

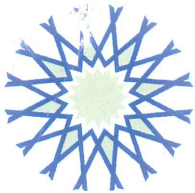
83E - A - 12

2011-205

124 W. Shore Dr. - GDI

Howard Finkel

Stabilize Shoreline



ATTAR

ENGINEERING, INC

CIVIL STRUCTURAL MARINE

Ms. Barbara Barhydt
Development Review Services Manager
Planning Division
389 Congress Street 4th Floor
Portland, ME 04101
(207) 874-8699
Fax: (207) 756-8256
bab@portlandmaine.gov

March 17, 2011
Project No.: C123-11

**RE: Diamond Cove – Finkel Lot 12
Level II Application**

Dear Ms. Barhydt:

I have enclosed a Level II application for shoreline stabilization (rip-rap placement) for Lot 12 at Diamond Cove, Great Diamond Island, Maine. It will require 1,015 S.F. of rip-rap.

Portions of the parcel must be stabilized to alleviate shoreline erosion.

Thank you for your consideration. Please contact me for any additional information.

Sincerely,

Kenneth A. Wood, P.E.
President



Level II – Preliminary and Final Site Plans Development Review Application Portland, Maine

Planning and Urban Development Department
Planning Division

Portland's Planning and Urban Development Department coordinates the development review process for site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Level II: Preliminary or Final Site Plan. Please note that Portland has delegated review from the State of Maine for reviews under the Site Location of Development Act, Chapter 500 Stormwater Permits, and Traffic Movement Permits. General information pertaining to the thresholds of review, public noticing procedures and the fee structure is contained in the Notice to Developer's Packet.

Level II: Site Plan Development includes:

- New structures with a total floor area of less than 10,000 sf except in Industrial Zones.
- New structures with a total floor area of less than 20,000 sf in Industrial Zones.
- Any new temporary or permanent parking area, paving of an unpaved surface parking area, or creation of other impervious surface area greater than 7,500 sf.
- Building addition(s) with a total floor area of less than 10,000 sf (cumulatively within a 3 year period) except in Industrial Zones.
- Building addition(s) with a total floor area of less than 20,000 sf in Industrial Zones.
- Park improvements: New structures or buildings with a total floor area of less than 10,000 sf, facilities encompassing an area of greater than 7,500 sf and less than 20,000 sf (excludes rehabilitation or replacement of existing facilities).
- New piers, docks, wharves, bridges, retaining walls, and other structures within the Shoreland Zone.
- Land disturbance between 1 and 3 acres (includes stripping, grading, grubbing, filling or excavation).
- A change in the use of a total floor area between 10,000 and 20,000 sf in any existing building (cumulatively within a 3 year period).
- Construction of a lodging house, bed and breakfast facility, emergency shelter or special needs independent living unit.
- Signage subject to approval pursuant to Section 14-526 (d) 8.a. (IV) of the Land Use Code.
- Any new major or minor auto service station with less than 10,000 sf of building area that is outside the B-2 or B-5 zones.
- The creation of day care or home babysitting facilities to serve more than 12 children in a residential zone (not permitted as a home occupation under section 14-410) in any principal structure that has not been used as a residence within the 5 years preceding the application.

The Land Use Code (including Article V), the Technical Manual, and the Design Manual are available on the City's web site at <http://www.portlandmaine.gov/planning/default.asp> or copies may be purchased at the Planning Division Office.

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT NAME: Diamond Cove

PROPOSED DEVELOPMENT ADDRESS:

West Shore Drive #124

PROJECT DESCRIPTION:

To stabilize 1,015' of recently eroded shoreline with rip-rap.

CHART/BLOCK/LOT: 83E-A-12 **PRELIMINARY PLAN** _____ (date)
FINAL PLAN _____ (date)

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: Howard B. Finkel Business Name, if applicable: Address: 768 Chimney Creek Drive City/State: Golden, CO Zip Code: 80401	Applicant Contact Information Work # Home# Cell # Fax# e-mail:
Owner – (if different from Applicant) Name: Address: City/State: Zip Code:	Owner Contact Information Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Attar Engineering, Inc. Kenneth A. Wood, P.E. Address: 1284 State Road City/State: Eliot, ME Zip Code: 03903	Agent/Representative Contact information Work # (207) 439-6023 Cell # e-mail: ken@attarengineering.com
Billing Information Name: Same as Agent/Representative Address: City/State: Zip Code:	Billing Information Work # Cell # Fax# e-mail:

PROJECT NAME: Diamond Cove

PROPOSED DEVELOPMENT ADDRESS:

West Shore Drive #124

PROJECT DESCRIPTION:

To stabilize 1,015' of recently eroded shoreline with rip-rap.

CHART/BLOCK/LOT: 83E-A-12

PRELIMINARY PLAN _____ (date)

FINAL PLAN _____ (date)

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: Howard B. Finkel Business Name, if applicable: Address: 768 Chimney Creek Drive City/State: Golden, CO Zip Code: 80401	Applicant Contact Information Work # Home# Cell # Fax# e-mail:
Owner – (if different from Applicant) Name: Address: City/State: Zip Code:	Owner Contact Information Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Attar Engineering, Inc. Kenneth A. Wood, P.E. Address: 1284 State Road City/State: Eliot, ME Zip Code: 03903	Agent/Representative Contact information Work # (207) 439-6023 Cell # e-mail: ken@attarengineering.com
Billing Information Name: Same as Agent/Representative Address: City/State: Zip Code:	Billing Information Work # Cell # Fax# e-mail:

Engineer Name: Attar Engineering, Inc. Address: Kenneth A. Wood, P.E. 1284 State Road City/State: Eliot Zip Code: 03903	Engineer Contact Information Work # (207) 439-6023 Cell # Fax# (207) 439-2128 e-mail: ken@attarengineering.com
Surveyor Name: Address: City/State: Zip Code:	Surveyor Contact Information Work # Cell # Fax# e-mail:
Architect Name: Address: City/State: Zip Code:	Architect Contact Information Work # Cell # Fax# e-mail:
Attorney Name: Address: City/State: Zip Code:	Attorney Contact Information Work # Cell # Fax# e-mail:

APPLICATION FEES:

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

Level II Development (check applicable reviews) <input checked="" type="checkbox"/> Less than 10,000 sq. ft. (\$400.00) <input type="checkbox"/> After-the-fact Review (\$1,000.00 plus applicable application fee)	Fees Paid (office use) _____ _____	Other Reviews (check applicable reviews) <input type="checkbox"/> Traffic Movement (\$1,000) <input type="checkbox"/> Stormwater Quality (\$250) <input type="checkbox"/> Section 14-403 Review (\$400 + \$25/lot) # of Lots ____ x \$25/lot = _____ <input type="checkbox"/> Other _____ <input type="checkbox"/> Change of Use <input type="checkbox"/> Flood Plain <input checked="" type="checkbox"/> Shoreland <input type="checkbox"/> Design Review <input type="checkbox"/> Housing Replacement <input type="checkbox"/> Historic Preservation	Fees Paid (office use) _____ _____
The City invoices separately for the following: <ul style="list-style-type: none"> • Notices (\$.75 each) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.			
Plan Amendments (check applicable reviews) <input type="checkbox"/> Planning Staff Review (\$250) <input type="checkbox"/> Planning Board Review (\$500)	Fees Paid (office use) _____ _____		

APPLICATION SUBMISSION

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

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


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

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

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

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

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

Signature of Applicant: 	Date: 3/17/2011
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PROJECT DATA

