

**EXHIBIT 3**

**CONTRACT ZONING AGREEMENT  
BETWEEN THE TOWN OF SCARBOROUGH AND  
MAINE LIFE CARE RETIREMENT COMMUNITY, INC.**

This Contract Zoning Agreement made as of the 17<sup>th</sup> date of November, 1997, by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the “Town”), and MAINE LIFE CARE RETIREMENT COMMUNITY, INC., a Maine non-profit corporation, with an address of P.O. Box 1012, Portland, ME (“Maine Life Care”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance:

WHEREAS, Maine Life Care intends to purchase a parcel or real estate located at Spurwink Road and Piper Road, Scarborough, Maine, consisting of approximately 138 acres, being shown as Parcels 1, 2, 5, 6, 6A, 7, 8 and 9 on the Town’s Tax Map 101 and as Parcel 12 and 14 on the Town’s Map 100, such property being the premises described in Schedule A of the Memorandum of Option Agreement, dated November 5, 1996 and recorded in the Cumberland County Registry of Deeds, Book 12808, Page 50 (hereinafter the “Property”); and

WHEREAS, the Property is currently in part in a Rural Residence and Farming District (R-F) and in part in the Residential (R-3) District and in part in the Resource Protection (R-P) District under the Scarborough Zoning Ordinance; and

WHEREAS, the R-F District and the R-3 District presently allow, as permitted uses, or special exceptions, various uses, including nursing homes and board care facilities for the elderly but not continuing care retirement communities; and

WHEREAS, Maine Life Care wishes to develop the Property as a Continuing Care Retirement Community which is not currently permitted in the R-F Zone or the R-3 Zone; and

WHEREAS, the Zoning Ordinance of the Town of Scarborough does not currently recognize Continuing Care Retirement Community as a defined use; and

WHEREAS, Maine Life Care has requested a rezoning of the Property to permit a Continuing Care Retirement Community; and

WHEREAS, the Property contains several select mature trees along the Spurwink Avenue frontage and open agricultural land along Spurwink Road frontage that will be maintained, a large amount of mature trees buffering adjacent to the agricultural lands that will be preserved, and a resource protection area to the south which will be preserved, and will include areas of extensive interior landscaping, all of which provide a unique amount and quality of vegetative buffering; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping, and site design which will be appropriate for a Continuing Care Retirement Community, provided the operation is restricted to the density, scale and intensity proposed by Maine Life Care and further provided that the restrictions of this Contract Zoning Agreement are observed; and

WHEREAS, the Continuing Care Retirement Community will concentrate development into two areas of the site plus roadways totaling approximately 48 acres, thereby leaving approximately 90 acres of the 138 acre site as open space; and

WHEREAS, Maine Life Care intends to maintain approximately 90 acres of the Project’s land as open space and, if requested by the Town, to place the same into a Conservation Easement to be held and administered by a conservation trust approve by the Town Manager of the Town; and

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WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid; and

WHEREAS, the Project will serve the Town's goal of fostering and accommodating a diverse population in the Town (Chapter 15(A) of the Comprehensive Plan) by constructing the first life care community in the State of Maine to serve the needs of the elderly in the region; and

WHEREAS, the Project would create approximately 100 new permanent jobs thereby helping to achieve the Town's goal of promoting and fostering a diversified economy that can be sustaining even in recessionary periods as set forth in Chapter 15(B) of the Comprehensive Plan; and

WHEREAS, the Project will preserve over 90 acres as open space thereby furthering the goal of Chapter 15(C) of the Comprehensive Plan of promoting a "pattern of land use that respects the Town's natural resources" with this Agreement serving as the Plan's contemplated "meaningful incentive to keep large areas of rural space intact" and the goal of Chapter 15(D) of the Comprehensive Plan of protecting fragile cost resources, including marshlands, sand dunes and wildlife habitats and the character of existing coastal neighborhoods; and

WHEREAS, the Project preserves Spurwink Road as a "scenic corridor" and assures 90 acres of open space "needed for the ... protection of wildlife and natural systems" as envisioned by Chapter 15(E) of the Comprehensive Plan;

WHEREAS, the Project, in accordance with Chapter 15(F) of the Comprehensive Plan, encouraging development that maintains substantial open space along Spurwink Avenue and precludes new households with frontage thereon, and therefor provides the variety of land uses needed to serve the day-to-day needs of the community (particularly its elderly residents) and this Contract, therefor, recognizes the Town's "preferred strategy for these rural lands is a combination of (a) increasing the minimum land size somewhat from the present 2 net acres; (b) making clustering of development optional but with a substantial density bonus as an incentive and (c) developing standards to assure that open space that is preserved as part of the clustering is both contiguous to other land similarly preserved and has public value (for wildlife, aesthetics, preservation of the rural landscape and so forth;" and

WHEREAS, the Project serves the goals of Chapter 15 (G) of the Comprehensive Plan by using public sewer and water facilities; and

WHEREAS, the Project fulfills the goals of Chapter 15 (H) of the Comprehensive Plan encouraging a choice of housing for residents of all ages and incomes by providing a type of retirement community not currently available in the Town;

WHEREAS, the rezoning provided in this Agreement, therefor, would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, therefor, has determined that the said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the executive of this Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on Attachment 1.

