

281-A-1

2005-0163

Stevens Ave.

Cedars Wetland Mitigation -

Evergreen Cem.

JHA Services

on Spreadsheet

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

2005-0163
Application I. D. Number

7/15/2005
Application Date

Cedars Wetland Mitigation (Evergreen
Project Name/Description

JHA Services, Inc.
Applicant
630 Ocean Avenue, Portland, ME 04101
Applicant's Mailing Address

Consultant/Agent
Applicant Ph: (207) 772-5456 Agent Fax:
Applicant or Agent Daytime Telephone, Fax

Stevens Avenue, Portland, Maine
Address of Proposed Site
281 a001
Assessor's Reference: Chart-Block-Lot

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

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

Check Review Required:

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

Fees Paid: Site Pla \$400.00 Subdivision _____ Engineer Review _____ Date 7/21/2005

Planning Approval Status:

Approved Approved w/Conditions See Attached Denied
Reviewer _____
Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached
 OK to Issue Building Permit _____ signature _____ date _____

Performance Guarantee Required* Not Required

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

<input type="checkbox"/> Performance Guarantee Accepted	_____ date _____	_____ amount _____	_____ expiration date _____
<input type="checkbox"/> Inspection Fee Paid	_____ date _____	_____ amount _____	
<input type="checkbox"/> Building Permit Issue	_____ date _____		
<input type="checkbox"/> Performance Guarantee Reduced	_____ date _____	_____ remaining balance _____	_____ signature _____
<input type="checkbox"/> Temporary Certificate of Occupancy	_____ date _____	<input type="checkbox"/> Conditions (See Attached)	_____ expiration date _____
<input type="checkbox"/> Final Inspection	_____ date _____	_____ signature _____	
<input type="checkbox"/> Certificate Of Occupancy	_____ date _____		
<input type="checkbox"/> Performance Guarantee Released	_____ date _____	_____ signature _____	
<input type="checkbox"/> Defect Guarantee Submitted	_____ submitted date _____	_____ amount _____	_____ expiration date _____
<input type="checkbox"/> Defect Guarantee Released	_____ date _____	_____ signature _____	



The Cedars (wetland)
(Evergreen Cemetery)
2005-0163
notice sent to immediate
abatters - minor SP



David A. Kamila PE
Frederic J. Licht PE
Thomas N. Emery RLA
J. David Haynes RLA

July 15, 2005

*p l a n n e r s
e n g i n e e r s
l a n d s c a p e
a r c h i t e c t s*

Sarah Hopkins, Development Review Coordinator
Dept. of Planning & Urban Development
City Hall
389 Congress Street
Portland, ME 04101

Minor Site Plan Application for Cedars Assisted Living Facility – Offsite Wetlands Mitigation at Evergreen Cemetery

Dear Sarah,

I am submitting the attached Minor Site Plan Application on behalf of my client JHA Services, Inc. who operates the Cedars Nursing Care Center and has a pending application before you for the construction of a new Assisted Living Facility (ALF) at their existing campus located at 630 Ocean Avenue. The purpose of this application is to obtain a local permit for the offsite wetlands mitigation work they have proposed at Evergreen Cemetery to compensate for the 17,018 sq. ft. of wetlands that will be disturbed during the construction of the proposed ALF.

A full NRPA Application was filed on June 30, 2005 with the DEP to amend their existing wetlands permit, which was issued in 1997 in conjunction with the construction of their existing Atrium Independent Living Facility. Copies of the pertinent exhibits and narratives from that application as prepared by Devine, Tarbell & Associates, Inc. (DTA) are attached for your review.

We expect to perform the work either in the fall of 2005 or early spring of 2006 depending on the timing of permit approvals and contractor availability. The plans are somewhat general and will require field oversight and adjustments under the supervision of DTA staff.

In general the proposal entails work downstream of the outlet from Pond No. 1 in Evergreen Cemetery (please refer to the attached Figure No. 3). The stream eventually flows to Capisic Brook.

Two wooden bridges will be installed in place of an existing culvert and a bridge that is in disrepair and has been removed. A berm will be removed to improve natural stream flow and mound and pool micro-topography will be created in its place and throughout the approximately ½ acre of associated wetlands. This is intended to enhance sediment

966 RIVERSIDE STREET
PORTLAND, MAINE 04103

voice (207) 878 · 3313
f a x (207) 878 · 0201
email: landuse@landuseinc.net



removal and improve water quality in Capisic Brook.. There will also be supplemental plantings of High-Bush Blueberry, Dogwood, Pussy Willow, Winterberry, Burrweed, Pickerel Weed, Arrowhead and Green Bulrush to further enhance wildlife habitat.

Four (4) existing culverts, including the two mentioned above, will be removed from the outlet stream along with any associated fill. Two will be replaced with new wooden bridges at existing trail crossings and all exposed stream banks will be stabilized using native shrubs such as those listed above.


The adjacent upland areas will also be planted with a row of evergreens (Balsam Fir, Hemlock, White Cedar) to screen activities at an adjacent concrete batch plant located just north of the site off Bishop Street. Some additional evergreens will also be planted near the new bridges.

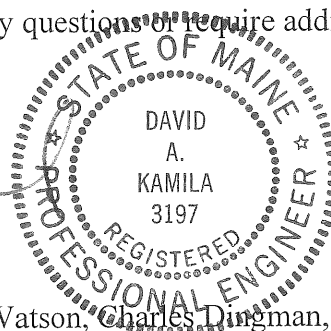
This plan is the result of a long and thorough review of several possible offsite mitigation sites. The work involved Cedars staff, Devin, Tarbell & Associates, Inc., Virginia Davis and attorney with Preti, Flaherty, Beliveau and Pachios, The City Parks & Rec. Dept., MDEP and the Army Corps of Engineers. The Evergreen Cemetery site was chosen because it will provide multiple benefits including; flood flow mitigation, water quality improvement, improved wildlife habitat, sediment/shoreline stabilization and increased recreation opportunities.

We trust you will find this application complete and look forward to your review and approval.

Please call me if you have any questions or require additional documentation.

Sincerely,


David A. Kamila, P.E.
President



Cc; Kathryn Callnan, John Watson, Charles Dingman, Virginia Davis, Cole Peters

Enclosures

City of Portland Site Plan Application

If you or the property owner owes real estate taxes, personal property taxes or user charges on any property within the City of Portland, payment arrangements must be made before permit applications can be received by the Inspections Dept.

Address of Proposed Development: Evergreen Cemetery		Zone: ROS
Total Square Footage of Proposed Structure: N/A		Square Footage of Lot: N/A
Tax Assessor's Chart, Block & Lot: 281 A 001	Property owner, mailing address: City of Portland Parks and Recreation Department	Telephone:
Consultant/Agent, mailing address phone & contact person : Land Use Consultants, Inc. Attn: David Kamila, P.E. 966 Riverside Street Portland, ME 04103 (207)878-3313	Applicant name, mailing address & telephone: JHA Services, Inc. 630 Ocean Avenue Portland, ME 04101 772-5456	Project name: Cedars Assisted Living Facility Off Site Wetlands Mitigation

Proposed Development (check all that apply)
 New Building Building Addition Change of Use Residential Office Retail Manufacturing
 Warehouse/Distribution Parking lot
 Subdivision (\$500) + amount of lots _____ @ (\$25.00 per lot) \$ _____
 Site Location of Development (\$3,000)
 (except for residential projects which shall be \$200.00 per lot \$ _____)
 Traffic Movement \$1,000 Stormwater Quality (\$250.00)
 Section 14-403 Review (\$400.00) + \$25.00 per lot
 Other Wetland Mitigation

Major Development (more than 10,000 sq. ft.)
 Under 50,000 sq.ft. (\$500.00)
 50,000 – 100,000 sq.ft (\$1,000.00)
 Parking Lots over 100 spaces (\$1,000.00)
 100,000 – 200,000 sq.ft (\$2,000.00)
 200,000 – 300,000 sq.ft (3,000.00)
 Over 300,000 sq.ft (\$5,000.00)
 After-the-fact Review (\$1,000.00 + applicable application fee)

Minor Site Plan Review
 Less than 10,000 sq.ft (\$400.00)
 After-the-fact Review (\$1,000.00 + applicable application fee)

Plan Amendments
 Planning Staff Review (\$250.00)
 Planning Board Review (\$500.00)

-Please see next page-

Who billing will be sent to: David Kamila, PE 878-3313
Mailing address: Land Use Consultants, Inc., 966 Riverside Street, Portland, ME 04103

Submittals shall include (9) separate folded packets of the following:

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans check list

Amendment to Plans: Amendment applications should include 6 separate packets of the above (a, b, and c)

ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

Section 14-522 of the Zoning Ordinance outlines the process; copies are available at the counter at .50 per page (8.5 x11) you may also visit the web site: [ci.portland.me.us.chapter 14](http://ci.portland.me.us/chapter_14)

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

Signature of applicant: 	Date: 7/15/05
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This application is for site review ONLY, a building Permit application and associated fees will be required prior to construction.

Development in Portland

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

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

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

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

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

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

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

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



City Of Portland Site Plan Checklist

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

**APPLICATIONS
TO THE
MAINE DEPARTMENT OF
ENVIRONMENTAL PROTECTION
AND THE
U.S. ARMY CORPS OF ENGINEERS
FOR AN
ASSISTED LIVING FACILITY
AT THE CEDARS CAMPUS,
PORTLAND**

**Prepared for:
CEDARS NURSING CARE CENTER, INC.
Portland, Maine**

**Prepared by:
DEVINE TARBELL & ASSOCIATES, INC.
Portland, Maine**

JULY 2005



Devine Tarbell & Associates, Inc.
Consulting Engineers, Scientists, & Regulatory Specialists

ATTACHMENT 13
WETLAND COMPENSATION PLAN

The wetland compensation plan presented in the narrative below and on accompanying plans has been developed to offset wetland impacts covering a total area of 68,540 square feet (1.56 acres). A breakdown of the relationship of impacts associated with the new ALF addressed by this application and previous wetland impacts is presented in Table 1 of Attachment 12. The location of proposed impacts and previous and proposed on-site compensation is displayed in Figure 1.

1.0 Wetland Compensation Goals

An assessment of functions and values intrinsic to the wetlands at the Cedars property was submitted as part of the 1997 wetland permit applications. The 1997 functional assessment has been re-evaluated and all determinations remain unchanged (Attachment 12). This is based on the understanding that impacted wetland areas at the site are offset by the approved on-site wetland compensation. Therefore, prior assessment of wetland functions or values have not diminished due to a loss of wetland area that resulted from construction of the Atrium.

“Considerations/Qualifiers” are used or recognized by the functional assessment method as indicators or descriptors of the presence of particular wetland functions and values. Based on little to no change in these “Considerations/Qualifiers”, conclusions of the 1997 functional assessment remain therefore unchanged:

“Of the 13 functions and values commonly attributed to wetlands, Floodflow Alteration and water quality protection functions of Sediment/Toxicant/Pathogen Retention and Nutrient Removal/Retention/Transformation are of the highest quality at the site but are still limited in performance by site characteristics. All other wetland functions are either absent or are of less than high or moderate value as justified by the absence of Considerations/Qualifiers indicative of wetland functions and values.

Floodflow Alteration and the water quality protection functions of Sediment/Toxicant/Pathogen Retention and Nutrient Removal/Retention/Transformation can be provided by on-site detention ponds.”

As a result, and as was the case in 1997, in addition to offsetting an area or footprint, identification and selection of on-site or off-site wetland compensation areas which furnish these same functions remains the goal for providing meaningful compensation for the proposed wetland impacts. Without areas M3 and M4 for on-site compensation, the Cedar’s originally permitted on-site compensation areas Easements A, B, and C will encompass 35,737 square feet (0.82 acres) of wetland preservation.

The proposed on-site compensation occurs in several small wetlands ranging in size from 3,544 to 21,334 square feet. Along with the addition of the underground stormwater detention system, on-site compensation will offset the loss of flood flow alteration and water quality improvement functions impacted by placement of fill in wetlands at Cedars. Fill will be removed and wetland vegetation replanted to restore two wetlands; another wetland will be enhanced through prescribed wetland plantings. A fourth area, the existing stormwater detention basin, will also be

planted with wetland vegetation. In addition, two other wetlands will be covered by deed restrictions so that henceforth all wetlands remaining on the Cedars parcel will be protected into the future.

The above-described wetland restoration and enhancement is to occur in wetlands covering an area of 0.47 acre. As discussed in the July 1, 2005 letter from the designing engineer (Appended to this Attachment), the underground stormwater detention system will provide at least 75 percent of the original flood storage volume now provided by wetlands at the site. This system also provides TSS (total suspended solids) removal or water quality improvement related to Sediment/Toxicant/Pathogen Retention and Nutrient Removal/Retention/Transformation functions impacted by placement of fill. The two remaining wetland areas to be deed restricted A1 and D cover 0.49 and 0.45 acre, respectively which at the 8:1 preservation ratio (Ch 310 §5C5c), is equivalent to 0.12 acre. Recognizing limitations on the practical application of using area as a means to quantify wetland compensation, basis exists to substantiate that on-site compensation provided by restoration, enhancement, the underground stormwater detention system and preservation is equivalent to 1.2 acres or approximately 53,000 square feet of on-site compensation. As a result, an additional approximately 15,000 square feet (0.3 acre) of compensation is necessary.

The proposed off-site compensation occurs at the outlet of the largest pond at Evergreen Cemetery. Offsetting impacts to water quality functions impacted by placement of fill in wetlands at Cedars remains the goal of this compensation effort. Off-site work will consist primarily of enhancing an existing wetland, improving stream conditions by removing four culverts, and replacing certain stream crossings with simple wooden bridges. In addition to improving water quality functions, the off-site compensation will also provide increased wildlife habitat and bank stabilization functions, along with increased recreational value.

2.0 Review of Potential Wetland Compensation Sites

Opportunities for viable on-site wetland compensation in addition to those areas previously designated for wetland compensation do not exist on the Cedars' property. This is illustrated by the concentrated development footprint which now occurs on the property and is compounded by the need to expand into areas formerly established for wetland compensation. Furthermore, physical conditions at the site, such as shallow depth to bedrock and limited hydrology, are not conducive to creation of on-site wetlands.

As a result, opportunities for meaningful wetland compensation were evaluated offsite subject to the following criteria:

- Proximity to Cedars/site of wetland impact;
- Located in project watershed(s);
- Exhibits attributes sufficient to meaningfully offset impacted wetland functions/types/area; and
- Apparent availability.

Collection of information for the last criterion involved examination of obvious features during a site visit and a brief review of municipal assessor's maps. The site suitability analysis is subject to the willingness of that particular property owner to agree with compensation concepts, acceptance by the MDEP and Corps, and approval by the Cedars.

Lots 12 and 16, Washington Avenue, Portland – To the southwest and adjoining the Cedars parcel is a residential property comprised of two lots that collectively have 65 feet of frontage on Washington Avenue. As is the case for the westerly side of the Cedars' parcel, these lots lie in the Fall Brook watershed. The lots are approximately 350 feet in depth and approximately the rear three-quarters of the property is zoned as R3; whereas along the Avenue where a house and garage now occur, the remainder of the property is zoned as R6. In the area behind these buildings and a temporary storage building, approximately half of the total property, encompassing an area estimated to cover 0.25 acre, is a forested wetland which is part of the wetland system that occurs on the southwest corner of the Cedars' property. Based on this proximity to the Cedars, preservation of this wetland from expansion of the existing residential use on Lots 12 and 16 should be essentially considered as on-site wetland compensation. Utilizing the 8 to 1 ratio attributed to preservation by the NRPA Wetland Protection Rules (Ch 310), this area would be roughly equivalent to 1,400 square feet of wetland impact which would not be a sufficient area.

First Baptist Church Property, Canco Road, Portland – Milliken Swamp lies to the south of Washington Avenue and west of Canco Road behind the First Baptist Church of Portland. As a result of recent drainage improvements along Fall Brook, Milliken Swamp now also lies in the Fall Brook watershed. Southwest of the church parking lot, an undeveloped peninsular area with approximate dimensions of 100 feet in width and 50 feet in length appears to be underlain by stumps and rubble placed in Milliken Swamp. Based on this location and the apparent age of the vegetation covering the fill, there is no basis to suggest that the fill is associated with construction of the Church. Removal of the fill would appear to restore an area of as much as 0.1 acre of Milliken Swamp which, aside from the recently restored riparian wetlands along Fall Brook, is one of the largest contiguous wetlands in the watershed. This particular compensation site, however, was rejected simply because it was not large enough in size

Lot 48, Middle Road, Falmouth – This undeveloped parcel is also on Route 9, 1.25 miles to the north of the Cedars and covers approximately 0.8 acres on the east side of Middle Road in a neighborhood of Falmouth zoned as RAm or Residential with an overlying sub-district for manufactured (m) housing. As is the case for the easterly side of the Cedars' parcel, Lot 48 lies in the greater Casco Bay watershed. A small stream that crosses the site drains into the Presumpscot River estuary through a series of culverts under the Canadian National Grand Trunk railroad line and Interstate 295. Presumably, in part due to access constraints, undeveloped land lies between these two transportation corridors and also between Interstate 295 and the Presumpscot River estuary. Diagonally opposite Lot 48 on the west side of Middle Road is Lot 54; the northerly $\pm 44,000$ square feet of the parcel is also undeveloped and has been designated as an off-site wetland compensation area pursuant to the requirements of MDEP Tier II permits 98-578-S and 98-646-S and Corps Permits 199800779 and 199802781. The Lot 54 wetland compensation area drains into Lot 48 through a culvert under Middle Road. Were Lot 48 preserved from development as wetland compensation, an undeveloped link of nearly 500 feet in length and approximately 2 acres in extent would extend the nearly quarter-mile-long

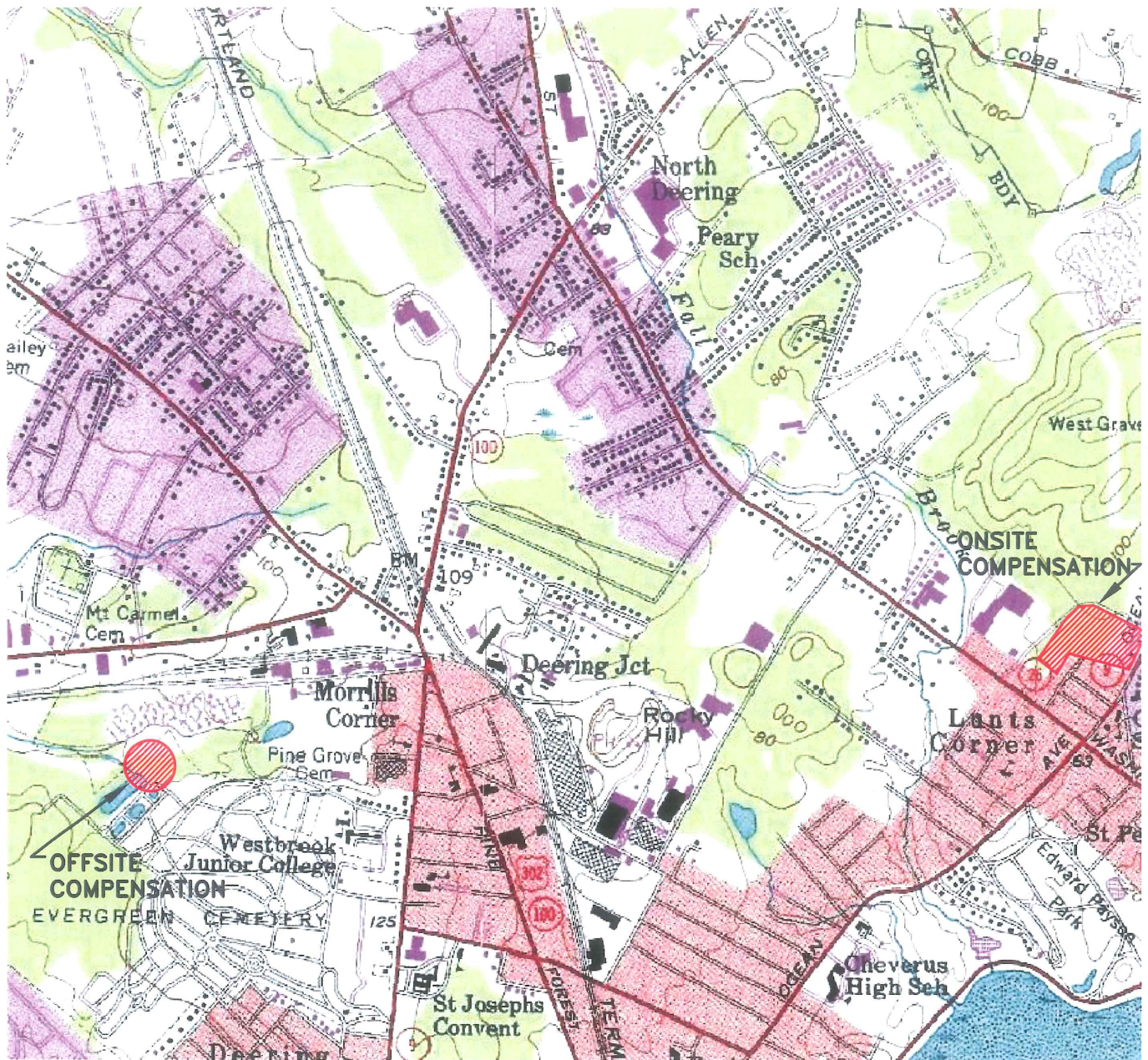
undeveloped riparian corridor leading to the shore of the Presumpscot River. Although this particular site could potentially provide suitable compensation, the property did not appear to be available.

The Ponds at Evergreen Cemetery, Portland – During the search for suitable wetland compensation, the MDEP suggested that DTA and Cedars consider utilizing opportunities associated with the ponds located within Evergreen Cemetery (Figure 2). Subsequent to discussion with Portland Department of Public Works, DTA wetland scientists consulted with the Portland Department of Parks and Recreation (Parks and Recreation) on the status of the ponds at Evergreen Cemetery. Here DTA learned that the pond rehabilitation process had started and was ongoing. Several wetland compensation alternatives are present in and around the Evergreen ponds, and many were evaluated in relationship to the proposed wetland impacts at the Cedars facility. For example, the dredging and stabilization has yet to be done at Pond 4, but this scope of work far exceeds the level of compensation required to supplement on-site compensation. In addition, this work may not warrant credit for wetland compensation according to MDEP standards. Furthermore, sediment disposal could be problematic, thus taking the level of effort beyond an appropriate scope.

When considering Pond 2, the wetland scientists recognized that more work could be conducted to simply augment the prior effort. Given its size, Pond 2 appeared to provide meaningful wetland compensation opportunities commensurate with the necessary extent of off-site compensation. DTA and Cedars considered wetland compensation work on this Pond; however, Parks and Recreation discouraged this effort due to the historic nature of Pond 2. Given that Pond 2 is in the area of historical significance at Evergreen Cemetery, a newly proposed project would be subject to several layers of review by the City of Portland resulting in an untimely delay in wetland compensation efforts. Hence, wetland compensation opportunities associated with rehabilitating the Evergreen Ponds specifically were dropped from further analysis.

Pond 1 Outlet at Evergreen Cemetery, Portland – In addition to the ponds directly, wetland compensation opportunities around ponds were evaluated in relationship to off-site compensation requirements for the Cedars facility. While considering Pond 1, compensation opportunities were discovered at the outlet and throughout a low-lying area downstream. To begin with, the Pond 1 outlet was crossed by a makeshift bridge (Figure 3, Photo 3), which has since been removed and not replaced. A small stream that flows away from Pond 1 passes through the low-lying area and related wetland and then connects with Capisic Brook. The 20,370-square-foot (0.47 acre) wetland is blocked by a berm, containing two culverts. Beyond the dike, the stream curves and converges with another small stream where both enter another culvert under the nearby trail. The stream then flows through another culvert and eventually empties into Capisic Brook.

Cedars, with the help of the wetland scientists at DTA, are proposing wetland compensation within and proximal to the low-lying area at the Pond 1 outflow. The existing wetland currently protects water quality conditions, provides wildlife habitat, and offers recreational opportunities. Wetland compensation at this proposed location would greatly improve these wetland functions and values, and provide an additional shoreline stabilization function.



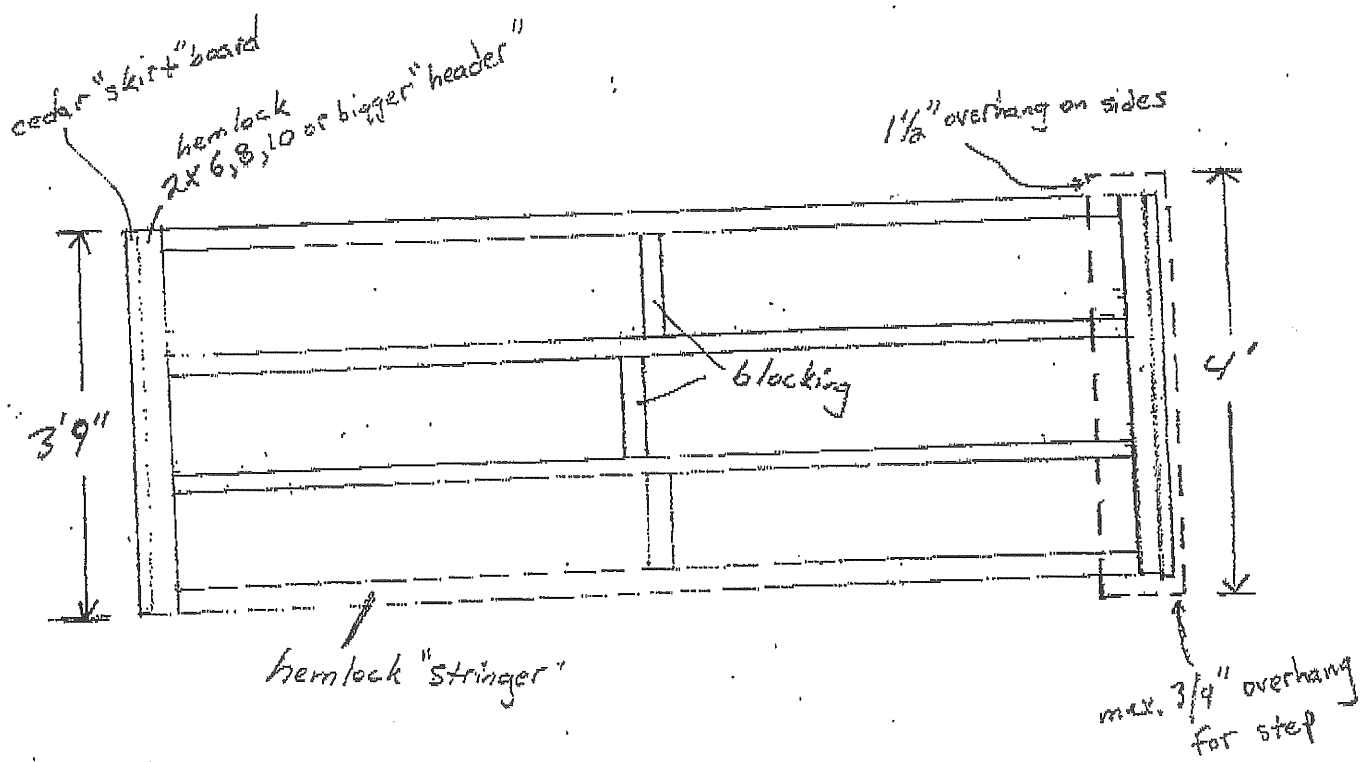
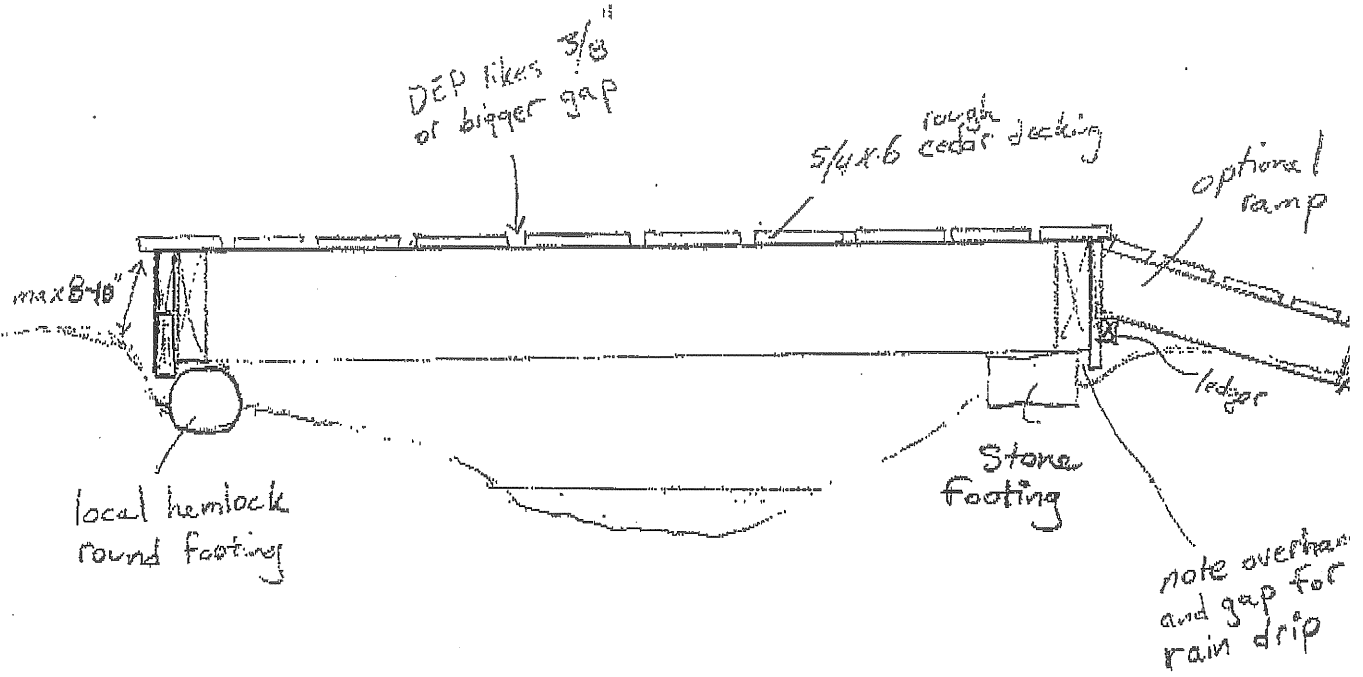
Devine Tarbell & Associates, Inc.
 Consulting Engineers, Scientists, & Regulatory Specialists
 970 Baxter Blvd., Portland, Maine 04103

