

179-B-50

#10-79900003

Brentwood Street

Community Garden (Evergreen Cemetery)

Deering Center Neighborhood Assoc.

Kwoka John J SOSB

From: Tom Saucier [TSaucier@mail.sytdesign.com]
Sent: Monday, April 05, 2010 8:54 AM
To: Kwoka John J SOSB; Anne D. Weigel; John Kwoka
Subject: Brentwood Farms Community Garden

Hi John and Anne

Per your request we have undertaken an review of the stormwater magement, report, plans, and calculations, prepared by Sebago Technics, dated March 2010, for the Brentwood Farms Community Garden development located northerly of your property at 92 Hamblet Avenue. Based upon that review, we offer the following comments for your consideration.

It is our understanding that the city and the Deering Center Neighborhood Association are aware of your concerns related to the impact of the stormwater runoff from the development site on your property, and were aware of those concerns before commissioning a stormwater runoff analysis. Assuming that I am correct, it seems that the stormwater management plan would have, at a minimum, attempted to address your concerns, and arrive at some sort of understanding as to whether or not the development has impacted your property. You probably have noted the analysis submitted does not address that issue, which is our primary concern.

The study utilized an analysis point located at a distance of more than 250 feet downgradient of your property, to arrive at a conclusion that there would be no increase in the rate of runoff at that point, which does nothing to answer the question of whether the development has impacted your property.

A more appropriate analysis, if they wish to address your concerns, would be to model the runoff conditions with a study point at the northwest corner of your property where the ponding of runoff from the site occurs, and also to more closely examine existing and pre-existing conditions on and near Brentwood Street, which is the area contributing runoff to your yard.

In reviewing the report, we did note the following technical issues which should be addressed prior to any revisions to the report.

Based upon the TR-55 and TR-20 methodologies for analyzing impacts on stormwater runoff rates due to development, we have noted that there are several flaws in the analysis which may render any conclusions invalid. These include:

- 1) Inappropriate delineation of subcatchment boundaries;

- 2) Time of concentration path crossing subcatchment boundaries, and;
- 3) Improper application of TR-55 curve numbers;

An example of the first is the boundary between SC 1S and 2S, which follows a property line, instead of the topographic subwatershed divide.

The second includes the time of concentration path for SC-1 crossing this boundary into SC-2.

An example of the third item is the use of a runoff curve number for the garden areas, legumes, that TR-55 clearly indicates is intended to be used for large scale agricultural lands, for close seeded or broadcast legumes. We question whether that is appropriate for the garden plots, which we expect would be bare in the late fall and early spring, when we generally experience the significant rainfall events. Further, we noted that the curve number utilized for the mulched walking paths on the site did not change for each hydrologic soils group, even though the paths are located within each soil type area. It is also unclear what the basis for the mulch curve number is, as the one utilized would be similar to a wooded cover condition in type B soils. It seems that this might be inaccurate; to assume a devegetated path, covered with mulch and subject to continual foot traffic would have runoff characteristics similar to wooded areas. Also, the plan calls for unvegetated mulched slopes, which should be included in the analysis if they were not.

We also noted that the report indicates that the pre-development cover types were "based on the activities that had previously occurred in the dumping area." We are unsure of the reason for this, or how one can simply speculate from this statement that the cover type should be modeled as poor grass cover, which indicates less than 50% cover. Recent aerial photography indicates that the cover on the site was fairly consistent grass cover (similar to the cemetery) with some walking trails or paths meandering through the grassed areas. It seems that a more appropriate curve number would be for grass cover greater than 75%.

A further concern along this line is that it appears that the cover conditions for the 1994 survey were also used for other areas. For an analysis of this nature we would expect that the pre-development conditions, which existed immediately prior to the development of the site in 2009, would be used for determining cover types.

Another conflict noted, is it appears the total area of each soil group in subcatchment 1S varies between pre and post development conditions, which would not be expected.

An additional observation is that the 1994 topographic plan indicates that runoff from half of Brentwood Street flowed across the undeveloped site. Current topography indicates that "gutter" flow occurs from north to south along Brentwood, with runoff from the easterly portion of the garden site and from half of Brentwood Street now

flowing along Brentwood Street and down the driveway southerly of the site.

One final note is the report also indicates that the material placed at the site was a "well draining loam material." We are unclear as to the basis for this statement.

It is interesting that the analysis results indicate that after removing existing grass and wooded cover from an area over 50,000 sf in size, and replacing that cover with garden plots (which we expect will be bare soil at certain times of the year), and unvegetated mulched walking trails and slopes, that the stormwater runoff rates from the site are expected to decrease. We believe this is the result of the modeling inconsistencies we mention above.

We understand your concern is the impacts to your property which you indicated have been evident only since the development activities on the garden site. Referring to our March 25, 2010 letter to you regarding this issue, we continue to believe that the following factors contribute to stormwater runoff impacts on your property:

- 1) Additional runoff from the easterly side of the garden site and Brentwood Street bypassing the diversion swale, flowing down the driveway at 178 Brentwood and across the abutting property to the east, onto your property.
- 2) There is an additional volume of stormwater runoff from the garden site which is tributary to the low lying ponded area on and adjacent to the westerly corner of your property.

Our field observations indicated possible solutions to mitigate the impact of additional runoff from the garden and Brentwood Street on your property as follows;

- 1) Regrading of the low area on city owned land adjacent to your westerly property corner to provide a more positive outlet and to relocate the ponding further from your and your abutter's property.
- 2) Along Brentwood Street provide a combination of Cape Cod berm or curb along the southerly half of the garden frontage on Brentwood Street, and a $\frac{3}{4}$ " paved lip along the drive at 178 Brentwood Street to direct runoff from the front of the garden site and Brentwood Street to a catch basin near the corner of Brentwood and Hamblet.

Note that we have removed option 2 for relief as presented on our original March 25, 2010 letter to you, which was regrading of the end of the existing swale at Brentwood Street. We do not believe that would offer continuous relief from this problem. Runoff will continue to bypass the swale and flow down the driveway, regardless of whether the swale is improved or not, particularly when street sands and snow are present along the edge of Brentwood Street. This then contributes to the "stream" through your back yard during rainfall events.

In closing, there is no evidence presented in the stormwater management analysis which indicates that the redevelopment of the parcel did not impact your property. Based on a review of the 1994 and current topographic plans, there is evidence that the stormwater runoff patterns and cover characteristics were altered by the development activities.

Please feel free to share our March 25, 2010 letter to you along with this email as you see fit. Realizing where this issue may be headed, we do want to clarify the last sentence in 5th paragraph of that letter, where we indicate "...the front half...", which should be "...the front portion...".

Please let me know if you have any questions or comments relative to our review.

Best

Tom

Tom Saucier, P. E. Principal

Site Design Associates

183 Park Row

Brunswick, Maine 04011

ph: 207-756-0068

fax: 207-725-7365



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Public Services Department
Michael J. Bobinsky, Director

Letter of Transmittal

Date: January 5, 2010

To: Amy Segal
Terrance J. DeWan & Associates

Project Reference: Brentwood Farms Community Garden

We are sending you:

- enclosed/attached
 under separate cover
 available for pick up
 other:

For your:

- information as requested
 review and comment
 information and use
 other:

(8) 24"x36" paper copies of the Existing Site Conditions Plan with surveyor's stamp and signature

(1) 11"x17" paper copy of the Existing Site Conditions Plan

From: Bill Scott
Project Engineer - Survey
D.P.W. - Engineering
55 Portland Street
Portland, Maine 04101
Phone: (207) 874-8825
Fax: (207) 874-8852
Email: WGS@portlandmaine.gov

PC: WGS
Shukria Wiar, Planning
Barbara Barhydt, Planning



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Email: WGS@portlandmaine.gov

PC: WGS

Shukria Wiar, Planning
Barbara Barhydt, Planning

From: "Amy Bell Segal" <segal@tjda.net>
To: "Michael Bobinsky" <mbobinsky@portlandmaine.gov>, "William Scott" <WGS@portlandmaine.gov>
Date: Friday, October 02, 2009 7:42:41 AM
Subject: RE: Brentwood Farms Community Gardens Drawing & PDF

Mike,

Yes, let's invite Barbara - I've cc'd her on this email.

It may make more sense for you all to propose a few dates and we'll make it work on our end.

amy

Amy Bell Segal

tjd&a

207.846.0757

From: Michael Bobinsky [mailto:mbobinsky@portlandmaine.gov]
Sent: Thursday, October 01, 2009 7:27 PM
To: William Scott; segal@tjda.net
Cc: emtarasev@gmail.com; NMermin@maine.rr.com; Joe Dumais; Jeff Tarling ; Penny Littell ; Tom Civiello
Subject: RE: Brentwood Farms Community Gardens Drawing & PDF

Glad to meet, lets also make sure the assigned Planner is with us when we meet.

>>> "Amy Bell Segal" <segal@tjda.net> 10/1/2009 4:26 PM >>>

Hi Bill,

Thank you for sending the file. It looks great! I did get your voicemail and I believe the CAD file you sent will be enough for now. I will let you know if our engineer wants all the backup data.

Mike, Tom, Jeff, and Joe - We would appreciate meeting with you briefly on site in the near future to review the existing conditions and our proposal. We have some specific questions about the possible turnaround and placement of street trees (being mindful of snow plowing and snow storage), also where the water line will be coming in, suggested locations for the storage shed...etc. We also would appreciate hearing what other items you would like our site plan to consider.

Thanks!

Amy

Amy Bell Segal
tjd&a
207.846.0757

-----Original Message-----

From: Lynda Scelza [mailto:LKC@portlandmaine.gov]
<mailto:LKC@portlandmaine.gov%5d>
Sent: Thursday, October 01, 2009 1:08 PM
To: segal@tjda.net
Cc: Michael Bobinsky; Penny Littell ; Tom Civiello; William Scott
Subject: Brentwood Farms Community Gardens Drawing & PDF

Amy,

Bill Scott asked me to e-mail you a copy of our drawing showing the newly located topography in the area of the Brentwood Farms Community Gardens.

I have also included a PDF of the drawing for those who do not have AutoCAD to view it.
Please let me know if you have any trouble opening or viewing the two attached documents.

Lynda

PS...

I do not have an e-mail address for Shukria Wiar. If one of you wouldn't mind forwarding it, I would appreciate it.

Lynda K. (Clayton) Scelza, L.S.I.T.
City of Portland, Maine
Engineering Division
Department of Public Services
55 Portland Street
Portland, ME 04101
207-874-8846 x-8827

CC: <emtarasev@gmail.com>, <NMermin@maine.rr.com>, "Joe Dumais"
<JDUMAIS@portlandmaine.gov>, "Jeff Tarling" <JST@portlandmaine.gov>, "Penny Littell"
<PL@portlandmaine.gov>, "Tom Civiello" <TGC@portlandmaine.gov>, "Barbara Barhydt"
<BAB@portlandmaine.gov>

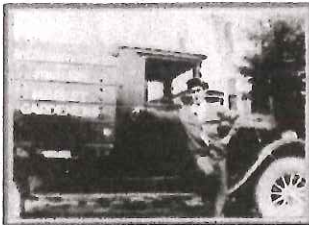
Brentwood Farms Community Garden Returning to Our Roots

Dear Friend,

November 1, 2009

We need your help to establish the first Community Garden in Deering Center. The Deering Center Neighborhood Association has an enormous and exciting vision: returning a neglected plot of land to its original use as a productive, neighborhood farm.

We started this journey over 5 years ago – as neighbors searched for a plot to garden, to help each other grow food and support our families while building and improving community. We came to realize the plot in front of the Evergreen Cemetery Brentwood gates might fit the bill. The land had been degraded for many years, used as a dump by the city and heavily used by some for less than community minded activity. Overgrown with invasive plant species, it posed a threat to the Park's Department efforts to protect our 100 acres of native woods behind the cemetery. We did our research and you can imagine our surprise when we traced the history of the lot only to discover its original use – a farm!



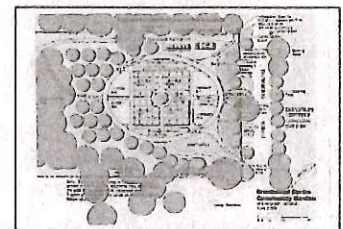
In 1910, Clement and Concetta Risbara bought this property and began the hard work of producing fruits and vegetables year round for the Portland community. They lost the land during the Great Depression. Today we face hard economic times and our goal is to provide our community with the ability to take care of their families with fresh local produce by working together for a common cause.

The Brentwood Farms Community Garden will be a different type of garden, a true grass-roots effort. At Brentwood Farms, the Deering Center community, and not the City, is assuming the costs and management responsibility. To date, we have been the beneficiaries of enormous generosity from the Risbara family, and from a great number of neighbors who have donated their time and labor into preparing the land for planting next spring. We intend to make membership in the garden venture open to all, which means minimizing the annual maintenance fee. We are committed to building the garden without compromising this long term vision.

The City Planning Department is requiring a site plan review process- a form of permitting generally for development. When the City leased us the property this requirement was not made known to us. We will need to hire a professional engineer to prepare a plan for city approval. The estimated cost for engineering services, permitting fees and associated requirements is \$5,000.00.

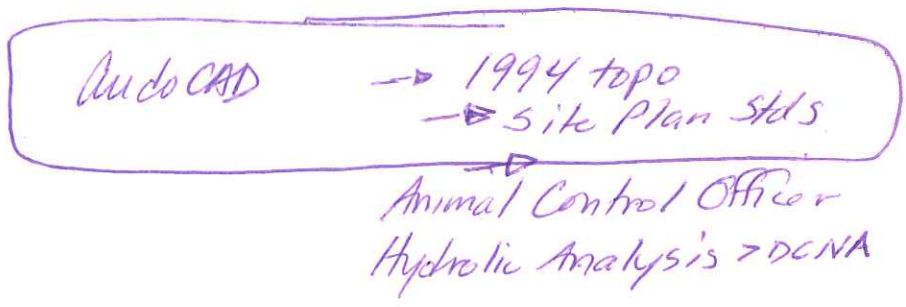
We need your help to raise the \$5000 to complete the permitting and plant our farm this spring! The Brentwood Farms Garden is an investment in our neighborhood, in our community, and in our future. We will reap the benefits of local food production and land stewardship for years to come.

We hope you can help us, with whatever amount is comfortable. Together we can make this dream a reality.



Sincerely,

Deering Center Neighborhood Association
The Deering Neighborhood Association



September 22, 2009

Mr. John Kwoka
92 Hamblet Street
Portland, Maine 04103

Dear Mr. Kwoka:

Thank you for your email to me, and copied to Mayor Duson, Councilor Waxman, and City Manager Joseph Gray, dated September 16, 2009. I also had the ability to review the email you sent to Public Works Director Mike Bobinsky. I want to take this opportunity to respond to the questions raised in your email. Before doing so, however, it is regretful that the development of this community garden, and the City process involved, is causing you and your family such distress. While we strive to provide as much assistance as possible to all members of our community, there are situations where we can always do better.

In order to be as thorough as possible in answering your questions, I have endeavored to contact all City departments involved, in any fashion, in this community garden project. Those departments are the City Manager's Office (Neighborhood and Island Liason staff), Public Services (Director, Arborist, Parks and Open Spaces Manager, Surveying staff), Planning and Urban Development (Historic Preservation, Planning), as well as the Health and Recreation Committee of the City Council.

In response to your first question, please be aware that no site plan or historic preservation plan has been approved to date. In order to apply for either of these permits, it is necessary to have a boundary survey. Since the City owns the underlying fee, subject to the revocable lease granted to the DNCA, the City has taken the responsibility for performing the survey work. It is expected the survey will be completed by William Scott, by September 18 or 22, 2009. Thereafter, DCNA should be able to submit a complete application for site plan review and historic preservation review.

Although no site plan or historic preservation approvals have been granted in this case, the DCNA had been in contact with the City Department of Public Works to discuss its plans for the garden. Indeed the DCNA appeared before the Recreation and Open Space

Committee of the City Council for its endorsement of the garden concept. The Department of Public Services was, and continues to be, very involved in discussion over the proposal. Jeff Tarling, Tom Civiello and Mike Bobinsky worked, in some detail, with the DCNA to develop a concept plan. Thereafter, in June 2009, the City's legal department was involved in the development of the revocable lease agreement between the City and DCNA. It was during this time that a request was presented to the Historic Preservation Manager to initiate clearing activity in certain areas of the site. This request was made in the context of lease negotiations rather than in the context of any site plan review or historic preservation review of a plan.

Your email refers to a "scope of work" proposed by Risbara. I am assuming you are referring to an email from Nathan Smith, Esq. to Deb Andrews, Historic Preservation Manager, dated June 4, 2009. Although there is no written permission for this work to be undertaken, it is likely that my office verbally approved preliminary site work as noted by Attorney Smith. It was the City's understanding that the work to be undertaken would be limited in scope and more of brush and debris removal. Clearly, we failed to understand the extent of the project and for this I will take responsibility. The work undertaken by Mr. Risbara on June 12 and 13, 2009 was stopped by the City following its inspection on June 17 when it was observed that soil disturbance of 47,000 s.f. had been undertaken. This triggers review by the Maine DEP. It also requires review under the City's site plan ordinance because stormwater review is triggered (DEP Chapter 500 Delegated stormwater review).

As a result of the above, CDNA was told to undertake no further construction. They were instructed to seed the site immediately and to maintain erosion control measures. This they did. No further work (besides mowing the rye grasses – for which they sought permission) has been done. No further work will be allowed until all permits are received.

