

# DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK CITY OF PORTLAND

## BUILDING INSPECTION

### PERMIT

Permit Number: 091243

Please Read  
Application And  
Notes, If Any,  
Attached

This is to certify that AVESTA MUNJOY COMMONS LP/Alli Construction

has permission to Renovate 17 Apartments

PERMIT ISSUED

AT 58 NORTH ST CE 013 K001001

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of buildings and structures, and of the application on file in this department.

JAN 15 2010  
City of Portland

Apply to Public Works for street line and grade if nature of work requires such information.

Notification of inspection must be given and written permission procured before this building or part thereof is lathed or otherwise enclosed-in. 24 HOUR NOTICE IS REQUIRED.

A certificate of occupancy must be procured by owner before this building or part thereof is occupied.

#### OTHER REQUIRED APPROVALS

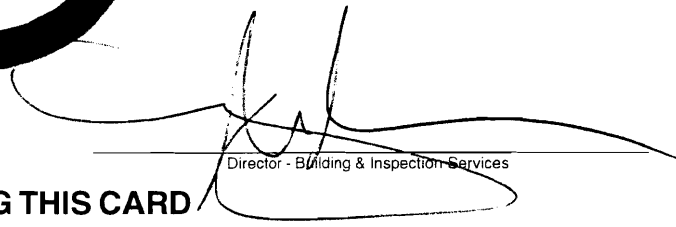
Fire Dept. \_\_\_\_\_

Health Dept. \_\_\_\_\_

Appeal Board \_\_\_\_\_

Other \_\_\_\_\_

Department Name

  
Director - Building & Inspection Services

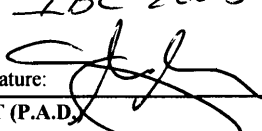
**PENALTY FOR REMOVING THIS CARD**

**City of Portland, Maine - Building or Use Permit Application**

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

|                       |                           |                     |
|-----------------------|---------------------------|---------------------|
| Permit No:<br>09-1243 | Issue Date:<br>01/15/2010 | CBL:<br>013 K001001 |
|-----------------------|---------------------------|---------------------|

|  |  |   |                     |
|--|--|---|---------------------|
| Location of Construction:<br>58 NORTH ST         | Owner Name:<br>AVESTA MUNJOY COMMONS L       | Owner Address:<br>307 CUMBERLAND AVE        | Phone:              |
| Business Name:                                   | Contractor Name:<br>Allied/Cook Construction | Contractor Address:<br>PO Box 1396 Portland | Phone<br>2077722888 |
| Lessee/Buyer's Name<br>Avesta Munjoy Commons, LP | Phone:                                       | Permit Type:<br>Commercial                  | Zone:               |

|  |   |   |  |                    |
|--|---|---|--|--------------------|
| Past Use:<br>Multi-Family - 17 Unit Residential  | Proposed Use:<br>Multi-Family - 17 Unit Residential -<br>Renovate 17 Apartments | Permit Fee:<br>\$16,140.00  | Cost of Work:<br>\$1,611,869.00  | CEO District:<br>1 |
| Proposed Project Description:<br>Renovate 17 Apartments  |   | FIRE DEPT:<br><input checked="" type="checkbox"/> Approved<br><input type="checkbox"/> Denied | INSPECTION:<br>Use Group: <i>R 2</i> Type: <i>3B</i><br><br><i>IBC 2003</i>                    |                    |
|  |   | Signature: <i>KG</i>  | Signature:  |                    |
| PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)  |   |   |  |                    |
| Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied |   |   |  |                    |
| Signature: _____ Date: _____   |   |   |  |                    |

|                             |                                 |                        |
|-----------------------------|---------------------------------|------------------------|
| Permit Taken By:<br>Ldobson | Date Applied For:<br>11/04/2009 | <b>Zoning Approval</b> |
|-----------------------------|---------------------------------|------------------------|

- This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.
- Building permits do not include plumbing, septic or electrical work.
- Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..

| Special Zone or Reviews   | Zoning Appeal                            | Historic Preservation                                |
|---|--|--|
| <input type="checkbox"/> Shoreland  | <input type="checkbox"/> Variance        | <input type="checkbox"/> Not in District or Landmark |
| <input type="checkbox"/> Wetland  | <input type="checkbox"/> Miscellaneous   | <input type="checkbox"/> Does Not Require Review     |
| <input type="checkbox"/> Flood Zone   | <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Requires Review             |
| <input type="checkbox"/> Subdivision  | <input type="checkbox"/> Interpretation  | <input type="checkbox"/> Approved                    |
| <input type="checkbox"/> Site Plan  | <input type="checkbox"/> Approved        | <input type="checkbox"/> Approved w/Conditions       |
| Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> | <input type="checkbox"/> Denied          | <input type="checkbox"/> Denied                      |
| Date: <i>11/18/09 - ABM</i>   | Date: _____                              | Date: _____  |

**PERMIT ISSUED**

JAN 15 2010

City of Portland

**CERTIFICATION**

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

|   |         |      |       |
|---|---------|------|-------|
| SIGNATURE OF APPLICANT                      | ADDRESS | DATE | PHONE |
| RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE |         | DATE | PHONE |

G/710

Reyn in Plan fest on de MLA

Reyn in Blue ckr Brian/MLA

still need feelings and will probably improve MLA

**City of Portland, Maine - Building or Use Permit Application**

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

|                       |             |                     |
|-----------------------|-------------|---------------------|
| Permit No:<br>09-1243 | Issue Date: | CBL:<br>013 K001001 |
|-----------------------|-------------|---------------------|

|  |  |   |                     |
|--|--|---|---------------------|
| Location of Construction:<br>58 NORTH ST               | Owner Name:<br>SHAILER EMERSON ASSOCIAT      | Owner Address:<br>307 CUMBERLAND AVE        | Phone:              |
| Business Name:   | Contractor Name:<br>Allied/Cook Construction | Contractor Address:<br>PO Box 1396 Portland | Phone<br>2077722888 |
| Lessee/Buyer's Name<br><i>Avesha Munjey Commercial</i> | Phone:                                       | Permit Type:<br>Commercial                  | Zone:<br><i>R-6</i> |

|   |   |  |                                 |   |
|---|---|--|---------------------------------|---|
| Past Use:<br>Multi-Family - 17 Unit Residential<br><br><i>Legal use</i> | Proposed Use:<br>Multi-Family - 17 Unit Residential -<br>Renovate 17 Apartments<br><br><i>- 17 dwelling units</i> | Permit Fee:<br>\$16,140.00   | Cost of Work:<br>\$1,611,869.00 | CEO District:<br>1  |
| Proposed Project Description:<br>Renovate 17 Apartments                 |   | FIRE DEPT: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied<br>INSPECTION: Use Group: <i>R-2</i> Type: <i>TBC</i><br><i>TBC 2003</i><br>Signature: <i>KG</i> Signature: <i>[Signature]</i> |                                 | PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)<br>Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied<br>Signature: Date: |

|                             |                                 |                        |  |
|-----------------------------|---------------------------------|------------------------|--|
| Permit Taken By:<br>Ldobson | Date Applied For:<br>11/04/2009 | <b>Zoning Approval</b> |  |
|-----------------------------|---------------------------------|------------------------|--|

- This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.
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|  |  |   |
|--|--|---|
| Special Zone or Reviews<br><input type="checkbox"/> Shoreland<br><input type="checkbox"/> Wetland<br><input type="checkbox"/> Flood Zone<br><input type="checkbox"/> Subdivision<br><input type="checkbox"/> Site Plan<br>Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/><br><i>OK w/cond. for</i><br>Date: <i>11/12/09 AB</i> | Zoning Appeal<br><input type="checkbox"/> Variance<br><input type="checkbox"/> Miscellaneous<br><input type="checkbox"/> Conditional Use<br><input type="checkbox"/> Interpretation<br><input type="checkbox"/> Approved<br><input type="checkbox"/> Denied<br>Date: | Historic Preservation<br><input checked="" type="checkbox"/> Not in District or Landmark<br><input type="checkbox"/> Does Not Require Review<br><input type="checkbox"/> Requires Review<br><input type="checkbox"/> Approved<br><input type="checkbox"/> Approved w/Conditions<br><input type="checkbox"/> Denied<br><i>ABM</i><br>Date: |
|--|--|---|

*- no change to the footprint of the building*

**PERMIT ISSUED**

JAN 15 2010

City of Portland

**CERTIFICATION**

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

|   |         |      |       |
|---|---------|------|-------|
| SIGNATURE OF APPLICANT                      | ADDRESS | DATE | PHONE |
| RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE |         | DATE | PHONE |

## BUILDING PERMIT INSPECTION PROCEDURES

Please call 874-8703 or 874-8693 (ONLY)

to schedule your inspections as agreed upon

Permits expire in 6 months, if the project is not started or ceases for 6 months.

The Owner or their designee is required to notify the inspections office for the following inspections and provide adequate notice. Notice must be called in 48-72 hours in advance in order to schedule an inspection:

By initializing at each inspection time, you are agreeing that you understand the inspection procedure and additional fees from a "Stop Work Order" and "Stop Work Order Release" will be incurred if the procedure is not followed as stated below.

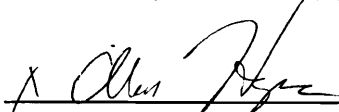
A Pre-construction Meeting will take place upon receipt of your building permit.

- Footing/Building Location Inspection: Prior to pouring concrete or setting precast piers
- Re-Bar Schedule Inspection: Prior to pouring concrete
- Framing/Rough Plumbing/Electrical: Prior to Any Insulating or drywalling
- Final inspection required at completion of work.

Certificate of Occupancy is not required for certain projects. Your inspector can advise you if your project requires a Certificate of Occupancy. All projects DO require a final inspection.

If any of the inspections do not occur, the project cannot go on to the next phase, REGARDLESS OF THE NOTICE OR CIRCUMSTANCES.

**CERIFICATE OF OCCUPANICES MUST BE ISSUED AND PAID FOR, BEFORE THE SPACE MAY BE OCCUPIED.**

  
\_\_\_\_\_  
Signature of Applicant/Designee

1.15.10  
Date

  
\_\_\_\_\_  
Signature of Inspections Official

1.15.10  
Date

58 North St.

FIRST AMENDMENT TO OPTION AGREEMENT

THIS FIRST AMENDMENT TO OPTION AGREEMENT made and entered into as of the 1<sup>st</sup> day of June, 2009, by and between SHAILER EMERSON ASSOCIATES LIMITED PARTNERSHIP, a Maine limited partnership with a place of business in Portland, Maine ("Grantor") and AVESTA MUNJOY COMMONS LP, a Maine limited partnership with a place of business in Portland, Maine ("Grantee")

WITNESSETH:

WHEREAS, the parties entered into that certain Option Agreement dated November 1, 2008 (the "Agreement") concerning the grant by Grantor to Grantee of an exclusive and irrevocable option to purchase certain property more particularly described in the Agreement; and

WHEREAS, the parties now wish to amend the Agreement;

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual promises and undertakings set forth herein, the parties agree as follows:

1. The purchase price for the Property, as set forth in Section 1 of the Agreement, is hereby increased to One Million Five Hundred Thirty Thousand Dollars (\$1,530,000).
2. As modified hereby, the Agreement remains in full force and effect, and the parties hereby ratify and affirm their respective obligations thereunder. Capitalized terms used but not defined herein shall have the meanings assigned to them in the Agreement.

