

**133 York Street  
Portland, Maine**

**Site Plan Application**

**Submitted to  
City of Portland**



**July 24, 2013**

**Prepared by**

**Pinkham & Greer Consulting Engineers  
28 Vannah Avenue  
Portland, Maine 04103  
(207) 781-5242**



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28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

July 24, 2013  
File: 13105

Ms. Barbara Barhydt, Planning Department  
City of Portland  
389 Congress Street, 4th Floor  
Portland, ME 04101

RE: 133 YORK STREET

Dear Barbara,

We are pleased to submit the attached application and support documentation for review by the City for our 6 residential unit project at 133 York Street.

The existing site has a two unit structure on it that is need of significant repair or replacement. This project replaces the building with a six unit building. The building will have open parking under it and three floors of units.

The building design by HKTA Architects reflects a new and modern design using traditional material. Attached are drawings for your review.

The site is relatively small and as such we plan on a just in time construction process. A construction management team is being hired to coordinate that process.

We are able to reduce the impact of stormwater on our neighbor's property by collecting the stormwater and diverting it around the property to a tree filter system. This low impact development technique will provide stormwater quality enhancement.

The water service and sewer service will continue to come from York Street. The gas, electric, and cable will continue to come from Park Street. Capacity letters are provided.



Ms. Barbara Barhydt <sup>A.3</sup>  
July 24, 2013  
Page 2 of 2  
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We hope to salvage some of the existing landscape materials on site. This touch of history will be a continuation of the spirit of the site.

Also attached are minutes of our neighborhood meeting. Not all of our neighbors are pleased with the project, but do have an understanding of its scope.

Please review our application and let us know if you have any concerns. We look forward to meeting with the Board.

Sincerely,

PINKHAM & GREER

A handwritten signature in black ink, appearing to read "Thomas S. Greer".

Thomas S. Greer P.E.

Enclosures

cc: Jeremy Benn/Joe Flynn, Bob Howe, File

TSG/rjs

**133 York Street  
Site Plan Application**

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PROJECT NAME: 133 York Street

PROPOSED DEVELOPMENT ADDRESS:  
133 York Street

PROJECT DESCRIPTION:  
Removal of the existing structure and replace it with an 6 unit building.

CHART/BLOCK/LOT: Map 44/Block 1/Lots 29 & 31 PRELIMINARY PLAN \_\_\_\_\_ (date)  
FINAL PLAN \_\_\_\_\_ (date)

**CONTACT INFORMATION:**

<b>Applicant – must be owner, Lessee or Buyer</b> Name: Joe Flynn Business Name, if applicable: 133 York, LLC Address: 110 Marginal Way / Ste 292 City/State : Portland, ME Zip Code: 04101	<b>Applicant Contact Information</b> Work # 207.210.1600 Home# Cell # Fax# e-mail: joe@joeflynnrealestate.com
<b>Owner – (if different from Applicant)</b> Name: Address: City/State : Zip Code:	<b>Owner Contact Information</b> Work # Home# Cell # Fax# e-mail:
<b>Agent/ Representative Pinkham &amp; Greer</b> Name: Thomas S. Greer Address: 28 Vannah Avenue City/State : Portland, ME Zip Code: 04103	<b>Agent/Representative Contact information</b> Work # 207.781.5242 Cell # e-mail: tgreer@pinkhamandgreer.com
<b>Billing Information</b> Name: 133 York, LLC Address: 110 Marginal Way / Ste 292 City/State : Portland, ME Zip Code: 04101	<b>Billing Information</b> Work # Cell # Fax# e-mail:

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<b>Engineer</b> Pinkham & Greer Name: Thomas S. Greer Address: 28 Vannah Avenue City/State : Portland, ME Zip Code: 04103	<b>Engineer Contact Information</b> Work # 207.781.5242 Cell # Fax# 207.781.4245 e-mail: tgreer@pinkhamandgreer.com
<b>Surveyor</b> Name: Owen Haskell, Inc. Address: 390 US Route One #10 City/State : Falmouth, ME Zip Code: 04105	<b>Surveyor Contact Information</b> Work # 207.774.0424 Cell # Fax# 207.774.0511 e-mail:
<b>Architect</b> HKTA Architects Name: Robert Howe Address: 482 Congress St. Ste 502 City/State : Portland, ME Zip Code: 04101	<b>Architect Contact Information</b> Work # 207.774.6016 Cell # Fax# 207.774.9128 e-mail: hkta@aol.com
<b>Attorney</b> Drummond & Drummond Name: Paul Peck Address: One Monument Way City/State : Portland, ME Zip Code: 04101	<b>Attorney Contact Information</b> Work # 207.774.0317 Cell # Fax# e-mail: PPeck@DDLAW.COM

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**APPLICATION FEES:**

Check all reviews that apply. (Payment may be made by Cash or Check payable to the City of Portland.)

Level III Development (check applicable reviews)	Fees Paid (office use)	Other Reviews (check applicable reviews)	Fees Paid (office use)
<input checked="" type="checkbox"/> Less than 50,000 sq. ft. (\$500.00) <input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000) <input type="checkbox"/> 100,000 - 200,000 sq. ft. (\$2,000) <input type="checkbox"/> 200,000 - 300,000 sq. ft. (\$3,000) <input type="checkbox"/> over 300,000 sq. ft. (\$5,000) <input type="checkbox"/> Parking lots over 100 spaces (\$1,000) <input type="checkbox"/> After-the-fact Review (\$1,000.00 plus applicable application fee)	_____ _____ _____ _____ _____ _____ _____	<input type="checkbox"/> Traffic Movement (\$1,000) <input checked="" type="checkbox"/> Stormwater Quality (\$250) <input checked="" type="checkbox"/> Subdivisions (\$500 + \$25/lot) # of Lots <u>6</u> x \$25/lot = <u>(\$150)</u> <input type="checkbox"/> Site Location (\$3,000, except for residential projects which shall be \$200/lot) # of Lots _____ x \$200/lot = _____	_____ _____ _____ _____
The City invoices separately for the following: <ul style="list-style-type: none"> <li>- Notices (\$.75 each)</li> <li>- Legal Ad (% of total Ad)</li> <li>- Planning Review (\$40.00 hour)</li> <li>- Legal Review (\$75.00 hour)</li> </ul> Third party review is assessed separately.		<input type="checkbox"/> Other _____ <input type="checkbox"/> Change of Use <input type="checkbox"/> Flood Plain <input type="checkbox"/> Shoreland <input type="checkbox"/> Design Review <input type="checkbox"/> Housing Replacement <input type="checkbox"/> Historic Preservation	
<b>Plan Amendments (check applicable reviews)</b> <input type="checkbox"/> Planning Staff Review (\$250) <input type="checkbox"/> Planning Board Review (\$500)	<b>Fees Paid (office use)</b> _____ _____		

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## APPLICATION SUBMISSION

As of December 1, 2010, all site plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

Until December 1, 2010, Submissions shall include seven (7) packets with folded plans containing the following materials:


1. **Seven (7) full size site plans** that must be **folded**.
2. Seven (7) copies of all written materials as follows, unless otherwise noted:
  - a. Application form that is completed and signed.
  - b. Cover letter stating the nature of the project.
  - c. All Written Submittals (Sec. 14-525 2. (c), including evidence of right, title and interest.
5. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
6. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
7. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
8. One (1) set of plans reduced to 11 x 17.

**Refer to the application checklist for a detailed list of submittal requirements.**

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521). Portland's Land Use Code is on the City's web site: [www.portlandmaine.gov](http://www.portlandmaine.gov) Copies of the ordinances may be purchased through the Planning Division.

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 Planning Authority and Code Enforcement'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.

**This application is for a Level III Site Plan review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.**

Signature of Applicant: 	Date: 7/24/13
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## PROJECT DATA

(The following information is required where applicable, in order complete the application)

<b>Total Site Area</b>	
<b>Proposed Total Disturbed Area of the Site</b>	sq. ft.
<small>(If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland)</small>	
<b>IMPERVIOUS SURFACE AREA</b>	
• Proposed Total Paved Area	3,235 sq. ft.
• Existing Total Impervious Area	1,918 sq. ft.
• Proposed Total Impervious Area	5,570 sq. ft.
• Proposed Total Impervious Area	5,570 sq. ft.
• Proposed Impervious Net Change	3,652 sq. ft.
<b>BUILDING AREA</b>	
• Proposed Building Footprint	2,335 sq. ft.
• Proposed Building Footprint Net change	417 sq. ft.
• Existing Total Building Floor Area	sq. ft.
• Proposed Total Building Floor Area	9,424 sq. ft.
• Proposed Building Floor Area Net Change	sq. ft.
• New Building	(yes or no)
<b>ZONING</b>	
• Existing	R-6
• Proposed, if applicable	
<b>LAND USE</b>	
• Existing	Residential
• Proposed	Residential
<b>RESIDENTIAL, IF APPLICABLE</b>	
• Proposed Number of Affordable Housing Units	0
• Proposed Number of Residential Units to be Demolished	2
• Existing Number of Residential Units	2
• Proposed Number of Residential Units	6
• Subdivision, Proposed Number of Lots	1 Lot, 6 Units
<b>PARKING SPACES</b>	
• Existing Number of Parking Spaces	2
• Proposed Number of Parking Spaces	6
• Number of Handicapped Parking Spaces	0
• Proposed Total Parking Spaces	6
<b>BICYCLE PARKING SPACES</b>	
• Existing Number of Bicycle Parking Spaces	0
• Existing Number of Bicycle Parking Spaces	0
• Proposed Number of Bicycle Parking Spaces	2
• Total Bicycle Parking Spaces	2
<b>ESTIMATED COST OF PROJECT</b>	<b>\$1,225,000.00</b>

**General Submittal Requirements – Preliminary Plan (Optional)  
Level III Site Plan  
Preliminary Plan Phase Check list (if elected by applicant)**

Applicant Checklist	Planner Checklist	Number of Copies	Written Submittal Requirements
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Completed application form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Application fees
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written description of project
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Evidence of right, title and interest.
<input type="checkbox"/> N/A	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Copies of required State and/or Federal permits.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7(1 paper copy as of Dec. 1)	Written assessment of zoning.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written description of existing and proposed easements or other burdens.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written requests for waivers from individual site plan and/or technical standards, where applicable.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Traffic analysis (may be preliminary, in nature, during the preliminary plan phase).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written summary of significant natural features located on the site.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written summary of project's consistency with related city master plans.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 (1 paper copy as of Dec. 1)	Neighborhood Meeting Material (refer to page 13 of this application.)
<b>Applicant Checklist</b>	<b>Planner Checklist</b>	<b>Number of Copies</b>	<b>Site Plan Submittal Requirements</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Boundary Survey meeting the requirements of Section 13 of the City of Portland Technical Manual.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	<b>Preliminary Site Plan including the following: (*information provided may be preliminary in nature during preliminary plan phase):</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed structures with distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone).
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Location of adjacent streets and intersections and approximate location of structures on abutting properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Proposed site access and circulation.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Proposed grading and contours.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Location and dimension of existing and proposed paved areas including all parking areas and vehicle, bicycle and pedestrian access ways.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary landscape plan including existing vegetation to be preserved, proposed site landscaping and street trees.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed utilities (preliminary layout).
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary infrastructure improvements (e.g. - curb and sidewalk improvements, roadway intersection modifications, utility connections, transit infrastructure, roadway improvements).
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary stormwater management and erosion control plan.
<input type="checkbox"/> NONE	<input type="checkbox"/>		▪ Existing significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b) 1. of the Land Use Code).

- None
- None

- Proposed alterations to and protection measures for significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b)1. of the Land Use Code).
- Existing and proposed easements or public or private rights of way.

**General Submittal Requirements – Final Plan (Required)**  
**Level III Site Plan**  
**Final Plan Phase Check list (including items listed above in General Requirements for Preliminary Plan, if applicant did not elect to submit for a preliminary plan review)**

Applicant Checklist	Planner Checklist	Number of Copies	Written Submittal Requirement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Evidence of financial and technical capacity.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Evidence of utilities' capacity to serve the development.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Written summary of fire safety (referencing NFPA fire code and Section 3 of the City of Portland Technical Manual).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Construction management plan.
<input type="checkbox"/> N/A	<input type="checkbox"/>	1	Traffic Plan (if development will (1) generate 100 or more PCE or (2) generate 25 or more PCE and is located on an arterial, within 1/2 mile of a high crash location, and/or within ¼ mile of an intersection identified in a previous traffic study as a failing intersection).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Stormwater management plan.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Written summary of solid waste generation and proposed management of solid waste.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Written assessment of conformity with applicable design standards.
<input type="checkbox"/> N/A	<input type="checkbox"/>	1	Manufacturer's verification that HVAC and manufacturing equipment meets applicable state and federal emissions requirements.

Final Plan Phase		Number of Copies	Written Submittal Requirement
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	<b>Final Site Plan Including the following</b>
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed structures on the site with distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Location of adjacent streets and intersections and approximate location of structures on abutting properties.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed site access and circulation.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed grading and contours.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Location and dimension of existing and proposed paved areas including all parking areas and vehicle, bicycle and pedestrian access ways. Proposed curb lines must be shown.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed loading and servicing areas, including applicable turning templates for delivery vehicles
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed snow storage areas or snow removal plan.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed trash and recycling facilities.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Landscape plan including existing vegetation to be preserved, proposed site landscaping and street trees.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed utilities.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Location and details of proposed infrastructure improvements (e.g. - curb and sidewalk improvements, roadway intersection modifications, utility connections, public transit infrastructure, roadway improvements).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Proposed septic system, if not connecting to municipal sewer. (Portland Waste Water Application included in this application)

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<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Proposed finish floor elevation (FFE).</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Exterior building elevation(s) (showing all 4 sides).</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Proposed stormwater management and erosion controls.</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Exterior lighting plan, including street lighting improvements..</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Proposed signage.</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Identification of existing significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b)1. of the Land Use Code). Wetlands must be delineated.</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Proposed alterations to and protection measures for of existing significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b)1. of the Land Use Code).</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Total area and limits of proposed land disturbance.</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Soil type and location of test pits and borings.</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Details of proposed pier rehabilitation (Shoreland areas only).</i>
<input type="checkbox"/>	<input type="checkbox"/>	▪ <i>Existing and proposed easements or public or private rights of way.</i>

133 York, LLC  
110 Marginal Way, Ste 292  
Portland, ME 04101

(207) 210-1600

July 22, 2013

To Whom It May Concern

This letter is to inform you that Thomas S. Greer and his associates of Pinkham & Greer Consulting Engineers in Portland are hereby authorized to represent me throughout the approval process of the 133 York Street Building in Portland, Maine.

This includes representing me with the City of Portland and any other State or local agencies who may become involved in the process.

Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Jeremy Benn

A. 14



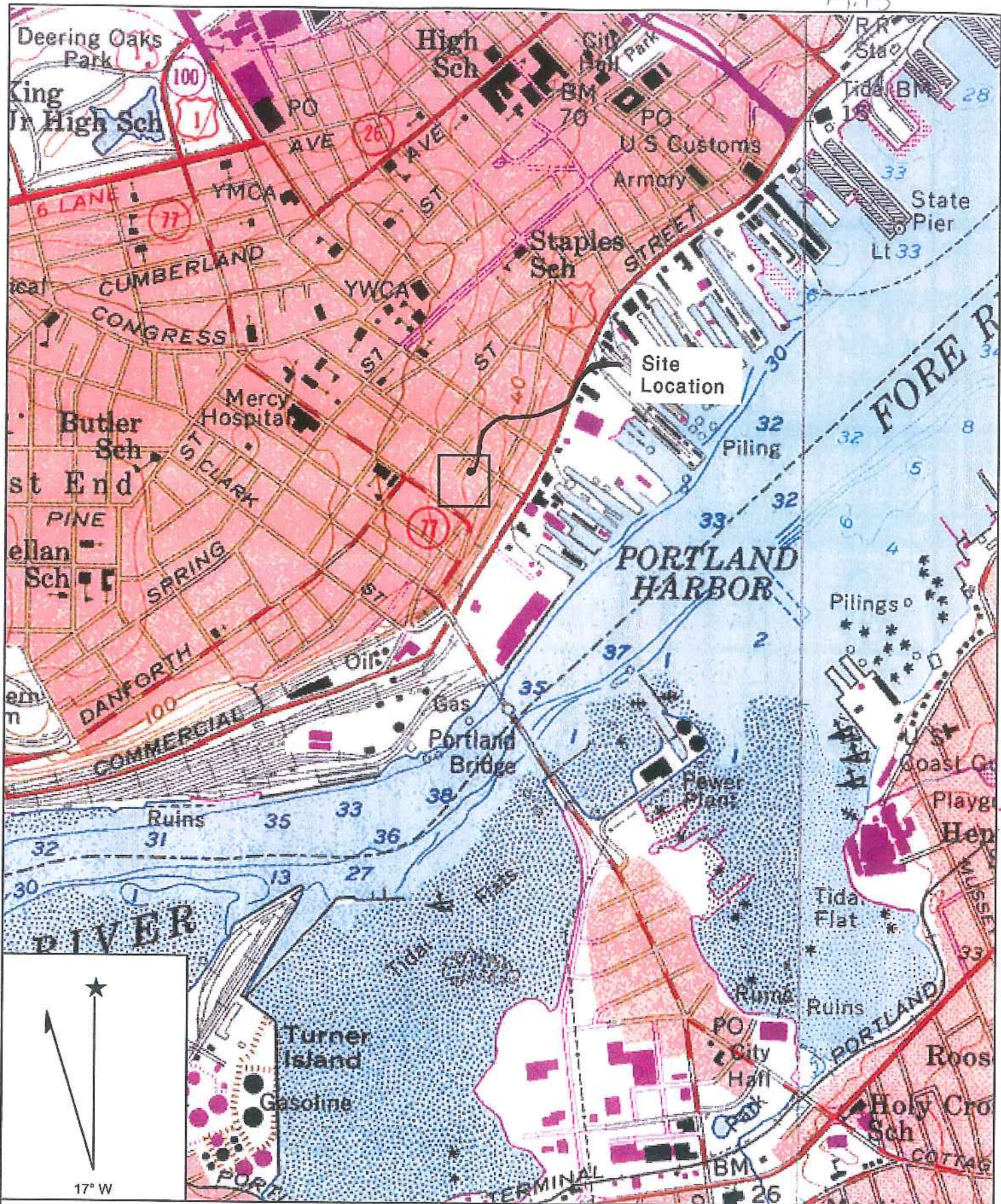
Index Number - 089E

Tax Map Index: <http://www.portlandassessor.com/taxmaps.htm>

April 1, 2012 to 2013

089E

A.15



Name: PORTLAND WEST  
 Date: 5/30/2013  
 Scale: 1 inch equals 1000 feet

Location: 043° 38' 50.34" N 070° 15' 33.18" W  
 Caption: 13105-133 York Street



APPROXIMATE SCALE



NATIONAL FLOOD INSURANCE PROGRAM

**FIRM**  
FLOOD INSURANCE RATE MAP

CITY OF  
PORTLAND, MAINE  
CUMBERLAND COUNTY

PANEL 13 OF 17

(SEE MAP INDEX FOR PANELS NOT PRINTED)

