

Statement of Rachel Stamieszkin in Support of Appeals to the Town of Cape Elizabeth Regarding Stonegate

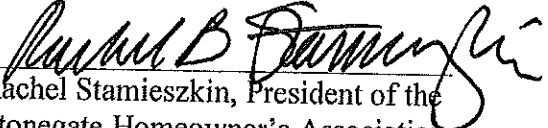
1. My name is Rachel Stamieszkin and I own property and reside at 5 Granite Ridge Road in the Stonegate Subdivision.
2. I currently serve as President of the Stonegate Homeowner's Association and have done so since 2007.
3. The original recorded Subdivision Plan for Stonegate approved by the Town of Cape Elizabeth Planning Board is attached hereto as Exhibit A (the "Plan").
4. The property at issue in appeals to the Town by Robert Stier and Tracie and David Weatherbie is located at the south entrance of Stonegate Road identified in Phase II of the Plan and more specifically includes an approximately 134 foot by 384 foot portion of the Stonegate Road right of way at the entrance of the subdivision at Mitchell Road (the "Subdivision South Entrance"). An enlarged portion of the Plan depicting the Subdivision South Entrance is attached as Exhibit B.
5. The warranty deed from Stonegate Associates to the Town of Cape Elizabeth conveying Phase II of the Stonegate Road right of way, which includes all of the Subdivision South Entrance, is attached hereto as Exhibit C. The warranty deed states that the conveyance to the Town of the Stonegate Road right of way is subject to the Declaration of Covenants and Restrictions for the Stonegate Subdivision. Article III of the Declaration reserves to the Association the right and responsibility to maintain, repair and replace the landscaping and stone walls within the road right of way that are not maintained by the Town. Article III of the Declaration is attached as Exhibit D. A similar reservation for landscaping exists in the deed for the north entrance to Stonegate. See Exhibit E attached.
6. Since the establishment of the Association and in reliance on the Town's approval of the subdivision and reservation of deeded rights in favor of the Association in the Subdivision South Entrance, the Association has in fact maintained the Subdivision South Entrance, spending Association funds each year for such purpose.
7. The Town has had actual knowledge of the reserved deeded rights of the Association and its actual maintenance of the Subdivision South Entrance.
8. The Subdivision South Entrance is significantly wider (134 feet) than the remaining portions of Stonegate Road (50 feet), further evidencing that the Subdivision South Entrance is reserved for landscaping and subdivision