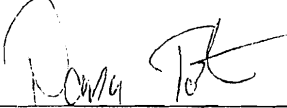
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby have executed this First Amendment as of the date first written above.

SHAILER EMERSON ASSOCIATES  
LIMITED PARTNERSHIP, Grantor

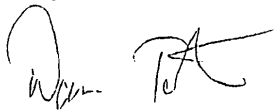
AVESTA MUNJOY COMMONS LP,  
Grantee

BY: Avesta Consulting Services, Inc.,  
Its Managing General Partner

BY: Pinetree Housing Development I  
LLC, its General Partner

By:  7/30/09  
Dana Totman, its President

By: Avesta Housing Development  
Corporation, its sole Member

By:  7/30/09  
Dana Totman, its President and CEO

## OPTION AGREEMENT

OPTION granted this 1st day of November, 2008, by SHAILER EMERSON ASSOCIATES LIMITED PARTNERSHIP, a Maine limited partnership with a place of business in Portland, Maine and mailing address in care of Avesta Consulting Services, Inc., 307 Cumberland Avenue, Portland, Maine 04101, formerly known as Shailer Emerson Associates, hereinafter called the "Grantor," to AVESTA MUNJOY COMMONS LP, a Maine limited partnership with principal offices at 307 Cumberland Avenue, Portland, County of Cumberland and the State of Maine, hereinafter called the "Grantee."

1. In consideration of the sum of One Dollar (\$1.00) (the "Option Consideration") and other valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, Grantor hereby grants to the Grantee the exclusive and irrevocable right and option for and during the period from the date hereof to December 31, 2009, to purchase two lots of land with the buildings and improvements thereon, described as follows: (i) the former Shailer School, located at 58 North Street, Portland, Maine, identified on the City of Portland assessment records as Map 13, Block K, Lot 1, consisting of 19,860 square feet of land, more or less, improved by a brick building containing 18 dwelling units, described in a deed to Grantor recorded in the Cumberland County Registry of Deeds in Book 6405, Page 1, and (ii) the former Emerson School, located at 13 Emerson Street, Portland, Maine, identified on the City of Portland assessment records as Map 14, Block K, Lot 8, consisting of 29,200 square feet of land, more or less, improved by a brick building containing 22 dwelling units, described in a deed to Grantor recorded in the Cumberland County Registry of Deeds in Book 6387, Page 188, and all related fixtures and personal property (collectively the "Property"), for the total purchase price of one million five hundred thousand DOLLARS (\$1,500,000), which shall be paid by cashier's check or wire transfer, upon the delivery of a warranty deed conveying good and marketable title as hereinafter provided. This option is subject to Grantor's receipt of approval of the sale by Grantor's Limited Partners, to the extent required under Grantor's Limited Partnership Agreement.

2. Written notice of the Grantee's election to purchase under the terms of this Option shall be given to the Grantor addressing the same to the Grantor at the address set forth at the beginning of this Agreement via certified mail, prior to the expiration date set forth above.

3. If the Grantee shall exercise its Option under this Agreement, the Grantor shall deliver at the closing good and marketable title in fee simple to the Property, free and clear of all liens, claims and encumbrances, and shall convey the same by warranty deed.

4. If this Option is exercised, the following provisions shall be applicable: The closing shall take place on the latest to occur of (i) February 28, 2010 or (ii) no later than ninety (90) days after the date of final financing approval from all lenders required to finance the acquisition and rehabilitation of the Property, at a mutually convenient place, date and time. The Option Consideration will be credited against the purchase price at the closing. Real estate taxes and assessments shall be prorated as of the closing on the basis of the latest available tax bill. The Maine real estate transfer tax shall be paid by Grantor and Grantee in accordance with 36 M.R.S.A. § 4641-A. The recording fee for the deed of conveyance and any expenses related to

any mortgage which Grantee may grant to a lender in connection with the purchase of the Property shall be paid for by Grantee. Grantor shall deliver possession of the Property to Grantee at the closing, free of all leases, tenancies or occupancies by any person, except tenants in good standing at the Property. Grantor shall provide a current rent roll and shall update the rent roll immediately prior to closing.

5. The Grantor grants to the Grantee, and its duly authorized agents and employees, the right during the term of this Agreement at any and all times, with reasonable notice, to enter in and upon the Property to inspect the same and to make surveys and measurements and to conduct environmental and soils tests, building inspections and evaluations including test pits, all as shall be deemed necessary by the Grantee at Grantee's sole expense. Grantor will not be liable for agents or employees of Grantee while on said Property. Without limiting the generality of the foregoing, this Option and Grantee's exercise thereof are subject to a determination by Maine State Housing Authority as to the desirability of the Property for Grantee's intended use as a result of the completion of the environmental review process required by HUD.

6. At least thirty (30) days prior to closing, Grantee shall conduct or cause to be conducted a title examination of the Property covered by this Option and shall advise the Grantor of any defects or encumbrances which would in Grantee's sole judgment prevent Grantor from conveying title as required in Section 3 above. Upon receipt of notice from the Grantee of any such defect, Grantor shall immediately proceed to correct any such deficiency or encumbrance. If within thirty (30) days following receipt of notice of a defect in title from the Grantee to the Grantor, the Grantor shall not have corrected such deficiency or eliminated such encumbrance, this Agreement shall terminate, and the Option Consideration shall be returned to Grantee, provided, however, the thirty (30) day period may be extended by mutual agreement of the Grantee and Grantor.

7. If the Grantee shall fail to exercise this Option within the time provided in Section 1 above, or if the Grantee is unable to obtain the permits or approvals as described in Section 8, then this Agreement shall be null and void and of no further effect. In the event the Grantee is unable to obtain the permits or approvals as described in Section 8, the Option Consideration will be returned in full to Grantee, and neither party shall have any further rights or claims against the other.

8. It is understood and agreed between the parties that the Grantee intends to acquire the Property for the purpose of rehabilitating the Shailer and Emerson Schools utilizing the low income housing tax credit and other financing programs. Grantee also agrees to proceed promptly to obtain all necessary zoning, building and other land use approvals, permits and licenses as may be required by local, state and/or federal regulatory agencies for the renovations, at the sole discretion of the Grantee. The parties agree that in the event that any regulatory agency having jurisdiction over the property covered by this Option shall refuse to issue approvals, permits or licenses necessary for the rehabilitation of the Property, or in the event the Grantee does not receive a Notice to Proceed from Maine State Housing Authority with respect to Grantee's application for tax credits, then this Agreement shall at the sole option of Grantee be null and void and of no further effect, and the Option Consideration shall be returned to Grantee.

9. The Grantor shall cooperate with Grantee's efforts to obtain all federal, state or local permits and approvals for Grantee's intended use of the Property. Grantor agrees, if requested by



Grantee due to the requirements of any federal, state or local agency, to allow Grantee to apply in Grantor's name for the land use permits or approvals as may be required in order to develop the Property as contemplated.

10. Grantor and Grantee acknowledge that any real estate commissions due by reason of any listing agreement or agency relationship shall be paid by Grantor. Grantor shall indemnify and hold Grantee harmless from the claims and demands of any and all real estate brokers with respect to this transaction.

11. The risk of loss or damage shall remain on Grantor at all times from the date of this Option until closing and Grantor shall keep the Property insured against fire and other extended coverage risks until the closing. In the event of any substantial damage to the Property, which damage is not repaired so that the Property is restored to its present condition on or before the date set for closing, Grantee may either (a) terminate this Option and receive back the Option Consideration, (b) accept the insurance proceeds payable by reason of such damage or destruction and close notwithstanding the same, or (c) accept title to the Property and receive an appropriate reduction in the purchase price.


12. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective heirs, executors, administrators, assigns and successors.

13. This option and all rights hereunder shall be assignable by the Grantee to an entity controlled by Grantee without the written agreement of the Grantor. Original or faxed signatures of this Agreement are binding.

14. The Grantee represents and warrants that it is a duly organized limited partnership, validly existing and in good standing under the laws of the State of Maine, and that the execution and perfections of this Option Agreement have been duly authorized. Grantor shall obtain all consents (including limited partner consents) required to (i) enter into this Agreement and (ii) transfer the Property to Grantee.

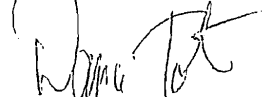
15. The interpretation, construction and perfection of this Agreement shall be governed by the laws of the State of Maine.

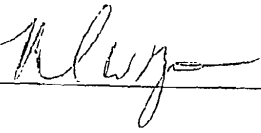
WITNESS:

  
\_\_\_\_\_

SHAILER EMERSON ASSOCIATES  
LIMITED PARTNERSHIP, Grantor

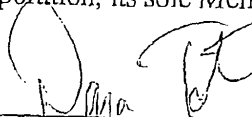
BY: Avesta Consulting Services, Inc.,  
Its Managing General Partner

By:   
\_\_\_\_\_  
Dana Totman, its President and CEO,  
AVESTA MUNJOY COMMONS LP,  
Grantee

  
\_\_\_\_\_

BY: Pinetree Housing Development I LLC,  
Its General Partner

By: Avesta Housing Development  
Corporation, its sole Member

  
By: \_\_\_\_\_  
Dana Totman, its President and CEO

O:\MAS\99475 Avesta\Munjoy Commons\Title\OPTION AGREEMENT.doc

**City of Portland, Maine - Building or Use Permit**

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

|                       |                                 |                     |
|-----------------------|---------------------------------|---------------------|
| Permit No:<br>09-1243 | Date Applied For:<br>11/04/2009 | CBL:<br>013 K001001 |
|-----------------------|---------------------------------|---------------------|

|   |   |  |                                |
|---|---|--|--------------------------------|
| <b>Location of Construction:</b><br>58 NORTH ST         | <b>Owner Name:</b><br>SHAILER EMERSON ASSOCIAT      | <b>Owner Address:</b><br>307 CUMBERLAND AVE        | <b>Phone:</b>                  |
| <b>Business Name:</b>                                   | <b>Contractor Name:</b><br>Allied/Cook Construction | <b>Contractor Address:</b><br>PO Box 1396 Portland | <b>Phone</b><br>(207) 772-2888 |
| <b>Lessee/Buyer's Name</b><br>Avesta Munjoy Commons, LP | <b>Phone:</b>                                       | <b>Permit Type:</b><br>Commercial                  |                                |

|   |  |
|---|--|
| <b>Proposed Use:</b><br>Multi-Family - 17 Unit Residential - Renovate 17 Apartments | <b>Proposed Project Description:</b><br>Renovate 17 Apartments |
|---|--|

**Dept:** Zoning      **Status:** Approved with Conditions      **Reviewer:** Ann Machado      **Approval Date:** 11/18/2009

**Note:** The space in the annex (forst floor rear) is listed as community partners. See email from Ethan Boxer-Macomber stating the use as accessory community space for the housing in the building.      **Ok to Issue:**

- 1) This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that work.
- 2) This property shall remain a seventeen (17) family dwelling. Any change of use shall require a separate permit application for review and approval.

