

78-A-4

1999-0125

9 Massachusetts Ave.  
Retail and Gas Service  
MW Sewall

on Spreadsheet

**CITY OF PORTLAND, MAINE  
DEVELOPMENT REVIEW APPLICATION  
PLANNING DEPARTMENT PROCESSING FORM**

19990125

I. D. Number

**M.W. Sewall Co.**

Applicant

**259 Front Street, Bath, ME 04530**

Applicant's Mailing Address

**SiteLines P.A.**

Consultant/Agent

**725-1200 725-1114**

Applicant or Agent Daytime Telephone, Fax

**9/14/99**

Application Date

**Massachusetts ave**

Project Name/Description

**9 Massachusetts Ave, Portland Me 04102**

Address of Proposed Site

**078-A-004**

Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply):  New Building  Building Addition  Change Of Use  Residential  
 Office  Retail  Manufacturing  Warehouse/Distribution  Parking Lot  Other (specify) **gasoline service**

**2880bldg,1900 canopy**

**25870**

**B1**

Proposed Building square Feet or # of Units

Acreage of Site

Zoning

**Check Review Required:**

- Site Plan (major/minor)  Subdivision # of lots  PAD Review  14-403 Streets Review  
 Flood Hazard  Shoreland  Historic Preservation  DEP Local Certification  
 Zoning Conditional Use (ZBA/PB)  Zoning Variance  Other

Fees Paid: Site Plan **\$500.00** Subdivisio \_\_\_\_\_ Engineer Review **\$592.00** Date **1/18/00**

**Planning Approval Status:**

Reviewer **Kandi Talbot**

- Approved  Approved w/Conditions See Attached  Denied

Approval Date **11/9/99** Approval Expiration **11/9/00** Extension to \_\_\_\_\_  Additional Sheets Attached

OK to Issue Building Permi **Kandi Talbot** **5/18/00**  
signature date

Performance Guarantee  Required\*  Not Required

\* No building permit may be issued until a performance guarantee has been submitted as indicated below

<input checked="" type="checkbox"/> Performance Guarantee Accepted	<b>1/28/00</b> date	<b>\$44,189.00</b> amount	<b>6/30/00</b> expiration date
<input checked="" type="checkbox"/> Inspection Fee Paid	<b>1/18/00</b> date	<b>\$751.23</b> amount	
<input type="checkbox"/> Building Permit Issue	_____ date		
<input type="checkbox"/> Performance Guarantee Reduced	_____ date	remaining balance	signature
<input type="checkbox"/> Temporary Certificate of Occupancy	_____ date	<input type="checkbox"/> Conditions (See Attached)	
<input type="checkbox"/> Final Inspection	_____ date	signature	
<input type="checkbox"/> Certificate Of Occupancy	_____ date		
<input type="checkbox"/> Performance Guarantee Released	_____ date	signature	
<input type="checkbox"/> Defect Guarantee Submitted	submitted date	amount	expiration date
<input type="checkbox"/> Defect Guarantee Released	_____ date	signature	

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 Office  Retail  Manufacturing  Warehouse/Distribution  Parking Lot  Other (specify) **gasoline service**

**2880bldg,1900 canopy 25870 B1**

Proposed Building square Feet or # of Units Acreage of Site Zoning

**Check Review Required:**

- |  |   |  |  |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan<br>(major/minor) | <input type="checkbox"/> Subdivision<br># of lots _____ | <input type="checkbox"/> PAD Review            | <input type="checkbox"/> 14-403 Streets Review   |
| <input type="checkbox"/> Flood Hazard                          | <input type="checkbox"/> Shoreland                      | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional<br>Use (ZBA/PB)    | <input type="checkbox"/> Zoning Variance                |  | <input type="checkbox"/> Other _____             |

Fees Paid: Site Plan **\$500.00** Subdivision \_\_\_\_\_ Engineer Review **\$592.00** Date: **1/18/00**

**DRC Approval Status:**

Reviewer **Steve Bushey**

- Approved  **Approved w/Conditions**  Denied  
 see attache

Approval Date **11/9/99** Approval Expiration **11/9/00** Extension to \_\_\_\_\_  Additional Sheets Attached

Condition Compliance **Kandi Talbot 5/17/00**  
 signature date

Performance Guarantee  **Required\***  Not Required

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<input type="checkbox"/> Building Permit	_____ date		
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Mass. Ave &  
Convenience Store

## I. INTRODUCTION

M.W. Sewall is proposing to redevelop of the site located at 1199 Congress Street and 9 Massachusetts Avenue. The applicant owns property which currently houses a gas station with four pumps, an office building and a three unit residential building. The site is 25,870 sq. ft. and zoned B-1.

As the Board may recall, in 1998 the Planning Board approved a site plan for this site. Since then the property has been sold to M.W. Sewall.

The site is comprised of four lots. Lots 1 and 2 currently houses an 1,820 convenience store and gasoline service station with three unleaded pumps and 1 kerosene fuel pump. Lot 3 houses an existing 273 sq. ft. garage and 944 sq. ft. office building, formerly a house. Lot 4 houses a 1,576 sq. ft. three unit apartment building. The applicant is proposing to demolish the convenience store, garage and office building and replace them with a 2,880 sq. ft. convenience store. The fuel pumps would also be replaced with a new canopy and pumps.

A legal ad appeared in the November 1st and 2nd editions of the Portland Press Herald. 298 notices have been sent to area property owners in the vicinity of the project.

## II. FINDINGS

Zoning:	B-1 Neighborhood Business
Land Area:	.59 acres
Proposed Use:	Retail/Gas Station and 3-Unit Apartment Building
Proposed Parking:	Retail: 11 parking spaces Apartment Building: 4 parking spaces

## III. STAFF REVIEW

The proposed development has been reviewed for compliance with the standards of the Site Plan Ordinance of the Land Use Code. Review of the proposal has been completed by Planning, Public Works, Parks and Recreation and Fire Prevention staff.

## IV. ZONING ANALYSIS

Convenience stores are a permitted use in the B-1 zone. However, gasoline stations are not which makes this non-conforming. The Zoning Administrator has determined that as long as the applicant does not increase the number of fuel pumps it would not be considered an expansion of a non-conforming use.



1. Traffic/Circulation/Parking

The applicant is proposing to utilize existing entrances located around the property. There are currently four access points to the site from Massachusetts Avenue. The applicant is proposing to eliminate one of these access points. The applicant is proposing a 10 ft. drive connected to the parking area for the convenience store. This drive would be for the purpose of the residential building and would be one way out. Residents would have to pass through the gas station site to access their parking spaces, and customers would be able to circulate through the residential portion of the site. Staff has requested that the applicant look into physically separating the retail use from the residential use. One suggestion was to install a fence from the northwest corner of the building to the property line. However, the Fire Department would not have access to the rear of the retail building, so would not approve that scenario.

Granite curb and sidewalk exist around the site. The applicant will be installing new granite curb along Congress Street.

The applicant is proposing 15 parking spaces for the development. The parking consists of 11 spaces for the convenience store and 4 parking spaces for the residential use.

The Coastal Bank site plan approval, which is located across Congress Street, has a condition that a traffic light be installed at the Massachusetts Avenue intersection. Staff is recommending that the applicant contribute to the traffic improvements for Congress Street. Public Works is requesting a \$4,000 contribution to the signal. A potential condition of approval is:

- that the applicant contribute \$4,000 to traffic improvements for the proposed traffic light at the intersection of Congress Street and Massachusetts Avenue

The new pump island is approximately 24 ft. back from Congress Street. Currently traffic occasionally stacks up into Congress Street. The new location of the pump islands should alleviate the stacking problem that currently exists. The kerosene pump will be located west of the proposed building.

At the workshop meeting, the Board expressed concern regarding the existing curb cuts on Massachusetts Avenue. The Board had recommended that the applicant combine the two existing driveways and located them further away from Congress Street. The applicant reviewed that recommendation and has agreed to extend the granite curb from Congress Street to Massachusetts Avenue approximately 5 feet. However, the applicant wishes to keep the two existing curb cuts. The Traffic Engineer has reviewed the plan and has no objection to the proposed two in/out driveways onto Massachusetts Avenue. The Traffic Engineer feels that the two driveways will not have a negative impact on the operation of the traffic signal, and if anything he feels that the driveways will aid in access and egress to the development. The Traffic Engineer's memo is included as Attachment 2.

## 2. Landscaping

Currently, the existing site is 82.7% developed. The ordinance requires an 80% impervious surface maximum. The applicant is proposing to add additional landscaped areas to reduce the impervious surface to 79.8%.

The applicant is proposing landscaping along the westerly and northwesterly edge of the property. This landscaping includes Red Maple, Bradford Pear, Pines and Rhododendron. The applicant is proposing to plant Yews along the Massachusetts Avenue elevation of the building and Rhododendrons along the rear elevation of the building. The landscape plan is included as Attachment 4a.

The City Arborist has reviewed the plan and is recommending that the applicant plant two European Horn Beams at the Massachusetts Avenue entrance to the building. The Arborist also recommended a five (5) foot landscaped island between the Congress Street sidewalk and the parking area. This landscaped island will include Snowdrift Trees, Burning Bushes and Yews. The applicant has revised the landscape plan to reflect these recommendations.

Staff is recommending that the applicant install an additional landscaped planter at the corner of Congress Street and Massachusetts Avenue. This landscaped island shall have side dimensions of no less than 10 ft and should be either submerged with plantings protected by granite curbing or placed within an elevated retaining wall. A potential condition of approval is:

- that a landscaped island be installed at the Congress Street and Massachusetts Avenue corner of the lot with side dimensions of no less than ten (10) feet and should be either submerged in ground with plantings protected by granite curbing or placed within an elevated retaining wall.

## 3. Drainage

The site currently drains toward Massachusetts Avenue and Congress Street where an existing catch basin is located. The applicant is proposing a new catch basin to the east of the pump islands for runoff from the canopy. The catch basin will have a casco trap to separate sediment and oil contaminants before it enters the storm drain system. The catch basin will also be equipped with an Oars Passive Skimmers, which is a pad that absorbs oils and contaminants immediately.

Typically, staff requires an oil/grit separator for gas stations, however, the Development Review Coordinator has reviewed the proposal and feels that the casco trap and Oars Passive Skimmer will meet the same standards as an oil/grit separator.

## 4. Lighting

The applicant has reduced the number of light poles from five single poles and one double mounted pole to 4 single poles. They are located along the westerly edge of the property and near the entrance on Massachusetts Avenue. The proposed fixtures are 250 watt metal halide on 16 ft. poles. The applicant has stated that there will be no wall packs on the building. The photometric plan shows under the light poles, numbers ranging from 14 to 17 footcandles. Maximum footcandles should be

between 4 to 6 footcandles. The applicant should revise the photometric plan to show more uniform lighting around the parking area.

The proposed canopy will have a maximum height of 18.6 feet. The applicant is proposing recessed lighting within the canopy. The lighting for the canopy meets the City's gas station lighting standards. The applicant has submitted a photometric plan for the entire site. It is included as Attachment 5.

5. Fire Safety

The site plan has been reviewed and approved by the Fire Department.

6. Natural Resources

It does not appear that this proposal will have any adverse impact on the natural resources of the area.

VI. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information provided in Planning Board Report #60-99, the Planning Board finds:

- i. That the site plan is/is not in conformance with the Site Plan Ordinance of the Land Use Code.

Potential Conditions of Approval:

- that the applicant contribute \$4,000 to traffic improvements for the proposed traffic light at the intersection of Congress Street and Massachusetts Avenue
- that a landscaped island be installed at the Congress Street and Massachusetts Avenue corner of the lot with side dimensions of not less than ten (10) feet and should be either submerged in ground with plantings protected by granite curbing or placed within an elevated retaining wall.
- that the applicant revise the photometric plan for review and approval of the Planning staff.

Attachments

1. Submittal from Applicant
2. Traffic Engineer's Memo
3. Oars Passive Skimmer Information
4. Plans
5. Photometric Plan

*maintenance plan for passive oars skimmer be submitted to staff for review and approval*

*applicant eliminate one curb cut on Mass Ave to create not to exceed 35 ft in one curb cut consultation w/ Planning Staff*

*57-1*

*6-0  
Malone  
absent*

*report to be prepared by applicant*

**CITY OF PORTLAND, MAINE  
MEMORANDUM**

**TO:** Chair Carroll and Members of the Portland Planning Board

**FROM:** Kandice Talbot, Planner

**DATE:** September 28, 1999

**SUBJECT:** Retail and Gas Service, Corner of Congress Street and Massachusetts Avenue  
M.W. Sewall, Applicant

Introduction

M.W. Sewall is proposing to redevelop of the site located at 1199 Congress Street and 9 Massachusetts Avenue. The applicant owns property which currently houses a gas station with four pumps, an office building and a three unit residential building. The site is 25,870 sq. ft. and zoned B-1.

As the Board may recall, in 1998 the Planning Board approved a site plan for this site. Since then the property has been sold to M.W. Sewall.

The site is comprised of four lots. Lots 1 and 2 currently houses an 1,820 convenience store and gasoline service station with three unleaded pumps and 1 kerosene fuel pump. Lot 3 houses an existing 273 sq. ft. garage and 944 sq. ft. office building, formerly a house. Lot 4 houses a 1,576 sq. ft. three unit apartment building. The applicant is proposing to demolish the convenience store, garage and office building and replace them with a 2,880 sq. ft. convenience store. The fuel pumps would also be replaced with a new canopy and pumps.

Convenience stores are a permitted use in the B-1 zone. However, gasoline stations are not which makes this use non-conforming. The Zoning Administrator has determined that as long as the applicant does not increase the number of fuel pumps, it would not be considered an expansion of a non-conforming use.

Access/Circulation

The applicant is proposing to utilize existing entrances located around the property. There are currently four access points to the site from Massachusetts Avenue. The applicant is proposing to eliminate one of these access points. The applicant is proposing a 10 ft. drive connected to the parking area for the convenience store. This drive would be for the purpose of the residential building and would be one way out. Residents would have to pass through the gas station site to access their parking spaces, and customers would be able to circulate through the residential portion of the site. Staff is requesting that the plan be revised to physically separate the commercial and residential parking uses and driveway. Granite curb and sidewalk exist around the site. The applicant will be installing new granite curb along Congress Street.

The applicant is proposing 21 parking spaces for the development. The parking consists of 17 parking spaces for the convenience store and 4 parking spaces for the residential use.

The Coastal Bank site plan approval, which is located across Congress Street, has a condition that a traffic light be installed at the Massachusetts intersection. Staff is recommending that the applicant contribute to the traffic improvements for Congress Street. Public Works is requesting a \$4,000 contribution to the signal.

The new pump island is approximately 24 ft. back from Congress Street. Currently traffic occasionally stacks up into Congress Street. The new location of the pump islands should alleviate the stacking problem that currently exists. The kerosene pump will be located west of the proposed building.

### Drainage

The site currently drains toward Massachusetts Avenue and Congress Street where an existing catch basin is located. The applicant is proposing a new catch basin to the east of the pump islands for runoff from the canopy. The catch basin will have a casco trap to separate sediment and oil contaminants before it enters the storm drain system. The catch basin will also be equipped with an Oars Passive Skimmers, which is a pad that absorbs oils and contaminants immediately.

Typically, staff requires an oil/grit separator for gas stations, however, the Development Review Coordinator is currently reviewing the plan to see whether the applicant's proposal meets the same standards as an oil/grit separator.

### Landscaping

Currently, the site is 82.7% developed. The ordinance requires an 80% impervious surface maximum. The applicant is proposing to add additional landscaped areas to reduce the impervious surface to 79.8%.

The applicant is proposing landscaping along the westerly and northwesterly edge of the property. This landscaping includes Red Maple, Bradford Pear, Pines and Rhododendron. The applicant is proposing to plant Yews along the Massachusetts Avenue elevation of the building and Rhododendrons along the rear elevation of the building.

Currently there is an existing chain link fence located around the westerly and northerly perimeters of the property, which is in poor condition. The applicant is proposing to replace the chain link fence with a stockade fence to improve the buffering of the property.

The City Arborist is currently reviewing the landscape plan.

### Lighting

The applicant is proposing five single poles along the northerly and westerly edge of the property. The proposed fixtures are 250 watt metal halide. A double mounted pole is proposed near the entrance on Massachusetts Avenue. It appears that there will be no wall packs on the building. There appears to be spillover onto the adjacent property in the northwesterly corner. The applicant should look at creating more uniform lighting within the parking lot. We are not clear about the proposed pole heights. We will request more information but at the present it appears that a more moderate site lighting plan will be requested.

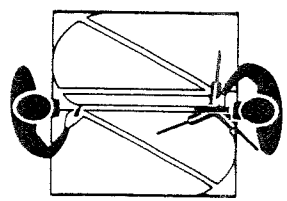
The proposed canopy will have a maximum height of 18.6 feet. The applicant is proposing recessed lighting within the canopy. The lighting for the canopy meets the City's gas station lighting standards.

11.6ft  
high  
poles

The applicant has submitted a photometrics plan for the entire site. It is included as Attachment 2-D.

Attachments

1. Submittal from Applicant
2. Plans



September 14, 1999

595-7

Ms. Kandice Talbot, Planner  
Planning and Urban Development  
City of Portland  
Portland, Maine 04101

*RE: Portland Texaco – Gas for Less  
9 Massachusetts Ave.  
Gasoline Service Facility  
Major Development Application*

Dear Ms. Talbot;

Enclosed please find an original and seven copies (7) of the proposed site development plans, development application, and a check for \$500 for a convenience store and gasoline service station located on the corner of Massachusetts Avenue and Congress Street. The parcels in question are shown on City Tax Map 78 lots 1,2,3,4 and are located in the B1 Zone (section 14-161 of the Zoning Ordinance). This letter and submitted information correspond to the requirements of article V of the zoning ordinance.

The Ordinance lists convenience stores as a permitted use but excludes gasoline service stations which makes existing fuel pumps an existing non-conforming use. Over the last several months we have submitted several design alternatives for the staff's preliminary review and comment. In addition Mr. Sewall has spoken with abutting residents to identify and address their questions and concerns. Mr. Sewall continues to work with the City to create an acceptable facility for all parties involved. The new design offers a safer and cleaner facility that will be a great improvement over the current configuration. The submitted material is a result of these various meetings.

The following responses are numbered and formatted in accordance with Article V of the Zoning Ordinance for your quick review.

Ms. Kandice Talbot

Gas For Less

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**Sec 14-525.c Written Statements**

1. Description of Use

Lots 1 & 2 currently supports a 1820 s.f. convenience store and gasoline service station with three unleaded and 1 kerosene fuel pumps. Lot 3 supports an existing 273 s.f. garage and 944 s.f. house. Lot 4 supports a 1576 s.f. 3 unit apartment house.

The proposed plan shows a new 2880 s.f. convenience store proposed along with necessary parking and circulation to support the facility. The new building will replace the run down 1820 s.f. store as well as an existing house and garage located on lot 3. The new pump island has been located 16.5' off the front property line. The building and pump islands are oriented to allow the cashiers visibility of the pumps at all times.

The setback for the canopy was determined by averaging the setback of the neighboring lots on Congress Street.

In keeping with the existing configuration, the new design is limited to three gasoline pumps and one kerosene pump.

2. Total land area, floor area, and ground coverage.

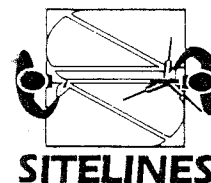
The total land area for the development site is 25870 s.f. (all lots included). The total floor area for the parcel is 6356 s.f. (includes a 2880 s.f. convenience store, 1900 s.f. gasoline canopy, and 1576 s.f. three unit apartment building).

3. Easements

There are no easements on the site.

4. Solid Waste Generation

Existing solid waste is removed by Waste Management of Maine Inc. The amount of solid waste will not change with this new proposal. Currently the site uses 1 - 4 yd. recycle and 1 - 6 yd container. A copy of Waste Management's invoice for the property is enclosed.





Ms. Kandice Talbot  
Gas For Less  
09/14/99  
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5. Evidence of sewer and water access and availability.

The new facility will connect to existing sewer and water service located within Massachusetts Avenue. Currently the existing convenience store and house is connected to these public utilities. The new facility will have an ADA equipped public restroom.

6. Surface Drainage

The site is currently fully developed and covered with buildings and pavement. The total existing % impervious area for the site is calculated to be 82.7%. The Ordinance requires that the site be at 80%. To meet the Ordinance, the site's % impervious has been reduced to 79.8%. The impervious area for the site has been reduced, which reduces the total runoff, therefore no stormwater detention is needed for this project. The site currently drains toward Massachusetts and Congress Ave which drains to an existing catch basin located on Congress Street, 20' easterly of Massachusetts Avenue. The gasoline canopy will drain toward a new catch basin located on the property. This catch basin will be equipped with a Casco trap which will to separate sediment and oil contaminants before it enters the City storm drain system. In addition the catch basin will be equipped with an Oars Passive Skimmer, which is a pad that absorbs oils and contaminants immediately.

7. Construction Schedule and Sequence

Construction of the project will begin in Spring of 2000 and will be completed by early Summer 2000. The estimated cost of construction is approximately \$500,000.

8. Federal and State Permits

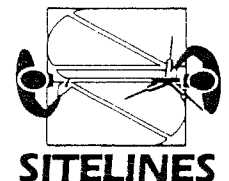
No Federal and State permits are required for this project.

9. Evidence of financial capacity

A letter from Peoples Heritage Bank is enclosed regarding financial capacity.

10. Evidence of title right and interest

Enclosed is a copy of the existing deed and purchase and sales agreement which demonstrates title right and interest in the property.



Ms. Kandice Talbot  
Gas For Less  
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11. Unusual natural areas, wildlife, fisheries, or archaeological sites

The site is currently fully developed urban land. The site does not have any streams, wetlands, or undeveloped land on the parcel. No significant natural areas or archaeological sites exist on the property.

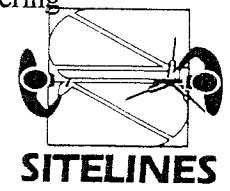
12. Electronic files

An Autocad R14 file is included for your records.

**Sec. 14-526 Standards**

**a.) Requirements for approval**

- 1. All delivery vehicles will park and unload on the property. No vehicles will be required to park in the adjacent roadways. No adverse traffic impact is expected from deliveries to serve the proposed development. Currently, retail traffic occasionally backs up into Congress Street. The improved pump island design and parking in front of the store will eliminate this problem.
- 2. The proposed development will include the construction of 21 parking spaces to serve the convenience store and three unit apartment building. Four spaces are reserved for the residential apartments. The remaining 17 spaces are for employees and customers.
- 3. The bulk, location, or height of proposed buildings will not cause health or safety problems to existing uses in the neighborhood including reduction of light, air, wind, or snow.
- 4. The bulk, location, or height of proposed buildings will not reduce the value or utility to neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed. Particular care has been taken on the Massachusetts Avenue elevation to blend with the residential neighborhood. The height of the canopy will be a maximum of 18'6". The canopy height of the Mobil across the street is 18'8".
- 5. The project will remove two existing buildings which are connected to existing water and sewer facilities. The proposed service will require only one connection. The impervious area is less than the existing parcel therefore no additional impact is expected to City storm drains or sewers. Solid waste generated will be less than existing and no additional impact is expected.
- 6. The enclosed landscape plan and perimeter fencing provides the needed buffering between other developments and neighboring properties.



Ms. Kandice Talbot  
Gas For Less  
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7. The parcel is substantially developed and covered with buildings and paving. No significant vegetation exists on the property. Landscape areas have been increased as part of this development. Existing vegetation in front of the existing three unit apartment building will be preserved.

8. The site plan will not create any significant soil and drainage problems. The site is predominately flat and substantially paved. Soil erosion is not expected to occur on the property. Hay bales will be installed adjacent to on-site catch basins to prohibit sediment from entering the City storm drain system. All erosion control measures will be installed in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices by the Cumberland County SWCD and the Department of Environmental Protections March 1991.

9. Exterior Lighting for the project will be completed in accordance with the City of Portland Technical and Design Standards and Guidelines as required.

10. The proposed canopy and pump islands will be equipped with a state of the art fire suppression system. The proposed design utilizes three existing entrances along Massachusetts Avenue and one along Congress Street. The project will not create fire or other safety hazards and provides adequate access to the site and to buildings for emergency vehicles.

11. The proposed development will maintain an existing three unit apartment building adjacent to the residential development along Massachusetts Avenue. The new building elevation along Massachusetts Avenue is designed to blend in with the existing neighborhood. The face of the building will be light gray vinyl siding transitioning to a light gray split face block. The new building elevation and improved landscaping will produce an attractive addition to the neighborhood.

12. The proposed project is not an industrial development.

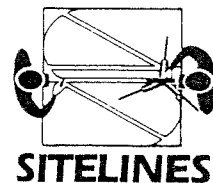
13. The proposed project is not located in the R-P Zone.

14. The proposed project is not located in the R-3, R-5, or R-5A Zones.

15. The proposed project is not a Two-family, special needs independent living unit, multiple family development, lodging houses, bed and breakfasts, or emergency shelter.

16. The project is not located in the B-3 Zone.

17. All information has been submitted as required by this article and the proposed development complies with this code.



Ms. Kandice Talbot  
Gas For Less  
09/14/99

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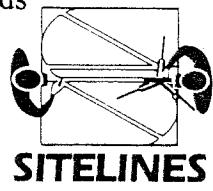
- 18. The development site is not located within 100' of any landmark, historic district, or historic landscape district.
- 19. The proposed project will not obstruct any view corridors to landmarks and other natural features identified on the View Corridor Protection plan.
- 20. The proposed project will not adversely impact existing natural resources such as groundwater quality and quantity because the proposed development will connect to the public water and sewer systems.

The site is currently fully developed and covered with buildings and pavement. The total existing % impervious area for the site is calculated to be 82.7%. To meet the Ordinance requirement of 80%, the site's % impervious has been reduced to 79.8%. The impervious area for the site has been reduced, which reduces the total runoff, therefore no stormwater detention is needed for this project. The site currently drains toward Massachusetts and Congress Ave which drains to an existing catch basin located on Congress Street, 20' easterly of Massachusetts Avenue. The gasoline canopy will drain toward a new catch basin located on the property. This catch basin will be equipped with a Casco trap which will separate sediment and oil contaminants before it enters the City storm drain system. In addition the catch basin will be equipped with an Oars Passive Skimmer, which is a pad that absorbs oils and contaminants immediately. Together with proper erosion and sediment controls, surface runoff will not adversely affect groundwater and surface water quantity and quality. No wetlands, unusual natural areas, wildlife, or fisheries exist on the property.

- 21. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.
- 22. To the extent possible, the project will maintain and utilize the existing signs on the property. No new free standing signs will be installed on the property. Building signs will be installed to complement and enhance the architectural attributes of the building. Building signs will be designed to avoid glare. All light sources shall be shielded or provided with a diffuser lens so that lamps and bulbs are not visible to pedestrian or drivers of vehicles as required. The enclosed elevations demonstrate typical signs for the new facility.

23. All signs shall comply with section 14-369.5 as required.

- 24. a. Signs:  
The project will utilize existing free standing signs on the property. No additional free standing signs are proposed. The existing signs do not adversely affect visibility at intersections or access drives as needed to ensure safety of the public. Each sign only advertises services or goods available on the property as required.



Ms. Kandice Talbot  
Gas For Less  
09/14/99  
Page 7

- b. Circulation:  
The project will utilize existing entrances located on the property. The entrances are situated on the property to serve the gasoline pump design requested by the City. Currently four entrances exist on Massachusetts Avenue. One entrance has been closed by this development. The existing entrances are located within 30' of the intersection. It is our understanding that this concept design has met the approval of the City.
- c. Drive-up features:  
The proposed gasoline pumps are located 24.5' off of the street line. The City recommends that canopies and buildings be located as close to the street as practical but no further than the average depth of immediately abutting front yards.
- d. Car Washes:  
Not applicable to this development

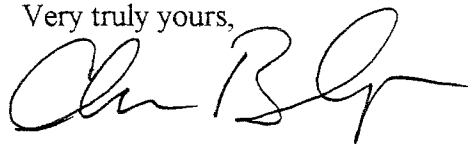
- 25. The project is not located in an Industrial Zone
- 26. The project is not located in the B-5 or B-5b zones.

**b.) Conditions**

The proposed project will comply with additional conditions imposed by the Planning authority as required.

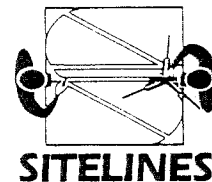
Thank you for all the time you have spent with us and the owner regarding this project. We look forward to meeting with you and the Planning Board on September 28, 1999. Should you have any questions please call.

Very truly yours,



Christopher S. Belanger, P.E.  
Project Manager

Enclosure  
cc: Ned Sewall



1-H

Site Review Pre-Application  
Multi-Family/Attached Single Family Dwellings/Two-Family Dwelling  
or Commercial Structures and Additions Thereto

In the interest of processing your application in the quickest possible manner, please complete the information below for Site Plan Review

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

M.W. SEWALL CO.

9/15/99

Applicant  
259 FRONT STREET, BATH, ME 04530

Application Date  
GAS FOR LESS

Applicant's Mailing Address  
SITELINES P.A. 8 CUMBERLAND ST, BRUNSWICK

Project Name/Description  
9 MASSACHUSETTS AVE

Consultant/Agent  
(207) 725-1200 (207) 725-1114 (F)

Address Of Proposed Site  
MAP 78 LOTS 1,2,3,4

Applicant/Agent Daytime telephone and FAX

Assessor's Reference, Chart#, Block, Lot#

Proposed Development (Check all that apply)  New Building  Building Addition  Change of Use  Residential  Office  Retail  
 Manufacturing  Warehouse/Distribution  Other(Specify) GASOLINE SERVICE

2880 SF BUILDING

1900 SF CANOPY

25870 SF ±, GAC

B1

Proposed Building Square Footage and/or # of Units

Acreage of Site

Zoning

You must Include the following with you application:

- 1) A Copy of Your Deed or Purchase and Sale Agreement
- 2) 7 sets of Site Plan packages containing the information found in the attached sample plans and checklist.

(Section 14-522 of the Zoning Ordinance outlines the process, copies are available for review at the counter, photocopies are \$ 0.25 per page)

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

Signature of applicant: 	Date: <u>9/15/99</u>
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Site Review Fee: Major \$500.00 Minor 400.00

This application is for site review ONLY, a Building Permit application and associated fees will be required prior to construction.