The necessary permits to be obtained in association with this garden are as follows:

1. Site plan approval (including Chapter 500 stormwater review)
2. Historic Preservation approval
3. Maine DEP General Construction Permit

The City is responsible for the first 2 reviews. The DEP will undertake the General Construction Permitting.

You inquired into why this project is not going to the Planning Board for review, but rather will be reviewed by staff. First, let me tell you that staff reviews plans according to the same standards as the Planning Board. In fact, staff reviews the large majority of plans that come in to the City. In 2008, staff reviewed 76% of the plans received by the City. While this property is located in the ROS, not every project within the ROS goes to the Planning Board. Section 14-158 has always been interpreted to mean that site plans qualifying for major review would be presented to the Planning Board. In this case, site plan review comes in to play due to disturbance of an acre or more and does not fall within the category of major or minor review in 14-522 and 523.

We will also be notifying the residents within 500 feet of the property of the site plan application. A comment period will provide time for the public to provide written comment or to come in and verbally communicate comments or concerns to the assigned planner. The standards applicable to this project are found in 14-526 and the Technical Supplement as it relates to Chapter 500 stormwater standards. An appeal from a planning staff decision may be brought before the Planning Board by an aggrieved party pursuant to 14-527.

With regard to the waiver of the \$450 site plan fee, rest assured that this policy applies only to organized City neighborhood organizations. As I stated at the meeting, this fee waiver is applied uniformly and City-wide.

I trust that I have answered your questions regarding this project.

Sincerely,

Penny St. Louis Littell
Director of Planning & Urban Development

cc: Jill Duson, Mayor
City Council
Joseph Gray, City Manager
Anne Weigel
DCNA

From: "Amy Bell Segal" <segal@tjda.net>
To: "Tom Civiello" <TGC@portlandmaine.gov>
Date: Monday, October 05, 2009 3:07:46 PM
Subject: RE: Brentwood Farms Community Gardens Drawing & PDF

Tom,
The DCNA board is meeting tonight - so I'll get back to you about a meeting date. I'm guessing we'd need to look into next week - Wednesday, Thursday or Friday.

Amy

Amy Bell Segal
tjd&a
207.846.0757

-----Original Message-----

From: Tom Civiello [mailto:TGC@portlandmaine.gov]
Sent: Friday, October 02, 2009 8:34 AM
To: William Scott; segal@tjda.net
Cc: emtarasev@gmail.com; NMermin@maine.rr.com; Joe Dumais; Jeff Tarling ;
Michael Bobinsky; Penny Littell
Subject: RE: Brentwood Farms Community Gardens Drawing & PDF

Hi Amy,
Next week, only Wed and Fri mornings are open for me. Generally, Mondays are not good for most folks with staff meetings. Tuesday afternoon isn't good for folks who attend our development review meeting.

Tom

>>> "Amy Bell Segal" <segal@tjda.net> 10/01 4:50 PM >>>
Thanks Tom. I'll figure out some dates on our end and send them around.

Do

you have a sense of what days work best for you all - when you established staff meetings that we should avoid..etc.
amy

Amy Bell Segal
tjd&a
207.846.0757

-----Original Message-----

From: Tom Civiello [mailto:TGC@portlandmaine.gov]
Sent: Thursday, October 01, 2009 4:42 PM
To: William Scott; segal@tjda.net
Cc: emtarasev@gmail.com; NMermin@maine.rr.com; Joe Dumais; Jeff Tarling ;
Michael Bobinsky; Penny Littell
Subject: RE: Brentwood Farms Community Gardens Drawing & PDF

Hi Amy,

We would be happy to meet on site to review conditions and to discuss the proposal. Please give us a few possible days and times and we can.

**LEASE AGREEMENT BY AND BETWEEN
CITY OF PORTLAND
AND
DEERING CENTER NEIGHBORHOOD ASSOCIATION**

THIS INDENTURE made this 8th day of June, 2009, by and between the **CITY OF PORTLAND**, a municipal corporation located in Cumberland County, State of Maine (hereinafter the “**CITY**”) and **DEERING CENTER NEIGHBORHOOD ASSOCIATION**, a non-profit corporation, having a place of business at 86 Leland Street, Portland, Maine 04103 (hereinafter “**TENANT**”).

WITNESSETH:

WHEREAS, the **CITY** is the owner of certain property in Portland known as Evergreen Cemetery; and

WHEREAS, a certain parcel within Evergreen Cemetery located southeast of Libby Field and adjacent to the Brentwood Street Gate, known as the “Brentwood Parcel,” is currently not utilized for cemetery purposes; and

WHEREAS, **TENANT** desires to use a 2.5-acre portion of said parcel for the purpose of creating a community garden; and

WHEREAS, the 1994 Evergreen Cemetery Master Plan identifies the “Brentwood Parcel” as a buffer between the historic core of the cemetery and abutting housing; recommends that the land be used for future gravesite development, above ground burial and/or maintenance support facilities for the cemetery (including stockpiling or a nursery holding area and greenhouses); and states that a significant screen of vegetation should be planted along the property line to serve as a visual buffer for all future uses; and

3. PURPOSES

TENANT shall use the **PREMISES** solely for "Community Garden Activities" which for purposes of this Lease shall mean the following: the establishment of a garden for community use for the growing of vegetables, herbs, fruits and other similar crops for human consumption. It may also include the incidental growing of flowers, whether for aesthetic or pest control reasons but individual garden plots may not be devoted exclusively or even primarily to flowers. **TENANT** may charge annual fees for use of garden plots and common fees for the right to share in common crops, such as fruit trees, berry bushes or other plants not suited for growing in individual plots, so long as any such fees are used to defray garden operational and capital costs. Any sale of the crops from the garden is prohibited. It is further intended that garden plots be made available to Portland residents who are individuals, not businesses or entities, that no individual (or immediate family) have more than one plot in the garden at any one time and/or more than one share in any common produce from the garden. It is understood that the **TENANT** will have the reasonable discretion to establish guidelines for making plots and/or common shares available to the public. This discretion will include the right to set aside a set percentage of plots and/or common shares for individuals who reside within specified distances from the garden (e.g., ½ mile, 1 mile, etc.) in order to help minimize the carbon footprint of the garden.

4. COVENANTS.

- (a) Except for activities during the initial construction phase or capital repairs (e.g., grading, drainage system installation, excavations, installation of loam, gravel and topsoil, large tree plantings) the use of motorized equipment is prohibited.
- (b) **TENANT** shall prepare for review and approval (which approval shall not be unreasonably withheld, delayed or conditioned) of the **CITY**'s arborist, a set of organic gardening principles which shall govern gardening practices at the Premises. The principles shall prohibit the use of non-organic pesticides, herbicides or fertilizers and shall limit the application of liquids to hand held spray only.
- (c) The planting of invasive species, such as bishop's weed and horseradish, is prohibited.
- (d) The use of pressure or other treated wood, including painted, is prohibited.

judgments, just or unjust, arising from injury or death to any person, property, or environmental damage sustained by anyone in and about the **PREMISES** or as a result of activities at the **PREMISES**, including, but not limited to, farming operations conducted by the **TENANT** on the **PREMISES**, resulting from any act or omission of **TENANT**, its officers, agents, servants, employees, or persons in privity with **TENANT**, except to the extent that such injury, death, or property damage results from any negligent act or omission of **CITY**, its officers, agents, employees, or servants. **TENANT** shall, at its own cost and expense, defend any and all suits or actions, just or unjust, which may be brought against **CITY** or in which **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to **CITY** which would otherwise exist.

The foregoing provision (Indemnification) will survive either expiration or termination of this lease.

11. DEFAULT, TERMINATION.

In the event that **TENANT** shall be in default in the performance of any of the terms or conditions herein agreed to be kept and performed by **TENANT**, then, in that event, **CITY** may provide **TENANT** with a notice of default in writing specifying the nature of the default. If the default is not cured within thirty (30) days of such notice or such longer period as may be reasonably necessary to cure the default as determined by **CITY**, then the **CITY** may terminate this Lease; and, thereafter, **CITY** may enter upon said **PREMISES** and remove all persons and property therefrom. **TENANT** shall be liable to **CITY** for all costs incurred by it as a result of the **TENANT's** default and **TENANT** shall pay all costs of collection and cure incurred by **CITY**, including reasonable attorney's fees.

Either party may terminate this lease for convenience upon a thirty (30) day written notice to the other party, provided however that **CITY** shall only terminate this lease for convenience upon said notice given prior to April 1st or after October 1st of each year. All personal property shall be removed therefrom by the **TENANT** upon termination of this Lease

13. HOLD OVER

In the event that **TENANT** shall hold over and remain in possession of the **PREMISES** with the consent of the **CITY**, such holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Lease Agreement to be signed in its corporate name and sealed with its corporate seal by Joseph E. Gray, Jr., its City Manager, thereunto duly authorized, and DEERING CENTER NEIGHBORHOOD ASSOCIATION has caused this Lease Agreement to be signed by Naomi Macomber, its President, thereunto duly authorized, as of the day and date first set forth above.

WITNESS:

Judith Rosen

CITY OF PORTLAND

By: Joseph E. Gray, Jr.
Joseph E. Gray, Jr.
Its: City Manager

WITNESS:

Theresa L. Barjon

DEERING CENTER
NEIGHBORHOOD
ASSOCIATION

By: Naomi Macomber
Its: President

STATE OF MAINE
CUMBERLAND, ss.

June 8th, 2009

Personally appeared the above named Joseph E. Gray, Jr., City Manager of the CITY OF PORTLAND and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Before me,

[Signature]
Notary Public/Attorney-At-Law

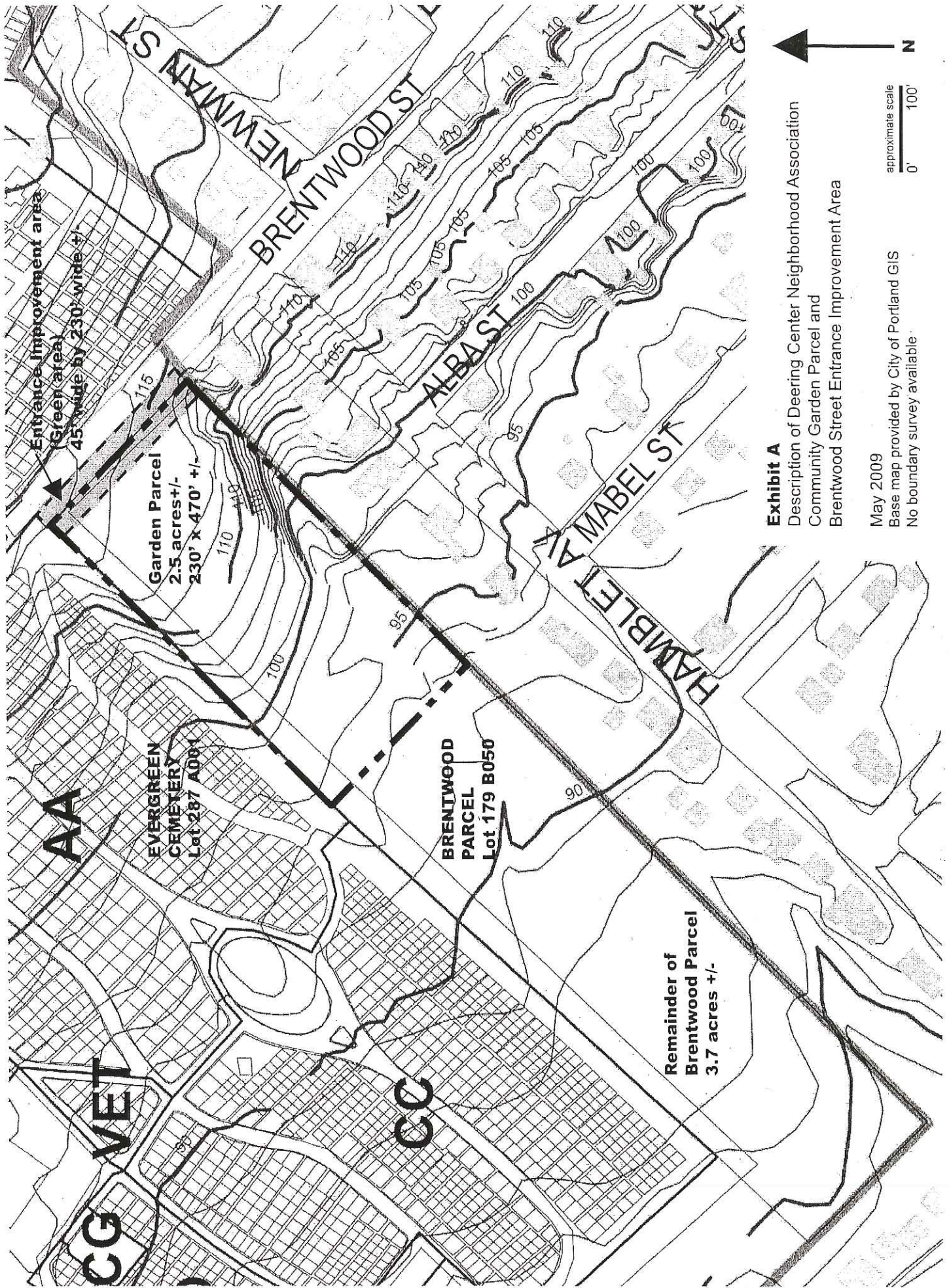
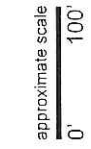


Exhibit A

Description of Deering Center Neighborhood Association
 Community Garden Parcel and
 Brentwood Street Entrance Improvement Area



May 2009
 Base map provided by City of Portland GIS
 No boundary survey available.

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID TG
DECTR-1

DATE (MM/DD/YYYY)
06/08/09

PRODUCER
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INSURED
 Deering Center Community Garde
 Elizabeth Tarasovich
 14 Hillis St
 Portland ME 04103

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INSURERS AFFORDING COVERAGE		NAIC #
INSURER A:	Peerless Insurance Company	24198
INSURER B:		
INSURER C:		
INSURER D:		
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INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	PLS GL TBA	06/04/09	06/04/10	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA occurrence) \$ 50,000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - FA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 182-200 Brentwood Street community garden. City of Portland is listed as additional insured.

CERTIFICATE HOLDER	CANCELLATION
CITY OF P City of Portland Mary Costigan Corporation Counsel 389 Congress Street Portland ME 04101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>Cheryl Keenan</i>

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If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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

Planning & Urban Development Department
Penny St. Louis Littell, Director

September 22, 2009

Mr. John Kwoka
92 Hamblet Street
Portland, Maine 04103

Dear Mr. Kwoka:

Thank you for your email to me, and copied to Mayor Duson, Councilor Waxman, and City Manager Joseph Gray, dated September 16, 2009. I also had the ability to review the email you sent to Public Works Director Mike Bobinsky. I want to take this opportunity to respond to the questions raised in your email. Before doing so, however, it is regretful that the development of this community garden, and the City process involved, is causing you and your family such distress. While we strive to provide as much assistance as possible to all members of our community, there are situations where we can always do better.

In order to be as thorough as possible in answering your questions, I have endeavored to contact all City departments involved, in any fashion, in this community garden project. Those departments are the City Manager's Office (Neighborhood and Island Liason staff), Public Services (Director, Arborist, Parks and Open Spaces Manager, Surveying staff), Planning and Urban Development (Historic Preservation, Planning), as well as the Health and Recreation Committee of the City Council.

In response to your first question, please be aware that no site plan or historic preservation plan has been approved to date. In order to apply for either of these permits, it is necessary to have a boundary survey. Since the City owns the underlying fee, subject to the revocable lease granted to the DNCA, the City has taken the responsibility for performing the survey work. It is expected the survey will be completed by William Scott, by September 18 or 22, 2009. Thereafter, DCNA should be able to submit a complete application for site plan review and historic preservation review.

Although no site plan or historic preservation approvals have been granted in this case, the DCNA had been in contact with the City Department of Public Works to discuss its plans for the garden. Indeed the DCNA appeared before the Recreation and Open Space

Committee of the City Council for its endorsement of the garden concept. The Department of Public Services was, and continues to be, very involved in discussion over the proposal. Jeff Tarling, Tom Civiello and Mike Bobinsky worked, in some detail, with the DCNA to develop a concept plan. Thereafter, in June 2009, the City's legal department was involved in the development of the revocable lease agreement between the City and DCNA. It was during this time that a request was presented to the Historic Preservation Manager to initiate clearing activity in certain areas of the site. This request was made in the context of lease negotiations rather than in the context of any site plan review or historic preservation review of a plan.

Your email refers to a "scope of work" proposed by Risbara. I am assuming you are referring to an email from Nathan Smith, Esq. to Deb Andrews, Historic Preservation Manager, dated June 4, 2009. Although there is no written permission for this work to be undertaken, it is likely that my office verbally approved preliminary site work as noted by Attorney Smith. It was the City's understanding that the work to be undertaken would be limited in scope and more of brush and debris removal. Clearly, we failed to understand the extent of the project and for this I will take responsibility. The work undertaken by Mr. Risbara on June 12 and 13, 2009 was stopped by the City following its inspection on June 17 when it was observed that soil disturbance of 47,000 s.f. had been undertaken. This triggers review by the Maine DEP. It also requires review under the City's site plan ordinance because stormwater review is triggered (DEP Chapter 500 Delegated stormwater review).

As a result of the above, CDNA was told to undertake no further construction. They were instructed to seed the site immediately and to maintain erosion control measures. This they did. No further work (besides mowing the rye grasses – for which they sought permission) has been done. No further work will be allowed until all permits are received.

The necessary permits to be obtained in association with this garden are as follows:

1. Site plan approval (including Chapter 500 stormwater review)
2. Historic Preservation approval
3. Maine DEP General Construction Permit

The City is responsible for the first 2 reviews. The DEP will undertake the General Construction Permitting.

