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RAYMOND, MAINE 04071

KIRSTEN SUDBURY
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DATE: January 28, 2022

**DURANT EXCAVATING, LLC
ATTN: ROB DURANT
P.O. BOX 741
WINDHAM, ME 04062**

Notice of Violation

Location: 28 Whitetail Lane
Parcel ID: 001-020-000
Zoning: Limited Residential Recreational 2 (LRR2)

SENT VIA CERTIFIED MAIL & US FIRST CLASS MAIL

Dear Mr. Durant,

Pursuant to the Town of Raymond's Shoreland Zoning Provisions, as amended from time to time, and 30-A M.R.S. § 4452, and on behalf of the Town of Raymond, I hereby provide Durant Excavating LLC ("you" or "your") this **NOTICE OF VIOLATION** relating to the parcel identified above.

On October 14, 2021, I was notified by Maine Department of Environmental Protection Environmental Specialist Alexis Sivovlos that you had completed a shoreline stabilization project at the above-mentioned parcel that exceeded what is allowed by State law and local ordinance. After a review of the parcel file, I was unable to find a recent pending application or approved permit for any soil disturbance, tree removal, or shoreline stabilization projects.

On October 26, 2021, we met on-site with Alexis Sivovlos, and Nathan Whalen from the Portland Water District. At that time we observed numerous violations.

Below is a list of the violations and the related ordinance sections:

1. Filling and Earthmoving of More than 10 Cubic Yards

A significant amount of soil disturbance has taken place within 100' of the normal high water line ("NHWL") of Sebago Lake. A majority of the buffer zone between the house and the water was stripped of vegetation and regraded. Fill was deposited in spots to create the new ripped shoreline. See EXHIBIT A.

Shoreland Zoning Provisions

Section 15. Land Use Standards

§ U 1. Erosion and Sedimentation Control

1. Filling, grading, lagooning, dredging, earth moving, and other land use activities shall be conducted in such a manner to prevent erosion and sedimentation of surface waters to the maximum extent practical. All activities, which result in unstabilized soil conditions and which require a permit shall be developed in accordance with a Erosion and Sedimentation Control Plan prepared in conformance with the requirements of "Maine Erosion Control BMPs, Bureau of Land and Water Quality Maine Department of Environmental Protection", March 2003, and subsequent revisions thereof.

2. Filling and Earthmoving of More than 10 Cubic Yards without a Permit

Filling and earthmoving of more than 10 cubic yards has occurred in the LRR2 zone without a permit from the Code Enforcement Officer. See EXHIBIT A.

*Shoreland Zoning Provisions
Section 14. Table of Land Uses
30.*

Filling and earthmoving of more than 10 cubic yards.

3. Piers, docks, wharves, bridges, boat launches, and other structures and uses extending over or below the normal high water line or within a wetland without a permit from the Planning Board – Boat Launch

A boat launch has been enlarged/expanded at or below the normal high-water line of Sebago Lake without a permit from the Planning Board. See EXHIBIT B.

*Shoreland Zoning Provisions
Section 14. Table of Land Uses
17B.*

Permanent piers, docks, wharves, bridges, boat launches, and other structures and uses extending over or below the normal high water line or within a wetland require approval from the Planning Board within the RP, SP, LLR1, and LRR2 districts.

4. Piers, docks, wharves, bridges, boat launches, and other structures and uses extending over or below the normal high water line or within a wetland without a permit from the Planning Board – Shoreline

The shoreline has been enlarged/expanded without a permit from the Planning Board. See EXHIBIT B.

*Shoreland Zoning Provisions
Section 14. Table of Land Uses
17B.*

Permanent piers, docks, wharves, bridges, boat launches, and other structures and uses extending over or below the normal high water line or within a wetland require approval from the Planning Board within the RP, SP, LLR1, and LRR2 districts.

5. Construction of a Beach Without a Permit

A beach has been constructed without a permit. See EXHIBIT C.