CITY OF PORTLAND, MAINE  
SITE PLAN CHECKLIST

GAS FOR LESS, 9 Massachusetts Ave

Project Name, Address of Project

I.d. Number

Submitted () & Date	Item	Required Information	Section 14-525 (b,c)
<u>SUB 9-14-99</u>	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	1
<u>"</u>	(2)	Name and address of applicant and name of proposed development	a
<u>"</u>	(3)	Scale and north points	b
<u>"</u>	(4)	Boundaries of the site	c
<u>"</u>	(5)	Total land area of site	d
<u>SUB 9-14-99</u>	(6)	Topography - existing and proposed (2 feet intervals or less) - <b>VERY FLAT</b>	e
<u>SUB 9-14-99</u>	(7)	Plans based on the boundary survey including: <b>EXISTING &amp; PROPOSED SPOT ELEVATIONS SHOWN</b>	e
<u>SUB 9-14-99</u>	(8)	Existing soil conditions	2
<u>N/A</u>	(9)	Location of water courses, marshes, rock outcroppings and wooded areas	b
<u>SUB 9-14-99</u>	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
<u>SUB. 9-14-99</u>	(11)	Approximate location of buildings or other structures on parcels abutting the site	d
<u>SUB 9-14-99</u>	(12)	Location of on-site waste receptacles	e
<u>SUB 9-14-99</u>	(13)	Public utilities	e
<u>SUB 9-14-99</u>	(14)	Water and sewer mains	e
<u>"</u>	(15)	Culverts, drains, existing and proposed, showing size and directions of flows	e
<u>"</u>	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
<u>"</u>	(17)	Location and dimensions of on-site pedestrian and vehicular accessways	g
<u>"</u>	(18)	Parking areas	g
<u>"</u>	(19)	Loading facilities	g
<u>SUB 9-14-99</u>	(20)	Design of ingress and egress of vehicles to and from the site onto public streets	g
<u>"</u>	(21)	Curb and sidewalks	g
<u>SUB 9-14-99</u>	(22)	Landscape plan showing:	g
<u>"</u>	(23)	Location of existing proposed vegetation	h
<u>"</u>	(24)	Type of vegetation	h
<u>"</u>	(25)	Quantity of plantings	h
<u>"</u>	(26)	Size of proposed landscaping	h
<u>"</u>	(27)	Existing areas to be preserved	h
<u>"</u>	(28)	Preservation measures to be employed	h
<u>"</u>	(29)	Details of planting and preservation specifications	h
<u>SUB 9-14-99</u>	(30)	Location and dimensions of all fencing and screening	i
<u>SUB 9-14-99</u>	(31)	Location and intensity of outdoor lighting system	j
<u>"</u>	(32)	Location of fire hydrants, existing and proposed	j
<u>SEE LETTER</u>	(33)	Written statement	k
<u>"</u>	(34)	Description of proposed uses to be located on site	c
<u>"</u>	(35)	Quantity and type of residential, if any	l
<u>"</u>	(36)	Total land area of the site	l
<u>"</u>	(37)	Total floor area and ground coverage of each proposed building and structure	b2
<u>"</u>	(38)	General summary of existing and proposed easements or other burdens	b2
<u>"</u>	(39)	Method of handling solid waste disposal	c3

"	(40)	Applicant's evaluation of availability of off-site public facilities, including sewer, water and streets	5
"	(41)	Description of any problems of drainage or topography, or a representation that there are none	6
"	(42)	An estimate of the time period required for completion of the development	7
"	(43)	A list of all state and federal regulatory approvals to which the development may be subject	8
"	(44)	The status of any pending applications	8
"	(45)	Anticipated timeframe for obtaining such permits	h8
"	(46)	A letter of non jurisdiction	h8
"	(47)	Evidence of financial and technical capability to undertake and complete the development including a letter from a responsible financial institution stating that it has reviewed the planned development and would seriously consider financing it when approved.	

Note: Depending on the size and scope of the proposed development, the Planning Board or Planning Authority may request additional information, including (but not limited to):

- drainage patterns and facilities;
- erosion and sedimentation controls to be used during construction;
- a parking and/or traffic study;
- a noise study;
- an environmental impact study;
- a sun shadow study;
- a study of particulates and any other noxious emissions; and
- a wind impact analysis.

Other comments:

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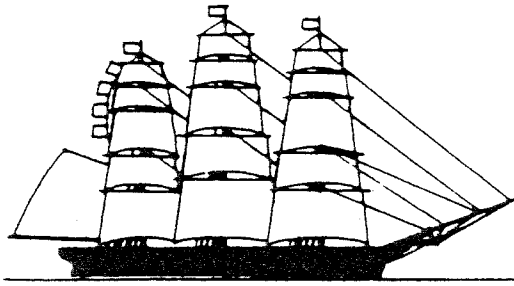
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1-K

## M.W. SEWALL & CO.

P.O. Box 245 • Bath, Maine 04530  
(207) 442-7994 • 1-800-540-7994  
Facsimile 1-207-443-8198

*Service - Our Number One Product Since 1913*

September 13, 1999

To: Portland Planning Board  
From: Ned Sewall

Dear Mr. Chairman:

M.W. Sewall purchased the gasoline facility at the corner of Massachusetts Avenue and Congress Street in July of last year. Two months prior to our purchase, the former owner had received approval for site improvements and an underground tank replacement as outlined in the enclosed Hill Nemers Plan.

M.W. Sewall is requesting to make a few additional improvements, but due to zoning requirements and the delicate nature of gasoline stations in general, we have tried to stay as close as possible to the Hill Nemers Plan that was approved by the Planning Board last spring. I have summarized the major changes below:

- 1.) the gasoline pumps (3) are spread out on two islands
- 2.) a canopy over the pumps has been added with special attention to lighting standards
- 3.) we propose to tear down the existing two buildings and replace with one of equal square footage
- 4.) we will install stockade fencing along residential boundaries instead of leaving the chain link fence

Thank you for your consideration

Peoples Heritage Bank

One Portland Square

P.O. Box 9540

Portland, ME 04112-9540

1-800-462-3666

Tel: 207-761-8500

1-L



September 7, 1999

To Whom It May Concern:

M W Sewall and Company has financing instruments in place with Peoples Heritage Bank that provide adequate funding for the proposed construction project on Congress Street. M W Sewall has been a valued customer of the Bank for the last five years.

Please feel free to call me at (207) 761-8577 with any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "B. C. Geci".

Benjamin C Geci  
Vice President  
Commercial Lending



WARRANTY DEED  
(Maine Statutory Short Form)

CLADDAGH CORP., a Maine corporation with its principal place of business in Portland, Maine, whose mailing address is 1199 Congress Street, Portland, Maine 04102 (the "Grantor"), for consideration paid, grants to M. W. SEWALL & CO., a Maine corporation with a place of business in Bath, Maine, whose mailing address is P.O. Box 245, Bath, Maine 04530 (the "Grantee"), with Warranty Covenants, certain lots or parcels of land, together with all buildings and improvements thereon, situated on Congress Street in the City of Portland, County of Cumberland and State of Maine, being more particularly described in Schedule A attached hereto and made a part hereof.

Meaning and intending to convey and hereby conveying the same premises conveyed to the Grantor by deed of Morris L. Silver and Lynn Silver dated July 11, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13202, Page 182.

IN WITNESS WHEREOF, CLADDAGH CORP. has caused this instrument to be executed in its name and on its behalf by MORRIS L. SILVER, its President, thereunto duly authorized, this 23<sup>rd</sup> day of June, 1998.

WITNESS:

*Paul F. Driscoll*

CLADDAGH CORP.

*Morris L. Silver*

Morris L. Silver  
Its President

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

June 23<sup>rd</sup>, 1998

Then personally appeared the above-named Morris L. Silver, President of Claddagh Corp., and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

*Paul F. Driscoll*

Notary Public/Attorney at Law

*PAUL F. DRISCOLL*

Type or Print Name

## SCHEDULE A

Certain lots or parcels of land with the buildings thereon, situated on the northeasterly side of Congress Street the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows:

Parcel 1

Beginning at the corner formed by the intersection of the southeasterly side of Massachusetts Avenue with the northeasterly side of Congress Street; thence running northeasterly by the southeasterly side of said Massachusetts Avenue seventy-eight (78) feet to a stake set in the ground at the corner of a certain lot or parcel of land conveyed by Anni Whitney to Mabel G. Farrington by deed dated March 30, 1920 and recorded in the Cumberland County Registry of Deeds in Book 1048, Page 215; thence running southeasterly by said Farrington land seventy (70) feet, more or less, to a stake set in the ground at the corner of a certain lot or parcel of land conveyed by Alice P. Whitney and others to Christian G. Kragelund by deed dated November 3, 1922 and recorded in said Registry in Book 1121, Page 361; thence running southwesterly by said Kragelund land ninety-three and fifty-seven hundredths (93.57) feet to said Congress Street; thence running northwesterly by said Congress Street seventy-two and fifty-six hundredths (72.56) feet to the point of beginning.

Parcel 2

Beginning at a stake set in the ground on the northeasterly side of Congress Street at a stake set in the ground on the northeasterly side of Congress Street at a point seventy-two and fifty-six hundredths (72.56) feet southeasterly of the corner formed by the intersection of the northeasterly side of Congress Street with the easterly side of Massachusetts Avenue; thence running northerly parallel with the easterly side of Massachusetts Avenue ninety-three and fifty-seven hundredths (93.57) feet, more or less, to the southwesterly line of land conveyed by Anni Whitney to Mabel G. Farrington by deed dated March 30, 1920 and recorded in the Cumberland County Registry of Deeds in Book 1048, Page 215; thence running easterly by said Farrington line four and eighty-four hundredths (4.84) feet to the northwesterly corner of land conveyed by Alice P. Whitney and others to said Mabel G. Farrington by deed dated July 14, 1922 and recorded in said Registry of Deeds in Book 1110, Page 84; thence southeasterly by said last named lot sixty-four and thirty-six hundredths (64.36) feet to land conveyed by William Ryal to Joshua F. Moss by deed dated November 12, 1875 and recorded in said Registry of Deeds in Book 426, Page 189; thence southwesterly by said Ryal land six and fifty-three (6.53) feet to a stake set in the ground; thence easterly five and four hundredths (5.04) feet, more or less, to a stake set in the ground; thence southwesterly eighty-four and sixty-three hundredths (84.63) feet, more or less, to a point on the northeasterly side

of said Congress Street, which point is distant nine and fifty-five hundredths (9.55) feet northwesterly by said Congress Street from the southeasterly corner or land conveyed by said Alice P. Whitney and others to Jerry Green, at al., by deed dated June 9, 1922 and recorded in said Registry of Deeds in Book 1108, Page 96; thence northwesterly by said Congress Street fifty-two and forty-one hundredths (52.41) feet to the point of beginning.

146649

RECEIVED  
RECORDED REGISTRY OF DEEDS

1998 JUN 24 PM 2: 09

CUMBERLAND COUNTY

*John B O'Brien*

040086

WARRANTY DEED  
(Maine Statutory Short Form)

MORRIS L. SILVER, TRUSTEE OF EASTER 1916 REALTY TRUST, a Maine realty trust, reference being made to the Declaration of Easter Realty Trust dated July 11, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13202, Page 178, whose mailing address is 1199 Congress Street, Portland, Maine 04102 (the "Grantor"), for consideration paid, grants to M. W. SEWALL & CO., a Maine corporation with a place of business in Bath, Maine, whose mailing address is P.O. Box 245, Bath, Maine 04530 (the "Grantee"), with Warranty Covenants, certain lots or parcels of land, together with all buildings and improvements thereon, situated on Massachusetts Avenue in the City of Portland, County of Cumberland and State of Maine, being more particularly described in Schedule A attached hereto and made a part hereof.

Further reference is made to an Acknowledgment of Consent of Beneficiaries of Easter 1916 Realty Trust of even or recent date and recorded herewith.

Meaning and intending to convey and hereby conveying the same premises conveyed to the Grantor by deed of Morris L. Silver dated July 11, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13202, Page 207.

The premises conveyed herein are subject to a Mortgage from Keith D. Bartlett and Kathleen M. Bartlett to Comfed Mortgage Co., Inc. dated April 6, 1987, and recorded in said Registry of Deeds in Book 7712, Page 243, assigned to ComFed Savings Bank by instrument dated April 6, 1987 and recorded in said Registry of Deeds in Book 7714, Page 61, further assigned to Lomas Mortgage USA by instrument dated September 27, 1991 and recorded in said Registry of Deeds in Book 9901, Page 231, and further assigned to First Nationwide Mortgage Corporation by instrument dated January 12, 1996 and recorded in said Registry of Deeds in Book 12767, Page 90, which the Grantee, be its acceptance of this deed, hereby assumes and agrees to pay.

And the said Grantor, Trustee as aforesaid, in his said capacity, does hereby covenant with the said Grantee, its successors and assigns, that he is the sole Trustee under said Trust; that said Trust is still in force and effect; that said Trust has not been amended; that he has the power thereunder to convey as aforesaid; and that in making this conveyance, he has, in all respects, acted pursuant to and in accordance with the authority vested in and granted to him therein and all terms and conditions of said Trust.

IN WITNESS WHEREOF, MORRIS L. SILVER, TRUSTEE as aforesaid, has executed this instrument this 23<sup>rd</sup> day of June, 1998.

WITNESS:

Paul F. Driscoll

Morris L. Silver  
Morris L. Silver, Trustee as aforesaid

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

June 23<sup>rd</sup>, 1998

Then personally appeared the above-named Morris L. Silver, Trustee of Easter Realty 1916 Realty Trust, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Trust.

Before me,

Paul F. Driscoll

Notary Public/Attorney at Law

PAUL F. DRISCOLL

Type or Print Name

147230



## SCHEDULE A

A certain lot or parcel of land with the buildings thereon, located in the City of Portland, County of Cumberland and State of Maine, being bounded and described as follows:

Beginning at a point on the southeasterly side line of Massachusetts Avenue, distant thereon one hundred twenty-five (125) feet northeasterly from the northeasterly side line of Congress Street at its point of intersection with the said southeasterly side line of Massachusetts Avenue, said point of beginning being the westerly corner of a lot of land numbered B, as shown on plan of Massachusetts Avenue lots made for Anni Whitney by E. C. Jordan & Co., C.E., recorded in the Cumberland County Registry of Deeds, Plan Book 19, Page 30; thence southeasterly and at right angles to Massachusetts Avenue and along the southwesterly side line of said lot numbered B one hundred thirty-six (136) feet, more or less, to a point in the southeasterly side line of land now or formerly of Anni Whitney, as shown on said plan, said point being the southerly corner of said lot numbered B; thence southwesterly along said Whitney side line and nearly parallel with Massachusetts Avenue fifty-three (53) feet to a point; thence northwesterly one hundred thirty-six (136) feet, more or less, to a point in the said southeasterly side line of Massachusetts Avenue, distant northeasterly thereon seventy-eight (78) feet from the northeasterly side line of Congress Street; thence northeasterly along the southeasterly side line of Massachusetts Avenue forty-seven (47) feet to the point of beginning; said lot containing six thousand seven hundred fifty (6,750) square feet, more or less, and being a part of lot A and a part of the lot adjoining lot A on the southeast, as shown on said Jordan Plan.

Also another certain lot or parcel of rear land situated in said Portland, northerly of Congress Street and between Massachusetts Avenue and Douglass Street, bounded and described as follows:

Beginning at a stake on the southerly line of a lot of land conveyed by Anni Whitney to Mabel G. Farrington by deed dated March 30, 1920 and recorded in the Cumberland County Registry of Deeds in Book 1048, Page 215, distant easterly seventy-five and five hundredths (75.05) feet from the easterly line of Massachusetts Avenue; thence easterly by said southerly line of said Farrington lot sixty-one and seventy-one hundredths (61.71) feet to a stake at land conveyed by William Ryal to Joshua F. Moss by deed dated November 12, 1875 and recorded in said Registry of Deeds in Book 426, Page 189; thence southerly by land formerly of said Ryal fifteen (15) feet to a stake; thence westerly sixty-four and thirty-six hundredths (64.36) feet more or less, to the point of beginning.

14050

RECEIVED  
RECORDED REGISTRY OF DEEDS

1998 JUN 24 PM 2: 11

CUMBERLAND COUNTY

*John B O'Brien*

OPTION AGREEMENT

AGREEMENT made and entered into as of this 1st day of August, 1998 (the "Effective Date"), by and between Timothy Placey of Cumberland, Maine ("Seller") and M. W. Sewall of Bath, Maine, ("Buyer").

WITNESSETH AS FOLLOWS:

IN CONSIDERATION of One Dollars, (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged by Seller, Seller and Buyer agree as follows:

1. GRANT OF OPTION. Seller hereby grants to Buyer the exclusive and irrevocable option to purchase, on the terms and conditions contained in this Agreement. property located at 11-13 Massachusetts Avenue in Portland, Maine, and more particularly described on Exhibit A attached hereto and made a part hereof (the "Premises").

2. TERM OF OPTION; OPTION CONSIDERATION. This Option shall commence on the Effective Date and continue in effect for a period of TWO HUNDRED AND FORTY (240) Days, or until canceled by Buyer as hereinafter provided the Buyer shall pay to Seller the sum of ONE THOUSAND DOLLARS (\$1,000) per month as Option Consideration. Said option payments shall be made on the 5th day of each month of the Option Period. Five Hundred Dollars (\$500.00) of each option payment shall be credited toward the Purchase Price. The Buyer shall have the right to cancel this Option at any time prior to the Expiration Date by notifying Seller of such cancellation in which event Buyer shall not be obligated to pay Seller any additional Option Consideration.

3. NOTICE OF EXERCISE. This Option may be exercised only by Buyer giving written notice of election to exercise to Seller in the manner set forth in Paragraph 9(b) below.

4. FAILURE TO EXERCISE. In the event that Buyer fails to exercise this Option, the Option Consideration shall be retained by Seller and neither Seller or Buyer shall have any further rights or claims against the other.

5. EXERCISE. In the event that Buyer exercises this Option as provided herein, the following provisions shall be applicable:

(a) Purchase Price. The Purchase price shall be ONE HUNDRED AND THIRTY FIVE THOUSAND DOLLARS (\$135,000) at the end of the option period or at anytime before the option period expires. If Buyer exercises his option to purchase the Property then Buyer and Seller shall enter into a mutually agreed upon Purchase and Sale Agreement.

2.

(b) Title. Covenant Against Further Encumbrances. Seller shall convey the Premises to Buyer at the closing in fee simple with good and marketable title, free and clear of liens and encumbrances. In the event that Buyer determines upon examining title to the Premises that Seller *would* be unable to convey title as aforesaid, Seller shall be given a reasonable period of time after notice from Buyer, not to exceed sixty (60) days, in which to remedy any title defects. In the event that said defects cannot be corrected or remedied within said time period, then the Option Consideration shall be returned to Buyer and this Agreement shall terminate. Buyer may, however, elect to close notwithstanding such defects as may exist. Seller and Buyer understand and agree that any mortgages and liens on the Premises shall not be considered title defects provided that the same shall be discharged at or prior to the closing at Seller's expense. Seller agrees that it will not further encumber or permit to be encumbered the Premises by any liens, mortgages, attachments, covenants, restrictions or easements after the Effective Date of this Option.

(c) Closing. The closing shall take place THIRTY (30) business days after the date this Option is exercised, at a mutually agreed upon location. At the closing, Seller shall execute and deliver to Buyer, against payment of the balance of the purchase price, a Warranty Deed to the Premises with full Warranty Covenants in accordance with the Short Form Deeds Act, 33 M.R.S.A. 761 ~ seq. (the "Deed").

Seller further agrees to execute and deliver to Buyer at the closing such Affidavits and Certificates as are reasonably necessary for Buyer's acquisition and financing of the Premises including without limitation a Certificate of Non-Foreign Status (as required by Internal Revenue Service regulations) and a title insurance "Owner's Affidavit" regarding mechanics liens and persons in possession and, if Seller is a corporation, partnership or other legal entity, satisfactory evidence of authority to convey and good standing.

(d) Adjustments. Prorations and Closing Costs.

i. Real estate taxes and assessments shall be prorated as of the closing on the basis of the latest available tax bill.

ii. The Maine real estate transfer tax shall be paid for by Seller and Buyer in accordance with 36 M.R.S.A. 4641-A.

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3.

iii. The recording fee for the deed of conveyance and any expenses related to any mortgage which Buyer may grant to a lender in connection with the purchase of the Premises shall be paid for by Buyer.

iv. A portion of the purchase price shall be withheld at the closing by Buyer if required by 36 M.R.S.A. § 5250-A.

(e) Possession. Seller shall deliver possession of the Premises to Buyer at the closing, subject to all Tenants being tenancies at will subject to 30 day notice to quit possession of the Property.

(f) Risk of Loss, Condition of the Premises, Damage, Destruction and Insurance.

(i) All risk of loss to the Premises prior to the closing shall be on Seller;

(ii) Seller agrees to: (a) not permit or suffer waste of the Premises; and (b) not permit or suffer any release of any hazardous, special or solid wastes substances or materials in, on or about the Premises.

(h) Default: Remedies. In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer shall have all remedies available at law and equity including the right of specific performance. Seller shall return all option payments to Buyer. In the event that Buyer defaults in the performance of its obligations hereunder after exercise of this Option, Seller shall retain the Option Consideration as full and complete liquidated damages in lieu of any other legal or equitable remedy, in which case this Agreement will terminate and neither party will be under any further obligation hereunder.

6. BROKERAGE. Seller warrants and represents to Buyer that Seller has not dealt

1-W

4.

7. INSPECTION. Buyer or its agents may enter the Premises at all reasonable times prior to the closing in order to inspect the same and may conduct studies, tests, surveys and take samples so that Buyer can determine the suitability of the Premises of Buyer's intended use. Buyer's inspection of the Premises, pursuant to this paragraph, shall not be deemed a waiver of any of the representations and warranties made by Seller hereunder.

8. RECORDING OF OPTION. Seller and Buyer agree that this Option may be recorded.

9. Miscellaneous.

(a) Time. Time is of the essence of this Agreement.

(b) Notices. All notices, demands and other communications hereunder shall be in writing

(c) Binding Effect. This Agreement will inure to the benefit of and bind the respective successors and assigns of Seller and Buyer.

(d) Construction. As used in this Agreement, the singular number shall include the plural, the plural the singular, and the use of one gender shall be deemed applicable to all genders. This Agreement shall be governed by and construed in accordance with the laws of Maine. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

(f) Effective Date. The Effective Date of this Option shall be deemed to be the date first set forth above in this Agreement.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the date first above written.

WITNESS: \_\_\_\_\_

SELLER: [Signature] 8/1/98  
DATE

WITNESS: \_\_\_\_\_

BUYER: [Signature] 8/6/98  
DATE

1-X

FIRST ADDENDUM TO OPTION TO PURCHASE AGREEMENT

By and Between  
TIMOTHY PLACEY (Seller)  
and  
M. W, SEWALL (Buyer)

For Option Agreement Dated August 1, 1998  
Property Address 11-13 Massachusetts Avenue.  
City/State Portland, Maine

Buyer and Seller Agree to extend the time for performance of the above referenced Option to Purchase Agreement until September 30, 1999.

Buyer and Seller further agree to modify Paragraph 2 of the above referenced Option to Purchase Agreement specifically deleting Sentence 3. The effect of this modification will eliminate any portion of the option payments being applied to the purchase price.

All other terms of the Agreement shall remain in full force and effect.

SELLER

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Its: \_\_\_\_\_

BUYER

*Suzanne Dent*  
\_\_\_\_\_  
WITNESS

By: *[Signature]*  
Its: PRESIDENT

# Infrastructure Financial Contribution Form

Obtain an Account Number from Paul Colpitts, Chief Acct., (ext. 8665) prior to the distribution of this form.

Amount \$ 4,000.00

City Account Number: 710-0000-236-07-00

Project Name: M. W. Sewall Gas Station

Project Job Number: 19990125  
(from Site Plan Application Form)

Project Location: 9 Massachusetts Ave

Project Description: Gas Station Redevelopment -  
(attach approval letter) Congress St. Widening

Applicant's Name: M. W. Sewall

Applicant's Address: 259 Front Street, Bath, ME 04530

Expiration:  If funds are not expended or encumbered for the intended purpose by \_\_\_\_\_, funds, or any balance of remaining funds, shall be returned to contributor within six months of said date.  
 Funds shall be permanently retained by the City.  
 Other (describe in detail) \_\_\_\_\_

Form of Contribution:  Escrow Account  
 Cash Contribution

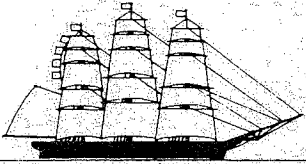
Interest Disbursement: Interest on funds to be paid to contributor only if project is not commenced.

Terms of Draw Down of Funds: The City shall periodically draw down the funds via a payment requisition from Public Works, which form shall specify use of City Account # shown above.

Date of Form: 5/17/00  
Planner: Kandi Talbot Person Completing Form: Kandi Talbot

- The original form, copy of the check and any attachments shall be given to Debbie Marquis.
- The original check, copy of the form and any attachments shall be given to Jennifer Dorr.
- A copy of this form, the check and any attachments shall also be given to the following people:

Paul Colpitts      Alexander Jaegerman      William Bray      Applicant  
Jennifer Babcock      ✓ Planner      Tony Lombardo      Penny Littell



M.W. SEWALL & CO. 259 FRONT ST. • BATH, MAINE 04530

PEOPLES HERITAGE BANK  
PORTLAND, MAINE

52-7445  
2112

063740

63740

01/18/2000  
DATE

\*\*\*\*\*\$4,000.00  
AMOUNT

FOUR THOUSAND AND NO/100

PAY  
TO THE  
ORDER  
OF

City of Portland, Me.  
389 Congress St  
Portland, ME 04101

AUTHORIZED SIGNATURE  
NOT VALID AFTER 120 DAYS

⑈063740⑈ ⑆211274450⑆ 0290 73509⑈



# CITY OF PORTLAND, MAINE

## PLANNING BOARD

John H. Carroll, Chair  
Jaimey Caron, Vice Chair  
Kenneth M. Cole III  
Cyrus Y. Hagge  
Deborah Krichels  
Erin Rodriguez  
Mark Malone

November 10, 1999

Mr. Ned Sewall  
M. W. Sewall Co.  
259 Front Street  
Bath, ME 04530

re: 9 Massachusetts Avenue/1199 Congress Street; Gas Station Redevelopment

Dear Mr. Sewall:

On November 9, 1999 the Portland Planning Board voted 6-0 (Malone absent) to approve your application to redevelop the retail/gas station located at the corner of Congress Street and Massachusetts Avenue. The Board found that the application met the standards of the Site Plan ordinance of the Land Use code.

The approval was granted for the project with the following condition(s):

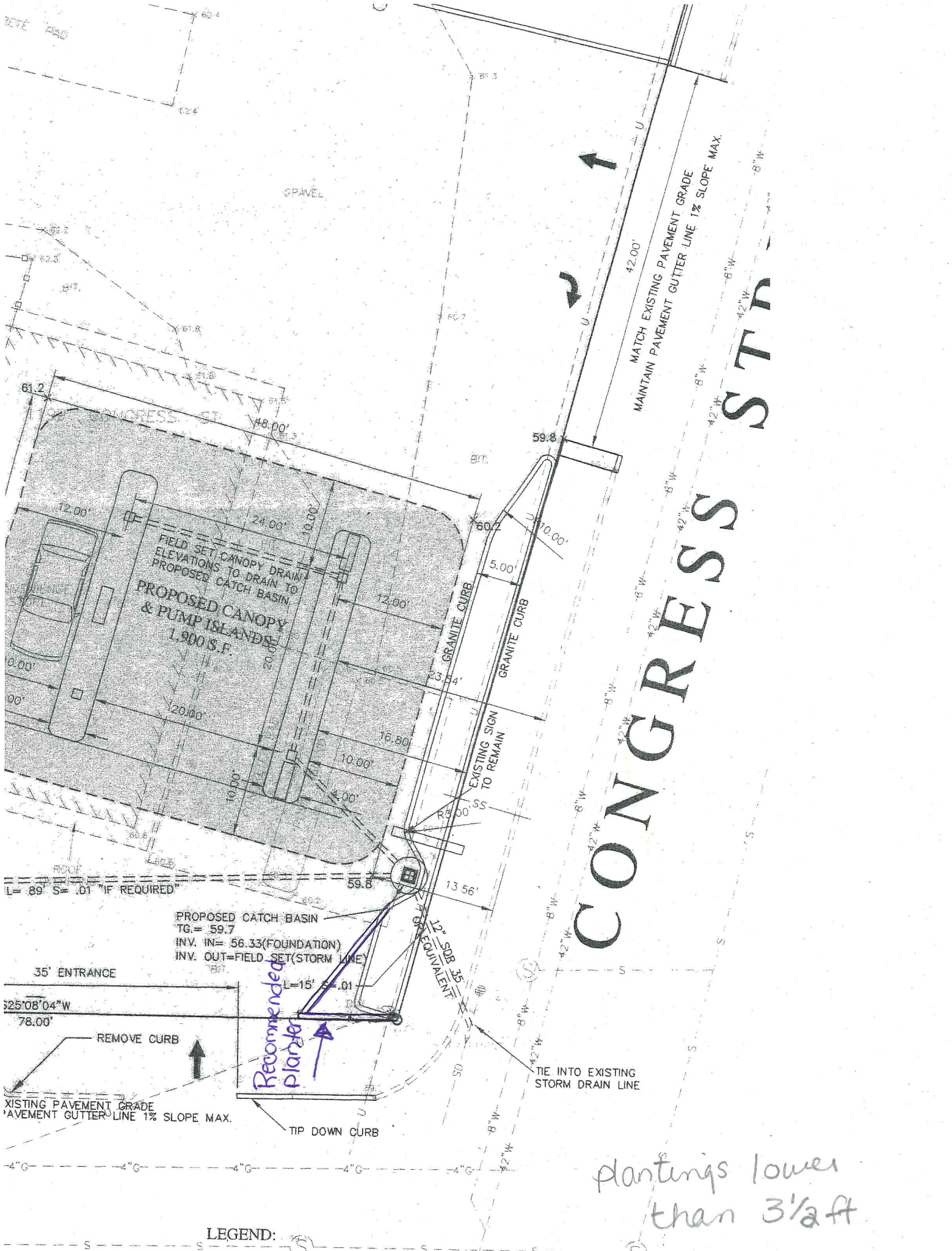
- i. that the applicant contribute \$4,000 to traffic improvements for the proposed traffic light at the intersection of Congress Street and Massachusetts Avenue
- ii. that a landscaped island be installed at the Congress Street and Massachusetts Avenue corner of the lot with side dimensions of not less than ten (10) feet and should be either submerged in the ground with plantings protected by granite curbing or placed within an elevated retaining wall.
- iii. that the applicant revise the photometric plan for review and approval of the Planning staff.
- iv. that a maintenance plan for the Passive Oaks Skimmer be submitted to staff for review and approval.
- v. that the applicant eliminate one curb cut on Massachusetts Avenue to create one curb cut, not to exceed 35 ft. in width, in consultation with the Planning staff.