**Dept:** Building      **Status:** Approved with Conditions      **Reviewer:** Tammy Munson      **Approval Date:** 01/15/2010

**Note:**      **Ok to Issue:**

- 1) Separate Permits shall be required for any new signage.
- 2) Separate permits are required for any electrical, plumbing, sprinkler, fire alarm or HVAC or exhaust systems. Separate plans may need to be submitted for approval as a part of this process.
- 3) Hardwired interconnected battery backup smoke detectors shall be installed in all bedrooms, protecting the bedrooms, and on every level.
- 4) CO detectors must be installed per State Law.

**Dept:** Fire      **Status:** Approved with Conditions      **Reviewer:** Capt Keith Gautreau      **Approval Date:** 12/01/2009

**Note:**      **Ok to Issue:**

- 1) The sprinkler system shall be installed in accordance with NFPA 13.
- 2) All fire alarm records required by NFPA 72 should be stored in an approved cabinet located at the FACP and keyed alike, labeled "FIRE ALARM RECORDS".
- 3) System acceptance and commissioning must be co-ordinated with alarm and suppression system contractors and the Fire Department. Call 874-8703 to schedule.
- 4) The Fire Department will require knox locking caps on all Fire Department Connections on the exterior of the building.
- 5) All smoke detectors and smoke alarms shall be photoelectric. Carbon Monoxide detectors are required in the dwelling units by State law.
- 6) A separate Suppression System Permit is required.
- 7) All construction shall comply with NFPA 101
- 8) Installation of a Fire Alarm system requires a Knox Box to be installed per city crdinance
- 9) The fire alarm system shall comply with NFPA 72 and Fire Department Technical Standard. A compliance letter is required.
- 10) The Fire alarm and Sprinkler systems shall be reviewed by a licensed contractor[s] for code compliance. Compliance letters are required.
- 11) Emergency lights and exit signs are required. Emergency lights and exit signs are required to be labeled in relation to the panel and circuit.

|   |   |  |                                |
|---|---|--|--------------------------------|
| <b>Location of Construction:</b><br>58 NORTH ST         | <b>Owner Name:</b><br>SHAILER EMERSON ASSOCIAT      | <b>Owner Address:</b><br>307 CUMBERLAND AVE        | <b>Phone:</b>                  |
| <b>Business Name:</b>                                   | <b>Contractor Name:</b><br>Allied/Cook Construction | <b>Contractor Address:</b><br>PO Box 1396 Portland | <b>Phone</b><br>(207) 772-2888 |
| <b>Lessee/Buyer's Name</b><br>Avesta Munjoy Commons, LP | <b>Phone:</b>                                       | <b>Permit Type:</b><br>Commercial                  |                                |

- 12 Two means of egress are required from every story. "State Law Title 25 ~ 2453"
- 13 Sprinkler protection shall be maintained.  
Where the system is to be shut down for maintenance or repair, the system shall be checked at the end of each day to insure the system has been placed back in service.
- 14 Fire Alarm system shall be maintained.  
If system is to be off line over 4 hours a fire watch shall be in place.  
Dispatch notification required 874-8576.
- 15 A separate Fire Alarm System Permit is required.
- 16 Fire department connection type and location shall be approved in writing by fire prevention bureau.

**Comments:**

- 11/10/2009-amachado: Left vcm for Ethan Boxer-Macomber. Need to know what community partners is. Confirming number of units in the building - c.o. 1984 said 17 units & one handicapped. No permit for use for Community Partners.
- 11/16/2009-amachado: Spoke to Ethan on 11/13/09. He told me that Community Partners is accessory to the tenants in the building. It provides counseling ans services for the tenants. He is planning to send me something is writing about it. Also there will be a new owner. He will send the purchase and sales agreement. I'm moving the permit forward while I wait for this information.
- 11/18/2009-amachado: Received email from Ethan Boxer-Macomber. It explains the community space as accessory for the housing in the building. Sent Option Agreement to show who the owner will be.
- 12/2/2009-tmm: There is a conflict with the type of construction. One doc states 2B and another states 3B - left message w/Ethan.  
/tmm - ok existing construction type to be followed.
- 1/15/2010-tmm: Met with Penny and Keith to review proposed interior fire escape stair. Agreed to approve the internal fire escape stair.

CORRECTION LIST (cont'd.)

| No. | DESCRIPTION  | Code Section  |
|-----|--|---------------|
|     | 58 North Street  |               |
|     | 707.14.1 - Elevator lobbies - not required to be separated   |               |
| 313 | Fire escape stairs - }<br>Risers = 8.812" }<br>Treads = 9" }<br>Width = 24" }<br>Landing 2'-7 1/2" } | A 1.6         |
| 314 |  | A 1.7         |
|     |  | A 5.2         |
|     |  | A 5.3         |
|     |  | OK per waiver |
|     | Section 1009 - Stairways - Means of Egress   |               |
|     | Section 3404   |               |
|     | 09-0324 TD Bank  |               |
|     | 09-0524 Constellation * Scanned  |               |
|     | S Under bath   |               |
|     | ↑ 511 Congress   |               |
|     | Ask Suzanne.   |               |
|     | she closed it.   |               |
|     | 1st floor 4 units  |               |
|     | 2nd floor 5 units - 17   |               |
|     | 3/4 8 units  |               |

**From:** "Ben Walter" <bwalter@cwsarch.com>  
**To:** "Tammy Munson" <TMM@portlandmaine.gov>, <kng@portlandmaine.gov>  
**Date:** 1/6/2010 5:05:17 PM  
**Subject:** Munjoy Commons - Fire Escape Stair Summary

Hi Tammy and Keith,

Attached is a summary of the reasoning behind proposing the use of internal fire escape stairs at Munjoy Commons.

Avesta is anxious to get the building permit within the next few days. Please call if you have any questions.

Thanks,

Ben

Ben Walter AIA, President

CWS Architects | Portland, Maine

Maine Licensed Architect

[www.cwsarch.com](http://www.cwsarch.com)

T: 207-774-4441

F: 207-774-4016

C: 207-232-3348

[bwalter@cwsarch.com](mailto:bwalter@cwsarch.com) <blocked::mailto:bwalter@cwsarch.com>

**CC:** "Ethan Boxer-Macomber" <EBoxer-Macomber@avestahousing.org>, "Daniel Cook" <danc@AlliedCook.com>

# CWS Architects

Architecture • Planning • Construction Services

434 Cumberland Avenue Portland, Maine 04101  
www.CWSarch.com

Phone: (207) 774-4441  
Fax: (207) 774-4016

January 6, 2010

Tammy Munson, Code Enforcement Office  
Captain Keith Gautreau, Portland Fire Department  
City of Portland, Maine

Via email

Re: Munjoy Commons Apartments  
Emerson and Shailer Buildings  
Fire Escape Stairs from Townhouse Units

Dear Tammy and Keith,

This letter is to outline the history of the Munjoy Commons development and approach used in proposing the use in new interior fire escape stairs to provide a second means of egress to the second level of the existing townhouse style units that occupy the third/fourth floor of both the Emerson and Shailer buildings, know together as Munjoy Commons Apartments.

As a matter of history, these buildings were sold by the City of Portland and developed into apartments in 1984 by Avesta Housing (formerly York Cumberland Housing) with financing provided by MaineHousing and the City of Portland. The building plans for the conversion of the buildings from schools to multi-family housing included the use of two-level stacked townhouse style units on the upper floors of both buildings that had a single exit from each unit on the lower level, egress windows and doors on both levels and a Life Safety sprinkler and fire alarm system. I do not have a copy of the BOCA building code or Life Safety Code that would have been in place time but it appears that the building was permitted by the City of Portland and constructed according to the plans. Accordingly, we assume that the building's layout met the code in force at the time of construction and that the townhouse units, with the sprinkler system, were required to have only one exit because each unit had less that 50 total occupants.

In 2009, Avesta Housing was awarded funding to renovate the building for essentially a "paint and paper" upgrade with the hopes, if money allowed, of improving any non-conforming components, if any. As part of CWS Architects' review of the existing building, it was discovered that the townhouse units as originally designed, permitted and constructed did not meet the intent and current interpretation of the Laws of the Maine Fire Service. In addition, we recommended other life safety and accessibility upgrades that may have met the code when originally constructed, but didn't now.

Regarding the proposed new exits from the second level of the existing townhouse units, space limitation did not allow for the installation of full new exit stairs. We reviewed the current IBC 2006 (Section 3404) and Life Safety Code 2006 (7.2.8) and in both cases, new fire escape stairs are permitted in existing buildings where new exterior stairs cannot be utilized. **Neither of the two codes prohibit the use of fire escape stairs on the interior of a building.** As I understand it, the City of Portland's ordinance prohibits the use of new fire escape stairs on the exterior of buildings for the creation of new residential units for aesthetic purposes (they look bad).

# CWS Architects

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434 Cumberland Avenue Portland, Maine 04101  
www.CWSarch.com

Phone: (207) 774-4441  
Fax: (207) 774-4016

Given the above limitations and options, and given the fact that these are existing previously permitted apartment buildings, CWS Architects and Avesta Housing has proposed the use of new internal fire escape stairs, constructed to IBC and Life Safety Code standards, inside fire rated enclosures "for emergency use only" as the best and only reasonable means of resolving the current townhouse unit exiting issues. The State Fire Marshal's office has reviewed this proposed solution and agrees it is the best reasonable approach to eliminating the existing risk and have issue a Construction Permit based on this design.

I understand your concern that this is not an ideal solution and CWS Architects and Avesta Housing would never propose it for new construction or if a better solution were available. We do believe, given the options, that you will also conclude that this solution, though a bit creative, fully meets the intent of the current IBC and Life Safety Code exiting objectives – to protect residents. The State Fire Marshal's office agrees.

It is my opinion that the proposed solution meets the intent of the IBC and Life Safety Code and does not require a waiver. However, if you believe this request requires a waiver, please consider this letter as a waiver request.

Thank you for your attention to this matter and please call if you have any further questions.

Very truly yours,

CWS ARCHITECTS



Benedict B. Walter, AIA  
President  
Maine Licensed Architect

cc: Ethan Boxer-Macomber, Avesta Housing  
Dan Cook, Allied/Cook Construction



**From:** Keith Gautreau  
**To:** Ben Walter; Tammy Munson  
**Date:** 1/6/2010 9:37:51 PM  
**Subject:** Re: Munjoy Commons - Fire Escape Stair Summary

Hi Ben,

I have read the attached justification letter and if the State Fire Marshal's Office is Ok with it then I can live with it. They are the ones that can be extremely stringent on the second means of egress (not escape) with their state title 25. So if they can live with it then so can I. I will have the plans with conditions off my desk by tomorrow and on to Tammy for her review and you should be able to pick them up by the end of this week if not early next week.

Sorry for the delay but Tammy and I wanted to make sure everybody was going to be comfortable with this.

