

160-B-13
72-82 Murray St.
Driveway
Robert Hains

2004-0062

on Spreadsheet

Bushey

Prepared by {enter your company name here}
 HydroCAD® 7.00 s/n 000734 © 1986-2003 Applied Microcomputer Systems

25 yr.
 Type III 24-hr Rainfall=5.50"

Page 13 of 13
 2/9/2005

Subcatchment 8S: First Culvert Subcatchment

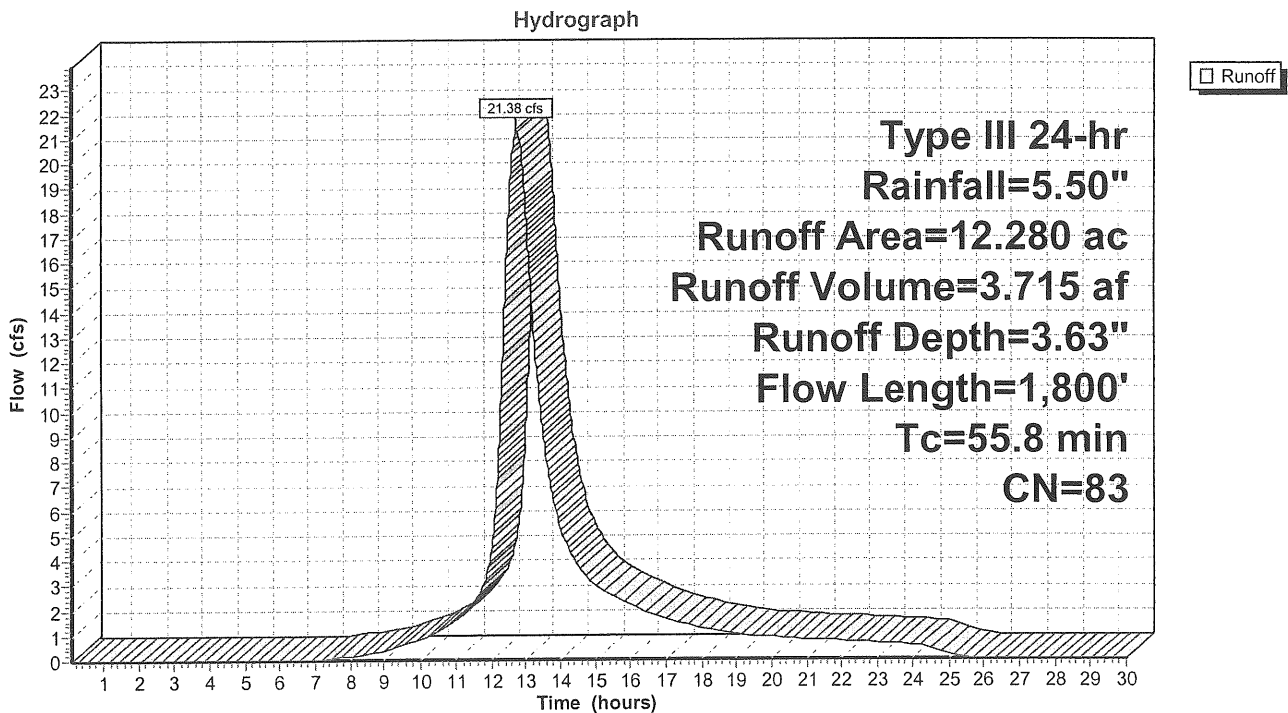
Runoff = 21.38 cfs @ 12.71 hrs, Volume= 3.715 af, Depth= 3.63"

Runoff by SCS TR-20 method, UH=SCS, Time Span= 0.10-30.00 hrs, dt= 0.01 hrs
 Type III 24-hr Rainfall=5.50"

Area (ac)	CN	Description
12.280	83	Brush, Fair, HSG C/D

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
7.7	100	0.2800	0.2		Sheet Flow, Woods, Dense Brush n= 0.400 P2= 3.00"
34.8	1,100	0.0445	0.5		Shallow Concentrated Flow, Forest w/Heavy Litter Forest w/Heavy Litter Kv= 2.5 fps
13.3	600	0.0483	0.8	11.27	Channel Flow, Channel Flow Behind House Lots Area= 15.0 sf Perim= 17.0' r= 0.88' n= 0.400
55.8	1,800	Total			

Subcatchment 8S: First Culvert Subcatchment



Memorandum
Department of Planning and Development
Planning Division



To: Chair Lowry and Members of the Portland Planning Board

From: Ethan Boxer-Macomber, Planner

Date: February 18, 2005

Re: February 22, 2005 Public Hearing
Appeal of Minor Site Plan Denial – Robert Hains, Applicant
Residential Development Access Drive – 72-82 Murray Street

A February 22, 2005 Public Hearing has been scheduled for the Planning Board to review the above referenced appeal.

This memo and attachments are intended to supplement Planning Board Report #49-04, prepared October 18, 2004 for the subject appeal and resubmitted to the Board on this day.

I. Appeal Process Background

Planning Board Report #49-04 was provided to the applicant/appellant in advance of a scheduled November 9, 2004 Public Hearing. After reviewing the report, the applicant requested that the Hearing be tabled until certain issues raised in the report could be resolved. The hearing was tabled to January 25, 2005.

On January 18, 2005 the applicant submitted an amended site plan and cover letter (Attachment A). The amended site plan added two feet of width to the proposed driveway as an attempt to bring the driveway in conformance with certain technical standards for driveways serving multi-family residential developments. Whereas the January 18, 2005 amended plans were not submitted in ample time for staff review, the Planning Board again tabled the appeal at the January 25th hearing.

II. Plan Review

Staff has reviewed the applicant's revised plans submitted January 18, 2005. In response to telephone discussions between the City's consulting development review engineer and the applicant's engineer, the applicant again revised the plans in a February 9, 2005 submission.

The February 9, 2005 revisions included some minor changes to the proposed compensatory flood storage grading originally proposed in the January 18 revisions (Attachment G). The February 9, 2005 submissions also included additional information related to water meter pit, culvert computations, Erosion Control, retaining walls, and telephone/electric service (Attachment F).

As of the date of this memo, staff has not had the benefit of a final review by the City's consulting development review engineer, Jim Seymour, due to the fact that he is out of the office on paternity leave. Mr. Seymour's substitute is currently reviewing the plans. Staff will present final engineering assessments at the Public Hearing.

The City's consulting development review engineer and the City Engineer have reviewed the project for potential impacts to the Fall Brook floodplain and have concluded that the proposed driveway would not have adverse impacts on stream flow or flooding as previously suspected.

Staff understands that the DEP has not been informed of the proposed changes to the approved Tier III wetland fill permit as required by NRPA standard conditions of approval.

The City's consulting traffic engineer, Tom Errico, has considered the revised driveway proposal and presented a response (Attachment E). Mr. Errico cautions that while a 24 foot wide drive way does satisfy some of the technical standards for multi-family development, this is not to say that a wider driveway couldn't not be required, depending on the scope of the eventual development proposal.

III. Analysis

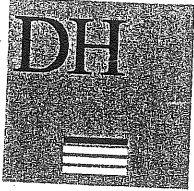
The 2-08-05 revisions to the site plan do satisfy some of the technical concerns raised in Planning Board Report #49-04. However, based on all of the findings presented in the July 1, 2004 administrative denial letter and Planning Board report #49-04, staff recommends that the Board deny the subject appeal.

- The project is still noncompliant with Technical Standard III 2.(A)(e)(4) which states that, "Driveways shall be located in the most appropriate location, taking into account existing and proposed adjacent and opposing driveways and land use", whereas the land use remains unknown.
- The project is still noncompliant with Technical Standard XI(3)C(a) which states, "For developments located adjacent to perennial streams, a minimum one hundred (100) foot buffer strip on either side of the stream should be maintained". The applicant has presented no compelling reason why the Board should waive this standard.

- The project is still inconsistent with §14-526(b)(11), which requires the proposed site plan to be, "...consistent with off-premise infrastructure, existing or planned by the City;". The applicant has legal, platted access to his land via Lee, Rosedale, and Dudley Streets and has presented no compelling reason why the board should waive the above referenced technical standards

Attachments:

- A. January 18, 2005 Revised Site Plan and Cover Letter
- B. January 20, 2005 Correspondence
- C. January 21, 2005 Ward Letter
- D. Public Communications
- E. February 18, 2005 Errico Memo
- F. February 9, 2005 Bushey Letter and Attachments
- G. 2-08-05 Site Plan Revision (Currently Proposed)



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

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SUITE 8
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FAX 207 879 0896

- SITE PLANNING AND DESIGN
- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION
- TRAFFIC STUDIES AND MANAGEMENT

January 18, 2005

Mr. Ethan Boxer-Macomber, Planner
City of Portland Planning Authority
Planning Dept.
4th Floor City Hall
Portland, Maine 04101

**Subject: Robert Hains, Residential Access Drive
Murray Street**

Dear Ethan:

On behalf of Robert Hains, DeLuca-Hoffman Associates, Inc. has prepared the accompanying revised plans for consideration by the Portland Planning Department. These latest plans reflect modifications that address the technical deficiencies presented in the Planning Board Report #49-04. Specifically, the plan has been modified as follows:

1. The proposed driveway width has been widened to 24' in accordance with Section III 2. (A)(b) of the Technical Standards.
2. The driveway alignment has been shifted to provide 20' separation to the adjacent driveway in accordance with Section III 2. (b) of the Technical Standards.
3. The proposed driveway radii have been increased to 20' in accordance with Section III 2. (b) of the Technical Standards.
4. Additional grading activity has been shown on the drawing wherein compensatory flood storage volume can be provided to offset the minor encroachment of fill placed in the Fall Brook Floodplain. Two areas will be excavated between the driveway and the brook and their surface areas restored with topsoil, wetland seed mix and erosion control blanket. The first area is closest to Murray Street and is currently grassed meadow down to the brook. The second area is further into the property and is a mix of shrub overgrowth. The compensatory flood storage minimizes any impacts to flood storage and water levels in the area between Murray Street and Ocean Avenue.

DeLuca-Hoffman Associates, Inc. has also reviewed the conveyance capacity of the channel as it relates to the Public Works Department's October 21, 2004 memorandum contained in the Planning Report. Specifically, the proposed driveway includes fill activities that extend below the 100-year floodplain of the channel. However, these activities are limited in area and impact as they are out of the principal floodway of the channel and are the fringe of the floodplain. As outlined in the memorandum, DeLuca-Hoffman Associates, Inc. has assisted the City in the

AI

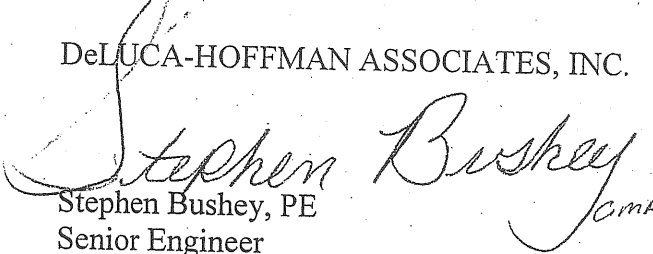
Mr. Ethan Boxer-Macomber, Planner
January 18, 2005
Page 2

hydraulic and hydrologic analysis of the Fall Brook Channel. In that study it was concluded that the introduction of additional stormwater flows to the channel below Washington Avenue would have only a minor impact to the channel, since for the most part the channel is narrowly defined and the floodplain is relatively narrow. Based on the data used in the Fall Brook Watershed Study¹ DeLuca-Hoffman Associates, Inc. has analyzed the impact of the proposed driveway and found that its impact is negligible. The expected rise in the 100-year floodplain elevation is approximately 1" based on an analysis of future predicted flows (assuming the full separation of combined sewer flows in the watershed). Attachment A to this letter contains excerpts of the computations as part of this analysis. Given the general nature of the Fall Brook channel as it extends from Murray Street to Back Cove, these conditions will not result in significant impact to downstream properties, residences, or infrastructure in any measurable way. Upstream impacts are also negligible as the upstream channel capacity is dependent on each of the street crossing conditions and channel conditions upstream of Washington Avenue.

On behalf of Mr. Hains, DeLuca-Hoffman Associates, Inc. requests your consideration of the accompanying revised plans and supporting information in advance of the Planning Board's review of this project at next Tuesday's Planning Board hearing. We will be prepared to discuss the design revisions and analysis completed further at that time.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.


Stephen Bushey, PE
Senior Engineer

SRB/sq/JN2297/Macomber-1-18-05

Attachments

C: Robert Hains
Ron Ward

¹ See Final Fall Brook Watershed Study, Hydraulic and Hydrologic Model, by DeLuca-Hoffman Associates, Inc. April 1999 prepared for City of Portland Public Works Department.

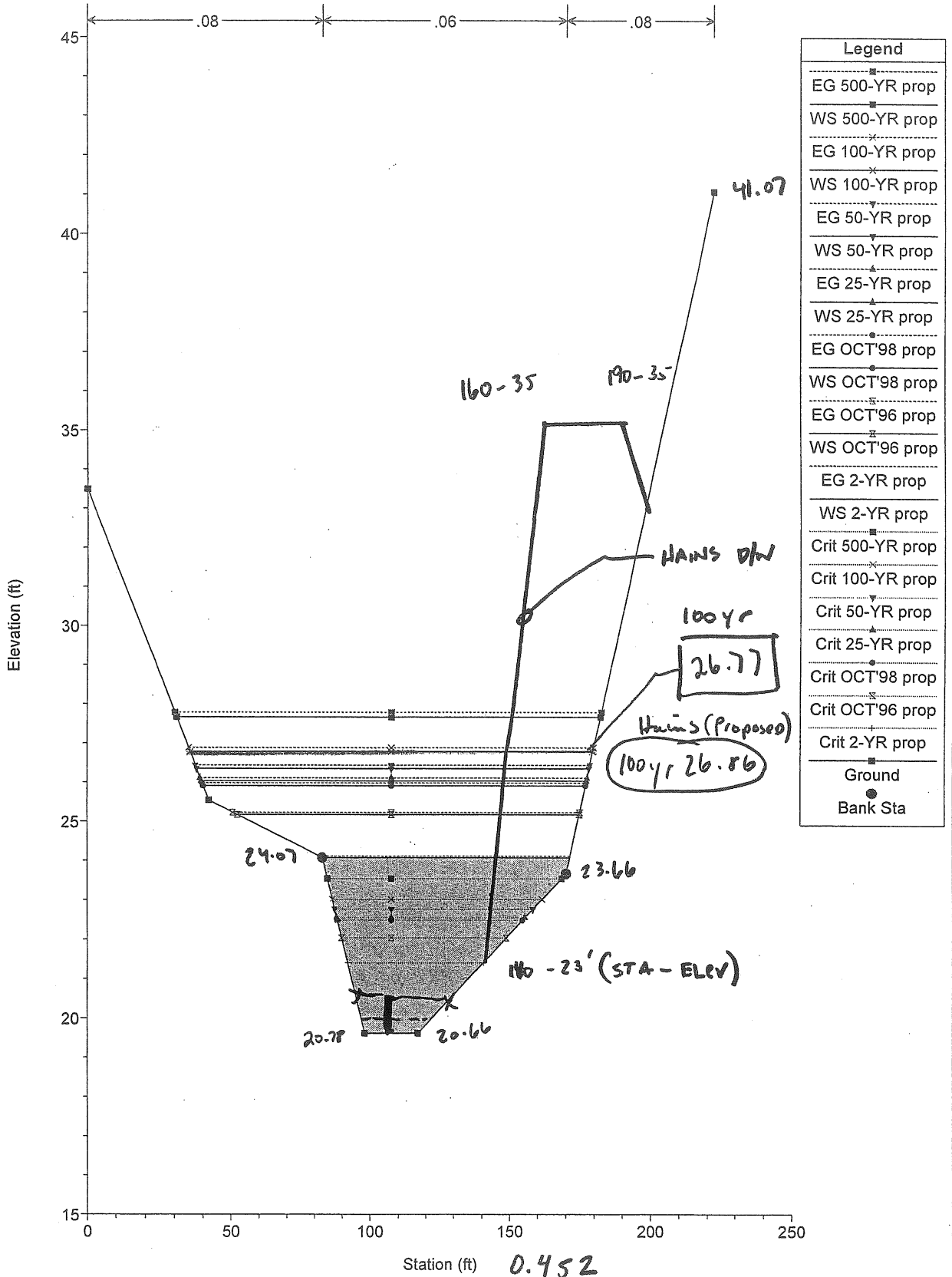
A2

Attachment A

FUTURE CONDITION
Assuming Full separation
w/out HAINS D/W

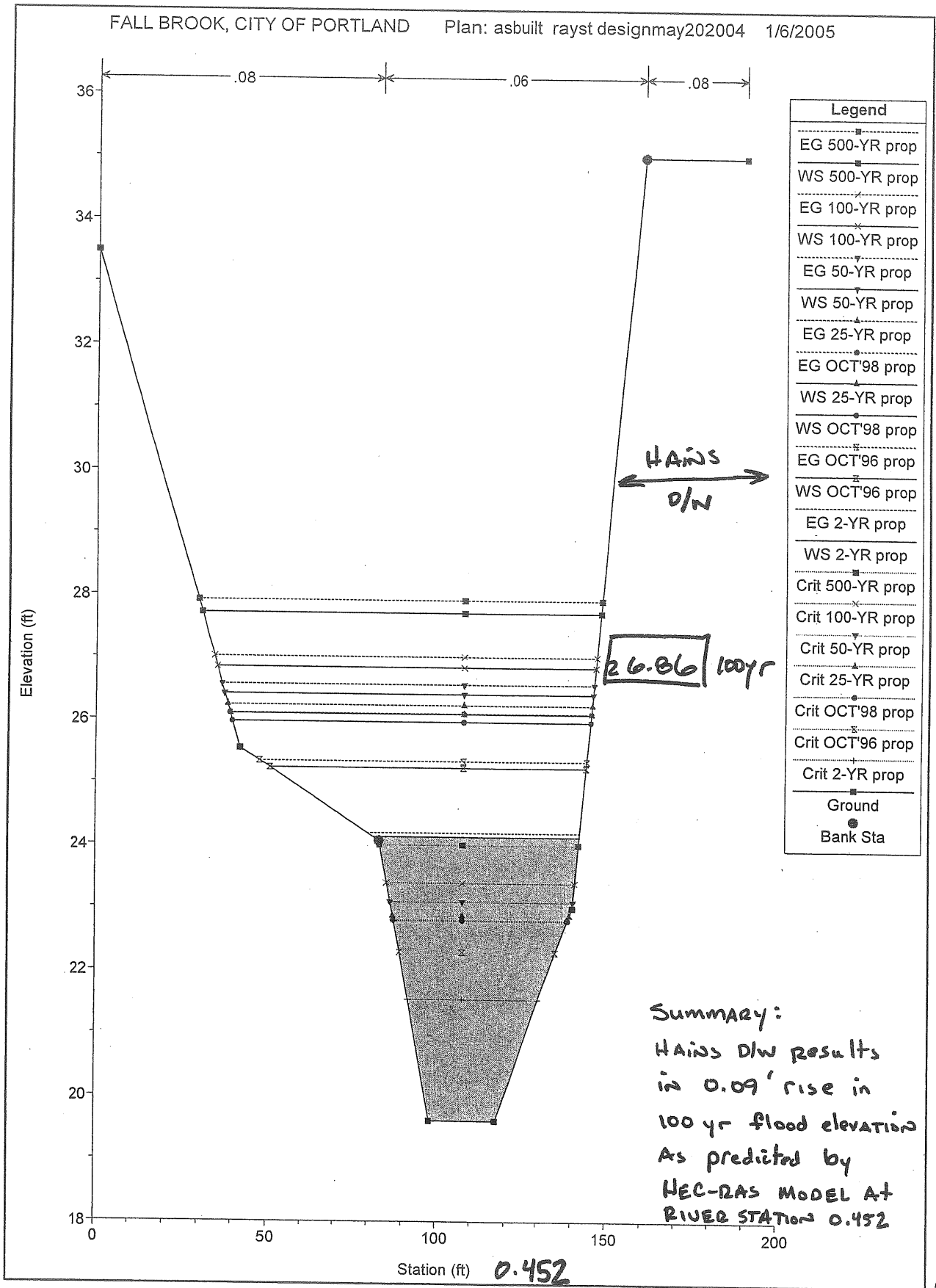
Asbuilt

FALL BROOK, CITY OF PORTLAND Plan: original rayot design may 202004 11/15/2004



A4

PROPOSED CONDITION
W/ HAIRS D/W



A5

**DRUMMOND
WOODSUM &
MACMAHON**
Attorneys at Law

January 21, 2005

HAND-DELIVERED

City of Portland Planning Board
389 Congress Street
Portland, ME 04101

RE: Robert C. Hains - Access Driveway
72-82 Murray Street, Portland, Maine

Dear Board Members:

On Friday, October 22, 2004, a copy of the Planning Board Report 49-04 was made available to us. That report included, inter alia, a memo from Brad Roland to Ethan Boxer-Macomber bearing the date of October 21, 2004 (Attachment S-1). The Applicant had intended to keep his presentation as concise as possible and assumed the Planning Department would proceed on the basis of the reports and the analysis supporting their July 1, 2004 Denial. Report 49-04 is less a report than it is an attempt to back and fill around the July 1 Denial, made available to the Applicant on the eve of the hearing originally scheduled for October 26, 2004. Report 49-04 raises new issues and makes new arguments which did not comprise a basis for the original denial and were not alluded to in the Planning Board Workshop held on September 14, 2004. This is not only unfair to the Applicant, but also serves to underscore the antagonistic disposition of the Planning Department to this minor application from the outset.

Accordingly, and with regret that the Planning Department has opened up this broad front in opposition to the current application, we offer the following response to the Report 49-04 for submission on the record. Thankfully, the new Report 49-04 stretching on for eleven pages is largely irrelevant to the issues currently at hand. We plan to touch on the relevant issues at our January 25, 2005 hearing. Our response below will track the organization of Report 49-04.

I. PROJECT DESCRIPTION

The Planning Department makes reference to certain statements made by Mr. Hains during the many months that his application has been pending. Most of these references (all taken out of context) are included primarily to evidence that the applicant has specific development plans. That is not the case. While he owns many small lots in this area, he has no specific development plan. Much remains to be done before any decisions could be made in terms of a specific

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RICHARD A. SPENCER
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RONALD N. WARD
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WILLIAM L. PLOUFFE
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ELIZABETH D. MCEVOY
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CONSULTANTS

LABOR RELATIONS & CONFLICT
MANAGEMENT
ROGER P. KELLEY

POLICY & LABOR RELATIONS
ANN S. CHAPMAN

SPECIAL EDUCATION
MICHAEL J. OPUDA Ph.D.

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OF COUNSEL FOR
INDIAN AFFAIRS

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201 SOUTH MAIN STREET
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development proposal. However, the grant of the current permit confirms at least initial collateral value by allowing the construction of a single family house to go forward with access to the public street. Without this permit, he simply has landlocked parcels of uncertain collateral value. As you know, collateral values are a very important issue in the grindingly expensive development process in Portland, Maine.

The Planning Department Report refers to both Rosedale and Dudley Streets as "non-vacated" paper streets. While not central to the issues before you, we believe the facts support the position that a portion of at least Rosedale Street, previously accepted by the City but never fully constructed, would be deemed "abandoned" under applicable Maine law. If abandoned, the underlying fee interest would have reverted to the adjoining property owners, including Robert Hains and others similarly situated. The primary importance of this is to rebut the Planning Department's theory that this Applicant should be redeveloping Rosedale Street for his access to his land. He would not be able to do so without obtaining interests from all of the owners adjoining this section of Rosedale Street. We are prepared to brief these abandonment issues at the specific request of the Planning Board, although we believe these issues to be of peripheral importance.

II. BACKGROUND CHRONOLOGY

The Applicant's application was complete on March 26, 2004 and would be deemed approved pursuant to Code Sec. 14-5.5(d) ninety days thereafter. The Applicant submitted nothing thereafter which materially added or detracted from the Code requirements. The May 3, 2004 narrative letter (Attachment C-1) was described to him as discretionary and the additional plan sheet (Attachment D) was submitted to ease the review. Applicant pursues this appeal to maintain his cooperative disposition to the City but without in any way waiving any rights, including the Code provisions deeming projects to be approved by virtue of inaction on the part of the City.

The primary issue with the Planning Department's chronology is its suggestion that it made its decision based upon an incomplete application which, apparently, means the application remains incomplete. The Planning Department cannot have it both ways on this issue. If the application is incomplete, it is not ripe for decision. The Planning Department has proceeded and rendered a decision which confirms that it was ripe for a decision. The Applicant filed his timely appeal simply on the basis that his application would not move without an appeal. He did so without waiving any of his rights under the Code, or applicable law.

The Planning Department theory of "incompleteness", and much of the overwrought text in Report 49-04, is based exclusively upon the theory that the Applicant has not yet submitted his full development plans. As noted above, at the Workshop and in multiple other circumstances, he does not have full development plans

which would carry him beyond one or two single family houses. He, in fact, may acquire additional land mass, or may decide to simply proceed on the basis of a single family house, or may ultimately proceed in any number of development directions. Neither the law nor common sense put the Planning Department in the position of assuming a development scheme and then applying technical standards to that assumed development scheme. The function of the Planning Department is to review the application before it. Once/if a development scheme has been formulated, the Planning Department will have its chance to review that plan at that time pursuant to the Portland Code. Applicant is fully aware of his obligations in this regard

III. APPLICATION COMPLETE

As noted above, the Applicant had many conversations, in good faith, with Planning Department representatives over the past months. While there may be any number of possible development scenarios, this application is based solely upon a private access driveway and, therefore, the jurisdiction afforded the Planning Department under Code Sec. 14-453(a) and Code Sec. 14-522. If this access driveway was located outside of a defined drainage area, we would not be before the Planning Board at all and not subject to the extraordinary review by Planning Staff. The possible development scenarios presented to the Maine DEP and Army Corps of Engineers by the Project Engineer were just that, examples. The application to the City of Portland stands independently and we are not asking or suggesting that the Planning Board approve any of those scenarios. Planning staff will get its chance to delve into the "myriad of physical, legal, and environmental planning considerations" when/if a development plan is proposed.