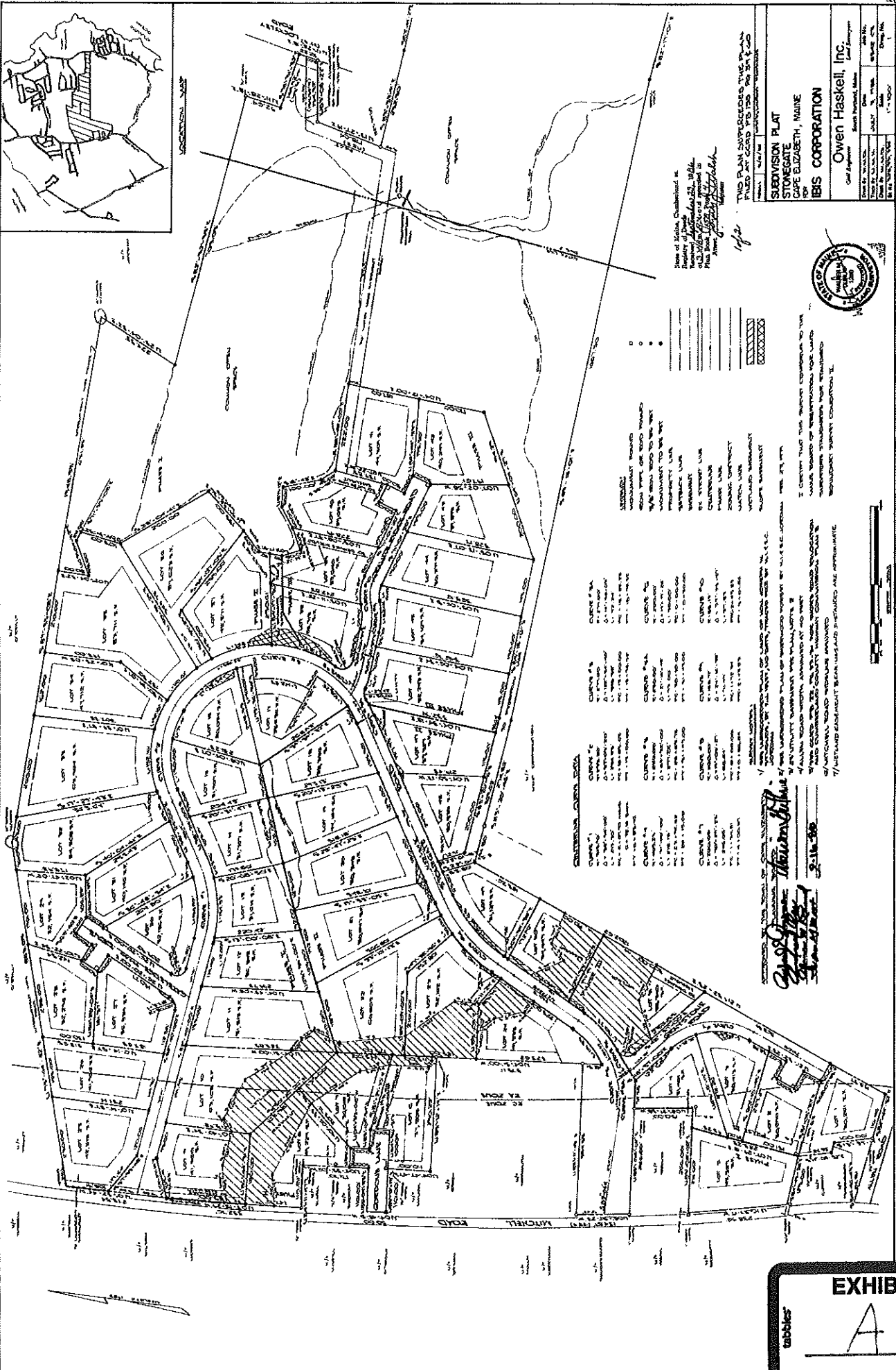
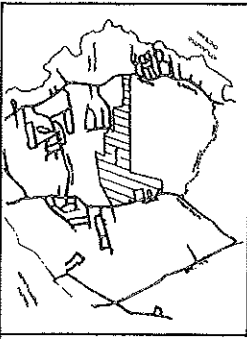
enhancement purposes, and not to benefit third parties who are not part of the approved Stonegate Subdivision.

9. The Town of Cape Elizabeth has granted driveway access rights and authorized destruction of the landscaping and wild buffering on the Subdivision South Entrance to benefit the owners of property not part of the Stonegate Subdivision, without the consent of the Association and in violation of the reserved rights of the Association to maintain the Subdivision South Entrance for the benefit of Stonegate lot owners.

10. This statement is provided in support of the administrative appeals stated above, and in no way constitutes a waiver of any right of the Association or its members to assert deeded reserved rights identified above.

Date: December 7, 2010


Rachel Stamieszkin, President of the
Stonegate Homeowner's Association



State of Idaho, Chaitland in
County of Blaine, Idaho, 1874
The following is a true and correct copy of the
original record of the plan as filed in the
office of the County Clerk of Blaine, Idaho.

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SECTION 100

PLAN NO.	100
DATE	1900
OWNER	Owen Haskell, Inc.
ADDRESS	South Portland, Maine
DATE OF RECORD	JULY 1, 1900
RECORDED BY	CHAS. H. HARRIS
BOOK	100
PAGE	1

SUBDIVISION PLAT
STONEGATE
 FOR
CAPE ELIZABETH, MAINE
IBIS CORPORATION

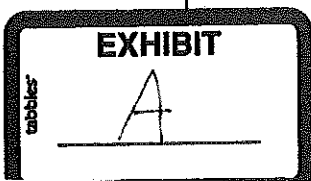
Owen Haskell, Inc.
 South Portland, Maine