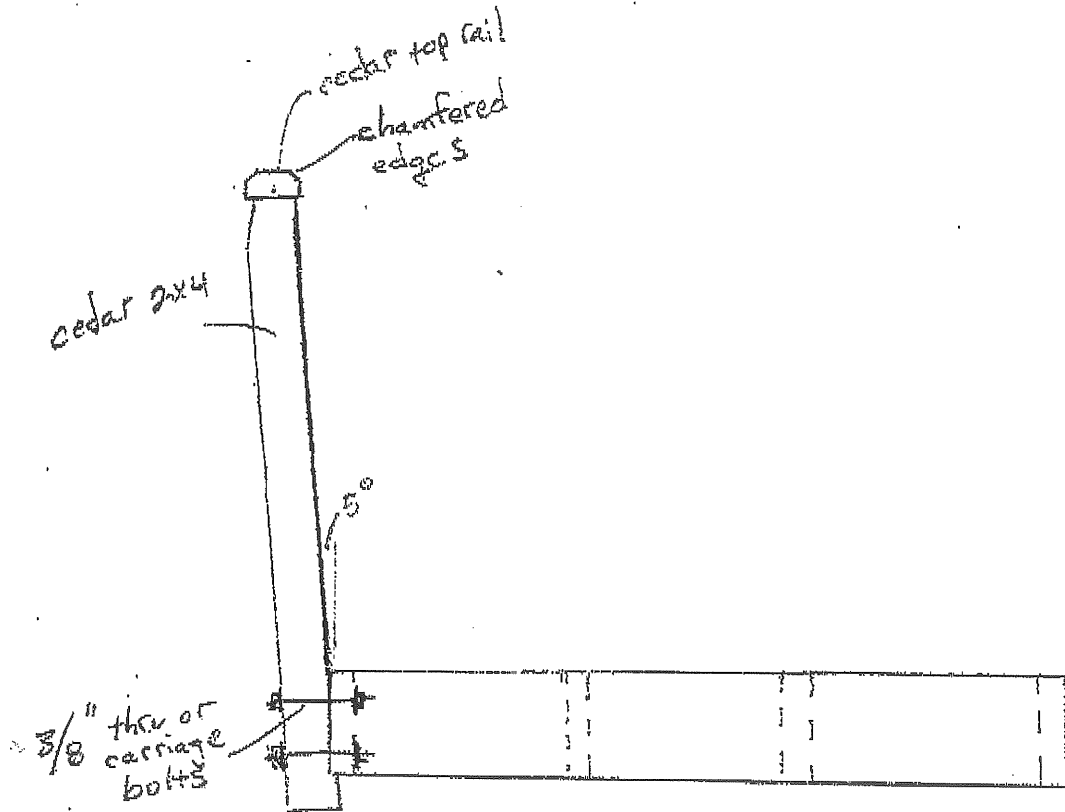
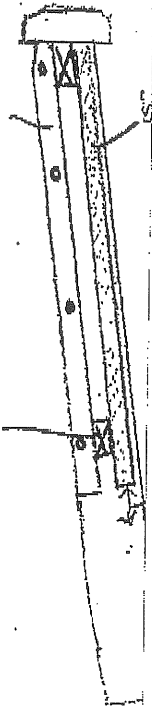
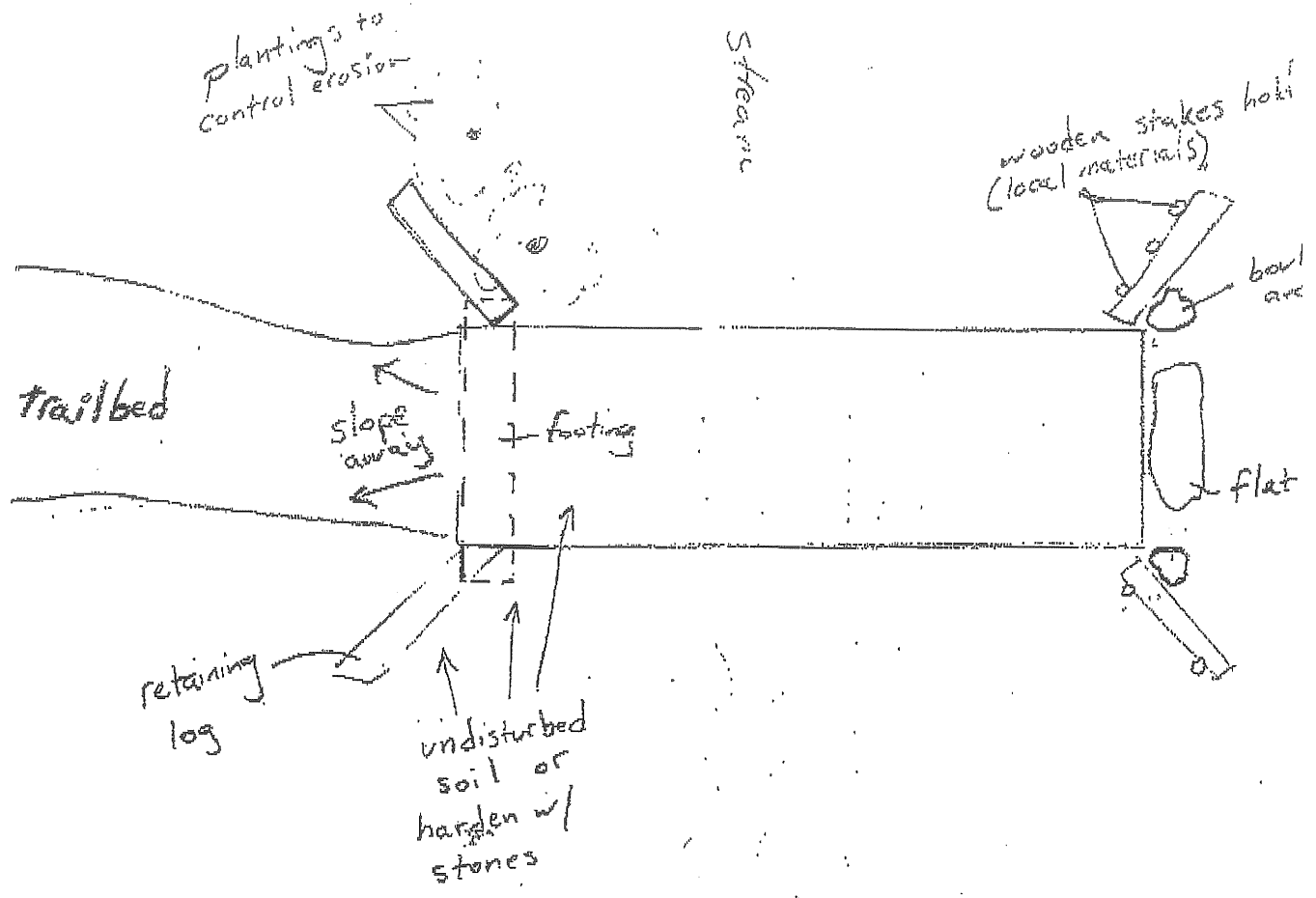


USGS QUADRANGLE 7.5 MINUTE
 PORTLAND EAST SCALE 1"=2000' +/-

FIGURE 2

CEDARS NURSING CARE CENTER
 WETLAND COMPENSATION AREAS





STREAM TREATMENT



1. Looking southwest at the 10- and 14 inch culverts; wetland is in the background.



2. Looking southeast at 24-inch culvert.

CULVERTS – Remove berm and all culverts; replace 24-inch culvert with a simple wooden bridge to connect trail. Stabilize recovered streambanks using native shrubs as listed for wetland treatment.

Access for implementation of stream and wetland treatments will be northerly along established trails.

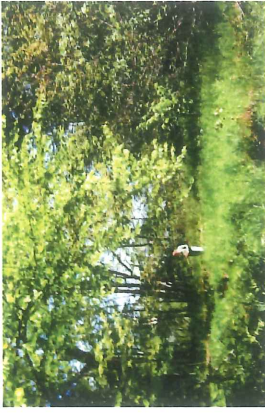
BRIDGE –

Construct a simple wooden bridge. Stabilize recovered streambanks using native shrubs listed for wetland treatment.

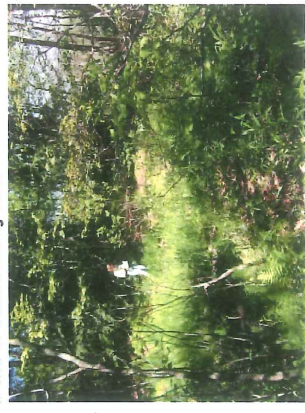


3. Looking southeast at bridge over Pond 1 outlet.

WETLAND TREATMENT



4. View of wetland looking north.



5. View across the dike of wetland looking northeast.

AQUATICS/EMERGENT – Create mound and pool microtopography along former berm. Establish floating-leaved aquatic/emergent marsh in standing water portions of wetland. Use +/- 550 plantings at 3 ft. OC over +/- 5,000 sq. ft. comprised of:

- Burreed
- Pickerelweed
- Arrowhead
- Green bulrush
- Sparganium* spp.
- Pontederia cordata*
- Sagittaria latifolia*
- Scirpus atrovirens*

SHRUBS/TREES –

Plant native shrubs along edge of wetland. Also plant 4-foot native conifers to screen view of sand/gravel plant and powerline corridor. Use +/- 1,500 plantings at 5 feet OC over +/- 3,000 sq. ft. comprised of:

- Shrubs for Wetland
 - Highbush blueberry
 - Silky dogwood
 - Pussy Willow
 - Winterberry
- Trees for Screen
 - Balsam Fir
 - Eastern Hemlock
 - Northern White Cedar
- Shrubs for Wetland
 - Vaccinium corymbosum*
 - Cornus amomum*
 - Salix discolor*
 - Ilex verticillata*
 - Abies balsamea*
 - Tsuga canadensis*
 - Thuja occidentalis*



Figure 3
Offsite Compensation Plan
at Evergreen Cemetery
for Cedars Nursing Care Center



Design, Technical & Associates, Inc.
10000 1st Avenue, Suite 100
Seattle, WA 98148
www.dta-inc.com

3.0 Construction Plan

On-Site Compensation

Layout plans and cross-sectional depictions of the on-site wetland compensation area that were part of the original 1997 permit application are discussed below and accompany this attachment (Figures M1 through M7). In addition to these measures, on-site wetland compensation for the construction of the ALF includes a stormwater management system to offset losses in flood storage and water quality treatment. Construction for the wetland compensation can be scheduled to commence during the fall of 2005 or early spring of 2006.

A pre-construction meeting will be held to familiarize contractors working in on-site wetland compensation areas with design and permitting requirements. Prior to construction, erosion control conforming to BMP specifications, such as staked hay bales or filter fabric fence are to be erected along the limit of construction in areas that could be impacted during the course of project construction. Erosion control measures will be functionally maintained until adjacent slopes are stabilized with vegetation and will then be removed.

Surface water is the primary source hydrology for wetlands that now exist at the site. Therefore, proposed elevations of where fill is to be removed have been specified to match or coincide with the topographic grades of existing adjacent wetlands.

Subgrade elevations at the restoration areas should be excavated to a depth at least 6 inches below final grade to accept backfill by a 6- to 8-inch substrate layer of on-site loam mixed with any suitable hydric soil that can be salvaged from areas of on-site wetland impact. Due to the likely presence of buried hydric soil profiles beneath the fill stockpiles that are to be removed, a greater thickness of wetland soil is not likely to be necessary for restoration of the wetland. Subgrades should not be excavated to a smooth uniform grade but instead an irregular surface characteristic of the micro-topography typical of wetlands. On-site soil sources should be selected to be free of invasive species such as: Japanese knotweed (*Polygonum cuspidatum*), purple loosestrife (*Lythrum salicaria*), and common reed (*Phragmites australis*).

Commercially-available wetland seed mixes formulated for wildlife food and cover should be planted across the off-site compensation area. Dominant obligate (OBL) and facultative wet (FACW) herbaceous species commonly contained in these mixes include: Virginia wild rye (*Elymus virginicus*), sensitive fern (*Onoclea sensibilis*), rice cutgrass (*Leersia oryoides*), giant bur-reed (*Sparganium eurycarpum*), wool grass (*Scirpus cyperinus*), and tearthumb (*Polygonum arifolium*). Typical application rates for these seed mixes are 20 lbs per acre (0.5 pound per 1,000 square feet).

A mixture of coniferous and deciduous trees and deciduous shrubs is recommended as a supplement to vegetation that now occurs in the on-site compensation areas. Recommended species listed on Figure M-7 should be planted at a 10-foot on-center spacing. With maturity, the trees and shrubs will establish a physical vegetative buffer between the wetland compensation areas and adjacent development.

Off-Site Compensation

The proposed off-site compensation is located along a small stream corridor at the outlet of Pond 1 in Evergreen Cemetery (Photographs 1 through 5 on Figure 3). The stream widths range from 2 to 3 feet, and the stream bottom is mud. On June 21, 2005, water depths in the stream were 3 to 6 inches.

The wetland covers an area of approximately 20,370 square feet (0.47 acre) and is separated from wetland to the north by a 2-foot-high berm that is roughly 10 feet wide at the base and 5 feet wide at the surface. The stream through the wetland flows through the berm via the constrictions of a 10-inch culvert during normal flows and an upper 14-inch culvert during higher flows.

The wetland is surrounded by a bank, which in places is relatively steep. Tree species in the wetland include: red maple (*Acer rubrum*), yellow birch (*Betula allegheniensis*), and gray birch (*B. populifolia*). Speckled alder (*Alnus incana*), mountain holly (*Nemopanthus mucronatus*), and arrowwood (*Viburnum dentatum*) are the dominant shrub species. Herbaceous vegetation in the wetland is represented by jewelweed (*Impatiens capensis*), horsetail (*Equisetum* spp.), sensitive fern, fringed sedge (*Carex crinita*), common rush (*Juncus effusus*), and mannagrass (*Glyceria* spp.).

The adjacent upland is characterized by eastern white pine (*Pinus strobus*), eastern hemlock (*Tsuga canadensis*), Norway spruce (*Picea abies*), northern red oak (*Quercus rubra*), and American beech (*Fagus grandifolia*). Shrub species include chokecherry (*Prunus virginiana*), shrub honeysuckle (*Lonicera* spp.), beaked hazel (*Corylus cornuta*), and huckleberry (*Gaylussacia* spp.). Herbaceous vegetation is represented by wild sarsparilla (*Aralia nudicaulis*), common blackberry (*Rubus alleghaniensis*), red raspberry (*Rubus idaeus*), braken fern (*Pteridium aquilinum*), Christmas fern (*Polystichum acrostichoides*), Canada mayflower (*Maianthemum canadensis*), and wild strawberry (*Fragaria* spp.).

Layout plans of the off-site wetland compensation area are displayed in Figure 3. Construction can be scheduled to commence in the fall of 2005 or spring of 2006. A pre-construction meeting will be held to familiarize contractors working in the off-site wetland compensation areas with design and permitting requirements. Prior to construction, erosion control conforming to BMP specifications, such as staked hay bales or filter fabric fence are to be erected along the limit of construction in areas that could be impacted during the course of project construction. Erosion control measures will be functionally maintained until adjacent slopes are stabilized with vegetation and will then be removed.

Access for implementation of stream and wetland treatments will be via existing trails that run parallel to the wetland. Once treatments are in place and equipment has exited, a simple wooden bridge will be constructed in place of the temporary bridge at the pond outlet.

Construction of the two bridges discussed above will follow guidelines and plans provided by Portland Trails. Shop drawings will be provided by a contractor before construction commences.

Wetland Treatment

The berm crossing the north end of the wetland physically separates the wetland and disrupts natural stream flow. The berm covers an area of approximately 1,000 square feet and will be removed so that elevations coincide with adjacent natural grades to restore wetland in this footprint and reestablish an unobstructed stream course. Mound and pool micro-topography characteristic of scrub-shrub and forested wetlands will be created throughout the footprint and elsewhere in the adjacent emergent wetland to establish sediment detainment sites contributing to water quality improvement functions. The mounds and pools will also provide varied topographic relief beneficial to wildlife habitat and reestablishment of wetland trees and shrubs throughout this area. Recommended shrub species should be planted at a 5-foot on-center spacing and include: high-bush blueberry (*Vaccinium corymbosum*), silky dogwood (*Cornus amomum*), pussy willow (*Salix discolor*), and winterberry (*Ilex verticillata*).

Planting a mixture of emergent hydrophytes and the above deciduous shrubs is also recommended to supplement the existing species in the wetland area. Recommended emergent species should be planted at a 3-foot on-center spacing and include: burreed (*Sparganium* spp.), pickerelweed (*Pontederia cordata*), arrowhead (*Sagittaria latifolia*), and green bulrush (*Scirpus atrovirens*). With maturity, the emergents and shrubs will establish a physical vegetative buffer between the wetland compensation area and adjacent upland.

Stream Treatment

All four culverts currently in the stream corridor will be removed along with the fill that surround them. The 24-inch culvert that supports a trail crossing will be replaced with a simple wooden bridge. Another simple wooden bridge will be constructed at the outflow of Pond 1. All exposed stream banks will be stabilized using native shrub plantings as described above for the wetland treatment.

Upland Treatment

In addition to the wetland work described above, compensation will include steps to further improve the aesthetic value at the off-site compensation area. A row of conifer trees will be planted strategically to screen activities, primarily a gravel/cement operation, occurring to the northwest of the compensation area. Four-foot native conifers will be planted beside the trail, immediately northeast of where the 24-inch culvert is currently located. Plantings will consist of balsam fir (*Abies balsamea*), eastern hemlock, and northern white cedar (*Thuja occidentalis*) placed at 5-foot over-center in a row to provide a conifer screen.

In summary, the proposed wetland compensation at the site of the Pond 1 outflow comprises attainable tasks acceptable to Parks and Recreation, MDEP, the Corps, and Cedars and which satisfy off-site compensation objectives of providing Floodflow Alteration, Water Quality Improvement with relatively rapid results that are further supplemented by improvements to Wildlife Habitat, Sediment/Shoreline Stabilization and Recreation; other recognized wetland functions and values.. The off-site compensation is relatively close to the Cedars' campus and the associated wetland impacts. In conclusion, the Cedars group sees this as an excellent

opportunity for providing meaningful wetland compensation in a place that could truly benefit from the functions and values that wetlands provide.

4.0 Monitoring Plan

Monitoring the on- and off-site wetland compensation areas should commence at initiation of construction and continue for five full years after completion of construction. A wetland scientist familiar with the design of the compensation areas and the associated permitting requirements should conduct the monitoring. Annual reports on the outcome of monitoring should be submitted to the Corps and MDEP during the year in which the monitoring is conducted. Below is a discussion of observations that should be made during the monitoring along with topics that should be addressed in the annual monitoring reports.

Monitoring should take place at several key times throughout construction and the remainder of the first growing season. The time and purpose of these site visits are listed below and are based on construction commencing during the fall of 2005:

<i>prior to excavation</i>	confirm proper layout of the mitigation areas, document nearby or in-place occurrence of invasive or problematic species that may require future control or management;
<i>prior to earthwork completion</i>	verify that hydrology, subgrades, and final grades have been achieved;
<i>onset of planting</i>	verify adherence to planting specifications and identify planting locations;
<i>completion of planting</i>	verify planting placement, evaluate need for irrigation, identify corrective measures;
<i>weekly after planting completion</i>	evaluate need for irrigation and implement as necessary; and
<i>early September</i>	inspect success of plantings, implement necessary corrective measures before month end (end of growing season), photograph site from designated monitoring stations, and evaluate achievement of mitigation goals.

In subsequent years, monitoring should be conducted as scheduled below during the following occasions:

<i>midway during growing season</i>	evaluate planting success and need for irrigation, inventory occurrence of invasive species, implement remedial measures ranging from physical removal to application of herbicides as appropriate for invasive species; and
-------------------------------------	--

early September

inspect success of plantings, implement necessary corrective measures before month end (end of growing season), photograph site from designated monitoring stations, and evaluate achievement of mitigation goals.

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this _____ day of _____, 20____, by (name), (a Maine corporation having a place of business at (street address), (city or town), (name) County, Maine, (zip code), (herein referred to as the "Declarant"), pursuant to State of Maine Department of Environmental Protection Natural Resource Protection Act (Tier 1 or Tier 2 or Order), Project Number _____, dated _____, 20____ (hereinafter referred to as "Order"), relating to preservation of an approximately _____ acre parcel of land near _____ Road, (known feature and/or town).

RECITALS

WHEREAS, the Declarant holds title to certain real property situated in (town), Maine described in a deed from (name) to (name) dated _____, 20____, and recorded in Book _____ Page _____ at the _____ County Registry of Deeds, and the Declarant is the successor in title to _____ by deeds recorded in Book _____, Page _____, (and Book _____, Page _____,) all in said Registry; and

WHEREAS, Declarant desires to place certain deed covenants, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Covenant Area") described as follows:

****Insert property description here****

WHEREAS, pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. Section 480-A et seq. and Chapter 310 of regulations promulgated by the Maine Department of Environmental Protection (the "Wetland Protection Rules"), Declarant has agreed, in satisfaction of paragraph _____ of the Order, to impose certain covenants and restrictions on the Covenant Area as more particularly set forth herein and has agreed that such covenants and agreements may be enforced by the Maine Department of Environmental Protection (hereinafter the "MDEP") or any successor in interest.

NOW, THEREFORE, the Declarant hereby declares that the Covenant Area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the covenants, conditions and restrictions set forth herein (sometimes referred to as the "Covenants and Restrictions"). The Covenants and Restrictions shall run with the Covenant Area and shall be binding on all parties having any right, title and interest in and to the Covenant Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Covenant Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Covenant Area subject to the Covenants and Restrictions and shall agree to be bound by, to

comply with and to be subject to each and every one of the Covenants and Restrictions hereinafter set forth.

1. Restrictions on Covenant Area. Unless the owner of the Covenant Area, or its successors or assigns, obtains the prior written approval of the MDEP, (or any successor thereof), the Covenant Area shall remain undeveloped in perpetuity.

a. no soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Covenant Area and the surface waters contained thereon, nor shall the topography of the area be altered or manipulated in any way;

b. no trees, grasses, shrubs, vines, or other vegetation shall be cut, destroyed, or sprayed with biocides, except that de minimis flower picking shall be allowed, and clearing will be allowed for the maintenance of any path or trail, and dead wood which is leaning or fallen may be removed;

c. no ditches shall be dug, and no draining of the Covenant Area shall take place, and no pumping or any other removal of water shall occur on the Covenant Area, nor shall the manipulation or alteration of natural water courses or hydrology occur;

d. no building, sign, fence, utility pole, or other temporary or permanent structure will be constructed, placed or permitted to remain on the Covenant Area;

e. no trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment shall be permitted on the Covenant Area; and

[**OPTIONAL** f. no wildlife shall be taken, killed, harmed or removed from the Covenant Area. Enforcement of this restriction is the sole responsibility of the Declarant.]

Any activity on or use of the Covenant Area inconsistent with the purpose of these Covenants and Restrictions is prohibited. Prior to undertaking any changes in the use of the Covenant Area, the Declarant, its successors and assigns, shall consult with the MDEP regarding the proposed changes to determine the effect of such changes on the conservation values of the Covenant Area. The MDEP shall have the right to approve such changes in use if such uses do not impair or impede the conservation values of the Covenant Area or the purpose of the Covenants and Restrictions.

2. Enforcement. The MDEP may enforce any of the Covenants and Restrictions set forth in Section 1 above. Any future alterations of the Covenant Area must receive the prior approval in writing from the MDEP.

3. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Covenant Area. If the Covenant Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions but only to the extent that any of the Covenant Area is included within such owner's property.

4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Covenant Area and by the MDEP (or any successor thereto).
5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a covenant running with the land as a burden and upon the title to the Covenant Area.
6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity of enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.
7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(COMPANY/CORPORATE NAME)

BY:

ITS: (Company or Corporate Title)

STATE OF MAINE

(County), ss.

_____, 19__.

Personally appeared before me the above named (name), (company or corporate title), (COMPANY OR CORPORATE NAME), and acknowledged the foregoing instrument to be (his/her) free act and deed in (his/her) said capacity and the free act and deed of said (company or corporate name).

Notary Public



PORTLAND MAINE

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

Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

JHA Service, Inc

June 12, 2007

C/O Mr. Dave Camila, P.E.
Landuse Consultants
966 Riverside St.
Portland, Maine 04103

RE: Cedars wetland mitigation at Evergreen Cemetery
CBL: 281 A001 001

Dear Mr. Camila

On June 12, 2007, the Portland Planning Authority approved a minor site plan for wetlands mitigation at the Evergreen Cemetery at Stevens Avenue. The plan includes trail, culvert, and vegetation improvements in the woodlands on City land at the rear of the Cemetery property as shown on the approved plan.

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.

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

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. 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.



PORTLAND MAINE

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Planning and Development Department
Lee D. Urban, Director

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CONSTRUCTION CONSULTING AND
OWNER REPRESENTATION SERVICES

Meeting Minutes

The Inn at Cedars – Assisted Living Project
Pre-construction Meeting – Evergreen Cemetery Work

Date 8/15/2007 **Start:** 2:00 pm **Prepared By:** Tom Yoder

Attended By:

Yoder Inc.	Tom Yoder	TY
City of Portland	Jeff Tarling	JT
City of Portland	Phil DiPierro	PD
White Bros.	Mike White	MW
White Bros.	Jay Reeves	JR
TRC	Cole Peters	CP

Item & Date	Description	Responsibility	Due	Closed
01 8/15	The project will start in approximately 3 weeks and be complete by the end of September	JR, MW		
02 8/15	White Bros. will use mini equipment to minimize the potential damage to surrounding area	JR		
03 8/15	JT offered the use of the side entrance to Brentwood St. to make access to the site more efficient and less disruptive to the cemetery operations. JR will be given a key when the project begins	JT, JR		
04 8/15	The site was walked and the scope of work thoroughly reviewed by all present.			
05 8/15	JT indicated that one small bridge that was in the original scope has actually been completed by others. MW agreed to spread landscape mix, which will be supplied by the City of Portland, on the trail to the project area at no increase in contract price since he will now only have to construct one bridge.	MY, JT		
06 8/15	CP will be on site as needed when the work begins. This will normally be at the beginning of the day, and as needed at other times.	CP		
07 8/15	The work will result in a net export of material from the site. White Bros. will move the material with a mini-truck to a staging area for loading onto over the road trucks. This staging area will be protected by erosion control measures as necessary.	JR		
08 8/15	CP agreed to provide laminated project plans for posting at the site for the information of interested citizens.	CP		

Philip DiPierro - Cedars Evergreen Cemetery Project pre-construction conference

From: "Tom Yoder" <tyoder@tyoder.com>
To: "Colen Peters" <cpeters@trcsolutions.com>, "Jay Reeves" <jreeves@whitebrosinc.com>, "Philip DiPierro " <PD@portlandmaine.gov>
Date: 8/14/2007 5:50 PM
Subject: Cedars Evergreen Cemetery Project pre-construction conference
CC: "John Watson" <JWatson@thecedarsportland.org>, "Kathy Callnan" <KCallnan@thecedarsportland.org>

All:

This is to confirm our pre-construction conference for tomorrow 8/15 at 2:00 pm at the Evergreen Cemetery. We will meet at the main gate and proceed to the jobsite from there.

Thanks,

Tom Yoder

Yoder Inc.

42 Hammond Rd.

Parsonsfield, Me. 04047

(Office) 207-793-3421 (Cell) 207-831-0374

(Fax) 866-862-9957



400 Southborough Drive
South Portland, Maine 04107

Main 207.879.1930
Fax 207.879.9293

Memorandum

To: Dawn Hallowell (MDEP), Rod Howe (USACE),
Denise Clavette, William Needelmen, Jeff Tarling (City of Portland), Regina Leonard, LA
From: Colen R. Peters, Professional Wetland Scientist #706 *Colen R. Peters*
Subject: **Completion of Offsite Wetland Compensation for The Cedars**
Date: September 25, 2007 **Project No.: 116127**
Cc: Kathy Callnan, John Watson (The Cedars), Tom Yoder (Cedars construction manager)
Mike White (White Brothers, Inc.)

Construction and planting of Offsite Wetland Compensation at the City of Portland's Evergreen Cemetery for The Cedars Assisted Living Facility has been completed in accordance with the July 2005 *Wetland Compensation Plan* approved by the Maine Department of Environmental Protection permit L-22483TG-B-M and the US Army Corps of Engineers permit NAE-2005-2407. The City of Portland authorized this work through an August 26, 2005 Memorandum of Understanding between the City and JHA Assisted Living, Inc.

The Offsite Compensation Area is located northeast of a large pond at the rear of Evergreen Cemetery near the northerly corner and is approximately 2.3 miles west of The Cedars. The pond and offsite wetland compensation area occur in the headwaters of Capisic Brook, an urban impaired stream (Chapter 502§3B, Appendix B). The Offsite Wetland Compensation was designed to partially offset 17,018 square feet of new wetland impact to deciduous scrub shrub wetlands (PSS1) necessary to construct the Assisted Living Facility authorized by the above permits. These permits also address previous permitted wetland impacts at The Cedars which now cover a cumulative area of 1.57 acres.

The Offsite Compensation Area covers approximately ½ acre and work performed here included removing four culverts restricting flow along Capisic Brook. A berm of fill in wetlands crossed by two of the culverts was also removed and this footprint was restored with wetland vegetation and micro-topography (Photos 1 – 4). The work was conducted to offset or compensate for impacts to water quality improvement and wildlife habitat functions impacted by construction at the Cedars. In addition, another function attributed to wetlands, shoreline stabilization, was upgraded at Evergreen Cemetery by construction of a bridge and stabilizing eroded and excavated stream banks with wetland vegetation. The bridge at the northeast end of the large pond had already been replaced by the City so this work was offset by removing for the City a fifth culvert (Photo 5) and covering the trail between the two new bridges with bark mulch (Photo 6).

White Brothers Inc. commenced earthwork at the site on September 10, 2007 by removing the culverts and fill with a mini-backhoe and small bobcat-type haul trucks. Although not as powerful or rapid as conventional-size earthwork equipment, use of these machines permitted access over the existing cemetery trail network and minimized or eliminated damage to vegetation and undisturbed wetland. Salmon Falls Nursery completed work at the site on September 20, 2007 with the planting of a total of 140 highbush blueberry (*Vaccinium corymbosum*), pussy willow (*Salix discolor*), winterberry holly (*Ilex verticillata*), and silky dogwood (*Cornus amomum*) shrubs and a total of 150 stems of burreed (*Sparganium americanum*), pickerelweed (*Sagittaria latifolia*) and green bulrush (*Scirpus atrovirens*) in the wetland restoration area (Photo 7). To create an evergreen screen between the trail and the adjacent transmission line right of way, a total of 25 northern white cedar (*Thuja occidentalis*), eastern hemlock (*Tsuga canadensis*) and balsam fir (*Abies balsamea*) were planted along the northeast side of the site (Photo 8). Ten highbush blueberry shrubs were also planted along the water edge of the parking area near the small, northern-most pond (Photo 9).

Annual post construction monitoring and reporting is to be performed at the site for the next five years.



Photograph 1 Northward view along the main trail where culverts were removed at the stream crossing and replaced with a new wooden bridge on granite footings. Both banks of the stream channel were stabilized with straw and planted with wetland shrubs.



Photograph 2 Area leading to another removed culvert that was replanted with winterberry holly, arrowwood, pussy willow, and silky dogwood shrubs and balsam fir and northern white cedar saplings.



Photograph 3 Eastward view across Capisic Brook where culverts and berm were removed to restore the wetland; now covered with straw mulch to prevent erosion and replanted with wetland shrubs.



Photograph 4 Westward view across the area where the berm was removed looking toward vantage point of Photo 3.



Photograph 5 Westward view of area where the fifth culvert was removed (left side of photo) to relocate the trail out of the wetland that was replanted with a mixture of wetland shrubs.



Photograph 6 Northward view of trail between the two new bridges that has been covered with bark mulch to protect eroded, exposed tree roots and improve walking conditions for trail users.



Photograph 7 Westward view of the edge of the large pond near the south end of the trail covered with wood chips (Photo 6) where some of the pickerelweed, burreed and green bulrush stems were planted to create a buffer of marsh emergents between the pond and trail.



Photograph 8 Northward view of the evergreen screen of balsam fir, eastern hemlock and northern cedar planted between the trail and the adjacent transmission line right of way.



Photograph 7 Westward view of the parking area where highbush blueberry shrubs were planted to stabilize the eroding bank between the small pond and parking area at right.



Photograph 8 That is not a stepping stone at lower left but a large snapping turtle (*Chelydra serpentina*), too big to have passed through the 10 and 14 inch culverts removed from the former berm, happily wallowing in the replanted marsh emergents contemplating winter hibernation.

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	_____	_____	2,000	_____	BRIDGE CARPENTRY	_____
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	44,503	_____	PER WHITE BROS. QUOTE (ATTACHED)	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	\$46,503.00	_____	_____	_____

INSPECTION FEE (to be filled out by the City)

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

May 16, 2007

Tom Yoder
Yoder Inc.
42 Hammond Road
Parsonsfield ME 04047

Re: Evergreen Cemetery Wetlands Compensation for "The Cedars"

Dear Mr. Yoder:

Please find attached our current quote for the above referenced project. We have elected to format it the same way as our quote dated 7/19/05 for ease of comparison for you. If you find all acceptable, we will provide you with a lump sum contract using the AIA format you requested.

Please find below our scope of work and its associated pricing. This scope and price are based on the following:

1. TRC plan called figure #3 (no date).
2. Attachment 13 – "Wetland Compensation Plan" dated July 2005 pages 8-12 and Figure 2 by DTA
3. Faxed memo from Jaime Parker at Portland Trails to Elizabeth Annand at DTA dated 6/21/05 regarding bridge building sketches.
4. On site visit with TRC to review project, and discuss at length what was needed.
5. Conceptual pricing and detailed review with TRC.
6. E-mail of 7/14/05 to clarify scope questions and quantities.
7. Final pricing which you will find below.

Items in Price:

1. Dig safe permit
2. Provide certificate of insurance
3. Cut single trees as needed, use as ground cover, i.e. habitat.
4. Remove of honeysuckle and root ball offsite.
5. Remove culverts; includes offsite disposal, shaping and grading of stream sides and bottom, offsite disposal of excess earth, seeding and mulching of disturbed areas.
6. Microtopography as needed in area of existing stream area and at removed berm.
7. All wetland loam will be from on-site salvage.
8. Remove existing berm to grade as necessary, then provide microtopography and loam area. Remove excess fill offsite.
9. Provide and set granite curb stone for small foot type bridge abutments. Two locations.
10. Provide and install planting as shown on plan, and amended in 7/14/05 email.
11. Provide wetland seed mix and straw mulch to all areas disturbed.
12. Erosion control measures as needed.

PRICE: \$44,503.00

+ \$ 2,000.00 BRIDGE CARPENTRY
ALLOWANCE

TOTAL \$ 46,503.00

We thank you for the opportunity to quote you on this work. Please feel free to contact this office with any questions or concerns you may have.

Sincerely,

Robert A. St.Clair
Estimator
White Bros., Inc.
95 Warren Avenue
Westbrook ME 04092
854-9173

From: William Needelman
To: DiPierro , Philip
Date: 10/23/2007 2:54:07 PM
Subject: Fwd: FW: Completion of The Cedar's Offsite Wetland Compensation at Evergreen Cemetery

FYI

Let me know when you would like to inspect. I would like to join you.