IV. FUTURE RESIDENTIAL DEVELOPMENT

We do not recall the Planning Board Chair requesting an analysis of the potential residential build out along Rosedale and Dudley Streets. While we appreciate the Staff's stab at analyzing what the maximum densities could be, that is not our plan. Most of this particular exercise is rampant speculation, particularly the assumption that this Applicant will acquire additional land mass. If the standard of review of an application for a minor driveway hinges upon an analysis of non-related, non-owned adjacent land, it is a standard unknown to Applicant with no apparent precedent supporting that.

V. SITE PLAN REVIEW

This section, except that dealing with wetlands, is irrelevant to this Application. The technical standards, other than the wetlands reference, did not form a basis for the Denial and is not now before the Planning Board. This application does not propose a multi-unit development. Report 49-04 goes on with a recitation of minutia which the Staff would now dredge up as an after-the-fact buttressing of its Denial. This is not legal

and should not be permissible. Our Project Engineer, Steve Bushey, will be present at the appeal to field technical questions at the hearing without in any way waiving our objection to the raising of these issues at this late date.

11. Wetlands. Our response on the wetlands issue and appropriate setbacks is set forth in our written response dated October 22, 2004, written before we had seen the new Report 49-04, including the new Memorandum from Brad Roland dated October 21, 2004 ("Roland Memo"). Since this memo came into existence a scant five days before the original hearing date and was made available to us on October 22nd, it is safe to conclude that Mr. Roland was directed to prepare a memo supporting the Denial which was issued on July 1, 2004. While Mr. Roland may have provided this memo in good faith, the Planning Board should be aware of some of the history of this application not reflected in the Staff's Chronology:

Mr. Roland was the engineer personally involved in the 2002 Murray Street drainage improvements which impacted Mr. Hains' real estate involved in the current application. Mr. Hains was approached by the City of Portland and asked to contribute certain easements to allow the Murray Street drainage project to go forward. In the course of the negotiations, Mr. Hains delivered to the City a Drainage Easement Deed (see copy attached hereto). In the discussion of appropriate trade-offs at that time, the driveway now before you was discussed. In fact, it was Mr. Roland who prepared a rough sketch plan of this driveway location as currently presented. To further evidence the City's disposition toward Mr. Hains at that time, we also attach a copy of a letter dated December 20, 2001 from Gary Wood to Mr. Hains. This application certainly comes as to no surprise to the City. The antagonistic attitude from the City toward this application does come as a surprise to the Applicant, given this history.

We urge you to read Mr. Roland's recent memo in connection with the written materials provided by Deluca Hoffman and DTA. We would further urge you to consider the Roland Memo in the context of what reasonable alternatives to access the Applicant's real estate might be when taking into account cost, property interest, environmental impacts and impacts upon Fall Brook.

VI. MOTIONS

Some conditions of approval may be appropriate, subject to a dialogue between the Applicant and the Planning Board. The proposed conditions need to be drafted in a way that precisely states the intentions of the parties, however.

We shall look forward to meeting with you on or about 7:30 p.m. on the 25th and answering any questions you may have at that time.

City of Portland
January 21, 2005
Page 5

Sincerely,



Ronald N. Ward

RNW/lm

cc: Gary Wood, Esq.
Penny Littel, Esq.
Sarah Hopkins
Ethan Boxer-Macomber
Robert C. Hains
Stephen Bushey

DRAINAGE EASEMENT DEED
(74-78 Murray Street, 65-71 Rosedale Street)

KNOW ALL PERSONS BY THESE PRESENTS, that **ROBERT C. HAINS**, of 250 Holm Avenue in Portland, Maine, for consideration paid, receipt whereof is hereby acknowledged, grants to the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, State of Maine, an easement described as follows:

The right perpetually to enter at any and all times upon property situated on the southerly end of the Fallbrook Culvert under Murray Street, Portland, in said County of Cumberland and State of Maine, said property being described in, and as part of Exhibit A, attached hereto and incorporated herein by reference.

The area of the above described easement being 21,913.2 square feet, more or less.

Meaning and intending to convey rights to a portion of the property conveyed to this Grantor by deed of City of Portland recorded in the Cumberland County Registry of Deeds in Book 6399, Page 291, Book 6534, Page 261 and Book 6534, Page 270.

Said easement for the sole purpose of and conveying the right to perpetually maintain through, under and across said property rip rap and stabilizing material with all necessary fixtures and appurtenances for installing and maintaining; to perpetually maintain through, under, and across said property conduits or pipelines with all necessary fixtures and appurtenances for conveying storm water and to lay, relay, repair, maintain, clean and remove said stormwater pipe or pipes upon or under said strips, with all necessary fixtures and appurtenances, together with the right at all times to maintain the brook known as Fallbrook as shown on the attached Exhibit A, incorporated herein by reference; to trim, cut down and remove trees, bushes, and other vegetation of all kinds, to remove debris and deposits of any kind and to alter and regrade the contours of said easement to such extent as in the sole judgment of the Grantee is necessary or appropriate for any of the above purposes; and to enter upon said easement at any and all times for any of the foregoing purposes, reserving to the Grantor and his successors and assigns the use and enjoyment of said strips and for such purposes only as will in no way interfere temporarily or otherwise with the perpetual use thereof by the Grantee, his successors and assigns for the purpose above mentioned, provided that no building or any kind of

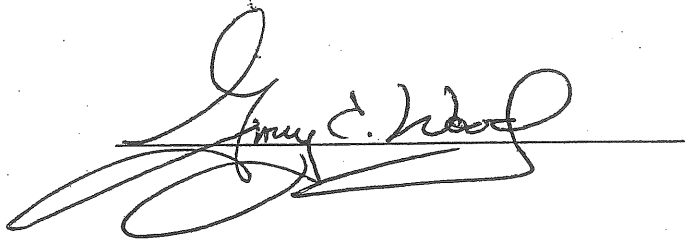
permanent structure, including, but not limited to, walls and fences, shall be erected on said strip by the Grantor, his successors or assigns; and that the Grantor, his successors and assigns shall not remove earth from said easement without the written permission of the Grantee, its successors and assigns. Grantee agrees it shall maintain the easement area in good repair, free from debris or other material which would impair the use of the Property. Grantee further agrees it shall post the easement area against public access and shall take reasonable measures to enforce and deter the public from crossing or otherwise using the easement area.

IN WITNESS WHEREOF, Robert C. Hains has hereunto set its hand and seal on this

23 day of August, 2002.

WITNESS:

GRANTOR




Robert C. Hains

STATE OF MAINE
CUMBERLAND, ss.

8 / 23, 2002

Personally appeared the above-named Robert C. Hains, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

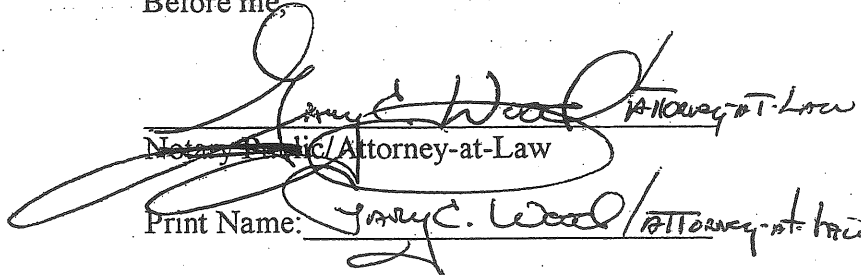

Notary Public/Attorney-at-Law
Print Name: James C. Wood / Attorney-at-Law

Exhibit A to Drainage Easement Deed (74-78 Murray Street,
65-71 Rosedale Street)

~~Proposed~~ Easement
Doc #: 68368
Between Murray Street
& Rosedale St.

Bk: 17991 Ps: 166

A certain lot or parcel of land lying between Murray Street and Rosedale Street in the City of Portland, County of Cumberland, State of Maine and being bounded and described as follows:

Beginning at a point on the southerly sideline of Murray Street that lies on a course of N54° 17' 56"W a distance of 884.4 feet from the intersection of the said southerly sideline of Murray Street and the westerly sideline of Ocean Avenue in said City; said point also being the northwest corner of Lot 367 as shown on the plan of Forest Hills Extension recorded in Cumberland County Registry of Deeds in Plan Book 15, Page 41 September 19, 1923;

Thence by the westerly sideline of said Lot 367 on a course of S35° 42' 03"W a distance of 126.21 feet to the northerly sideline of the Fall Brook Branch Sewer Easement Section 2;

Thence by said Fall Branch Sewer on a course of S11° 34' 13"E a distance of 122.52 feet to the westerly sideline of lot number 305 as shown on above said recorded plan;

Thence by said lot 305 on a course of S35° 42' 03"W a distance of 19.89 feet to the northerly sideline of Rosedale Street in said City;

Thence by said Rosedale Street on a course of N54° 05' 14"W a distance of 118.95 feet to a point;

Thence through land of the Grantor herein on a course of N11° 34' 13"W a distance of 100.00 feet to a point;

Thence continuing through land of said Grantor herein on a course of N85° 39' 21"E a distance of 51.17 feet to the westerly sideline of the said Fall Brook Branch Sewer Easement;

Thence by said Fall Brook Branch Sewer Easement on a course of N25° 41' 47"E a distance of 130.00 feet to the above said southerly side of Murray Street;

Thence by said Murray Street on a course of S54° 17' 56" E a distance of 85.82 feet to the point of beginning;

Also another certain lot or parcel of land in above said City of Portland being bounded and described as follows:

Beginning at a point on the southerly sideline of Rosedale Street in said City where said sideline is intersected by the westerly sideline of Lot 17 as shown on the above said plan recorded in Book 15, Page 41;

Thence by said sideline of Rosedale Street on a course of N54° 05' 14" W a distance of 30.00 feet to a point and the northwesterly corner of Lot 18 as shown on above said recorded plan;

Thence by said Lot 18 on a course of S35° 42' 04" W a distance of 107.83 feet to a point;

Thence through land of the Grantor herein on a course of S11° 34' 13" E a distance of 23.24 feet to a point;

Thence continuing through land of said Grantor herein on a course of S81° 11' 47" W a distance of 80.27 feet to the northerly sideline of Dudley Street in said City;

Thence by said sideline on a course of S54° 05' 14" E a distance of 83.98 feet to the easterly sideline of the Fall Brook Branch Sewer Easement;

Thence by said easement on a course of N18° 11' 47" E a distance of 104.98 feet to the southerly sideline of Lot 15 as shown on above said recorded plan;

Thence by said Lot 15 on a course of N54° 05' 14" W a distance of 3.63 feet to the easterly sideline of Lot 16 as shown on the above said recorded plan;

Thence by said Lot 16 on a course of N35° 42' 04" E a distance of 11.48 feet to the easterly sideline of the above said Fall Brook Branch Sewer Easement;

Thence by said easement on a course of N18° 11' 47" E a distance of 30.20 feet to a point;

Thence continuing by said easement on a course of N11° 34' 13" W a distance of 69.31 feet to the easterly sideline of Lot 18 as shown on the above said recorded plan;

Thence by said Lot 18 on a course of N35° 42' 04" E a distance of 12.91 feet to the southerly sideline of Rosedale Street and the point of beginning;

The above described courses refer to Grid North NAD 83.

Received
Recorded Register of Deeds
Aug 26 2002 09:56A
Cumberland County
Jack O'Brien

Corporation Counsel
Gary C. Wood



CITY OF PORTLAND

Associate Counsel
Charles A. Lane
Elizabeth L. Boynton
Donna M. Katsiaficas
Penny Littell

December 20, 2001

Mr. Robert Hains
250 Holm Avenue
Portland ME 04102

Re: Proposed Purchase or Condemnation by the City
Of Your Property Required for the Fallbrook Interceptor Project

Dear Bob:

I have enclosed a copy of material that I received from Jim Robbins in response to my request that he research the history of Rosedale Street. Jim's research shows that Rosedale Street was accepted to an established point on 12/31/1934 (about 900 feet from Ocean Avenue) and that the City's legal right to accept the remainder of Rosedale Street as originally laid out was continued by the City in 1997, as required by state law. The continuation of the City's right to accept Rosedale Street was for a portion of the unbuilt paper street that runs for approximately 500 feet from another paper street (Lee Street) toward the already accepted portion of Rosedale Street. By continuing our right to accept some but not all of Rosedale Street, the City vacated a portion of the street that would have passed over Fall Brook.

I do not know why the City did not vacate the remaining portion of Rosedale Street in 1997. By copy of this letter to the Department of Public Works and the City committee that put together the list of streets that the Council acted upon in 1997, I will find out. The City probably wants to preserve a right of access for itself to Fall Brook and the area around it within which the storm water project will be built. If such is the case, then I would expect the City to move forward and accept the unaccepted portion of Rosedale Street as a public easement and not as a City street. By accepting it as a public easement, the City would be retaining a right in the public and the city to use it, but the City would be under no obligation to build or maintain it to the same standard established for city streets.

For the reasons stated above, my legal conclusion about the status of the non-accepted portion of Rosedale Street is that it has not been abandoned because an unaccepted paper street has never in fact been a City street that is subject to the abandonment statute. The City,

C10

Mr. Robert Hains
Page 2
December 20, 2001

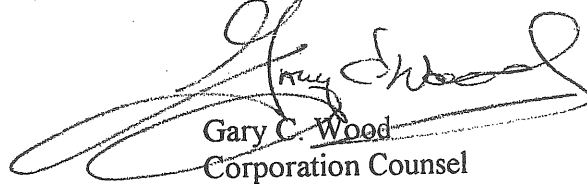
therefore, continues to have a right to establish a public easement over the unaccepted portion of Rosedale Street and it follows from that conclusion that your parcels 3 and 2 are not in fact contiguous or abutting at this time.

I do not see noncontiguity as a problem. If you wish to access parcel 2 from Murray Street, you can obtain an agreement from the City that allows you to construct your accessway across the unaccepted portion of Rosedale Street. That agreement would be turned into an easement after the City accepts that portion of Rosedale Street as a public easement. I see no reason why the City would not give you such an agreement and easement if you decide to build a driveway from Murray Street over to parcel 2.

Assuming that I am correct and the City is willing to give you such agreement and easement, I do not see why we should condemn parcel 2 at a cost of \$26,000 since only a tiny portion of that parcel, if any, is required for the Fall Brook interceptor project. I will be discussing this issue with my staff and the appraiser, and I will get back to you about it.

Please feel free to give me a call if you have any questions.

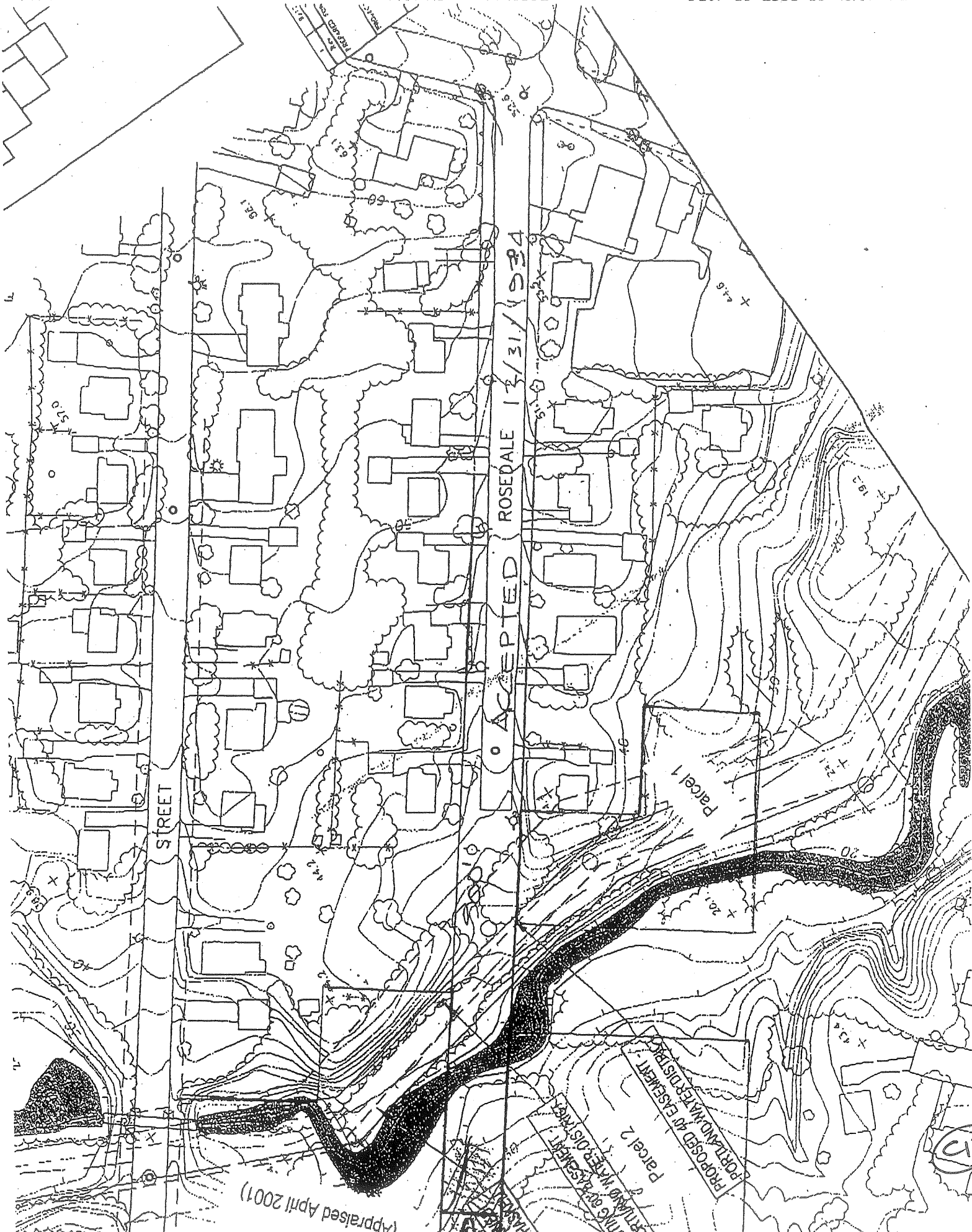
Sincerely,

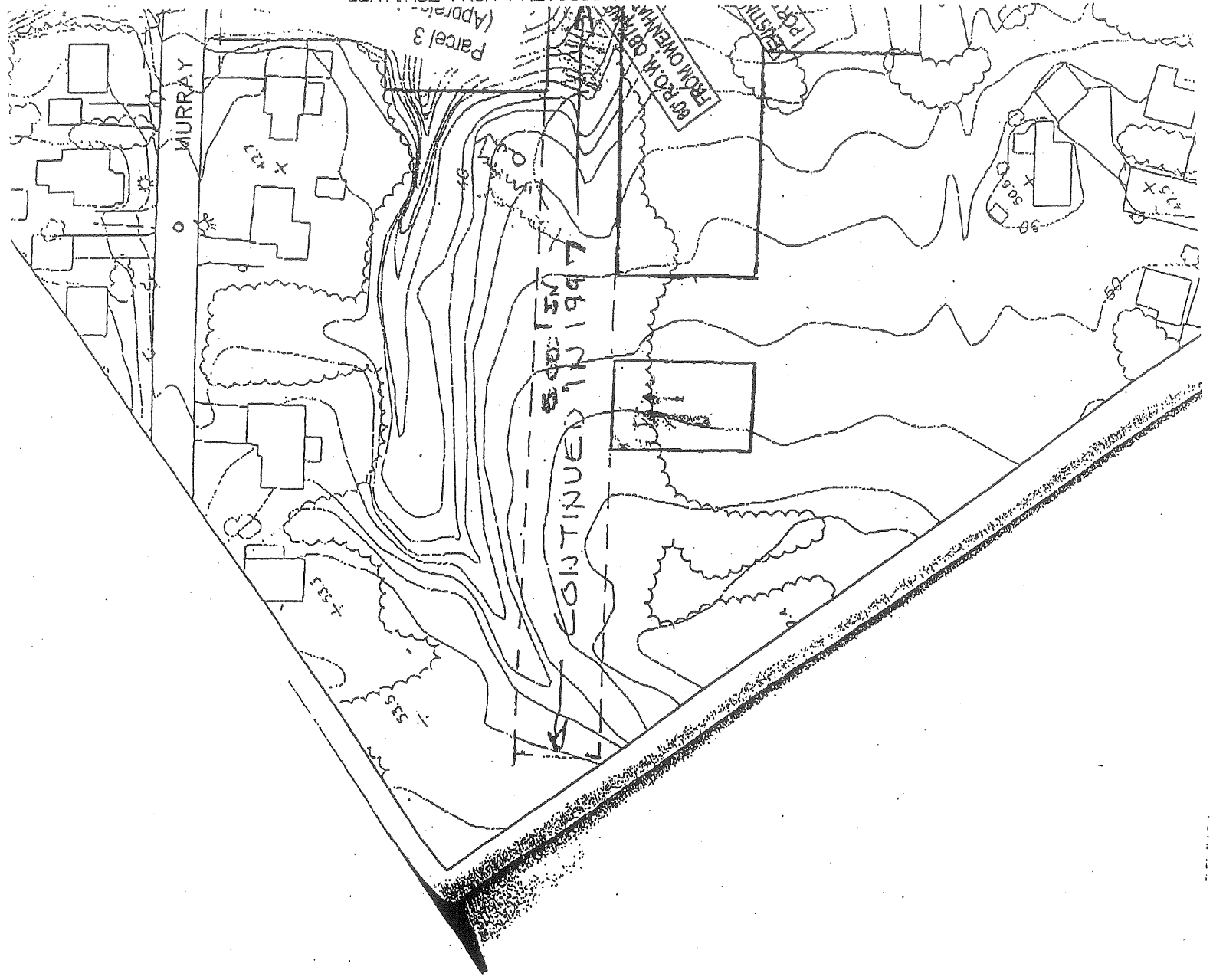


Gary C. Wood
Corporation Counsel

GCW:njp

c: William Bray
Donna Katsiaficas
Jim Robbins
Paper Streets Committee





MURRAY

Parcel 3 (Apr. 1917)

L. B. BROWN

FROM OREGON

X 427

X 306

X 307

X 333

X 335

X 50

From: "McKenney" <mcmck@maine.rr.com>
To: <ebm@portlandmaine.gov>
Date: 1/25/05 5:59:52 PM
Subject: RE: 72-82 Murray Street/Comments

Dear Mr. Macomber,
I will not be able to attend the Planning Board meeting this evening and would like to comment on the proposed driveway that Mr Hains wants to put on Murray Street. We live at 86 Murray Street, the property that directly abuts this area. We do not support this proposal for these reasons:

1. Mr Hains has not submitted any definite plan for the development of any building or buildings on the property he owns in the vicinity of the driveway. Does it make sense to approve a driveway as a stand-alone project?
2. There is a "stream", which has been classified as intermittent next to the area he wants to put the driveway. It can be as wide as 15-20 ft when it is raining and makes that whole area marshy and soft. We see deer, fox and migrating, as well as native, birds quite often in the "gully". Portland has green areas, to be sure, but not many are located within a city neighborhood. It would be a shame to disturb that natural balance.
3. At the end of nearby Rosedale Street, there is a more sensible place to create an egress into Mr Hains' property. There is one other paper street into the area and he could use that also.

In short, the driveway that Mr Hains is planning, really does not lead anywhere at the moment. It is quite wide and if he builds multiple unit buildings on the property (which he told me once he was planning to do), then the driveway is really more like a street, but not up to Portland's street standards. More information and more concrete planning seems to be needed before the proposal can really be evaluated.

I am attaching some notes that a neighbor, an engineer, made for us to bring up at the last meeting, the one that Mr Hains asked that his plan be tabled. I hope they go through. Thank you for your time and consideration. Would you please let me know the outcome of tonight's meeting?

Sincerely,

Cathy McKenney
John McKenney

DI

From: "pedinurse1@netzero.net" <pedinurse1@netzero.net>
To: <ebm@portlandmaine.gov>
Date: 1/25/05 7:19:47 PM
Subject: Murrat Street

Dear Mr. Macomber,

This is in regards to the street that Mr. Haines wants to make off Murray St. I have attended two of the planning board meetings but due to illness I am unable to attend the 1/25 meeting.

I do not approve of a street at this location. It is right at the crest of a hill and the city has just spent alot of money renovating the area.

I do not object the idea of developing this area but I feel the access should be elsewhere. I believe there is a paper street further up Murray or at the end of Rosedale.

I would like to know the outcome of the meeting if it is possible.

Thank You,
Carol MacVane
95 Murray St.

D2

From: "Tom Errico" <terrico@wilbursmith.com>
To: "Ethan Boxer-Macomber" <EBM@portlandmaine.gov>
Date: 2/18/05 1:15:08 PM
Subject: Hains Appeal 72-82 Murray Street

Ethan-

The applicant is proposing a 24-foot wide driveway/street for an unspecified level of residential development. I would note that a 24-foot wide driveway/street is acceptable under City standards, however, the level of development could trigger the need for a wider street. The City prefers to have streets that are 28-feet wide to allow for parking on one side. The final driveway/street design can not be determined until specific development plans and the associated traffic levels are known. In conclusion, if a 24-foot driveway/street is constructed, the applicant may need to upgrade the driveway/street in the future when development plans are finalized.

If you have any questions, please call me.

Best Regards,

Thomas A. Errico, P.E.

Senior Transportation Engineer

Wilbur Smith Associates

59 Middle Street

Portland, Maine 04043

(207) 871-1785 Phone

(207) 871-5825 Fax

E



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

778 MAIN STREET
SUITE 8
SOUTH PORTLAND, MAINE 04106
TEL. 207 775 1121
FAX 207 879 0896

- ▣ SITE PLANNING AND DESIGN
- ▣ ROADWAY DESIGN
- ▣ ENVIRONMENTAL ENGINEERING
- ▣ PERMITTING
- ▣ AIRPORT ENGINEERING
- ▣ CONSTRUCTION ADMINISTRATION
- ▣ TRAFFIC STUDIES AND MANAGEMENT

February 9, 2005

Mr. Ethan Boxer-Macomber, Planner
City of Portland Planning Authority
Planning Department
4th Floor, City Hall
Portland, Maine 04101

**Subject: Robert Hains, Residential Access Drive
Murray Street**

Dear Ethan:

On behalf of Robert Hains, DeLuca-Hoffman Associates, Inc. has prepared the accompanying revised plans to address comments discussed with Jim Seymour of Sebago Technics. These latest plans continue to reflect modifications that address the technical deficiencies presented in the Planning Board Report #49-04. Specifically, the plan continues to show the following modifications:

1. The proposed driveway width has been widened to 24' in accordance with Section III 2. (A)(b) of the Technical Standards.
2. The driveway alignment has been shifted to provide 20' separation to the adjacent driveway in accordance with Section III 2. (b) of the Technical Standards.
3. The proposed driveway radii have been increased to 20' in accordance with Section III 2. (b) of the Technical Standards.