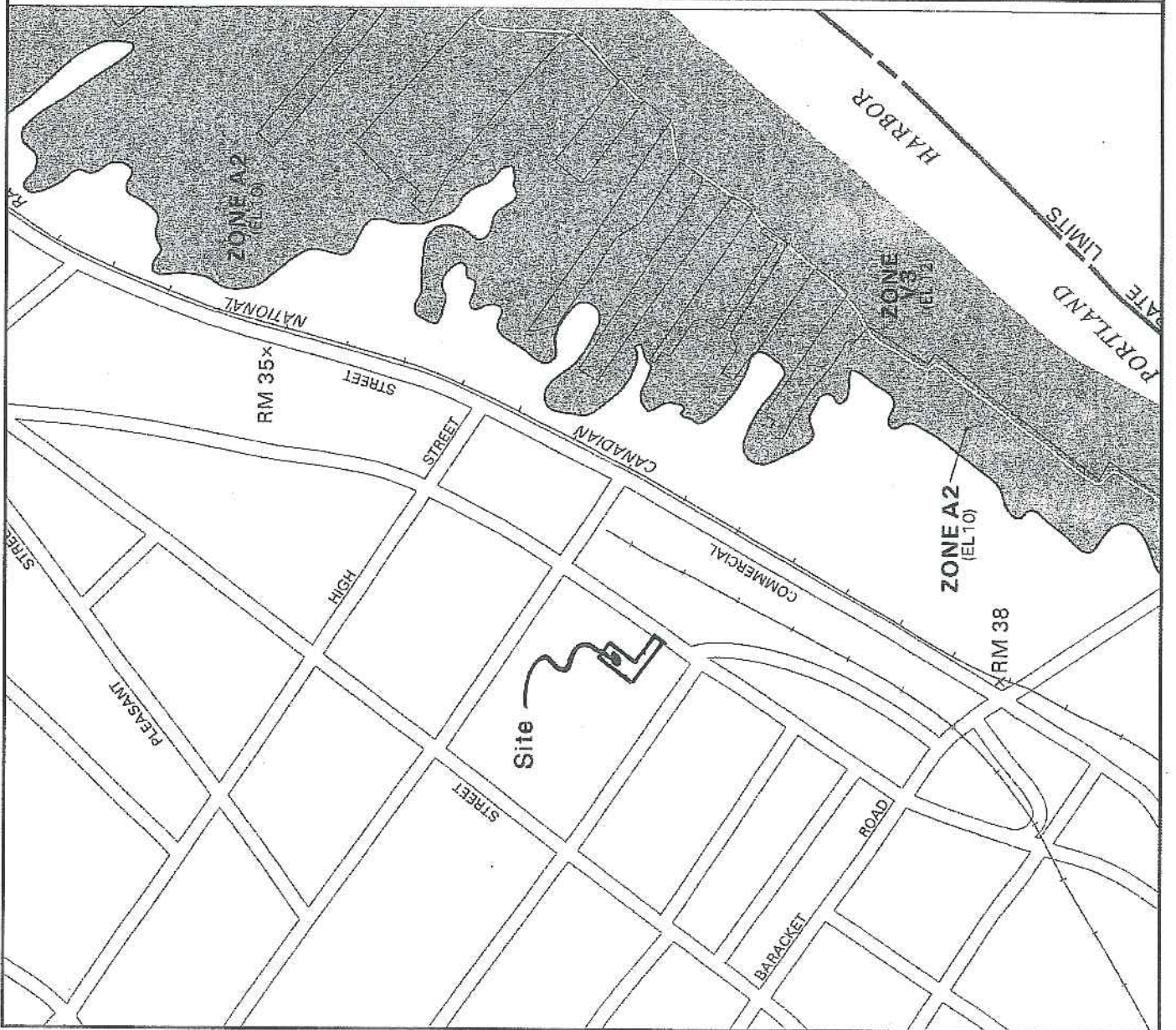
COMMUNITY-PANEL NUMBER  
230051 0013 B

EFFECTIVE DATE:  
JULY 17, 1986

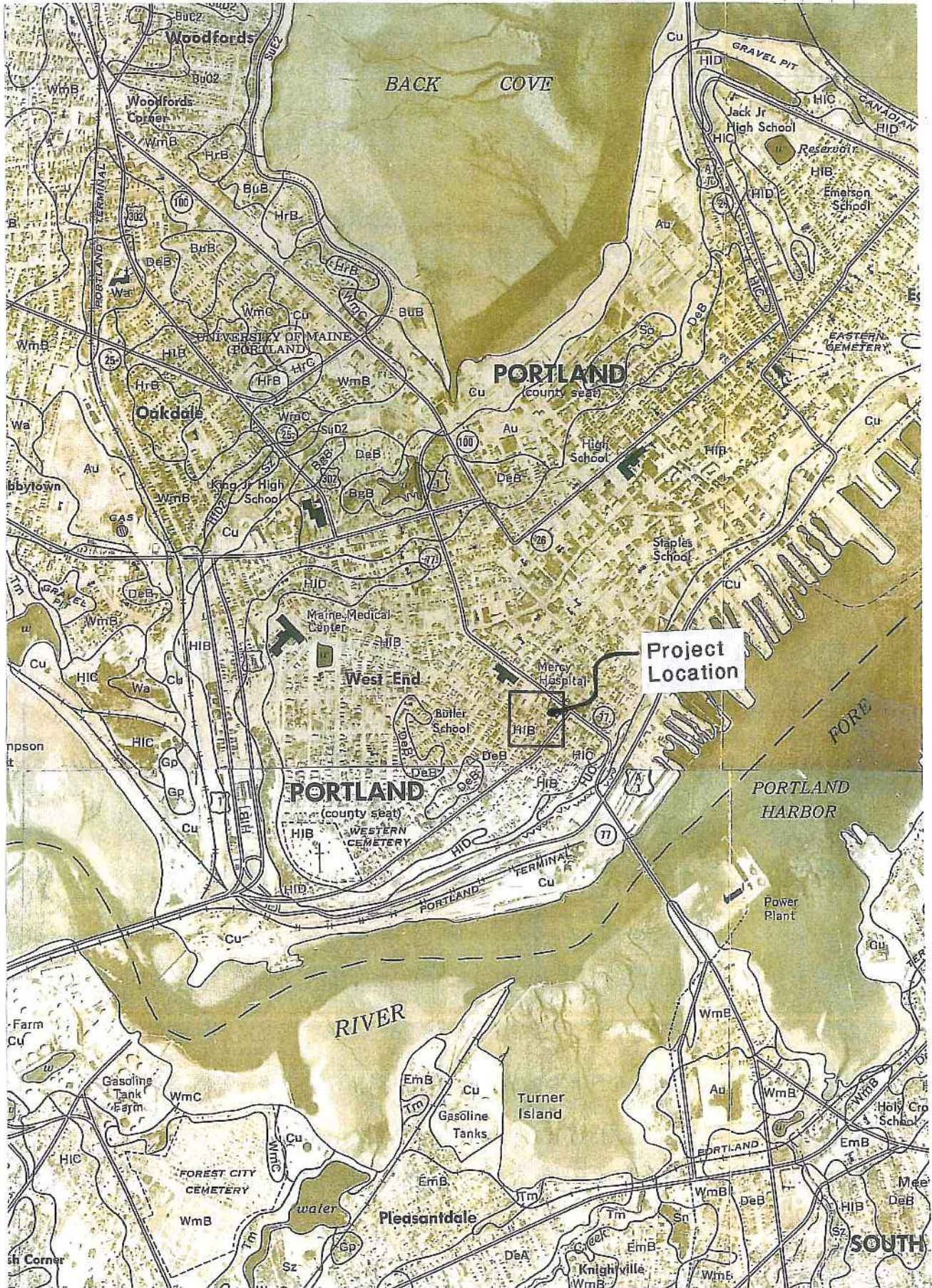
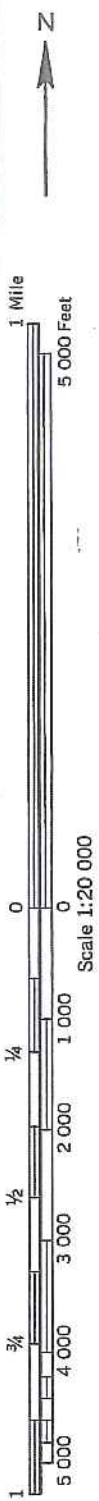


Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)







13105 - 133 York Street

# SOILS MAP

**133 York Street**  
File: 13105

**Project Description**

This project includes the removal of an existing 2 unit residential structure at 133 York Street and the construction of a 6 unit residential structure. The 6 units will be in a single structure with a footprint of 26' x 89'-6". Parking will be provided under the units.

The site is located within an existing neighborhood of multiple unit buildings. It is adjacent the recently constructed Harborview Townhomes project and located behind the recently renovated Harborview Flats on York Street. Along our driveway are a multifamily house of three units and a single family home. Behind the site is McCormack Place, Condominiums.

The architecture of the building is a modern style using traditional materials. Each of the three floors will have two units, accessed by a central staircase. Each unit will have a small deck on the south side.

Utilities will be installed in the same general location as the existing utilities. The water service will be from York Street and upgraded for a sprinkler system. The power and cable service comes from Park Street. The sewer service will utilize the existing pipe from York Street.

The schedule for the project is anticipated to have approvals this summer with construction in the fall. Occupancy would occur next spring.

**Permits Required**

This project will require approval from the City of Portland under the Subdivision Ordinance and Site Plan Approval. No state or federal approvals are required.

**Zoning**

The site is in the R-6 zone. It allows 1 unit per 1,000 sq. ft. The lot has an area of 7,483 sq. ft. The setbacks are based off the existing structure. It is currently 1½ to 2' from the boundary lines. This project will make the structure more conforming. It is located 5' from the side and rear boundary lines. The 5' is based on the additions to non-conforming structure provisions. The east end of the building is 11 feet from the boundary in conformance with a 3 story structure.

The height of the structure varies. The west end consists of 8' high ceilings in the units for a maximum height of 36'-6" feet. The east end has 9' ceilings in the units for a maximum height of 39'-6" feet.

## 133 York Street

File: 13105

### Easements

This project benefits from a sewer easement across Harborview Flats property. No easements burden this property.

### Waivers

Section 4.6.1 – Trees: 1/Unit in City Right-of-Way. There is limited right-of-way for the six trees.

### Traffic

This project will generate approximately 58 trips per day with 6 in the peak PM and AM hours. The impact of traffic on York Street will be minimal.

There is adequate sight distance at the end of the driveway on York Street.

### Significant Natural Features

This site has been fully developed as a residential property for many decades. It has common residential landscaping. There are no significant natural features on site.

### Master Plan Compliance

This project meets the City's Master Plan goal of providing more housing on the peninsula. It will provide a vibrant housing opportunity for the neighborhood. This will provide housing for an economically diverse population in the area, with a multi-family high density development. This maximizes the resources of the City's infrastructure on a small lot. This project meets the goals of Portland's Housing: Sustaining Portland's Future report.

### Neighborhood Meeting

Attached are the materials for the neighborhood meeting, held May 17, 2013.

### Solid Waste Management

The demolition and construction waste will be disposed of at the Riverside facility by EcoMaine. As much as possible will be recycled. We estimate this to be approximately 400 cy.

B.3

**133 York Street**  
**File: 13105**

The household waste will be stored in the lower level in small rolling units for disposal by a private hauler.

**Tree Preservation**

There are two trees on site that are significant. The one on the west side of the site will be removed to construct a retaining wall in that location. The maple at the northeast corner of the site will be preserved. The limbs will be trimmed where they interfere with the building. The off site tree in the northwest section of the site will be trimmed to allow construction of the structure.

**Soil Survey**

Attached is a medium intensity soil survey prepared by the Cumberland County Soil and Water Conservation District. The soils on site are Hinckley (HIC), which are suitable for the proposed development.

WARRANTY DEED  
Maine Statutory Short Form

Know all Persons by these Presents that, Jeremy Benn, having a mailing address at 110 Marginal Way Ste 292 Portland, County of Cumberland and State of Maine, for no consideration paid, does hereby GRANT to 133 York, LLC, A Maine Limited Liability Company, with a principal place of business at 110 Marginal Way Ste 292 Portland Maine 04101, with **WARRANTY COVENANTS**, a certain lot or parcel of real property situated in the City of Portland, County of Cumberland, and State of Maine, being more particularly described as follows:

See Attached Exhibit A

Being the same premises conveyed by the said Jeremy Benn by virtue of a deed from Jeremy Benn dated July 22, 2013 and recorded in the Cumberland County Registry of Deeds in Book 30855 Page 68.

WITNESS my hand and seal this 22<sup>nd</sup> day of July, 2013.

Signed, Sealed, and Delivered  
In the presence of:

Yasha Walker  
Witness

Jeremy Benn  
Jeremy Benn

STATE OF MAINE  
COUNTY OF CUMBERLAND

Personally appeared before me on this 22<sup>nd</sup> day of July, 2013 the above named Jeremy and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Katherine Gallant

Attorney at Law/Notary Public

My commission expires:

Printed Name:

SEAL

Katherine Gallant, Notary Public  
State of Maine  
My Commission Expires 4/25/2014

C.2

EXHIBIT A

A certain lot or parcel of land, with any buildings thereon situated on the northerly side of York Street in the City of Portland, County of Cumberland, State of Maine, bounded and described as follows:

BEGINNING at a point on the said northerly side of York Street distant westerly Seventy-Five and Fifty-Three hundredths (75.53) feet from a stone monument marking an angle in said northerly side of York Street, said point being at the southwesterly corner of land set off to Charles Edward Deehan in an action of partition brought by said Charles Edward Deehan vs. Alice M. Groff, et al. in the Superior Court for Cumberland County, being Docket No. 2687 on the Records of said Court; THENCE northwesterly by land set off as aforesaid to said Deehan on a line parallel with and distant Eighteen (18) feet westerly from the most westerly face of the brick block on land set off to said Deehan a distance of Ninety (90) feet to a point; THENCE easterly by land set off to said Deehan and on a line parallel with the northerly side of York Street Seventy-nine and forty-four hundredths (79.44) feet to a fence and land conveyed by Elias Thomas to Cummings and Brock on August 17, 1866, recorded in the Cumberland County Registry of Deeds in Book 344. Page 491; THENCE northwesterly by land formerly of said Cummings and Brock Forty-eight and thirty-eight hundredths (48.38) feet more or less to land formerly owned by D. and S. Stevens; THENCE westerly by land of said Stevens Ninety-eight and seven tenths (98.7) feet more or less, to land formerly owned by Hannah Codman; THENCE southeasterly by land formerly owned by said Codman One Hundred Thirty-eight and nine-tenths tenths (138.9) feet to said northerly side of York Street: THENCE easterly by said northerly side of York Street Twenty-six and eight tenths (26.8) feet more or less, to the POINT OF BEGINNING.

ALSO conveying a perpetual easement for installation, maintenance and replacement of a sewer line and a water line from the land described above to York Street. Said easement is Three (3) feet in width, the centerline of which is the centerline of the existing sewer line and water line servicing the above described premises. This easement is located approximately Five (5) to Six (6) feet from the westerly bound of land now or formerly of Lulu Ferne Nichols.

Said easement is conveyed subject to the following obligations: (i) grantee will not undertake any repair and/or installation work until such time all necessary governmental permits or Licenses have been obtained; and (ii) grantee will promptly restore the premises now or formerly of Lulu Ferne Nichols to its prior condition following the installation of the sewer line and water line and/or any repairs thereto. Notwithstanding the foregoing provision, easement grantee is specifically authorized to remove the existing willow tree and replace it with lilac bushes.

This easement is an appurtenance to land more particularly described in deed from Clifford A. Wilcox, Dolly E. Wilcox, and Beulah M. Wilcox to Stephen Benne III, dated October 14, 1980, and recorded in the Cumberland County Registry of Deeds in Book 4686, Page 104, and burdens land more particularly described in a deed to Lulu Ferne Nichols which is recorded in the Cumberland County Registry of Deeds in Book 6502, Page 201.

Received  
Recorded Register of Deeds  
Jul 22, 2013 11:17:20A  
Cumberland County  
Pamela E. Lovley

**Exhibit A**

**DECLARATION OF CONDOMINIUM  
133 York Street Condominium  
133 York Street, Portland, Maine**

**ARTICLE 1  
SUBMISSION**

**Section 1.1. Submission of Property.** 133 York, LLC ("Declarant"), owner in fee simple of the land described in Exhibit A annexed hereto, located within the City of Portland, Cumberland County, Maine (the "Land"), hereby submits the Land, together with all improvements, easements, rights and appurtenances thereunto belonging (the "Property") to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, as amended, known as the Maine Condominium Act ("Condominium Act" or "Act") and hereby creates with respect to the Property a condominium, to be known as "133 York Street Condominium" (the "Condominium"). The Property is also shown on the following plats and plans: (i) the plan recorded on \_\_\_\_\_, in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Page \_\_\_\_\_, identified as follows: "Condominium Plat, 133 York Street Condominium," dated \_\_\_\_\_ (the "Plat"); (ii) on the plan recorded on \_\_\_\_\_, in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Page \_\_\_\_\_, identified as follows: "Horizontal And Vertical Boundaries, 133 York Street Condominium," dated \_\_\_\_\_ (the "Plan") (collectively the "Plans" or "Plats and Plans").

**Section 1.2. Name and Address of Condominium.** The name of the Condominium shall be "133 York Street Condominium." The address of the Condominium is 133 York Street, Portland, Maine 04101. The name of the unit owners association is the "133 York Street Condominium Association" (the "Association") and its address is 133 York Street, Portland, Maine 04101.

**Section 1.3 Description of Condominium Development.** The Condominium consists of the Land described in the attached Exhibit A and the condominium building(s) consisting of Six (6) units as identified on the Plats and Plans.

**ARTICLE 2  
DEFINITIONS**

**Section 2.1. Terms Defined in the Act.** Capitalized terms are defined herein or in the Plats and Plans, otherwise they shall have the meanings specified or used in the Condominium Act. In the case of conflict between the meanings specified or used in the Act, those meanings specified or used in the Condominium Act shall control.

**Section 2.2. Terms Specifically Defined in this Declaration.** In addition to the terms hereinabove defined, the following terms shall have the following meanings in this Declaration, the Bylaws, and Plats and Plans:

(a) "Additional Units" means the Units, if any, which may be added by the Declarant to the Condominium in accordance with Section 10.2 of this Declaration.

(b) "Assessment" means the Owner's share of the anticipated Common Expenses, allocated by Percentage Interest, for the Association's fiscal year as reflected in the budget adopted by the Executive Board for such year.

(c) **"Association"** means the Homeowners Association of the Condominium, which is known as the 133 York Street Condominium Association.

(d) **"Buildings"** (or in the singular, a "Building") means any residential, commercial, service or recreational structure or other improvement now or hereafter constructed on the Property.

(e) **"Bylaws"** means the document having that name and providing for the governance of the Association, pursuant to Section 1603-106 of the Condominium Act, as such document may be amended from time to time.

(f) **"Common Elements"** (or in the singular, a "Common Element") means those parts of the Property other than the Units as described either in the Condominium Act as being Common Elements or described herein as being Common Elements.

(g) **"Common Expenses"** means expenditures made by or financial liabilities of the Association together with any allocations to reserves.

(h) **"Condominium"** means the Condominium described in Section 1.1 above.

(i) **"Condominium Documents"** means the Declaration, Plats and Plans, Bylaws and Rules and Regulations.

(j) **"Declarant"** means 133 York, LLC, a Maine limited liability company, its successors and assigns.

(k) **"Declaration"** means this document, as the same may be amended from time to time.

(l) **"Development Rights"** means those rights defined in Section 1601-103(11) of the Condominium Act, as it may be amended from time to time, including, but not limited to, those rights which the Declarant has reserved to itself, if any, to add real estate to the Condominium, to create Units, Common Elements or Limited Common Elements within the Condominium, to subdivide Units or, convert Units into Common Elements, or to withdraw any Real Estate, Units, or Property from the Condominium.

(m) **"Eligible Mortgage Holder"** means the holder of a recorded first mortgage on a Unit, or the holder of a recorded or unrecorded Land Installment Contract, which has delivered written notice to the association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, which notice shall state the mortgagee's name and address, the Unit Owner's name and address, and the identifying number of the Unit, and shall state that the mortgage is a recorded first mortgage. Such notice shall be deemed to have been given reasonably prior to the proposed actions described in Section 15.2 if sent at the time notice thereof is given to the Unit Owners.

(n) **"Executive Board"** means the Executive Board of the Association. The terms executive Board and Board of Directors shall be interchangeable.

(o) **"Insurance Trust Agreement"** means that certain agreement, if any, between the Association and the Insurance Trustee providing for the management and disbursement of insurance proceeds in accordance with Section 16.3 hereof.

(p) **"Insurance Trustee"** means the entity responsible for the management and disbursement of insurance proceeds pursuant to the Insurance Trust Agreement, if any.



(q) "Land Installment Contract" means a contract under which the Declarant or an Owner agrees to sell or otherwise convey a Unit or other real property interest in a Unit or any portion thereof to a buyer and that buyer agrees to pay the purchase price in subsequent payments and the Declarant or Owner retains title to the Unit as security for the buyer's obligation under the Contract. The Declarant or Owner may assign its rights under the Contract to any third party.

(r) "Limited Common Elements" (or in the singular, a "Limited Common Element") means those parts of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units, as described either in the Condominium Act as being Limited Common Elements or described herein or in the Condominium Documents as being Limited Common Elements. In the event of any discrepancy between the Condominium Act and Condominium Documents, the terms of the Condominium Documents shall control with respect to Limited Common Elements.

(s) "Limited Common Expenses" mean: (a) the Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed against the Unit to which that Limited Common Element is assigned, in proportion to the relative Common Expense liabilities as between themselves, as the Executive Board may periodically define; and (b) the Common Expenses for services benefiting fewer than all the Units, which are assessed exclusively against the Units benefited in accordance with the use of such services as permitted by to Section 1603-115(c) of the Condominium Act.

(t) "Manager" or "Managing Agent" means the agent of the management company appointed by the Association to manage the Condominium.

(u) "Mortgagee" means the holder of any recorded mortgage encumbering one or more of the Units or the holder of a recorded or unrecorded Land Installment Contract.

(v) "Owner" means the record owner or owners of a Unit but does not include a person or entity having an interest in a Unit solely as security for an obligation.

(w) "Percentage Interest" means the undivided interest in the Common Elements appurtenant to a Unit, as set forth on Exhibit B attached hereto, as the same may be amended from time to time.

(x) "Property" means the Property described in Section 1.1 above.

(y) "Plats and Plans" means the Plat and Plans as defined in Section 1.1 above, which are recorded in the Cumberland County Registry of Deeds, and as such may be amended from time to time.

(z) "Record" means to record in the Cumberland County Registry of Deeds.

(aa) "Rules and Regulations" means such rules and regulations as are promulgated by the Declarant or the Executive Board from time to time with respect to the use of all or any portion of the Property.

(bb) "Special Assessment" means an Owner's share of any assessment made by the Executive Board in addition to the Assessment.

(cc) "Special Declarant Rights" means those rights defined in Section 1601-103 (25) of the Condominium Act, as it may be amended from time to time, including, but not limited to, those rights the Declarant has reserved to itself to complete improvements, to maintain sales offices, to use easement through Common Elements for the purpose of making improvements within the Condominium, and to appoint or remove any officer of the Association during any period of Declarant control.

(dd) "**Unit**" means a physical portion of the Condominium created by this Declaration or any amendment thereto and designated for separate ownership or occupancy, the boundaries of which are described in Article 3.

**Section 2.3. Provisions of the Condominium Act.** The provisions of the Condominium Act shall apply to and govern the operation and governance of the Condominium, except to the extent that contrary provisions, not prohibited by the Act, are contained in one or more of the Condominium Documents.

### **ARTICLE 3** **UNIT BOUNDARIES**

**Section 3.1. Units.** This Declaration creates six (6) residential condominium units on the Land as identified on the Plan and on the attached **Exhibit B**. The maximum number of units is six (6). The condominium buildings contain all six (6) condominium units, as shown on the Plats and Plans. Attached as **Exhibit B** hereto is a list of all Units, their identifying numbers, common element interest, common expense liability and vote appurtenant to each unit.

**Section 3.2. Unit Boundaries.** The boundary lines of each Unit are as shown on the Plats and Plans and shall conform with unit boundaries as described in the Act to the extent not described herein.

(a) The upper and lower (horizontal) boundaries of each level of each Unit shall be the following boundaries extended to the intersection with the vertical (perimeter) boundaries: (i) Upper Boundary: the plane of the ceiling of each level of the Unit; (ii) Lower Boundary: the horizontal plane of the top surface of the undecorated floor or undecorated concrete floor slab of each level, as applicable.

(b) The vertical (perimeter) boundaries of each Unit shall be the walls bounding the Unit and adjacent to either an adjoining Unit or the exterior walls of the Building extended to the intersections with each other and with the upper and lower boundaries.

(c) Boundary lines shall also be the Unit-side surface of the walls and partitions of the Buildings which enclose such Unit and separate it from adjoining Units, if any, or Common Elements, including the thickness of the finish material such as plaster or drywall, and the exterior surface of doors, windows and storm windows, and glass walls, and their frames, sills and thresholds.

(d) Each Unit's identifying number is shown on the Plats and Plans and on **Exhibit B**.

**Section 3.3. Relocation of Unit Boundaries.** Relocation of boundaries between Units will be permitted subject to compliance with the provisions therefor in Section 1602-112 of the Condominium Act and subject to compliance with any conditions, restrictions or requirements imposed by the Executive Board. The cost for preparation and recordation of any documents required for the relocation of boundaries between Units shall be chargeable to the Units involved as a Special Assessment. Subdivision of Units is not permitted.