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

Total Site Area	44,649	sq. ft.
Proposed Total Disturbed Area of the Site	2,000	sq. ft.
(If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland)		
IMPERVIOUS SURFACE AREA		
• Proposed Total Paved Area	n/a	sq. ft.
• Existing Total Impervious Area	n/a	sq. ft.
• Proposed Total Impervious Area	n/a	sq. ft.
• Proposed Total Impervious Area	n/a	sq. ft.
• Proposed Impervious Net Change	0	sq. ft.
BUILDING AREA		
• Proposed Building Footprint	n/a	sq. ft.
• Proposed Building Footprint Net change	n/a	sq. ft.
• Existing Total Building Floor Area	n/a	sq. ft.
• Proposed Total Building Floor Area	n/a	sq. ft.
• Proposed Building Floor Area Net Change	0	sq. ft.
• New Building	NO	(yes or no)
ZONING		
• Existing	IR-1/S	
• Proposed, if applicable	IR-1/S	
LAND USE		
• Existing	Residential	
• Proposed	Residential	
RESIDENTIAL, IF APPLICABLE		
• Proposed Number of Affordable Housing Units	n/a	
• Proposed Number of Residential Units to be Demolished	n/a	
• Existing Number of Residential Units	n/a	
• Proposed Number of Residential Units	n/a	
• Subdivision, Proposed Number of Lots	n/a	
PARKING SPACES		
• Existing Number of Parking Spaces	n/a	
• Proposed Number of Parking Spaces	n/a	
• Number of Handicapped Parking Spaces	n/a	
• Proposed Total Parking Spaces	n/a	
BICYCLE PARKING SPACES		
• Existing Number of Bicycle Parking Spaces	n/a	
• Existing Number of Bicycle Parking Spaces	n/a	
• Proposed Number of Bicycle Parking Spaces	n/a	
• Total Bicycle Parking Spaces	n/a	
ESTIMATED COST OF PROJECT		

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

Applicant Checklist	Planner Checklist	Number of Copies	Written Submittal Requirements
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Completed application form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	Application fees
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written description of project
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Evidence of right, title and interest.
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Copies of required State and/or Federal permits.
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written assessment of zoning.
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written description of existing and proposed easements or other burdens.
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written requests for waivers from individual site plan and/or technical standards, where applicable.
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Traffic analysis (may be preliminary, in nature, during the preliminary plan phase).
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written summary of significant natural features located on the site.
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Written summary of project's consistency with related city master plans.
Applicant Checklist	Planner Checklist	Number of Copies	Site Plan Submittal Requirements
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Boundary Survey meeting the requirements of Section 13 of the City of Portland Technical Manual.
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec. 1)	Preliminary Site Plan Including the following: (*information provided may be preliminary in nature during preliminary plan phase):
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed structures with distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Location of adjacent streets and intersections and approximate location of structures on abutting properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Proposed site access and circulation.
<input checked="" type="checkbox"/>	<input type="checkbox"/>		▪ Proposed grading and contours.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Location and dimension of existing and proposed paved areas including all parking areas and vehicle, bicycle and pedestrian access ways.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary landscape plan including existing vegetation to be preserved, proposed site landscaping and street trees.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing and proposed utilities (preliminary layout).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary infrastructure improvements (e.g. - curb and sidewalk improvements, roadway intersection modifications, utility connections, transit infrastructure, roadway improvements).
<input type="checkbox"/>	<input type="checkbox"/>		▪ Preliminary stormwater management and erosion control plan.
<input type="checkbox"/>	<input type="checkbox"/>		▪ Existing significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b) 1. of the Land Use Code).

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

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

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

Final Plan Phase			
<input type="checkbox"/>	<input type="checkbox"/>	7 (1 paper copy as of Dec 1)	Final Site Plan Including the following
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Existing and proposed structures on the site with distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone).</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Location of adjacent streets and intersections and approximate location of structures on abutting properties.</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Proposed site access and circulation.</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Proposed grading and contours.</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Location and dimension of existing and proposed paved areas including all parking areas and vehicle, bicycle and pedestrian access ways. Proposed curb lines must be shown.</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Proposed loading and servicing areas, including applicable turning templates for delivery vehicles</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Proposed snow storage areas or snow removal plan.</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Proposed trash and recycling facilities.</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Landscape plan including existing vegetation to be preserved, proposed site landscaping and street trees.</i>
<input type="checkbox"/>	<input type="checkbox"/>		▪ <i>Existing and proposed utilities.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Location and details of proposed infrastructure improvements (e.g. - curb and sidewalk improvements, roadway intersection modifications, utility connections, public transit infrastructure, roadway improvements).
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Proposed septic system, if not connecting to municipal sewer. (Portland Waste Water Application included in this application)
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Proposed finish floor elevation (FFE).
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Exterior building elevation(s) (showing all 4 sides).
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Proposed stormwater management and erosion controls.
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Exterior lighting plan, including street lighting improvements..
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Proposed signage.
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Identification of existing significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b)1. of the Land Use Code). Wetlands must be delineated.
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Proposed alterations to and protection measures for of existing significant natural features located on the site (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features listed in Section 14-526 (b)1. of the Land Use Code).
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Total area and limits of proposed land disturbance.
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Soil type and location of test pits and borings.
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Details of proposed pier rehabilitation (Shoreland areas only).
<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Existing and proposed easements or public or private rights of way.



PORTLAND FIRE DEPARTMENT
SITE REVIEW
FIRE DEPARTMENT CHECKLIST



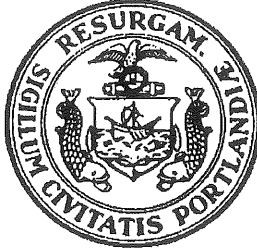
A separate drawing[s] shall be provided to the Portland Fire Department for all site plan reviews.

1. Name, address, telephone number of applicant.
2. Name address, telephone number of architect
3. Proposed uses of any structures [NFPA and IBC classification]
4. Square footage of all structures [total and per story]
5. Elevation of all structures
6. Proposed fire protection of all structures
 - **As of September 16, 2010 all new construction of one and two family homes are required to be sprinkled in compliance with NFPA 13D. This is required by City Code. (NFPA 101 2009 ed.)**
7. Hydrant locations
8. Water main[s] size and location
9. Access to all structures [min. 2 sides]
10. A code summary shall be included referencing NFPA 1 and all fire department. Technical standards.

Some structures may require Fire flows using annex H of NFPA 1

CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION

Department of Public Services,
55 Portland Street,
Portland, Maine 04101-2991



Mr. Frank J. Brancely,
Senior Engineering Technician,
Phone #: (207) 874-8832,
Fax #: (207) 874-8852,
E-mail: fjb@portlandmaine.gov

Date: _____

1. Please, Submit Utility, Site, and Locus Plans.

Site Address: _____

(Regarding addressing, please contact Leslie Kaynor, either at 756-8346, or at LMK@portlandmaine.gov)

Chart Block Lot Number: _____

Proposed Use: _____

Previous Use: _____

Existing Sanitary Flows: _____ GPD

Existing Process Flows: _____ GPD

Description and location of City sewer, at proposed building sewer lateral connection: _____

Site Category	Commercial	_____
	Industrial <i>(complete part 4 below)</i>	_____
	Governmental	_____
	Residential	_____
	Other <i>(specify)</i>	_____

Clearly, indicate the proposed connection, on the submitted plans.

