

CITY OF PORTLAND, MAINE

PLANNING BOARD

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October 16, 2018

Joshua Wagner W B Group, Inc 130 Bancroft Street Portland, ME 04102	Anthony P. Panciocco, Senior Project Engineer Northeast Civil Solutions 381 Payne Road Scarborough, ME 04074
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Project Name: **Capisic Meadows 8 Lot Subdivision**
Project ID: Subdivision and Site Plan: # PLO00092-2018
Address: 130 Bancroft Street, Portland CBL: 193 E 019/025/026/039
Applicant: W B Group, Inc.
Planner: Jean Fraser

Dear Mr. Wagner and Mr. Panciocco:

On October 9, 2018, the Planning Board considered the Level III Subdivision application for the creation of an 8 lot single-family subdivision on a 2.9 acre site that includes the existing (developed) lot at 130 Bancroft Street. The proposals comprise the construction of a new dead end street of approximately 400 linear feet, along with a stormwater management system and landscape/treesaves.

The Planning Board reviewed the proposal for conformance with the standards of the Subdivision ordinance, and unanimously voted 7-0 to approve the application with the following waiver and conditions as presented below:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for # PLO00092-2018 Capisic Meadows subdivision (130 Bancroft Street) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

1. SUBDIVISION SIDEWALK WAIVER

The Planning Board voted 7-0 that based on the recommendations of the DPW City Engineer ([Attachment 4](#)) that two of the following criteria do apply, (namely 3 and 6 as noted below) and therefore waives the requirement for a sidewalk along the north side of Benjamin Way within the proposed 8 lot subdivision:

SIDEWALK WAIVER CRITERIA:

3. *A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.*
6. *Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*

2. **SUBDIVISION PLAN**

That the Planning Board unanimously voted 7-0 that the plan is in conformance with the subdivision standards of the land use code and approves the application, subject to the following conditions of approval:

Prior to the signing of the plat by the Planning Board

1. The applicant shall submit a final subdivision plat for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority, and
 - a. Includes the subdivision name (as approved to be Capisic Meadows), street name (as approved to be Benjamin Way), and Waiver as approved; and
 - b. Addresses the review comments of William Scott dated 9.28.18 and all other comments, including but not limited to: reference to the Stormwater Maintenance Agreement, HOA documents and other agreements that clarify the stormwater system maintenance responsibilities, treesave locations, marking of the MDEP approved area of wetland filling; and relevant conditions.
2. The applicant shall submit a revised plan set, including the site plan and landscape plan, for review and approval by the Planning Authority, that revises the proposals as listed below:
 - a. To show the proposed planting in and around the detention basin to provide adequate buffering;
 - b. To introduce additional screen planting, particularly for Lots A and 1-4;
 - c. To propose options for a more attractive fence around the detention basin;
 - d. To revise the street turnaround to include “no parking” signs;
 - e. To revise the new street to extend the paving to the end of the ROW without the proposed guardrails;
 - f. To revise the overhead electrical utility line between the relocated pole and the applicants home so that it is underground, to meet the ordinance 14-499 requirement that all utility lines shall be placed underground unless otherwise approved by the Planning Board.

Prior to the release of the signed subdivision plat for recording

3. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Works and the Planning Authority prior to the release of the signed subdivision plat:
 - a. Stormwater Maintenance Agreement;
 - b. Homeowners Association (HOA) documents;
 - c. Individual lot deeds;
 - d. Any other required easements.
4. That the draft Stormwater Management Agreement and draft HOA documents shall be revised to address the comments of the Associate Corporation Counsel dated 10.4.18 and Peer Engineer dated 10.5.18.
5. That the applicant shall include in the individual lot deeds a detailed description of the location of all wetlands, treesaves and stormwater systems including culverts on private property, swale protection, and associated restrictions against filling, altering or disturbing the same and associated maintenance and other requirements.

Prior to the commencement of construction

6. That the applicant shall mark the line around the areas of preserved wetland with permanent markers such as FENO markers, placed every 25 ft and all corners and to bear the engraved wording “Do not fill, alter or disturb beyond this point”; the Subdivision Plat and deeds to identify the location and purpose of such markers and clarify that such markers are not to be removed and that no further filling is to take place beyond the markers.
7. The applicant shall submit a revised Construction Management Plan for review and approval by the Planning Authority and the Department of Public Works, and shall take account of the neighbor concerns as outlined in the public comments on this project.
8. That the applicant shall provide evidence to the Planning Authority that they have complied with all requirements of the Blasting Ordinance if any blasting is required during construction.

Prior to the return of the Performance Guarantee

9. That the applicant shall apply for the street to be accepted by the City of Portland when the project is completed, and is subject to the City’s legal and technical process for street acceptance. The applicant shall convey the fee interest for the new street to the City of Portland and submit a revised boundary survey and complete set of record drawings to the Department of Public Works and the Planning Authority for review and approval prior to the completion and prior to the acceptance by the City.

Ongoing

10. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan dated September 2018 prepared by Northeast Civil Solutions and based on City standards and state guidelines. The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.
11. That the stormwater management system, including associated drainage swales, culverts, detention pond and fencing/planting, and area of the private drainage easement, shall be maintained as set out in the submitted O&M documents in perpetuity

The approval is based on the submitted plans and the findings related to subdivision review standards as contained in Planning Report for application # PLo00092-2018 (130 Bancroft Street) which is attached.

STANDARD CONDITIONS OF APPROVAL

Please Note: The following standard conditions of approval and requirements apply to all approved site plans:

1. Subdivision Recording Plat A revised recording plat, listing all conditions of subdivision approval, must be submitted to the Planning and Urban Development Department for review. Once approved, the plat shall be signed by the Planning Board prior to the issuance of a performance guarantee. The performance guarantee must be issued, prior to the release of the recording plat, for recording at the Cumberland County Registry of Deeds.
2. Subdivision Waivers Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice. The plan or notice must be recorded in the Cumberland County Registry of Deeds within two (2) years of the final subdivision approval.

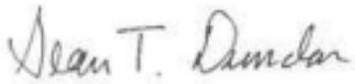
3. Develop Site According to Plan The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. Separate Building Permits Are Required This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Permitting and Inspections Department.
5. Site Plan Expiration The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. Subdivision Expiration The subdivision approval is valid for up to three (3) years from the date of Planning Board approval.
7. Performance Guarantee and Inspection Fees A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and four (4) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department 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 site plan application for staff review and approval.
8. Defect Guarantee A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. Preconstruction Meeting Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
10. Construction Management Plans The applicant, contractor and subcontractors are required to conform to the approved Construction Management Plan, and all conditions contained within the project's approval, for the entire duration of the project. Any amendments to the approved Construction Management Plan shall be reviewed and approved by the Department of Public Works prior to the execution. The Planning Authority and the Department of Public Works have the right to seek revisions to an approved Construction Management Plan. The applicant shall coordinate the project's construction schedule with the timing of nearby construction activities to avoid cumulative impacts on a neighborhood and prevent unsafe vehicle and pedestrian movements. Accordingly, nearby construction activities could involve a delay in the commencement of construction.

