

25703/274

DECLARATION OF RESTRICTIONS
RESTRICTED BUFFER AREA

THIS DECLARATION OF RESTRICTIONS dated December 17, 2007 is made **RISBARA BROS. CONSTRUCTION CO., INC.**, a Maine corporation with a place of business in the Town of Scarborough, Maine (herein referred to as the "Declarant") and a mailing address of 197 U.S. Route 1, P.O. Box 485, Scarborough, Maine 04070-0485, pursuant to a permit received from the Maine Department of Environmental Protection under the Stormwater Management Law (38 M.R.S.A. Section 420-D), in order to preserve a buffer area located on a parcel of land easterly of Mitchell Hill Road in the Town of Scarborough, Maine.

WHEREAS, the Declarant holds title to certain real property situated in the Town of Scarborough, Maine described in a deed from the Conservators of Marjorie M. Bragdon dated December 17, 2007, and recorded in Book 25691 Page 171 at the Cumberland County Registry of Deeds, herein referred to as the "Property"; and

WHEREAS, Declarant desires to place certain restrictions under the terms and conditions herein covering a portion of the Property (hereinafter referred to as the "Restricted Buffer") described as follows:

Certain portions of Lots 1 and 2 in the Bittersweet Banks Subdivision located easterly of Mitchell Hill Road in Scarborough, Maine" which are striped and labeled "**Restricted Buffer**" on the attached Exhibit A, being an excerpt of the plan entitled "Final Subdivision Plan of Bittersweet Banks Subdivision" dated July 16, 2007 and recorded in the Cumberland County Registry of Deeds in Plan Book 207, Page 785, a reduced copy of a portion of which is attached hereto as Exhibit A.

WHEREAS, pursuant to the Stormwater Management Law, 38 M.R.S.A. Section 420-D and Chapter 500 of rules promulgated by the Maine Board of Environmental Protection ("Stormwater Management Rules"), Declarant has agreed to impose certain restrictions on the Restricted Buffer area as more particularly set forth herein and has agreed that these restrictions may be enforced by the Maine Department of Environmental Protection or any successor (hereinafter the "MDEP"),

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Restricted Buffer area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer area subject to the Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer area. Except as shown on the Plans prepared by Sebago Technics entitled "Grading and Utility Plan" sheet 3 of 9 (the "Plans") as submitted to the MDEP or Unless the owner of the Restricted Buffer area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer area to filter and absorb stormwater and to maintain compliance with the Stormwater Management Law and the permit issued thereunder to the Declarant, the use of the Restricted Buffer area is hereinafter limited as follows except as shown on the Plans:

- a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Restricted Buffer area, nor shall the topography of the area be altered or manipulated in any way;
- b. No trees may be cut or sprayed with biocides except for the normal maintenance of dead, windblown or damaged trees and for pruning of tree branches below a height of 12 feet provided a minimum of two thirds (2/3) of the tree's canopy is maintained;
- c. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path that is no wider than six feet and that does not provide a downhill channel for runoff is allowed through the Restricted Buffer area;
- d. No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer area, except for a boundary marker, sign, utility pole or fence;
- e. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer area;
- f. Any level lip spreader directing flow to the Restricted Buffer area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

- 2. Enforcement.** The MDEP may enforce any of the Restrictions set forth in Section 1 above.
- 3. Binding Effect.** The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer area and upon the Bittersweet Homeowners Association, a Maine non-profit corporation. If the Restricted Buffer area is at any time owned by more

than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer area is included within such owner's property.

- 4. **Amendment.** Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the MDEP and by the owner or owners of the Restricted Buffer area or if the Bittersweet Homeowners Association, a Maine non-profit corporation has been organized pursuant to a separate Declaration of Covenants, then by the Homeowners Association.
- 5. **Effective Provisions of Declaration.** Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer area.
- 6. **Severability.** Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.
- 7. **Governing Law.** This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

Witness its hand and seal on the date set forth above.

RISBARA BROS. CONSTRUCTION CO., INC.

J.R. Clark
WITNESS:

By: [Signature]
Rocco C. Risbana III, its President

State of Maine
County of Cumberland, SS.

