance of the open space by a homeowners' association or the lot or unit owners in common and written evidence of said maintenance agreement shall be submitted to the Planning Board. The Planning Board may require the developer and homeowners association to retain a qualified third party to inspect and approve the system from time to time and furnish a copy of his report to the Code Enforcement Officer.

202.8 Roads

The Planning Board shall require private roads and common driveways to comply with the design standards set forth in this Ordinance except as provided in Subsection 202.8.d. below.

- a. The applicant shall submit to the Planning Board as part of the application for approval a professional engineers drawing showing the location and drainage characteristics, dimensions and grade of roads and common driveways as well as specifications setting forth their proposed composition.
- b. The subdivision plan shall show the road clearly labeled "private road."
- c. Whenever possible and as far as practicable, the roads and common driveways shall:
- 1) follow natural contours in an effort to limit phosphorous export;
 - 2) be limited in width, curvilinear in design, and keeping within the rural character of the Town;
 - 3) shall turn away from the front access to public roads, and shall use sufficiently dimensioned culverts to accommodate predevelopment and post-development drainage and flows, where necessary.
- d. Travelways and shoulders of roads and common driveways within open space subdivisions shall meet the following minimums:
- 1) Common driveways serving 3 or fewer dwelling units: 12 foot travel way.
 - 2) Roads serving 4 units: 16-foot travel way and 3-foot shoulders.
 - 3) Roads serving 5 to 10 units: service 16-foot paved travel way and 3-foot shoulders.
 - 4) Roads serving 11 to 50 units: 20 foot paved travel way and 3 foot shoulders.

202.9 Open Space Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Ordinance.

Open space set aside in an open space subdivision shall be permanently preserved as required by this section except where open space is dedicated by a landowner under contract with the Town for a term of years as set forth below. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted provided that a conservation easement or a declaration of covenants and restrictions is placed on such land pursuant to Section 202.9.c. below and provided that the Planning Board approves such configuration of the open space.

- a. Open Space. At least fifty percent (50%) of the gross acreage shall remain as open space outside of building envelopes, assigned to individual dwelling units and/or road rights-of-ways that are proposed for public acceptance. In the case where road rights-of-ways will be less than 40 feet in width and to remain as privately owned, the land area on which roads are located may be considered as open space. In the case where road rights-of-ways will be less than 40 feet in width and to remain as privately owned, the land area on which roads are located may be considered as open space.
- b. Open Space Uses. On all parcels, open space uses shall be appropriate to the site. Open space should include natural features located on the parcel(s) such as, but not limited to, stream beds, individual trees of significant size, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:
 - (1) On parcels that contain significant portions of land suited to agriculture, open space shall be preserved for agriculture or other compatible open space uses such as forestry, recreation (active or passive) and resource conservation.
 - (2) When the principal purpose of preserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.
 - (3) Open space areas shall be contiguous, where possible, to allow linking of open space areas throughout the Town.
 - (4) The use of any open space may be limited by the Planning Board at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.

5) Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground utilities, shall be prohibited and shall be so stated by deed restrictions except as provided in Section 202.9.c. below. Structures and buildings accessory to recreation or conservation uses may be erected on open space, subject to Planning Board approval under the Site Plan Ordinance and this section.

c. Notations on Plan. Open space areas must be clearly labeled on the Final Plan. The Final Plan shall include information or provide reference to a legal document which defines open space uses, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The open space land shall be permanently reserved for open space purposes and is subject to reservations for future development, including those provisions allowed under subsection d. below. Reference or notations shall also be provided for any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

d. Preservation in Perpetuity. An owner of a parcel of land may designate all or a portion of the parcel for open space use in perpetuity if the purposes set forth in subparagraph 202.2.a-i. are achieved and all other requirements of this performance standard are met subject to the following conditions:

(1) A perpetual conservation easement, or declaration of covenants and restrictions, restricting development of the open space land must be incorporated in the open space plan.

(2) The conservation easement may be granted to or the declarations may be for the benefit of a private party, third party or other entity, the Town, with the approval of the Board of Selectmen, and acceptance at Town Meeting or to a qualified not-for-profit conservation organization acceptable to the Planning Board.

(3) Such conservation easement or declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plan approval hereunder.

(4) The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the Town of Livermore if the Town is not the holder of the conservation easement or beneficiary of the declarations.

(5) The conservation easement or declarations shall prohibit residential, industrial, or commercial use of such open space land (except in connection with agriculture, forestry and recreation) and shall not be amendable to permit such use.

(6) The conservation easement or declaration shall be recorded in the Androscoggin County Registry of Deeds prior to or simultaneously with the filing of the Open Space Subdivision final plan in the

Androscoggin County Registry of Deeds.

- (7) Notwithstanding the foregoing, the conservation easement, or the declaration of covenants and restrictions, may allow dwellings to be constructed on portions of parcels that include protected open space land, provided that:
- (a) The total number of dwellings permitted by the conservation easement, or declaration of covenants and restrictions, in the entire subdivision does not exceed the allowable density established in this performance standard above;
 - (b) The Planning Board grants approval for such lots; and
 - (c) The applicant has reserved the rights to apply for approval for such additional lots.
- (8) Ownership of Open Space Land. Open space land may be held in private ownership (which is to be preferred) including an appropriate third party not the applicant; or owned in common by a Homeowners' Association (HOA); dedicated to the Town, County or State governments or agencies; transferred to a non-profit organization such as a conservation trust, or association, acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in Section 202.2.a-i and under the other requirements of this Ordinance. The Planning Board shall, in its review, consider provisions for the ongoing maintenance and associated costs for such maintenance of the open space.

The appropriate form of ownership shall be determined based upon the purpose of the open space reservation as stated pursuant to Section 202.9.a. above. Unless so determined, or unless deeded to the Town of Livermore and accepted by the citizens of the Town at Town Meeting, common open space shall be owned in common by the owners of the lots or units in the development. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

- (9) Flexible Open Space and Substitution; Phasing. An applicant for an open space subdivision may at a future time designate other land to serve as the open space for such subdivision if the Planning Board finds that the purposes set forth in Section 202.2.a-i will better be served by promoting a more innovative design and layout of lots created over time in relation to the area(s) designated as open space if all other requirements under this performance standard may be met. Development that is phased over time, including a schedule over time for either sale of lots or layout of further lots as part of the open space subdivision plan, is encouraged so that more appropriate design of land use and preservation of greater open space may be achieved.