*Shoreland Zoning Provisions
Section 15. Land Use Standards
O. Beach Construction*

Beach construction on any great pond shall require a permit from the Department of Environmental Protection. Beach construction on any river, stream, or brook capable of floating watercraft shall require approval from the Department of Environmental Protection.

6. Removal of Vegetation Less Than 3' in Height

All existing vegetation less than 3' in height including shrubs and ground cover has been removed within 100' of the NHWL of Sebago Lake for a majority of the lot's shorefront. Removed vegetation was stabilizing this segment of the shoreline and protecting water quality. See EXHIBIT D.

*Shoreland Zoning Provisions
Section 15. Land Use Standards*

Q. Clearing or Removal of Vegetation Activities Other Than Timber Harvesting

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and forest duff layer, shall not be cut, covered or removed, except to provide for a footpath or other permitted uses as described in Section 15(Q) paragraphs (2) and (2)(a) above.

7. Removal of Vegetation Less than 3' in Height Without a Permit.

All existing vegetation less than 3' in height including shrubs and ground cover has been removed within 100' of the NHWL of Sebago Lake for much of the lot's shorefront, without a permit from the Code Enforcement Officer. See EXHIBIT D.

Shoreland Zoning Provisions
Section 14. Table of Land Uses
5.

Clearing or removal of vegetation for activities other than timber harvesting.

8. Unpermitted Shoreland Stabilization – no permit

Stabilization of the shorefront was completed from the land without a permit from the Planning Board or Code Enforcement Office. See EXHIBIT E.

Shoreland Zoning Provision
Section 15. Land Use Standards

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal high-water Line of a Water Body or Within a Wetland

12. Vegetation may be removed in excess of the standards in Section 15(Q) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

a. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment access way must be restored.

b. Revegetation must occur in accordance with Section 15(T)

9. Unpermitted Shoreland Stabilization – no barge

Stabilization of the shorefront was completed from the land when it could have been completed from the barge, which the contractor Rob Durant owns. See EXHIBIT E.

Shoreland Zoning Provision
Section 15. Land Use Standards

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal high-water Line of a Water Body or Within a Wetland

12. Vegetation may be removed in excess of the standards in Section 15(Q) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

a. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment access way must be restored.

b. Revegetation must occur in accordance with Section 15(T)

10. Unpermitted Tree Removal Within 100' of Sebago Lake

Multiple trees have been removed within 100' of the NHWL of Sebago Lake, creating an illegal opening in excess of 250 square feet. See EXHIBIT F.

While the ordinance does allow for removal of Hazard Trees as defined, this is only allowed AFTER inspection by the Code Enforcement Officer, as described in Shoreland Zoning Provisions Section 15.R.1:

Hazard trees in the shoreland zone may be removed without a permit after consultation with the CEO if the following requirements are met:

a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard was removed and be at least two (2) inches in

diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

Shoreland Zoning Provisions

Section 15. Land Use Standards

§ Q. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

Q. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

2. Except in areas as described in Paragraph 1, above, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond, or within a strip extending one hundred (100) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/ or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

11. Vegetation Removal in Excess of What is Allowed by the Point System

Between the house and the water, vegetation has been removed from a 1,250 square foot area. Tree removal has taken place in what would have been two 25' x 50' grids. The two grids did not contain enough points to support the selective removal of otherwise healthy trees. See EXHIBIT F.

Shoreland Zoning Provisions

Section 15. Land Use Standards

Q. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

2.b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees " adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25 foot by 50 foot rectangular (1,250 square feet) area as determined by the following rating system.

12. Removal of Vegetation Without a Permit.

Between the house and the water, vegetation has been removed from a 1,250 square foot area without a permit from the Code Enforcement Officer. See EXHIBIT F.

Shoreland Zoning Provisions

Section 14. Table of Land Uses

5.

Clearing or removal of vegetation for activities other than timber harvesting.