### **ARTICLE 4** **DESCRIPTION AND ALLOCATION OF COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND LIMITED COMMON PROPERTY**

**Section 4.1. Description of Common Elements.** Common Elements shall consist of all of the Property except the individual Units, and shall include the land, buildings, foundations, roofs, outside walls, pipes, ducts, electrical wiring and conduits, public and private utility lines, floors and ceilings (other than the portion of the floors and ceilings which constitute a part of the Units in accordance with Section 1602-102(1) of the Condominium Act), perimeter walls of Units (other than the portion of walls which

constitute a part of the Units in accordance with Section 1602-102(1) of the Condominium Act), structural parts of the buildings, including structural columns, girders, beams and supports, and any easements as set forth in Exhibit A for parking, access, and utilities; and in addition, all other parts of the Property necessary and convenient to its existence, maintenance and safety, normally in common use as defined in the Condominium Act, except such parts of the Property as may be specifically excepted or reserved herein or in any exhibit attached hereto. As provided in Section 1602-102(2) of the Condominium Act, any wires, ducts, pipes, or other fixtures located within a Unit but serving another Unit or Units are part of the Common Elements. Each Owner shall have the right to use the Common Elements in common with all other Owners, as may be required for the purposes of ingress and egress to and use, occupancy and enjoyment of the respective Owners and guests, tenants, and other authorized occupants, licensees, and visitors of the Owner. The use of the Common Elements and the rights of the Owners with respect thereto shall be subject to and governed by the provisions of the Act and Condominium Documents. Without limitation, the Common Elements shall specifically include the following:

- (a) Grounds. The land, lawns, trees, any forested areas, signage, any common paved areas, walkways, or driveways as identified on the Plats and Plans, and any common facilities or storage buildings;
- (b) Systems & Utilities. Sewer Pump Station and Sanitary sewer to each unit, if any, electric distribution to each unit meter, water distribution to each unit master valve, storm and unit drainage system, water lines servicing more than one unit (in foundation, basement, and exterior walls), sewer lines up to unit outlet (in foundation, basement, and exterior walls), electrical wiring from meter and serving more than one unit (in foundation and exterior walls), master electrical panel, laundry piping and valves, life safety equipment (excluding smoke detectors);
- (c) Interior Structure & Fixtures. Interior sub flooring (sub floor sheathing and wood, and sub floor concrete); and
- (d) Exterior Structure & Fixtures. Roofing (all roof framing and covering), chimneys and flues, exterior walls (framing, insulation, sheathing, and clapboards, including unit party walls), studs, joists, any load bearing portions of the buildings, shutters, attic structural elements (framing, floor, and insulation), foundation walls, all floor slabs, garage slab floors, if any, exterior foundation drains, interior foundation drains, front and rear steps and railings, sun rooms (roofing, walls, foundation, if any), and dormers (roofing and walls, if any, but excluding new dormer construction).
- (e) Other. All other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except as otherwise expressly provided.

**Section 4.2.** Description of Limited Common Elements. Limited Common Elements shall mean those portions of the Buildings defined as such pursuant to Sections 1602-102(2) and (4) of the Condominium Act or as identified and designated as Limited Common Elements on the Plats and Plans, or by Section 4.3 hereof. Those portions of the Limited Common Elements serving only the Unit above, below or adjacent to such Limited Common Element, as the case may be, are Limited Common Elements allocated only to the Unit that they serve.

**Section 4.3.** Specified Limited Common Elements. Without limitation, the following portions of the Buildings or the Property are hereby designated as Limited Common Elements: shutters, awnings,

window boxes, any individual unit mailboxes, doorsteps, stoops, steps, porches, balconies, patios, decks, basement storage areas, any garage areas, attic spaces, flues and all exterior doors and garage doors, and windows or other fixtures designed to serve a single unit but located outside a unit's boundaries are limited common elements allocated exclusively to that unit. Additionally, certain specified Limited Common Elements are allocated to particular Units as designated on the Plats and Plans, which specified Limited Common Elements expressly include without limitation the following:

(a) **Garage Parking Spaces.** Subject to Section 8.3, there are six (6) garage parking spaces allocated as Limited Common Elements to the Units, as designated on the Plats and Plans.

**Section 4.4. Locations of Common and Limited Common Elements.** The locations of the Common Elements and Limited Common Elements are shown on the Plats and Plans. Pursuant to Section 1602-102(4) of the Condominium Act, a shutter, awning, window box, doorstep, stoop, balcony, porch, deck, or patio, if any, shown adjacent to a Unit is a Limited Common Element appurtenant to that Unit.

**Section 4.5. Reserved Common Elements.** The Executive Board shall have the power in its discretion from time to time to grant revocable licenses in designated Common Elements to the Association or to any Owners and to establish a reasonable charge to such Owners for the use and maintenance thereof. Such designation by the Executive Board shall not be construed as a sale or disposition of the Common Elements.

**Section 4.6. Alteration of Common Elements by the Declarant.** The Declarant reserves the right to modify, alter, remove or improve portions of the Common Elements, including without limitation, any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

## **ARTICLE 5**

### **MAINTENANCE RESPONSIBILITIES**

**Section 5.1. Maintenance Responsibilities.** Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Common Elements shall be maintained and repaired by each unit Owner and by the Association in accordance with the provisions of Section 1603-107 of the Act, except as expressly set forth to the contrary herein.

**Section 5.2. Maintenance of Limited Common Elements.** The maintenance, repair and replacement of Limited Common Elements created, if any, shall be the responsibility of and at the expense of the Association, except as otherwise noted in the Condominium Documents.

**Section 5.3. Maintenance of Common Elements.** The Association, or the Managing Agent of the Association in accordance with Article 7, shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of a unit Owner) of all of the Common Elements whether located inside or outside of the Units, the cost of which shall be charged to the unit Owners as a Common Expense except as otherwise provided herein with regard to Limited Common Elements. The maintenance, repair and replacement of Common Elements located within a Unit, for which the unit Owner is not responsible, to the extent required for the functioning of or for connecting utilities to the Property and Units, shall be furnished by the Association as part of the Common Expenses.

**Section 5.4. Maintenance of Unit.** Each unit Owner shall keep and maintain his Unit including the building, equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, whether such maintenance and repair shall be structural or non-structural, ordinary or

D.7

extraordinary, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. No unit Owner shall sweep or throw, or permit to be swept or thrown, from his Unit any dirt, debris or other substance. In addition, each unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or neglect to make any of the repairs required by this Article. Each unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other unit Owners. Each unit Owner shall promptly report to the Executive Board or the managing agent any defect or need for repairs for which the Association is responsible. No unit Owner shall change the exterior color of his or her Unit nor alter the exterior materials or structure without the written approval of the Board of Directors. All exterior maintenance shall be undertaken so as to maintain the general character and quality of the condominium. No work shall be undertaken without all necessary State and local permits and approvals, and copies of all such permits and approvals shall be given to the Association.

**Section 5.5** Liability of Owner. Each unit Owner shall be liable for, and the Association shall have a lien against his Unit for, the expense of maintenance, repair or replacement of any portion of another Unit or the Common Elements, including Limited Common Elements, of another Unit caused by such unit Owner's act, neglect or carelessness or by that of any member of such unit Owner's family, or such unit Owner's guests, employees, agents, lessees, or their pets, and the Association shall have the right to cure, correct, maintain, repair or replace any damage or disrepair resulting from such act of neglect or carelessness. The Association shall also have the right to perform maintenance required of a unit Owner under Section 5.4, but not performed by the unit Owner and the unit Owner shall be liable for and the Association shall have a lien against the Unit for the expense of such maintenance. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation against such unit Owner.

**ARTICLE 6**  
**ALLOCATION OF PERCENTAGE INTERESTS, COMMON EXPENSES**  
**AND VOTING RIGHTS**

**Section 6.1.** Percentage Interests. Attached as Exhibit B hereto is a list of all Units by their identifying number and the Percentage Interest appurtenant to each Unit within each such Unit, together with an explanation of the formula by which such Percentage Interest is determined.

**Section 6.2.** Common Expenses. The liability of each Unit for the Common Expenses of the Condominium shall be the same percentage share as the Percentage Interest set forth on Exhibit B, and as such shall be determined by the same formula by which the Percentage Interest is determined.

**Section 6.3.** Allocation of Owners' Voting Rights. Each Owner of a Unit shall be entitled to vote as described on Exhibit B. If a Unit is owned by more than one person or entity, the voting interest shall not be divided and the vote for the Unit shall be cast by only one of the Owners as determined by a majority of the Owners of such Unit.

**ARTICLE 7**  
**MANAGEMENT**

**Section 7.1.** Managing Agent. The Association shall have the right to employ a professional experienced property management firm to act as Managing Agent to oversee the daily operation of the Condominium in accordance with the provisions of the Act and the Declaration; provided, however, that no agreement for such professional management of the Condominium may exceed a term of three (3) years but may be renewed upon consent of the Association. Such agreement shall be cancelable by either party without cause and without a termination fee upon not less than sixty (60) days nor more than ninety

(90) days written notice and shall be cancelable by the Executive Board with cause upon not less than thirty (30) days written notice. Any agreement for professional management negotiated by the Declarant shall meet the requirements of this Article 7 for such agreements negotiated by the Association and shall not exceed one (1) year, but may be renewed upon consent of the Association.

**Section 7.2. Maintenance Responsibilities.** The Managing Agent, or the Association through the Executive Board in the absence of a Managing Agent, shall be responsible for maintenance, repair and replacement of the Common Elements and Common Property including, but not limited to, the Limited Common Elements. The cost of the provision of such services shall be a Common Expense.

**ARTICLE 8**  
**EASEMENTS**

**Section 8.1. Additional Easements.** In addition to the easements provided for by the Act, the following easements are hereby created:

(a) All Units shall be subject to an easement in favor of the Declarant pursuant to Section 1602-115 of the Condominium Act. The Declarant reserves the right to use any Units owned or leased by the Declarant and any Common Element as models, management offices, sales offices for this and other projects or customer service offices; and the Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Prior to assignment as Limited Common Elements, the Declarant shall have the right to restrict the use of certain Common Element parking areas for sales purposes and to use such areas for sales purposes. Further, the Declarant shall have the right to erect temporary offices on any Common Element parking areas for models, sales, management, customer service and similar purposes. This easement shall continue until the Declarant has conveyed all Units in the Condominium to Owners other than the Declarant.

(b) The Units and Common Elements shall be, and hereby are, made subject to easements in favor of the Declarant, other Owners, appropriate utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created by this Section 8.1(b) shall include, without limitation, rights of the Declarant, any Owner or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, and equipment and ducts and vents over, under, through along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 8.1(b), any such easement through a Unit shall be located either in, substantially the same location as such facilities or similar, facilities existed at the time of first conveyance of a Unit in the Unit by the Declarant or so as not to materially or unreasonably interfere with the use, occupancy, or quiet enjoyment of the Unit by its occupants. With respect to any utility lines or equipment serving only the Condominium and located upon the Common Elements, the Executive Board shall have the right and power to dedicate and convey title to the same to any private or public utility company. The Executive Board shall also have the right and power to convey permits, licenses and easements over the Common Elements for the installation, maintenance, repair and replacement of utility poles, lines, wires and other equipment to any private or public utility company. In addition, the Executive Board shall have the right to grant permits, licenses and easements over the Common Elements for the building and, maintenance of roads, for the protection of the natural, scenic and open space values of the Property, and for other purposes necessary for the proper operation the Condominium.

(c) The Declarant reserves for as long as it is entitled to exercise any Development Right an easement on, over and under those portions of the Common Elements not located within a Building for the purpose of maintaining and/or correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section 8.1(c) expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably determined to be necessary. The Declarant or the Association, as the case may be, shall restore the affected property as closely to its original condition as is practicable.

(d) The Common Elements (other than the Limited Common Elements) shall be, and hereby are made, subject to an easement in favor of the Owners and their invitees, employees, tenants and servants, the Association and the agents and employees of the Association for access, egress and ingress over, through and across each portion thereof, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe; provided that nothing contained herein shall create any access easement in favor of Owners with respect to such portions of the Common Elements which are not needed in order to gain access to one or more Units and as to which the Executive Board may from time to time determine it to be necessary or desirable to limit or control access by Owners or the occupants of Units, or both, including, by way of illustration and not limitation, machinery and equipment rooms, and any management agent's office, provided, however, that every Owner shall have an unrestricted right of ingress and egress to his Unit for his specified Period of Use. Until the Declarant conveys the last Unit to an Owner other than Declarant, the Declarant shall have the right to restrict access by owners to management and sales offices and areas located on or in any Common Element.

(e) The Common Elements (including, but not limited to, the Limited Common Elements) and Units are subject to an easement in favor of the Declarant for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements.

(f) The Common Elements (including, but not limited to, the Limited Common Elements) shall be and hereby are made subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements, and Property (including, but not limited to the Limited Common Elements and Property).

(g) The Common Elements (including, but not limited to, the Limited Common Elements) shall be and hereby are made subject to the following easements in favor of the Units benefited:

(1) For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are part of or exclusively serve a single Unit and which pass across or through a portion of the Common Elements;

(2) For the installation, repair, maintenance, use, removal and/or replacement of overhead lighting fixtures, electrical receptacles and the like which are located in a portion of the ceiling, wall or floor adjacent to a Unit which is a part of the Common Elements; provided that the installation, repair, maintenance, use, removal or replacement of such fixtures, receptacles and the like does not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken the Buildings;

(3) For driving and removing nails, screws, bolts and the like into the Unit-side surface of walls, ceilings and floors which are part of the Common Elements; provided that such action will, not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken the Buildings; and

(4) For the maintenance or the encroachment of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Element or Limited Common Element on the date this Declaration is recorded or any amendment hereof is recorded.

(h) To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Building in which it is located, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in that particular Building, the Common Elements and the Limited Common Elements, if any.

(i) The Units and the Limited Common Elements are hereby made subject to the following easements:

(1) In favor of the Association and its agents, employees and independent contractors, (i) for inspection of the Units and Limited Common Elements in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible, (ii) for inspection, maintenance, repair and replacement of the Common Elements and Property or the Limited Common Elements and Property situated in or accessible from such Units or Limited Common Elements or both, (iii) for correction of emergency conditions in one or more Units or Limited Common Elements, or both, or casualties to the Common Elements and Property, the Limited Common Elements and Property and/or the Units, and (iv) to do any other work reasonably necessary for the proper maintenance of the Condominium, it being understood and agreed that the Association and its agents, employees and independent contractors shall take reasonable steps to minimize any interference with an Owner's use of his Unit resulting from the Association's exercise of any rights it may have pursuant to this Section 8.1(i)(1) and the following Section 8.1(i)(2) or both;

(2) In favor of the Owner benefited thereby and the Association and its agents, employees and independent contractors, for the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, electrical, telephone, telegraph or other communication systems and all other utility lines and conduits which are part of the Common Elements and which pass across or through a portion of one or more Units.

(j) If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Condominium results either in the Common Elements encroaching on any Unit, or in any Unit encroaching on the Common Elements or on any other Unit, a valid easement shall exist during the period of the encroachment for the encroachment and for the maintenance thereof.

(k) All easements, rights and restrictions described and mentioned in this Declaration are easements appurtenant, running with the land and the Property, including by way of illustration but not limitation the Units and the Common Elements, and (except as expressly may be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

**Section 8.2. Reservation of Easement Rights.** Until the construction, marketing and sale of all Units is completed, the Declarant reserves the right to grant to any third party any license or easement in, on, over or through the Property, in addition to and not in limitation of those set forth above, which license or easement is determined by the Declarant, in its reasonable judgment, to be necessary for the development or improvement of the Property. Any such license or easement granted hereunder may be recorded by the Declarant at its sole cost and expense. The Association, at the request of the Declarant, shall execute and deliver in recordable form any instrument or document necessary or appropriate to confirm the grant of such license or easement.



**Section 8.3. Additional Easements, Covenants, Restrictions.** The Property is also subject to any easements and restrictions as shown on the Plats and Plans.

**ARTICLE 9**  
**RESTRICTIONS ON USE, SALE AND LEASE OF**  
**UNITS AND/OR UNITS**

**Section 9.1.** The following restrictions shall apply to the use of the Condominium:

(a) **Residential Use Restrictions.** The Units, Limited Common Elements and Common Elements (with the exception of any such Units during the time period when they are being used by the Declarant as a sample, model or sales office) are restricted to residential use. The Units may not be used for any other purposes by the Owner or any future Owner. No present or future owner of any Unit shall permit his Unit to be used or occupied for any purpose other than as a single family residence. Notwithstanding any of the foregoing, an Owner may use a Unit for the purpose of a home office, provided, however, that any such use complies with all applicable state and local laws and ordinances, and that such use is otherwise consistent with the Condominium Documents.

(b) **Obstruction of Common Elements.** No Owner may obstruct the Common Elements in any way. No Owner may store anything in or on the Common Elements without the prior written consent of the Executive Board.

(c) **Quiet Enjoyment.** No Owner may carry on any practice, or permit any practice to be carried on, which unreasonably interferes with the quiet enjoyment of the occupants of any other Unit. The Property is to be maintained in a clean and sanitary condition, and no Owner may place any garbage, trash or rubbish anywhere in the Property other than in his own Unit and in or on such parts of the Common Elements as may be designated for such purpose by the Executive Board.

(d) **Fire Hazards.** No Unit shall be used, occupied or kept in a manner that in any way increases the fire insurance premiums for the property without the prior written permission of the Executive Board.

(e) **Signs.** No Owner (other than the Declarant in connection with its marketing and sale of the Units) may erect any sign on or in his Unit or any Limited Common Element which is visible from outside his Unit or from the Common Elements, without in each instance having obtained the prior written permission of the Executive Board.

(f) **Pets and Animals.**

(1) No animals, except as common household pets in accordance with the Rules and Regulations, shall be kept or maintained on the property, nor shall common household pets be kept, bred or maintained for commercial purposes on the Property. Owners are responsible for immediate clean-up of pet waste. Unless otherwise permitted by the Board, authorized pets shall not be permitted outside of Units unless they are accompanied by an adult person and carried or leashed. The Board of Directors may make further provisions in the Rules for the control and regulation of household pets in the Condominium. The owner of a unit where a pet is kept or maintained shall be responsible and may be assessed by the Board of Directors for all damages to the property resulting from the maintenance or conduct of said pet, and any costs incurred by the Association in enforcing the Rules prescribed or to be prescribed by the Board of Directors for the control and regulation of pets in the Condominium and each such owner shall be deemed to indemnify and hold the Board harmless against such loss or liability

resulting from said pet.

(2) Notwithstanding anything herein to the contrary, the following aggressive dog breeds are prohibited: Akita; American Staffordshire Terrier (a.k.a. Pit Bull); Bernese Mountain Dog (a.k.a. Bernese Cattle Dog); Canario (a.k.a. Pressa Canario); Chow Chow (a.k.a. Chow); Doberman Pinscher; German Shepherd; Grate Dane; Huskies (including American, Eskimo, and Greenland Huskies but not including Siberian Huskies); Karelian Bear Dog (a.k.a. Laika); Malamute (a.k.a. Alaskan Malamute); Mastif; Rhodesian Ridgeback; Rottweiler; Saint Bernard; and Staffordshire Bull Terrier (a.k.a. Pit Bull); provided however, that service dogs are exempt from the foregoing prohibition regardless of breed. The Association may further regulate or exclude from the Condominium additional specific breeds or species of dogs or other pets as determined by the Board to be necessary for the safety and quiet enjoyment of the Condominium and as necessary to conform with any insurance requirements relating to the Condominium.

(g) Rules and Regulations. The Executive Board shall promulgate reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Owners by the Association promptly after the adoption of such Rules and Regulations and any amendments thereto.

(h) Alterations to Units. Except as otherwise provided herein, no Unit shall be substantially altered, remodeled or renovated unless such alteration, remodeling or renovation shall be approved by a majority vote of the Executive Board of the Association. Executive Board approval shall not be required for minor alterations or renovations that do not affect the structural integrity of any Common Elements. For purposes of this paragraph, the term "minor alterations or renovations" shall specifically include, without limitation, the following: interior painting, wallpaper installation, carpet installation, refinishing of hardwood flooring, installation of lighting fixtures, and bathroom or kitchen remodeling projects that do not affect the structural integrity of any Common Elements.

(i) Connection of Adjoining Units and Limited Common Areas. If the record Owners of the subject Unit(s) affirmatively elect, with the written approval of the Board of Directors of the Association based on each Owner's compliance with the standards set forth hereinafter, all to be evidenced by a recorded instrument duly executed and acknowledged, that portion of the Common Elements located between the boundary lines of adjoining Units or located between a Unit and an adjoining Limited Common Element (with the consent of any other units sharing the same), may be thereby subjected to an easement in favor of each such Unit respectively running to the midpoint of the space between each Unit or to the Limited Common Element for the removal and alteration of any intervening partition and the creation of apertures therein for passage back and forth between the two units or to the limited common element, and for the installation of stairs, doors, windows and frames appurtenant thereto. The participating Owners shall be strictly liable for any resulting damage. At all times after such election each unit owner shall preserve and maintain the structural integrity and architectural style, the mechanical and utility systems, and the support of all portions of the Property and Common Elements; and shall strictly comply with all fire, building code and other governmental laws, ordinances and requirements. Any such unit Owner or his respective heirs, mortgagees or assigns, may at any time revoke such election by instrument duly executed and acknowledged served on the other such owners and duly recorded, and thereafter may seal up passageways and/or remove the stairs, doors and their frames, and/or install a permanent wall, floor ceiling or other partitions, at all times preserving the structural integrity, the mechanical and utility systems and support of all portions of the Property. Nothing contained herein shall be deemed to merge or otherwise affect the separate identity, configuration or the boundaries of said Units.

(j) Labor, Mechanic's Liens. No Owner shall cause any material to be furnished to his Unit or any labor to be performed therein or thereon except in the manner set forth in subparagraph (h) and (i) above. Each Owner shall indemnify and hold the other Owners of his Unit harmless against any loss, damage or claim arising out of his breach of the provisions of this Section 9.1, including but not limited to the costs of removing any unauthorized improvements, any repairing and restoring the Unit to substantially its condition prior to such alteration, remodeling, renovation or repair and the cost of removing, bonding, defending or paying any mechanic's or materialmen's liens.

**Section 9.2. Sale and Lease of Units.**

(a) The Declarant shall have the right to operate any Units owned by the Declarant as a rental project. The Declarant may establish and maintain in the Units and Common Elements, all offices, signs and other accoutrements normally used in the operation of, such rental properties in the sole discretion of the Declarant. Such operation shall be for the benefit of the Declarant and neither the Association nor any Owner (other than the Declarant) shall have any right or interest in the profits or losses thereof.

(b) There shall be no mandatory rental program offered to the Owners by Declarant, Managing Agent or any third parties. An Owner other than the Declarant may lease his or her unit, however the Executive Board may prescribe by resolution a form of lease or specific provisions to be included in any lease of a Unit owned by a party other than the Declarant, and thereafter no Owner other than the Declarant shall execute a lease of his Unit that is not in compliance with such resolution. Each tenant and lease shall be subject to the covenants, restrictions and conditions set forth in the Declaration.

(c) This Section 9.2 shall not be deemed or construed to impair a Mortgagee's right to foreclose, accept a deed in lieu of foreclosure or sell or lease a Unit so acquired by the Mortgagee.

**Section 9.3. Time Share Ownership Prohibited.** No ownership interest in any Unit shall or may be subdivided to permit "time sharing" or any other devices to effect interval ownership. For the purposes of this subsection, such devices shall be deemed to include, without limitation, the use of corporations, partnerships and tenancies in common in which four or more persons not members of a single household have acquired by means other than inheritance, devise or operation of law, a direct or indirect, equitable or legal, right to occupy or arrangement, formal or informal regarding occupancy of the same unit.