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2. Maine Life Care is authorized to create a Continuing Care Retirement Community, as defined herein, at the Property. For purposes of this Agreement, a Continuing Care Retirement Community means a residential and health care facility for persons 62 years of age or older which may include independent living units (apartments or cottages) for well elderly, assisted living units for frail elderly, and a skilled nursing facility, all as further described in paragraph (e) below, plus related supporting and accessory uses. Supporting and accessory uses, which shall be secondary and incidental to the residential units, may include administrative offices, shared areas for communal dining and recreational activities, a Wellness Center, health care offices, community store, bank, barber/beauty salon and guest rooms, all for the benefit of the residents and staff of the Continuing Care Retirement Community. Unless extended by the Town, construction of the initial phases of the Project will commence within two (2) years after execution of this Agreement; provided that Phase II (consisting of the 40 Independent Living Cottage Units referenced in paragraph 2(e) hereof, and the final 4 Assisted Living apartments; 32 Skilled Nursing Rooms and 16 Assisted Living Units) and substantially completed within five (5) years thereafter. Construction and use of the facility shall be subject to the following conditions:

- (a) Building Footprint and Height: The maximum allowable building footprint for the buildings (including the main building, the cottages and garage structures) shall be 257,600 square feet and the maximum building height shall be three (3) stories and as shown on the Site Plan Approved by the Town of Scarborough Planning Board. The main buildings shall be a maximum height of 39 feet to the mid-point of the sloped or hip roofs and 45 feet to the ridge of the roof. The maximum number of stories for the cottages will be 1 story.
- (b) Permitted Uses: The uses allowed or permitted on the Property shall be limited to (i) a Continuing Care Retirement Community and accessory uses; and (ii) the existing agricultural uses along Spurwink Avenue. Maine Life Care also may either (a) retain and maintain the existing cottage and barn on the Property, the use of which will be consistent with the and incidental to the Continuing Care Retirement Community use, such as guest rooms for guest visiting residents, equipment storage, security or maintenance, office and staff accommodations; or (b) sell such cottage for use as a single family residence.
- (c) Building Design: Building design, style and materials shall be substantially as depicted on the building elevations submitted during site plan review, with any changes thereto as approved by the Planning Board.
- (d) Landscaping: The Property shall be landscaped to enhance the general appearance of the project from surrounding properties as determined by the Planning Board at the time of site plan approval. The landscaping shall be maintained by Maine Life Care or its successors or its successors in interest. After the date of approval of this Contract Zoning Agreement, there shall be no significant amount of removal of existing trees or other vegetation except as indicated on an approved Site Plan. Notwithstanding the above, the use and maintenance by Maine Life Care of lands placed into any Conservation Easement shall be governed by the Deed of Easement, the language of which shall be approved by the Planning Board.
- (e) Density: The maximum net residential density of the Continuing Care Retirement Community shall be

160 Independent Living apartments, being dwelling units ranging in size from 500 square feet to 1800 square feet;

40 Independent Living Cottage Units, being one story, semi-attached in up to for plex buildings with each unit ranging in size from 700 square feet to 2000 square feet;

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20 Assisted Living Units, as regulated by Department of Human Services rules relating to residential care or assisted living units; and

40 Skilled Nursing Rooms, as regulated by Department of Human Services Nursing Home licensing requirements.

(f) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to persons 62 years of age or older or households with at least one resident who is 62 years of age or older.

(g) Sewer and Water: The facility will be served by both public water and public sewer.

(h) Setback: The front, side and rear yards shall be a minimum of 50 feet and as generally shown on the Site Plan approved by the Planning Board.

(i) Parking: The Project shall provide the following minimum off-street parking:

Independent Living apartments:	1 space for each dwelling unit
Independent Living cottages:	1.25 spaces for each dwelling unit
Assisted Living Units:	1 space per 3 units
Nursing Home beds:	1 space per 3 beds
Employees:	1 space per employee based on the expected average employee occupancy
Facility vehicles:	1 space per each expected facility vehicle

(j) Site Plan: The property subject to this Contract Zoning Agreement shall be developed and used only in accordance with the site plan approved by the Scarborough Planning Board on October 14, 1997, as that site plan may be amended from time to time pursuant to the provisions of the Scarborough Site Plan Ordinance. Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement:

(a) any change to the definition of a Continuing Care Retirement Community; and

(b) any increase in the number of units.

3. Maine Life Care shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement with the Town of Scarborough and Maine Life Care or its successors in interest.

The provisions of this Contract Zoning shall operate as an “overlay” zone and except as otherwise set forth in the aforesaid conditions, all other requirements of the underlying Zoning District shall apply (other than the maximum net residential density, use, height and parking). The restrictions, provisions and conditions of this Agreement are an essential part of the rezoning, shall run with the Property, shall bind Maine Life Care, its successors in interests and assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Scarborough.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Scarborough (as applicable) and any applicable amendments thereto or replacement thereof.

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The Town shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Scarborough Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Maine Life Care or its successors or assigns fail to develop the project in accordance with this Contract, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Maine Life Care, its successors or assigns, fails to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time, then this Contract may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as otherwise allowed by law.

WITNESS:

/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH

/s/ Carl L. Betterley, Its Town Manager

duly authorized by vote of the Scarborough

Town Council on November 5, 1997

WITNESS:

MAINE LIFE CARE RETIREMENT

COMMUNITY, INC.

/s/ Ronald Epstein

/s/ John J. Evans, Its President

**FIRST AMENDMENT TO CONTRACT ZONING AGREEMENT  
BETWEEN THE TOWN OF SCARBOROUGH AND  
MAINE LIFE CARE RETIREMENT COMMUNITY, INC.**

The First Amendment to Contract Zoning Agreement made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and Maine Life Care Retirement Community, Inc., a Maine non-profit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 ("Maine Life Care"), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life entered a Contract Zoning Agreement dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19 and Book 13449, Page 171; and,

WHEREAS, the Town of Scarborough, by and through its town Council has determined that the amendments set forth herein to said rezoning would be pursuant to and consistent with the Town's local growth program and Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this First Amendment to the Contract Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The provisions of Section 2(a), 2(e) and 2(f) of the Agreement are hereby amended in their entirety to provide:

(a) Building Footprint and Height: The maximum allowable building footprint for the buildings (including the main building, the cottages and garage structures) shall be 288,000 square feet and the maximum building height shall be three (3) stories and as shown on the Site Plan Approved by the Town of Scarborough Planning Board. The main buildings shall be a maximum height of 39 feet to the mid-point of the sloped or hip roofs and 45 feet to the ridge of the roof. The maximum number of stories for the cottages will be 1 story.

