

## **DECLARATION OF PROTECTIVE COVENANTS**

### **KELLY PARK RESIDENTIAL SUBDIVISION**

#### **TOWN OF LISBON, COUNTY OF ANDROSCOGGIN, STATE OF MAINE**

In this Declaration, the “**Declarant**” means **Premier Development, LLC**, a Maine limited liability company with a mailing address c/o 42 Capital Avenue, Lisbon Falls, Maine 04252, or any successor declarant to whom the Declarant may assign its rights under this Declaration. The “**Plan**” means that certain Plan entitled Amended Subdivision Plan, Kelly Park Residential Amendment prepared for Premier Development, LLC by Sitelines, PA dated December 23, 2016, as revised through January 23, 2017 and as approved by the Town of Lisbon, Maine on March 9, 2017 and recorded in the Androscoggin County Registry of Deeds at Plan Book 51, Page 77. The “**Subdivision**” means the residential subdivision depicted on the Plan. The “**Association**” means Kelly Park Residential Homeowners’ Association, Inc., a Maine Non-Profit Corporation with a principal place of business at 42 Capital Avenue, Lisbon Falls, Maine 04252. “**Lot**” means any one or more of Lots 3-34 shown on the Plan, it being understood that Declarant shall have the right to add Lot 35 at a later date. Each Lot shall be subject to and benefited by the Declaration as though originally identified herein. Lots 1-2 on the Plan are not part of the Subdivision, and, as such, are excluded from the definition of “**Lot**” herein. An “**Owner**” means any owner of any Lot, now or in the future, other than mortgagees or others who hold title solely as security.

This Declaration is made to insure the best use and the most appropriate development and improvement of each Lot; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of the Lots; to encourage and secure the construction of attractive homes thereon, in appropriate locations on each Lot; to prevent haphazard and inharmonious improvements of any Lot; to secure and maintain property setbacks from streets, and adequate free spaces between structures; and to provide for the maintenance of the streets and common areas serving the Lots, including, without limitation, Champagne Lane, Premier Drive, Wine Time Circle and any other road or way serving the Lots which are not otherwise accepted as public roads by the Town of Lisbon, Maine, the landscaping around the entrance to the Subdivision, and the storm water treatment ponds within the Subdivision (the “**Common Areas**”).

The Declarant hereby declares that, in each and every deed for a Lot in the Subdivision, all the provisions of this Declaration, as amended or extended, shall be deemed to be incorporated and included therein as if set forth in full in that deed. The provisions of this Declaration shall be deemed to be covenants running with each Lot forming a part thereof.

1. **Compliance with Law.** The use of each Lot shall at all times comply with all applicable laws, ordinances, and regulations. Nothing contained herein shall in any way alter the obligation of every Owner to comply with all applicable laws, ordinances, and regulations.

2. **Residential Use.** No more than one structure designed for single-family residential occupancy shall be constructed on any Lot. No outbuildings of any kind shall be allowed. Sheds that match the color of the home and are not visible from the street are permitted,

subject to the Declarant's prior written approval. No separate apartments or guest quarters shall be allowed unless approved by the Association or the Declarant.

3. **No Commercial Use.** No Lot shall be used for any commercial purposes whatsoever, but shall be used solely for single-family residential purposes.

4. **Building Specifications and Design Approval.** No structure shall be built, renovated, or moved onto any Lot until and unless the plans (including side and rear elevations) have been reviewed and approved in writing by the Declarant. All homes shall have at least a one car attached garage. The Declarant may assign this right of review and approval to a successor or to the Association, and upon such assignment, the provisions of this Section shall be construed to apply to the successor developer or the Association, as the case may be. Any Lot Owner proposing a structure or other construction shall submit to the Declarant a complete set of plans detailing the proposed project and specifying the design, appearance, location, type, materials, finishes, colors, and construction or installation details of all structures and landscaping elements, together with such information as the Declarant may reasonably require. The Declarant shall review such plans promptly and, if it does not approve the same, shall notify the proposing Owner of the specific reasons for the denial. The approval of the Declarant shall be evidenced by a written instrument signed by the Declarant. If the Declarant does not approve or deny an application within thirty (30) days of submission, then the same shall be deemed to have been denied, unless the Owner elects to allow the Declarant such additional time for review as it may reasonably require. The Declarant's review shall be to determine whether the proposed project complies with the requirements of this Declaration in all respects and whether the proposed structures and landscaping will be compatible and harmonious with the natural beauty of the Subdivision.