You inquired into why this project is not going to the Planning Board for review, but rather will be reviewed by staff. First, let me tell you that staff reviews plans according to the same standards as the Planning Board. In fact, staff reviews the large majority of plans that come in to the City. In 2008, staff reviewed 76% of the plans received by the City. While this property is located in the ROS, not every project within the ROS goes to the Planning Board. Section 14-158 has always been interpreted to mean that site plans qualifying for major review would be presented to the Planning Board. In this case, site plan review comes in to play due to disturbance of an acre or more and does not fall within the category of major or minor review in 14-522 and 523.

We will also be notifying the residents within 500 feet of the property of the site plan application. A comment period will provide time for the public to provide written comment or to come in and verbally communicate comments or concerns to the assigned planner. The standards applicable to this project are found in 14-526 and the Technical Supplement as it relates to Chapter 500 stormwater standards. An appeal from a planning staff decision may be brought before the Planning Board by an aggrieved party pursuant to 14-527.

With regard to the waiver of the \$450 site plan fee, rest assured that this policy applies only to organized City neighborhood organizations. As I stated at the meeting, this fee waiver is applied uniformly and City-wide.

I trust that I have answered your questions regarding this project.

Sincerely,



Penny St. Louis Littell
Director of Planning & Urban Development

cc: Jill Duson, Mayor
City Council
Joseph Gray, City Manager
Anne Weigel
DCNA

From: John Kwoka <kwoka@maine.rr.com>
To: <PL@portlandmaine.gov>
Date: 9/16/2009 6:29:08 PM
Subject: Brentwood Parcel Questions

Ms Littell,

First, thank you for attending and sharing information at the Deering Center meeting on Monday the 14th of Sep.
As a result, I have a some questions.

It was stated at the meeting that the garden project will go through another staff review.

Which I take it to mean, minor site review.

After reading ' guidelines to qualify for for minor site review ' on the cities web site, of the seven bullets, I am having difficulty with which criteria fits the garden project.

How was ' minor site review ' determined?

What will be done in this staff review that wasn't done in the first review?

My wife and I have twice reviewed the file you had with you at the meeting.

We read the e-mail regarding the Risbara Brothers proposed work and the details to perform the work do not exist in that e-mail.

Also, on page 58 of Evergreen Cemeteries Master Plan, I'll quote the second sentence, " The first phase of any development determined to be appropriate here should be the development of proper grading and drainage and the planting of a vegetation buffer between the cemetery and the neighborhood."

Since the staff person approved the project, is it safe to say the the city determined the garden project to be appropriate?

If so, my wife & I did not see any plans in the file fulfilling the requirements in the quoted sentence.

Why wasn't this addressed in the initial staff review?

The work that was performed exceeded what was presented to the city and went unsupervised by the city on what is city property.

I find it disheartening that city has to expend funds on a community garden when the city has larger issues on hand.

As it stands now, we have little faith in another staff review.

I was also unaware the city reduces fees to Non-Profits / 501(c)'s.

Is this a new policy?

If so, is the Maine Association of Nonprofits aware of this?

If not, I am sure they would want to share this information with their members.

I will share something personal with you.

That night, my wife cried herself to sleep.

She felt none of the cities representatives at that meeting acknowledged or took serious our issue.

We have stood in the rain, watched and have taken video of water flowing from the Brentwood Parcel, under our fence and into our backyard.

An issue we didn't have prior to that work.

A week prior to the Risbara Brothers work, we spent ~\$4000.00

improving our property, sod, landscape, and shrubs.

Our back yard to be exact which we planned to be our little camp in the city

I can assure you of three things, I am neither a fool, a stupid man or a person of extreme wealth to spend that kind of money with that kind of issue present.

I encourage you to see if my wife & I ever contacted the city about water issues from the Brentwood Parcel prior to the work the Risbara Brothers performed.

I will state again as I did at the meeting, we are not against the garden project and do support the idea and we only wish to have the water issue restored to the way it was prior to the Risbara Brothers work.

I wonder if any one has thought to contact the Risbara Brothers to donate time from their engineering group to design a plan, labor and heavy equipment resources to correct the issue they created.

I've cc'd Dory Waxman on this e-mail because she was instrumental in getting the city more involved in this project.

We appreciate the time she took to see the issue first hand and she isn't even our councilperson.

Ms Waxman, my wife & I would also like to extend our condolences.

We look forward to working with the city to correct the issue.

Thanks in advance for reading this lengthy e-mail.

If there is a desire to talk with us, please contact us and I'm sure we can arrange a time that works for us.

Thanks again and have a great day.

v/r,

/s/ John J Kwoka

CC: Joe Gray <JEG@portlandmaine.gov>, Jill Duson <jduson@portlandmaine.gov>, <john.kwoka@supshipba.navy.mil>, Anne Weigel <aweigel1@maine.rr.com>, Dory-Ann Waxman <dwaxman@portlandmaine.gov>

From: Lynda Scelza
To: Shukria Wiar
Date: 10/1/2009 2:14:29 PM
Subject: Re: Brentwood Farms Community Gardens Drawing & PDF

Amy,

Bill Scott asked me to e-mail you a copy of our drawing showing the newly located topography in the area of the Brentwood Farms Community Gardens.

I have also included a PDF of the drawing for those who do not have AutoCAD to view it. Please let me know if you have any trouble opening or viewing the two attached documents.

Lynda

PS...

I do not have an e-mail address for Shukria Wiar. If one of you wouldn't mind forwarding it, I would appreciate it.

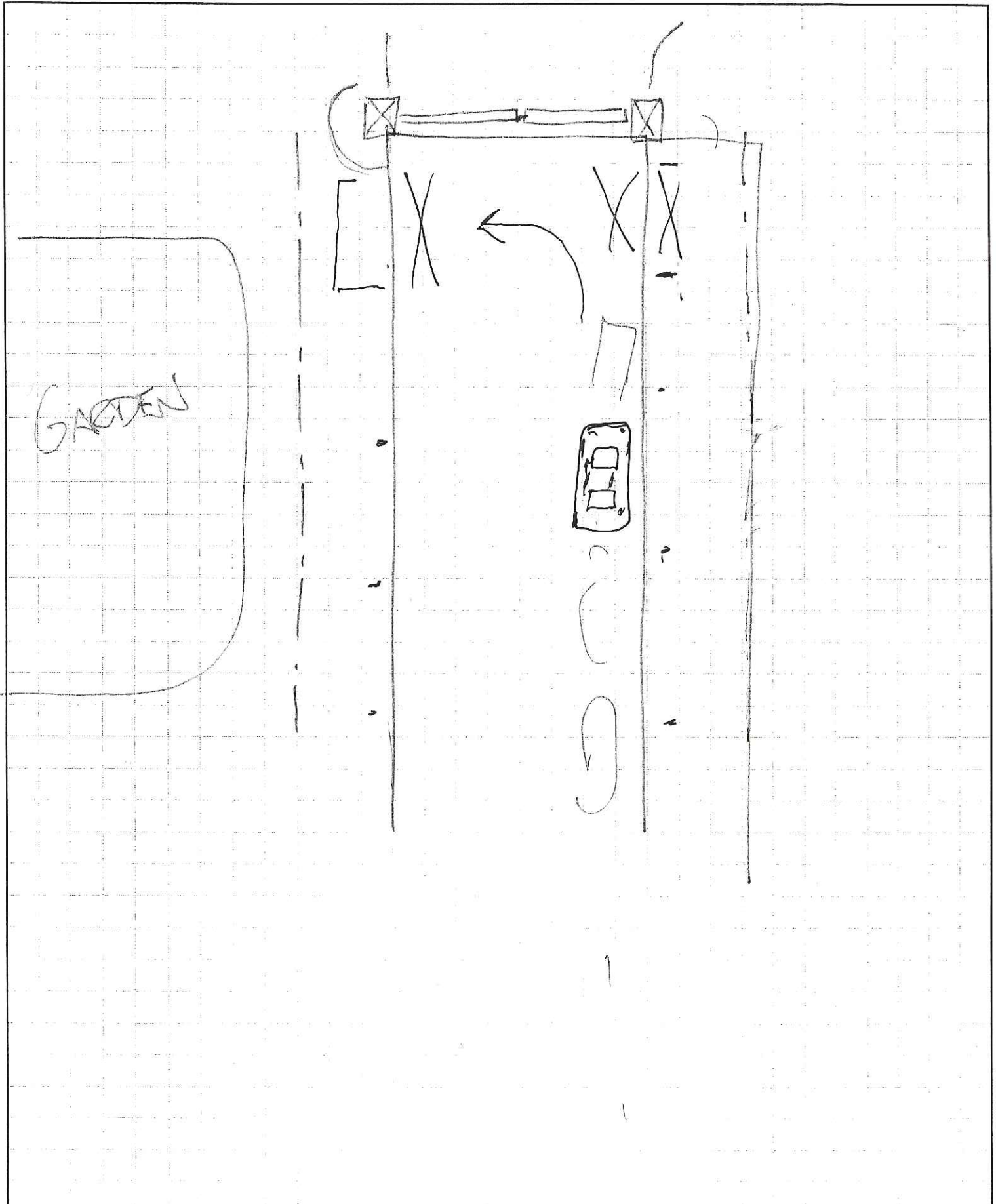
Lynda K. (Clayton) Scelza, L.S.I.T.
City of Portland, Maine
Engineering Division
Department of Public Services
55 Portland Street
Portland, ME 04101
207-874-8846 x-8827

CITY OF PORTLAND, MAINE

Parks & Recreation Department
17 Arbor Street, Portland, Maine 04103
(207) 874-8793 Fax (207) 756-8390

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Checked By: _____ Date _____
Scale: _____



May 11, 2010

Shukria Wiar, Planner
Planning and Development
City of Portland
389 Congress Street, Room 315
Portland, ME 04101

Brentwood Farms Community Garden
Brentwood Street (Assessor's Map 179 Block B Lot 050)
Portland, Maine
Follow-up to Staff Comments Dated April 14, 2010
Minor Site Plan Review-Final Plan-Administrative Review
Deering Center Neighborhood Association

Dear Shukria:

On behalf of the entire Brentwood Farms Community Garden team, we appreciated the opportunity to meet with you, Barbara Barhydt and Penny St.Louis Littell on May 10, 2010 to discuss the staff memorandum issued by your office on April 14, 2010. It was very helpful to clarify a number of the comments included in your prior correspondence.

As we discussed and summarized during our meeting, the prior staff review comments mentioned several improvements associated with Brentwood Street, that we understand are slated to be made by the City's Public Works Department, and will not be required of the Brentwood Farms Community Garden. Specifically, we understand that the City intends to construct a turn around and install curbing along the parcel frontage along Brentwood Street. The final plan for the Community Garden will need to reflect these features, but the construction of these elements will be completed by the City, as described in the comments received from the City's Public Services Director, Mr. Bobinsky. A sidewalk waiver request is being filed as part of this response package, as discussed in our meeting. Ms. St.Louis Littell confirmed that the impervious area associated with the City's new turn-around for Brentwood Street would not be considered part of the development area associated with the proposed Community Garden.

Ms. St.Louis Littell also confirmed that the applicant must respond to the staff comments as contained in items A-I of your memorandum, with item J being provided for informational purposes. It is our understanding that the staff review comments included your April 14, 2010 letter are based on extensive site visits and due consideration of the abutter comments included as item J.

Since the time to prepare for planting is imminent, we appreciated your willingness to review this response package to render a decision as soon as possible, with the potential that this matter

could be resolved by the end of this week. Accordingly, the Brentwood Farms Community Garden team has prepared the enclosed updated plans and supporting information in order to address the municipal staff comments as clarified in our meeting on May 10, 2010.

Review Comments

Your April 14, 2010 memo noted that this proposed Community Garden is being reviewed as a minor site plan subject to the Site Plan Ordinance of the Land Use Code provisions. Your correspondence included comments received from various staff members and departments as follows:

- Zoning Administrator-Marge Schmuckal
- Planning-Shukria Wiar
- Consulting Engineer, Stormwater, Dan Goyette
- Deputy City Engineer-David Margolis-Pineo
- Traffic Engineer Tom Errico
- City Arborist-Jeff Tarling
- Associate Corporation Counsel Danielle West-Chuhta
- Fire Prevention Captain Keith Gautreau
- Department of Public Services Director Michael Bobinsky

We have reiterated the municipal review comments in italics below, along with our team's responses.

A. Zoning Administrator Marge Schmuckal

1. *This project for community gardens with a small 10' x 14' shed is located in an ROS Recreation Open Space Zone. Such a use is a listed permitted use in this zone.*

No further response needed.

2. *The 10' x 14' shed is meeting the setback requirements and the maximum height allowances. It was given that the shed is 10'. Maximum lot coverage and floor area ratios are also being met for the shed. There is a requirement that a separate building permit is acquired for the construction of the shed.*

A building permit application will be filed prior to the construction of the shed.

3. *Under Division 20, the parking division, there are no listed requirements for off-street parking concerning the principal use of community gardens.*

No further response needed.

4. *This project is meeting the minimum requirements for the ROS Zone.*

No further response needed.

B. Planning Shukria Wiar

1. *Will there be any organized communal events (i.e. Planting or Harvest Celebrations) on the site?*

There will be planned communal events on the site.

2. *The buffer between the abutting homes and the garden must should be reviewed and approved by the Arborist. The specific plants for the buffer must be reviewed by Mr. Tarling.*

The plantings in the buffer area will be reviewed with Mr. Tarling, as recommended. The team has been coordinating with Mr. Tarling throughout this entire process and we are confident that the proposed buffer plantings to be installed within the upcoming year can appropriately meet the City's standards.

3. *The proposed street trees on Brentwood Street shall be set back to coordinate with the conceptual Master Plan for the Evergreen Cemetery.*

The DCNA has been present at and will continue to work with The Friends of Evergreen with regard to the plantings of the trees along Brentwood Street.

4. *A turnaround is needed at the end of Brentwood Street which is consistent with the conceptual Master Plan for the Evergreen Cemetery.*

As discussed during our meeting with City staff on May 10, 2010 and as summarized in the prior section of this response package, the City's new turnaround at the end of Brentwood Street has been shown on the enclosed updated drawings.

5. *There is a note on the site plan states the "Existing trees in this area to remain" along the back yard of 98 Hamblet Avenue. In a recent site visit, there are no trees along this area. Please provide more buffering in this area.*

The attached photos do indeed show that there are existing trees behind 98 Hamblet Avenue. In addition to the pre-existing trees, and those planted last year on the slope, there will be more trees planted, as determined and selected by City Arborist, Jeff Tarling.

6. *Please remove the 'temporary vertical granite curbing' from the site plan and revise the plans to address the comments of Dan Goyette, Stormwater Consulting Engineer.*

Please see our response to Mr. Goyette's comments below.

C. Consulting Engineer, Stormwater Dan Goyette

1. *The stormwater model uses the Cumberland County Medium Intensity Soil Survey to determine the soil characteristics for the parcel. In the area of the community garden, they are not applicable as the area is a fill site. The stormwater model should be adjusted to account for the appropriate soil types*

In accordance with Mr. Goyette's recommendations, the soils data used in the pre-and post-development stormwater model have been revised to reflect the soils mapping in this area that was recently obtained by the City of Portland. Specifically, the stormwater model has been revised to reflect the information shown on a map prepared by Albert Frick and Associates Inc, called Medium Intensity Soils Map and Preliminary Wetland Plan for Evergreen Cemetery dated February 2, 2010. Mr. Frick's mapping identifies the area of the site that has been identified as filled land. Filled land does not have a specific hydrologic soil group (HSG), but rather the soil grouping is based on the

capacity of the surface soil to absorb runoff. Using a HSG of D for the area of filled land represents a condition in which the soil has the most potential to generate runoff (i.e. the worst hydrologic condition). The area of the filled land (and the mapping shown for the remainder of the garden area) has been included in the revised stormwater calculations, based on the mapping conducted for the City. Updated calculations are included in this response package.

- 2. Granite curbing should be installed along the entire frontage of the property. A curb break would be acceptable to allow for the stormwater to enter the proposed drainage swale.*

As discussed at our meeting with you and other City staff, the City will be installing granite curbing along the site's frontage. The enclosed updated plans identify the new curbing location along the existing edge of pavement along Brentwood Street. As Mr. Goyette has recommended, there is a curb break to allow the gutter flow along Brentwood Street to enter into the existing drainage swale located in the easterly corner of the site. It is understood based on Mr. Goyette's recommendation that staff wishes to formalize the use of this existing swale as a relief for the gutter flow that occurs along Brentwood Street.

As the City staff noted during the meeting with the Brentwood Farms team, the municipal staff has given detailed consideration to the recommendations made by an abutter on Hamblet Avenue with regard to diverting the entire flow along Brentwood Street to an existing catch basin near the intersection with Brentwood Street and Hamblet Avenue, thereby removing a large component of drainage that enters into the existing swale along the southerly side of the City's property. It is our understanding that the City does not want to direct any additional runoff to the existing street drainage system in this area, as the municipal system is a combined sewer system and is within the Capisic Brook Watershed. Accordingly, it is our understanding that the City staff has recommended that the curb break be installed as described in Mr. Goyette's comments above. The enclosed revised plans include these recommendations.

- 3. A turnaround should be provided on the parcel to allow for vehicle maneuvering at the end of Brentwood Street. The turnaround should be curbed but provisions can be made to allow for pedestrian ramps within the turnaround.*

As discussed during our meeting with City staff on May 10, 2010 and as previously noted herein, the City's new turnaround at the end of Brentwood Street has been shown on the enclosed updated drawings. As Mr. Goyette has recommended, this area includes tipdowns at the new curbing along Brentwood Street. Based on discussions with the Deputy City Engineer, the surface of this turnaround will be crushed stone. This new turnaround will be constructed by the Public Services Department.