(e) Density: The maximum net residential density of the Continuing Care Retirement Community shall be

160 Independent Living apartments, being dwelling units ranging in size from 500 square feet to 1800 square feet;

40 Independent Living Cottage Units, being one story, semi-attached in up to four plex buildings with each unit ranging in size from 700 square feet to 2000 square feet;

48 Assisted Living Units, as regulated by Department of Human Services rules relating to residential care or assisted living units; and

40 Skilled Nursing Rooms, as regulated by Department of Human Services Nursing Home licensing requirements.

(f) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to persons 62 years of age or older or households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than 21 and younger than age 62, in the event that the person age 62 or

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older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

3. Maine Life Care shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds within 30 days after its execution by the Town Council.

4. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Amendment may commence within five (5) years after execution of this Amendment and shall be substantially completed within ten (10) years from the date of this Amendment.

5. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

Witness:

\_\_\_\_\_

Town of Scarborough

By: \_\_\_\_\_

Thomas Hall, Its Town Manager

\_\_\_\_\_

Maine Life Care Retirement Community, Inc.

By: \_\_\_\_\_

James E. Adamowicz, Its Chief Executive Officer

STATE OF MAINE

CUMBERLAND, ss.

\_\_\_\_\_, 2014

Personally appeared the above-named Thomas Hall, Town Manager of said Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Town of Scarborough.

Before me,

\_\_\_\_\_  
Notary Public/Commission Expires

STATE OF MAINE

CUMBERLAND, ss.

\_\_\_\_\_, 2014

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of said Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized and the free act and deed of said Maine Life Care Retirement Community, Inc.

Before me,

\_\_\_\_\_  
Notary Public/Commission Expires

## SECOND AMENDMENT TO CONTRACT ZONING AGREEMENT

This Second Amendment to Contract Zoning Agreement made as of the 19<sup>th</sup> day of June, 2019 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and Maine Life Care Retirement Community, Inc., d/b/a Piper Shores, a Maine nonprofit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 (hereinafter "Maine Life Care"), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life Care entered a Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by a First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 (collectively, the "Agreement"); and

WHEREAS, the property is currently in a Rural Farming Zone (R-F Zone), which allows as permitted uses various uses, including but not limited to single-family housing, multi-family housing, nursing homes, and boarding care facilities for the elderly; and

WHEREAS, Maine Life Care has requested a rezoning of the property to permit a Continuing Care Retirement Community; and

WHEREAS, a Continuing Care Retirement Community is a permitted use in the existing contract zone and is in harmony with the existing and permitted uses in the R-F Zone:

- (i) is residential in nature consistent with the permitted residential uses in the RF Zone,
- (ii) involves a clustered development and conservation easements that provide substantial open space permitted and endorsed by the RF Zone,
- (iii) involves a senior population consistent with the permitted use of "Nursing homes and boarding-care facilities for the elderly" permitted in the RF Zone,
- (iv) with regard to the apartment building, involves a scale of building, consistent with the the permitted uses of "Nursing homes and boarding-care facilities for the elderly", "places of worship", and "municipal buildings", and
- (v) projects traffic volumes consistent with the permitted uses in the RF Zone; and

WHEREAS, the preliminary site plan approved by the Planning Board includes heavily landscaped buffering from neighboring properties to preserve the character and feel of properties in the RF Zone, and includes substantially greater setbacks than required in the RF Zone; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined, in accordance with the Town of Scarborough Zoning Ordinance Section II, I. 4. c. ii., that the amendments set forth herein are consistent with the existing and permitted uses within the R-F Zone; and

WHEREAS, the Town of Scarborough, by and through its Town Council has determined that the amendments set forth herein to said rezoning are pursuant to and consistent with the Town's local growth program and 2006 Update of the Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, by providing a range of senior housing opportunities within a growth area served by public water and sewer facilities, encouraging the development of multiplex/multi-family housing, growing a non-profit business that offers high quality jobs, and adding new residential development that does not result in demands for expanded services beyond the Town's ability to meet those demands; and such amendments are consistent with the existing and permitted uses within the original zoning district classifications; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the amendments set forth herein to said rezoning are in the public interest and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification. The public benefits, which are more fully set forth on Exhibit C attached hereto and incorporated herein, include but are not limited to: (i) providing housing and amenities to senior citizens with innovative design features, (ii) donating an easement for open space and conservation land; (iii) providing public parking and public access to recreational trails, (iv) improving the Town's tax base, (v) providing a contribution to the Town's Affordable Housing Initiative Fund; (vi) providing a contribution to the Town's multimodal reserve account to fund sidewalks to enhance pedestrian connectivity, and (vii) increasing employment opportunities in the Town; and

WHEREAS, the Town of Scarborough, by and through its Town Council has authorized the execution of this Second Amendment to Contract Zoning Agreement ("Second Amendment").