2. Please, Submit Domestic Wastewater Design Flow Calculations.

Estimated Domestic Wastewater Flow Generated: _____ GPD

Peaking Factor/ Peak Times: _____

Specify the source of design guidelines: *(i.e. "Handbook of Subsurface Wastewater Disposal in Maine," "Plumbers and Pipe Fitters Calculation Manual," Portland Water District Records, Other (specify)*

Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet.

3. Please, Submit Contact Information.

Owner/Developer Name: _____

Owner/Developer Address: _____

Phone: _____ Fax: _____ E-mail: _____

Engineering Consultant Name: _____

Engineering Consultant Address: _____

Phone: _____ Fax: _____ E-mail: _____

City Planner's Name: _____ Phone: _____

Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review.

4. Please, Submit Industrial Process Wastewater Flow Calculations

Estimated Industrial Process Wastewater Flows Generated: _____ GPD

Do you currently hold Federal or State discharge permits? Yes _____ No _____

Is the process wastewater termed categorical under CFR 40? Yes _____ No _____

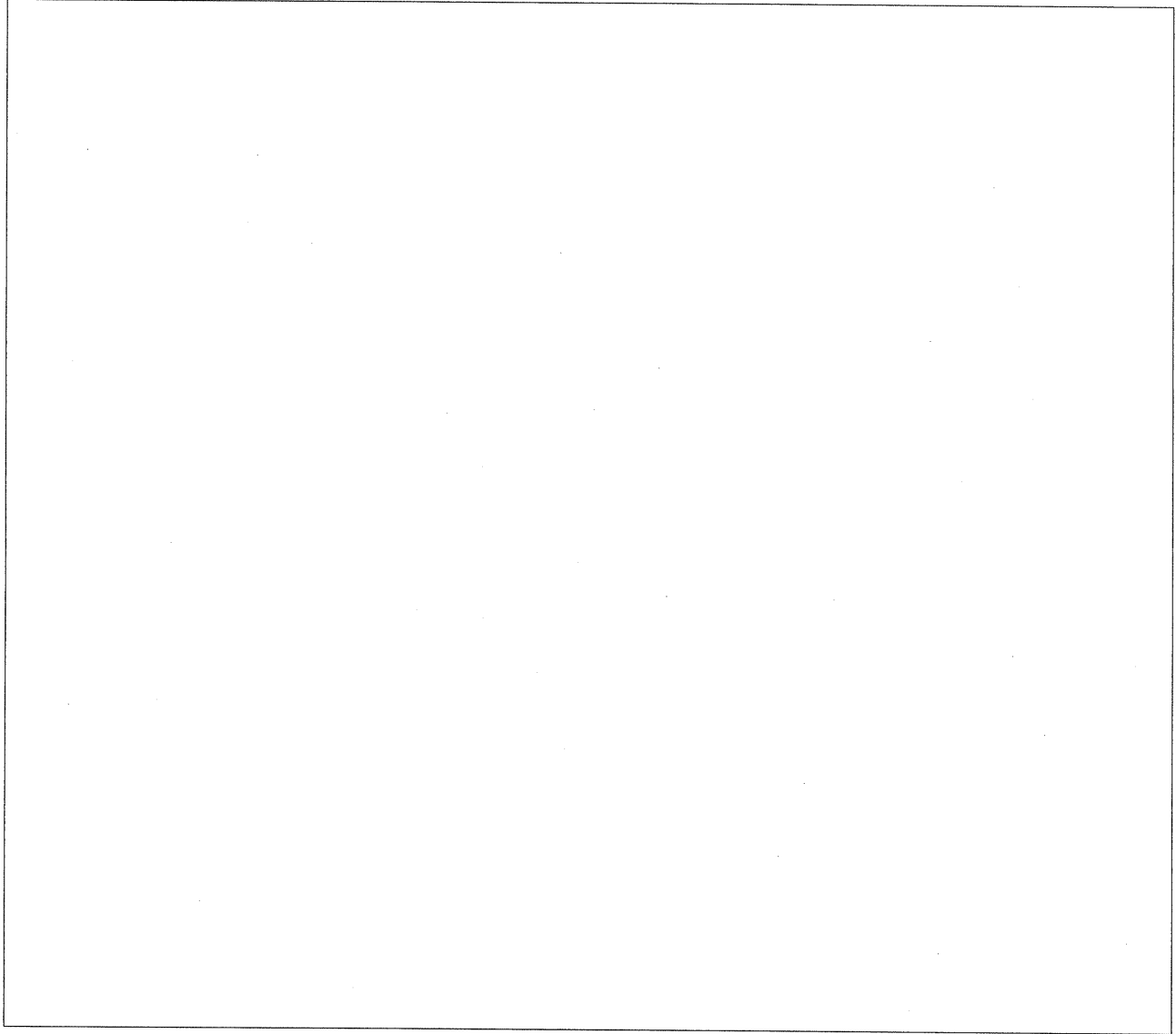
OSHA Standard Industrial Code (SIC): _____

(<http://www.osha.gov/oshstats/sicser.html>)

Peaking Factor/Peak Process Times: _____

Note: On the submitted plans, please show the locations, where the building's sanitary, and process water sewer laterals, exit the facility, where they enter the city's sewer, the location of any control manholes, wet wells, or other access points, and the locations of any filters, strainers, or grease traps.

Notes, Comments, or Calculations:



Howard Finkel
768 Chimney Creek Drive
Golden, CO 80401

Ms. Marybeth Richardson
Department of Environmental Protection
312 Canco Road
Portland, Maine 04103

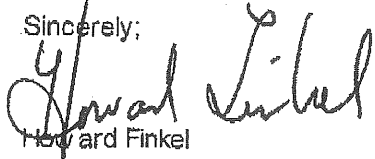
March 7, 2011

Dear Ms. Richardson:

Please be informed that Kenneth A. Wood, P.E. of Attar Engineering, Inc. will be acting as my agent for the NRPA application for rip-rap placement on Lot 12, Diamond Cove, Great Diamond Island, Maine.

Please contact me if I can provide any additional information.

Sincerely;



Howard Finkel

cc: Kenneth A. Wood, P.E. Attar Engineering, Inc.

0017723

BK15402PG254

03-31-00 17:22

FROM-HOPKINSON+ABBONDANZA

12078742330

T-927 P.06/21 F-959

WARRANTY DEED

We, **DAVID L. LANDMAN and NANCY A. LANDMAN**
 of **5 Chapel Oak Road, Pittsburgh, Pennsylvania 15238**, for consideration paid, grant to
HOWARD E. FINKEL

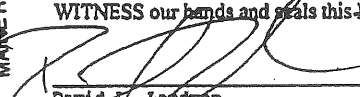
of **768 Chimney Creek Drive, Golden, Co 80401** with **WARRANTY COVENANTS**, the
 following described real property in **Great Diamond Island, County of Cumberland, and State of
 Maine**:

MAINE REAL ESTATE TAX PAID

See Exhibit A attached hereto and made a part hereof

Also hereby conveying all rights, easements, privileges, and appurtenances, belonging to the
 premises hereinabove described.

WITNESS our hands and seals this ^{31st} ~~fourth~~ day of ^{MARCH} ~~April~~, 2000.



 David L. Landman




 Nancy A. Landman

Commonwealth of Pennsylvania
 County of ALLEGHENY, ss.