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #60-99, which is attached.

Please note the following provisions and requirements for all site plan approvals:

O:\PLANDEVREV\W\CONGMASS\APPRVLTR.WPD

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development  
Alexander Jaegerman, Chief Planner  
Kandice Talbot, Planner  
P. Samuel Hoffses, Building Inspector  
Marge Schmuckal, Zoning Administrator  
Tony Lombardo, Project Engineer  
Development Review Coordinator  
William Bray, Director of Public Works  
Jeff Tarling, City Arborist  
Penny Littell, Associate Corporation Counsel  
Lt. Gaylen McDougall, Fire Prevention  
Inspection Department  
Lee Urban, Director of Economic Development  
Don Hall, Appraiser, Assessor's Office  
Susan Doughty, Assessor's Office  
Approval Letter File



FIELD SET CANOPY DRAIN  
ELEVATIONS TO DRAIN TO  
PROPOSED CATCH BASIN

PROPOSED CATCH BASIN  
TG. = 59.7  
INV. IN = 56.33 (FOUNDATION)  
INV. OUT = FIELD SET (STORM LINE)

**CONCRESS ST**

MATCH EXISTING PAVEMENT GRADE  
MAINTAIN PAVEMENT GUTTER LINE 1% SLOPE MAX.

35' ENTRANCE  
225'08"04" W  
78.00'  
REMOVE CURB  
EXISTING PAVEMENT GRADE  
PAVEMENT GUTTER LINE 1% SLOPE MAX.

TIE INTO EXISTING  
STORM DRAIN LINE

*plantings lower than 3 1/2 ft*

CITY OF PORTLAND

Site Plan \ Subdivision Performance Guaranty

CASH ESCROW AGREEMENT

Developer's Tax Identification Number: \_\_\_\_\_

Amount to be Escrowed: \$44,189.00

City Account Number:<sup>2</sup> \_\_\_\_\_

Treasurer's Receipts Number: \_\_\_\_\_

Project Job Number: 19990125  
(from Site Plan Application Form)

Project Location: 9 Massachusetts Ave.

Project Description: Gas Station Redevel.  
(Attach Approval Letter)

Developer's Name and Mailing Address: M.W. Sewall  
259 Front Street  
Bath, ME 04530

Escrow Agreement completed by Kandice Talbot on \_\_\_\_\_, 2000.

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between \_\_\_\_\_

(hereinafter "Developer"), and the City of Portland, a body politic and corporate, having a place of business in the County of Cumberland and the State of Maine (hereinafter "Escrow Agent").

In consideration of their mutual promises, covenants and agreements, and other good and valuable consideration, receipt of which is hereby acknowledged, the said parties agree, as follows:

(Jan. 2000)



### **PUBLIC IMPROVEMENTS**

1. Pursuant to the project approval letter referred to above, the Developer is required to make certain required site improvements, all as more fully described therein.
2. The estimated cost of completing those improvements is: \$ 44,189.00.
3. The deadline for completing the improvements is : \_\_\_\_\_.

### **APPOINTMENT OF ESCROW AGENT**

4. The Developer hereby appoints the City of Portland to act as its Escrow Agent.

### **DUTIES OF ESCROW AGENT**

5. During the term of this Agreement, the Escrow Agent will hold and disburse Escrow funds in accordance with its terms and provisions.

### **LIMITATION OF LIABILITY**

6. The Developer agrees that the Escrow Agent assumes no liability in connection with this Agreement, except for gross negligence or willful misconduct.

### **INTEREST**

7. The Escrow Agent will not pay interest on the amount of funds in the Escrow account.

### **INSPECTION OF COMPLETED WORK**

8. The Developer has the duty to advise the City of Portland's Planning Department or its Department of Public Works, which ever is appropriate, when the required site improvements which are subject of this Agreement either have been completed or are otherwise ready for inspection.

### **DISBURSEMENT OF ESCROW FUNDS**

9. The City of Portland may draw against the escrow account at the request of the Director of Planning in the event that:

- (a) [Developer] fails to satisfactorily complete by [Date: Within two years but

(Jan. 2000)

in no event between November 15 and April 15 of any given year] the work described in Paragraph 1;

- (b) **[Developer]** fails to request the City to conduct inspections in conjunction with the installation of the public improvements noted in Paragraph 1; or
- (c) **[Developer]** fails to post a ten percent (10%) Defect Bond or Guarantee as provided in Sections 14-501 and 14-525.

#### **REDUCTION OF ESCROW ACCOUNT**

10. After approval by the Director of Planning and Urban Development, the Director of Finance of the City of Portland may reduce the amount of the escrow account, pursuant to Portland Municipal Code §14-501.

#### **COSTS OF ESCROW ACCOUNT**

11. All costs associated with establishing, maintaining and disbursing funds from the escrow account will be born by the Escrow Agent.

#### **PERIOD OF WITHDRAWAL**

12. The City of Portland may draw against the Escrow Account during a period not to exceed ninety days (90) following the expiration of the deadline for completing improvements (hereinafter "deadline"), provided that **[Developer]** has given the City written notice of the deadline, at least ninety (90) days prior thereto, by certified mail, addressed to the Director of Planning and Urban Development. In the absence of such a notice, the City of Portland may draw against the account for a period, not to exceed ninety (90) days beyond the expiration date, which will commence to run from and after the date it has received written notice of expiration of the deadline.

#### **TERMINATION OF ESCROW AGREEMENT**

13. This Escrow Account will terminate either on [date: ninety (90) days after date for completion of required site improvements, but not between the dates of September 15th and April 15th] or as automatically extended pursuant to paragraph 12. It may be terminated prior to those

(Jan. 2000)

dates when the City of Portland has acknowledged in writing to Developer that the required site improvements have been completed in accordance with its specifications.

\_\_\_\_\_  
Developer  
by \_\_\_\_\_  
its \_\_\_\_\_

City of Portland

\_\_\_\_\_  
Duane Kline  
its Director of Finance

---

**Distribution**

1. This Form will be completed by Planning Staff.
  2. The account number can be obtained by calling Paul Colpitts, Chief Accountant, at x8665.
  3. The Agreement will be executed in duplicate originals.
  4. The duplicate originals, each signed by the Developer, will be delivered to the Finance office, together with a check or the funds representing the escrowed amount.
  5. The Director of Finance or his designated agent will sign the escrow agreement in duplicate, acknowledge receipt of funds and deposit them into a City account.
  6. The Director of Finance will retain one duplicate original.
  7. The Director of Finance will return the other duplicate original to Planning. Planning will retain a copy and mail the other duplicate original to the Developer.
-

Department of Planning and Urban Development  
 SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date 12/15/99

Name of Project Gas For Less

Address/Location 9 Massachusetts Avenue

Developer M.W. Sewall & Co.

Form of Performance Guarantee Letter of Credit

Type of Development: Subdivision  X Site Plan (~~Major~~/Minor)

TO BE FILLED OUT BY APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
<b>I. STREET/SIDEWALK</b>						
Road			1500			
Granite Curbing			7275			7977
Sidewalks			5500			5954
Españades						
Monuments						
Street Lighting						
Other						
<b>SANITARY SEWER</b>						
Manholes	(existing)					
Piping						
Connections						
Other						
<b>STORM DRAINAGE</b>						
Manholes			3800			
Catchbasins						
Piping						
Detention Basin						
Other						
<b>SITE LIGHTING</b>	2	833	1666	1	833	833
<b>EROSION CONTROL</b>			750			750
<b>RECREATION AND OPEN SPACE AMENITIES</b>						



Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
7. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)			2455			5729
8. MISCELLANEOUS						
TOTAL:		22,946			21,243	
GRAND TOTAL:		44,189				

INSPECTION FEE (to be filled out by City)

	PUBLIC	PRIVATE	TOTAL
A: 1.7% of totals:			751.23
or			
B: Alternative Assessment:			
Assessed by:	(name)	(name)	

Date: 11-13-99

Company Name:

M.W. SEWALL

Address:

NED 442-7994

Phone:

Fax:

9 MASSACHUSETTS AVE  
PORTLAND, ME

QTY	SKU #	DESCRIPTION	UNIT PR	TOTAL
3	402066	Acer Armstrong Red Maple 2 1/2"	175.00	525.00
2	465000	Rhus Calleryana Bradford 2 1/2"	275.00	550.00
1	461599	Sylvestris Glauca Nana 3 1/2-4'	62.00	62.00
12	475502	Taxus Densiformis 18-24"	36.99	443.88
28	467054	Rhod PJM 24-30"	70.00	1960.00
6	462502	Potentilla Abbotswood 18-24"	18.99	113.94
7	432021	Euon Burning Bush 18-24"	28.99	202.93
4	454552	Malus Snowdrift 2-2 1/2"	135.00	540.00
3	461004	Pinus Mugo 21-24"	36.99	110.97
2	411955	European Hornbeam 2"	175.00	350.00
40	600603	Day Lillies	5.99	239.60
40		MULCH	24.99	999.60

SUBTOTAL

6097.92

TAX

FREIGHT

BAL DUE


CITY OF PORTLAND

Site Plan \ Subdivision Performance Guaranty

CASH ESCROW AGREEMENT

Developer's Tax Identification Number: \_\_\_\_\_

Amount to be Escrowed: \$44,189.00

City Account Number:<sup>2</sup> \_\_\_\_\_

Treasurer's Receipts Number: \_\_\_\_\_

Project Job Number:  
(from Site Plan Application Form) 19990125

Project Location: 9 Massachusetts Avenue

Project Description:  
(Attach Approval Letter) Gas Station Redevelop.

Developer's Name and Mailing Address: M W Sewall

259 Front Street

Bath, ME 04530

Escrow Agreement completed by Kandice Talbot on \_\_\_\_\_, 2000.

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between \_\_\_\_\_

M. W. Sewall

(hereinafter "Developer"), and the City of Portland, a body politic and corporate, having a place of business in the County of Cumberland and the State of Maine (hereinafter "Escrow Agent").

In consideration of their mutual promises, covenants and agreements, and other good and valuable consideration, receipt of which is hereby acknowledged, the said parties agree, as follows:

(Jan. 2000)

### **PUBLIC IMPROVEMENTS**

1. Pursuant to the project approval letter referred to above, the Developer is required to make certain required site improvements, all as more fully described therein.
2. The estimated cost of completing those improvements is: \$ \$44,189.00.
3. The deadline for completing the improvements is : \_\_\_\_\_.

### **APPOINTMENT OF ESCROW AGENT**

4. The Developer hereby appoints the City of Portland to act as its Escrow Agent.

### **DUTIES OF ESCROW AGENT**

5. During the term of this Agreement, the Escrow Agent will hold and disburse Escrow funds in accordance with its terms and provisions.

### **LIMITATION OF LIABILITY**

6. The Developer agrees that the Escrow Agent assumes no liability in connection with this Agreement, except for gross negligence or willful misconduct.

### **INTEREST**

7. The Escrow Agent will not pay interest on the amount of funds in the Escrow account.

### **INSPECTION OF COMPLETED WORK**

8. The Developer has the duty to advise the City of Portland's Planning Department or its Department of Public Works, which ever is appropriate, when the required site improvements which are subject of this Agreement either have been completed or are otherwise ready for inspection.

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- (a) [Developer] fails to satisfactorily complete by [Date: Within two years but

(Jan. 2000)

in no event between November 15 and April 15 of any given year] the work described in Paragraph 1;

- (b) **[Developer]** fails to request the City to conduct inspections in conjunction with the installation of the public improvements noted in Paragraph 1; or
- (c) **[Developer]** fails to post a ten percent (10%) Defect Bond or Guarantee as provided in Sections 14-501 and 14-525.

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#### **TERMINATION OF ESCROW AGREEMENT**

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(Jan. 2000)

dates when the City of Portland has acknowledged in writing to Developer that the required site improvements have been completed in accordance with its specifications.

\_\_\_\_\_  
Developer  
by \_\_\_\_\_  
its \_\_\_\_\_

City of Portland

\_\_\_\_\_  
Duane Kline  
its Director of Finance

---

**Distribution**

1. This Form will be completed by Planning Staff.
  2. The account number can be obtained by calling Paul Colpitts, Chief Accountant, at x8665.
  3. The Agreement will be executed in duplicate originals.
  4. The duplicate originals, each signed by the Developer, will be delivered to the Finance office, together with a check or the funds representing the escrowed amount.
  5. The Director of Finance or his designated agent will sign the escrow agreement in duplicate, acknowledge receipt of funds and deposit them into a City account.
  6. The Director of Finance will retain one duplicate original.
  7. The Director of Finance will return the other duplicate original to Planning. Planning will retain a copy and mail the other duplicate original to the Developer.
-

Department of Planning and Urban Development  
SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date 12/15/99

Name of Project Gas For Less

Address/Location 9 Massachussetts Avenue

Developer M.W. Sewall & Co.

Form of Performance Guarantee Letter of Credit

Type of Development: Subdivision  Site Plan (Major/Minor)

TO BE FILLED OUT BY APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
<b>I. STREET/SIDEWALK</b>						
Road			1500			7977
Granite Curbing			7275			5954
Sidewalks			5500			
Esplanades						
Monuments						
Street Lighting						
Other						
<b>SANITARY SEWER</b>						
Manholes	(existing)					
Piping						
Connections						
Other						
<b>STORM DRAINAGE</b>						
Manholes			3800			
Catchbasins						
Piping						
Detention Basin						
Other						
<b>SITE LIGHTING</b>						
	2	833	1666	1	833	833
<b>EROSION CONTROL</b>						
			750			750
<b>RECREATION AND OPEN SPACE AMENITIES</b>						

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
7. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)			2455			5729
8. MISCELLANEOUS						
TOTAL:		22,946			21,243	
GRAND TOTAL:		44,189				

INSPECTION FEE (to be filled out by City)

	PUBLIC	PRIVATE	TOTAL
A: 1.7% of totals:			751.23
or			
B: Alternative Assessment:			
Assessed by:	(name)	(name)	



Date: 11.13.99

Company Name: M.W. SEWALL  
 Address: NED 442-7994  
 Phone: 9 MASSACHUSETTS AVE  
 Fax: PORTLAND, ME

QTY	SKU #	DESCRIPTION	UNIT PR	TOTAL
3	402066	Acer Armstrong Red Maple 2 1/2"	175.00	525.00
2	465000	Rhus Calleryana Bradford 2 1/2"	275.00	550.00
1	461599	Sylvestris Glauca Nana 3 1/2-4'	62.00	62.00
12	475502	Taxus Densiformis 18-24"	36.99	443.88
28	467054	Rhod PJM 24-30"	70.00	1960.00
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2	411955	European Hornbeam 2"	175.00	350.00
40	600603	Day Lillies	5.99	239.60
40		MULCH	24.99	999.60

SUBTOTAL	6097.92
TAX	
FREIGHT	
BAL DUE	

CITY OF PORTLAND, MAINE  
M E M O R A N D U M

**TO:** Distribution List

**FROM:** Natalie L. Burns, Associate Corporation Counsel

**DATE:** October 18, 1996

**RE:** Gas Station Amendments

Attached is a copy of the gas station zoning and site plan amendments. The City Council passed these on October 7, so they will go into effect on November 6, 1996.

*Natalie L. Burns*

Natalie L. Burns  
Associate Corporation Counsel

NLB:lab

Distribution List:

Chairman Hagge and Members of the Planning Board  
Chairman Manahan and Members of the Board of Appeals  
Marge Schmuckal, Zoning Administrator  
Joseph E. Gray, Jr., Director of Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
Kay Harte, Urban Designer  
Richard Knowland, Senior Planner  
Sarah Hopkins, Senior Planner  
Deborah Andrews, Senior Planner  
Kandi Talbot, Planner  
Gary C. Wood, Corporation Counsel  
Charles A. Lane, Associate Corporation Counsel  
Elizabeth L. Boynton, Associate Corporation Counsel  
Donna M. Katsiaficas, Associate Corporation Counsel  
Amendments Book

**AMENDMENT TO PORTLAND CITY CODE**  
**§§14-47, 14-182, 14-183, 14-230.1, 14-230.2 (ZONING ORDINANCE)**  
**§§14-522, 14-526 (SITE PLAN ORDINANCE)**  
**RE: GASOLINE SERVICE STATIONS IN THE B-2 AND B-5 ZONES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE  
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. That Section 14-47 of the Portland City Code is hereby amended as follows:

**Sec. 14-47. Definitions.**

*Major gasoline service stations:* A gasoline service station with more than one ~~(1)~~ two (2) pump islands or with a capacity to fuel more than eight (8) vehicles simultaneously or providing repair services including, but not limited to, tuneups, engine repair, brake work, muffler replacement, tire repair or similar activities.

*Minor gasoline service stations:* A gasoline service station with not more than one ~~(1)~~ two (2) pump islands, with a maximum of three ~~(3)~~ pumps, provided that no more than a total of eight (8) vehicles may be fueled simultaneously. Such stations shall not include car washes or vacuums. ~~with no r~~Repair services shall be permitted, provided that there shall be no more than two (2) service bays.

2. That Section 14-182(2)m-o of the Portland City Code is hereby amended to read as follows:

**Sec. 14-182. Permitted uses.**

The following uses are permitted in the B-2 zone:

(2) *Business:*

- m. Theaters and performance halls; and
- n. Hotels or motels of less than one hundred fifty (150) rooms; and
- o. Major and minor gasoline service stations, as defined in section 14-47.

3. That section 14-183(1)a of the Portland City Code is hereby

amended to read as follows:

**Sec. 14-183. Conditional uses.**

The following uses are permitted as provided in section 14-474 (conditional uses), if they meet the following requirements:

(1) *Business:*

- a. ~~Major and minor gasoline stations, as defined in section 14-47~~ **Reserved;**

4. That section 14-230.1 (2) is hereby amended as follows:

**Sec. 14-230.1. Permitted uses.**

The following uses are permitted in the B-5 urban commercial mixed use zone:

(2) *Commercial:*

- o. Lumber and building material dealers;
- p. **Major and minor gasoline service stations, as defined in section 14-47. Major and minor gasoline service stations shall be located at least two thousand (2,000) feet from each other.**

5. That section 14-230.2(1)(a) of the Portland City Code is hereby amended to read as follows:

**Sec. 14-230.2. Conditional uses.**

The following uses shall be permitted as conditional uses in the B-5 urban commercial mixed use zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that, in addition to the provisions of section 14-474(c)(2), they shall also meet the requirements set forth below:

(1) *Commercial:*

- a. ~~Automobile service stations and convenience stores with gasoline pumps provided that they are located at least two thousand (2,000) feet from other such uses~~ **Reserved.**

6. That section 14-522 of the Portland City Code is hereby amended as follows:

**Sec. 14-522. Definitions.**

For the purposes of this article all terms and words shall have their ordinary meanings, except as defined herein.

*Major development* means and includes:

- (5) The construction of any structure for industrial use which is more than forty-five (45) feet high; or
- (6) The addition of any additional dwelling unit to a building initially reviewed as a two-family dwelling or not previously reviewed under this article; or
- (7) The construction of any new major or minor gasoline service station in the B-2 or B-5 zone, or the construction of any new major or minor gasoline service station with a structure greater than ten thousand (10,000) square feet of building area in any other permitted zone.

*Minor development* means and includes any of the following unless (1) the development is major development; or (2) the development is single family development subject to the provisions of section 14-524(b):

- (14) The construction of any new major or minor gasoline service station with a structure of less than ten thousand (10,000) square feet of building area in any permitted zone other than the B-2 or B-5 zones.

7. That Section 14-526(a)(9) of the Portland City Code is hereby amended to read as follows and a new subsection (25) is hereby enacted, said subsection to read as follows:

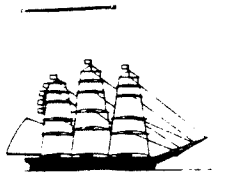
**Sec. 14-526. Standards.**

(a) *Requirements for approval.* The planning board or planning authority shall not approve a site plan unless it meets the following criteria:

- (9) The provision for exterior lighting will not be hazardous to motorists traveling on adjacent public streets; is adequate for the safety of occupants or users of the site; and such lighting will not cause significant annoyance, significant glare or undesirable direct spill-over onto adjacent properties;

- (25) All major or minor gasoline service stations shall meet the following requirements:

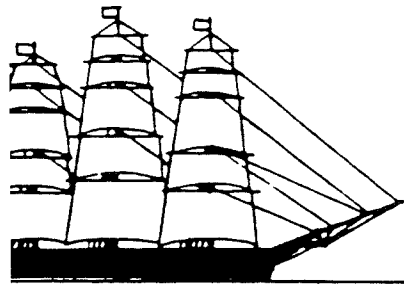
- a. **Signs:** Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
- b. **Circulation:** No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
- c. **Drive-up features:** Drive-up features, such as gasoline pumps, vacuum cleaners and menu/order boards, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.
- d. **Car washes:** Car washes shall be designed to avoid the tracking of residual waters into the street.



M.W. SEWALL & CO.

JON VAN HOOGENSTYN  
SALES & MARKETING MANAGER  
P.O. Box 245  
Bath, ME 04530

Service - Our #1 Product Since 1913



SEWALL & CO.

207-442-7994  
FAX 207-443-8198  
ME. 800-540-7994

P.O. Box 245 - Bath, Maine 04530  
(207) 442-7994 • 1-800-540-7994  
Facsimile 1-207-443-8198

Service - Our Number One Product Since 1913

*Kandi -  
Please  
start  
a file*

April 27, 1998

City of Portland  
Marge Schmuckal  
Zoning Administrator  
Planning Urban & Development

RE: Gas & Convenience Store, 1199 Congress St. & Massachusetts Ave.

Dear Marge:

M.W. Sewall & Co. is contemplating the purchase of the Cash Energy Convenience Store, which occupies the lots 1,2, and 3 at the Corner of Massachusetts Avenue and Congress Street.

If we purchased the property, we would want to make the following improvements:

- 1 - Re-configure the existing three gasoline pumps and one diesel pump perpendicular to Congress Street for safer access. These pumps would be protected by a canopy as shown in the diagram.
- 2 - The pump reconfiguration would allow for the elimination of one traffic entrance on Massachusetts Avenue, increasing safety.
- 3 - The convenience store would be moved to the corner of the lot away from traffic flow. Handicapped access would be provided. Square footage of the store would be the same.

Based on our previous conversation and limiting the number of gas pumps and size of building to what currently exists, do we need a permit or minor site plan review?

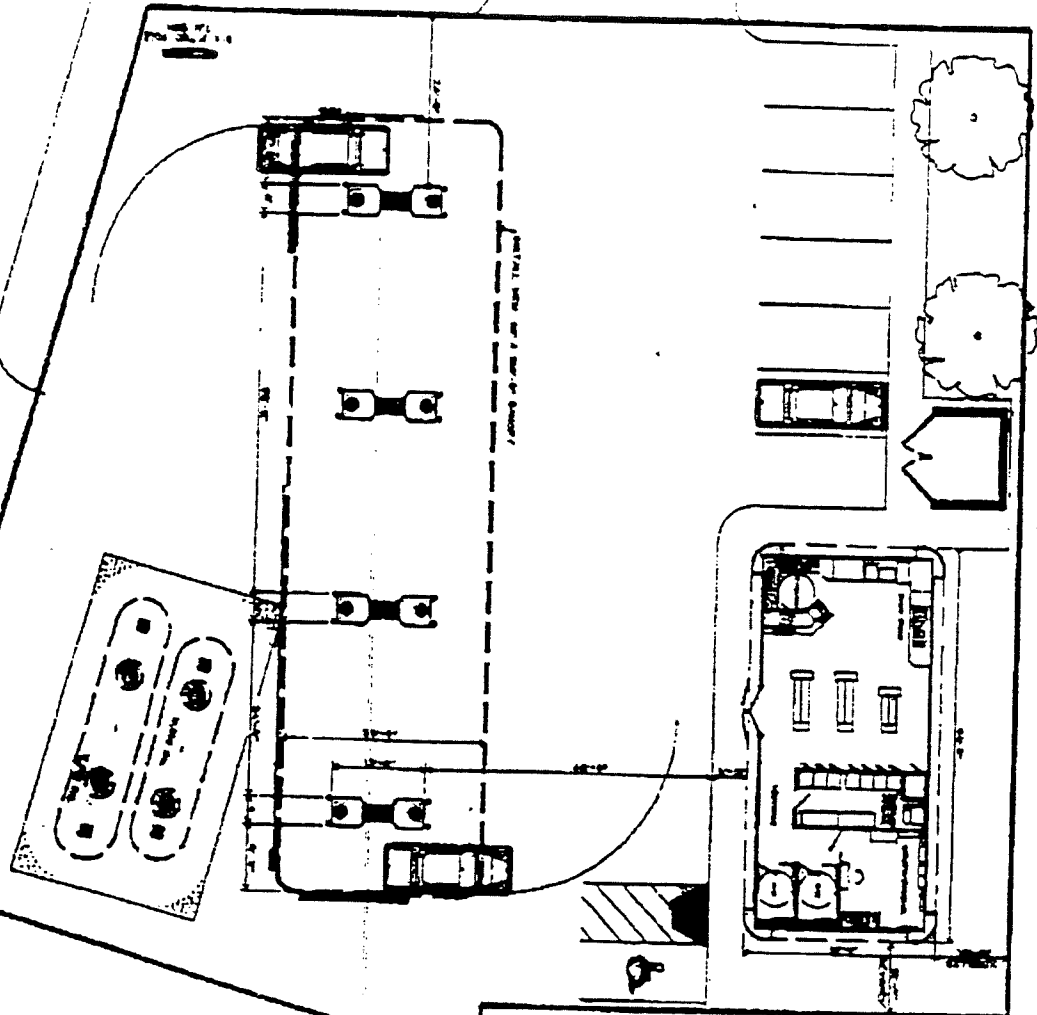
Regards,

Jon Van Hoogenstyn



110-520

122000 000000



60

60

60

000000







Ed Anania, Jr.  
90 Whitney Av.  
Portland, Me 04102  
(207) 871-0444

September 30, 1998

Mr. Joe Gray  
Planning Board Director  
City Hall  
389 Congress St.  
Portland, Me 04101

Dear Mr. Gray,

I am writing this letter because of my concern regarding the proposed expansion of the M.W. Sewall gas station/convenience store at 1199 Congress St., formerly known as Cash Energy & The New York Deli. I wrote a letter to Mr. Ned Sewall expressing my concerns and sent a copy to Mayor Tom Kane. At the Mayor's recommendation I also enclosed a copy for you.

In addition to the problems that I previously listed in the enclosed letter. I have two more, 1) Mr. Sewall explained to us that in his current proposal he expected "almost all" of this business traffic, including delivery trucks, to exit on Massachusetts Av., and they will exit two lots further down on Massachusetts Av. All of the properties at this end of Massachusetts Av. are multi-units (including one that I own), and with these homes come a large concentration of children. There will be a lot of new traffic on Massachusetts Av. This will make a bad situation much more dangerous. And 2) There will be a problem with snow on the street, similar to the problem currently at Whitney Av. These streets are narrow, and with the combination of the snow and (necessary) on street parking, two-way traffic on Massachusetts Av. will be difficult at best.

In closing, I am a believer in Mr. Sewall right to conduct business, but I think his current proposal will create more problems on this street and in this neighborhood.

Thank you for your time. If needed I can be reached at the phone and address above, or at 774-8104 or 774-4639.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Anania, Jr.', written in a cursive style.

Ed Anania, Jr.

cc: Tom Kane

Ed Anania, Jr.  
90 Whitney Av.  
Portland, Me 04102  
(207) 871-0444

M.W. Sewall & Co.  
P.O. Box 245  
Bath, Me 04530

September 21, 1998

Dear Mr. Sewall,

I am writing this letter not as store owner but as a property owner and resident of the Libbytown area of Portland. I have live in this neighborhood all of my life, most of which on Massachusetts Av. I, also, have many friends and relatives still on Massachusetts Av. I have concerns regarding the expansion of the gas station/ convenience store at 1199 Congress St.

One problem is the size of the proposed canopy over the new gas pumps. As you know, my family owns the property at 1189 Congress St. The proposed canopy is just a few feet away from our property. Is this allowed in accordance with our zoning laws? I believe this canopy will hurt the future ability to rent this property, in fact my current tenant has expressed their concerns.

Another problem I have with this expansion is that it is moving too far down on Massachusetts Av. I, also, own the 2 family at 12-14 Massachusetts Av. (the 3rd building from Congress St.). The current driveway of this property is adjacent to the 3 unit that you propose to raze and to replace with a new driveway for this proposed convenience store. My concerns are 1) This new driveway is to be the main exit of all off this store's deliveries. Also, the two new driveways on Massachusetts Av. will exit most, if not all, of this business's traffic. Currently (my guess) only half of the traffic exits on Massachusetts Av., with the rest using Congress St. What is the current customer count of this business? 1000/day? 1250/day? 1500/day? That's a lot of traffic across from my 2 family that is not there now., 2) This end of the street consists mostly of 2 & 3 residential unit properties (including ours), all of which, need and use on street parking. This will push the cars needing on street parking further down on Massachusetts Av., and 3) I believe that this business (instead of a house) being directly across from our house will hurt future rents and the market value of my property.

As I mentioned at the September 15th meeting, I think the majority of the concerns of the neighborhood would be solved if you kept the traffic on Congress St., similar to your Brighton Av. store and to the Puffin Stop on Congress St. If you decided to go in this direction, I would be willing to discuss the sale of my property, at 1189 Congress St., to you to increase your Congress St. frontage.

I welcome you to the neighborhood and believe your business will be a major improvement over the previous owner's. I, also, believe that most of the neighbors' concerns can solved, but we do not want your convenience store to increase and/or create problems in our neighborhood.

I look forward to hearing for you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ed Anania, Jr.", written in black ink.

Ed Anania, Jr.