a. Any structure erected on any Lot shall be finished on the exterior with clapboard, exterior shingles, stone masonry (accents only, no facades), vinyl siding, or similar-finish siding. Clapboards or shingles shall have a maximum exposure to the weather of four inches. Vinyl siding must be constructed of vinyl with a minimum thickness of .042", must have a panel projection of at least a measurement of 3/4", must have a panel/overlap exposure of no more than four inches, may not have "ship lap" or "Dutch lap" layout, and must have corner covers at least six inches wide. Any structure erected on any Lot shall be constructed in such a manner as shall be compatible with surrounding structures. No log cabins or log structures shall be permitted on any Lot. Driveways must be paved. All walkways must be paved, and ideally connected to the paving at the front door. Masonry chimneys only with suitable spark arresters. Roof shingles shall be architectural shingles dual blend black with color approved by Declarant. No pressure treated steps, decks or porches on front of houses; Azek or similar quality only. Granite or masonry steps only; provided that cedar flooring shall be allowed on front steps. No wind mills. Flags permitted, attached to house only. Flag poles not allowed. Each home may have one common lamp post and fixture to be provided by Seabreeze, or similar vendor.

b. Dwellings of one or one and one-half stories shall contain at least 1,200 square feet of floor area on the ground-level floor, and dwellings of two (2) stories shall contain at least 700 square feet of floor living area on the ground-level floor, in each case exclusive of

porches, patios, decks, garages, and other similar areas. Declarant shall retain the right to modify minimum square footage requirements for single level homes.

c. No dwelling may be higher than thirty-four feet above ground level, measured from the average ground line of the foundation perimeter, as determined by the Declarant.

d. The exterior of the dwelling and any outbuildings and the landscaping of the Lot shall be completed within one year from the date of the initial excavation (or any earlier commencement of construction) on the Lot, unless a later completion date is approved by the Declarant in writing. Each Lot shall have a minimum of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) of landscaping per the attached plan by Mohr & Seredin. A copy of said Plan may be obtained by contacting the Declarant.

e. Homes shall be earth tone colors only, and style and brand of paint must be approved by Declarant. Adjacent homes shall be different colors. No window air conditioning units. Masonry accent only. Window sashes must be white or black. No vent pipes on front roofs. All vent pipes to be painted black. No solar panels on front roofs or in the yard. All windows must be symmetrical and line up. All garage doors must have glass lights on top of door and be of raised panel design; windows may be in top of door itself. All house numbers must be of uniform design, 6" high according to town and/or county/state regulations, and by front door only. No trade vehicles parked overnight in driveways or streets. No panel or box type trucks parked overnight in driveway or public streets. No dog kennels. Copious window placement is highly encouraged. All porches shall have support posts of at least 6"x6" or columns 6" in diameter. No utility meters shall be installed on the primary façade and shall be screened from the street with plant material. Exterior HVAC equipment must be placed at the rear of the building or if on the side must be screened from view with plant material. No exterior propane tank storage except for small barbeque tanks at rear of house. Exterior building lighting shall be approved on an individual basis. No corner or deck spot lights, or ground spot lights. Swimming pools will be allowed in the back yard. Above-ground swimming pools shall be no larger than 21' in diameter and 4' in height. In ground swimming pools shall be no larger than \_\_\_\_\_' x \_\_\_\_\_. All fencing shall be ActiveYard brand or similar, series 6 x 8 Juniper Homes, or equivalent, and shall be white in color. Playsets must be wood. No plastic storage containers or half pipes. No unsupported front porch overhangs. No storage out buildings or garden structures other than approved sheds as provided above.

5. **Easement to Facilitate Construction and Maintenance.** Each Lot is subject to an easement for the benefit of the surrounding Lots, to allow temporary access over and upon the Lot to facilitate construction or maintenance activities upon a neighboring Lot. Any damage to the Lot resulting from the exercise of this easement shall be promptly repaired by the user of this easement. The Declarant shall have the right to grant easements over Common Areas to governmental agencies or instrumentalities or to other parties to facilitate the use and purposes of the subdivision.

6. **Holiday Displays.** No holiday displays more than thirty (30) days prior to the celebrated holiday and such displays must be removed within fourteen (14) days after the celebrated holiday.