**ARTICLE 10  
DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS**

**Section 10.1. General Development Rights.** In addition to the easement rights reserved in Article 8, the Declarant reserves to itself and for the benefit of its successors and assigns the right:

(a) Until the construction, marketing and sale of all Units is completed, to connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of services so used;

(b) Until the construction, marketing and sale of all Units is completed, to use the Common Elements for ingress and egress, for the repair and construction of Units and Common Elements including the movement and temporary storage of construction materials and equipment, and for the installation of signs and lighting for sales and promotional purposes;

(c) Until the construction, marketing and sale of all Units is completed, including any future Units which may be created under this Declaration, to subdivide or convert Units into Common Elements, to withdraw Units or real estate from the Condominium and any and all other Development Rights as are now allowed or in the future may be allowed by the Condominium Act. The locations and dimensions of

the land subject to withdrawal are shown on the Plats and Plans. No land may be withdrawn from the Condominium if a Unit has been legally located on such land unless the Owner and any Eligible Mortgage Holder of the Unit have consented. No easement rights may be withdrawn in connection with such withdrawn land across any existing Unit unless the Owner and any Eligible Mortgage Holder of the Unit have consented. Once such land and associated easements have been withdrawn, they shall not longer be subject to the terms of this Declaration or any of the covenants and restrictions set forth herein. Any withdrawal of land must be structured so that the balance of the Condominium complies with applicable zoning and subdivision ordinance requirements. Declarant reserves the right to withdraw portions of said land at different times and in separate portions with boundaries other than those depicted on the Plats and Plans and in such order as it deems appropriate, provided, however, that land other than that depicted on the Plats and Plans shall not be withdrawn. Otherwise no consent of the Association, any Unit owners or the Association is required. Once such land has been withdrawn it shall be released from all terms, covenants and restrictions set forth in this Declaration, and it may be developed and used in any manner permitted by local land use ordinances and regulations as they may vary; and

(d) Until the construction, marketing and sale of all Units is completed, to complete all improvements shown on the Plats and Plans, to relocate any improvements shown on the Plats and Plans, construct additional Common Element improvements on any part of the Property, to exercise the Development Rights set forth herein, to maintain models and sales offices and to exercise the easements as set forth in Article 8 hereof, to make the Condominium part of a larger condominium, to make the Condominium subject to a master association, to appoint or remove any officer or Executive Board member during any period of Declarant control of the Association and any and all other Special Declarant Rights as are now allowed or in the future may be allowed by the Condominium Act. The real estate subject to these Development Rights and Special Declarant Rights is all of the Property, except those portions lying within the boundaries of declared Units and upon which declared Units are located.

(e) Appoint and remove members of the Board of Directors and Officers of the Association in accordance with Section 12.1.

**Section 10.2. Exercise of Rights.** The exercise of the Development Rights and Special Declarant Rights reserved herein shall be in accordance with and governed by the provisions of the Condominium Act, including without limitation Section 1602-110 of the Act. A copy of all amendments to this Declaration prepared by Declarant shall be forwarded to Eligible Mortgage Holders upon request. Further, in accordance with Section 1602-109(f) of the Condominium Act, the Declarant will either record new Plats and Plans or record an affidavit that the Plats and Plans previously recorded conform to the requirements of the Act.

**Section 10.3. Amendment.** This Article 10 shall not be amended without the written consent of the Declarant duly recorded in the Cumberland County Registry of Deeds.

**ARTICLE 11**  
**UNITS SUBJECT TO CONDOMINIUM DOCUMENTS,**  
**EMINENT DOMAIN**

**Section 11.1. Applicability of Condominium Documents.** Each present and future Owner, tenant, occupant and Mortgagee of a Unit therein shall be subject to and shall comply with the provisions of the Act, and with the covenants, conditions and restrictions as set forth in the Condominium Documents and the deed to such Unit; provided that nothing contained herein shall impose upon any tenant of a Unit or Mortgagee any obligation which the Act or one or more of such documents, or both, make applicable only to Owners (including, without limitation, the obligation to pay assessments for Common Expenses). The acceptance of a deed or mortgage to any Unit therein, or the entering into of a lease or the entering into occupancy of any Unit therein shall constitute an agreement that the provisions of the Act and the

covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit therein are accepted and ratified by such grantee, Mortgagee or tenant. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, contract or lease thereof. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Condominium Documents, the Act, or with decisions made by the Association or the Executive Board. Aggrieved Owners shall have similar rights of action against the Association.

**Section 11.2. Eminent Domain.** Whenever all or part of the Common Elements shall be taken, injured or destroyed by eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, provided, however, that the Association shall officially, represent the Owners in such proceedings. In any proceedings for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein and any award for such damages shall be payable to the Association for the benefit of the Owners and Mortgagees. Notwithstanding the foregoing, if the Association elects to distribute such award of damages to the Owners, any amount payable to an Owner shall be paid instead to the Owner's Mortgagee upon the written request of such Mortgagee to an officer of the Executive Board.

**ARTICLE 12**  
**EXECUTIVE BOARD OF THE ASSOCIATION**

**Section 12.1. Members.**

(a) The initial Executive Board shall consist of three (3) members. The members of the initial Executive Board shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations. The Declarant-appointed members of the Executive Board, which may include the Declarant, shall be replaced with Owners in accordance with the provisions of paragraph (b) of this Section 12.1.

(b) Not later than the earlier of (i) sixty (60) days after the conveyance of 75% of the Units to Owners other than the Declarant or (ii) seven (7) years following conveyance of the first Unit to an Owner other than the Declarant (the "Period of Declarant Control"), all members of the Executive Board appointed by the Declarant shall resign and the Owners (including the Declarant to the extent of any Units owned by the Declarant at that time) shall elect new members of the Executive Board in accordance with the Bylaws.

(c) The Executive Board shall possess all of the duties; and powers granted to the Executive Board by the Act.

**Section 12.2. Disputes.**

(a) **Regarding Owners, Condominium, and Condominium Documents.** Subject to Section 12.2(b), in the event of any dispute or disagreement between any Owners relating to the Property, or any questions of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Executive Board shall be final and binding on each and all such Owners. Notwithstanding the foregoing, any deadlock among the Owners or Executive Board that relates to the budget or any of the material matters set forth in Article 18 shall be submitted to binding arbitration, or alternatively to mediation if all the parties agree thereto, in accordance with the rules of the American Arbitration Association, which shall take place in Portland, Maine. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying

out its responsibilities under this Section 12.2. All costs of obtaining such a judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.

(b) Disputes with Declarant. In any dispute between one or more unit Owners and the Declarant regarding the Common Elements, the Board of Directors shall act for the unit Owners, and any agreement with respect thereto by the Board shall be conclusive and binding upon the unit owners. All claims, disputes and other matters in question between the Declarant, on the one hand, and the Association or any unit owners on the other hand, arising out of or relating to, a unit, the common elements, the limited common elements, this Declaration, the Bylaws, or the deed to any unit or the breach thereof, or the course of dealing between any unit owner, the Association and the Declarant, except for claims which have been waived by the acceptance of a deed, shall be decided by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise in writing. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Notice of the demand for arbitration shall be filed in writing with the other parties and with the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations or other principals of law and equity.

**Section 12.3. Abating and Enjoining Violations by Owners.** The violation of any Rules and Regulations adopted by the Executive Board, the breach of any provision contained in the Bylaws or the breach of any provision of this Declaration or the Act by any Owner or tenant of such Owner, shall give the Executive Board the right, in addition to any other rights to which it may be entitled, to enjoin, abate or remedy by appropriate legal proceedings, either by law or in equity, the continuance of any such breach.

**ARTICLE 13**  
**LIMITATION OF LIABILITY**

**Section 13.1. Limited Liability of the Executive Board.** The Executive Board, and its members in their capacity as members, officers and employees:

(a) Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;

(b) Shall not be liable to the Owners or any mortgagees as a result of the performance of the Executive Board members' duties for any mistakes of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

(c) Shall have no personal liability in contract to an Owner, any mortgagee, or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

(d) Shall not be liable to an Owner, or such Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

(e) Shall have no personal liability in tort to an Owner, any mortgagee, or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

(f) Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence.

**Section 13.2. Indemnification.** Each member of the Executive Board in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties or any other standard imposed by the Condominium Act; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association. The indemnification by the Owners set forth in this Section 13.2 shall be paid by the Association on behalf of the Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Owners or otherwise.

**Section 13.3. Joint and Several Liability of Owners and Lessees.** Each Owner shall be jointly and severally liable with any tenants of the Unit owned by such Owner for all liabilities arising out of the ownership, occupancy, use, misuse, or condition of any Unit or any portion of the Common Elements or Limited Common Elements.

**Section 13.4. Defense of Claims.** Complaints filed in any State or Federal court brought against the Association, the Executive Board or the officers, employees or agents thereof their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Owners and the holders of any mortgages and such complaints shall be defended by the Association. The Owners and the holders of mortgages shall have no right to participate other than through the Association in such defense. Complaints of a nature specified in Section 13.3 hereof against one or more but less than all Owners shall be defended by such Owners who are defendants themselves and such Owners shall promptly give written notice of the institution of any such suit to the association and to the holders of any mortgages encumbering such Units.

**ARTICLE 14**  
**ASSESSMENTS: LIABILITY OF OWNERS**

**Section 14.1. Power to Assess.** The Association, acting through the Executive Board in accordance with the Bylaws, shall have the power to fix and determine, from time to time, the sums necessary and adequate to provide for the Common Expenses, including, but not limited to such amounts as are

necessary for the maintenance, repair and replacement of the Common Elements and Limited Common Elements as set forth in Section 7.2 hereof, such amounts as are necessary for uncollectible Assessments, budget deficits; such expenses as are necessary for the Association's share of any common expenses for any master association which the Association may now or hereafter be a member of; such reserves as are hereinafter described and such additional reserves as the Executive Board shall deem necessary or prudent, and such other expenses as are specifically provided for in the Condominium Act, this Declaration or the Bylaws. The Association shall establish an adequate reserve fund for maintenance, repair and replacement of those Common Elements, Limited Common Elements and Limited Common Property for which the Association is responsible which are anticipated to require replacement, repair or maintenance on a periodic basis, and to cover any deductible amount for insurance policies maintained by the Association. The reserve fund shall be funded as a part of the Common Expenses.

**Section 14.2. Assessments for Limited Common Expenses.** The Association, acting through the Executive Board in accordance with the Bylaws and as circumstances may reasonably require, shall assess Limited Common Expenses as follows: (i) If a Limited Common Expense only benefits a single Unit, that Limited Common Expense may be assessed solely against the Unit benefited; and (ii) If a Limited Common Expense benefits more than a single Unit but fewer than all the Units, that Limited Common Expense may be assessed exclusively against the Units benefited in equal proportion between such Units, or, at the election of the Executive Board, in proportion to the relative Common Expense liabilities of such Units as between themselves, as the Executive Board may periodically determine, as those Common Expense liabilities may be changed as provided in Section 6.2 and Exhibit B.

**Section 14.3. Special Assessments.** If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year for any reason (including by way of illustration and not limitation, any Owner's non-payment of his Assessment or municipal assessments not yet assessed), the Executive Board shall have the power, at any time it deems necessary and proper, to levy one or more Special Assessments against each Owner. Special Assessments shall be due and payable in the manner and on the date set forth in the notice thereof.

**Section 14.4. Payment of Assessments.** Each Owner, including the Declarant to the extent it is the owner of any unsold Units, shall pay all Assessments levied by the Association. Liability for such assessments shall be determined in accordance with the formula set forth in Exhibit B hereto. Penalties for delinquent assessments shall be set forth in the Rules and Regulations of the Condominium. Notwithstanding anything herein to the contrary, and with respect to any assessments levied by the Association against Units owned by the Declarant, the Declarant in its discretion may elect: (a) in lieu of paying any monthly or other periodic assessments, to make an annual contribution to the Association on or before the last day of each calendar year in an amount equal to the value of services actually received by Declarant as a part of the Common Expenses or Limited Common Expenses for such year; or (b) to offset against such assessments the value of either (i) amounts paid directly by the Declarant for any expenses relating to the Common Expenses or Limited Common Expenses of the Condominium, or (ii) the value of any services provided by the Declarant for the benefit of the Association that would otherwise constitute a Common Expense or Limited Common Expense of the Condominium.

**Section 14.5. Failure to Fix New Assessments.** If the Executive Board shall fail to fix new Assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Owners shall continue to pay the same sums they were paying for such Assessments during the fiscal year just ended and such sum shall be deemed to be the new Assessments for the succeeding fiscal year. If the Executive Board shall change the Assessment at a later date, the difference between the new Assessment, if greater, and the previous year's Assessment up to the effective date of the new Assessment shall be treated as if it were a Special Assessment under Section 14.2 hereof; thereafter each Owner shall pay the new Assessment. In the event the new Assessment is less than the previous year's Assessment, in



the sole discretion of the Executive Board, the excess either shall be refunded to the Owners, credited against future Assessments or retained by the Association for reserves.

**Section 14.6. Exemption by Waiver.** No Owner may exempt himself from liability for the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of his Unit or otherwise.

**Section 14.7. Personal Liability of Owners.** All sums assessed by the Association as an Assessment, Special Assessment or Assessment for Limited Common Expenses shall constitute the personal liability of the Owner of the Unit so assessed and also, until fully paid, shall constitute a lien against such Unit pursuant to Section 1603-116 of the Condominium Act. The Association shall take action for failure to pay any assessment or other charges pursuant to Section 1603-116 of the Condominium Act. The delinquent Owner shall be obligated to pay (a) all expenses of the Executive Board, including reasonable attorneys' fees and costs, incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and (b) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

**Section 14.8. Liability of Purchaser of Unit for Unpaid Assessments.** Upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall not be personally liable with the grantor thereof for all unpaid Assessments for Common Expenses, special assessments, Limited Common Expenses, which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, unless such grantee agrees to assume the obligation therefor. A lien against the Unit so purchased for Assessments imposed pursuant to this Declaration or the Condominium Act shall not be affected by such sale, conveyance or other transfer, however.

**Section 14.9. Subordination of Certain Charges.** Any Assessments or any fees, charges, late charges, fines and interest that may be levied by the Association pursuant to Section 1603-102 of the Condominium Act or otherwise shall be subordinate to any first mortgage lien recorded before the due date of the Assessment or the due date of the first installment payable on the Assessment.

**Section 14.10. Surplus.** The Budget of the Association shall set forth general Common Expenses. Any amounts accumulated from assessments for Common Expenses in excess of the amount required for actual Common Expenses and reserves for future Common Expenses, unless otherwise directed by the Executive Board, in its sole discretion, shall be credited to each Owner, such credit to be applied to the next Assessments of Common Expenses due from said Owners under the current fiscal year's budget, and thereafter until exhausted, or retained by the Association for reserves.

## **ARTICLE 15** **RIGHTS OF MORTGAGEES, CONTRACT HOLDERS,** **INSURERS AND GUARANTORS**

**Section 15.1. Subject to Declaration.** Whether or not it expressly so states, any mortgage which constitutes a lien against a Unit and an obligation secured thereby shall provide generally that the mortgage and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act, the Declaration, the Plats and Plans and any Rules and Regulations.

**Section 15.2. Rights of Eligible Mortgage Holders.** (a) The Association shall send reasonable prior written notice by prepaid United States mail to Eligible Mortgage Holders of the consideration by the Association of the following proposed actions:

- (1) The termination of the Condominium pursuant to Section 1602-118 of the Condominium Act;
- (2) A change in the allocated interest of a Unit or Unit, a change in the boundaries of a Unit or a subdivision of a Unit;
- (3) The merger or consolidation of the Condominium with another condominium;
- (4) The conveyance or subjection to a security interest of any portion of the Common Elements;
- (5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under, Section 1603-113(a) of the Condominium Act, or of any condemnation proceeds, for purposes other than the repair or restoration of the damaged property;
- (6) The adoption of any proposed budget by the Executive Board and of the date of the scheduled Owners' meeting to consider ratification thereof. A summary of the proposed budget shall accompany this notice;
- (7) Any default in the performance or payment by an Owner of any obligations under the Declaration, including, without limitation, default in the payment of Common Expense liabilities;

(b) In the event of any proposed actions described in subsection (a), paragraphs (1), (2), (3), (4), or (5) hereinabove, an Eligible Mortgage Holder shall have the right, but not the obligation, in place of the Owner to cast the votes allocated to that Unit or give or withhold any consent required of the Owner for such action by delivering written notice to the Association with a copy to the Owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the Owner from exercising such right. In the event of any default described in subsection (a), paragraph (7), the Eligible, Mortgage Holder shall have the right, but not the obligation, to cure such default.

(c) In addition, an Eligible Mortgage Holder or its representative shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in subsection (a), paragraphs (1) through (6).

**Section 15.3. Liability for Use and Charges.** Any first Mortgagee who obtains title to a condominium unit pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six months of the unit's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the unit by the Mortgagee except to the extent otherwise provided for in the Act and except to the extent that such Mortgagee is liable as an Owner for the payment of such unpaid assessment or charge that is assessed against the Mortgagee as a result of all Owners being reassessed for the aggregate amount of such deficiency. If the Association's lien priority includes costs of collecting unpaid dues, the Mortgagee will be liable for any fees or costs related to the collection of the unpaid dues.

**Section 15.4. Condemnation Rights.** No provision of this Declaration shall give an Owner, or any other party, priority over any rights of the Mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation award for loss to or a taking of one or more Units and/or Common Elements.

**Section 15.5. Books and Records.** Any Mortgagee shall have the right exercisable by written notice to the Executive Board, to examine the books and records of the Association and to require that it be provided with a copy of each annual report of the Association and other financial data of the Association reasonably requested by such Mortgagee.

**ARTICLE 16**  
**INSURANCE**

**Section 16.1. Types and Amounts.** The Association shall maintain as a Common Expense and to the extent reasonably available, the following types and amounts of insurance:

(a) Property insurance insuring against all risks of direct physical loss normally covered by the standard extended coverage endorsement and commonly insured against, including those covered by the standard "all risk" endorsement, or such other fire and casualty insurance as the Executive Board may determine provides equal or greater protection for the Owners and their Mortgagees, if any, in each case complying with the applicable requirements of Section 16.2 hereof. The insurance maintained by the Association shall cover the Property, including, but not limited to, all Common Elements and Property and Limited Common Elements and Property, the Units, to the extent required by Section 1603-113 of the Condominium Act, and all improvements, fixtures and appliances contained within the Unit and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by an Owner and all other personal property of the Owner. The amount of any such hazard insurance obtained pursuant to this paragraph (a) shall be equal to one hundred percent (100%) of the current replacement cost of the Condominium, including the individual Units, at the time the insurance is purchased and at each renewal date without deduction for depreciation, exclusive of land, foundations, excavation and other items normally excluded from coverage. Such hazard insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed five percent (5%) of the policy face amount. Funds to cover this deductible amount shall be included in the Association's reserve fund. The named insured under the policy shall be "133 York Street Condominium Association," for the use and benefit of the individual owners, or a specified authorized representative of the Association, including but not limited to any Insurance Trustee, and the Association or its representative, as the case may be, shall be designated to represent the Owners in any proceedings, negotiations or settlements under such policy. The "loss payable" clause of such policy shall show the Association or the, Insurance Trustee, if any, as a trustee for each Owner and each Mortgagee of a Unit. Such policy shall also contain a standard mortgage clause naming separately the Mortgagees of the Units, their successors and assigns. If the Executive Board fails within sixty (60) days after the date of an insured loss to initiate a claim for damages recoverable under the policy or policies obtained pursuant to this paragraph (a), any Mortgagee may initiate such a claim on behalf of the Association.

(b) Comprehensive Liability Insurance, including medical payments insurance, complying with the requirements of Section 16.2 hereof, insuring the Owners, in their capacity as Owners and Association members and any managing agent retained by the Association, against any liability to the public or to other Owners, their tenants or invitees, relating in any way to the ownership and/or use of the Common Elements, Limited Common Elements, and any other areas under the supervision of the Association and any part thereof. Such insurance policy shall contain a "severability of interest endorsement" or equivalent, coverage which precludes the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner. Such insurance shall include coverage for bodily injury and property damage that results from the operation, maintenance or use of the Common Elements and Limited Common Elements, any liability resulting from lawsuits related to employment contracts in which the Association is a party, water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered in similar projects. The amount of such liability insurance shall be at least \$1,000,000.00 for

bodily injury and property damage for any single occurrence. The scope and amount of coverage of all liability insurance policies shall be reviewed at least once each year by the Executive Board and may be changed in its discretion provided that such policies shall continue to comply with the requirements of this Section and Section 16.2 hereof. To the extent reasonably available, Mortgagees shall be named, upon their written request, as additional insureds under the Association's liability policy or policies.

(c) Such worker's compensation insurance as applicable laws may require.

(d) Insurance to satisfy the indemnification obligation of the Association and all Owners set out in Section 13.2 hereof if and to the extent available, including but not limited to insurance coverage commonly referred to as "Directors and Officers Insurance."

(e) If at any time it is determined that all or any part of the project's improvements are within a special flood hazard area, a master or blanket policy of flood insurance covering the Property, including but not limited to, all Common Elements and Limited Common Elements and property, the Units and all improvements, fixtures and appliances contained within the Unit or the value thereof, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by a Owner and all other personal property of the Owner. The amount of any such flood insurance obtained pursuant to this paragraph (e) shall be equal to the lesser of one hundred percent (100%) of the insurable value of the property insured or the maximum coverage available under the appropriate National Flood Insurance Administration program. Such flood insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed \$25,000.00. Funds to cover this amount shall be included in the Association reserve fund.

**Section 16.2. Required Provisions.** Insurance obtained by the Association shall be in accordance with the following provisions:

(a) All policies shall be written with a company authorized to do business in the State of Maine and, for the hazard insurance policy described in Section 16.1(a) hereof, such company must hold a general policy holder's rating of at least "A" by Best's Insurance Reports, or by an equivalent rating bureau should Best's Insurance Reports cease to be issued.

(b) Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in the Executive Board or its authorized representative.

(c) Each Owner may obtain additional insurance at his own expense; provided, however, that: (1) such policies shall not be invalidated by the waivers of subrogation required to be contained in policies required by this Declaration; and (2) no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time.

(d) Any Owner who obtains individual insurance policies covering any portion of the Property other than personal property belonging to such owner shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance.

(e) With respect to the insurance policies described in subsection (a) and (b) of Section 16.1 issued to the Association, and covering all or any part of the Property, the Association shall cause such policies to provide that: (1) Each Owner is an insured person under such policies with respect to liability arising out of his ownership of an undivided interest in the Common Elements or membership in the Association; (2) The insurer waives its right to subrogation under the policy against any Owner or members of his household; (3) No act or omission by any Owner, unless acting within the scope of his

authority on behalf of the Association will void such policies or be a condition to recovery under such policies or prejudice the coverage under such policies in any way; (4) If at the time of a loss under such policies there is other insurance in the name of a Owner covering the same risk covered by the policy, the Association's policy provides primary insurance; (5) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Owner; (6) The insurer shall be relieved from no liability for loss occurring while the hazard to the Property is increased, whether or not within the knowledge or control of the Executive Board, or because of any breach of warranty or condition or any other act or neglect by the Executive Board or any Owner or any other person under either of them; (7) Such policies may not be cancelled nor may coverage thereunder be substantially changed (whether or not requested by the Executive Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Executive Board, the Insurance Trustee, if any, Owners, and every other party in interest who shall have requested such notice of the insurer; and (8) The insurer will recognize any Insurance Trust Agreement entered into by the Association.

**Section 16.3. Insurance Trustee and Power of Attorney.** Notwithstanding any of the provisions and requirements of this Article relating to property or liability insurance, the Executive Board may designate as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (hereinafter referred to as the "Insurance Trustee"), who shall have the exclusive authority to negotiate losses under any policy, providing such property or liability insurance.