Thanks,  
Keith

Keith Gautreau, Fire Captain  
Fire Prevention Bureau  
Portland Fire Department  
380 Congress Street  
Portland, ME 04101  
(207)874-8405  
kng@portlandmaine.gov

>>> "Ben Walter" <bwalter@cwsarch.com> 1/6/2010 5:02 PM >>>  
Hi Tammy and Keith,

Attached is a summary of the reasoning behind proposing the use of internal fire escape stairs at Munjoy Commons.

Avesta is anxious to get the building permit within the next few days.  
Please call if you have any questions.

Thanks,

Ben

Ben Walter AIA, President

CWS Architects | Portland, Maine

Maine Licensed Architect

[www.cwsarch.com](http://www.cwsarch.com)

T: 207-774-4441

F: 207-774-4016

C: 207-232-3348

[bwalter@cwsarch.com](mailto:bwalter@cwsarch.com) <[blocked::mailto:bwalter@cwsarch.com](mailto:bwalter@cwsarch.com)>

**CC:** Daniel Cook; Ethan Boxer-Macomber

RECEIVED



- 3 2009

Department of Building Inspections  
City of Portland, Maine  
From Designer:

Certificate of Design Application

DAN BURNE P.E. / BECKER STRUCTURAL ENGINEERS

Date: 10/26/09  
Job Name: MUNJOY COMMONS - SHALER  
Address of Construction: 56 NORTH ST.

2003 International Building Code

Construction project was designed to the building code criteria listed below:

Building Code & Year 2003 IBC Use Group Classification (s) A3 (Assembly) B (Office) S2 (Storage)  
R2 (Residential Apartments)  
Type of Construction TYPE-III B  
Will the Structure have a Fire suppression system in Accordance with Section 903.3.1 of the 2003 IRC YES  
Is the Structure mixed use? YES If yes, separated or non separated or non separated (section 302.3) SEPARATED  
Supervisory alarm System? YES Geotechnical/Soils report required? (See Section 1802.2) YES

Structural Design Calculations

COMPLETED Submitted for all structural members (106.1 - 106.11)

Design Loads on Construction Documents (1603)

Table with 2 columns: Floor Area Use, Loads Shown. Rows include PRIVATE ROOMS + CORRIDORS SERVING (40 PSF) and PUBLIC ROOMS + CORRIDORS SERVING (100 PSF).

Wind loads (1603.1.4, 1609)

METHOD 2 Design option utilized (1609.1.1, 1609.6)  
100 MPH Basic wind speed (1809.3)  
1.0 Building category and wind importance Factor, I (table 1604.5, 1609.5)  
C Wind exposure category (1609.4)  
10.18 Internal pressure coefficient (ASCE 7)  
45 PSF Component and cladding pressures (1609.1.1, 1609.6.2.2)  
32 PSF Main force wind pressures (1603.1.1, 1609.6.2.1)

Earth design data (1603.1.5, 1614-1623)

Design option utilized (1614.1)  
Seismic use group ("Category")  
Spectral response coefficients, SD1 & SD2 (1615.1)  
Site class (1615.1.5)

N/A - EXISTING STRUCTURE + SEISMIC UPGRADE NOT REQ'D.

N/A Live load reduction  
12 PSF Roof live loads (1603.1.2, 1607.11)  
42 PSF + DRIFT Roof snow loads (1603.7.3, 1608)  
60 Ground snow load, Pg (1608.2)  
42 PSF + DRIFT If Pg > 10 psf, flat-roof snow load, sy  
0.9 If Pg > 10 psf, snow exposure factor, Ce  
1.0 If Pg > 10 psf, snow load importance factor, Ie  
1.1 Roof thermal factor, Ct (1608.4)  
42 psf Sloped roof snowload, Ps (1608.4)  
Seismic design category (1616.3)  
Basic seismic force resisting system (1617.6.2)  
Response modification coefficient, R, and deflection amplification factor, Cd (1617.6.2)  
Analysis procedure (1616.6, 1617.5)  
Design base shear (1617.4, 1617.5.1)  
Flood loads (1803.1.6, 1612)  
N/A Flood Hazard area (1612.3)  
N/A Elevation of structure  
Other loads  
N/A Concentrated loads (1607.4)  
N/A Partition loads (1607.5)  
N/A Misc. loads (Table 1607.2, 1607.6.1, 1607.7, 1607.12, 1607.13, 1610, 1611, 2404)



# General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

|   |   |  |
|---|---|--|
| Location/Address of Construction: <u>56 North St Portland ME</u>  |   |  |
| Total Square Footage of Proposed Structure/Area<br><u>30,000</u>  |   | Square Footage of Lot<br><u>25,236</u>   |
| Tax Assessor's Chart, Block & Lot<br>Chart# <u>13</u> Block# <u>k</u> Lot# <u>1</u>   | Applicant *must be owner, Lessee or Buyer*<br>Name <u>Avesta Housing</u><br>Address <u>Cumberland Ave</u><br>City, State & Zip <u>Portland ME 04101</u> | Telephone: <u>207-553-7780</u><br><u>Ext 284</u>                                 |
| Lessee/DBA (If Applicable)  | Owner (if different from Applicant)<br>Name<br>Address<br>City, State & Zip   | Cost Of Work: \$ <u>1,611,869</u><br>C of O Fee: \$ _____<br>Total Fee: \$ _____ |
| Current legal use (i.e. single family) <u>Apartment</u><br>If vacant, what was the previous use? <u>Apartment</u><br>Proposed Specific use: <u>Apartment</u><br>Is property part of a subdivision? <u>NO</u> If yes, please name _____<br>Project description:<br><u>Renovate 17 apartment units</u>                              |   |  |
| Contractor's name: <u>Allied Cook Construction</u><br>Address: <u>PO Box 1396</u><br>City, State & Zip: <u>Portland ME 04104</u> Telephone: <u>207-772-2888</u><br>Who should we contact when the permit is ready: <u>Dan Cook</u> Telephone: <u>207-838-2393</u><br>Mailing address: <u>PO Box 1396 Portland ME 04104</u> (cell) |   |  |

Please submit all of the information outlined on the applicable Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at [www.portlandmaine.gov](http://www.portlandmaine.gov), or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature: [Signature] Date: 11-4-09

This is not a permit; you may not commence ANY work until the permit is issue

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NOV - 4 2009  
Dept. of Building Inspection  
City of Portland Maine



# Certificate of Design Application

From Designer: DAN BURNE P.E. / BECKER STRUCTURAL ENGINEERS  
 Date: 10/26/09  
 Job Name: MUNJOY COMMONS - SHALIBER  
 Address of Construction: 56 NORTH ST.

## 2003 International Building Code

Construction project was designed to the building code criteria listed below:

Building Code & Year: 2003 IBC Use Group Classification (g): A3 (Assembly) B (Office) S2 (Storage) R2 (Residential Apartments)  
 Type of Construction: Type IIB Combustible Unprotected  
 Will the Structure have a Fire suppression system in accordance with Section 903.3.1 of the 2003 IRC: YES  
 Is the Structure mixed use? YES If yes, separated or non separated or non separated (section 302.3): SEPARATED  
 Supervisory alarm System? YES Geotechnical/Soils report required? (See Section 1802.2): YES

### Structural Design Calculations

COMPLETED Submitted for all structural members (106.1 - 106.11)

### Design Loads on Construction Documents (1603)

Uniformly distributed floor live loads (703.1.1, 1607)

Floor Area Use

Loads Shown

PRIVATE ROOMS +  
CORRIDORS SERVING 40 PSF

FUEL ROOMS +  
CORRIDORS SERVING 100 PSF

### Wind loads (1603.1.4, 1609)

METHOD 2 Design option utilized (1609.1.1, 1609.6)

100 MPH Basic wind speed (1609.3)

1.0 Building category and wind importance Factor,  $I_w$  (table 1604.5, 1609.5)

C Wind exposure category (1609.4)

±0.18 Internal pressure coefficient (ASCE 7)

45 PSF Component and cladding pressure (1609.1.1, 1609.6.2.2)

32 PSF Main force wind pressure (1603.1.1, 1609.6.2.1)

### Earth design data (1603.1.5, 1614-1623)

Design option utilized (1614.1)

Seismic use group ("Category")

Spectral response coefficients,  $S_D$  &  $S_1$  (1615.1)

Site class (1615.1.2)

N/A - EXISTING STRUCTURE + SEISMIC UPGRADE NOT REQ'D.

N/A Live load reduction  
12 PSF Roof live loads (1603.1.2, 1607.11)  
42 PSF + DRIFT Roof snow loads (1603.2.3, 1608)  
60 Ground snow load,  $P_g$  (1608.2)  
42 PSF + DRIFT If  $P_g > 10$  psf, the roof snow load  $P_r$   
0.9 If  $P_g > 10$  psf, snow exposure factor,  $C_e$   
1.0 If  $P_g > 10$  psf, snow load importance factor,  $C_t$   
1.1 Roof thermal factor,  $C_u$  (1608.4)  
42 PSF Sloped roof snowload,  $P_s$  (1608.4)  
N/A Seismic design category (1616.3)  
N/A Basic seismic force resisting system (1617.4.3)  
N/A Response modification coefficient,  $R$ , and deflection amplification factor,  $C_d$  (1617.4.3)  
N/A Analysis procedure (1616.4, 1617.5)  
N/A Design base shear (1617.4, 1617.5.1)  
 Flood loads (1803.1.6, 1612)  
N/A Flood Hazard area (1612.3)  
N/A Elevation of structure  
 Other loads  
N/A Concentrated loads (1607.4)  
N/A Partition loads (1607.5)  
N/A Misc. loads (Table 1607.8, 1607.4.1, 1607.7, 1607.12, 1607.13, 1610, 1611, 2404)



## Certificate of Design

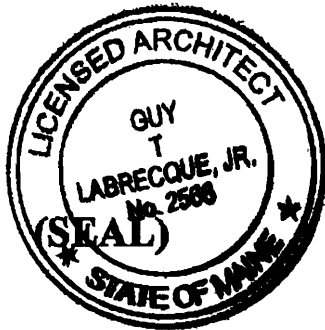
Date: October 30, 2009


From: CWS Architects

These plans and / or specifications covering construction work on:

Munjoy Commons - Shailer  
Renovate 17 apartment units

Have been designed and drawn up by the undersigned, a Maine registered Architect / Engineer according to the *2003 International Building Code* and local amendments.



Signature:   
Title: Vice-President  
Firm: CWS Architects  
Address: 434 Cumberland Ave,  
Portland, ME 04101  
Phone: 207-774-4441

For more information or to download this form and other permit applications visit the Inspections Division on our website at [www.portlandmaine.gov](http://www.portlandmaine.gov)



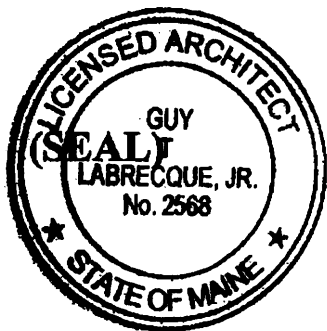
## Accessibility Building Code Certificate

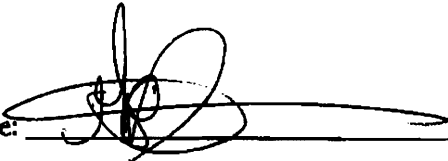
**Designer:** CWS Architects

**Address of Project:** 56 North St.

**Nature of Project:** Munjoy Commons - Shailer  
Renovate 17 apartment units.

The technical submissions covering the proposed construction work as described above have been designed in compliance with applicable referenced standards found in the Maine Human Rights Law and Federal Americans with Disability Act. Residential Buildings with 4 units or more must conform to the Federal Fair Housing Accessibility Standards. Please provide proof of compliance if applicable.