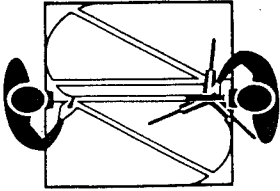
cc: Tom Kane

**From:** ALEX JAEGERMAN  
**To:** JEG  
**Date:** Fri, May 29, 1998 5:19 pm  
**Subject:** John Van Hoogenstyn 1-800-540-7994 -Reply

Joe, this guy is with the Sewell Texaco company that wants to develop a Texaco at the Morris Silver site. They would put a new building at the rear of the site, where the house is now. I told them that they would have to go to the Planning Board....and that is what they want to talk to ;you ab

>>> Jennifer Dorr 05/27 10:53 am >>>  
RE: Congress Street Building

**CC:** KCOTE



June 28, 1999

595-7

Ms. Marge Smukel  
Codes Enforcement Officer  
City of Portland  
Portland, Maine

70-A1234

**RE: Portland Texaco  
Massachusetts Ave.  
Gasoline Service Facility**

received  
6/30/99

Minor Gas

Dear Ms. Smukel;

Enclosed please find a preliminary plan showing a proposed convenience store with 4 gasoline service pumps located on the corner of Massachusetts and Congress Ave in Portland. I enjoyed meeting with you and Kandice Talbot to discuss the project over the last several weeks. Mr. Ned Sewall has also spoken with you on several occasions regarding the intended project. The parcels in question are shown on City Tax Map 78 lots 1,2,3,4 and are located in the B1 Zone (section 14-161 of the zoning ordinance). We are requesting your written decision regarding our proposal with specific reference to the 4 gasoline pump configuration shown.

The site currently supports a gasoline service station with eight fueling positions (six for unleaded fuel, two for kerosene fuel) and an existing 1820 s.f. convenience store on lots 1 and 2 of which 981 s.f. are dedicated to sales area. The Ordinance lists convenience stores as a permitted use but excludes gasoline service stations which makes existing fuel pumps an existing non-conforming use.

The proposed plan shows a new 2860 s.f. convenience store (with 1800 s.f. dedicated to sales) proposed along with necessary parking and circulation to support the new facility. The new building will replace the run down 1820 s.f. store as well as an existing house and garage located on lot 3. The pump island canopy has been located on the maximum setback line (16.38') and oriented to allow the cashiers visibility of the pumps at all times.

2860  
-1800  
-----  
1060 #  
what is this  
space used  
for?

**SITELINES**

ENGINEERS ■ SURVEYORS ■ 8 Cumberland Street ■ Brunswick, ME 04011 ■ 207-725-1200 ■ FAX 725-1114

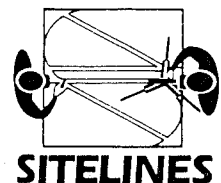
The existing pump island is situated closer and parallel to Congress Street making the egress point on to Massachusetts Avenue very close to Congress Street. A separate kerosene pump exists adjacent to Massachusetts Ave and the building. The fueling positions are uncovered and are generally unprotected from the elements. Currently the site has parking abutting Massachusetts Avenue which allows vehicles to back directly into the street causing an uncontrolled ingress and egress from the site. The new design closes two of the three existing curb openings on Massachusetts Avenue to better control access in and out of the site. It also consolidates all the fuel pump areas to one location on site and will be protected by an overhead canopy with state of the art fire suppression systems.

During my meeting with Ms. Talbot on May 24, 1999 we discussed the preliminary plan and the overall planning and review process. Ms. Talbot suggested that she would present the plan to City staff at the staff review meeting and receive some initial feedback on the plan. Ms. Talbot contacted me on June 1, 1999 with several comments and suggestions regarding the proposed plan. Ms. Talbot conveyed your concerns regarding the 4 pump configuration which may be an expansion of a existing non-conforming use. Ms. Talbot also suggested that by changing the pump from kerosene to gasoline would cause an increased traffic to the facility therefor increasing the non-conforming use. We offer these comments to you for your consideration before a final decision is made on this issue.

It is our contention that the four pump configuration design is not an expansion in the non-conforming use. The existing configuration and proposed plan both have eight pump positions located on site. The type of fuel pumped from these positions does not change — or increase the use of the facility. The Ordinance defines two types of gasoline service stations (major business or minor business in section 14-47). The definition identifies “pump islands” and “fueling positions” as the key criteria to consider when determining the difference between major and minor. The definition does not identify “fuel type” or “traffic impact” and should not be considered in the use or increase in use determination. A better criteria for determining / maintaining expansion would be counting the number of hoses or fueling positions. New pumps are called MPD’s (multi product dispensers). These have been installed almost exclusively at all upgraded facilities since 1990. Based on the underground piping, each MPD can dispense all grades of gasoline from each hose or fueling position. When you pull up to a MPD, the patron has the option of unleaded, plus, or super. We don’t count this as three pumps, it is one pump with fueling positions on both sides. The current facility has four pumps with the ability to fuel 8 cars at a time (8 hoses). We request that you permit the proposed facility to maintain 8 fueling positions and 4 pump locations in an approved configuration to better serve their customers.

yes

You do not fuel a car with K-1



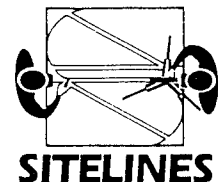
Ms. Marge Smukel  
Portland Texeco Facility  
06/28/99  
Page 3

The concern was raised regarding an increase in traffic to the site because of the change in "fuel type" for the fourth pump. The site has been an existing gasoline service station for many years. Prior to the installation of the Mobil gasoline service station across the street, the site pumped approximately 2 ½ - 3 million gallons per year. The owner is upgrading the facility to allow better traffic flow and provide parking in front of the store in hopes of increasing sales of in store merchandise that has a higher gross margin than gasoline. We believe that the increase in traffic will be related more to the 60% increase in store size and the improved access configuration of the pump island.

To further support our proposal of maintaining four pumps on the new site plan, we have included comparative sales information from M.W. Sewall's other stores. The current Congress Street location attracts 26,000 customers per month. Of which 14,000 purchase just gasoline and 12,000 are store merchandise customers. These fuel customers are attracted by price. M.W. Sewall consistently prices 7-8 cents below the neighboring competition (Mobil and Getty). Why? As we know, the current facility is unattractive, the pumps are old and slow, parking is limited, ingress and egress is difficult, the lighting is poor, etc. The reason people visit this store is price.

M.W. Sewall is going to invest a substantial sum of money to upgrade the property, and they do not necessarily have to increase the gasoline traffic to pay for this improvement. By revitalizing the property, they hope to attract a different group of customers including those heading to the vicinity of the Maine Mall, the jetport, or the professional offices on outer Congress Street. By having a modern competitive property, they will no longer have to discount their product to attract customers.

Why does the Mobil across the street pump twice as much gas as they do at 8 cents more per gallon? The Congress Street store will continue to attract 14,000 fuel only customers / month. The difference will be a different type of customer, not one that gets \$5-10 dollars per trip, but one who will fill their vehicle on just one trip. They will improve profitability by matching the competition not by increasing the number of visits. For example, Sewall's Yarmouth facility (Exit 17 off I - 295) also attracts 14,000 fuel only customers per month, yet pumps 1.9 million gallons. Their average store merchandise customer count is 26,000 per month. In fact, the average convenience store customer count for Yarmouth and their other Portland store at Exit 8 is 36% fuel only and 64% store merchandise. Currently, the Congress Street location attracts 12,000 store merchandise customers per month. (making the current facility's average 54% fuel only and 46% store merchandise). The fuel ratio is so high, because their gasoline is deeply discounted. The store merchandise percentage is low, because the store is small and unattractive. If their average holds true, the new improved facility will continue to attract 14,000 fuel customers / month, but inside store traffic will be almost twice that amount (25,000 store customers per month). As we know, the Ordinance lists convenience stores as a permitted use.





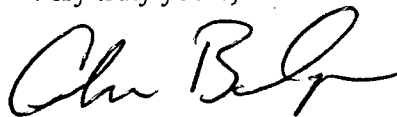
Ms. Marge Smukel  
Portland Texeco Facility  
06/28/99  
Page 4

Mr. Sewall has spoken with the City and abutting residents to identify and address their questions and concerns. Mr. Sewall continues to work with the City to create an acceptable facility for all parties involved. The new design offers a safer and cleaner facility that will be a great improvement over the current configuration.

We believe the new facility does not expand the non-conforming use and look forward to receiving a favorable determination from you and the City. Subject to your response we will move forward with the final design and the City approval process.

Thank you for all the time you have spent with us and the owner regarding this project. Should you have any questions please call.

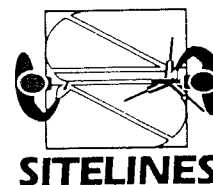
Very truly yours,



Christopher S. Belanger, P.E.  
Project Manager

Enclosure

cc: Ned Sewall



# Infrastructure Financial Contribution Form

Obtain an Account Number from Paul Colpitts, Chief Acct., (ext. 8665) prior to the distribution of this form.

Amount \$ 25,000

City Account Number: 71000002360200

Project Name:

MW Sewall & Co.

Project Job Number:  
(from Site Plan Application Form)

19990125

Project Location:

1199 Congress St. / a Massachusetts Ave  
Gas Station Redevelopment

Project Description:  
(attach approval letter)

cost estimate form dated 3/12/99

Applicant's Name:

MW Sewall Co.

Applicant's Address:

259 Front St., Bath ME 04530

Expiration:

If funds are not expended or encumbered for the intended purpose by \_\_\_\_\_, funds, or any balance of remaining funds, shall be returned to contributor within six months of said date.

Funds shall be permanently retained by the City.

Other (describe in detail) call PG because developer failed to complete improvements, developer has submitted new site plan for review and approval.

Form of Contribution:

Escrow Account

Cash Contribution


Interest Disbursement:

Interest on funds to be paid to contributor only if project is not commenced.

Terms of Draw Down of Funds: The City shall periodically draw down the funds via a payment requisition from Public Works, which form shall specify use of City Account # shown above.

Date of Form: Sept. 23, 1999

Planner: Kandi Talbot

Person Completing Form: Kandi Talbot 

- The original form, copy of the check and any attachments shall be given to Debbie Marquis.
- The original check, copy of the form and any attachments shall be given to Jennifer Dorr.
- A copy of this form, the check and any attachments shall also be given to the following people:

Paul Colpitts  
Jennifer Babcock

Alexander Jaegerman  
Planner

William Bray  
Tony Lombardo

Applicant

In the event that applicant receives approval, these funds will be returned to the applicant upon posting of PG. Otherwise, City will use funds to complete improvements per Cost estimate form.

1199cong.xls

**DHA's Engineer's Opinion of Cost for Site Improvements  
1199 Congress Street-Morris Silver Property**

Portland, Maine

1350.10disk10

Today's Date: 12-Mar-99						EST BY: <i>HW</i>
Rev Date: 3/12/99						
Item No.	Description	Unit	Qty	Unit Price	Amount	
1	Demolition of Chain Link Fence	LF	210	3.00	630.00	
2	Demolition of Granite Curb	LF	85	3.00	255.00	
3	Common Excavation	CY	265	7.00	1855.00	
4	Aggregate Subbase Crse-Gravel	CY	200	10.00	2000.00	
5	Crushed Base Gravel-Type A	CY	10	15.00	150.00	
6	Hot Bituminous Pavt	Ton	100	35.00	3500.00	
7	Hot Bituminous Pavt - Sidewalk	Ton	5	70.00	350.00	
8	Vertical Curb Type 1	LF	57	25.00	1425.00	
9	7' Granite Tip downs	EA	4	200.00	800.00	
10	Hot Bituminous Curb	LF	325	3.50	1137.50	
11	24" Wide Concrete Curb	LF	200	8.00	1600.00	
12	6' Stockade Fence	LF	210	15.00	3150.00	
13	Loam	CY	40	25.00	1000.00	
14	Mulch	CY	15	25.00	375.00	
15	4" Solid White Pavt Mark Line	LF	325	0.50	162.50	
16	Pipe Bollards	LS	1	300.00	300.00	
17	Shade Tree-Red Maple	EA	4	200.00	800.00	
18	Scotch Pine	EA	8	150.00	1200.00	
19	PJM Rhododendron 24"-30"	EA	11	45.00	495.00	
20	Rugosa Rose 24"-30"	EA	16	10.00	160.00	
21	Dense Yew 24"-30"	EA	18	50.00	900.00	
					0.00	

**Sub-Total \$22,245**

15% Contingency

\$3,337

**Total**

**\$25,582**

The Unit Prices in the estimate above were determined utilizing cost data from similar projects recently designed by this office.



Oxford Bank & Trust  
a division of Peoples Heritage Bank

PEOPLES HERITAGE BANK 25,000 DOLLARS 00 CTS

TO THE ORDER OF

City Of Portland

OFFICIAL CHECK

110326643-3

DATE

10/21/90

PAYMENT OF BENEFIT

M. N. Sewall And Co. \$25,000.00\*\*\*

Letter Of Credit

61284-690

VOID OVER \$25,000.00

Drawer: Peoples Heritage Bank

*Richard P. Wallace*  
AUTHORIZED SIGNATURE

Issued By Integrated Payment Systems Inc., Englewood, Colorado  
KeyBank National Association, Denver, Colorado

⑈ 200164 ⑈ ⑆ 102003918 ⑆ 68000110326643 ⑈

THE VARIABLE TONE BACKGROUND AREA OF THIS DOCUMENT CHANGES COLOR GRADUALLY AND SMOOTHLY FROM DARKER TONES AT BOTH TOP AND BOTTOM TO THE LIGHTEST TONE IN THE MIDDLE.

**From:** Kandi Talbot  
**To:** Marge Schmuckal  
**Date:** Thu, Sep 30, 1999 9:43 AM  
**Subject:** M W Sewall

Checking with you on the parking requirements for M W Sewall. They are showing 4 parking spaces for the three unit residential building.

They have 7 additional parking spaces for the retail and gas.

The retail building is 2,880 sq. ft. Is 11 spaces adequate for this site? And do we count the parking spaces separate for each use or can they be combined and anywhere on the site?

Thanks.

- Parking okay

**From:** Larry Ash  
**To:** Kandi Talbot  
**Date:** Mon, Oct 18, 1999 2:34 PM  
**Subject:** 1199 Congress Street Gas Station

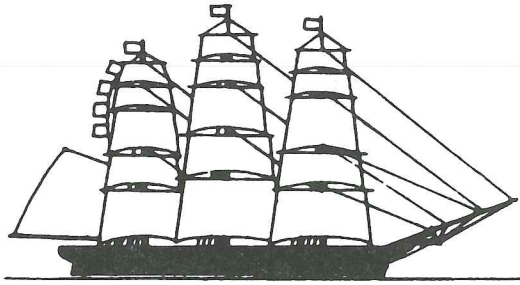
Kandi:

I can make the following recommendations with regards to the above referenced development:

1. I have no objection to the proposed two in/out driveways onto Massachusetts Ave. There will soon be a traffic signal at this intersection and I do not believe either of these driveways will have a negative impact on the operation of the traffic signals. If anything I believe the 2 driveways will aid in access and egress to the development.

2. I have no issues with proposed circulation within the development.

Should you have any questions please call. Thanks.



## M.W. SEWALL & CO.

P.O. Box 245 • Bath, Maine 04530  
(207) 442-7994 • 1-800-540-7994  
Facsimile 1-207-443-8198

*Service - Our Number One Product Since 1913*

December 2, 1999

Kandi Talbot  
City of Portland  
389 Congress Street  
Portland ME 04101

RE: 9 Massachusetts Avenue; Gas Station Development

Dear Ms. Talbot:

Please find enclosed a maintenance and inspection recommendation from the W.H. Shurtleff Company, distributors of the OARS Passive Skimmers.

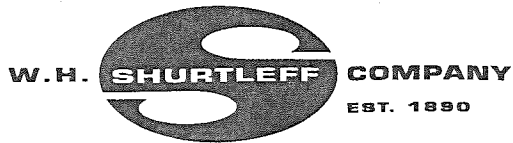
M.W. Sewall will follow their recommendation by inspecting the skimmers every two months and replacing as necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Ned Sewall".

Ned Sewall





Tel 207-883-6371  
Sales 800-663-6149  
Fax 207-883-3793

One Runway Road • P.O. Box 2800 • South Portland, Maine 04116-2800

November 30, 1999

Mr. Ned Sewall  
M. W. Sewall  
259 Front St.  
Bath, ME 04530

Fax# 443-8198

Dear Mr. Sewall:

In reference to our conversation regarding **OARS PASSIVE SKIMMERS**, these skimmers are designed to float on the surface of the water in your catch basin. For a 48" catch basin, you will require 1 - 18"x 18", and 1 - 27"x 27" skimmer.

One pound of the polymer in these skimmers will absorb up to 1 gallon of hydrocarbon. Normal usage would require inspection after 2-3 months. A change is only necessary if you can see a sheen of oil floating on top of the water. Some of our clients have had these in their oil water separators for six months without having to replace them. I would recommend you do a maintenance inspection once every two months, unless you have had a large spill, in which case you would inspect it immediately afterwards.

The W. H. Shurtleff Company is stocking both sizes in our South Portland warehouse, so when the time comes to change the skimmers, they will readily available.

Please let me know if you have any additional questions.

Very truly yours,  
**W. H. SHURTLEFF COMPANY**

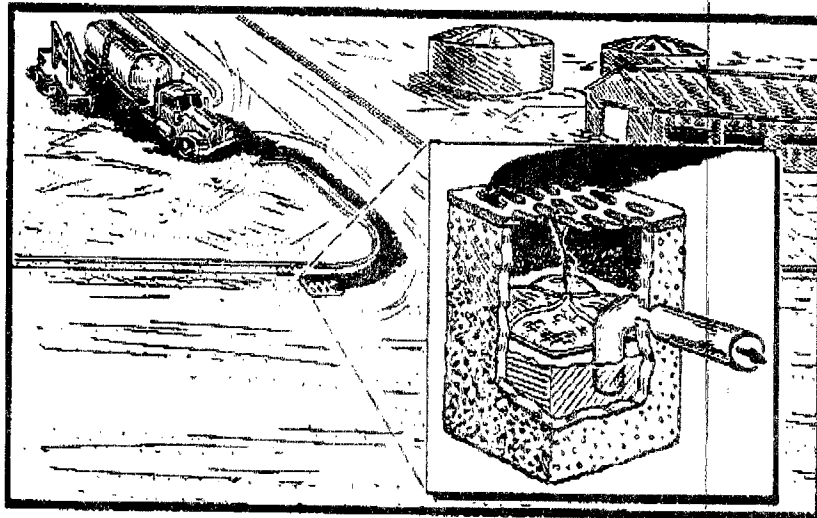
Elaine Keith  
Territory Manager

In-Situ Containment

OARS®

OARS® CO-POLYMER  
PASSIVE SKIMMER SERIES

- Stormwater BMP (Best Management Practice)
- Effective nonpoint source pollution prevention
- Long-standing remediation
- No modification of existing structure



*OARS® Passive Skimmer capturing oil in stormwater catch basin.*

#### **What are OARS® Passive Skimmers?**

The OARS® Passive Skimmer Series is designed to absorb and encapsulate hydrocarbons by floating directly on the water in stormwater catch basins, sumps, and oil/water separators. As oil-polluted stormwater flows into the catch basin, the OARS® Passive Skimmer filters out and absorbs hydrocarbons without inhibiting water flow. OARS® Passive Skimmers are made of oil-absorbing polymers, packaged in flexible mesh containers that are available in a variety of sizes. This innovative product is also capable of removing oil sheen.

#### **What are the advantages of OARS® Passive Skimmers?**

The uniquely designed OARS® Passive Skimmer allows stormwater to flow through the skimmer for extended periods without the sediment-clogging problems associated with typical stormwater filters. As debris and larger objects flow into the catch basin, the skimmer folds downward from the weight. This self-clearing action allows the skimmer to return to its original position for continued hydrocarbon absorption.

OARS® will never release absorbed oil; it is tough enough to withstand turbulent environments; and it is cost effective. Because the OARS® Passive Skimmer safely "locks up" absorbed hydrocarbons it can remain in place for long periods. This cost-effectiveness makes OARS® Passive Skimmers the most desired products on the market.

Installation of the OARS® Passive Skimmer is a simple process requiring no structural modifications to existing drainage structures or oil/water separators. Change-out of the OARS® Passive Skimmer is also quick and easy and accomplished by simply pulling the skimmer out and replacing it.

**OARS® CO-POLYMER PASSIVE SKIMMER SERIES**

**What makes OARS® Passive Skimmers a stormwater BMP (Best Management Practice)?**

Hydrocarbons from nonpoint sources are deposited on streets, highways, parking lots, and industrial sites and washed into storm drains when it rains. Annual stormwater runoff from one square mile of roads and parking lots can contain as much as 5,000 gallons of oil and grease. This number does not include deliberate dumping and accidental releases of oil. OARS® Passive Skimmers strategically deployed in catch basins, oil/water separators, and sumps intercept this oil, remove it from the stormwater flow and prevent its discharge into receiving waters and aquifers.

**How have OARS® polymers been tested?**

1. Tests were undertaken for King County, Washington, to demonstrate OARS® effectiveness in retaining the oil once absorbed. Fully absorbed OARS® polymer cylinders were flushed with water for ten minutes, producing leachate values of 1.3 to 2.2 mg/L (average 1.7 mg/L), well below the Washington State allowable value of 10 mg/L.
2. OARS® polymers saturated with used motor oil and diesel fuel have successfully passed the EPA Method 1311/TCLP (Toxicity Characteristic Leaching Procedure) Test for volatile and semi-volatile organics, indicating no detectable levels of leachable analytes were present.
3. OARS® polymers saturated with used motor oil and diesel fuel have successfully passed the EPA Method 9095 for Free Liquids (Paint Filter Analysis), indicating no free liquids were present.
4. OARS® polymers saturated with used motor oil and diesel fuel have successfully passed the EPA Method 1010 for Flashpoint. Saturated OARS® samples tested at greater than 100°C.
5. Tests have shown that OARS® Passive Skimmers are static resistant and do not generate any spark in a zero humidity and 0°F environmental chamber. The surface charge is  $1.82 \times 10^{-9}$  A/SEC/m<sup>2</sup>, which is 50% less than polypropylene sorbents.

Additional test data is available.

**OARS® Co-Polymer Passive Skimmer Series Specifications**

Sizes Available	13 in. x 13 in. (33 cm x 33 cm)	18 in. x 18 in. (45.7 cm x 45.7 cm)	27 in. x 27 in. (68.6 cm x 68.6 cm)	Custom sizes available.
Dry Weight	1.25 lbs. (57 kg)	2.45 lbs. (1.12 kg)	5.2 lbs. (2.36 kg)	

For additional information on this and other products contact:



Suite 235

3999

ONE RUNWAY ROAD, P.O. BOX 2800  
SOUTH PORTLAND, ME 04116-2800  
1-800-683-6149

SITE PLANS/SUBDIVISIONS  
PERFORMANCE GUARANTEE:  
LETTER OF CREDIT  
[Account #64159-774]

January 19, 2000

Joseph E. Gray, Jr., Director  
Planning and Urban Development  
389 Congress Street  
City of Portland  
Portland, Maine 04101

RE: M. W. Sewall & Co.

Peoples Heritage Bank hereby issues its Irrevocable Letter of Credit for the account of M. W. Sewall & Co. as developer, hereinafter referred to as the Developer, in the name of the City of Portland in the aggregate amount of Forty Four Thousand One Hundred Eighty Nine and 00/100 (\$44,189.00) Dollars.

The City, through its Director of Planning and Urban Development, may draw on this Letter of Credit by presentation of a sight draft and the original Letter of Credit and all amendments thereto, at Peoples Heritage Bank office located at One Portland Square, Portland, Maine stating that:

(1) the Developer has failed to complete by June 30, 2000 or by the expiration date of any temporary certificate of occupancy issued, whichever date comes first, at the Developer's expense, the work on the roads and other public improvements as set forth in a certain Schedule of Costs of Public Improvements dated December 15, 1999; or

(2) the Developer has failed to post the ten percent (10%) Defect Bond or Guarantee required by the Portland City Code sections 14-501 and 14-525; or

(3) the Developer has failed to notify the City for inspections.

In the event of Peoples Heritage Bank's dishonor of the City of Portland's sight draft Peoples Heritage Bank shall inform the City of Portland in writing of the reason or reasons therefor within three (3) working days of the dishonor.

After all underground work in the public right of way has been completed and inspected to the satisfaction of the Department of Public Works, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or the City of Portland Director of Finance as provided in section 14-501 of the Portland City Code may

authorize Peoples Heritage Bank, by written certification, to reduce the available amount of this letter of credit by a specified amount.

It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current expiration date hereof, or any future expiration date, unless at least sixty (60) days prior to any expiration date, Peoples Heritage Bank notifies the Director of Planning and Urban Development by registered mail at the above listed address that Peoples Heritage Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by the original Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development reading as follows:

This drawing results from notification that Peoples Heritage Bank has elected not to renew its Letter of Credit No 64159-774; or

This drawing results from the Developer's failure to timely complete to the satisfaction of the City the public improvements set forth in a certain Schedule of Costs of Public Improvements dated December 15, 1999; or

This drawing results from the Developer's failure to post a ten percent (10%) Defect Guarantee or Bond as provided in §14-501 of the Portland City Code; or

This drawing results from the Developer's failure to notify the City for inspections.

This Letter of Credit will automatically expire upon the earlier of:

1. Peoples Heritage Bank's receipt of a written notification from the City of Portland that said work as outlined in a certain Schedule of Costs of Public Improvements dated December 15, 1999 between the Developer and the City of Portland has been completed in accordance with the City of Portland specifications and Peoples Heritage Bank's Letter of Credit No. 64159-774 may be canceled; or

2. The expiration date of June 30, 2000 or any automatically extended date as specified herein.

Partial drawings are permitted.

We engage with you that drafts drawn under and in compliance with the terms of this credit will be duly honored if presented at our offices at One Portland Square, Portland, Maine on or before June 30, 2000 or any automatically extended date as specified herein.

Very truly yours,

Peoples Heritage Bank

By: [Signature]  
Its Duly Authorized

The City of Portland has accepted the providing of alternative security for the Developer's obligations to be performed pursuant to Section 14-501 and/or Section 14-525 of the Portland City Code.

Dated: \_\_\_\_\_

By: [Signature]  
Joseph E. Gray, Jr.  
Its Duly Authorized Director of Planning and Urban Development

Seen and Agreed to: M. W. Sewall & Co.

By: [Signature]  
*M. W. Sewall*

Date: January 20, 2000

Reviewed pursuant to Section 14-501 and/or Section 14-525, Portland City Code

By: \_\_\_\_\_  
Director of Finance

Date: \_\_\_\_\_

By: [Signature]  
Corporation Counsel

Date: 01/28/2000

Department of Planning and Urban Development  
 SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date 12/15/99

Name of Project Gas For Less

Address/Location 9 Massachusetts Avenue

Developer M.W. Sewall & Co.

Form of Performance Guarantee Letter of Credit

Type of Development: Subdivision  Site Plan  (Major/Minor)

TO BE FILLED OUT BY APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
<b>I. STREET/SIDEWALK</b>						
Road			1500			
Granite Curbing			7275			7977
Sidewalks			5500			5954
Esplanades						
Monuments						
Street Lighting						
Other						
<b>SANITARY SEWER</b>						
Manholes	(existing)					
Piping						
Connections						
Other						
<b>STORM DRAINAGE</b>						
Manholes			3800			
Catchbasins						
Piping						
Detention Basin						
Other						
<b>SITE LIGHTING</b>	2	833	1666	1	833	833
<b>EROSION CONTROL</b>			750			750
<b>RECREATION AND OPEN SPACE AMENITIES</b>						

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
7 LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)			2455			5729
8 MISCELLANEOUS						
TOTAL:		22,946			21,243	
GRAND TOTAL:		44,189				

INSPECTION FEE (to be filled out by City)

	PUBLIC	PRIVATE	TOTAL
A: 1.7% of totals:			751.28
or			
B: Alternative Assessment:			
Assessed by:	(name)	(name)	



Date: 11.13.99

Company Name: **M.W. SEWALL**  
 Address: **NED 442-7994**  
 Phone:  
 Fax: **9 MASSACHUSETTS AVE**  
**PORTLAND, ME**

QTY	SKU #	DESCRIPTION	UNIT PR	TOTAL
3	402066	Acer Armstrong Red Maple 2 1/2"	175.00	525.00
2	465000	Rhus Calleryana Bradford 2 1/2"	275.00	550.00
1	461599	Sylvestris Glauca Nana 3 1/2-4'	62.00	62.00
12	475502	Taxus Densiformis 18-24"	36.99	443.88
28	467054	Rhod PJM 24-30"	70.00	1960.00
6	462502	Potentilla Abbotswood 18-24"	18.99	113.94
7	432021	Euon Burning Bush 18-24"	28.99	202.93
4	454552	Malus Snowdrift 2-2 1/2"	135.00	540.00
3	461004	Pinus Mugo 21-24"	36.99	110.97
2	411955	European Hornbeam 2"	175.00	350.00
40	600603	Day lillies	5.99	239.60
40		MULCH	24.99	999.60

SUBTOTAL	6097.92
TAX	
FREIGHT	
BAL DUE	

December 13, 1999

Joseph E. Gray, Jr.  
Director of Planning and Urban Development  
City Hall, 4<sup>th</sup> Floor  
389 Congress Street  
Portland, ME 04101

Dear Mr. Gray:

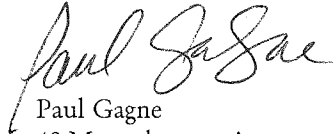
As a resident of Massachusetts Avenue, I have three concerns about the proposed expansion of M.W. Sewall at 1199 Congress Street and 9 Massachusetts Avenue, all of them traffic related. I wish them luck in their expansion - they have been providing our community with inexpensive gas for quite some time, and I hope they continue to do so. All three of my concerns, however, need to be addressed because they each present dangerous situations in an area where there are accidents and "fender-benders" on a very regular basis.