**Section 16.4. Repair of Damage or Destruction to Condominium.** The repair or replacement of any damaged or destroyed portion of the Condominium shall be done in accordance with and governed by the provisions of Sections 1603-113(e) and (h) of the Condominium Act.

**Section 16.5. Additional Insurance.** Nothing in this Declaration shall be construed to limit the authority of the Executive Board to obtain additional insurance which it deems advisable.

**ARTICLE 17**  
**ASSIGNABILITY OF DECLARANT'S RIGHTS**

The Declarant may assign any or all of its rights or privileges reserved or established by this Declaration or the Act in accordance with the provisions of the applicable Act.

**ARTICLE 18**  
**AMENDMENT OF DECLARATION**

Pursuant to Section 1602-117 of the Condominium Act and except as provided herein for amendments which may be executed by the Declarant, the Association or certain Owners, this Declaration may be amended only by vote or agreement of owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. In addition, approval of amendments of a material nature must be obtained from Eligible Mortgage Holders representing at least 51% of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any of the following, except where such change may be effected by the Declarant, would be considered as material:

- (a) reallocation of interests in the Common or Limited Common Elements, or rights to their use;
- (b) boundaries of any Unit;
- (c) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents; or
- (d) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs.

If the amendment is not of such a material nature, such as the correction of a technical error or the clarification of a statement, the approval of an Eligible Mortgage Holder may be assumed when that eligible Mortgage Holder has failed to submit response to any written proposal for an amendment within thirty (30) days after the proposal is made.

**ARTICLE 19**  
**TERMINATION**

The Condominium may be terminated only by agreement of the Owners of Units to which eighty percent (80%) of the votes in the Association are allocated; provided, however, that if the Condominium is being terminated for reasons other than substantial destruction or condemnation of the Condominium, the termination of the Condominium must also be approved by Eligible Mortgage Holders of Units to which at least sixty-seven percent (67%) of the votes of Units subject to mortgages held by Eligible Mortgage Holders are allocated. Termination of the Condominium will be governed by the provisions of Section 1602-118 of the Condominium Act.

**ARTICLE 20**  
**ATTORNEY IN FACT**

Each Owner by his acceptance of the deed or other conveyance vesting in him a Unit does hereby constitute and appoint the Managing Agent acting from time to time with full power of substitution, as his true and lawful attorney in his name, place and stead to enter into all agreements which the Managing Agent is authorized to enter into pursuant to the terms of this Declaration and which the Managing Agent in its discretion may believe are necessary and proper to carry out the agent's responsibilities and duties. Each Owner stipulates and agrees that the Power of Attorney created by this Article 20 is coupled with an interest. The action of the Managing Agent in settling any claim for damage to any personal property shall be binding upon each Owner in the absence of fraud or clear mistake.

**ARTICLE 21**  
**GENERAL PROVISIONS**

**Section 21.1. Headings.** The headings used in this Declaration and the table of contents are inserted solely as a matter of convenience for the readers of this Declaration and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

**Section 21.2. Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion hereof unless such deletions shall destroy the uniform plan of development and operation of the Condominium which this Declaration is intended to create.

**Section 21.3. Applicable Law.** This Declaration shall be governed and construed according to the laws of the State of Maine.

**Section 21.4. Interpretation.** The provisions of this Declaration shall be liberally construed in order to effect Declarant's desire to create a uniform plan for development and operation of the Condominium.

**Section 21.5. Effective Date.** This Declaration shall become effective when it and the Plats and Plans have been recorded.

**Section 21.6. Notices.** Unless otherwise provided by the Condominium Documents, all notices and other communications required or permitted to be given under or in connection with this Declaration shall be in writing and shall be deemed given when delivered in person or on the third business day after the day on which mailed by regular U.S. mail, postage prepaid, addressed to the address maintained in the register of current addresses established by the Association.

**Section 21.7. Exhibits.** All exhibits attached to this Declaration are hereby made a part of this Declaration.

**Section 21.8. Pronouns.** Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders.

IN WITNESS WHEREOF, 133 York, LLC has caused this Declaration to be sealed with its corporate seal and signed in its corporate name by Jeremy Benn, its Manager, thereunto duly authorized, this \_\_\_\_\_ day of the month of \_\_\_\_\_, 20\_\_.

SIGNED, SEALED AND DELIVERED  
In the presence of:

133 York, LLC

\_\_\_\_\_

By \_\_\_\_\_  
Name: Jeremy Benn  
Its: Manager

STATE OF MAINE  
COUNTY OF CUMBERLAND

Then personally appeared the above-named Jeremy Benn, the Manager of 133 York Street, LLC and acknowledged the foregoing to his free act and deed in said capacity and the free act and deed of said company.

Before me,

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

D.26

**EXHIBIT A**

**Land Submitted to Condominium Act**

**133 YORK STREET CONDOMINIUM  
133 York Street, Portland, Maine**

A certain lot or parcel of land, with any buildings thereon situated on the northerly side of York Street in the City of Portland, County of Cumberland, State of Maine, bounded and described as follows:

BEGINNING at a point on the said northerly side of York Street distant westerly Seventy-Five and Fifty-Three hundredths (75.53) feet from a stone monument marking an angle in said northerly side of York Street, said point being at the southwesterly corner of land set off to Charles Edward Deehan in an action of partition brought by said Charles Edward Deehan vs. Alice M. Groff, et al. in the Superior Court for Cumberland County, being Docket No. 2687 on the Records of said Court; THENCE northwesterly by land set off as aforesaid to said Deehan on a line parallel with and distant Eighteen (18) feet westerly from the most westerly face of the brick block on land set off to said Deehan a distance of Ninety (90) feet to a point; THENCE easterly by land set off to said Deehan and on a line parallel with the northerly side of York Street Seventy-nine and forty-four hundredths (79.44) feet to a fence and land conveyed by Elias Thomas to Cummings and Brock on August 17, 1866, recorded in the Cumberland County Registry of Deeds in Book 344, Page 491; THENCE northwesterly by land formerly of said Cummings and Brock Forty-eight and thirty-eight hundredths (48.38) feet more or less to land formerly owned by D. and S. Stevens; THENCE westerly by land of said Stevens Ninety-eight and seven tenths (98.7) feet more or less, to land formerly owned by Hannah Codman; THENCE southeasterly by land formerly owned by said Codman One Hundred Thirty-eight and nine-tenths tenths (138.9) feet to said northerly side of York Street: THENCE easterly by said northerly side of York Street Twenty-six and eight tenths (26.8) feet more or less, to the POINT OF BEGINNING.

ALSO conveying a perpetual easement for installation, maintenance and replacement of a sewer line and a water line from the land described above to York Street. Said easement is Three (3) feet in width, the centerline of which is the centerline of the existing sewer line and water line servicing the above described premises. This easement is located approximately Five (5) to Six (6) feet from the westerly bound of land now or formerly of Lulu Ferne Nichols.

Said easement is conveyed subject to the following obligations: (i) grantee will not undertake any repair and/or installation work until such time all necessary governmental permits or Licenses have been obtained; and (ii) grantee will promptly restore the premises now or formerly of Lulu Ferne Nichols to its prior condition following the installation of the sewer line and water line and/or any repairs thereto. Notwithstanding the foregoing provision, easement grantee is specifically authorized to remove the existing willow tree and replace it with lilac bushes.

This easement is an appurtenance to land more particularly described in deed from Clifford A. Wilcox, Dolly E. Wilcox, and Beulah M. Wilcox to Stephen Benne III, dated October 14, 1980, and recorded in the Cumberland County Registry of Deeds in Book 4686, Page 104, and burdens land more particularly described in a deed to Lulu Ferne Nichols which is recorded in the Cumberland County Registry of Deeds in Book 6502, Page 20.



D.27

**EXHIBIT B**

**DECLARATION OF CONDOMINIUM**

**133 YORK STREET CONDOMINIUM**

**PERCENTAGE INTERESTS IN COMMON ELEMENTS AND  
PERCENTAGE OF COMMON EXPENSE LIABILITY**

<b>UNIT #</b>	<b>Unit Percentage <u>Interest</u></b>	<b><u>Vote</u></b>
1	16.66%	1
2	16.66%	1
3	16.66%	1
4	16.66%	1
5	16.66%	1
6	16.66%	1

A Unit's Percentage Interest and percentage of Common Expense liability shall be determined by dividing 100 by the number of Units.

# HKTA / architects

5/29/2013

**133 York Street, New Apartment Building**

**Narrative Response to Guideline Topics for Development for R-6 Infill  
Development, Design Principals and Standards**

From City of Portland Design Manual

## **II. DESIGN PRINCIPLES AND STANDARDS**

### *PRINCIPLE A Overall Context*

*A building design shall contribute to and be compatible with the predominant character-defining architectural features of the neighborhood.*

**STANDARD A-1 Scale and Form:** This new building occupies the site of a rather dilapidated wood framed three-story house. The site is unique in the area for it is situated in the interior of the block surrounded by two and three story residential structures and only presents a brief passing view from York Street. The scale and form is entirely consistent to those found in residential buildings within a two-block radius of the site. The predominant character-defining architectural features of the building consists of a principle façade articulated by architectural bays and porches, consistent and familiar features found throughout the neighborhood.

**STANDARD A-2 Composition of Principal Facades:** The composition of the new building façade, includes a rhythm and proportion of windows and openings set in a symmetrical pattern related to the facades of residential buildings. These contribute to and are compatible with the predominant character-defining architectural features of the neighborhood.

**STANDARD A-3 Relationship to the Street:** The site is unique in the area for it sits inside the block surrounded by 2 and 3 story residential structures and only presents a passing view from York Street. The site is seen as respecting the former relationship of the existing structure and thereby not significantly altering the existing streetscape.

**PRINCIPLE B Massing**

*The massing of the building reflects and reinforces the traditional building character of the neighborhood through a well-composed form, shape and volume.*

**STANDARD B-1 Massing:** The building's massing is harmonious with the massing of existing buildings in a two-block radius. This new building makes use of the sloping site by providing parking beneath the first floor of the residential quarters. Covered parking is at grade on the York Street side and on the up-hill side the first floor residential units are at grade making for a three-story structure. This elevation change and the resulting building heights around the building make the building height consistent with others in the neighborhood. Furthermore, with a footprint of 2419 ft<sup>2</sup> the massing is relatively modest in comparison with some adjacent structures.

**STANDARD B -2 Roof Forms:** Roof form is consistent with architectural forms found within a two-block radius of similar three story buildings. The neighborhood has a mix of pitched and flat roofs with the larger residential buildings having flat roofs within the block and neighborhood.

**STANDARD B -3 Main Roofs and Subsidiary Roofs:** The building has a flat main roof form with a single three-foot step between the two halves. There are no subsidiary roof forms or dormers.

**STANDARD B-4 Roof Pitch:** This standard does not apply. However, the roof edge on three sides have molded roof edge trim with a cornice feature at the center stair bay roof edge.

**STANDARD B-5 Facade Articulation:** Massing is articulated by incorporating at the following architectural elements applied to the front façade.

1. Balconies.
2. Bay windows.

**STANDARD B-6 Garages:** Surface parking is provided for each living unit directly beneath the structure at grade. This provides an amenity for the residents and reduces the visual appearance of a parking lot.

***PRINCIPLE C Orientation to the Street***

*The building's façade shall reinforce a sense of the public realm of the sidewalk while providing a sense of transition into the private realm of the home.*

**STANDARD C-1 Entrances:** The structure has almost no street orientation for it sits well back from the street at the head of the drive approach behind other buildings. There is a modest covered entry, which leads to a common stairway to the living units on the upper levels.

**STANDARD C-2 Visual Privacy:** Visual privacy of occupants of the dwellings is assured with major windows on the York Street side starting at the second level, several feet above the drive and parking location beneath the building.

**STANDARD C-3 Transition Spaces:** Due to the building location, 115 feet from the side walk, the creation of a transition space between the street and the front door is impractical. Such features as porches, stoops, porticos, arcades, recessed entries, covered entries, trim, and sidewalk gardens beyond the immediate surrounds of the building are not achievable.

***PRINCIPLE D Proportion and Scale***

*Building proportions must be harmonious and individual building elements shall be human scaled.*

**STANDARD D-1 Windows:** The majority of windows are rectangular and vertically proportioned, with larger picture windows facing south and operable windows for ventilation flanking these windows. Accent windows are located in the stairway at each landing to add interest to that portion of the façade and natural lighting for the stair exit.

**STANDARD D-2 Fenestration:** The area of fenestration of the front façade is substantially more than 12% of the total facade area. Appropriately, scaled windows are included on all sides of a building.

**STANDARD D-3 Porches:** Porches are attached to the front façade and extend along a horizontal line at least 20% of the front façade. By calculation, the porches extend 28% along the front façade. Balconies have a minimum depth of 5'-6" feet and square footage of 69 square feet. (Standard allows the depth to be reduced to 5 feet if the square footage is increased to 60 square feet).

***PRINCIPLE E Balance***

*The building's façade elements must create a sense of balance by employing local or overall symmetry and by appropriate alignment of building forms, features and elements.*

**STANDARD E-1 Window and Door Height:** The majority of window's and door's head heights are align along a common horizontal datum line.

**STANDARD E-2: Window and Door Alignment:** The majority of windows are stacked so that centerlines of windows are in vertical alignment. Windows offer a local symmetry in arrangements around an axis line that is focused a particular building element primarily a porch (balcony) or bay window.

**STANDARD E-3: Symmetrically:** Primary window compositions (the relationship of two or more windows) are arranged symmetrically around the building façade's centerline. Given the building functional layout, the living units in plan, are also symmetrical around the building where the balanced distribution of equivalent forms and spaces are about a common line (axis) or point

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**End of Commentary: Narrative Response to Guideline Topics for Development for R-6 Infill Development, Design Principals and Standards**

## **HKTA / architects**

### **Building Code Summary:**

**Re: Apartments, 133 York Street, Portland, Maine**

**Applicable Codes: International Building Code, 2009 (IBC)**

**International Energy Conservation Code, 2009 (IECC)**

**NFPA 101 (Life Safety)**

**Adopted as part of the MUBEC:**

**(ASHRAE) Standards:**

**62.1 - 2007 (Ventilation for Acceptable Indoor Air Quality)**

**90.1 - 2007 (Energy Standard for Buildings except Low-Rise Residential Buildings)**

**Summary:** New three story wood framed residential structure for 6 two bedroom living units at approximately 1,000 ft<sup>2</sup> each, constructed on top of a lower level concrete foundation and a three hour horizontal assembly. The lower level is an open garage for parking of six vehicles.

**Residential Building Footprint: 2,419 ft<sup>2</sup>.**

**Garage Level Parking Footprint: 2,335 ft<sup>2</sup>**

**Building Height: 41'-4"**

Structure is equipped throughout with an approved automatic sprinkler system in accordance with Chapter 9 of the IBC.

### **International Building Code, 2009 (IBC)**

#### **Chapter 3 Occupancy Classification**

**Section 311 and 311.3; Group S-2 – Parking**

**Section 310; Group R-2 - Residential**

#### **Chapter 4 Special Detailed Requirements Base of Use and Occupancy**

**Section 406.2 Parking Garages – 406.2.6 Asphalt surface permitted**

**Section 406.2.7 Mixed occupancy separation - See Section 508.1**

**Section 406.3.2 Opening Parking definition - Section 406.3.3.1**

**Section 406.3.3 Construction - Type I, II or IV.** See Section 509, 509.2 Type IA is used.

**Section 406.3.3.1 Openings - 20% of the total perimeter wall area of each level –** this project needs 430 ft<sup>2</sup>: provided 626 ft<sup>2</sup>. The aggregate length must be 40% of the perimeter; project needs 92 lin. ft.; provided 95 lin. ft.

**Section 420 Occupancy in R-2;** shall comply with the provisions of this section.  
**Section 420.2 Walls separating dwelling units** shall be considered fire partitions and constructed in accordance with Section 709.

**Section 420.3 Horizontal separation floor assemblies** shall be constructed as horizontal assemblies in accordance with Section 712

### Chapter 5 Building Height and Areas

**Sections 503 and 504 –** see table 503

Group S-2; Type IA, unlimited; per Section 509.2

Group R-2; Type VB, 2 stories and 7,000ft<sup>2</sup> per story.

**Section 504.2 – Automatic Sprinkler system Increase –** For Group R, buildings equipped through out with an approved automatic sprinkler system in accordance with Section 903.3.1.2, the values in the table for height may be increased by 20 feet and the number of stories is increased by one.

**Section 508.3.3 Group R-2** shall be separated other dwelling units per requirements of Section 420.

**Section 509 Special Provisions;** modifies the requirements regarding the allowable height and areas based on occupancies and type of construction.

**Section 509.2 – Horizontal building separation allowance.**

Building considered separated for purpose of determining area limitations, limitations of stories and type of construct where all seven conditions are met:

1. Three hour horizontal separation
2. The story below is no more than one story above grade plane.
3. Building below the horizontal assembly is type 1A construction.
4. Stairways and shafts through horizontal assembly not less than two hour rating.
5. The building above the horizontal level is permitted to have Group R.
6. The building below the horizontal assembly shall be protected by an approved sprinkler system and permitted to be S-2.
7. Max. Building height shall not exceed allowable in Section 503. Max. allowable height is 60 feet with sprinkler system see 504.2; Building is 41'-4".

### Chapter 6 Types of Construction

**Section 602 - Building elements** shall have the fire-resistance rating not less than that specified in Table 601 and exterior walls not less than specified in table 602.

Table 601:

Type I A construction for below horizontal building separation assembly:  
Three hours for structural frame and bearing walls. - Required by **Section 509.2**

Type VB for construction above horizontal building separation assembly:  
0 Hours

Table 602:

Fire-Resistance Rating Requirements for Exterior Walls Based on Fire Separation Distance.

Fire Separation for distances between 5 feet and ten feet for type VB construction for Occupancy Group R is 1- hour.

### Chapter 7 Fire and Smoke Protection Features

**Section 704.1** - Fire-resistance ratings of structural members are to comply with the type of construction in Table 601.

**Section 705.2.2** - Projections from walls of Type V construction shall be of any approved material.

**Section 705.5** - Exterior walls shall be rated in accordance with Table 601 and 602.

**Section 705.8.1** – The maximum area of unprotected and protected openings permitted in the exterior wall in any story shall not exceed the percentages in Table 705.8; Fire Separation = 5 to less than 10 feet, Degree of opening protection = Unprotected, Sprinklered, Allowable area = 25%.

**Section 707.3.2** - Exit enclosures fire resistance ratings separating exits shall comply with Section 1022.1.

**Section 708.4** - Shaft enclosures connect four or more stories must have a 2 hours fire-resistance rating.

**Section 709** – Walls separating dwelling units shall be 1 hour, **Section 709.3** - Fire partitions shall have a rating of not less than 1 hour, exception: in Type VB construction unit separation walls shall have ½ hour rating when building is has a sprinkler system in accordance with 903.3.1.1.

**Section 712** - Horizontal Assemblies, 712.3 fire resistance rating of floor and roof assemblies shall not be less than required by building type construction. Type VB allows 0 hour rating. see table 601.

**Section 713** – Penetrations, Through Penetrations of Horizontal Assemblies And Rated Wall Assemblies: Section 713.3, Rated Walls, 713.3.1.1 and Section 713.4, Penetrations of fire resistance-rated floor; through penetrations shall be protected by an approved firestop system tested in accordance with ASTM 814 or UL 1479. Floor penetrations contained in the cavity of the wall does not need a T rating.

**Section 715** – Opening Protectives, Section 715.4, Doors shall have fire protection ratings of table 715.4; required assembly rating 2 hours; Door shall be 1 ½ hour. Applies to unit entry door from stairs.

**Section 717** – Concealed Spaces, Section 717.3 Draftstopping in floors, 717.3.2 Group R-2, Exceptions: Not required in building equipped with a Sprinkler system in accordance with Section 903.3.1.1 and 903.3.1.2.; Section 717.4.2:



Exception, In occupancies In Group R-2 not exceeding four stories, the attic space to be subdivided into areas not exceeding 3,000 ft<sup>2</sup>. (Roof area 2,416 ft<sup>2</sup>).

#### Chapter 9 Automatic Sprinkler System

**Section 903.2.8** - Group R: Requires automatic sprinkler system. **Section 903.3.1.2.1** - Automatic sprinkler systems in Group R occupancies up to and including four stories permitted to be installed in accordance with NFPA 13R. **Section 903.3.1.1** - NFPA 13 sprinkler systems. Where code requires the building or portion thereof is to be equipped throughout with an automatic sprinkler system in accordance with this section, sprinklers are to be installed in accordance with NFPA 13. Reference Section 509.2 - Building below the horizontal assembly, Type 1A construction and the horizontal assembly shall be protected by an approved sprinkler system and permitted to be S-2.

#### Chapter 10 Means of Egress

**Section 1007.3** - Stairways: **Exception:** The areas of refuge are not required in Group R-2 occupancies.

**Section 1009.1** - Stairway widths shall not be less than 44 inches.

**Section 1015.1** - Exit access doorways from spaces; Table 1015.1 Space with one exit, maximum occupant load 10, **Exception** in Group 2 one means of egress from an individual dwelling unit with a maximum occupant load of 20 where the dwelling unit is equipped with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

**Section 1021.1** - Number of Exits: all spaces within each story are to have the number of exits as specified in Table 1021.1. **Exception**, in Group R-2 one means of egress is permitted from an individual dwelling unit where equipped by an automatic sprinkler system. Only one exit shall be required from stories as indicated in Table 1021.1, See foot note reference to Section 1029.

**Section 1022.1 Enclosure required** - Exit enclosures shall have a fire-resistance ratings of not less than 2 hour where connecting four or more stories.

**Section 1029** - Emergency Escape; provisions shall be made for emergency escape in Group R. **Exception:** in other than Group R-3, buildings equipped with throughout with and approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

### **International Energy Conservation Code, 2009 (IECC)**

#### **Chapter 4: Residential Energy Efficiency**

**Section 402** contains the insulation R-value requirements and the window U-factor requirements for the building envelope.

**Section 401.1** This chapter applies to residential building as defined. Note that for the purposes of the code, a residential buildings is one used for residential occupancies, R-2, and that is less than four stories. *Commentary: There is a conflict here when considering this particular building because of Section 509 Special Provisions; modifies the requirements regarding the allowable height and areas based on occupancies and type of construction. For the purpose of this analysis the R-2 portion is considers a three-story building separated from the lower story parking level. While the building is a four-story building, and*

*hence, might be considered by Chapter 5 a commercial building, the horizontal separation allows (Section 509.2 – Horizontal building separation allowance) two occupancies to be considered as two separate buildings.*

**Section 402.1.1 - Insulation and fenestration criteria:** the building thermal envelope shall meet the requirements of Table 402.1.1 based upon climate zone.