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town hereby amends the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1. The Agreement is amended to add to the provisions of the Agreement the property described in Exhibit A of this Second Amendment (hereinafter called the "Dorado Property"). The provisions of Section 2 of the Agreement are hereby amended to provide that Sections 2(a) through 2(j) of the Agreement shall not apply to the Dorado Property and instead the following provisions shall apply to the Dorado property, and Maine Life Care is authorized to construct up to 52 dwelling units and related improvements as described below and subject to the conditions set forth below and notwithstanding the provisions of Sections XIV and IX of the Zoning Ordinance of the Town:

(a) Building Height: The maximum building height is 40 feet. Building height for purpose of this Agreement shall be as defined in the zoning ordinance, which states the

definition as “Vertical distance measured from the average finish grade at the front of the building to the highest point of the roof on a flat or mansard roof and to the average height between the eaves and the ridge for all other types of roofs.” For this definition, the “front of the building” shall be the exterior side of the building where visitors approach the main entrance and where off street parking is located.

(b) Density: The maximum residential density for the Dorado Property shall be 52 dwelling units. The dwelling units may be located in any combination of single family dwelling units, duplex or two family dwelling units, and multi-family dwelling units, and any building with multi-family dwelling units may also contain additional common facilities such as meeting rooms, activity rooms, recreational facilities, common dining and kitchen facilities and parking facilities and other facilities that may be part of a Continuing Care Retirement Community.

(c) Permitted Uses: The uses allowed or permitted on the Property shall be a Continuing Care Retirement Community and accessory uses, including maintenance and operations support facilities. The term “Continuing Care Retirement Community” shall have the meaning set forth in the Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by the First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 and as amended by this Amendment.

(d) Building Design: Building design, style and materials shall be substantially as depicted on plans submitted during site plan review, with any changes thereto as approved by the Planning Board.

(e) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to person 62 years of age or older households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than age 35 and younger than age 62, in the event that the person age 62 or older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

(f) Sewer and Water: The facility will be served by both public water and public sewer.

(g) Setbacks: The front yard setback from Spurwink Road shall be a minimum of 200 feet and the side and rear yards from the exterior boundary of the Dorado Property shall be a minimum of 50 feet, except that the setback from Newcomb Ridge on the westerly side of the Dorado Property shall be 75 feet as shown on the Subdivision Plan.

The side and rear yard setbacks shall comply with the buffering requirements set forth in Section VIII of the Zoning Ordinance of the Town such that where no natural

buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen.

(h) Parking: The following minimum off-street parking shall be provided: 1 space for each dwelling unit.

(i) Road Length: In recognition of the fact that all units will be equipped with residential sprinkler systems and that adequate fire hydrants will be provided throughout the project, the cumulative length of a dead end private way on the Dorado Property may exceed 2,000 feet but shall not exceed 2,800 feet.

(j) Site Plan and Subdivision Plan: The property shall be developed in a manner consistent with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough and the Subdivision Ordinance of the Town of Scarborough (the "Subdivision Plan").

Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement: (a) any change to the definition of a Continuing Care Retirement Community; and (b) any increase in the number of units, decrease in minimum setbacks or increase in maximum building height.

2. Pursuant to Section 7(G)(5)(a) of the Town's Growth Management Ordinance, Chapter 413, in order to permit the dwelling units to be constructed in a timely and efficient manner, the Town hereby authorizes use of growth permits from the reserve pool for the project and authorizes and directs the Planning Board to so allocate from the reserve pool the appropriate number of growth permits to allow Maine Life Care, its successors and assigns, to obtain the requisite building permits for the project, inclusive of the 52 dwelling units.

3. Maine Life Care shall record this Second Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 90 days after its execution by the Town.

4. In recognition of Scarborough's interest in expanding pedestrian connectivity in the area, Maine Life Care agrees to make a \$25,000.00 contribution to the Town's multimodal reserve account to be used for construction of sidewalks to enhance pedestrian connectivity. In addition, Maine Life Care intends to install a pedestrian crosswalk across Spurwink Road to facilitate a pedestrian connection between the existing trail system at 15 Piper Road and the Dorado Property. In the event that Maine Life Care is unable to install the pedestrian crosswalk across Spurwink Road, Maine Life Care will increase its contribution to the multimodal reserve account to \$40,000.00.

5. In recognition of Scarborough's interest in expanding affordable housing opportunities, Maine Life Care agrees to make a \$250,000.00 contribution payable to the

Scarborough Affordable Housing Initiative Fund, to be paid at the time Maine Life Care receives its building permit(s).

6. Maine Life Care agrees that it will donate a conservation easement to the Town, the Scarborough Land Trust, or such other entity/organization qualified to hold conservation easements pursuant to Title 33, Maine Revised Statutes Annotated, Section 476(2)(A) & (B), as amended, and under Internal Revenue Code Section 170(h)(3) and the regulations promulgated thereunder, to wit: government entities or nonprofit Code § 501(C)(3) organizations operated primarily to accept lands, easements, and property for the purpose of preserving and protecting natural, scenic, educational, recreational and open space values of real property, having a commitment to protect the conservation purposes of the donation, and the resources to enforce the restrictions; provided, however, that the Town, the Scarborough Land Trust, or such other qualified entity/organization is willing to accept said donation of the conservation easement under the terms and conditions hereinafter described.

The conservation easement shall encumber approximately 12.5 acres of land at the back of the Dorado Property and shown as the "Proposed Conservation Area" on the plan titled "Subdivision Plan Of Land Owned By: David R. and Patricia R. MacDonald, 5 Dorado Drive, Scarborough, Maine" prepared by Sebago Technics for Maine Life Care Retirement, and attached hereto as Exhibit B and incorporated herein. The conservation easement shall be in a form mutually agreeable to Maine Life Care and the easement holder, shall prohibit the development or installation of permanent structures on or in the conservation area without the prior written consent of the easement holder, and shall permit public access for pedestrian walking trails in accordance with Section 7 below.