Bill

>>> "John Watson" <JWatson@thecedarsportland.org> 10/23/2007 2:45:30 PM >>>
Hi:

Attached is a copy of the Letter of Credit required by the City and issued by TD Banknorth to ensure the completion of work at Evergreen Cemetery as part of a wetlands mitigation plan accepted by DEP and ACOE. The work is complete as you can see by the summary of wetlands scientist (also attached), Cole Peters and has been billed by the contractor. We have submitted to HUD for the release of funds to pay the contractor. We would like the city to inspect the work (while it is fresh and easier to see where or what has been done) and formally notify TD Banknorth to terminate the letter of credit. Please advise how this can be coordinated.

John Watson

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

From: Peters, Colen (S.Portland,ME-US) [<mailto:CPeters@trcsolutions.com>]

Sent: Tuesday, September 25, 2007 1:45 PM

To: Hallowell, Dawn; rodney.a.howe@nae02.usace.army.mil;

dclavette@portlandmaine.gov; jst@portlandmaine.gov;

WBN@portlandmaine.gov; rslsdesign@juno.com

Cc: Kathy Callnan; John Watson; Tom Yoder; dkamila@landuseinc.net; Mike White

Subject: Completion of The Cedar's Offsite Wetland Compensation at Evergreen Cemetery

Good afternoon Ladies and Gentlemen:

Attached please find a post construction report that summarizes the recent successful completion of The Cedar's offsite wetland compensation at the City of Portland's Evergreen Cemetery.

I'd be happy to address any questions or comments you may have about this work at your earliest convenience.

Best regards,

Cole

Colen R. Peters

Professional Wetland Scientist/Geologist

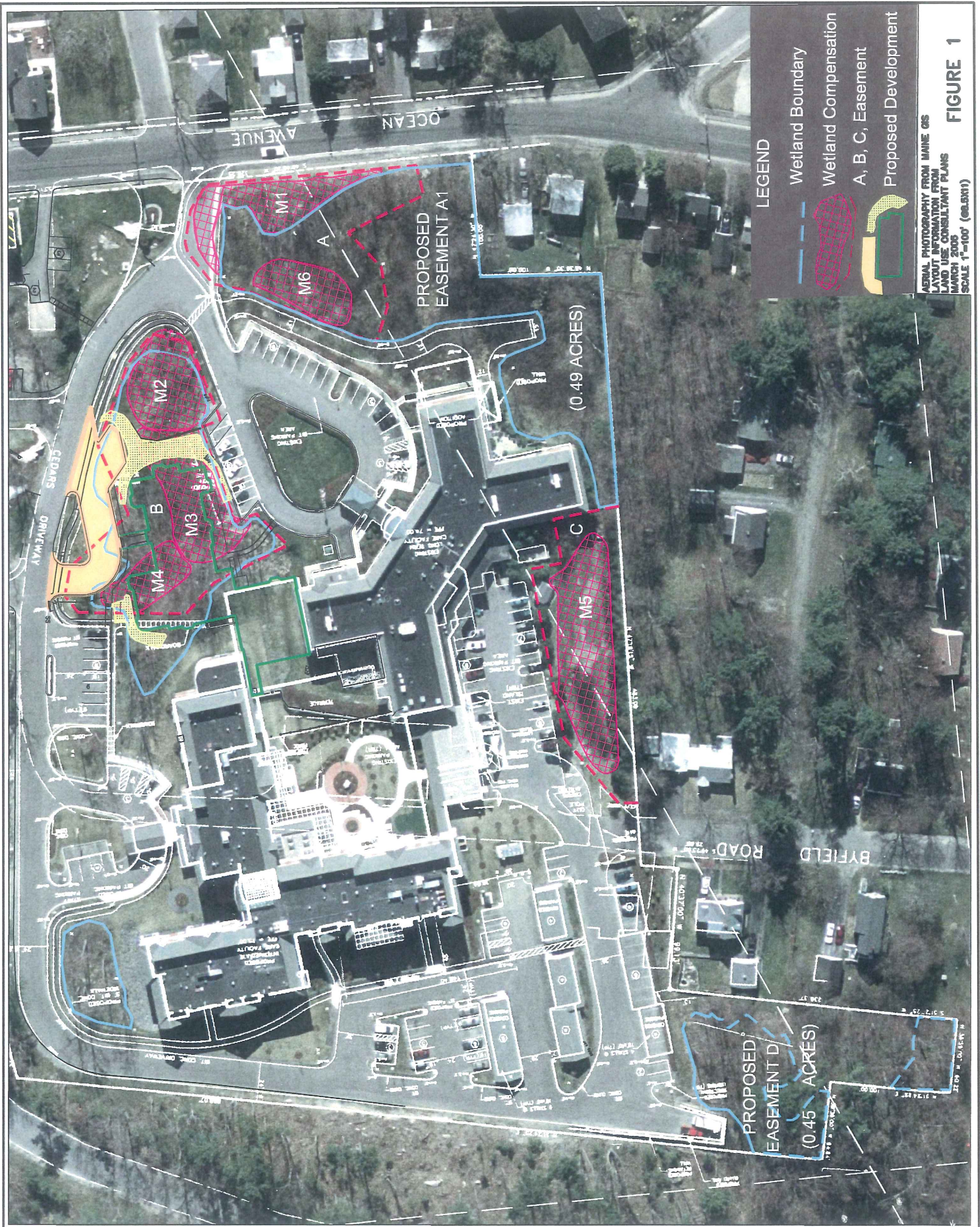
400 Southborough Drive

South Portland, ME 04106

207.879.1930 x 22 phone

207.879.9293 fax

cpeters@trcsolutions.com <<mailto:cpeters@trcsolutions.com>>



LEGEND

- Wetland Boundary
- Wetland Compensation A, B, C, Easement
- Proposed Development

AERIAL PHOTOGRAPHY FROM MAINE GIS
 LAYOUT INFORMATION FROM
 LAND USE CONSULTANT PLANS
 MARCH 2000
 SCALE 1"=100' (approx.)

FIGURE 1



Devine Tarbell & Associates, Inc.
Geospatial Engineers, Scientists, & Regulatory Specialists
970 Baxter Blvd., Portland, Maine 04103



AERIAL PHOTOGRAPHY FROM MAINE GIS

FIGURE 2A
EVERGREEN WETLAND COMPENSATION AREA

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding between the City of Portland, a body corporate and politic in the State of Maine, and JHA Assisted Living, Inc. (“Cedars AL”), a Maine non-profit corporation with offices on Ocean Avenue in Portland, Maine, sets forth the principles, terms, and conditions under which Cedars AL will undertake, with the City’s permission and for the benefit of both parties, a project to improve and enhance wetland habitat in a designated portion of the City’s land adjacent to the Evergreen Cemetery. The City and Cedars AL understand and agree as follows:

I. Background Recitals

A. Cedars AL is part of an affiliated system of non-profit corporations that also includes JHA Services, Inc., the parent company, Cedars Nursing Care Center, and JHA Properties, Inc., d/b/a The Atrium at Cedars. Together, these affiliated corporations provide, and are preparing to further provide, a continuum of long-term health care services for elderly and disabled persons on a campus located on Ocean Avenue in Portland. The campus currently includes a nursing and rehabilitation facility and an independent living apartment facility. In order to provide a continuum of care, Cedars AL intends to build and operate an additional facility to provide an assisted living program (shown on Exhibit __ attached hereto and incorporated herein) on the same campus, situated so as to maximize the benefits of a continuum of care (the “AL Project”).

B. Because there are wetlands on the Cedars campus, Cedars AL must provide mitigation to compensate for the impact that the AL Project will have on wetland habitat currently located on the Cedars campus. The remaining space available on the Cedars campus is insufficient to provide, by itself, wetland impact compensation sufficient to satisfy the standards of the Maine Department of Environmental Protection (“DEP”) and other regulatory entities that must approve the assisted living project. Cedars has identified, and the DEP has begun to review, a proposed enhancement project for wetlands located in the Evergreen Cemetery, which would provide additional wetland compensation beyond that which can be provided on the Cedars campus (the “Evergreen Project”).

C. The City's Department of Parks and Recreation has determined that an enhancement project of this nature would benefit the City's parkland by enhancing wetland habitat in a manner consistent with the current and expected future uses of the identified area of the Evergreen Cemetery.

II. Terms and Conditions

A. Upon receipt of, or subject to the receipt of, all necessary approvals from the Maine Department of Environmental Protection, the Army Corps of Engineers, and the City of Portland, for the AL Project, and site development approval from the City for the Evergreen Project, Cedars AL and the City will enter into a definitive agreement consistent with the principles, terms, and conditions set forth in this Memorandum.

B. Cedars AL will enter into a construction contract with a firm competent in enhancement and protection of wetland habitat, and acceptable to the City to complete the improvements described in Exhibits A and B hereto, with respect to that area of the City's Evergreen Cemetery shown on Exhibit B hereto.

C. The City will grant Cedars AL a license allowing Cedars AL and its contractors, agents, and employees to enter on the property described in Exhibit B and to have access across other City property to that property, for the purpose of completing the work necessary to provide the enhancements and improvements set forth in Exhibit A.

D. The definitive agreement between Cedars AL and the City will provide for and contemplate that Cedars AL will also be responsible for monitoring the improved property for a period of five years following completion of the project, for the purpose of ensuring that the habitat improvement objectives of the project are maintained. The definitive agreement will also establish that it is the responsibility of Cedars AL, during the five-year monitoring period, to undertake any remediation, including without limitation replanting of vegetation, that may be required to achieve and maintain the habitat improvement objectives of the project. The City will license Cedars AL and its contractors, agents, and employees, to enter onto the property to the extent necessary to conduct these monitoring activities, more fully described in Exhibit C.

E. The project described in Exhibits A and B will be undertaken and completed at the expense and under the direction of Cedars AL. The contract that Cedars AL enters into for the purpose of completing the work will provide for a project manager, to be selected by the City, who will be responsible for overseeing the work and assuring that the City's interests in the satisfactory completion of the work are represented throughout the project. The cost of compensating the project manager shall be borne by Cedars AL.

F. The definitive agreement between Cedars AL and the City will contain or incorporate provisions, acceptable to DEP, that ensure that the improvements described in Exhibit A will remain in place following the construction and monitoring periods, and that the City's use and supervision of the project area permanently remain consistent with the habitat improvement objectives of the project. The particular form of the assurances provided by the City will be subject to the approval of the City Council, for which the City's Department of Parks and Recreation will apply as expeditiously as practicable.

G. This Memorandum binds the City and Cedars AL only to the extent that all necessary approvals for the AL Project and the Evergreen Project are issued in a timely manner by the governmental bodies or agencies having jurisdiction over the projects.

Dated at Portland, Maine this 26th day of August, 2005.

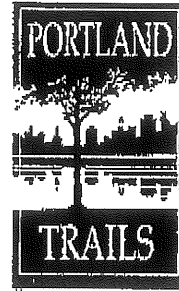
CITY OF PORTLAND

By: _____
Joseph E. Gray
Its City Manager

JHA ASSISTED LIVING, INC.

By: _____
Kathryn J. Callnan
Its President

FAX

Date: 6/21/05To: Elizabeth Annand
Devine Tarbell Assoc. Inc.From: Jaime Parker
Portland TrailsNo. of pages, total: 3

Hi Elizabeth,

Here are some sketches of bridge building methods. I've left the cover letter w/explanations @ home, I will email it to you tonight.

Jaime Parker

329-6180

June 21, 2005

Elizabeth,

I've attached some sketches of the basic bridge design that I have used at the Presumpscot River. I hope they are informative and give you something to start with. They are not to scale, not dimensioned and aren't meant to be "plans". You will need to get a licensed engineer to approve any drawings in order for the city to permit the bridges.

Materials:

I have typically used "roughsawn", full dimension, native Maine Hemlock and Cedar. In addition to being grown and milled locally, both are rot resistant, aesthetically pleasing and relatively affordable. I use the Hemlock for most of the framing, and cedar for decking and railings. There are of course, many other options for building materials, and you may want to do your own research on these.

Fastenings:

All framing gets 20d galvanized nails
Cedar gets 12d galvanized nails, or 2 ½ " ceramic coated deck screws
Railing uprights get 2 - 3/8" galvanized carriage bolts or thru bolts
Railing tops and ballusters get stainless or ceramic-coated screws

Footings:

I mostly use hemlock rounds cut on site (about 8-10" dia. work well), but stone is good too if available. I dig a pocket and sink about ½ of the round (or stone) into the earth. Best to disturb as little as possible of surrounding earth.

Retaining Logs are also cut from hemlock on site. These help stabilize footing area. They can be anchored with rebar drilled through, or stakes cut from on site materials.

Decking:

Should overhang 1-2" on sides of bridge, therefore framing should be 2 to 4" smaller than overall desired width of bridge. The overhang on both ends of the bridge should be only 3/4 " to avoid splitting on step-up. The spacing between deck boards is somewhat arbitrary, but the DEP likes bigger gaps to let light through, so soil-retaining vegetation can grow on stream bank. Too much space gives a feeling of insecurity when crossing the bridge. (I like 3/8" to ½").

I also use decking as a "skirt board" nailed to the "header" of the frame to add a layer of protection from rot where dirt contact is likely. This skirt should hang 1/2 " or more below the framing to create a drip point. I often just use two boards to achieve the desired width (if frame is 2x10", two 1x6" deck boards will hang over 1")

Railings:

May be needed if the height of the bridge off the ground (or water) exceeds a certain amount (check with city for the code on this). I've found splaying out the railing 5 degrees gives a nicer look and feel when crossing. This also benefits mountain bikers, who won't catch their handlebars as easily. There are many ways to construct railings that meet code. This is just one example.

I hope this helps. Please feel free to call me with questions. Good luck with your project!

Jaime

Jaime Parker
Trails Manager
Portland Trails
329-6180

Philip DiPierro - Cedars

From: Barbara Barhydt
To: DiPierro, Philip; Fraser, Jean
Date: 2/11/2010 10:03 AM
Subject: Cedars

Hello:

Neighbors of the Cedars are complaining to Councilor Leeman that the water from this site is coming on their property. They say the roof drains are not connected into the system.

Penny would like us to follow-up on this question. Jean, I know you were the last planner assigned to this project and I recall water complaints being voiced at the planning board meeting. Could you pull out relevant information from the file on this one? I suspect their complaints may be from the larger plan approved before the last addition, so we may need to review that file as well. Phil and Jean, I will need you to go out to the site and take a look.

I asked about the timing on this. It is not an emergency, but please start looking into this week or next.

Thank you.

Barbara



PORTLAND, MAINE

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

Planning and Urban Development
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

TO: Ellen Sanborn, Finance Department
FROM: Alexander Jaegerman, Planning Division Director
DATE: September 16, 2010
SUBJECT: Request for release of Defect Guarantee
Cedars Rehabilitation Center Addition, 630 Ocean Avenue
(ID# 2008-0126 Lead CBL # 174 A 013001)

Please release the Defect Guarantee, City Held Escrow Account # 710-0000-236-91-17 for the Cedars Nursing Care Center Addition Project at 630 Ocean Avenue.

Remaining Balance \$1,328.00

Approved:



Alexander Jaegerman
Planning Division Director

cc: Barbara Barhydt, Development Review Services Manager
Philip DiPierro, Development Review Coordinator
File: Urban Insight

TO: Inspections Department

FROM: Philip DiPierro, Development Review Coordinator

DATE: June 11, 2009

RE: C. of O. for #618 Ocean Avenue,
(Id#2008-0126) (CBL 174 A 013001)

After visiting the site, I have the following comments:

Site work complete:

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

Cc: Barbara Barhydt, Development Review Services Manager
Tammy Munson, Inspection Services Manager
File: Urban Insight



Banknorth

Date: May 8, 2009

TD Bank, N.A.
17 New England Executive Park
1st Floor
Burlington, MA 01803

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER 20001880

BENEFICIARY

**Lee Urban
Director of Planning and Development
City of Portland
389 Congress Street
Portland, ME 04101**

CUSTOMER

**JHA Management Services, LLC
630 Ocean Ave.
Portland, ME 04103**

Dear Beneficiary:

We hereby amend our Irrevocable Standby Letter of Credit Number **20001880**
Amendment Number 2

➤ The expiration date has been extended from May 11, 2009 to October 11, 2009.

All demands for payment and all other communications to the Bank relative to this Letter of Credit shall be in writing and addressed and presented to TD Bank, N.A., International Banking, 17 New England Executive Park, 1st Floor, and Burlington, MA 01803.

All other terms and conditions remain unchanged. This amendment is considered an integral part of the Letter of Credit and must be attached thereto.

TD Bank, N.A.

By:

G. Thomas Maslin

Its:

Vice President

Please address all inquires related to the contents of this item to the above address, Attn: International Banking, Standby Letter of Credit Dept., or by calling: Tom Maslin @ (781) 229-7139 or John Amuzzini @ 781-229 7141. Our Fax # (781) 229-7127



Banknorth

TD Bank, N.A.
17 New England Executive Park
1st Floor
Burlington, MA 01803

April 8, 2009

City of Portland
389 Congress Street
Portland, ME 04101
Attn: Duane Kline, Director of Finance

Letter of Credit No: 20001880
Issue Amount: US\$ 270,814.00
Outstanding Amount: US\$ 27,081.40
Date of Issue: May 11, 2007
Account of: JHA Management Services, LLC

Final Expiration Date: May 11, 2009

Gentlemen:

This letter will serve as our official notification that we **elect not to renew** the above referenced Irrevocable Standby Letter of Credit, and that the credit will expire at our counters (address above) on the final expiration date. We consider ourselves released of all liability as of the close of business on the final expiration date.

This notification is being provided in compliance with the special conditions of the letter of credit.

Upon expiration, please return the original Irrevocable Standby Letter of Credit and any amendments to: TD Bank N.A., Attn: International Services Dept., 1st Floor, New England Executive Park, Burlington, Massachusetts, 01803. If you have any questions concerning this matter, please feel free to contact Tom Maslin, Standby L/C Unit, at 781-229-7139 quoting our reference number.

Very truly yours,

By: 

G. Thomas Maslin

Its:

Vice President

cc: JHA Management Services, LLC

TO: Inspections Department

FROM: Philip DiPierro, Development Review Coordinator

DATE: March 31, 2009

RE: C. of O. for #618 Ocean Avenue,
(Id#2008-0126) (CBL 174 A 013001)

After visiting the site, I have the following comments:

Site work incomplete:

1. Finish grading, loam and seeding,
2. Landscaping,
3. Paving and striping,
4. Miscellaneous site work.

I anticipate this work can be completed by **June 1, 2009**.

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

Cc: Barbara Barhydt, Development Review Services Manager
Tammy Munson, Inspection Services Manager
File: Urban Insight

From: Lannie Dobson
To: C of O
Date: 3/17/2009 2:19:01 PM
Subject: Certificate of Occupancy/Final Scheduled. Property Addr: 618 OCEAN AVE Parcel ID:
174 A013001 Dist

all permits

Date: 3/30/2009 Time: 6:00:00 AM

Note: 423-3035 Lonnie Property Addr: 618 OCEAN AVE Parcel ID: 174 A013001

Application Type: Prmt
Application ID: 81259

Contact:
Phone1: Phone2:

Owner Name: JEWISH HOME FOR THE AGED THE
Owner Addr: 630 OCEAN AVE
PORTLAND, ME 04101



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

October, 2008

Cedars Healthcare
Attn: Scott Watson
630 Ocean Avenue
Portland ME 04103

RE: Stormwater Management Law Application, Portland, #L-22483-NI-D-N

Dear Mr. Watson:

Your application for the above referenced permit has been reviewed by the Department of Environmental Protection pursuant to current statutes and associated rules. Based on this review, the Department has determined that your proposed project is acceptable based on current permitting criteria. Please find enclosed your land use permit. The permit is presented in a format that includes findings of fact relevant to the permitting criteria of the law under which the permit is issued, conclusions based on those facts and conditions of approval. Please carefully read your permit, especially the conditions of approval. If an error has occurred, please let us know and a corrected order will be issued.

Also find attached a copy of the Department's appeal procedure for your information. Project modifications, condition compliance, and transfers applications are available upon request at the regional Department offices listed below.

Please feel free to call me at (207) 287-7848 if you have any questions regarding this project.

Sincerely,

A handwritten signature in black ink that reads "Jeff Madore".

JEFFREY G. MADORE
Division Director
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550 FAX: (207) 624-6024
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

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

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

There is a charge for copies or copying services.

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

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

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

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

II APPEALS TO MAINE SUPERIOR COURT

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

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

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



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

DEPARTMENT ORDER
IN THE MATTER OF

CEDARS HEALTHCARE) STORMWATER MANAGEMENT LAW
Portland, Cumberland County)
BUILDING ADDITION)
L-22483-NI-D-N (Approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Section 420-D, and Chapters 500 and 502 of the Department's Regulations, the Department of Environmental Protection has considered the application of CEDARS HEALTHCARE with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a stormwater management system for a building addition over an existing paved area with 0.03 acres of impervious area and 0.07 acres of disturbed area. The proposed project will reduce the total impervious area on the project site by 108 square feet. The project is shown on set of plans the first of which is entitled "Cedars Rehabilitation Center Addition," prepared by Sebago Technics, and dated August 14, 2008 with a latest revision date on any of the sheets of September 18, 2008. The project site is located off Ocean Avenue in the City of Portland.

B. Current Use of the Site: The site of the proposed project is currently a paved loading dock. The property is developed with the Cedars retirement facility.

2. STORMWATER STANDARDS:

The proposed project includes approximately 0.03 acres of impervious area and 0.07 acres of developed area. It lies within the watershed of Casco Bay. The applicant submitted a stormwater management plan based on the basic and general standards contained in Department Rules, Chapter 500. The proposed stormwater management system consists of a rain garden.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMP's, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in

response to the comments of the Division of Watershed Management (DWM) of the Bureau of Land and Water Quality (BLWQ).

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. This plan was reviewed by, and revised in response to the comments of DWM. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. The applicant will be responsible for the maintenance of all common facilities including the stormwater management system.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on DWM's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500(4)(A).

B. General Standard: The applicant's stormwater management plan includes general treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This mitigation is being achieved by using Best Management Practices that will control runoff from no less than 95% of the impervious area and no less than 80% of the developed area.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. After a final review, DWM commented that the proposed stormwater management system is designed in accordance with the Chapter 500 General Standard.

Based on the stormwater system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Basic and General Standards. The Department further finds that the proposed project will meet the Chapter 500 standards for the management of stormwater discharges.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Section 420-D, and Chapters 500 and 502 of the Department's Regulations:

- A. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 Basic Standards for: (1) erosion and sediment control; (2) inspection and maintenance; (3) housekeeping; and (4) grading and construction activity.

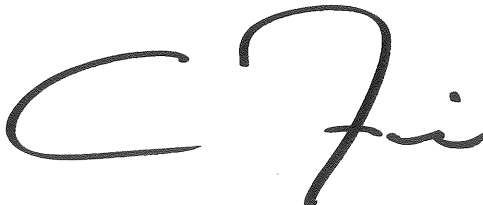
- B. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 General Standard.
- C. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 standards for the management of stormwater discharges.

THEREFORE, the Department APPROVES the above noted application of CEDARS HEALTHCARE to construct a stormwater management system associated with a building addition as described above in Portland, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached.
2. In addition to any specific erosion control measures described in this order, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant or other responsible party shall, within three months of the expiration of each five-year interval from the date of this Order, submit a report certifying that the items listed in Department Rules, Chapter 500, Appendix B(4) have been completed in accordance with the approved plans.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M. R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2008.10.08 10:31:45 -04'00'

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

DEH/L#22483DN/ATS#68505

STORMWATER STANDARD CONDITIONS

STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL

Standard conditions of approval. Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions pursuant to Chapter 500 Stormwater Management Law.

- (1) Approval of variations from plans. The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S.A. § 420-D(8) and is subject to penalties under 38 M.R.S.A. § 349.
- (2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- (3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
- (4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.
- (5) Initiation of project within two years. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference.
- (6) Reexamination after five years. If the project is not completed within five years from the date of the granting of approval, the department may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances or requirements which may have occurred during the five-year period.
- (7) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the

conditions by the developer, and the owner and each contractor and subcontractor has certified, on a form provided by the department, that the approval and conditions

received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.

- (8) Maintenance. The components of the stormwater management system must be adequately maintained to ensure that the system operates as designed, and as approved by the department.
- (9) Recertification requirement. Within three months of the expiration of each five-year interval from the date of issuance of the permit, the permittee shall certify the following to the department.
 - (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
 - (b) All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the facilities.
 - (c) The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained

November 16, 2005

CITY OF PORTLAND, MAINE

PLANNING BOARD

Janice E. Tevanian, Chair
David Silk, Vice Chair
Bill Hall
Joe Lewis
Lee Lowry, III
Shalom Odokara
Michael J. Patterson

October 28, 2008

Jan Wiegman, PE
Sebago Technics Inc
400 Center Street
Auburn ME 04210

John Watson, CFO
Cedars Healthcare
630 Ocean Avenue
Portland ME 04103

**RE: Cedars Healthcare, Rehabilitation Center Addition
630 Ocean Avenue**

**CBL: 174 A013 and 174 A020
Application ID: #2008-0126**

Dear Messrs Wiegman and Watson,

On October 14, 2008 the Portland Planning Board considered the proposal for an 890sq ft addition to the existing building footprint to accommodate expansion of the existing Rehabilitation Center within the Cedars Care Center. The Planning Board reviewed the proposal for conformance with the standards of the Conditional Use Review and Site Plan Ordinances. The Planning Board voted unanimously 6-0 (Lowry absent) to approve the application with the following motions:

CONDITIONAL USE

The Planning Board voted unanimously (6-0, Lowry absent) that the proposed plans are in conformance with the R3 Conditional Use Regulations of the Land Use Code (section 14-88c and 14-474).

SITE PLAN REVIEW

The Planning Board voted unanimously (6-0, Lowry absent) that the plan is in conformance with the site plan standards of the Land Use Code.

The approval is based on the plans and materials submitted by the applicant and on the basis of information contained in Planning Report #53-08 relevant to standards for conditional use and site plan regulations (copy attached), and other findings as presented.

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

1. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
2. 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 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.

3. 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 this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.
4. 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.
5. 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.
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.)

Philip DiPierro, 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 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 874-8728.

Sincerely,



Janice Tevanian, Chair
Portland Planning Board

Attachments:

1. Planning Board Report #53-08
2. Performance Guarantee Packet

O:\PLAN\Dev Rev\Ocean Ave. - 630 (Cedars Expansion)\Approval letter 10.14.08 decision Cedars Expansion.doc



PORTLAND MAINE

Planning Division
Jean Fraser, Planner

10-17-08

TO: Marge Schmuckal
Phil Di Peiro

Re: Cedars Healthcare
Rehab. Center Addition
2008-0126

This was approved by the Planning Board on 10/14/08 but the approval letter will be delayed by need to have the PB Chair sign.

I attach the final approved site plan so that you can progress the Perf Guar / inspection fee / Building Permit review but please DO NOT ISSUE the building permit until Phil signs off re receipt of any Perf. Guar. Thanks Jan

389 Congress Street, 4th floor • Portland, ME • (207) 874-8728 • Fx 756-8258
Email: jf@portlandmaine.gov

Pl. let Marge know when you have signed off on this so BP can be issued.

**Planning and Development Department
SUBDIVISION/SITE DEVELOPMENT**

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: 10/30/08

Name of Project: THE CEDARS NURSING CARE CENTER, INC.

Address/Location: 630 OCEAN AVE., PORTLAND, ME 04112

Developer: _____

Form of Performance Guarantee: _____

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

TO BE FILLED OUT BY THE APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road/Parking Areas				400 N/A	3/SF	\$1,200
Curbing	_____	_____	_____		_____	_____
Sidewalks	_____	_____	_____		_____	_____
Esplanades	_____	_____	_____		_____	_____
Monuments	_____	_____	_____		_____	_____
Street Lighting	_____	_____	_____		_____	_____
Street Opening Repairs	_____	_____	_____		_____	_____
Other	_____	_____	_____		_____	_____
2. EARTH WORK						
Cut				30 YARDS	14.00	\$420.00
Fill				215 YARDS	24.00	\$5,160
3. SANITARY SEWER						
Manholes	_____	_____	_____	N/A	_____	_____
Piping	_____	_____	_____		_____	_____
Connections	_____	_____	_____		_____	_____
Main Line Piping	_____	_____	_____		_____	_____
House Sewer Service Piping	_____	_____	_____		_____	_____
Pump Stations	_____	_____	_____		_____	_____
Other	_____	_____	_____		_____	_____
4. WATER MAINS	_____	_____	_____		_____	_____
5. STORM DRAINAGE						
Manholes	_____	_____	_____		_____	_____
Catchbasins	_____	_____	_____		_____	_____
Piping	_____	_____	_____		_____	_____
Detention Basin	_____	_____	_____		_____	_____
Stormwater Quality Units	_____	_____	_____		_____	_____
Other	_____	_____	_____		_____	_____

6. SITE LIGHTING	_____	_____	_____	N/A	_____	_____
7. EROSION CONTROL	_____	_____	_____	_____	_____	_____
Silt Fence	_____	_____	_____	_____	_____	\$2,900
Check Dams	_____	_____	_____	N/A	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____		_____	_____
Level Lip Spreader	_____	_____	_____		_____	_____
Slope Stabilization	_____	_____	_____		_____	_____
Geotextile	_____	_____	_____		_____	_____
Hay Bale Barriers	_____	_____	_____	12 YARDS	75.00	\$900
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	N/A	_____	_____
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	_____	(5) 3 GAL. CLETHRA TRANSPLANT TREES	_____	\$2,700
10. MISCELLANEOUS	_____	_____	_____	N/A	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	\$12,080	\$13,280

total \$13,280
ok 11/4/08

INSPECTION FEE (to be filled out by the City)

	<u>PUBLIC</u>	<u>PRIVATE</u>	<u>TOTAL</u>
A: 2.0% of totals:	_____	\$300	\$300
or			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	<u>[Signature]</u> (name)	<u>[Signature]</u> (name)	11/4/08



State of Maine
Department of Public Safety
Construction Permit



Reviewed
for Barrier
Free

18049

Sprinkled
Sprinkler Supervised

SAM L. COHEN REHABILITATION CTR AT THE CEDARS

Located at: 630 OCEAN AVE.

PORTLAND

Occupancy/Use: NURSING HOME

Permission is hereby given to:

CEDARS NURSING CARE CENTER, INC.

630 OCEAN AVE.
PORTLAND, ME 04112

to construct or alter the afore referenced building according to the plans hitherto filed with the Commissioner and now approved.

No departure from application form/plans shall be made without prior approval in writing. This permit is issued under the provision of Title 25, Chapter 317, Section 2448 and the provisions of Title 5, Section 4594 - F.

Nothing herein shall excuse the holder of this permit for failure to comply with local ordinances, zoning laws, or other pertinent legal restrictions. Each permit issued shall be displayed/available at the site of construction.

This permit will expire at midnight on the 21 st of April 2009

Dated the 22 n day of October A.D. 2008

Commissioner

Copy-1 Owner

Comments:

CEDARS NURSING CARE CENTER, INC.

630 OCEAN AVE.
PORTLAND, ME 04112



Banknorth

Date: October 31, 2008

TD Bank, N.A.
17 New England Executive Park
1st Floor
Burlington, MA 01803

*Phil,
Copy for files
epk/p
P.*

IRREVO

OF CREDIT NUMBER 20001880

BENEFICIARY

**Lee Urban
Director of Planning and Development
City of Portland
389 Congress Street
Portland, ME 04101**

CUSTOMER

**JHA Management Services, LLC
630 Ocean Ave.
Portland, ME 04103**

Dear Beneficiary:

We hereby amend our Irrevocable Standby Letter of Credit Number **20001880** Amendment Number 1:

- This Irrevocable Standby Letter of Credit has been reduced by US\$ 243,732.60 to a new aggregate balance of US\$ 27,081.40. This reduction is in accordance with a letter received from the city of Portland dated October 28, 2008 and signed by Ellen Sanborn, Finance Director.

All demands for payment and all other communications to the Bank relative to this Letter of Credit shall be in writing and addressed and presented to TD Bank, N.A, International Banking, 17 New England Executive Park, 1st Floor, and Burlington, MA 01803.

All other terms and conditions remain unchanged. This amendment is considered an integral part of the Letter of Credit and must be attached thereto.

TD Bank, N.A.

By: 

G. Thomas Maslin

Its: Vice President

Please address all inquires related to the contents of this item to the above address, Attn: International Banking, Standby Letter of Credit Dept., or by calling: Tom Maslin @ (781) 229-7139, Mila Kaminsky @ (781) 229-7140 or John Amuzzini @ 781-229 7141. Our Fax # (781) 229-7127



PORTLAND MAINE

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

Finance Department
Ellen Sanborn, Director

October 28, 2008

TD Banknorth, N.A.
17 New England Executive Park
1st Floor
Burlington, MA 01803

Re: JHA Management Services, LLC
Letter of Credit No. 20001880 dated May 11, 2007

This is to inform you that I am authorizing the reduction in the above-named letter of credit by the amount of \$243,732.60, which leaves a balance of \$27,081.40 remaining.