In response to Mr. Seymour's comments, we have also revised the plan as follows:

1. The additional grading activity designed as compensatory flood storage volume in our earlier January 18, 2005 submission has been revised. We now propose a single area will be excavated between the driveway and the brook to offset fill placement in the floodplain. This area is closest to Murray Street and does not impact any wetland area. We have eliminated the second excavation area further into the site as it is Mr. Seymour's opinion that this excavation activity provides only a small amount of benefit at the expense of disturbance in wetland and near the channel. We have previously provided evidence that the proposed driveway construction results in an insignificant impact to flood levels along Fall Brook. This remains true even with the slight reduction in compensatory flood storage. From Murray Street down to Back Cove, the channel is generally at its steepest gradient and is confined to a narrow floodplain width; hence, no impacts to adjacent areas will result from the driveway placement.

(F)

Mr. Ethan Boxer-Macomber, Planner
February 9, 2005
Page 2

2. The Applicant has contacted the Portland Water District regarding the need for a water meter pit and has been advised that a meter pit is not required at this time.


Mr. Seymour also requested additional data on the following items:

1. Culvert Computations – Drainage computations supporting the culvert sizing at the swale crossing accompany this letter.
2. Erosion Control – A copy of the erosion control narrative accompanies this letter.
3. Retaining Walls – The proposed retaining walls will be modular block style. The applicant's contractor will be responsible to provide the design for the wall. Acceptable vendors include Anchor Wall, Redi-Rock and Keystone.
4. Electric/Telephone – At this time these services are undetermined since only the driveway construction is proposed. The service locations will need to be reviewed once a development proposal for Mr. Hains' land is brought to the Planning Authority for review and approval.

On behalf of Mr. Hains, DeLuca-Hoffman Associates, Inc. requests your consideration of the accompanying revised plans and supporting information in advance of the Planning Board's review of this project at the February 22nd Planning Board hearing. We will be prepared to further discuss the design revisions and analysis completed at that time.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.


Stephen Bushey, PE
Senior Engineer

SRB/sq/JN2297/Macomber-2-9-05

Attachments

c: Robert Hains
Ron Ward

F2

Attachment A

Exhibit 8

Temporary and Permanent Erosion and Sedimentation Control

8.0 Overview

See attached plan set sheet C-1, Site Plan, and sheet C-2, Site Details, for the location of temporary and permanent erosion and sediment control measures.

8.1 Erosion/Sediment Control Devices

The following erosion and sediment control devices will be implemented by the Contractor as part of the site development. These devices shall be installed as indicated on the plans or as described within this report. For further reference, see the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

1. Siltation fence shall be installed downslope of any disturbed area(s) to trap runoff-borne sediments until the site is revegetated. The silt fence shall be installed per the detail provided in the plan set and inspected immediately after each rainfall and at least daily during prolonged rainfall. Repairs shall be made immediately by the Contractor if there are any signs of erosion or sedimentation below the fence line. Proper placement of stakes and keying the bottom of the fabric into the ground is critical to the effectiveness of the fence. If there are signs of undercutting at the center or the edges, or impounding of large volumes of water behind the fence, the barrier shall be replaced with a stone check dam.
2. Straw or hay mulch including hydroseeding is intended to provide cover for denuded or seeded areas until revegetation is established. Mulch placed on slopes of less than 10 percent shall be anchored by applying water; mulch placed on slopes steeper than 10 percent shall be covered with a fabric netting and anchored with staples in accordance with the manufacturer's recommendations. Mulch application rates are provided in Attachment A of this section. Hay mulch shall be available on site at all times in order to provide immediate temporary stabilization when necessary. Where necessary, a temporary stone channel pipe sluice shall be used to convey runoff down the slope.
3. Stone check dams and hay bale barriers are intended to reduce runoff velocities and protect denuded soil surfaces from concentrated flows. Installation details and stone sizes are provided in the construction plan set on the detail sheets.
4. A construction entrance will be constructed at access points from Murray Street onto the site to prevent tracking of soil onto adjacent local roads.
5. Stone sediment traps or a premanufactured SiltSack™ will be installed at catch basin inlets along Murray Street to prevent silt from entering the combined sewer system. Installation details are provided in the plan set on the erosion control detail sheets.
6. Loam and seed is intended to serve as the primary permanent revegetative measure for all denuded areas not provided with other erosion control measures, such as paving, gravel or riprap. Application rates are provided in Attachment A of this section for temporary and permanent seeding in non-wetland areas.
7. Riprap stabilization shall be used at the proposed culvert inlets and outlets. Riprap shall be sized in accordance with the drawings and placed over a prepared subgrade and geotextile fabric layer. Riprap shall be tightly placed by machine and/or hand methods.

Angular stone shall be used to create a uniform rock layer in appearance and matched into the adjacent in place ground grade.

8. Ditch turnouts shall be installed to collect and convey drainage from the access driveway ditch line to a stable earthen level spreader out to a vegetated buffer.

8.2 Temporary Erosion/Sedimentation Control Measures

The following are planned as temporary erosion/sedimentation control measures during construction:

1. A crushed stone-stabilized construction entrance shall be placed at the site access onto Murray Street.
2. Siltation fence shall be installed along the downgradient side of the proposed improvement areas and at the toe of slope of any fill embankments. The siltation fence will remain in place and properly maintained until the site is acceptably revegetated.
3. Temporary stockpiles of stumps, grubblings, or common excavation will be protected as follows:
 - a. Temporary stockpiles shall not be located within 100 feet of the Fall Brook channel or the adjacent wetlands and at least 50 feet upgradient of the perimeter silt fence.
 - b. Inactive stockpiles shall be stabilized within 5 days by either temporarily seeding the stockpile with a hydroseed method containing an emulsified mulch tackifier or by covering the stockpile with mulch. If necessary, mesh shall be installed to prevent wind from removing the mulch.
4. All denuded areas, which have been rough graded, shall receive mulch or erosion control mesh fabric within 7 days of initial disturbance of soil.
5. All soils disturbed between October 1 and April 1 will be covered with mulch within 5 days of disturbance, prior to any predicted storm event of the equivalent of 1/2" of equivalent rainfall in a 24-hour period, or prior to any work shutdown lasting more than 35 hours (including weekends and holidays). The mulch rate shall be double the normal rate.
6. The access drive and all abutting streets shall be swept to control mud and dust as necessary and/or as directed by the City's Development Review Coordinator or the Public Works Engineering Division. Additionally, in the event mud and/or dust migrates off of the site onto abutting streets, the affected area shall be swept. A street sweeper shall be available on immediate notice.
7. During grubbing operations, stone check dams or hay bale barriers will be installed at any evident concentrated flow discharge points.
8. Silt fencing with a maximum stake spacing of 6 feet should be used, unless the fence is supported by wire fence reinforcement of minimum 14 gauge and with a maximum mesh spacing of 6 inches, in which case stakes may be spaced a maximum of 10 feet apart. The bottom of the fence should be properly anchored a minimum of 6" per the plan detail and backfilled. Any silt fence identified by the owner or reviewing agencies as not being properly installed during construction shall be immediately repaired in accordance with the installation details.
9. Storm drain catch basin inlet protection on Murray Street shall be provided through the use of stone sediment barriers or a premanufactured SiltSack™ as distributed by A. H.

Harris Company, Portland, Maine. Stone sediment barrier installation details are provided in the plan set. The barriers shall be inspected after each rainfall and repairs made as necessary. Sediment shall be removed and the barrier restored to its original dimensions when the sediment has accumulated to ½ the design depth of the barrier. Sediment shall be removed from SiltSacks™ as necessary. Inlet protection shall be removed when the tributary drainage area has been stabilized.

10. All new or disturbed slopes shall receive erosion control mesh.

8.3 Permanent Erosion/Sediment Control Measures

The following permanent erosion control measures have been designed as part of the Erosion/Sediment Control Plan:

1. All storm drain pipes shall have riprap aprons at their inlet and outlet to protect the receiving channel of the culverts from scour and deterioration. Installation details are provided in the plan set. The aprons shall be installed and stabilized prior to directing runoff to the tributary pipe or culvert.
2. All areas disturbed during construction, but not subject to other restoration (paving, riprap, etc.) will be loamed, limed, fertilized, mulched and seeded. Fabric netting, anchored with staples, shall be placed over all exposed areas. Native topsoil shall be stockpiled and temporarily stabilized with seed and mulch and reused for final restoration when it is of sufficient quality and quantity.
3. Ditch turnouts shall be installed below the ditches to intercept and convey runoff over a stabilized level surface onto a vegetated buffer.

8.4 Timing and Sequence of Erosion/Sedimentation Control Measures

The following construction sequence shall be required to ensure the effectiveness of the erosion and sedimentation control measures is optimized.

Note: For all grading-related activities, the Contractor shall exercise extreme caution not to overexpose the site by limiting the disturbed area.

1. Install crushed stone-stabilized construction entrance as shown on the Site Plan at the access drive.
2. Install siltation fence.
3. Construct riprap aprons, drainage channels, and culvert crossings to collect and convey flow.
4. Install stone and hay bale check dams at any concentrated flow discharge points.
5. Clear and grub access drive subgrade area.
6. Install utilities and commence subgrade filling.
7. Bring site to subgrade including extension of embankments and temporary slope stabilization.
8. Install pavement as detailed on the site plans.
9. Loam, lime, fertilize, seed, and mulch all disturbed and denuded areas.

10. Remove accumulated sediment from silt barriers.
11. Review stability of the site. If a 75% catch of grass is achieved, remove temporary erosion control devices.

Soil will be considered disturbed if it does not have an established stand of vegetation covering at least 75% of the soil surface or has not been mulched with hay applied at a rate of 230 lbs./1,000 sq. ft.

SEEDING PLAN LAWN AND OTHER AREAS

Project Robert Hains Access Driveway

Site Location Murray Street, Portland, Maine

X Permanent Seeding _____ Temporary Seeding

1. Area to be seeded: 0.5 acres, OR _____ M Sq. Ft.
2. Instructions on preparation of soil: Prepare a good seed bed for planting method used.
3. Apply lime as follows: _____ #/acres, OR 138#/M Sq. Ft.
4. Fertilize with _____ pounds of - - N-P-K/ac. OR
18.4 pounds of 10 - 20 - 20 N-P-K/M Sq. Ft.
5. Method of applying lime and fertilizer: Spread and work into the soil before seeding.
6. Seed with the following mixture:
 - 45% Kentucky Bluegrass
 - 45% Creeping Red Fescue
 - 10% Perennial Ryegrass

When using small grain as nurse crop seed it at one-half the normal seeding rate.

7. Mulching instructions: Apply at the rate of _____ tons per acre. OR
230 pounds per M. Sq. Ft.

	<u>Amount</u>	<u>Unit #, Tons, Etc.</u>
8. TOTAL LIME.....	<u>138</u>	<u>#/1000 sq. ft.</u>
9. TOTAL FERTILIZER.....	<u>13.8</u>	<u>#/1000 sq. ft.</u>
10. TOTAL SEED.....	<u>6 to 8</u>	<u>#/1000 sq. ft.</u>
11. TOTAL MULCH.....	<u>230</u>	<u>#/1000 sq. ft.</u>
12. TOTAL other materials, seeds, etc.....	<u>Compost is likely required</u>	
13. REMARKS		

- For areas with slopes >10%, waterways, areas within 100 feet of the drainageways, and fall and winter erosion control areas, erosion control blanket shall be used per manufacturer's specifications.
- Fertilizer requirements shall be subject to actual test results of the topsoil used for the project. The Contractor shall be responsible for providing topsoil test results for pH and recommended fertilizer application rates to the owner
- All loam shall have compost or peat admixtures to raise the organic content to 8%.
- Spring seeding is recommended, however, late summer (prior to September 15th) seeding can be made. Permanent seeding should be made prior to August 5th or as a dormant seeding after the first killing frost and before the first snowfall.

SEEDING PLAN WETLAND AREAS

Project Robert Hains Access Driveway

Site Location Murray Street, Portland, Maine

X Permanent Seeding _____ Temporary Seeding

1. Area to be seeded: 0.10- acres, OR _____ M Sq. Ft.
2. Instructions on preparation of soil: Prepare a good seed bed for planting method used.
3. Apply lime as follows: _____ #/acres, OR 138#/M Sq. Ft.
4. Fertilize with _____ pounds of - - N-P-K/ac. OR
18.4 pounds of 10 - 20 - 20 N-P-K/M Sq. Ft.
5. Method of applying lime and fertilizer: Spread and work into the soil before seeding.
6. Seed with the following mixture:
 - 15% Annual Rye
 - 15% Red Top
 - 15% Wool Grass
 - 15% Blue Joint Grass
 - 40% Reed Canary Grass

When using small grain as nurse crop seed it at one-half the normal seeding rate.

7. Mulching instructions: Apply at the rate of _____ tons per acre. OR
180 pounds per M. Sq. Ft.

	<u>Amount</u>	<u>Unit # Tons, Etc.</u>
8. TOTAL LIME.....	138	#/1000 sq. ft.
9. TOTAL FERTILIZER.....	18.4	#/1000 sq. ft.
10. TOTAL SEED.....	6	#/1000 sq. ft.
11. TOTAL MULCH.....	180	#/1000 sq. ft.
12. TOTAL other materials, seeds, etc.....		
13. REMARKS		

The above seed mix is required in all temporarily disturbed wetland areas.

Fertilizer requirements shall be subject to actual test results of the topsoil used for the project. The Contractor shall be responsible for providing topsoil test results for pH and recommended fertilizer application rates to the owner.

TEMPORARY SEEDING PLAN

Project Robert Hains Access Driveway

Site Location Murray Street, Portland, Maine

 Permanent Seeding X Temporary Seeding

1. Area to be seeded: varies acres, OR M Sq. Ft.
2. Instructions on preparation of soil: Prepare a good seed bed for planting method used.
3. Apply lime as follows: #/acres, OR 138# /M Sq. Ft.
4. Fertilize with pounds of - - N-P-K/ac. OR 18.4 pounds of 10 - 20 - 20 N-P-K/M Sq. Ft.
5. Method of applying lime and fertilizer: Spread and work into the soil before seeding.
6. Seed with the following mixture:
 - 50% Perennial Ryegrass
 - 50% Winter Rye

When using small grain as nurse crop seed it at one-half the normal seeding rate.

8. Mulching instructions: Apply at the rate of tons per acre. OR 180 pounds per M. Sq. Ft.

	<u>Amount</u>	<u>Unit #</u>	<u>Tons, Etc.</u>
14. TOTAL LIME.....	138		#/1000 sq. ft.
15. TOTAL FERTILIZER.....	18.4		#/1000 sq. ft.
16. TOTAL SEED.....	6		#/1000 sq. ft.
17. TOTAL MULCH.....	180		#/1000 sq. ft.
18. TOTAL other materials, seeds, etc.....			

19. REMARKS

The above seed mix is required in all temporarily disturbed wetland areas.

Fertilizer requirements shall be subject to actual test results of the topsoil used for the project. The Contractor shall be responsible for providing topsoil test results for pH and recommended fertilizer application rates to the owner.

F10

Task: Compute culvert sizing for Harris Diversion crossing
Reference: Civil Tools Software - Culvert sizing
 HydroCAD drainage software
 USGS Topo maps

Computations:

Civil Tools input

Pipe Diameter - 24"
 Pipe length - 60'
 Friction Coefficient - 0.013
 Ent & Exit Coefficient - 0.5

Inv. Elev. out 21.8'
 Inv. Elev. in 24.0'
 Tailwater Elev. 1.0'

Civil Tools Results

Headwater elev. (ft)	Flow rate (cfs)
26.0	12.61
27.0	17.83
28.0	21.83
29.0	25.21

HydroCAD Comp (see Attached)

$Q_{10} = 17.13 \text{ cfs}$ based on 12.28 acre drainage area

$Q_{25} = 21.35 \text{ cfs}$

For comparison, Selage Techniques computation for Woods at Lanes Project yield
 $Q_{10} = 20.07 \text{ cfs}$ and $Q_{25} = 25.34 \text{ cfs}$ at PFA at Lee Street

Conclusion

A 24" culvert will operate satisfactorily with modest headwater from 10 year and 25 year storm events.

F11

Bushey

Prepared by {enter your company name here}
 HydroCAD® 7.00 s/n 000734 © 1986-2003 Applied Microcomputer Systems

10 yr.
 Type III 24-hr Rainfall=4.70"
 Page 12 of 3
 2/9/2005

Subcatchment 8S: First Culvert Subcatchment

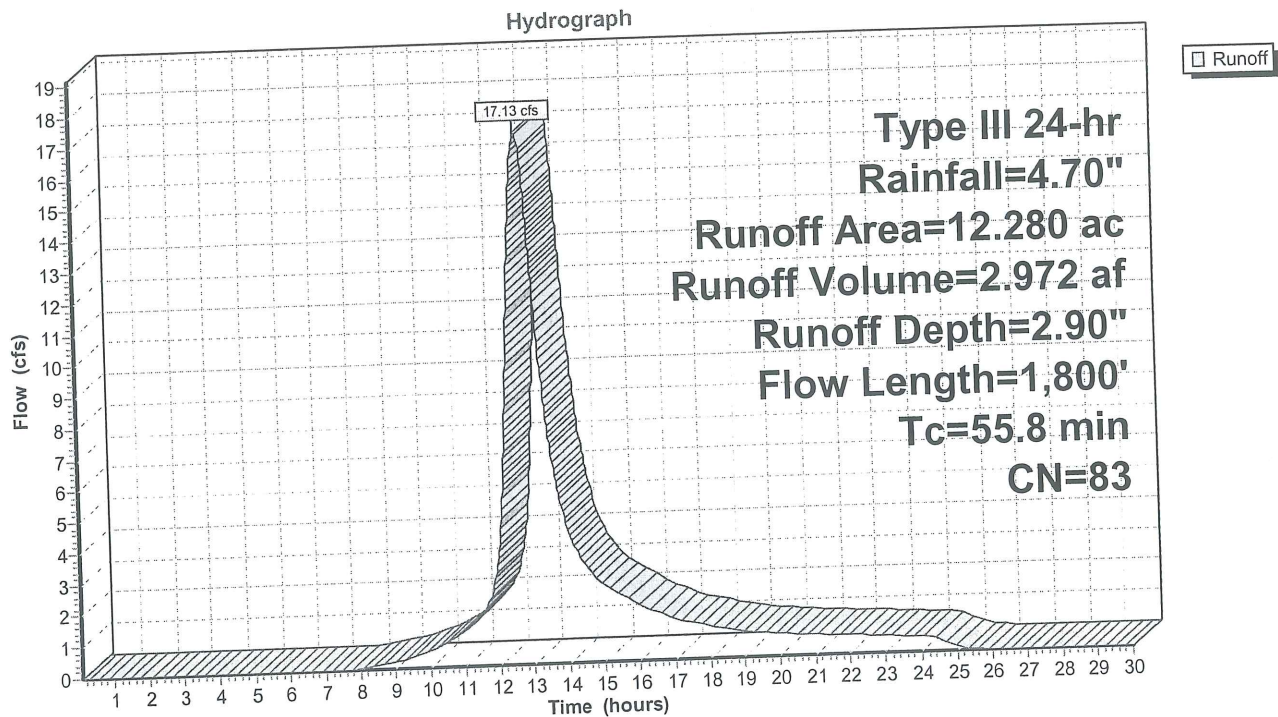
Runoff = 17.13 cfs @ 12.71 hrs, Volume= 2.972 af, Depth= 2.90"

Runoff by SCS TR-20 method, UH=SCS, Time Span= 0.10-30.00 hrs, dt= 0.01 hrs
 Type III 24-hr Rainfall=4.70"

Area (ac)	CN	Description
12.280	83	Brush, Fair, HSG C/D

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
7.7	100	0.2800	0.2		Sheet Flow, Woods, Dense Brush n= 0.400 P2= 3.00"
34.8	1,100	0.0445	0.5		Shallow Concentrated Flow, Forest w/Heavy Litter Forest w/Heavy Litter Kv= 2.5 fps
13.3	600	0.0483	0.8	11.27	Channel Flow, Channel Flow Behind House Lots Area= 15.0 sf Perim= 17.0' r= 0.88' n= 0.400
55.8	1,800	Total			

Subcatchment 8S: First Culvert Subcatchment



F12

Bushey

Prepared by {enter your company name here}
 HydroCAD® 7.00 s/n 000734 © 1986-2003 Applied Microcomputer Systems

25 yr.
 Type III 24-hr Rainfall=5.50"
 Page 13/13
 2/9/2005

Subcatchment 8S: First Culvert Subcatchment

Runoff = 21.38 cfs @ 12.71 hrs, Volume= 3.715 af, Depth= 3.63"

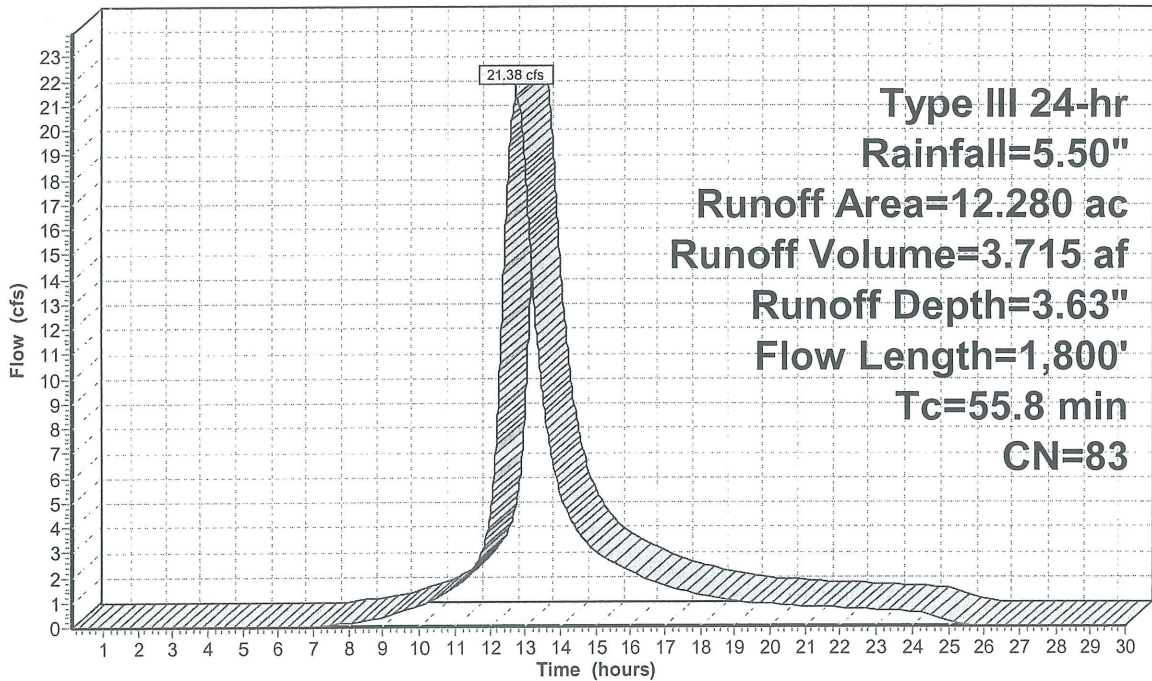
Runoff by SCS TR-20 method, UH=SCS, Time Span= 0.10-30.00 hrs, dt= 0.01 hrs
 Type III 24-hr Rainfall=5.50"

Area (ac)	CN	Description
12.280	83	Brush, Fair, HSG C/D

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
7.7	100	0.2800	0.2		Sheet Flow, Woods, Dense Brush n= 0.400 P2= 3.00"
34.8	1,100	0.0445	0.5		Shallow Concentrated Flow, Forest w/Heavy Litter Forest w/Heavy Litter Kv= 2.5 fps
13.3	600	0.0483	0.8	11.27	Channel Flow, Channel Flow Behind House Lots Area= 15.0 sf Perim= 17.0' r= 0.88' n= 0.400
55.8	1,800	Total			

Subcatchment 8S: First Culvert Subcatchment

Hydrograph



F13

Memorandum
Department of Planning and Development
Planning Division



To: Chair Lowry and Members of the Portland Planning Board

From: Ethan Boxer-Macomber, Planner

Date: February 18, 2005

Re: February 22, 2005 Public Hearing
Appeal of Minor Site Plan Denial – Robert Hains, Applicant
Residential Development Access Drive – 72-82 Murray Street

A February 22, 2005 Public Hearing has been scheduled for the Planning Board to review the above referenced appeal.

This memo and attachments are intended to supplement Planning Board Report #49-04, prepared October 18, 2004 for the subject appeal and resubmitted to the Board on this day.

I. Appeal Process Background

Planning Board Report #49-04 was provided to the applicant/appellant in advance of a scheduled November 9, 2004 Public Hearing. After reviewing the report, the applicant requested that the Hearing be tabled until certain issues raised in the report could be resolved. The hearing was tabled to January 25, 2005.

On January 18, 2005 the applicant submitted an amended site plan and cover letter (Attachment A). The amended site plan added two feet of width to the proposed driveway as an attempt to bring the driveway in conformance with certain technical standards for driveways serving multi-family residential developments. Whereas the January 18, 2005 amended plans were not submitted in ample time for staff review, the Planning Board again tabled the appeal at the January 25th hearing.

II. Plan Review

Staff has reviewed the applicant's revised plans submitted January 18, 2005. In response to telephone discussions between the City's consulting development review engineer and the applicant's engineer, the applicant again revised the plans in a February 9, 2005 submission.

The February 9, 2005 revisions included some minor changes to the proposed compensatory flood storage grading originally proposed in the January 18 revisions (Attachment G). The February 9, 2005 submissions also included additional information related to water meter pit, culvert computations, Erosion Control, retaining walls, and telephone/electric service (Attachment F).

As of the date of this memo, staff has not had the benefit of a final review by the City's consulting development review engineer, Jim Seymour, due to the fact that he is out of the office on paternity leave. Mr. Seymour's substitute is currently reviewing the plans. Staff will present final engineering assessments at the Public Hearing.

The City's consulting development review engineer and the City Engineer have reviewed the project for potential impacts to the Fall Brook floodplain and have concluded that the proposed driveway would not have adverse impacts on stream flow or flooding as previously suspected.