March 31, 2000

Personally appeared before me the above-named David L. Landman and Nancy A. Landman and
 acknowledged the foregoing instrument to be their free act and deed.

Before me,



Notary Public:
 My commission expires:

SEAL

00-3957

Notarial Seal
 William E. Boyle, Notary Public
 Pittsburgh, Allegheny County
 My Commission Expires June 18, 2003
 Member, Pennsylvania Association of Notaries

EXHIBIT A - PROPERTY DESCRIPTION

Closing date: 04/04/2000
Borrower(s): Howard B. Finkel
Property Address: Lot #12, Diamond Cove, Great Diamond Island, Maine 04109

A certain lot or parcel of land, together with the buildings and improvements thereon, situated on Great Diamond Island, in the City of Portland, County of Cumberland and State of Maine, and more particularly described as follows:

Being Lot No. 12 as shown on a Plan entitled "Amended Recording Plat, Diamond Cove Phase II, Great Diamond Island, Portland, Maine, dated July 9, 1991 and recorded in the Cumberland County Registry of Deeds in Plan Book 191, Pages 143 through 145 (the "Plan") to which Plan and the record thereof reference can be made for a more particular description of the within conveyed premises.

The above described premises are conveyed together with and subject to the covenants, conditions, restrictions, rights, easements, charges, liens and other matters set forth or referred to in an Amended and Restated General Declaration of Covenants and Restrictions dated December 23, 1993 and recorded in said Registry of Deeds in Book 11277, Page 322, including Exhibit A thereto, as amended by First Supplement to Amended and Restated General Declaration of Covenants and Restrictions, dated February 25, 1994 and recorded in said Registry in Book 11307, Page 200 (the "Declaration").

The following restrictive covenant shall apply to, and be binding upon, the within described Lot 12 and shall further be a covenant imposed by the Grantor herein upon all subsequent conveyances of single-family house lots on said plan entitled "Amended Recording Plat, Diamond Cove Phase II, Great Diamond Island, Portland, Maine", dated July 9, 1991 and recorded in the Cumberland County Registry of Deeds in Plan Book 191, Page 143-145 (the "Plan").

All residences erected on said lot shall contain at least 1,400 square feet of living area as defined in said Amended and Restated General Declaration of Covenants and Restrictions.

The within covenant is imposed for the mutual benefit of the Grantor and the Grantee herein and shall be a continuing covenant running with the land, enforceable by either Grantor or Grantee, his successors, heirs or assigns, or by other owners of lots subject to the same covenant and located on the Plan.

Also hereby conveyed with Quitclaim Covenant to the within Grantee, all of the Grantor's right, title and interest in and to the adjacent intertidal zone, defined as that area lying between the sidelines of the above-described premises from the high water mark extended seaward to mean low water mark; said inter-tidal area being subject, however, to the use Restrictions appearing in Articles 4 and 5 of the Declaration.

BK 15402 PG 256

Particular reference is also made to the terms and conditions of State of Maine Dept. of Environmental Protection Orders dated December 10, 1986 and recorded in said Registry of Deeds in Book 7585, Page 112, dated December 9, 1987 and recorded in said Registry of Deeds in Book 8848, Page 314, dated May 10, 1989 and recorded in said Registry of Deeds in Book 8772, Page 161, dated July 5, 1989 and recorded in said Registry of Deeds in Book 8833, Page 12, re-recorded in said Registry of Deeds in Book 8902, Page 118, dated October 12, 1989 and recorded in said Registry of Deeds in Book 8964, Page 155, dated February 8, 1990 and recorded in said Registry of Deeds in Book 9109, Page 292, and dated June 25, 1991 and recorded in said Registry of Deeds in Book 9641, Page 287.

RECEIVED
RECORDED REGISTRY OF DEEDS

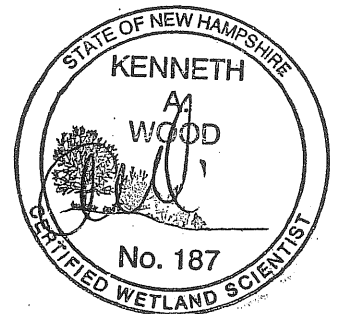
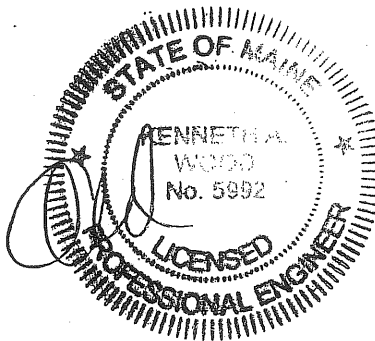
2000 APR -4 PM 2: 12

CUMBERLAND COUNTY

John B. O'Brien

ATTACHMENT 1 – ACTIVITY DESCRIPTION

This application proposed to stabilize an existing eroding slope; Lot 12, Diamond Cove, Great Diamond Island, Maine. The existing slope requires stabilization due to erosion caused by coastal storms during recent years. Rip-rap is proposed due to 1) the shallow to bedrock conditions which prohibit an adequate soil mantle, 2) ledge in adjacent areas, and 3) the presence of existing vegetation (shrubs and trees) at the top of the slope which prohibit regarding to a more gentler slope.; total rip-rap proposed is 1,015 S.F.



ATTACHMENT 7 – CONSTRUCTION PLAN

The anticipated construction plan follows, equipment required will be a back-hoe or excavator, trucks for rip-rap, small skid-steer for clean-up.

The area will be rough graded; cushion stone will be placed to allow for placement of the geotextile.

The large rip-rap materials will be placed.

All disturbed areas will be regarded; upland areas will be fertilized, seeded and mulched.

ATTACHMENT 8 – EROSION AND SEDIMENT CONTROL PLAN

Erosion control for the placement of rip-rap will require minimum Best Management Practices (BMP's) due to the nature of the materials and the location of the rip-rap. A siltation fence will be installed at the top of the slope to prevent the erosion and sedimentation of any disturbed soil materials. After the rip-rap installation is complete, all disturbed areas will be regarded, fertilized, seeded and mulched with a conservation seed mix. After establishment of the grasses (95% catch) the silt fence will be removed from the site.

ATTACHMENT 9 – SITE CONDITIONS REPORT

The site is located on the north-westerly side of Diamond Cove, Great Diamond Island, Maine adjacent to Casco Bay (Atlantic Ocean). The coastal wetland area is typical of the State of Maine and coastal islands – the shoreline is characterized by large edge outcrops, small boulders and cobbles and smaller areas of gravel beach. The wetland/upland boundary is located along the Highest Annual Tide (HAT). Upland soils are classified as fine sandy loams (Hollis (HrB) – Source: *Soil Survey of Cumberland County, Maine*). Vegetation is characterized by overstory species of white birch (*Betula papyrifera*), silver maple (*Acer saccharinum*) and White Pine (*Pinus strobus*); the understory is a mix of grasses in upland areas.