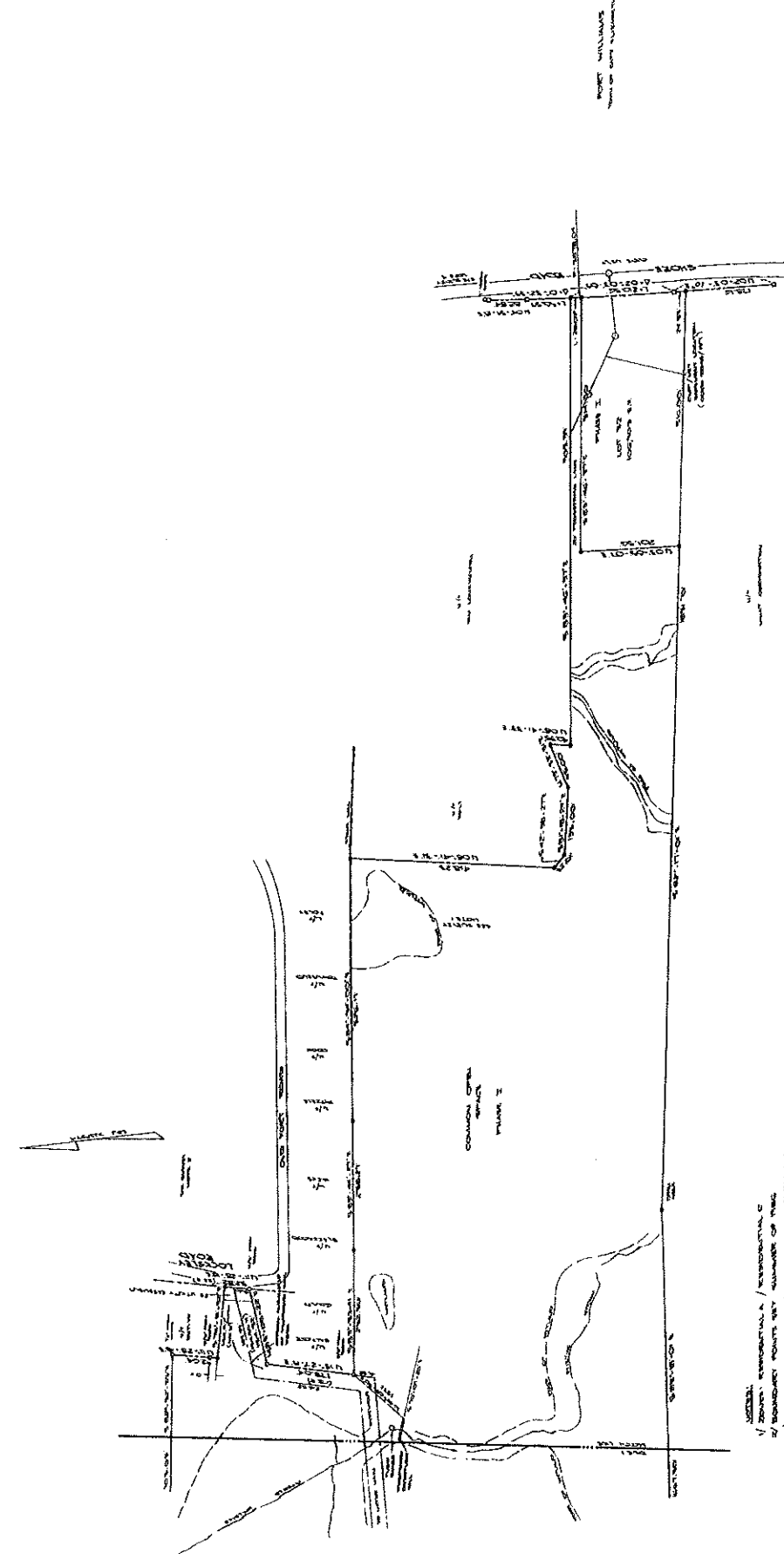
CHAS. H. HARRIS
 JULY 1, 1900



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Chas. H. Harris
 Surveyor
 State of Maine
 No. 1234