Staff understands that the DEP has not been informed of the proposed changes to the approved Tier III wetland fill permit as required by NRPA standard conditions of approval.

The City's consulting traffic engineer, Tom Errico, has considered the revised driveway proposal and presented a response (Attachment E). Mr. Errico cautions that while a 24 foot wide drive way does satisfy some of the technical standards for multi-family development, this is not to say that a wider driveway couldn't not be required, depending on the scope of the eventual development proposal.

III. Analysis

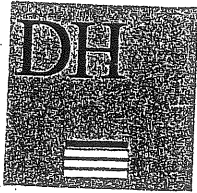
The 2-08-05 revisions to the site plan do satisfy some of the technical concerns raised in Planning Board Report #49-04. However, based on all of the findings presented in the July 1, 2004 administrative denial letter and Planning Board report #49-04, staff recommends that the Board deny the subject appeal.

- The project is still noncompliant with Technical Standard III 2.(A)(e)(4) which states that, "Driveways shall be located in the most appropriate location, taking into account existing and proposed adjacent and opposing driveways and land use", whereas the land use remains unknown.
- The project is still noncompliant with Technical Standard XI(3)C(a) which states, "For developments located adjacent to perennial streams, a minimum one hundred (100) foot buffer strip on either side of the stream should be maintained". The applicant has presented no compelling reason why the Board should waive this standard.

- The project is still inconsistent with §14-526(b)(11), which requires the proposed site plan to be, "...consistent with off-premise infrastructure, existing or planned by the City;". The applicant has legal, platted access to his land via Lee, Rosedale, and Dudley Streets and has presented no compelling reason why the board should waive the above referenced technical standards

Attachments:

- A. January 18, 2005 Revised Site Plan and Cover Letter
- B. January 20, 2005 Correspondence
- C. January 21, 2005 Ward Letter
- D. Public Communications
- E. February 18, 2005 Errico Memo
- F. February 9, 2005 Bushey Letter and Attachments
- G. 2-08-05 Site Plan Revision (Currently Proposed)



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

778 MAIN STREET
SUITE 8
SOUTH PORTLAND, MAINE 04106
TEL. 207 775 1121
FAX 207 879 0896

- SITE PLANNING AND DESIGN
- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION
- TRAFFIC STUDIES AND MANAGEMENT

January 18, 2005

Mr. Ethan Boxer-Macomber, Planner
City of Portland Planning Authority
Planning Dept.
4th Floor City Hall
Portland, Maine 04101

**Subject: Robert Hains, Residential Access Drive
Murray Street**

Dear Ethan:

On behalf of Robert Hains, DeLuca-Hoffman Associates, Inc. has prepared the accompanying revised plans for consideration by the Portland Planning Department. These latest plans reflect modifications that address the technical deficiencies presented in the Planning Board Report #49-04. Specifically, the plan has been modified as follows:

1. The proposed driveway width has been widened to 24' in accordance with Section III 2. (A)(b) of the Technical Standards.
2. The driveway alignment has been shifted to provide 20' separation to the adjacent driveway in accordance with Section III 2. (b) of the Technical Standards.
3. The proposed driveway radii have been increased to 20' in accordance with Section III 2. (b) of the Technical Standards.
4. Additional grading activity has been shown on the drawing wherein compensatory flood storage volume can be provided to offset the minor encroachment of fill placed in the Fall Brook Floodplain. Two areas will be excavated between the driveway and the brook and their surface areas restored with topsoil, wetland seed mix and erosion control blanket. The first area is closest to Murray Street and is currently grassed meadow down to the brook. The second area is further into the property and is a mix of shrub overgrowth. The compensatory flood storage minimizes any impacts to flood storage and water levels in the area between Murray Street and Ocean Avenue.

DeLuca-Hoffman Associates, Inc. has also reviewed the conveyance capacity of the channel as it relates to the Public Works Department's October 21, 2004 memorandum contained in the Planning Report. Specifically, the proposed driveway includes fill activities that extend below the 100-year floodplain of the channel. However, these activities are limited in area and impact as they are out of the principal floodway of the channel and are the fringe of the floodplain. As outlined in the memorandum, DeLuca-Hoffman Associates, Inc. has assisted the City in the

AI

DeLUCA HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

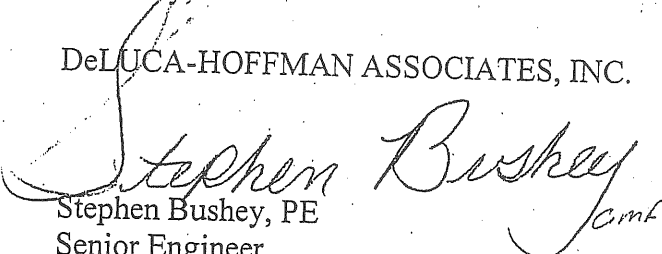
Mr. Ethan Boxer-Macomber, Planner
January 18, 2005
Page 2

hydraulic and hydrologic analysis of the Fall Brook Channel. In that study it was concluded that the introduction of additional stormwater flows to the channel below Washington Avenue would have only a minor impact to the channel, since for the most part the channel is narrowly defined and the floodplain is relatively narrow. Based on the data used in the Fall Brook Watershed Study¹ DeLuca-Hoffman Associates, Inc. has analyzed the impact of the proposed driveway and found that its impact is negligible. The expected rise in the 100-year floodplain elevation is approximately 1" based on an analysis of future predicted flows (assuming the full separation of combined sewer flows in the watershed). Attachment A to this letter contains excerpts of the computations as part of this analysis. Given the general nature of the Fall Brook channel as it extends from Murray Street to Back Cove, these conditions will not result in significant impact to downstream properties, residences, or infrastructure in any measurable way. Upstream impacts are also negligible as the upstream channel capacity is dependent on each of the street crossing conditions and channel conditions upstream of Washington Avenue.

On behalf of Mr. Hains, DeLuca-Hoffman Associates, Inc. requests your consideration of the accompanying revised plans and supporting information in advance of the Planning Board's review of this project at next Tuesday's Planning Board hearing. We will be prepared to discuss the design revisions and analysis completed further at that time.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.


Stephen Bushey, PE
Senior Engineer

SRB/sq/JN2297/Macomber-1-18-05

Attachments

C: Robert Hains
Ron Ward

¹ See Final Fall Brook Watershed Study, Hydraulic and Hydrologic Model, by DeLuca-Hoffman Associates, Inc. April 1999 prepared for City of Portland Public Works Department.

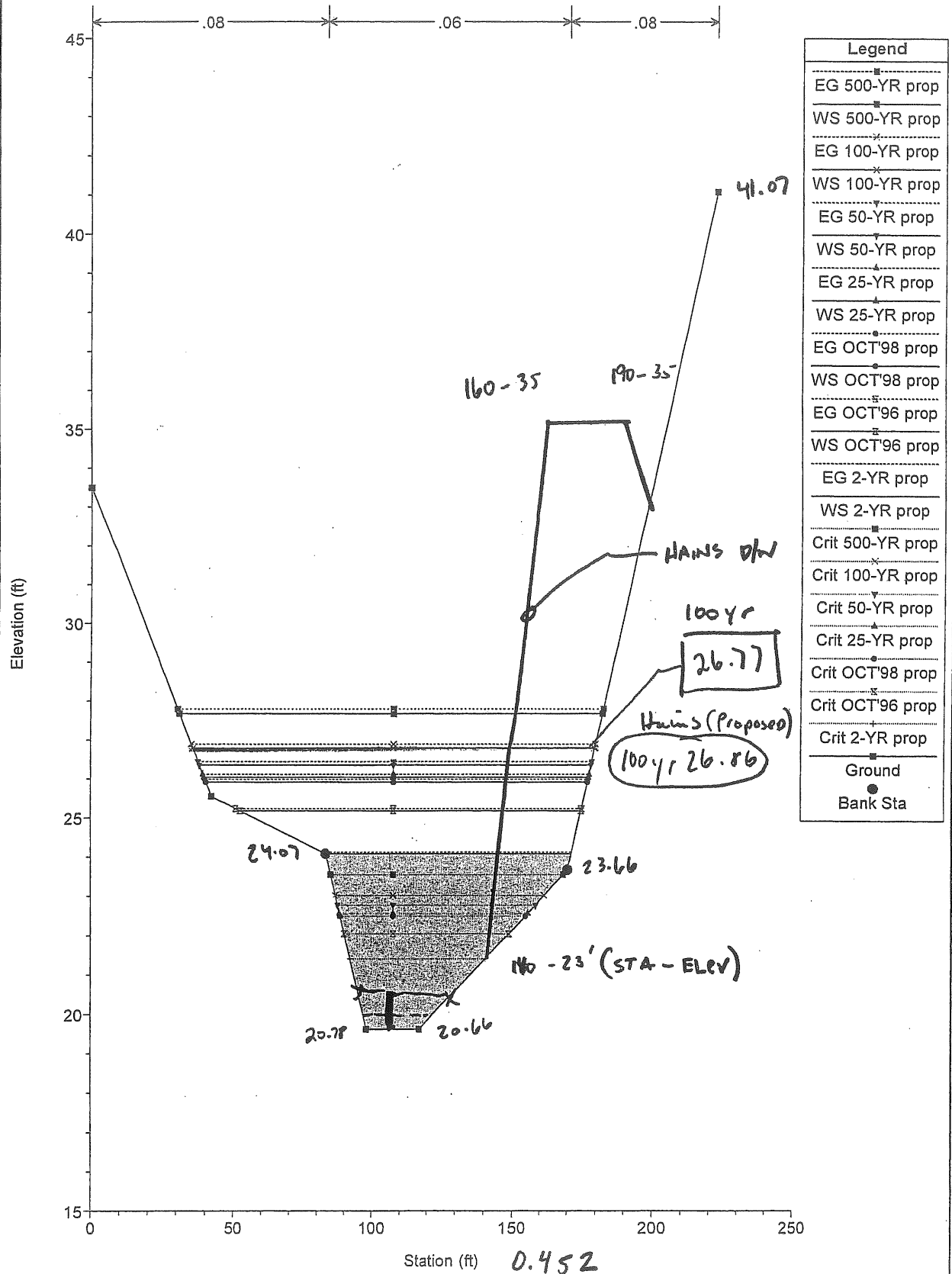
A7

Attachment A

FUTURE CONDITION
 Assuming Full separation
 w/OUT HAINS D/W

Asbuilt

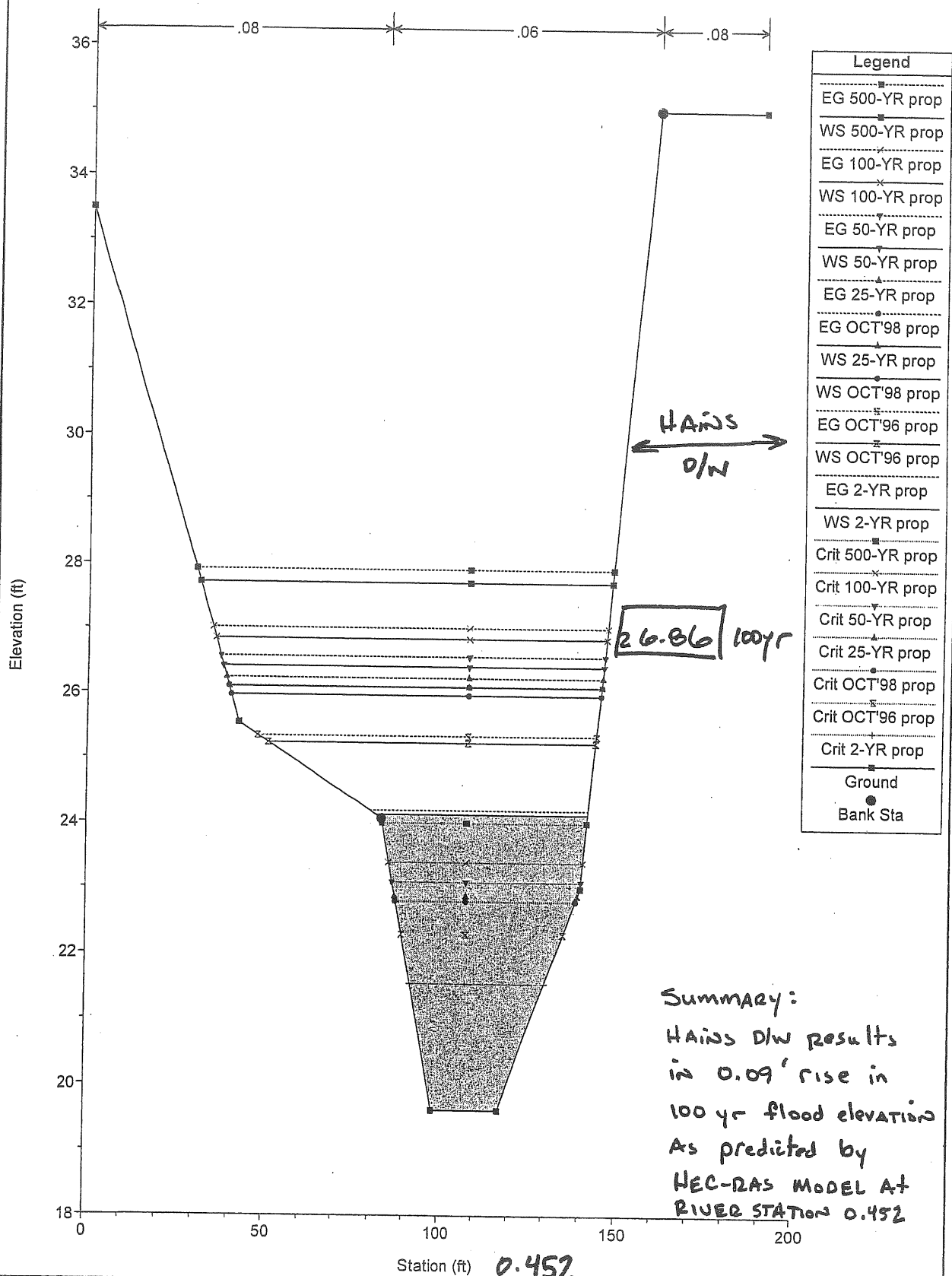
FALL BROOK, CITY OF PORTLAND Plan: original layout design may 202004 11/15/2004



A4

PROPOSED CONDITION
W/ HAIRS D/W

FALL BROOK, CITY OF PORTLAND Plan: asbuilt rayst designmay202004 1/6/2005



A5

**DRUMMOND
WOODSUM &
MACMAHON**
Attorneys at Law

January 21, 2005

HAND-DELIVERED

City of Portland Planning Board
389 Congress Street
Portland, ME 04101

RE: Robert C. Hains - Access Driveway
72-82 Murray Street, Portland, Maine

Dear Board Members:

On Friday, October 22, 2004, a copy of the Planning Board Report 49-04 was made available to us. That report included, inter alia, a memo from Brad Roland to Ethan Boxer-Macomber bearing the date of October 21, 2004 (Attachment S-1). The Applicant had intended to keep his presentation as concise as possible and assumed the Planning Department would proceed on the basis of the reports and the analysis supporting their July 1, 2004 Denial. Report 49-04 is less a report than it is an attempt to back and fill around the July 1 Denial, made available to the Applicant on the eve of the hearing originally scheduled for October 26, 2004. Report 49-04 raises new issues and makes new arguments which did not comprise a basis for the original denial and were not alluded to in the Planning Board Workshop held on September 14, 2004. This is not only unfair to the Applicant, but also serves to underscore the antagonistic disposition of the Planning Department to this minor application from the outset.

Accordingly, and with regret that the Planning Department has opened up this broad front in opposition to the current application, we offer the following response to the Report 49-04 for submission on the record. Thankfully, the new Report 49-04 stretching on for eleven pages is largely irrelevant to the issues currently at hand. We plan to touch on the relevant issues at our January 25, 2005 hearing. Our response below will track the organization of Report 49-04.

I. PROJECT DESCRIPTION

The Planning Department makes reference to certain statements made by Mr. Hains during the many months that his application has been pending. Most of these references (all taken out of context) are included primarily to evidence that the applicant has specific development plans. That is not the case. While he owns many small lots in this area, he has no specific development plan. Much remains to be done before any decisions could be made in terms of a specific

JOHN A. GRAUSTEIN
DANIEL AMORY
HARRY R. PRINGLE
RICHARD A. SPENCER
DONALD A. KOPP
RONALD N. WARD
JOHN S. KAMINSKI
WILLIAM L. PLOUFFE
JERROL A. CROUTER
MICHAEL E. HIGH
RICHARD A. SHINAY
BRUCE W. SMITH
E. WILLIAM STOCKMEYER
BENJAMIN E. MARCUS
MELISSA A. HEWEY
ERIC R. HERLAN
GREGORY W. SAMPLE
MARK E. STANDEN
DANIEL J. ROSE
KAIGHN SMITH, JR.
DAINA J. NATHANSON
EDWARD J. KELLEHER
S. CAMPBELL BADGER
AMY K. TCHAO
DAVID S. SHERMAN, JR.
CATHERINE D. ALEXANDER
ROBERT P. NADEAU
BRIAN D. WILLING
AARON M. PRATT
JAMES C. SCHWELLENBACH
ELIZABETH D. MCEVOY
GREGG R. FRAME
JEFFREY T. PIAMPANO
PETER C. FELMLY

CONSULTANTS

LABOR RELATIONS & CONFLICT
MANAGEMENT
ROGER P. KELLEY

POLICY & LABOR RELATIONS
ANN S. CHAPMAN

SPECIAL EDUCATION
MICHAEL J. OPUDA Ph.D.

OF COUNSEL

HAROLD E. WOODSUM, JR.
HUGH G. E. MACMAHON
JOSEPH L. DELAFIELD III
ROBERT L. GIPS

OF COUNSEL FOR
INDIAN AFFAIRS

KANJI & KATZEN, PLLC
201 SOUTH MAIN STREET
ANN ARBOR, MI 48104

development proposal. However, the grant of the current permit confirms at least initial collateral value by allowing the construction of a single family house to go forward with access to the public street. Without this permit, he simply has landlocked parcels of uncertain collateral value. As you know, collateral values are a very important issue in the grindingly expensive development process in Portland, Maine.

The Planning Department Report refers to both Rosedale and Dudley Streets as "non-vacated" paper streets. While not central to the issues before you, we believe the facts support the position that a portion of at least Rosedale Street, previously accepted by the City but never fully constructed, would be deemed "abandoned" under applicable Maine law. If abandoned, the underlying fee interest would have reverted to the adjoining property owners, including Robert Hains and others similarly situated. The primary importance of this is to rebut the Planning Department's theory that this Applicant should be redeveloping Rosedale Street for his access to his land. He would not be able to do so without obtaining interests from all of the owners adjoining this section of Rosedale Street. We are prepared to brief these abandonment issues at the specific request of the Planning Board, although we believe these issues to be of peripheral importance.

II. BACKGROUND CHRONOLOGY

The Applicant's application was complete on March 26, 2004 and would be deemed approved pursuant to Code Sec. 14-5.5(d) ninety days thereafter. The Applicant submitted nothing thereafter which materially added or detracted from the Code requirements. The May 3, 2004 narrative letter (Attachment C-1) was described to him as discretionary and the additional plan sheet (Attachment D) was submitted to ease the review. Applicant pursues this appeal to maintain his cooperative disposition to the City but without in any way waiving any rights, including the Code provisions deeming projects to be approved by virtue of inaction on the part of the City.

The primary issue with the Planning Department's chronology is its suggestion that it made its decision based upon an incomplete application which, apparently, means the application remains incomplete. The Planning Department cannot have it both ways on this issue. If the application is incomplete, it is not ripe for decision. The Planning Department has proceeded and rendered a decision which confirms that it was ripe for a decision. The Applicant filed his timely appeal simply on the basis that his application would not move without an appeal. He did so without waiving any of his rights under the Code, or applicable law.

The Planning Department theory of "incompleteness", and much of the overwrought text in Report 49-04, is based exclusively upon the theory that the Applicant has not yet submitted his full development plans. As noted above, at the Workshop and in multiple other circumstances, he does not have full development plans

which would carry him beyond one or two single family houses. He, in fact, may acquire additional land mass, or may decide to simply proceed on the basis of a single family house, or may ultimately proceed in any number of development directions. Neither the law nor common sense put the Planning Department in the position of assuming a development scheme and then applying technical standards to that assumed development scheme. The function of the Planning Department is to review the application before it. Once/if a development scheme has been formulated, the Planning Department will have its chance to review that plan at that time pursuant to the Portland Code. Applicant is fully aware of his obligations in this regard

III. APPLICATION COMPLETE

As noted above, the Applicant had many conversations, in good faith, with Planning Department representatives over the past months. While there may be any number of possible development scenarios, this application is based solely upon a private access driveway and, therefore, the jurisdiction afforded the Planning Department under Code Sec. 14-453(a) and Code Sec. 14-522. If this access driveway was located outside of a defined drainage area, we would not be before the Planning Board at all and not subject to the extraordinary review by Planning Staff. The possible development scenarios presented to the Maine DEP and Army Corps of Engineers by the Project Engineer were just that, examples. The application to the City of Portland stands independently and we are not asking or suggesting that the Planning Board approve any of those scenarios. Planning staff will get its chance to delve into the "myriad of physical, legal, and environmental planning considerations" when/if a development plan is proposed.

IV. FUTURE RESIDENTIAL DEVELOPMENT

We do not recall the Planning Board Chair requesting an analysis of the potential residential build out along Rosedale and Dudley Streets. While we appreciate the Staff's stab at analyzing what the maximum densities could be, that is not our plan. Most of this particular exercise is rampant speculation, particularly the assumption that this Applicant will acquire additional land mass. If the standard of review of an application for a minor driveway hinges upon an analysis of non-related, non-owned adjacent land, it is a standard unknown to Applicant with no apparent precedent supporting that.

V. SITE PLAN REVIEW

This section, except that dealing with wetlands, is irrelevant to this Application. The technical standards, other than the wetlands reference, did not form a basis for the Denial and is not now before the Planning Board. This application does not propose a multi-unit development. Report 49-04 goes on with a recitation of minutia which the Staff would now dredge up as an after-the-fact buttressing of its Denial. This is not legal

and should not be permissible. Our Project Engineer, Steve Bushey, will be present at the appeal to field technical questions at the hearing without in any way waiving our objection to the raising of these issues at this late date.

11. Wetlands. Our response on the wetlands issue and appropriate setbacks is set forth in our written response dated October 22, 2004, written before we had seen the new Report 49-04, including the new Memorandum from Brad Roland dated October 21, 2004 ("Roland Memo"). Since this memo came into existence a scant five days before the original hearing date and was made available to us on October 22nd, it is safe to conclude that Mr. Roland was directed to prepare a memo supporting the Denial which was issued on July 1, 2004. While Mr. Roland may have provided this memo in good faith, the Planning Board should be aware of some of the history of this application not reflected in the Staff's Chronology:

Mr. Roland was the engineer personally involved in the 2002 Murray Street drainage improvements which impacted Mr. Hains' real estate involved in the current application. Mr. Hains was approached by the City of Portland and asked to contribute certain easements to allow the Murray Street drainage project to go forward. In the course of the negotiations, Mr. Hains delivered to the City a Drainage Easement Deed (see copy attached hereto). In the discussion of appropriate trade-offs at that time, the driveway now before you was discussed. In fact, it was Mr. Roland who prepared a rough sketch plan of this driveway location as currently presented. To further evidence the City's disposition toward Mr. Hains at that time, we also attach a copy of a letter dated December 20, 2001 from Gary Wood to Mr. Hains. This application certainly comes as no surprise to the City. The antagonistic attitude from the City toward this application does come as a surprise to the Applicant, given this history.

We urge you to read Mr. Roland's recent memo in connection with the written materials provided by Deluca Hoffman and DTA. We would further urge you to consider the Roland Memo in the context of what reasonable alternatives to access the Applicant's real estate might be when taking into account cost, property interest, environmental impacts and impacts upon Fall Brook.

VI. MOTIONS

Some conditions of approval may be appropriate, subject to a dialogue between the Applicant and the Planning Board. The proposed conditions need to be drafted in a way that precisely states the intentions of the parties, however.

We shall look forward to meeting with you on or about 7:30 p.m. on the 25th and answering any questions you may have at that time.

City of Portland
January 21, 2005
Page 5

Sincerely,



Ronald N. Ward

RNW/lm

cc: Gary Wood, Esq.
Penny Littel, Esq.
Sarah Hopkins
Ethan Boxer-Macomber
Robert C. Hains
Stephen Bushey

DRAINAGE EASEMENT DEED
(74-78 Murray Street, 65-71 Rosedale Street)

KNOW ALL PERSONS BY THESE PRESENTS, that **ROBERT C. HAINS**, of 250 Holm Avenue in Portland, Maine, for consideration paid, receipt whereof is hereby acknowledged, grants to the **CITY OF PORTLAND**, a body politic and corporate located in Cumberland County, State of Maine, an easement described as follows:

The right perpetually to enter at any and all times upon property situated on the southerly end of the Fallbrook Culvert under Murray Street, Portland, in said County of Cumberland and State of Maine, said property being described in, and as part of Exhibit A, attached hereto and incorporated herein by reference.

The area of the above described easement being 21,913.2 square feet, more or less.

Meaning and intending to convey rights to a portion of the property conveyed to this Grantor by deed of City of Portland recorded in the Cumberland County Registry of Deeds in Book 6399, Page 291, Book 6534, Page 261 and Book 6534, Page 270.

Said easement for the sole purpose of and conveying the right to perpetually maintain through, under and across said property rip rap and stabilizing material with all necessary fixtures and appurtenances for installing and maintaining; to perpetually maintain through, under, and across said property conduits or pipelines with all necessary fixtures and appurtenances for conveying storm water and to lay, relay, repair, maintain, clean and remove said stormwater pipe or pipes upon or under said strips, with all necessary fixtures and appurtenances, together with the right at all times to maintain the brook known as Fallbrook as shown on the attached Exhibit A, incorporated herein by reference; to trim, cut down and remove trees, bushes, and other vegetation of all kinds, to remove debris and deposits of any kind and to alter and regrade the contours of said easement to such extent as in the sole judgment of the Grantee is necessary or appropriate for any of the above purposes; and to enter upon said easement at any and all times for any of the foregoing purposes, reserving to the Grantor and his successors and assigns the use and enjoyment of said strips and for such purposes only as will in no way interfere temporarily or otherwise with the perpetual use thereof by the Grantee, his successors and assigns for the purpose above mentioned, provided that no building or any kind of

HAINS.DMK3
04.10.02

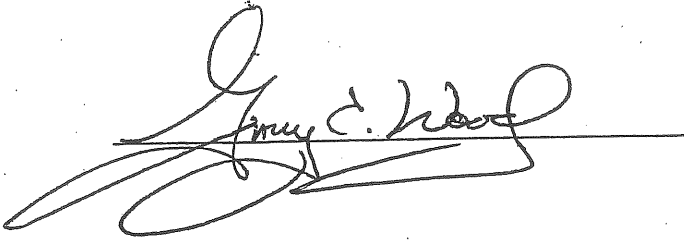
permanent structure, including, but not limited to, walls and fences, shall be erected on said strip by the Grantor, his successors or assigns; and that the Grantor, his successors and assigns shall not remove earth from said easement without the written permission of the Grantee, its successors and assigns. Grantee agrees it shall maintain the easement area in good repair, free from debris or other material which would impair the use of the Property. Grantee further agrees it shall post the easement area against public access and shall take reasonable measures to enforce and deter the public from crossing or otherwise using the easement area.