ABUTTERS TO LOT 12

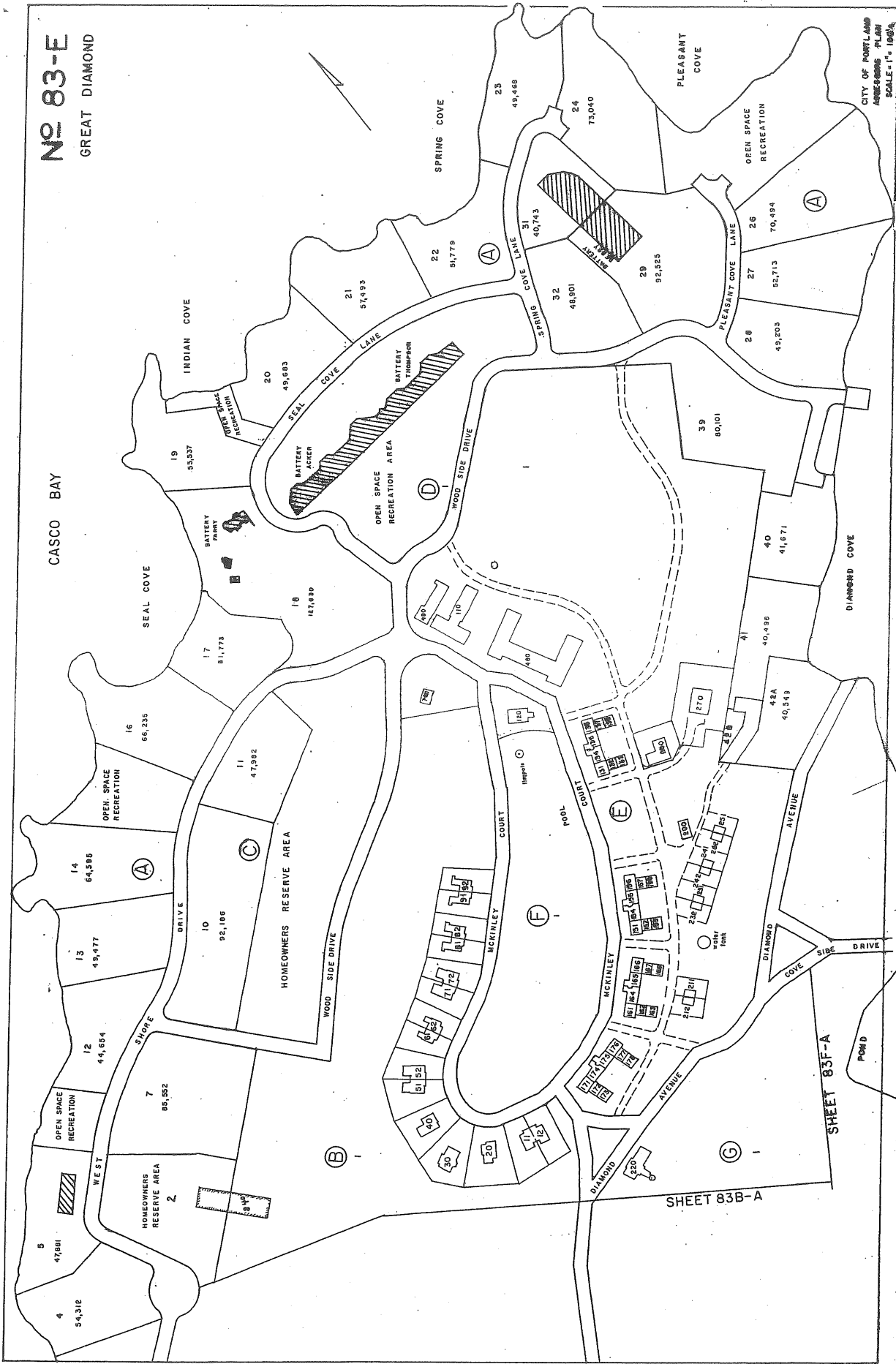
Open Space: Diamond Cove Homeowners Ass'n.
P.O. Box 3572, Portland ME 04101

Map 083/Lot 7: Jessie & Evelyn Harriott
13 Harkness Rd.
Jaffrey, NH 03452

Map 083/Lot 10: Oliver Keithly
96 Crestview Dr.
South Portland, ME 04106

Map 083/Lot 13: Joseph and Margaret Holbrook
144 West Shore Dr.
Great Diamond Island, ME 04109

No 83-E
GREAT DIAMOND



CASCO BAY

INDIAN COVE

SEAL COVE

SPRING COVE

PLEASANT COVE

DIAMOND COVE

POUND

CITY OF PORTLAND
ASSESSORS PLAN
SCALE: 1" = 100'
RECORD 8466

SHEET 83F-A

SHEET 83B-A

City of Portland
 Development Review Application
 Planning Division Transmittal form

Application Number: 2011-205 **Application Date:** 3/23/2011 12:00:00 AM
Project Name: Shoreline Stabilization (rip-rap placement)
Address: 124 W. Shore Drive (lot 12) – Diamond Cove, Great Diamond Island
Project Description:
Zoning:
Other Reviews Required: Shoreland
Review Type: Level II

Distribution List:

<input type="checkbox"/> Planner		<input type="checkbox"/> Parking	John Peverada
<input type="checkbox"/> Zoning Administrator	Marge Schmuckal	<input type="checkbox"/> Design Review	Alex Jaegerman
<input type="checkbox"/> Traffic	Tom Errico	<input type="checkbox"/> Corporation Counsel	Danielle West-Chuhta
<input type="checkbox"/> Stormwater	Dan Goyette	<input type="checkbox"/> Sanitary Sewer	John Emerson
<input type="checkbox"/> Fire Department	Keith Gautreau	<input type="checkbox"/> Inspections	Tammy Munson
<input type="checkbox"/> City Arborist	Jeff Tarling	<input type="checkbox"/> Historic Preservation	Deb Andrews
<input type="checkbox"/> Engineering	David Margolis-Pineo	<input type="checkbox"/> Outside Agency	
		<input type="checkbox"/> DRC Coordinator	Phil DiPierro

Preliminary Comments needed by:

Final Comments needed by:



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

cc: B. Binkley file

RECEIVED

APR 29 2011

PLANNING DEPARTMENT

DEPARTMENT ORDER

IN THE MATTER OF

DIAMOND COVE) SITE LOCATION OF DEVELOPMENT ACT
HOMEOWNERS ASSOCIATION)
Portland, Cumberland County)
LOT 12 AND LOT 16 MODIFICATIONS) MINOR REVISION
#L-13160-L3-AC-M (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 481 et seq., the Department of Environmental Protection has considered the application of DIAMOND COVE HOMEOWNERS ASSOCIATION with the supporting data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History: In Board Order L-13160-87/03-A-N, dated December 10, 1986, the Board approved Phase I of Diamond Cove which consisted of renovating 44 former military buildings into 134 residential units. In Board Order L-13160-L3-G-N, dated June 25, 1991, the Board approved the development of Phase II which consisted of a 39-lot residential subdivision. The Department has issued a number of subsequent revisions and amendments to the project since the original approvals. The development is located on the former site of Fort McKinley on Great Diamond Island in Casco Bay in the City of Portland.

B. Summary: The applicant proposes to modify the site plans of Lot 12 and Lot 16 of the Diamond Cove subdivision as a result of shoreline erosion. The applicant proposes to stabilize the shorelines of these lots with a rock riprap system. Concurrent with this application, the owners of each of the lots submitted Natural Resources Protection Act (NRPA) applications to the Department. The NRPA applications (DEP #L-13160-4D-AD-N and #L-13160-4D-AE-N) are currently under review. The proposed project can be seen on a set of plans submitted with the application, the first of which is titled, "Shoreline Stabilization Plan," prepared by Attar Engineering, Inc. and dated February 18, 2011.