These Violations Must Be Corrected Within Thirty (30) Days of the Date of This Notice

This is a notice of violation pursuant to Article 16(H) of the Shoreland Zoning Provisions of the Town of Raymond, Maine, and 30-A M.R.S. § 4452. All referenced violations must be corrected within thirty (30) days of the date of this notice. The corrections must include, but not be limited to, the submission of a global restoration plan compliant with the requirements of 30-A M.R.S. § 4452(3)(C-2).

The global restoration plan should include, but not be limited to, the following:

- For Violation Nos. 1 and 2, obtain an after-the-fact permit for the filling and earthmoving that occurred of more than 10 cubic yards or, if you cannot obtain a permit, restore the area to its condition before the filling and earthmoving;
- For Violation No. 3, obtain an after-the-fact permit for the enlarged/expanded boat launch or, if you cannot obtain a permit, restore it to its condition before its enlargement/expansion;

- For Violation No. 4, obtain an after-the-fact permit for the enlarged/expanded shoreline or, if you cannot obtain a permit, restore it to its condition before its enlargement/expansion;
- For Violation No. 5, obtain an after-the fact permit for the constructed beach or, if you cannot obtain a permit, restore it to its condition before construction of the beach;
- For Violation Nos. 6 and 7, obtain an after-the fact permit for the removal of vegetation less than three feet in height within 100 feet of the NHWL or, if you cannot obtain a permit, restore it to its condition before removal of the vegetation;
- For Violation Nos. 8 and 9, obtain an after-the-fact permit for the stabilization of the shorefront or, if you cannot obtain a permit, restore it to its condition before the stabilization work;
- For Violation No. 10, obtain an after-the-fact permit for the removal of trees within 100 feet of the NHWL, which created an illegal opening in excess of 250 square feet, or, if you cannot obtain a permit, restore the parcel to its condition before the removal of trees; and
- For Violation Nos. 11 and 12, obtain an after-the-fact permit for the removal of trees and vegetation between the house and water or, if you cannot obtain a permit, restore the parcel to its condition before the removal of the trees and vegetation.

A follow-up inspection will be completed on or around February 28, 2022. Failure to comply will result in this office referring the matter to the Selectboard, which may consider legal action or fines, as provided for in Article 16(H) of the Shoreland Zoning Provisions of the Town of Raymond, Maine, and 30-A M.R.S. § 4452. Fines of \$100.00 to \$5,000.00 per violation per day may be imposed.

This Notice of Violation constitutes an appealable decision pursuant to Article 16(G)(1)(a) of the Shoreland Zoning Provisions; however, filing an appeal to the Board of Appeals does not relieve you of your responsibility to correct the violations. If you wish to appeal this decision, the appeal application form is available at the Town Office, and we are open Tuesday through Friday. You must file the appeal within thirty (30) days of the date of this Notice; if you fail to appeal the decision within that time period, you will lose your right to challenge the decision included in this letter.

Please feel free to contact me if you wish to discuss the matter or have any questions. I can be contacted by phone at (207) 655-4742 ext. 161, or by email at alex.sirois@raymondmaine.org.