(10) Maintenance Standards

- (a) Ongoing maintenance standards, where appropriate, shall be established, enforceable by the Town against the owner(s) of common land, including open space land, roads and other facilities as a condition of subdivision approval. Such maintenance standards may include such conditions, obligations, or costs to maintain their use, facilities and/or scenic character.
- (b) The owner(s) of common land or facilities including open space lands shall have the responsibility of operation and maintenance of the respective neighborhood recreational facilities within such common land(s), unless such lands or facilities or portions thereof are deeded or transferred to the Town of Livermore and accepted by the citizens of the Town at Town Meeting, or unless an approved conservation easement or declaration of covenants and restrictions is established which assigns maintenance responsibilities to another party.
- (c) If a HOA or an agreement of owners of the lots or units is to be used, until 51% of all lots and/or units have been sold, and a homeowners association has been formally organized, the applicant for such development shall be responsible for a maintenance of the common lands and facilities.

202.10 Notations on Plan

Common lands, roads or facilities, including open space lands, must be clearly labeled or referenced on the Final Plan. The Final Plan shall include information or provide reference to a legal document which defines use, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof, and shall contain a reference or notation indicating any conservation easements, deed restrictions, or other documents regarding those provisions required to be recorded to implement such reservations, restrictions or provisions.

202.11 Common Ownerships

a. Homeowners' Associations or Agreements

- (1) Where any portion of a subdivision is proposed or required to be held in common by owners of lots, or owned in common by a Homeowners' Association (HOA) or similar entity, covenants for mandatory membership in the association setting forth the owners' rights, interest, privileges, responsibilities for maintenance, and obligations in the association and the common land, road or open space shall be approved by the Planning Board and included in the deed for each lot.
- (2) In such event, the ownership in the HOA or similar entity, or under the agreement of common ownership by all, the lot or unit owners

shall be established or contain provisions covering the following:

- (a) The HOA or common agreement must be in legal existence before the lots or units are sold;
- (b) Each lot owner or unit owner shall be a member of the HOA or subject to the agreement and shall be required by recorded covenants and restrictions to pay fees to the HOA, or his pro rate share for taxes, insurance and maintenance of common areas or open space, private roads and other common facilities;
- (c) Property owners must pay their pro rate share of the costs in (b) above, and the assessment levied by the HOA, and from time to time adjusted to meet changed needs. The amounts due from each lot owner or unit owner shall, if not paid when due, constitute a lien on the property; and
- (d) The attorney for the Planning Board shall find that the HOA documents or common lot owners' agreement presented satisfy conditions (a) through (c) above and such other conditions as the Planning Board shall deem necessary.

Add a new Section 500, Definitions, as follows:

Open Space Subdivision: A subdivision in which the dimensional requirements are reduced below those normally required in return for permanently preserved open space.

TOWN OF LIVERMORE
SUBDIVISION ORDINANCE

ARTICLE 1- SUBDIVISION AND SUBDIVISION STREETS

Section 101. Subdivision Defined

SUBDIVISION. "Subdivision means the division of a tract or parcel of land into 3 or more lots within any 5 year period, which period begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, section 1102 for a period of at least 5 years prior to the 2nd dividing occurs; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract of parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres shall not be counted as a lot, except:

(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

D. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph by a gift to a person related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. Nothing in this subchapter may be construed to prevent a municipality from enacting an ordinance under its home rule authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

Section 102. Approval of Subdivision Plans Required

102.1. A Final Subdivision Plan within the Livermore municipal boundaries shall be approved by the Livermore Planning Board, in accordance with all of the requirements, design standards and construction specification set forth in this Ordinance, and such approval shall be entered on the Final Subdivision Plan by the Planning Board.

No plan for a subdivision shall be filed or recorded in the Androscoggin Registry of Deeds without Planning Board final approval entry on the plan.

102.2. A Preliminary Subdivision Plan shall be prepared and submitted by the subdivider to the Planning Board for study and modification if necessary. No Final Subdivision Plan shall be prepared until the subdivider has received from the Planning Board written notice of a majority vote of the Board approving a Preliminary Subdivision Plan.

102.3. Planning Board approval of a Preliminary Subdivision Plan and accompanying documents shall expire one year from the date of the Planning Board vote for approval of such plan. The Final Subdivision Plan must be prepared, submitted, reviewed, approved, attested and recorded in the Androscoggin Registry of Deeds by the subdivider within one year from the date of the Planning Board Approval of the Preliminary Subdivision Plan.

102.4. If within the one year duration of approval of a Preliminary Subdivision Plan, the Final Plan of such

subdivision has not been prepared, reviewed, approved, attested and recorded; the subdivider, before proceeding further, shall apply anew for approval of a Preliminary Subdivision Plan in accordance with the then applicable subdivision plan requirements, and the subdivider shall await Planning Board approval of such Preliminary Subdivision Plan before preparing a Final Subdivision Plan in accordance with the then applicable requirements.

102.5. No utility installations, no ditching, grading or construction of roads; no grading or improving of land or lots, and no construction of buildings shall be done on any part of the land or lots within a subdivision until a Final Subdivision Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, attested and recorded as provided in this Ordinance.

102.6. The Planning Board may waive or alter all or any part of the provisions of Sections 103.3(i), 104.2 and/or 105.5 of this Ordinance in connection with subdivisions of seasonal residential property with water frontage on a great point provided that the required roads shall be plainly marked "Private Way" and shall not be offered to the Town for acceptance as public ways until there has been full compliance with the complete Subdivision Ordinance.

Section 103. Preliminary Subdivision Plans

103.1. In order for any Preliminary Subdivision Plan and information to be considered by the Planning Board at a regular monthly meeting, such Plan and information must be hand delivered to the Planning Board not less than ten (10) days prior to such Planning Board meeting.

103.2. The Preliminary Subdivision Plan may be drawn either in black India ink or with pencil on some transparent medium yielding readily readable dark line prints, on sheets not larger than 20" x 30" each. Where a proposed subdivision covers more than one sheet, there shall also be drawn an index diagram of sheets. Preliminary plans shall be drawn to a scale of not more than 100 feet to the inch, except that index plan, plans of land of the same owner adjoining the subdivision area, and diagrams showing the location of nearest available public sanitary sewers or water mains, may be drawn to a scale of not more than 500 feet to the inch.