C. Current Use of Site: The site of the proposed project is developed as Phase II of Diamond Cove, which consists of a 39-lot residential subdivision.

2. FINDING:

The proposed project is a minor change and will not significantly affect any issues identified during previous Department reviews of the project site.

Based on its review of the application, the Department finds the requested minor revision to be in accordance with all relevant Departmental standards. All other findings of fact, conclusions and conditions remain as approved in Board Order #L-13160-87/03-A-N, and subsequent orders.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 481 et seq.:

- A. The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards.
- B. The applicant has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.
- C. The proposed development will be built on soil types which are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil.
- D. The proposed development meets the standards for storm water management in Section 420-D and the standard for erosion and sedimentation control in Section 420-C.
- E. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.
- F. The applicant has made adequate provision of utilities, including water supplies, sewerage facilities, solid waste disposal and roadways required for the development and the development will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services.
- G. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

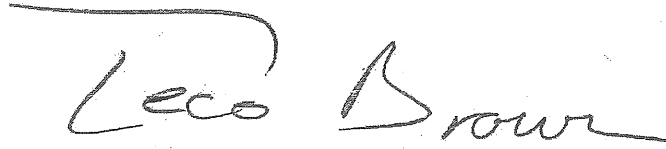
THEREFORE, the Department APPROVES the application of DIAMOND COVE HOMEOWNERS ASSOCIATION to revise the site plans of Lot 12 and Lot 16 as described above, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached.
2. In addition to any specific erosion control measures described in this or previous orders, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

4. All other Findings of Fact, Conclusions and Conditions remain as approved in Board Order #L-13160-87/03-A-N, and subsequent orders, and are incorporated herein.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit is digitally signed by Teco Brown on behalf of Commissioner Darryl N. Brown. It is digitally signed pursuant to 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date.
2011.04.27 10:30:01 -04'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES...

lv/#113160acm/ats#73168

**DEP SITE LOCATION OF DEVELOPMENT (SITE) STANDARD CONDITIONS
STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS
NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL.**

1. This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents is subject to the review and approval of the Board prior to implementation. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited, without prior approval by the Board of Environmental Protection, and the applicant shall include deed restrictions to this effect.
2. The applicant shall secure and comply with all applicable Federal, State and local licenses, permits, authorizations, conditions, agreements, and orders, prior to or during construction and operation as appropriate.
3. The applicant shall submit all reports and information requested by the Board or Department demonstrating that the applicant has complied or will comply with all conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
4. Advertising relating to matters included in this application shall refer to this approval only if it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
5. Unless otherwise provided in this approval, the applicant shall not sell, lease, assign or otherwise transfer the development or any portion thereof without prior written approval of the Board where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval shall be granted only if the applicant or transferee demonstrates to the Board that the transferee has the technical capacity and financial ability to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant.
6. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the Board for a new approval. The applicant may not begin construction or operation of the development until a new approval is granted. Reapplications for approval shall state the reasons why the development was not begun within two years from the granting of the initial approval and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplications for approval may include information submitted in the initial application by reference.
7. If the approved development is not completed within five years from the date of the granting of approval, the Board may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances which may have occurred during the five-year period.
8. A copy of this approval must be included in or attached to all contract bid specifications for the development.
9. Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the developer a copy of this approval.

(2/81)/Revised November 1, 1979



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's General Laws, 38 M.R.S.A. § 341-D(4), and its Rules Concerning the Processing of Applications and Other Administrative Matters (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5)

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION: If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN **BLACK INK ONLY**

1. Name of Applicant:	Howard Finkel	5 Name of Agent: (if applicable)	Attar Engineering, Inc. Kenneth A. Wood, P.E.
2. Applicant's Mailing Address:	768 Chimney Creek Drive Golden, CO 80401	6 Agent's Mailing Address:	1284 State Road Eliot, ME 03903
3. Applicant's Daytime Phone #:		7 Agent's Daytime Phone #:	(207) 439-6023
4 Applicant's Email Address Required from <i>either</i> applicant or agent:		8. Agent's Email Address:	ken@attarengineering.com
9. Location of Activity: (Nearest Road, Street, Rt.#)	West Shore Drive # 124	10. Town:	Great Diamond Island
11. County:		Cumberland	
12A. Significant Groundwater well? <input type="checkbox"/> Yes OR <input checked="" type="checkbox"/> No			
12. Type of Resource: (Check all that apply)	<input type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input checked="" type="checkbox"/> Coastal Wetland <input type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain		13. Name of Resource: Seal Cove, Casco Bay Atlantic Ocean
			14. Amount of Impact: (Sq.Ft.)
		Fill: 1,015 S.F. Dredging/Veg Removal/Other: None	
15. Type of Wetland: (Check all that apply)	FOR FRESHWATER WETLANDS		
	<input type="checkbox"/> Forested <input type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input checked="" type="checkbox"/> Open Water <input type="checkbox"/> Other _____	Tier 1 <input type="checkbox"/> 0 - 4,999 sq ft. <input type="checkbox"/> 5,000-9,999 sq ft <input type="checkbox"/> 10,000-14,999 sq ft.	Tier 2 <input type="checkbox"/> 15,000 – 43,560 sq. ft.
16. Brief Activity Description	Stabilization of recently eroded shoreline.		
17. Size of Lot or Parcel:	<input type="checkbox"/> _____ square feet, or <input checked="" type="checkbox"/> 1.1 acres UTM Northing: 43.6853 UTM Easting: -70.2000		
18. Title, Right or Interest:	<input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement		
19. Deed Reference Numbers:	Book# 15402 Page: 255	20. Map and Lot Numbers:	Map #: 083E Lot # A012
21. DEP Staff Previously Contacted:	Lisa Vickers	22. Part of a larger project:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No After-the-Fact: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
23. Resubmission of Application?	<input type="checkbox"/> Yes → If yes, previous application # _____ <input checked="" type="checkbox"/> No	Previous project manager: _____	
24. Written Notice of Violation?	<input type="checkbox"/> Yes → If yes, name of DEP enforcement staff involved: _____ <input checked="" type="checkbox"/> No	25. Previous Wetland Alteration: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
26. Detailed Directions to the Project Site:	CBL Ferry from Portland to Great Diamond Cove. Up Diamond Avenue to top of hill. Right to McKinley Court. Right around McKinley Court, left onto West Shore Drive, 500 feet to #124 on right.		
TIER 1		TIER 2/3 AND INDIVIDUAL PERMITS	
<input type="checkbox"/> Title, right or interest documentation <input type="checkbox"/> Topographic Map <input type="checkbox"/> Narrative Project Description <input type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input type="checkbox"/> Photos of Area <input type="checkbox"/> Statement of Avoidance & Minimization <input type="checkbox"/> Statement/Copy of cover letter to MHPC		<input checked="" type="checkbox"/> Title, right or interest documentation <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Copy of Public Notice/Public Information Meeting Documentation <input checked="" type="checkbox"/> Wetlands Delineation Report (Attachment 1) that contains the information listed under Site Conditions <input checked="" type="checkbox"/> Alternatives Analysis (Attachment 2) including description of how wetland impacts were Avoided/Minimized <input checked="" type="checkbox"/> Erosion Control/Construction Plan <input type="checkbox"/> Functional Assessment (Attachment 3), if required <input type="checkbox"/> Compensation Plan (Attachment 4), if required <input type="checkbox"/> Appendix A and others, if required <input checked="" type="checkbox"/> Statement/Copy of cover letter to MHPC <input type="checkbox"/> Description of Previously Mined Peatland, if required	
28. FEES, Amount Enclosed:	\$430.00		

CERTIFICATIONS AND SIGNATURES LOCATED ON PAGE 2

IMPORTANT: IF THE SIGNATURE BELOW IS NOT THE APPLICANT'S SIGNATURE, ATTACH LETTER OF AGENT AUTHORIZATION SIGNED BY THE APPLICANT.