TABLE 402.1.1

Climate Zone 6	
Fenestration U-Factor	0.35
Glazed Fenestration SHGC	NR
Ceiling R-Value	49
Wood Framed Wall R-Value	20
Floor R-Value	30

## NFPA 101, 2012 (Life Safety Code)

### Chapter 4 General

#### **Section 4.6 – General Requirements**

**Section 4.6.3 –** Unless specified in another provision the (1) stories in height shall be counted starting at the level of exit discharge. (5) Where a maximum one-story above grade parking structure, of Type I construction with grade entrance is provide under the building, the number of stories shall be permitted to be measured from the floor above such parking area.

### Chapter 6 Classification of Occupancy

#### **Section 6.1.8 Residential**

##### **Section 6.1.8.1.5 Apartment Building, Three or more dwelling units**

##### **Section 6.6.13 - Storage occupancy, (7) Parking Structure**

**Section 6.1.14.2.3 Separated Occupancy -** By fire- resistive assemblies as specified in Table 6.1.14.4 – Required separation is two hours but where the building is protected throughout by an approved automatic sprinkler system in accordance with 9.7.1.1(1), and supervised in accordance with 9.7.2 then the fire resistance rating is permitted to be reduced by 1 hour.

### Chapter 7 Means of Egress

**Section 7.1.3.2 - Exits, -** Code require exits be separated from other parts of the building, separating construction shall meet the requirements of 8.2 and the following. Minimum one hour when connecting three or fewer floors, separation shall be supported by construction of not less than 1-hour, separation shall be 2-hour where exit connects four or more stories unless the minimum 1-hour enclosure in accordance with **Section 30.2.2.1.2**, In buildings protected by an approved supervised automatic sprinkler system in accordance with **Section 30.3.5**, exit enclosures shall have a minimum 1-hour rating and doors shall be 1-hour protection rating.

**Section 7.4 – Number of means of Egress -** This section specifies the number of means of egress unless specified by occupancy chapter, (30.2.4 Apartment Buildings, **Section 30.2.4.6 - Single Exit**)

**Section 7.5.1.1.3** - The arrangement of means of egress shall not apply where a single exit is permitted.

**Section 7.6 Measurement of Travel Distance – Table A. 7.6:**

Residential Apartment Buildings – Sprinklered

**Common Path Limit** 50 feet

**Dead-End Limit** 50 feet

**Travel Distance limit** 325 feet

#### Chapter 8 Features of Fire Protection

**Section 8.1.2 - Automatic Sprinkler Systems**, - When another provision of this chapter requires a sprinkler system, the Automatic sprinkler system shall be installed in accordance with subparts 9.7.1.1.

**Section 8.2.1.1** See **Section 30.1.6** -No special requirements

**Section 8.2.1.2 Construction** - See Table A.8.2.1.2; Type I(332) and V N

#### Chapter 30 New Apartment Buildings

**Section 30.2 Means of Egress, Section 30.2.2 Means of egress Components –**

**30.2.2.1.2** – In buildings protected by a approved supervised automatic sprinkler system in accordance with **30.3.5**, exits shall have a minimum rating of 1-hour fire protection.

**Section 30.2.2.2 Doors** - Doors complying with 7.2.1 are permitted.

**Section 30.2.2.3 Stairs** - Stairs complying with 7.2.2 are permitted.

**Section 30.2.4 Number of Means of Egress, Section 30.2.4.6** - A single exit is permitted where the total number of stories does not exceed four provided:

1. Four or fewer dwelling per floor
2. Building protected throughout by a Sprinkler system in accordance with 30.3.5.
3. Exit stairway does not serve more than one-half story below level of exit discharge.
4. Travel distance is less than 35' from door to exit.
5. Exit stair is completely enclosed or separated from the rest of the building by barriers having a minimum of 1- hour fire resistance rating.
6. All openings are protected by self-closing assemblies having a 1-hour protection rating.
7. All corridors serving a access to exits are 1-hour rated.
8. Horizontal and vertical separation having a minimum 1/2 - hour fire resistance rating is provided between dwelling units.

**Section 30.3 Protection - 30.3.1 Vertical Openings, 30.3.1.1.4** In Buildings protected throughout by an approved supervised automatic sprinkler system in accordance with 30.3.5, wall enclosing the vertical openings shall have a one hour fire resistance rating and doors are to be min. 1-hour fire protection rating.

**Section 30.3.5 Extinguishment Requirements - 30.3.5.2** Where an automatic sprinkler system is installed, the system shall be installed in accordance with **Section 9.7. In buildings, four or fewer stories above grade plane, systems in accordance with NFPA 13R, shall be permitted.**

#### **Assembly Design Criteria**

F. 7

**UL Design: Fire Resistance Assemblies**

- A. Exterior Walls: 1-hour, U344 or U305: for walls adjacent to property lines.
- B. Horizontal Assemblies; 3-hour, D918 and D919; For floor between occupancy types
- C. Floors between Dwelling units; 1-hour, L-515
- D. Walls between Dwelling Units; 1-hour, U-305
- E. CMU Wall Ground floor: 3-hour, U904: for compliance with **IBC Section 509.2** – Horizontal building separation allowance.
- F. CMU Walls above horizontal assembly: 2-hour, U905: for compliance with **IBC Section 509.2** – Horizontal building separation allowance.

Attachment G



P.O. Box 4787, Portland, ME 04112  
84 Middle Street, Portland, ME 04101  
P: 207-358-7900 F: 207-358-7904

June 26, 2013

Jeremy Benn  
Joe Flynn  
133 York, LLC  
110 Marginal Way Suite 292  
Portland, ME 04101

RE: 6 Unit Condominium Project  
133 York Street  
Portland, ME 04101

Gentlemen,

Milk Street Capital, LLC has approved financing of up to \$1,250,000.00 for this project.

The financing is contingent upon the project receiving all required permits and approvals.

I can be reached at 207-650-6164 to answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Lalumiere", written in a cursive style.

Scott Lalumiere

Attachment H.1

*HKTA / architects*

*482 Congress Street, Ste 502*

*Portland, Maine 04101*

**HKTA / architects**

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*fax: 207.774.9128*

*e-mail: hkta@aol.com*



*Introduction*

**INTRODUCTION ~ HKTA/architects**

**HKTA / architects**

**HKTA / architects** is an established firm of professionals located in Portland, Maine. We pride ourselves on the quality of our work, the versatility and suitability of our approach, and our ability to satisfy the needs of our clients. The firm is currently owned by Robert E. Howe.

**HKTA / architects** is experienced in new construction and renovation of all kinds. Our background has made us adept at analyzing a wide range of design and construction possibilities for their most appropriate long-term advantages and cost effectiveness. In addition, our experience at dealing with the related and often times complex issues during construction including coordination of the ongoing program needs, project phasing and cost containment have benefited our clients.

Our portfolio consists of new building projects, master planning, renovation projects, feasibility studies, historic restoration, interior design, space planning and landscape design. Each type of structure and study has required our expertise in several areas:

*master planning  
site analysis, planning  
program development and analysis  
architectural design  
construction budgeting  
phased implementation  
maintaining operations  
construction cost estimating  
construction contract administration.*

The integration of our in-house disciplines with our engineering consultants provides comprehensive architectural services ideally suited to the needs of our projects. Drawing from a pool of well-qualified engineering firms and many years of experience of working together, we retain "state of the art" engineering services from consultants who have credentials best suited to the specific requirements of each project.

**HKTA / architects** is particularly proud of our record of cost control, from preliminary estimate to completed construction, achieved through the integration of cost estimating from the systematic design process, thorough preparation of construction documents, and prompt attention to any problems encountered in the field. We have an established cost control data base which is accessed and applied to each project.

Our approach to the challenges of each particular project is carefully tailored to its requirements. Our design skills, our drawings and specifications, and our administration of the construction contract are some of our strongest credentials, as are our attention to detail, our follow-through, professionalism, and accessibility. **HKTA / architects** offers a very special level of commitment and care along with producing innovative, functional, cost effective design solutions to design and programmatic challenges.

***HKTA / architects is dedicated to providing comprehensive design services with the fullest possible participation of the client to yield sound, innovative design solutions.***

***HKTA / architects is motivated to improve and broaden its base in the design of the built environment and to integrate the design of landscape, building, and interior architecture, providing satisfaction to the client. HKTA / architects enjoys working on a variety of building types, bringing diversity and enjoyment to the process and practice.***



## **ARCHITECTURAL DESIGN**

***Our philosophy is that excellence in design grows from the inside out, that is, the design is developed out of a creative competition among the various major forces acting on a project.***

***Architectural Design is preceded by a number of fundamental processes which bring integrity and solidification to the design product. The first step in the process is to work closely with the client to fully understand the history, objectives, program and budget constraints for the project.***

***The next step is to assemble and review all relevant materials including program, site information, codes, approval processes, presentations, schedule and budget.***

***Third, the program document prepared for the client should be reviewed and verified. Attention will be given to the sizes of all spaces, their intended use and adjacency to other program areas. The desired adjacencies will be studied and represented diagrammatically to facilitate discussion and understanding. In this step, consideration of site issues must be concurrently analyzed.***

***Finally, key to the success of a project is the necessity to reconcile, at the outset, the programmatic and site development requirements with a realistic project budget. When this occurs, changes are more easily affected early on and will engage all in a constructive dialogue.***

***We seek to discover in these forces and in their interaction a strong organizing idea or ideas. We do not impose an arbitrary or preconceived solution or form on a project. Implicit in this design philosophy is a continuing search for an enduring architectural expression.***



*The purpose of Construction Administration is to ensure the client that a quality product is delivered by the contractor, consistent with the design and specifications. For that reason, Construction Administration is a vital phase in which the Architect should actively participate.*



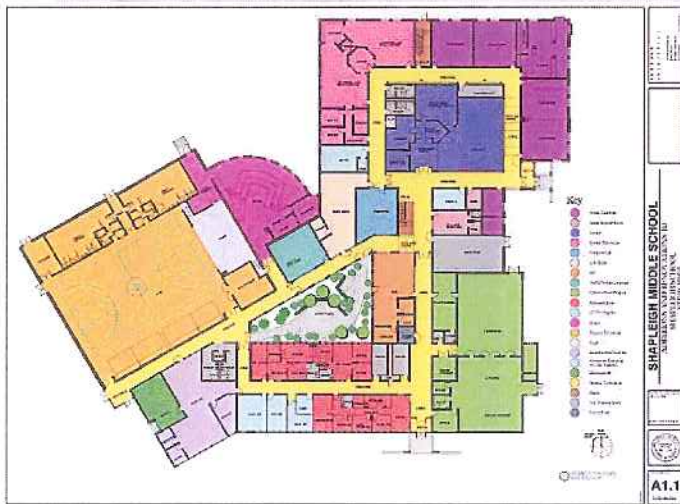
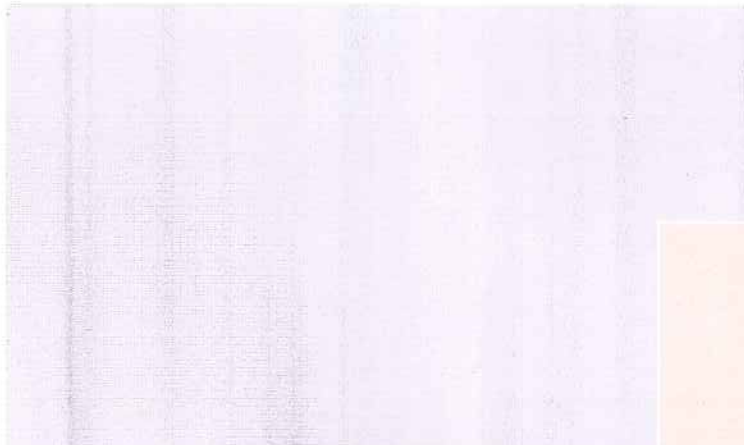
*The AIA defines the Architect's involvement in the Construction Administration phase to "observe the construction work for conformance to drawings and specifications; process the contractor's shop drawings, material, and products samples; review the results of construction tests and inspections; evaluate contractor requests for payment; handle requests for design changes during construction; and administer the completion, start-up and closeout process for the Owner"*

## **CONSTRUCTION ADMINISTRATION**

*HKTA / architects provides the field-related skills to meet the demands of these conditions. In addition HKTA / architects has provided on site owner representation. Our clients have widely acclaimed the benefits of this on site service for the clarity of information and timeliness of solutions in the course of the construction process.*

**Cost estimating and cost control are vital services in any project. HKTA / architects believes that the client's budget is a design factor which requires as much attention as any aspect of the design problem.**

*HKTA / architects provides cost estimating services as part of the design process. On large projects we like to review our estimate with that of an independent outside estimating service. The outside estimate is used as a tool to verify the design team's estimating efforts.*



**COST ESTIMATING / CONTROL**

*During the design phase, three estimates are prepared for client review. These occur at schematic, design development and construction documents phases. Each estimate is prepared in greater detail as the design develops and the client is made aware of any project cost problems immediately.*

*The client's project budget requires great respect by the design team. HKTA / architects has an excellent track record for cost control.*

*Following is a cost control comparison worksheet for review. Several projects are presented to illustrate our budget responsiveness.*

**HKTA / architects' Cost Control Comparison**

Project Name and Number	Concept		Approved Project		Approved Construction Contract				Change Orders as % of Constr. Contract
	Construction Budget	Construction Budget	Project Budget	Construction Estimate	Construction Bid	Constct Bid w/Alterns.	Cost for Change Orders	Final Construction Cost	
Bowdoin Central School 2000017	4,300,778	5,721,980			4,443,000	4,425,208	123,944	4,549,152	2.8%
Wilson Elem. Sch. 92010	5,416,800	6,965,790		5,318,149	4,935,000	5,175,680	228,848	5,404,528	4.42%
Yarmouth Mid. 89023	6,549,000	7,750,000		4,707,000	4,703,505	4,703,505	60,072	4,763,577	1.28%
Bonny Eagle Middle School 92005	6,502,644	8,745,164		6,610,206	6,060,000	6,538,159	192,494	6,730,653	2.94%
Kaler Elem. Sch. 2001026	5,227,866	6,625,229		5,245,709	4,064,058	4,172,551	73,429	4,213,060	1.74%
Small Elem. Sch. 2001025	5,190,630	6,608,127		5,245,709	4,151,400	4,175,553	39,394	4,214,947	0.9%
Brown Elem. Sch. 2002009	4,892,442	6,312,869		4,806,134	4,521,927	4,580,048	319,362	4,899,410	7.0%
King Middle Sch. 93022	3,436,101	4,275,961		3,209,728	2,988,000	3,385,018	121,215	3,506,233	3.58%
Shapleigh Middle Sch., Kittery 95001	5,143,650	6,900,000		5,420,721	5,604,000	5,327,909	296,154	5,624,063	5.56%

H. 6

H. 7

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- *Excellent Listeners*
- *Innovative, Problem Solvers*
- *Interested in Ideas*
- *Educational facilities experience*
- *Effective and Careful Communicators*
- *Practiced at Coordination of Multiple Needs*
- *Excellent Project Budget Management*
- *Highly Qualified Project Team Members*
- *Experience in Diverse Building Types*
- *Functional and Cost Effective Design*
- *Commitment to Long Term Concerns*
- *Committed to Service to the Client*

*HKTA / architects has built a reputation for well thought out and responsive design solutions to building projects. From modest home additions to the complex work for the University of Maine's Center for the Study of the Performing Arts, our clients have come to depend upon our care, imagination and commitment to producing quality, functional, cost effective solutions for their needs.*

## **PROJECT QUALIFICATIONS**



*Yarmouth Middle School, Yarmouth*

*Greely High School, Addition/Renovation, MSAD #51, Cumberland*

*Gould Academy Maintenance Program Plan*

*Gould Academy Dining Hall Feasibility Study*

*Cumberland County Courthouse, Addition / Renovations, Portland*

*Maine Maritime Academy, Master Plan, Castine*

*University of Southern Maine, Gorham Campus Center Renovation*

*University of Maine, Center for the Study of the Performing Arts, Orono*

*Shapleigh Middle School, Kittery, Maine*

*Westbrook Community Hospital, Additions and Renovations*

*Orthopaedic Associates, New Building, Surgical, Clinic and Rehabilitation, Portland*

*Perkins Thompson Hinckley and Keddy, Law Offices, Portland*

*Maine Maritime Academy, Graduate Student Housing, Castine*

*Pierce, Atwood, Scribner, Allen, Smith & Lancaster, Law Office Renovations, Portland*

*King Middle School, Addition / Renovations, Portland*

*Prince Memorial Library, Additions and Renovations, Cumberland*

*Maine Department of Transportation, Space Planning for Office Building, Augusta*

*State Of Maine, Space Planning for State Office Building, Augusta*

*University of Southern Maine, Parking Garage, Portland*

*Coopers & Lybrand, Office Renovations, Portland*

*New Office Building, 80,000 S.F.. Design Concepts and Programming, Lewiston*

*Fort Williams Masterplan, Cape Elizabeth*

*United Airlines, Renovations to Operations Facilities, Portland, Manchester, NH., Burlington, VT.*

*Franklin County Courthouse, Facilities Study and Renovations, Farmington*

*Portland International Airport, Terminal Expansion and Facilities Improvements*

*H.M. Payson & Co., Office Renovations, Portland*

*Bonny Eagle Middle School, Additions / Renovations, MSAD #6, Buxton*

*Mabel Wilson Elementary School, Addition / Renovations, MSAD #51, Cumberland*

*Enercon Energraphics, New 30,000 S.F.. Office and Manufacturing Facility, Gray*

**REPRESENTATIVE PROJECT LIST**

*FMC BioProducts, New Building, Research and Manufacturing, Rockland*

*Medaphis, New 60,000 S.F.. Office Building, Lewiston*

*Cape Elizabeth Town Hall Renovations, Cape Elizabeth*

# RECENT PROJECTS

**HKTA / architects**

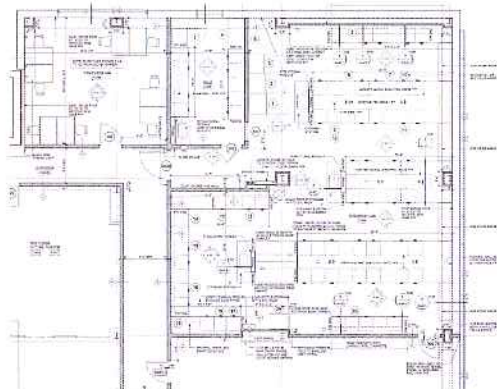
**Office Building:**  
**902 Washington Avenue – Portland, Maine**  
A new single story 18,300-ft<sup>2</sup> office building for Martin's Point Healthcare, developed by J.B. Brown & Sons, Portland



**Manufacturing:**  
**Tube Hollows International**  
**Enterprise Drive – Windham, Maine**  
Owner developed New Office and Manufacturing Facility. Renovations of an existing 54,000-ft<sup>2</sup> warehouse/office building



**Education:**  
**University of Southern Maine**  
**The Science Building**  
**70 Falmouth Street, Portland, Maine**  
New Build Out for Science Teaching Laboratory including BSL-2 Lab and Computer Space



**Office Building:**  
**Northbrook Office Park**  
**Falmouth, Maine**  
New two story 12,000-ft<sup>2</sup> office and medical facility. Owner/developer; Addison Capital, LLC





## COMPANY PROFILE

Pinkham and Greer, Consulting Engineers was founded in 1985 to provide civil and structural engineering services. We have, by design, remained a small company allowing a principal to be directly involved in virtually every project we undertake. This means that each project receives the attention and commitment our clients expect from Pinkham and Greer. Our long list of repeat clients tells us that this project approach is successful.

Our clients include municipalities, architects, developers, school departments and commercial and industrial firms. With such a broad base of clients, we have gained a background in many areas of design and management. Our staff of engineers, technical, and support professionals are individuals experienced in a variety of engineering disciplines - general civil, site development, structural analysis and design, structural investigations, renovation and repair, and building design. Whatever the scope of a project, we firmly believe that client satisfaction is the key to our success.

Keeping up with technology is a part of our commitment. We are dedicated to staying on top of advances that allow us to help our clients. We work with all staff members in developing and meeting continuing education goals. Our clients benefit from an enthusiastic workforce and the latest developments in technology. We also recognize that not all problems can be solved with ready-made solutions. Unusual constraints or regulatory requirements often mean that standard solutions may not be the best ones. That is why we are so willing to tap our imaginations, as well as our expertise to provide practical solutions to engineering challenges.

### **ENVIRONMENTAL AND REGULATORY COMPLIANCE SERVICES**

Pinkham and Greer is very involved with the design and permitting requirements for projects in Maine. The State of Maine has set high standards for protecting the environment and, as such, requires applicants to show compliance on a wide variety of issues. We prepare applications to fit the project's scope. Many projects have multiple issues, such as wetland intrusion, noise, stormwater, wastewater, and visual buffering. We work closely with clients to address the issues in a cost effective manner.



## COMPANY PROFILE

### **SITE DEVELOPMENT, HIGHWAY AND UTILITY DESIGN**

Pinkham and Greer offers clients a solid background of civil engineering expertise in the development of projects. We have assisted clients with land planning for schools, residential and commercial subdivisions, individual commercial site planning, and industrial development. We have completed the design and construction administration for new parking lots, roads, utilities, and the evaluation and reconstruction of existing infrastructures, as well as the utility design of water, sewer, and electrical services.

In the planning and design of highway projects, close coordination of the wetland impact, review of soil conditions, drainage analysis, and the geometrical layout are performed. We have performed stormwater analyses for public works projects, allowing efficient use of municipal resources for highway maintenance.

### **STORMWATER MANAGEMENT**

Most all site plans, subdivision plans and highway construction plans involve the handling of stormwater. As such, we have a great deal of experience with sites as small as 1/4 of an acre to watersheds of hundreds of acres. Each of these projects has its own set of parameters that will dictate the design and analysis method.

Our experience includes the design of flow control structures that provide multilevel control of stormwater for varying storm conditions. Typically, the 2-, 10-, and 25-year storms are analyzed and controlled and the 100-year storm is checked to minimize flood damage.

As stormwater quality continues to emerge as an environmental concern, we have enhanced our experience in the design of treatment systems for our clients' diversified projects. A variety of treatment methods have been utilized, including simple buffer systems, level spreaders, ponds (both dry and wet), and concrete tank systems.

The treatment system is selected based on several factors. These include land use, watershed location, and physical restrictions of the site. The goal is to protect water quality at an affordable cost.





## COMPANY PROFILE

### **STRUCTURAL ENGINEERING/BUILDING DESIGN AND TECHNOLOGY**

Pinkham and Greer offers comprehensive structural engineering services for both new and existing buildings. Our experience includes a variety of materials from structural steel and reinforced concrete to various types of wood construction. Our structural staff has experience with projects ranging from single-family homes to heavy power plants. We know what is expected for different project types and uses.

Pinkham and Greer also provides a wide range of building technology and design services. We have experience with building systems such as roofing and masonry veneers as well as complete building design for industrial and public sector clients.

Structural Engineering and Building Technology services include:

- Analysis and design of new structural systems
- Analysis and evaluation of existing structures
- Design of modifications of existing structures for renovation or upgrading
- Design of repairs for damaged or deteriorated structures
- Peer review
- Failure investigations
- Re-roofing design including roofing systems and structural evaluations
- Evaluation and repair of masonry and other exterior cladding systems

**Neighborhood Meeting Certification**

I, Thomas S. Greer of Pinkham & Greer Consulting Engineers hereby certify that a neighborhood meeting was held on May 17, 2013 at 133 York Street, Portland at 5:00 PM.