If you require any further information, please let me know.

Sincerely,

Ellen Sanborn
Finance Director

ES:mmma

cc: Barbara Barhydt, Development Review Services Manager
Philip DiPierro, Development Review Coordinator

MODE = MEMORY TRANSMISSION

START=NOV-05 12:00

END=NOV-05 12:01

FILE NO.=374

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	a	98742419	001/001	00:00:35

-CITY OF PORTLAND -

***** -PLANNING DEPT. - ***** 2077568258- *****



PORTLAND MAINE

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

Finance Department
Ellen Sanborn, Director

October 28, 2008

TD Banknorth, N.A.
17 New England Executive Park
1st Floor
Burlington, MA 01803

Re: JHA Management Services, LLC
Letter of Credit No. 20001880 dated May 11, 2007

This is to inform you that I am authorizing the reduction in the above-named letter of credit by the amount of \$243,732.60, which leaves a balance of \$27,081.40 remaining.

If you require any further information, please let me know.

Sincerely,

Ellen Sanborn
Finance Director

ES:mma

cc: Barbara Barhydt, Development Review Services Manager
Philip DiPierro, Development Review Coordinator



PORTLAND, MAINE

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

Planning and Urban Development
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

TO: Ellen Sanborn, Finance Department

FROM: Alexander Jaegerman, Planning Division Director

DATE: October 22, 2008

SUBJECT: Request for Reduction of Performance Guarantee to Defect Guarantee
The Cedars Expansion Project, 630 Ocean Avenue
(ID# 2006-0200 Lead CBL#047 A 020001)

Please reduce the Performance Guarantee, Letter of Credit Account#20001880 for the Cedars Assisted Living Facility Expansion Project at 630 Ocean Avenue, to the Defect Guarantee.

Original Amount	\$270,814.00
<u>This Reduction</u>	<u>\$243,732.60</u>
Remaining Balance	\$ 27,081.40

This is the first reduction for the project.

Approved:



Alexander Jaegerman
Planning Division Director

cc: Barbara Barhydt, Development Review Services Manager
Philip DiPierro, Development Review Coordinator
File: Urban Insight

- 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 _____ 2,000 BRIDGE CARPENTRY

9. LANDSCAPING _____ 44,503 PER WHITE BROS.
 (Attach breakdown of plant materials, quantities, and unit costs) QUOTE (ATTACHED)

10. MISCELLANEOUS _____

TOTAL: _____

GRAND TOTAL: \$46,503.00

INSPECTION FEE (to be filled out by the City) OK Red with 5/24/07

	<u>PUBLIC</u>	<u>PRIVATE</u>	<u>TOTAL</u>
A: 2.0% of totals:	_____	<u>\$930.00</u>	<u>\$930.00</u>
or			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	

We thank you for the opportunity to quote you on this work. Please feel free to contact this office with any questions or concerns you may have.

Sincerely,

Robert A. St.Clair
Estimator
White Bros., Inc.
95 Warren Avenue
Westbrook ME 04092
854-9173

May 16, 2007

Tom Yoder
Yoder Inc.
42 Hammond Road
Parsonsfield ME 04047

Re: Evergreen Cemetery Wetlands Compensation for "The Cedars"

Dear Mr. Yoder:

Please find attached our current quote for the above referenced project. We have elected to format it the same way as our quote dated 7/19/05 for ease of comparison for you. If you find all acceptable, we will provide you with a lump sum contract using the AIA format you requested.

Please find below our scope of work and its associated pricing. This scope and price are based on the following:

1. TRC plan called figure #3 (no date).
2. Attachment 13 -- "Wetland Compensation Plan" dated July 2005 pages 8-12 and Figure 2 by DTA
3. Faxed memo from Jaime Parker at Portland Trails to Elizabeth Annand at DTA dated 6/21/05 regarding bridge building sketches.
4. On site visit with TRC to review project, and discuss at length what was needed.
5. Conceptual pricing and detailed review with TRC.
6. E-mail of 7/14/05 to clarify scope questions and quantities.
7. Final pricing which you will find below.

Items in Price:

1. Dig safe permit
2. Provide certificate of insurance
3. Cut single trees as needed, use as ground cover, i.e. habitat.
4. Remove of honeysuckle and root ball offsite.
5. Remove culverts; includes offsite disposal, shaping and grading of stream sides and bottom, offsite disposal of excess earth, seeding and mulching of disturbed areas.
6. Microtopography as needed in area of existing stream area and at removed berm.
7. All wetland loam will be from on-site salvage.
8. Remove existing berm to grade as necessary, then provide microtopography and loam area. Remove excess fill offsite.
9. Provide and set granite curb stone for small foot type bridge abutments. Two locations.
10. Provide and install planting as shown on plan, and amended in 7/14/05 email.
11. Provide wetland seed mix and straw mulch to all areas disturbed.
12. Erosion control measures as needed.

PRICE: \$44,503.00

+ \$ 2,000.00 BRIDGE CARPENTRY
ALLOWANCE

TOTAL \$ 46,503.00



Banknorth, N.A.

TD Banknorth, N.A.
17 New England Executive Park
1st Floor
Burlington, MA 01803

**SITE PLAN/DIVISION
PERFORMANCE GUARANTEE
LETTER OF CREDIT No. 20001880**

IRREVOCABLE STANDBY LETTER OF CREDIT

**Date of Issue: May 11, 2007
Date of Expiry: May 11, 2009
Letter of Credit Number 20001880**

BENEFICIARY

Lee Urban
Director of Planning and Development
City of Portland
389 Congress Street
Portland, ME 04101

CUSTOMER

JHA Management Services, LLC
630 Ocean Ave.
Portland, ME 04103

**Re: JHA Management Services, LLC
Cedars Assisted Living Facility located at
630 Ocean Ave., Portland, ME 04101**

Gentlemen,

TD Banknorth, N.A. ("Bank") hereby issues its Irrevocable Standby Letter of Credit for the account of JHA Management Services, LLC, (hereinafter referred to as "Developer"), held for the exclusive benefit of the City of Portland, in the aggregate amount of Two Hundred Seventy Thousand Eight Hundred Fourteen and 00/100 United States Dollars (US\$270,814.00). These funds represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/or site plan], approved on October 24, 2006 and as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65.

This Letter of Credit is required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §46 through 65 and is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

PAGE 2 OF IRREVOCABLE STANDBY LETTER OF CREDIT NO. 20001880

The City, through its Director of Planning and Development and in his 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 Developer has failed to satisfactorily complete the work on the improvements contained within the Cedars Assisted Living Facility located at 630 Ocean Ave., Portland, ME 04101 approval, dated October 24, 2006; or**
- 2. Developer 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 Developer has failed to notify the City for inspections.**

In the event of the TD Banknorth, N.A.'s dishonor of the City of Portland's sight draft, TD Banknorth, N.A. shall inform the City of Portland 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 Department of Public Works and Planning, 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 Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize TD Banknorth, N.A., by written certification, to reduce the available amount of the escrowed money by a specified amount.

This performance guarantee shall expire on May 11, 2009 ("Expiration Date"). It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the TD Banknorth, N.A. notifies the City by certified mail (restricted delivery to Duane Kline, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101), or by Overnight Courier Service that TD Banknorth, N.A. 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 TD Banknorth, N.A., accompanied by this Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Development, at TD Banknorth, N.A. office located at 17 New England Executive Park, 1st Floor, Burlington, MA 01803 stating that: "This drawing results from notification that the Bank has elected not to renew its Letter of Credit No. 20001880 dated May 11, 2007.

PAGE 3 OF IRREVOCABLE STANDBY LETTER OF CREDIT NO. 20001880

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 TD Banknorth, N.A. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the Cedars Assisted Living Facility located at 630 Ocean Ave., Portland, ME 04101 approval, dated October 24, 2006 as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

The City, through its Director of Planning and Development and in his 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 TD Banknorth, N.A. office located at 17 New England Executive Park, 1st Floor, Burlington, MA 01803, prior to the Termination Date, stating any one of the following:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the Cedars Assisted Living Facility located at 630 Ocean Ave., Portland, ME 04101

TD Banknorth, N.A.

Date: May 11, 2007

By: David A. Bronson
David A. Bronson
Its: Senior Vice President

Please address all inquires related to this item to the above address, Attn: International Banking, Standby Letter of Credit Dept., or by calling: Tom Maslin @ (781) 229-7139 or Mila Kaminsky @ (781) 229-7140. Our Fax # (781) 229-7127

*Randy Little
Asst Corp Counsel 5/14/07*

*Deep WNY
DEC
5/14/07*

before approval or disapproval of a plan for minor development, the planning authority determines that, due to its nature or location, the development should be reviewed by the Planning Board, the planning authority may refer the plan to the Planning Board, whose decision shall be substituted for the planning authority's unless it declines jurisdiction. The Planning Board may decline jurisdiction and refer the matter back to the planning authority at any public meeting, including a workshop.

(i) Improvements made in accordance with public works standards. All improvements which would otherwise be subject to the standards of the public works authority if the development were a subdivision within the meaning of article IV of this chapter shall be made or constructed in accordance with the technical and design standards promulgated by the public works authority pursuant to section 14-498(a). In applying said standards, the Planning Board or authority, as applicable, may vary or modify them as provided in section 14-506.

(j) Site plan performance guarantee, improvement inspection fee, engineering review fee and administrative costs. No land use permits or applications of any kind shall be processed, reviewed or issued, no signed subdivision plats shall be released or recorded, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this ordinance unless all charges due under this ordinance have been paid and the developer is otherwise in compliance with the provisions of the city Code.

(1) Performance guarantee

Following site plan approval and prior to the issuance of a building permit, the developer shall post with the city a performance guarantee in the form and amount specified in section 14-501 specifying the completion of the required site plan improvements within two (2) years from the origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one (1) year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.

- * For residential development, improvements include, but are not limited to, sanitary sewers, storm drains, drainage and erosion control, catch basins, manholes, other improvements constructed chiefly below grade curbing, paving, sidewalks, lighting, and landscaping.
- * For nonresidential development the following shall not be

14-656

Ordinance Says:

- Include - public driveway & parking areas - paving
- utilities connected to public utilities - Power, Sewer, Gas, Cable, Phone
- manholes located in city ROW
- Buffer landscaping
- Not Included
- private transformers
- private manholes
- private landscaping

included in the performance guarantee; paving, except driveways and parking areas that are to be used by members of the general public, utilities that are located within the site, except the connections to public utilities; transformers; manholes that are not located in a city right-of-way; or landscaping other than that which buffers a development from neighboring properties.

In the event that a development is abandoned, the performance guarantee may be utilized to stabilize, secure, and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading and fencing.

Prior to the release of the performance guarantee, the developer shall provide a one-year defect guarantee upon completion of the improvements, which shall not expire between October 30 and the following April 15. The amount of the defect guarantee shall be ten (10) percent of the amount of the performance guarantee.

(2) Inspection fee

At the same time that the developer posts a performance guarantee, the developer shall also initially pay to the city a site plan improvement inspection fee equal to two (2) percent of the estimated costs of required site improvements for which a performance guarantee is to be posted. At the conclusion of the project, and before a temporary or permanent certificate of occupancy is issued, the developer shall pay to the city the balance of any inspection fees actually incurred by the city in its review of the project. The minimum inspection fee for a single-family or two-family structure shall be one hundred dollars (\$100.00) and for all other development shall be three hundred dollars (\$300.00). If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the city shall be required.

(3) Engineering and administrative fees

The developer shall pay a fee to cover the engineering review costs and administrative costs incurred by the city. The fee shall be based upon the hours of review

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: 3/26/07

Name of Project: THE INN AT CEDARS

Address/Location: 630 OCEAN AVE., PORTLAND, ME. 04103

Developer: _____

Form of Performance Guarantee: _____

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

TO BE FILLED OUT BY THE APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road/Parking Areas					LS	44,190
Curbing				194	56.83	11,025
Sidewalks				274	106.95	29,304
Esplanades						
Monuments						
Street Lighting						
Street Opening Repairs		LS	7,414			
Other						
2. EARTH WORK						
Cut					LS	11,000
Fill					LS	27,000
3. SANITARY SEWER						
Manholes						
Piping						
Connections						
Main Line Piping						
House Sewer Service Piping						
Pump Stations						
Other						
4. WATER MAINS						
5. STORM DRAINAGE						
Manholes						
Catchbasins						
Piping						
Detention Basin						
Stormwater Quality Units						
Other						

6. SITE LIGHTING	_____	_____	_____	_____	_____	4,899
7. EROSION CONTROL	_____	_____	_____	_____	_____	_____
Silt Fence	_____	_____	_____	1500	150	2,250
Check Dams	_____	_____	_____	_____	LS	2437
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	2,430
Slope Stabilization	_____	_____	_____	2031	1.00	2,031
Geotextile	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	50	10.00	500
Catch Basin Inlet Protection	_____	_____	_____	10	50.00	500
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____
9. LANDSCAPING	_____	_____	3500	_____	_____	30133
(Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	11 TREES	_____	_____	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	10,914	_____	_____	142,219
GRAND TOTAL:	_____	_____	_____	_____	_____	153,133

INSPECTION FEE (to be filled out by the City)

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

6. SITE LIGHTING			<u>3</u>	<u>1633⁰⁰</u>	<u>4899⁰⁰</u>
7. EROSION CONTROL					
Silt Fence			<u>1500</u>	<u>1.50</u>	<u>2250⁰⁰</u>
Check Dams				<u>4/S</u>	<u>2437⁰⁰</u>
Pipe Inlet/Outlet Protection					
Level Lip Spreader				<u>4/S</u>	<u>2436⁰⁰</u>
Slope Stabilization			<u>2031</u>	<u>1.00</u>	<u>2031⁰⁰</u>
Geotextile					
Hay Bale Barriers			<u>50</u>	<u>10⁰⁰</u>	<u>500⁰⁰</u>
Catch Basin Inlet Protection			<u>10</u>	<u>50⁰⁰</u>	<u>500⁰⁰</u>
8. RECREATION AND OPEN SPACE AMENITIES					
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)		<u>3500⁰⁰</u> 11 TREES			<u>3500</u> <u>30,133⁰⁰</u>
10. MISCELLANEOUS					
TOTAL:		<u>10,914⁰⁰</u>		<u>305,314⁰⁰</u>	
GRAND TOTAL:		<u>10,914⁰⁰</u>		<u>305,314⁰⁰</u>	

ok-4/23/07
PA
\$270,814.⁰⁰

INSPECTION FEE (to be filled out by the City)

	<u>PUBLIC</u>	<u>PRIVATE</u>	<u>TOTAL</u>
A: 2.0% of totals:	<u>0</u>	<u>\$5,416.28</u>	<u>\$5,416.28</u>
or			
B: Alternative Assessment:			
Assessed by:			
	(name)	(name)	

Planning and Development Department
SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: _____

Name of Project: CEDARS ASSISTED LIVING FACILITY

Address/Location: 630 OCEAN AVE. PORTLAND, MAINE 04103

Developer: _____

Form of Performance Guarantee: _____

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

TO BE FILLED OUT BY THE APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road/Parking Areas					L/S	44,190 ⁰⁰
Curbing				194	56.83	11,025 ⁰⁰
Sidewalks				274	106.95	29,304 ⁰⁰
Esplanades						
Monuments						
Street Lighting						
Street Opening Repairs						
Other						
2. EARTH WORK						
Cut					L/S	11,000 ⁰⁰
Fill					L/S	27,000 ⁰⁰
3. SANITARY SEWER						
Manholes						
Piping				155	35 ⁰⁰	5,436 ⁰⁰
Connections						
Main Line Piping						
House Sewer Service Piping				100	93.75	9,375 ⁰⁰
Pump Stations						
Other (GREASE TRAP)					L/S	5,607 ⁰⁰
4. WATER MAINS						
				153	63.50	10,038 ⁰⁰
5. STORM DRAINAGE						
Manholes				5	1445.60	7,228 ⁰⁰
Catchbasins				63	111.50	6,849 ⁰⁰
Piping					L/S	36,796 ⁰⁰
Detention Basin						
Stormwater Quality Units						
Other						56,780 ⁰⁰

TO: Inspections Department

FROM: Philip DiPierro, Development Review Coordinator

DATE: October 22, 2008

RE: C. of O. for #630 Ocean Avenue, The Cedars Expansion
(Id#2006-0200) (CBL 047 A 020001)

After visiting the site, I have the following comments:

Site work complete

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

Cc: Barbara Barhydt, Development Review Services Manager
Inspection Services Manager
File: Urban Insight



PORTLAND MAINE

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Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

September 19, 2005

Mr. David Kamila
Land Use Consultants
966 Riverside Street
Portland ME 04103

RE: Cedars Assisted Living Facility Expansion; 630 Ocean Avenue
CBL: 174-A-013, 174-A-014, 170-A-002,
#2004-0078

Dear Mr. Kamila:

On September 13, 2005, the Portland Planning Board voted on the following motions for the Cedars Assisted Living Facility expansion in the vicinity of 630 Ocean Avenue.

1. The Planning Board voted 7-0 that the plan was in conformance with the Conditional Use standards of the Land Use Code.
2. The Planning Board voted 7-0 that the plan was in conformance with the Site Plan Ordinance (including Site Location of Development Law) of the Land Use Code with the following conditions of approval:
 - i. *done* The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.
 - ii. *done* The site plan shall meet the requirements stated in Jim Seymour's memo dated September 8, 2005 except paragraph 2A.
 - iii. *done* The final condominium documents shall be reviewed and approved by Corporation Counsel.

Rick Smuffel

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3. The Planning Board voted 7-0 that the plan was in conformance with the Subdivision Ordinance of the Land Use Code with the following conditions of approval:

- done*
- i. The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.

done

 - ii. The plan shall meet the requirement stated in Jim Seymour's memo dated September 8, 2005 except for paragraph 2A.

done

 - iii. That the final condominium documents shall be reviewed and approved by Corporation Counsel.

done

 - iv. That the final plat shall be reviewed and approved by planning staff.

The approved plan includes 30 assisted living units.

The approval is based on the submitted site plan and the findings related to Conditional Use, Site Plan (including Site Location of Development Law) and Subdivision review standards as contained in Planning Report #52-05, which is attached.

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

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. 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.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work'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.
6. 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. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 Richard Knowland at 874-8725.

Sincerely,



Lee Lowry III, Chair
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Sarah Hopkins, Development Review Services Manager
Richard Knowland, Senior Planner
Jay Reynolds, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Inspections Division
Michael Bobinsky, Public Works Director
Traffic Division
Eric Labelle, City Engineer
Jeff Tarling, City Arborist
Penny Littell, Associate Corporation Counsel
Greg Cass, Fire Prevention
Assessor's Office
Approval Letter File
Kathryn Callnan, President, The Cedars, 630 Ocean Avenue, Portland ME 04103



04P078

TO: Rick Knowland - Planner
FROM: Jim Seymour - Development Review Coordinator, Sebago Technics, Inc.
RE: Major Site Plan & Site Location of Development Review: 630 Ocean Avenue
 Cedars Assisted Living Facility, JHA Services Inc.
DATE: September 8, 2005

Sebago Technics has reviewed the revised plans associated with the Site Location of Development application and supporting documentation for the proposed 12,800 square-foot addition to be located at 630 Ocean Avenue in the City of Portland dated 7-22-05. We respectfully offer the following comments to the applicant's responses and revisions based on our earlier March comments in outline format:

1. **Stormwater Management**

- done*
- A. The drainage calculations have been submitted and although the calculations have specific pipe data, slopes, and invert elevations the plans do not show the backwater effects that occur with the filling of the detention Pond4. This effect will alter the capacity of the pipes discharging from the northerly side of the proposed addition and possibly create flow backup into the pipes and yard basins. We request that the engineer provide additional protection by using a larger stone trench, which will allow for more infiltration/seepage in the stone and protect from frost action.
- done*
- B. Review of the drainage maps and calculations appear to have the modeling of the site conceptually acceptable. However, the pipe modeling does not actually utilize standard pipe sizing or actual pipe sizes as they exist, the model appears to have used an auto-sizing switch, and therefore fits the pipe size to run full. This method offers some restrictions, and detains runoff than actually may occur if a standard pipe is modeled. We feel that these changes will likely alter the overall scheme in a minor way, but request that the calculations be re-run as earlier requested just to verify they will not have a cumulative impact on the detention system at POND 1.
- done*
- C. We foresee two areas that have been and will likely experience ponding and/or scouring. The main entrance off of Ocean Ave appears to have no clear outlet for runoff into POND1. The area is subject to some ponding, and actually then overflows the gutter line at the entrance pavement edge, and follows the curb line of Ocean Avenue to a street basin. We recommend that the depressed area be reviewed and

designed to direct runoff either to the Pond1 or to continue without ponding to an Ocean Avenue catch basin.

The second area of noticeable drainage concern is from the southerly edge of the proposed first curb cut to the proposed site to the end of the curbing at the point at the fork in the entrance road. Curbing is needed in this road section, as the area has been previously patched due to erosion. The curbing will require an additional basin to be added to collect the runoff and direct into the proposed detention pond #4. An F-basin may be installed to accommodate the tight fit between underground utilities.

done

- D. Lastly we have some concerns of the drainage collection under the porte cochere. The basins would be better suited to be located outside of the canopy footprint. Given the shallow drain depth, and northerly exposure this will be a winter maintenance nuisance. We suggest if the collection basins were moved and the pavement area under the porte cochere were crowned sheeting water to the outside of the canopy footprint the drop off area would not be so likely to have freeze related issues.

done

2. Road Access/Circulation

- A. The 3 new parking spaces along the western edge of the proposed access loop are shown in the wetland area. It appears that if 3 spaces are needed other areas are available to locate the parking in the eastern parking lot. Avoidance and minimization of wetland impacts should be taken into consideration, with knowing the wetland conservation elimination is another issue.

N/A

- B. The Plan shall indicate snow storage locations. We recommend all areas to be noted on the plan or shown. No snow per DEP design standards may be placed directly in the ponds.

done

- C. Crosswalks for pedestrian walkways across driveway or loop accesses shall be painted and shown on the plans. We recommend crossings to the existing parking lot, across the rear of the three spaces adjacent to the wetlands/Pond #4, and that the ramps at these intersections be widened to accommodate such pedestrian movements.

done

3. Utilities

No comments.

4. Grading & Erosion Controls

- A. The applicant shall propose a maintenance plan for all detention ponds care, along for the underground storage/treatment system and routine maintenance as recommended by the DEP. Careful consideration shall be placed on the Spring cleaning of the ponds/system following winter sanding, and immediately after the site is firmly established with vegetation and stabilized. This must be submitted prior to any issuance of a certificate of occupancy.

done

- B. Erosion controls need to be shown for the construction activities surrounding the detention system outlet pipe in Pond#1.

done

5. Landscaping

- done*
- A. The plans reflect landscaping and we assume that the City Arborist and planner have contacted you for his review comments. Our only comment is that a note shall be added that requires as much natural vegetation as possible be preserved in the front portion (as shown to meet natural conditions and grades). This will address public safety buffers around the ponds as well.

6. Other General Items

- done*
- A. Wetland impacts to the site will again be significant and where impacted have been protected. The applicant shall provide evidence that the Maine DEP and Army Corps have modified the easement prior to all and any approvals. It is our understanding that the applicant is working and meeting with the MEDEP to determine what options are available for compensation and mitigation of wetlands. The approval of the offsite mitigation shall be made as part of this project's approval.
- done*
- B. Given the building is located in a wetland now how will the foundation be drained. Ledge could require removal and groundwater is already prevalent. Location of foundation drains used to dewater the site or to redirect groundwater need to be shown?
- done*
- C. The applicant has not addressed concerns about groundwater at the structure. The effects of the detained pond water near the foundation, and groundwater migration of water in the pond will require design review by a geotechnical engineer. We suggest that prior to a building permit issuance or final foundation design that the footing drain size and sump detail for pumping be submitted to the Development Review Engineer for approval.
- done*
- D. No detention pond cross-sections or details are shown for Detention Pond 4 nor are their stage storage levels shall be shown for all detaining systems and ponds. We believe this is an oversight by the design engineer as their letter stated they were provided.

7. Details:

The following details are needed:

- A. Detention Pond (comment 6D above.)
B. Foundation / perforated storm drain details need revisions per comment 1A.

Overall, the development appears to be challenged by the wetland and ledge issue and must still match elevations of the existing structure. The applicant has addressed several of our previous comments and we feel that if the Board has no other concerns that we can work these details out as a conditional approval. Please contact our office if you have any questions.

JRS/jrs

Inspection and Maintenance Manual

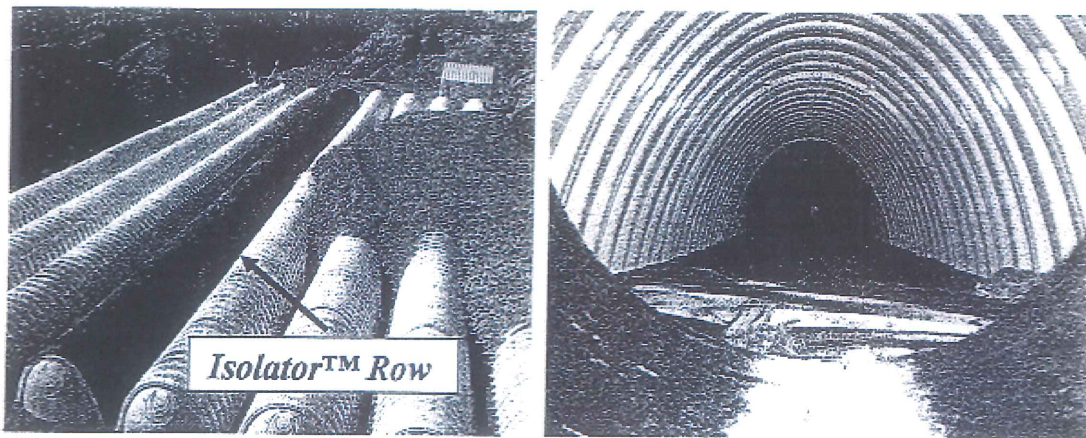
Inspection and Maintenance

A critical and sometimes overlooked component of any Stormwater Pollution Prevention Plan is the importance of inspection and maintenance plan. Under the proposed EPA mandated Storm Water Phase II rule, owners and operators of small municipal separate storm sewer system (MS4) facilities would be responsible for implementing BMP inspection and maintenance programs and having penalties in place to deter infractions (USEPA, 1999).

Inspection and Maintenance practices for Subsurface Stormwater Detention Systems (SSDS) are dependent upon a number of site specific factors. The type of land use (i.e. industrial, commercial residential), anticipated pollutant load, percent imperviousness, climate, etc. all play a critical role in determining the actual frequency of inspection and maintenance practices.

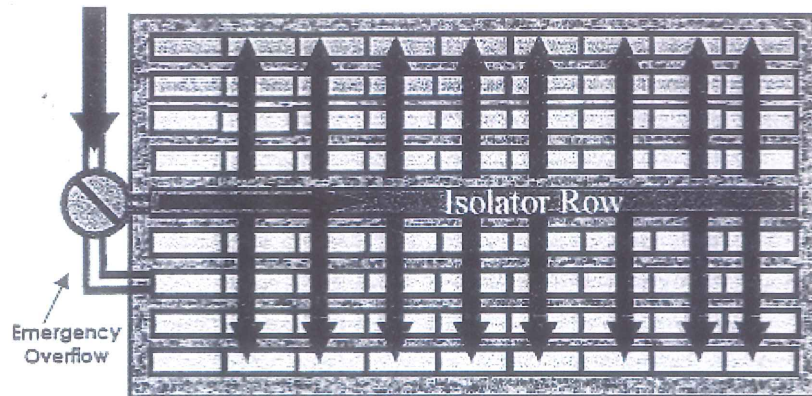
The Isolator™ Row

Stormtech has developed a process, the *Isolator™ Row*, which has been designed to simplify the inspection and maintenance procedures while at the same time dramatically reducing maintenance costs to the end user. The system can be easily inspected from the surface while isolating sediments to a relatively small portion of the bed (thereby reducing cleanout costs).



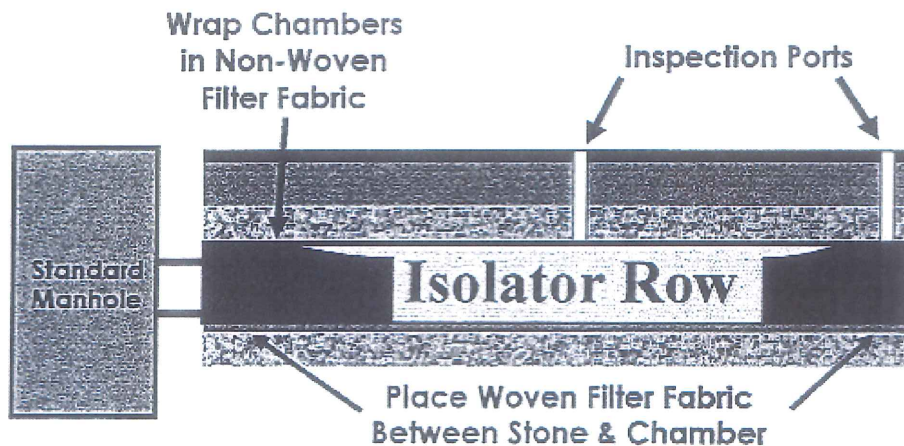
Typically, the *Isolator™ Row* is designed to receive the entire “first flush”. The chambers open bottom coupled with half inch diameter perforations in the chambers outside corrugations allow the flow to pass both vertically and horizontally into the surrounding stone. The stormwater is thereby evenly distributed throughout the entire detention/retention system.

The length of the *Isolator™ Row* is configured to enhance the settling of sediment within the header row. The sediment is then trapped from exiting the perforations by the geo-textile material (i.e. filter fabric) surrounding the *Isolator™ Row* of chambers. This acts to “isolate” the sediment to one row of chambers, dramatically reducing the cost of maintenance.



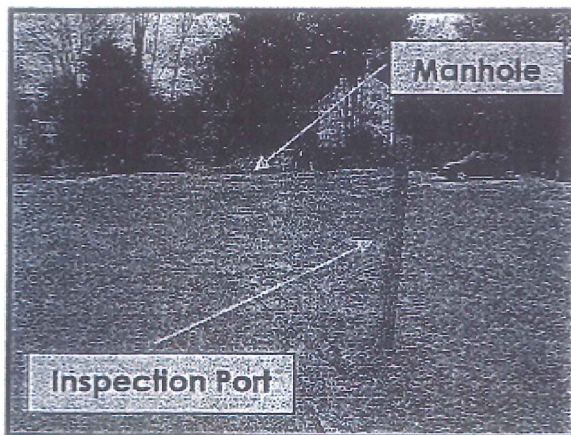
Inspection:

The frequency of Inspection and Maintenance varies by location. A routine inspection schedule needs to be established for each individual location based upon site specific variables. The *Isolator™ Row* incorporates a combination of standard manhole(s) and strategically located inspection ports (as needed). The inspection ports allow for easy access to the system from *the surface*, eliminating the need to perform a confined space entry for inspection purposes.



At a minimum, StormTech recommends inspections annually. Initially, the *Isolator™ Row* should be inspected every 6 months for the first year of operation. For subsequent years, the inspection should be adjusted based upon previous observation of sediment deposition.

By incorporating the *Isolator™ Row* into the inlet design, inspection of the system can be accomplished completely from the surface without the need for a confined space entry. If the surface inspection indicates the potential need for maintenance, access is provided via a manhole(s) located on the end(s) of the row for cleanout. If entry into the manhole is required, please follow local and OSHA rules for a confined space entries.



Typically, 4" diameter inspection port(s) are strategically located to provide visual access to the system with the use of a flashlight. If upon visual inspection it is found that sediment has accumulated, a stadia should be inserted to determine the depth of sediment. When the average depth of sediment exceeds 3 inches throughout the length of the *Isolator™ Row*, clean-out should be performed.

Documentation should be kept regarding the dates of inspection, observations, and maintenance that resulted from the findings of the inspection. Such records are helpful in maintaining an efficient inspection and maintenance schedule and provide evidence of ongoing inspection and maintenance.