Sincerely,



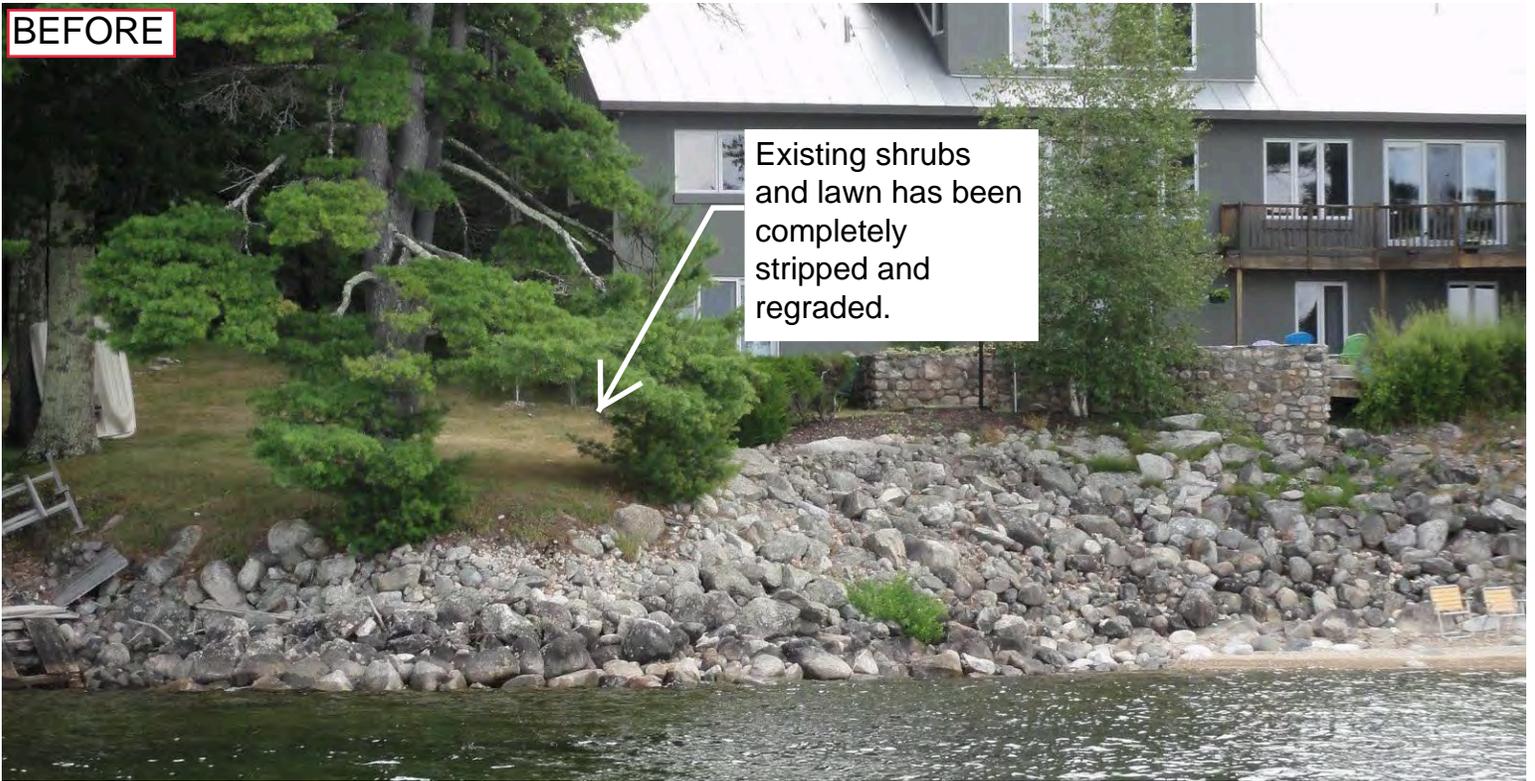
Alex Sirois

Enclosures

cc: Management Controls LLC, ATTN: Mr. Donald Buteau
Maine Department of Environmental Protection, ATTN: Ms. Alexis Sivovlos
Eric J. Wycoff, Esq.

EXHIBIT A

BEFORE



Existing shrubs and lawn has been completely stripped and regraded.

BEFORE



A stabilized shore front want removed and replaced with new material.

EXHIBIT A

AFTER



AFTER



EXHIBIT A



EXHIBIT B

BEFORE



Existing "boat ramp"

BEFORE



Existing "boat ramp"

EXHIBIT B

AFTER



New expanded
"boat ramp"