IN WITNESS WHEREOF, Robert C. Hains has hereunto set its hand and seal on this

23 day of August, 2002.

WITNESS:

GRANTOR




Robert C. Hains

STATE OF MAINE
CUMBERLAND, ss.

8 / 23, 2002

Personally appeared the above-named Robert C. Hains, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

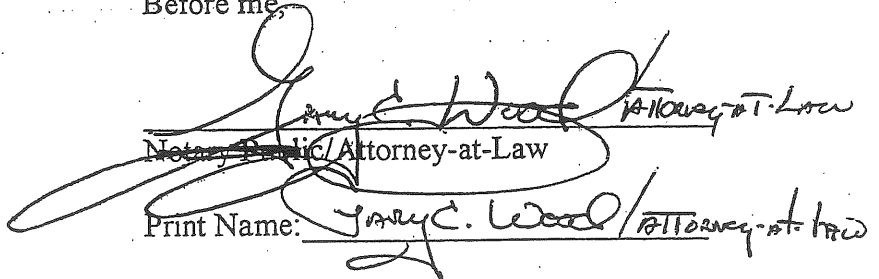

Notary Public/Attorney-at-Law
Print Name: Jane C. Wood / Attorney-at-Law

Exhibit A to Drainage Easement Deed (74-78 Murray Street,
65-71 Rosedale Street)

~~Proposed~~ Easement
Between Murray Street
& Rosedale St.

Doc #:

68368

Bk: 17991 Ps: 166

A certain lot or parcel of land lying between Murray Street and Rosedale Street in the City of Portland, County of Cumberland, State of Maine and being bounded and described as follows:

Beginning at a point on the southerly sideline of Murray Street that lies on a course of N54° 17' 56"W a distance of 884.4 feet from the intersection of the said southerly sideline of Murray Street and the westerly sideline of Ocean Avenue in said City; said point also being the northwest corner of Lot 367 as shown on the plan of Forest Hills Extension recorded in Cumberland County Registry of Deeds in Plan Book 15, Page 41 September 19, 1923;

Thence by the westerly sideline of said Lot 367 on a course of S35° 42' 03"W a distance of 126.21 feet to the northerly sideline of the Fall Brook Branch Sewer Easement Section 2;

Thence by said Fall Branch Sewer on a course of S11° 34' 13"E a distance of 122.52 feet to the westerly sideline of lot number 305 as shown on above said recorded plan;

Thence by said lot 305 on a course of S35° 42' 03"W a distance of 19.89 feet to the northerly sideline of Rosedale Street in said City;

Thence by said Rosedale Street on a course of N54° 05' 14"W a distance of 118.95 feet to a point;

Thence through land of the Grantor herein on a course of N11° 34' 13"W a distance of 100.00 feet to a point;

Thence continuing through land of said Grantor herein on a course of N85° 39' 21"E a distance of 51.17 feet to the westerly sideline of the said Fall Brook Branch Sewer Easement;

Thence by said Fall Brook Branch Sewer Easement on a course of N25° 41' 47"E a distance of 130.00 feet to the above said southerly side of Murray Street;

Thence by said Murray Street on a course of S54° 17' 56" E a distance of 85.82 feet to the point of beginning;

Also another certain lot or parcel of land in above said City of Portland being bounded and described as follows:

Beginning at a point on the southerly sideline of Rosedale Street in said City where said sideline is intersected by the westerly sideline of Lot 17 as shown on the above said plan recorded in Book 15, Page 41;

Thence by said sideline of Rosedale Street on a course of N54° 05' 14" W a distance of 30.00 feet to a point and the northwesterly corner of Lot 18 as shown on above said recorded plan;

Thence by said Lot 18 on a course of S35° 42' 04" W a distance of 107.83 feet to a point;

Thence through land of the Grantor herein on a course of S11° 34' 13" E a distance of 23.24 feet to a point;

Thence continuing through land of said Grantor herein on a course of S81° 11' 47" W a distance of 80.27 feet to the northerly sideline of Dudley Street in said City;

Thence by said sideline on a course of S54° 05' 14" E a distance of 83.98 feet to the easterly sideline of the Fall Brook Branch Sewer Easement;

Thence by said easement on a course of N18° 11' 47" E a distance of 104.98 feet to the southerly sideline of Lot 15 as shown on above said recorded plan;

Thence by said Lot 15 on a course of N54° 05' 14" W a distance of 3.63 feet to the easterly sideline of Lot 16 as shown on the above said recorded plan;

Thence by said Lot 16 on a course of N35° 42' 04" E a distance of 11.48 feet to the easterly sideline of the above said Fall Brook Branch Sewer Easement;

Thence by said easement on a course of N18° 11' 47" E a distance of 30.20 feet to a point;

Thence continuing by said easement on a course of N11° 34' 13" W a distance of 69.31 feet to the easterly sideline of Lot 18 as shown on the above said recorded plan;

Thence by said Lot 18 on a course of N35° 42' 04" E a distance of 12.91 feet to the southerly sideline of Rosedale Street and the point of beginning;

The above described courses refer to Grid North NAD 83.

Received
Recorded Register of Deeds
Aug 26 2002 09:56A
Cumberland County
Jack O'Brien

Corporation Counsel
Gary C. Wood



CITY OF PORTLAND

Associate Counsel
Charles A. Lane
Elizabeth L. Boynton
Donna M. Katsiaficas
Penny Littell

December 20, 2001

Mr. Robert Hains
250 Holm Avenue
Portland ME 04102

Re: Proposed Purchase or Condemnation by the City
Of Your Property Required for the Fallbrook Interceptor Project

Dear Bob:

I have enclosed a copy of material that I received from Jim Robbins in response to my request that he research the history of Rosedale Street. Jim's research shows that Rosedale Street was accepted to an established point on 12/31/1934 (about 900 feet from Ocean Avenue) and that the City's legal right to accept the remainder of Rosedale Street as originally laid out was continued by the City in 1997, as required by state law. The continuation of the City's right to accept Rosedale Street was for a portion of the unbuilt paper street that runs for approximately 500 feet from another paper street (Lee Street) toward the already accepted portion of Rosedale Street. By continuing our right to accept some but not all of Rosedale Street, the City vacated a portion of the street that would have passed over Fall Brook.

I do not know why the City did not vacate the remaining portion of Rosedale Street in 1997. By copy of this letter to the Department of Public Works and the City committee that put together the list of streets that the Council acted upon in 1997, I will find out. The City probably wants to preserve a right of access for itself to Fall Brook and the area around it within which the storm water project will be built. If such is the case, then I would expect the City to move forward and accept the unaccepted portion of Rosedale Street as a public easement and not as a City street. By accepting it as a public easement, the City would be retaining a right in the public and the city to use it, but the City would be under no obligation to build or maintain it to the same standard established for city streets.

For the reasons stated above, my legal conclusion about the status of the non-accepted portion of Rosedale Street is that it has not been abandoned because an unaccepted paper street has never in fact been a City street that is subject to the abandonment statute. The City,

C10

Mr. Robert Hains
Page 2
December 20, 2001

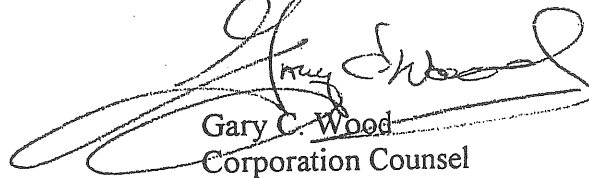
therefore, continues to have a right to establish a public easement over the unaccepted portion of Rosedale Street and it follows from that conclusion that your parcels 3 and 2 are not in fact contiguous or abutting at this time.

I do not see noncontiguity as a problem. If you wish to access parcel 2 from Murray Street, you can obtain an agreement from the City that allows you to construct your accessway across the unaccepted portion of Rosedale Street. That agreement would be turned into an easement after the City accepts that portion of Rosedale Street as a public easement. I see no reason why the City would not give you such an agreement and easement if you decide to build a driveway from Murray Street over to parcel 2.

Assuming that I am correct and the City is willing to give you such agreement and easement, I do not see why we should condemn parcel 2 at a cost of \$26,000 since only a tiny portion of that parcel, if any, is required for the Fall Brook interceptor project. I will be discussing this issue with my staff and the appraiser, and I will get back to you about it.

Please feel free to give me a call if you have any questions.

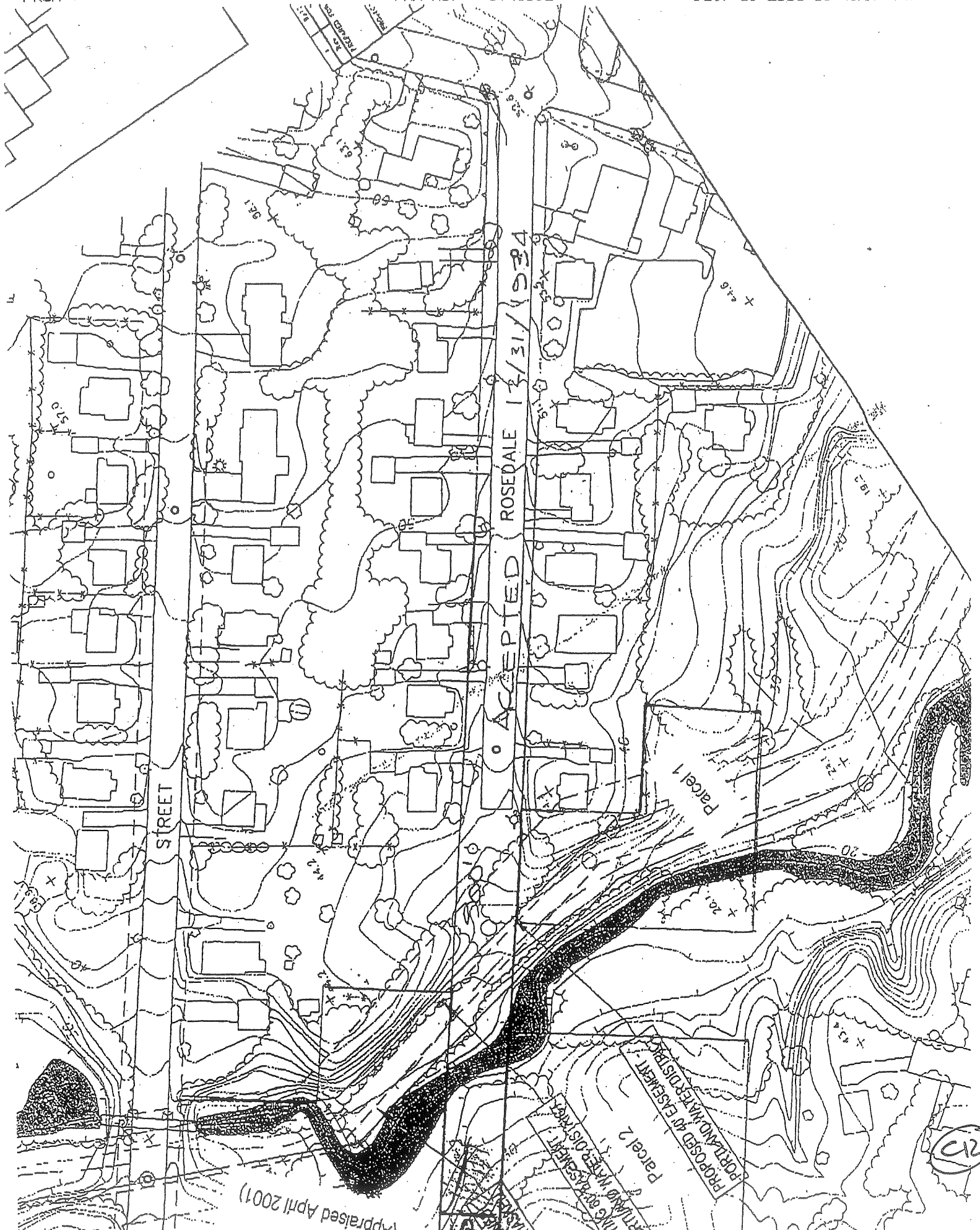
Sincerely,



Gary C. Wood
Corporation Counsel

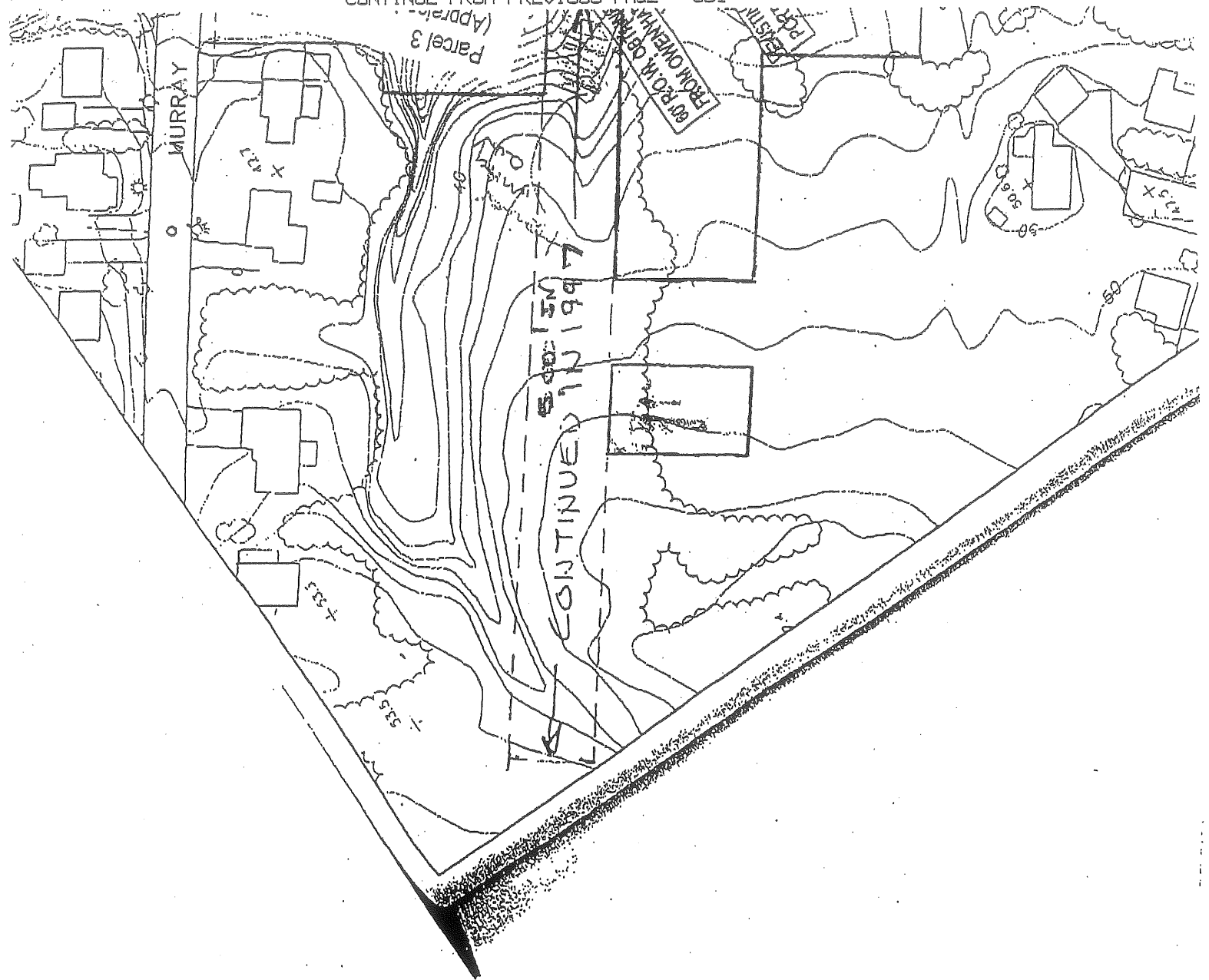
GCW:njp

c: William Bray
Donna Katsiaficas
Jim Robbins
Paper Streets Committee



(Appraised April 2001)

20



From: "McKenney" <mcmck@maine.rr.com>
To: <ebm@portlandmaine.gov>
Date: 1/25/05 5:59:52 PM
Subject: RE: 72-82 Murray Street/Comments

Dear Mr. Macomber,

I will not be able to attend the Planning Board meeting this evening and would like to comment on the proposed driveway that Mr Hains wants to put on Murray Street. We live at 86 Murray Street, the property that directly abuts this area. We do not support this proposal for these reasons:

1. Mr Hains has not submitted any definite plan for the development of any building or buildings on the property he owns in the vicinity of the driveway. Does it make sense to approve a driveway as a stand-alone project?
2. There is a "stream", which has been classified as intermittent next to the area he wants to put the driveway. It can be as wide as 15-20 ft when it is raining and makes that whole area marshy and soft. We see deer, fox and migrating, as well as native, birds quite often in the "gulley". Portland has green areas, to be sure, but not many are located within a city neighborhood. It would be a shame to disturb that natural balance.
3. At the end of nearby Rosedale Street, there is a more sensible place to create an egress into Mr Hains' property. There is one other paper street into the area and he could use that also.

In short, the driveway that Mr Hains is planning, really does not lead anywhere at the moment. It is quite wide and if he builds multiple unit buildings on the property (which he told me once he was planning to do), then the driveway is really more like a street, but not up to Portland's street standards. More information and more concrete planning seems to be needed before the proposal can really be evaluated.

I am attaching some notes that a neighbor, an engineer, made for us to bring up at the last meeting, the one that Mr Hains asked that his plan be tabled. I hope they go through. Thank you for your time and consideration. Would you please let me know the outcome of tonight's meeting?

Sincerely,

Cathy McKenney
John McKenney

DI

From: "pedinurse1@netzero.net" <pedinurse1@netzero.net>
To: <ebm@portlandmaine.gov>
Date: 1/25/05 7:19:47 PM
Subject: Murrat Street

Dear Mr. Macomber,

This is in regards to the street that Mr. Haines wants to make off Murray St. I have attended two of the planning board meetings but due to illness I am unable to attend the 1/25 meeting.

I do not approve of a street at this location. It is right at the crest of a hill and the city has just spent alot of money renovating the area.

I do not object the idea of developing this area but I feel the access should be elsewhere. I believe there is a paper street further up Murray or at the end of Rosedale.

I would like to know the outcome of the meeting if it is possible.

Thank You,
Carol MacVane
95 Murray St.

D2

From: "Tom Errico" <terrico@wilbursmith.com>
To: "Ethan Boxer-Macomber" <EBM@portlandmaine.gov>
Date: 2/18/05 1:15:08 PM
Subject: Hains Appeal 72-82 Murray Street

Ethan-

The applicant is proposing a 24-foot wide driveway/street for an unspecified level of residential development. I would note that a 24-foot wide driveway/street is acceptable under City standards, however, the level of development could trigger the need for a wider street. The City prefers to have streets that are 28-feet wide to allow for parking on one side. The final driveway/street design can not be determined until specific development plans and the associated traffic levels are known. In conclusion, if a 24-foot driveway/street is constructed, the applicant may need to upgrade the driveway/street in the future when development plans are finalized.

If you have any questions, please call me.

Best Regards,

Thomas A. Errico, P.E.

Senior Transportation Engineer

Wilbur Smith Associates

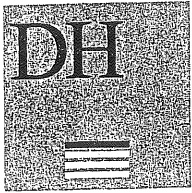
59 Middle Street

Portland, Maine 04043

(207) 871-1785 Phone

(207) 871-5825 Fax





DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

778 MAIN STREET
SUITE 8
SOUTH PORTLAND, MAINE 04106
TEL. 207 775 1121
FAX 207 879 0896

▣ SITE PLANNING AND DESIGN
▣ ROADWAY DESIGN
▣ ENVIRONMENTAL ENGINEERING
▣ PERMITTING
▣ AIRPORT ENGINEERING
▣ CONSTRUCTION ADMINISTRATION
▣ TRAFFIC STUDIES AND MANAGEMENT

February 9, 2005

Mr. Ethan Boxer-Macomber, Planner
City of Portland Planning Authority
Planning Department
4th Floor, City Hall
Portland, Maine 04101

**Subject: Robert Hains, Residential Access Drive
Murray Street**

Dear Ethan:

On behalf of Robert Hains, DeLuca-Hoffman Associates, Inc. has prepared the accompanying revised plans to address comments discussed with Jim Seymour of Sebago Technics. These latest plans continue to reflect modifications that address the technical deficiencies presented in the Planning Board Report #49-04. Specifically, the plan continues to show the following modifications:

1. The proposed driveway width has been widened to 24' in accordance with Section III 2. (A)(b) of the Technical Standards.
2. The driveway alignment has been shifted to provide 20' separation to the adjacent driveway in accordance with Section III 2. (b) of the Technical Standards.
3. The proposed driveway radii have been increased to 20' in accordance with Section III 2. (b) of the Technical Standards.

In response to Mr. Seymour's comments, we have also revised the plan as follows:

1. The additional grading activity designed as compensatory flood storage volume in our earlier January 18, 2005 submission has been revised. We now propose a single area will be excavated between the driveway and the brook to offset fill placement in the floodplain. This area is closest to Murray Street and does not impact any wetland area. We have eliminated the second excavation area further into the site as it is Mr. Seymour's opinion that this excavation activity provides only a small amount of benefit at the expense of disturbance in wetland and near the channel. We have previously provided evidence that the proposed driveway construction results in an insignificant impact to flood levels along Fall Brook. This remains true even with the slight reduction in compensatory flood storage. From Murray Street down to Back Cove, the channel is generally at its steepest gradient and is confined to a narrow floodplain width; hence, no impacts to adjacent areas will result from the driveway placement.

(FI)

Mr. Ethan Boxer-Macomber, Planner
February 9, 2005
Page 2

2. The Applicant has contacted the Portland Water District regarding the need for a water meter pit and has been advised that a meter pit is not required at this time.

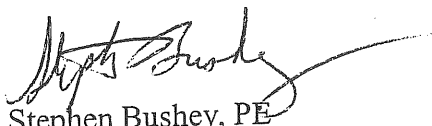
Mr. Seymour also requested additional data on the following items:

1. Culvert Computations – Drainage computations supporting the culvert sizing at the swale crossing accompany this letter.
2. Erosion Control – A copy of the erosion control narrative accompanies this letter.
3. Retaining Walls – The proposed retaining walls will be modular block style. The applicant's contractor will be responsible to provide the design for the wall. Acceptable vendors include Anchor Wall, Redi-Rock and Keystone.
4. Electric/Telephone – At this time these services are undetermined since only the driveway construction is proposed. The service locations will need to be reviewed once a development proposal for Mr. Hains' land is brought to the Planning Authority for review and approval.

On behalf of Mr. Hains, DeLuca-Hoffman Associates, Inc. requests your consideration of the accompanying revised plans and supporting information in advance of the Planning Board's review of this project at the February 22nd Planning Board hearing. We will be prepared to further discuss the design revisions and analysis completed at that time.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.


Stephen Bushey, PE
Senior Engineer

SRB/sq/JN2297/Macomber-2-9-05

Attachments

c: Robert Hains
Ron Ward

F2

Attachment A

Exhibit 8

Temporary and Permanent Erosion and Sedimentation Control

8.0 Overview

See attached plan set sheet C-1, Site Plan, and sheet C-2, Site Details, for the location of temporary and permanent erosion and sediment control measures.

8.1 Erosion/Sediment Control Devices

The following erosion and sediment control devices will be implemented by the Contractor as part of the site development. These devices shall be installed as indicated on the plans or as described within this report. For further reference, see the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

1. Siltation fence shall be installed downslope of any disturbed area(s) to trap runoff-borne sediments until the site is revegetated. The silt fence shall be installed per the detail provided in the plan set and inspected immediately after each rainfall and at least daily during prolonged rainfall. Repairs shall be made immediately by the Contractor if there are any signs of erosion or sedimentation below the fence line. Proper placement of stakes and keying the bottom of the fabric into the ground is critical to the effectiveness of the fence. If there are signs of undercutting at the center or the edges, or impounding of large volumes of water behind the fence, the barrier shall be replaced with a stone check dam.
2. Straw or hay mulch including hydroseeding is intended to provide cover for denuded or seeded areas until revegetation is established. Mulch placed on slopes of less than 10 percent shall be anchored by applying water; mulch placed on slopes steeper than 10 percent shall be covered with a fabric netting and anchored with staples in accordance with the manufacturer's recommendations. Mulch application rates are provided in Attachment A of this section. Hay mulch shall be available on site at all times in order to provide immediate temporary stabilization when necessary. Where necessary, a temporary stone channel pipe sluice shall be used to convey runoff down the slope.
3. Stone check dams and hay bale barriers are intended to reduce runoff velocities and protect denuded soil surfaces from concentrated flows. Installation details and stone sizes are provided in the construction plan set on the detail sheets.
4. A construction entrance will be constructed at access points from Murray Street onto the site to prevent tracking of soil onto adjacent local roads.
5. Stone sediment traps or a premanufactured SiltSack™ will be installed at catch basin inlets along Murray Street to prevent silt from entering the combined sewer system. Installation details are provided in the plan set on the erosion control detail sheets.
6. Loam and seed is intended to serve as the primary permanent revegetative measure for all denuded areas not provided with other erosion control measures, such as paving, gravel or riprap. Application rates are provided in Attachment A of this section for temporary and permanent seeding in non-wetland areas.
7. Riprap stabilization shall be used at the proposed culvert inlets and outlets. Riprap shall be sized in accordance with the drawings and placed over a prepared subgrade and geotextile fabric layer. Riprap shall be tightly placed by machine and/or hand methods.