- 4. The driveway at 178 Brentwood Street should be reconstructed by the roadway to allow for the installation of a lip at the roadway. In the event that stormwater bypasses the drainage channel, the lip will direct stormwater down the street to the catch basin located at the corner of Brentwood Street and Hamblet Avenue.*

The Brentwood Farms Community Garden team is fortunate to have an offer from Risbara Brothers Construction Co. Inc. to implement this recommendation, as the construction of this change would not be feasible for the residents within the Deering Center Neighborhood Association if these services were not generously donated.

- 5. The existing drainage swale has been constructed by installing a berm between the abutting properties and the community garden parcel and then installing bark mulch over the swale. The berm is acting like a dam and not allowing the stormwater from these parcels to enter the drainage swale and perches the stormwater in the swale at a higher elevation than the adjacent*

soils. In addition, the bark mulch does not convey stormwater; it is a good erosion control material because it slows the flow of water. So in effect the swale is not conveying stormwater; any stormwater in the existing swale merely soaks into the ground, emerging in the adjacent lower soils. The stormwater plan depicts the swale as grassed and that the berm be extended. The swale should be redesigned so that the berm is removed and the swale is installed in the ground, not perched above an adjacent low point.

As we discussed during our meeting with the City Staff, we would like the municipal record to reflect that the applicant's team does not concur with Mr. Goyette's assertions that the existing drainage swale was constructed by creating a berm that has caused the runoff in the rear of the abutting properties to be impounded. As part of our review of the site and based on a site visit with the contractor who performed the work on the property in 2009, it is clear that the City's land adjacent to the rear of the properties in question is naturally higher than the backyards that are voicing the drainage concerns. Detailed review of the City's topographic survey from 1994, coupled with observations of existing mature trees along the rear property line of abutter's lots reveals that the existing grade has not been changed. Please see our response to Mr. Goyette's comment #6 below.

6. *The pavement in the street at the entrance to the swale shall be removed and reshaped to facilitate stormwater entering the swale.*

During our meeting with you and other staff members, we asked for clarification with regard to Mr. Goyette's comments. On May 10, 2010, Ms. St. Louis Littell provided the following additional information (via e-mail) specifically with regard to Comments #5 and #6 from Mr. Goyette:

As promised below is clarification of the two sentences authored by Dan Goyette and contained within Planner Wiar's April 14, 2010 correspondence to Amy Segal. The sentences at issue read "The stormwater plan depicts the swale as grassed and that the berm be extended. The swale should be redesigned so that the berm is removed and the swale is installed in the ground, not perched above an adjacent low point." To be more specific and thus provide guidance the applicant is seeking, Dan further explains:

1. *The mulch should be removed from the swale/ditch. The water is not flowing freely due to the bark mulch. The bark mulch may be left on the hillside for erosion control.*

The enclosed plans reflect the removal of the bark mulch from the base of the swale, as recommended by Mr. Goyette. The mulch will remain on the sideslopes for erosion control.

2. *The swale/ditch should be lowered, so that the water from the garden and adjoining properties flows to the rear of the City property. A lower elevation of the base of the swale/ditch will allow for the water to reach its destination i.e. the rear of the Cemetery site. This can be achieved without disturbing the slope adjacent to the abutter's property by reshaping the swale/ditch such that the low point is wholly on the City property.*

The enclosed revised plans reflect Mr. Goyette's specific recommendations as cited above.

3. *The swale must be grassed in order to facilitate the flow of water.*

Mr. Goyette's recommendation has been included in the enclosed updated design for the swale.

D. Deputy City Engineer David Margolis-Pineo

1. *This department has reviewed and agrees with the comments presented by Dan Goyette of Woodard and Curran concerning stormwater drainage issues for this project.*

No further response needed.

2. *To further expand on Dan's comments, we would add that the applicant be responsible to submit revised plans detailing a proposed professional engineer design for the drainage swale to handle projected upland flows coming the cemetery, street and project site. The design should take into consideration how the vertical granite curbing and sidewalk can be installed to allow upland drainage to convey into the drainage swale so that all stormwater drainage is intercepted by the swale before reaching the driveway of 178 Brentwood Street.*

Please see our response to Mr. Goyette's comments above.

E. Traffic Engineer Tom Errico

1. *In my professional opinion the provision of vertical granite curbing will help to delineate the edge of Brentwood Avenue and therefore will help to manage vehicles parking on the street.*

As discussed above, the City will be installing granite curbing along Brentwood Street.

2. *The provision of a turn-around is suggested at the end of Brentwood Avenue to help facilitate vehicle movements.*

This item has been previously addressed.

3. *The applicant should conduct a sidewalk waiver exercise to determine whether a sidewalk should be provided along their property frontage.*

The Brentwood Farms Community Garden project is formally requesting a waiver of Ordinance section 14-498 (Technical Design Standards) of the City of Portland Land Use Code. Specifically, this request is being made to waive the requirement for the installation of a sidewalk along the Brentwood Street Frontage. In accordance with Section 506 (Modifications) of the Land Use Code, the Planning Authority may grant a waiver regarding the installation of a sidewalk if two or more of the six possible conditions cited in the Ordinance exist with regard to the property.

The current terminus of the municipal sidewalk network is located near the intersection of Brentwood Street and Hamblet Avenue. There are no sidewalks along Hamblet Avenue until the intersection of Madeline Street, which is a full three blocks away from the intersection with Brentwood Street. There are no sidewalks on either side of this section of Brentwood Street, or in the Cemetery itself. If a sidewalk were built it would not connect to anything.

Currently, there is a Portland Trails walking trail that generally follows along the northwesterly edge of the City's property. In addition, pedestrians often enter Evergreen Cemetery through the gate at the end of Brentwood Street to walk in this area. Given the low level of traffic on this dead end section of Brentwood Street, pedestrians walk along the existing pavement which is approximately 30' wide. In addition, with the proposed construction of the Community Garden, pedestrians will be offered an additional opportunity to use the pathways that encircle the garden area. In accordance with criteria #3 cited in the Ordinance, it is the opinion of the applicant that an alternative walking route is reasonably available in this area such that the addition of a new sidewalk would not be warranted.

In addition, in accordance with criteria #6 of Section 506, strict adherence to the Ordinance requirement for installation of a sidewalk (with the accompanying esplanade) along the parcel

frontage would result in the loss of significant site features that are deemed to be of greater public value. The City's Technical Design Standards require an approximately 10' wide area off the curb line to construct a sidewalk and esplanade. Given the existing pavement width and curb location on the adjacent property, this would either require a narrowing of the existing pavement width along Brentwood Street to maintain the sidewalk within the confines of the right of way, or the construction of the sidewalk on a portion of the area set aside for the community garden. In addition, the sidewalk would be expected to necessitate the removal of the established tree that remains along the site frontage. For these reasons, and for the overriding financial burden that the construction of a sidewalk would place on the volunteer-sponsored neighborhood association, the DCNA is respectfully requesting the City's consideration of this waiver request. If, at a future date, the City has the financial means to build the sidewalk, in accordance with the Friends of Evergreen Master Plan for the parcel, the DCNA will be happy to help in any way it can.

4. *In my professional opinion the proposed project will not have a significant impact on adding new traffic to the neighborhood and creating unsafe or congested traffic conditions. I would expect that most garden patrons will be pedestrians or bicyclists from the neighborhood.*

No response needed.

F. City Arborist Jeff Tarling

1. *The proposed Brentwood Community Garden project located at the dead end of Brentwood Street improves the use of this under utilized, public owned green space. The main landscape challenge to the site is buffering the nearby residential properties. The landscape plan shows the garden at its potential including buffering, street-trees, and landscaped garden planting.*

No response needed.

2. **Recommendations** - *The Brentwood Garden project working in conjunction with City, Evergreen Cemetery & Department of Public Services should install the necessary buffer planting within the first year of operation of the garden. This would give adequate time to construct the drainage work in the same vicinity. Street-trees shown on the plan should meet any HP approval and match the Brentwood Street Cemetery Master Plan, now in progress. The street trees should not be a requirement of the project due to the overlay of the Brentwood Master Plan & possible future use of the site. Street trees and additional landscape treatment should be a unified effort of all the involved groups including the Friends of Evergreen & City, Cemetery Operations and the Brentwood Garden project.*

As previously noted, the Brentwood Farms Community Garden team will continue to work with Mr. Tarling and the other entities cited in his comments above to provide the appropriate level of buffering and plantings for this community garden project.

3. *Overall, the Brentwood Community Garden project is greatly improving, even on a temporary basis, the vacant, unimproved Brentwood Lot. The Deering Center Neighborhood Group deserves much credit to bring this community based effort to improve this location. It is similar to the Victory Garden that was once planted at the corner of Leland Street & Mabel Street in the 1940's and is now Baxter Pines.*

The Brentwood Community Garden team greatly appreciates Mr. Tarling's clear understanding of the merits of this proposed program to benefit the residents in this area.

G. Associate Corporation Counsel Danielle West-Chuhta

The driveway at 178 Brentwood Street is encroaching the City's property. Legal will be looking into this matter further and a decision will be rendered at a later date.

It is our understanding based on our meeting with you on May 10, 2010, that the City's legal staff has not reached a decision as to how this matter will be addressed with the abutter. The enclosed updated plans reflect the current site conditions in this area. The Community Garden has been designed to allow the existing driveway to remain in place.

H. Fire Prevention Captain Keith Gautreau

1. *Fire review is complete and everything looks good. This is mostly a drainage and storm water flow issue. Access to site is good. Keith*

No response needed.

I. Department of Public Services Director Michael Bobinsky

1. *Installation of the physical improvements required within the Brentwood St. public right-of-way will generally become the responsibility of the Department after the applicant's final design is approved. These installation responsibilities are limited to these components of the applicant's final approved plans:*
 - a. *Installation of curbing along Brentwood St.*
 - b. *Installation of a sidewalk if a waiver is unobtainable*
 - c. *Installation of a turnaround (likely on the south side of Brentwood)*
 - d. *Modification of the driveway at #178 Brentwood, subject to Corporation Counsel's final ruling on location, and the applicant's drainage system design.*

The enclosed plans for the Brentwood Farms Community Garden, reflect the City's improvements as described above. In addition, a sidewalk waiver has been requested. The plans do not show the removal of any of the driveway for 178 Brentwood, but do show the addition of a slightly raised "lip" across the section of the driveway for 178 Brentwood. This proposed lip has been recommended by the City's peer reviewer, Dan Goyette, as well as the Deputy City Engineer, Dave Margolis-Pineo. These improvements have been designed to be constructed within the limits of the Brentwood Street right of way.

2. *Operation, maintenance, and any annual reporting requirements of the drainage system on this parcel will be the responsibility of the applicant.*

It is understood that the ongoing operational and maintenance requirements as appropriate to the level of site drainage features associated with the Brentwood Farms Community Garden will be the responsibility of the applicant, and that the runoff from Brentwood Street will continue to be the responsibility of the City.

3. *Department approval of the final site plan will be subject to a release and indemnification agreement, by the applicant.*

As part of the lease agreement between the City and the Deering Center Neighborhood Association to allow the use of the site for the Brentwood Farms Community Garden (signed June 8, 2009), certain language was included with regard to insurance requirements and indemnification language. An insurance certificate was provided at that time. We trust that the

prior documentation provided to the City in support of their entering into this lease agreement last year will be sufficient to address the site plan requirements.

Closure

In accordance with your request, we have enclosed seven (7) copies of revised and updated plans and supporting materials in response to the comments listed above. Please let me know if you need any additional information or if you have any further comments. I look forward to hearing from you soon.

Should you or any other reviewers have any questions or require any additional information, please do not hesitate to call me.

Sincerely,


Amy Bell Segal

Enc.

cc:

Penny St.Louis-Littell
Barbara Barhydt
Paul Driscoll
Elizabeth Tarasevich
Naomi Merman
Rocco Risbara
Sebago Technics











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Planning & Urban Development Department
Penny St. Louis Littell, Director

MAY 18, 2010

Tom Bringham
Oakhurst Properties, LLC
354 Forest Avenue
Portland, ME 04101

Project Name: Forest Avenue - 326; Retail And Parking; Oakhurst Properties, Applicant.
Project ID: 10-79900001
Project Address: 326 FOREST AVENUE
Planner: Shukria Wiar

Dear Mr. Bringham:

On May 17, 2010, the Portland Planning Authority approved with conditions the proposal for the demolition of the existing rear structure of the building and the internal demolition of the ceiling, ramps and wall (as shown on Attachment #1) located at 326 Forest Avenue, the site of the former World Imports. As provided in Section 14-528, this letter serves as the written permission from the Planning Authority to commence demolition of the former World Imports site prior to posting the performance guarantee. The commencement of site work is limited to the extent of work outlined in Laura Blanchette, Project Manager with PM Construction, letter dated May 14, 2010 and listed below:

1. Demolition of the existing rear structure of the building and the internal demolition of the ceiling, ramps and wall (as shown on Attachment #1) located at 338 Forest Avenue, the site of the former World Imports.
2. A pre-demolition meeting must be held with Portland's Planning Division and the Department of Public Works. Please contact Phil DiPierro at 874-8632 to schedule the meeting.
3. Erosion control measures meeting DEP's best management practices must be installed prior to the start of demolition.

Please be advised that you must obtain a demolition permit from the City's Inspection Division prior to commencing the demolition and obtain any permits that may be required from Public Works for the temporary closing of any sidewalks and any temporary loss of on-street parking.

This letter is not an approval for the proposed ramp that is required by the State Fire Marshal. The City is unwilling to grant an easement or license for a ramp within the City's sidewalk due to the proposed location and the potential for other alternatives to meet the State requirements.

The approval to proceed with the building demolition is based on the submitted request of in Laura Blanchette letter dated May 14, 2010 and the approved site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval. If there are any questions, please contact the Planning Staff.

Sincerely,

Penny Littell (BB)

Penny St.Louis Littell, Director of Planning and Urban Development

Electric Distribution:

Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Marge Schmuckal, Zoning Administrator
Phil DiPierro, Development Review Coordinator
Greg Vining, Public Works
Jeanie Bourke, Inspections
Inspections Department
Approval Letter File

Attachments:

1. Laura Blanchette, Project Manger with PM Construction, email 05.14.2010

Shukria Wiar - RE: Oakhurst Dairy Site Plan

From: "Laura Blanchette" <lblanchette@pmconstruction.com>
To: "Barbara Barhydt" <BAB@portlandmaine.gov>, "Tom Brigham" <tbrigham@oakhu...
Date: 5/14/2010 3:59 PM
Subject: RE: Oakhurst Dairy Site Plan
CC: "Alex Jaegerman" <AQJ@portlandmaine.gov>, "Jeanie Bourke" <JMB@portlandm...

Barbara,

The work we have proposed to do is the exterior demo and the ceiling, interior ramps and wall demo only. There is a drawing detailing this that was submitted with the Demo Permit dated 2/19 D1.1. I am hoping this email can serve as the letter you are looking for.

I will have the performance guarantee together next week when I will also be submitting the building permit. I believe we may have a solution to the handicap ramp situation so this should wrap things up.

We had the pre-demo meeting on Tuesday 5/11 with Nick Adams and he had signed off as of Wednesday 5/12. When I spoke to Lannie on 5/7 she told me Planning had signed off and the Fire Department had signed off and we were just waiting on "Commercial Review", now I am being told we are back at Planning, I'm confused.

Thanks,

Laura

PS I will take Jay off, I only copied him because I hit Reply all on an email Shukria sent to Oakhurst earlier this week. Sorry Phil.