**Signature:** 

**Title:** Vice-President

**Firm:** CWS Architects

**Address:** 434 Cumberland Ave.  
Portland, ME 04101

**Phone:** (207) 774-4441

For more information or to download this form and other permit applications visit the Inspections Division on our website at [www.portlandmaine.gov](http://www.portlandmaine.gov)

## **Fire Department Requirements**

Location/Address of Construction: 56 North St, Portland ME

Applicant: Avesta Housing  
307 Cumberland Ave, Portland, ME 04104  
207-553-7780

Architect: CWS Architects  
434 Cumberland Ave, Portland, ME 04101  
207-774-4441

Proposed use of structure: A3 (assembly), S2 (storage), B (office),  
R2 (residential apartments)

Total square footage: 30,000 sq ft                      Per story: 7,500 sq ft

Existing & proposed fire protection of structure: Sprinkler



**Ann Machado - FW: Munjoy Commons Building Permit**

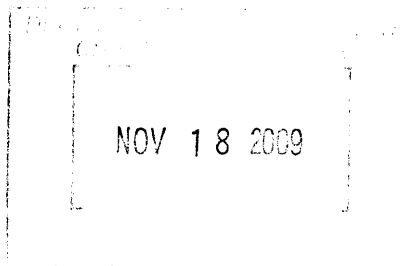
**From:** Ethan Boxer-Macomber <EBoxer-Macomber@avestahousing.org>  
**To:** "amachado@portlandmaine.gov" <amachado@portlandmaine.gov>  
**Date:** 11/17/2009 4:28 PM  
**Subject:** FW: Munjoy Commons Building Permit

Ann-

Oops- looks like I did add an "r".

Ethan

Ethan Boxer-Macomber, AICP, LEED AP  
Development Officer  
Avesta Housing  
307 Cumberland Avenue  
Portland, Maine 04101  
(O) 207-553-7780 x284  
(M) 207-272-8550  
[www.avestahousing.org](http://www.avestahousing.org)



**From:** Ethan Boxer-Macomber  
**Sent:** Friday, November 13, 2009 4:04 PM  
**To:** 'amarchado@portlandmaine.gov'  
**Subject:** Munjoy Commons Building Permit

Ann-

Following up on our conversation this afternoon I have attached the site control documentation you requested. The new project owner, Avesta Munjoy Commons LP, should be the applicant of record on the building permit application.

Also, the community space in the annex of the Shailer building is intended for uses accessory to the housing.

Ethan

**Ethan Boxer-Macomber, AICP, LEED AP**  
Development Officer

**AVESTA**

307 Cumberland Avenue  
Portland, Maine 04101  
(O) 207-553-7780 x284  
(M) 207-272-8550  
[www.avestahousing.org](http://www.avestahousing.org)

NOV 18 2009

**OPTION AGREEMENT**

OPTION granted this 1st day of November, 2008, by SHAILER EMERSON ASSOCIATES LIMITED PARTNERSHIP, a Maine limited partnership with a place of business in Portland, Maine and mailing address in care of Avesta Consulting Services, Inc., 307 Cumberland Avenue, Portland, Maine 04101, formerly known as Shailer Emerson Associates, hereinafter called the "Grantor," to AVESTA MUNJOY COMMONS LP, a Maine limited partnership with principal offices at 307 Cumberland Avenue, Portland, County of Cumberland and the State of Maine, hereinafter called the "Grantee."

1. In consideration of the sum of One Dollar (\$1.00) (the "Option Consideration") and other valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, Grantor hereby grants to the Grantee the exclusive and irrevocable right and option for and during the period from the date hereof to December 31, 2009, to purchase two lots of land with the buildings and improvements thereon, described as follows: (i) the former Shailer School, located at 58 North Street, Portland, Maine, identified on the City of Portland assessment records as Map 13, Block K, Lot 1, consisting of 19,860 square feet of land, more or less, improved by a brick building containing 18 dwelling units, described in a deed to Grantor recorded in the Cumberland County Registry of Deeds in Book 6405, Page 1, and (ii) the former Emerson School, located at 13 Emerson Street, Portland, Maine, identified on the City of Portland assessment records as Map 14, Block K, Lot 8, consisting of 29,200 square feet of land, more or less, improved by a brick building containing 22 dwelling units, described in a deed to Grantor recorded in the Cumberland County Registry of Deeds in Book 6387, Page 188, and all related fixtures and personal property (collectively the "Property"), for the total purchase price of one million five hundred thousand DOLLARS (\$1,500,000), which shall be paid by cashier's check or wire transfer, upon the delivery of a warranty deed conveying good and marketable title as hereinafter provided. This option is subject to Grantor's receipt of approval of the sale by Grantor's Limited Partners, to the extent required under Grantor's Limited Partnership Agreement.

2. Written notice of the Grantee's election to purchase under the terms of this Option shall be given to the Grantor addressing the same to the Grantor at the address set forth at the beginning of this Agreement via certified mail, prior to the expiration date set forth above.

3. If the Grantee shall exercise its Option under this Agreement, the Grantor shall deliver at the closing good and marketable title in fee simple to the Property, free and clear of all liens, claims and encumbrances, and shall convey the same by warranty deed.

4. If this Option is exercised, the following provisions shall be applicable: The closing shall take place on the latest to occur of (i) February 28, 2010 or (ii) no later than ninety (90) days after the date of final financing approval from all lenders required to finance the acquisition and rehabilitation of the Property, at a mutually convenient place, date and time. The Option Consideration will be credited against the purchase price at the closing. Real estate taxes and assessments shall be prorated as of the closing on the basis of the latest available tax bill. The Maine real estate transfer tax shall be paid by Grantor and Grantee in accordance with 36 M.R.S.A. § 4641-A. The recording fee for the deed of conveyance and any expenses related to

any mortgage which Grantee may grant to a lender in connection with the purchase of the Property shall be paid for by Grantee. Grantor shall deliver possession of the Property to Grantee at the closing, free of all leases, tenancies or occupancies by any person, except tenants in good standing at the Property. Grantor shall provide a current rent roll and shall update the rent roll immediately prior to closing.

5. The Grantor grants to the Grantee, and its duly authorized agents and employees, the right during the term of this Agreement at any and all times, with reasonable notice, to enter in and upon the Property to inspect the same and to make surveys and measurements and to conduct environmental and soils tests, building inspections and evaluations including test pits, all as shall be deemed necessary by the Grantee at Grantee's sole expense. Grantor will not be liable for agents or employees of Grantee while on said Property. Without limiting the generality of the foregoing, this Option and Grantee's exercise thereof are subject to a determination by Maine State Housing Authority as to the desirability of the Property for Grantee's intended use as a result of the completion of the environmental review process required by HUD.

6. At least thirty (30) days prior to closing, Grantee shall conduct or cause to be conducted a title examination of the Property covered by this Option and shall advise the Grantor of any defects or encumbrances which would in Grantee's sole judgment prevent Grantor from conveying title as required in Section 3 above. Upon receipt of notice from the Grantee of any such defect, Grantor shall immediately proceed to correct any such deficiency or encumbrance. If within thirty (30) days following receipt of notice of a defect in title from the Grantee to the Grantor, the Grantor shall not have corrected such deficiency or eliminated such encumbrance, this Agreement shall terminate, and the Option Consideration shall be returned to Grantee, provided, however, the thirty (30) day period may be extended by mutual agreement of the Grantee and Grantor.

7. If the Grantee shall fail to exercise this Option within the time provided in Section 1 above, or if the Grantee is unable to obtain the permits or approvals as described in Section 8, then this Agreement shall be null and void and of no further effect. In the event the Grantee is unable to obtain the permits or approvals as described in Section 8, the Option Consideration will be returned in full to Grantee, and neither party shall have any further rights or claims against the other.

8. It is understood and agreed between the parties that the Grantee intends to acquire the Property for the purpose of rehabilitating the Shailer and Emerson Schools utilizing the low income housing tax credit and other financing programs. Grantee also agrees to proceed promptly to obtain all necessary zoning, building and other land use approvals, permits and licenses as may be required by local, state and/or federal regulatory agencies for the renovations, at the sole discretion of the Grantee. The parties agree that in the event that any regulatory agency having jurisdiction over the property covered by this Option shall refuse to issue approvals, permits or licenses necessary for the rehabilitation of the Property, or in the event the Grantee does not receive a Notice to Proceed from Maine State Housing Authority with respect to Grantee's application for tax credits, then this Agreement shall at the sole option of Grantee be null and void and of no further effect, and the Option Consideration shall be returned to Grantee.

9. The Grantor shall cooperate with Grantee's efforts to obtain all federal, state or local permits and approvals for Grantee's intended use of the Property. Grantor agrees, if requested by

Grantee due to the requirements of any federal, state or local agency, to allow Grantee to apply in Grantor's name for the land use permits or approvals as may be required in order to develop the Property as contemplated.

10. Grantor and Grantee acknowledge that any real estate commissions due by reason of any listing agreement or agency relationship shall be paid by Grantor. Grantor shall indemnify and hold Grantee harmless from the claims and demands of any and all real estate brokers with respect to this transaction.

11. The risk of loss or damage shall remain on Grantor at all times from the date of this Option until closing and Grantor shall keep the Property insured against fire and other extended coverage risks until the closing. In the event of any substantial damage to the Property, which damage is not repaired so that the Property is restored to its present condition on or before the date set for closing, Grantee may either (a) terminate this Option and receive back the Option Consideration, (b) accept the insurance proceeds payable by reason of such damage or destruction and close notwithstanding the same, or (c) accept title to the Property and receive an appropriate reduction in the purchase price.

12. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective heirs, executors, administrators, assigns and successors.

13. This option and all rights hereunder shall be assignable by the Grantee to an entity controlled by Grantee without the written agreement of the Grantor. Original or faxed signatures of this Agreement are binding.


14. The Grantee represents and warrants that it is a duly organized limited partnership, validly existing and in good standing under the laws of the State of Maine, and that the execution and perfections of this Option Agreement have been duly authorized. Grantor shall obtain all consents (including limited partner consents) required to (i) enter into this Agreement and (ii) transfer the Property to Grantee.

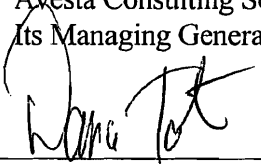
15. The interpretation, construction and perfection of this Agreement shall be governed by the laws of the State of Maine.