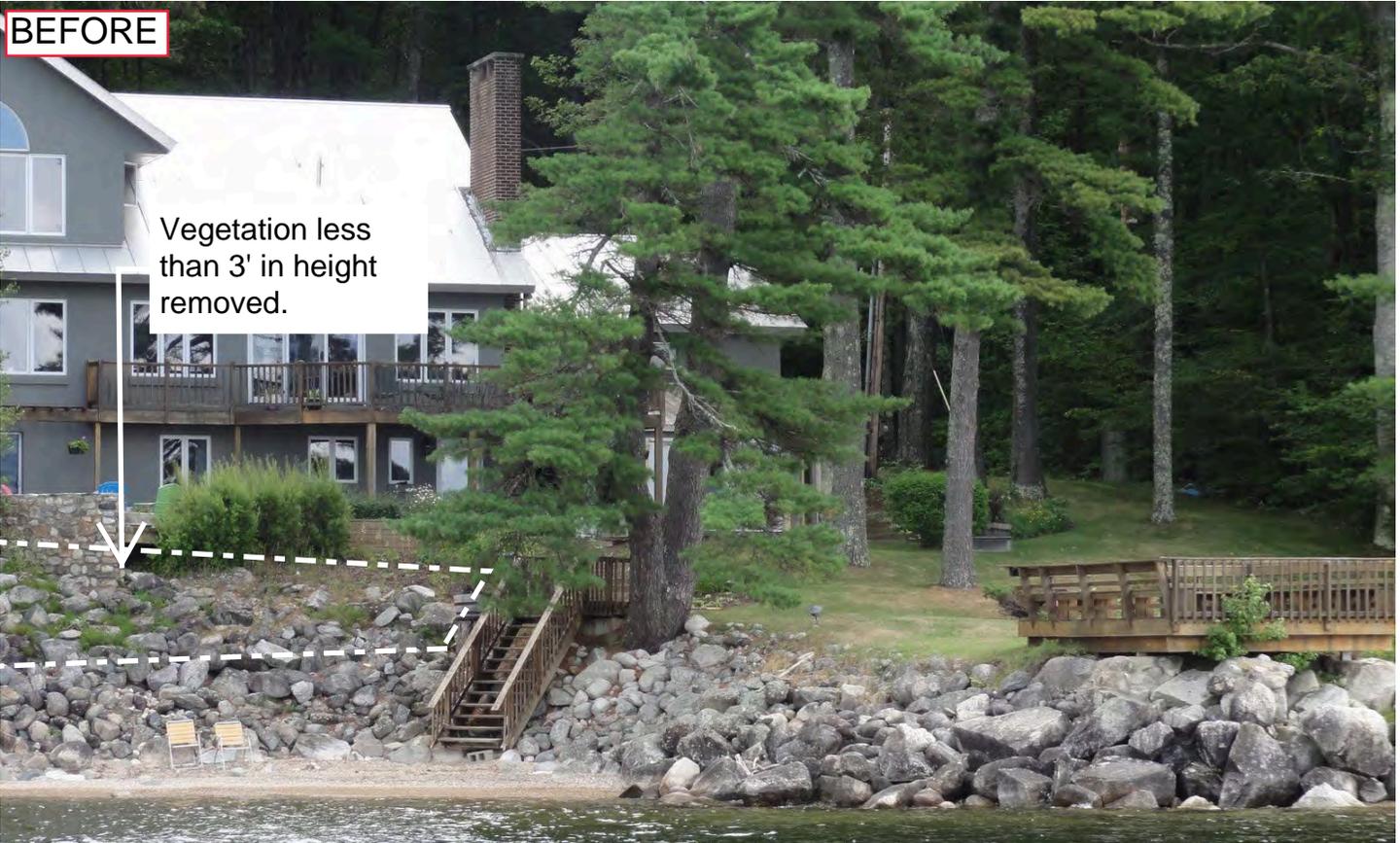
EXHIBIT C



EXHIBIT D

BEFORE

Vegetation less than 3' in height removed.