11. Department of Public Works Permits If work or obstructions will occur within the public right-of-way, such as utilities, curb, sidewalk, driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy Permit (s) is required for your site. Please contact the Department of Public Works Permit Clerk at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
12. As-Built Final Plans Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
13. Mylar Copies Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to Public Works prior to the issuance of a certificate of occupancy.

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

If there are any questions, please contact Jean Fraser at (207) 874- 8728.

Sincerely,



Sean Dundon, Chair
Portland Planning Board

Attachments:

1. William Scott DPW Surveyor comments dated 9.28.18
2. Associate Corporation Counsel comments dated 10.4.18
3. Peer Engineer comments dated 10.5.18.
4. Planning Board Report
5. Performance Guarantee Packet

130 Bancroft Street
Subdivision Plan Review
Bill Scott
September 28, 2018

1. I assume that this is going to be offered to the City as a public street. If that's the case:
 - a. An elevation benchmark shall be established on at least one of the new street monuments, and it shall be shown and described on the As-built Plan for this project;.
 - b. At least two of the new street monuments shall be labeled with state plane coordinates on a revised copy of the Subdivision Plan.
2. Does the new street have a name yet? If so, please add it to the plan.
3. There should be a note added to the plan to identify who's responsible for the storm water maintenance agreement, and stating that the agreement will be recorded in the Registry of Deeds.
4. A monument needs to be added at the PC on the proposed street in front of Lot A. It will replace an existing rebar that 's shown on the plan.
5. I spoke with John Perron at NCS earlier this month about the monument locations. I suggested installing all of them on the street line instead of on three-foot offset for this project.



Jean Fraser <jf@portlandmaine.gov>

Fwd: 130 Bancroft - (to hearing) Homeowners Assn Docs & Stormwater Main Agreement

1 message

Jean Fraser <jf@portlandmaine.gov>
To: "Fraser, Jean" <jf@portlandmaine.gov>

Thu, Oct 4, 2018 at 3:31 PM

Associate Corporation Counsel comments re submitted HOA documents and Stormwater Maintenance Agreement

----- Forwarded message -----

From: **Jennifer Thompson** <jlt@portlandmaine.gov>

Date: Thu, Oct 4, 2018 at 10:31 AM

Subject: Re: 130 Bancroft - (to hearing) Homeowners Assn Docs & Stormwater Main Agreement

To: Jean Fraser <jf@portlandmaine.gov>

Hi Jean - I agree that the whole of the system that is to be maintained by the HOA should be referenced in these By Laws. With respect to the agreement, I agree that this will need to be redrafted and initially signed by the owner of the property, not a non-existent HOA. By its terms, it will bind the owner's successors and assigns, including the HOA but we'll need to have the owner sign it initially.

Jennifer L. Thompson
Associate Corporation Counsel
City of Portland
207.874.8915



Jean Fraser <jf@portlandmaine.gov>

RE: Bancroft

1 message

Lauren Swett <lswett@woodardcurran.com>

Fri, Oct 5, 2018 at 10:55 AM

To: Jean Fraser <jf@portlandmaine.gov>

Hi Jean,

I am comfortable with the responses provided to all of my comments.

My only addition comment for this project is with regards to the description of the "Stormwater System" as provided in both the Homeowner's Association and the Stormwater Agreement. In both documents, the following wording is used:

"drainage swale and detention pond (hereinafter collectively referred to as the "Stormwater System")"

I think this should be expanded to include specific reference to the culverts, i.e. just adding "drainage swale, culverts, and detention pond". The HOA refers to the stormwater agreement, and that refers to the correct plan, so it should be adequately covered.

Let me know if you need any additional information from me, but I think this should be good with that small change.

Thanks,

Lauren

From: Jean Fraser <jf@portlandmaine.gov>

Sent: Friday, October 5, 2018 9:57 AM

To: Lauren Swett <lswett@woodardcurran.com>

Subject: Bancroft

Lauren

This is what I have so far. The applicant has listed your comments in the September Response Letter (also attached).



Jean Fraser <jf@portlandmaine.gov>

Bancroft Street

1 message

Lauren Swett <lswett@woodardcurran.com>

Fri, Jul 13, 2018 at 7:11 AM

To: Jean Fraser <jf@portlandmaine.gov>

Cc: Keith Gray <kgray@portlandmaine.gov>

Hi Jean,

I've taken a quick look at the additional information that the Applicant uploaded yesterday. Based on what they've provided, the meeting that we had on July 10, and the public comments I have reviewed, I have the following comments:

- The Applicant has provided additional information with regards to maintenance of the stormwater systems proposed throughout the site. They have noted that the Homeowners Association will be responsible for the maintenance, and HOA documents will be provided for review. Please note that a Stormwater Maintenance Agreement with the City of Portland will also be required.
- The Applicant has received their DEP wetland permit, and they have worked with the Army Corps on design changes to ensure their approval. The Applicant has noted that these design changes include upsizing of many of the culverts on site, and these changes impact the HydroCAD. The HydroCAD has not yet been uploaded to Eplan, but I will review that material when it is provided after the Workshop. I don't anticipate any issues as the pipes capacity will increase.
- The existing drainage easement was discussed as part of the meeting on July 10, and that Applicant noted that they would do further research into that easement, and provide additional information. They have addressed this in their July 11 response to comments, and note that per the City's request, they will be cleaning out this area. Following the workshop, additional information should be provided on the grading and drainage plan to show the extent of clearing in this area.

In general, the Applicant has been responsive to comments, and they are providing for adequate management of stormwater from their site, and from off-site areas within the project area.

If you have any questions, please let me know. I started to mark some of my comments as resolved on Energov, but I will wait until after the Workshop when they provide their updated HydroCAD and complete updated plan set.

Thanks,

Lauren

Lauren Swett, P.E.*

Technical Manager

Woodard & Curran

[41 Hutchins Drive](#)[Portland, Maine 04102](#)



PLAN CORRECTIONS REPORT PL-000092-2018 FOR CITY OF PORTLAND

PLAN ADDRESS: 130 Bancroft St
Portland, ME 04102

PARCEL: 193 E026001

APPLICATION DATE: 05/02/2018

SQUARE FEET: 0.00

DESCRIPTION: 8 Lot Subdivision

EXPIRATION DATE:

VALUATION: \$0.00

CONTACTS

Name

Company

Address

Agent/Representative

Michael Skolnick

Northeast Civil Solutions

381 Payne Road
Scarborough, ME 04074

Corrections Required

City Arborist

Jeff Tarling

Civil Engineering - Third Party Reviewer

Lauren Swett

v.1.00 - Not Resolved

Correction: General

The Applicant has submitted a copy of the NRPA Application to the DEP for proposed wetland fill.

Corrective Action: Copies of all final permit approvals should be forwarded to the City upon receipt.

Correction: General

The stormwater inspection and maintenance plan should include provisions for the requirements of Chapter 32 of the City of Portland Code of Ordinances, as well as inspection and maintenance requirements for the proposed Filterra Units and Detention Pond.

Corrective Action: Update the stormwater inspection and maintenance plan.

Correction: General

The Applicant has stated that the lot impervious areas were included in the HydroCAD model, however the narrative report indicates that there will be 0.62-acres of new impervious area and the model indicates that there will be only 0.48-acres of new impervious area.