WITNESS:

SHAILER EMERSON ASSOCIATES  
LIMITED PARTNERSHIP, Grantor

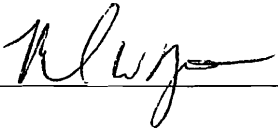
BY: Avesta Consulting Services, Inc.,  
Its Managing General Partner

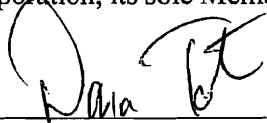
  
\_\_\_\_\_

By:   
\_\_\_\_\_  
Dana Totman, its President and CEO,  
AVESTA MUNJOY COMMONS LP,  
Grantee

BY: Pinetree Housing Development I LLC,  
Its General Partner

By: Avesta Housing Development  
Corporation, its sole Member

  
\_\_\_\_\_

By:   
\_\_\_\_\_ Dana Totman, its President and CEO

Notes:

1. The proposed renovations do not represent a change of use.

**Code Analysis - Shailer Building**

| Category                             | IBC 2003       |  | NFPA 101 - 2006      |  | Proposed   |
|--------------------------------------|----------------|--|----------------------|--|--|
|                                      | Reference      | Code Requirements  | Reference            | Code Requirements  |  |
| <b>Existing Use Group</b>            | 310.0          | R-2 Apartments   | 6.1.8.1.4            | Residential - Existing Apartment Building, Re: 31.1.1.2  | Existing: 17 Units                                       |
| <b>Proposed Use Group</b>            | 310.0          | R-2 Apartments   | 6.1.8.1.5            | Residential - Existing Apartment Building, Re: 31.1.1.2  | Proposed: 17 Units                                       |
| <b>Building Construction</b>         | Table 602      |  | Table 8.2.1.2        |  |  |
|                                      | All Levels     | Type IIIB - Combustible Unprotected  | 30.1.6               | Existing Apartment Building Type III (200) Provided  | Ordinary Construction                                    |
| <b>Height &amp; Area Limitations</b> | Table 503      | See IBC 2003 - Code Calculations   |                      |  |  |
| <b>Height Modifications</b>          | 504.2          | See IBC 2003 - Code Calculations   |                      |  | Sprinklered - NFPA 13<br>5 stories / 74'-5"              |
| <b>Maximum allowable height</b>      |                | 4 stories / 55' (plus modifications)   |                      |  |  |
| <b>Area Modifications</b>            | 506.2          | See IBC 2003 - Code Calculations   |                      |  |  |
| <b>Maximum allowable area</b>        | 506.3<br>506.1 | See IBC 2003 - Code Calculations<br>See IBC 2003 - Code Calculations                                 |                      |  |  |
| <b>Fire ratings</b>                  | Table 602      | Loadbearing Ext walls - 2 hr<br><br>Nonloadbearing Ext walls - 0 hr                                  | Table 8.2.1.2        | Loadbearing Ext walls - 2 hr<br><br>Nonloadbearing Ext walls - 0 hr                            | 2 hour<br><br>0 hour                                     |
|                                      | Table 1016.1   | Exit access corridors - 1/2 hour (with sprinkler system)   | 30.3.6.1.2           | Exit access corridors - 1/2 hour   | 1/2 hour (1 hour protected wood frame provided)          |
|                                      | 1019.1         | Fire Enclosure of 6 story Vertical Exit Enclosures - 2 hour  | 30.3.6.2             | Exit access corridor doors - 20-minute self-closing & latching Exits: 2 Hour (Sprinklered)     | 20 minute doors, spring hinges<br>2 hour                 |
|                                      | 707.4          | 5 story Shafts & Elevator Hoistways - 2 hr   | 30.2.2.1.2           |  | 2 hour   |
|                                      | 708.3          | Dwelling Unit Separation - 1/2 hour  | 30.3.1.1.4           | Shafts: 2 Hour (Sprinklered) and 1-hour doors  | 2 hour   |
|                                      | 711.3          | Dwelling Unit Separation floor and roof - 1 hour   | 30.3.7.2             | Dwelling Unit Separation - 1/2 hour  | 1/2 hour<br>1 hour                                       |
|                                      | Table 601      | Interior loadbearing walls - 0 hour  |                      |  | 0 hour   |
|                                      | Table 601      | Int. nonloadbearing walls - 0 hour   |                      |  | 0 Hour   |
|                                      | Table 601      | Floor Construction - 0 hour  |                      |  | 1 hour protected wood frame provided at unit separations |
|                                      | Table 601      | Roof construction - 0 hour   |                      |  | 0 hour protected provided                                |
|                                      | Table 302.1.1  | Boiler Rooms over 10 HP - 1 hour or automatic fire extinguishing                                     | T 30.3.2.1.1         | Boiler Rooms - 1 Hour and sprinkler  | 1 Hour & Sprinklered                                     |
|                                      | Table 302.1.1  | Laundry Rooms over 100 s.f. - 1 hour or automatic fire extinguishing                                 | T 30.3.2.1.1         | Laundries over 100 s.f. - 1 hour and sprinklers with smoke partitions                          | Sprinklered  |
|                                      | Table 302.1.1  | Storage Rooms over 100 s.f. - 1 hour or automatic fire extinguishing                                 | T 30.3.2.1.1         | Storage rooms outside of dwelling units - 1 hour OR sprinklers with smoke partitions           | Sprinklered  |
| <b>Opening Protectives</b>           | Table 715.3    | 1/3 Hour Rated Exit access corridors - 20 min. Doors   | 30.3.6               | Exit access corridor doors - 20-minute self-closing & latching                                 | 20 min.  |
|                                      | Table 715.3    | 1 Hour Barriers - 45 min. Doors  |                      |  | 45 min.  |
|                                      | Table 715.3    | 1 Hour Shafts & Exits - 60 min. Doors  |                      |  | 60 min.  |
| <b>Wired Glass Panels</b>            | Table 715.4.3  | 20 min. opening = Not limited<br><br>3/4 hour opening = 1296 sq in<br>1-1/2 hour opening = 100 sq in |                      |  | As required<br><br>As required<br>As required            |
| <b>Interior Flame Spread Index</b>   | Table 803.5    | Required vertical exits and passageways - C  | 30.3.3.2             | In exits - Class A   | As required  |
|                                      | Table 803.5    | Corridors providing exit access - C  | 30.3.3.2             | Lobbies and corridors - Class A or B   | As required  |
|                                      | Table 803.5    | Rooms or enclosed spaces - C   | 30.3.3.2<br>30.3.3.3 | Other Spaces - Class A, B or C<br>Exit enclosures and corridor floors - Not less than Class II | As required  |

|                                    |                  |   |  |  |                        |
|------------------------------------|------------------|---|--|--|------------------------|
| <b>Occupant Load</b>               | T 1004.1.2       | Residential Occupancy = 1/200 GSF                             | Table 7.3.1.2 Residential Apartment occupant load = 1/200 SF | Refer to IBC 2003 Code Calculations, NFPA the same.        |                        |
|                                    | T 1004.1.2       | Storage areas, mechanical equipment rooms = 1/300 GSF         | Storage areas, mechanical equipment rooms = 1/300 GSF        |  |                        |
| <b>Means of Egress</b>             |                  |   |  | Refer to IBC 2003 Code Calculations, NFPA the same.        |                        |
| <b>Emergency Lighting</b>          | 1011.1 (exc. #2) | Exit Signs are required except at main exterior exit doors    | 7.10.1.2   | Exit Signs are required except at main exterior exit doors | Provided               |
|                                    | 1006.1           | Emergency lighting is required except in dwelling units       | 30.2.9   | Emergency lighting is required                             | Provided               |
| <b>Fire Suppression Systems</b>    | 903.2.7          | 13 Required   | 30.3.5   | 13 Required  | 13 Provided            |
| <b>Standpipes</b>                  | 905.3            | Required, Class I   |  | Required   | Provided               |
| <b>Fire Alarm Systems</b>          | 907.2.9          | Required  | 30.3.4.1.3   | Required   | Provided               |
| <b>Smoke Detectors</b>             | 907.2.10.1.2     | Required  | 30.3.4.5.1   | Required outside every sleeping area                       | Provided               |
| <b>CO Detectors</b>                |                  | Not Required  |  | Not Required   | Provided per Maine Law |
| <b>Extinguishment requirements</b> | 906              | Portable fire extinguishers shall be installed as per NFPA 10 | 30.3.5.11  | Not Required   | Provided               |

|   |              |  |               |                 |                    |
|---|--------------|--|---------------|-----------------|--------------------|
| <b>Munjoy Commons Apartments - Renovations</b>              |              | <b>CWS Architects</b>                                      |               |                 |                    |
| Portland, Maine   |              | <b>27-Jul-09</b>   |               |                 |                    |
| <b>International Building Code 2003 - Code Calculations</b> |              |  |               |                 |                    |
| <b>Code Calculations - Shailer Building</b>                 |              |  |               |                 |                    |
| <b>Section 302.3.2 Separated Uses</b>                       |              |  |               |                 |                    |
| M (Mercantile) to R2 (Residential Apartments)               |              | 1 Hour Required (Sprinkled per 903.3.1.1), 1 Hour Provided |               |                 |                    |
| M (Mercantile) to S-1 (Residential Apartments)              |              | 0 Hour Required, 1 Hour Provided per Table 508.2           |               |                 |                    |
| <b>Building Use Summary</b>                                 |              |  |               |                 |                    |
|   |              | Storage<br>S-2   | Business<br>B | Assembly<br>A-3 | Residential<br>R-2 |
| Number of Floors (Proposed)                                 |              | 1  | 1             |                 | 5                  |
| Level 0   | Basement     | 4,811  | 1,212         | 1,382           |                    |
| Level 1   | First Floor  |  | 2,416         |                 | 5,395              |
| Level 2   | Second Floor |  |               |                 | 5396               |
| Level 3   | Third Floor  |  |               |                 | 5184               |
| Level 4   | Fourth Floor |  |               |                 | 4125               |
| Total floor area per use (SF)                               |              | 4,811  | 3,628         | 1,382           | 20,100             |
| Total Building Area   |              | 29,921   |               |                 |                    |
| <b>Allowable Height and Building Areas Table 503</b>        |              |  |               |                 |                    |
|   |              | Storage<br>S-2   | Business<br>B | Assembly<br>A-3 | Residential<br>R-2 |
| <b>Type of Construction</b>                                 |              | IIIB   | IIIB          | IIIB            | IIIB               |
| Number of Floors  |              | 4  | 4             | 2               | 4                  |
| Building Height (Feet)                                      |              | 55   | 55            | 55              | 55                 |
| Area (Square Feet)  |              | 26,000   | 19,000        | 9,500           | 16,000             |
| <b>Frontage Calculations 506.2</b>                          |              |  |               |                 |                    |
|   |              | North  | East          | South           | West               |
| Frontage  |              | 130.00   | 60.00         | 130.00          | 60.00              |
| Width   |              | 24   | 24            | 24              | 24                 |
| Total Frontage  |              | 380.00   | 380.00        | 380.00          | 380.00             |
| Perimeter   |              | 380.00   | 380.00        | 380.00          | 380.00             |
| Frontage increase $I(f) = 100[F/P-0.25]W/30$                |              | 75.00%   | 75.00%        | 75.00%          | 75.00%             |
| <b>Area Modifications 506</b>                               |              |  |               |                 |                    |
|   |              | Storage<br>S-2   | Business<br>B | Assembly<br>A-3 | Residential<br>R-2 |
| Allowable tabular area                                      |              | 100%   | 100%          | 100%            | 100%               |
| Increase for frontage                                       |              | 75.00%   | 75.00%        | 75.00%          | 75.00%             |
| Increase for sprinklers (NFPA 13R system)                   |              | 200%   | 200%          | 200%            | 200%               |
| Total percentage factor                                     |              | 375%   | 375%          | 375%            | 375%               |
| Conversion factor   |              | 3.75   | 3.75          | 3.75            | 3.75               |
| Adjusted Allowable Building Area                            |              | 97,500   | 71,250        | 35,625          | 60,000             |
| Actual building area  |              | 4,811  | 3,628         | 1,382           | 24,984             |
| If Actual building area < Adjusted, then OK                 |              | OK   | OK            | OK              | OK                 |
| Require Fire Wall Separation per 506.4 (c)                  |              | 0  | 0             | 0               | 0                  |
| <b>Section 504 Height Modifications</b>                     |              |  |               |                 |                    |
|   |              |  |               | R-2 Use Group   |                    |
|   |              |  |               | Feet            | Stories            |



