

AGENDA
TOWN COUNCIL WORKSHOP
WEDNESDAY, FEBRUARY 3, 2016
REVIEW OF PACTS PROJECTS
6:00 P.M. - CHAMBER A

- Item 1.** Call to Order.
- Item 2.** Those Present.
- Item 3.** Discussion on the proposed PACTS Projects.
- Item 4.** Adjournment.

**Packet for the 6:30 p.m. Workshop on the
Discontinuance of Avenue Two follows this Agenda Packet.**



To: Town Councilors and Tom Hall, Town Manager
From: Mike Shaw, Public Works Director, Angela Blanchette, Town Engineer, and
Dan Bacon, Planning Director
Date: January 29, 2016

Overview of Applications to PACTS for Future Transportation Funding

On your agenda for February 3rd we are providing a resolution for Town Council endorsement of three applications to the Portland Area Transportation System (PACTS) for transportation funding.

One application is for \$200,000 from PACTS through their Municipal Partnership Initiative (MPI) toward the potential first phase of a multi-phase Gorham Road improvement project for road, drainage, bicycle and pedestrian improvements. This request (\$200,000) is the maximum allowed per funding year through the MPI program which we are seeking for 2017. The Gorham Road corridor has been under preliminary design with intensive public input and review by staff and the Town's Transportation Committee over the past 6-months.

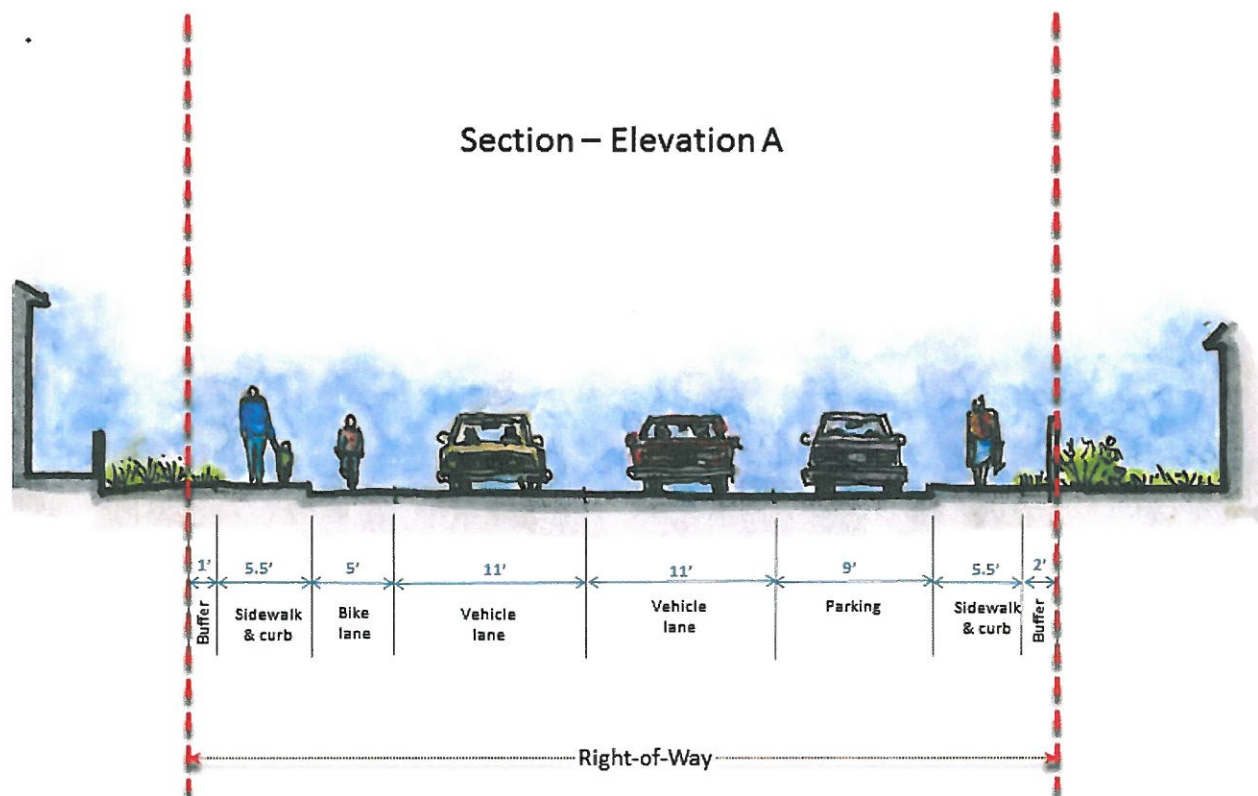
The other two applications are for "Road Rebuild" and "Intersection" funding for the Pine Point area, and more specifically East Grand Avenue and the intersection of East Grand / Pine Point / Jones Creek Drive. The road and drainage infrastructure in Pine Point has been on Public Work's priority list for a number of years and these applications to PACTS are anticipating funding for 2019. This will give the Town time to conduct a preliminary design and public input process to help determine the specifics around the road, drainage, sidewalk and bike related improvements along both East Grand Avenue as well as what the best Pine Point / East Grand intersection configuration may be. It will also provide time for us to understand the range and quantities of funding sources that can contribute to these efforts. Given the very preliminary stage we are at, the concept design and cost estimates used in the PACTS application were both conceptual and conservative, in an attempt to ensure adequate funding and flexibility with the future design and project scope.