1. **Signage:** The signage that they currently have in front of the parking lot on the Congress Street side obstructs my view of oncoming traffic. As you may or may not know, merging on to Congress Street can be particularly difficult from Massachusetts Avenue. Their signage, particularly a cigarette advertisement, blocks my view and has caused, a number of times, "close calls". When I moved to this street a little over a year ago and wanted to put up a fence in my yard, I was told by the city that it could not be more than 4 feet high in the front - I'm not sure why the rationale that applies to my house does not apply to their business.
2. **Exiting customers:** Because of their current configuration and traffic flow for their gas pumps, their customers are forced to exit onto Massachusetts Avenue directly in front of the stop sign. On too many occasions to count, I have tried to turn on to my street from Congress but could not because of a line of their customers' cars blocking the road. In turn, I end up blocking traffic on Congress which makes the back end of my vehicle a perfect target. Any new configuration of their parking lot and traffic flow needs to address this. I don't mind if they're busy, but I do not appreciate having restricted access to my street.
3. **Increased number of speeding cars on Massachusetts Avenue:** I have only been living on Massachusetts Avenue for a year and a half, but I have observed a growing number of speeding cars. From a logical perspective, every street from Douglas to Bradley represents a prime shortcut between the two major thoroughfares (Congress and Brighton). I care less about the increased traffic volume than I do for the speed of that traffic. Drivers get out of the bumper to bumper traffic on Congress and come flying down my street - a street with a lot of children playing, a street with people walking their dogs, a street where an elderly neighbor gets out in her walker several times a day for her exercise. My neighbors' parked van was struck recently by a speeding car and was pushed about 10 feet! As much as I find the concept of speed bumps extremely irritating, the majority of cars driving down my street do not adhere to the 25 mph limit. With the expansion of M.W. Sewall, and the bank going in across the street, I fear that the volume and speed of traffic on Massachusetts Avenue are only going to continue to rise. What options are there in the way of traffic calming?

December 13, 1999

As I mentioned before, I wish M.W. Sewall well in their venture. I like the idea of walking only a couple hundred feet for a coffee and the paper, or filling my tank with very inexpensive gas. I know I am not alone with my concerns above however, and I would like them addressed.

Sincerely,

A handwritten signature in cursive script that reads "Paul Gagne". The signature is written in black ink and is positioned above the printed name and address.

Paul Gagne  
48 Massachusetts Avenue  
Portland, Maine 04102

**CITY OF PORTLAND, MAINE  
ENGINEERING REVIEW FORM**

Address of Proposed Site 1199 Congress St. Date 12/28/99  
Project Description MW Sewall Job # \_\_\_\_\_  
Applicant MW Sewall  
Applicant's Mailing Address \_\_\_\_\_

Site Review  
(Planning Department)

Review Engineer: Jim Wendel  
Number of Estimated Hours: 6.5  
Cost Per Hour: \$48.00  
Total Amount: \$312.00

Right-of-Way Review  
(Public Works Department)

Review Engineer: Tony Lombardo  
Number of Estimated Hours: 8  
Cost Per Hour: \$35  
Total Amount: \$280.00

An engineering fee has been assessed in the amount of \$592.00 for the review of your project located at \_\_\_\_\_.

Please make check payable to the City of Portland. The check should be submitted along with this form to the Portland Planning Department, City of Portland, 4th Floor, 389 Congress Street, Portland, ME 04101. Attn: \_\_\_\_\_

<b><u>Office Use Only</u></b>	
Invoice Date: _____	Received: _____ date
Planning Revenue Code: _____	
Public Works Revenue Code: _____	

- cc: Applicant - white  
Planner - blue  
Engineer - green  
Public Works - yellow  
Financial Officer - pink  
Review/Inspection Fee File - golden



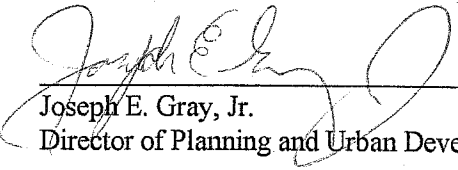
**CITY OF PORTLAND**  
Planning and Urban Development Department

MEMORANDUM

**TO:** Duane Kline, Finance Department  
**FROM:** Joseph E. Gray, Jr., Director of Planning and Urban Development  
**DATE:** January 28, 2000  
**SUBJECT:** Release of Infrastructure Financial Contribution

Please release the Infrastructure Financial Contribution in the amount of \$25,000 from M.W. Sewall & Co. The City Account Number is 71000002360200. The applicant has received site plan approval from the Planning Board and attached is the new Letter of Credit for the M. W. Sewall project located at the corner of Congress Street and Massachusetts Avenue.

**Approved:**

  
\_\_\_\_\_  
Joseph E. Gray, Jr.  
Director of Planning and Urban Development

cc: Kandi Talbot, Planner  
Code Enforcement  
Development Review Coordinator

PostNet Fax Note 7672

No. of Pages: 1		Today's Date: 1/14/00		Time: 3:51 PM	
To: KANDI TARBOTT	From: JON VAN HOOGENSTYN				
Company: CITY OF PORTLAND	Company: MW SEWALL				
Location: PLANNING	Location: BATH	Dept. Charge:			
Fax #: 825-8258	Fax #: 413-6284	Telephone #: 442-7994			
Comments: 8258	Original Disposition:	<input type="checkbox"/> Destroy	<input type="checkbox"/> Return	<input type="checkbox"/> Call for pickup	

ATTN: KANDI

DRAFT

JANUARY 17, 2000

Mr. Joseph Gray  
 Director of Planning & Urban Development  
 City of Portland  
 389 Congress Street  
 Portland ME 04101

Dear Mr. Gray:

Our final cost estimate for improvements at 9 Massachusetts Avenue came to \$44,189.00. For the sake of simplicity, we would like to augment the \$25,000 which the city is currently holding (letter of credit No. 61284-690) with the sum of \$19,189.00. The total of \$44,189.00 would represent the new escrow guarantee for the project.

Regards,

Jon Van Hoogenstyn

**Portland Public Works**  
**M.W. Sewell Gas Station - Preconstruction Meeting**  
**Held on May 25, 2000 at 9:00**  
**On Site**

**Minutes** - By N. Knauber

**Attendees:**

Jon Van Hoodgenstyn - M.W. Sewell, Phone (Bath) 442-7994, FAX 443-6284  
Paul Pool - Dugas Construction, Cell 232-1509, Pager 759-9504,  
Jim Magno - Frohmiller Construction, Phone 443 -6749, FAX 443-1310  
Gary Crabtree - Central Maine Power, Phone 791-8025, FAX 828-2812,  
E-mail plpgwc@cmpco.com  
Diane L. Trafton - Bell Atlantic, Phone 797-1678, FAX 797-1098  
Todd Merkle - City of Portland, Field Inspection Coordinator Phone 874-8833  
Nancy Knauber - Portland Public Works, Associate Engineer, Phone 874 -8835,  
FAX 874-8852

**CC:**

Kandi Talbot, City of Portland, Planner  
Tony Lombardo, City of Portland, P.E., Project Engineer

**Utilities**

1. Electricity, phone and cable will come in underground off of a drop pole
2. The water line to the existing station is to be capped at the main (David Coffin of PWD confirmed this). ***This is to be done on a weekend.***

**Sewers**

1. Sewer from existing building can be sealed by putting a camera down the main, placing a plug and filling the lateral with non-shrink grout. Other wise it will have to be open dug. ***This is to be done on a weekend.***
2. The sewer from the existing house will be sealed and inspected before the house is demolished. The new building will connect to this line after a permit has been obtained. please call Public Works Dispatch at 874-8460 to schedule inspection of this connection.
3. The canopy drains will tie into the catch basin, the structure will be cored and booted. This is permissible if the City receives a letter stating that a cellar drain will never be connected to the pipe.

**Pavement Repairs**

1. All trenches will be have rectangular in shape
- 2 If one trench intersects with another trench both must be included in a regular shape pavement cut.
3. The entire area of a trench must be paved at the same time.

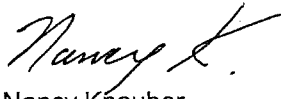
4. Contractor is allowed to make temporary repairs only, by placing a minimum of 3" of base pavement . (In Congress St. we suggest more.)
5. Pavement will be cut 2' in front of areas where curb is to be installed
6. Sidewalk on Mass Ave. will be turned out to the street pavement

### **Traffic Control**

1. All ritches must be paved the same day they are excavated.
2. Work in Congress St. must be done on a weekend.
3. All work that effects traffic is required to follow the MUTCD guidelines and approved by Larry Ash, Portland's traffic engineer.

If you have any questions feel free to contact me at 874 - 8835.


Thank you,



Nancy Khauber



TO: Inspections  
Sam Hoffses, Chief Building Inspector

FROM: Jay Reynolds, Development Review Coordinator 

DATE: June 13, 2001

RE: C.O. inspection for #9 Massachusetts Avenue/Gas for Less  
(CBL 078-A-004) (ID 1999-0125)

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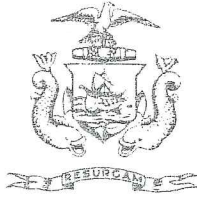
Upon inspection of the Gas for Less site, I found all the work to be complete.

**At this time, I recommend issuing a Permanent Certificate of Occupancy.**

Please contact me if you have any questions or comments.  
Thank You.

Cc: Sarah Hopkins, Development Review Services Manager  
Mike Nugent, Inspection Services Manager

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## CITY OF PORTLAND

March 28, 2001

John VanHoganstyn  
M. W. Sewall  
259 Front Street  
Bath, ME 04530

RE: Sewall Gas Station, Congress Street and Massachusetts Avenue  
(Site Plan #1999-0125, 243-B-043)

Dear Mr. VanHoganstyn:

Recently, an inspection of the gas station located at the intersection of Congress Street and Massachusetts Avenue, was conducted. At that time, it was noticed that the light fixtures on the canopy are not what was indicated on the approved site plan.

The applicant must replace the existing light fixtures on the canopy with flush fixtures as shown on the approved plan. If there is no action taken by April 30, 2001, the City will be forced to take action. I trust, that we can resolve this matter by mutual agreement.

If you have any questions, please do not hesitate to contact Kandice Talbot, Planner or me at 874-8721. We look forward to resolving this issue. Please let us know as soon as possible when you will be correcting this problem.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alex Jaegerman", is written over a horizontal line.

Alex Jaegerman  
Chief Planner

cc: Sarah Hopkins, Development Review Services Manager  
✓ Kandice Talbot, Planner  
Mike Nugent, Inspection Services Manager  
Marge Schmuckal, Zoning Administrator  
Penny Littell, Associate Corporation Counsel  
Jay Reynolds, Development Review Coordinator

O:\PLANDEVREVW\CONGMASS\LETTERS\VANHOGANSTYN3-28-01.DOC

## I. INTRODUCTION

M.W. Sewall is proposing to redevelop of the site located at 1199 Congress Street and 9 Massachusetts Avenue. The applicant owns property which currently houses a gas station with four pumps, an office building and a three unit residential building. The site is 25,870 sq. ft. and zoned B-1.

As the Board may recall, in 1998 the Planning Board approved a site plan for this site. Since then the property has been sold to M.W. Sewall.

The site is comprised of four lots. Lots 1 and 2 currently houses an 1,820 convenience store and gasoline service station with three unleaded pumps and 1 kerosene fuel pump. Lot 3 houses an existing 273 sq. ft. garage and 944 sq. ft. office building, formerly a house. Lot 4 houses a 1,576 sq. ft. three unit apartment building. The applicant is proposing to demolish the convenience store, garage and office building and replace them with a 2,880 sq. ft. convenience store. The fuel pumps would also be replaced with a new canopy and pumps.

A legal ad appeared in the November 1st and 2nd editions of the Portland Press Herald. 298 notices have been sent to area property owners in the vicinity of the project.

## II. FINDINGS

Zoning:	B-1 Neighborhood Business
Land Area:	.59 acres
Proposed Use:	Retail/Gas Station and 3-Unit Apartment Building
Proposed Parking:	Retail: 11 parking spaces Apartment Building: 4 parking spaces

## III. STAFF REVIEW

The proposed development has been reviewed for compliance with the standards of the Site Plan Ordinance of the Land Use Code. Review of the proposal has been completed by Planning, Public Works, Parks and Recreation and Fire Prevention staff.

## IV. ZONING ANALYSIS

Convenience stores are a permitted use in the B-1 zone. However, gasoline stations are not which makes this non-conforming. The Zoning Administrator has determined that as long as the applicant does not increase the number of fuel pumps it would not be considered an expansion of a non-conforming use.



1. Traffic/Circulation/Parking

The applicant is proposing to utilize existing entrances located around the property. There are currently four access points to the site from Massachusetts Avenue. The applicant is proposing to eliminate one of these access points. The applicant is proposing a 10 ft. drive connected to the parking area for the convenience store. This drive would be for the purpose of the residential building and would be one way out. Residents would have to pass through the gas station site to access their parking spaces, and customers would be able to circulate through the residential portion of the site. Staff has requested that the applicant look into physically separating the retail use from the residential use. One suggestion was to install a fence from the northwest corner of the building to the property line. However, the Fire Department would not have access to the rear of the retail building, so would not approve that scenario.

Granite curb and sidewalk exist around the site. The applicant will be installing new granite curb along Congress Street.

The applicant is proposing 15 parking spaces for the development. The parking consists of 11 spaces for the convenience store and 4 parking spaces for the residential use.

The Coastal Bank site plan approval, which is located across Congress Street, has a condition that a traffic light be installed at the Massachusetts Avenue intersection. Staff is recommending that the applicant contribute to the traffic improvements for Congress Street. Public Works is requesting a \$4,000 contribution to the signal. A potential condition of approval is:

- that the applicant contribute \$4,000 to traffic improvements for the proposed traffic light at the intersection of Congress Street and Massachusetts Avenue

The new pump island is approximately 24 ft. back from Congress Street. Currently traffic occasionally stacks up into Congress Street. The new location of the pump islands should alleviate the stacking problem that currently exists. The kerosene pump will be located west of the proposed building.

At the workshop meeting, the Board expressed concern regarding the existing curb cuts on Massachusetts Avenue. The Board had recommended that the applicant combine the two existing driveways and located them further away from Congress Street. The applicant reviewed that recommendation and has agreed to extend the granite curb from Congress Street to Massachusetts Avenue approximately 5 feet. However, the applicant wishes to keep the two existing curb cuts. The Traffic Engineer has reviewed the plan and has no objection to the proposed two in/out driveways onto Massachusetts Avenue. The Traffic Engineer feels that the two driveways will not have a negative impact on the operation of the traffic signal, and if anything he feels that the driveways will aid in access and egress to the development. The Traffic Engineer's memo is included as Attachment 2.

## 2. Landscaping

Currently, the existing site is 82.7% developed. The ordinance requires an 80% impervious surface maximum. The applicant is proposing to add additional landscaped areas to reduce the impervious surface to 79.8%.

The applicant is proposing landscaping along the westerly and northwesterly edge of the property. This landscaping includes Red Maple, Bradford Pear, Pines and Rhododendron. The applicant is proposing to plant Yews along the Massachusetts Avenue elevation of the building and Rhododendrons along the rear elevation of the building. The landscape plan is included as Attachment 4a.

The City Arborist has reviewed the plan and is recommending that the applicant plant two European Horn Beans at the Massachusetts Avenue entrance to the building. The Arborist also recommended a five (5) foot landscaped island between the Congress Street sidewalk and the parking area. This landscaped island will include Snowdrift Trees, Burning Bushes and Yews. The applicant has revised the landscape plan to reflect these recommendations.

Staff is recommending that the applicant install an additional landscaped planter at the corner of Congress Street and Massachusetts Avenue. This landscaped island shall have side dimensions of no less than 10 ft and should be either submerged with plantings protected by granite curbing or placed within an elevated retaining wall. A potential condition of approval is:

- that a landscaped island be installed at the Congress Street and Massachusetts Avenue corner of the lot with side dimensions of no less than ten (10) feet and should be either submerged in ground with plantings protected by granite curbing or placed within an elevated retaining wall.

## 3. Drainage

The site currently drains toward Massachusetts Avenue and Congress Street where an existing catch basin is located. The applicant is proposing a new catch basin to the east of the pump islands for runoff from the canopy. The catch basin will have a casco trap to separate sediment and oil contaminants before it enters the storm drain system. The catch basin will also be equipped with an Oars Passive Skimmers, which is a pad that absorbs oils and contaminants immediately.

Typically, staff requires an oil/grit separator for gas stations, however, the Development Review Coordinator has reviewed the proposal and feels that the casco trap and Oars Passive Skimmer will meet the same standards as an oil/grit separator.

## 4. Lighting

The applicant has reduced the number of light poles from five single poles and one double mounted pole to 4 single poles. They are located along the westerly edge of the property and near the entrance on Massachusetts Avenue. The proposed fixtures are 250 watt metal halide on 16 ft. poles. The applicant has stated that there will be no wall packs on the building. The photometric plan shows under the light poles, numbers ranging from 14 to 17 footcandles. Maximum footcandles should be



between 4 to 6 footcandles. The applicant should revise the photometric plan to show more uniform lighting around the parking area.

The proposed canopy will have a maximum height of 18.6 feet. The applicant is proposing recessed lighting within the canopy. The lighting for the canopy meets the City's gas station lighting standards. The applicant has submitted a photometric plan for the entire site. It is included as Attachment 5.

5. Fire Safety

The site plan has been reviewed and approved by the Fire Department.

6. Natural Resources

It does not appear that this proposal will have any adverse impact on the natural resources of the area.

VI. **MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information provided in Planning Board Report #60-99, the Planning Board finds:

- i. That the site plan is/is not in conformance with the Site Plan Ordinance of the Land Use Code.

Potential Conditions of Approval:

- that the applicant contribute \$4,000 to traffic improvements for the proposed traffic light at the intersection of Congress Street and Massachusetts Avenue
- that a landscaped island be installed at the Congress Street and Massachusetts Avenue corner of the lot with side dimensions of not less than ten (10) feet and should be either submerged in ground with plantings protected by granite curbing or placed within an elevated retaining wall.
- that the applicant revise the photometric plan for review and approval of the Planning staff.

Attachments

1. Submittal from Applicant
2. Traffic Engineer's Memo
3. Oars Passive Skimmer Information
4. Plans
5. Photometric Plan

6-0  
Malone  
absent

maintenance plan for passive oars  
skimmer be submitted  
to staff for review and  
approval

5-1

- applicant eliminate one curb cut  
on Mass Ave to create  
one curb cut  
not to exceed 35 ft in  
consultation w/  
Planning Staff

not to be submitted  
to staff for review and  
approval



## CITY OF PORTLAND

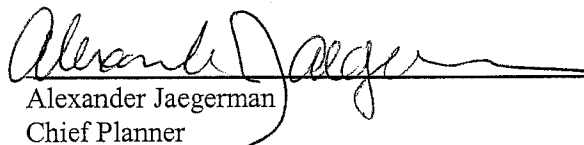
**TO:** Duane Kline, Finance Department  
**FROM:** Alexander Jaegerman, Chief Planner  
**DATE:** July 13, 2001  
**SUBJECT:** Request for Reduction in Performance Guarantee  
Gas For Less / 9 Massachusetts Avenue  
ID# 1999-0125 Lead CBL#078-A-004

A request by M.W. Sewall Co. has been made for a reduction of Letter of Credit Account # 64159-774 for 9 Massachusetts Avenue.

Original Sum	\$ 44,189.00
Reduction Amount	\$ 39,770.10
Remaining Sum	\$ 4,418.90

This is the first reduction for the project.

Approved:

  
Alexander Jaegerman  
Chief Planner

cc: ✓ Kandice Talbot, Planner  
Development Review Coordinator  
Tony Lombardo, Public Works  
Code Enforcement

O:\PLAN\CORRESP\DRCP\PERFORM\9MASSACHUSETTS1.DOC

**PLANNING BOARD REPORT #60-99**

**1199 CONGRESS STREET AND MASSACHUSETTS AVENUE**

**RETAIL AND GAS STATION DEVELOPMENT**

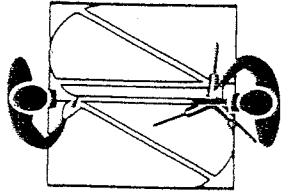
**M. W. SEWALL., APPLICANT**

Submitted to:

Portland Planning Board  
Portland, Maine

November 9, 1999





September 14, 1999

595-7

Ms. Kandice Talbot, Planner  
Planning and Urban Development  
City of Portland  
Portland, Maine 04101

*RE: Portland Texaco – Gas for Less  
9 Massachusetts Ave.  
Gasoline Service Facility  
Major Development Application*

Dear Ms. Talbot;

Enclosed please find an original and seven copies (7) of the proposed site development plans, development application, and a check for \$500 for a convenience store and gasoline service station located on the corner of Massachusetts Avenue and Congress Street. The parcels in question are shown on City Tax Map 78 lots 1,2,3,4 and are located in the B1 Zone (section 14-161 of the Zoning Ordinance). This letter and submitted information correspond to the requirements of article V of the zoning ordinance.

The Ordinance lists convenience stores as a permitted use but excludes gasoline service stations which makes existing fuel pumps an existing non-conforming use. Over the last several months we have submitted several design alternatives for the staff's preliminary review and comment. In addition Mr. Sewall has spoken with abutting residents to identify and address their questions and concerns. Mr. Sewall continues to work with the City to create an acceptable facility for all parties involved. The new design offers a safer and cleaner facility that will be a great improvement over the current configuration. The submitted material is a result of these various meetings.

The following responses are numbered and formatted in accordance with Article V of the Zoning Ordinance for your quick review.

Ms. Kandice Talbot

Gas For Less

09/14/99

Page 2

**Sec 14-525.c Written Statements**

1. Description of Use

Lots 1 & 2 currently supports a 1820 s.f. convenience store and gasoline service station with three unleaded and 1 kerosene fuel pumps. Lot 3 supports an existing 273 s.f. garage and 944 s.f. house. Lot 4 supports a 1576 s.f. 3 unit apartment house.

The proposed plan shows a new 2880 s.f. convenience store proposed along with necessary parking and circulation to support the facility. The new building will replace the run down 1820 s.f. store as well as an existing house and garage located on lot 3. The new pump island has been located 16.5' off the front property line. The building and pump islands are oriented to allow the cashiers visibility of the pumps at all times.

The setback for the canopy was determined by averaging the setback of the neighboring lots on Congress Street.

In keeping with the existing configuration, the new design is limited to three gasoline pumps and one kerosene pump.

2. Total land area, floor area, and ground coverage.

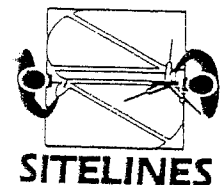
The total land area for the development site is 25870 s.f. (all lots included). The total floor area for the parcel is 6356 s.f. (includes a 2880 s.f. convenience store, 1900 s.f. gasoline canopy, and 1576 s.f. three unit apartment building).

3. Easements

There are no easements on the site.

4. Solid Waste Generation

Existing solid waste is removed by Waste Management of Maine Inc. The amount of solid waste will not change with this new proposal. Currently the site uses 1 - 4 yd. recycle and 1 - 6 yd container. A copy of Waste Management's invoice for the property is enclosed.



10

Ms. Kandice Talbot  
Gas For Less  
09/14/99  
Page 3

5. Evidence of sewer and water access and availability.

The new facility will connect to existing sewer and water service located within Massachusetts Avenue. Currently the existing convenience store and house is connected to these public utilities. The new facility will have an ADA equipped public restroom.

6. Surface Drainage

The site is currently fully developed and covered with buildings and pavement. The total existing % impervious area for the site is calculated to be 82.7%. The Ordinance requires that the site be at 80%. To meet the Ordinance, the site's % impervious has been reduced to 79.8%. The impervious area for the site has been reduced, which reduces the total runoff, therefore no stormwater detention is needed for this project. The site currently drains toward Massachusetts and Congress Ave which drains to an existing catch basin located on Congress Street, 20' easterly of Massachusetts Avenue. The gasoline canopy will drain toward a new catch basin located on the property. This catch basin will be equipped with a Casco trap which will to separate sediment and oil contaminants before it enters the City storm drain system. In addition the catch basin will be equipped with an Oars Passive Skimmer, which is a pad that absorbs oils and contaminants immediately.

7. Construction Schedule and Sequence

Construction of the project will begin in Spring of 2000 and will be completed by early Summer 2000. The estimated cost of construction is approximately \$500,000.

8. Federal and State Permits

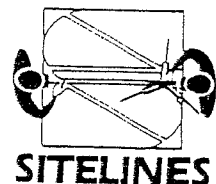
No Federal and State permits are required for this project.

9. Evidence of financial capacity

A letter from Peoples Heritage Bank is enclosed regarding financial capacity.

10. Evidence of title right and interest

Enclosed is a copy of the existing deed and purchase and sales agreement which demonstrates title right and interest in the property.



Ms. Kandice Talbot  
Gas For Less  
09/14/99  
Page 4

11. Unusual natural areas, wildlife, fisheries, or archaeological sites

The site is currently fully developed urban land. The site does not have any streams, wetlands, or undeveloped land on the parcel. No significant natural areas or archaeological sites exist on the property.

12. Electronic files

An Autocad R14 file is included for your records.

**Sec. 14-526 Standards**

**a.) Requirements for approval**

1. All delivery vehicles will park and unload on the property. No vehicles will be required to park in the adjacent roadways. No adverse traffic impact is expected from deliveries to serve the proposed development. Currently, retail traffic occasionally backs up into Congress Street. The improved pump island design and parking in front of the store will eliminate this problem.
2. The proposed development will include the construction of 21 parking spaces to serve the convenience store and three unit apartment building. Four spaces are reserved for the residential apartments. The remaining 17 spaces are for employees and customers.
3. The bulk, location, or height of proposed buildings will not cause health or safety problems to existing uses in the neighborhood including reduction of light, air, wind, or snow.
4. The bulk, location, or height of proposed buildings will not reduce the value or utility to neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed. Particular care has been taken on the Massachusetts Avenue elevation to blend with the residential neighborhood. The height of the canopy will be a maximum of 18'6". The canopy height of the Mobil across the street is 18'8".
5. The project will remove two existing buildings which are connected to existing water and sewer facilities. The proposed service will require only one connection. The impervious area is less than the existing parcel therefore no additional impact is expected to City storm drains or sewers. Solid waste generated will be less than existing and no additional impact is expected.
6. The enclosed landscape plan and perimeter fencing provides the needed buffering between other developments and neighboring properties.



Ms. Kandice Talbot  
Gas For Less  
09/14/99  
Page 5

7. The parcel is substantially developed and covered with buildings and paving. No significant vegetation exists on the property. Landscape areas have been increased as part of this development. Existing vegetation in front of the existing three unit apartment building will be preserved.
8. The site plan will not create any significant soil and drainage problems. The site is predominately flat and substantially paved. Soil erosion is not expected to occur on the property. Hay bales will be installed adjacent to on-site catch basins to prohibit sediment from entering the City storm drain system. All erosion control measures will be installed in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices by the Cumberland County SWCD and the Department of Environmental Protections March 1991.
9. Exterior Lighting for the project will be completed in accordance with the City of Portland Technical and Design Standards and Guidelines as required.
10. The proposed canopy and pump islands will be equipped with a state of the art fire suppression system. The proposed design utilizes three existing entrances along Massachusetts Avenue and one along Congress Street. The project will not create fire or other safety hazards and provides adequate access to the site and to buildings for emergency vehicles.
11. The proposed development will maintain an existing three unit apartment building adjacent to the residential development along Massachusetts Avenue. The new building elevation along Massachusetts Avenue is designed to blend in with the existing neighborhood. The face of the building will be light gray vinyl siding transitioning to a light gray split face block. The new building elevation and improved landscaping will produce an attractive addition to the neighborhood.
12. The proposed project is not an industrial development.
13. The proposed project is not located in the R-P Zone.
14. The proposed project is not located in the R-3, R-5, or R-5A Zones.
15. The proposed project is not a Two-family, special needs independent living unit, multiple family development, lodging houses, bed and breakfasts, or emergency shelter.
16. The project is not located in the B-3 Zone.
17. All information has been submitted as required by this article and the proposed development complies with this code.



Ms. Kandice Talbot  
Gas For Less  
09/14/99  
Page 6

18. The development site is not located within 100' of any landmark, historic district, or historic landscape district.

19. The proposed project will not obstruct any view corridors to landmarks and other natural features identified on the View Corridor Protection plan.

20. The proposed project will not adversely impact existing natural resources such as groundwater quality and quantity because the proposed development will connect to the public water and sewer systems.

The site is currently fully developed and covered with buildings and pavement. The total existing % impervious area for the site is calculated to be 82.7%. To meet the Ordinance requirement of 80%, the site's % impervious has been reduced to 79.8%. The impervious area for the site has been reduced, which reduces the total runoff, therefore no stormwater detention is needed for this project. The site currently drains toward Massachusetts and Congress Ave which drains to an existing catch basin located on Congress Street, 20' easterly of Massachusetts Avenue. The gasoline canopy will drain toward a new catch basin located on the property. This catch basin will be equipped with a Casco trap which will separate sediment and oil contaminants before it enters the City storm drain system. In addition the catch basin will be equipped with an Oars Passive Skimmer, which is a pad that absorbs oils and contaminants immediately. Together with proper erosion and sediment controls, surface runoff will not adversely affect groundwater and surface water quantity and quality. No wetlands, unusual natural areas, wildlife, or fisheries exist on the property.

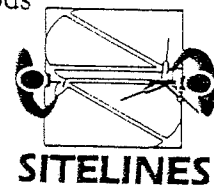
21. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.

22. To the extent possible, the project will maintain and utilize the existing signs on the property. No new free standing signs will be installed on the property. Building signs will be installed to complement and enhance the architectural attributes of the building. Building signs will be designed to avoid glare. All light sources shall be shielded or provided with a diffuser lens so that lamps and bulbs are not visible to pedestrian or drivers of vehicles as required. The enclosed elevations demonstrate typical signs for the new facility.

23. All signs shall comply with section 14-369.5 as required.

24. a. Signs:

The project will utilize existing free standing signs on the property. No additional free standing signs are proposed. The existing signs do not adversely affect visibility at intersections or access drives as needed to ensure safety of the public. Each sign only advertises services or goods available on the property as required.



Ms. Kandice Talbot  
Gas For Less  
09/14/99  
Page 7

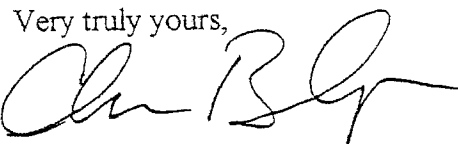
- b. Circulation:  
The project will utilize existing entrances located on the property. The entrances are situated on the property to serve the gasoline pump design requested by the City. Currently four entrances exist on Massachusetts Avenue. One entrance has been closed by this development. The existing entrances are located within 30' of the intersection. It is our understanding that this concept design has met the approval of the City.
- c. Drive-up features:  
The proposed gasoline pumps are located 24.5' off of the street line. The City recommends that canopies and buildings be located as close to the street as practical but no further than the average depth of immediately abutting front yards.
- d. Car Washes:  
Not applicable to this development

- 25. The project is not located in an Industrial Zone
- 26. The project is not located in the B-5 or B-5b zones.