7. **Front Yards.** The front yard of a Lot is the area between the street and the residence located on the Lot. No fences, lawn ornaments, dog houses, kennels, lampposts (other than one), vegetable gardens, sheds, woodpiles, storage areas, or similar structure items or areas shall be permitted in the front yard of any Lot. Lawns and landscaping shall be maintained weekly during growing season.

8. **Satellite Dishes.** No satellite dishes (except for small dishes not visible from the street), radio towers, or similar structures shall be permitted.

9. **Setbacks.** Every structure on a Lot must conform to the setbacks on the Plan and be built within the building envelope identified on the Plan.

10. **Underground Utility Lines.** All utility lines leading from the street to any structure on any Lot must be located underground.

11. **Mobile Home, Tent, Trailer, Shack, or Other Structures.** No mobile home, tent, trailer, shack, or other similar structure of a temporary character shall be permitted on any Lot. Recreational vehicles may not be parked or kept on a lot. All recreational vehicles, campers, tents, boats, trailers, and similar equipment must be stored off site.

12. **Mailboxes.** No mailboxes, newspaper receptacles, or similar devices shall be located at the edge of the street or anywhere else on a Lot. Mailboxes shall be located at a place designated by the Declarant.

13. **Signs.** No signs of any kind shall be displayed on any Lot, except for the following permitted signs, which shall not exceed two feet in any dimension: a) one sign advertising that the Lot is for sale; b) signs installed by builders and/or other contractors to indicate their work upon the Lot, which signs must be removed promptly after the completion of such work; and c) signs of a political nature, which must be removed promptly after the election or referendum to which they relate.

14. **Parking.** Parking shall be permitted only in driveways or garage. No parking shall be permitted on the streets abutting the Lots except of an occasional and temporary nature. No overnight street parking.

15. **Refuse and Junk.** Trash, garbage, refuse, or other waste shall not be maintained or kept on any Lot beyond a reasonable period of time necessary to arrange for its removal and shall be kept or maintained only in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be visible from the street or from any other Lot. No “dumpsters” or similar receptacles shall be permitted on any Lot, except temporarily to facilitate construction taking place on the Lot. No junk or non-



operating or unregistered automobiles, or similar material shall be kept on any Lot unless entirely enclosed within a garage.

16. **Drainage.** All drainage shall be consistent with the Plan.

17. **Pets.** No animals of any kind shall be kept or maintained on any Lot for commercial, agricultural, or breeding purposes. Up to three (3) domesticated house pets may be kept on any Lot, provided that they are restrained at all times from running onto other Lots. A maximum of two pets, per house, may use the outside of the property. No kennels of any kind allowed.

18. **Subdivision and Merger.** No Lot may be further subdivided unless such division is approved by the Declarant and the Town of Lisbon, Maine. Every portion of land resulting from such a division shall be a Lot subject to this Declaration, unless merged into an abutting Lot. All structures located on all resulting Lots must comply with the setback requirements. Any Owner or Owners may elect to merge multiple, contiguous Lots into a single Lot by recording an amendment to this Declaration, signed by all of the Owners of the Lots to be merged and declaring the Lots to be so merged. Thereafter, the resulting merged Lot shall be treated as a single Lot for all purposes under this Declaration.

19. **Maintenance.** The Association has the right to make decisions concerning the maintenance and improvement of the Common Areas. No Owner may independently undertake any such maintenance or improvement.

20. **Nuisance.** Noxious, dangerous, offensive, or unduly noisy activities of any nature are prohibited upon any lot.

21. **Clothes Lines.** The use of clothes lines on any Lot is strictly prohibited.

22. **Association and Assessments.**

a. Declarant has formed and adopted Bylaws for the Association for the purpose of maintaining the Common Areas. Each Owner, including the Declarant prior to the conveyance of each Lot, shall automatically become and be a member of the Association as long as said Owner continues as record Owner of one or more of said Lots. Upon termination of the interest of an Owner in a Lot, the Owner's membership and any interest in the Association with respect to that Lot shall automatically terminate and transfer and inure to the next successive record Owner of the Lot. Each Owner shall be bound by the Bylaws of the Association, as the same may be amended from time to time, and each Owner shall comply strictly with such Bylaws. No owner of a Lot may relinquish membership in the Association during ownership of the Lot and any such relinquishment or withdrawal from the Association shall be deemed null and void ab initio. No holder of a mortgage on a Lot (other than the Declarant) shall be considered as an Owner until such holder shall have acquired title to such Lot by foreclosure or deed in lieu of foreclosure. With respect to Association governance matters requiring a vote of the Owners, each Lot shall have one (1) vote. The Association shall be responsible for maintenance and upkeep of the Common Areas, subject to the provisions of Section 23 below.