I also certify that on May 3, 2013, invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change and the residents on the "interested parties" list.

Signed:

A handwritten signature in cursive script, appearing to read "Thomas Greer", written over a horizontal line.

6/19/13 (date)

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes



I.a.2

28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

133 York Street, 5:00PM, May 17, 2013

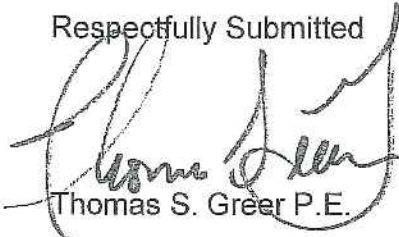
## SUMMARY OF NEIGHBORHOOD MEETING

The meeting started shortly after five o'clock and lasted about 45 minutes. It was attended by approximately 14 people. Tom Greer provided an overview of the project using a photographic site plan of the neighborhood, elevations, and 3D views of the proposed building. Joe Flynn answered some of the neighbor's questions as the Owner.

The neighbors had just lived through the construction of the building next door and have several concerns. In general they consist of the following:

- The height of the new building will block the views from the buildings behind.
- The construction of the building will be close to the existing parking spaces behind the building, so there needs to be some type of alternate parking arrangement.
- The previous construction encroached onto the property behind our building, they would like to limit that or at least have some understanding or agreement.
- The neighbors in front of our building have concerns of privacy with the new building and additional traffic adjacent their property.
- The maple tree in the corner of the site is a tree the neighbors would like to keep. Some trimming of branches will be required.
- The neighbors in the front noted they currently have wet basement and water issues. We need to make sure we do not aggravate the issue.
- The width of the driveway was noted as a requirement of the fire department.
- The neighbors asked if there is similar architecture to this building some place. We noted that the Bayview Apartment on Marginal Way are similar in style, but much larger in scale.

Respectfully Submitted



Thomas S. Greer P.E.

NEIGHBORHOOD MEETING ATTENDEE LIST

133 York Street

May 17, 2013

I.g.3

Name & Address	Name & Address
Thomas S. Greer Pinkham & Greer Consulting Engineers 28 Vannah Avenue Portland, ME 04103	David + Katherine Sealby 14 Skelton Court Portland, ME
Seth Page 129 York St #4 Portland ME	Bruce Baker 125 York St. Unit E Portland
Erin Foley 33 Park St Apt 5 Portland ME 04101	NED FLINT AND HALLIE GILMAN 29 PARK ST. PORTLAND, ME
Topher Browne 33 Park St #2	MARTY MCGEE MARTIN.MCGEE@FMR.COM
Jane Merslow 129 York St. #5 Portland, ME 04101	
AM Pollack 129-6 York St Portland, ME 04101	
William McInnis 127-6 YORK ST PORTLAND ME 04101	

Ⓞ

WALTER  
Ⓞ



Attachment I.b.1

28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

**133 York Street, 5:00PM, August 30, 2013**

### **SUMMARY OF PUBLIC INFORMATIONAL MEETING**

A second meeting was held to review the 6 unit project at 133 York Street. It was attended by 7 neighbors, Joe Flynn and Jeremy Benn (Owners), and Tom Greer (Engineer) for the project. The drawings were reviewed describing the project, noting it was the same as the original design.

The building size and location had not changed. It was noted that the left side of the building would be 8 feet higher than the existing building and the right side would be 11 feet. The end of the building would be 13 feet from the easterly end of the site.

Bruce Baker was upset at that data, feeling it had changed from the last meeting. Also the tree in the northeast corner would be removed based on information from one of the contractors, again upsetting Mr. Baker.

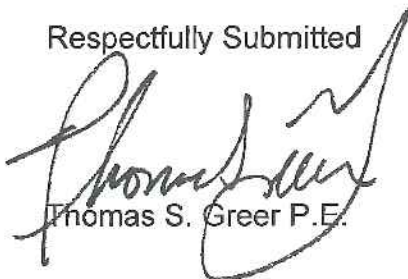
We agreed to meet with Jeff Tarling on site to see if the tree could be saved.

We reviewed the drainage system for the site. Susan Kaplan noted the 129 York Street building has drainage issues and was skeptical that the catchbasin and curb system would help. She noted a large puddle, or "Flood" occurs at the end of the driveway in York Street during heavy rains.

Erin Foley of the Park Street Condominium Association was concerned that the building would block their ocean views, and the loss of the trees.

The meeting lasted about 1 hour.

Respectfully Submitted



Thomas S. Greer P.E.

# NEIGHBORHOOD MEETING ATTENDEE LIST

133 York Street  
August 30, 2013

I.b.2

Name & Address	Name & Address
Thomas S. Greer Pinkham & Greer Consulting Engineers 28 Vannah Avenue Portland, ME 04103	
David & Katherine Scallies	14 Stetson Ct Portland ME 04101
Bruce Baker	125 York St. Unit E Portland, ME 04101
Susan Kaplan susan.kaplan.ME@gmail.com	129 York #2 Portland ME 04101
Elin Foley	33 Parks + Apts Portland ME 04101
Catherine Morrison <del>and</del> Charles Tandy	125 York St., Unit A Portland, ME 04101 Notify: cmorrison@createagreement.com ctandy@tmlsearch.com



Attachment J.1

## Portland Water District

FROM SEBAGO LAKE TO CASCO BAY

May 16, 2013

Pinkham & Greer  
28 Vannah Avenue  
Portland, ME 04103

Attn: Thomas S. Greer, P.E.  
Re: 133 York Street, Portland  
Ability to Serve with PWD Water

Dear Mr. Greer:

The Portland Water District has received your request for an Ability to Serve determination for the noted site submitted on April 18, 2013. Based on the information provided, we can confirm that the District will be able to serve the proposed project as further described in this letter.

Please note that this letter does not constitute approval of this project from the District. Please review this letter for any special conditions specified by the District and to determine the appropriate next steps to take to move your project through the submittal and approval process.

### Existing Site Service

According to District records, the project site does currently have existing water service. A  $\frac{3}{4}$ -inch diameter copper water service line, located as shown on the attached water service card, provides water service to this site. Please refer to the "Conditions of Service" section of this letter for requirements related to the use of this service.

### Water System Characteristics

According to District records, there is a 12-inch diameter ductile iron water main on the west side of York Street and a public fire hydrant located less than 100-feet from the site.

The current data from the nearest hydrant with flow test information is as follows:

Hydrant Location: York Street at State Street  
Hydrant Number: POD-HYD00452  
Last Tested: 8/15/1991  
Static Pressure: 84 psi  
Residual Pressure: Not Measured  
Flow: 1,186 GPM





**Unitil**  
ME GAS OPERATIONS

J.2

July 10, 2013

Mr. Thomas Greer  
Pinkham and Greer Consulting Engineers

Re: 133 York Street, Portland, ME

Dear Mr. Greer:

Thank you for your interest in using natural gas for the above referenced project.

Unitil has natural gas in the vicinity of this project to provide service. The evaluation to complete the design, costs and determining if any customer contribution will be needed is in process and will be completed shortly. Unitil welcomes the opportunity for further discussions regarding this project.

If you have any further questions or require additional information, please contact me directly at (207) 541-2536 or at [mathers@unitil.com](mailto:mathers@unitil.com).

Sincerely,

Bridget Mathers  
Business Development Representative  
Unitil Corporation  
(o) 207-541-2536 (f) 207-541-2586

---

ME GAS CUSTOMER ENERGY SOLUTIONS  
1075 Forest Avenue  
Portland, ME 04103-3586

T 888-486-4845 [www.unitil.com](http://www.unitil.com)



J.3



# PORTLAND MAINE

*Strengthening a Remarkable City. Building a Community for Life* [www.portlandmaine.gov](http://www.portlandmaine.gov)

**Public Services Department**  
**Michael J. Boblinsky, Director**

18 June 2013

Mr. Tom Greer, P.E.,  
Pinkham and Greer,  
Consulting Engineers,  
28 Vannah Avenue,  
Portland, Maine 04103

**RE: The Capacity to Handle Wastewater Flows, from a Proposed Apartment Building,  
at 133 York Street.**

Dear Mr. Greer:

The existing two foot-six inch by three foot-nine inch, brick sanitary sewer pipe, located in York Street, has adequate capacity to transport, while The Portland Water District sewage treatment facility, located off Marginal Way, has adequate capacity to treat, the total anticipated increase in wastewater flows of 1,800 GPD, from this proposed project.

<b>Anticipated Wastewater Flows from the Proposed Apartment Building:</b>	
6 Proposed Apartment Units @ 300 gpd per Unit	= 1,800 GPD
Total Proposed Increase in Wastewater Flows for this Project	= 1,800 GPD

If The City can be of further assistance, please call 874-8832.

Sincerely,  
**CITY OF PORTLAND**

Frank J Brancely, B.A., M.A.  
Senior Engineering Technician

FJB

- CC: Jeffrey Levine, Director, Department of Planning, and Urban Development, City of Portland  
 Barbara Barhydt, Development Review Services Manager, Department of Planning, and Urban Development, City of Portland  
 David Margolis-Pineo, Deputy City Engineer, City of Portland  
 Michael Farmer, P.E., Project Engineer, City of Portland  
 Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland  
 John Emerson, Wastewater Coordinator, City of Portland  
 Rhonda Zazzara, Field Inspection Coordinator, City of Portland  
 Jane Ward, Administrative Assistant, City of Portland

## **133 York Street**

File: 13105

### **Construction Plan**

The construction of the three story structure and associated parking and utilities will begin with approvals from the City of Portland. The access to the site for all construction deliveries will be from the York Street entrance. Due to the small nature of the site a "just in time" delivery system will be established with the contractors and suppliers.

The first phase of the project will include the removal of the existing structure and grubbing the site. The building footprint will be excavated down to footing grades.

The access drive and parking area will be excavated to subgrade and graveled to provide a firm surface. A wooden curb will be installed along the lower property line to direct stormwater around the building below the site. Behind this will be a silt fence to delineate the boundary. The existing fence will remain in place.

The foundation work will begin once the major earthwork is complete. Shoring the back face of the excavation may be required.

Once the foundation is complete the structure will be erected using cranes and lifting equipment. The building sheathing and windows will be installed using both jack staging and conventional staging.

Once the exterior of the structure is complete all access will be through the interior by the stairwell. Staging will occur in the parking area and under the building.

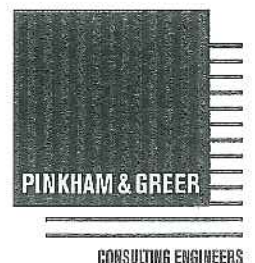
The final phase of the work will be the paving and landscaping of the site. We anticipate this to occur next summer.

**Stormwater Management Report  
133 York Street  
Portland, Maine**

**June 19, 2013**

**Prepared by:  
Pinkham and Greer Consulting Engineers  
28 Vannah Avenue  
Portland, Maine 04103**

**(207) 781-5242**



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APPENDIX B	HYDROCAD CALCULATIONS
APPENDIX C	INSPECTION & MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES
APPENDIX D	DRAWING D1.1 - DRAINAGE ANALYSIS-EXISTING & DEVELOPED CONDITIONS



L.3

28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

**STORMWATER MANAGEMENT REPORT  
133 YORK STREET  
PORTLAND, MAINE**

**June 19, 2013**

***Project Description:***

This project is the development of a 7,483 sq. ft. property located off York Street to support a 6 unit residential structure. This structure will consist of three floors of living space over an open floor for parking. The development will remove the existing two family structure.

The approvals required include site plan and subdivision approvals from the City of Portland.

***Surface Water:***

The site is in the Casco Bay Water Shed. It drains to the York Street stormdrain system.

***Flooding:***

The site is not in a FEMA Mapped Flood Zone.

***Ground Cover Topography and Soils:***

The site slopes from the north side at elevation 53 down to York Street at elevation 38. This is approximately a 10% slope.

This has been fully developed for many years. The underlying soils are mapped as HIB on the Cumberland County Medium Intensity Soil Map. The soils are moderately well drained.

There are no soil considerations on site that can not be overcome by standard engineering and construction techniques.

***Methodology:***

This stormwater analysis was performed using HydroCad Software based on TR-55 modeling conditions. This model requires assumptions as to the land cover, slopes and soils. These are enhanced by the topography mapping, soils mapping, and on-site observations. The flows were determined using a Type III



L.4

coastal storm and rainfall totals for the 24 hour period of 3" for a 2 year storm, 4.7 for a 10 year storm, 5.5" for a 25 year storm and 6.7 " for a 100 year storm. These data are published in the manual for Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection.

***Proposed BMPs:***

This project will be constructed in the fall of 2013 and winter of 2014. It will require wintertime erosion control methods. All disturbed areas will be stabilized with landscaping or paving at the completion of the project.

***Water Quality:***

This project will create a small amount of additional impervious surface. To treat the stormwater from this area the project will utilize a tree filter system. The water from the roof and paved area will be directed to the tree filter located adjacent York Street. The discharge from the tree filter will be to the York Street stormdrain system.

***Stormwater Quantity:***

This project is located at the base of the hill on York Street. A visual review of the area above the site indicated an area that drains through this site. The drainage flow paths have been modified by the buildings, fences, and driveways. D1.1 shows the approximate boundaries of those drainage areas.

Currently the building at 127-129 York Street has water issues in the basement and bares the brunt of the surface water off this site and from above. The plan for the redevelopment is to minimize the flow going in that direction.

The project will capture the flow in the roof drains and a catch basin on the east side and convey it to York Street. The surface water flow from the parking area will be directed via a curb to the tree filter near York Street.

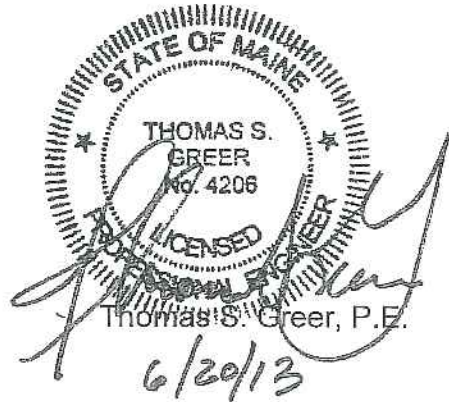
This should improve the surface drainage impacting our neighbors.

L.5



**Conclusions:**

The stormwater flow from this site will be treated in a tree filter system and collected in a stormdrain system connected to the York Street stormdrain, improving the drainage leaving the site. This project will not have an adverse impact on downstream properties or environmental system as a result of stormwater runoff.



L. 6

## **APPENDIX A**

### **PRECIPITATION VALUES, ROUGHNESS COEFFICIENTS**

*Submitted &  
available for  
reference at  
the P.B. Meeting*





Attachment M.1

28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

August 22, 2013  
File: 13105

Ms. Jean Fraser  
City of Portland/Planning Division  
389 Congress Street, 4th Floor  
Portland, ME 04101

RE: 133 YORK STREET

Dear Jean,

— see Plan 2

Attached is revised drawing C1.2 that shows the trees that are being impacted. We have provided photos of the trees to assist you and Jeff Tarling in his review.

Also attached is a simple code review of NFPA 1 as it applies to this site. I have talked to Captain Chris Pirone about the site and some issues. We may have to add a connection by York Street for the fire department. He will let me know as he does his review.

We need to determine hydrant flows. As soon as we have them we will let the City know.

Let me know if you need any additional information.

Sincerely,

PINKHAM & GREER

A handwritten signature in black ink, appearing to read "Thomas Greer".

Thomas S. Greer, P.E.

Enclosures

cc: Jeremy Benn, Capt. Chris Pirone, Jeff Tarling, File

TSG/rjs



M.2

Code Review NFPA 1  
133 York Street  
File: 13105

28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

### Fire Department Access

The front of the building has direct access off York Street by a 20' paved fire lane/driveway. Secondary access is possible from Park Street via the access to 33 Park Street. Signs will be posted along the driveway "No Parking Fire Lane".

No gates or barricades will obstruct access to the front to the building.

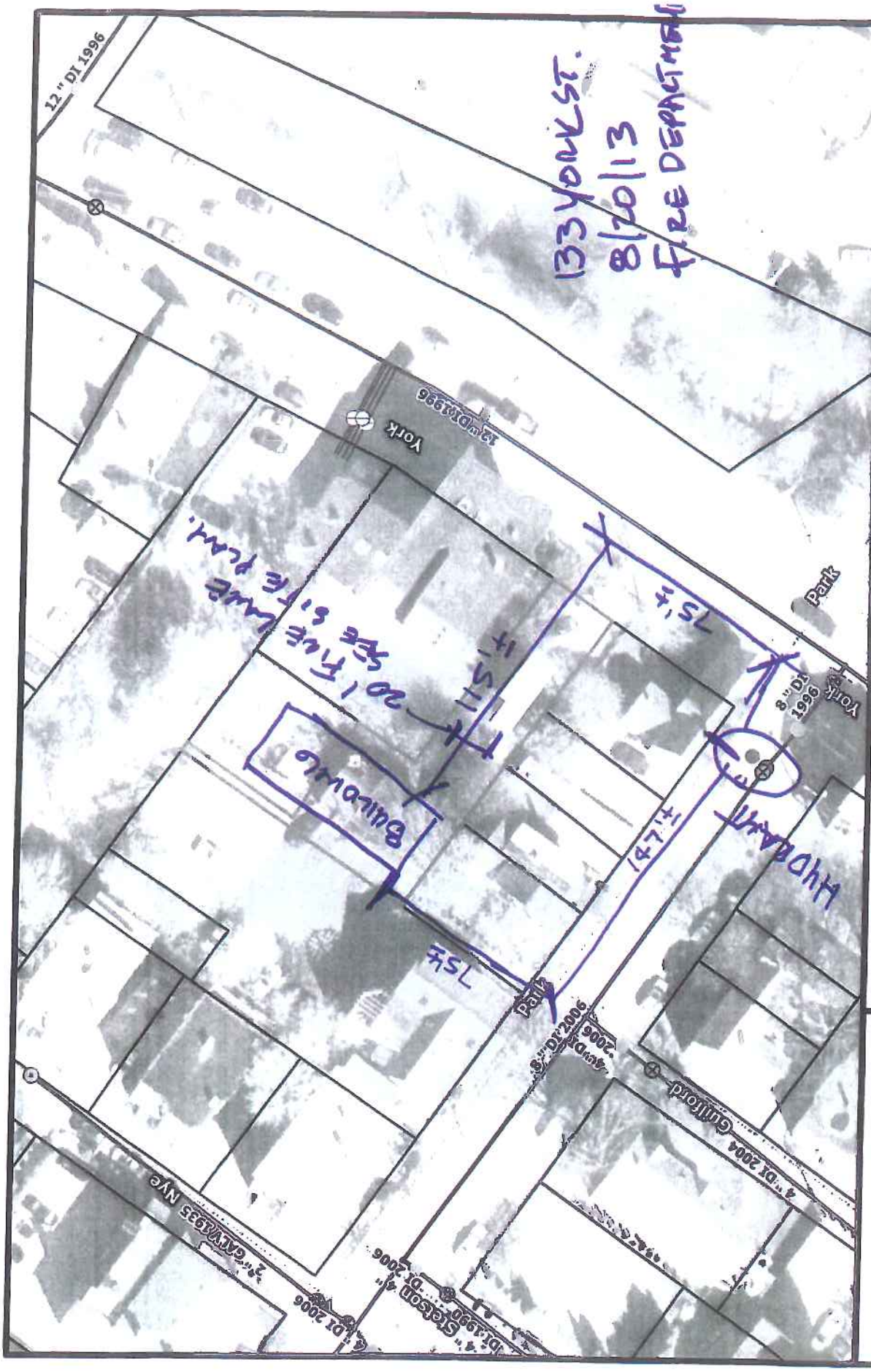
There are no overhead obstructions until you enter under the building.

Building interior access is provided in the middle of the building which leads to an internal stairwell. A knox box and key will be located outside the stairwell.

Water supply will be by Portland Water District. The building will have a sprinkler system and siamese connection for the fire department. This connection may be moved to the York Street area to meet the 100' requirement based on Fire Department review.

A fire hydrant is located on the corner of Park Street and York Street, 190 feet from the building, on a travel path along the fire lane to York Street. From the hydrant located on Park Street, 224 feet from the rear of the building, see attached sketch.

All hydrants are public. We are determining flow rates with Portland Water District.



Disclaimer: This map is suitable for preliminary study and analysis and is based on PWD record information. PWD is not liable for any damages whatsoever resulting from inaccurate data or from errors made in the location and marking of its infrastructure.

Drawn By: GUT  
 Scale: As Noted

Prepared For: Pinkham & Greer  
 Date: April 16, 2013

Scale 0 12.5 25 50 75 100 Feet  
 1 inch = 50 feet

- Legend**
- Air Valve
  - Blow Off
  - By Pass
  - Distribution
  - Transmission
  - Connection
  - Attribute Change
  - Reducer
  - Hydrant
  - Transmission
  - Combined Service
  - Domestic Service
  - Fire Service
  - Private Hydrants
  - Meter Pits
  - Manhole
  - CSO
  - ↑ Gravity
  - ↑ Force

133 York Street

Portland

PORTLAND WATER DISTRICT  
 225 Douglass Street  
 Portland, ME 04104

M.4



THIS IS THE EXISTING TREE TO BE  
REMOVED IN THE NORTH EAST  
CORNER OF THE SITE.

133 YORK ST  
8/21/13

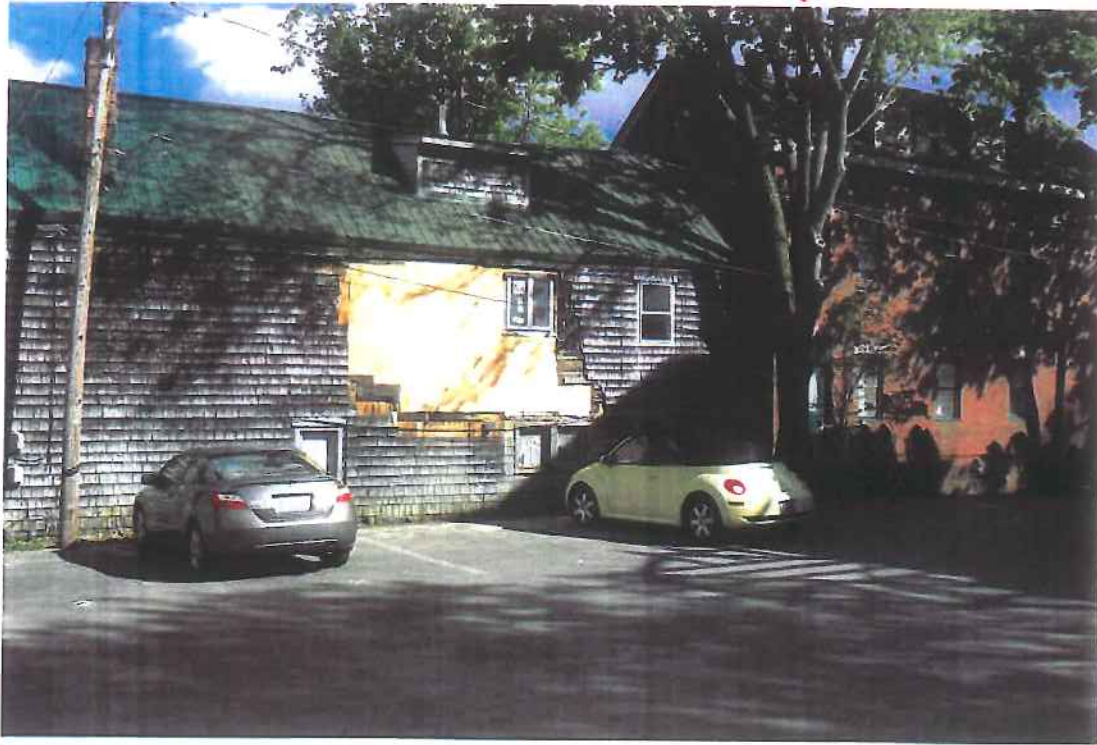
M.5



THIS IS THE TWIN MAPLE TO  
BE REMOVED.