**b.) Conditions**

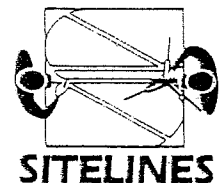
The proposed project will comply with additional conditions imposed by the Planning authority as required.

Thank you for all the time you have spent with us and the owner regarding this project. We look forward to meeting with you and the Planning Board on September 28, 1999. Should you have any questions please call.

Very truly yours,  


Christopher S. Belanger, P.E.  
Project Manager

Enclosure  
cc: Ned Sewall



1-H

Site Review Pre-Application  
Multi-Family/Attached Single Family Dwellings/Two-Family Dwelling  
or Commercial Structures and Additions Thereto

In the interest of processing your application in the quickest possible manner, please complete the information below for Site Plan Review

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

M.W. SEWALL CO.

9/15/99

Applicant  
259 FRONT STREET, BATH, ME 04530

Application Date  
GAS FOR LESS

Applicant's Mailing Address  
SITELINES P.A. 8 CUMBERLAND ST, BRUNSWICK

Project Name/Description  
9 MASSACHUSETTS AVE

Consultant/Agent  
(207) 725-1200 (207) 725-1114 (F)

Address Of Proposed Site  
MAP 78 LOTS 1,2,3,4

Applicant/Agent Daytime telephone and FAX

Assessor's Reference, Chart#, Block, Lot#

Proposed Development (Check all that apply)  New Building  Building Addition  Change of Use  Residential  Office  Retail  
 Manufacturing  Warehouse/Distribution  Other (Specify) GASOLINE SERVICE

2880 SF BUILDING

1900 SF CANOPY

25870 SF ±, 6 AC

B1

Proposed Building Square Footage and/or # of Units

Acreage of Site

Zoning

You must include the following with you application:

- 1) A Copy of Your Deed or Purchase and Sale Agreement
- 2) 7 sets of Site Plan packages containing the information found in the attached sample plans and checklist.

(Section 14-522 of the Zoning Ordinance outlines the process, copies are available for review at the counter, photocopies are \$ 0.25 per page)

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

Signature of applicant: 	Date: <u>9/15/99</u>
---	----------------------

Site Review Fee: Major \$500.00 Minor 400.00

This application is for site review ONLY, a Building Permit application and associated fees will be required prior to construction.



CITY OF PORTLAND, MAINE  
SITE PLAN CHECKLIST

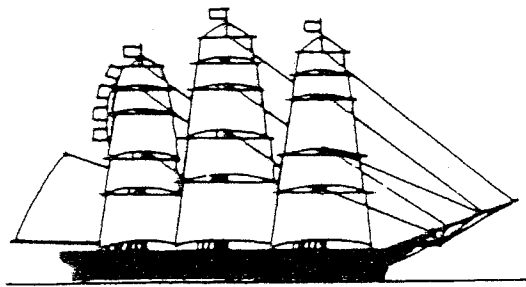
GAS FOR LESS, 9 Massachusetts Ave  
Project Name, Address of Project

\_\_\_\_\_  
I.d. Number

Submitted () & Date	Item	Required Information	Section 14-525 (b,c)
<u>SUB 9-14-99</u>	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	l
<u>"</u>	(2)	Name and address of applicant and name of proposed development	a
<u>"</u>	(3)	Scale and north points	b
<u>"</u>	(4)	Boundaries of the site	c
<u>"</u>	(5)	Total land area of site	d
<u>SUB 9-14-99</u>	(6)	Topography - existing and proposed (2 feet intervals or less) - <b>VERY FLAT EXISTING &amp; PROPOSED SPOT ELEVATIONS SHOWN</b>	e
<u>SUB 9-14-99</u>	(7)	Plans based on the boundary survey including:	2
<u>N/A</u>	(8)	Existing soil conditions	a
<u>SUB 9-14-99</u>	(9)	Location of water courses, marshes, rock outcroppings and wooded areas	b
<u>SUB 9-14-99</u>	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
<u>SUB. 9-14-99</u>	(11)	Approximate location of buildings or other structures on parcels abutting the site	d
<u>SUB 9-14-99</u>	(12)	Location of on-site waste receptacles	e
<u>SUB 9-14-99</u>	(13)	Public utilities	e
<u>SUB 9-14-99</u>	(14)	Water and sewer mains	e
<u>"</u>	(15)	Culverts, drains, existing and proposed, showing size and directions of flows	e
<u>"</u>	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
<u>"</u>	(17)	Location and dimensions of on-site pedestrian and vehicular accessways	g
<u>"</u>	(18)	Parking areas	g
<u>"</u>	(19)	Loading facilities	g
<u>SUB 9-14-99</u>	(20)	Design of ingress and egress of vehicles to and from the site onto public streets	g
<u>"</u>	(21)	Curb and sidewalks	g
<u>SUB 9-14-99</u>	(22)	Landscape plan showing:	g
<u>"</u>	(23)	Location of existing proposed vegetation	h
<u>"</u>	(24)	Type of vegetation	h
<u>"</u>	(25)	Quantity of plantings	h
<u>"</u>	(26)	Size of proposed landscaping	h
<u>"</u>	(27)	Existing areas to be preserved	h
<u>"</u>	(28)	Preservation measures to be employed	h
<u>"</u>	(29)	Details of planting and preservation specifications	h
<u>SUB 9-14-99</u>	(30)	Location and dimensions of all fencing and screening	i
<u>SUB 9-14-99</u>	(31)	Location and intensity of outdoor lighting system	j
<u>"</u>	(32)	Location of fire hydrants, existing and proposed	k
<u>SEE LETTER</u>	(33)	Written statement	c
<u>"</u>	(34)	Description of proposed uses to be located on site	l
<u>"</u>	(35)	Quantity and type of residential, if any	l
<u>"</u>	(36)	Total land area of the site	b2
<u>"</u>	(37)	Total floor area and ground coverage of each proposed building and structure	b2
<u>"</u>	(38)	General summary of existing and proposed easements or other burdens	c3
<u>"</u>	(39)	Method of handling solid waste disposal	4



1-K



## M.W. SEWALL & CO.

P.O. Box 245 • Bath, Maine 04530  
(207) 442-7994 • 1-800-540-7994  
Facsimile 1-207-443-8198

*Service - Our Number One Product Since 1913*

September 13, 1999

To: Portland Planning Board  
From: Ned Sewall

Dear Mr. Chairman:

M.W. Sewall purchased the gasoline facility at the corner of Massachusetts Avenue and Congress Street in July of last year. Two months prior to our purchase, the former owner had received approval for site improvements and an underground tank replacement as outlined in the enclosed Hill Nemers Plan.

M.W. Sewall is requesting to make a few additional improvements, but due to zoning requirements and the delicate nature of gasoline stations in general, we have tried to stay as close as possible to the Hill Nemers Plan that was approved by the Planning Board last spring. I have summarized the major changes below:

- 1.) the gasoline pumps (3) are spread out on two islands
- 2.) a canopy over the pumps has been added with special attention to lighting standards
- 3.) we propose to tear down the existing two buildings and replace with one of equal square footage
- 4.) we will install stockade fencing along residential boundaries instead of leaving the chain link fence

Thank you for your consideration

Peoples Heritage Bank  
One Portland Square  
P.O. Box 9540  
Portland, ME 04112-9540

1-800-462-3666  
Tel: 207-761-8500

1-L



September 7, 1999

To Whom It May Concern:

M W Sewall and Company has financing instruments in place with Peoples Heritage Bank that provide adequate funding for the proposed construction project on Congress Street. M W Sewall has been a valued customer of the Bank for the last five years.

Please feel free to call me at (207) 761-8577 with any further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. C. Geci".

Benjamin C Geci  
Vice President  
Commercial Lending



WARRANTY DEED  
(Maine Statutory Short Form)

CLADDAGH CORP., a Maine corporation with its principal place of business in Portland, Maine, whose mailing address is 1199 Congress Street, Portland, Maine 04102 (the "Grantor"), for consideration paid, grants to M. W. SEWALL & CO., a Maine corporation with a place of business in Bath, Maine, whose mailing address is P.O. Box 245, Bath, Maine 04530 (the "Grantee"), with Warranty Covenants, certain lots or parcels of land, together with all buildings and improvements thereon, situated on Congress Street in the City of Portland, County of Cumberland and State of Maine, being more particularly described in Schedule A attached hereto and made a part hereof.

Meaning and intending to convey and hereby conveying the same premises conveyed to the Grantor by deed of Morris L. Silver and Lynn Silver dated July 11, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13202, Page 182.

IN WITNESS WHEREOF, CLADDAGH CORP. has caused this instrument to be executed in its name and on its behalf by MORRIS L. SILVER, its President, thereunto duly authorized, this 23<sup>rd</sup> day of June, 1998.

WITNESS:

*Paul F. Driscoll*

CLADDAGH CORP.

*Morris L. Silver*

Morris L. Silver  
Its President

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

June 23<sup>rd</sup>, 1998

Then personally appeared the above-named Morris L. Silver, President of Claddagh Corp., and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

*Paul F. Driscoll*

Notary Public/Attorney at Law

PAUL F. DRISCOLL

Type or Print Name

## SCHEDULE A

Certain lots or parcels of land with the buildings thereon, situated on the northeasterly side of Congress Street the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows:

Parcel 1

Beginning at the corner formed by the intersection of the southeasterly side of Massachusetts Avenue with the northeasterly side of Congress Street; thence running northeasterly by the southeasterly side of said Massachusetts Avenue seventy-eight (78) feet to a stake set in the ground at the corner of a certain lot or parcel of land conveyed by Anni Whitney to Mabel G. Farrington by deed dated March 30, 1920 and recorded in the Cumberland County Registry of Deeds in Book 1048, Page 215; thence running southeasterly by said Farrington land seventy (70) feet, more or less, to a stake set in the ground at the corner of a certain lot or parcel of land conveyed by Alice P. Whitney and others to Christian G. Kragelund by deed dated November 3, 1922 and recorded in said Registry in Book 1121, Page 361; thence running southwesterly by said Kragelund land ninety-three and fifty-seven hundredths (93.57) feet to said Congress Street; thence running northwesterly by said Congress Street seventy-two and fifty-six hundredths (72.56) feet to the point of beginning.

Parcel 2

Beginning at a stake set in the ground on the northeasterly side of Congress Street at a stake set in the ground on the northeasterly side of Congress Street at a point seventy-two and fifty-six hundredths (72.56) feet southeasterly of the corner formed by the intersection of the northeasterly side of Congress Street with the easterly side of Massachusetts Avenue; thence running northerly parallel with the easterly side of Massachusetts Avenue ninety-three and fifty-seven hundredths (93.57) feet, more or less, to the southwesterly line of land conveyed by Anni Whitney to Mabel G. Farrington by deed dated March 30, 1920 and recorded in the Cumberland County Registry of Deeds in Book 1048, Page 215; thence running easterly by said Farrington line four and eighty-four hundredths (4.84) feet to the northwesterly corner of land conveyed by Alice P. Whitney and others to said Mabel G. Farrington by deed dated July 14, 1922 and recorded in said Registry of Deeds in Book 1110, Page 84; thence southeasterly by said last named lot sixty-four and thirty-six hundredths (64.36) feet to land conveyed by William Ryal to Joshua F. Moss by deed dated November 12, 1875 and recorded in said Registry of Deeds in Book 426, Page 189; thence southwesterly by said Ryal land six and fifty-three (6.53) feet to a stake set in the ground; thence easterly five and four hundredths (5.04) feet, more or less, to a stake set in the ground; thence southwesterly eighty-four and sixty-three hundredths (84.63) feet, more or less, to a point on the northeasterly side

010095

WARRANTY DEED  
(Maine Statutory Short Form)

MORRIS L. SILVER, TRUSTEE OF EASTER 1916 REALTY TRUST, a Maine realty trust, reference being made to the Declaration of Easter Realty Trust dated July 11, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13202, Page 178, whose mailing address is 1199 Congress Street, Portland, Maine 04102 (the "Grantor"), for consideration paid, grants to M. W. SEWALL & CO., a Maine corporation with a place of business in Bath, Maine, whose mailing address is P.O. Box 245, Bath, Maine 04530 (the "Grantee"), with Warranty Covenants, certain lots or parcels of land, together with all buildings and improvements thereon, situated on Massachusetts Avenue in the City of Portland, County of Cumberland and State of Maine, being more particularly described in Schedule A attached hereto and made a part hereof.

Further reference is made to an Acknowledgment of Consent of Beneficiaries of Easter 1916 Realty Trust of even or recent date and recorded herewith.

Meaning and intending to convey and hereby conveying the same premises conveyed to the Grantor by deed of Morris L. Silver dated July 11, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13202, Page 207.

The premises conveyed herein are subject to a Mortgage from Keith D. Bartlett and Kathleen M. Bartlett to Comfed Mortgage Co., Inc. dated April 6, 1987, and recorded in said Registry of Deeds in Book 7712, Page 243, assigned to ComFed Savings Bank by instrument dated April 6, 1987 and recorded in said Registry of Deeds in Book 7714, Page 61, further assigned to Lomas Mortgage USA by instrument dated September 27, 1991 and recorded in said Registry of Deeds in Book 9901, Page 231, and further assigned to First Nationwide Mortgage Corporation by instrument dated January 12, 1996 and recorded in said Registry of Deeds in Book 12767, Page 90, which the Grantee, be its acceptance of this deed, hereby assumes and agrees to pay.

And the said Grantor, Trustee as aforesaid, in his said capacity, does hereby covenant with the said Grantee, its successors and assigns, that he is the sole Trustee under said Trust; that said Trust is still in force and effect; that said Trust has not been amended; that he has the power thereunder to convey as aforesaid; and that in making this conveyance, he has, in all respects, acted pursuant to and in accordance with the authority vested in and granted to him therein and all terms and conditions of said Trust.

IN WITNESS WHEREOF, MORRIS L. SILVER, TRUSTEE as aforesaid, has executed this instrument this 23<sup>rd</sup> day of June, 1998.

15

SHINAY  
MacMAHON  
REET

104-5081



WITNESS:

Paul F. Driscoll

Morris L. Silver Trustee  
Morris L. Silver, Trustee as aforesaid

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

June 23<sup>rd</sup>, 1998

Then personally appeared the above-named Morris L. Silver, Trustee of Easter Realty 1916 Realty Trust, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Trust.

Before me,

Paul F. Driscoll

Notary Public/Attorney at Law

PAUL F. DRISCOLL

Type or Print Name

147230

## SCHEDULE A

A certain lot or parcel of land with the buildings thereon, located in the City of Portland, County of Cumberland and State of Maine, being bounded and described as follows:

Beginning at a point on the southeasterly side line of Massachusetts Avenue, distant thereon one hundred twenty-five (125) feet northeasterly from the northeasterly side line of Congress Street at its point of intersection with the said southeasterly side line of Massachusetts Avenue, said point of beginning being the westerly corner of a lot of land numbered B, as shown on plan of Massachusetts Avenue lots made for Anni Whitney by E. C. Jordan & Co., C.E., recorded in the Cumberland County Registry of Deeds, Plan Book 19, Page 30; thence southeasterly and at right angles to Massachusetts Avenue and along the southwesterly side line of said lot numbered B one hundred thirty-six (136) feet, more or less, to a point in the southeasterly side line of land now or formerly of Anni Whitney, as shown on said plan, said point being the southerly corner of said lot numbered B; thence southwesterly along said Whitney side line and nearly parallel with Massachusetts Avenue fifty-three (53) feet to a point; thence northwesterly one hundred thirty-six (136) feet, more or less, to a point in the said southeasterly side line of Massachusetts Avenue, distant northeasterly thereon seventy-eight (78) feet from the northeasterly side line of Congress Street; thence northeasterly along the southeasterly side line of Massachusetts Avenue forty-seven (47) feet to the point of beginning; said lot containing six thousand seven hundred fifty (6,750) square feet, more or less, and being a part of lot A and a part of the lot adjoining lot A on the southeast, as shown on said Jordan Plan.

Also another certain lot or parcel of rear land situated in said Portland, northerly of Congress Street and between Massachusetts Avenue and Douglass Street, bounded and described as follows:

Beginning at a stake on the southerly line of a lot of land conveyed by Anni Whitney to Mabel G. Farrington by deed dated March 30, 1920 and recorded in the Cumberland County Registry of Deeds in Book 1048, Page 215, distant easterly seventy-five and five hundredths (75.05) feet from the easterly line of Massachusetts Avenue; thence easterly by said southerly line of said Farrington lot sixty-one and seventy-one hundredths (61.71) feet to a stake at land conveyed by William Ryal to Joshua F. Moss by deed dated November 12, 1875 and recorded in said Registry of Deeds in Book 426, Page 189; thence southerly by land formerly of said Ryal fifteen (15) feet to a stake; thence westerly sixty-four and thirty-six hundredths (64.36) feet more or less, to the point of beginning.

146-50

RECEIVED  
RECORDED REGISTRY OF DEEDS

1998 JUN 24 PM 2: 11

CUMBERLAND COUNTY

*John B. O'Brien*

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OPTION AGREEMENT

AGREEMENT made and entered into as of this 1st day of August, 1998 (the "Effective Date"), by and between Timothy Placey of Cumberland, Maine ("Seller") and M. W. Sewall of Bath, Maine ("Buyer").

WITNESSETH AS FOLLOWS:

IN CONSIDERATION of One Dollars, (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged by Seller, Seller and Buyer agree as follows:

1. GRANT OF OPTION. Seller hereby grants to Buyer the exclusive and irrevocable option to purchase, on the terms and conditions contained in this Agreement, property located at 11-13 Massachusetts Avenue in Portland, Maine, and more particularly described on Exhibit A attached hereto and made a part hereof (the "Premises").
2. TERM OF OPTION; OPTION CONSIDERATION. This Option shall commence on the Effective Date and continue in effect for a period of TWO HUNDRED AND FORTY (240) Days, or until canceled by Buyer as hereinafter provided the Buyer shall pay to Seller the sum of ONE THOUSAND DOLLARS (\$1,000) per month as Option Consideration. Said option payments shall be made on the 5th day of each month of the Option Period. Five Hundred Dollars (\$500.00) of each option payment shall be credited toward the Purchase Price. The Buyer shall have the right to cancel this Option at any time prior to the Expiration Date by notifying Seller of such cancellation in which event Buyer shall not be obligated to pay Seller any additional Option Consideration.
3. NOTICE OF EXERCISE. This Option may be exercised only by Buyer giving written notice of election to exercise to Seller in the manner set forth in Paragraph 9(b) below.
4. FAILURE TO EXERCISE. In the event that Buyer fails to exercise this Option, the Option Consideration shall be retained by Seller and neither Seller or Buyer shall have any further rights or claims against the other.
5. EXERCISE. In the event that Buyer exercises this Option as provided herein, the following provisions shall be applicable:
  - (a) Purchase Price. The Purchase price shall be ONE HUNDRED AND THIRTY FIVE THOUSAND DOLLARS (\$135,000) at the end of the option period or at anytime before the option period expires. If Buyer exercises his option to purchase the Property then Buyer and Seller shall enter into a mutually agreed upon Purchase and Sale Agreement.

(b) Title Covenant Against Further Encumbrances. Seller shall convey the Premises to Buyer at the closing in fee simple with good and marketable title, free and clear of liens and encumbrances. In the event that Buyer determines upon examining title to the Premises that Seller *would* be unable to convey title as aforesaid, Seller shall be given a reasonable period of time after notice from Buyer, not to exceed sixty (60) days, in which to remedy any title defects. In the event that said defects cannot be corrected or remedied within said time period, then the Option Consideration shall be returned to Buyer and this Agreement shall terminate. Buyer may, however, elect to close notwithstanding such defects as may exist. Seller and Buyer understand and agree that any mortgages and liens on the Premises shall not be considered title defects provided that the same shall be discharged at or prior to the closing at Seller's expense. Seller agrees that it will not further encumber or permit to be encumbered the Premises by any liens, mortgages, attachments, covenants, restrictions or easements after the Effective Date of this Option.

(c) Closing. The closing shall take place THIRTY (30) business days after the date this Option is exercised, at a mutually agreed upon location. At the closing, Seller shall execute and deliver to Buyer, against payment of the balance of the purchase price, a Warranty Deed to the Premises with full Warranty Covenants in accordance with the Short Form Deeds Act, 33 M.R.S.A. 761 ~ seq. (the "Deed").

Seller further agrees to execute and deliver to Buyer at the closing such Affidavits and Certificates as are reasonably necessary for Buyer's acquisition and financing of the Premises including without limitation a Certificate of Non-Foreign Status (as required by Internal Revenue Service regulations) and a title insurance "Owner's Affidavit" regarding mechanics liens and persons in possession and, if Seller is a corporation, partnership or other legal entity, satisfactory evidence of authority to convey and good standing.

(d) Adjustments, Prorations and Closing Costs.

i. Real estate taxes and assessments shall be prorated as of the closing on the basis of the latest available tax bill.

ii. The Maine real estate transfer tax shall be paid for by Seller and Buyer in accordance with 36 M.R.S.A. 4641-A.

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iii. The recording fee for the deed of conveyance and any expenses related to any mortgage which Buyer may grant to a lender in connection with the purchase of the Premises shall be paid for by Buyer.

iv. A portion of the purchase price shall be withheld at the closing by Buyer if required by 36 M.R.S.A. § 5250-A.

(e) Possession. Seller shall deliver possession of the Premises to Buyer at the closing, subject to all Tenants being tenancies at will subject to 30 day notice to quit possession of the Property.

(f) Risk of Loss. Condition of the Premises. Damage. Destruction and Insurance.

(i) All risk of loss to the Premises prior to the closing shall be on Seller;

(ii) Seller agrees to: (a) not permit or suffer waste of the Premises; and (b) not permit or suffer any release of any hazardous, special or solid wastes substances or materials in, on or about the Premises.

(h) Default: Remedies. In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer shall have all remedies available at law and equity including the right of specific performance. Seller shall return all option payments to Buyer. In the event that Buyer defaults in the performance of its obligations hereunder after exercise of this Option, Seller shall retain the Option Consideration as full and complete liquidated damages in lieu of any other legal or equitable remedy, in which case this Agreement will terminate and neither party will be under any further obligation hereunder.

6. BROKERAGE. Seller warrants and represents to Buyer that Seller has not dealt

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7. INSPECTION. Buyer or its agents may enter the Premises at all reasonable times prior to the closing in order to inspect the same and may conduct studies, tests, surveys and take samples so that Buyer can determine the suitability of the Premises of Buyer's intended use. Buyer's inspection of the Premises, pursuant to this paragraph, shall not be deemed a waiver of any of the representations and warranties made by Seller hereunder.

8. RECORDING OF OPTION. Seller and Buyer agree that this Option may be recorded.

9. Miscellaneous.

(a) Time. Time is of the essence of this Agreement.

(b) Notices. All notices, demands and other communications hereunder shall be in writing

(c) Binding Effect. This Agreement will inure to the benefit of and bind the respective successors and assigns of Seller and Buyer.

(d) Construction. As used in this Agreement, the singular number shall include the plural, the plural the singular, and the use of one gender shall be deemed applicable to all genders. This Agreement shall be governed by and construed in accordance with the laws of Maine. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provisions hereof.

(f) Effective Date. The Effective Date of this Option shall be deemed to be the date first set forth above in this Agreement.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the date first above written.

WITNESS: \_\_\_\_\_

SELLER: [Signature] 8/1/98  
DATE

WITNESS: \_\_\_\_\_

BUYER: [Signature] 8/6/98  
DATE

1-X

FIRST ADDENDUM TO OPTION TO PURCHASE AGREEMENT

By and Between  
TIMOTHY PLACEY (Seller)  
and  
M. W, SEWALL (Buyer)

For Option Agreement Dated August 1, 1998  
Property Address 11-13 Massachusetts Avenue.  
City/State Portland, Maine

Buyer and Seller Agree to extend the time for performance of the above referenced Option to Purchase Agreement until September 30, 1999.

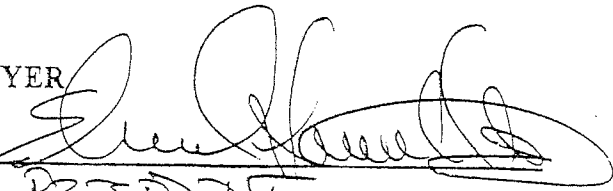
Buyer and Seller further agree to modify Paragraph 2 of the above referenced Option to Purchase Agreement specifically deleting Sentence 3. The effect of this modification will eliminate any portion of the option payments being applied to the purchase price.

All other terms of the Agreement shall remain in full force and effect.

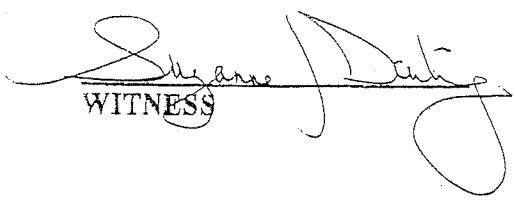
SELLER

By: \_\_\_\_\_  
Its: \_\_\_\_\_

BUYER

By:   
Its: PRESIDENT

\_\_\_\_\_  
WITNESS

  
WITNESS

AH. 2

**From:** Larry Ash  
**To:** Kandi Talbot  
**Date:** Mon, Oct 18, 1999 2:34 PM  
**Subject:** 1199 Congress Street Gas Station

Kandi:

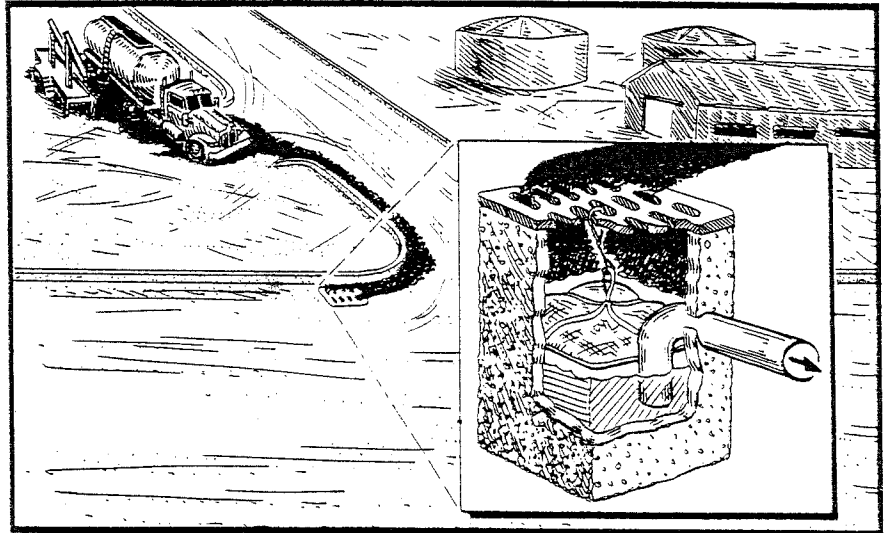
I can make the following recommendations with regards to the above referenced development:

1. I have no objection to the proposed two in/out driveways onto Massachusetts Ave. There will soon be a traffic signal at this intersection and I do not believe either of these driveways will have a negative impact on the operation of the traffic signals. If anything I believe the 2 driveways will aid in access and egress to the development.
2. I have no issues with proposed circulation within the development.

Should you have any questions please call. Thanks.



- Storm water BMP (Best Management Practice)
- Effective nonpoint source pollution prevention
- Long-standing remediation
- No modification of existing structure



OARS<sup>®</sup> Passive Skimmer capturing oil in storm water catch basin.

**What are OARS<sup>®</sup> Passive Skimmers?**

The OARS<sup>®</sup> Passive Skimmer Series is designed to absorb and encapsulate hydrocarbons by floating directly on the water in storm water catch basins, sumps, and oil/water separators. As oil-polluted storm water flows into the catch basin, the OARS<sup>®</sup> Passive Skimmer filters out and absorbs hydrocarbons without inhibiting water flow. OARS<sup>®</sup> Passive Skimmers are made of oil-absorbing co-polymers, packaged in flexible mesh containers that are available in a variety of sizes. This innovative product is also capable of removing oil sheen.

**What are the advantages of OARS<sup>®</sup> Passive Skimmers?**

The uniquely designed OARS<sup>®</sup> Passive Skimmer allows storm water to flow through the skimmer for extended periods without the sediment-clogging problems associated with typical storm water filters. As debris and larger objects flow into the catch basin, the skimmer folds downward from the weight. This self-clearing action allows the skimmer to return to its original position for continued hydrocarbon absorption.

OARS<sup>®</sup> will never release absorbed oil; it is tough enough to withstand turbulent environments; and it is cost effective. Because the OARS<sup>®</sup> Passive Skimmer safely "locks up" absorbed hydrocarbons it can remain in place for long periods. This cost-effectiveness makes OARS<sup>®</sup> Passive Skimmers the most desired products on the market.

Installation of the OARS<sup>®</sup> Passive Skimmer is a simple process requiring no structural modifications to existing drainage structures or oil/water separators. Change-out of the OARS<sup>®</sup> Passive Skimmer is also quick and easy and accomplished by simply pulling the skimmer out and replacing it.

**What makes OARS® Passive Skimmers a storm water BMP (Best Management Practice)?**

Hydrocarbons from nonpoint sources are deposited on the ground and washed into storm drains when it rains. OARS® Passive Skimmers strategically deployed in catch basins, oil/water separators, and storm sewer lines intercept this oil, remove it from the storm water flow, and prevent its discharge into natural receiving waters. Annual storm water runoff from one square mile of roads and parking lots can contain as much as 5,000 gallons of oil and grease. This number does not include deliberate dumping and accidental releases of oil.

**How have OARS® co-polymers been tested?**

1. Tests were undertaken for King County, Washington, to demonstrate OARS® effectiveness in retaining the oil once absorbed. Fully absorbed OARS® co-polymer cylinders were flushed with water for ten minutes, producing leachate values of 1.3 to 2.2 mg/L (average 1.7 mg/L), well below the Washington State allowable value of 10 mg/L.
2. Tests have demonstrated the effectiveness of the OARS® co-polymers in absorbing even low-level, dissolved hydrocarbons. OARS® recovered up to 97% of an 8 ppm benzene solution in a simple gravity feed lab apparatus.
3. Oil-laden OARS® co-polymers have also successfully passed the EPA Method 1311/TCLP (Toxicity Characteristic Leaching Procedure) Test for volatile and semi-volatile organics and the 8 RCRA metals.