By signing below the applicant (or authorized agent), certifies that he or she has read and understood the following :

DEP SIGNATORY REQUIREMENT

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor a permit be issued.

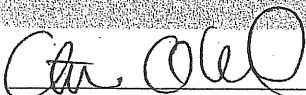
CORPS SIGNATORY REQUIREMENT

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is subject to this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

DEP SIGNATORY REQUIREMENT

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Further, I hereby authorize the DEP to send me an electronically signed decision on the license I am applying for with this application by emailing the decision to the address located on the front page of this application (see #4 for the applicant and #8 for the agent)."



SIGNATURE OF AGENT/APPLICANT

Date: 3/9/2011

NOTE: Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life www.portlandmaine.gov

Planning and Urban Development Department
Penny St. Louis, Director

Planning Division
Alexander Jaegerman, Director

April 26, 2011

Howard B. Finkel
768 Chimney Creek Drive
Golden, CO 80401

Kenneth Wood, PE
Attar Engineering, Inc.
1284 State Road
Eliot, ME 03903

Project Name: Slope Stabilization
Project ID: 2011-205
Address: 124 W. Shore Road, Great Diamond Island
CBL: 083E-A-012
Applicant: Howard B. Finkel
Planner: Shukria Wiar

Dear Mr. Finkel:

On April 25, 2011, the Planning Authority approved a minor site plans for slope stabilization at 124 W. Shore Road on Great Diamond Island as submitted by and shown on the approved plan prepared by Kenneth Wood of Attar Engineering and dated February 18, 2011 with the following conditions:

1. The applicant shall submit approval letters from the Department of Environmental Protection prior to the pre-construction meeting.
2. There shall be no clear cutting or elimination of undergrasses.
3. There shall be no stairs of other pathways to the shore as part of this approval.
4. The applicant shall submit a landscaping plan, prior to the pre-construction meeting that shows the location, size and species of plants along the proposed slope to help mitigate future erosion and naturalize the site. The plants shall be native species.

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division; separate building permits are required because the improvements are entirely within the restrictive Shoreland Zoning area.

3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements (particularly the erosion control and site stabilization measures for this project) inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. Four (4) final sets of plans and one digital set must be uploaded prior to the scheduling of the pre-construction meeting. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
5. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
6. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
7. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Shukria Wiar at (207) 756-8083 or shukriaw@portlandmaine.gov

Sincerely,


Alexander Jaegerman
Planning Division Director

Attachments:

1. Performance Guarantee Packet

Electronic Distribution:

Penny St. Louis Littell, Director of Planning and Urban Development Department
Alexander Jaegerman, Division Director, Planning
Barbara Barhydt, Development Review Services Manager, Planning
Shukria Wiar, Planner
Philip DiPierro, Development Review Coordinator, Planning
Marge Schmuckal, Zoning Administrator, Inspections Division
Tammy Munson, Plan Reviewer, Inspections Division
Lannie Dobson, Administration, Inspections Division
Michael Bobinsky, Director, Public Services
Katherine Earley, Engineering Services Manager, Public Services
Bill Clark, Project Engineer, Public Services
David Margolis-Pineo, Deputy City Engineer, Public Services
Jane Ward, Administration, Public Services
Capt. Keith Gautreau, Fire Department
Jeff Tarling, City Arborist, Public Services
Tom Errico, P.E., T.Y. Lin Associates
Dan Goyette, P.E., Woodard & Curran
Assessor's Office
Approval Letter File



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

*cc
B. Barbydt
Rls*

RECEIVED

MAY 03 2011

PLANNING DEPARTMENT

DEPARTMENT ORDER

IN THE MATTER OF

RICHARD MCGOLDRICK
Portland, Cumberland County
SHORELINE STABILIZATION
L-13160-2F-AE-N (approval)

) NATURAL RESOURCES PROTECTION
) ADJACENT ACTIVITY
) WATER QUALITY CERTIFICATION
) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of RICHARD MCGOLDRICK with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: In Board Order L-13160-87/03-A-N, dated December 10, 1986, the Board approved Phase I of Diamond Cove which consisted of renovating 44 former military buildings into 134 residential units. In Board Order L-13160-L3-G-N, dated June 25, 1991, the Board approved the development of Phase II which consisted of a 39-lot residential subdivision. The Department has issued a number of subsequent revisions and amendments to the project since the original approvals. The development is located on the former site of Fort McKinley on Great Diamond Island in Casco Bay in the City of Portland.

B. Summary: The applicant owns an approximately 1.4 acre lot with 400 feet of shoreline. There is a portion of the shoreline that is undergoing erosion as a result of wave and wind action. In order to stabilize the area of erosion, the applicant proposes to construct a rock riprap system that will measure 180 feet in length and will vary in height from one foot to five feet for a total of 625 square feet. In order to construct the system, the applicant proposes to secure two layers of geotextile fabric to the shoreline. An initial layer of riprap that measures six inches in diameter will be placed over the geotextile fabric. The second layer of riprap will be placed over this surface and will consist of riprap stones that measure approximately 16 inches in diameter. The riprap system will be constructed with a 1:1 ¾ slope and located directly adjacent to the highest annual tide line. During construction, the site will be accessed from the upland and the applicant intends to take measures to protect the trees located at the top of the bank. The project site is located on West Shore Road on Great Diamond Island in Casco Bay in the City of Portland.

C. Current Use of the Site: The site of the proposed project is identified as Lot #16 in Phase II of the Diamond Cove subdivision. It is developed with a residential structure and associated infrastructure.

2. EXISTING SCENIC, AESTHETIC, RECREATIONAL OR NAVIGATIONAL USES:

In accordance with Chapter 315, Assessing and Mitigating Impacts to Scenic and Aesthetic Uses, the applicant submitted a copy of the Department's Visual Evaluation Field Survey Checklist as Appendix A to the application along with a description of the property and the proposed project. The applicant also submitted several photographs of the proposed project site.

The proposed project is located adjacent to Casco Bay, which is a scenic resource visited by the general public, in part, for the use, observation, enjoyment and appreciation of its natural and cultural visual qualities. The surrounding area is developed with residential structures. The applicant indicated that a similar activity is located within ¼ - 1 mile from the project site and Department records indicate that several permits were issued for shoreline stabilization between 2004 and 2007 in the project vicinity. The proposed project will be similar in size and design to existing shoreline stabilization projects. In addition, the applicant proposes to protect the trees at the top of the bank in order to minimize scenic impacts.

The proposed project was evaluated using the Department's Visual Impact Assessment Matrix and was found to have an acceptable potential visual impact rating. Based on the information submitted in the application and the visual impact rating, the Department determined that the location and scale of the proposed activity is compatible with the existing visual quality and landscape characteristics found within the viewshed of the scenic resource in the project area.

The Department did not identify any issues involving existing recreational and navigational uses.

The Department finds that the proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses of the protected natural resource.