Corrective Action: Clarify the amount of impervious surface that has been modeled, and confirm that it includes all impervious surface anticipated to drain to the pond.

Correction: General

Note that the standard detail for Sidewalk Ramp Detectable Warning Panels was revised in October 2017. The acceptable material is now uncoated cast iron.

Corrective Action: Please revise the detail.

Correction: General

The Grading and Drainage Plan indicates that SD-7 will be a 15-inch pipe, but the HydroCAD model indicates that it is 18-inches. The dimensions of the emergency spillway are also inconsistent between the plans and the model.

Corrective Action: The Applicant should clarify and ensure that the drawings and the model are consistent.

Correction: General

Proposed details include a "Type B Underdrain Installation Detail – Alternative A" that shows underdrain along the roadside edge under curbing; however, the proposed grading and drainage plan does not show locations or discharge points for proposed underdrain.

Corrective Action: Clarify the use of underdrain on the site.

Correction: General

A construction management plan has not been provided.

Corrective Action: Provide a construction management plan using the City's template which is available online <http://www.portlandmaine.gov/DocumentCenter/View/18030>

Correction: General

All piping installation within the proposed roadway is required to be in conformance with the City's Technical Manual, Section 2 Sanitary Sewer and Stormdrain. This includes material types and installation. Note that the City of Portland requires HDPE stormdrain pipe to be ADS HP triple-wall pipe. Refer to figure II-12 for the typical pipe trench installation.

Corrective Action: Update the plans and details to be in conformance with the City's standards.

Correction: General

We have reviewed the Grading and Drainage Plan, and there are a few areas where the grading is not detailed enough to show that water will not be directed towards the building foundations. Specifically on Lots 5, 6, and 7. Additional spot grades are also recommended in the area between Lots 2 and 3, the area in front of Lot 4 and the area adjacent to the retaining wall at the edge of the detention pond to clearly define grading such that ponding will not occur.

Corrective Action: Provide updated Grading and Drainage Plan.

Correction: General

Filterra units are proposed for installation within the future City Right Of Way. The Applicant should discuss the maintenance of these systems with the City of Portland Department of Public works to determine if they will be maintained by the City or if maintenance will be required by the owners. In addition, a system of culverts extends through the site, both over private property and the City Right Of Way, to a stormwater pond that is located on private property. Responsibility of maintenance of all stormwater systems should be clearly established, and Stormwater Maintenance Agreements are required in conformance with the City's Chapter 32.

Corrective Action: Provide Stormwater Maintenance Agreements.

Fire	Robert Thompson
Planning	Jean Fraser
Public Works Engineering	Keith Gray
Public Works Water Resources Engineering	Doug Roncarati
Traffic - Third Party Reviewer	Tom Errico
Transportation/Planning	Bruce Hyman
Zoning	Pool Zoning

Conditions Required

Fire: Sprinkler One- and Two-Family

General Condition

All homes will be required to be sprinklered.

Life Safety: Fire Dept Access

General Condition

Fire Department access to all homes is acceptable.

General Condition

A 30 x 30 turnaround is required at the dead end of the road.

Life Safety: General

General Condition

The fire hydrant at the end of the road must be removed. No fire hydrant is required for this project.



PLANNING BOARD REPORT PORTLAND, MAINE

Capisic Meadows 8 Lot Subdivision

130 Bancroft Street
Level III Subdivision:
Project # PL000092-2018
WB Group, Inc, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: October 9, 2018	Prepared by: Jean Fraser Date: October 5, 2018
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I. INTRODUCTION

Northeast Civil Solutions, Inc, on behalf of WB Group, Inc., has requested final approval to the Level III Subdivision application for an 8 lot subdivision that comprises the applicants lot and house, 7 new single family house lots within the adjacent wooded area, and a new dead-end street (approximately 400 linear feet) off of Bancroft Street.

The proposals were considered at a Planning Board Workshop on July 17, 2018 in the context of the subdivision ordinance standards. The project was considered broadly acceptable subject to receiving additional information to address legal questions and public comments.

The site totals 2.9 acres in area made up of several parcels, and is located in the R3 residential zone. The proposals include a new street to be constructed to City standards with a sidewalk on the south side, and a new detention basin on the western boundary that would connect with an existing drainage easement to Capisic Street.



The project involves the filling of 10,741 sq ft of forested freshwater wetlands that are in pockets throughout the site, and the project has obtained a MDEP Tier 1 NRPA Permit and Army Corps Permit that both approve this wetland fill ([Attachment H](#)).

Applicant: WB Group, Inc (Joshua Wagner, owner)

Consultants: Northeast Civil Solutions (Brandon Binette; Tony Panciocco; Jim Fisher)

II. REQUIRED REVIEWS AND WAIVER REQUESTS

Review	Applicable Standards
<i>Subdivision</i> – creation of 7 new lots combined with an existing lot (total 8)	<i>Section 14-497 – 14-499</i>
Waiver Requests	Applicable Standards
<i>Sidewalk Waiver</i> requested to allow for one sidewalk to be located on the south side of the proposed new street (Attachment M).	<i>Section 14-498 (b) Street Design 8a</i> requires that sidewalks be constructed on each side of each street in accordance with article III of Chapter 25.

Staff Recommendation: The waiver is supported, with the sidewalk as shown on the southern side of the proposed street (Attachment 4).

Note: the applicant has not requested a waiver from the requirement under 14-499 that all utility lines shall be placed underground unless otherwise approved by the Planning Board. Therefore per the DPW comments (Attachment 5) a suggested condition of approval requires that the relocated overhead line (that goes over the new street to a relocated pole) shall be placed underground.

III. PROJECT DATA

Existing Zoning	R3 Residential		
Existing Use	One single family lot and undeveloped woodlands		
Proposed Use	Eight single-family lots, including the existing lot owned by the applicant		
Parcel Size	117,258 sq ft		
	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Wetland Area	21,796 sq ft	11,055 sq ft	10,741 sq ft
Impervious Surface Area	12,458 sq ft	41,120 sq ft	28,663 sq ft
Building Footprint	0 SF	0 SF (Buildings are not proposed at this time)	0 SF
Number of Residential Units	1	8 Lots	+7 new lots
Estimated Cost of Project	Awaiting Cost Estimate		

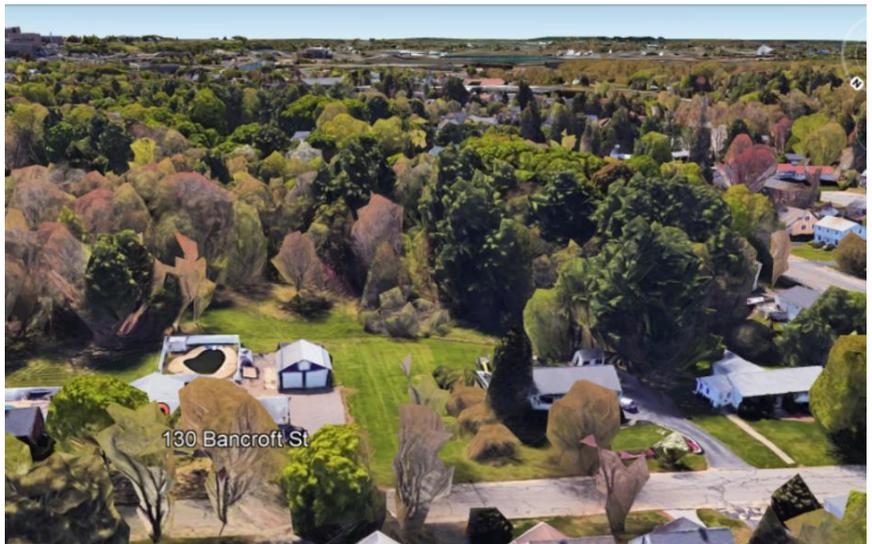
IV. EXISTING CONDITIONS

The proposal site is just under 3 acres and accessed from Bancroft Street between two existing homes. The site widens out to the southwest, going back about 400+ feet from Bancroft Street. There are existing homes along all of the boundaries, though not all are in close proximity.