b. Upon ratification of the budget for maintenance and upkeep of Common Areas (“**Common Expenses**”) as provided in the Bylaws, the Association shall cause to be sent to each Owner a statement showing such Owner’s share of the Common Expenses, subject to the provisions of Section 23 below. Common Expenses shall be divided equally among the Lots. The Common Expenses shall include, without limitation, the cost necessary to own, manage, maintain, repair and replace the Common Areas and future amenities and to maintain, repair and replace the landscaping, signage and common easement improvements related or connected thereto. Assessments for Common Expenses shall be billed on an annual basis. All sums so assessed and billed shall become due no later than thirty (30) days after the date of the mailing and delivery of each bill. The members of the Association may from time to time at special meetings levy additional assessments, in accordance with the terms of the Bylaws.

c. Assessments authorized and billed by the Association shall be a charge on the Lot and shall be a continuing lien upon the Lot upon which such assessment is made. If the assessment of an Owner shall not be made within thirty (30) days after the date when due, then said assessment shall be delinquent and shall, together with interest at the rate of one percent (1%) per month or any portion thereof, costs of collection and attorney’s fees, become a continuing lien on the Lot owned by the delinquent Owner, which lien shall bind the Lot and the improvements thereon, as well as the delinquent Owner, his/her/its heirs, devisees, successors, personal representatives, and assigns, without the necessity of filing any document or record. Such lien may be enforced in accordance with Maine law. The lien for unpaid assessments established hereby shall be prior to all liens and encumbrances on the Lot other than (i) a first mortgage recorded prior to the date on which the assessment that is sought to be enforced becomes delinquent, (ii) any mortgage in favor of Declarant, (iii) liens for real estate taxes and other governmental municipal assessments or charges against the Lot, or (iv) any other lien that according to law takes charges against the Lot, or (v) any other lien that according to law takes priority over existing liens pursuant to the statute. All such assessments, in addition to being a lien, shall also constitute the personal liability of the Owner of the Lot so assessed at the time of the assessment. In the collection of any assessment, the defaulting Owner also shall pay all of the Association’s costs of collection, including attorney’s fees and costs.

d. Expenses caused by or arising from the actions or negligence of a particular Owner or his, her or its invitees shall be assessed exclusively against such Owner and his, her or its Lot.

23. **Roads and Ways.** With respect to the roads and ways shown on the Plan, and notwithstanding the foregoing, the Declarant reserves to itself the fee ownership to said roads and ways, provided that the Declarant shall have the right to convey the same to the Town of Lisbon, Maine or to the Association at any time. The Declarant reserves to itself the right to petition the Town of Lisbon, Maine, at any time, to accept the roads and ways as public ways or streets granting to said Town such easements, rights, and title as may be necessary for acceptance. Until such time as said roads and ways are either conveyed to the Town of Lisbon, Maine, or to the Association, the Declarant shall be responsible for all maintenance and repairs to said roads and ways until the first Lot is sold, at which time the Owner of each Lot becomes responsible for an equal share of maintenance and/or repair. After the Declarant conveys ownership of a Lot, then each Lot Owner shall be responsible for his or her proportionate share of maintenance and/or repair. Upon any conveyance of the roads and ways to the Association, the Association shall be responsible for assessing and collecting from each Lot Owner his or her proportionate of the maintenance and/or repair cost of said road and ways as provided in Section

22 above. All maintenance and improvements to said road shall be carried out upon a vote of the Lot Owners as provided in the Bylaws of the Association, subject to an exclusive veto right of the Declarant until such time as the Declarant no longer owns any Lot in the Subdivision.

Notwithstanding anything elsewhere set forth herein, each Lot Owner shall not obstruct or otherwise interfere with the use of said private ways and roads. The total length of any private roads or ways shall constitute an easement and/or right of way appurtenant to the Lots which abut said private road or ways. The respective rights of way shall run with the land to the Lot Owners, their heirs, personal representatives, successors, and assigns, until such time as the private roads/ways are conveyed by the Declarant to the Town of Lisbon, Maine. Lot Owners shall repair any damage caused to the private roads and ways by them individually, or their agents, invitees, or guests, and are liable for any injuries or damages resulting from their negligent use of the roads and ways. If, at any time, the private roads and way area are accepted as a public road by the Town of Lisbon Maine, then the obligations of the Lot Owners relating to the road maintenance shall terminate.