Maintenance:

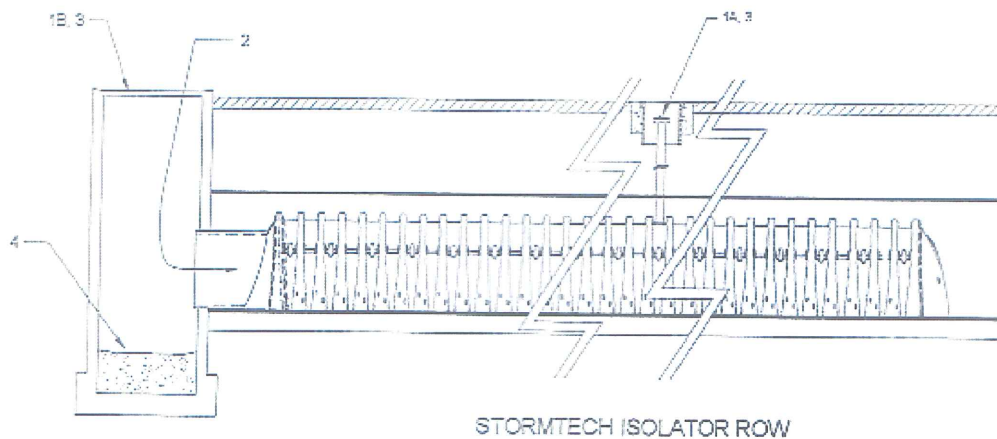
The *Isolator™ Row* has been designed to reduce the cost of periodic maintenance. By "isolating" sediments to just one row, the costs have been dramatically reduced by eliminating the need to cleanout each row of the entire storage bed.

If inspections indicate that maintenance is required, a jet-vac system is required to remove the accumulated sediment. A woven geotextile material is placed between the bedding stone and the chambers. This serves 2 functions, to keep the stone in place when stormwater is entering into the header system at high velocities and to allow for high pressure cleaning without allowing the stone to be disturbed.

The JetVac process utilizes a high pressure water nozzle to propel itself down the Isolator row while scouring and suspending sediments. As the nozzle is retrieved, the captured pollutants are flushed back into the manhole for vacuuming. Most sewer and pipe maintenance companies have vacuum/JetVac combination vehicles. Selection of an appropriate JetVac nozzle will improve maintenance efficiency. Fixed nozzles designed for culverts or large diameter pipe cleaning are preferable. Rear facing jets with an effective spread of at least 45" are best. Most JetVac reels have 400 feet of hose allowing maintenance of an Isolator Row up to 50 chambers long. **The JetVac process shall only be performed on StormTech Rows that have AASHTO class 1 woven geotextile over their angular base stone.**

StormTech Isolator™ Row Maintenance Procedures

- 1) Inspect Isolator Row for sediment
 - A) Inspection Ports
 - i. Remove lid from floor box frame
 - ii. Remove cap from inspection riser
 - iii. Using a flashlight and/or stadia rod, gage depth of sediment
 - iv. If sediment is at or above 3" depth proceed to Step 2. If not proceed to step 3.
 - B) All Isolator Rows
 - i. Remove cover from manhole at upstream end of Isolator row
 - ii. Using a flashlight, inspect down Isolator row through outlet pipe
 1. Mirrors on poles, cameras may be used to prevent a confined space entry
 2. Follow OSHA regulations for confined space entry if entering manhole.
 - iii. If sediment is at or above the lower row of sidewall holes (approximately 3") proceed to Step 2. If not proceed to Step 3.
- 2) Clean out Isolator Row using the JetVac process
 - A) A fixed culvert cleaning nozzle with rear facing nozzle spread of 45" or more is preferable
 - B) Apply multiple passes of JetVac until backflush water is clean
 - C) Vacuum Manhole sump as required
- 3) Replace all caps, lids and covers
- 4) Inspect & clean catch basins and manholes upstream of the StormTech system following procedures for Classic Manifold Inlet System



STORM CELL MAINTENANCE

There should be little maintenance required with the Stormcell[®] system provided the Design and Installation Guidelines manual, as issued by Hydro International, is followed.

The major aim of a maintenance regime will be to prevent siltation of the distribution/collection pipes, which are below the Stormcell[®]. To this end these pipes should be laid to achieve self-cleansing velocities wherever possible.

A Downstream Defender[®] immediately upstream of the Stormcell[®] tank is a useful addition to the system. It is imperative that the collection sump is not allowed to overflow which would lead to silt carry-over into the distribution pipes.

As all sites are different, the frequency at which the Downstream Defender[®] should be emptied will need to be determined on site (typically once or twice a year). This is simply a function of the sump volume and the volume of settleable grits and silts entering it.

As per the Reg-U-Flo[®] Vortex Valve installation, it is recommended that the system be inspected monthly for 3 months and thereafter at 6 monthly intervals. In addition, it is suggested that the installation should be inspected immediately following the first major storm event, whenever this should occur after installation.

It should also be noted that more regular inspections may be required should the Downstream Defender[®] fill more frequently than at 6 monthly intervals.

Storm water Maintenance Plan

Cedars Campus: Cedars Nursing Care Center, Osher Inn, Atrium

The Cedars campus includes land upon which the facilities listed above are located. The development of the land for all three buildings included wetlands permits as well as storm water considerations. The approved storm water and wetlands plans include detention ponds, an underground storage/drainage system and plantings. The maintenance of these installed ponds and drainage systems is as follows:

Underground storage and drainage system:

- This system requires monthly inspections for three months following opening and immediately after a major storm event. A major storm event will be considered to have occurred when three or more inches of rain have fallen in less than one hour.
- This system must also be inspected in six month intervals.
- The inspections should ensure system is draining, is not backing up and overflowing and should be vacuumed if necessary to ensure system is functioning properly.
- The system shall be maintained in accordance with the manufacturer's maintenance plan (attached).

Detention Ponds:

- There are two detention ponds on the campus which should be inspected each spring when snow melt reveals, sand, silt and trash accumulated during the winter.
- Excess sand, silt and trash should be removed to restore drainage to levels existing in approved site plans.

Plantings:

- Plantings required for wetlands mitigation shall be monitored in accordance with DEP approvals and requirements. As required, any plantings made as part of the DEP plan that fail to survive the winter shall be replaced in accordance with the DEP and wetlands monitoring scientist.

From: Lannie Dobson
To: Philip DiPierro
Date: 8/15/2008 10:55:16 AM
Subject: Cedars

I received a call from Anthony Cimino asking if the Plantings had been reviewed by you. Can you give him a call 838-1000. THANK YOU, Lannie

- Drain structure missing
- Yard drains Added
- lighting missing
- grading changed
- parking layout changed - no curb stops
- stairs & walkway added

9/2/08

Maintenance plan for detention ponds & underground storage/treatment

Ernie Tweedy 772-5456
Facilities Manager

John Watson
772-5456 X-419
874-2419 FAX

October 25, 2006

Mr. David Kamila
Land Use Consultants
966 Riverside Street
Portland, ME 04103

RE: Cedars Assisted Living Facility Expansion; 630 Ocean Avenue;

CBL: CBL # 174-A-013; 174-A-014; 170-A-002; #2006-0200.

Dear Mr. Kamila,

On October 24, 2006, the Portland Planning Board voted on the following motions for the Cedars Assisted Living Facility expansion in the vicinity of 630 Ocean Avenue:

1. The Planning Board voted 7-0 that the plan was in conformance with the Conditional Use Standards of the Land Use Code.
2. The Planning Board voted 7-0 that the plan was in conformance with the Site Plan Ordinance Standards of the Land Use Code with the following condition of approval:
 - i. That the site plan shall be revised to incorporate the comments of Jim Seymour (Development Review Engineer) memo dated October 24, 2006 and shall comply with these comments.

The approved plan includes 30 assisted living units.

The approval is based on the submitted site plan and the findings related to site plan and conditional use review standards as contained in Planning Report #61-06, which is attached.

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

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic AutoCAD files (*.dwg), release 14 or greater, with seven (7) sets of the final plans.

2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. 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.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work'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.
6. 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. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 Rick Knowland, Senior Planner at 874-8725.

Sincerely,

Kevin Beal, Chair
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Sarah Hopkins, Development Review Services Manager
Rick Knowland, Senior Planner
Jay Reynolds, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Inspections Division

Michael Bobinsky, Public Works Director
Eric Labelle, City Engineer
Bill Clark, Public works
Jim Carmody, Transportation Manager
Jeff Tarling, City Arborist
Penny Littell, Associate Corporation Counsel
Captain Greg Cass, Fire Prevention
Assessor's Office
Approval Letter File
Kathryn Callnan, President, The Cedars, 630 Ocean Avenue, Portland, ME 04103
Eric Stauffer, Preti Flaherty, P.O. Box 9546, Portland, ME 04112

From: Barbara Barhydt
To: Bourke, Jeanie
Date: 8/4/2008 2:07:43 PM
Subject: Cedars Rehabilitation Center

Hello Jeanie:

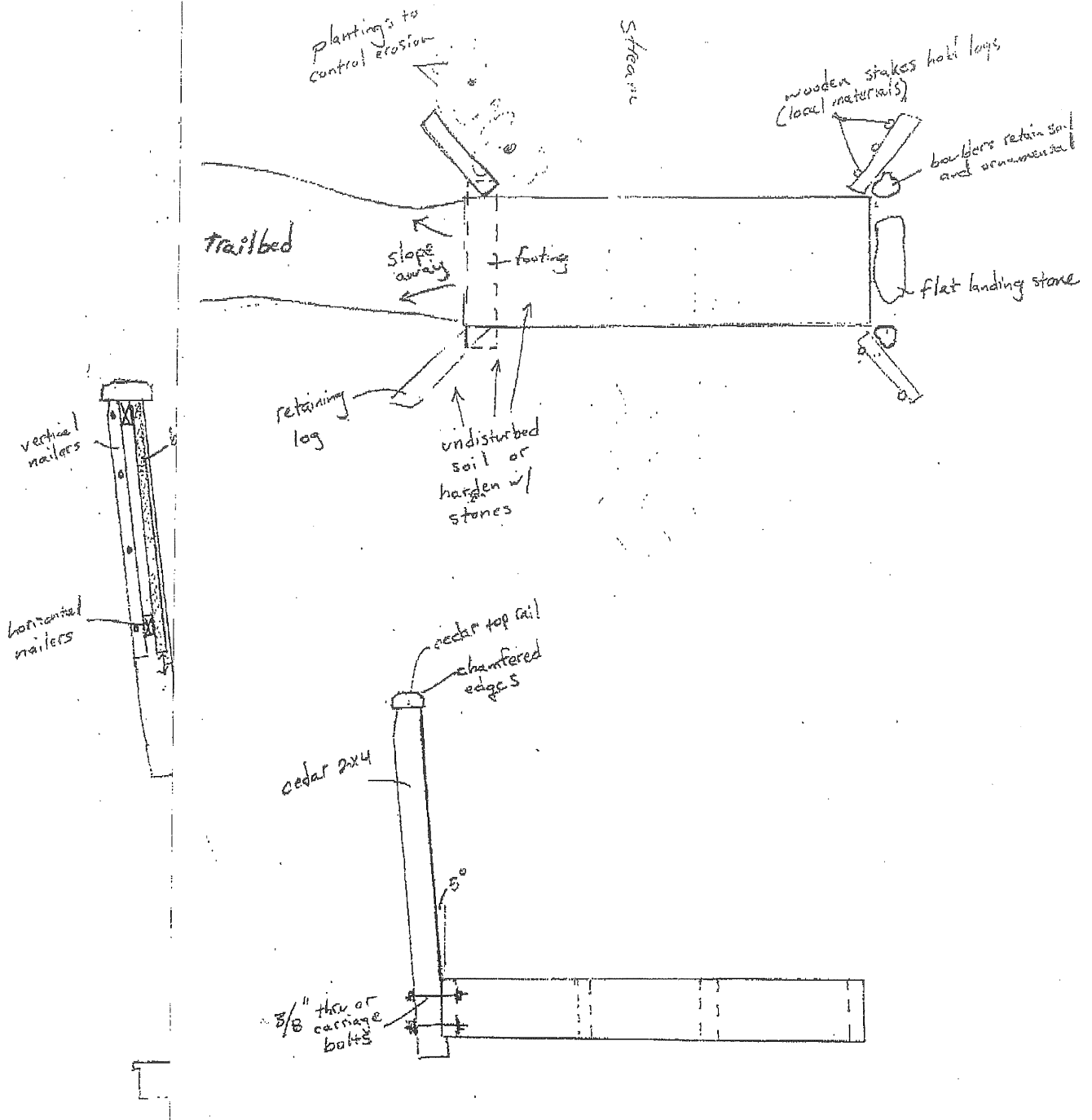
This e-mail is to confirm that the Planning Division is recommending a temporary certificate of occupancy be issued for the Cedars Project on Ocean Avenue with the condition that the Development Review Coordinator will conduct a final inspection of the site improvements to assure compliance with the approved site plan. The temporary certificate of occupancy should be effective until September 30, 2008.

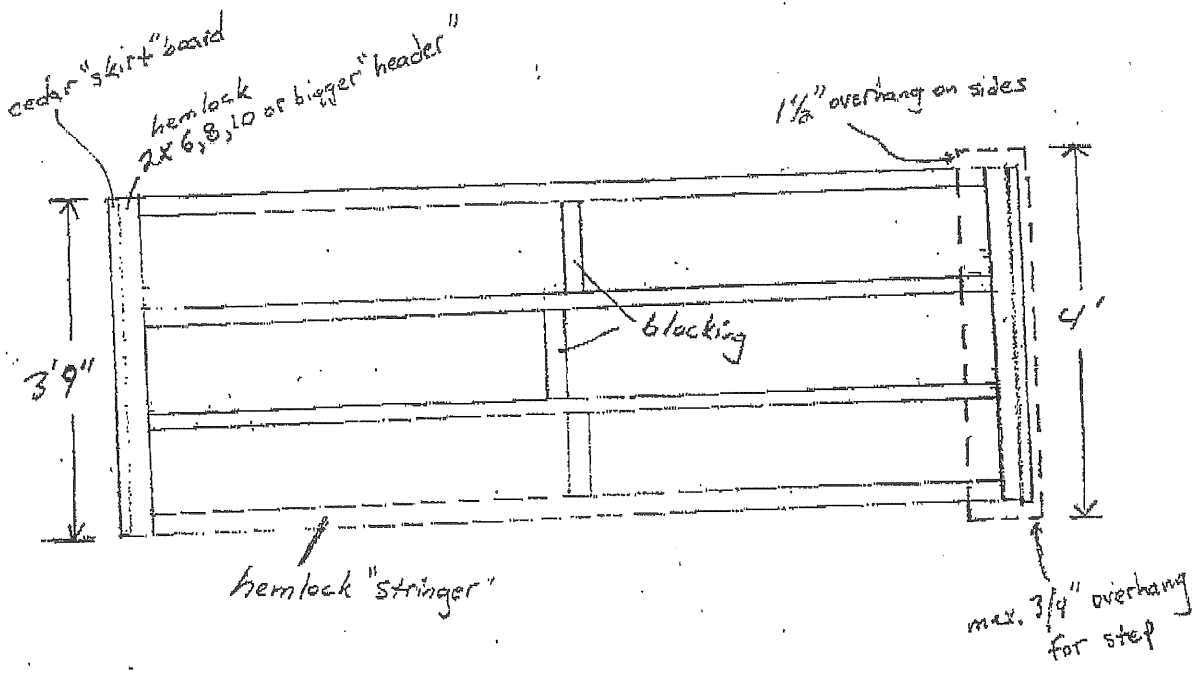
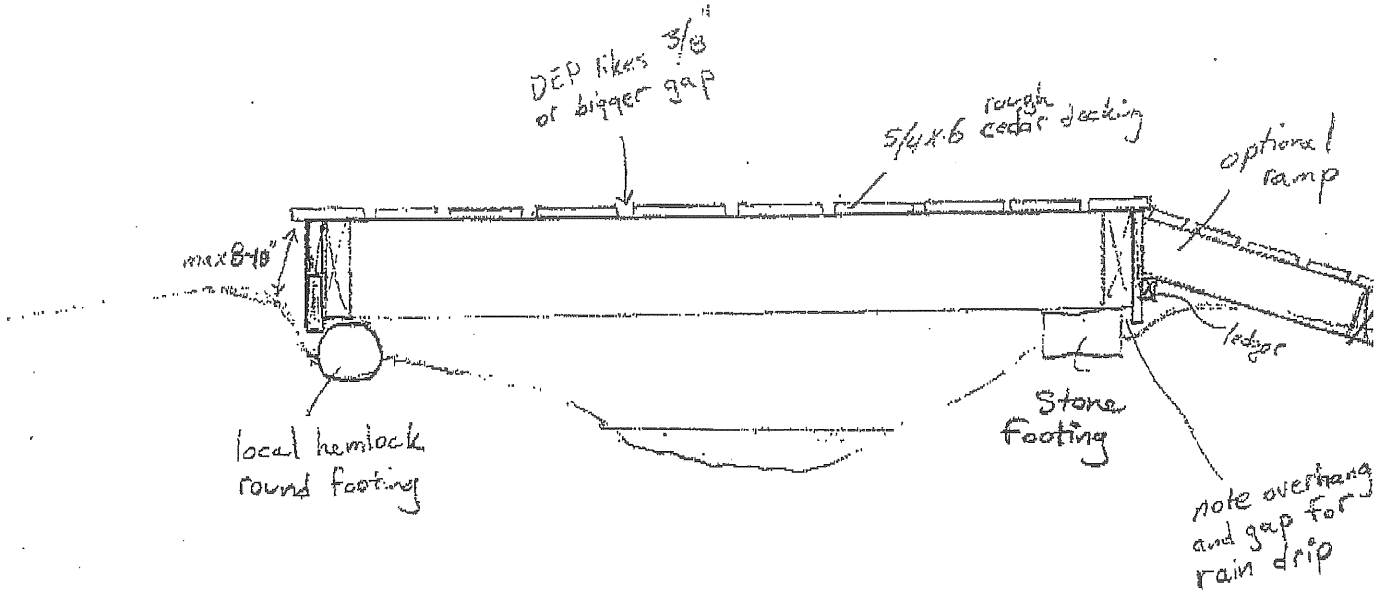
Thank you.

Barbara

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

CC: DiPierro , Philip; Jaegerman , Alex





SECTION V

DRC: Pre-Construction Meetings

Upon reviews and approvals,

1. Inspections issues building permit.
2. Applicant is responsible for setting up pre-construction meeting prior to commencing work.
 - For single family, change of use, etc., the applicant contacts Inspections to notify city representatives (DRC and Code Enforcement Officers).
 - For projects that involve work within the city right-of-ways, the applicant contacts the Public Works Department, who then facilitates the notification and scheduling.
3. Meeting is held and the following is discussed:
 - Conditions of approval
 - Inspection schedule
 - Site work
 - Right-of-way work
 - Utilities, scheduling, etc.
4. Work is allowed to commence if there are no outstanding issues. Applicants must meet the following criteria prior to commencing work:
 - Planning authority has approved the project.
 - Performance guarantees are in place.
 - Conditions of approval have been met.
 - Review and Inspection fees are paid.

Blasting

Pre-construction Meeting Participant Contacts

Todd Merkle – Department of Public Works 874-8833

Mike Collins – Code Enforcement (Electrical) 874-8694

Greg Vining – Department of Public Works 874-8838

Jim Carmody – Department of Public Works 874-8894

Jeanie Bourke – Code Enforcement & Inspections 874-8715

Jay Kelly – Fire Department Inspections 756-8096 (multi-story buildings only)

PLANNING REPORT #61 -06

CEDARS ASSISTED LIVING FACILITY EXPANSION

630 OCEAN AVENUE

CEDARS NURSING CARE CENTER AND JHA SERVICES, INC.

Submitted to:

Portland Planning Board

Portland, Maine

October 24, 2006

Submitted by:

Richard Knowland, Senior Planner

I. INTRODUCTION

On September 13, 2005 the Planning Board approved a proposed expansion of the Cedars Assisted Living Facility in the vicinity of 630 Ocean Avenue. Construction has not been initiated. Since a request to extend the approval was not received within one (1) year of the original approval (sec. 14-525 (d)), the site plan and conditional use approvals have lapsed. The Applicant requests that the project be re-approved. There have been no changes in the site plan or the application since the original approval except as otherwise noted in Section II below.

The previous Planning Board approvals incorporated site plan (including site location of development law), conditional use and subdivision review. Given that the site location law and conditional use have a relationship to site plan approvals, we are including these elements in the re-approval. The subdivision approval is still valid.

Please review the original staff report for this project. See Attachment A. The September 13, 2005 Planning Board approval letter is shown on Attachment B.

392 notices were sent to area property owners.

II. UPDATED SUBMISSION MATERIAL

Since the Planning Board's 2005 approval, the application has remained unchanged except for the revisions of updated material noted below. The site plan has not changed other than to address the comments of the Development Review Coordinator.

1. Revisions to site plan addressing review comments of Jim Seymour, Development Review Coordinator. See Attachments C and D.
2. Army Corps of Engineers permit. See Attachment F.
3. Maine DEP NRPA wetland alteration permit. See Attachment G.
4. Declaration of Covenants and Restrictions protecting wetland areas on the site. See Attachments H and I.
5. Covenant and restrictions for mitigation parcel in Evergreen Cemetery, executed agreement dated May 9, 2006. See Attachment J.
6. Revised Declaration of Condominium of Cedars Condominium's dated June 21, 2006. On file in Planning Office.
7. Cedars Condominium's Condominium Association Bylaws. On file in Planning Office

III. PREVIOUS CONDITIONS OF APPROVAL

Site Plan including Site Location of Development Law Conditions of Approval

1. The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.

Status: Permits from DEP and ACE have been issued approving the mitigation plan. The City approved the DEP covenant agreement.

2. The site plan shall meet the requirements stated in Jim Seymour's memo dated September 8, 2005, except paragraph 2A.

Status: Mr. Seymour indicates the plan has been revised to address his review comments.

3. The final condominium documents shall be reviewed and approved by Corporation Counsel.

Status: The final documents have been submitted. Corporation Counsel has reviewed and approved the documents.

Subdivision Ordinance Conditions of Approval

1. The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.

Status: Permits from DEP and ACE have been issued approving the mitigation plan. The City approved the DEP covenant agreement.

2. The site plan shall meet the requirements stated in Jim Seymour's memo dated September 8, 2005, except paragraph 2A.

Status: Mr. Seymour indicates the plan has been revised to address his review comments.

3. That the final condominium documents shall be reviewed and approved by Corporation Counsel.

Status: The final documents have been submitted. Corporation Counsel has reviewed and approved the documents.

4. That the final plat shall be reviewed and approved by planning staff.

Status: Planning staff has reviewed and approved the final recording plat.

IV. STAFF REVIEW

The proposed development has been reviewed by City staff under the applicable standards of Conditional Use review and Site Plan review (including Site Location of Development Law). See Attachment A. The current review of this development did not generate any additional staff review comments.

V. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the Applicant and on the basis of information contained in Planning Board Report # 61-06, the Board finds:

1. That the plan is in conformance with the Conditional Use Standards of the Land Use Code.
2. That the plan is in conformance with the Site Plan Ordinance (including the Site Location of Development Law) of the Land Use Code.

ATTACHMENTS:

- A. Planning Board Report Dated September 13, 2005
- B. Planning Board Approval Letter Dated September 13, 2005.
- C. Revised Site Plan Application
- D. Summary of Revisions to Site Plan and Updated Site Plan.
- E. Comments of Jim Seymour, Development Review Coordinator (April 7, 2006).
- F. Army Corps of Engineers Permit
- G. Maine DEP NRPA Wetland Alteration Permit
- H. Amendment to Declaration of Covenants and Restrictions, Dated April 24, 2006 Amending On-Site Mitigation Areas A and B).
- I. Declaration of Covenants and Restrictions, Dated April 24, 2006 (On-Site Mitigation Areas A1 and D1).
- J. Declaration of Covenants and Restrictions, Dated May 9, 2006 (for Evergreen Cemetery Mitigation).

Planning and Development Department
SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: 5/2/06

Name of Project: CEDARS ASSISTED LIVING FACILITY

Address/Location: 630 OCEAN AVE. PORTLAND, MAINE 04103

Developer: _____

Form of Performance Guarantee: _____

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

TO BE FILLED OUT BY THE APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road/Parking Areas				194	59.56	11,576.25
Curbing				274	84.50	23,152.60
Sidewalks						
Esplanades						
Monuments						
Street Lighting						
Street Opening Repairs		L/S	7,414.00			
Other						
2. EARTH WORK						
Cut					L/S	100,058.77
Fill					L/S	197,280.71
3. SANTARY SEWER						
Manholes						
Piping				155	35.00	5,436.00
Connections						
Main Line Piping						
House Sewer Service Piping				100	93.76	9,375.45
Pump Stations						
Other						
4. WATER MAINS				138	63.56	10,038.00
5. STORM DRAINAGE						
Manholes				5	1,350.00	7,228.24
Catchbasins				6	1,150.00	6,849.47
Piping					L/S	36,796.75
Detention Basin						
Stormwater Quality Units				1		56,280.00
Other						

6. SITE LIGHTING			3	1,634.00	4,898.00
7. EROSION CONTROL					
Silt Fence			1500	1.50	2241.00
Check Dams				L/S	2,437.58
Pipe Inlet/Outlet Protection					
Level Lip Spreader				L/S	2,436.83
Slope Stabilization			2031	1.00	2,031.96
Geotextile					
Hay Bale Barriers			50	10.00	500.00
Catch Basin Inlet Protection			10	50.00	500.00
8. RECREATION AND OPEN SPACE AMENITIES					
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)		3,500.00 11 Trees			30,133.00 see attached
10. MISCELLANEOUS					
TOTAL:		10,914.00		509,651.50	
GRAND TOTAL:		10,914.00		509,651.50	

\$ 205,373.13 OK 6-15 P.R.

INSPECTION FEE (to be filled out by the City)

	PUBLIC	PRIVATE	TOTAL
A: 2.0% of totals:		4,107.46	4,107.46
or			
B: Alternative Assessment:			
Assessed by:	(name)	(name)	P.R.

Philip DiPierro - RE: The Inn at Cedars - performance guarantee

From: "Tom Yoder" <tyoder@tyoder.com>
To: "Philip DiPierro" <PD@portlandmaine.gov>
Date: 4/9/2007 10:39 AM
Subject: RE: The Inn at Cedars - performance guarantee

Phil:

I have not been able to get in touch with Cimino, the general contractor regarding your question. I think that we should only use the Salmon Falls bid as a guideline for quantities etc., as there is no assurance that Cimino will actually use Salmon Falls for his subcontractor in the end. I view this information as helpful, but not definitive.

I am hoping that we can get some relief on landscaping (except buffers) and utilities and paving not in the right of way as per the ordinance for "non-residential"? I fully understand the City's need for security. As we discussed, I want to make sure that we are in conformance, but not in excess, of the rules.

Thanks,

Tom Yoder
Yoder Inc.
42 Hammond Rd.
Parsonsfield, Me. 04047
(Office) 207-793-3421 (Cell) 207-831-0374
(Fax) 866-862-9957

From: Philip DiPierro [mailto:PD@portlandmaine.gov]
Sent: Friday, April 06, 2007 8:25 AM
To: tyoder@tyoder.com
Subject: Re: The Inn at Cedars

Hi Tom, thanks for the landscaping estimates. One quick request, could you please confirm the pricing for these estimates with Salmon Falls Nursery since they were figured almost 2 years ago. Thanks very much.

Philip DiPierro
Development Review Coordinator
389 Congress Street
Portland, Maine 04101

Phone 207 874-8632

Fax 207 756-8258

>>> "Tom Yoder" <tyoder@tyoder.com> 4/6/2007 7:06:47 AM >>>

Phil:

Attached is the landscaping information that we discussed yesterday, for your use.

<<...>>

Thanks,

Tom Yoder

Yoder Inc.

42 Hammond Rd.

Parsonsfield, Me. 04047

(Office) 207-793-3421 (Cell) 207-831-0374

(Fax) 866-862-9957

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No virus found in this incoming message.

Checked by AVG Free Edition.

Version: 7.5.446 / Virus Database: 268.18.26/748 - Release Date: 4/5/2007 3:33 PM

Philip DiPierro - The Inn at Cedars - Performance Guarantee

From: "Tom Yoder" <tyoder@tyoder.com>
To: <PD@portlandmaine.gov>
Date: 4/2/2007 1:12 PM
Subject: The Inn at Cedars - Performance Guarantee
CC: "John Watson" <JWatson@thecedarsportland.org>

Phil:

As we discussed in our meeting last week, attached are cost estimates for the Performance Guarantee for The Inn at Cedars project, 630 Ocean Ave., Portland, the plans for which are now in for building permit approval by the City of Portland.

I have found the language of the ordinance (copies attached) somewhat difficult to interpret. As a result of this uncertainty, have sent along two versions of the estimate which reflect the range of possibilities as I understand them. The chief question in my mind is that since we are classified as "nonresidential, which items can appropriately be excluded? My hope is that we can discuss and arrive at a solution that meets your requirements, and at the same time does not unnecessarily burden the Cedars which, as you may know, is a non-profit that provides many services to the elderly of the community.

Thank you and please call me when you have had the opportunity to review the material.

Tom Yoder

Yoder Inc.

42 Hammond Rd.

Parsonsfield, Me. 04047

(Office) 207-793-3421 (Cell) 207-831-0374

(Fax) 866-862-9957

<<...>>

Email PG Forms

White Bros. Inc.

95 WARREN AVENUE, WESTBROOK, MAINE 04092

Telephone 854-9173 Fax 854-3809

July 19, 2005

Cedars Nursing Care Center, Inc.
630 Ocean Avenue
P.O. Box 466
Portland, ME 04112

Att: Mr. John Watson

Re: Offsite Wetland Compensation at Evergreen Cemetery

Dear Mr. Watson:

Please find below our scope of work and its associated pricing. This scope and price are based on the following:

1. DTA plan called figure #2 (no date), see attached copy.
2. On site visit with DTA to review project, and discuss at length what was needed.
3. Conceptual pricing and detailed review with DTA.
4. E-mail of 7/14/05 to clarify scope questions and quantities. See attached copy.
5. Final pricing which you will find below.

Items in price:

1. Dig safe permit.
2. Provide certificate of insurance.
3. Cut single trees as needed, use as ground cover, i.e., habitat.
4. Remove of honeysuckle and root ball offsite.
5. Remove culverts; includes offsite disposal, shaping and grading of stream sides and bottom, offsite disposal of excess earth, seeding and mulching of disturbed areas.
6. Microtopography as needed in areas of existing stream area and at removed berm.
7. All wetland loam will be from on-site salvage.
8. Remove existing berm to grade as necessary, then provide microtopography and loam area. Remove excess fill offsite.
9. Provide and set granite curb stone for small foot type bridge abutments. (See attached.) Two locations.
10. Provide and install planting as shown on plan, and amended in 7/14/05 email.
11. Provide wetland seed mix and straw mulch to all areas disturbed.



CEDAR'S ASSISTED LIVING
PORTLAND, MAINE

LANDSCAPE ESTIMATE
Date: August 10, 2005

ITEMS INCLUDED IN BID:

TREES, SHRUBS AND GROUNDCOVER PLANTING:

Scope of work to include furnishing and installing the following plant materials. Includes bark mulch, peat moss, organic fertilizer, tree wrap and tree support stakes.

2	*Bradford Pear 2"-2.5" cal.	3	Yellow Twigged Dogwood 3'-4'
2	*Red Maple 2"-2.5" cal.	6	Pfitzer Juniper 2'-2.5'
2	*River Birch 2.5"-3" cal. - clump	10	Marie's Doublefile Viburnum 4'-5'
8	Dark American Arborvitae 5'-6'	21	PJM Rhododendron 2'-2.5' spr.
5	White Spruce 5'-6'	104	Daylily (mixed colors) 1gal.
11	Common Lilac (mixed colors) 3'-4'	30	Hosta (mixed colors & size) 1gal.
3	Redosier Dogwood 3'-4'	46	Bark Mulch

* **Fall Hazards** - These trees can only be dug from the nursery in the spring because they will not survive any other digging time. Therefore, due to availability and time of season, these trees may have to be planted in the Spring or alternate plants at our unit costs, which are available upon your request.

TOTAL PLANTING PRICE: \$9,925.00

REMOVAL OF PLANTS AND REPLANTING:

Scope of work includes removing existing shrubs and perennials in areas as shown in the landscape plan. This does NOT include any of the trees, as these were not included in what needed to be transplanted. The list of plants to be transplanted are as follows:

64	Yews	10	Spirea
16	Decid. Azaleas	100	Daylilies
8	Viburnum	50	Perennials
4	Burning Bush		

TRANSPLANTING PRICE: \$5,928.00

TOTAL PROJECT PRICE: \$15,853.00

REPLACING REMOVED PLANTS WITH NEW PLANTS (ALTERNATE):

Scope of work includes just planting new plants in place of the existing plants. Proposed list is as follows:

64	Yews 24"-30"	10	Spirea 2'
16	Decid. Azaleas 2.5'	100	Daylilies 1gal.
8	Viburnum 3'-3.5'	50	Perennials 1 gallon
4	Burning Bush 3'-3.5'		

ALTERNATE - REPLACEMENT PLANTS PRICE: \$5,928.00

C U L T I V A T I N G N A T U R A L B E A U T Y

Salmon Falls Nursery & Landscaping 311 Portland Street Berwick, Maine 03907
 ph 207 384 5580 fx 207 384 5688 www.salmonfallsnursery.com
 Landscape Design • Installation • Irrigation • Maintenance



**CEDAR'S WETLANDS
PORTLAND, MAINE**

**LANDSCAPE ESTIMATE
Date: August 10, 2005**

ITEMS INCLUDED IN BID:

WETLAND MITIGATION PLANTING:

Scope of work to include furnishing and installing the following plant materials. Includes bark mulch, peat moss, organic fertilizer, tree wrap and tree support stakes.