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City of Stone, Connecticut
 Board of Public Works
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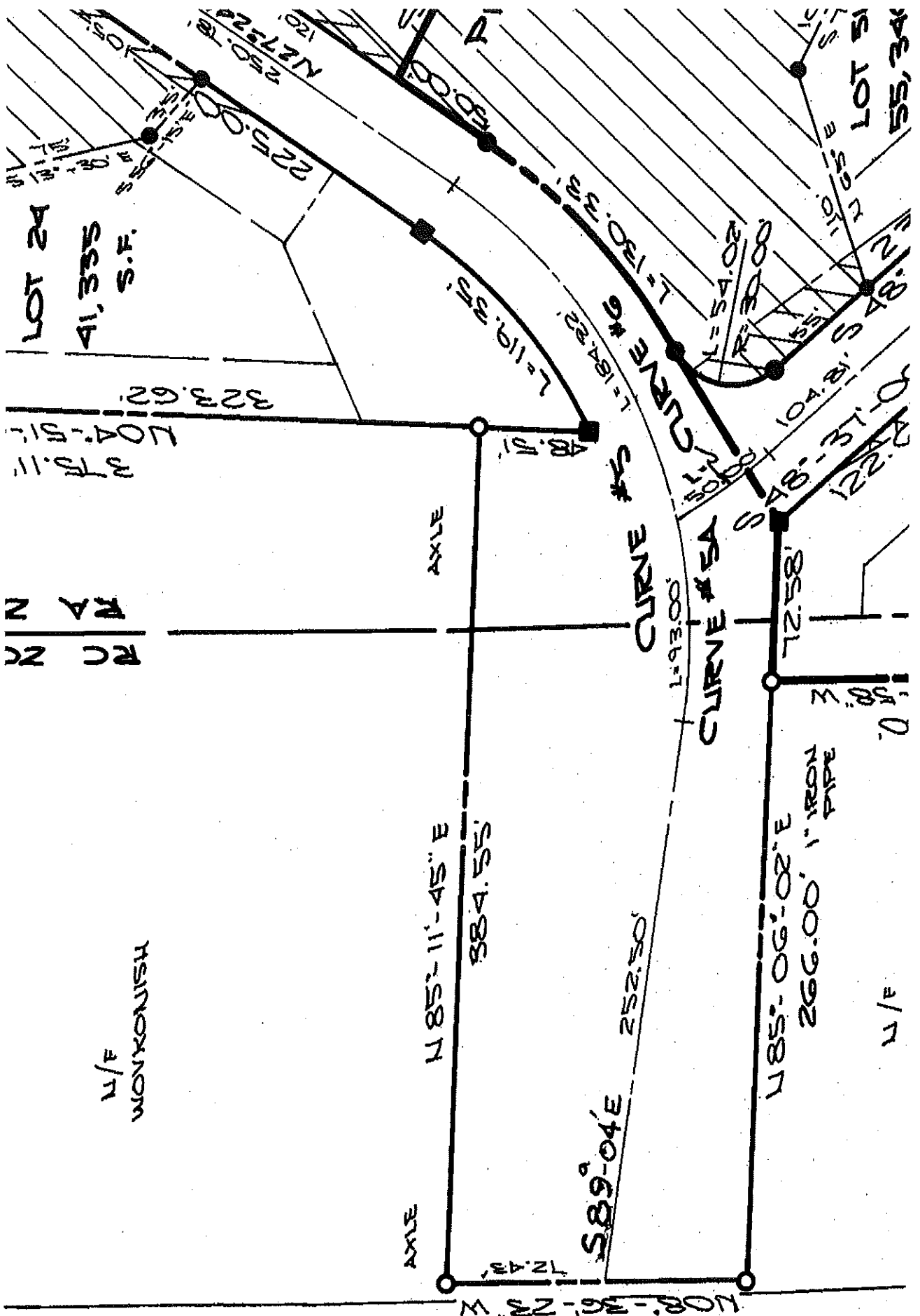


I CERTIFY THAT THIS SURVEY COMPLIES TO THE
 MAINE BOARD OF REGISTRATION FOR LAND
 SURVEYING REGULATIONS FOR REGISTERED
 SURVEYORS' SURVEY COMMISSION 2.