There is a private drainage easement running behind the Bancroft properties between the new street and Capisic Street. This easement dates from 1967 and benefits the development site (see further info below).

It is not known whether ledge is present on the site; if blasting is required the City has a comprehensive Blasting ordinance that would need to be followed.

Bancroft Street is a relatively quiet street linking Capisic Street with Brighton Avenue. The new access for the 7 new back land lots would enter Bancroft Street immediately behind the 25mph sign in the photo right.



- If the stormwater system (understood to be the responsibility of the Homeowners Association (HOA)) is not maintained adequately, what mechanism would ensure that this was done to avoid impacts to neighbors?

All projects that include a stormwater management system are required to enter into a Stormwater Maintenance Agreement (the generic template is in [Attachment 8](#) and the applicants draft for this project is in [Attachment Q](#)). This agreement gives the City the right to enter the site and undertake required maintenance, and then charge that cost back to the users. In addition, the City’s Water Resources Division of DPW requires regular monitoring reports and has authority to take action if a site is violating codes. Lastly, a suggested condition of approval clarifies that future maintenance is a site plan condition, so legal action would also be possible under the site plan codes.

- Revise proposals to address concerns regarding safety and impacts of detention basin.
See information in the table below.

VII. PUBLIC COMMENT SUMMARY

A total of 164 notices of this Hearing were sent to neighbors and interested parties within 500 feet, and the legal notice appeared in the September 29th and October 1st, 2018 editions of the *Portland Press-Herald*. A Neighborhood meeting was held on June 19, 2018 and attended by 21 neighbors (see notes in [Attachment K](#)).

At the time of the Workshop the Planning office had received 13 public comments representing 12 neighbors, of which 9 were objections and 3 in support ([PC1- PC 13](#)). Since the Workshop a further 4 public comments have been received, bringing the total number of neighbors who object to 10.

At the Workshop six members of the public spoke, of which two amplified on their written objections, two raised new objections, and two supported the project. Supporters noted proximity of publicly accessible woodland to north, though raised concerns about the affordability of the new homes. Ms Harkins drew the Board’s attention to an article regarding safety and maintenance of detention basin (PC15) which was forwarded to the applicant.

The table below summarizes the basis of the public comment objections, and how they have been addressed by the final proposals and additional information. Those in support of the project cited the benefits of having an updated drainage systems and the need for more housing.

PUBLIC COMMENT ISSUE	HOW ADDRESSED
Site layout <ul style="list-style-type: none"> • Shoe-horning in the 7 new lots (maybe 1-2 houses OK) • Inconsistent with City’s commitment to preserving green space and wetland • Needs to be more affordable housing 	The layout consistent with the existing pattern of housing in area. No variances or waivers have been requested except for having one sidewalk instead of two. The project conforms with zoning and technically the lot could be divided into more lots than is proposed.
Rights to use drainage easement across the three other properties	Three nearby property owners have a private drainage easement across their land which dates from 1967 and included in background deeds; also in the original subdivision plans & associated deeds related to the parcels that make up the site. The applicant has submitted a legal opinion (Attachment O) that documents this background and confirms that the applicant has the right to use, regrade and maintain this easement.
Maintenance of drainage system and easement out to Capisic Street <ul style="list-style-type: none"> • Whose responsibility • Who monitors • What if maintenance not done 	A Homeowners Association (HOA) would be created and take on these responsibilities (with the applicant would be responsible until the HOA took over). A draft HOA document sets out the mechanism for carrying out these responsibilities, although staff recommend that it be revised to be clearer and broader.

PUBLIC COMMENT ISSUE	HOW ADDRESSED
More Traffic and need for three way stop	The City's Traffic Engineer reviewer does consider the proposal will create any safety issues and does not support the introduction of a stop at this location.
Wetland Impacts <ul style="list-style-type: none"> • One of last remaining freshwater wetlands in the city and some forested- once lost will never return • Note there is stream or part of the year • Wetland displaced and where will it go? 	The applicant has received the required State permits to fill in about half of the existing wetlands, and the MDEP field report indicates that there is not a stream on the property (Attachment H). The remaining wetland areas will need to be protected; a suggested condition includes a re-quirement for them to be identified on the plat & deeds, and on the ground. Wetland water will flow into proposed stormwater system, which will more effectively drain the area in storm events.
Groundwater Impacts/Flooding <ul style="list-style-type: none"> • Rainfall causing more water back up since nearby development and more dense dev would make this worse • Already wet back yards and would wetlands just be displaced • Impact on quality of water- adversely impact Capisic Pond 	The Stormwater Report confirms that the peak runoff rates will be the same or reduced compared to existing and that the detention pond will provide a short term holding area (24 hrs) for stormwater so it will not flood the area. The detention pond will also allow for treatment of the water before discharge so it will not affect any downstream water quality. A note on the Plat acknowledges the high groundwater and the need for future homes to be built on slabs or include sump pumps.
Detention Pond Impacts <ul style="list-style-type: none"> • Overflow and flood nearby back yards • Magnet for mosquitoes • Safety of the design (ref article PC15) • Vegetation needs to be suitable for water environment 	The applicant has added 6 foot high chain link fencing (with gate) around the basin and noted that the design now includes covers to the outlets as recommended in PC15 (Attachment T). The detail of the planting has not been submitted, and a suggested condition requests that to be submitted for review and approval.
Open spaces <ul style="list-style-type: none"> • Proposal reduces open space • How is this allowed in wetlands of Redlon Park Woods (thought preserved by Portland Land Bank) • Erodes green space in neighborhood; these pockets of green space characterize Rosemont 	This proposal is not within Redlon Park Woods (Redlon Woods), which is about 400+ feet from the site and included in the Land Bank holdings (see plan in Attachment 10). The final proposals include 28 "Treesaves" which comprise existing mature trees over 10dbh, and a condition requires that these be noted on the plat and in the lot deeds.
Construction time <ul style="list-style-type: none"> • Extended period of traffic and noise disruption • Ledge may be present- would there be blasting • Need study of impacts • Rat infestation has happened with previous sewer projects nearby 	The applicant has submitted a preliminary Construction management Plan (CMP) (Attachment L). A suggested condition of approval requires the CMP to be finalized for review and approval to take account of these neighbor concerns and to address the Blasting ordinance.