133 YORK ST.  
8/21/13

M.6



THIS IS THE 30" TREE TO  
BE TRIMMED AS REQUIRED,  
NOTE NEW BUILDING CORNER WILL  
SET BACK ABOUT 3 1/2 FEET FROM  
THE EXISTING BUILDING.

133 YORK ST  
8/21/13



Attachment No. 1

28 Vannah Avenue  
Portland, Maine 04103  
Tel: 207.781.5242  
Fax: 207.781.4245

September 3, 2013  
File: 13105

Ms. Jean Fraser  
City of Portland/Planning Division  
389 Congress Street, 4th Floor  
Portland, ME 04101

RE: 133 YORK STREET

Dear Jean,

We are working on responses to the Staff's comments. Noting your deadline to prepare the staff memo, here is a partial response to help resolve some issues.

1. Tom Enrico noted a walkway to the front door would be helpful. We will provide a 4' wide path of concrete pavers from York Street to the door. These will be flush with the pavement to allow fire truck access over the full 20 feet of width.
2. David Senus' comments.
  - 1.a We will provide mesh over the swale to the tree filter.
  - 1.b. Attached is the proposal from Green Street Filter Systems. Final design of the system will be submitted as part of the construction process.
  - 1.c. We have asked DPS if the connection to the York Street System is acceptable and respectfully request a waiver from the flooding standards.
- 2.) POA #2 was initially set up as the existing conditions drain water in that direction. Minimal runoff from the landscaped area at the end of the site may drain in that direction. The total flow will be substantially reduced.
- 3) The pipes are now in conformance with City Standards.
- 4) We have added inverts and slopes to the roof drain. Connections to the filter box will be provided as part of the construction drawings.
- 5) We added some riprap along that wall
- 6) The power will be overhead in its current location.



Ms. Jean Fraser  
September 3, 2013  
Page 2 of 2  
File: 13105

N.2

- 7) We have added a note to the wall. The supplier of the wall will provide a stamped drawing.
- 8) We will provide a maintenance report with our next submittal.

Bob Howe of HKTA will respond to the architectural comments at a later date.

Sincerely,

PINKHAM & GREER

A handwritten signature in black ink, appearing to read "Thomas S. Greer". The signature is stylized and fluid.

Thomas S. Greer, P.E.

Enclosures

cc: Joe Flynn/Jeremy Benn, File

TSG/rjs



**Green Street Systems LLC**  
*Low Impact Stormwater Solutions*



May 7, 2013

Tom Greer  
Pinkham and Greer  
28 Vannah Avenue  
Portland, ME 04103

Dear Tom,

Per our conversation last Friday, Green Street Systems LLC would be pleased to provide you with one (1) 4X6' tree filter system for your condominium project on York Street in ~~Portland~~ Portland, ME. The following proposal has been prepared based on the understanding that the Site Contractor will provide all excavation, labor, and machine time for the system installation and provide some materials as detailed below. GSS will procure and provide all tree filter system materials to be delivered to the site and provide project management and oversight for the system installation as detailed below.

**1.0 PROPOSAL**

**1.1 Materials and Labor Provided by Green Street Systems LLC**

- System Design, including Engineering and Licensing
- Precast Concrete System Frame, including curb inlet and pretreatment sump
- Fiberglass tree grate and curb side access port for each system
- All associated support hardware
- Engineered Soil Media
- Cast iron dome grate w/ PVC frame, bypass drain piping within the tree filter units to 5 feet from the exterior face of each unit.
- One (1) 2 ½ - 3" caliper tree
- Project management of the GSS tree filter system installation (up to two days maximum). GSS anticipates installing tree and mulch at the time of initial system installation.

**1.2 Materials and Labor Provided by Site Contractor**

- All backhoe/excavator services needed for the installation, placement of materials, backfill, compaction, and grading for the GSS system complete and in place. It is anticipated that excavation for the tree filter will be to a depth of 5.5 – 8 feet and to the dimensions specified on the site plan. A machine and spreader bar capable of lifting the approx. 4,500 lb concrete frame, with 4 cast-in hooks, may be required.

427 Columbia Road, Hanover, MA 02339

Tel: (781) 312-7236 Fax: (781) 826-6665 [www.greenstreetsystems.com](http://www.greenstreetsystems.com)

Printed on Recycled Paper

- All piping, fittings, labor, and materials needed to connect the bypass outlet to the existing storm drain system.
- Pea stone
- 0.75-1.50-inch washed stone delivered to site
- Provide all labor and materials for the removal of surplus material from the site, regrading, backfilling, patching of pavement where necessary, replacement of miscellaneous curbing, loam and seed as needed.

**FEE PROPOSAL**

One (1) GSS tree filter system at ~~21,200.00~~ Total Cost.

**PERFORMANCE SCHEDULE**

GSS will commence work upon your written contract authorization and initiate reasonable mobilization scheduling and materials procurement. Since the work schedule is dependent on the schedules of other parties involved in the project, a mutually agreeable schedule will be worked out at project initiation. GSS anticipates that at least four weeks from the time of receipt of a signed proposal will be required to procure all system components. GSS will immediately notify Pinkham and Greer of any anticipated delays in this schedule.

**PAYMENT SCHEDULE**

1. GSS requires an initial Start Up Payment of ~~21,200.00~~ for manufacturing of concrete frame, grating fabrication, and procurement of other specialty products.
2. Final Payment will be invoiced upon completion of GSS materials installation and services and will be payable in 30 days.
3. A 1.0% monthly finance charge will be added to invoices over 30 days.

GSS "systems" are proprietary systems specifically designed by our engineer for our use only. This proposal/contract licenses the site contractor to install one system. The contractor agrees not to change, alter, replicate, or reuse any GSS system without the expressed written consent of GSS, LLC.

Thank you for the opportunity to submit a proposal for this project. Providing the above as stated is acceptable, kindly sign and return one full copy of this proposal. We would be happy to answer any questions or concerns you may have, so please do not hesitate to call. This proposal is valid for 30 days.



N.5

Very truly yours,

GREEN STREET SYSTEMS LLC

Barbara Merrill

Barbara Merrill

Principal

AGREEMENT ACCEPTED BY:

---

Signature

Date

---

Company

---

Print Name

Tel. No.

*For purposes of this Agreement, facsimile signatures on this Agreement and other written instructions shall be binding.*

*Green Street Systems LLC  
Low Impact Stormwater Solutions  
Printed on Recycled Paper*



# Attachment 0

HKTA / architects, inc.  
482 Congress Street, Suite 502  
Portland, Maine 04101  
207-774-6016 Fax: 774-9128

## HKTA / architects

September 5, 2013

To: Tom Greer  
Pinkham and Greer. Consulting Engineer

From: Robert Howe

About: 133 York Street – Site Plan Review Update

Tom,

This memo follows up on the design review comments offered by Jean Fraser on August 22 and Barbara Barhydt's emailed comments on August 30 concerning the above project.

1. The entrance is deliberately understated. The design takes a minimal approach to this feature for it occupies no particular significance to a streetscape and acknowledges the rather private nature of these owner units and the structure's juxtaposition to the surrounding buildings. The client's intention is to create a more "loft" like environment. So, in keeping with the design theme, unnecessary embellishments run counter to the design intent.
2. The height difference in the two halves reflect what we believed were direction given by city staff in review of zoning requirements and in the belief the height more accurately responded to the height of the existing building. It was determined with review that it was more advantageous to keep that portion lower so it conforms more closely to the expansion possibilities of the existing structure.
3. For clarification about the building height above grade, we offer the following table. These dimensions are drawn directly from the completed construction drawings.

	West End	East End
South Elevation (Front)	38' - 2 1/2"	41' - 2 1/2"
North Elevation (Back)	30' - 4 1/4"	33' - 4 1/4"
Grade at Sides	34' - 9 3/4"	37' - 9 3/4"
Existing (Front)	31' - 1"	
Existing (Back)	23 - 6"	
Difference in height between existing and new at West End	6' - 8 1/2"	



**Ordering**

rev 09.14.2012

Type:

Ordering Code:

Job Name:

Notes:

## ENDURA

details		pendant mount (by others)	
	12" sq.		
	5.5"		
		weight: 11lbs	

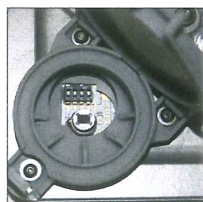
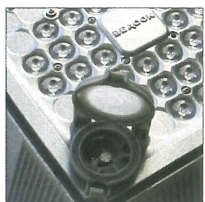
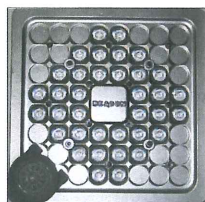
**ORDERING EXAMPLE:** EDR / 48NB-110 / T5QW / UNV / MOB - 4 - 50 - 15 / MT

model	engine-watts	optics	voltage	electrical options	color	
EDR	24NB-30	5x5 isle lighter	UNV 120-277V	PEC button photocell ( <i>specify voltage</i> )	BB black	
	24NB-55	2x2 narrow beam	347V	2PF dual power feed	BZ bronze	
	36NB-80	T5R rectangular	480V	MOB motion sensor w/ 33% and 50% dimming	BW white	
	48NB-110	T5QW square wide	12VDC	( <i>not available on 48NB-110</i> )	OC occupancy sensor ( on/off ONLY)	BG green
		T5QM square medium	( <i>consult factory</i> )	BPC cold weather battery pack (23W max)	( <i>can ONLY be used with the 36NB-80</i> )	BY gray
	T5QN square narrow				MB metallic bronze	
	T5W round wide				MT metallic titanium	
				standard electrical options	___ RAL	
				LifeShield™ Thermal protection	___ other	
				20k - Surge Protection		
				dimming drivers		

When ordering a fixture with the motion detection option (MOB), please specify the appropriate information. These settings are specified in the ordering as shown in the example below.

EDR / 48NB-110 / T5SW / UNV / MOB - 1 to 30 min. - 33% or 50% - ?? / MT

High to Dim Delay    Low Level    Mounting Height (ft.)



Tool-less, removable cover

Adjustable settings

### Power/Lumens & Distributions

Engine	nominal wattage	lumen output (5k) varies by optic	delivered LPW	TM21 reported L95/85C	TM21 calculated L70/85C
EDR-24NB	30	2752-3014	105-115	60,000	215,000
EDR-24NB	55	5125-5615	93-103	60,000	215,000
EDR-36NB	80	7680-8215	93-103	60,000	215,000
EDR-48NB	110	10240-10950	93-103	60,000	215,000

TM21 is the framework for taking LM-80 data and making useful LED lifetime projections. Reported and calculated lifetimes shown are based on hours at the time of this printing. For current Reported and Calculated hours please contact factory of Beacon's web site.

P.2

**GENERAL:** The Beacon EDR luminaire is a ceiling surface mounted or pendant mounted parking structure luminaire with a field replaceable LED light-engine & optical bezel system. Internal components are totally enclosed in a rain-tight and corrosion-resistant die cast aluminum housing. The EDR Luminaire is CSA listed and suitable for damp locations (wet location available on request).

**HOUSING & LED THERMAL MANAGEMENT:** The Beacon EDR luminaire consists of a die cast aluminum two-piece housing. The shape of the top housing is designed as a bird nesting deterrent. The die cast main (thermal) housing provides direct-heat exchange between the LED light engine and the cool outdoor air by drawing heat through integral heat channels and out to the sculptured and functional luminaire surface. LED drivers are thermally isolated from the main housing, mechanically attached and heat-sunked to the top housing. The main housing is designed with heat dissipating fins for LED thermal management without the use of metallic screens, cages, or fans. The main and top housings are designed to hinge open for easy mounting and easy access.

**MOUNTING & INSTALLATION:** The top housing is designed with various bolt patterns for mounting to a recessed, surface or rigid-pendant hung 4" junction box junction box and rigid stem provided by others). After mounting the top housing to the junction box, the main housing is designed to hang and hinge closed after connecting the male and female quick connectors. The mounting design permits a simple retrofit to existing parking structure luminaires that utilize surface mount or recessed junction boxes.

**BEZEL OPTICAL SYSTEM:** Each Endura luminaire is supplied with an Optical one piece cartridge system consisting of an LED engine, LED lamps, optics, gasket and stainless steel bezel. The cartridge is held together with internal brass standoffs soldered to the board so that it can be field replaced as a one piece Optical system. Two-piece silicone and polycarbonate foam gasket ensures a weather-proof seal around each individual LED and allows the Endura luminaire to be rated for high-pressure hose down applications.

The optical cartridge is secured to the extruded housing with fasteners and a heat pad to ensure thermal conductivity. The optics are held in place without the use of adhesives and the complete assemble is gasketed for high pressure hose down cleaning. The cartridge assembly is available in various lighting distributions using TIR designed Acrylic optical lenses over each LED.

**PRINTED CIRCUIT BOARD (PCB):** Aluminum thermal clad board with 0.062" thick aluminum base layer "high temperature" HT-06503 or equivalent (subject to change) dielectric (0.003" thick, thermal conductivity of 2.2 W/MK, UL RTI of 140°C) 0.0014" thick copper circuit layer Circuit layer designed with copper pours to minimize thermal impedance across dielectric. Board shall be supplied with QPAD-3 fiberglass reinforced thermal pad 0.005" thick thermal conductivity of 2.0 W/Mk. Continuous use temperature of 180°C UL94 V-0. Board will be mounted to the heat sink using 12 #4-40 screws to ensure contact with thermal pad and heat sink. Use of thermal grease will not be allowed.

**LIFESHIELD™ CIRCUIT:** Thermal circuit shall protect the luminaire from excessive temperature by interfacing with its 0-10V dimmable drivers to reduce drive current as necessary. The factory-preset temperature limits shall be designed to ensure maximum hours of operation to assure L70 rated lumen maintenance. The device shall activate at a specific, factory-preset temperature, and progressively reduce power over a finite temperature range in recognition of the effect of reduced current on the internal temperature and longevity of the LEDs and other components.

A luminaire equipped with the device may be reliably operated in any ambient temperature up to 55°C (131°F).

The thermal circuit will allow higher maximum wattages than would be permissible on an unregulated luminaire (if some variation in light output is permissible), without risk of premature LED failure.

Operation shall be smooth and undetectable to the eye. Thermal circuit shall directly measure the temperature at the LED solder point.

Thermal circuit shall consist of surface mounted components mounted on the LED engine (printed circuit board). For maximum simplicity and reliability, the device shall have no dedicated enclosure, circuit board, wiring harness, gaskets, or hardware. Device shall have no moving parts, and shall operate entirely at low voltage (NEC Class 2). The device shall be located in an area of the luminaire that is protected from the elements.

Thermal circuit shall be designed to "fail on", allowing the luminaire to revert to full power in the event of an interruption of its power supply, or faulty wiring connection to the drivers.

Device shall be able to coexist with other 0-10V control devices (occupancy sensors, external dimmers, etc.). The device will effectively control the solder point temperature as needed; otherwise it will allow the other control device(s) to function unimpeded.

**MOTION ACTIVATED LUMINAIRES:** Beacon EDR luminaires are available with an optional passive infrared (PIR) motion sensor capable of detecting motion within 24 feet of the sensor, 360° around the luminaire, when placed at an 8 foot mounting height. When no motion is detected for 5 minutes, the Motion Response system reduces the wattage from 10% to 50% (factory set at 50% reduction) of the maximum wattage, reducing the light level accordingly. When motion is detected by the PIR sensor, the luminaire returns to full wattage and full light output. Please contact Beacon Products if project requirements vary from standard configuration.

**ELECTRICAL:** Luminaires are equipped with an LED driver that accepts 100V through 277V, 50 Hz to 60 Hz (UNIV), or a driver that accepts 347V or 480V input. Power factor is .92 at full load. All electrical components are rated at 50,000 hours at full load and 40°C ambient conditions per MIL-217F Notice 2. Optional 0 to 10 volt dimming drivers are available upon request. Component-to-component wiring within the luminaire may carry no more than 80% of rated load and is listed by UL for use at 600VAC at 50°C or higher. Plug disconnects are listed by UL for use at 600 VAC, 15A or higher. 15A rating applies to primary (AC) side only.

**SURGE PROTECTOR:** The onboard surge protector shall be a UL recognized component for the United States and Canada and have a surge current rating of 10,000 Amps using the industry standard 8/20 pSec wave. The LSP shall have a clamping voltage of 320V and surge rating of 372J. The case shall be a high-temperature, flame resistant plastic enclosure.

**FASTENERS:** All fasteners shall be stainless steel. When tamper resistant fasteners are required, spanner HD (snake eye) style shall be provided (special tool required, consult factory).

**AGENCY CERTIFICATION:** The luminaire shall bear a CSA label and be marked suitable for damp locations (standard).

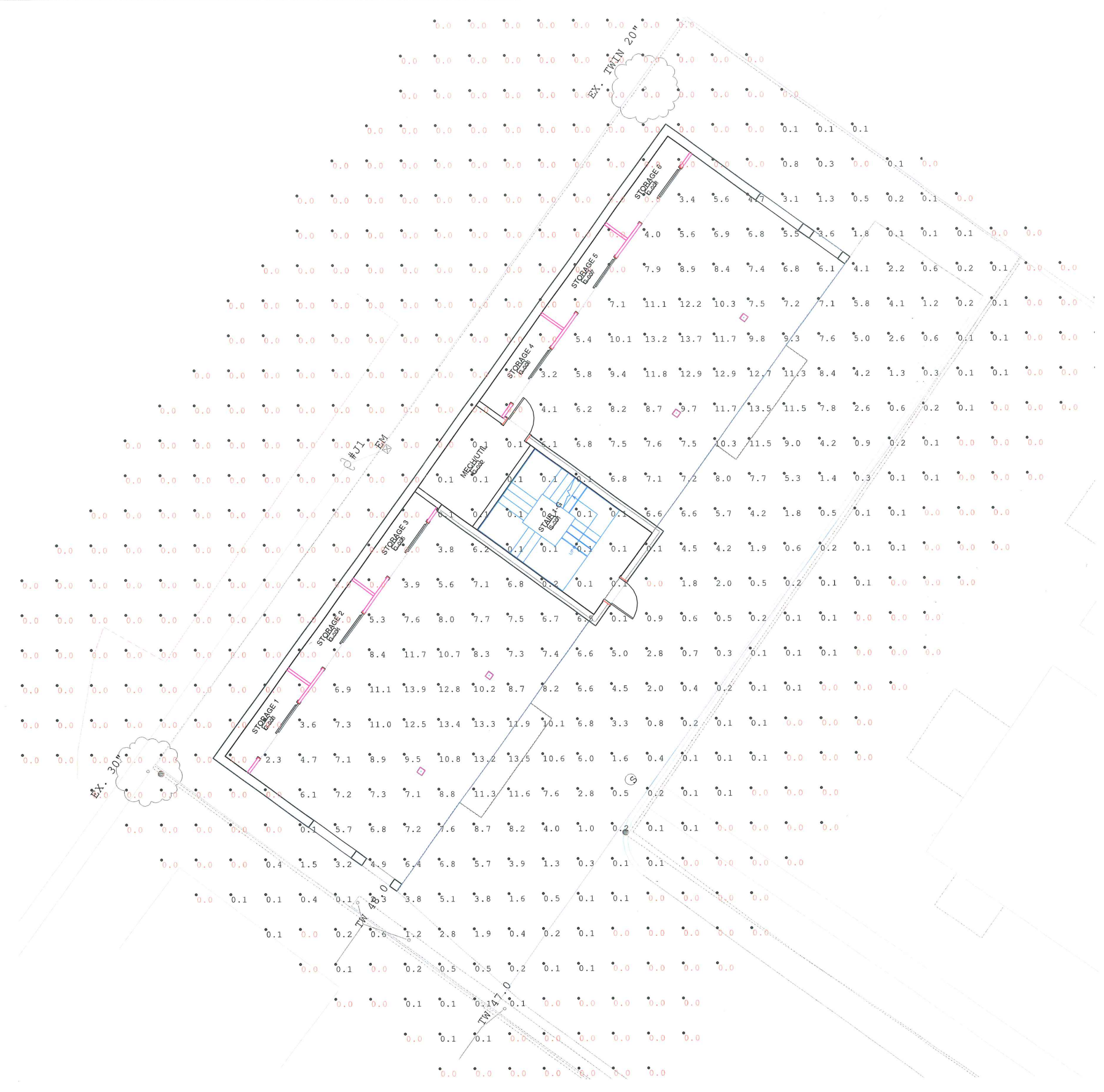
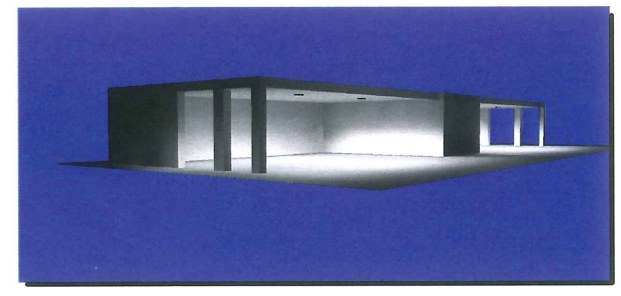
**WARRANTY:** Beacon luminaires feature a 5 year limited warranty. Beacon LED luminaires with LED arrays feature a 5 year limited warranty covering the LED arrays. LED drivers are covered by a 5 year limited warranty. PIR sensors carry a 5 year limited warranty from the sensor manufacturer. See Warranty Information on [www.beaconproducts.com](http://www.beaconproducts.com) complete details and exclusions.

**FEATURES**

- Can save up to 66% of energy.
- Sensor designed into the LED light engine.
- Adjustable high/low power level switching.
- Eight time options: 0.5 to 30 min.
- Three power levels: 100%/50%/33%.

# Beacon Products Endura Series LED

Luminaire Schedule			
Symbol	Qty	LLF	Description
☐	4	0.900	24NB-55-T5SM



15 Pleasant Hill Rd  
P.O. Box 1597  
Scarborough, Maine 04070  
email: swaneylighting.com  
ph: 207-883-7100  
fax: 207-885-9605

#	Date	Comments

Drawn By: Dave Charron  
Date: 6/7/13  
Not to Scale

## York Street Townhouse