It should also be noted that these future Pine Point projects will be coordinated with and considered in the greater context of the new Pine Point Road bridge underway by MDOT right now and the repaving of Pine Point Road between the bridge and the East Grand intersection that is slated for this Fall.

East Grand Avenue PACTS Grant Summary

The East Grand corridor from the Pine Point Road intersection to the Old Orchard Beach town line is in need of capital improvements. The current road surface is in poor condition and last received a thin overlay 13 years ago. The drainage is 1950's vintage and is inadequate to handle the runoff from the additional impervious surface created over the last 60 plus years. Additionally, when the current system was design there was no consideration of treating stormwater for removal of pollutants. By today's standards the design of East Grand is outdated.

The proposed project is intended to address drainage and water quality needs as well as create a street scape that meets the needs of residents and visitors. Using a "Complete Streets" approach we intend to build a road system that supports multi modal transportation. The project will consider the surrounding landscape to be sure it is in scale with the other features around it. Below is a cross section that provides an example of what East Grand Avenue could look like.



Staff believes that a roadway with elements of the cross section above is appropriate for the East Grand. It has proper scale to the buildings in the area and addresses the desire of people to enjoy the Pine Point area in a number of ways. A design like this supports transportation and passive recreation activities within the 50 right of way that exists.

Gorham Road PACTS Grant Summary

Gorham Road is a minor arterial with over 10,000 vehicles per day traveling along it, and as such, is considered one of the major commuter corridors in the region. The Town of Scarborough has submitted an application for the Gorham Road (Route 114) Complete Street Project, which spans 1.25 miles from Wentworth Drive to Ridgeway Road. This section of the corridor is vital to Scarborough's transportation system, as it links Scarborough's downtown area at Oak Hill intersection with the commercial area of town near Scarborough Gallery. In between these two focus areas is a large network of residential streets and development. These factors lend itself to a complete street approach to rebuilding the infrastructure within the corridor. The project will include: full-depth roadway reconstruction, paved shoulders/bike lanes, curb, sidewalk, multi-use path, drainage improvements, water quality treatment measures, and stream crossing upgrades.



This busy corridor has had limited work performed on it over the past 25 years. Approximately eight years ago the Maine Department of Transportation (MDOT) completed paving project from the Oak Hill intersection to Maple Avenue. The remainder of the corridor has had only spot repairs performed by Scarborough Public Works Department. Even in the area of the MDOT mill and fill project, the roadway is showing signs of stress, which indicates that the roadway base needs to be rebuilt and drainage improvements completed rather than continuing to add more pavement to the roadway surface.

This project is intended to be the first phase of a larger initiative to rebuild 2.1 miles of Gorham Road, from Wentworth Drive to Payne Road. Staff anticipates that this project will be divided into multiple phases, and will span over many fiscal years tapping into a variety of funding sources from State and Federal agencies.

AGENDA
TOWN COUNCIL WORKSHOP
WEDNESDAY, FEBRUARY 3, 2016
REQUEST FOR DISCONTINUANCE OF AVENUE TWO
6:30 P.M. - CHAMBER A

Item 1. Call to Order.

Item 2. Those Present.

Item 3. Discussion on the request for Discontinuance of Avenue Two.

Item 4. Adjournment.



SURVEYING ENGINEERING LAND PLANNING

Northeast Civil Solutions

INCORPORATED

www.northeastcivilsolutions.com

381 Payne Road
Scarborough
Maine 04074

January 28, 2016

tel

207.883.1000
800.882.2227

fax

207.883.1001

Tom Hall, Manager
Town of Scarborough
P.O. Box 360
Scarborough, Maine 04074

RE: Charlie Gendron, 37 King Street, Discontinuance of Right-of-Way (Pine Point)

Dear Tom,

This is a follow up to our meeting in October, 2015.

In 2013, NCS performed a boundary survey of Mr. Gendron's property located at 37 King Street. His property is bordered by King Street on the north, the Atlantic Ocean on the south, Avenue 2 (paper street) on the east, and Brenda Delahanty on the west.

The results of our research and survey show that Avenue 2 was never constructed or accepted by the town, and has therefore apparently been discontinued by nonuse. Currently, there is a meandering sand path through the trees in the area of Avenue 2 from King Street to the ocean.

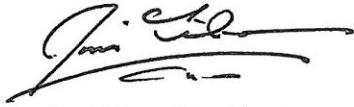
What our client wishes to do is twofold: 1) Solidify/clarify the ownership of this undeveloped strip of Avenue 2; and 2) in exchange for the discontinuance, grant a permanent easement to the town to secure by deed the right of an ingress /egress easement for the public to access the beach. This action could be accomplished by a formal discontinuance by the Town Council.

NCS was previously involved with two formal discontinuances in the Pine Point area. One was for Fred Bayley on Avenue 5 in 2006, and one for Sue Bayley on Avenue 6 in 2007. In both cases our clients and the town benefited by "trading" a formal discontinuance for a resulting public easement, and the town additionally benefitted by adding land to the tax rolls.

For the record, Charlie is NOT interested in cutting off access to the public, as he currently lives in the neighborhood and has no issues with the access that exists today. He would just like to clarify ownership since his house is in very close proximity to this paper street, and he envisions a day in the near future when he decides to fix up the house and landscaping.

In April, 2014, the issue of Avenue 2 was reviewed on behalf of the town by Bergen and Parkinson. Attached is this letter along with an Existing Conditions plan of Charlie's property. We would like to meet with the Council on February 3, 2016 to explain this proposal in greater detail and to request feedback from the Councilors. If you have any questions, please feel free to contact me. Thank you.