Angular stone shall be used to create a uniform rock layer in appearance and matched into the adjacent in place ground grade.

8. Ditch turnouts shall be installed to collect and convey drainage from the access driveway ditch line to a stable earthen level spreader out to a vegetated buffer.

8.2 Temporary Erosion/Sedimentation Control Measures

The following are planned as temporary erosion/sedimentation control measures during construction:

1. A crushed stone-stabilized construction entrance shall be placed at the site access onto Murray Street.
2. Siltation fence shall be installed along the downgradient side of the proposed improvement areas and at the toe of slope of any fill embankments. The siltation fence will remain in place and properly maintained until the site is acceptably revegetated.
3. Temporary stockpiles of stumps, grubblings, or common excavation will be protected as follows:
 - a. Temporary stockpiles shall not be located within 100 feet of the Fall Brook channel or the adjacent wetlands and at least 50 feet upgradient of the perimeter silt fence.
 - b. Inactive stockpiles shall be stabilized within 5 days by either temporarily seeding the stockpile with a hydroseed method containing an emulsified mulch tackifier or by covering the stockpile with mulch. If necessary, mesh shall be installed to prevent wind from removing the mulch.
4. All denuded areas, which have been rough graded, shall receive mulch or erosion control mesh fabric within 7 days of initial disturbance of soil.
5. All soils disturbed between October 1 and April 1 will be covered with mulch within 5 days of disturbance, prior to any predicted storm event of the equivalent of ½" of equivalent rainfall in a 24-hour period, or prior to any work shutdown lasting more than 35 hours (including weekends and holidays). The mulch rate shall be double the normal rate.
6. The access drive and all abutting streets shall be swept to control mud and dust as necessary and/or as directed by the City's Development Review Coordinator or the Public Works Engineering Division. Additionally, in the event mud and/or dust migrates off of the site onto abutting streets, the affected area shall be swept. A street sweeper shall be available on immediate notice.
7. During grubbing operations, stone check dams or hay bale barriers will be installed at any evident concentrated flow discharge points.
8. Silt fencing with a maximum stake spacing of 6 feet should be used, unless the fence is supported by wire fence reinforcement of minimum 14 gauge and with a maximum mesh spacing of 6 inches, in which case stakes may be spaced a maximum of 10 feet apart. The bottom of the fence should be properly anchored a minimum of 6" per the plan detail and backfilled. Any silt fence identified by the owner or reviewing agencies as not being properly installed during construction shall be immediately repaired in accordance with the installation details.
9. Storm drain catch basin inlet protection on Murray Street shall be provided through the use of stone sediment barriers or a premanufactured SiltSack™ as distributed by A. H.

Harris Company, Portland, Maine. Stone sediment barrier installation details are provided in the plan set. The barriers shall be inspected after each rainfall and repairs made as necessary. Sediment shall be removed and the barrier restored to its original dimensions when the sediment has accumulated to ½ the design depth of the barrier. Sediment shall be removed from SiltSacks™ as necessary. Inlet protection shall be removed when the tributary drainage area has been stabilized.

10. All new or disturbed slopes shall receive erosion control mesh.

8.3 Permanent Erosion/Sediment Control Measures

The following permanent erosion control measures have been designed as part of the Erosion/Sediment Control Plan:

1. All storm drain pipes shall have riprap aprons at their inlet and outlet to protect the receiving channel of the culverts from scour and deterioration. Installation details are provided in the plan set. The aprons shall be installed and stabilized prior to directing runoff to the tributary pipe or culvert.
2. All areas disturbed during construction, but not subject to other restoration (paving, riprap, etc.) will be loamed, limed, fertilized, mulched and seeded. Fabric netting, anchored with staples, shall be placed over all exposed areas. Native topsoil shall be stockpiled and temporarily stabilized with seed and mulch and reused for final restoration when it is of sufficient quality and quantity.
3. Ditch turnouts shall be installed below the ditches to intercept and convey runoff over a stabilized level surface onto a vegetated buffer.

8.4 Timing and Sequence of Erosion/Sedimentation Control Measures

The following construction sequence shall be required to ensure the effectiveness of the erosion and sedimentation control measures is optimized.

Note: For all grading-related activities, the Contractor shall exercise extreme caution not to overexpose the site by limiting the disturbed area.

1. Install crushed stone-stabilized construction entrance as shown on the Site Plan at the access drive.
2. Install siltation fence.
3. Construct riprap aprons, drainage channels, and culvert crossings to collect and convey flow.
4. Install stone and hay bale check dams at any concentrated flow discharge points.
5. Clear and grub access drive subgrade area.
6. Install utilities and commence subgrade filling.
7. Bring site to subgrade including extension of embankments and temporary slope stabilization.
8. Install pavement as detailed on the site plans.
9. Loam, lime, fertilize, seed, and mulch all disturbed and denuded areas.

10. Remove accumulated sediment from silt barriers.
11. Review stability of the site. If a 75% catch of grass is achieved, remove temporary erosion control devices.

Soil will be considered disturbed if it does not have an established stand of vegetation covering at least 75% of the soil surface or has not been mulched with hay applied at a rate of 230 lbs./1,000 sq. ft.

SEEDING PLAN LAWN AND OTHER AREAS

Project Robert Hains Access Driveway

Site Location Murray Street, Portland, Maine

X Permanent Seeding _____ Temporary Seeding

1. Area to be seeded: 0.5 acres, OR _____ M Sq. Ft.
2. Instructions on preparation of soil: Prepare a good seed bed for planting method used.
3. Apply lime as follows: _____ #/acres, OR 138#/M Sq. Ft.
4. Fertilize with _____ pounds of - - N-P-K/ac. OR
18.4 pounds of 10 - 20 - 20 N-P-K/M Sq. Ft.
5. Method of applying lime and fertilizer: Spread and work into the soil before seeding.
6. Seed with the following mixture:
 - 45% Kentucky Bluegrass
 - 45% Creeping Red Fescue
 - 10% Perennial Ryegrass

When using small grain as nurse crop seed it at one-half the normal seeding rate.

7. Mulching instructions: Apply at the rate of _____ tons per acre. OR
230 pounds per M. Sq. Ft.

	<u>Amount</u>	<u>Unit #, Tons, Etc.</u>
8. TOTAL LIME.....	<u>138</u>	<u>#/1000 sq. ft.</u>
9. TOTAL FERTILIZER.....	<u>13.8</u>	<u>#/1000 sq. ft.</u>
10. TOTAL SEED.....	<u>6 to 8</u>	<u>#/1000 sq. ft.</u>
11. TOTAL MULCH.....	<u>230</u>	<u>#/1000 sq. ft.</u>
12. TOTAL other materials, seeds, etc.....	<u>Compost is likely required</u>	

13. REMARKS

- For areas with slopes >10%, waterways, areas within 100 feet of the drainageways, and fall and winter erosion control areas, erosion control blanket shall be used per manufacturer's specifications.
- Fertilizer requirements shall be subject to actual test results of the topsoil used for the project. The Contractor shall be responsible for providing topsoil test results for pH and recommended fertilizer application rates to the owner
- All loam shall have compost or peat admixtures to raise the organic content to 8%.
- Spring seeding is recommended, however, late summer (prior to September 15th) seeding can be made. Permanent seeding should be made prior to August 5th or as a dormant seeding after the first killing frost and before the first snowfall.

SEEDING PLAN WETLAND AREAS

Project Robert Hains Access Driveway

Site Location Murray Street, Portland, Maine

X Permanent Seeding _____ Temporary Seeding

1. Area to be seeded: 0.10- acres, OR _____ M Sq. Ft.
2. Instructions on preparation of soil: Prepare a good seed bed for planting method used.
3. Apply lime as follows: _____ #/acres, OR 138#/M Sq. Ft.
4. Fertilize with _____ pounds of _____ - _____ - _____ N-P-K/ac. OR 18.4 pounds of 10 - 20 - 20 N-P-K/M Sq. Ft.
5. Method of applying lime and fertilizer: Spread and work into the soil before seeding.
6. Seed with the following mixture:
 - 15% Annual Rye
 - 15% Red Top
 - 15% Wool Grass
 - 15% Blue Joint Grass
 - 40% Reed Canary Grass

When using small grain as nurse crop seed it at one-half the normal seeding rate.

7. Mulching instructions: Apply at the rate of _____ tons per acre. OR 180 pounds per M. Sq. Ft.

		<u>Amount</u>		<u>Unit # Tons, Etc.</u>
8.	TOTAL LIME.....	138		#/1000 sq. ft.
9.	TOTAL FERTILIZER.....	18.4		#/1000 sq. ft.
10.	TOTAL SEED.....	.6		#/1000 sq. ft.
11.	TOTAL MULCH.....	180		#/1000 sq. ft.
12.	TOTAL other materials, seeds, etc.....			
13.	REMARKS			

The above seed mix is required in all temporarily disturbed wetland areas.

Fertilizer requirements shall be subject to actual test results of the topsoil used for the project. The Contractor shall be responsible for providing topsoil test results for pH and recommended fertilizer application rates to the owner.

TEMPORARY SEEDING PLAN

Project Robert Hains Access Driveway

Site Location Murray Street, Portland, Maine

 Permanent Seeding X Temporary Seeding

1. Area to be seeded: varies acres, OR M Sq. Ft.
2. Instructions on preparation of soil: Prepare a good seed bed for planting method used.
3. Apply lime as follows: #/acres, OR 138# /M Sq. Ft.
4. Fertilize with pounds of - - N-P-K/ac. OR 18.4 pounds of 10 - 20 - 20 N-P-K/M Sq. Ft.
5. Method of applying lime and fertilizer: Spread and work into the soil before seeding.
6. Seed with the following mixture:
 - 50% Perennial Ryegrass
 - 50% Winter Rye

When using small grain as nurse crop seed it at one-half the normal seeding rate.

8. Mulching instructions: Apply at the rate of tons per acre. OR 180 pounds per M. Sq. Ft.

	<u>Amount</u>	<u>Unit #</u>	<u>Tons, Etc.</u>
14.	TOTAL LIME.....	138	#/1000 sq. ft.
15.	TOTAL FERTILIZER.....	18.4	#/1000 sq. ft.
16.	TOTAL SEED.....	6	#/1000 sq. ft.
17.	TOTAL MULCH.....	180	#/1000 sq. ft.
18.	TOTAL other materials, seeds, etc.....		

19. REMARKS

The above seed mix is required in all temporarily disturbed wetland areas.

Fertilizer requirements shall be subject to actual test results of the topsoil used for the project. The Contractor shall be responsible for providing topsoil test results for pH and recommended fertilizer application rates to the owner.

(F10)

DeLUCA-HOFFMAN ASSOCIATES, INC.

Consulting Engineers
778 Main Street Suite 8
SOUTH PORTLAND, MAINE 04106
(207) 775-1121
FAX (207) 879-0896

JOB 2297 Harris - Murray Street

SHEET NO. 1 OF 3

CALCULATED BY SB DATE

CHECKED BY DATE

SCALE

Task: compute culvert sizing for Harris Driveway crossing
Reference: Civil Tools Software - Culvert Sizing
HydroCAD drainage software
USGS Topo map

Computations:

Civil Tools input

Pipe Diameter - 24"
Pipe length - 60'
Friction Coefficient - 0.013
Ent & Exit Coefficient - 0.5

Inlet Elev. out 21.8'
Inlet Elev. in 24.0'
Tailwater Elev. 1.0'

Civil Tools Results

Headwater elev (ft)	Flow rate (cfs)
26.0	12.61
27.0	17.83
28.0	21.83
29.0	25.21

HydroCAD Comp (see Attached)

$Q_{10} = 17.13 \text{ cfs}$ based on 12.25% discharge area

$Q_{25} = 21.38 \text{ cfs}$

For comparison, Selagey Technics computation for floods at Lanes Project yield
 $Q_{10} = 20.07 \text{ cfs}$ and $Q_{25} = 25.34 \text{ cfs}$ at PFA at low street

Conclusion

A 24" culvert will operate satisfactorily with modest headwater from 10 year and 25 year storm events.

F11

Bushey

Prepared by {enter your company name here}
 HydroCAD® 7.00 s/n 000734 © 1986-2003 Applied Microcomputer Systems

10 yr.
 Type III 24-hr Rainfall=4.70"
 Page #2 of 3
 2/9/2005

Subcatchment 8S: First Culvert Subcatchment

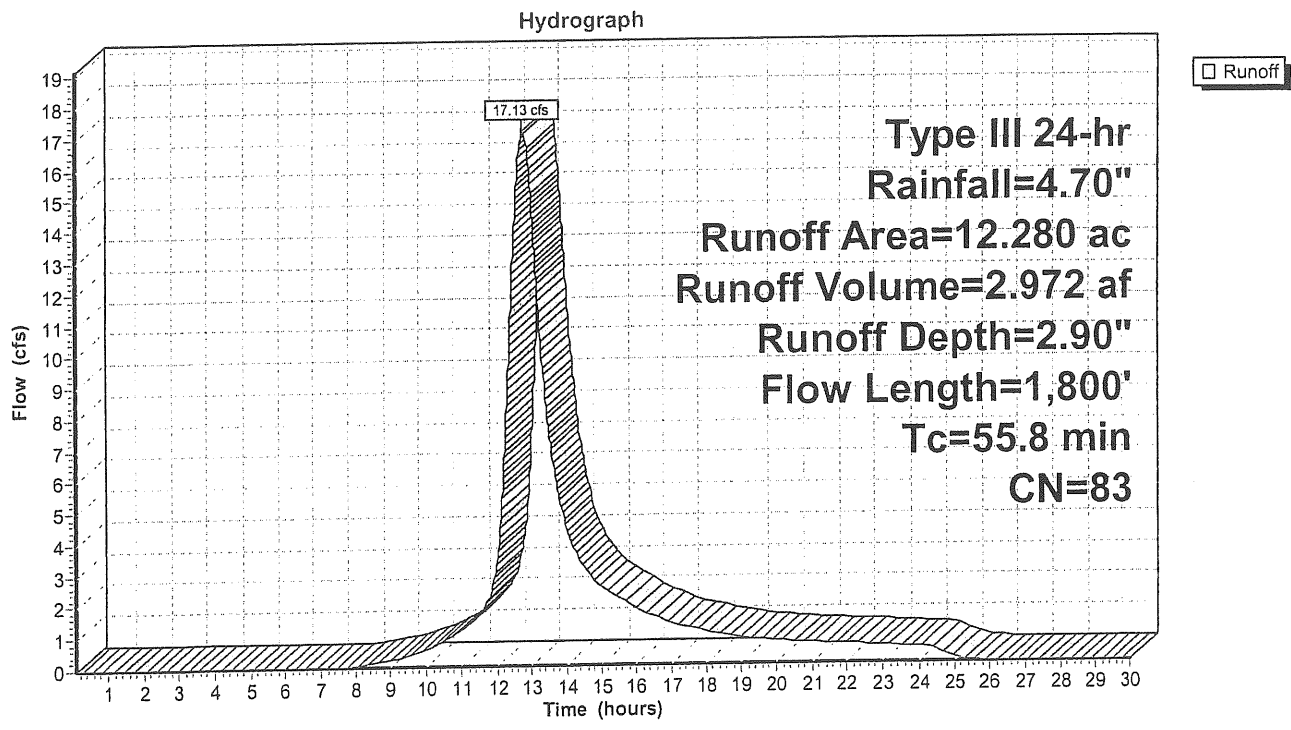
Runoff = 17.13 cfs @ 12.71 hrs, Volume= 2.972 af, Depth= 2.90"

Runoff by SCS TR-20 method, UH=SCS, Time Span= 0.10-30.00 hrs, dt= 0.01 hrs
 Type III 24-hr Rainfall=4.70"

Area (ac)	CN	Description
12.280	83	Brush, Fair, HSG C/D

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
7.7	100	0.2800	0.2		Sheet Flow, Woods, Dense Brush n= 0.400 P2= 3.00"
34.8	1,100	0.0445	0.5		Shallow Concentrated Flow, Forest w/Heavy Litter Forest w/Heavy Litter Kv= 2.5 fps
13.3	600	0.0483	0.8	11.27	Channel Flow, Channel Flow Behind House Lots Area= 15.0 sf Perim= 17.0' r= 0.88' n= 0.400
55.8	1,800	Total			

Subcatchment 8S: First Culvert Subcatchment



F12

Bushey

Prepared by {enter your company name here}
 HydroCAD® 7.00 s/n 000734 © 1986-2003 Applied Microcomputer Systems

25 yr.
 Type III 24-hr Rainfall=5.50"

Page 13/13
 2/9/2005

Subcatchment 8S: First Culvert Subcatchment

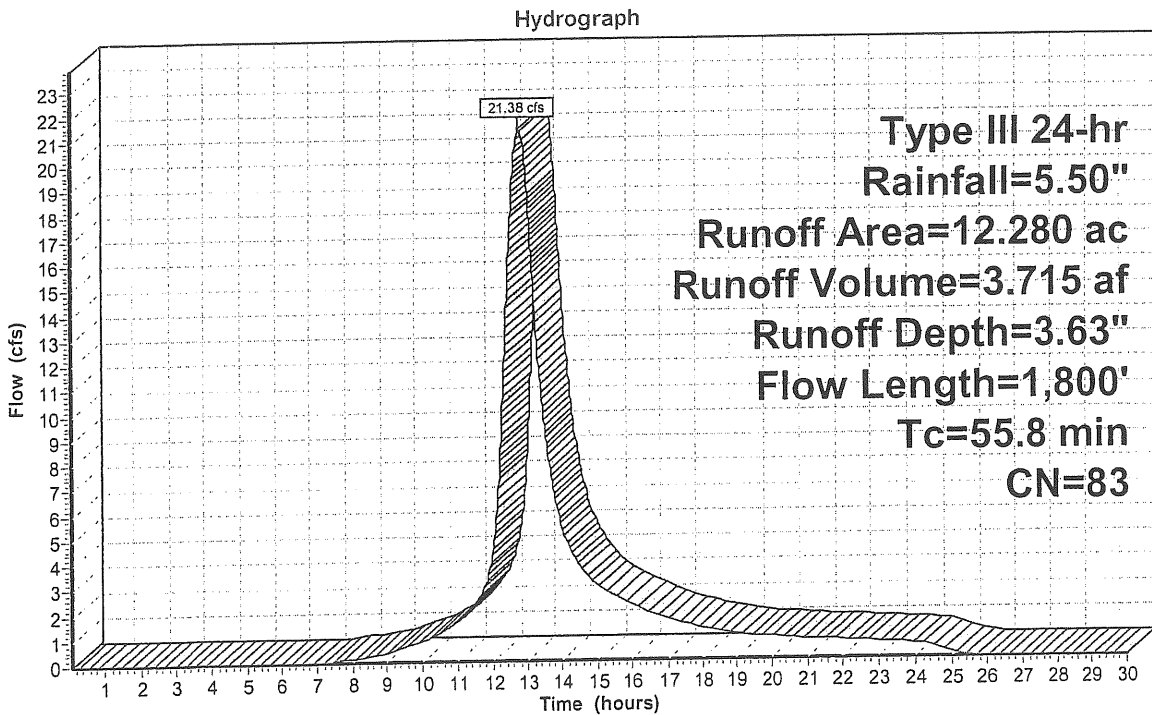
Runoff = 21.38 cfs @ 12.71 hrs, Volume= 3.715 af, Depth= 3.63"

Runoff by SCS TR-20 method, UH=SCS, Time Span= 0.10-30.00 hrs, dt= 0.01 hrs
 Type III 24-hr Rainfall=5.50"

Area (ac)	CN	Description
12.280	83	Brush, Fair, HSG C/D

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
7.7	100	0.2800	0.2		Sheet Flow, Woods, Dense Brush n= 0.400 P2= 3.00"
34.8	1,100	0.0445	0.5		Shallow Concentrated Flow, Forest w/Heavy Litter Forest w/Heavy Litter Kv= 2.5 fps
13.3	600	0.0483	0.8	11.27	Channel Flow, Channel Flow Behind House Lots Area= 15.0 sf Perim= 17.0' r= 0.88' n= 0.400
55.8	1,800	Total			

Subcatchment 8S: First Culvert Subcatchment



F13



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAWN R. GALLAGHER
COMMISSIONER

SOUTHERN MAINE REGIONAL OFFICE

FAX TRANSMITTAL INSTRUCTIONS

DATE: 11.25.03

DELIVER TO: Sarah Hopkins

COMPANY NAME: City of Portland

FAX NUMBER: 756.8258

SENT BY: Dawn Hallowell
Of Maine Department of Environmental Protection

NUMBER OF PAGES (Including Cover): 7

Latest from Haines.

*Please let me know what
you think.
-Dawn*

Happy Thanksgiving.

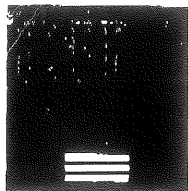
Serving Maine People & Protecting Their Environment

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*
PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6308

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-1507



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

778 ALAIN SURPET
SUITE 8
SOUTH PORTLAND, MAINE 04106
TEL 207 775 1121
FAX 207 879 0996

- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- TRAFFIC STUDIES AND MANAGEMENT
- PERMITTING
- AIRPORT ENGINEERING
- SITE PLANNING
- CONSTRUCTION ADMINISTRATION

November 24, 2003

Ms. Dawn Hallowell
Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

**RE: DEP #L-21489-L4-A-N
Robert Hains NRPA Application
Letter of Correspondence # 2**

Dear Dawn:

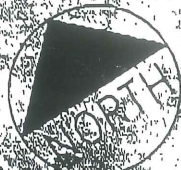
DeLuca-Hoffman Associates, Inc. has reviewed your October 30, 2003 letter and we offer the following information for your consideration as you continue to process the application.

The applicant is considering the development of a residential subdivision, as the property is located within the R-3 Residential Zoning District of the City of Portland. The R-3 zone requires a minimum lot size of 6,500 SF for a single-family residence. Lot densities may increase depending upon the applicability of the City's Private Residential Unit Development (PRUD) standards. At this time, the applicant has not formally proposed a development program to the City of Portland; however, it is his intent to do so upon receipt of the DEP NRPA approval. For purposes of your review, DeLuca-Hoffman Associates, Inc. has prepared a schematic subdivision layout that represents a traditional three-lot subdivision layout on the land currently owned by the applicant. The proposed private 22' access drive off Murray Street would provide access to three lots with driveways. The schematic plan shows the limits of the proposed lot boundaries, the possible house and driveway configurations and other pertinent resource information. At this time, no additional impacts to wetlands are proposed although, at the time each lot is developed, it will be necessary to review individual lot wetland impacts. Individual lot owners have the right to pursue alternative lot development layouts that may or may not require additional natural resource permitting.

Zac 11/15
omate

The proposed access road will result in less than 15,000 SF of impervious surface. It is our understanding that impervious surfaces associated with driveways and residential lot development are exempt from the Stormwater Management Law; therefore, the project will not exceed the 1-acre impervious surface threshold. The construction of the access drive is also not expected to disturb greater than 1 acre of soil; therefore, a Maine Construction General Permit will not be required. In the event that the applicant undertakes the construction of the road and individual lot developments concurrently, resulting in greater than 1 acre of disturbed ground at any time, then a MECGP NOI will be filed with the Department prior to construction.