Additional test data is available.

**OARS® Co-Polymer Passive Skimmer Series Specifications**

<b>Sizes Available</b>	13 in. x 13 in. (33 cm x 33 cm)	18 in. x 18 in. (45.7 cm x 45.7 cm)	27 in. x 27 in. (68.6 cm x 68.6 cm)	Custom sizes available.
<b>Dry Weight</b>	1.25 lbs. (.57 kg)	2.45 lbs. (1.12 kg)	5.2 lbs. (2.36 kg)	

For additional information on this and other products contact:

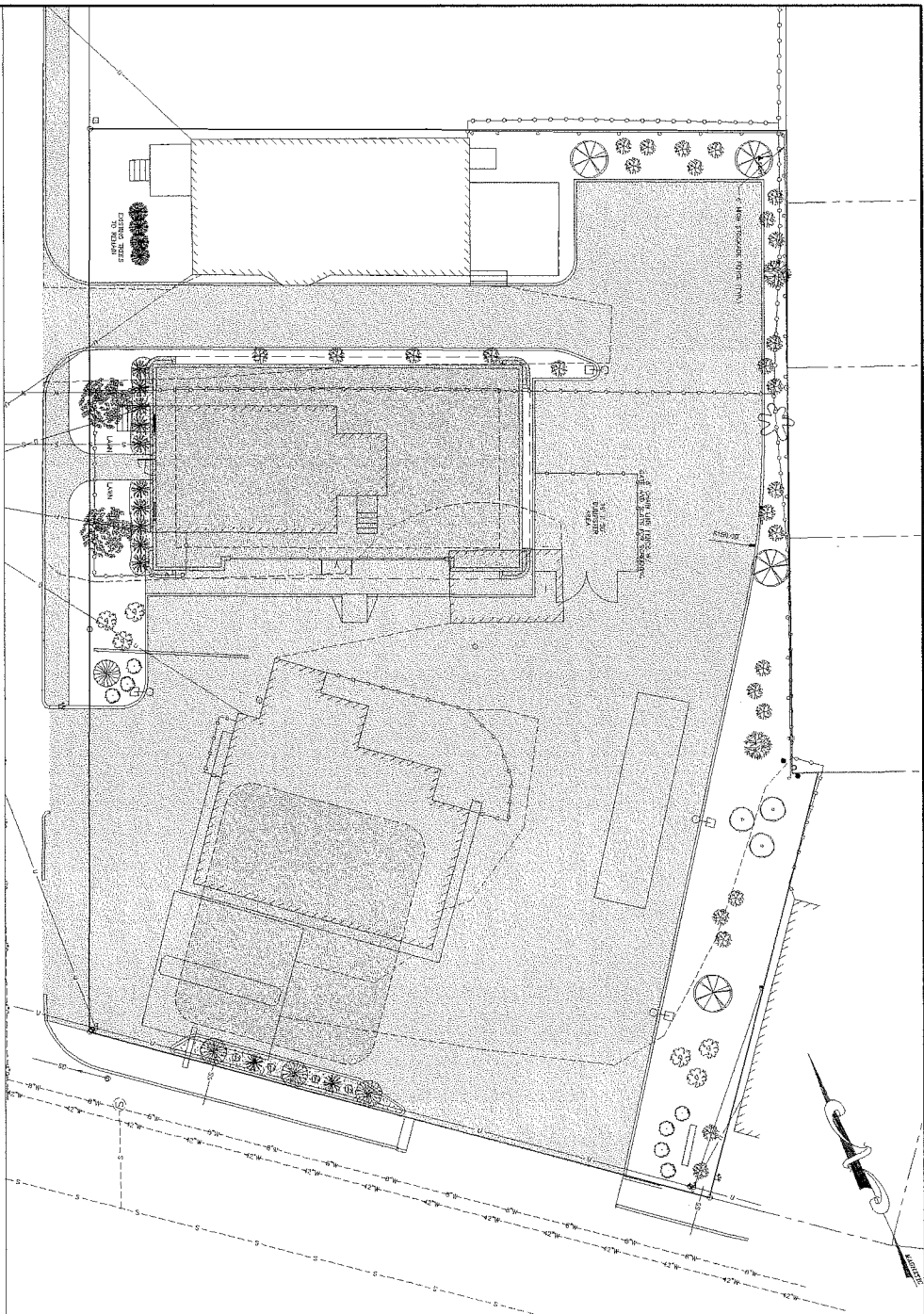


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M.C.R. Division  
 ONE RUNWAY ROAD, P.O. BOX 2647  
 SOUTH PORTLAND, ME 04116-2647  
 1-800-663-6149





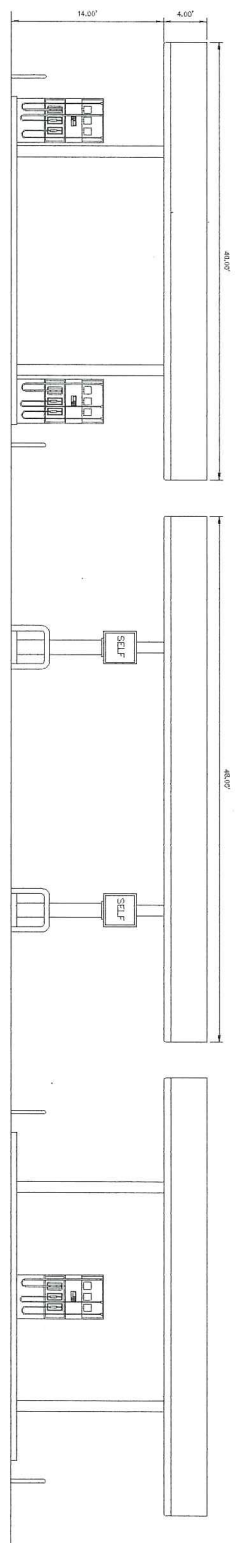
**PLANT SCHEDULE**

SYM.	BOTANICAL NAME	QTY.	SIZE
1	COMMON NURSERY		
2	BIRD PLANT		
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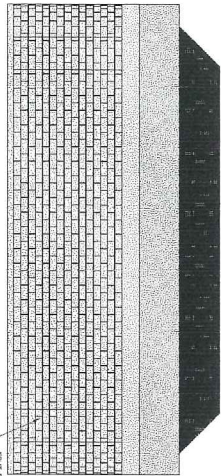
**M. W. SEWALL & CO.**  
 LANDSCAPE PLAN

9 MASSACHUSETTS AVE. PORTLAND, MAINE  
 G.S. FOR LESS

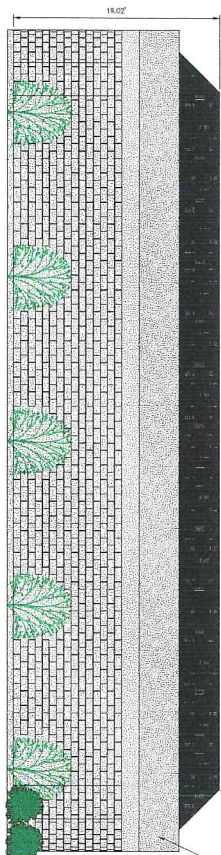
**SITELINES P.A.**  
 ARCHITECTS AND INTERIORS  
 100 STATE STREET, PORTLAND, MAINE 04101  
 PHONE: 857-2222 FAX: 857-2223  
 DATE: 01/27/98



CANOPY ELEVATIONS  
SCALE: 1" = 4'



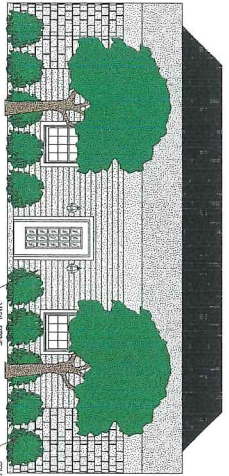
BRICK ELEVATION  
SCALE: 1" = 2'



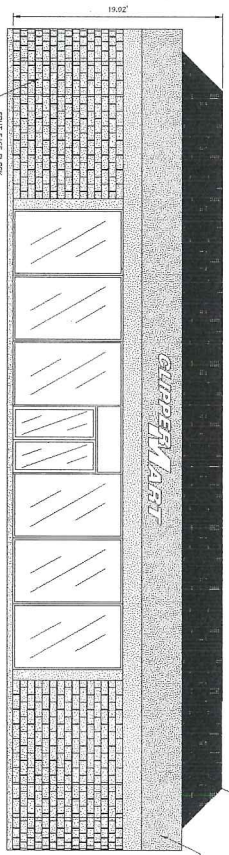
BRICK ELEVATION  
SCALE: 1" = 2'



TYPICAL BUILDING PHOTOGRAPH



MASSACHUSETTS AVENUE ELEVATION  
SCALE: 1" = 2'



CONGRESS STREET ELEVATION  
SCALE: 1" = 2'

NOT FOR CONSTRUCTION

SCHEMATIC BUILDING AND CANOPY ELEVATIONS

**M. W. SEWALL & CO.**

9 MASSACHUSETTS AVE., PORTLAND, MAINE

CALL FOR LISTS

**SITELINES P.A.**

1 CONNORLAND STREET, BURLINGTON, VT 05401  
 TEL: 802-249-1111 FAX: 802-249-1114 EMAIL: info@sitelines.com  
 WWW: WWW.SITELINES.COM

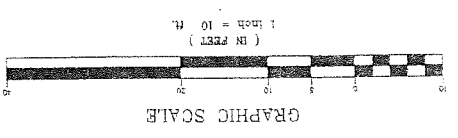
FIELD: VIKI K. SHIVER SCALE: 1" = 2'

DRAWN BY: R. BERTETTI JOB #: 595

CHECKED BY: C. BELANDIER SR. DATE: 01/09 PLOT: 000A001

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**M. W. SEWALL & CO.**  
LANDSCAPE PLAN

GAS FOR LESS  
9 MASSACHUSETTS AVE, PORTLAND, MAINE

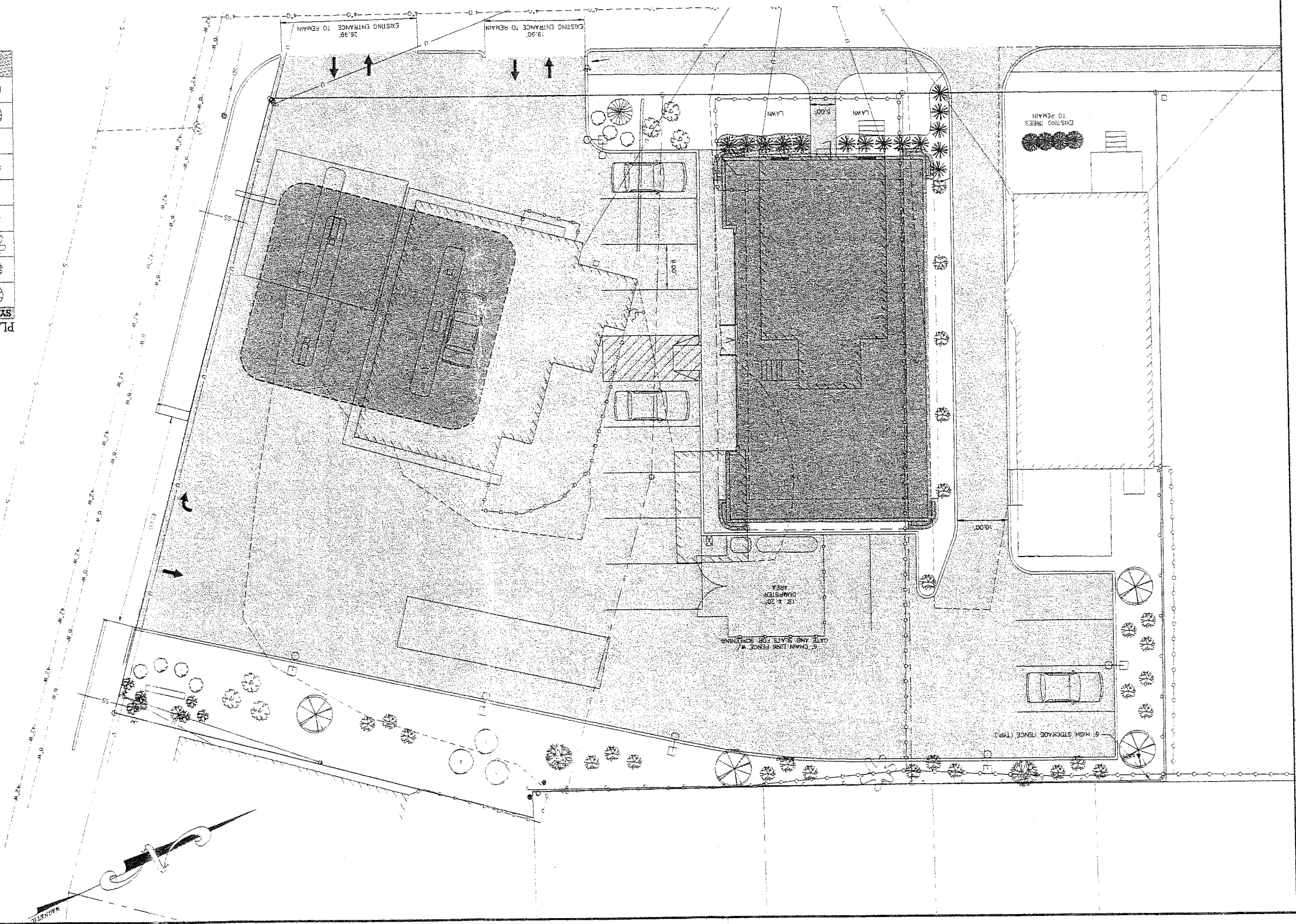
**SITELINES P.A.**  
ENGINEERS • PLANNERS • SURVEYORS  
8 GUMBERTLAND STREET, BRUNSWICK, ME 04011  
(207) 725-1200 FAX 725-1114 EMAIL: sitelines@sitelines.com

FIELD WKS: R. SPYRY SCALR: 1" = 10'  
JOB #: 595  
JOB BY: R. LEHETTE  
CHKD BY: C. BELANGER SS:  
DATE: 9/13/99  
FILE: 595LANDSCAPE

SHEET: **2**

**PLANT SCHEDULE**

SYMBOL	COMMON NAMES	QTY	BOTANICAL NAMES	SIZE
	RED MAPLE	3	ACER CRIMSON KING	2" CAL.
	BRADFORD PEAR	2	PIRUS CALLERYANA	2" CAL.
	SCOTCH PINE	1	PIRUS SYLVESTRIS 'GLAUCANA'	3 1/2 - 4'
	YEW	15	TAXUS DEMISSORPIS	18 - 24"
	RHODODENDRON P.J.M.	29	RHODODENDRON P.J.M.	2 - 2 1/2'
	'ABBOTTWOOD'	6	POTENTILLA FRUTICOSA	18 - 24"
	BURNING BUSH	7	EUONYMUS	18 - 24"
	SNOWDRIFT	1	MALUS SNOWDRIFT	2" CAL.
	MUGHO PINE	3	PIRUS MUGO	18 - 24"
	MULCH			



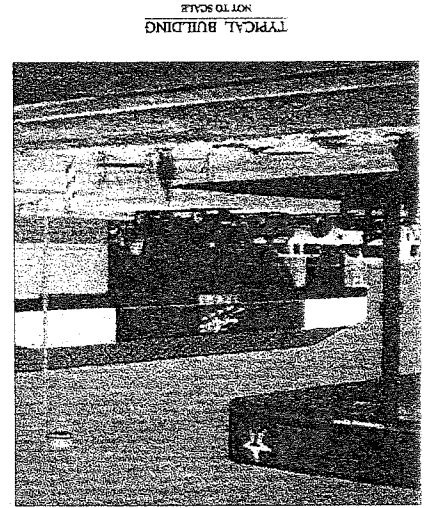
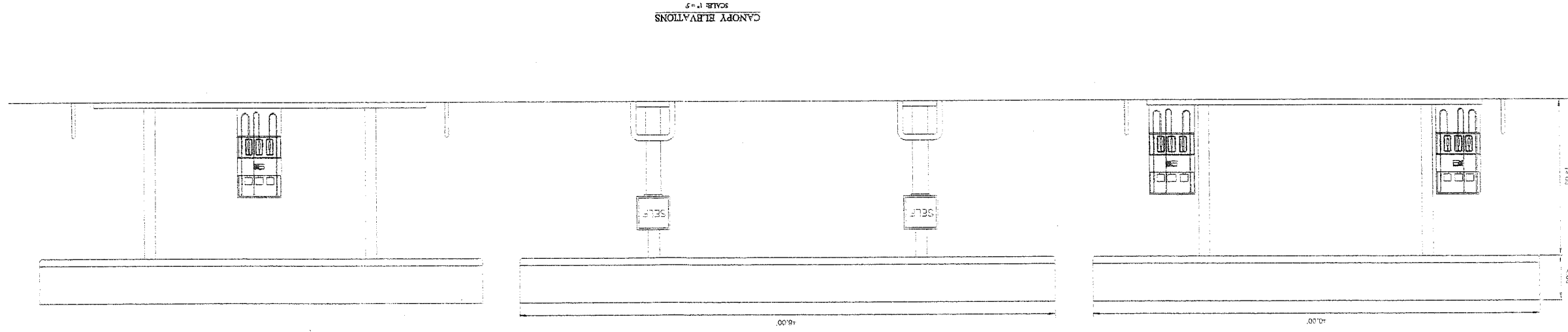
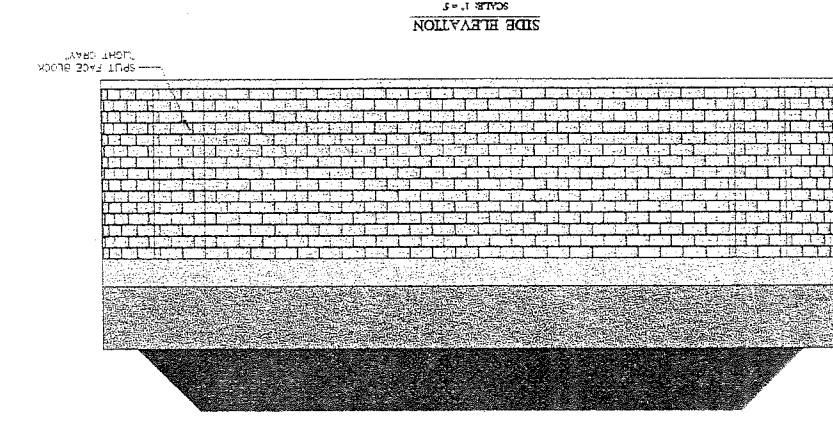
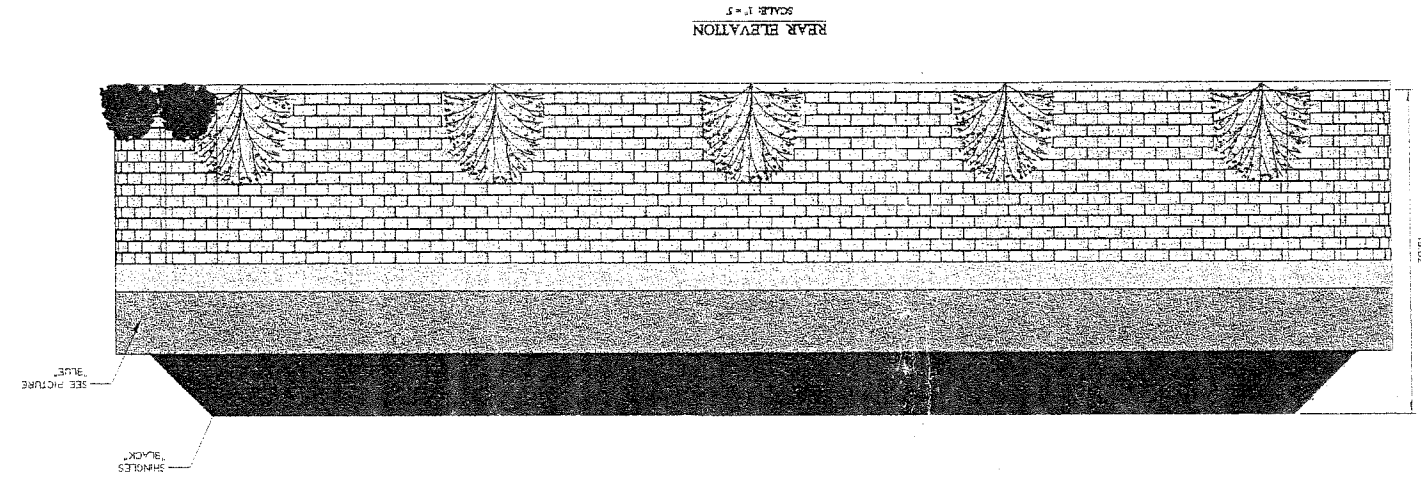
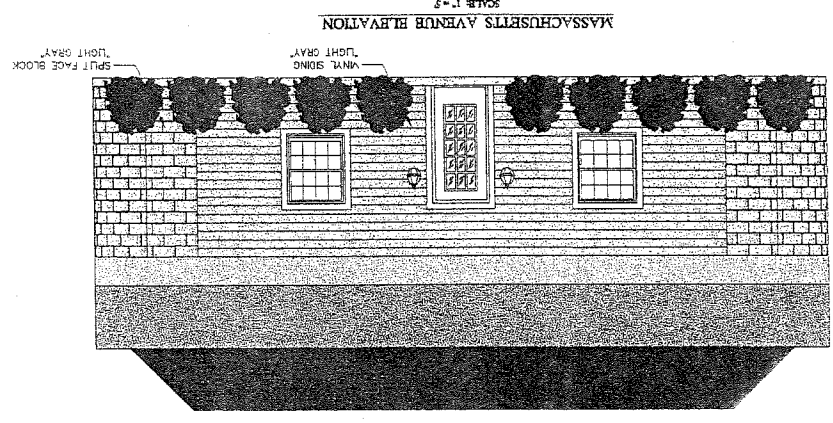
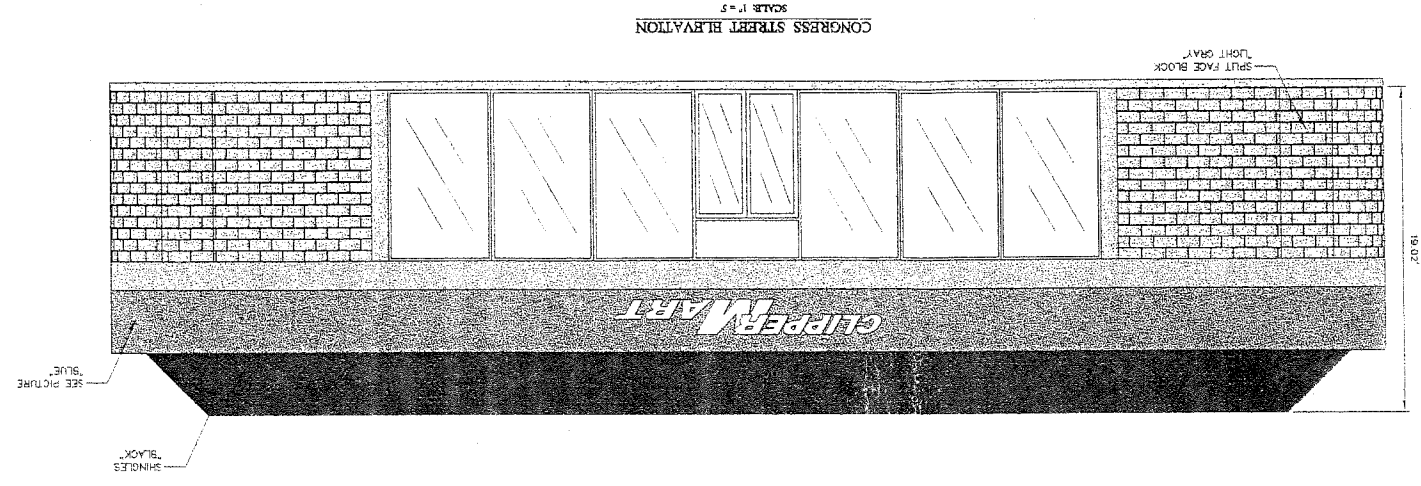
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**ENGINEERS • PLANNERS • SURVEYORS**  
**STELLINES P.A.**  
 9 MASSACHUSETTS AVE. PORTLAND, MAINE  
 GAS FOR LESS

**M. W. SEWALL & CO.**  
 BUILDING AND CANOPY ELEVATIONS


**FIELD WK. R. SPYRY** SCALE: 1" = 5'  
**DRN BY: R. LERETTE** JOB #: 595  
**CRD BY: C. BELANDIER** SR:  
 DATE: 9/1/99 FILE: 595ARCH

NOT FOR CONSTRUCTION

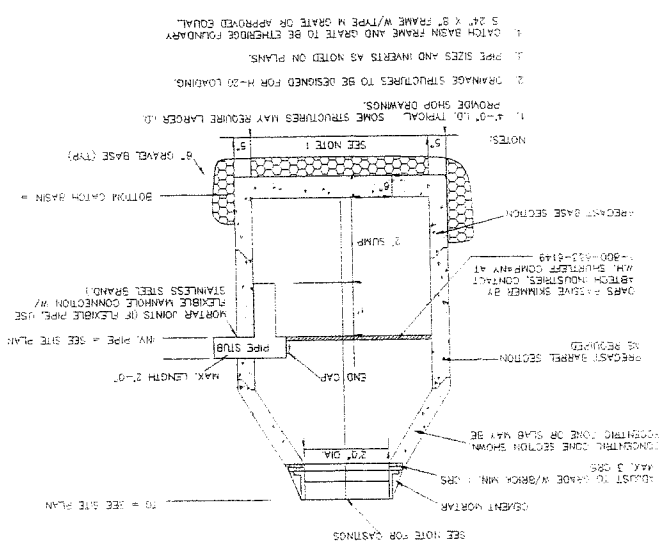






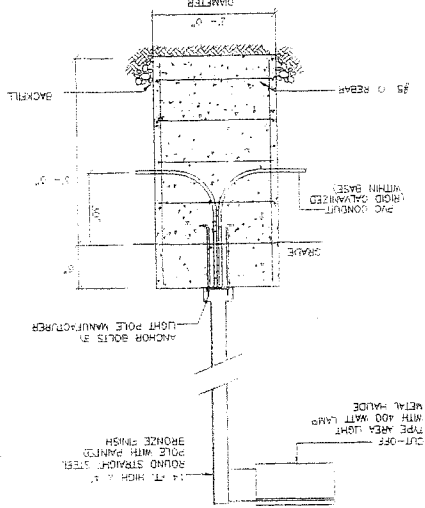
DATE: 9/13/99		FILE: 595SITE10
CHD BY: C. BILANOR	SS:	
DWN BY: R. LERETTE	JOB #: 595	
FIELD WKS. R. SPREY	SCALE: AS SHOWN	SHEET:
		
<b>SITELINES P.A.</b> ENGINEERS PLANNERS SURVEYORS 8 CUMBERLAND STREET, BRUNSWICK, ME 04011 (207) 725-1200 FAX 725-1114 EMAIL: info@sitelines.com		
GAS FOR LESS 9 MASSACHUSETTS AVE. PORTLAND, MAINE		
<b>M. W. SEWALL &amp; CO.</b>		
DETAIL SHEET		

TYPICAL CATCH BASIN OARS

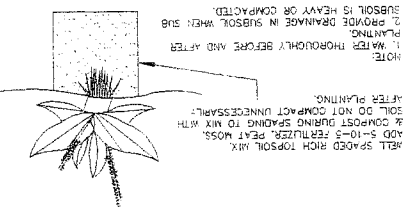


1. PROVIDE SHOP DRAWINGS.
  2. PROVIDE STRUCTURES TO BE DESIGNED FOR H-20 LOADING.
  3. PIPE SIZES AND INVERTS AS NOTED ON PLANS.
  4. CATCH BASIN FRAME AND GRATE TO BE EMBEDDED FOUNDARY.
- NOTES:
- 1. 4'-0" TYPICAL, SOME STRUCTURES MAY REQUIRE LARGER ID.
  - 2. 3/4" GRAVEL BASE (TRP)
  - 3. 8" GRATE
  - 4. 3" SUMP
  - 5. 2" END CAP
  - 6. 1" MAX. LENGTH 2'-0"
  - 7. 3/4" DIA.
  - 8. 3/4" DIA.
  - 9. 3/4" DIA.
  - 10. 3/4" DIA.
  - 11. 3/4" DIA.
  - 12. 3/4" DIA.
  - 13. 3/4" DIA.
  - 14. 3/4" DIA.
  - 15. 3/4" DIA.
  - 16. 3/4" DIA.
  - 17. 3/4" DIA.
  - 18. 3/4" DIA.
  - 19. 3/4" DIA.
  - 20. 3/4" DIA.