AFTER



EXHIBIT D

BEFORE



Grass and shrubs completely removed

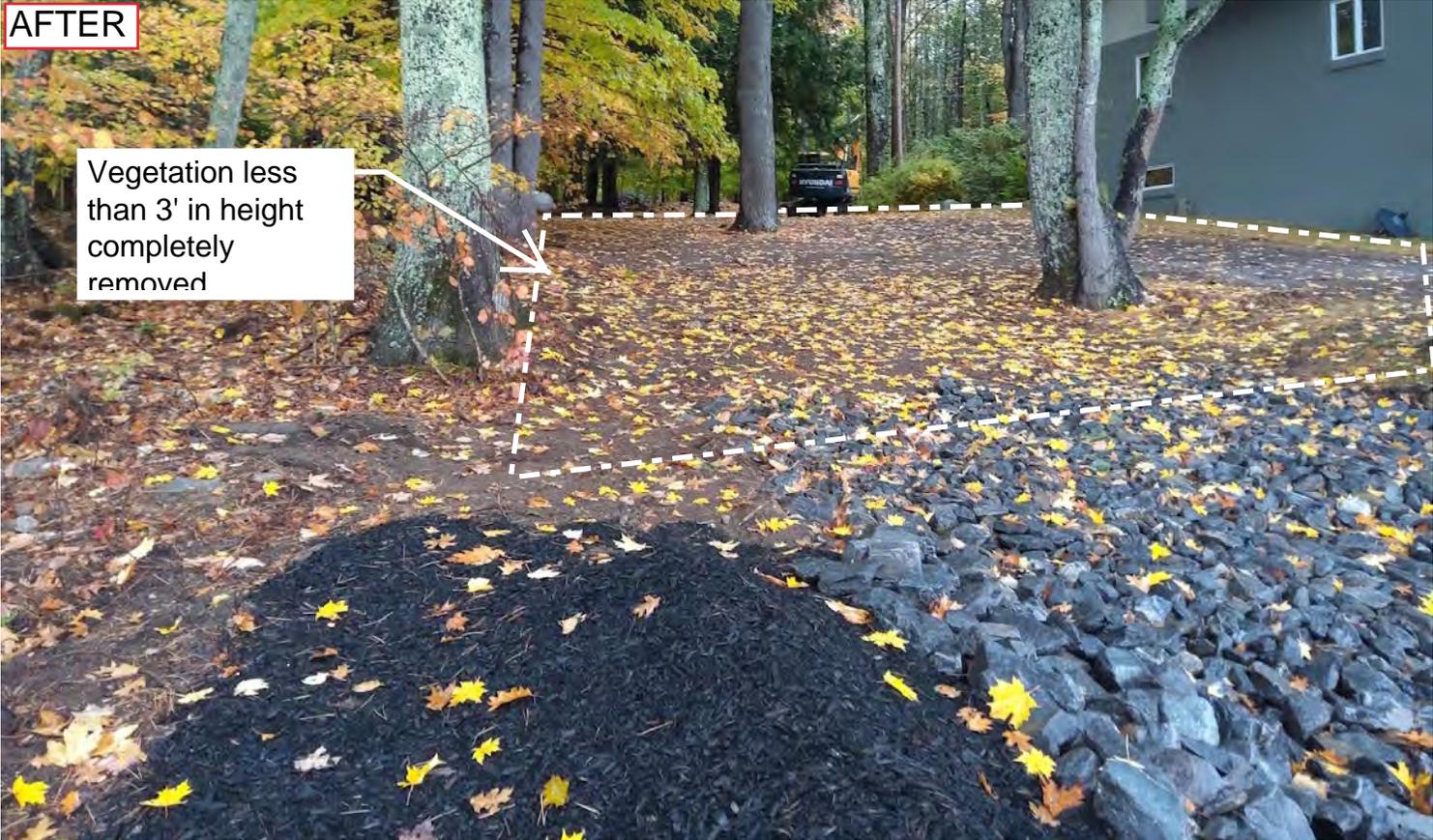
AFTER



EXHIBIT D

AFTER

Vegetation less than 3' in height completely removed



BEFORE