Laura J. Blanchette

Director of Business Development

(207)282-7697 phone

(207)283-4549 fax

(207)423-3517 cell

www.pmconstruction.com

From: Barbara Barhydt [mailto:BAB@portlandmaine.gov]
Sent: Friday, May 14, 2010 3:31 PM
To: Tom Brigham; Laura Blanchette; Shukria Wiar
Cc: Alex Jaegerman; Jeanie Bourke; Philip DiPierro; Tammy Munson

CWS
Architects

Architecture
 Space Planning
 Value Design

124 GARDNER STREET
 PORTLAND, ME 04103
 Phone: (207) 761-0400
 Fax: (207) 761-0100
 www.cwsarch.com

Design
 OAKHURST DAIRY
 334 FOREST AVE
 PORTLAND, ME 04103

Construction

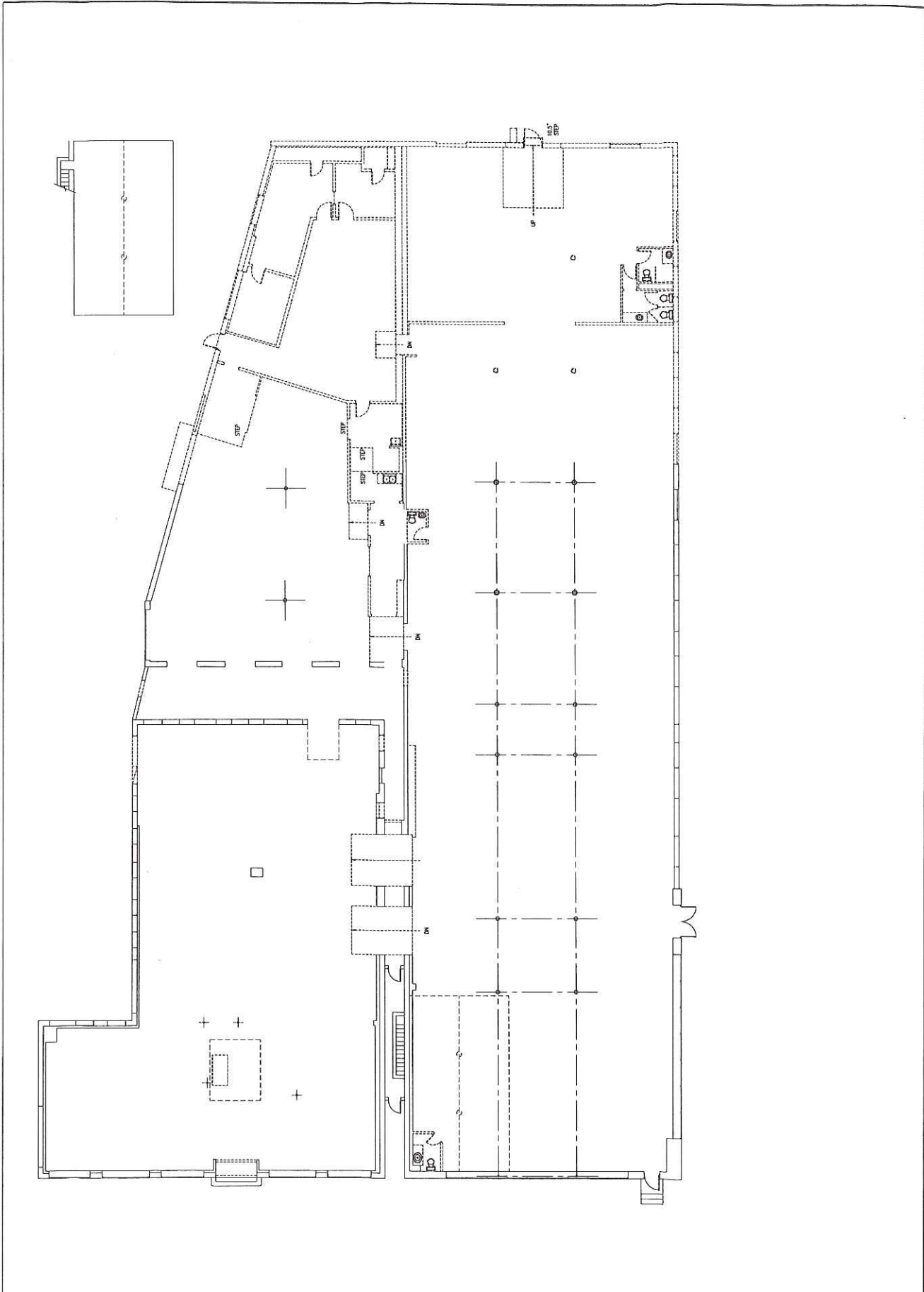
**334 FOREST AVE
 RENOVATIONS**
 334 FOREST AVE
 PORTLAND, ME 04103

Project No: 09-027
 Scale: 1" = 12'
 Date: 8 February 2009
 Revisions:

1
 2
 3
 4
 5
 6

Drawing Number:
D1.1

REVIEW





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Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

APRIL 16, 2010

Tom Brigham
Oakhurst Properties, LLC
354 Forest Avenue
Portland, ME 04101

Project Name: Forest Avenue - 326; Retail And Parking; Oakhurst Properties, Applicant.
Project ID: 10-79900001
Project Address: 326 FOREST AVENUE
Planner: Shukria Wiar

Dear Applicant:

On April 15, 2010, the Portland Planning Authority approved a minor site plan for renovation of an existing building and a new parking lot at 326 Forest Avenue as submitted by the Applicant and shown on the approved plan prepared by BH2M, Inc. with a revision date of 02.08.2010 with the following conditions below.

WAIVERS

The Planning Division Authority waives the Technical Standard, Section III 2 A, which requires that a standard parking space be 9 feet wide by 19 feet long, to allow the spaces along the building in the new parking lot to be 8 feet wide by 19 feet long and allow the spaces along Durham Street to be 9 feet wide by 15 feet long (compact spaces).

SITE PLAN REVIEW

1. The applicant shall post a Performance Guarantee for the vertical granite curbing to be completed by September 30, 2013. In the interim, the applicant has agreed to reduce the opening or temporarily close all the curb cuts on Bedford Street with bituminous "Cape Cod" style curbing until the street opening moratorium expires.
2. There shall be a note added to the site plan's detail sheet stating that "All work within the City Right of Way shall meet current City standards."
3. If during demolition, the asphalt sidewalk is damaged, the replacement material for the sidewalk shall be concrete.

4. The proposed island on Durham Street shall mirror the island on Forest Avenue in that it shall be located along the sidewalk and to be lengthen it as much as possible without compromising access/egress movements from the Oakhurst truck parking spaces.
5. The landscape island along Durham Street shall also be similar to the island on the Forest Avenue side in the context of the plant species.
6. The compact spaces shall be adjusted so that the spaces are nine (9) feet wide and thus the number of spaces will be reduced by two.
7. The final design of the building canopy shall be reviewed and approved by the Planning Authority.

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

STANDARD CONDITIONS OF APPROVAL

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

1. The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14 of the Portland City Hall.
2. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. Final sets of plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
4. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Dept. prior to the release of the subdivision plat for recording at the Registry of Deeds or prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised subdivision or site plan application for staff review and approval.
5. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
6. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
7. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the

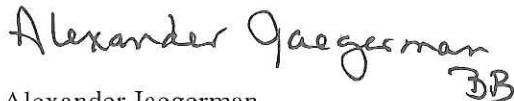
site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

8. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

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

If you have any questions, please contact Shukria Wiar at 756-8083 or shukriaw@portlandmaine.gov

Sincerely,

Handwritten signature of Alexander Jaegerman in black ink, with the initials "JB" written below the signature.

Alexander Jaegerman
Portland Planning Division Director

Attachments:

1. Performance Guarantee Packet

Electronic Distribution:

Penny St. Louis Littell, Director of Planning and Urban Development
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Shukria Wiar, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Tammy Munson, Inspections Division Director
Gayle Guertin, Inspections Division
Lannie Dobson, Inspections Division
Michael Bobinsky, Public Services Director
Kathi Earley, Public Services
Bill Clark, Public Services
David Margolis-Pineo, Deputy City Engineer
Greg Vining, Public Services
John Low, Public Services
Jane Ward, Public Services
Keith Gautreau, Fire
Jeff Tarling, City Arborist
Tom Errico, TY Lin
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File
Hard Copy: Project File

May 11, 2010

Shukria Wiar, Planner
Planning and Development
City of Portland
389 Congress Street, Room 315
Portland, ME 04101

Brentwood Farms Community Garden
Brentwood Street (Assessor's Map 179 Block B Lot 050)
Portland, Maine
Follow-up to Staff Comments Dated April 14, 2010
Minor Site Plan Review-Final Plan-Administrative Review
Deering Center Neighborhood Association

Dear Shukria:

On behalf of the entire Brentwood Farms Community Garden team, we appreciated the opportunity to meet with you, Barbara Barhydt and Penny St.Louis Littell on May 10, 2010 to discuss the staff memorandum issued by your office on April 14, 2010. It was very helpful to clarify a number of the comments included in your prior correspondence.

As we discussed and summarized during our meeting, the prior staff review comments mentioned several improvements associated with Brentwood Street, that we understand are slated to be made by the City's Public Works Department, and will not be required of the Brentwood Farms Community Garden. Specifically, we understand that the City intends to construct a turn around and install curbing along the parcel frontage along Brentwood Street. The final plan for the Community Garden will need to reflect these features, but the construction of these elements will be completed by the City, as described in the comments received from the City's Public Services Director, Mr. Bobinsky. A sidewalk waiver request is being filed as part of this response package, as discussed in our meeting. Ms. St.Louis Littell confirmed that the impervious area associated with the City's new turn-around for Brentwood Street would not be considered part of the development area associated with the proposed Community Garden.

Ms. St.Louis Littell also confirmed that the applicant must respond to the staff comments as contained in items A-I of your memorandum, with item J being provided for informational purposes. It is our understanding that the staff review comments included your April 14, 2010 letter are based on extensive site visits and due consideration of the abutter comments included as item J.

Since the time to prepare for planting is imminent, we appreciated your willingness to review this response package to render a decision as soon as possible, with the potential that this matter

could be resolved by the end of this week. Accordingly, the Brentwood Farms Community Garden team has prepared the enclosed updated plans and supporting information in order to address the municipal staff comments as clarified in our meeting on May 10, 2010.

Review Comments

Your April 14, 2010 memo noted that this proposed Community Garden is being reviewed as a minor site plan subject to the Site Plan Ordinance of the Land Use Code provisions. Your correspondence included comments received from various staff members and departments as follows:

- Zoning Administrator-Marge Schmuckal
- Planning-Shukria Wiar
- Consulting Engineer, Stormwater, Dan Goyette
- Deputy City Engineer-David Margolis-Pineo
- Traffic Engineer Tom Errico
- City Arborist-Jeff Tarling
- Associate Corporation Counsel Danielle West-Chuhta
- Fire Prevention Captain Keith Gautreau
- Department of Public Services Director Michael Bobinsky

We have reiterated the municipal review comments in italics below, along with our team's responses.

A. Zoning Administrator Marge Schmuckal

1. *This project for community gardens with a small 10' x 14' shed is located in an ROS Recreation Open Space Zone. Such a use is a listed permitted use in this zone.*

No further response needed.

2. *The 10' x 14' shed is meeting the setback requirements and the maximum height allowances. It was given that the shed is 10'. Maximum lot coverage and floor area ratios are also being met for the shed. There is a requirement that a separate building permit is acquired for the construction of the shed.*

A building permit application will be filed prior to the construction of the shed.

3. *Under Division 20, the parking division, there are no listed requirements for off-street parking concerning the principal use of community gardens.*

No further response needed.

4. *This project is meeting the minimum requirements for the ROS Zone.*

No further response needed.

B. Planning Shukria Wiar

1. Will there be any organized communal events (i.e. Planting or Harvest Celebrations) on the site?

There will be planned communal events on the site. - Condition that the events be limited to - per year

2. The buffer between the abutting homes and the garden must should be reviewed and approved by the Arborist. The specific plants for the buffer must be reviewed by Mr. Tarling.

The plantings in the buffer area will be reviewed with Mr. Tarling, as recommended. The team has been coordinating with Mr. Tarling throughout this entire process and we are confident that the proposed buffer plantings to be installed within the upcoming year can appropriately meet the City's standards.

3. The proposed street trees on Brentwood Street shall be set back to coordinate with the conceptual Master Plan for the Evergreen Cemetery.

The DCNA has been present at and will continue to work with The Friends of Evergreen with regard to the plantings of the trees along Brentwood Street.

4. A turnaround is needed at the end of Brentwood Street which is consistent with the conceptual Master Plan for the Evergreen Cemetery.

As discussed during our meeting with City staff on May 10, 2010 and as summarized in the prior section of this response package, the City's new turnaround at the end of Brentwood Street has been shown on the enclosed updated drawings.

5. There is a note on the site plan states the "Existing trees in this area to remain" along the back yard of 98 Hamblet Avenue. In a recent site visit, there are no trees along this area. Please provide more buffering in this area.

The attached photos do indeed show that there are existing trees behind 98 Hamblet Avenue. In addition to the pre-existing trees, and those planted last year on the slope, there will be more trees planted, as determined and selected by City Arborist, Jeff Tarling. - work w/ Jeff to have a dense species here. Needs to be noted on plan then.

6. Please remove the 'temporary vertical granite curbing' from the site plan and revise the plans to address the comments of Dan Goyette, Stormwater Consulting Engineer.

Please see our response to Mr. Goyette's comments below.

C. Consulting Engineer, Stormwater Dan Goyette

1. The stormwater model uses the Cumberland County Medium Intensity Soil Survey to determine the soil characteristics for the parcel. In the area of the community garden, they are not applicable as the area is a fill site. The stormwater model should be adjusted to account for the appropriate soil types

In accordance with Mr. Goyette's recommendations, the soils data used in the pre-and post-development stormwater model have been revised to reflect the soils mapping in this area that was recently obtained by the City of Portland. Specifically, the stormwater model has been revised to reflect the information shown on a map prepared by Albert Frick and Associates Inc, called Medium Intensity Soils Map and Preliminary Wetland Plan for Evergreen Cemetery dated February 2, 2010. Mr. Frick's mapping identifies the area of the site that has been identified as filled land. Filled land does not have a specific hydrologic soil group (HSG), but rather the soil grouping is based on the

may need to be moved to meet up w/ Portland Trails

capacity of the surface soil to absorb runoff. Using a HSG of D for the area of filled land represents a condition in which the soil has the most potential to generate runoff (i.e. the worst hydrologic condition). The area of the filled land (and the mapping shown for the remainder of the garden area) has been included in the revised stormwater calculations, based on the mapping conducted for the City. Updated calculations are included in this response package.

- 2. Granite curbing should be installed along the entire frontage of the property. A curb break would be acceptable to allow for the stormwater to enter the proposed drainage swale.*

As discussed at our meeting with you and other City staff, the City will be installing granite curbing along the site's frontage. The enclosed updated plans identify the new curbing location along the existing edge of pavement along Brentwood Street. As Mr. Goyette has recommended, there is a curb break to allow the gutter flow along Brentwood Street to enter into the existing drainage swale located in the easterly corner of the site. It is understood based on Mr. Goyette's recommendation that staff wishes to formalize the use of this existing swale as a relief for the gutter flow that occurs along Brentwood Street.

As the City staff noted during the meeting with the Brentwood Farms team, the municipal staff has given detailed consideration to the recommendations made by an abutter on Hamblet Avenue with regard to diverting the entire flow along Brentwood Street to an existing catch basin near the intersection with Brentwood Street and Hamblet Avenue, thereby removing a large component of drainage that enters into the existing swale along the southerly side of the City's property. It is our understanding that the City does not want to direct any additional runoff to the existing street drainage system in this area, as the municipal system is a combined sewer system and is within the Capisic Brook Watershed. Accordingly, it is our understanding that the City staff has recommended that the curb break be installed as described in Mr. Goyette's comments above. The enclosed revised plans include these recommendations.

- 3. A turnaround should be provided on the parcel to allow for vehicle maneuvering at the end of Brentwood Street. The turnaround should be curbed but provisions can be made to allow for pedestrian ramps within the turnaround.*

As discussed during our meeting with City staff on May 10, 2010 and as previously noted herein, the City's new turnaround at the end of Brentwood Street has been shown on the enclosed updated drawings. As Mr. Goyette has recommended, this area includes tipdowns at the new curbing along Brentwood Street. Based on discussions with the Deputy City Engineer, the surface of this turnaround will be crushed stone. This new turnaround will be constructed by the Public Services Department.

- 4. The driveway at 178 Brentwood Street should be reconstructed by the roadway to allow for the installation of a lip at the roadway. In the event that stormwater bypasses the drainage channel, the lip will direct stormwater down the street to the catch basin located at the corner of Brentwood Street and Hamblet Avenue.*

The Brentwood Farms Community Garden team is fortunate to have an offer from Risbara Brothers Construction Co. Inc. to implement this recommendation, as the construction of this change would not be feasible for the residents within the Deering Center Neighborhood Association if these services were not generously donated.

- 5. The existing drainage swale has been constructed by installing a berm between the abutting properties and the community garden parcel and then installing bark mulch over the swale. The berm is acting like a dam and not allowing the stormwater from these parcels to enter the drainage swale and perches the stormwater in the swale at a higher elevation than the adjacent*

soils. In addition, the bark mulch does not convey stormwater; it is a good erosion control material because it slows the flow of water. So in effect the swale is not conveying stormwater; any stormwater in the existing swale merely soaks into the ground, emerging in the adjacent lower soils. The stormwater plan depicts the swale as grassed and that the berm be extended. The swale should be redesigned so that the berm is removed and the swale is installed in the ground, not perched above an adjacent low point.

As we discussed during our meeting with the City Staff, we would like the municipal record to reflect that the applicant's team does not concur with Mr. Goyette's assertions that the existing drainage swale was constructed by creating a berm that has caused the runoff in the rear of the abutting properties to be impounded. As part of our review of the site and based on a site visit with the contractor who performed the work on the property in 2009, it is clear that the City's land adjacent to the rear of the properties in question is naturally higher than the backyards that are voicing the drainage concerns. Detailed review of the City's topographic survey from 1994, coupled with observations of existing mature trees along the rear property line of abutter's lots reveals that the existing grade has not been changed. Please see our response to Mr. Goyette's comment #6 below.

6. *The pavement in the street at the entrance to the swale shall be removed and reshaped to facilitate stormwater entering the swale.*

During our meeting with you and other staff members, we asked for clarification with regard to Mr. Goyette's comments. On May 10, 2010, Ms. St. Louis Littell provided the following additional information (via e-mail) specifically with regard to Comments #5 and #6 from Mr. Goyette:

As promised below is clarification of the two sentences authored by Dan Goyette and contained within Planner Wiar's April 14, 2010 correspondence to Amy Segal. The sentences at issue read "The stormwater plan depicts the swale as grassed and that the berm be extended. The swale should be redesigned so that the berm is removed and the swale is installed in the ground, not perched above an adjacent low point." To be more specific and thus provide guidance the applicant is seeking, Dan further explains:

1. *The mulch should be removed from the swale/ditch. The water is not flowing freely due to the bark mulch. The bark mulch may be left on the hillside for erosion control.*
- ✓ The enclosed plans reflect the removal of the bark mulch from the base of the swale, as recommended by Mr. Goyette. The mulch will remain on the sideslopes for erosion control.
2. *The swale/ditch should be lowered, so that the water from the garden and adjoining properties flows to the rear of the City property. A lower elevation of the base of the swale/ditch will allow for the water to reach its destination i.e. the rear of the Cemetery site. This can be achieved without disturbing the slope adjacent to the abutter's property by reshaping the swale/ditch such that the low point is wholly on the City property.*
- ✓ The enclosed revised plans reflect Mr. Goyette's specific recommendations as cited above.
3. *The swale must be grassed in order to facilitate the flow of water.*
- ✓ Mr. Goyette's recommendation has been included in the enclosed updated design for the swale.