Sincerely,
Northeast Civil Solutions, Inc.

A handwritten signature in black ink, appearing to read "Jim Fisher", with a stylized flourish underneath.

Jim Fisher, President

Attachments:
Bergen-Parkinson Letter
Discontinuance Plan Avenue 2
Two prior Orders of Discontinuance

Wayne T. Adams
Christian L. Barner
Barbara I. Belik
Wilda A. Castner
C. Wesley Crowell
Susan Bernstein Driscoll
Scott M. Edmunds
Susan C. Hasson
Jason G. Howe



Sarah B. Neault
Durward W. Parkinson
Leah B. Rachin
Brin Richer
Laura H. White
Of Counsel
Jonathan Bangs
Bruce W. Bergen
Earle J. Patterson

April 30, 2014

dparkinson@bergenparkinson.com

James Wendel, Town Engineer
Town of Scarborough
P.O. Box 360
Scarborough, ME 04070

Re: Charles Gendron Property, 37 King Street, Pine Point, Scarborough

Dear Jim:

You have asked us for an opinion regarding the legal status of the portion of Avenue 2 (abutting the Charles Gendron property) extending from King Street to the Atlantic Ocean ("the Parcel"). It is our understanding that Mr. Gendron wishes to utilize the Parcel for further development of his property.

It definitely appears that historically the Parcel has never been developed or maintained by the Town as a road for passage of vehicles. Rather there is a meandering foot path from King Street to the Ocean.

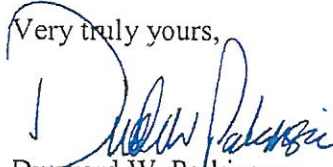
By way of further background, the Parcel appears on an 1888 subdivision plan and the 1950 Pillsbury Plan. Town records in 1950 indicate a general acceptance by the Town of the Pillsbury Plan. Mr. Gendron's legal counsel and surveyor have noted that the Parcel may not have actually been accepted by the Town because the 1950 Pillsbury Plan does not show the length of the Parcel—with the width only shown as 49.50'. This is a valid argument—but it also could be argued that the Plan notation "575' to H.W. Jan. 50" is the length of the right of way to high water.

Considering all of these facts, it is not sufficiently clear in our opinion whether or not the Town acceptance occurred. If the Town wishes to move forward on Mr. Gendron's request, we would recommend that the Town formally discontinue the Parcel coupled with Mr. Gendron granting an easement back to the Town from for the pathway to the ocean.

Page 2
April 30, 2014

At a minimum, the Town appears to have acquired prescriptive rights to use and maintain the pathway to the ocean. Emphasis in the legal documents should be given to the width and location of the pathway as well as maintenance responsibilities and other terms insuring safe and continued public access to the ocean.

Please let me know if I can be of further assistance with any of these issues.

Very truly yours,

Durward W. Parkinson

DWP/mq

cc: Nathan Smith, Esq.

NOTES

1. THE PARCEL SHOWN IS LOCATED BETWEEN THE TOWN OF SCARBOROUGH ASSESSOR'S MAP U022, PARCEL 98 & 97.
2. REFERENCE IS MADE TO THE FOLLOWING PLANS OF RECORD:
 - a. "PLAN OF PINE POINT", BY WILLIAM MOULTON, DATED NOVEMBER, 1875 AND RECORDED IN PLAN BOOK 6, PAGE 36 (CCRD).
 - b. "PLAN OF STREETS, PINE POINT, SCARBOROUGH, MAINE" BY A.M. & G.T. PILLSBURY, DATED JANUARY, 1950, RECORDED IN PLAN BOOK 36, PAGE 20.
3. THIS IS NOT A BOUNDARY SURVEY. THIS EXISTING CONDITIONS PLAN EXCEPTS CHAPTER 90, PART 2, SECTIONS 4 THROUGH 8 OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYOR'S RULES.

DISCONTINUANCE PLAN OF AVENUE 2 SOUTH OF KING STREET SCARBOROUGH MAINE

SCALE: 1"= 50'
DATE: MAY 30, 2014
REVISED: AUGUST 17, 2015
PREPARED FOR: CHARLIE GENDRON
17 KING STREET
SCARBOROUGH, MAINE 04074