|  |                |               |                       |                    |
|--|----------------|---------------|-----------------------|--------------------|
| <b>Munjoy Commons Apartments - Renovations</b>                             |                |               | <b>CWS Architects</b> |                    |
| Portland, Maine  |                |               | 27-Jul-09             |                    |
| <b>International Building Code 2003 - Code Calculations</b>                |                |               |                       |                    |
| <b>Code Calculations - Shailer Building</b>                                |                |               |                       |                    |
| Actual building height *   |                |               | 74'-5"                | 5                  |
| Tabular building height - Type IIIB  |                |               | 55                    | 4                  |
| Increase for sprinklers (NFPA 13 system)                                   |                |               | 20                    | 1                  |
| Allowable building height (b)  |                |               | 75                    | 5                  |
| <b>Section 506.4 Area determinations</b>                                   |                |               |                       |                    |
| Total floor area (all stories)   | 4,811          | 3,628         | 1,382                 | 20,100             |
| A. Allowable area per floor (SF)   | 97,500         | 71,250        | 35,625                | 60,000             |
| B. Number of Applicable Floors (Exception 2)                               | 1              | 2             | 1                     | 5                  |
| C. Tabular area A x B  | 97,500         | 142,500       | 35,625                | 300,000            |
| If C > Total Building Floor Area, then OK                                  | OK             | OK            | OK                    | OK                 |
| <b>Table 601 Fire Resistance Ratings (hours)</b>                           |                |               |                       |                    |
|  | M Use          | Provided      | R-2 Use               | Provided           |
|  | IIIA           | IIIA          | IIIA                  | IIIA               |
| Structural Frame including Columns   | 0              | 0             | 0                     | 0                  |
| Bearing Walls - Exterior   | 2              | 2             | 2                     | 2                  |
| Bearing Walls - Interior   | 0              | 0             | 0                     | 0                  |
| Nonbearing Walls - Interior  | 0              | 0             | 0                     | 0                  |
| Floor Construction including Beams   | 0              | 0             | 0                     | 0                  |
| Roof Construction including Beams  | 0              | 0             | 0                     | 0                  |
| <b>704.8 Allowable area of openings</b>                                    |                |               |                       |                    |
| Table 704.8  |                |               |                       |                    |
| Between 5-10' - Unprotected 10% Max, Protected 25% Max                     |                |               |                       |                    |
| Between 10-15' - Unprotected 15% Max, Protected 45% Max                    |                |               |                       |                    |
| Between 15-20' - Unprotected 25% Max, Protected 75% Max                    |                |               |                       |                    |
| Between 20-25' - Unprotected 45% Max, Protected No Limit                   |                |               |                       |                    |
| Between 25-30' - Unprotected 25% Max, Protected No Limit                   |                |               |                       |                    |
| >30' - Unprotected No Limit, Protected No Limit                            |                |               |                       |                    |
| Provided: "Unprotected"  |                |               |                       | OK                 |
| <b>Section 707 Shaft Enclosures</b>  |                |               |                       |                    |
| Required fire rating   | 2 hours        |               |                       |                    |
| Provided   | 2 hours        | Existing      |                       |                    |
| <b>Section 708 Fire Partitions</b>   |                |               |                       |                    |
| Required fire rating - dwelling unit separation - NFPA 13 sprinkler system | 1/2 hour       |               |                       |                    |
| Provided   | 1/2 hour       | Existing      |                       |                    |
| <b>Sectin 903.2.10.3 Buildings over 55 feet in height</b>                  |                |               |                       |                    |
| Automatic Sprinkler System Required, Provided                              |                |               |                       |                    |
| <b>Section 1004 Occupant Load</b>  |                |               |                       |                    |
|  | Storage<br>S-2 | Business<br>B | Assembly<br>A-3       | Residential<br>R-2 |

|   |       |       |       |                       |
|---|-------|-------|-------|-----------------------|
| <b>Munjoy Commons Apartments - Renovations</b>              |       |       |       | <b>CWS Architects</b> |
| Portland, Maine   |       |       |       | <b>27-Jul-09</b>      |
| <b>International Building Code 2003 - Code Calculations</b> |       |       |       |                       |
| <b>Code Calculations - Shailer Building</b>                 |       |       |       |                       |
| Floor area allowance - persons/SF                           | 300   | 100   | 7     | 200                   |
| Largest Floor area (SF)                                     | 4,811 | 2,416 | 1,382 | 5,396                 |
| Occupancy load per floor                                    | 16    | 24    | 197   | 27                    |
| <b>Section 1005 Required Egress Width</b>                   |       |       |       |                       |
| Total Stairway Width - 0.3"/person                          | 4.8   | 7.2   | 59.2  | 8.1                   |
| Provided (See Plans)  | N/A   | N/A   | N/A   | 92                    |
| Egress Doors - 0.2"/person                                  | 3.2   | 4.8   | 39.5  | 5.4                   |
| Provided - minimum @ doorways                               | 68    | 68    | 68    | 68                    |
| Provided 34" Clear Door Leafs                               | 2     | 2     | 2     | 2                     |
| <b>Section 1018 Number of Exits</b>                         |       |       |       |                       |
| Required  | 2     | 2     | 2     | 2                     |
| Provided  | 2     | 2     | 2     | 2                     |



*State of Maine*  
*Department of Public Safety*  
**Construction Permit**



Reviewed  
 for Barrier  
 Free

# 18766

**Sprinkled**  
**Sprinkler Supervised**

**MUNJOY COMMONS APARTMENTS (SHAILER & EMERSON BLDGS**

Located at: ~~307 CUMBERLAND AVE.~~ 58 North

**PORTLAND**

Occupancy/Use: APARTMENTS DAYCARE

#09-1243  
 - 13-K-001  
 - 14-K-08  
 #09-1242

**Permission is hereby given to:**

AVESTA MUNJOY COMMONS LP

307 CUMBERLAND AVE.  
 PORTLAND, ME 04101

to construct or alter the afore referenced building according to the plans hitherto filed with the Commissioner and now approved.

No departure from application form/plans shall be made without prior approval in writing. This permit is issued under the provision of Title 25, Chapter 317, Section 2448 and the provisions of Title 5, Section 4594 - F.

Nothing herein shall excuse the holder of this permit for failure to comply with local ordinances, zoning laws, or other pertinent legal restrictions. Each permit issued shall be displayed/available at the site of construction.

*This permit will expire at midnight on the 27 th of June 2010*

Dated the 28 th day of December A.D. 2009

Commissioner

**Copy-3 Code Enforcement Officer**

Comments:

**RECEIVED**

Code Enforcement Officer  
 PORTLAND, ME

DEC 31 2009

Dept. of Building Inspections  
 City of Portland Maine

# CWS Architects

Architecture • Planning • Construction Services

434 Cumberland Avenue Portland, Maine 04101  
www.CWSarch.com

Phone: (207) 774-4441  
Fax: (207) 774-4016

July 6, 2010

Ethan Boxer Macomber  
c/o Alan Nichols  
Avesta Munjoy Commons, LP  
Avesta Housing  
307 Cumberland Avenue  
Portland, Maine 04101

RECEIVED  
JUL 12 2010  
Dept. of Building Inspections  
City of Portland Maine

Re: Munjoy Commons – Renovation Code Review

Dear Ethan,

Pursuant to the on-going discussion about code required scope for the renovation of Munjoy Commons (both Shailer and Emerson), this letter is intended to briefly summarize the many previous communications by CWS Architects and others.

As a renovation of an existing building, these projects are governed by the 2003 International Existing Building Code as adopted by the City of Portland. A more current version will be adopted as a component of the State wide building code later this year. The IEBC was created several years ago to recognize a) that there are thousands, if not millions, of existing buildings in use that do not meet current code standards; b) that in most cases these buildings DID meet the code requirements at the time of their recent renovation (in this case, 1984); and c) to persuade building owners to make safety improvements that they might have otherwise avoided if the full IBC code were required. If a change of use is contemplated for a building, the IEBC mostly points one to the IBC requirements (with some exceptions).

Under the IEBC where a change of use is NOT part of the scope of work, the IEBC contemplates several levels of repair and renovations, with escalating requirements for each escalation in level of work in each area of the building. For Munjoy Commons, the various portions of the building are primarily either Level 2 or Level 3 Renovations. For the sake of simplicity, we have assumed the most stringent: Level 3 Renovation.

Going back to the time of construction and in consideration of the BOCA codes in place during the 1980's, I have reviewed those code requirements with Jeannie Bourke of the City of Portland's code office. While we still await written confirmation, she and I in summary agreed that a) the 1984 construction appeared to meet the code requirements at the time; and b) in general, the IEBC did not require any fire rating or draft stopping scope that was not contemplated in the construction documents. Specifically, the 1984 code only required continuity of "fire separation walls" to the underside of the floor/ceiling "assembly" above (as opposed to the underside of the floor deck as required in today's code. As designed, the floor ceiling assembly noted on the 1984 drawings includes the entire interstitial space between the lowest suspended GWB ceiling and the upper deck. Hence there was no Code requirement to separate the units in the interstitial space at the time of construction. During my research, I became aware of several other similar renovation projects that incorporated the same fire separation systems – so it appears to have been standard practice.

# CWS Architects

Architecture • Planning • Construction Services

434 Cumberland Avenue Portland, Maine 04101  
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Fax: (207) 774-4016

As a part of the original scoping of work for Munjoy Commons, CWS performed a code review and identified several areas that would be required by the IBC, IEBC, NFPA and the Laws of the Fire Service – State of Maine. We reviewed these with each of the authorities having jurisdiction and, among other minor components, included these primary upgrades in the permitted scope of work, the costs of which were carefully accounted for in an open and inclusive preconstruction process with the Construction Manager:

- Added second means of egress from units with spaces occupying the fourth level of each building.
- Completely upgraded the fire alarm system to current standards.
- Completely upgraded sprinkler system to current standards (13R).