7. Maine Life Care agrees that all sidewalks and pedestrian walkways located on the Dorado Property and all walking trails located within the conservation easement area as set forth in Section 6 above as shown on the Subdivision Plan may be used by the general public during daylight hours subject to reasonable rules and regulations adopted by Maine Life Care from time to time. Maine Life Care shall provide seven (7) parking spaces for the general public to access such trails. Maine Life Care shall have the right to relocate such trails and parking spaces from time to time with approval from the Planning Department or Planning Board.

8. Maine Life Care agrees to hire a hydrologist to prepare a groundwater and well motioning plan reasonably acceptable to the Planning Board as part of the final subdivision approval to ensure the project does not materially and adversely impact the water quality or water flow (as measured by gallons per minute) of existing wells within one thousand (1,000) feet of the property. The groundwater and well monitoring plan will include the following provisions: First, Maine Life Care will evaluate the water quality and water flow of the wells of abutting property owners prior to any blasting on site so long as the abutting property owner consents to such evaluation. Second, Maine Life Care will work with appropriate consultants to ensure that any blasting on the site complies with all applicable laws, rules, and regulations, and general best practices. Third, Maine Life Care will take all reasonable measures to prevent blasting activities from adversely affect the water quality and water flow of the wells of abutting property owners. Fourth, Maine Life Care will monitor the water quality and water flow of the wells of abutting property owners during construction activities and for a period of thirty-six (36) months

following substantial completion of the project so long as the abutting property owner consents to such monitoring. Fifth, Maine Life Care will take all necessary and commercially reasonable steps and actions to remediate the water quality and water flow of the wells of abutting property owners if it is determined by a hydrogeologist selected by Maine Life Care and approved by the Town and paid for by Maine Life Care that the construction of the project caused a material deterioration of the water quality and water flow.

9. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Second Amendment may commence within five (5) years after execution of this Second Amendment and shall be completed within ten (10) years from the date of this Second Amendment.

10. Maine Life Care acknowledges and agrees that the 52 dwelling units authorized by this Amendment will not be licensed as skilled nursing or assisted living or residential care and that accordingly such independent living dwelling units shall be subject to property tax by the Town.

11. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

WITNESS:

TOWN OF SCARBOROUGH

Collette Matheson

By: Thomas J. Hall  
Thomas Hall, Its Town Manager  
(Duly authorized by vote of the Scarborough Town  
Council on June 19, 2019)

MAINE LIFE CARE RETIREMENT COMMUNITY, INC.

Collette Matheson

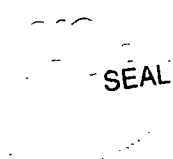
By: James E. Adamowicz  
James E. Adamowicz, Its Chief Executive Officer  
June 27, 2019

STATE OF MAINE  
CUMBERLAND, ss.

Personally appeared the above-named Thomas Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Town of Scarborough.

Before Me,

Yolande P. Justice  
Notary Public



**YOLANDE P. JUSTICE**  
Notary Public, Maine  
My Commission Expires October 31, 2022

STATE OF MAINE  
CUMBERLAND, ss.

July 2, 2019

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Maine Life Care Retirement Community, Inc.