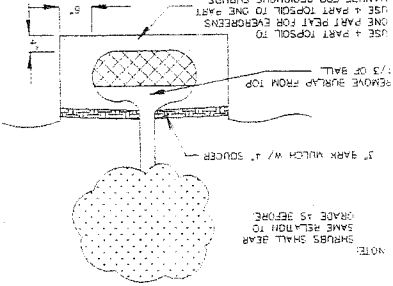
TYPICAL POLE LIGHT DETAIL



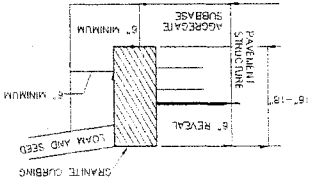
TYPICAL PERENNIAL DETAIL



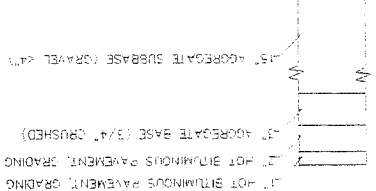
TYPICAL SHRUB PLANTING DETAIL



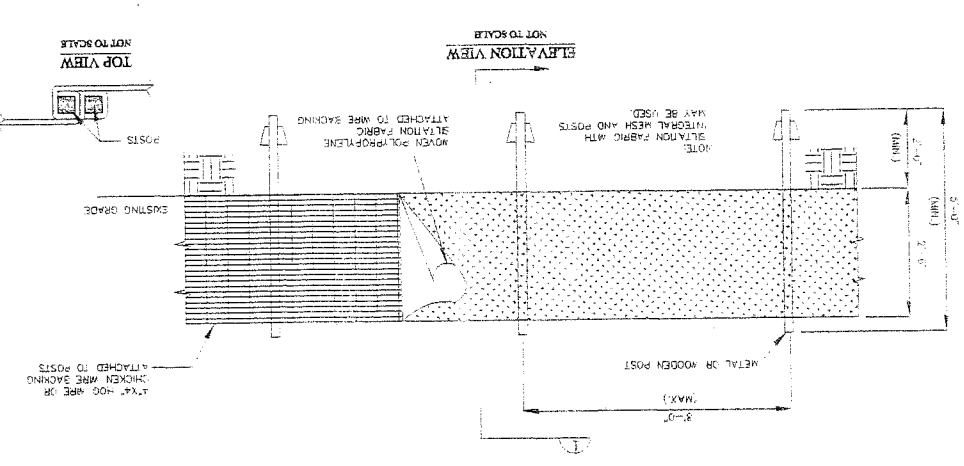
GRANITE CURBING DETAIL



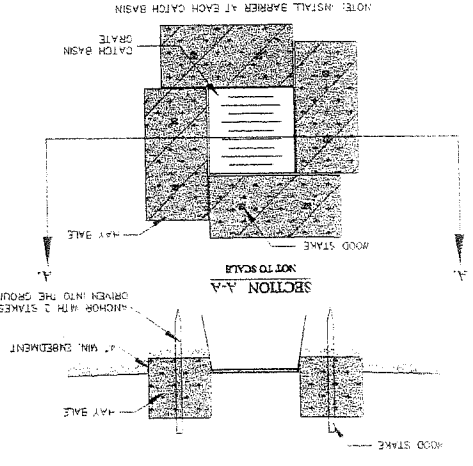
TYPICAL PAVEMENT SECTION



SILT FENCE DETAIL



CATCH BASIN W/ HAY BALE BARRIER DETAIL



- EROSION CONTROL NOTES:
1. ALL EROSION CONTROL METHODS SHALL CONFORM TO THE WATERSHED MANAGEMENT PLAN AND THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.
  2. ALL TOPSOIL SHALL BE SAVED TO LOCATE UNOCCUPIED AREAS TO A DEPTH OF 1" TO 2" IN A LOCATION CONVENIENT TO THE CONTRACTOR. THE STOCKPILE SHALL BE TEMPORARILY SEEDED WITH SEED AT THE RATE OF 1 LBS./1000 SQ. FT.
  3. SEEDING SHALL BE PERFORMED IN ACCORDANCE WITH DOT SPECIFICATIONS. SEED SHALL BE PERFORMED IN ACCORDANCE WITH DOT SPECIFICATIONS. SEED SHALL BE PERFORMED IN ACCORDANCE WITH DOT SPECIFICATIONS.
  4. THE SEEDING SHALL BE PERFORMED AS TEMPORARILY SEED BETWEEN SEPTEMBER 15 - OCTOBER 15.
  5. ALL AREAS TO BE SEED SHALL BE MULCHED. MULCH SHALL BE LAYED OVER THE SEED AND SPREAD UNIFORMITY. 1.5 TO 2.0 INCHES DEEP TO BE MAINTAINED UNTIL TO MINIMIZE EROSION IS NECESSARY.
  6. PLACE HAY BALE BARRIERS (STAKED) AROUND CATCH BASINS DURING CONSTRUCTION.
  7. THE HAY BALE BARRIERS WILL REMAIN IN PLACE UNTIL SEEDINGS HAVE BEEN ESTABLISHED.
  8. PERMANENT SOIL EROSION CONTROL MEASURES FOR ALL SLOPES WITHIN 30 DAYS AFTER FINAL SHALING HAS BEEN COMPLETED.
  9. IN THE EVENT THAT TEMPORARY OR PERMANENT SEEDINGS HAVE NOT BEEN ESTABLISHED (FOR SURFACE COVERED) BY SEPTEMBER 15, TEMPORARILY PLANTING SHALL BE PERFORMED OVER WHICH PART THE WATERSHED MANAGEMENT PLAN IS TO BE MAINTAINED UNTIL SOIL IS RESTORED TO THE WATERSHED MANAGEMENT PLAN.

**SITE PHOTOS**

**M. W. SEWALL & CO.**

GAS FOR LESS  
9 MASSACHUSETTS AVE. PORTLAND, MAINE

**SITELINES P.A.**  
ENGINEERS • PLANNERS • SURVEYORS  
8 CHURCHLAND STREET, BURLINGTON, MA 01801  
(207) 725-1200 FAX 725-1114 EMAIL: [info@sitelines.com](mailto:info@sitelines.com)

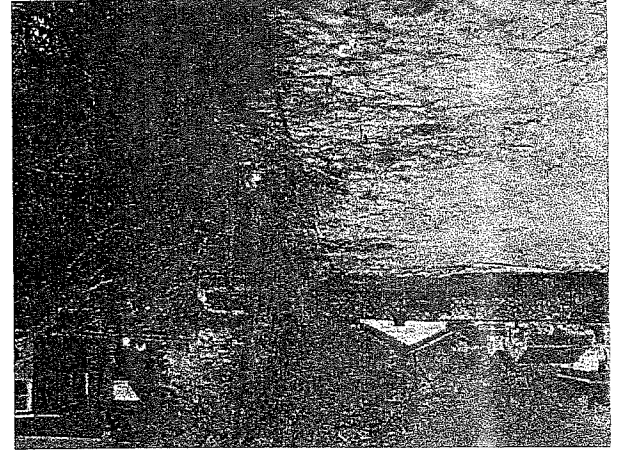
FIELD WKS. R. SEVEY  
SCALE: AS SHOWN  
SHEET: \_\_\_\_\_

DRAWN BY: R. LERETTE  
JOB #: 595

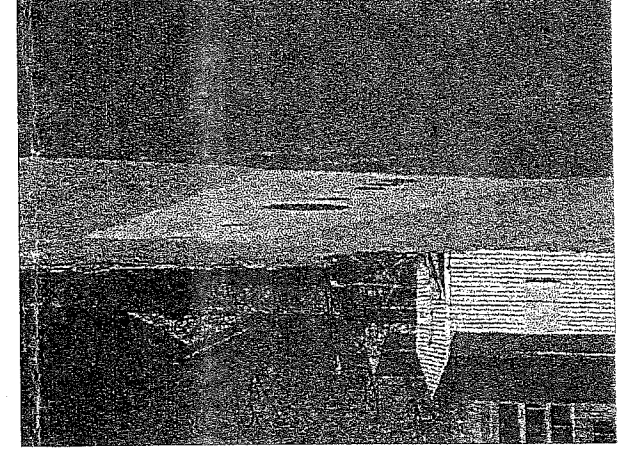
DESIGNED BY: C. BELANGER  
SS: \_\_\_\_\_

DATE: 9/13/99  
FILE: 595arch.dwg

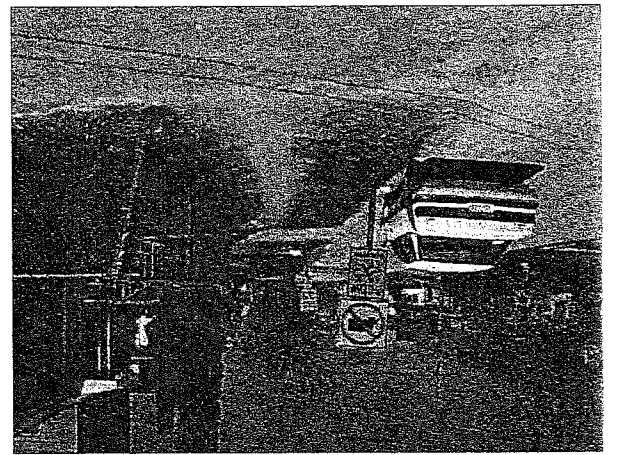
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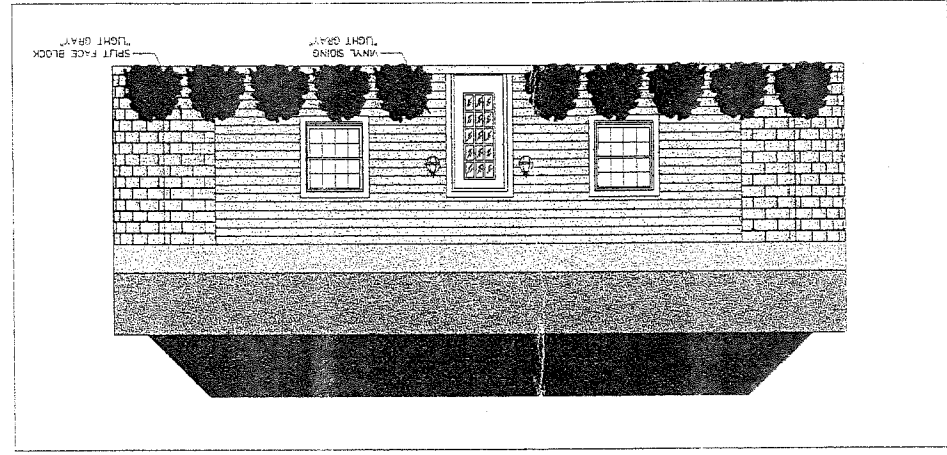
FENCE TO BE REPLACED WITH 6 HIGH STOCKADE FENCE AND LANDSCAPING



GARAGE TO BE REMOVED EXISTING FENCE TO BE REMOVED AND REPLACED WITH 6 HIGH STOCKADE FENCE AND LANDSCAPING



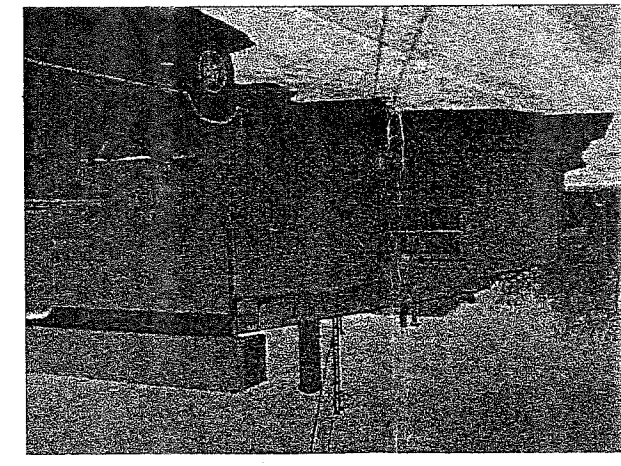
TO BE REMOVED AND REPLACED WITH MASSACHUSETTS AVENUE ELEVATION



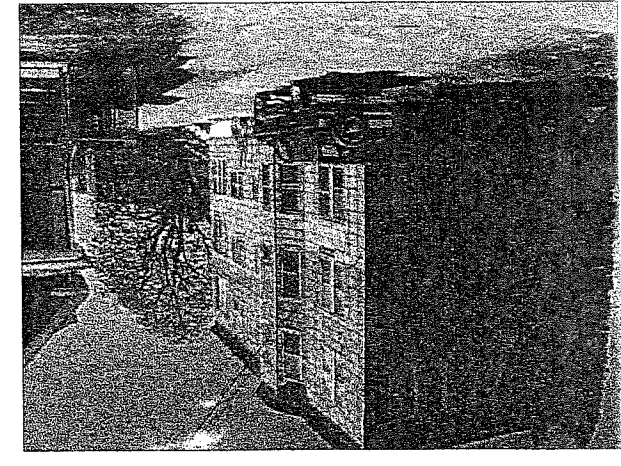
TO BE REMOVED AND REPLACED WITH MASSACHUSETTS AVENUE ELEVATION



EXISTING SIGN TO REMAIN GRANITE CURB TO BE INSTALLED ALONG CONGRESS STREET



EXISTING BUILDING TO BE REMOVED



EXISTING TREES AND BUILDING TO REMAIN

N/F  
ROBERT F. & JANICE JEFFREY  
CCRD BK. 6854, PG. 313  
58 DOUGLASS ST.

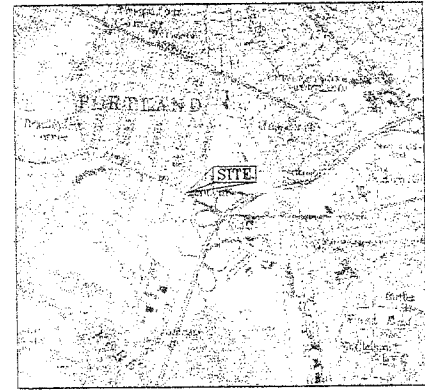
N/F  
TRI C. NGUYEN  
CCRD BK. 13348, PG. 323  
56 DOUGLASS ST.

N/F  
KEVIN P. COOLEGGE  
CCRD BK. 9199, PG. 122  
52-54 DOUGLASS ST.

N/F  
DAVID P. CHESSEY  
CCRD BK. 3553, PG. 277

N/F  
ANANIA'S INC.

LINE	LENGTH	BEARING
1	5.91	S24°54'58"E
2	2.11	S89°32'21"E



LOCATION MAP  
NOT TO SCALE

PLAN REFERENCE:

- STANDARD BOUNDARY SURVEY COMPLETED BY DANIEL J. DALFONSO P.L.S. # 1172 (119 SCAMMAN STREET, 30 PORTLAND, MAINE 04106 TEL: (207) 758-6931) FOR MORRIS L. SILVER, DATED 10-15-97.
- STANDARD BOUNDARY SURVEY COMPLETED BY ROBERT W. SPIVEY P.L.S. # 1338, P.O. BOX 901, BRUNSWICK, MAINE 04011 TEL: (207) 731-0511 FOR M.W. SEWALL & CO. DATED 1-15-99.
- TOPOGRAPHIC SURVEY COMPLETED BY ROBERT W. SPIVEY P.L.S. # 1338, P.O. BOX 901, BRUNSWICK, MAINE 04011 TEL: (207) 731-0511 FOR M.W. SEWALL & CO. DATED 12-21-98.

GENERAL NOTES:

- SITE IS OWNED BY M.W. SEWALL & CO. CDRD BY 13026, PG. 121 (7) MASSACHUSETTS AVE.; TAX MAP 78 LOTS 1,2,3,4.
- AREA OF EXISTING LOT = 25,610 S.F. ± 5 A.C. ± TOTAL PROJECT.
- ORDINANCE STANDARDS: ZONE: B-1 (NEIGHBORHOOD BUSINESS)
- MIN. LOT SIZE:
  - SCHOOL: 20,000 S.F.
  - CHURCH: 10,000 S.F.
  - NONRESIDENTIAL: NONE
- MIN. STREET STREET FRONTAGE: 50'
- MIN. YARD DIMENSIONS:
  - FRONT:
    - PRINCIPAL OR ACCESSORY STRUCTURE: TEN (10) FEET, EXCEPT THAT THE FRONT YARD NEED NOT EXCEED THE AVERAGE DEPTH OF IMMEDIATELY ADJUTING FRONT YARDS.
    - THE FRONT YARD OF A LOT EXISTING AS OF APRIL 4, 1968, AND WHICH LOT IS LESS THAN ONE HUNDRED (100) FEET DEEP, NEED NOT BE DEEPER THAN TEN (10) PERCENT OF THE DEPTH OF LOT.
  - REAR:
    - PRINCIPAL STRUCTURES: NONE, EXCEPT WHERE A REAR YARD ADJUTS A RESIDENCE ZONE OR RESIDENTIAL USE, TWENTY (20) FEET IS REQUIRED.
    - ACCESSORY STRUCTURES (DETACHED): NONE, EXCEPT WHERE THE REAR YARD ADJUTS A RESIDENCE ZONE OR RESIDENTIAL USE, FIVE (5) FEET IS REQUIRED.
  - SIDE:
    - PRINCIPAL STRUCTURES: NONE, EXCEPT THAT WHERE A SIDE YARD ADJUTS A RESIDENCE ZONE OR RESIDENTIAL USE, TEN (10) FEET IS REQUIRED IF A SIDE YARD IS PROVIDED. HOWEVER, IT SHALL BE NO LESS THAN FIVE (5) FEET IN WIDTH.
    - ACCESSORY STRUCTURES: NONE, EXCEPT THAT WHERE THE SIDE YARD ADJUTS A RESIDENCE ZONE OR A RESIDENTIAL USE, FIVE (5) FEET IS REQUIRED.
    - SIDE YARDS ON SIDE STREETS (CORNER LOTS): PRINCIPAL OR ACCESSORY STRUCTURES: TEN (10) FEET.
- MINIMUM LOT WIDTH: FIFTY (50) FEET OR IF THE AVERAGE OF THE LOT WIDTHS WITHIN TWO HUNDRED (200) FEET OF THE BOUNDARIES OF THE LOT IN QUESTION ON THE SAME SIDE OF THE STREET AND IN THE B-1 ZONE IS LESS THAN FIFTY (50) FEET, THEN THE MINIMUM STREET FRONTAGE MAY BE REDUCED TO THE AVERAGE LOT WIDTH OF SUCH LOTS.
- MAXIMUM STRUCTURE HEIGHT: THIRTY-FIVE (35) FEET WHERE THE LOT ADJUTS AN R-2 RESIDENTIAL ZONE. THE MAXIMUM HEIGHT SHALL BE THE MAXIMUM PERMITTED HEIGHT IN THE B-1 RESIDENTIAL ZONE.
- MAXIMUM IMPERVIOUS SURFACE RATIO: EIGHTY (80) PERCENT (ORD. NO. 242-42, 4-4-98)
- THE SURFICIAL SOILS ARE CLASSIFIED AS AREAS REWORKED BY MAN, SO THAT THE SOILS ARE NO LONGER TAXONOMICALLY CLASSIFIABLE.
- SITE BENCHMARK IS BASED ON AN ARBITRARY DATUM:
  - B.M. 1 ALUMINUM NAIL IN NORTHWEST SIDE OF UTILITY POLE, ELEV: 50.97'
  - B.M. 2 ALUMINUM NAIL IN WEST SIDE OF UTILITY POLE, ELEV: 50.16'
- ALL UNDERGROUND UTILITIES ON THIS PLAN ARE APPROXIMATE AND SHALL BE FIELD VERIFIED.

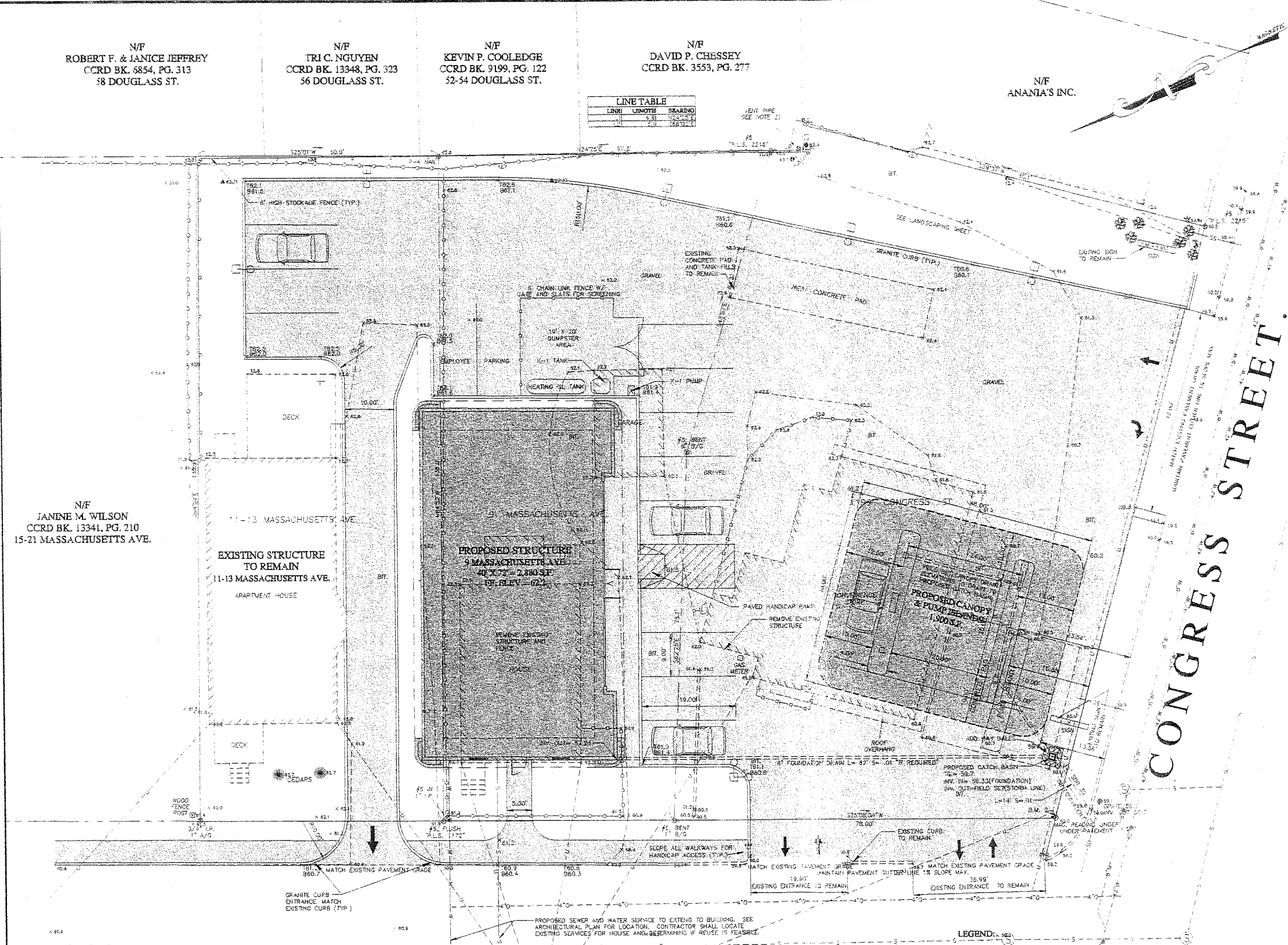
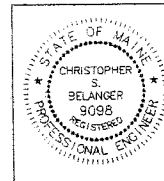
9/14/99 SUBMITTED TO PLANNING BOARD RPL

SITE DEVELOPMENT PLAN  
**M. W. SEWALL & CO.**

GAS FOR LESS  
9 MASSACHUSETTS AVE, PORTLAND, MAINE

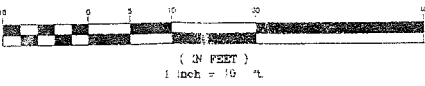
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FIELD WK: R. SPIVEY	SCALE: 1" = 10'	SHEET:
DRN BY: R. LERETTE	JOB #: 595	1
CH'D BY: C. BELANGER	SS:	
DATE: 9/14/99	FILE: 595SITES	



MASSACHUSETTS AVE.

GRAPHIC SCALE



CONSTRUCTION NOTES:

- ALL RAMPS AND RAILS SHALL MEET ADA STANDARDS FOR HANDICAP ACCESSIBILITY.
- ALL UTILITIES SHALL BE CONSTRUCTED IN ACCORDANCE WITH DISTRICT SPECIFICATIONS. CONTRACTOR SHALL CONTACT DIG-SAFE AND ALL UTILITY COMPANIES PRIOR TO EXCAVATION AND CONSTRUCTION.
- FOR LIGHTING LAYOUT AND TYPE SEE SITE LIGHTING PLAN.
- INSTALL THE DATCH BASIN WITH AN 27" X 27" OARS PASSIVE SKIMMER DEVELOPED BY ARTECH INDUSTRIES AND DISTRIBUTED BY SHURTLEFF COMPANY (ONE RUNWAY RD., P.O. BOX 2800, SOUTH PORTLAND, MAINE 04116-2800, (207)-883-8371). OWNER SHALL INSPECT SKIMMER QUARTERLY WITH A REPORT SUBMITTED TO THE TOWN PLANNER TO MONITOR PERFORMANCE. THE SKIMMER SHALL BE REPLACED EVERY 3-6 MONTHS OR AS NECESSARY TO ENSURE PROPER PERFORMANCE.

SITE TABULATION:

EXISTING LANDSCAPE:	4,485 S.F.	17.3%
EXISTING IMPERVIOUS:	21,385 S.F.	82.7%
PROPOSED LANDSCAPE:	5,237 S.F.	20.2%
PROPOSED IMPERVIOUS:	20,833 S.F.	79.8%

x:\land projects\595\dwg\595site10.dwg Mon Sep 20 15:40:49 1999 SITELINES P.A. PLOTTED BY: JOSH LERETTE

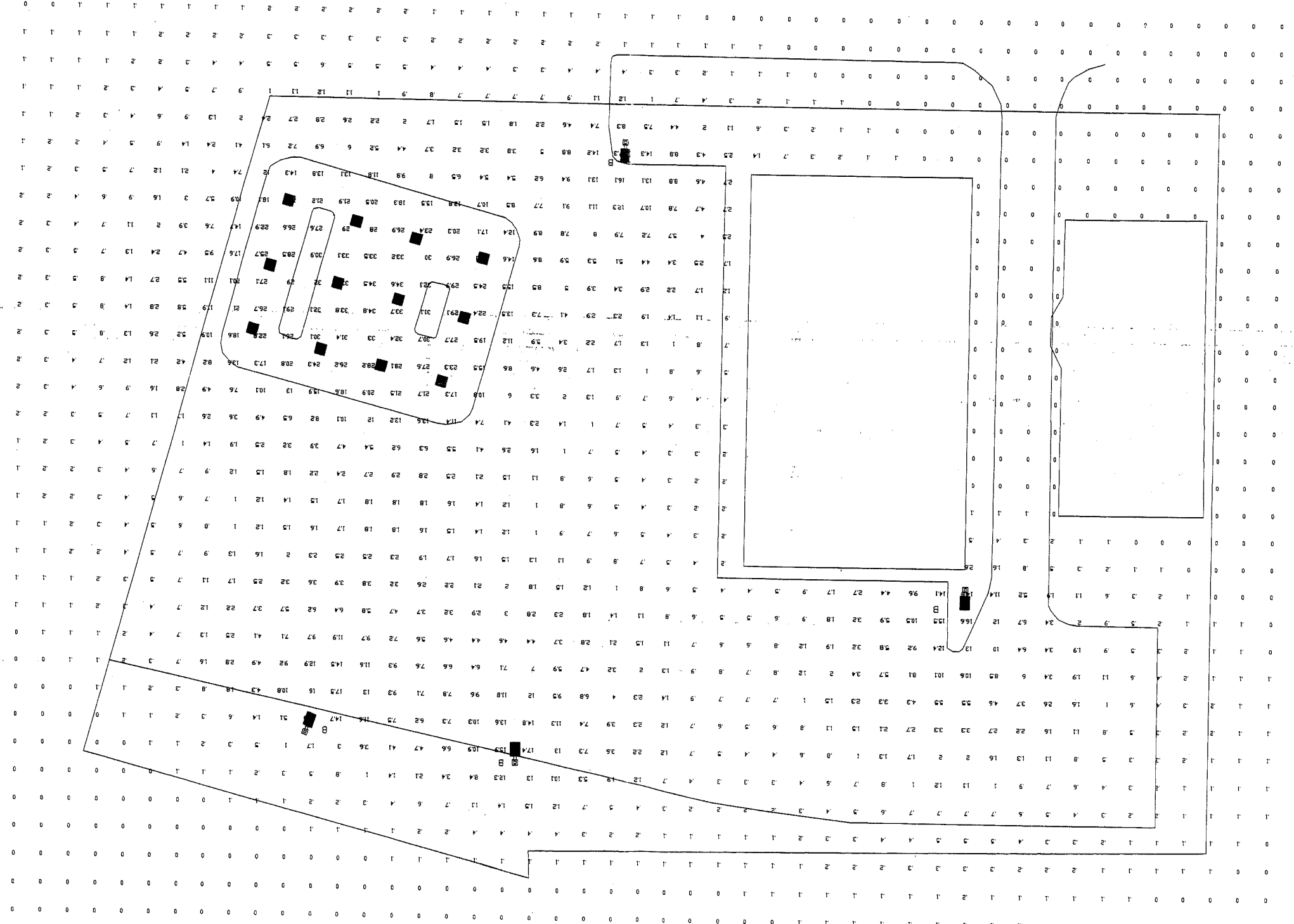
Rev.	Date	By
1	8-24-99	BDB
2	9-8-99	BDB
3	9-27-99	BDB
4	10-21-99	BDB

A.H.5

SUMMARY CANOPY  
 AVERAGE FC = 24.88  
 MINIMUM FC = 11.4  
 MAXIMUM FC = 34.8  
 AVERAGE/MINIMUM = 2.18  
 MAXIMUM/MINIMUM = 3.05

SUMMARY INSIDE CURB  
 AVERAGE FC = 3.57  
 MINIMUM FC = 0  
 MAXIMUM FC = 17.5  
 AVERAGE/MINIMUM = 0  
 MAXIMUM/MINIMUM = 0

MAINTAINED FOOTCANDLE VALUES AT GRADE,  
 USING A .72 MAINTENANCE FACTOR.



THIS IS NOT AN LSI RECOMMENDED LIGHT LAYOUT.

LSI IS NOT RESPONSIBLE FOR SAFETY AND SECURITY RISKS DUE TO INADEQUATE LIGHT LEVELS.

CANOPY CONSTRUCTION BE CERTAIN TO CHECK FOR POSSIBLE INTERFERENCES BEFORE CUTTING FIXTURE OPENINGS.

LAYOUT PREPARED PER CUSTOMER'S REQUEST.

Based on the information provided, all dimensions and luminaire locations shown represent recommended positions. The engineer and/or architect must determine applicability of the layout to existing or future field conditions. (Under certain conditions in accordance with Illuminating Engineering Society approved methods. Actual performance of any manufacturer's luminaire may vary due to variation in electrical voltage, tolerance in lamps, and other variable field conditions.)

ASSEMBLY	QTY	POLE	QTY	BRACKET	QTY	OTHER	QTY	FIXTURE	QTY	TOTAL WATTS	NO
B	4	4SOBO-5110-16-S-48C	1					OTM-FT-250-SMH-F	1	285	BDB
A	12							RIC-S-175-SMH-73	1	215	BDB
BILL OF MATERIALS ASSEMBLES EACH CONSISTING OF:											
PORTLAND, ME											
GAS FOR LESS											
LIGHTING PROPOSAL FOR											
1000 MILLING RD. 22 BOX OFFICE CHINA SPRING ARIZ (602) 794-3200 FAX (602) 794-8022											
Industries											
LO-36230											
DATE: 8-4-99											
SHEET 1 OF 1											

NOTE - ALL AREA LIGHTS ON 16' POLES