3. SOIL EROSION:

The applicant stated that a siltation fence will be installed at the top of the slope to prevent erosion and sedimentation of any disturbed soil materials. Upon completion of construction, the application intends to seed and mulch all disturbed areas.

The Department finds that the activity will not cause unreasonable erosion of soil or sediment nor unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

4. HABITAT CONSIDERATIONS:

The site of the proposed project is located on the northwesterly side of Great Diamond Island, which is classified as a moderate energy, semi-exposed shoreline. The upland is a residential house lot with approximately 400 feet of shoreline. The supratidal is an approximately four foot high soil bank that is undergoing erosion along a portion of the shoreline. The intertidal is comprised of boulder and cobble with ledge.

The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project and did not identify any concerns.

The Department finds that the activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

5. WATER QUALITY CONSIDERATIONS:

The Department does not anticipate that the proposed project will violate any state water quality law, including those governing the classification of the State’s waters.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The applicant proposes to alter 625 square feet of land adjacent to the coastal wetland.

The Department’s Wetlands and Waterbodies Protection Rules, Chapter 310, require that the applicant meet the following standards:

A. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. Each application for a Natural Resources Protection Act (NRPA) permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicant submitted an alternatives analysis for the proposed project completed by Attar Engineering, Inc. and dated March 2, 2011. The applicant considered utilizing vegetation only along the eroding shoreline but determined that as a result of a shallow soil mantle, it would be difficult for vegetation to establish. As a result, the applicant determined that a riprap system would provide adequate stabilization to the shoreline.

B. Minimal Alteration. The amount of coastal wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant has proposed to stabilize the shoreline only in areas of demonstrated erosion. In addition, all materials used for the riprap system will be located above the highest annual tide line of the coastal wetland.

C. Compensation. In accordance with Chapter 310 Section 5(C)(6)(b), compensation is not required to achieve the goal of no net loss of coastal wetland functions and values since the project will not result in over 500 square feet of fill in the resource, which is the threshold over which compensation is generally required. Further, the proposed project will not have an adverse impact on marine resources or wildlife habitat as determined by MDIFW. For these reasons, the Department determined that compensation is not required.

The Department finds that the applicant has avoided and minimized coastal wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

7. OTHER CONSIDERATIONS:

The Department did not identify any other issues involving existing scenic, aesthetic, or navigational uses, soil erosion, habitat or fisheries, the natural transfer of soil, natural flow of water, water quality, or flooding.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act:

A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.

B. The proposed activity will not cause unreasonable erosion of soil or sediment.

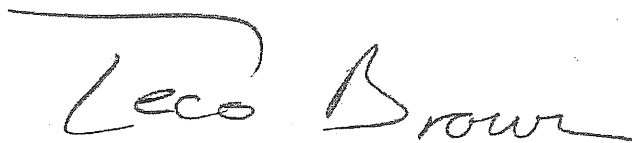
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S.A. Section 480-P.

THEREFORE, the Department APPROVES the above noted application of RICHARD MCGOLDRICK to stabilize a shoreline as described above, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

1. Standard Conditions of Approval, a copy attached.
2. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit is digitally signed by Teco Brown on behalf of Acting Commissioner James P. Brooks. It is digitally signed pursuant to 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date. 2011.04.29 08:12:29 -04'00'

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES...



Natural Resource Protection Act (NRPA) Standard Conditions

THE FOLLOWING STANDARD CONDITIONS SHALL APPLY TO ALL PERMITS GRANTED UNDER THE NATURAL RESOURCE PROTECTION ACT, TITLE 38, M.R.S.A. SECTION 480-A ET.SEQ. UNLESS OTHERWISE SPECIFICALLY STATED IN THE PERMIT.

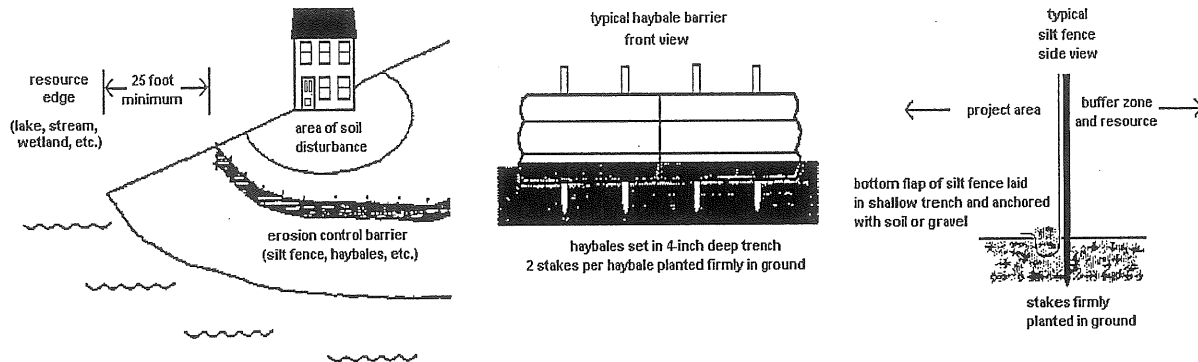
- A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
- B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.
- D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.
- E. Initiation of Activity Within Two Years. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the applicant will be able to begin the activity within two years from the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.
- F. Reexamination After Five Years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- G. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.
- H. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- I. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Erosion Control for Homeowners

Before Construction

1. If you have hired a contractor, make sure you discuss your permit-by-rule with them. Talk about what measures they plan to take to control erosion. Everybody involved should understand what the resource is, and where it is located. Most people can identify the edge of a lake or river. However, the edges of wetlands are often not so obvious. Your contractor may be the person actually pushing dirt around, but you are both responsible for complying with the permit-by-rule.
2. Call around to find where erosion control materials are available. Chances are your contractor has these materials already on hand. You probably will need silt fence, hay bales, wooden stakes, grass seed (or conservation mix), and perhaps filter fabric. Places to check for these items include farm & feed supply stores, garden & lawn suppliers, and landscaping companies. It is not always easy to find hay or straw during late winter and early spring. It also may be more expensive during those times of year. Plan ahead -- buy a supply early and keep it under a tarp.
3. Before any soil is disturbed, make sure an erosion control barrier has been installed. The barrier can be either a silt fence, a row of staked hay bales, or both. Use the drawings below as a guide for correct installation and placement. The barrier should be placed as close as possible to the soil-disturbance activity.
4. If a contractor is installing the erosion control barrier, double check it as a precaution. Erosion control barriers should be installed "on the contour", meaning at the same level or elevation across the land slope, whenever possible. This keeps stormwater from flowing to the lowest point along the barrier where it can build up and overflow or destroy the barrier.



During Construction

1. Use lots of hay or straw mulch on disturbed soil. The idea behind mulch is to prevent rain from striking the soil directly. It is the force of raindrops hitting the bare ground that makes the soil begin to move downslope with the runoff water, and cause erosion. More than 90% of erosion is prevented by keeping the soil covered.
2. Inspect your erosion control barriers frequently. This is especially important after a rainfall. If there is muddy water leaving the project site, then your erosion controls are not working as intended. You or your contractor then need to figure out what can be done to prevent more soil from getting past the barrier.
3. Keep your erosion control barrier up and maintained until you get a good and healthy growth of grass and the area is permanently stabilized.



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's General Laws, 38 M.R.S.A. § 341-D(4), and its Rules Concerning the Processing of Applications and Other Administrative Matters (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5)

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION: If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