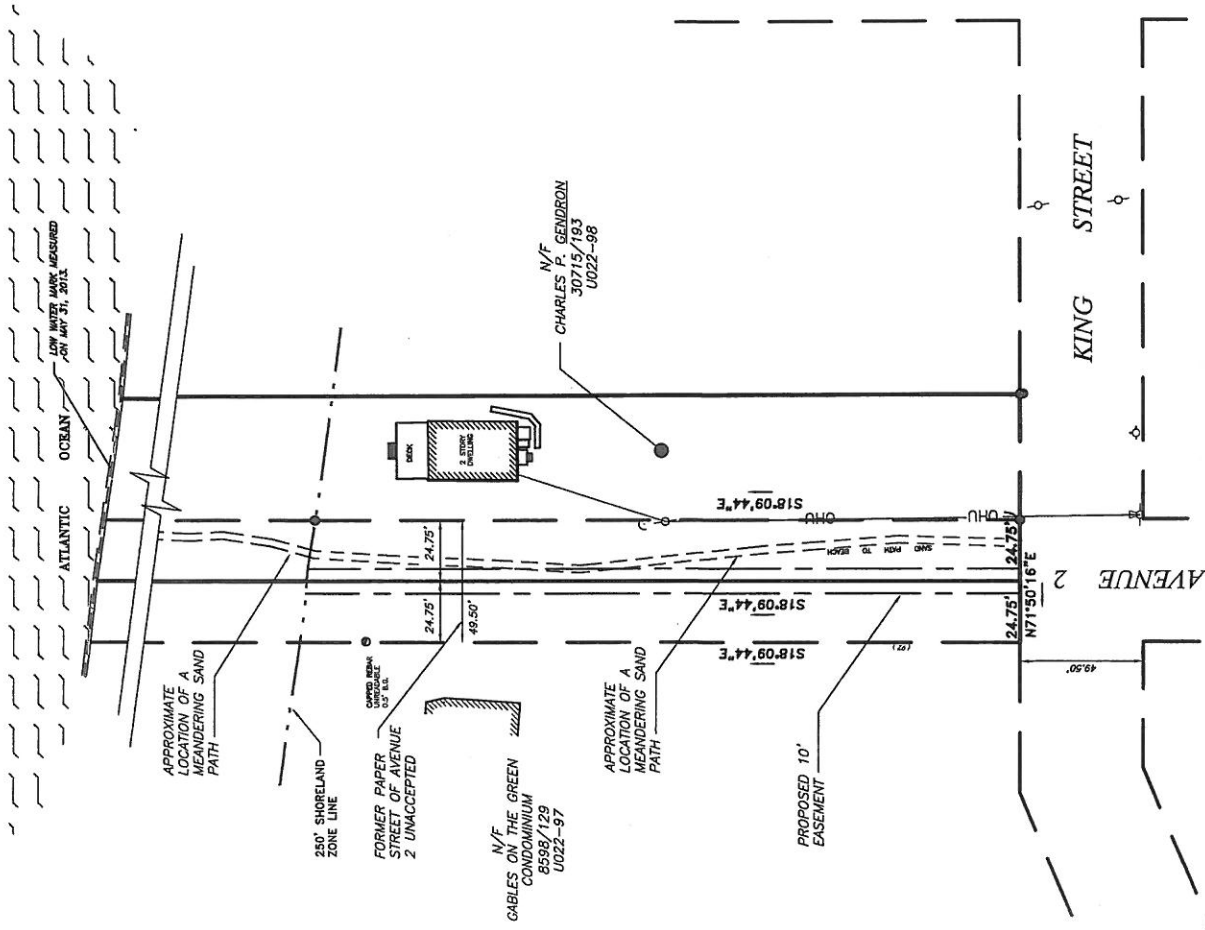
JOB NUMBER: 33843 ACAD FILE: 33843.DWG

SURVEYING ENGINEERING LAND PLANNING

Northeast Civil Solutions
INCORPORATED

153 US ROUTE 1, SCARBOROUGH, MAINE 04074

tel 207.883.1000 fax 207.883.1001 e-mail info@northeastcivilsolutions.com
800.882.2227



AVENUE 1

KING STREET

AVENUE 2

PROPOSED 10' EASEMENT

N/F
CABLES ON THE GREEN
CONDOMINIUM
8598/129
U022-97

FORMER PAPER
STREET OF AVENUE
2 UNACCEPTED

APPROXIMATE
LOCATION OF A
MEANDERING SAND
PATH

APPROXIMATE
LOCATION OF A
MEANDERING SAND
PATH

N/F
CHARLES P. GENDRON
30715/193
U022-98

250' SHORELAND
ZONE LINE

OCEAN
LOW WATER MARK MEASURED
ON MAY 31, 2013

ATLANTIC



Google earth

Image © 2015, Yahoo! GeoLibrary

Google earth

feet
meters



12/5/13
E-Mail

ORDER OF DISCONTINUANCE

The Municipal Officers of the Town of Scarborough having filed with the Town Clerk this Order of Discontinuance for the purpose of discontinuing a portion of the way known as *a portion of Avenue 5* hereinafter described pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, and the Municipal Officers having given notice of said discontinuance to Fred Bayley and Kathleen Bayley and the Kerr Family Trust, being all abutters to said portion of said way, and to the municipal planning board, it is hereby:

ORDERED, that pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, the Town of Scarborough, Maine does hereby discontinue and terminate all its interests in that portion of the way known as *Avenue 5 North of Jones Creek Road* which is bounded and described as follows:

[See Exhibit A, attached]

FURTHER ORDERED, that no damages are awarded to any person by reason of this discontinuance of said portion of said way; and,

FURTHER ORDERED, that a public easement of 20 feet shall remain in said portion of said way after its discontinuance as shown on a boundary survey dated September 2, 2005, Northeast Civil Solutions and signed by M. Johanna Buisman and described as follows:

[See Exhibit B, attached]

Dated: 07-18-06

MUNICIPAL OFFICERS OF THE TOWN OF
SCARBOROUGH

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

State of Maine
Cumberland, ss.

I do hereby attest, that the foregoing instrument was acknowledged before me this 18th day of July, 2006.