VIII. STAFF REVIEW

A. RIGHT, TITLE AND INTEREST

The applicant has submitted the deeds in respect of to the eastern part of the site, and provided a Purchase and Sale Agreement for the parcel that makes up the western part of the site ([Attachment C](#)). In addition, the applicant has provided further evidence, via a formal legal opinion, that he has the rights to grade, use and maintain the private drainage easement between the site and Capisic Street ([Attachment O](#)).

Since the Workshop a question was raised by reviewers regarding the paper street (Kenilworth Street) which was understood to underlay the proposed new street (Benjamin Way). Kenilworth Street is recorded as being

statutorily vacated (Attachment 10) and the question was whether there were any parties with rights in the street other than the applicant and the party with whom he has a P&S. The applicant's agent has provided additional information that confirms there would not be any other parties with an interest (Attachment S).

Related to this, reviewers requested that the applicant confirm that he would give the fee interest in the new street to the City as part of the dedication and City acceptance process; this was submitted (also in Attachment S.)

B. ZONING ANALYSIS

The proposed subdivision is located in the R3 residential zone and all of the proposed lots meet and exceed the dimensional standards of that zone. Staff have consulted with the Zoning Administrator to confirm that all of the lots meet the lot width requirement of 65 feet. The applicant has included zoning information on the plat and site plan.

C. SUBDIVISION REVIEW (14-497(a). Review Criteria

14-496. Subdivision Plat Requirements: The applicant has submitted a draft Subdivision Plat (Plan P3) which will need revisions to address review comments, including references to the HOA and Stormwater Agreements and inclusion of the treesaves.

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)

The proposal does not appear to raise any concerns regarding this standard.

2. Sufficient Water Available (Section 14-497 (a) 2 and 3)

The applicant has provided a letter from the Portland Water District (Attachment J) confirming the district's ability to serve the proposed project. The Fire Department has confirmed that the applicant does not need to install a new hydrant in proposed subdivision (Attachment 3).

3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)

The Traffic Engineering reviewer has confirmed that the project is not expected to create unacceptable safety of traffic mobility issues (Attachment 1). He has also confirmed that the suggestion of a three-way stop (where the new street meets Bancroft) is not warranted by the traffic levels or speeds.

4. Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)

The applicant has submitted a wastewater capacity application and the Department of Public Works has confirmed that there is adequate sewer capacity (Attachment J). Since the proposed street will be built to City standards and accepted by the City Council, solid waste and snow removal will then be handled by the City.

The proposed stormwater system provides stormwater flow control and treatment. It includes large conduits through the lots, a new detention basin with two filtration units within the subdivision site, and an outflow to a culvert in Capisic Street via the private drainage easement swale. The applicant has addressed the comments, questions and concerns of reviewers, the Planning Board, and neighbors in the Comment Response letter (Attachment P) and revised Plan Set.

The City's records indicate that the 30 foot drainage easement out to Capisic Street, that runs across three properties at the corner of Bancroft and Capisic Streets, is not a City easement. Further research has confirmed that it was established as a private drainage easement in 1967 to benefit the site now proposed for the new 7 lots. The applicant was requested to confirm that he had the rights to use, grade and maintain this private drainage easement and has submitted a legal opinion that confirms that he has these rights (Att. O).

The applicant proposes the establishment of a Homeowners Association (HOA) to be responsible for maintaining the elements of the stormwater system (pipes on private property, detention pond and drainage channel) and securing the funding for this from the eight individual lot owners. The draft HOA documents have been submitted (Attachment R) and reflect this intention. The City's Associate Corporation Counsel and Peer Engineer have pointed out that they currently do not include the whole of the stormwater system and that the applicant would need to be party to those documents as he would be responsible until the HOA was fully established (Attachments 2 and 6).

The City's Peer Engineer Reviewer Lauren Swett provided detailed comments at the time of the PB Workshop and the applicant has addressed those comments (Attachments P, Q, R and Plan Set). The Peer Engineer reviewer has confirmed that the proposals meet the City's standards subject to revisions to the Stormwater Maintenance Agreement and HOA documents to ensure that they clarify the extent of the stormwater system and its maintenance requirements (Attachment 2).

5. Scenic Beauty, Natural, Historic, Habitat and other Resources (Section 14-497 (a) 8)

The proposed additional 7 lots would be located on undeveloped land to the rear of the lots owned by the applicant and P&S party on the Bancroft Street frontage. The undeveloped land is primarily woodland and freshwater forested wetland, as can be seen on the Boundary Survey (Attachment 2). The Survey has been updated since the PB Workshop to locate mature trees, and identifies approximately 80 trees over 10dbh on the site, along with 21,796 sq ft of freshwater wetland.

At the Neighborhood meeting and PB workshop the applicant indicated that significant trees would be retained, and the final proposals include 28 treesaves (over 10dbh) in addition to the planting of two street trees per lot that is a subdivision requirement (see Landscape Plan below and at Plan P5).



Staff are concerned that the Landscape Plan does not include screen planting or treesaves for Lots A and 1-4 and that the submissions do not include detailed planting proposals for the detention basin itself or around it. The basin is proposed to have a 6 foot high chain link fence and staff recommend reconsideration to find a more attractive options that still provides the safety and security function. A suggested condition of approval reflects these concerns.

The public comments included a concern that the development of this site would result in the loss of local open space and some had thought this site was part of the Land Bank holdings. Staff note:

- that the lots are considerably larger than the minimum set out in the R3 zoning, and that has allowed for the tree save designations for about 28 existing mature trees; and
- that the Land Bank holdings of several acres of wetland and woods, known as Redlon Woods, are about 400+ feet to the north east of the proposal site, and are included in the Land Bank holdings and available for informal walking and mountain biking. The Land Bank Plan and detailed entry for Redlon Woods is included in Attachment 10.

6. Comprehensive Plan (Section 14-497 (a) 9)

The proposal in conformance with the housing policies of the adopted Comprehensive Plan.

7. Financial Capability (Section 14-497 (a) 10)

The applicant has submitted a letter from Bath Savings Institution (Attachment D) indicating the applicant has the financial capability to finance the project.

8. Wetland and Groundwater Impacts, Flood-Prone Area

The applicant has submitted a Wetland Summary Report (Attachment G) and intends to fill 10,741 sf (approximately half of the total) of the wetlands, and has received a Tier I NRPA permit from MDEP and Army Corps Permit for this extent of fill (Attachment H.). The applicant has explained that the layout has minimized the impacts on the wetland.

Staff recommend that a condition of approval require the Plat, HOA and lot deed documents to refer to the preservation of the remaining wetlands, and that the edges of the remaining wetland be marked on the ground by feno markers or similar, as has been required for several other Portland subdivisions.

SUBDIVISION REVIEW - 14-498. Technical and Design Standards; & 14-499. Required Improvements

The Subdivision ordinance sets out detailed requirements for the proposed street. Reviewers, including the Department of Public Works (DPW), consider the proposals to be acceptable except in respect of the following:

- The turnaround needs to have “no parking” signs to ensure it is available for large vehicles to turn around at the end of the proposed dead end street;
- The new street needs to be paved to the end of the ROW without the proposed guardrails; and
- The overhead electrical utility line between the relocated pole and the applicants home shall be underground to meet the ordinance 14-499 requirement that all utility lines shall be placed underground unless otherwise approved by the Planning Board.