ACCESS WOULD REQUIRE STREET CONSTRUCTION MEETING CITY OF PORTLAND REQUIREMENTS



Ica-Hoffman Associates, Inc.
N STREET, SUITE 8
PORTLAND, ME 04108
1121
ELUCAHOFFMAN.COM

DRAWN:	DED	DATE:	10.22.03
DESIGNED:	SRB	SCALE:	1" = 100'
CHECKED:	SRB	JOB NO.	2297
FILE NAME:	HAINS PROPERTY		

HAINS PROPERTY

Figure 18-21 Vegetated rock wall details

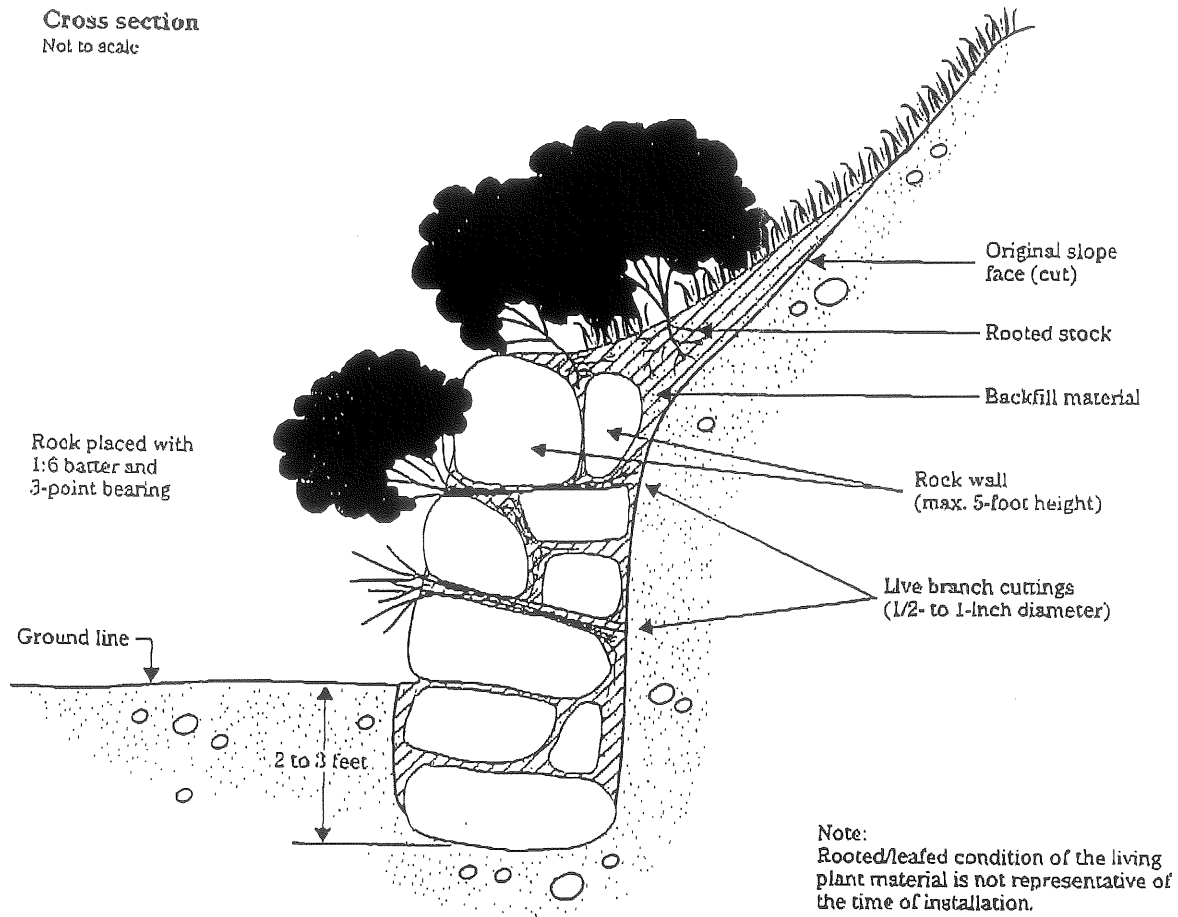
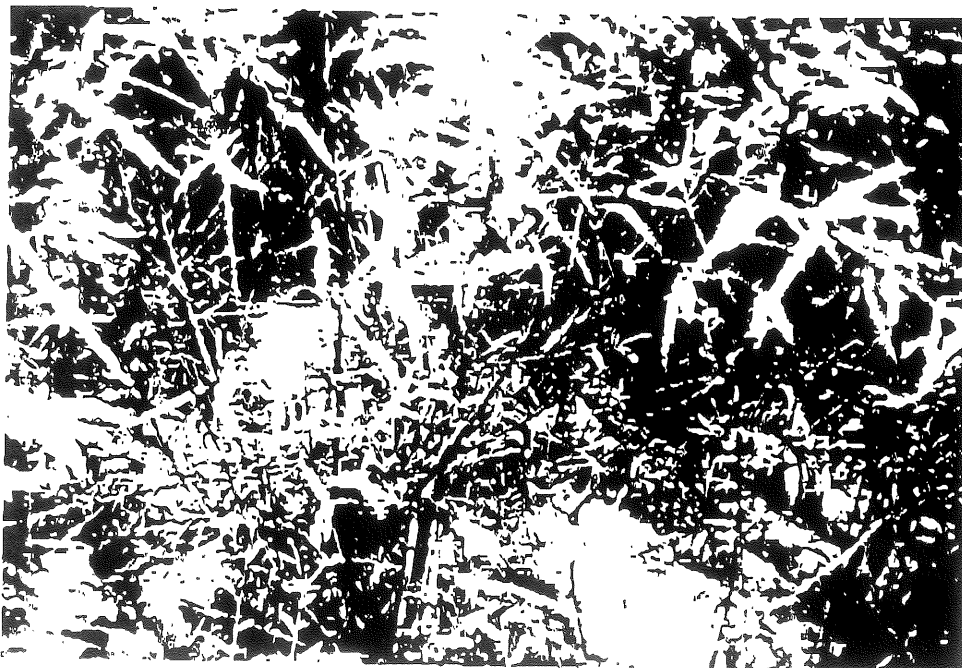


Figure 18-23 Roots improve drainage by removing soil moisture (Robbin B. Sorie & Associates photos)

Figure 18-23a Root system 7 months after installation



Figure 18-23b Joint planted area after a 2 year growth





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

FEB 19 2004

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DEPARTMENT ORDER

IN THE MATTER OF

ROBERT HAINS
Portland, Cumberland County
ACCESS ROAD ADJACENT TO FALL BROOK
L-21489-L4-A-N (approval)

) NATURAL RESOURCES PROTECTION ACT
) STREAM AND WETLAND ALTERATION
) 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 ROBERT HAINS with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a 22-foot wide road to provide access to three residential lots. The proposed road will run parallel to Fall Brook and on a steep slope. The proposed road will cross an intermittent stream and fill 2,468 square feet of forested freshwater wetland. Approximately 942 square feet of that wetland fill will be located in floodplain wetland associated with the intermittent stream. The proposed project will be 25 feet from Fall Brook at its closest point. The first 250 feet of the proposed road will be constructed on a slope steeper than 3:1. To support his application, the applicant submitted several plans prepared by DeLuca-Hoffman Associates, including a schematic subdivision plan, dated October 22, 2003, and an erosion and sedimentation control plan, dated July 2003 (Exhibit 8 of the application). The applicant also proposes to install plantings within the rip rap slope, adjacent to Fall Brook in order to provide a buffer for Fall Brook. The project site is located off Murray Street in the City of Portland.

B. Current Use of the Site: The property is presently undeveloped. It is a mixture of woods and fields. A gully, its associated intermittent stream and wetlands bisect the property. Fall Brook cuts across the northeast corner of the property. The property is bordered by Murray Street to the north and the vacated Dudley Street right-of-way to the south, with a paper street, Rosedale Street, bisecting it. The property is greater than 2 acres in size and is further defined as lots B-13 through 20, D-9 through 19 and D-26 through 31 on the City of Portland's Tax Map #160 and lots F-14 through 17 on Tax Map #162.

2. TITLE, RIGHT OR INTEREST:

The applicant proposes to construct the access road in a fashion that crosses a paper street (Rosedale Street) in the City of Portland. The City of Portland submitted documentation that it retained the property rights of incipient dedication in the area shown as Rosedale Street on the applicant's plans. The applicant submitted copies of deeds and a "Notice of Intent to Reserve Title Pursuant to 33 M.R.S.A. §469-A" indicating that he has title, right, or interest in the property, including the paper street known as Rosedale Street. While the City of Portland has the right to at some point in the future accept Rosedale Street as a City Street, it has not demonstrated that the applicant lacks adequate title, right or interest to construct a road that intersects that paper street. The Department is not determining the exact extent of the applicant's legal rights with regard to the paper street known as Rosedale Street and it would not have the legal authority to do so. The Department finds that the applicant has submitted documentation of sufficient legal interest in the property at issue, and all of the property proposed for development to warrant the processing of this application, pursuant to Chapter 2(11)(D) of the Department's Rules.

3. 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.

4. HABITAT CONSIDERATIONS:

Based on information received from the Maine Department of Inland Fisheries and Wildlife, the Department finds that there are no Essential or Significant Wildlife Habitats at the project site.

5. EROSION AND SEDIMENTATION CONTROL:

The applicant submitted an erosion and sedimentation control narrative as Exhibit 8 of the application. This narrative includes details on specific erosion/sedimentation control devices to be used, temporary and permanent erosion control measures, and timing and sequence of erosion/sedimentation control measures. The proposed access road will be constructed by adding fill to the side of a steep slope only 25 feet away from Fall Brook. Because the proposed project is close to Fall Brook, the Department requested that the applicant establish plantings within the rip rap slope in order to provide a buffer for the brook. In a letter dated November 24, 2003, the applicant proposed to install stake plantings or tubelings 5 feet on center within the rip rap slope. The plants will be installed according to guidelines set forth in *USDA Chapter 18 publication, Soil Bioengineering for Upland Slope Protection and Erosion Reduction Engineering Field Handbook*. The applicant proposes to plant Pussy Willow, Black willow, Purple Osier dogwood and Dwarf Bankers willow.

An engineer in the Department's Division of Watershed Management reviewed the proposed erosion and sedimentation control plan. Based on this review, the Department finds that the proposed project will not cause an unreasonable erosion of soil or sediment provided the project is constructed according to plans and information contained within the project file, including the additional plantings within the rip rap slope.

6. WETLANDS AND WATERBODIES PROTECTION RULES:

The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require that the applicant meet the following standards to ensure that the project will not result in an unreasonable impact to wetlands and waterbodies in the area:

- 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 freshwater wetland alterations must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicant submitted an alternative analysis for the proposed project, as Exhibit 11 in the application, completed by DeLuca-Hoffman Associates and dated July 2003. Subsequently the applicant amended his alternatives analysis in a letter prepared by DeLuca-Hoffman Associates and dated November 24, 2003. The applicant owns property with frontage on Murray Street. There are a couple of other City right-of-ways (paper streets) that lead to the applicant's property. Two paper streets could be used to gain access to the property, (1) from Murray Street the applicant could use Lee Street to access the northwestern edge of Rosedale Street or (2) Rosedale Street could be accessed from the southeast and the existing Ocean Avenue. Constructing a road within these paper streets will require more wetland fill than is currently proposed and if option 2 were utilized the road would have to cross Fall Brook. Also, the City of Portland would require any road providing access to a residential subdivision, within a City right-of-way, be built according to City standards. The applicant states that the cost to construct a public street into this property is cost prohibitive. A road built to City standards would also be wider than the proposed access road. The evidence submitted demonstrates that there is no other practicable alternative to access the property, which would result in less wetland alteration.
- b. **Minimal Alteration.** The amount of wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant proposes to fill 2,468 square feet of forested freshwater wetland. The access road has been designed with a width of 22 feet and with 1:1 side slopes, in order to minimize impacts to the wetlands and Fall Brook.
- c. **Compensation.** Compensation is not required for a project of this size.

The Department finds that the applicant has avoided and minimized 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 provided the project is constructed according to plans and information within the project file, including the additional plantings within the rip rap slope.
- 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 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 ROBERT HAINS to construct an access road, 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. The applicant shall construct the project according to plans and information contained within the project file, including the additional plantings within the rip rap slope.

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.

DONE AND DATED AT AUGUSTA, MAINE, THIS 13TH DAY OF February, 2004.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:



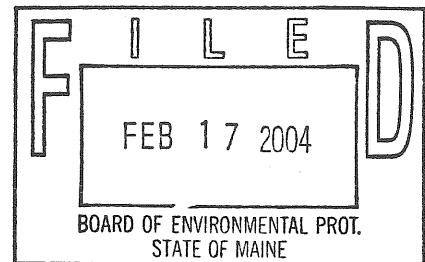
DAWN R. GALLAGHER, COMMISSIONER

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application 9/2/03

Date of application acceptance 9/23/03

Date filed with Board of Environmental Protection
DEH/L21489AN



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.

Revised (4/92)

DEP LW0428

Quitclaim Deed

Without Covenant

From

JOHN L. DOUGLAS, ET AL.
To

ROBERT C. HAINS

Dated 19 85

State of Maine,
..... ss. Registry of Deeds.

Received 19

at H., M., M., and

recorded in Book Page

Attest: Register.

FROM THE OFFICE OF

JENSEN BAIRD GARDNER & HENRY
477 CONGRESS STREET
PORTLAND, ME 04101

Development Review Fee Schedule (effective July 1, 2003)

• Major Site Plan Review (more than 10,000 sq. ft.)	
Under 50,000 sq. ft.	\$500.00
50,000 - 100,000 sq. ft.	\$1,000.00
Parking Lots over 100 spaces	\$1,000.00
100,000 - 200,000 sq. ft.	\$2,000.00
200,000 - 300,000 sq. ft.	\$3,000.00
Over 300,000 sq. ft.	\$5,000.00
• After-the-fact Major Site Plan Review	\$1,000.00 + applicable application fee
• Minor Site Plan Review (less than 10,000 sq. ft.)	\$400.00 (or up to 20,000 in an Industrial zone)
• After-the-fact Minor Site Plan Review	\$1,000.00 + applicable application fee
• Minor-Minor Site Plan Review (Single Families)	\$300.00
• Amendment to Plans	
Planning Board Review	\$500.00
Planning Staff Review	\$250.00
• Subdivision Fee	\$500.00 + \$25.00 per lot
• Section 14-403 Review	\$400.00 + \$25.00 per lot
• Site Location of Development	\$3,000.00
(except for residential projects which shall be \$200.00 per lot)	
• Traffic Movement Permit	\$1,000.00
• Stormwater Quality Permit	\$250.00
• Street Vacation	\$2,000.00

Engineering Fees

• Engineer Review Fee	Assessed by Engineer
• Inspection Fee	2% of Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum

Zone Change

• Zoning Map Amendments	\$2,000.00
• Text Amendments	\$2,000.00
• Contract/Conditional Rezonings	
Under 5,000 sq. ft.	\$1,000.00
5,000 sq. ft. and over	\$3,000.00
• Conditional Use	\$100.00

Historic Preservation

• Administrative Review	\$50.00
• Minor Projects - Committee Review	\$100.00
• Major Projects - Committee Review	\$500.00
• After-the-fact Review	\$750.00
• HP Special Exception Sign Review	\$35.00

Noticing/Advertisements for Historic Preservation and Planning Board Review

• Legal Advertisement	Percent of total bill
(Legal Ads are placed in the newspaper for workshop and public hearing meetings)	
• Notices	.55 cents each
(Notices are sent to abutters when the application is received in the Planning Division, workshop meeting and public hearing meeting)	

Department of Planning & Development
Lee D. Urban, Director



CITY OF PORTLAND

Division Directors
Mark B. Adelson
Housing & Neighborhood Services

Alexander Q. Jaegerman, AICP
Planning

John N. Lufkin
Economic Development

To Applicants for Development in Portland:

The City of Portland has instituted the following fees to recover the costs of reviewing development proposals under the Site Plan and Subdivision ordinances: application fee; engineering fee; and inspection fee. Performance and defect guarantees are also required by ordinance to cover all site work proposed.

The **Application Fee** covers general planning and administrative processing costs, and is paid at the time of application.

The Planning Division is required to send notices to neighbors upon receipt of an application and prior to public meetings. The applicant will be billed for mailing and advertisement costs. Applicants for development will be charged an **Engineering Review Fee**. This fee is charged by the Planning Division for review of on-site improvements of a civil engineering nature, such as stormwater management as well as the engineering analysis of related improvements within the public right-of-way, such as public streets and utility connections, as assessed by the Department of Public Works. The Engineering Review fee must be paid before a building permit can be issued. Monthly invoices are sent out by the Planning Division on a monthly basis to cover engineering costs.

A **Performance Guarantee** will be required following approval of development plans. This guarantee covers all required improvements within the public right-of-way, plus certain site improvements such as landscaping, paving, and drainage improvements. The Planning Division will provide a cost estimate form for figuring the amount of the performance guarantee, as well as sample form letters to be filled out by a financial institution.

An **Inspection Fee** must also be submitted to cover inspections to ensure that sites are developed in accordance with the approved plan. The inspection fee is 2.0% of the performance guarantee amount, or as assessed by the planning or public works engineer. The minimum inspection fee is \$300 for development, unless no site improvements are proposed. Public Works inspects work within the City right-of-way and Planning inspects work within the site including pipe-laying and connections. (The contractor must work with inspectors to coordinate timely inspections, and should provide adequate notice before inspections, especially in the case of final inspection.)

Upon completion of a development project, the performance guarantee is released, and a **Defect Guarantee** in the amount of 10% of the performance guarantee must be provided. The Defect Guarantee will be released after a year.

Other reimbursements to the City include actual or apportioned costs for advertising and mailed notices. All fees shall be paid prior to the issuance of any building permit.

For more information on the fees or review process, please call the Planning Division at 874-8719 or 874-8721.

Alexander Jaegerman, AICP
Planning Division Director

**CITY OF PORTLAND, MAINE
SITE PLAN CHECKLIST**

Project Name, Address of Project			Application Number
Submitted () & Date	Item	Required Information	Section 14-525 (b,c)
_____	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	1
_____	(2)	Name and address of applicant and name of proposed development	a
_____	(3)	Scale and north points	b
_____	(4)	Boundaries of the site	c
_____	(5)	Total land area of site	d
_____	(6)	Topography - existing and proposed (2 feet intervals or less)	e
_____	(7)	Plans based on the boundary survey including:	2
_____	(8)	Existing soil conditions	a
_____	(9)	Location of water courses, marshes, rock outcroppings and wooded areas	b
_____	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
_____	(11)	Approx location of buildings or other structures on parcels abutting the site	d
_____	(12)	Location of on-site waste receptacles	e
_____	(13)	Public utilities	e
_____	(14)	Water and sewer mains	e
_____	(15)	Culverts, drains, existing and proposed, showing size and directions of flows	e
_____	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
_____	(17)	Location and dimensions of on-site pedestrian and vehicular access ways	g
_____	(18)	Parking areas	g
_____	(19)	Loading facilities	g
_____	(20)	Design of ingress and egress of vehicles to and from the site onto public streets	g
_____	(21)	Curb and sidewalks	g
_____	(22)	Landscape plan showing:	h
_____	(23)	Location of existing proposed vegetation	h
_____	(24)	Type of vegetation	h
_____	(25)	Quantity of plantings	h
_____	(26)	Size of proposed landscaping	h
_____	(27)	Existing areas to be preserved	h
_____	(28)	Preservation measures to be employed	h
_____	(29)	Details of planting and preservation specifications	h
_____	(30)	Location and dimensions of all fencing and screening	i
_____	(31)	Location and intensity of outdoor lighting system	j
_____	(32)	Location of fire hydrants, existing and proposed	k
_____	(33)	Written statement	c
_____	(34)	Description of proposed uses to be located on site	1
_____	(35)	Quantity and type of residential, if any	1
_____	(36)	Total land area of the site	b2
_____	(37)	Total floor area and ground coverage of each proposed building and structure	b2
_____	(38)	General summary of existing and proposed easements or other burdens	c3
_____	(39)	Method of handling solid waste disposal	4
_____	(40)	Applicant's evaluation of availability of off-site public facilities, including sewer, water and streets	5
_____	(41)	Description of any problems of drainage or topography, or a representation that there are none	6
_____	(42)	An estimate of the time period required for completion of the development	7
_____	(43)	A list of all state and federal regulatory approvals to which the development may be subject to	8
_____	(44)	The status of any pending applications	8
_____	(45)	Anticipated timeframe for obtaining such permits	h8

Notice to Developers of New Subdivisions

Effective January 1, 1998, the City of Portland requests that developers of new subdivisions submit information regarding the origin of the name of any new street(s) created within the City limits. This information shall be submitted to the Planning Division with all other related application materials.

In 1997, Portland residents, Norman and Althea Green, presented the City of Portland with a compilation of research which documents the origins of all street names existing in the City as of 1995. The person, event, location, or subject for which each street was named is now recorded for posterity, constituting an important public record for all those interested in the development of Portland. This compilation is on file at the Portland Public Library, the Maine Historical Society, and the library of the Portland Newspapers, as well as in the City Clerk's Office at Portland City Hall.

It is the intent of the City of Portland to continue this documentation for all streets created in the City. As part of the subdivision review process, applicants are required to submit information regarding the person or subject for which all new streets are being named. In the case of a person, the full name should be submitted, as well as their vocation, relationship to the developer or the area, or other pertinent information. Once the street is formally accepted by the City Council, the information will be placed on file at the City Clerk's office and copies will be sent to the other three Portland repositories.

A Guide to Holding Neighborhood Meetings

In order to improve communication between development applicants and neighbors, the City of Portland requires such applicants to hold a neighborhood meeting.

What type of development proposal requires a neighborhood meeting?

Neighborhood meetings, organized and hosted by the applicant, are required for the following development proposals:

- proposed zone changes, contract zones and zoning text amendments;
- subdivisions of five or more units or lots; and
- major site plan proposals.

Who must be invited to a neighborhood meeting?

Property owners within 500 feet of the proposed development (1000 feet for proposed industrial development), as well as those people on a list of interested citizens and neighborhood groups, must be invited to a neighborhood meeting.

Upon request, the Planning Division will provide to the applicant mailing labels for the neighborhood meeting invitation. We require at least 48 hours prior notice to generate the mailing labels. A charge of \$1.00 per sheet of labels will be payable upon receipt of the labels.

When and where must the neighborhood meeting be held?

The neighborhood meeting must be held after the first Planning Board workshop but not less than seven days prior to the Planning Board public hearing.

The meeting should be held in the evening, during the week, at a location in the neighborhood. Neighborhood schools are usually available for evening meetings.

When must invitations be sent out?

In order to provide sufficient notice to residents, invitations must be sent out no less than seven days prior to the neighborhood meeting.

What information should the invitation include?

A recommended invitation format is included in this packet of material.

Neighborhood Meeting Handouts

Included with this packet of material is a handout sheet from the Planning Division that must be handed out to meeting attendees. This handout explains the requirement for the meeting and additional information on the review process.

Sign-up Sheets and Meeting Minutes

At the meeting, the applicant must circulate a sign-up sheet for those in attendance. The applicant must also keep accurate minutes of the meeting.

After holding the neighborhood meeting, the applicant must submit the sign-up sheet and meeting minutes to the Planning Division. The meeting minutes and sign-up sheet will be attached to the Planning Board report. A public hearing will not be scheduled until the meeting minutes and sign-up sheet are submitted to the Planning Division.

Certification

Included with this packet is a Certification to be completed and signed by the applicant. The applicant is required to certify when the invitations were sent out.

Please call the Planning Division (874-8720) if you have any questions.

Attachments

1. Neighborhood Meeting Invitation Format
2. Handout to Attendees from the Planning Division
3. Neighborhood Meeting Certification

Neighborhood Meeting Invitation Format

Applicant/Consultant
Letterhead

(Date)

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a (development proposal) located at (location/street address).

Meeting Location: _____

Meeting Date: _____

Meeting Time: _____

If you have any questions, please call (telephone number of applicant or consultant).

Sincerely,

(Applicant)

Note:

Under Section 14-32(C) of the City Code of Ordinances, an applicant for a major development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting at least seven days prior to the Planning Board public hearing on the proposal.



City of Portland, Maine Department of Planning and Development

Dear Neighbor:

Thank you for attending this evening's neighborhood meeting.

Applicants for major developments, zone changes, and subdivisions of more than five units/lots are required to hold a neighborhood meeting prior to the Planning Board's public hearing on the development proposal.

The purpose of these meetings is to improve communication between neighbors and applicants for development. We have found that neighbors raise questions and offer insight that often improve the design or compatibility of a proposed development.

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list" be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

Should you wish to offer additional comments on this proposed development, you may send correspondence to:

Planning Division
Department of Planning and Development
City Hall
389 Congress Street
Portland, ME 04101;

Or email:
sh@portlandmaine.gov;

Or call 874-8720.

Thank you for taking the time to attend tonight's meeting.

Sincerely,

Sarah Hopkins
Development Review Services Manager

Neighborhood Meeting Certification

I, (applicant/consultant) hereby certify that a neighborhood meeting was held on (date) at (location) at (time).

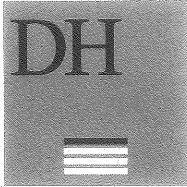
I also certify that on (date at least seven days prior to the neighborhood meeting), invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development and the residents on the "interested parties" list

Signed,

date

Attached to this certification are

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



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

778 MAIN STREET
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- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
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- TRAFFIC STUDIES AND MANAGEMENT

January 18, 2005

Mr. Ethan Boxer-Macomber, Planner
City of Portland Planning Authority
Planning Dept.
4th Floor City Hall
Portland, Maine 04101

**Subject: Robert Hains, Residential Access Drive
Murray Street**

Dear Ethan:

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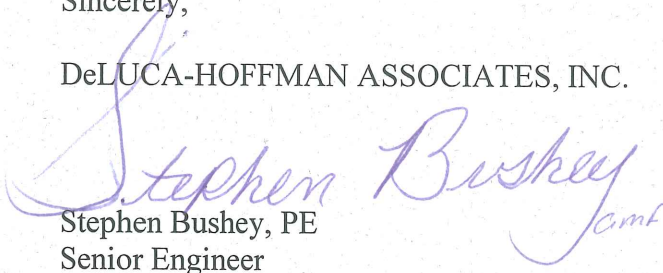
Mr. Ethan Boxer-Macomber, Planner
January 18, 2005
Page 2

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On behalf of Mr. Hains, DeLuca-Hoffman Associates, Inc. requests your consideration of the accompanying revised plans and supporting information in advance of the Planning Board's review of this project at next Tuesday's Planning Board hearing. We will be prepared to discuss the design revisions and analysis completed further at that time.

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DeLUCA-HOFFMAN ASSOCIATES, INC.


Stephen Bushey, PE
Senior Engineer

SRB/sq/JN2297/Macomber-1-18-05

Attachments

C: Robert Hains
Ron Ward

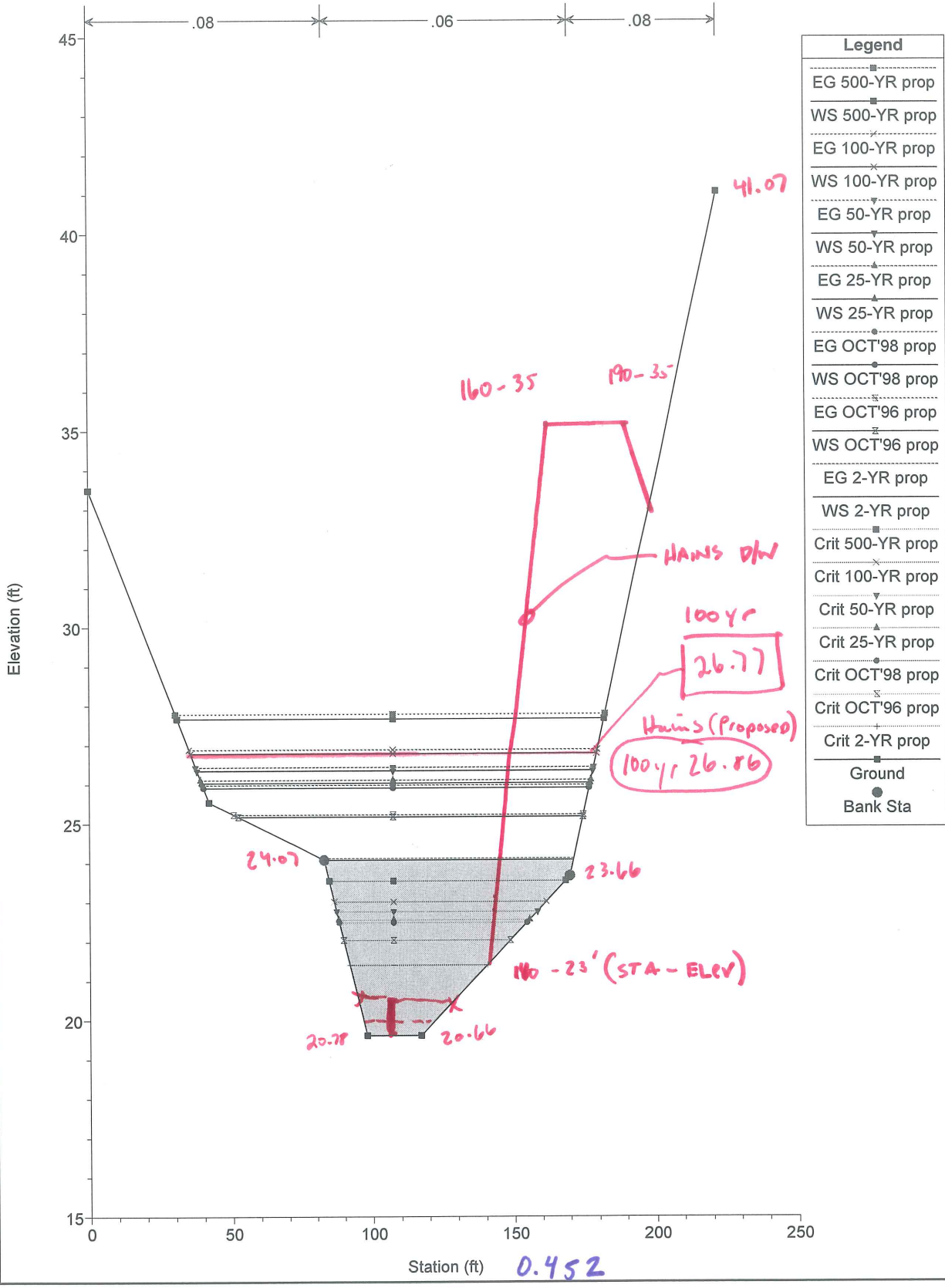
¹ See Final Fall Brook Watershed Study, Hydraulic and Hydrologic Model, by DeLuca-Hoffman Associates, Inc. April 1999 prepared for City of Portland Public Works Department.