SEAL

[Signature]
Yolande P. Justice, Town Clerk
Notary Public/commission expires: 10-31-2008

Exhibit A

A certain lot or parcel of land located on the northerly side Jones Creek Road, in the Town of Scarborough, County of Cumberland, State of Maine, being more particularly bounded and described as follows:

BEGINNING at the northwesterly corner of the intersection of right-of-ways of Jones Creek Road and Avenue 5. Said point also being the southeasterly corner of Fred & Kathleen Bayley as recorded in Book 16439, Page 102, Cumberland County Registry of Deeds (CCRD). From said point a 4"x 4" granite monument bears S 02°53'06" W 0.54';

THENCE N 02°53'06" E along the westerly right-of-way line of Avenue 5 and easterly line of said Bayley 91.00' to a 4" x 4" granite monument located near the top of bank of the Scarborough River Tidal Marsh;

THENCE continuing N 02°53'06" E along the westerly right-of-way line of Avenue 5 and easterly line of said Bayley to the bank, being the lands N/F of State of Maine, as described in deed book 3170, page 797;

THENCE easterly along said bank being the lands N/F of said State of Maine 40' more or less to a point. Said point being the northeasterly corner of the right-of-way of Avenue 5, and also being the northwesterly corner of Harold W. Kerr Jr. as described in deed book 17048, page 121;

THENCE S 02°53'06" W along the easterly right-of-way line of Avenue 5 and westerly line of said Kerr 100' more or less to a 4" x 4" granite monument. Said granite being located at the southwesterly corner of said Kerr and on the northerly right-of-way line of Jones Creek Road;

THENCE N 87°09'11" W along the northerly right-of-way line of Jones Creek Road 40.04' to the POINT OF BEGINNING;

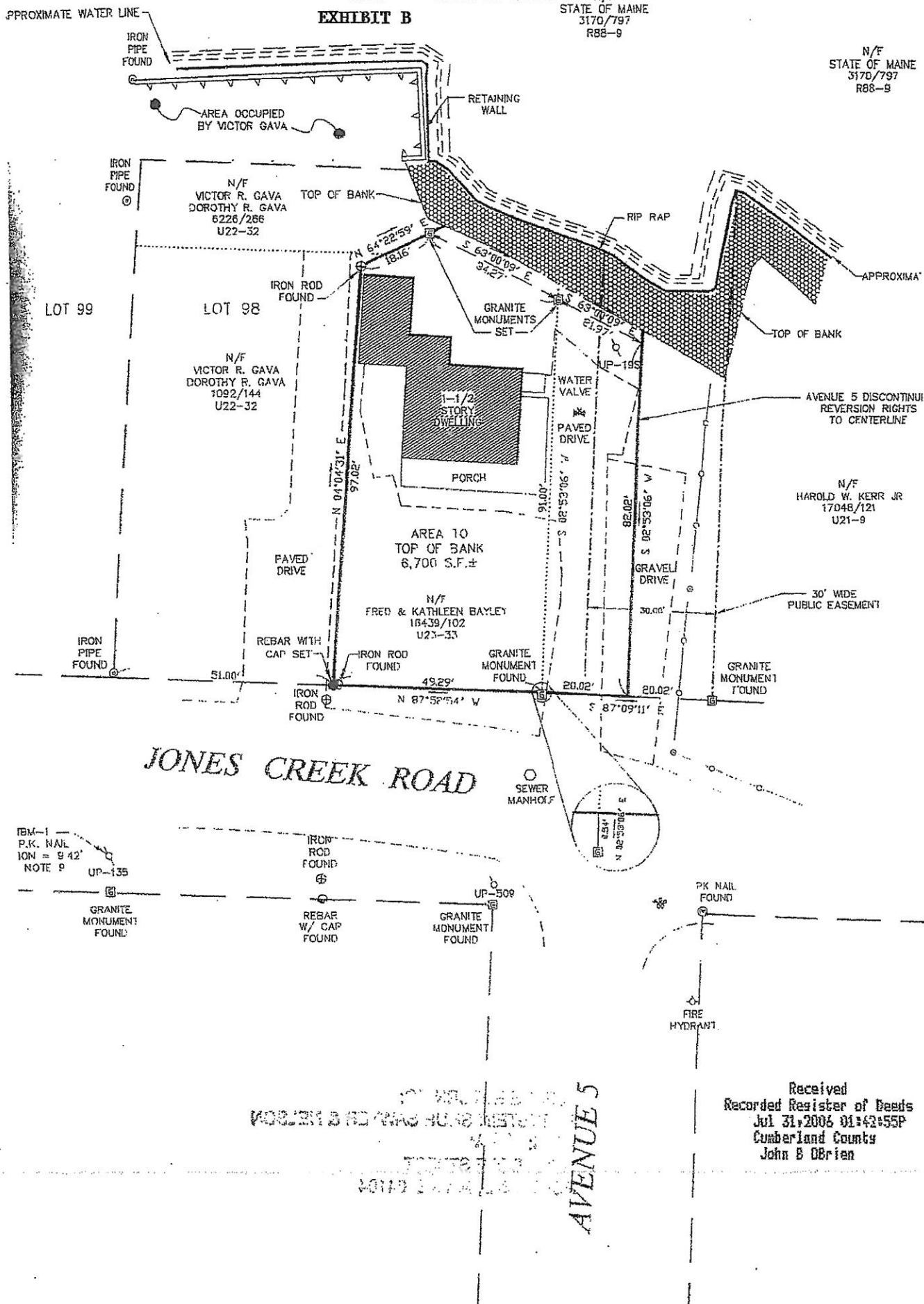
The basis of bearing for the above-described line is magnetic 2001 and is also shown on a survey for Fred & Kathleen Bayley by Northeast Civil Solutions, Inc. dated June 20, 2005.