1	Black Spruce 6'-7'	5	Viburnum tomentosum 3'-4'
3	Black Spruce 5'-6'	7	Viburnum tomentosum 4'
3	Balsam Fir 6'-7'	6	Winterberry 3'
3	*American Larch 5'-6'	30	Winterberry 18"
6	*Red Maple clump 2"-2.5" cal.	194	Purple Iris 2yr
1	*Weeping willow 2"-2.5" cal.	85	Yellow Water Iris 2yr
110	Highbush Blueberry 24"	22	Cinnamon Fern 2yr
20	Highbush Blueberry 30"	40	Bark Mulch
20	Highbush Blueberry 3'		

* **Fall Hazards** - These trees can only be dug from the nursery in the spring because they will not survive any other digging time. Therefore, due to availability and time of season, these trees may have to be planted in the Spring or alternate plants at our unit costs, which are available upon your request.

WETLAND MITIGATION PLANTING PRICE: \$14,280.00

Conditional Notes:

- Price does not include seeding of wetlands.
- Water available on site for construction use.
- Loam to be supplied and rough graded by others.
- Loam for planting, if necessary, shall be in place by others.
- A total of two mobilizations are included in this price. Additional mobilizations are at additional cost.
- 1.5% finance charge on balance over 30 days, unless prior arrangements have been made.
- If you have any questions please call: *John Sheldon*

C U L T I V A T I N G N A T U R A L B E A U T Y

Salmon Falls Nursery & Landscaping 50 Portland Street Berwick, Maine, 03901

ph 207.389.5540 fx 207.389.5050 www.salmonfallsnursery.com

Landscape Design • Installation • Irrigation • Maintenance

Mr. John Watson
July 19, 2005
Page Two

12. Erosion control measures as needed.

Price \$36,300.00

Alternate #1. Erosion control measure mix on path.

Alt. Add. Amount \$8,990.00

Please see the attached supporting documents. We thank you for the opportunity to quote you this work. We look forward to answering any questions you may have.

Sincerely,



Michael S. White
President

MSW:njh

Att.

White Irons, Inc.

95 WARREN AVENUE + WESTBROOK, MAINE 04092 + (207) 854-9173

Hannes Schneider

From: Robert A. St. Clair
Sent: Monday, July 18, 2005 1:42 PM
To: Hannes Schneider
Subject: FW: Evergreen Wetland Compensation Plan Specifications for Cedars

From: Mike White
Sent: Friday, July 15, 2005 7:21 AM
To: Robert A. St. Clair
Subject: FW: Evergreen Wetland Compensation Plan Specifications for Cedars

From: Peters, Colen [mailto:Colen.Peters@DevineTarbell.com]
Sent: Thursday, July 14, 2005 4:26 PM
To: Mike White
Subject: Evergreen Wetland Compensation Plan Specifications for Cedars

Mike:

Today Elizabeth and I looked things over again at Evergreen Cemetery to provide the following additional information to the simplistic plan I gave you when we reconned the site:

- 1500 plantings is a typo and should be 150 shrubs comprised of those listed on the plan,
- evergreen trees for the screen can be reduced to a total quantity of 20, planted in two groups of ±10 each in the area shown,
- any trees to be cut should be limited and disposed of onsite in small, low, scattered piles to provide coarse woody debris habitat for small mammals,
- average dimensions of the berm were measured to be no more than 90 ft long x 6 ft wide x 1.5 ft high corresponding to a volume of no more than 30 cubic yds,
- micro topography should be established across the footprint of where berm has been removed and at two other locations no larger than 20 ft by 30 ft in size.

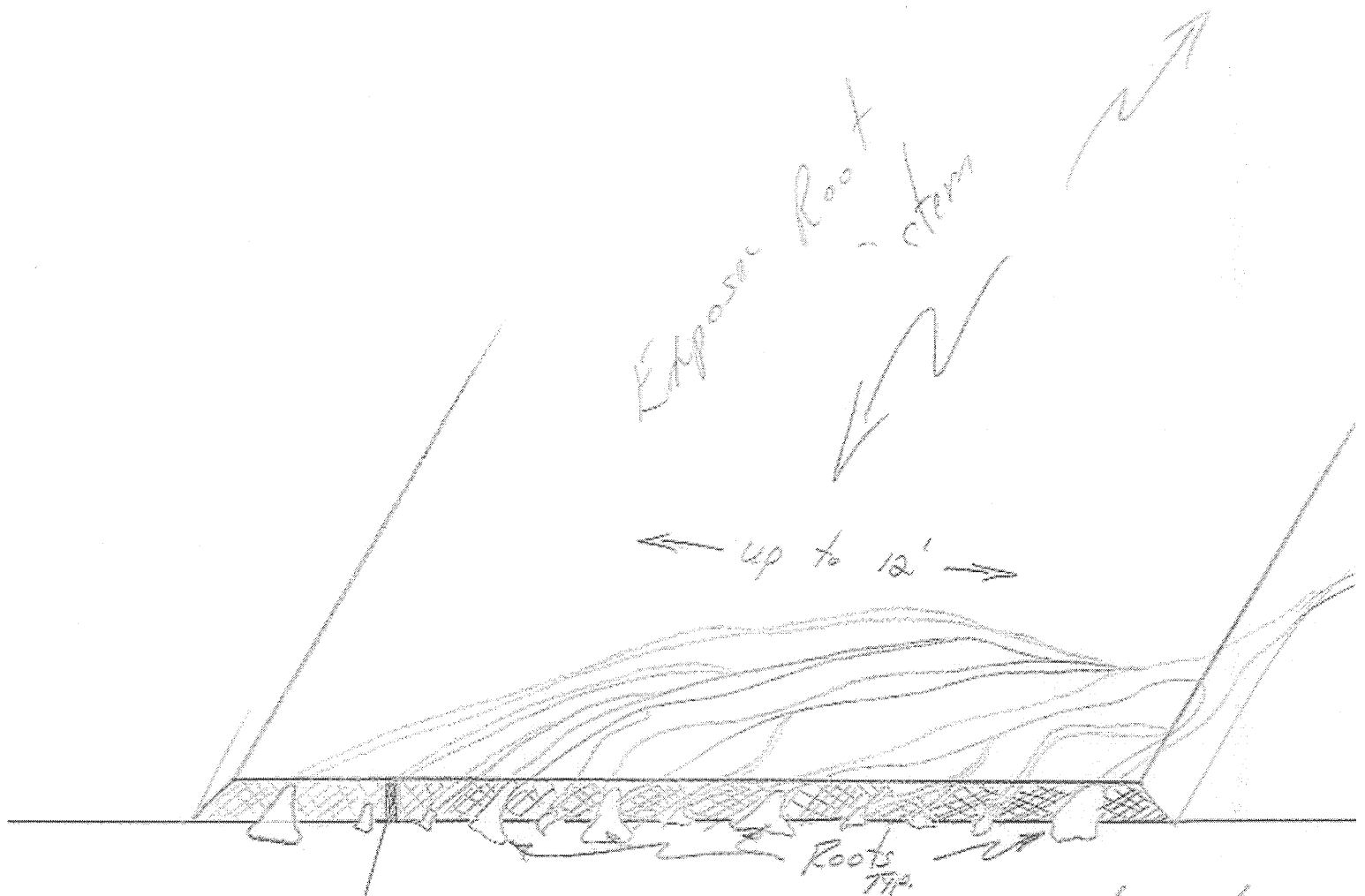
Our discussion yesterday was helpful. I will try to set up a meeting with Cedars for next week so that details of implementing the wetland compensation plan can be discussed.

Thanks,

Cole

Colen R. Peters
Manager of Wetlands, Wildlife & Terrestrial Resources
Devine Tarbell & Associates, Inc.
970 Baxter Boulevard
Portland, ME 04103
P: (207) 775-4495
F: (207) 775-1031

7/18/2005

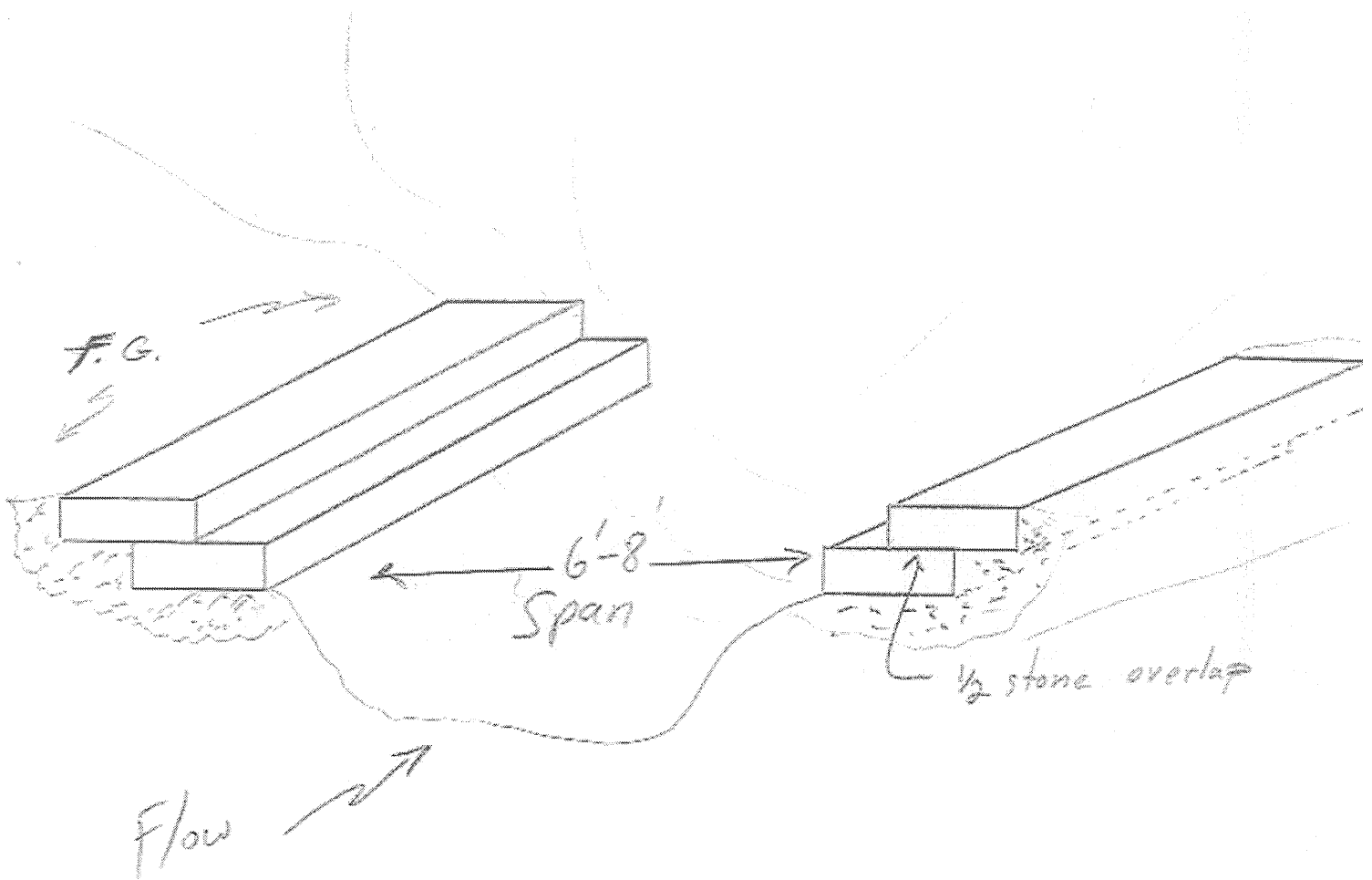


In fill around exposed root system using erosion control mix. Thickness varies from 1" to 5". Approximate length is 280 LF, approximate width is 12 feet.

No Scale

Curb Stone Bridge. Abutments

2 stones per abutment $6'' \times 17'' \times 5' \pm$ / ea stone
bed in crushed stone, side slopes
restored using existing organic soil.



Not to Scale

Jay Reynolds - Re: Fwd: Cedars

From: Alex Jaegerman
To: Jay Reynolds; Sarah Hopkins
Date: 5/19/2006 8:50 AM
Subject: Re: Fwd: Cedars
CC: Lee Urban; PENNY LITTELL

I am inclined to grant them a special dispensation. We obviously won't issue a building permit until the PG is in hand. This is a subdivision because of the multifamily development, with no public roads, so the risk to the City if it is recorded and never is built is nil.

Alex.

>>> Jay Reynolds 05/19/2006 8:30:34 AM >>>

Cedars wants the recorded plat prior to submitting a PG, says they can't refinance.....

Need your recommendation, thanks.

Jay

>>> "John Watson" <JWatson@thecedarsportland.org> 05/18/2006 3:53:24 PM >>>

Hi Jay:

Thanks for your time. Attached are the documents we spoke of.

To reiterate my concern for Rick, we are working with HUD on a refinancing which requires we have our land/title issues solved, ie, which means to close our refinancing deal, we need the plat released first. HUD is not flexible on this and any appeal would take us beyond our next closing date and we will incur another penalty. We already missed one closing date due this and it cost us about \$13,000. Missing the next one costs more, and we eventually are danger of losing our approval for this loan.

I am appealing to reason here as our project is currently delayed while we await that financing and truly unrelated to the refinancing except that the project drove the need for the change in the middle of our refinancing efforts. Having to guarantee work that is likely to change in price seems premature to say the least. Assume for the moment our project stalls due to financing and we cannot start for a year. Do we have to wait that long to conclude our refinancing? Cedars should not have to come up with the collateral for a letter of credit nor does the project have the kind of cash needed to secure the letter of credit at this time. Do you have something else you can condition the release with that won't take too much time or cost so much now?

John

CONFIDENTIALITY STATEMENT

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify the sender at The Cedars immediately at either (207) 772-5456 or at jwatson@thecedarsportland.org and destroy all copies of this message and any attachments. Mailing address is 630 Ocean Avenue, Portland, ME 04103

Jay Reynolds - Cedars Cost estimates for performance guarantees

From: Jay Reynolds
To: John Watson
Date: 6/15/2006 9:29 AM
Subject: Cedars Cost estimates for performance guarantees

Hello John,

I've reviewed the estimates submitted for your project and offer the following:

1. Cedars site: I've eliminated some costs that aren't required (street openings \$7,414.00; cut/fill \$297,939.48; water mains \$10,038;).
This lowers your performance guarantee total to \$205,373.13. This also lowers the inspection fee payment to \$4,107.46.
2. Evergreen Cemetary Wetland Mitigation: I could not review the estimate because the site plan/design has not been finalized or approved. Bill Needleman in my office was working on this with your designer/engineer, and was never completed. Once the plan is approvable, we will proceed. Please follow up with your engineer and we look forward to the approval of a finalized plan.
3. Sample forms: attached are some sample forms that developers and banks use to establish a performance guarantee satisfactory to the City.
Any questions, please e-mail or call.
Jay

Jay Reynolds
Development Review Coordinator
City of Portland Planning Division
(207) 874-8632
jayjr@portlandmaine.gov



CEDAR'S WETLANDS
PORTLAND, MAINE

LANDSCAPE ESTIMATE
Date: August 10, 2006

ITEMS INCLUDED IN BID:

WETLAND MITIGATION PLANTING:

Scope of work to include furnishing and installing the following plant materials. Includes bark mulch, peat moss, organic fertilizer, tree wrap and tree support stakes.

1	Black Spruce 6'-7'	6	Viburnum tomentosum 3'-4'
3	Black Spruce 5'-6'	7	Viburnum tomentosum 4'
3	Balsam Fir 6'-7'	8	Winterberry 3'
3	*American Larch 5'-6'	30	Winterberry 18"
6	*Red Maple clump 2"-2.5" cal.	194	Purple Iris 2yr
1	*Weeping willow 2"-2.5" cal.	85	Yellow Water Iris 2yr
110	Highbush Blueberry 24"	22	Cinnamon Fern 2yr
20	Highbush Blueberry 30"	40	Bark Mulch
20	Highbush Blueberry 3'		

* Fall Hazards - These trees can only be dug from the nursery in the spring because they will not survive any other digging time. Therefore, due to availability and time of season, these trees may have to be planted in the Spring or alternate plants at our unit costs, which are available upon your request.

WETLAND MITIGATION PLANTING PRICE: \$14,280.00

Conditional Notes:

- Price does not include seeding of wetlands.
- Water available on site for construction use.
- Loam to be supplied and rough graded by others.
- Loam for planting, if necessary, shall be in place by others.
- A total of two mobilizations are included in this price. Additional mobilizations are at additional cost.
- 1.5% finance charge on balance over 30 days, unless prior arrangements have been made.
- If you have any questions please call: *John Sheldon*

CULTIVATING NATURAL BEAUTY
Salmon Falls Nursery & Landscaping • St. Portland Street • Berwick, Maine, 03907
ph 207.385.5540 • fx 207.394.5060 • www.salmonfallsnursery.com
Landscape Design • Installation • Irrigation • Maintenance

TOTAL P.02

Salmon Falls Nursery & Landscaping

CEDAR'S ASSISTED LIVING
PORTLAND, MAINE

LANDSCAPE ESTIMATE
Date: August 10, 2005

ITEMS INCLUDED IN BID:

TREES, SHRUBS AND GROUNDCOVER PLANTING:

Scope of work to include furnishing and installing the following plant materials. Includes bark mulch, peat moss, organic fertilizer, tree wrap and tree support stakes.

2	*Bradford Pear 2"-2.5" cal.	3	Yellow Twigged Dogwood 3'-4'
2	*Red Maple 2"-2.5" cal.	6	Pfitzer Juniper 2'-2.5'
2	*River Birch 2.5"-3" cal. - clump	10	Marie's Doublefile Viburnum 4'-5'
8	Dark American Arborvitae 5'-6'	21	PJM Rhododendron 2'-2.5' spr.
5	White Spruce 5'-6'	104	Daylily (mixed colors) 1gal.
11	Common Lilac (mixed colors) 3'-4'	30	Hosta (mixed colors & size) 1gal.
3	Redosler Dogwood 3'-4'	46	Bark Mulch

* Fall Hazards - These trees can only be dug from the nursery in the spring because they will not survive any other digging time. Therefore, due to availability and time of season, these trees may have to be planted in the Spring or alternate plants at our unit costs, which are available upon your request.

TOTAL PLANTING PRICE: \$9,925.00

REMOVAL OF PLANTS AND REPLANTING:

Scope of work includes removing existing shrubs and perennials in areas as shown in the landscape plan. This does NOT include any of the trees, as these were not included in what needed to be transplanted. The list of plants to be transplanted are as follows:

64	Yews	10	Spirea
16	Decid. Azaleas	100	Daylilies
8	Viburnum	50	Perennials
4	Burning Bush		

TRANSPLANTING PRICE: \$5,928.00

TOTAL PROJECT PRICE: \$15,853.00

REPLACING REMOVED PLANTS WITH NEW PLANTS (ALTERNATE):

Scope of work includes just planting new plants in place of the existing plants. Proposed list is as follows:

64	Yews 24"-30"	10	Spirea 2'
16	Decid. Azaleas 2.5'	100	Daylilies 1gal.
8	Viburnum 3'-3.5'	50	Perennials 1 gallon
4	Burning Bush 3'-3.5'		

ALTERNATE - REPLACEMENT PLANTS PRICE: \$5,928.00

C U L T I V A T I N G N A T U R A L B E A U T Y

Salmon Falls Nursery & Landscaping 311 Portland Street Berwick, Maine, 05201

ph 207 384 5340 fx 207 384 5680 www.salmonfallsnursery.com

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

2008-0126
Application I. D. Number

8/25/2008
Application Date

Cedars Care Center- Rehab Ctr Additio
Project Name/Description

Cedars Healthcare
Applicant
630 Ocean Avenue, Portland, ME 04103
Applicant's Mailing Address

Consultant/Agent
Agent Ph: _____ Agent Fax: _____
Applicant or Agent Daytime Telephone, Fax

630 - 630 Ocean Ave, Portland, Maine
Address of Proposed Site
170 A020001
Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Apt 0 Condo 0 Other (specify) _____

Proposed Building square Feet or # of Units 460350 Acreage of Site 0 Proposed Total Disturbed Area of the Site R3 Zoning

Check Review Required:

- Site Plan (major/minor) Zoning Conditional - PB Subdivision # of lots _____
- Amendment to Plan - Board Review Zoning Conditional - ZBA Shoreland Historic Preservation DEP Local Certification
- Amendment to Plan - Staff Review Zoning Variance Flood Hazard Site Location
- After the Fact - Major Stormwater Traffic Movement Other _____
- After the Fact - Minor PAD Review 14-403 Streets Review

Fees Paid: Site Plan \$500.00 Subdivision _____ Engineer Review _____ Date 8/25/2008

Planning Approval Status:

Reviewer _____

- Approved Approved w/Conditions See Attached Denied

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached

OK to Issue Building Permit _____ signature _____ date _____

Performance Guarantee Required* Not Required

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

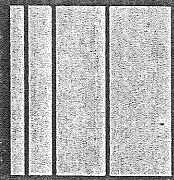
<input type="checkbox"/> Performance Guarantee Accepted	_____	_____	_____
	date	amount	expiration date
<input type="checkbox"/> Inspection Fee Paid	_____	_____	
	date	amount	
<input type="checkbox"/> Building Permit Issue	_____		
	date		
<input type="checkbox"/> Performance Guarantee Reduced	_____	_____	_____
	date	remaining balance	signature
<input type="checkbox"/> Temporary Certificate of Occupancy	_____	<input type="checkbox"/> Conditions (See Attached)	_____
	date		expiration date
<input type="checkbox"/> Final Inspection	_____	_____	
	date	signature	
<input type="checkbox"/> Certificate Of Occupancy	_____		
	date		
<input type="checkbox"/> Performance Guarantee Released	_____	_____	
	date	signature	
<input type="checkbox"/> Defect Guarantee Submitted	_____	_____	_____
	submitted date	amount	expiration date
<input type="checkbox"/> Defect Guarantee Released	_____	_____	
	date	signature	

_____	(42)	An estimate of the time period required for completion of the development	7
_____	(43)	A list of all state and federal regulatory approvals to which the development may be subject to. Include the status of any pending applications, anticipated timeframe for obtaining such permits, or letters of non-jurisdiction.	8
_____	(47)	Evidence of financial and technical capability to undertake and complete the development including a letter from a responsible financial institution stating that it has reviewed the planned development and would seriously consider financing it when approved.	h8
_____	(48)	Evidence of applicant's right title or interest, including deeds, leases, purchase options or other documentation.	
_____	(49)	A description of any unusual natural areas, wildlife and fisheries habitats, or archaeological sites located on or near the site.	
_____	(50)	A jpeg or pdf of the proposed site plan, if available.	
_____	(51)	Final sets of the approved plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.	

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

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

Other comments:



August 21, 2008
08318

Ms. Barbara Barhydt,
Development Review Services Manager
City of Portland - Planning and Development Department
389 Congress Street
Portland, ME 04101

Cedars Healthcare Center, Rehabilitation Center Addition – 630 Ocean Avenue
Minor Site Plan and Conditional Use Applications

Dear Ms. Barhydt:

On behalf of Cedars Healthcare, we are pleased to submit the attached applications for a minor site plan and expansion of a conditional use. The project is located at 630 Ocean Avenue in the R-3 Residential district on a 10.57-acre parcel, which currently contains The Cedars Care Center, The Atrium Independent Living Facility, and is currently completing construction of the Cedars Assisted Living Facility. For additional information regarding the project's location, refer to the USGS Map included in Section 6 of the attached application package.

The Cedars Care Center was permitted in 1988 and constructed in 1991. The Atrium was permitted in 1997 and constructed in 1999. The Cedars Assisted Living Facility was permitted in 2005 and construction is nearing completion. Throughout this process, the City of Portland has granted approval for all site, conditional use, and stormwater permitting. Additionally there have been some natural resource impacts on the site that have been permitted through the Maine Department of Environmental Protection (MDEP) Natural Resource Protection Act (NRPA) as well as by the United States Army Corps of Engineers (ACOE). The most recent City approval and associated MDEP and ACOE documentation has been included in Section 3 of the attached application package.

At this time, Cedars Healthcare is proposing to renovate the existing rehabilitation center located in The Cedars Care Center and expand the current floor area by approximately 1,500 square feet. These renovations and addition will provide a reorganization of the existing rehabilitation center space and will also allow The Cedars to modernize their existing infrastructure. This construction will improve the current level of service that can be provided to the patients, however, it will not increase the capacity to serve additional patients. The Architectural plan and elevations for the proposed improvements have been included in the attached application package in Section 9.

The rehabilitation center is located on the westerly side of the Cedars Care Center adjacent to an existing loading dock. This loading dock was originally constructed in 1991. Since that time,

7. Soils and Drainage

The proposed addition will expand over existing developed areas and the storm water runoff from the building addition will drain into the detention pond to the southeast (towards Ocean Avenue) and then into the municipal storm water system in Ocean Avenue.

The Storm Water Management Plan in Attachment Aviii outlines how the addition will reduce net impervious surface and potential pollution. The City's Engineering Reviewer has confirmed that there are no storm water concerns (Attachment D). The MDEP (in reviewing the amendment to Stormwater Management Law) have determined that the proposed stormwater management system is acceptable (Attachment H).

Staff has received one telephone call from a neighbor, Ms Manduca, who owns the property approximately 500 feet to the west of the proposed addition. It is understood that Ms Manduca considers that the Cedars development has increased the storm water impact on her property, particularly from the road around the western edge of the site and snow dumping in the vicinity of the wetlands near her lot.

Staff notes that the proposal under review would not affect Ms Manduca since the new addition is downhill from the western roadway and drains to the south east ie the opposite direction. The applicant has provided additional information: John Watson (Cedars CFO) submitted an e-mail on 9.18.2008 (Attachment B) that summarizes previous storm water and drainage issues and how Cedars has sought to address concerns raised by reviewers and neighbors in the past. Further detail regarding Ms Manduca's property is set out in a 2005 letter from the applicant in Attachment F.

8. Exterior Lighting

The proposals do not include exterior lighting.

9. Fire

The applicant has submitted requested information to the Fire Department (Attachment G). These items would be reviewed as part of the Building Permit review and there are no implications for the Site Plan review.

10. City Infrastructure

The proposals do not have any implications for city infrastructure.

VII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #53-~~98~~ relevant to standards for conditional use and site plan regulations, and other findings as follows:

1. That the proposed plans are in conformance with the R3 Conditional Use Regulations of the Land Use Code (section 14-88c and 14-474).
2. That the proposed plans are in conformance with the site plan standards of the Land Use Code.

Attachments presented to PB Workshop September 23, 2008

- A. Original Submission
 - i. Cover letter and Site Plan Application Form
 - ii. Conditional Use Application Form
 - iii. Previous Approval documents
 - iv. Right, title and Interest (Declaration of Condominium Document)
 - v. Technical and financial Capability
 - vi. Project maps
 - vii. Parking Study (from 2005)
 - viii. Storm water Management Plan (August 2008)
- B. E-mail from Cedars CFO John Watson dated Sept 18, 2008 presenting further clarification re Storm Water Management for the entire Cedars complex
- C. Memo from City Zoning Administrator dated Sept 10, 2008
- D. Memo from City Engineering Reviewer, Dan Goyette (Woodard & Curran) dated Sept 18, 2008

Attachments received since the PB Workshop September 23, 2008

- E. E-mail comments from Ms Manduka dated September 21, 2008
- F. Previous correspondence regarding Ms Manduka's concerns (submitted by applicant)
- G. Fire Department checklist submittal
- H. MDEP Letter with Permit dated October 2008
- I. Aerial Location Plan (prepared by staff)

Final Plan Set

- J. Boundary Survey
- K. Project Location Map
- L. Site Plan (as revised 10.01.2008)
- M. Alterations to Land Cover Map (re impervious area calculations)
- N. Architectural Plan and Elevations

The Atrium independent living facility was constructed (1999), which included a new and improved loading dock area, which services both facilities. The proposed renovations will extend over this older and unused loading dock area (approximately 610 square feet) as well as some of the adjacent paved areas. Overall the footprint of the building will be expanded by 890 square feet and will total approximately 1,500 square feet of additional enclosed building space (890 square feet of footprint expansion and 610 square foot renovation of loading dock area). The project will maintain adequate loading areas, as required by Chapter 14 of the City of Portland Code of Ordinances (14-351.c). Each facility has loading space at the front of their building entrances that can facilitate the service and access for ambulances. Additionally, each of the facilities share a separate truck service and delivery loading area located in rear of The Atrium.

The 890 square feet of building footprint expansion will extend over the paved and landscaped area adjacent to the facility. There are two parking spaces that will need to be eliminated to accomplish the addition, lowering the total parking spaces on the site to 186 spaces. As demonstrated in the Parking Study prepared by John L. Murphy, P.E. dated 3-22-05 and submitted as part of previous permitting efforts (attached as Section 7), the Cedars facility is required by Chapter 14 of the City of Portland Code of Ordinances to contain 149 spaces. As the site will provide 186 spaces after the addition, the facility will exceed the Ordinance requirements.

The project does not propose any modifications to the layout of the existing utilities that serve the site. The facility is currently served by public water, sewer, electric, telephone, and cable television. No significant change in service is anticipated as part of the proposed improvements.

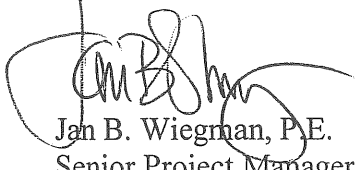
In 1997, the size of the Atrium development subjected the project to the MDEP Site Location of Development Act (SLDA). The City of Portland has utilized their delegated review authority to review all previous site and stormwater permitting on behalf of the MDEP. The proposed addition is a modification of this previous SLDA permit. Since the MDEP revised their stormwater regulations in 2005, the City of Portland no longer has delegated authority to review Stormwater Permits on behalf of the MDEP. As such, a Stormwater Permit application has been submitted to the MDEP's Portland Office and is currently under review.

Overall the project will result in a net decrease in impervious surface of 108 square feet. Approximately 3,000 square feet of land area will be disturbed by the project during construction. There will be no change to the land areas that are considered "Developed Area" as defined by the MDEP in Chapter 500. As the project results in a net decrease in impervious area, the proposed development will not create an increased pollutant load to any tributary areas, nor will it increase peak flow rates off the site. Additionally, erosion and sedimentation controls along with associated maintenance and housekeeping methodology have been outlined to prevent unreasonable impacts on the site and to the surrounding environment. Refer to the Stormwater Management Plan included in Section 8 for additional information.

We hope you find this application complete and can take action at your next scheduled meeting. We will attend the meeting to answer questions you may have.

Sincerely,

SEBAGO TECHNICS, INC.

A handwritten signature in black ink, appearing to read 'Jan B. Wiegman', is written over the typed name and title.

Jan B. Wiegman, P.E.
Senior Project Manager

JMM:JBSW/cd
Enc.

cc: John Watson
Tom Yoder

Table of Contents

Section 1	Development Review Application Form and Site Plan Checklist
Section 2	Conditional Use Application Form
Section 3	Previous Approval Documents
Section 4	Right, Title, Interest
Section 5	Evidence of Technical and Financial Capacity
Section 6	Project Maps
Section 7	Parking Study
Section 8	Stormwater Management Plan
Section 9	Architectural Plan and Elevations
Section 10	Development Plans

Section 1

Development Review Application Form and Site Plan Checklist



Development Review Application Portland, Maine

Department of Planning and Development, Planning Division and Planning Board

Address of Proposed Development: 630 Ocean Avenue	
Zone: R-3 Residential Zone	
Project Name: The Cedars Care Center - Rehabilitation Center Addition	
Existing Building Size: 71,840 sq. ft.	Proposed Building Size: 72,730 sq. ft.
Existing Acreage of Site: 460,350 sq. ft.	Proposed Acreage of Site: 460,350 sq. ft.
Proposed Total Disturbed Area of the Site: 3,000 sq. ft.	
<p>* If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) or Chapter 500, Stormwater Management Permit with the Maine Department of Environmental Protection (DEP).</p>	
Tax Assessor's Chart, Block & Lot: Chart # 174 and 170 Block # A013 and A020 Lot #	Property Owners Name/ Mailing address: Cedars Healthcare 630 Ocean Avenue Portland, ME 04103
	Telephone #: (207) 772-5456 Cell Phone #:
Consultant/Agent Name: Mailing Address, Telephone #, Fax # and Cell Phone #: Jon Wiegman, P.E. Sebago Technics, Inc. 400 Center Street, Auburn, ME 04210 (207) 783-5456	Applicant's Name/ Mailing Address: Cedars Healthcare 630 Ocean Avenue Portland, ME 04103
	Telephone #: (207) 772-5456 Cell Phone #:
Fee for Service Deposit (all applications) <input checked="" type="checkbox"/> (\$200.00)	
Proposed Development (check all that apply)	
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Building Addition <input type="checkbox"/> Change of Use <input type="checkbox"/> Renovation <input type="checkbox"/> Other <input type="checkbox"/> Void <input type="checkbox"/> Maintenance <input type="checkbox"/> Warehouse Demolition <input type="checkbox"/> Repaving <input type="checkbox"/> Sidewalk \$1000 + \$1000 per 100' <input type="checkbox"/> Signage per sq. ft. <input type="checkbox"/> Foundation repair <input type="checkbox"/> Foundation <input type="checkbox"/> Sewer/Stormwater of Development \$3000 <input type="checkbox"/> Permit for residential projects which shall be \$2000 per project <input type="checkbox"/> Traffic Movement \$1000000 <input type="checkbox"/> Stormwater Quality \$100000 <input type="checkbox"/> Survey 14000 Review \$40000 + \$2500 per lot <input type="checkbox"/> Other _____	

Major Development (more than 10,000 sq. ft.)