103.3. The Preliminary Plan shall contain the following information:

- a. Name or title of the subdivision proposed; and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- b. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each corner lot. Also, the boundaries of any adjoining lots of the same subdivider shall be designated.
- c. The name and address of the subdivider. The date the plan was prepared and the name and address of the person preparing the plan. The seal of the Registered Land Surveyor shall be affixed to the plan and the land surveyor's business address shall be included. The Registered Land Surveyor shall also state on the Plan that the survey is in compliance with the requirements of the State Board of Registration for Land Surveyors, Title 32, Chapter 24 and all revisions to date and state the category and condition of the standard boundary survey.
- d. The name and address of all owners of record of lots within the area proposed to be subdivided. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property. A copy of any deed restriction intended to cover all or any part of the lots in the subdivision.
- e. The names and addresses of the owners of all abutting lands, as they appear in the most recent tax records.
- f. The location, name, width, approximate profile, and approximate radius of curvation of the center lines of proposed and existing streets, alleys, highways, ways and easements in, on, serving or adjoining the parcel proposed to be subdivided; also the location, profile, cross-section and kind of storm

No longer part of right requirements

drainage works existing and proposed for each subdivision.

- g. The location of all existing natural and man-made features within or adjacent to and significantly affecting the layout of the area proposed to be subdivided, such as water bodies, streams and swamps, wooded areas, major highways, ditches, utility easements, buildings, etc.
- h. Indication of the type of sewage disposal to be used in the subdivision. 1) When the sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district stating the district has the capacity to collect and treat the wastewater shall be provided. 2) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator, shall be provided. A map showing the location of all test pits dug on the site shall be submitted. Documentation demonstrating that the disposal system can be constructed in compliance with state law and regulation shall be provided.
- i. Indication of the type of water supply system to be used in this subdivision: 1) When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. 2) Where the district(s) supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, shall be submitted.
- j. A copy of the portion of the county soil survey covering the subdivision.
- k. The approximate lines and dimensions of lots and approximate radii of curved property lines.
- l. In each subdivision proposed to cover more than two acres, the subdivider shall furnish a topographic map of all parts of such subdivision where the slope of existing grounds surface is 5% or more, or where it is less than 1%. Such topographic map shall

show the contours at intervals of ten feet elevation or at such lesser intervals as the Planning Board may prescribe.

- m. The proposed names of proposed streets shall be shown in pencil until such names shall have been approved by the Planning Board. The subdivider may consult the index of names of existing streets on file with the Planning Board. No duplicate name or closely similar name to an existing street name shall be permitted.
- n. Preliminary profiles and cross-sections of streets and storm drains proposed shall be drawn at scales suitably related to the preliminary plans required.
- o. Each sheet, drawing in print of a preliminary plan submission shall be plainly marked PRELIMINARY in letters not less than one-half inch high, prominently placed in the top right-hand portion of each data sheet or letter sheet, and on each drawing not farther than two inches away from the topical title of each drawing.

103.4. Three prints (preferably dark line on white ground) of any such Preliminary Plan, showing or accompanied by all the information above required, shall be submitted to the Town Planning Board as provided in sub-section 103.1, together with three copies of a letter signed by the record owner of the land proposed to be subdivided, assenting to such subdivision.

103.5. Written notice of the date of submission of such preliminary plan and preliminary information shall be given by the subdivider by delivering or sending by certified mail to the Selectmen from the subdivider which lists the plans and information transmitted to the Board.

Section 104 Town Planning Board Approval

104.1 Preliminary Subdivision Plan submissions containing all the information required and submitted in a timely manner shall be initially considered by the Town Planning Board during the next available opening on the agenda at a regularly scheduled Board meeting, following receipt of such preliminary plan. Information deficiencies in any preliminary plan submission must be completed before such plan can be considered by the

Planning Board. Notification of any deficiencies in the application must be made by the Planning Board within 30 days after the application is submitted.

104.2. Preliminary Subdivision Plan Review

- a. Preliminary plans submitted will be reviewed by the Planning Board in relation to the Comprehensive Plan of Livermore, good land development practice, and sound engineering, as well as conformance with other requirements of this Ordinance and in accordance with the State Guidelines for Subdivision review (Title 30, M.R.S.A., Section 4956 #3).
- b. After so reviewing and examining a preliminary plan and accompanying preliminary information, the Planning Board may invite the subdivider to make changes in the plan.
- c. The Planning Board may require the subdivider to undertake, at his expense, any studies it deems necessary or desirable to protect and assure the health, safety, and welfare of the inhabitants of Livermore, including the future economics of each subdivision, whether residential, commercial or industrial.
- d. The Planning Board may decide to conduct a public hearing. Such hearing may be held within 30 days of the receipt of one completed application. The Board shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

104.3. Approval and Notification

- a. After such Planning Board review and examination, including any other studies, and after any changes by the subdivider, the Planning Board by a majority vote shall approve with conditions or disapprove such preliminary map and preliminary information. The Board shall specify in writing its findings and reasons for any conditions, as deemed necessary.
- b. The Planning Board Secretary shall notify the subdivider in writing of the vote of the Board on each preliminary map, and of any conditions required. Included in the notice shall be one copy of each drawing or data sheet approved, with the conditions, if any, endorsed on such drawing or data sheet.

Section 105 Final Subdivision Plan

105.1. After receipt by the subdivider of written notice of approval of the preliminary map and preliminary information submitted, including any amendments from the Planning Board may the subdivider proceed with his Final Plan and other final drawings of the subdivision proposed. The Final Subdivision Plan shall fulfill any changes required or any other conditions stated by the Planning Board.

105.2. The Final Plan diagram of a subdivision having such preliminary approval shall be drawn in ink on linen, or on sheets generally not larger than 20" x 30" in size for recording, and maximum of 24" x 36" sheets for reprints of other diagram plans. Where such a subdivision covers more than two sheets, there shall also be drawn in ink on linen an Index Sheet. Such Final Plan shall contain all the information required for a Preliminary Plan, and the following:

- a. Existing and final lines of streets, ways, lots, easements, structured divisions, and public or common areas within the subdivision.
- b. Sufficient data to determine the location, direction, and length of every street and way line, lot line, boundary line, and structured division.
- c. Location of all permanent monuments properly identified as to type.
- d. Suitable space to record on the plan final approval by the Planning Board, with any conditions; also the date of such approval.
- e. Approved: Town of Livermore Planning Board

_____, Planning Board Member

_____, Planning Board Member

_____, Planning Board Member

_____, Planning Board Member

_____, Planning Board Member

_____, Chairman, Board of
Selectmen

_____, Date

105.3. For each subdivision plan submitted, a fee of one hundred (\$100) dollars shall be assessed. In addition subdivisions containing more than ten (10) acres shall be assessed an additional ten (\$10) dollars per acre for each acre or portion thereof over ten (10) acres. Payment shall be tendered in cash or by certified check payable to the Town of Livermore at the time of submission to the Planning Board of the Final Plan of any such subdivision.