Meaning and intending to described all the lands of Avenue 5 that are located northerly of the Jones Creek Road right-of-way line.

Said parcel contains approximately 0.1 Acres

EXHIBIT B

N/F
STATE OF MAINE
3170/797
R88-9



Received
Recorded Register of Deeds
Jul 31, 2006 01:42:55P
Cumberland County
John B O'Brien

ORDER OF DISCONTINUANCE

The Municipal Officers of the Town of Scarborough having filed with the Town Clerk this Order of Discontinuance for the purpose of discontinuing a portion of the way known as a *portion of Avenue 6* hereinafter described pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, and the Municipal Officers having given notice of said discontinuance to William Bayley, being the abutter to said portion of said way, and to the municipal planning board, it is hereby:

ORDERED, that pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, the Town of Scarborough, Maine does hereby discontinue and terminate all its interests in that portion of the way known as Avenue 6 North of Jones Creek Road which is bounded and described as follows:

[See Exhibit A, attached]

FURTHER ORDERED, that no damages are awarded to any person by reason of this discontinuance of said portion of said way; and,


FURTHER ORDERED, that a public easement of 30 feet shall remain in said portion of said way after its discontinuance as shown on a boundary survey dated January 12, 2007, Northeast Civil Solutions and signed by M Johann Buisman and described as follow:

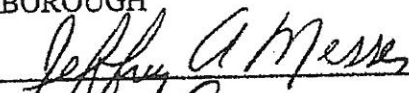

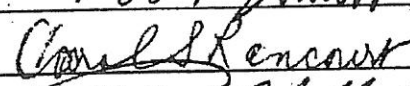
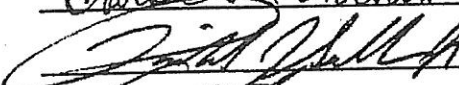
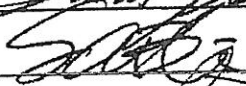

[See Exhibit B, attached]

Dated: 02-21-2007

MUNICIPAL OFFICERS OF THE TOWN OF
SCARBOROUGH

ATTESTED BY:


Yolande P. Justice
Town Clerk

SEAL

Exhibit A

A certain lot or parcel of land located on the northerly side Jones Creek Road, in the Town of Scarborough, County of Cumberland, State of Maine, being more particularly bounded and described as follows:

BEGINNING at the northwesterly corner of the intersection of right-of-ways of Jones Creek Road and Avenue 6. Said point also being the southeasterly corner of land N/F of William Bayley as recorded in deed book 11400, Page 319, Cumberland County Registry of Deeds (CCRD). From said point a rebar bears S 50°22'29" E 0.48';

THENCE N 01°01'04" W along the westerly right-of-way line of Avenue 6 and easterly line of said Bayley 74.58 to a rebar with cap located near the top of bank of the Scarborough River Tidal Marsh / Jones Creek;

THENCE continuing N 01°01'04" W along the westerly right-of-way line of Avenue 6 and easterly line of said Bayley, 2' more or less to the bottom of bank, being the lands N/F of State of Maine, as described in deed book 3170, page 797;

THENCE easterly, southerly, easterly, northerly, easterly following along said bottom of bank being the lands N/F of said State of Maine 130' more or less to a point. Said point being the northeasterly corner of the right-of-way of Avenue 6, and also being the northwesterly corner of other lands N/F of William Bayley as described in deed book 11400, page 317;

THENCE S 01°01'04" E along the easterly right-of-way line of Avenue 6 and westerly line of said Bayley 0.5' more or less to a point. From last stated rebar with cap this point being a tie course of S 59°20'54" E 58.16';