APPROVED BY THE TOWN OF STONE, CONNECTICUT
 [Signature]
 [Signature]
 3-15-2016

SUBDIVISION PLAT		Owen Haskell, Inc.	
STONEGATE		South Portland, Maine	
FOR		Land Surveyors	
IBIS CORPORATION		Date: 3-15-2016	
		Scale: 1" = 100'	
		Sheet No. 2	
		Total Sheets: 2	

THIS PLAN SUPERSEDES THE PLAN
 FILED AT 11:00 AM ON 12/15/15
 IN THE REGISTERED SURVEYORS' SURVEY COMMISSION 2



LOT 24
41,335
S.F.

LOT 51
55,34

323.62
L.O.A. ST. II
N 04°-51'-11"

RA 2
RC 2

N/F
WONKONISH

AXLE

N 85°-11'-45" E
384.55'

S 89°-04' E
252.50'

N 85°-06'-02" E
266.00' 1" IRON PIPE

N/F

CURVE #5C

CURVE #5A

CURVE #5B

MITCHELL

W.A. ST. (1951) (1951)

IRON PIPE

EXHIBIT

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060605

~~509090~~

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ITEM #70

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that STONEGATE ASSOCIATES, a Maine limited partnership whose mailing address is 594 Congress Street, Portland, Maine 04101, does hereby GIVE, GRANT, BARGAIN AND CONVEY, with WARRANTY COVENANTS, unto the TOWN OF CAPE ELIZABETH, whose mailing address is 320 Ocean House Road, Cape Elizabeth, Maine, its successors and assigns, the following real estate:

A certain lot or parcel of land located in Cape Elizabeth, County of Cumberland, Maine being that portion of Stonegate Road contained within Phase II of Stonegate Subdivision as shown on a Plan entitled "Subdivision Plat, Stonegate, Cape Elizabeth, Maine" by Owen Haskell, Inc., revised August 6, 1989 and recorded in the Cumberland County Registry of Deeds in Plan Book 158, Pages 4 and 5.

Being a portion of one or more of the properties described in deeds to Stonegate Associates and recorded in the said Registry of Deeds at Book 7201, Page 40 and Page 43 and Page 46.

This conveyance is subject to a Declaration of Covenants, Conditions and Restrictions recorded in said Registry of Deeds at Book 8016, Page 199, as amended at Book 8340, Page 45 and Book 8834, Page 125; subject to all notes conditions and easements shown on said Plan; and is subject to easements granted by the said Stonegate Associates to Central Maine Power Company, New England Telephone Company and Portland Water District all for the purpose of installing utilities serving the subdivision.

IN WITNESS WHEREOF, the said STONEGATE ASSOCIATES has caused this instrument to be duly executed by Robert H. Taylor, Jr., its Managing General Partner, this 5TH day of DECEMBER, 1989

STONEGATE ASSOCIATES

[Signature]
Witness

[Signature]
By Robert H. Taylor, Jr.
Its Managing General Partner

STATE OF MAINE
CUMBERLAND, SS.

Dec 5, 1989

PERSONALLY appeared the above-named Robert H. Taylor, Jr. and acknowledged the foregoing to be his free act and deed and the free act and deed of Stonegate Associates.

Before me,

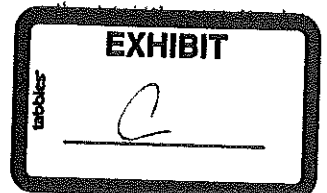
[Signature] 12/5/89
Notary Public

My Commission Expires Aug. 21, 1995

RECEIVED
REGISTERED OFFICE OF DEEDS
1989 DEC -8 PH 2:47
CUMBERLAND COUNTY

[Signature]

SEAL



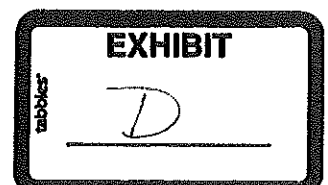
16. In any voluntary conveyance of a Lot deed, it shall be the duty of the seller to furnish the buyer with a copy of this Declaration.

The provisions of this Declaration and the rights and obligations established thereby shall be deemed to be covenants, running with the land, and shall inure to the benefit of and be binding upon each and all of the Lot Owners and their respective heirs, representatives, successors, assigns, purchasers, lessees, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership interest in the property whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration.