We have responded to many questions on this issue by MaineHousing in previous emails and believe, at this point, the question of code compliance is understood. We have received clarification and confirmation from the sprinkler contractor that a 13R system does not require sprinkling of the interstitial space between the lower ceiling and the upper floor/ceiling components. There have been suggestions that, in order to meet code we should be doing what is being done on a different project in Waterville, but that is a change of use project and is reviewed under separate and different code requirements.

If there are questions or other opinions that CWS and the AHJ's we have consulted have not considered, we would be happy to look into them. If there is scope proposed for reasons other than code compliance or as previously scoped during the predevelopment phase, the cost of such improvements should be carefully weighed by the owner against available monetary resources. CWS has and would be happy to assist in a scoping and pricing exercise.

Please feel free to call me and discuss at your convenience.

Very truly yours,

CWS ARCHITECTS



Benedict B. Walter, AIA  
President  
Maine Licensed Architect

cc:

RECEIVED  
JUL 12 2010  
Dept. of Building Inspections  
City of Portland Maine

## Jeanie Bourke - RE: FW: Munjoy Commons - Existing Conditions Fire Separation Concerns

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**From:** Jeanie Bourke  
**To:** Ben Walter; Steve Schuchert  
**Date:** 7/12/2010 9:24 AM  
**Subject:** RE: FW: Munjoy Commons - Existing Conditions Fire Separation Concerns  
**CC:** Keith Gautreau; alandsne@aol.com

Good Morning Ben,

Thank you for the summarizing the meeting and detailing the scope of work regarding the treatment and of fire penetrations (existing and new) and repairs of the demising walls to increase the integrity of the fire and sound separation.

These measures are reasonable and customary for rehabilitation projects and consistent with code requirements. The main objective is to decrease the risk of fire spreading quickly, especially in concealed spaces. With all the upgrades and improvements, this building will be much safer.

Thank you for your attention to these details and recommendation for restoration. I am very comfortable with this course of action.

I think you forgot to include the attachment.

*Jeanie Bourke*  
*CEO/Plan Reviewer*

**City of Portland**  
**Planning & Urban Development Dept./ Inspections Division**  
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**Portland, ME 04101**  
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**(207)874-8715**

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>>> "Ben Walter" <bwalter@cwsarch.com> 7/9/2010 3:30 PM >>>  
 Hi Jeanie:

The design/development team met on site and has discussed this at length. It is our intention to restore all modified Level 3 Alteration components as required by the IEBC but not upgrade the assemblies to code standards that would apply if this were a change of use to residential from a different use. In addition we will be reestablishing the integrity and fire/smoke sealing corridor walls to the underside of the existing upper floor assembly including the corridor ceilings. At all open wall locations at ceiling lines, we will completely fire stop the cavities with densely packed fiberglass insulation. We will be fire stopping all new and existing exposed/accessible pipe penetrations (many are concealed) in the horizontal floor/ceiling assemblies' top and bottom membranes (i.e. lower GWB ceiling and upper wood floor deck). If the upper wood floor deck is not accessible from below, we will do our best to fire stop the penetration from above. We will also be densely filling all new and existing accessible/exposed openings in the upper plaster ceiling with fiberglass insulation to restore/increase the STC ratings where possible. Finally, we are upgrading the existing electrical wiring in the interstitial ceilings, the sprinkler system to a full 13R system and upgrading the fire alarm system. Based on the above, we believe we are exceeding the requirements of the IEBC to create a safer building than is required. I have a attached a letter to the owner that summarizes this approach.

Please reply to all as soon as possible where as this is a critical path issue.

Thanks again for your time.

Ben

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**From:** Jeanie Bourke [mailto:JMB@portlandmaine.gov]  
**Sent:** Friday, July 09, 2010 10:56 AM  
**To:** Steve Schuchert  
**Cc:** alandsne@aol.com; Ben Walter  
**Subject:** Re: FW: Munjoy Commons - Existing Conditions Fire Separation Concerns

Hi Steve,  
Before I can comment I would like the details of the meeting that took place with the design/development team. What, if any, specific measures will be made moving forward regarding the exposed areas, or areas that may have been breached as a result of this current construction?

Thanks  
Jeanie

>>> "Steve Schuchert" <sschuchert@cwsarch.com> 7/8/2010 6:43 PM >>>  
*Hi Jeanie, as CWS Construction Administrator, Ben asked me to follow up on this message for the Munjoy Commons project. We would like to keep moving on the project and are coming down to critical timing. I believe you and Ben are in agreement with the items he listed in the paragraph below as far as what is required by IEBC. Can you reply with your agreement or list out any items that you feel we need to address?*

Thank you,  
Steve Schuchert  
CWS Architects

**From:** Ben Walter  
**Sent:** Wednesday, June 30, 2010 10:54 AM  
**To:** 'Jeanie Bourke'; 'Keith Gautreau'  
**Cc:** 'AlanDsne@aol.com'; 'Ethan Boxer-Macomber'; 'Debora Keller'  
**Subject:** RE: Munjoy Commons - Existing Conditions Fire Separation Concerns

Hi Jeannie:

Thanks for taking the time this morning to review the pertinent code sections pertaining to the integrity and continuity of fire ratings at Munjoy. In summary, due to the limitations of the code requirements when the building was converted to an R-2 residential use in 1984, have agreed the IEBC code requirements for modifying the existing construction are minimal (if any) but there were areas we should try to address if possible, in good conscious. Specifically, a) continuity of unit separations is not required; b) technically, the integrity of lowest level of GWB is all that is required; c) with a 13R sprinkler system a half-hour rating is all that is required, so we are already improving the existing condition; and d) given the knowledge that has formed the continuity requirements in contemporary codes, the more we can do to restore the continuity the better, though not required. We will be meeting with our design/development team today to iron out the specific details of how we propose to proceed.

I'm copying Cpt. Keith Gautreau on this email to see if he has any additional comments to offer from an NFPA standpoint.

Are there other items we should consider? We would like this discussion resolved this week so we do not delay construction.

Ben

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**From:** Ben Walter  
**Sent:** Monday, June 28, 2010 3:24 PM  
**To:** danc@AlliedCook.com; AlanDsne@aol.com  
**Cc:** Steve Schuchert; Debora Keller; 'Ethan Boxer-Macomber'; Dave Cook (dcook@alliedcook.com); George Liming; David King  
**Subject:** Munjoy Commons - Existing Conditions Fire Separation Concerns

Munjoy Commons Development Team:

We would like to convene the Munjoy Commons Design Development Team onsite on **Wednesday at 2:00pm** to walk the building and arrive at a recommendation for resolving this ongoing issue. **Does this time work for all parties?**

The intent of the meeting is to be as creative as we can at arriving at the best end to the issue at the least cost and with the least effect on schedule. There has been some discussion about dedicating some T&M resources to this task in order to improve pricing. I will hopefully be able to get clarification from Jeannie Bourke before then.

Note: I'm copying Dave Cook because we talked about this last week in my office, George because I suspect there will need to be some creative pricing, and Deb Keller because Ethan is out of town.

As for background, late last week, Ethan and I met onsite to review the integrity of existing conditions related to fire separations and invited Jeannie Bourke (Portland Building Inspections Dept.) to join us. We looked through most of the unit conditions and came to several conclusions:

1. The integrity of the existing fire separation walls tenant separation (unit to unit), corridor separation (unit to corridor) and other separation walls is compromised in many locations (i.e. multiple penetrations without firesafing, etc.).
2. The continuity of the fire separation walls does not meet current code standards because they terminate at the ceiling line (rather than at the underside of the floor deck) but a code check of the 1987 code (we don't have the 1984 or 1981 codes) has revealed that this continuity was NOT required at the time of construction – it only required continuity to the underside of the assembly (i.e. the low ceiling?). BOCA 1987, Section 910 Fire Separation Walls, item 910.6 Continuity.
3. In review of the original 1984 drawings (which are lacking in detail) it appears that the original intent of the floor ceiling fire rating was to utilize the lower suspended GWB ceiling as the rated ceiling membrane for the assembly and, per item 2 above, the fire separation walls could "technically" stop at the lower ceiling line and meet code in 1987. The walls were, however, extended to the underside of the original floor/ceiling assembly. This explains why the original plaster was left unpatched.
4. The integrity of the existing tenant to tenant floor/ceiling fire separation barrier is compromised in many locations (i.e. multiple penetrations without firesafing, etc.).



5. It was also observed that there were several locations where the GWB membrane of the existing fire separation walls terminate at the GWB line of the exterior walls. Typically, draft stopping is achieved in contemporary construction by providing solid stud blocking at these locations. It does not appear to be clearly addressed in the BOCA 1987 code.

As per the current IBC building code and specifically regarding work within the units themselves, we agreed that in observing the level of work, the work scope was probably closer to a Level 3 Alteration as defined by the International Existing Building Code than a Level 2 as originally envisioned. Many of the other areas of the building where very little work is scheduled, would remain a Level 2 Alteration or below. Level 3 Alterations do not required upgrades to existing fire separation assemblies in an R-2 Multifamily use.

As you can discern from the above, determining what is "required" is probably less that what it would take for us all to feel comfortable with meeting the current standard of care for new construction (apparently not required, but should be carefully considered).

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July 12, 2010

Mr. Dan Cook  
Allied/Cook Construction  
PO Box 1396  
Portland, Maine 04104

Re: Munjoy Commons, Shailer School  
**Pricing Request #30**  
Firestopping and Maintaining STC Ratings

Dear Dan,

Please provide pricing to insulate for sound rating maintenance and fire rating improvements between units and floor levels. The purpose of the work is to reestablish the integrity of fire/smoke sealing and limiting sound transmission utilizing the following scope items:

- Achieve firestopping at apartment perimeter walls which have been opened by renovation activities. Provide firestopping at all open wall locations in apartment perimeter walls at the height of the suspended ceiling by filling the stud cavities with densely packed fiberglass insulation or solid blocking.
- Provide firestopping at the vertical unit partition stair walls between the existing partition and the exterior wall insulation at 3<sup>rd</sup>/4<sup>th</sup> floor apartment stairs 303 to 304 and 307 to 308. Place densely packed fiberglass insulation between interior wall and exterior spray foam insulation.
- Restore/increase the STC ratings where possible by densely filling all new and existing accessible/exposed openings in the upper plaster ceiling with fiberglass insulation. Fill all exposed openings at rim joist areas and interior open ceiling areas where plaster and lath has been removed at various penetrations.
- Firestop all new and existing exposed/accessible pipe penetrations in the horizontal floor/ceiling assemblies' top and bottom membranes (i.e. lower GWB ceiling and upper wood floor deck) using approved intumescent sealant. If the upper wood floor deck is not accessible from below, fire stop the penetration from above.

Very truly yours,  
CWS ARCHITECTS



Benedict B. Walter, Architect  
President

cc: file, Construction and Financing Team

Pricing Request #30

**Allied/Cook Construction  
58 North**

**013 K 001**

**Permit # 091243**

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