- Under 50,000 sq. ft. (\$500.00)
- 50,000 - 100,000 sq. ft. (\$1,000.00)
- Parking Lots over 100 spaces (\$1,000.00)
- 100,000 - 200,000 sq. ft. (\$2,000.00)
- 200,000 - 500,000 sq. ft. (\$3,000.00)
- Over 500,000 sq. ft. (\$5,000.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Minor Site Plan Review

- Less than 10,000 sq. ft. (\$400.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Plan Amendments

- Planning Staff Review (\$250.00)
- Planning Board Review (\$500.00)

Billing Address: (name, address and contact information)

Cedars Healthcare
Attn: John Watson
630 Ocean Avenue
Portland, ME 04103

Submittals shall include seven (7) folded packets containing of the following materials:

- A. Copy of the application.
- B. Cover letter stating the nature of the project.
- C. Written Submittal (Sec. 14-525 2. (c)), including evidence of right, title and interest.
- D. A standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
- E. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
- F. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
- F. In addition to the seven (7) sets of documents listed above, one (1) set of the site plans reduced to 11 x 17 must be submitted.

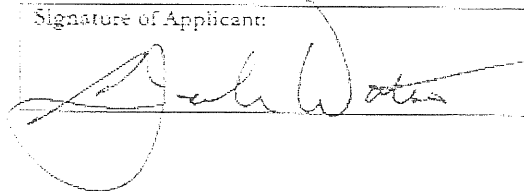
Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521). Portland's Land Use Code is on the City's web site: www.portlandmaine.com. Copies of the ordinances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

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

This application is for site review only; a Performance Guarantee, Inspection Fee, Building Permit Application and associated fees will be required prior to construction.

Signature of Applicant:

Date:



8/19/2008



Site Plan Checklist Portland, Maine

Department of Planning and Development, Planning Division and Planning Board

Project Name, Address of Project _____

Application Number _____

The form is to be completed by the Applicant or Designated Representative:

Check Submitted	Site Plan Item	Required Information	Section 14-525 (b,c)
✓	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	1
✓	(2)	Name and address of applicant and name of proposed development	a
✓	(3)	Scale and north points	b
✓	(4)	Boundaries of the site	c
✓	(5)	Total land area of site	d
✓	(6)	Topography - existing and proposed (2 feet intervals or less)	e
✓	(7)	Plans based on the boundary survey including:	f
✓	(8)	Existing and conditions	a
✓	(9)	Location of water courses, wetlands, marshes, rock outcroppings and wooded areas	b
✓	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
✓	(11)	Approx location of buildings or other structures on parcels abutting the site and a zoning summary of applicable dimensional standards (see page 10 of zoning	d
	(12)	Location of on-site waste receptacles	e
	(13)	Public utilities	f
	(14)	Water and sewer mains	g
	(15)	Culverts, drains, existing and proposed, showing size and directions of flow	c
✓	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
✓	(17)	Location and dimensions of on-site pedestrian and vehicular access ways	g
✓	(18)	Parking areas	g
✓	(19)	Loading facilities	h
✓	(20)	Design of ingress and egress of vehicles to and from the site, and public streets	i
✓	21	Curb and sidewalks	j
	(22)	Landscape plan showing:	k
	(23)	Location of existing vegetation and proposed vegetation	k
	(24)	Type of vegetation	k
	(25)	Quantity of plantings	k
	(26)	Size of proposed landscaping	k
	(27)	Existing areas to be preserved	k
	(28)	Preservation measures to be employed	k
	(29)	Details of planting and preservation specifications	k
	(30)	Location and details of shading and screening	l
	(31)	Location and treatment of window lighting systems	l
	(32)	Location of the hydrants, existing and proposed, per to Fire Department (see 14-525	l
✓	33	Watered statements to include:	l
✓	(34)	Description of proposed uses on the location of site	l
✓	(35)	Quantity and type of residential units	l
✓	(36)	Total floor area of the site	o1
✓	(37)	Total floor area and finished area and ground coverage of all structures, building and site area	o2
✓	(38)	General summary of existing and proposed easements or other burdens	o1
✓	(39)	Type, quantity, and method of handling solid waste disposal	o2
	(40)	Applicant's evaluation of whether or available, or off-site public facilities, including water, waste and streets	o1
✓	(41)	Description of existing and proposed drainage and proposed storm water management plan or description of measures to control surface runoff	o2

Section 2

Conditional Use Application Form



Conditional Use Application

Department of Planning and Development
Portland Planning Board

1. Applicant Information:

Cedars Healthcare

Name

630 Ocean Avenue

Address

Portland, ME 04103

(207) 772-5456

Phone

Fax

2. Subject Property:

630 Ocean Avenue

Address

Portland, ME 04103

174 A013 and 174 A020

Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other

Name

Address

Phone

Fax

4. Current Zoning Designation(s):

R-3 Residential Zone

w/ Conditional Use

5. Right, Title, or Interest: Please identify the nature of the applicant's right, title, or interest in the subject property.

The applicant owns the property

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

6. Vicinity Maps: Attach a map showing the subject parcel as well as adjacent parcels, labeled as to its location and lot number. Applicant may utilize the City Zoning Map or Parcel Map as a source.

7. Existing Use:

Institutional - long term & extended care facility and intermediate care facility

Describe the existing use of the subject property.

8. Type of Conditional Use Proposed:

Expansion of Existing Institutional Use

9. **Sketch Plan:** On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100')

10. **Conditional Use Authorized by:** Section 14- 88.(c).2.a & 88.(c).2.b

11. **Standards - Criteria for Conditional Use Appeal**

Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

- a. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
- b. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area;
- c. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

12. **Application Fee:** A fee for must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

- ✓ Fee for Service Deposit (\$200.00)
(Required for all applications in addition to the applicable application fee listed below)
- ✓ Conditional Use \$100.00
- Legal Advertisements percent of total bill
- Notices .55 cents each
(workshop and public hearing)

13. **Signature:** The above information is true and accurate to the best of my knowledge.

5/19/2008
Date of Filing


Signature of Applicant

Further Information: Please contact the Planning Director for further information regarding the conditional use process. Applicants are encouraged to make an appointment to discuss conditional use before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the conditional use application which can provide additional background or contextual information, and describe the proposed conditional use and reasons for the request in a manner that best suits the situation.

Portland Planning Board, Portland, Maine Effective: July 6, 2005

Section 3

Previous Approval Documents



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

Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

LUC

OCT 14 2005
R E C E I V E D

September 19, 2005

Mr. David Kamila
Land Use Consultants
966 Riverside Street
Portland ME 04103

RE: Cedars Assisted Living Facility Expansion; 630 Ocean Avenue
CBL: 174-A-013, 174-A-014, 170-A-002,
#2004-0078

Dear Mr. Kamila:

On September 13, 2005, the Portland Planning Board voted on the following motions for the Cedars Assisted Living Facility expansion in the vicinity of 630 Ocean Avenue.

1. The Planning Board voted 7-0 that the plan was in conformance with the Conditional Use standards of the Land Use Code.
2. The Planning Board voted 7-0 that the plan was in conformance with the Site Plan Ordinance (including Site Location of Development Law) of the Land Use Code with the following conditions of approval:
 - i. The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.
 - ii. The site plan shall meet the requirements stated in Jim Scymour's memo dated September 8, 2005 except paragraph 2A.
 - iii. The final condominium documents shall be reviewed and approved by Corporation Counsel.

O:\PLANNING\REVIEWS\OCEAN630\09-13-05\APPROVALLETTER.DOC

3. The Planning Board voted 7-0 that the plan was in conformance with the Subdivision Ordinance of the Land Use Code with the following conditions of approval:
 - i. The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.
 - ii. The plan shall meet the requirement stated in Jim Seymour's memo dated September 8, 2005 except for paragraph 2A.
 - iii. That the final condominium documents shall be reviewed and approved by Corporation Counsel.
 - iv. That the final plat shall be reviewed and approved by planning staff.

The approved plan includes 30 assisted living units.

The approval is based on the submitted site plan and the findings related to Conditional Use, Site Plan (including Site Location of Development Law) and Subdivision review standards as contained in Planning Report #52-05, which is attached.

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


1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. 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.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work'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.
6. 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. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 Richard Knowland at 874-8725.

Sincerely,



Lee Lowry III, Chair
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Sarah Hopkins, Development Review Services Manager
Richard Knowland, Senior Planner
Jay Reynolds, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Inspections Division
Michael Bobinsky, Public Works Director
Traffic Division
Eric Labelle, City Engineer
Jeff Tarling, City Arborist
Penny Littell, Associate Corporation Counsel
Greg Cass, Fire Prevention
Assessor's Office
Approval Letter File
Kathryn Callan, President, The Cedars, 630 Ocean Avenue, Portland ME 04103



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

DEPARTMENT ORDER

IN THE MATTER OF

JHA ASSISTED LIVING INC.
Portland, Cumberland County
CEDARS EXPANSION
L-22483-TG-B-*m*
(approval, partial after-the-fact)

) NATURAL RESOURCES PROTECTION
) TIER 3 WETLAND ALTERATION
) WATER QUALITY CERTIFICATION
) MINOR REVISION/MODIFICATION
) FINDINGS OF FACT AND ORDER

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

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order #L-22483-TG-A-N, dated September 26, 1997, the Department approved the filling of 35,504 square feet of forested freshwater wetlands for the construction of the Atrium, an Independent Living Facility. The Atrium Independent Living facility is located on the same site as the Cedars Nursing Care facility. As part of the Department Order, the applicant was required to compensate for wetland impacts by creating 10,100 square feet of wetland, enhancing 18,800 square feet of wetland and preserving 51,755 square feet of on-site forested freshwater wetlands with a deed restriction. The project site is located off Ocean Avenue in the City of Portland.

The facility is now under different management. The applicant conducted a thorough review of the existing site conditions and determined that they only partially completed the compensation required under DEP #L-22483-TG-A-N.

B. Summary: The applicant proposes to construct an Assisted Living facility connecting the existing Independent Living Facility and the existing Nursing Care Center. The proposed building addition, driveway and parking spaces will fill 16,018 square feet of forested freshwater wetland. The applicant is also seeking approval for 1,000 square feet of after-the-fact wetland fill associated with the construction of an entrance driveway off Ocean Avenue. Cumulative wetland fill on the project site totals 52,522 square feet.

The proposed building addition is located within the previously-approved compensation area. The applicant proposes to remove the deed restriction from the area of wetland that will be filled by the construction of the Assisted Living Facility. The applicant proposes to provide wetland compensation for the total cumulative wetland impacts on-site.

C. Current Use of Site: The project site is developed with the existing Cedars Nursing Care Facility, the Atrium Independent Living Facility and associated infrastructure. Undeveloped portions of the parcel are primarily forested freshwater wetlands. It is surrounded by residential development and is accessed from Byfield Road and Ocean Avenue. The property is further identified as Lots #13A and #14A on the City of Portland's Tax Map #174.

2. WATER QUALITY CONSIDERATIONS:

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

3. HABITAT CONSIDERATIONS:

The Maine Department of Inland Fisheries and Wildlife reviewed the proposed project and stated that there are no Essential or Significant Wildlife Habitats at the project site.

4. WETLANDS AND WATERBODIES PROTECTION RULES:

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

a. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. Each application for a freshwater wetland permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicant submitted an alternative analysis for the proposed project completed by Divine, Tarbell & Associates Inc. and dated July 2005. The proposed project will offer an intermediate level of health care on the same campus as the existing Nursing Care Center and the Independent Living Facility. It will allow couples to remain in the same complex for a longer period of time, enhancing the quality of life for each person. The building was oriented on the property to connect the other two facilities so that individuals can safely visit other facilities and their loved ones regardless of their physical conditions and the outside elements. There is no other possible location for the proposed project on the property that would impact less wetland.

b. Minimal Alteration. The amount of freshwater wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant proposes to fill 16,018 square feet for the construction of the Assisted Living Facility and is seeking approval for 1,000 square feet of after-the-fact wetland fill. The proposed project has been designed to minimize wetland impacts by keeping the fill slopes close to the building, constructing the subsurface detention facility in the middle of an existing cul-de-sac and minimizing parking spaces.

c. Compensation. In accordance with Chapter 310(5)(C), compensation is required to achieve the goal of no net loss of freshwater wetland functions and values. The applicant proposes to compensate for cumulative wetland impacts on the site. The applicant submitted a Wetland Function and Value Assessment as Attachment 12 of the application and dated July 2005. Flood Flow Attenuation, Sediment/Toxicant Retention and Nutrient Removal/Retention Transformation were identified as the primary functions of the impacted wetlands. The applicant proposes to compensate for these lost functions and values, on site, by restoring two small wetlands, enhancing another wetland area and the existing detention pond, constructing an underground detention facility and preserving the remaining wetland areas on site. Utilizing wetland mitigation ratios found in Chapter 310, the applicant can be credited with 30,056 square feet of wetland compensation on site, plus the additional floodflow attenuation, sediment/toxicant retention and nutrient removal/retention that will be provided by the proposed underground detention facility. The applicant also proposes off-site compensation, at Evergreen Cemetery which is owned by the City of Portland. The applicant proposes to restore an existing wetland at the cemetery by creating a mixture of wetland types, mound and pool micro topography and an aquatic marsh habitat. It also proposes to improve stream flows by replacing four stream culverts that are in various stages of disrepair with simple wooden bridges. Off site wetland compensation will total 20,370 square feet. The total compensation package includes 50,426 square feet of wetland restoration, enhancement and preservation plus the replacement of lost functions and values provided by the underground detention facility to be constructed on site. The compensation plan is further described in Attachment 13 of the application, dated July 2005. The applicant submitted a construction plan, a monitoring plan, draft deed restrictions and a Memorandum of Agreement with the City of Portland.

The Department finds that the applicant has avoided and minimized freshwater wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project provided the applicant submits a recorded copy of the on-site deed restriction and a signed copy of the final agreement with the City of Portland prior to project construction, and that the applicant submits an annual wetland mitigation monitoring report, for a period of five years after implementation of the wetland compensation plan. The reports must be submitted no later than December 31 of each year.

5. OTHER CONSIDERATIONS:

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

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

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that the applicant submits a recorded copy of the deed restriction and a signed copy of the final agreement with the City of Portland prior to project construction, and that the applicant submits an annual wetland mitigation monitoring report for a period of five years after implementation of the wetland compensation plan. The report must be submitted no later than December 31 of each year.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S.A. Section 480-P.

THEREFORE, the Department APPROVES the above noted application of JHA ASSISTEDLIVING INC to fill 16,018 square feet of forested freshwater wetlands and for the after-the-fact filling of 1,000 square feet of forested freshwater wetlands in order to construct an Independent Living Facility, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:


- 1. Standard Conditions of Approval, a copy attached.
- 2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.

3. The applicant shall submit a recorded copy of the on-site deed restriction and a signed copy of the final agreement with the City of Portland prior to the start of construction.
4. The applicant shall an annual wetland mitigation monitoring report for a period of five years after implementation of the wetland compensation plan. The report must be submitted to the Bureau of Land and Water Quality no later than December 31 of each year.

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

DONE AND DATED AT AUGUSTA, MAINE, THIS 20th DAY OF February, 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

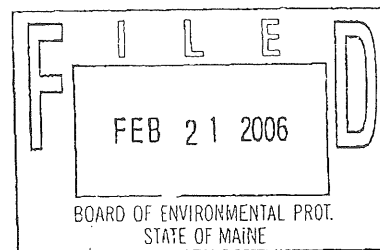
By: 
DAVID P. LITTELL, COMMISSIONER

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application July 5, 2005

Date of application acceptance July 12, 2005

Date filed with Board of Environmental Protection
DEH/ATS#55770/L22483BM





NATURAL RESOURCE PROTECTION ACT (NRPA) STANDARD CONDITIONS

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

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

Revised (4/92)
DEP LW0428



DEPARTMENT OF THE ARMY
 NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
 898 VIRGINIA ROAD
 CONCORD, MASSACHUSETTS 01742-2751

REPLY TO:
 ATTENTION OF:

MAINE PROGRAMMATIC GENERAL PERMIT (PGP)
 AUTHORIZATION LETTER AND SCREENING SUMMARY

JHA Assisted Living, Inc.
 c/o Kathryn Callnan, President
 630 Ocean Avenue
 Portland, Maine 04103

CORPS PERMIT # NAE-2005-2407
 CORPS PGP ID# 05-375
 STATE ID# L-

DESCRIPTION OF WORK:

To place fill in 33,038 SF (0.76 acres) of wetland in conjunction with the construction of an assisted living facility at the existing Codara Nursing Care Center off 630 Ocean Avenue at Portland, Maine. 35,504 SF (0.82 acres) of impact was previously authorized under Corps Permit 199701670. Cumulative wetland impact for the site is 1.57 acres. To address State requirements for compensatory mitigation, approximately 1.2 acres of wetland restoration/ enhancement is proposed on site and an additional .47 acres of wetland restoration enhancement off site at Evergreen Cemetery to include restoration and enhancement of an unnamed tributary stream to Capisic Brook. SEE ATTACHED CONDITIONS

LAT-LONG COORDINATES : 43.6890060 N 70.2670056 W USGS QUAD: Portland West, ME

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. Your work is therefore authorized by the U.S. Army Corps of Engineers under the enclosed Federal Permit, the Maine Programmatic General Permit (PGP).

You must perform the activity authorized herein in compliance with all the terms and conditions of the PGP [including any attached Additional Special Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the enclosed PGP carefully, including the PGP conditions beginning on page 7, to familiarize yourself with its contents. You are responsible for complying with all of the PGP requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

If you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 38 of the PGP (page 15) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the PGP on October 11, 2010. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 11, 2011.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary. Also, this permit requires you to notify us before beginning work and allow us to inspect the project. Hence, you must complete and return the attached Work Start Notification Form(s) to this office no later than 2 weeks before the anticipated starting date. (For projects requiring mitigation, be sure to include the MITIGATION WORK START FORM).

II. STATE ACTIONS: PENDING [] ISSUED [] DENIED [] DATE _____

APPLICATION TYPE: PBR: _____ TIER 1: _____ TIER 2: _____ TIER 3: X LURC: _____ DMR LEASE: _____ NA: _____

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 7/14/05 LEVEL OF REVIEW: CATEGORY 1: _____ CATEGORY 2: X

AUTHORITY: SEC 10 _____, 404 X, 10/404 _____, 103 _____

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project

ESSENTIAL FISH HABITAT (EFH): EFH PRESENT Y (CIRCLE ONE)

IF YES: Based on the terms and conditions of the PGP, which are intended to ensure that authorized projects cause no more than minimal environmental impacts, the Corps of Engineers has preliminary determined that this project will not cause more than minimal adverse effects to EFH identified under the Magnuson-Stevens Fisheries Conservation and Management Act.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA NO USF&WS NO NMFS NO

If you have any questions on this matter, please contact my staff at 207-623-8367 at our Manchester, Maine Project Office.

Rodney A. Howe
 RODNEY A. HOWE
 SENIOR PROJECT MANAGER
 MAINE PROJECT OFFICE

FRANK J. DELGIUDICE _____ DATE _____
 CHIEF, PERMITS & ENFORCEMENT BRANCH
 REGULATORY DIVISION

ADDITIONAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
PROGRAMMATIC GENERAL PERMIT
NO. NAE-2005-2407
JHA Assisted Living, Inc.
630 Ocean Avenue
Portland, Maine

1. This permit authorizes impacts to only those areas of wetlands shown on the project plans entitled CEDARS ASSISTED LIVING FACILITY, 630 OCEAN AVENUE, PORTLAND, MAINE, in 12 sheets dated 6-27-05. No other filling, clearing or other disturbance in wetlands shall occur. Any additional proposals that would further impact wetlands will require additional permitting.
2. The permittee shall assure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers jurisdiction.
3. Adequate sedimentation and erosion control devices, such as geotextile silt fences or other devices capable of filtering the fines involved, shall be installed and properly maintained to minimize impacts during construction. These devices must be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.

APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN BLACK INK ONLY

→ SEE DETACHABLE INSTRUCTIONS

1. Name of Applicant: JHA Assisted Living, Inc.		4. Name of Agent (if applicable): Kathryn Callnan, President											
2. Applicant's Mailing Address: c/o Kathryn Callnan 830 Ocean Avenue, Portland, ME 04103		5. Agent's Mailing Address: 830 Ocean Avenue, Portland, ME 04103											
3. Applicant's Daytime Phone #: (207) 772-5456		6. Agent's Daytime Phone #: (207) 772-5456											
7. Location of Project (Nearest Road, Street, Rte.): 830 Ocean Avenue	8. Town: Portland	9. County: Cumberland											
10. Type of Resource (Check all that apply): <input type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input type="checkbox"/> Coastal Wetland <input checked="" type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain	11. Name of Resource: Unnamed wetland		12. Amount of Impact (Sq. Ft.): Fill: 17,018 (0.391 ac.) Dredging/Veg Removal/Other:										
	13. Type of Freshwater Wetland (Check all that apply): <input checked="" type="checkbox"/> Forested <input checked="" type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input type="checkbox"/> Other _____												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">FOR FRESHWATER WETLANDS:</th> </tr> <tr> <td style="text-align: center;">Tier 1:</td> <td style="text-align: center;">Tier 2/3:</td> </tr> <tr> <td><input type="checkbox"/> 0 - 4,999 sq. ft.</td> <td><input checked="" type="checkbox"/> 15,000 - 19,999 sq. ft.</td> </tr> <tr> <td><input type="checkbox"/> 5,000 - 9,999 sq. ft.</td> <td><input type="checkbox"/> 20,000 - 43,560 sq. ft.</td> </tr> <tr> <td><input type="checkbox"/> 10,000 - 14,999 sq. ft.</td> <td><input type="checkbox"/> > 43,560 sq. ft.</td> </tr> </table>				FOR FRESHWATER WETLANDS:		Tier 1:	Tier 2/3:	<input type="checkbox"/> 0 - 4,999 sq. ft.	<input checked="" type="checkbox"/> 15,000 - 19,999 sq. ft.	<input type="checkbox"/> 5,000 - 9,999 sq. ft.	<input type="checkbox"/> 20,000 - 43,560 sq. ft.	<input type="checkbox"/> 10,000 - 14,999 sq. ft.	<input type="checkbox"/> > 43,560 sq. ft.
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<input type="checkbox"/> 10,000 - 14,999 sq. ft.	<input type="checkbox"/> > 43,560 sq. ft.												
14. Brief Project Description: The proposed Assisted Living Facility (ALF) is to provide transitional care between existing Independent Living Facility and Nursing Care Center on the same campus. Construction of Nursing Care Center filled 0.8 ac. of wetland; construction of Independent Living Facility filled an additional 0.8 ac. of wetland.													
15. Size of Lot or Parcel: <input type="checkbox"/> square feet, or 10.6 <input checked="" type="checkbox"/> acres													
16. Title, Right or Interest: <input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement													
17. Used Reference Numbers: Book#: 7282 Page: 133		18. Map and Lot Numbers: Map #: 174 Lot #: 13A & 14A											
19. DEP Staff Previously Contacted: Linda Kokemuller Dawn Hallowell		20. Part of a larger project: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No After-the-Fact: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No											
21. Resubmission of Application: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, previous application #: 97-441-S Previous project manager:		23. Previous Wetland Alteration: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No											
22. Written Notice of Violation: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of DEP enforcement staff involved:													
24. Detailed Directions to the Project Site: From the North, take I-295 South in Portland to Baxter Blvd/Washington Avenue Exit (Rts 100 N); turn right off Exit ramp, then left at traffic light onto Washington Ave. Travel approx. 1 mi.; at traffic light turn right onto Ocean Ave (Route 9). Travel approx. 0.2 mi., then turn left into the Cedars Campus.													
25. TIER: <input type="checkbox"/> TIER 1 <input checked="" type="checkbox"/> TIER 2/3 AND INDIVIDUAL PERMITS													
<input type="checkbox"/> Fee <input type="checkbox"/> Topographic Map <input type="checkbox"/> Documentation of Title, Right or Interest <input type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input type="checkbox"/> Photos of Area <input type="checkbox"/> Statement of Avoidance & Minimization <input type="checkbox"/> Statement/Copy of cover letter to Maine Historic Preservation Commission <input type="checkbox"/> Copy to municipality		<input checked="" type="checkbox"/> Fee <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Documentation of Title, Right, Interest <input checked="" type="checkbox"/> Photos of Area <input checked="" type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input checked="" type="checkbox"/> Copy of Public Notice <input checked="" type="checkbox"/> Professional Certification/Delineation <input checked="" type="checkbox"/> Erosion Control Plan <input checked="" type="checkbox"/> Alternatives Analysis, if required <input checked="" type="checkbox"/> Description of Avoidance & Minimization <input checked="" type="checkbox"/> Compensation Plan (if required) <input type="checkbox"/> Description of Previously Mined Peatland (if required) <input checked="" type="checkbox"/> Statement/Copy of cover letter to Maine Historic Preservation Commission <input checked="" type="checkbox"/> Construction Plan, if required <input checked="" type="checkbox"/> Copy to municipality											
26. FEES: Amount Enclosed: \$401.62													

FOR DEP USE	L-	ATS#	Total FEES	CK#	Date Rec'd
FOR CORPS USE	App#:	Office Code:	Date Rec'd:	Date Completed:	

Section 4

Right, Title, Interest

DECLARATION OF CONDOMINIUM

OF

CEDARS CONDOMINIUMS

Portland, Maine

June 30, 2006

DECLARATION OF CONDOMINIUM
OF
CEDARS CONDOMINIUMS
PORTLAND, MAINE

THIS DECLARATION OF CONDOMINIUM is made this 30th day of June 2006, by and between JHA Properties, Inc. a Maine non-profit corporation, its successors and assigns ("JHA Properties"), and Cedars Nursing Care Center, Inc., a Maine non-profit corporation, its successors and assigns ("Cedars", together with JHA Properties, the "Declarants"), each with a place of business at 630 Ocean Avenue, Portland, Maine 04103, as the owners in fee simple of the Real Estate (as hereinafter defined).

ARTICLE I
SUBMISSION

Section 1.1. Property. Declarants hereby submit the real estate described in Exhibit A attached hereto and made a part hereof (the "Real Estate") situated in the City of Portland, County of Cumberland and State of Maine, together with and subject to all easements, rights and appurtenances thereto belonging and the Buildings (as hereinafter defined) thereon (collectively, the "Property") to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, as the same may be amended from time to time, known as the Maine Condominium Act (the "Act") and hereby creates with respect to the Property a condominium to be known as "Cedars Condominiums" (the "Condominium"). The Condominium consists of the land described in Exhibit A and those Units (as hereinafter defined) listed in Exhibit B, attached hereto and made a part hereof, and depicted on the Plat (as hereinafter defined).

The submission of the Real Estate to the Condominium shall create three (3) Condominium Units, as more particularly described herein, which upon recording of the Declaration shall be owned in fee by the Declarants as follows:

(a) Unit No. 1 shall be owned in fee by Cedars, its successors and assigns, and JHA Properties, for itself and its successors and assigns, hereby **grants and releases** to Cedars, its successors and assigns all right, title and interest JHA Properties may have in and to Unit No.1 and the development rights associated therewith.

(b) Unit No. 2 shall be owned in fee by Cedars, its successors and assigns, and JHA Properties, its successors and assigns, as tenants in common, in the following percentages:

- (i) Cedars 33.6% ("Cedars' Tenancy-in-Common Interest"); and
- (ii) JHA Properties 66.4% ("JHA Properties' Tenancy-in-Common Interest").

JHA Properties, for itself and its successors and assigns, hereby grants and releases to Cedars, its successors and assigns all right, title and interest JHA Properties may have in and to Cedars' Tenancy-in-Common Interest in Unit No.2 and the development rights associated therewith. Cedars, for itself and its successors and assigns, hereby grants and releases to JHA Properties, its successors and assigns all right, title and interest Cedars may have in and to JHA Properties' Tenancy-in-Common Interest in Unit No.2 and the development rights associated therewith.

(c) Unit No. 3 shall be owned in fee by JHA Properties, its successors and assigns, and Cedars, for itself and its successors and assigns, hereby grants and releases to JHA Properties, its successors and assigns all right, title and interest Cedars may have in and to Unit No.3 and any development rights associated therewith.

(d) In consideration of the rights and easements created under this Declaration each of the Declarants, for itself and its successors and assigns, hereby grants and releases to the other all right, title and interest it may have in and to the following easements of record with respect to the Real Estate:

(i) Utility and Access Easement described as Parcel B in easement deed from Cedars Nursing Care Center, Inc., to JHA Services, Inc., dated May 25, 1990, and recorded in the Cumberland County Registry of Deeds, Book 9188, Page 115; as amended and modified Short Form Quitclaim Deed from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 17, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 319, and by Easement Modification, between JHA Services, Inc. and Cedars Nursing Care Center, Inc., dated April 1, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13708, Page 305 (said deed dated May 25, 1990, as so modified being the "Granting Deed");

3 ref

(ii) Emergency Access Road Easement described as Parcel C in the Granting Deed;

(iii) Parking Easement, Utility and Access Easement and Loop Road Easement retained as Items 1, 2 and 3 of Parcel C in the Granting Deed;

(iv) Access Easement in easement deed from JHA Properties, Inc., to Cedars Nursing Care Center, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 321;

1 reference

(v) Access Easement in easement from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 325; and

reference

(v) Agreement and Reciprocal Easement Deed, between Cedars Nursing Care Center, Inc., and JHA Properties, Inc., dated as of March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 331.

reference

Section 1.2. Maximum Number of Units. The maximum number of Units the Declarants reserve the right to create is three (3).

Section 1.3. Address of Condominium. The address of the Condominium is:

Cedars Condominiums.
630 Ocean Avenue
Portland, Maine 04103

ARTICLE 2 DEFINITIONS

Section 2.1. Terms Defined in the Act. Capitalized terms not otherwise defined in this Declaration or in the Plat, shall have the meanings specified or used in the Act.

Section 2.2. Terms Specifically Defined in this Declaration. In addition to the terms defined above, the following terms shall have the following meanings in this Declaration, the Bylaws, and the Plat:

- (a) "Act" has the meaning set forth in Section 1:1.
- (b) "Association" means the Unit owners' association of the Condominium, which shall be known as the Cedars Condominiums Owners Association.
- (c) "Budget" has the meaning set forth in Section 13.1(a).
- (d) "Buildings" (or in the singular, a "Building") means any residential, commercial, long term care, service or recreational structure or other improvement now existing or hereafter constructed on the Real Estate.
- (e) "Bylaws" means the document having that name and providing for the governance of the Association, pursuant to Section 1603-106 of the Act, as such document may be amended from time to time.
- (f) "Cedars" has the meaning set forth in introductory paragraph of this Declaration.
- (g) "Cedars' Tenancy-in-Common Interest" has the meaning set forth in Section 1.1(b).
- (h) "Common Elements" (or in the singular, a "Common Element") means those parts of the Property either described in the Act as being common elements or described in this Declaration or in the Plat as being common elements.
- (i) "Common Expenses" means expenditures made by or financial liabilities of the Association together with any allocations to reserves.

- (j) "Condominium" means the condominium described in Section 1.1.
- (k) "Condominium Documents" means the Declaration, the Plat, Bylaws and Rules and Regulations.
- (l) "Declarants" has the meaning set forth in introductory paragraph of this Declaration.
- (m) "Declaration" means this document, as the same may be amended from time to time.
- (n) "Development Rights" means those rights, if any, which the Declarants have reserved to themselves as set forth in Article 14 and elsewhere in this Declaration.
- (o) "Eligible Mortgage Holder" means the holder of a recorded first mortgage on a Unit which has requested in writing that the Association notify it of actions by the Association upon which such mortgage holders are entitled to vote or whose consent is required under this Declaration.
- (p) "Executive Board" means the executive board of the Association.
- (q) "JHA Properties" has the meaning set forth in introductory paragraph of this Declaration.
- (r) "JHA Properties' Tenancy-in-Common Interest" has the meaning set forth in Section 1.1(b).
- (s) "Identifying Number" means the number assigned to a Unit in the Plat.
- (t) "Insurance Trust Agreement" means that certain agreement, if any, between the Association and the Insurance Trustee providing for the management and disbursement of insurance proceeds in accordance with Section 9.2 hereof.
- (u) "Insurance Trustee" means that certain entity responsible for the management and disbursement of insurance proceeds pursuant to the Insurance Trust Agreement, if any.
- (v) "Limited Common Elements" (or in the singular, a "Limited Common Element") means those parts of the Property either described in the Act as being limited common elements or described herein or in the Plat as being limited common elements.
- (w) "Monthly Assessment" means the Unit owner's share of the anticipated Common Expenses, allocated by Unit, for each month of the Association's fiscal year as reflected in the budget adopted by the Executive Board for such year.