D. Deputy City Engineer David Margolis-Pineo

1. *This department has reviewed and agrees with the comments presented by Dan Goyette of Woodard and Curran concerning stormwater drainage issues for this project.*

No further response needed.

2. *To further expand on Dan's comments, we would add that the applicant be responsible to submit revised plans detailing a proposed professional engineer design for the drainage swale to handle projected upland flows coming the cemetery, street and project site. The design should take into consideration how the vertical granite curbing and sidewalk can be installed to allow upland drainage to convey into the drainage swale so that all stormwater drainage is intercepted by the swale before reaching the driveway of 178 Brentwood Street.*

Please see our response to Mr. Goyette's comments above.

E. Traffic Engineer Tom Errico

1. *In my professional opinion the provision of vertical granite curbing will help to delineate the edge of Brentwood Avenue and therefore will help to manage vehicles parking on the street.*

✓ As discussed above, the City will be installing granite curbing along Brentwood Street.

2. *The provision of a turn-around is suggested at the end of Brentwood Avenue to help facilitate vehicle movements.*

✓ This item has been previously addressed.

3. *The applicant should conduct a sidewalk waiver exercise to determine whether a sidewalk should be provided along their property frontage.*

The Brentwood Farms Community Garden project is formally requesting a waiver of Ordinance section 14-498 (Technical Design Standards) of the City of Portland Land Use Code. Specifically, this request is being made to waive the requirement for the installation of a sidewalk along the Brentwood Street Frontage. In accordance with Section 506 (Modifications) of the Land Use Code, the Planning Authority may grant a waiver regarding the installation of a sidewalk if two or more of the six possible conditions cited in the Ordinance exist with regard to the property.

The current terminus of the municipal sidewalk network is located near the intersection of Brentwood Street and Hamblet Avenue. There are no sidewalks along Hamblet Avenue until the intersection of Madeline Street, which is a full three blocks away from the intersection with Brentwood Street. There are no sidewalks on either side of this section of Brentwood Street, or in the Cemetery itself. If a sidewalk were built it would not connect to anything.

Connect this to the proposed turn around - Currently, there is a Portland Trails walking trail that generally follows along the northwesterly edge of the City's property. In addition, pedestrians often enter Evergreen Cemetery through the gate at the end of Brentwood Street to walk in this area. Given the low level of traffic on this dead end section of Brentwood Street, pedestrians walk along the existing pavement which is approximately 30' wide. In addition, with the proposed construction of the Community Garden, pedestrians will be offered an additional opportunity to use the pathways that encircle the garden area. In accordance with criteria #3 cited in the Ordinance, it is the opinion of the applicant that an alternative walking route is reasonably available in this area such that the addition of a new sidewalk would not be warranted.

In addition, in accordance with criteria #6 of Section 506, strict adherence to the Ordinance requirement for installation of a sidewalk (with the accompanying esplanade) along the parcel

frontage would result in the loss of significant site features that are deemed to be of greater public value. The City's Technical Design Standards require an approximately 10' wide area off the curb line to construct a sidewalk and esplanade. Given the existing pavement width and curb location on the adjacent property, this would either require a narrowing of the existing pavement width along Brentwood Street to maintain the sidewalk within the confines of the right of way, or the construction of the sidewalk on a portion of the area set aside for the community garden. In addition, the sidewalk would be expected to necessitate the removal of the established tree that remains along the site frontage. For these reasons, and for the overriding financial burden that the construction of a sidewalk would place on the volunteer-sponsored neighborhood association, the DCNA is respectfully requesting the City's consideration of this waiver request. If, at a future date, the City has the financial means to build the sidewalk, in accordance with the Friends of Evergreen Master Plan for the parcel, the DCNA will be happy to help in any way it can.

4. *In my professional opinion the proposed project will not have a significant impact on adding new traffic to the neighborhood and creating unsafe or congested traffic conditions. I would expect that most garden patrons will be pedestrians or bicyclists from the neighborhood.*

No response needed.

F. City Arborist Jeff Tarling

1. *The proposed Brentwood Community Garden project located at the dead end of Brentwood Street improves the use of this under utilized, public owned green space. The main landscape challenge to the site is buffering the nearby residential properties. The landscape plan shows the garden at its potential including buffering, street-trees, and landscaped garden planting.*

No response needed.

2. **Recommendations** - *The Brentwood Garden project working in conjunction with City, Evergreen Cemetery & Department of Public Services should install the necessary buffer planting within the first year of operation of the garden. This would give adequate time to construct the drainage work in the same vicinity. Street-trees shown on the plan should meet any HP approval and match the Brentwood Street Cemetery Master Plan, now in progress. The street trees should not be a requirement of the project due to the overlay of the Brentwood Master Plan & possible future use of the site. Street trees and additional landscape treatment should be a unified effort of all the involved groups including the Friends of Evergreen & City, Cemetery Operations and the Brentwood Garden project.*

As previously noted, the Brentwood Farms Community Garden team will continue to work with Mr. Tarling and the other entities cited in his comments above to provide the appropriate level of buffering and plantings for this community garden project.

3. *Overall, the Brentwood Community Garden project is greatly improving, even on a temporary basis, the vacant, unimproved Brentwood Lot. The Deering Center Neighborhood Group deserves much credit to bring this community based effort to improve this location. It is similar to the Victory Garden that was once planted at the corner of Leland Street & Mabel Street in the 1940's and is now Baxter Pines.*

The Brentwood Community Garden team greatly appreciates Mr. Tarling's clear understanding of the merits of this proposed program to benefit the residents in this area.

G. Associate Corporation Counsel Danielle West-Chuhta

The driveway at 178 Brentwood Street is encroaching the City's property. Legal will be looking into this matter further and a decision will be rendered at a later date.

It is our understanding based on our meeting with you on May 10, 2010, that the City's legal staff has not reached a decision as to how this matter will be addressed with the abutter. The enclosed updated plans reflect the current site conditions in this area. The Community Garden has been designed to allow the existing driveway to remain in place.

H. Fire Prevention Captain Keith Gautreau

1. *Fire review is complete and everything looks good. This is mostly a drainage and storm water flow issue. Access to site is good. Keith*

No response needed.

I. Department of Public Services Director Michael Bobinsky

1. *Installation of the physical improvements required within the Brentwood St. public right-of-way will generally become the responsibility of the Department after the applicant's final design is approved. These installation responsibilities are limited to these components of the applicant's final approved plans:*
 - a. *Installation of curbing along Brentwood St.*
 - b. *Installation of a sidewalk if a waiver is unobtainable*
 - c. *Installation of a turnaround (likely on the south side of Brentwood)*
 - d. *Modification of the driveway at #178 Brentwood, subject to Corporation Counsel's final ruling on location, and the applicant's drainage system design.*

The enclosed plans for the Brentwood Farms Community Garden, reflect the City's improvements as described above. In addition, a sidewalk waiver has been requested. The plans do not show the removal of any of the driveway for 178 Brentwood, but do show the addition of a slightly raised "lip" across the section of the driveway for 178 Brentwood. This proposed lip has been recommended by the City's peer reviewer, Dan Goyette, as well as the Deputy City Engineer, Dave Margolis-Pineo. These improvements have been designed to be constructed within the limits of the Brentwood Street right of way.

2. *Operation, maintenance, and any annual reporting requirements of the drainage system on this parcel will be the responsibility of the applicant.*

It is understood that the ongoing operational and maintenance requirements as appropriate to the level of site drainage features associated with the Brentwood Farms Community Garden will be the responsibility of the applicant, and that the runoff from Brentwood Street will continue to be the responsibility of the City.

3. *Department approval of the final site plan will be subject to a release and indemnification agreement, by the applicant.*

As part of the lease agreement between the City and the Deering Center Neighborhood Association to allow the use of the site for the Brentwood Farms Community Garden (signed June 8, 2009), certain language was included with regard to insurance requirements and indemnification language. An insurance certificate was provided at that time. We trust that the

Applicant taking the responsibility? See C-4

prior documentation provided to the City in support of their entering into this lease agreement last year will be sufficient to address the site plan requirements.

Closure

In accordance with your request, we have enclosed seven (7) copies of revised and updated plans and supporting materials in response to the comments listed above. Please let me know if you need any additional information or if you have any further comments. I look forward to hearing from you soon.

Should you or any other reviewers have any questions or require any additional information, please do not hesitate to call me.

Sincerely,

Amy Bell Segal

Enc.

cc:

Penny St.Louis-Littell
Barbara Barhydt
Paul Driscoll
Elizabeth Tarasevich
Naomi Merman
Rocco Risbara
Sebago Technics

**COMMITMENT & INTEGRITY
DRIVE RESULTS**

41 Hutchins Drive
Portland, Maine 04102
www.woodardcurran.com

T 800.426.4262
T 207.774.2112
F 207.774.6635

MEMORANDUM



TO: Shukria Wiar
FROM: Dan Goyette, PE
DATE: May 11, 2010
RE: 146 Industrial Way

Woodard & Curran has reviewed the After the Fact Major Site Plan application for 146 Industrial Way. The project involves the placement of fill in and around a wetland to allow for a contractor storage yard.

Documents Reviewed

- Major Site Plan Application dated April 28, 2010 prepared by Stephen Mohr, Mohr & Seredin Landscape Architects, Inc.
- Plan Set, sheets L1 and L2, dated April 28, 2010 prepared by Mohr & Seredin Landscape Architects, Inc.

Comments

- The applicant is proposing to install an underdrained soil filter at the edge of the fill area. No sizing information for the filter has been provided.
- The construction detail for the underdrained soil filter on sheet L2 is not consistent with the Maine DEP approved design. No information on why the design has been altered has been provided.

Please contact our office if you have any questions.

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MEMORANDUM



TO: Shukria Wiar
FROM: Dan Goyette, PE
DATE: May 13, 2010
RE: DC Community Garden

Woodard & Curran has reviewed the Minor Site Plan Application for the Deering Center Community Garden to be located on the Brentwood Parcel of Evergreen Cemetery. The project involves the development of a portion of the Brentwood Parcel as a community garden.

Documents Reviewed

- Response to Comments dated May 11, 2010 prepared by Amy Segal.
- Plan Sheets 1 & 2 dated May 12, 2010 prepared by Sebago Technics. Detail Sheet 1 dated March 22, 2010 prepared by Sebago Technics.

Comments

- The applicant has not shown that the pavement in the street at the entrance to the swale is going to be removed and reshaped to facilitate stormwater entering the swale. In order to insure that the stormwater makes it into the swale the pavement will need to be regraded.

All other previous comments have been adequately addressed.

Please contact our office if you have any questions.



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www.portlandmaine.gov

Planning & Urban Development Department
Penny St. Louis Littell, Director

APRIL 14, 2010

Amy Bell Segal
15 Alba Street
Portland, ME 04103

Deering Center Neighborhood Association
14 Hillis Street
Portland, ME 04103

RE: Review Comments for Final Plan – Administrative Review

Project Name: Evergreen Cemetery - Brentwood Street; Community Garden;
Deering Center
Project ID: 10-79900003
Project Address: Evergreen Cemetery CBL: 134 - A-001-001
Planner: Shukria Wiar

Dear Amy Segal:

Thank you for submitting an application the Minor Site Plan Application for the Deering Center Community Garden to be located on the Brentwood Parcel of Evergreen Cemetery. The project involves the development of a portion of the Brentwood Parcel as a community garden in accordance with a five-year lease provided by the City. This proposal is being reviewed as a minor site plan subject to the Site Plan Ordinance of the Land Use Code provisions. Staff review of your final plan has generated the following review comments.

Final Site Plan- Administrative Review: Staff Review Comments

A. Zoning Administrator Marge Schmuckal

1. This project for community gardens with a small 10' x 14' shed is located in an ROS Recreation Open Space Zone. Such a use is a listed permitted use in this zone.
2. The 10' x 14' shed is meeting the setback requirements and the maximum height allowances. It was given that the shed is 10'. Maximum lot coverage and floor area ratios are also being met for the shed. There is a requirement that a separate building permit is acquired for the construction of the shed.
3. Under Division 20, the parking division, there are no listed requirements for off-street parking concerning the principal use of community gardens.
4. This project is meeting the minimum requirements for the ROS Zone.

B. Planning Shukria Wiar

1. Will there be any organized communal events (i.e. Planting or Harvest Celebrations) on the site?
2. The buffer between the abutting homes and the garden must should be reviewed and approved by the Arborist. The specific plants for the buffer must be reviewed by Mr. Tarling.

3. The proposed street trees on Brentwood Street shall be set back to coordinate with the conceptual Master Plan for the Evergreen Cemetery.
4. A turnaround is needed at the end of Brentwood Street which is consistent with the conceptual Master Plan for the Evergreen Cemetery.
5. There is a note on the site plan states the "Existing trees in this area to remain" along the back yard of 98 Hamblet Avenue. In a recent site visit, there are no trees along this area. Please provide more buffering in this area.
6. Please remove the 'temporary vertical granite curbing' from the site plan and revise the plans to address the comments of Dan Goyette, Stormwater Consulting Engineer.

C. Consulting Engineer, Stormwater Dan Goyette

1. The stormwater model uses the Cumberland County Medium Intensity Soil Survey to determine the soil characteristics for the parcel. In the area of the community garden, they are not applicable as the area is a fill site. The stormwater model should be adjusted to account for the appropriate soil types.
2. Granite curbing should be installed along the entire frontage of the property. A curb break would be acceptable to allow for the stormwater to enter the proposed drainage swale.
3. A turnaround should be provided on the parcel to allow for vehicle maneuvering at the end of Brentwood Street. The turnaround should be curbed but provisions can be made to allow for pedestrian ramps within the turnaround.
4. The driveway at 178 Brentwood Street should be reconstructed by the roadway to allow for the installation of a lip at the roadway. In the event that stormwater bypasses the drainage channel, the lip will direct stormwater down the street to the catch basin located at the corner of Brentwood Street and Hamblet Avenue.
5. The existing drainage swale has been constructed by installing a berm between the abutting properties and the community garden parcel and then installing bark mulch over the swale. The berm is acting like a dam and not allowing the stormwater from these parcels to enter the drainage swale and perches the stormwater in the swale at a higher elevation than the adjacent soils. In addition, the bark mulch does not convey stormwater; it is a good erosion control material because it slows the flow of water. So in effect the swale is not conveying stormwater; any stormwater in the existing swale merely soaks into the ground, emerging in the adjacent lower soils. The stormwater plan depicts the swale as grassed and that the berm be extended. The swale should be redesigned so that the berm is removed and the swale is installed in the ground, not perched above an adjacent low point.
6. The pavement in the street at the entrance to the swale shall be removed and reshaped to facilitate stormwater entering the swale.

D. Deputy City Engineer David Margolis-Pineo

1. This department has reviewed and agrees with the comments presented by Dan Goyette of Woodard and Curran concerning stormwater drainage issues for this project.
2. To further expand on Dan's comments, we would add that the applicant be responsible to submit revised plans detailing a proposed professional engineer design for the drainage swale to handle projected upland flows coming the cemetery, street and project site. The design should take into consideration how the vertical granite curbing and sidewalk can be installed to allow upland drainage to convey into the drainage swale so that all stormwater drainage is intercepted by the swale before reaching the driveway of 178 Brentwood Street.

E. Traffic Engineer Tom Errico

1. In my professional opinion the provision of vertical granite curbing will help to delineate the edge of Brentwood Avenue and therefore will help to manage vehicles parking on the street.

2. The provision of a turn-around is suggested at the end of Brentwood Avenue to help facilitate vehicle movements.
3. The applicant should conduct a sidewalk waiver exercise to determine whether a sidewalk should be provided along their property frontage.
4. In my professional opinion the proposed project will not have a significant impact on adding new traffic to the neighborhood and creating unsafe or congested traffic conditions. I would expect that most garden patrons will be pedestrians or bicyclists from the neighborhood.

F. City Arborist Jeff Tarling

1. The proposed Brentwood Community Garden project located at the dead end of Brentwood Street improves the use of this under utilized, public owned green space. The main landscape challenge to the site is buffering the nearby residential properties. The landscape plan shows the garden at its potential including buffering, street-trees, and landscaped garden planting.
2. **Recommendations** - The Brentwood Garden project working in conjunction with City, Evergreen Cemetery & Department of Public Services should install the necessary buffer planting within the first year of operation of the garden. This would give adequate time to construct the drainage work in the same vicinity. Street-trees shown on the plan should meet any HP approval and match the Brentwood Street Cemetery Master Plan, now in progress. The street trees should not be a requirement of the project due to the overlay of the Brentwood Master Plan & possible future use of the site. Street trees and additional landscape treatment should be a unified effort of all the involved groups including the Friends of Evergreen & City, Cemetery Operations and the Brentwood Garden project.
3. Overall, the Brentwood Community Garden project is greatly improving, even on a temporary basis, the vacant, unimproved Brentwood Lot. The Deering Center Neighborhood Group deserves much credit to bring this community based effort to improve this location. It is similar to the Victory Garden that was once planted at the corner of Leland Street & Mabel Street in the 1940's and is now Baxter Pines.