- a. A Subdivider is advised that it is the responsibility of the subdivider to become acquainted with pertinent ordinances of the Town including building code, mobile home code, State plumbing code, and other requirements of the Department of Health and Welfare, the Maine State Electrical Code, and such other State Laws which relate to subdivision, and also pertinent soils maps of the U.S. Soil Conservation Service.

105.4. As a condition precedent to final approval of any subdivision, performance guaranty, either a. or b. as specified below, shall be submitted with the Final Plan and accompanying information:

- a. With his Final Plan, the subdivider shall tender either a certified check payable to the Town of Livermore or a faithful performance bond running to the Town of Livermore and issued by a surety company acceptable to the Selectmen, in an amount of money to be determined by the Town Officials to be equal to the total of the costs of furnishing, installing, connecting and completing all of the street grading, storm drainage and utilities specified in paragraph 105.2, conditioned on the completion of all such grading, storm drainage, sewer and street installations within one year from the date of such check or bond.

Before voting to release such check or bond, the Town Officials shall determine to its satisfaction, in part, by a written certification signed by the Planning Board Chairman, that there have been submitted to them by the subdivider or his agent, written statements signed by:

1. An Engineer hired by the Town at the expense of the subdivider, stating that the streets and storm drainage have been constructed and completed in conformance with the Final Subdivision Plan diagram and all applicable requirements.
2. A Registered Land Surveyor paid for by the subdivider, that all permanent bounds or

monuments on street lines (as lot division) have been installed and are accurately in place in the locations designated on the Final Subdivision Plan.

- b. In lieu of the certified check or performance bond above required, the subdivider may tender a properly executed CONDITIONAL APPROVAL AGREEMENT with the Town of Livermore to be signed by the Selectmen and the Planning Board Chairman at their discretion.

This agreement shall provide that the Planning Board may approve the Final Subdivision Plan on condition (to be endorsed in writing on such plan) that no lot in the subdivision may be sold, and that no building permit for other than a tool shed or field office may be issued by the Building Inspector until the following provisions are met:

1. The subdivider has stated in writing to the Selectmen and the Planning Board Chairman, in the manner set forth in a. above, that all streets, utility improvements or other structured improvements required for the subdivision streets or lots have been installed and completed fully in accordance with all applicable provisions and with the Final Subdivision Plan; and,
2. A release of restrictions, covering the lots and streets or portions of streets involved, has been signed by the Selectmen and the Planning Board Chairman, and a signed copy of this Release has been recorded with the Androscoggin County Registry of Deeds.

105.5. Final approval of a Final Subdivision Plan by the Planning Board may be voted in accordance with the following procedure:

- a. Three prints, the linen master and one brown or black line sepia of drawing to be recorded of each diagram sheet of a Final Subdivision Plan, three prints, one sepia of all other plans, with three prints of each page of all accompanying information, certificates, fee and performance guarantee as above required, shall be submitted by the subdivider or his agent to the Planning Board not less than ten (10) days prior to the meeting at which the Plan is on the agenda. Lack of required information or other deficiencies must be completed before such Final Subdivision Plan can be reviewed by the Planning Board.

- b. The Planning Board shall review each Final Subdivision Plan and accompanying information. If, after review, the Planning Board by vote shall find and determine that such plan and information conform with the requirements of this ordinance the Planning Board shall hold a public hearing on such Final Subdivision Plan. Not less than seven (7) days' notice of such hearing shall be given by publication in a newspaper having general circulation in Livermore and by mailing by certified mail reprints of such newspaper notice to the subdivider, and each of the owners of land abutting each subdivision, by their names and addresses, as appearing in the most recent tax list. Such hearing shall be held within 30 days of receipt of a completed application.
- c. The Planning Board after such public hearing may require the subdivider to incorporate in the Final Subdivision Plan such changes as they deem advisable, and when such changes have been made, the Planning Board may vote final approval of such Final Subdivision Plan. Notice of the date and substance of such vote shall be entered on the linen-master drawing of such final map, if two sheets, or on the sheet containing the index map, if more than two sheets; on the linen masters of any subsequent sheet there shall be entered a reference to the notice on the index sheet. The linen master drawing, so endorsed, shall be returned to the subdivider. A decision on final approval or disapproval shall be made by the Board within 30 days of the hearing or within 60 days of the filing of a complete Final Subdivision Plan. The Board shall specify in writing its findings and reasons for disapproval.
- d. Such final approval of a Final Subdivision Plan shall not be deemed the laying out or acceptance by the Town of any way, easement or utility or other public area shown on such Plan, nor shall such approval be deemed to constitute by itself any indications of liability by the Town of Livermore for the use or maintenance of any streets, ways or other public areas indicated on such a Final Plan. (See Section 106).
- e. As promptly as may be, and not more than twenty-one (21) days after the date of vote of final approval, the subdivider, at his expense, shall furnish the Town Planning Board two reproductions on sepia of each sheet of the endorsed original linen drawings or other plans of the Final Plan as approved, together with two

paper prints of each sheet thereof, and each such reproduction or print shall show any endorsement made on its original.

- f. The Town Clerk shall attest and seal each of the aforesaid two sepia reproductions and each of the aforesaid two paper prints. The Town Clerk shall transmit one set of such paper prints, so attested to the Assessors, also one of the two sets of attested sepia copies to the Planning Board and the original approved linen master to the subdivider to be recorded by the subdivider with the Androscoggin County Registry of Deeds.

Section 106. Streets on approved subdivision plans shall be presented to the Town in a regular or special Town Meeting. On petition to the Town of Livermore, all or any portion of any street in a land subdivision of which a Final Plan has been duly approved, endorsed and recorded as aforesaid, shall be accepted by vote of the Town as a public street of the Town of Livermore (provided):

- a. Such petition shall be accompanied by two prints of each of the duly approved and recorded plans, profiles (and cross-sections, if any) of that portion of any such street offered for acceptance, and
- b. Each such print shall bear or shall be accompanied by a written certification by the Planning Board that the portion of each such street offered for acceptance has been in fact constructed to the specifications of previously approved plan, profile and cross-sections, and to the design standards and construction specifications of this Ordinance, and that all utilities, culverts, street signs and street bounds required along such portion of such street, have been in fact installed in accordance with the aforesaid plan, profile, cross-sections, standards and specifications.