Before Me,

Yolande P. Justice  
Notary Public

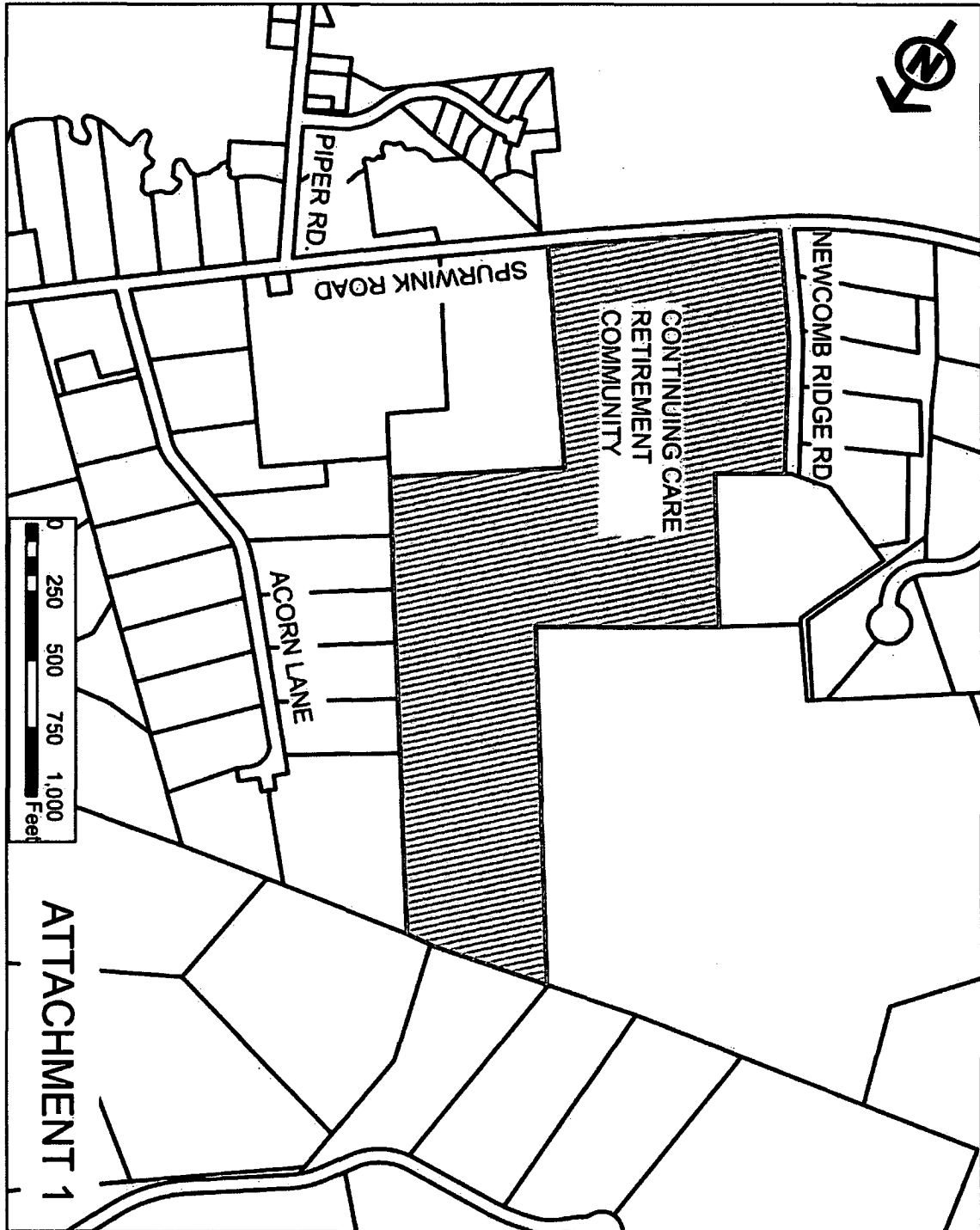
SEAL

Exhibits

Attachment 1: Zoning Map Change  
Exhibit A: Description of Dorado Property  
Exhibit B: Conservation Easement Area  
Exhibit C: Public Interest/Public Benefit

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Notary Public, Maine  
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**Attachment 1**  
Amendment to Zoning Map



**Exhibit A**

5 Dorado Drive, Scarborough, Maine

A certain lot or parcel of land, together with any improvements thereon, in Scarborough, Cumberland County, Maine, located on the northerly side of Spurwink Road, being a portion of property now or formerly owned by K. Joseph Newcomb as described in an instrument recorded with the Cumberland County Registry of Deeds in Book 6994, Page 269, and also being a portion of the parcel depicted as "Lot 3, 45.04 Ac. +/-" on a plan entitled "Plan of Property on Spurwink Road, Scarborough, Maine, Made for Joseph Newcomb," prepared by registered Professional Land Surveyor George R. Bauer, Registration #2231, dated July 3, 1998, revised July 23, 1998, as recorded in said Registry of Deeds in Plan Book 198, Page 300 (the "Plan"), and more particularly described as follows:

Beginning at an iron rod set and capped PLS 2231, located at the southwest corner of the parcel described herein, said corner being the intersection of the northerly sideline of said Spurwink Road with the easterly sideline of an area depicted on the Plan as "Newcomb Ridge Road, 50' Wide Right of Way," said point of beginning being located N 78° 50' 08" E a distance of 469.26 feet from a concrete obelisk marked "1920 R11M8E" situated on the northerly sideline of said Spurwink Road as shown on the Plan;

Thence running N 16° 49' 00" W a distance of 164.36 feet along the easterly boundary of said 50' Wide Right of Way to an iron pin set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 24° 43' 33" W a distance of 204.57 feet continuing along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 13° 28' 42" W a distance of 406.61 feet along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 09° 16' 52" W a distance of 104.77 feet along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, which iron rod is located S 84° 16' 52" E a distance of 51.76 from a 5/8" iron rod found at the northwesterly corner of said 50' Wide Right of Way and the northeasterly corner of land now or formerly of Frank J. Dirrigl and Sheridan N. Dirrigl, described in an instrument recorded in said Registry of Deeds in Book 6571, Page 122, and depicted on the Plan as "Lot 2, 2.16 Ac. +/-";

Thence turning and running N 75° 19' 19" E a distance of 273.87 feet along remaining land now or formerly of K. Joseph Newcomb depicted on the Plan as "Lot 4, 13.33 Ac. +/-" to an iron rod set and capped PLS 2231 at the southeasterly corner of said Lot 4, as shown on the Plan;

Thence turning and running N 16° 39' 08" W a distance of 575.00 feet along the easterly boundary of said Lot 4 to an iron rod set and capped PLS 2231 at the northeasterly corner of said Lot 4 and the southerly or southeasterly boundary of land now or formerly of Camp Fire Girls Hitinowa

Council, Inc. described in an instrument recorded in said Registry of Deeds in Book 4345, Page 217, as shown on the Plan;

Thence turning and running N 73° 20' 52" E a distance of 574.08 feet along the southerly or southeasterly boundary of said, land now or formerly of said Camp Fire Girls of Hitinowa Council, Inc. to a pine tree with wire remains, as shown on the Plan;

Thence turning and running N 18° 30' 23" W a distance of 1,352.95 feet along the easterly boundary of said land now or formerly of Camp Fire Girls of Hitinowa Council, Inc. to a 5/8" iron rod found at the northeasterly corner of said land now or formerly of Camp Fire Girls of Hitinowa Council, Inc. and the southwesterly corner of land now or formerly of Robert W. Hansen and Karen D. Hansen described in an instrument recorded in said Registry of Deeds in Book 11926, Page 37, as shown on the Plan;

Thence turning and running S 86° 49' 32" E a distance of 450.13 feet along the southerly boundary of said land now or formerly of said Hansens to a 5/8" iron rod found at the southeasterly corner of said land now or formerly of said Hansens and the southwesterly corner of land now or formerly of Robert C. Ludwig and Gail T. Ludwig described in an instrument recorded in said Registry of Deeds in Book 10802, Page 271, as shown on the Plan;

Thence turning and running S 80° 58' 54" E a distance of 104.28 feet along the southerly boundary of said land now or formerly of said Ludwigs to a crimped 1/2" pipe found at the northwesterly corner of land now or formerly of Peter B. Talbot and Lorraine D. Talbot described in an instrument recorded in said Registry of Deeds in Book 11668, Page 327, as shown on the Plan;