G. Associate Corporation Counsel Danielle West-Chuhta

The driveway at 178 Brentwood Street is encroaching the City's property. Legal will be looking into this matter further and a decision will be rendered at a later date.

H. Fire Prevention Captain Keith Gautreau

1. Fire review is complete and everything looks good. This is mostly a drainage and storm water flow issue. Access to site is good. Keith

I. Department of Public Services Director Michael Bobinsky

1. Installation of the physical improvements required within the Brentwood St. public right-of-way will generally become the responsibility of the Department after the applicant's final design is approved. These installation responsibilities are limited to these components of the applicant's final approved plans:
 - a. Installation of curbing along Brentwood St.
 - b. Installation of a sidewalk if a waiver is unobtainable
 - c. Installation of a turnaround (likely on the south side of Brentwood)
 - d. Modification of the driveway at #178 Brentwood, subject to Corporation Counsel's final ruling on location, and the applicant's drainage system design.
2. Operation, maintenance, and any annual reporting requirements of the drainage system on this parcel will be the responsibility of the applicant.
3. Department approval of the final site plan will be subject to a release and indemnification agreement, by the applicant.

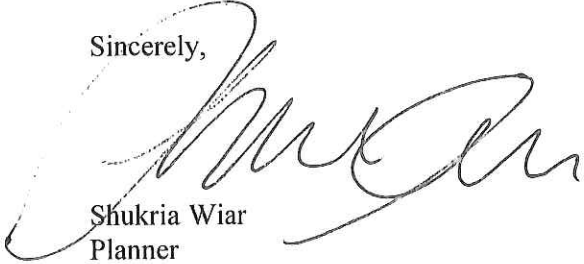
J. Abutters Comments

I have provided copies of all the abutters' comments. There are direct abutters to the property site that have questions and concerns that need to be addressed. Please review the submitted copies and provide a response to their concerns.

The Planning Authority may request additional information during the continued review of the proposal according to applicable laws, ordinances and regulations.

Please submit seven (7) complete sets of revised site plans to address staff comments. Upon receipt of the revised material, the City of Portland will review the additional plans and information for conformance with applicable ordinances. Please contact me if you have any questions regarding a revised submittal at 756-8083 or by email at shukriaw@portlandmaine.gov

Sincerely,

A handwritten signature in black ink, appearing to read 'Shukria Wiar', is written over a large, faint circular watermark or stamp.

Shukria Wiar
Planner

Attachment:

1. Abutters and Public Comments

March 25, 2010

Dear Ms. Wair,

I am writing on behalf of my husband and I in response to your notification of site plan review for the Brentwood Parcel of the Evergreen Cemetery. I am an abutting property owner, living with my family at 98 Hamblet Avenue. I am aware of the 5-year lease held by Deering Center Neighborhood Association (DCNA) and their intentions to plant a community garden on the parcel. I have reviewed the site plan and ask you to consider the requests of my husband and I as property owners in the City of Portland when revising the site plan.

We moved to our home in the spring of 2009, a few months prior to the major site work that was conducted (under direct supervision of DCNA members) behind our house. When site work began, bulldozers, dump trucks, excavators and chainsaws completely eliminated the green barrier behind our house. This green space afforded us the privacy we enjoyed when we purchased the home for our family. Today, the back of our house and yard are exposed to the entire empty lot and the cemetery beyond (please see photo attached). The site work was done without adequate notice from the DCNA and without adequate opportunity for abutters and neighbors voice their questions and concerns.

My major concern is that our privacy be restored. A buffer behind our home should be planted before the DCNA is permitted to proceed with the garden. The specifics of this buffer should adequately restore our privacy and be agreed upon by the City Arborist and the Friends of Evergreen Cemetery. In the Master Plan for the cemetery, which the City of Portland adopted from the Friends group, it states that the buffer be a first priority when the Brentwood Parcel is developed.

In addition, I ask you to consider the following list of concerns and their possible impacts on our neighborhood:

- Parking
- Traffic
- Hours of operation
- Water drainage
- Possible organized communal events (i.e. Planting or Harvest Celebrations)
- The large number of proposed plots and members (60 individual plus additional shared).

I respectfully acknowledge the intentions of the DCNA and the work they have committed to improving the Brentwood Street parcel. Please consider our requests and the continued well-being of our neighborhood as you revise the proposed use of this land.

Sincerely,

Jean and Joe Rank
98 Hamblet Avenue
207-541-9239

From: Kwoka John J SOSB <John.Kwoka@supshipba.navy.mil>
To: "aqj@portlandmaine.gov" <aqj@portlandmaine.gov>, 'Shukria Wiar' <SHUKR...
CC: Michael Bobinsky <mbobinsky@portlandmaine.gov>, Tom Civiello <TGC@portla...
Date: 4/6/2010 8:41 AM
Subject: Additional CBL 179-B-50 Comments

Alex & Shukria,

An offer was extended, and I accepted, to have the stormwater report reviewed by a hydrologist. The comments below were not received until I returned from our meeting on Monday the 5th.

I am requesting to have the following comments added to the ones I submitted yesterday.

His comments:

Agree with the issue that they didn't account for fill material. They just used the mapped soil types for the area without confirmation. Also note that they didn't take into account the 12-inches of "well draining soil" they placed onsite. "Well draining" is not a mapped soil type and is subjective to each person. Between the fill material and the unknown of the well draining soil, they should have done Percolation Tests to evaluate actual infiltration rates for the site now.

I also have an issue with the way they looked at the two different areas: the Garden and the Residences. They basically spun everything to make it look like the residences increase in peak discharge would be offset by the decrease in peak discharge from the property changes. While they have every right to evaluate the adjacent residences, they should not have gone back to 1994 info as a "starting point/pre" for the residences since much has changed between then and now. They could do that with the Garden property, but the residential property area should have had an initial/pre point of 2008 or something more recent.

Thanks in advance.

v/r,

John

April 5, 2010

Ms. Shukria Wiar, Planner
City of Portland
Planning Dept.
389 Congress Street
Portland, ME 04101

RE: Development Review Application, Brentwood Farms Community Garden, CBL 179-B-50

Dear Ms. Wiar:

Our property at 92 Hamblet Avenue abuts the site for a proposed community garden. If you are not aware as other City officials are, our property has experienced increased stormwater runoff from the garden site since the Deering Center Neighborhood Association (DCNA) and its contractor, Risbara Bros. performed clearing, grading, and filling activities on the site in June 2009. As a result, at our expense, we hired Mr. Tom Saucier, Civil Engineer, P.E. Maine, and Principal of SYTDesign Consultants to review the impact of this construction on our property and make recommendations to prevent this increased stormwater runoff from entering our property. Mr. Saucier's report dated March 25, 2010 is attached to this letter. In addition, at our expense, we hired Mr. Saucier to review the stormwater management report, plans, and calculations prepared by Sebago Technics dated March 2010 for the Brentwood Farms Community Garden that were included with the Development Review Application. Mr. Saucier's comments and conclusions are contained in an email to us dated April 3, 2010 which is also attached to this letter.

As you will see, Mr. Saucier's work concludes that the clearing, regrading, placement of fill, and change in cover type have increased the volume of stormwater runoff from the garden site and altered the pre-existing drainage patterns resulting in a negative impact on our property. In addition, Mr. Saucier's review of DCNA's stormwater management report concludes that:

- The Sebago Technics report does not address whether or not the development has impacted our property. In fact, the study utilized an analysis point 250 feet downgrade from our property.
- There are a number of flaws in the analysis which may render the conclusions invalid.

Also, note that:

- There is no indication in the report that Sebago Technics (ST) made visits to the site to collect data for their analysis during either dry conditions or rain conditions. It would appear all the data that was used originated from published sources.
- The pre and post condition surveys do not offer the same level of detail to provide an accurate pre and post condition analysis.
- The report does not take into account that the trees and brush that were cut down were buried in large pits near our property line and the resulting changes that may have caused in subsurface water flow.

The plans proposed for the site by DCNA show a grass drainage swale being constructed behind the properties at 178 Brentwood, 98 Hamblet, and our property to address the run off issues. We are not confident this plan will solve the problem. Mr. Saucier notes that additional measures need to be taken along Brentwood Street to prevent the runoff from flowing down the driveway at 178 Brentwood. It is our request that Mr. Saucier's recommendations be incorporated into the overall plan for the site. At a recent DCNA meeting, it was stated that Risbara Bros. has offered to construct whatever drainage measures the City requires for the garden site as an additional donation to the project. Given that DCNA has limited funds and the City's budget is under enormous financial pressure, as reported in recent articles in the Portland Press Herald & Maine Sunday Telegram, it would seem prudent that whatever the City requires and Risbara constructs be a comprehensive fix that will be successful in correcting the current stormwater runoff problems. It is up to the City to review the information DCNA's engineers have provided along with

the information our engineer has provided and determine the appropriate stormwater management measures that will be constructed & maintained. It is our request that the City require the drainage work be performed before any additional work or planting is done at the site.

To further illustrate the impact on our property from the runoff, I will provide a series of photos and some CDs with video of the runoff entering our property at our back gate during various storm events when we meet @15:30 on the 5th of Apr 2010.

While the drainage impact remains our highest concern, we also have these other concerns relative to the project:

1. Parking and traffic impact – with up to 70 individual garden plots in the plan, we are concerned about additional traffic on Brentwood Street and Hamblet Avenue. We understand that no traffic study has been required for the project – how can the impact on the neighborhood and abutters be determined without it? Hamblet Ave and Brentwood Street already experience high volumes of traffic. Also, the project plans show no parking spaces for the garden traffic.
2. Once the gardens are planted, it will provide an attractive food source for a variety of nuisance animals, such as raccoons, skunks, groundhogs. It will be the abutters who will deal with these animals and the related potential health issues on a daily basis.
3. At the last DCNA meeting, it was stated that there is no management plan in place for the project. How is it possible that the City allowed the project to go this far without requiring a management plan to ensure that the project will be developed, managed, and sustained for the term of the lease in a responsible manner?
4. It appears that the City is waiving the Minor Site Plan Review fee of \$400. How can fees be arbitrarily waived? It seems especially inappropriate at a time when the City is proposing raising the price of trash bags, laying off workers, and reducing services, to be waiving any kind of fee.
5. Is the city developing any plans for the site in the event the garden has to revert to city control because it is unable to sustain itself?

The following is from page 58 of the Evergreen Cemetery Master Plan, "The first phase of any development determined to be appropriate here should be the development of proper grading and drainage and the planting of a vegetation buffer between the cemetery and the neighborhood." We expect that these measures will be enforced for this project.

We wish to make it clear that we are not conceptually opposed to the garden project. If constructed and managed properly, the possibility exists that it can be a positive development for the neighborhood as long as the negative impacts on the abutters are addressed. We look forward to the City's response to our concerns and the plan and timetable for resolving the stormwater runoff issues that our property is experiencing. Contact information is as follows; kwoka@maine.rr.com and or 207-650-1714.

V/r,

/s/ John J. Kwoka

/s/ Anne D. Weigel

March 25, 2010

John Kwoka and Ann Weigel
92 Hamblet Avenue
Portland, ME 04103

RE: Stormwater Runoff Evaluation
97 Hamblet Avenue
Portland, Maine

Dear John and Ann:

Per your request, SYTDesign Consultants has undertaken a review of the potential impacts of the construction of the Brentwood Community Garden on your property located at 92 Hamblet Avenue. Specifically, it is our understanding from you that since regrading activities at the site of the garden occurred, you have experienced impacts on your property which you believe are from additional stormwater runoff from the garden site.

The following information was reviewed in the course of our analysis:

- Pre-existing conditions topographic plan provided by the city
- Existing topographic conditions provided by the city
- Letter dated September 22, 2009 fro Penny St. Louis Fittell to John Kwoka
- Letter dated October 14, 2009 from Penny St. Louis Fittell to Amy Bell Segal

We also made site visits on October 29, 2009 and December 3, 2009. The second visit was during a substantial rainfall event, at which time we were able to make observations of various stormwater runoff patterns.

Based on a review of the available information, our site visits, and discussions with you, we have prepared the following comments for your consideration.

It is our understanding that approximately 1.3-1.5 acres of undeveloped land, located adjacent to and northerly of your property at 92 Hamblet Avenue, was regraded in June of 2009 to accommodate a community garden, walking trails, and a small parking area.

The regrading included the removal of existing vegetation, which based on our review of 2007 aerial photography, consisted of well established meadow lawn and woods brush cover types. Based on the pre-existing and existing conditions topographic maps, it is evident the topography of some portions of the site was altered, and 1-1 1/2 feet of fill placed on the site.

From all 2009 observations indicated that the disturbed areas were either graded or filled, trenched over bare soil. It was also apparent that a diversion swale was constructed parallel to your rear property line, from Brentwood Street to a point along the westerly end of your rear property line. The swale appeared to be constructed of earth materials and lined with bark mulch.

During our December 3, 2009 site visit we observed ponding occurring at the outlet to this swale, adjacent to and on the westerly corner of your property, and northerly of your neighbor's property. It appeared that runoff from the garden site, Brentwood Street, and the abutting properties at 178 Brentwood and 98 Hamblet directly contribute flow to the swale and the ponded area at the swale outlet.

During our December site visit we noted stormwater runoff flowing from north to south along the westerly side of Brentwood Street. The easterly portion of the garden drains to this gutter area as well. Based on a review of the topographic mapping provided by the City, it appears that prior to the grading activities at the site, little if any runoff from the westerly side of the gardens flowed toward Brentwood Street.

The gutter area is not evident in the 1994 survey data provided, and it does not appear that any of the runoff from the garden site drained toward Brentwood Street at that time. Which indicates more of the Brentwood Street runoff would have flowed across the grassed areas of the garden site prior to regrading activities at the site.

It appears the intent of the swale construction was to collect this gutter flow, and to collect and convey runoff from a portion of the garden site to the outlet location westerly of your property. Based on our December observations, the swale was not collecting runoff from the gutter along Brentwood Street. The runoff was bypassing the swale inlet and flowing down the driveway at 178 Brentwood Street, ultimately across the property at 98 Hamblet Avenue and your property. In effect, you therefore had additional runoff from Brentwood Street, and the front half of the garden parcel, contributing runoff to the driveway at 178 Brentwood, and ultimately your property.

An additional consideration is related to the volume of runoff from a developed site. When well established vegetative cover is removed from a site, the site is regraded, and soil conditions at a site are altered, such as was the case with the garden site, changes in stormwater runoff characteristics should be expected, particularly, when the new cover and soil types are less pervious and provide for less stormwater infiltration. Specifically the volume of runoff from the site would be expected to increase, especially if the fill material placed at the site was less pervious than the soil under it.

The pre-existing and existing topographic plans show an outlet point for runoff from the site adjacent to and westerly of your property, where we observed ponding during our December 3rd visit. We assume the topography of the ponding area has remained unchanged since 1994. However, as we note above, the volume of stormwater runoff to this area has likely increased, which we expect would result in a higher depth and greater extent of ponding in this area.

Kwoka John J SOSB

From: Tom Saucier [TSaucier@mail.sytdesign.com]
Sent: Monday, April 05, 2010 8:54 AM
To: Kwoka John J SOSB; Anne D. Weigel; John Kwoka
Subject: Brentwood Farms Community Garden

Hi John and Anne

Per your request we have undertaken an review of the stormwater magement, report, plans, and calculations, prepared by Sebago Technics, dated March 2010, for the Brentwood Farms Community Garden development located northerly of your property at 92 Hamblet Avenue. Based upon that review, we offer the following comments for your consideration.

It is our understanding that the city and the Deering Center Neighborhood Association are aware of your concerns related to the impact of the stormwater runoff from the development site on your property, and were aware of those concerns before commissioning a stormwater runoff analysis. Assuming that I am correct, it seems that the stormwater management plan would have, at a minimum, attempted to address your concerns, and arrive at some sort of understanding as to whether or not the development has impacted your property. You probably have noted the analysis submitted does not address that issue, which is our primary concern.

The study utilized an analysis point located at a distance of more than 250 feet downgradient of your property, to arrive at a conclusion that there would be no increase in the rate of runoff at that point, which does nothing to answer the question of whether the development has impacted your property.

A more appropriate analysis, if they wish to address your concerns, would be to model the runoff conditions with a study point at the northwest corner of your property where the ponding of runoff from the site occurs, and also to more closely examine existing and pre-existing conditions on and near Brentwood Street, which is the area contributing runoff to your yard.

In reviewing the report, we did note the following technical issues which should be addressed prior to any revisions to the report.

Based upon the TR-55 and TR-20 methodologies for analyzing impacts on stormwater runoff rates due to development, we have noted that there are several flaws in the analysis which may render any conclusions invalid. These include:

- 1) Inappropriate delineation of subcatchment boundaries;

- 2) Time of concentration path crossing subcatchment boundaries, and;
- 3) Improper application of TR-55 curve numbers;

An example of the first is the boundary between SC 1S and 2S, which follows a property line, instead of the topographic subwatershed divide.

The second includes the time of concentration path for SC-1 crossing this boundary into SC-2.

An example of the third item is the use of a runoff curve number for the garden areas, legumes, that TR-55 clearly indicates is intended to be used for large scale agricultural lands, for close seeded or broadcast legumes. We question whether that is appropriate for the garden plots, which we expect would be bare in the late fall and early spring, when we generally experience the significant rainfall events. Further, we noted that the curve number utilized for the mulched walking paths on the site did not change for each hydrologic soils group, even though the paths are located within each soil type area. It is also unclear what the basis for the mulch curve number is, as the one utilized would be similar to a wooded cover condition in type B soils. It seems that this might be inaccurate; to assume a devegetated path, covered with mulch and subject to continual foot traffic would have runoff characteristics similar to wooded areas. Also, the plan calls for unvegetated mulched slopes, which should be included in the analysis if they were not.