Section 200. In order for the Livermore Planning Board to approve any subdivision, the Planning Board shall determine that such subdivision complies with the following standards:

- a. That the proposed subdivision is in general harmony with the Livermore Comprehensive Plan for future development of Livermore.

- b. That the proposed subdivision layout shows due regard for natural features such as large trees groves, water courses, scenic points, historic spots, or similar community assets which would add to the attractiveness and value of the neighborhood, if preserved. Extensive land grading or filling shall be avoided so far as possible; natural surface drainage and existing stream channels shall be preserved and that the proposed subdivision, if situated in whole or in part within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- c. That the proposed subdivision makes adequate provision for free-flowing vehicle traffic, with adequate parking, so arranged as to preclude motor vehicle accidents.
- d. In the case of proposed subdivision contemplating 20 or more dwelling units, is well related to existing community facilities such as schools.
- e. In the case of subdivisions intended primarily for industrial, commercial or retail business use:
 1. That the proposed subdivision provides safely accessible automobile parking spaces off street for employees, for salesmen, for patrons, and for other persons coming by automobile to such subdivision in numbers of spaces reasonably related to the demand; therefore, reasonably to be expected.

Section 201. Health

No subdivision shall be approved by the Planning Board unless the Town Health Officer shall certify to the Planning Board that in (his or her) opinion the land proposed to be included in such subdivision may be used for the purposes intended without danger to health.

Section 301. Enforcement

No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Androscoggin Registry of Deeds.

Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this Section, shall be punished by a fine of not more than \$1,000 for each such conveyance, offering or agreement. The Attorney General, the municipality or the appropriate municipal officers may institute proceedings to enjoin the violation of this Section.

No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.

Section 302. Release of Guaranty Check or Bond

Before a subdivider may be released from any obligation required by his guarantee of performance, the Board will require certification from the Municipal Engineer or appointed engineer and whatever other agencies and department that may be involved, to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinances.

Section 303. Variances and Waivers

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular Plan, it may vary these standards so that substantial justice may be done and the public interest secure; provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan or the Zoning Ordinance; where such exists.

Section 304. Appeals

An appeal from a decision of the Planning Board may be taken to a General Board of Appeals if one has been established by the municipality in accordance with Title 30, M.R.S.A., Chapter 213, Section 2411, or to the Superior Court.

Section 304-a: See attached - last page

Section 305. Separability & Effective Date

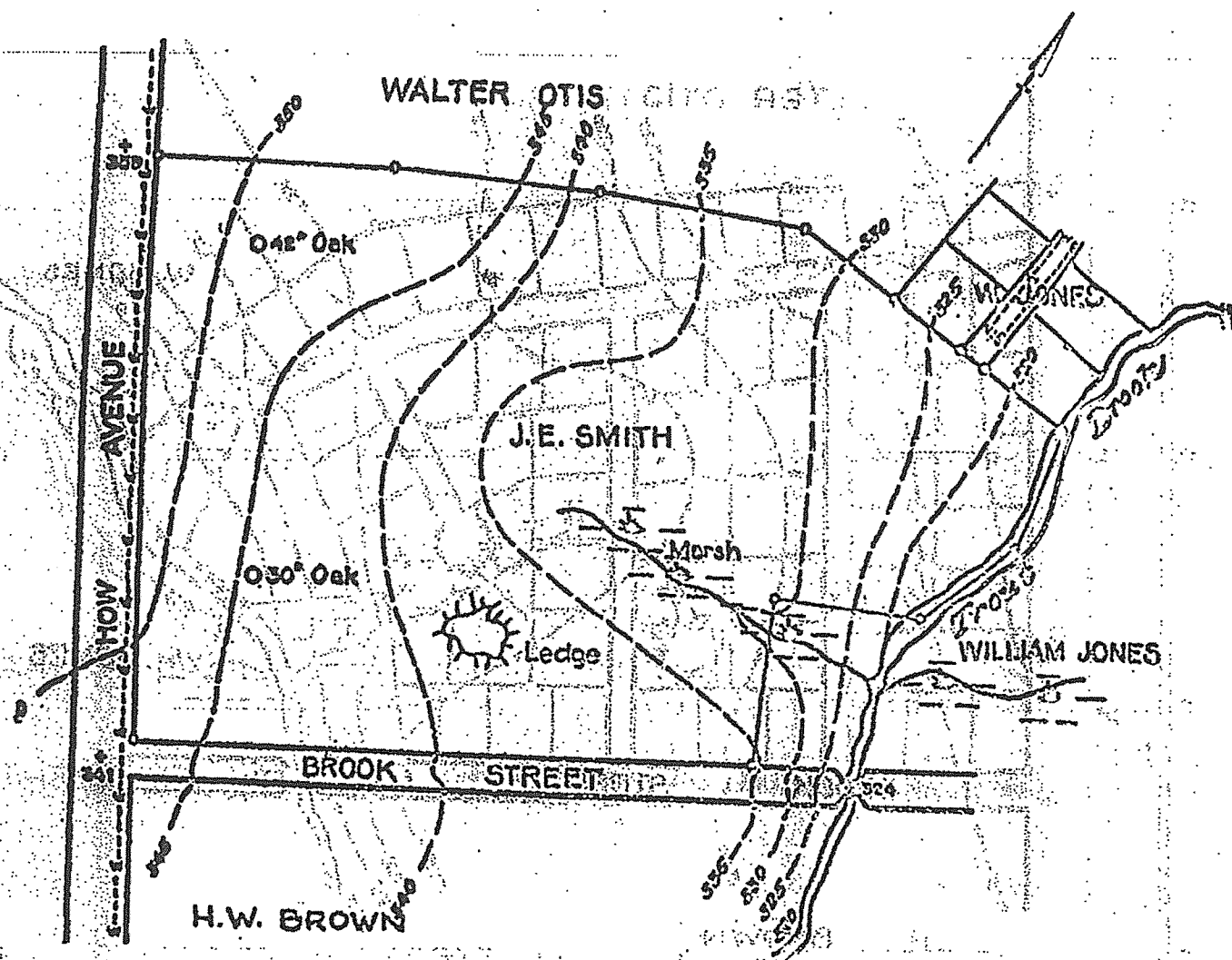
The invalidity of any provision of these standards shall not invalidate any other part.