ARTICLE III

ASSOCIATION

The Association shall be responsible for maintaining, repairing and replacing the stone walls within that area shown on the Plan as the landscape easement as well as stonewalls and landscaping within the road rights of way where such maintenance is not the responsibility of the Town of Cape Elizabeth. The Association shall be authorized to assess each lot owner its proportionate share of the expense of such maintenance, repair and replacement and each lot owner hereby covenants and agrees to pay to the Association any such



assessment levied. The Association shall be governed by the By-Laws of the STONEGATE HOME OWNERS ASSOCIATION.

ARTICLE IV

RIGHTS OF DECLARANT

The Declarant reserves the right until the construction, marketing and sale of all Lots is completed to:

(a) Change the size, number and location of Lots and other improvements, and the size, layout, and location of any Lot for which a purchase and sale agreement has not been executed by the Declarant or with respect to which the purchaser is in default. The change or changes shall be effective upon the recording of an amendment to this Declaration and/or the filing of modified site plan indicating the changes made.

(b) Locate on the premises, even though not depicted on the Plan, and grant and reserve easements and rights of way for the installation, maintenance, repair, replacement and inspection of, utility lines, wires, pipes, conduits, and facilities, including, but not limited to, water, electric, telephone and fuel oil and sewer.

(c) Connect with and make use of utility lines, wires, pipes and conduits located on the property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of service so used.

(d) Utilize any lot or structure thereon controlled by

BK0076PG0288

WARRANTY DEED
(Maine Statutory Short Form)

068591

KNOW ALL MEN BY THESE PRESENTS,

THAT STONEGATE ASSOCIATES, a Maine Limited Partnership with a place of business at Portland, County of Cumberland, and State of Maine, for consideration paid, grant to the TOWN OF CAPE ELIZABETH, a municipal body corporate and politic, and having its principal office in the Town of Cape Elizabeth, County of Cumberland and State of Maine, whose mailing address is Ocean House Road, Cape Elizabeth, Maine 04107, with WARRANTY COVENANTS, the land in Cape Elizabeth, County of Cumberland, State of Maine, described as follows:

Certain lots or parcels of land, with all improvements located thereon, situated on the easterly side of Mitchell Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine, and being those areas shown on a Plan entitled "Subdivision Plat, Stonegate, Cape Elizabeth, Maine" by Owen Haskell, Inc. revised August 6, 1986 and recorded in the Cumberland County Registry of Deeds in Plan Book 158, Pages 4 and 5, as Gordon's Lane, Gateledge Drive and those portions of Stonegate Road and Granite Ridge Road lying within the boundaries of Phase I as shown on said Plan.

Reserving to the Stonegate Homeowners Association the right to enter upon that area of Stonegate Road which contains stone walls and landscaping, said area being at or near the intersection of said Stonegate Road with the said Mitchell Road. Reference is hereby made to the Stonegate Declaration of Covenants, Conditions and Restrictions recorded in said Registry of Deeds in Book 8016, Page 199 for the Stonegate Homeowners Association's obligation to maintain said stone walls and landscaping located within the roadways conveyed to the said

EXHIBIT

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Town of Cape Elizabeth.

IN WITNESS WHEREOF, the said STONEGATE ASSOCIATES, has caused this instrument to be signed by Robert H. Taylor, Jr. and M. Dana Goodwin, its General Partners, thereunto duly authorized, this 12th day of November, 1987.

WITNESS:

Marjorie Slagus

Marjorie Slagus

STONEGATE ASSOCIATES

BY: Robert H. Taylor, Jr.
Robert H. Taylor, Jr.

BY: M. Dana Goodwin
M. Dana Goodwin
Its General Partners

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

November 12, 1987

Then personally appeared the above named Robert H. Taylor, Jr. and M. Dana Goodwin, General Partners of said STONEGATE ASSOCIATES, as aforesaid, and acknowledged the foregoing instrument to be their free act and deed in their said capacity and the free act and deed of said STONEGATE ASSOCIATES.

Before me,

James J. Walsh
Attorney at Law/Notary Public

SEAL

RECEIVED
RECORDED REGISTRY OF DEEDS
1987 NOV 23 PM 1:22
CUMBERLAND COUNTY
James J. Walsh