We also noted that the report indicates that the pre-development cover types were "based on the activities that had previously occurred in the dumping area." We are unsure of the reason for this, or how one can simply speculate from this statement that the cover type should be modeled as poor grass cover, which indicates less than 50% cover. Recent aerial photography indicates that the cover on the site was fairly consistent grass cover (similar to the cemetery) with some walking trails or paths meandering through the grassed areas. It seems that a more appropriate curve number would be for grass cover greater than 75%.

A further concern along this line is that it appears that the cover conditions for the 1994 survey were also used for other areas. For an analysis of this nature we would expect that the pre-development conditions, which existed immediately prior to the development of the site in 2009, would be used for determining cover types.

Another conflict noted, is it appears the total area of each soil group in subcatchment 1S varies between pre and post development conditions, which would not be expected.

An additional observation is that the 1994 topographic plan indicates that runoff from half of Brentwood Street flowed across the undeveloped site. Current topography indicates that "gutter" flow occurs from north to south along Brentwood, with runoff from the easterly portion of the garden site and from half of Brentwood Street now

flowing along Brentwood Street and down the driveway southerly of the site.

One final note is the report also indicates that the material placed at the site was a "well draining loam material." We are unclear as to the basis for this statement.

It is interesting that the analysis results indicate that after removing existing grass and wooded cover from an area over 50,000 sf in size, and replacing that cover with garden plots (which we expect will be bare soil at certain times of the year), and unvegetated mulched walking trails and slopes, that the stormwater runoff rates from the site are expected to decrease. We believe this is the result of the modeling inconsistencies we mention above.

We understand your concern is the impacts to your property which you indicated have been evident only since the development activities on the garden site. Referring to our March 25, 2010 letter to you regarding this issue, we continue to believe that the following factors contribute to stormwater runoff impacts on your property:

- 1) Additional runoff from the easterly side of the garden site and Brentwood Street bypassing the diversion swale, flowing down the driveway at 178 Brentwood and across the abutting property to the east, onto your property.
- 2) There is an additional volume of stormwater runoff from the garden site which is tributary to the low lying ponded area on and adjacent to the westerly corner of your property.

Our field observations indicated possible solutions to mitigate the impact of additional runoff from the garden and Brentwood Street on your property as follows;

- 1) Regrading of the low area on city owned land adjacent to your westerly property corner to provide a more positive outlet and to relocate the ponding further from your and your abutter's property.
- 2) Along Brentwood Street provide a combination of Cape Cod berm or curb along the southerly half of the garden frontage on Brentwood Street, and a $\frac{3}{4}$ " paved lip along the drive at 178 Brentwood Street to direct runoff from the front of the garden site and Brentwood Street to a catch basin near the corner of Brentwood and Hamblet.

Note that we have removed option 2 for relief as presented on our original March 25, 2010 letter to you, which was regrading of the end of the existing swale at Brentwood Street. We do not believe that would offer continuous relief from this problem. Runoff will continue to bypass the swale and flow down the driveway, regardless of whether the swale is improved or not, particularly when street sands and snow are present along the edge of Brentwood Street. This then contributes to the "stream" through your back yard during rainfall events.

In closing, there is no evidence presented in the stormwater management analysis which indicates that the redevelopment of the parcel did not impact your property. Based on a review of the 1994 and current topographic plans, there is evidence that the stormwater runoff patterns and cover characteristics were altered by the development activities.

Please feel free to share our March 25, 2010 letter to you along with this email as you see fit. Realizing where this issue may be headed, we do want to clarify the last sentence in 5th paragraph of that letter, where we indicate "...the front half...", which should be "...the front portion...".

Please let me know if you have any questions or comments relative to our review.

Best

Tom

Tom Saucier, P. E. Principal

Site Design Associates

183 Park Row

Brunswick, Maine 04011

ph: 207-756-0068

fax: 207-725-7365

Shukria Wiar - Brentwood Farms Community Garden

From: "Glenn Harmon" <gharmon@oakpoint.com>
To: <shukriaw@portlandmaine.gov>
Date: 4/2/2010 2:05 PM
Subject: Brentwood Farms Community Garden

Greetings, I am writing in support of the Community Garden. There is no reason for any further delay in the approvals process. This project will take an abused parcel and build resiliency in our neighborhood in the form of food security. It fits the ideals of the Sustainable Portland report, and addresses a critical need for expanded local food production. Please expedite the formalities so we may begin cultivation this spring. Thank you.

Regards

Glenn Harmon

Shukria Wiar

From: justine lasdin <lasdinspringer@hotmail.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/31/2010 10:56 AM

I just want to send a letter of appreciation to the City of Portland for developing such an asset to our community. I am excited to see the development of a community garden take place in a spot which was abandoned and only used by young adults for littering and a place to "hang out". I hope this garden deters such behavior and encourages a sense of ownership and community. I do hope the local schools will also get a chance to reach out to the students for education purposes and to help the students learn to respect and maintain their land through educational programs. I am excited to see this process get started and continue to develop a stronger community.

Thanks,
Justine Lasdin Springer
156 Brentwood Street

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From: Beth Cory <bcory@maine.rr.com>
Subject: **Brentwood Farms Community Gardens - and vandalism**
Date: April 3, 2010 12:16:24 PM EDT
To: shukriaw@portlandmaine.com
Cc: deeringcenter@gmail.com



Dear Shukria Wiar,

Thank you for taking the time to meet with me at length yesterday and to look at the plans and discuss my perspective, as the across the street neighbor, at the top of Hamblet street, here at 169 Brentwood.

I am enthusiastic about having more activity, with the presence of gardeners, primarily because of the long standing problems with litter, and minor dumping with this dead end street.

As we discussed, more people who care for the space, should help immensely with both of these issues. However, my one uncertainty is how the community garden will impact the other long standing use of this dead end space, which is as the departure, and entrance point for teenage drinking and vandalism in the cemetery at night.

My hope is that the gardens, will discourage this behavior in the cemetery, and that the gardens themselves will not become a target. However, as I discussed with you, even during the daytime hours cars full of teenagers frequently park at the end of the street.

I look forward to the gardens, as an extremely good thing to happen in my neighborhood, with positive impacts all around.

Sincerely,

Bart Cory

From: Beth Cory <bcory@maine.rr.com>
To: <shukriaw@portlandmaine.gov>
Date: 4/3/2010 1:36 PM

Dear Shukria Wiar,

Thank you for taking the time to meet with me at length yesterday and to look at the plans and discuss my perspective, as the across the street neighbor, at the top of Hamblet street, here at 169 Brentwood.

I am enthusiastic about having more activity, with the presence of gardeners, primarily because of the long standing problems with litter, and minor dumping with this dead end street.

As we discussed, more people who care for the space, should help immensely with both of these issues. However, my one uncertainty is how the community garden will impact the other long standing use of this dead end space, which is as the departure, and entrance point for teenage drinking and vandalism in the cemetery at night.

My hope is that the gardens, will discourage this behavior in the cemetery, and that the gardens themselves will not become a target. However, as I discussed with you, even during the daytime hours cars full of teenagers frequently park at the end of the street.

I look forward to the gardens, as an extremely good thing to happen in my neighborhood, with positive impacts all around.

Sincerely,

Bart Cory

From: Steve.Norden@sunlife.com
Subject: **Concerns**
Date: March 31, 2010 5:11:35 PM EDT
To: kwoka@maine.rr.com

Good Afternoon John,

My concerns regarding the Community Garden project are as follows:

1. Communication Issue

No prior notification was given to the Hamblet Ave property owners who's land abuts the Brentwood site where the Community Garden was being proposed.

As a concerned neighbor with a vested interest in any changes taking place that effect the Brentwood site that abuts my property and others, I feel this practice should not continue in the future. Instead, prior to making any changes to the Brentwood site, the Community Garden Association should first contact the effected neighbors to confer on any proposed changes being recommended to the site.

2. Repair Issue

Following the recent adjustments that were made to the Brentwood site, a dramatic increase in water run off is now evident and is adversely effecting our neighbors at the top of Hamblet Ave. Further, it remains undetermined what effects the additional run off will have over time on the neighbors like myself who live further down Hamblet Ave.

Following completion of the Stormwater Management Report, has consideration regarding the proposal of installing a formal drainage "system" been discussed amongst anyone in order to to address the current drainage problems? If so, what were the findings? What happens when "unseasonable rain fall" takes place in the spring of 2010, as it had in 2009? Who will be responsible to the cost of repairs? Does the city plan to bear the full cost a new drainage system? As a concerned neighbor and third generation resident of Hamblet Ave, I feel any coincidental costs resulting from the installation of the Community Gardens should be covered by those recommending the changes. Keep in mind the drainage problems that now exist were not previously evident.

3. Cost Issue

Will each of the Hamblet Ave abutters, especially those living at the top of the street, be reimbursed for any damages to their property resulting from the changes that have already occurred? If so, by whom? I need to know the answer in case any new damages extend further down Hamblet Ave to my own property, in the future.

4. Trespassing Issue

How has the issue of the Community Garden expansion site becoming an attractive nuisance to non-gardeners been addressed? I am concerned that the site is now in use by teenagers and others for purposes that are at the very least cause for concern and at the most illegal. As an abutting land owner, on several occasions, I have witnessed others using my land as a "short cut" to reach the Brentwood site. I am extremely and rightfully concerned about how my property is being used by others, especially when I am absent form the property. How is this issue being addressed?

Thanks you for your time. I hope these issues are addressed in a careful and considerate manner.

Steve

From: Kwoka John J SOSB <John.Kwoka@supshipba.navy.mil>
To: "'Steve.Norden@sunlife.com'" <Steve.Norden@sunlife.com>
Date: 03/31/2010 03:03 PM
Subject: Emailing: City E-Mail List

Steve,

City contact list

The message is ready to be sent with the following file or link attachments:

City E-Mail List

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.
[attachment "City E-Mail List.xls" deleted by Steve Norden/Group/US/SunLife]

Shukria Wiar - BCFG

From: Arlin Kent <kaya2551@msn.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/29/2010 5:08 PM
Subject: BCFG

To Whom It May Concern:

I am writing to express my support for the development of a community garden on the Brentwood Parcel of Evergreen Cemetery. This plot has been lying fallow for the 20+ years that I have lived in the neighborhood. A project of this nature which would encourage neighbors to work together to use local resources to grow local lower cost food would be of great benefit. My only concern would be that stricter measures must be taken so as not to add to, and ideally reduce, the number of inconsiderate dog owners who refuse to obey the posted leash law within the confines of the cemetery.

Thank you.

Sincerely yours,
Arlin Kent
158 Warwick St.
Portland, ME 04102

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Shukria Wiar - Brentwood Farms Community Gardens site plan

From: Robert Rossi <rrossi52@yahoo.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/26/2010 4:33 PM
Subject: Brentwood Farms Community Gardens site plan

I am writing to express my support for the site plan submitted by Deering Center Neighborhood Association for a community garden for the Brentwood Farms Community Gardens. I think the proposed garden will be of great benefit to the community in general and the neighborhood. If the plan is approved, I hope to get a plot at the garden, and I expect that I would generally walk to the garden except when bringing plants for planting.

Robert Rossi
43 Highland Street
Portland

Shukria Wiar - Brentwood St Community Garden

From: alison kenway <akenway@gmail.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/27/2010 7:45 AM
Subject: Brentwood St Community Garden

I support the development of the Brentwood Street Community Garden in Deering.

Alison Kenway
54 Richardson Street

Shukria Wiar - Deering Center Neighborhood Garden

From: Barbie Weed <barbieweed@hotmail.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/27/2010 6:24 PM
Subject: Deering Center Neighborhood Garden

I am a resident of Brentwood Street and would like to express my support for this project. I live on the other end of Brentwood, where our quality of life has been destroyed by the business on the corner. I will be extremely grateful to have a place within walking distance, where there aren't drunks stumbling out of a bar. I have already contributed labor to this project and I expect to contribute much more. So far, all of the other people, whom I've met at the garden, live in the neighborhood and we all agree that the ability to walk to this site is one of its major appeals. I know that abutting neighbors are concerned about noise, but I can assure you that gardeners are a respectful lot. I endure a lot of noise and trash as a result of bar patrons and apartment dwellers who don't have a connection to the area. I, however, live right here and most people who live in this neighborhood pass my house, on foot and in a car, on a routine basis. They know me and I know them. In the same way that I expect them to be respectful when they pass my home, I expect to be respectful when in the Neighborhood Garden. None of us can live in this neighborhood and expect to live in isolation. Working collaboratively is a worthy project and the fact that the project provides a way for people to volunteer, share, and grow food makes this endeavor especially valuable. I believe that the community development of the garden is an enhancement of a property that was a trash ridden eyesore. The garden will enhance the value of neighboring properties. It will provide the city with another community based green initiative and the plot will enable me to grow food that I can't afford to buy. I fully support the Deering Center Neighborhood Garden and can't wait to begin planting.

Barbara Weed
26 Brentwood Street

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Shukria Wiar - Brentwood Farms Community Gardens

From: Laurel Daly <daly.laurel@gmail.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/27/2010 10:28 PM
Subject: Brentwood Farms Community Gardens

Hello,

I'm writing to support the Deering Center Neighborhood Association's Brentwood Farms Community Gardens project. I live very close to the site, and am excited that it will no longer be a vacant lot. Instead of trash, gravel piles, and beer cans, I'll see vegetables, flowers, and trees. I'm looking forward to growing food in my own garden plot. The planned community garden will be good for the neighborhood, the city, and the earth.

Laurel Daly
165 Brentwood Street
Portland

Shukria Wiar - Deering Center Garden

From: Carolyn Ehringhaus <carolyne@maine.rr.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/25/2010 5:05 PM
Subject: Deering Center Garden

I am writing in support of the garden. I live in the neighborhood, have never been able to garden due to a shady lawn, and am very excited for this opportunity. I believe that the garden will be an asset to life in Portland. I plan to ride my bicycle to the garden, given its proximity to home.

Thank you.

Carolyn Ehringhaus

--

Carolyn Ehringhaus, LMT, NMT
<http://bodytuningmassage.com>

Body Tuning
222 St. John St., Suite 242
Portland, ME 04102
207 - 899 - 8142

Shukria Wiar - Brentwood Community Garden

From: "Norman Buttrick" <nbuttri1@maine.rr.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/25/2010 7:45 PM
Subject: Brentwood Community Garden

Just wanted to inform the city that I will walk to the garden plot and therefore will not take up a parking space. i think this project is a wonderful idea for our community to bring people together as well as produce food and fellowship. Norm Buttrick, resident of Clinton Street

Shukria Wiar - Brentwood Farms--Yay!

From: "Katherine D. Baltes" <kbaltes@maine.rr.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/25/2010 10:00 PM
Subject: Brentwood Farms--Yay!

Just wanted to say that our family is *thrilled* with the Brentwood Farms community garden proposal! Please do all that you can to make this process as smooth as possible for all!

We live very close to this recent eyesore, and have always been saddened that this lot was left to become a dirty and dangerous parcel of prime land. We are thankful that people with skills and heart have volunteered so many hours to make this dump into a treasure. They have worked so hard to make this little pocket of land in Deering Center become a meaningful and beautiful place for people to enjoy.

Many of us are anxiously waiting for the opportunity to *walk* (not drive!!) to a community garden and space. Hopefully, the naysayers are not the only ones that the city hears from during this time of evaluation.

Sincerely,
Kathy and Aaron Baltes
25 Newman Street
Portland

Shukria Wiar - parking at Brentwood Community Garden

From: "Norman Buttrick" <nbuttri1@maine.rr.com>
To: <shukriaw@portlandmaine.gov>
Date: 3/26/2010 8:51 AM
Subject: parking at Brentwood Community Garden

I plan to be a part of the community garden and will not need a parking space as I will walk to it being only a few minutes away. I think it will be a wonderful community project where besides raising veg. it will bring the community together for other worth while projects. Norm buttrick, resident

Shukria Wiar - Fwd:

From: Carissa Hanratty
To: Shukria Wiar
Date: 3/25/2010 3:25 PM
Subject: Fwd:

Carissa Hanratty
Planning Division
389 Congress Street, 4th Floor
Portland, ME 04101
(207) 874-8721
Fax: (207) 756-8256

>>> "Paul Burlin" <pburlin@une.edu> 3/25/2010 3:23 PM >>>
Carrisa,

I want to say that I am a Deering Center resident and I am absolutely thrilled that the Brentwood community garden may soon become a reality. I attended a neighborhood association meeting the other night (my first) and I thought the community leadership on this issue was excellent. There were a few abutters at the meeting who seemed intent on stopping the project no matter what accommodations the neighborhood association and the City of Portland have already acknowledged and put in place. It was selfishness pure and simple.

That piece of land was an eyesore and a breeding ground for kids to do bad things and it will now be a well supervised area. The suggestions by the abutters that their property values would be negatively affected by a garden in place of the mess that has been there for years were disingenuous in the extreme.

Some concern was expressed about increased traffic volume, but because there will be a shed to house implements and some wheelbarrows permanently onsite, I will probably always ride my bike to the garden to work and to gather produce. It was clear at the meeting when a poll was taking that most people interested in the garden live within walking distance to it and will not typically drive there.

I do hope the City approves the plan as spring is here, and before too long it will be planting season.

Do not hesitate to contact me if you have questions.

Paul Burlin
116 Concord St.

Paul T. Burlin, Ph.D.
Professor of History
University of New England
Biddeford, Maine 04005