Regarding the Subdivision requirement (14-498) for sidewalks on both sides of the new street, the DPW supports a waiver to allow for one sidewalk on the south side of the street as shown in the proposals (Attachment 4). The proposed motion for the waiver identifies the two waiver criteria that have been met.

IX. STAFF RECOMMENDATION

Staff recommends approval to the proposed subdivision at 130 Bancroft Street, subject to the suggested conditions of approval.

X. PROPOSED MOTIONS

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for # PL000092-2018 Capisic Meadows subdivision (130 Bancroft Street) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

1. SUBDIVISION SIDEWALK WAIVER

The Planning Board finds that based on the recommendations of the DPW City Engineer (Attachment 4) that two of the following criteria **do/do not** apply, (namely 3 and 6 as noted below) and therefore **waives/does not waive** the requirement for a sidewalk along the north side of Benjamin Way within the proposed 8 lot subdivision:

SIDEWALK WAIVER CRITERIA:

3. *A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.*
6. *Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*

2. SUBDIVISION PLAN

That the Planning Board finds that the plan plan **is/is not** in conformance with the subdivision standards of the land use code and **approves/does not approve** the application, subject to the following conditions of approval:

Prior to the signing of the plat by the Planning Board

1. The applicant shall submit a final subdivision plat for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority, and
 - a. Includes the subdivision name (as approved to be Capisic Meadows), streetname (as approved to be Benjamin Way), and Waiver as approved; and
 - b. Addresses the review comments of William Scott dated 9.28.18 and all other comments, including but not limited to: reference to the Stormwater Maintenance Agreement, HOA documents and other agreements that clarify the stormwater system maintenance responsibilities, treesave locations, marking of the MDEP approved area of wetland filling; and relevant conditions.
2. The applicant shall submit a revised plan set, including the site plan and landscape plan, for review and approval by the Planning Authority, that revises the proposals as listed below:
 - a. To show the proposed planting in and around the detention basin;
 - b. To introduce additional screen planting, particularly for Lots A and 1-4;
 - c. To propose options for a more attractive fence around the detention basin;
 - d. To revise the street turnaround to include "no parking" signs;
 - e. To revise the new street to extend the paving to the end of the ROW without the proposed guardrails;
 - f. To revise the overhead electrical utility line between the relocated pole and the applicants home so that it is underground, to meet the ordinance 14-499 requirement that all utility lines shall be placed underground unless otherwise approved by the Planning Board.

Prior to the release of the signed subdivision plat for recording

3. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Works and the Planning Authority prior to the release of the signed subdivision plat:
 - a. Stormwater Maintenance Agreement;
 - b. Homeowners Association (HOA) documents;
 - c. Individual lot deeds;
 - d. Any other required easements.

4. That the draft Stormwater Management Agreement and draft HOA documents shall be revised to address the comments of the Associate Corporation Counsel dated 10.4.18 and Peer Engineer dated 10.5.18.
5. That the applicant shall include in the individual lot deeds a detailed description of the location of all wetlands, treesaves and stormwater systems including culverts on private property, swale protection, and associated restrictions against filling, altering or disturbing the same and associated maintenance and other requirements.

Prior to the commencement of construction

6. That the applicant shall mark the line around the areas of preserved wetland with permanent markers such as FENO markers, placed every 25 ft and all corners and to bear the engraved wording "Do not fill, alter or disturb beyond this point"; the Subdivision Plat and deeds to identify the location and purpose of such markers and clarify that such markers are not to be removed and that no further filling is to take place beyond the markers.
7. The applicant shall submit a revised Construction Management Plan for review and approval by the Planning Authority and the Department of Public Works, and shall take account of the neighbor concerns as outlined in the public comments on this project.
8. That the applicant shall provide evidence to the Planning Authority that they have complied with all requirements of the Blasting Ordinance if any blasting is required during construction.

Prior to the return of the Performance Guarantee

9. That the applicant shall apply for the street to be accepted by the City of Portland when the project is completed, and is subject to the City's legal and technical process for street acceptance. The applicant shall convey the fee interest for the new street to the City of Portland and submit a revised boundary survey and complete set of record drawings to the Department of Public Works and the Planning Authority for review and approval prior to the completion and prior to the acceptance by the City.

Ongoing

10. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan dated Septmber 2018 prepared by Northeast Civil Solutions and based on City standards and state guidelines. The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.
11. That the stormwater management system, including associated drainage swales, culverts, detention pond and fencing/planting, and area of the private drainage easement, shall be maintained as set out in the submitted O&M documents in perpetuity.

Attachments to Report

1. Traffic Review Comments
2. Peer Engineer Comments
3. Fire Department Comments
4. DPW comments - Sidewalk Waiver
5. DPW comments - Utilities
6. Legal Comments HOA Docs and Stormwater Main Agreement
7. City Arborist Comments (not received at time of Memo completion)

8. Stormwater Maintenance Agreement Template
9. City Records re former Kenilworth Street
10. Land Bank Commission Info on Redlon Woods Holdings
11. Survey Comments on Plat

Public Comment - in Workshop Memo July 17, 2018

- PC1 Peter Carpenter 6-5-18
- PC2 Douglas Babkirk 6-5-18
- PC3 Jeff Emerson 6-7-18
- PC4 Doug Babkirk 6-7-18
- PC5 Jacqueline Harkins 6-8-18
- PC6 Oliver and Ellen Griswold 6-8-18
- PC7 Judy Gailen 6-13-18
- PC8 Ken & Kari Doiran 6-13-18
- PC9 Sarah Delisle 6-14-18
- PC10 Estelle Heureux 7-6-18
- PC11 Caleb Oconnell 7-9-18
- PC12 Diane Herrick 7-10-18
- PC13 Jacqueline Harkins 7-3-18

Public Comment - since Workshop Memo July 17, 2018

- PC14 Mary Foley 7-16-18
- PC15 JHarkins pond info to PB 7.18.18
- PC16 Jeff Emerson 10-2-18
- PC17 Jacqueline Harkins 10-4-18

Applicant's Submittal

As to Workshop on July 17, 2017 except where updated

- A. Cover Letter
- B. Agent Authorization
- C. Right, Title and Interest
- D. Financial Capacity
- E. Technical Ability
- F. Traffic Evaluation
- G. Wetland Report
- H. State Permits approving wetland fill (updated)
- I. Storm Man Rpt Insp & Main – Fi;Iterra OM Guide (updated)
- J. Utility Letters (updated)
- K. Neighborhood Meeting info & Notes
- L. Construction Management Plan
- M. Sidewalk Waiver Request
- N. Response to comments 7.11.18

Applicant's Submittal

Since Workshop on July 17, 2017

- O. Legal Opinion on rights to use Drainage Easement
- P. City Comment Response Letter 9.7.18
- Q. Stormwater Maintenance Agreement (draft)
- R. Capisic Meadows HOA Bylaws (draft)
- S. Applicants confirmation giving land for street & background info
- T. Info re revisions to the detention pond design

Plans (final)