Attachment A

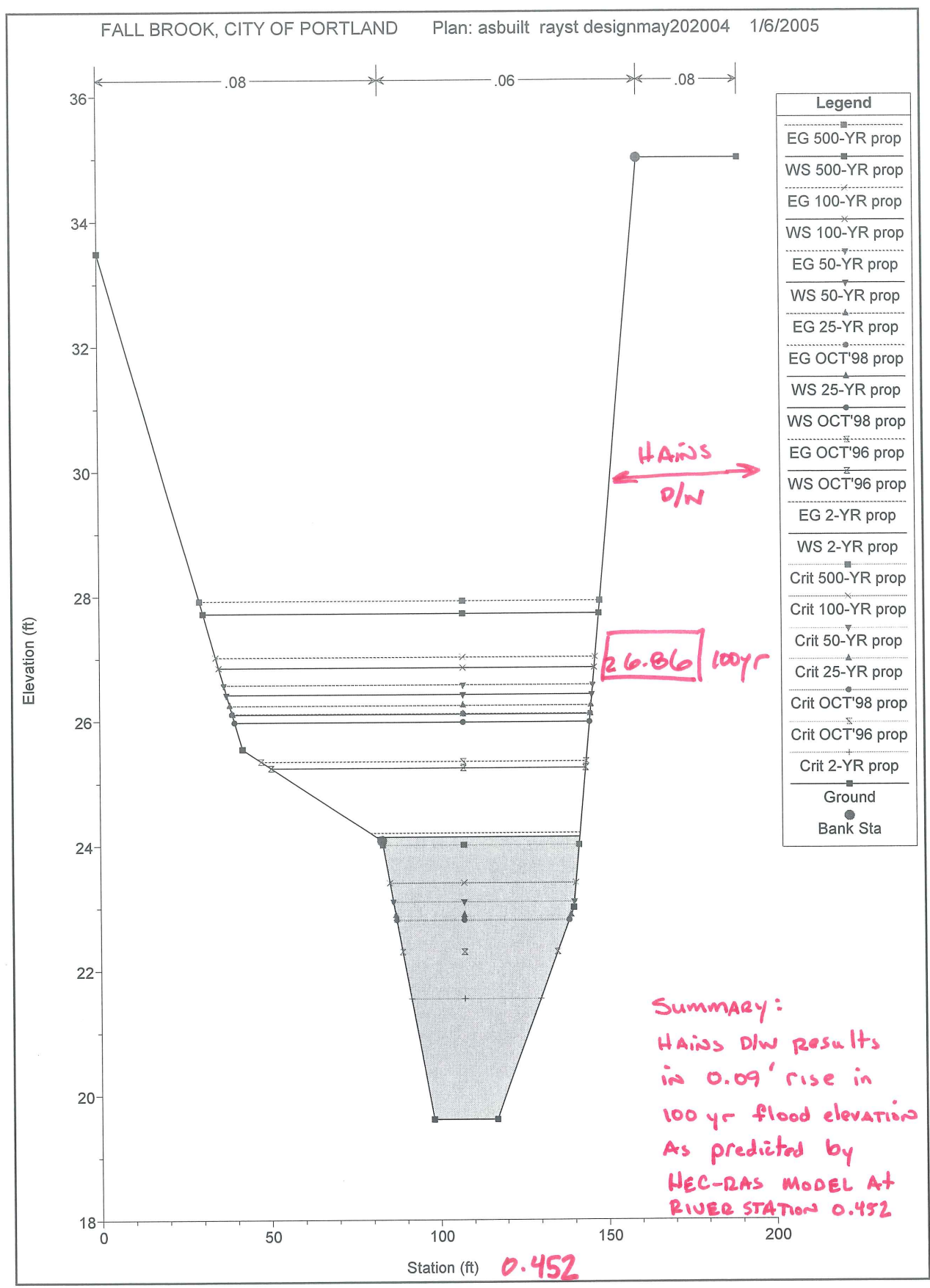
FUTURE CONDITION
Assuming Full separation
w/OUT HAIRNS D/W

Asbuilt

FALL BROOK, CITY OF PORTLAND Plan: original ryst design may 20 2004 11/15/2004



PROPOSED CONDITION
W/ HAIRS D/W





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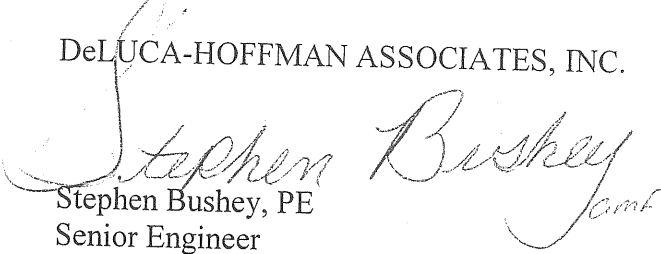
Mr. Ethan Boxer-Macomber, Planner
January 18, 2005
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Stephen Bushey, PE
Senior Engineer

SRB/sq/JN2297/Macomber-1-18-05

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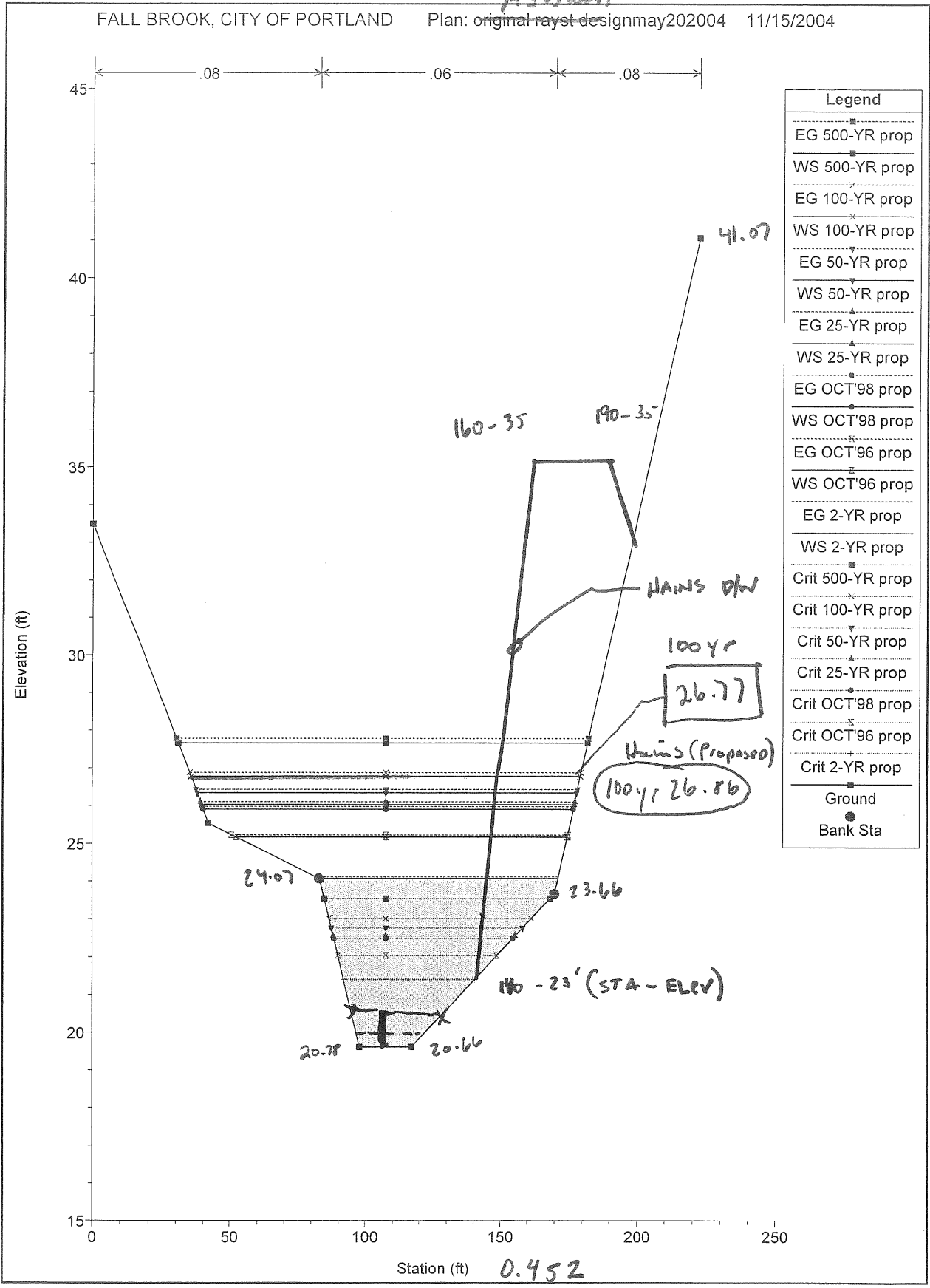
C: Robert Hains
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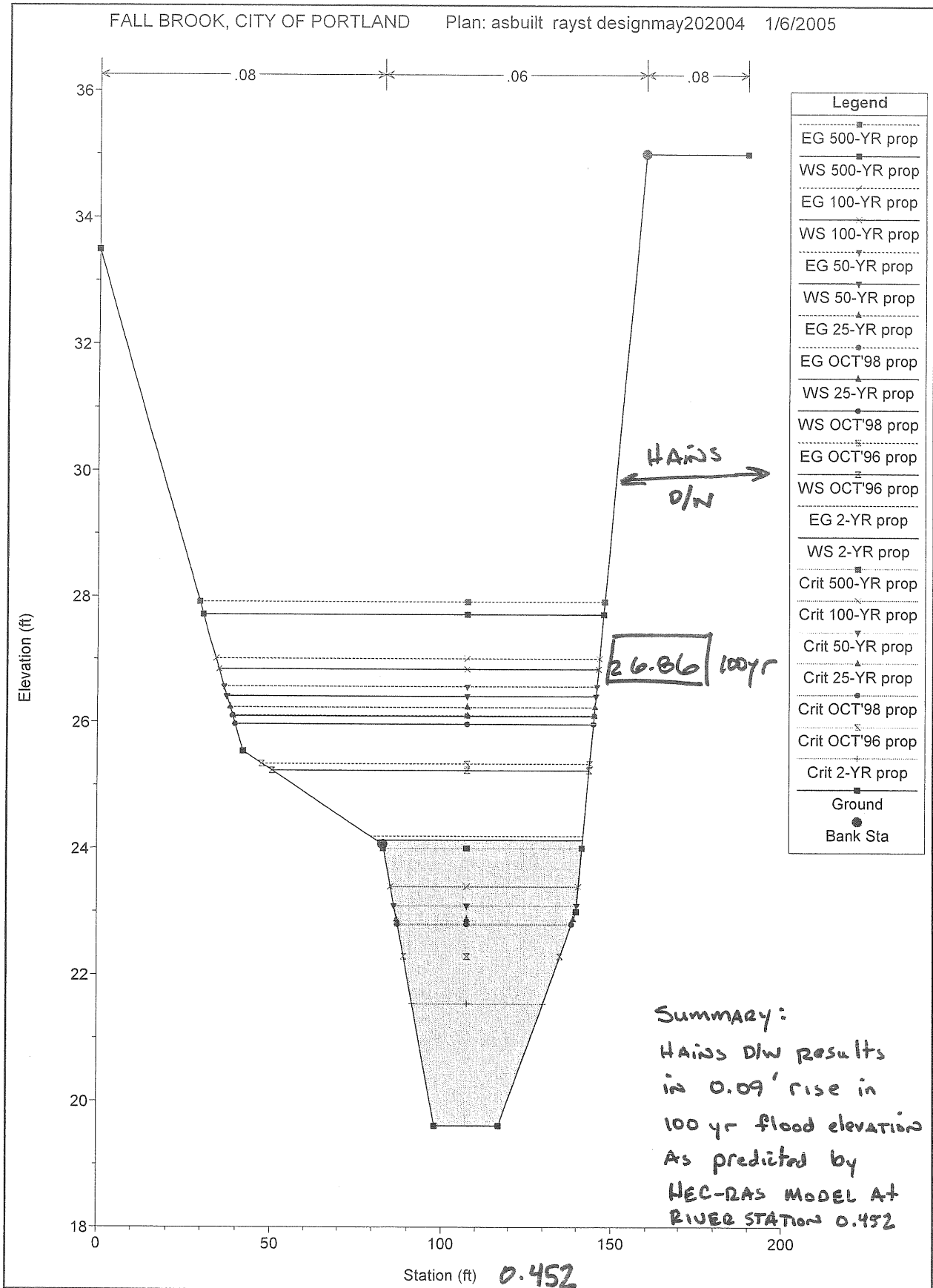
Attachment A

FUTURE CONDITION
 Assuming Full separation
 w/out HANS D/W

Asbuilt



PROPOSED CONDITION
w/ HAINS D/W





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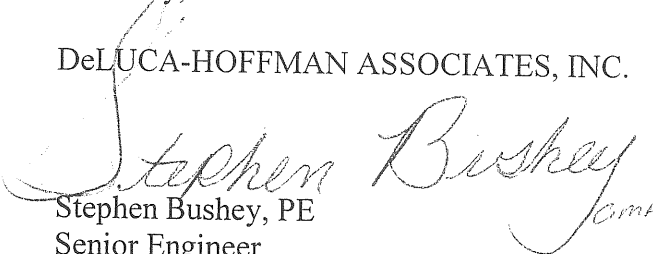
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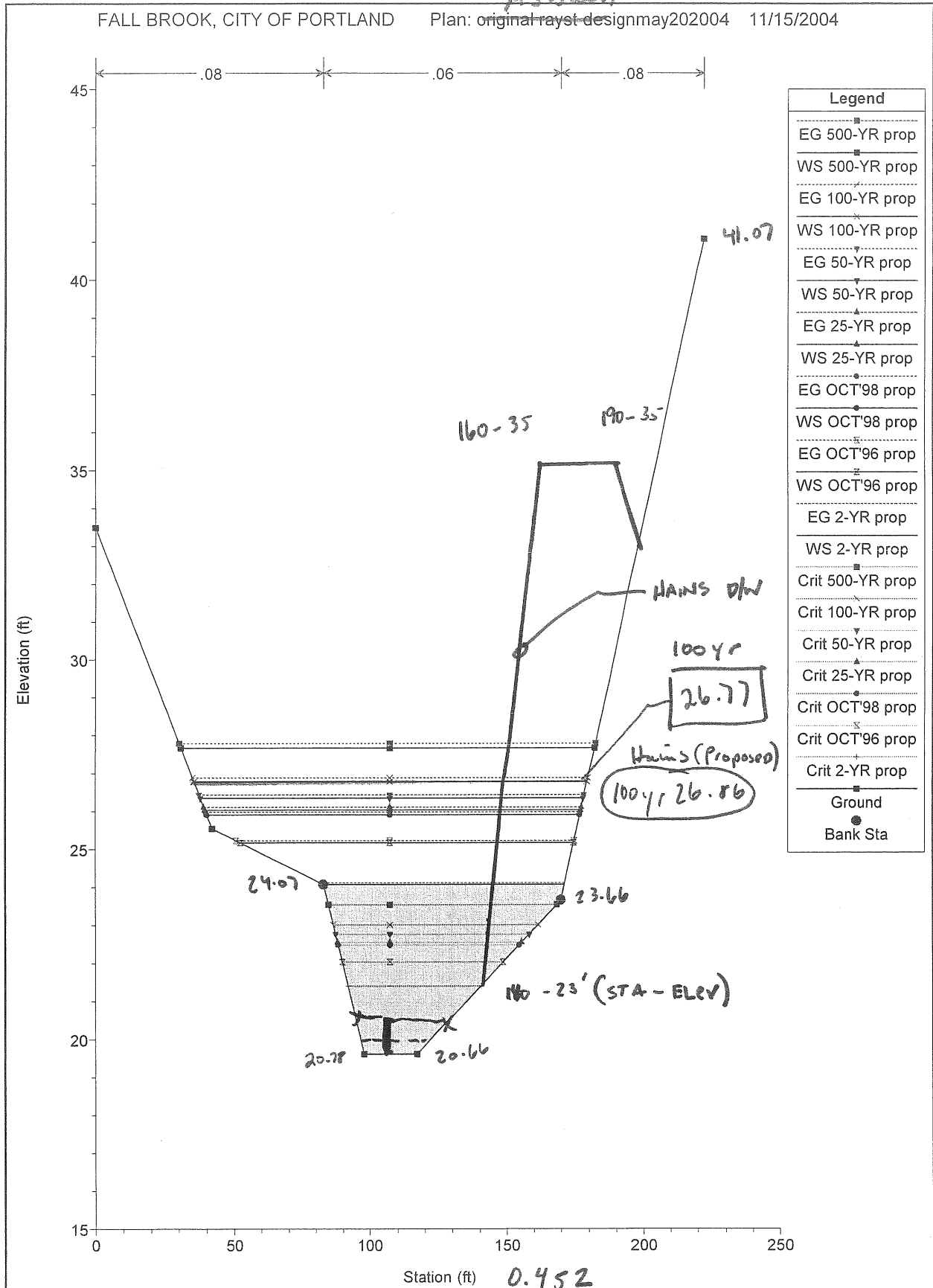
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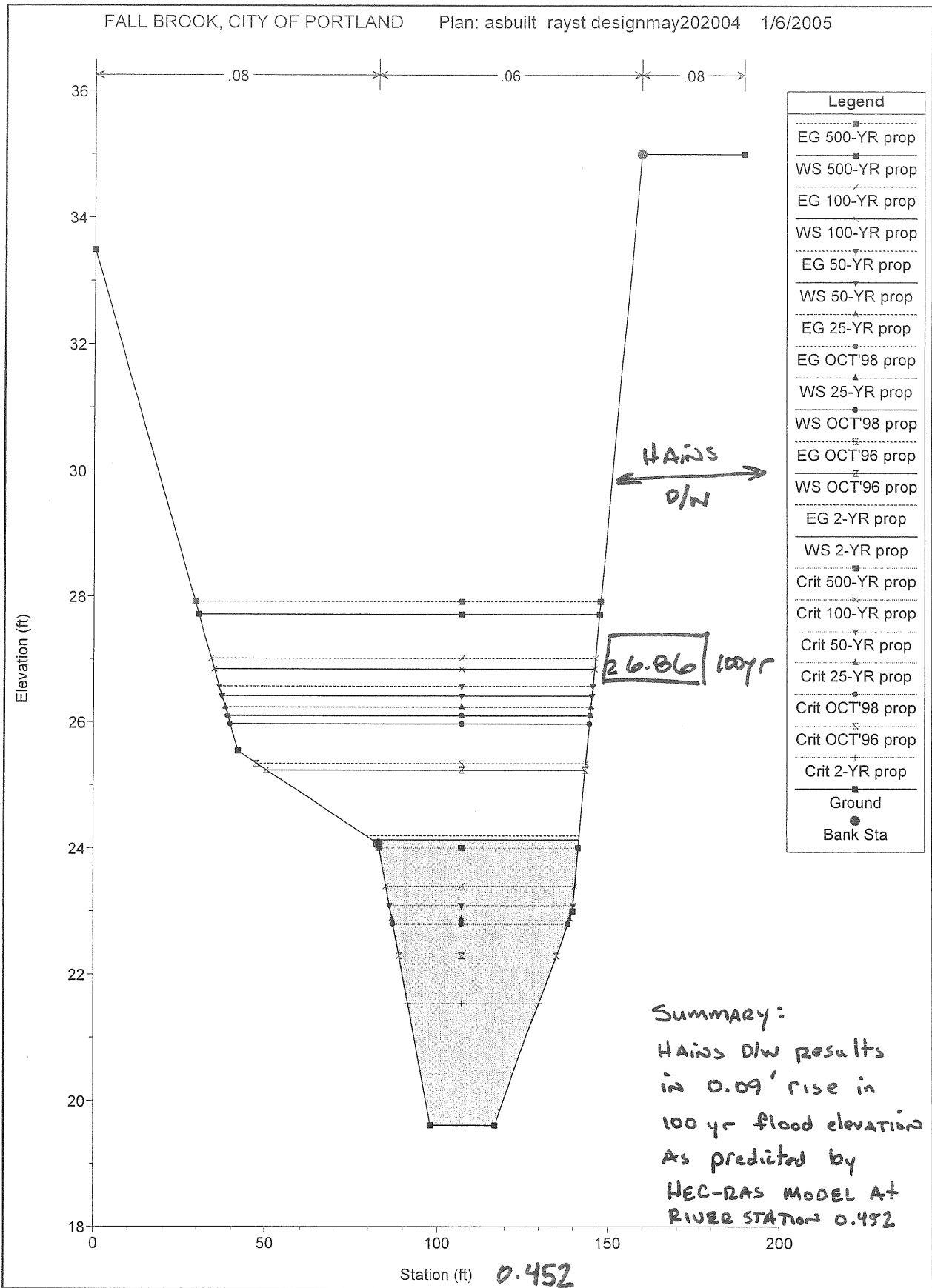
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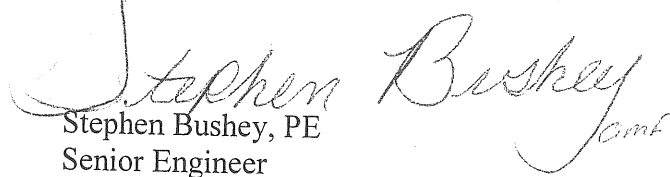
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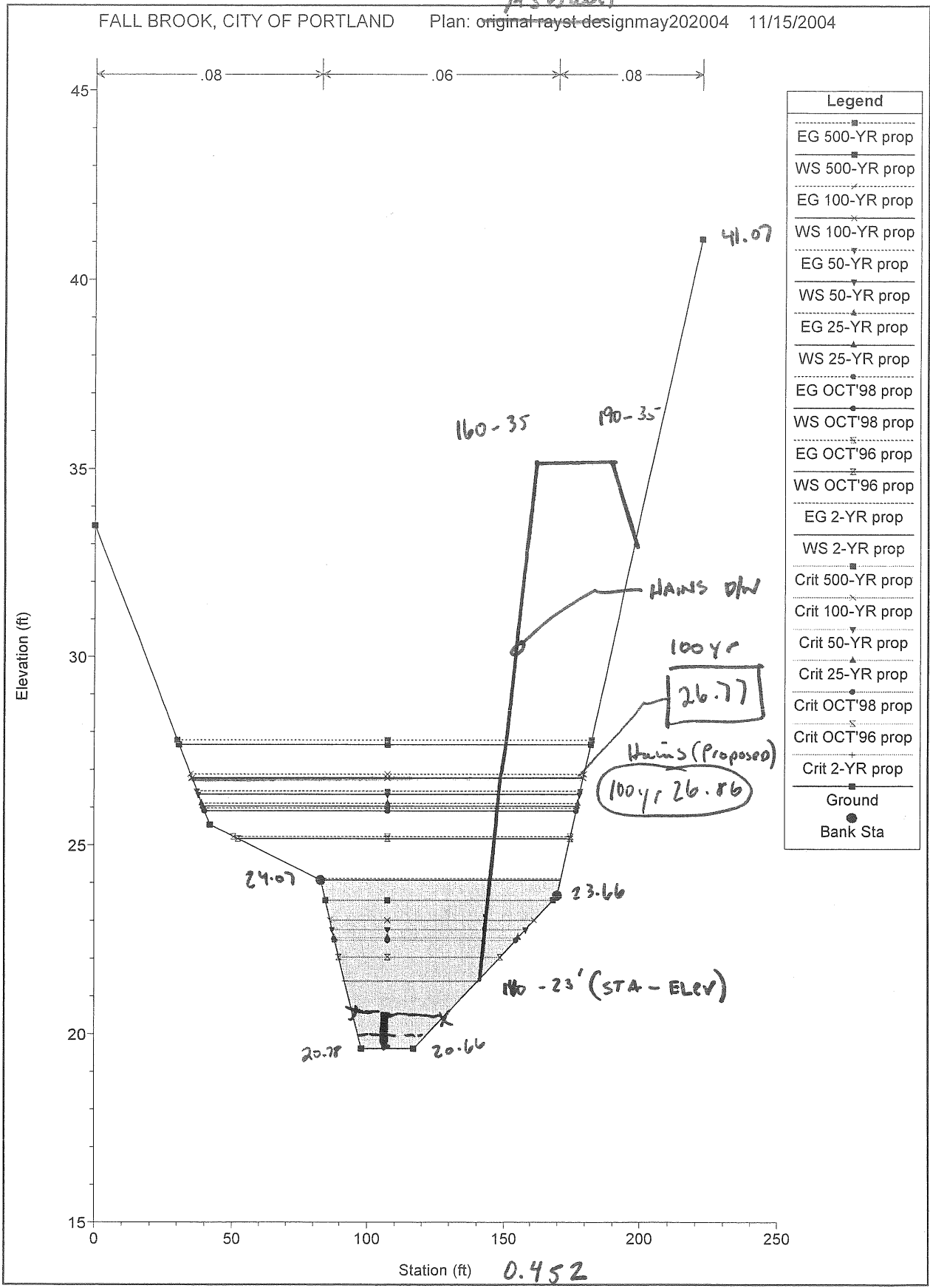
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