24. **Rules and Regulations.** The Association may from time to time adopt rules and regulations governing the use of the Lots and the common areas, which shall be binding on all Owners and their family members, tenants, guests, invitees, employees, agents, and contractors. The rules and regulations may include fees or fines for the breach thereof, which may be collected in the same manner as the Association dues.

25. **Voting Rights.** Every Owner is entitled to be a voting member of the Association. One vote in the Association shall be allocated to each Lot.

26. **Enforcement.** In any court action or administrative proceeding to enforce the terms of this Declaration, the losing party shall pay the costs and expenses of the prevailing party, including but not limited to attorney fees and costs.

27. **Amendment.** Until the sale of the first Lot by the Declarant in the Subdivision, the Declarant may amend this Declaration. Thereafter, amendments to this Declaration shall require the unanimous consent of all Owners of Lots in the Subdivision, except as otherwise provided herein. No amendment shall be effective unless and until recorded at the Androscoggin County Registry of Deeds.

28. **Severability.** If any portion of this Declaration, or its application to any person or circumstance, is invalid or unenforceable, then the remainder of the Declaration or the application of such provision to other persons or circumstances shall not be affected thereby.

29. **Amendability.** These covenants, easements, restrictions, and reservations may be amended by unanimous vote of the Lot Owners in the Subdivision. Multiple Owners of a single Lot shall be considered a single Owner. The vote of a particular Lot may not be split or divided. An Owner or Owners may cast a vote for each separate Lot owned in the Subdivision.

30. **Recording.** The provisions of this Declaration shall be duly recorded in the Androscoggin County Registry of Deeds.

31. **Gender and Number.** All references in this Declaration to the masculine gender shall be deemed to include the feminine and neuter; and references to the singular shall be deemed to include the plural (and vice versa), unless the context otherwise requires.

32. **Enforcement.** The provisions of this Declaration have been adopted for the benefit of the Owners of Lots on the Plan, except as otherwise provided herein. Therefore, the violation or attempted violation of any covenant or restriction in the Declaration is hereby declared a nuisance which may be remedied by any appropriate legal proceeding, whether at law or in equity. If any Owner shall attempt to violate or permit any violation of any of the covenants, restrictions or reservations described above, the Declarant or any Owner of a Lot, may commence proceedings at law or in equity either to recover damages or other awards, or both.

If a final judgment is rendered against an Owner, the Owner agrees to pay all reasonable attorneys' and paralegal fees and costs, incurred in prosecution of said claims. Proceedings may be maintained against a violator of any provision of this Declaration irrespective of the waiver of any prior violation or attempted violation by the same or other Owners. The failure to enforce any of the provisions of this Declaration on one occasion shall in no event be deemed to be a waiver of the right to do so thereafter as to the original breach or a breach subsequent thereto. By acceptance of a deed to a parcel subject to the provisions of this Declaration, an Owner covenants and agrees to abide by such provisions.

33. **Grantor's Successors.** All references in this Declaration to the Declarant shall mean and include any person or entity which is the successor to the Declarant and any assignee of Declarant's then entire remaining interest in the Lots, provided that the instrument of assignment expressly states that it is intended to assign Declarant's rights under this Declaration.

[Signatures on following page]

This Declaration is executed as an instrument under seal this 7<sup>th</sup> day of April, 2017.

**WITNESS:**

**PREMIER DEVELOPMENT, LLC**

\_\_\_\_\_

By: \_\_\_\_\_  
Scott W. Kelly, Manager

STATE OF MAINE  
COUNTY OF ANDROSCOGGIN, ss.