These standards shall take effect immediately on adoption of the same by the Planning Board or Legislative Body.

The Town of Livermore Subdivision Ordinance is written in accordance with Title 30, M.R.S.A. Section 1917 and Section 4956.

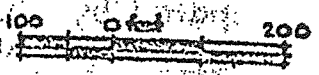
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(Sample)
LAND SURVEY AND TOPOGRAPHIC MAP
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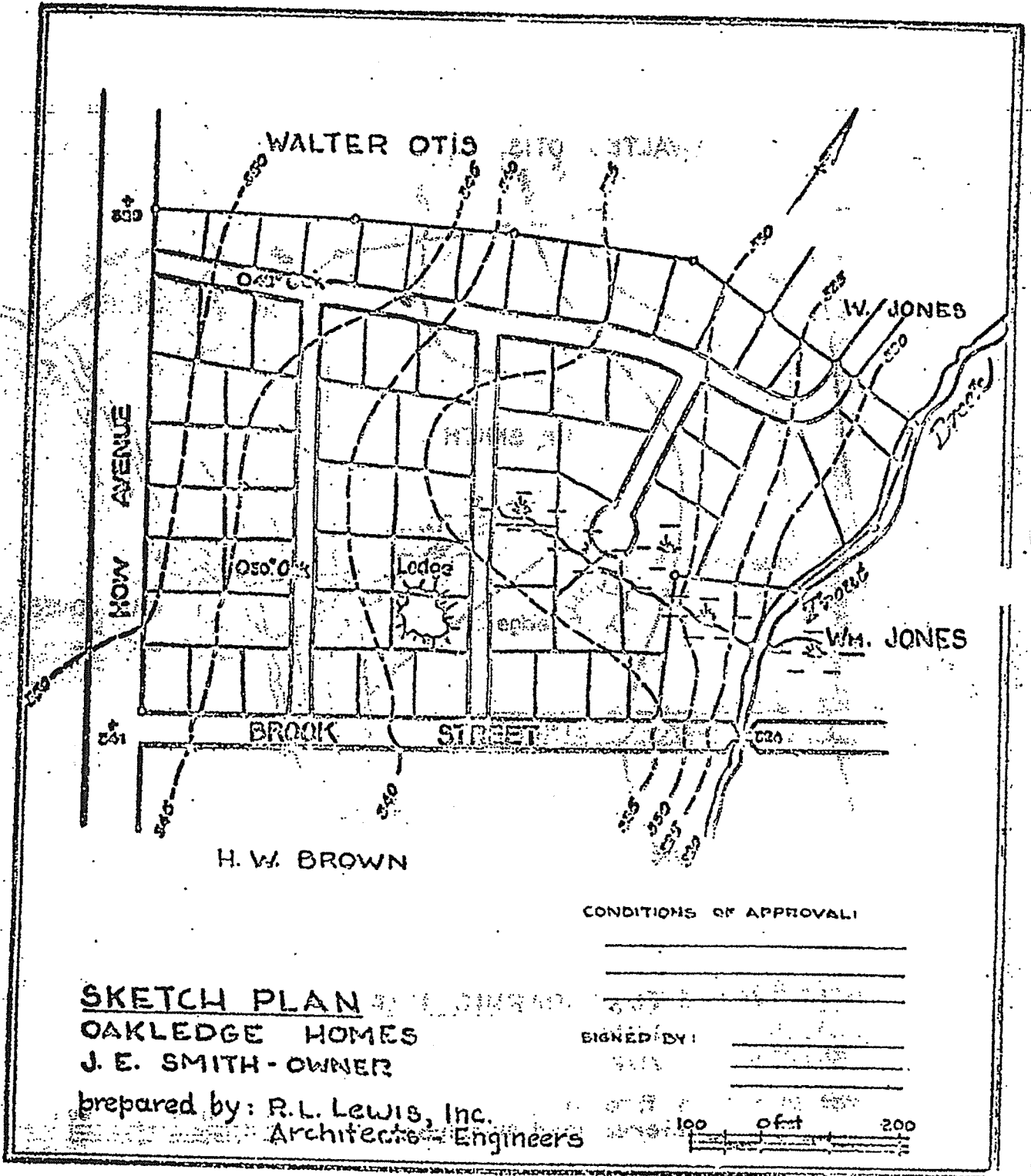