EXHIBIT D

AFTER



EXHIBIT E

BEFORE



AFTER



EXHIBIT E

BEFORE



AFTER



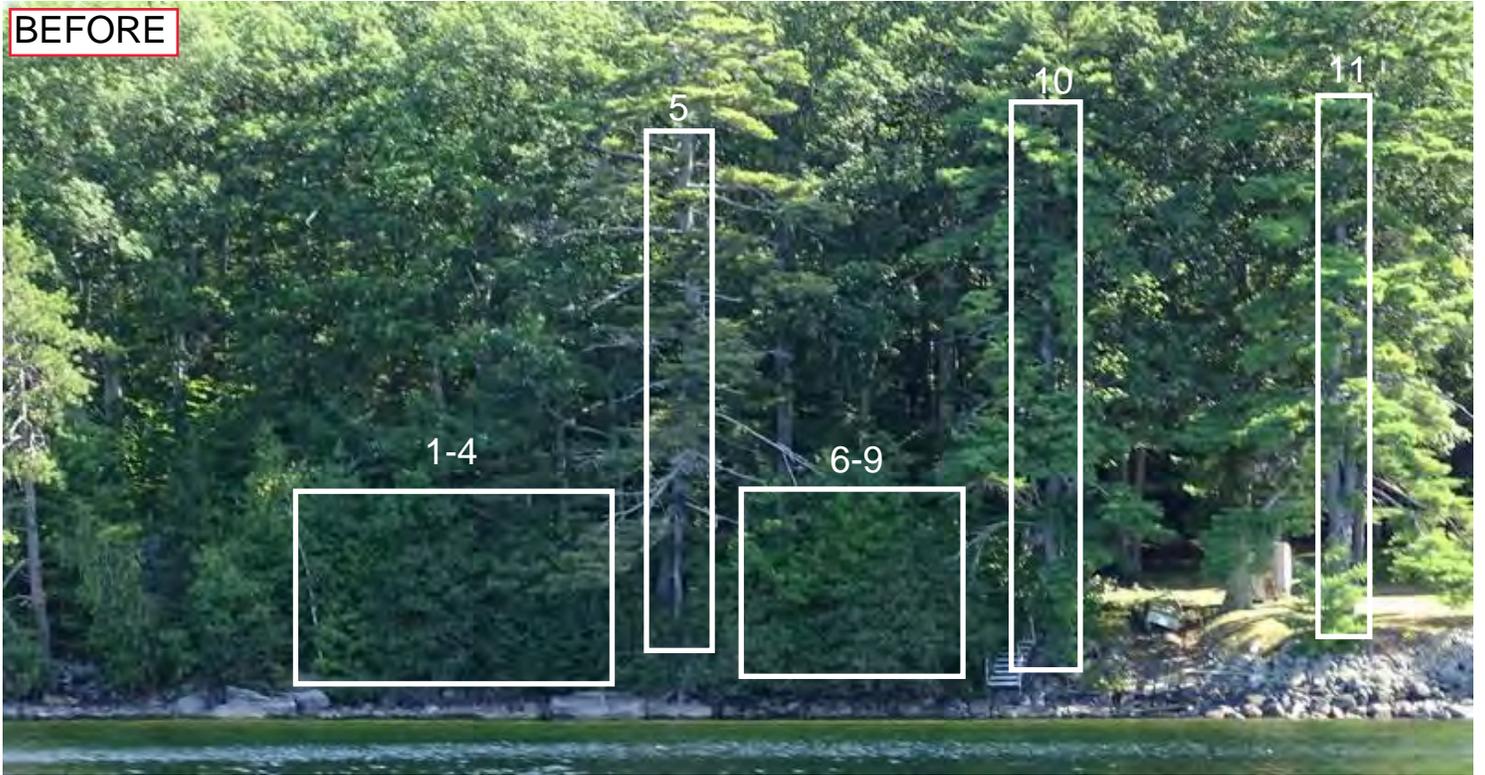
EXHIBIT E



Rob Durant's barge
and excavator
moored on Sebago
Lake 11/16/21