Thence turning and running S 18° 17' 00" E a distance of 1,679.55 feet along the westerly boundary of said land now or formerly of said Talbots and the westerly boundaries of lands now or formerly of (i) Beverly A. Brennan, described in an instrument recorded in said Registry of Deeds in Book 3210, Page 250; (ii) Jeffrey W. Jones and Luciad Jones, described in an instrument recorded in said Registry of Deeds in Book 11265, Page 82; (iii) Scott D. Dakers and Jane A. Dakers, described in an instrument recorded in said Registry of Deeds in Book 8163, Page 256; (iv) Arnold M Bushner and Sharon A. Bushner, described in an instrument recorded in said Registry of Deeds in Book 7713, Page 252; and (v) Steven G. Jamison Trent and Susan I. Jamison Trent, described in an instrument recorded in said Registry of Deeds in Book 9480, Page 343, to a 1 1/2" iron pipe found at the southwesterly corner of said land now or formerly of said Trents and the northeasterly corner of land now or formerly of David E. Hefler, described in instruments recorded in said Registry of Deeds in Book 3124, Page 468 and Book 4124, Page 70;

Thence turning and running S 71° 49' 54" W a distance of 606.07 feet along the northerly boundary of said land now or formerly of Hefler to an iron rod found at the northwest corner of said land now or formerly of Hefler, as shown on the Plan;

Thence turning and running S 19° 33' 31" E a distance of 843.18 feet along the westerly boundary of said land now or formerly of Hefler through a bent iron pin found, as shown on the Plan, and continuing to an iron rod set and capped PLS 2231 on the northerly sideline of said Spurwink Road at the southwesterly corner of said land now or formerly of Hefler, as shown on the Plan;

Thence turning and running S 68° 58' 44" W a distance of 788.51 feet along the northerly sideline of said Spurwink Road to an iron rod set and capped PLS 2231 on the northerly sideline of Spurwink Road, as shown on the Plan;

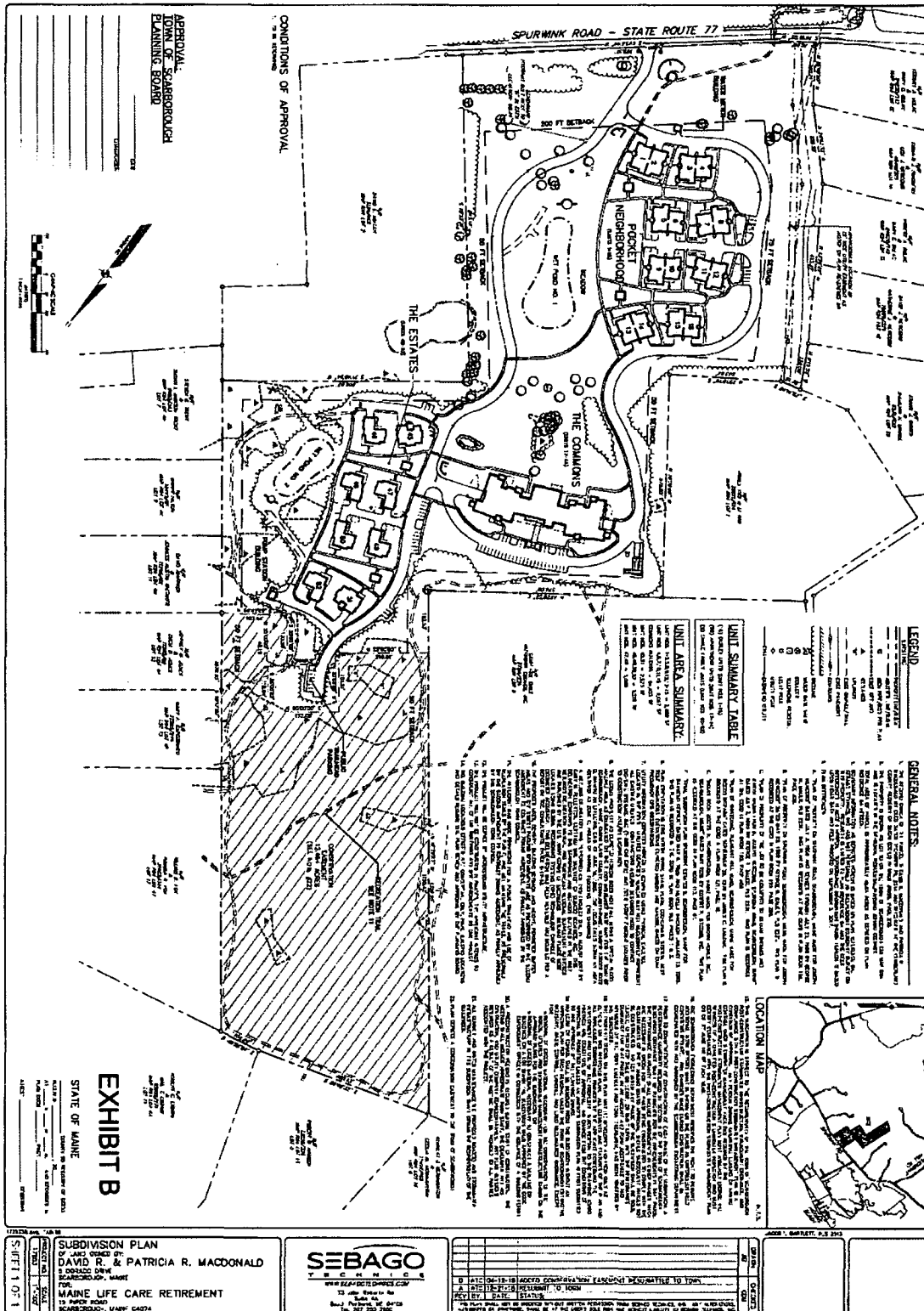
Thence turning and running S 74° 01' 02" W a distance of 26.68 feet along the northerly sideline of said Spurwink Road to the iron rod set and capped PLS 2231 at the southeasterly corner of said 50' Wide Right of Way and the point of beginning.