LAND SURVEY & TOPOGRAPHIC MAP
OAKLEDGE HOMES
J.E. SMITH - OWNER

prepared by: John Brown
 registered land surveyor



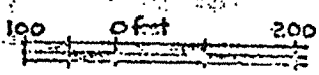
(Sample)
 SKETCH PLAN



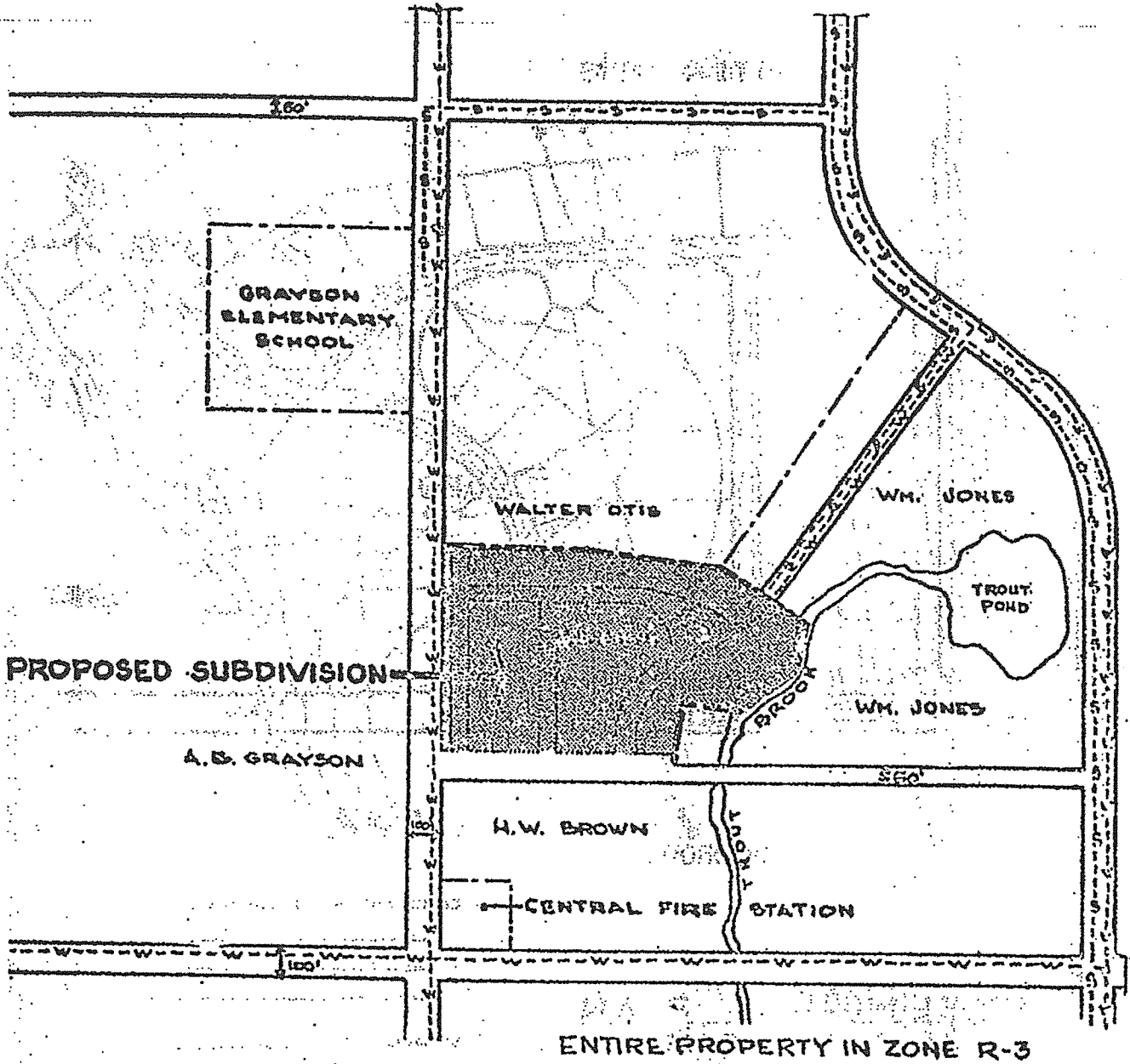
CONDITIONS OF APPROVAL:

SIGNED BY: _____

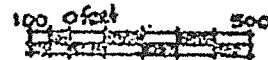
SKETCH PLAN
OAKLEDGE HOMES
J. E. SMITH - OWNER
 prepared by: **R. L. Lewis, Inc.**
Architects - Engineers