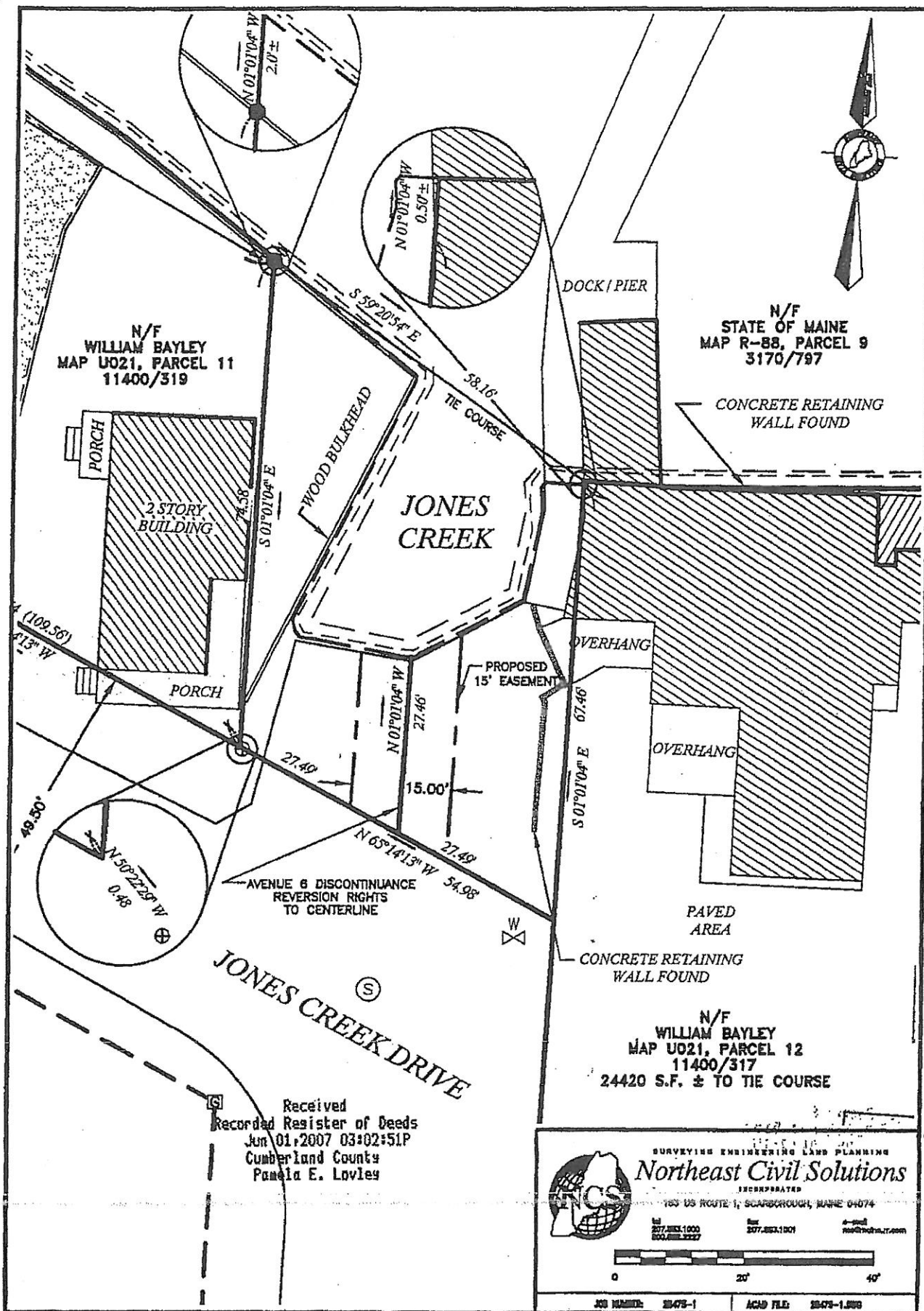
THENCE continuing S 01°01'04" E along the easterly right-of-way line of Avenue 6 and westerly line of said Bayley 67.46 to a point. Said point being the extension of the northerly sideline of Jones Creek Road and the easterly sideline of avenue 6;

THENCE N 65°14'13" W along the northerly right-of-way line of Jones Creek Road 54.98' to the POINT OF BEGINNING;

The basis of bearing for the above-described line is magnetic 2005 and is also shown on a survey for William Bayley by Northeast Civil Solutions, Inc. dated January 24, 2006.

Meaning and intending to described all the lands of Avenue 6 that are located northerly of the Jones Creek Road right-of-way line.

Said parcel contains approximately 2,450 S.F. more or less.



CORRECTED ORDER OF DISCONTINUANCE

The Municipal Officers of the Town of Scarborough having filed with the Town Clerk this Order of Discontinuance for the purpose of discontinuing a portion of the way known as a *portion of Avenue 6* hereinafter described pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, and the Municipal Officers having given notice of said discontinuance to William Bayley, being the abutter to said portion of said way, and to the municipal planning board, it is hereby:

ORDERED, that pursuant to the provisions of Section 3026 of Title 23 of the Maine Revised Statutes, the Town of Scarborough, Maine does hereby discontinue and terminate all its interests in that portion of the way known as Avenue 6 North of Jones Creek Road which is bounded and described as follows:

[See Exhibit A, attached]

FURTHER ORDERED, that no damages are awarded to any person by reason of this discontinuance of said portion of said way; and,

FURTHER ORDERED, that a public easement of 15 feet shall remain in said portion of said way after its discontinuance as shown on a boundary survey dated January 12, 2007, Northeast Civil Solutions and signed by M Johann Buisman and described as follows:

[See Exhibit B, attached]

This Corrected Order of Discontinuance corrects and supersedes the Order of Discontinuance recorded in the Cumberland County Registry of Deeds at Book 25157, Page 54.

Dated: September 5, 2007

MUNICIPAL OFFICERS OF THE TOWN OF
SCARBOROUGH

Jeffrey Messer
Simon
Sather
Carroll Hancock
John J. Sullivan
Ronald H. Hunt

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

September 5, 2007

PERSONALLY APPEARED the above-named Town Council, a municipal officer of the Town of Scarborough, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said Town of Scarborough.

YOLANDE P. JUSTICE
Notary Public, Maine
My Commission Expires October 31, 2008

Yolande P. Justice
Notary Public/ Attorney at Law

Exhibit A

A certain lot or parcel of land located on the northerly side Jones Creek Road, in the Town of Scarborough, County of Cumberland, State of Maine, being more particularly bounded and described as follows:

BEGINNING at the northwesterly corner of the intersection of right-of-ways of Jones Creek Road and Avenue 6. Said point also being the southeasterly corner of land N/F of William Bayley as recorded in deed book 11400, Page 319, Cumberland County Registry of Deeds (CCRD). From said point a rebar bears S 50°22'29" E 0.48';

THENCE N 01°01'04" W along the westerly right-of-way line of Avenue 6 and easterly line of said Bayley 74.58 to a rebar with cap located near the top of bank of the Scarborough River Tidal Marsh / Jones Creek;