The above described premises contain 44.02 acres, more or less.

Bearings are magnetic, 1960.

Reference is hereby made to the Plan. This conveyance is the conveyance contemplated by Note 4 on the Plan, earlier parties having agreed, notwithstanding such Note and notwithstanding the depiction of said Lot 3 on the Plan, to convey only the above-described portion of the parcel said Lot 3, excepting and reserving to K. Joseph Newcomb, his heirs and assigns, the fee ownership in the portion of said Lot 3 which is depicted on the Plan as "Newcomb Ridge Road, 50' Wide Right of Way."

# Exhibit B



**Exhibit C**  
**Public Benefits to Scarborough and**  
**Consistency with the Comprehensive Plan**

1. **SENIOR HOUSING:** The proposed development will provide additional housing and amenities to senior citizens.

The Scarborough Comprehensive Plan calls out the need for additional senior housing in Scarborough, stating: “We know that the senior population continues to grow and with that growth comes an increased need for higher density housing, often with smaller yards, common maintenance agreements, and shared facilities.”

2. **INNOVATIVE DESIGN AND CLUSTER DEVELOPMENT:** The proposed development features highly attractive and innovative design, including clustered development, significant open space preservation, and a mix of housing types (single-family, duplex, and apartments).

The Scarborough Comprehensive Plan promotes these same features in the Limited Growth Sector, stating: “Clustered developments with standards for significant open space protection, an interconnected street network, and a mix of housing types (single-family, duplexes and townhouses) are encouraged”.

3. **CONSERVATION AND OPEN SPACE:** Maine Life Care will donate an easement over an additional 12.5 +/- acres of land for permanent open space and conservation land. This is in addition to more approximately 95 +/- acres of land already under conservation easement on the existing Maine Life Care campus, bringing the total conservation area to more than 107 acres.

The Scarborough Comprehensive Plan states, “Open-space preservation was recognized early on as critical to protect Scarborough’s natural resources.”

4. **RECREATIONAL TRAILS:** Maine Life Care will provide public access to recreational trails located in the conservation area. This is in addition to the extensive trail network already accessible on the existing Maine Life Care campus.

The Scarborough Comprehensive Plan promotes, “Sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable town by the sea.”

5. **PUBLIC PARKING/ACCESS:** Maine Life Care will construct seven (7) parking spaces available to the public near the trailhead to make the trails accessible.

The Scarborough Comprehensive Plan states, “Many recreation opportunities within a stunning coast environment significantly contribute to the quality of life enjoyed by current residents and appeal to visitors.”

6. **ENHANCED SETBACKS:** The proposed development will include robust setbacks from all sidelines exceeding the requirements of the existing zoning, including:

- the front yard setback from Spurwink Road shall be a minimum of 200 feet;
- the side and rear yards from the exterior boundary of the Dorado Property shall be a minimum of 50 feet; and
- the setback from Newcomb Ridge on the westerly side of the Dorado Property shall be 75 feet.

7. **BUFFERING/SCREENING:** The side and rear yard setbacks shall comply with the buffering requirements set forth in Section VIII of the Zoning Ordinance of the Town such that where no natural buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen.

The Scarborough Comprehensive Plan states, “Known as “vertical rain gardens,” trees offer multiple benefits, including managing stormwater runoff.”

8. **TAX REVENUE:** The project will considerably add to the Town’s tax base and increase employment opportunities in the Town. The Scarborough Comprehensive Plan expressly calls out the need to stabilize and diversify the employment base in Scarborough.

The Scarborough Comprehensive Plan states, “Generally, a local government’s capital and operating responsibilities are financed by taxes and other fixed or restricted revenue sources.”

9. **AFFORDABLE HOUSING:** Maine Life Care will provide a contribution of \$250,000.00 to the Town’s Affordable Housing Initiative Fund.

The Scarborough Comprehensive Plan states, “Having more diverse and affordable housing options is critical to the region’s economic success and will assist businesses in attracting qualified workers.” It also states, “The funds collected through the in-lieu fee provisions can be used to increase the availability of affordable housing beyond what could have been provided under the standard density bonus provision.”

10. **PEDESTRIAN CONNECTIVITY:** Maine Life Care will provide a contribution of \$25,000.00 to the Town’s multimodal reserve account to fund sidewalks to enhance pedestrian connectivity.

The Scarborough Comprehensive Plan states, “A strong network of pedestrian sidewalks, trails, and bicycle lanes will also work to connect all residents and visitors.”

11. **FISCALLY SUSTAINABLE:** Maine Life Care will bring many civically-minded volunteers to Scarborough who will devote countless hours and resources to numerous civic and volunteer opportunities in the community; however, Maine Life Care will NOT significantly add to the strain on municipal infrastructure, such as public works and the public school system.

The Scarborough Comprehensive Plan lists in its Guiding Principles: "Fiscally Sustainable. Deliver excellent municipal services to our entire community in a fiscally sustainable manner to minimize the impacts and costs for tax payers."

Received  
Recorded Register of Deeds  
Jul 08, 2019 03:35:02P  
Cumberland County  
Nancy A. Lane

RECEIVED  
JUL 08 2019  
CUMBERLAND COUNTY  
NANCY A. LANE