EXHIBIT F

BEFORE



AFTER



EXHIBIT F

BEFORE



AFTER



EXHIBIT F

BEFORE



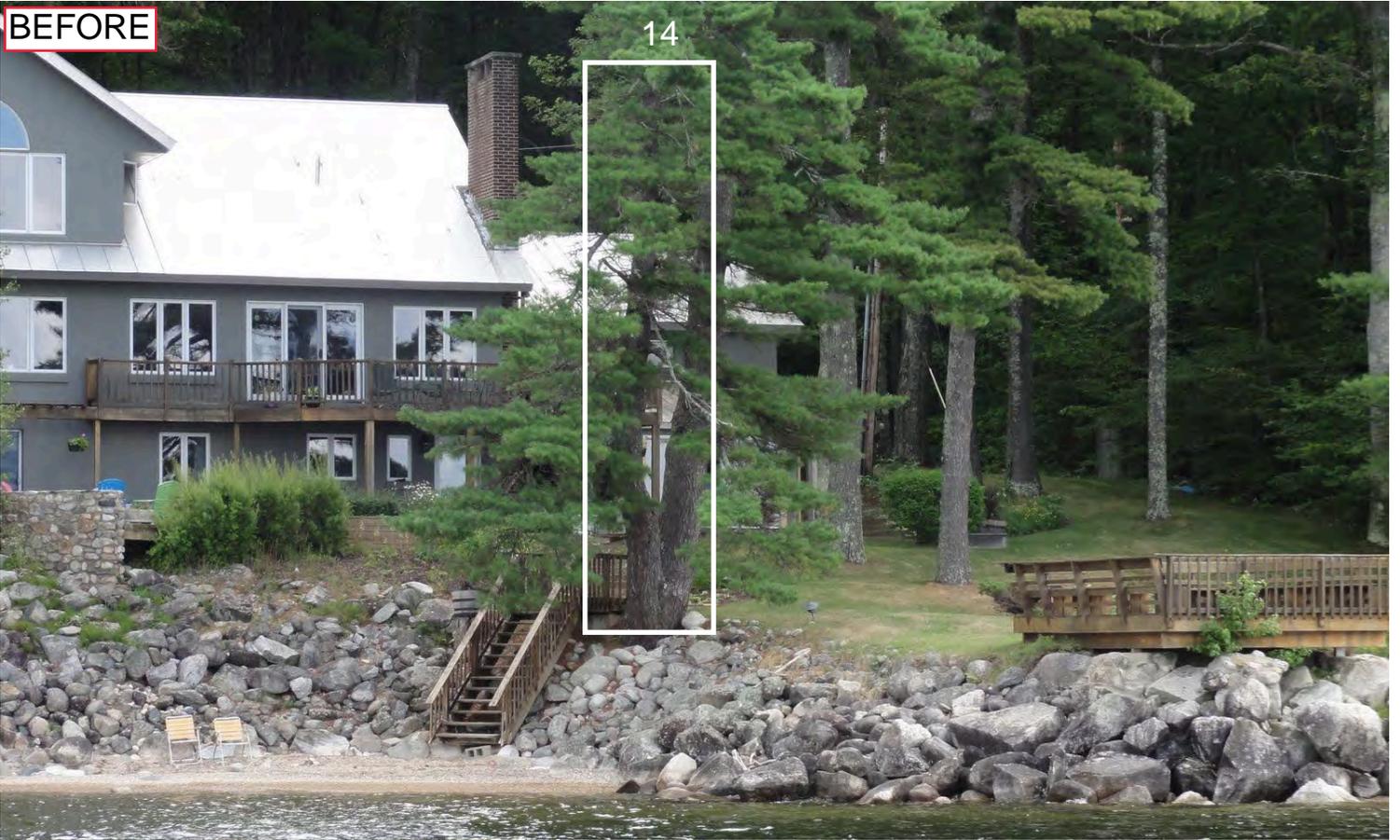
AFTER



EXHIBIT F

BEFORE

14



AFTER



EXHIBIT F

BEFORE



AFTER



EXHIBIT F