THENCE continuing N 01°01'04" W along the westerly right-of-way line of Avenue 6 and easterly line of said Bayley, 2' more or less to the bottom of bank, being the lands N/F of State of Maine, as described in deed book 3170, page 797;

THENCE easterly, southerly, easterly, northerly, easterly following along said bottom of bank being the lands N/F of said State of Maine 130' more or less to a point. Said point being the northeasterly corner of the right-of-way of Avenue 6, and also being the northwesterly corner of other lands N/F of William Bayley as described in deed book 11400, page 317;

THENCE S 01°01'04" E along the easterly right-of-way line of Avenue 6 and westerly line of said Bayley 0.5' more or less to a point. From last stated rebar with cap this point being a tie course of S 59°20'54" E 58.16';

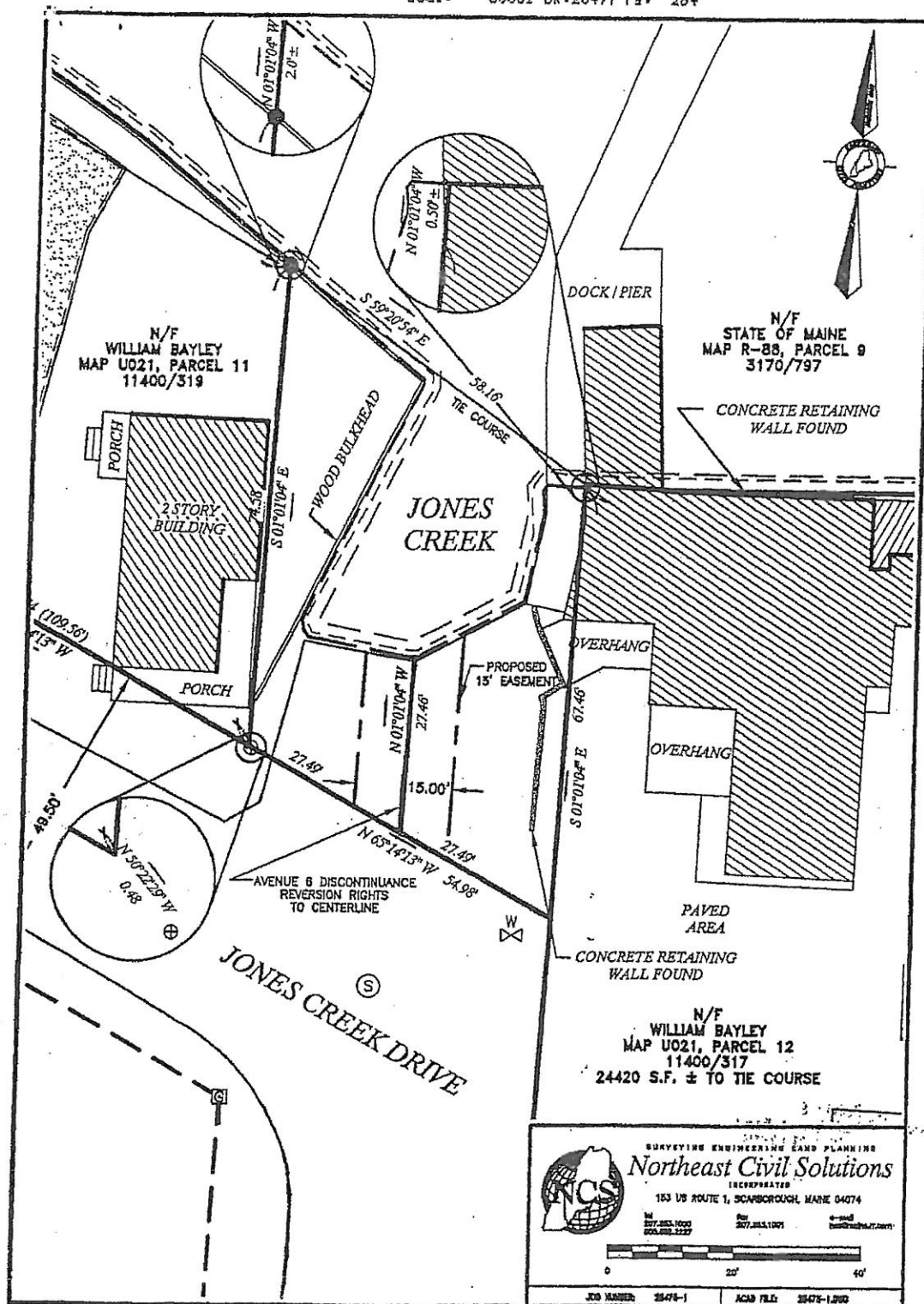
THENCE continuing S 01°01'04" E along the easterly right-of-way line of Avenue 6 and westerly line of said Bayley 67.46 to a point. Said point being the extension of the northerly sideline of Jones Creek Road and the easterly sideline of avenue 6;

THENCE N 65°14'13" W along the northerly right-of-way line of Jones Creek Road 54.98' to the POINT OF BEGINNING;

The basis of bearing for the above-described line is magnetic 2005 and is also shown on a survey for William Bayley by Northeast Civil Solutions, Inc. dated January 24, 2006.

Meaning and intending to described all the lands of Avenue 6 that are located northerly of the Jones Creek Road right-of-way line.

Said parcel contains approximately 2,450 S.F. more or less.



Received
 Recorded Register of Deeds
 Sep 26, 2007 01:47:39P
 Cumberland County
 Pamela E. Lovley