December 17, 2007

Personally appeared the above-named Rocco C. Risbana III in his said capacity, and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of said corporation.

Before me,

J.R. Clark
Notary Public/Attorney-at-Law
Print Name: Lawrence R. Clough
My commission expires: _____

EXHIBIT A

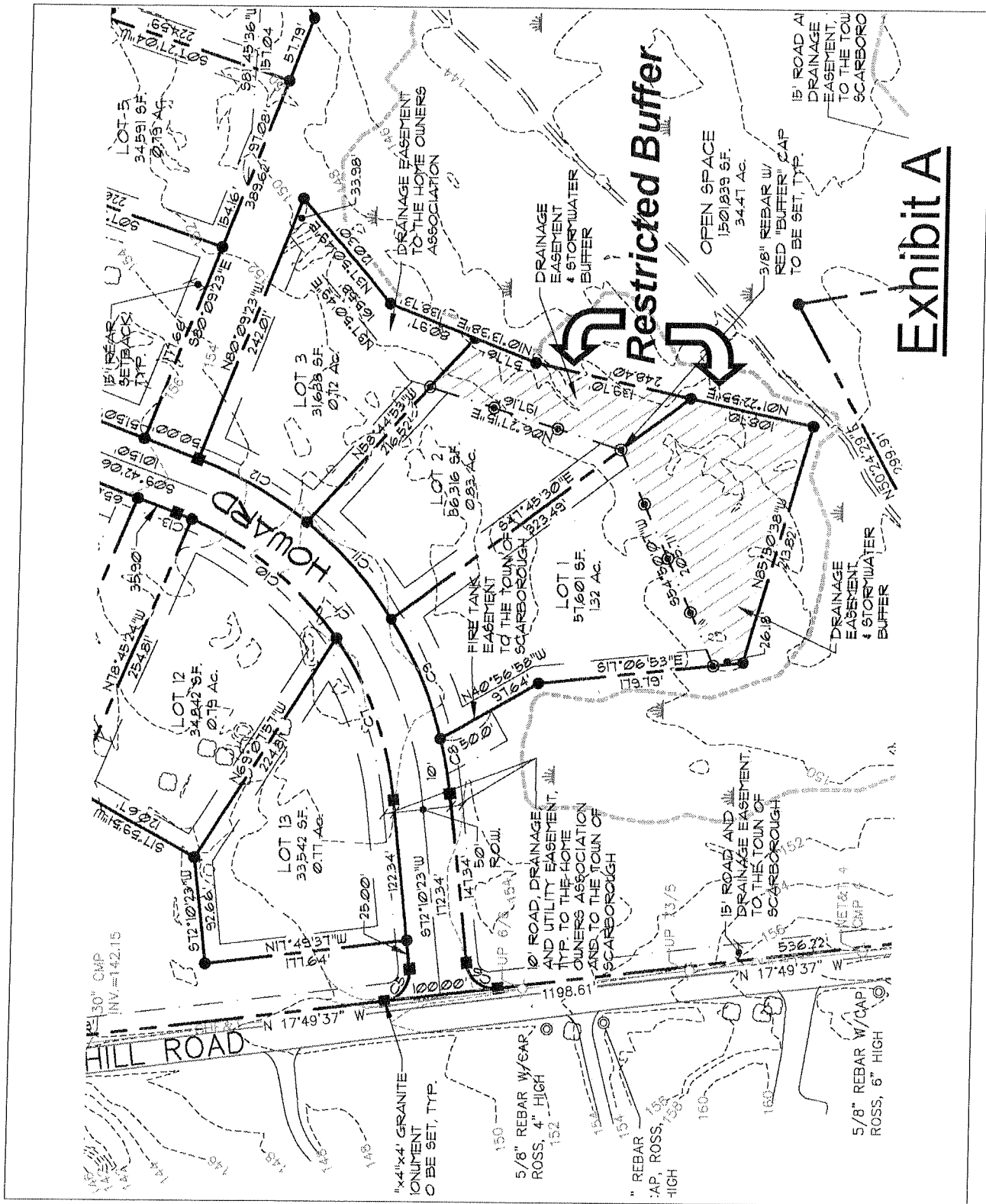


Exhibit A