1. Cover Page
2. Boundary Survey
3. Subdivision Plat
4. Site Plan- Layout
5. Landscape Plan
6. Grading Plan
7. Utility Plan
8. Erosion Control
9. Erosion Control notes & details
10. Details (6 sheets)
11. Road Profile
12. Pre-Development Drainage
13. Post-Development Drainage

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP

Director, Planning & Urban Development Department

Performance Guarantee, Inspection Fee, and Infrastructure Financial Contribution Packet

A. Site Plan/Subdivision Performance Guarantees Required

Portland's Land Use Code requires all developers with approved site plan and/or subdivision applications to submit a performance guarantee to the City prior to the start of any construction or site improvements. The performance guarantee represents 100% of the total cost of site improvements, as determined by the City. The code further requires developers to pay an inspection fee of 2% of the performance guarantee amount to the City for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications. (Portland's Land Use Code, Sections 14-501 and 14-530)

B. Cost Estimate Form and Inspection Fee

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. Please submit an itemized cost estimate form to determine the detailed costs of both public and private site improvements to the Planning Division for review and approval. The cost estimate form is included as [Attachment 1](#). The approved amount on the Cost Estimate form is the amount to be covered by the performance guarantee and is the basis for calculating the 2% inspection fee.

C. Acceptable Types of Performance Guarantees

The accepted forms of a performance guarantee, covering the amount approved on the Cost Estimate form, must be one of the following options consistent with the attached templates, with **NO** exceptions:

1. A letter of credit from a bank/credit union (Attachment 2)
2. A deposit into a bank-held escrow account (Attachment 3)
3. A deposit into a City-held escrow account (Attachment 4)

NOTE: No land use application of any kind shall be processed, reviewed or issued, no signed subdivision plat shall be released or recorded, and no building permit of any kind shall be issued unless all fees have been paid and every aspect of the proposed development is in compliance with City Codes as determined by the Development Review Coordinator in the Planning Division.

The developer is eligible to receive up to three reductions from the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced 1) in any line item where improvements remain to be completed; or 2) to a value which is less than the estimated cost of completing all remaining required improvements; or 3) to a value less than 10% of the Performance Guarantee.

At the conclusion of the project, the City will release 90% of the performance guarantee after the Development Review Coordinator determines that site improvements have been satisfactorily completed at the time of the final inspection. The City will then retain a 10% defect guarantee to cover the workmanship and durability of materials used in construction. The defect guarantee will be released one (1) year from date of acceptance, subject to the Development Review Coordinator inspecting the site and finding it in compliance with the approved site plan.

D. Housing Replacement Performance Guarantees

For those projects that are subject to Portland's Housing Preservation and Replacement Ordinance (Section 24-483) and have an approved plan, then a performance guarantee is required for housing replacement. An owner or developer must post a performance guarantee in the form of a letter of credit in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Fund, if the applicant had chosen that option. The guarantee shall be valid for no more than three years, after which the full amount shall be provided to the City's Housing Trust Fund, if replacement units meeting the code do not have certificates of occupancy. The guarantee can be released upon the issuance of a certificate of occupancy for the replacement units. A suggested template for a Housing Replacement Performance Guarantee is included as Attachment 5.

E. Infrastructure Accounts

Contributions to infrastructure accounts may be required as part of the conditions of site plan approval. The contributions must be submitted prior to the issuance of any permits, unless stated otherwise in the approval. The form for submitted required contributions is included as Attachment 6.

F. Administrative Process for Submitting Performance Guarantee

- **Step 1 - Cost Estimate**
Submit completed cost estimate form to Planning Division for review and approval. Once approved, use this total amount as the performance guarantee amount in Step 2.
- **Step 2 - Performance Guarantee**
Complete a draft of 1 of the 3 attached performance guarantee templates, inputting project specific information into blank and bracketed areas, and submit to the Planning Division for final approval. Once staff approved the draft, the applicant shall submit the official signed original performance guarantee document, which for option 1) or 2) must be on Bank/Credit Union letterhead with original signatures.
- **Step 3 - Submit Performance Guarantee, Inspection Fee, and Infrastructure Contributions**
Submit the final original Performance Guarantee, the required inspection fee, and any infrastructure contributions to the Planning Division. The Planning Division will confirm that the final documents are accurate and acceptable.
- **Step 4 - Release of Recording Plat and Permits**
Only after the performance guarantee is issued, fees paid, and all other conditions of site plan approval and compliance are met, will the recording plat be released for recording at the Cumberland County Registry of Deeds and/or City permits issued.

Contact: Please email the cost estimate form to jdealaman@portlandmaine.gov

After the cost estimate is approved, all subsequent paperwork can be submitted by mail to 389 Congress Street, 4th Floor, Portland, ME 04101, Attn: James Dealaman.

Please call 207-874-8721 with any questions.

Attachments

1. Cost Estimate of Improvements Form
2. Performance Guarantee Letter of Credit Form (with private financial institution)
3. Performance Guarantee Escrow Account Form (with private financial institution)
4. Performance Guarantee Escrow Form with the City of Portland
5. Housing Replacement Performance Guarantee Form
6. Infrastructure Financial Contribution Form with the City of Portland

6. SITE LIGHTING	_____	_____	_____	_____	_____	_____
7. EROSION CONTROL						
Silt Fence	_____	_____	_____	_____	_____	_____
Check Dams	_____	_____	_____	_____	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	_____
Slope Stabilization	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	_____
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of the quantities of plant material and unit costs)	_____	_____	_____	_____	_____	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	_____	_____

INSPECTION FEE (to be filled out by the City)

	PUBLIC	PRIVATE	TOTAL
A: 2.0% of totals:	_____	_____	_____
<u>or</u>			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	

TEMPLATE – PERFORMANCE GUARANTEE LETTER OF CREDIT

SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
LETTER OF CREDIT
[ACCOUNT NUMBER]

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: [Insert: Name of Applicant]
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “Bank”) hereby issues its Irrevocable Letter of Credit for the account of [Insert: Name of Applicant] (hereinafter referred to as “Applicant”), held for the exclusive benefit of the City of Portland, in the aggregate amount of [Insert: amount of original performance guarantee]. These funds represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/ or site plan], approved on [Insert: Date] and as required under the City of Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, up to thirty (30) days before or sixty (60) days after its expiration, stating any one of the following:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the Bank, by written certification, to reduce the available amount of the escrowed money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this Letter of Credit that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O’Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development, at Bank’s offices located at _____ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, this Performance Guarantee Letter of Credit shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Letter of Credit. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 530 and shall automatically expire one (1) year from the date of its creation (“Termination Date”).

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Letter of Credit by presentation of a sight draft and this Letter of Credit and all amendments thereto, at Bank’s offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Date: _____

By: _____

[Name]
[Title]
Its Duly Authorized Agent

TEMPLATE –ESCROW ACCOUNT WITH FINANCIAL INSTITUTION

SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
ESCROW ACCOUNT WITH FINANCIAL INSTITUTION
[ACCOUNT NUMBER]

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: [Insert: Name of Applicant]
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “Bank”) hereby certifies to the City of Portland that [Bank] will hold the sum of [Insert: amount of original performance guarantee] in an interest-bearing account established with the Bank. These funds shall be held for the exclusive benefit of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/or site plan], approved on [Insert: date] as required under the Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by [Insert: Applicant].