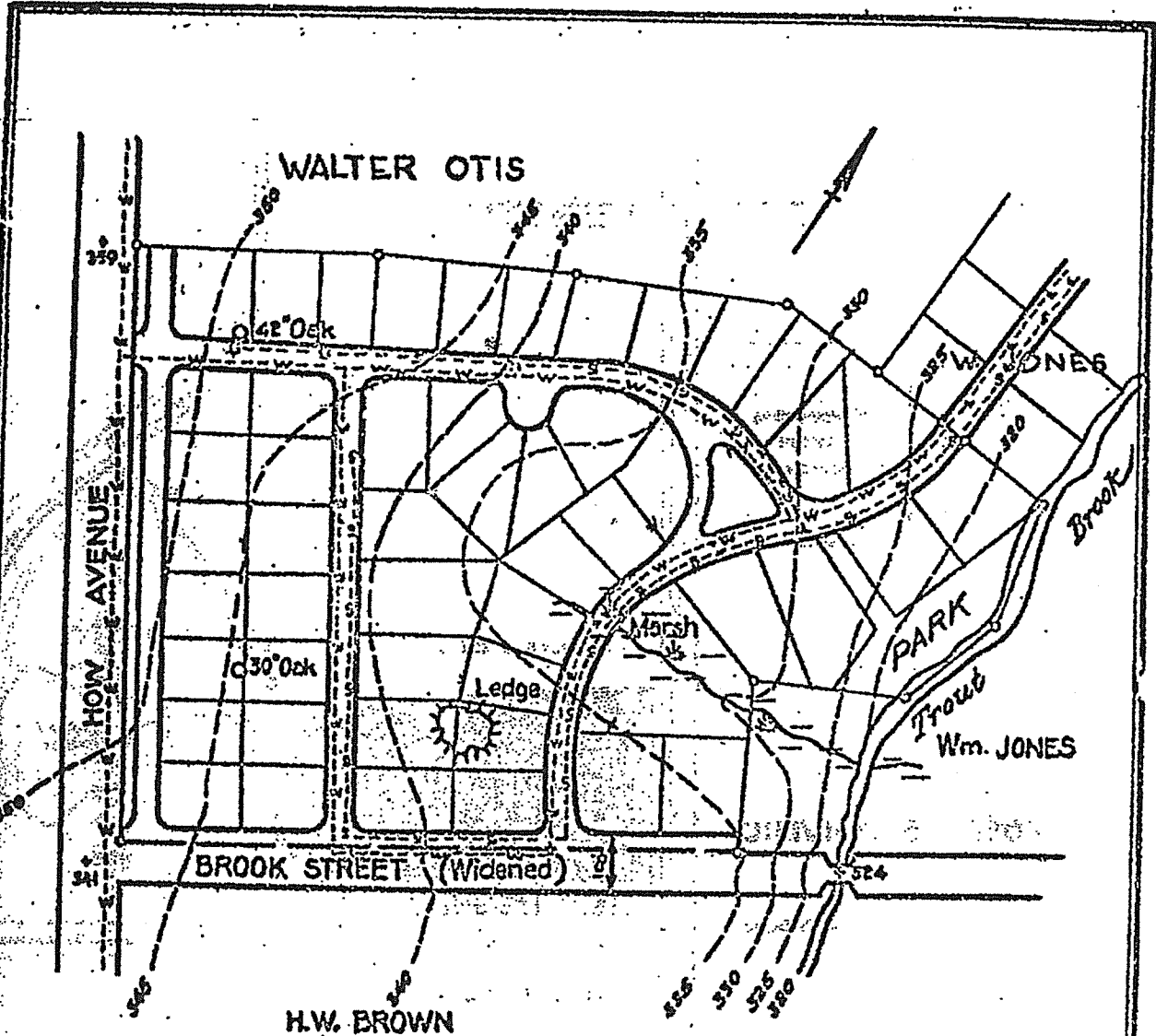
(Sample)
LOCATION MAP



LOCATION MAP
OAKLEDGE HOMES
J.E. SMITH - OWNER



(Sample)
PRELIMINARY PLAN
 After Review of Sketch Plan

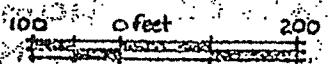


PRELIMINARY PLAN
OAKLEDGE HOMES
J. E. SMITH - OWNER

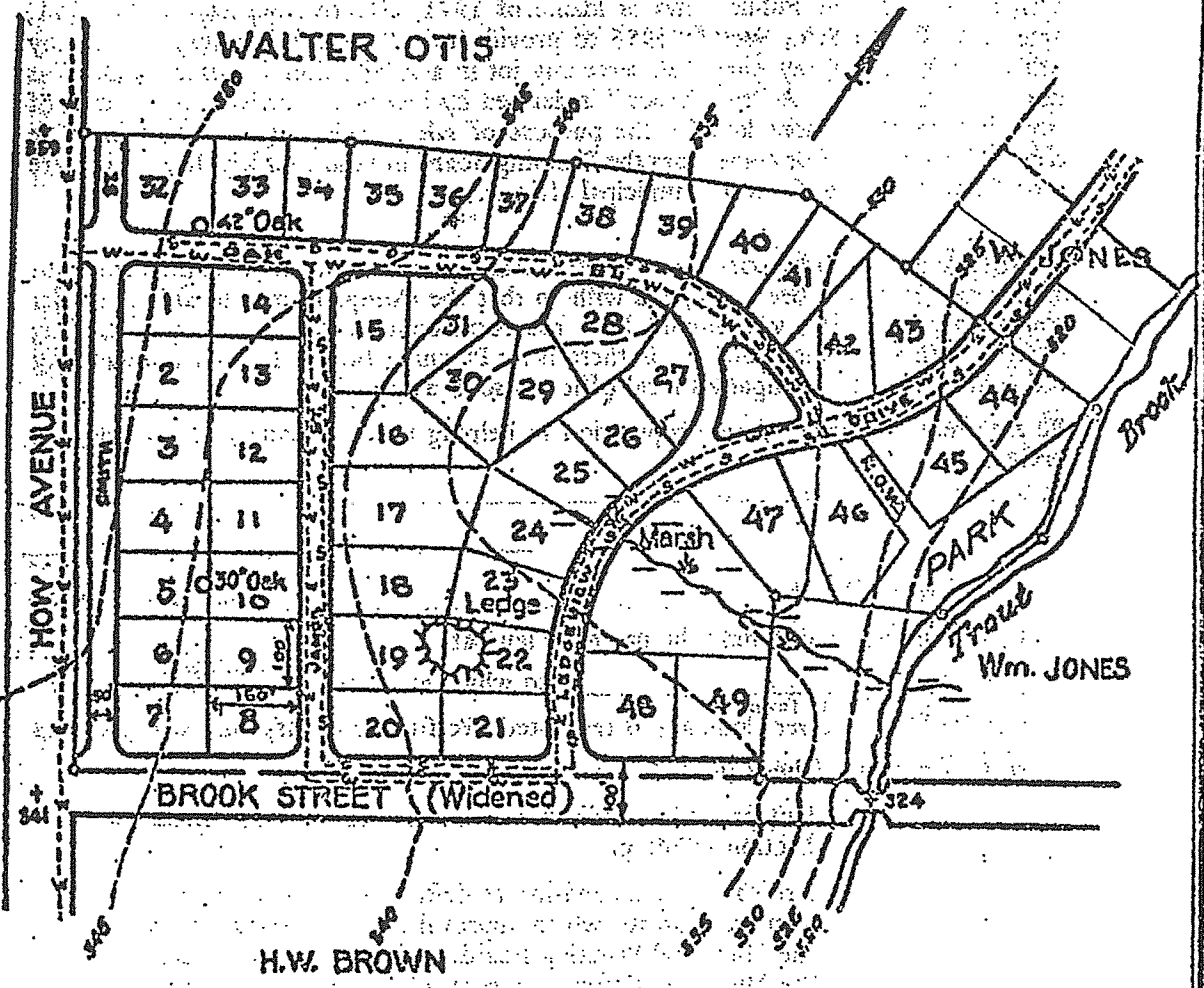
prepared by: R.L. Lewis, Inc.
 Architects - Engineers

CONDITIONS OF APPROVAL:

SIGNED BY: _____



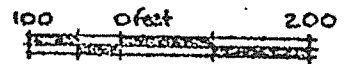
(Sample)
FINAL PLAN



CONDITIONS OF APPROVAL:

SIGNED BY: _____

FINAL PLAN
OAKLEDGE HOMES
J. E. SMITH - OWNER
 prepared by: R.L. Lewis, Inc.
 Architects - Engineers



(Sample)
UTILITY SERVICE FORM

TO: Applicants for Electric Service (or Developers of a Subdivision)

FROM: Central Maine Power Company

Chapter 454 of the Public Laws of Maine of 1971, effective September 23, 1971, amended 30 M.R.S.A., Section 4956 to provide that "No public utility . . . or any utility company of any kind shall serve any lot in a subdivision for which a plan has not been approved." A "subdivision" is defined by law as the division of a parcel of land into three or more lots for the purpose of sale, development, or building. The required approval must come from the Planning Board in your municipality, or if there is no Planning Board from the municipal officers.

In order to assure both yourself and Central Maine Power Company that the provisions of this new law have been complied with so that the Company may be able to render you adequate service, you should have the form below filled out by the Planning Board (or the municipal officers if there is no Planning Board) in your municipality and return it to the Company's local office as soon as possible.

We sincerely appreciate your cooperation in helping us to provide you with electric service.

_____, 197_____

This is to certify that _____ has presented to us information concerning the parcel of land at _____ (Street or Road) to which an electric service extension by _____ (City or Town) Central Maine Power Company is requested. We further certify that said premises to be served are (check one):

1. Not part of a subdivision as defined in Title 30 M.R.S.A., Section 4956; or
2. Are part of a subdivision as defined in Title 30 M.R.S.A., Section 4956 for which approval has been obtained from the Municipal Planning Board, or in the absence thereof, the Municipal Officers. A copy of the order approving the subdivision is attached. An approved plan has been filed in the _____ County Registry of Deeds, Plan Book _____, Page _____.

TOWN (CITY) OF _____

By Its Authorized Officials