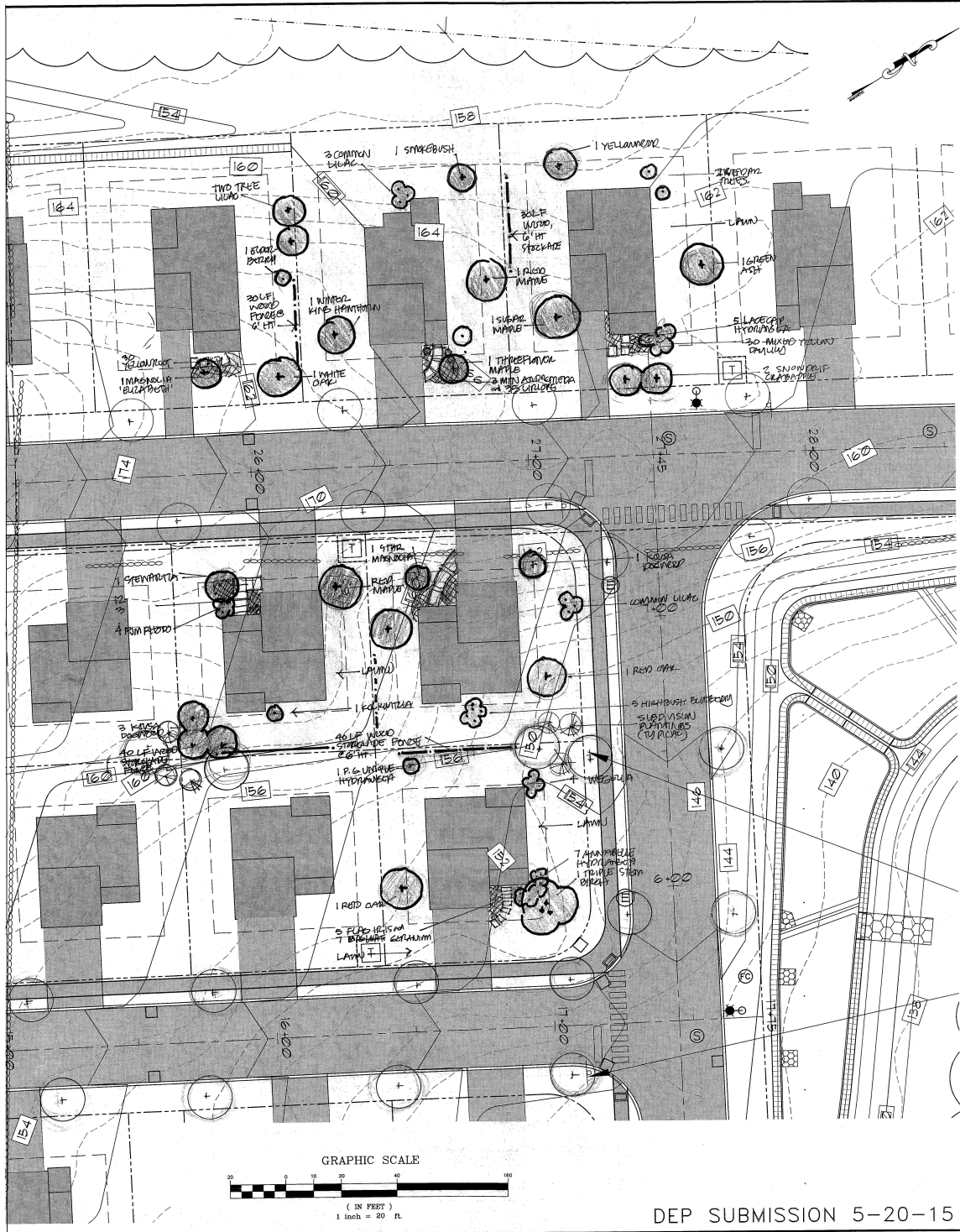
April 7, 2017

Personally appeared the above-named **Scott W. Kelly**, in his capacity as Manager of **Premier Development, LLC**, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said entity.

Before me,

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public/Attorney at Law  
My Commission Expires: \_\_\_\_\_

# PLAN BY MOHR & SEREDIN



**PINKHAM & GREER**  
**CIVIL ENGINEERS**



**MOHR ASSOCIATES**  
Landscape Architects, Inc.

18 Pleasant Street  
Portland, Maine 04101  
ph: 207.871.0003  
fax: 207.871.1419

[illegible]

CUMBERLAND FORESIDE VILLAGE, LLC  
50 GRAY ROAD, FALMOUTH, ME

CUMBERLAND FORESIDE  
VILLAGE HOUSING  
U.S. ROUTE ONE, CUMBERLAND, MAINE

LANDSCAPE PLAN

L1.0

MAP/LOT R01/11-7, 11A &amp; 12