[Bank] will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the [Bank], by written certification, to reduce the available amount of the escrowed

money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Escrow Account will automatically expire on **[Insert date one year from the date of this Escrow Account]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this Escrow Account that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O’Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Escrow Account renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw against the Escrow Account by presentation of a sight draft drawn on the Bank and a statement purportedly signed by the Director of Planning and Urban Development, at Bank’s offices located at _____ stating that:

this drawing results from notification that the Bank has elected not to renew its Escrow Account No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Escrow Account are satisfactorily completed, this Performance Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Guarantee shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 530 and shall automatically expire one (1) year from the date of its creation (“Termination Date”).

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee by presentation of a sight draft at Bank’s offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

Seen and Agreed to: **[Applicant]**

By: _____

**TEMPLATE - PERFORMANCE GUARANTEE ESCROW ACCOUNT
with the City of Portland**

Applicant’s Tax Identification Number: _____

Applicant’s Name and Mailing Address: _____

City Account Number: _____

Application ID #: _____

Application of _____ [Applicant] for _____ [Insert
street/Project Name] at _____ [Address], Portland, Maine.

The City of Portland (hereinafter the “City”) will hold the sum of \$_____ [amount of performance
guarantee] on behalf of _____ [Applicant] in a noninterest bearing account
established with the City. This account shall represent the estimated cost of installing
_____ [insert: subdivision and/ or site improvements (as applicable)] as depicted
on the subdivision/site plan, approved on _____ [date] as required under the Portland Code of
Ordinances Chapter 14 §§ 501, 530and Chapter 25 §§46-65.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw
against this Escrow Account in the event that:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within
the _____ [insert: subdivision and/ or site improvements (as applicable)]
approval, dated _____ [insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description
of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections in conjunction with the installation of
improvements noted in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option, either
thirty days prior to the expiration date contained herein, or s/he may draw against this escrow for a period
not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its
representative, will give the City written notice, by certified mail (restricted delivery to Brendan O’Connell,
Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of
this escrow within sixty (60) days prior thereto.

After all underground work has been completed and inspected to the satisfaction of the City, including but
not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required
improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban
Development or its Director of Finance as provided in Chapter 14 §§ 501, 530 of the Portland Code of
Ordinances, may authorize the City to reduce the available amount of the escrowed money by a specified
amount.

This Guarantee will automatically expire on [Insert date one years from the date of this performance
guarantee] (“Expiration Date”), or on the date when the City determines that all improvements guaranteed
by this Performance Guarantee are satisfactorily completed, whichever is later, provided that the expiration

date does not fall between October 30th and April 15th.

At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to **[the applicant]**. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: Subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site plan]**.

Seen and Agreed to:

By: _____
[Applicant]

Date: _____

By: _____
****Planning Division Director

Date: _____

By: _____
Development Review Coordinator

Date: _____

Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

Distribution

1. This information will be completed by Planning Staff.
2. The account number can be obtained by calling Cathy Ricker, ext. 8665.
3. The Agreement will be executed with one original signed by the Applicant.
4. The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, together with a copy of the Cash Receipts Set.
5. ****Signature required if over \$50,000.00.

**TEMPLATE - PERFORMANCE GUARANTEE FOR
COMPLIANCE WITH HOUSING REPLACEMENT ORDINANCE**

Demolition and Housing Replacement
PERFORMANCE GUARANTEE
LETTER OF CREDIT
[ACCOUNT NUMBER]

[Insert Date]

Jeffrey Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: [Insert Project Address] Demolition and Housing Replacement

[Insert Name of Lender] (“Bank”) hereby issues its Irrevocable Letter of Credit for the account of **[Insert Name of Applicant]** (“Applicants”), held for the exclusive benefit of the City of Portland (“City”), in the aggregate amount of **[Insert exact amount to be determined by the City]**. These funds represent the estimated cost of **[Insert Amount]** for the housing replacement fee applicable to the demolition of **[insert number of units demolished]** dwelling units if no replacement units are constructed, as approved on _____ (“**Demolition Approval**”) and as required under Portland Code of Ordinances Chapter 14-483(j).

In the event that Applicant fails to satisfy its housing replacement obligation, the City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, if any.

The housing replacement requirement shall be deemed satisfied upon the City’s issuance of a Certificate of Occupancy for **[insert number of units to be replaced]** dwelling units located in the City of Portland provided that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units.

After construction of each of the replacement units has been completed, the City, as provided in Chapter 14 of the Portland Code of Ordinances, may authorize the Bank, by written certification along with the return of the original of this Letter of Credit, to reduce the available amount of the escrowed money by the full amount of the Letter of Credit.

In the event of the Bank’s dishonor of the City of Portland’s sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this

Letter of Credit that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O'Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event that the Bank provides notice of its election to discontinue this Letter of Credit and Applicant has not satisfied its housing replacement obligation, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement signed by the Director of Planning and Urban Development, at Bank's offices located at Portland Maine stating that:

this drawing results from notification that the Bank has elected to discontinue its Letter of Credit No. _____.

Date: _____ By: _____

[Name]

[Title]

Its Duly Authorized Agent

**Contribution Form (Watershed, Tree, and Infrastructure Accounts)
Planning and Urban Development Department - Planning Division**

Application ID:		Planner:	
Project Name:		Date of Form:	
Project Address:			
Applicant's Name:			
Applicant's Address:			
Project Description:			

TYPE OF CONTRIBUTION	Account #	Project Code	Funds Intended for:	Retained by City	Funds not Expended	Expiration Date:	Amount
Infrastructure #1	710-0000-236-98-00						\$
Infrastructure #2	710-0000-236-98-00						\$

TYPE OF CONTRIBUTION	Account #	Project Code	Funds Intended for:	Amount
Transportation Fund	710-0000-238-01-00			\$
Infrastructure (Tree Fund)	242-3100-341-00-00	PR0045		\$
Watershed (Nason's Brook)	257-3100-327.10-00	CFUP03		\$
Watershed (Fallbrook)	257-3100-327.10-00	CFUP02		\$
Watershed (Capisc Brook)	257-3100-327.10-00	CFUP01		\$

Total Amount:	\$
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* Funds not expended or encumbered by the expiration date, shall be returned to contributor within 6 months of said date.

* Office Use Only

FORM OF CONTRIBUTION: (Please check the applicable box below for an Infrastructure Account only)

Cash Contribution	
Escrow Account	

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

The City shall periodically draw down funds from Public Works, which form shall specify use of City Account # as shown above.

Electronic Distribution:

Tiffany Mullen, Finance Department
 Joanna Coey, Principal Financial Officer, Recreation and Facilities Mgt.
 Stuart O'Brien, City Planning Director
 Barbara Barhydt, Development Review Services Manager, Planning Division
 Jeremiah Bartlett, Public Services Department
 Christopher Branch, Public Services Director

Philip DiPierro, Development Review Coordinator, Planning Division
 Katherine Earley, Engineer Services Manager, Public Services
 Michael Farmer, Project Engineer, Public Services Department
 David Margolis Pineo, Deputy City Engineer, Public Services Department
 Jeff Tarling, City Arborist, Public Services Department
 Planner for the Project