(x) "Mortgagee" means the holder of any recorded first mortgage encumbering one or more of the Units.

(y) "Percentage Interest" means the undivided interest in the Common Elements appurtenant to a Unit, as set forth on Exhibit B attached hereto, as the same may be amended from time to time.

(z) "Plat" means the Cedars Condominiums Recording Plat/Condominium Plan/ALTA/ASCM/Land Title Survey, made for JHA Properties, Inc., & Cedars Nursing Care Center, Inc., JHA Assisted Living, Inc., prepared by Titcomb Associates, dated September 8, 2005, and revised April 5, 2006, recorded in the Cumberland County Registry of Deeds in Plan Book 206 at Page 43D as the same may be amended from time to time, reduced photocopies of which are attached hereto as Exhibit C.

(aa) "Property" has the meaning set forth in Section 1.1.

(bb) "Real Estate" has the meaning set forth in Section 1.1.

(cc) "Record" means to record in the Cumberland County Registry of Deeds.

(dd) "Rules and Regulations" means such rules and regulations as are promulgated by the Declarants or the Executive Board from time to time with respect to the use of all or any portion of the Property.

(ee) "Special Assessment" means a Unit owner's share of any assessment made by the Executive Board in addition to the Monthly Assessment.

(ff) "Special Declarant Rights" means those rights which the Declarants have reserved to themselves as set forth in Article 14 and elsewhere in this Declaration.

(gg) "Unit" means a physical portion of the Condominium created by this Declaration or any amendment thereto and designated for separate ownership or occupancy, the boundaries of which are described in Article 3 or in any amendment creating such Unit.

Section 2.3. Provisions of the Act. The provisions of the Act shall apply to and govern the operation and governance of the Condominium, except to the extent that contrary provisions, not prohibited by the Act, are contained in one or more of the Condominium Documents.

ARTICLE 3
UNIT BOUNDARIES AND MAINTENANCE RESPONSIBILITIES

Section 3.1. Unit Boundaries.

(a) The boundary lines of each Unit are formed by the following planes:

(1) the upper boundary shall be a horizontal plane at an elevation of one hundred and thirty-five feet (135) above sea level (determined by reference to City of Portland datum: masonry nail in Utility Pole #82 located on Ocean Avenue (elevation=70.90) as shown on the Plat),

(2) the lower boundary shall be a horizontal plane at an elevation of forty-five (45) feet above sea level; and

(3) the vertical boundaries shall be perpendicular planes located three (3.00) feet outside the perimeter of the footprint of the building located or to be located within said Unit as shown on the Plat, each projected (A) horizontally to meet the projection of the adjacent vertical planes and (B) downward and upward to meet the upper and lower horizontal boundaries; except that, at those locations where the outside surface of an exterior wall of a Building in one Unit is adjacent to the outside surface of an exterior wall of a Building in another Unit, the vertical boundary of each Unit shall be a vertical plane that is equidistant between the outside of the finish material forming the exterior walls of the Buildings in question, except that in the case of Unit No. 1, Unit No. 1 shall also include:

(i) The enclosed triangular structure on the first floor at the intersection of the north-facing exterior surfaces of the two Building wings at the north end of the Building in Unit No. 1, one wing that extends in a northwesterly direction and the other wing that extends in a northeasterly direction;

(ii) The enclosed triangular structure on the first floor at the intersection of the south-facing exterior surfaces of the two Building wings at the south end of the Building in Unit No. 1, one wing that extends in a southwesterly direction and the other wing that extends in a southeasterly direction; and

(iii) The enclosed vestibule at the entrance of Unit No. 1 on the east side of the Building in Unit No. 1.

NOTE: Although the foundations of each Building will be located as shown on the Plat, the vertical boundaries for each Unit described above are located outside of the perimeter of such foundations in order to accommodate roof eaves and overhangs and other building features that extend beyond such foundation perimeter.

(b) Each Unit consists of all portions of any Building that is located within the aforesaid boundary lines, except the air space displaced Common Elements extending into or within such Unit which serve other Unit(s) and/or the Common Elements, including without limitation chutes, flues, chases, ducts, wires, conduits and pipe runs as described in clause (a)(3) of this section. The finish material, such as plaster or drywall, and furring around chutes, flues, chases, ducts, conduits, pipe runs and similar structures containing wires, vents, pipes, utilities or services that serve another Unit or Units and/or the Common Elements, the Unit to include the thickness of such finish material around chutes, flues, chases, ducts, conduits, pipe runs and

similar structures but not the cavity within such wires, vents, pipes, utilities or services are located.

- (c) Each Unit's Identifying Number is shown on the Plat.

Section 3.2. Relocation of Unit Boundaries; Subdivision of Unit. The owners of any Unit shall be permitted to (i) relocate boundaries between Units or (ii) subdivide a Unit in accordance with the procedures for an amendment of this Declaration as set forth in Article 16 below.

Section 3.3. Maintenance Responsibilities.

(a) The Association, through the Executive Board and as determined by the Unit owners, shall be responsible for (i) maintenance, repair and replacement of the Common Elements, but excluding the Limited Common Elements, and (ii) maintenance, repair and replacements as may be required for the functioning of or for the bringing of utilities, such as water, gas, electricity and sewer to all of the Units, all of which maintenance, repair and replacement shall be furnished by the Association as part of the Common Expenses.

(b) The Association, through the Executive Board and as determined by the Unit owners, shall be responsible for maintenance, repair and replacement of the Limited Common Elements at the cost and expense of the owners of the Unit or Units to which such Limited Common Elements are allocated.

(c) If damage is caused to (i) the Common Elements or (ii) any other part of the Condominium, in each case by any Unit owner, or guests, tenants, or invitees of such Unit owner for which maintenance, repairs and replacements shall be required that would otherwise be a Common Expense, such Unit owner shall pay for such damage and such maintenance, repairs and replacement as may be determined necessary or advisable by the Association. Each Unit owner shall be responsible for the cleanliness, including, but not limited to, ice and snow removal, of any Limited Common Element allocated to such Unit owner's Unit. In addition to the maintenance, repair and replacement of the Common Elements, the Association, through the Executive Board and upon the request of the Unit owners, shall arrange for or provide to each Unit owner trash and garbage removal service on a regular basis. The Executive Board, in its discretion, may provide the maintenance and other services described in this Section 3.2(a) either through its own employees or through independent contractors or both. The cost of the provision of such services shall be a Common Expense.

(d) Each Unit owner is responsible for the maintenance, repair and replacement of such Unit owner's Unit, including, without limitation, exterior glass windows, roofs, skylights, garage doors and other doors included within the Unit. Each Unit owner shall afford to the Association, and other Unit owners, and to their agents and employees, access through such Unit owner's Unit reasonably necessary for the maintenance, repair and replacement of the Common Elements and the shared Limited Common Elements.

(e) Charges for electric, sewer, water service, telephone and cable television service will be separately metered and each Unit owner will be responsible for the cost of such services furnished to such owner's Unit. Utilities that are not separately metered or billed by the respective utility companies and that are used by all of the Units shall be treated as part of the Common Expenses. Electricity for lighting of the Common Elements may be provided by the Association as part of the Common Expenses.

ARTICLE 4
DESCRIPTION AND ALLOCATION OF COMMON ELEMENTS AND
LIMITED COMMON ELEMENTS

Section 4.1. Description of Common Elements. Common Elements shall include:

(a) Within Unit Boundaries. The following portions of any Building within the boundaries of a Unit that are not Limited Common Elements:(i) the portion of any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture within the designated boundaries of a Unit that serve, in whole or in part, another Unit or Units and/or the Common Elements, (ii) all driveways on the Property providing access to and from any public way, (iii) those parking areas not designated as Limited Common Elements on the Plat, (iv) any signage not physically attached to a Unit; (v) those portions identified and designated as Common Elements on the Plat, in each case including, by way of description but not limitation, and, if applicable, within the Units' boundaries to the extent that they are constructed:

(b) Land. All lands submitted to the Condominium as described herein, except land (i) directly under a Unit, which land shall be a Limited Common Element allocated to such Unit, and (ii) other Limited Common Elements, all subject to the easements set forth in Article 6 of this Declaration.

(c) Improvements. All improved surfaces, drives, driveways, curbs, sidewalks and parking spaces that are not Limited Common Elements, subject to the easements and provisions set forth in Article 6 of this Declaration.

(d) Ornamentals, Drainage System and Utilities. Lawn areas, drainage systems located on the Property, shrubbery, and waterways, and all conduits and utility lines over, on or under the Land that are not Limited Common Elements, subject to the easements and provisions set forth in Article 6 of this Declaration.

(e) Utilities. Connections for gas, electricity, light, telephone and water not owned by the public utility or other agencies providing such services, provided that any portion of such connections that serves only one or two of the Units shall be a Limited Common Element allocated with the Unit or Units so served.

(f) Lighting. Any exterior lighting or other facilities necessary to the upkeep and safety of the grounds.

(g) After-Constructed Improvements. All other improvements that may be constructed on the property except those improvements that are part of a Unit or a Limited Common Element.

(h) Certain Other Buildings and Improvements. The so-called "White House" located near Ocean Avenue and northeasterly of the entrance drive to the Condominium from Ocean avenue shall be a Common Element.

(i) Other Elements. All other elements of the Condominium rationally of common use and necessary to the existence, upkeep and safety thereof and, in general, all other devices or installations existing for common use that are not Limited Common Elements.

Section 4.2. Description of Limited Common Elements. Limited Common Elements shall include (i) at those locations where the outside surface of an exterior wall of a Building in one Unit is adjacent to the outside surface of an exterior wall of a Building in another Unit, any expansion joints connecting such exterior walls, and any expansion joints connecting the roofs of such Units, all of which shall be a Limited Common Element associated with both of such Units; (ii) the portion of any chute, flue, chase, duct, wire, conduit, bearing wall, bearing column or any other fixture lying within the designated boundaries of a Unit that serves less than all of the Units, which shall be Limited Common Elements associated with the Unit or Units so served, (iii) the portion of any connections for gas, electricity, light, telephone and water not owned by the public utility or other agencies providing such services that serves only one or two of the Units, which shall be a Limited Common Element associated with the Unit or Units so served or (iv) any structure, improvement or other property that is identified and designated as Limited Common Elements on the Plat, including, without limitation, the garages that are assigned as Limited Common Elements to Unit 3. Those portions of the Limited Common Elements serving only the Unit adjacent to such Limited Common Element are Limited Common Elements allocated only to the Unit which they serve. This allocation shall not be changed without the consent of the Unit owners served or benefited by such Limited Common Elements.

Section 4.3. [Intentionally Omitted.]

Section 4.4. [Intentionally Omitted.]

Section 4.5. Reserved Common Elements. The Executive Board shall have the power in its discretion from time to time to grant revocable licenses in designated Common Elements to the Association or to any Unit owners and to establish a reasonable charge to such Unit owners for the use and maintenance thereof. Such designation by the Executive Board shall not be construed as a sale or disposition of the Common Elements.

Section 4.6. Alteration of Common Elements by the Declarant. The Declarants reserve the right to modify, alter, remove or improve portions of the Common Elements, including without limitation, any equipment, fixtures and appurtenances, when in the Declarants' judgment it is necessary or desirable to do so, until the completion of all Units. Such rights do not include rights to add or remove real estate not deemed to be fixtures.

Section 4.7. Allocation of Common Elements. Each Unit owner shall acquire, as an appurtenance to each Unit, its Percentage Interest in the Common Elements as set forth on Exhibit B attached hereto, as the same may be amended from time to time. The said Percentage Interest shall not be divisible from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Except as otherwise permitted under the Act or this Declaration, the Percentage Interest of each Unit owner shall not be altered without the consent of all of the Unit owners expressed in an amendment to this Declaration duly recorded. Said Percentage Interests shall be used to allocate the division of proceeds, if any, resulting from any casualty, loss, eminent domain proceedings, common surplus, or from any other disposition of the Property.

Section 4.8. Allocation of Parking Spaces. The Declarant reserves the right, until the construction of all Units is completed, to allocate to particular Units as Limited Common Elements the parking spaces shown on the Plat that are not otherwise designated Limited Common Elements on said Plat. Such right shall be deemed a Development Right and shall be subject to the terms and conditions set forth in Article 14 of this Declaration. After the expiration of such Development Right pursuant to Article 14 of this Declaration, the Executive Board shall have the power in its discretion from time to time to so allocate those parking spaces.

ARTICLE 5

ALLOCATION OF PERCENTAGE INTERESTS IN COMMON EXPENSES AND VOTING RIGHTS

Section 5.1. Percentage Interests. Attached as Exhibit B hereto is a list of all Units by their Identifying Number and the Percentage Interest appurtenant to each Unit, together with an explanation of the formula by which such Percentage Interest is determined. All calculations on Exhibit B shall be conclusive and binding on all Unit owners, the Executive Board, the Association and any Mortgagees.

Section 5.2. Common Expenses. The liability allocated to each Unit for the Common Expense of the Condominium shall be the same percentage share as the Percentage Interest allocated to such Unit on Exhibit B.

Section 5.3. Allocation of Unit Owner's Voting Rights. Each Unit owner shall be entitled to one (1) vote for each Unit owned by such person to permit equality of voting power among the Units.

ARTICLE 6

EASEMENTS

Section 6.1. Utility Easements. The Units, Common Elements and Limited Common Elements shall be, and hereby are, made subject to easements in favor of the

Declarants, other Unit owners, appropriate utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created by this Section 6.1 shall include, without limitation, rights of the Declarants, any Unit owner or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 6.1, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of the completion of the initial construction of the Buildings and other improvements within the affected Unit or so as not to materially interfere with the use or occupancy of such Buildings and other improvements by its occupants. With respect to any utility lines or equipment serving only the Condominium and located upon the Common Elements, the Executive Board shall have the right and power to assign the easement related to such Common Elements to any private or public utility company. The Executive Board shall also have the right and power to convey to any private or public utility company permits, licenses and easements over the Common Elements for the installation, maintenance, repair and replacement of utility poles, lines, wires and other equipment. In addition, the Executive Board shall have the right to grant permits, licenses and easements over the Common Elements for the building and maintenance of roads and for other purposes necessary for the proper operation of the Condominium.

Section 6.2. Maintenance of Surface Water Drainage. Declarants reserve for themselves and the Association an easement on, over and under those portions of the Common Elements not located within a Unit for the purpose of maintaining and/or correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance and to comply with and observe any conservation easement or declaration now or hereafter recorded with respect of the Property or any portion thereof. The easement created by this Section 6.2 expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably determined to be necessary and otherwise in compliance with applicable standards of health, safety and appearance conservation easements or declarations. The Declarants or the Association, as the case may be, shall restore the affected property as closely to its original condition as is practicable.

Section 6.3. Common Elements Easements. The Common Elements (other than the Limited Common Elements) shall be, and hereby are, made subject to an easement in favor of the Unit owners and their invitees, employees, tenants and servants, the Association and the agents and employees of the Association for access, egress and ingress over, through and across each portion thereof, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe; *provided* that nothing contained herein shall create any access easement in favor of Unit owners with respect to such portions of the Common Elements that are not needed in order to gain access to one or more Units and as to which the Executive Board may from time to time determine it to be necessary or desirable to limit or control access

by Unit owners or the occupants of Units, or both, including, by way of illustration and not limitation, machinery and equipment rooms; *provided, further*, that every Unit owner shall have an unrestricted right of ingress and egress to such Unit owner's Unit.

Section 6.4. Declarant's Easements for Maintenance Repair and Renovation. The Units, Common Elements and Limited Common Elements are subject to an easement in favor of the Declarants for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Common Elements or Limited Common Elements.

Section 6.5. Association's Easements for Maintenance, Repair and Renovation. The Units, Common Elements and the Limited Common Elements shall be and hereby are made subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements and the Limited Common Elements.

Section 6.6. Easements Burdening Common Elements and Limited Common Elements. The Common Elements and the Limited Common Elements shall be and hereby are made subject to the following easements in favor of the Units benefited:

(a) For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are part of or exclusively serve a single Unit and which pass across or through a portion of the Common Elements;

(b) For the installation, repair, maintenance, use, removal and/or replacement of overhead lighting fixtures, electrical receptacles and the like which are located in a portion of the ceiling, wall or floor adjacent to a Unit which is a part of the Common Elements; *provided that* the installation, repair, maintenance, use, removal or replacement of such fixtures, receptacles and the like does not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken any Building;

(c) For the maintenance of the encroachment of any lighting devices, outlets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Element or Limited Common Element; and

(d) For the construction of improvements upon Limited Common Elements as such construction may be approved in writing by the Executive Board. Each Unit owner shall be liable to the Association for any damage to the Common Elements as the result of such Unit owner's exercise of the easement rights described in this paragraph (e).

Section 6.7. Structural Support Easements. To the extent necessary, each Unit shall have an easement for structural support over every other Unit, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an

easement for structural support in favor of every other Unit, the Common Elements and the Limited Common Elements.

Section 6.8. Easements Burdening Units and Limited Common Elements. The Units and the Limited Common Elements are hereby made subject to the following easements:

(a) In favor of the Association and its agents, employees and independent contractors, (i) for inspection of the Units and Limited Common Elements in order to verify the performance by Unit owners of all items of maintenance and repair for which they are responsible, (ii) for inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from such Units or Limited Common Elements or both, (iii) for correction of emergency conditions in one or more Units or Limited Common Elements, or both, or casualties to the Common Elements, the Limited Common Elements and/or the Units, and (iv) to do any other work reasonably necessary for the proper maintenance of the Condominium, it being understood and agreed that the Association and its agents, employees and independent contractors shall take reasonable steps to minimize any interference with a Unit owner's use of his Unit resulting from the Association's exercise of any rights it may have pursuant to this Section 6.8; and

(b) In favor of the Unit owner benefited thereby and the Association, and their respective agents, employees and independent contractors, for the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, electrical, telephone, telegraph or other communication systems and all other utility lines and conduits which are part of the Common Elements and which pass across or through a portion of one or more Units.

(c) In favor of the Unit owner or owners benefited thereby and the Association and their respective patients, residents, tenants, invitees, agents, employees and independent contractors to the full extent from time to time required in order that the Units and the Buildings conform with all applicable life safety and other governmental and licensing requirements (i) for egress from Unit No. 1 through adjacent first floor corridors and hallways of the so-called "Service Connector" portion of Unit No. 3 to exterior exits located in said "Service Connector"; (ii) for egress from Unit No. 2 through adjacent first floor corridors and hallways in Unit No. 1 to exterior exits located in Unit No. 1; (iii) for egress from the exterior court yard area enclosed by the Buildings in Unit No. 1, Unit No. 2 and Unit No. 3, through the first floor corridors and hallways in the "Service Connector" portion of Unit No. 3 to exterior exits located in said Service Connector; and (iv) for egress from any Unit through adjacent corridors and hallways in any other for purposes of providing access to exits or other life safety features now or hereafter required for compliance with applicable life safety and other governmental and licensing requirements.

(d) In favor of the Unit owners benefited thereby and the Association and their agents, employees and independent contractors, for the installation, repair, maintenance, use, removal and/or replacement of walls, doors, jambs and doorframes in any corridor providing passage from one Unit to another in order to regulate or restrict passage between the Units

through such corridor (a "Corridor Separation Structure"), *provided that* (i) the Association shall be required to install a Corridor Separation Structure only at the written request of the Unit owner and Mortgagee of at least one of the Units in question; (ii) the costs of design and installation of a Corridor Separation Structure shall be born by the Unit owner or Unit owners requesting such Corridor Separation Structure; (iii) a Corridor Separation Structure shall be designed, installed, maintained and operated so that the requirements of all applicable life safety and other governmental and licensing requirements are satisfied; (iv) each Corridor Separation Structure shall be a Limited Common Element with the costs of maintenance, operation, repair, replacement and removal thereof allocated to the Units in question; and (v) a Corridor Separation Structure shall be removed only at the written request of the Unit owners and Mortgagees of both of the Units in question.

Section 6.9. Easements for Encroachments. If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Condominium results either in the Common Elements encroaching on any Unit, or in any Unit encroaching on the Common Elements or on any other Unit, a valid easement shall exist during the period of the encroachment for the encroachment and for the maintenance thereof.

Section 6.10. Duration of Easements. All easements, rights and restrictions described and mentioned in this Declaration are easements appurtenant, running with the land and the Property, including by way of illustration but not limitation, the Units, the Common Elements and the Limited Common Elements, and (except as expressly may be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

Section 6.11. Certain Other Easements. The Property is subject to, and benefited by, the following easements:

(a) Snow Plowing Easement given by Cedars Nursing Care Center, Inc. to the City of Portland, dated April 17, 1990, and recorded in the Cumberland County Registry of Deeds, Book 9260, Page 236;

(b) Utility Easements given by Cedars Nursing Care Center, Inc. to Central Maine Power Company and New England Telephone and Telegraph Company, dated May 7, 1990 and September 5, 1990, and recorded in the Cumberland County Registry of Deeds respectively in Book 9162, Page 206 and Book 9306, Page 219;

(c) Utility Easements given by JHA Properties, Inc. to Central Maine Power Company, dated July 26, 1990, and recorded in the Cumberland County Registry of Deeds, Book 14382, Pages 187 and 188;

(d) Declaration of Covenants and Restrictions made by Cedars Nursing Care Center, Inc. and JHA Properties, Inc. dated March 27, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13709, Page 75, as amended by Amendment to Declaration of Covenants and Restrictions, among the Maine Department of Environmental Protection, Cedars

Nursing Care Center, Inc. and JHA Properties, Inc., dated June ____, 2006, to be recorded in the Cumberland County Registry of Deeds;

(e) Declaration of Covenants and Restrictions made by Cedars Nursing Care Center, Inc. and JHA Properties, Inc., dated June ____, 2006, to be recorded in the Cumberland County Registry of Deeds;

(f) Certificate of Variance Approval, dated February 6, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13595, Page 182;

ARTICLE 7
RESTRICTIONS ON USE, SALE AND LEASE OF UNITS

Section 7.1. Use. The following restrictions shall apply to the use of the Condominium:

(a) The Units shall be used as part of an integrated campus providing skilled nursing care, assisted living residences and independent living residences, and such other uses as shall be determined from time to time by the Association through the Executive Board.

(b) No Unit owner may obstruct the Common Elements in any way. No Unit owner may store anything in or on the Common Elements other than in or on any Common Element storage area without the prior written consent of the Executive Board.

(c) No Unit owner may carry on any practice, or permit any practice to be carried on, which unreasonably interferes with the quiet enjoyment of the occupants of any other Unit. The Property is to be maintained in a clean and sanitary condition, and no Unit owner may place any garbage, trash or rubbish anywhere in the Property other than in a Unit owner's own Unit and in or on such parts of the Common Elements as may be designated for such purpose by the Executive Board.

(d) No Unit shall be used, occupied or kept in a manner that in any way increases the fire insurance premiums for the Property without the prior written consent of the Executive Board.

(e) The Executive Board may from time to time promulgate reasonable Rules and Regulations, not in conflict with the provisions of this Declaration, concerning the use and enjoyment of the Property. Copies of the then current Rules and Regulations and any amendments thereto shall be furnished to all Unit owners by the Association promptly after the adoption of such Rules and Regulations and any amendments thereto.

(f) The owner of a Unit shall be responsible for maintaining such Unit in good order and repair, at the expense of such owner, including (but not limited to) cleaning and replacing glass panes in any window serving such Unit.

(g) The owner of a Unit shall be responsible for the cleanliness of any Limited Common Element serving such Unit, at the expense of such Unit owner.

(h) Without the prior written consent of the Executive Board, the owner of a Unit shall not alter in any way any portion of such Unit owner's Unit that is part of the exterior facade of the Units, including by way of example, but not by way of limitation, roofing materials or design, exterior doors, siding type and color, and windows.

Section 7.2. Sale and Lease of Units.

A Unit owner, including but not limited to any Declarant, may sell or lease such Unit owner's Unit at any time and from time to time, *provided* that each tenant and lease shall be subject to and be bound by all of the covenants, restrictions and conditions set forth in the Condominium Documents.

ARTICLE 8
RIGHTS OF MORTGAGE HOLDERS, INSURERS AND GUARANTORS

Section 8.1. Subject to Declaration. Whether or not it expressly so states, any mortgage constituting a lien against a Unit and an obligation secured thereby shall provide generally that the mortgage and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act, the Declaration, the Plat and any Rules and Regulations.

Section 8.2. Rights of Eligible Mortgage Holders.

(a) The Association shall send reasonable prior written notice by prepaid United States mail to Eligible Mortgage Holders of the consideration by the Association of the following proposed actions:

(1) The termination of the Condominium pursuant to Section 1602-118 of the Act;

(2) A change in the allocated interest of a Unit, a change in the boundaries of a Unit or a subdivision of a Unit;

(3) The merger or consolidation of the Condominium with another condominium;

(4) The conveyance or subjection to a security interest of any portion of the Common Elements;

(5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under Section 1603-113(a) of the Act for purposes other than the repair or restoration of the damaged property;

(6) The adoption of any proposed budget by the Executive Board under Section 1603-103(c) of the Act, and of the date of the scheduled Unit owners meeting to consider ratification thereof, which notice shall be accompanied by a summary of the proposed Budget; and

(7) Any default in the performance or payment by a Unit owner of any obligations under this Declaration, including, without limitation, default in the payment of Common Expense liabilities.

(b) In the event of any proposed actions described in clauses (1) through (5) of paragraph (a) of this Section 8.2, an Eligible Mortgage Holder shall have the right, but not the obligation, in place of the Unit owner to cast the votes allocated to that Unit or give or withhold any consent required of the Unit owner for such action by delivering written notice to the Association with a copy to the Unit owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall not constitute a waiver thereof and shall not preclude the Unit owner from exercising such right. In the event of any default described in subsection (a), paragraph (7) of this Section 8.2, the Eligible Mortgage Holder shall have the right, but not the obligation, to cure such default.

(c) An Eligible Mortgage Holder, or its representative, shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in paragraphs (1) through (6) of Section 8.2 (a).

Section 8.3. Rights of Mortgage Holders, Insurers or Guarantors.

(a) The Association shall send timely prior written notice of the following matters by prepaid United States mail to holders, insurers and guarantors of a mortgage on any Unit:

(1) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing the mortgage;

(2) A lapse, cancellation or material modification of any insurance policy maintained by the Association; and

(3) Any proposed action that requires the consent of fifty-one percent (51%) of the Eligible Mortgage Holders.

(b) To receive such notice, the mortgage holder, insurer or guarantor shall send a written request therefor to the Association, stating its name and address and the Unit identifying number or address of the Unit on which it holds, insures or guarantees the mortgage.

Section 8.4. Liability for Use and Charges. Notwithstanding any term in Section 10.1 hereof to the contrary, any Mortgagee who obtains title to a Unit pursuant to the remedies provided in a mortgage for foreclosure of such mortgage or a deed in lieu of foreclosure shall not

be liable for such Unit owner's unpaid assessments or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee, except to the extent otherwise provided for in the Act and except to the extent that such Mortgagee is liable as a Unit owner for the payment of such unpaid assessment or charge that is assessed against the Mortgagee as a result of all Unit owners being reassessed for the aggregate amount of such deficiency.

Section 8.5. Condemnation Rights. No provision of this Declaration shall give a Unit owner, or any other party, priority over any rights of the Mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Unit owner of insurance proceeds or condemnation award for loss to or a taking of one or more Units and/or Common Elements.

Section 8.6. Books and Records. Any Mortgagee shall have the right, exercisable by written notice to the Executive Board, to examine the books and records of the Association and to require that it be provided with a copy of each annual report of the Association and other financial data of the Association reasonably requested by such Mortgagee.

ARTICLE 9 INSURANCE

Section 9.1. Types and Amounts. The Association shall maintain at a minimum, as a Common Expense and to the extent reasonably available, the following types and amounts of insurance:

(a) Property insurance on the Common Elements, insuring against all risks of direct physical loss commonly insured against under the fire and extended coverage endorsement and such other insurance as the Executive Board deems necessary or desirable. The total amount of any insurance after application of any deductions shall not be less than 80% of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date exclusive of land, foundations, excavation and other items normally excluded from property policies. The loss payable clause of such policy shall show the Association or the Insurance Trustee, if any, as a trustee for each Unit owner and each Mortgagee of a Unit. Such policy may also contain the standard mortgagee clause, naming each Mortgagee, its successors and assigns. If the Executive Board fails within sixty (60) days after the date of an insured loss to initiate a claim for damages recoverable under the policy or policies obtained pursuant to this paragraph (a), any Mortgagee may initiate such a claim on behalf of the Association.

(b) Liability insurance, including medical payments insurance, complying with the requirements of Section 9.2 hereof, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Such insurance policy shall contain a "severability of interest endorsement" or equivalent coverage which precludes the insurer from denying the claim of a Unit owner because of the negligent acts of the Association or another Unit owner. The amount of such liability insurance shall be at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The scope and amount of coverage of all liability insurance policies shall be reviewed at least once each year by the Executive Board and may be changed in

its discretion, *provided* that such policies shall continue to comply with the requirements of this Section 9.1 and Section 9.2 hereof.

(c) If the insurance described in paragraphs (a) and (b) of this Section 9.1 is not reasonably available, the Association shall provide notice of the same to the Unit owners and shall carry any other insurance that will provide similar coverage that can be reasonably obtained.

(d) Such worker's compensation insurance as applicable laws may require.

(e) Insurance to satisfy the indemnification obligation of the Association set out in Section 10.2 hereof, if and to the extent reasonably available, including but not limited to insurance coverage commonly referred to as "directors and officers insurance".

(f) If at any time it is determined that all or any part of the Property lies within a special flood hazard area, a master or blanket policy of flood insurance covering the Property, including but not limited to, all Common Elements and Limited Common Elements, the Units and all improvements, fixtures and appliances contained within the Unit as of the date of settlement on the Unit or the value thereof, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by a Unit owner and all other personal property of the Unit owner. The amount of any such flood insurance obtained pursuant to this paragraph (f) shall be equal to the lesser of one hundred percent (100%) of the insurable value of the property insured or the maximum coverage available under the appropriate National Flood Insurance Administration program. Such flood insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed the lesser of \$5,000 or one percent (1%) of the policy face amount. Funds to cover this amount shall be included in the Association reserve fund.

Section 9.2. Required Provisions. Insurance obtained by the Association shall be in accordance with the following provisions:

(a) Exclusive authority to adjust losses under policies hereafter in force on the Common Elements and the Limited Common Elements shall be vested in the Executive Board or its authorized representative.

(b) Each Unit owner may obtain additional insurance at his own expense; *provided, however,* that: (1) such policies shall not be invalidated by the waivers of subrogation required to be contained in policies required by this Declaration; and (2) no Unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time.

(c) With respect to the insurance policies described in paragraphs (a) and (b) of Section 9.1 issued to the Association and covering all or any part of the Property, the Association shall cause such policies to provide that:

(1) Each Unit owner is an insured person under such policies with respect to liability arising out of such Unit owner's ownership of an undivided interest in the Common Elements or membership in the Association.

(2) The insurer waives its right to subrogation under the policy against any Unit owner or members of such Unit owner's household.

(3) No act or omission by any Unit owner, unless acting within the scope of his authority on behalf of the Association, will void such policies or be a condition to recovery under such policies.

(4) If at the time of a loss under such policies there is other insurance in the name of a Unit owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(5) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Unit owner.

(6) An insurer that has issued an insurance policy under this Article shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit owner or Mortgagee. Such policies may not be canceled nor may coverage thereunder be substantially changed (whether or not requested by the Executive Board) except by the insurer giving at least twenty (20) days prior written notice thereof to the Executive Board, the Insurance Trustee, if any, Unit owners, each holder of a first mortgage on a Unit, and every other party in interest who shall have requested such notice of the insurer;

(7) The insurer will recognize any Insurance Trust Agreement entered into by the Association.

Section 9.3. Additional Insurance. Nothing in this Declaration shall be construed to limit the authority of the Executive Board to obtain additional insurance which it deems advisable.

ARTICLE 10

UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN

Section 10.1. Applicability of Condominium Documents. Each present and future owner, tenant, occupant and holder of a mortgage on a Unit shall be subject to and shall comply with the provisions of the Act, and with the covenants, conditions and restrictions as set forth in the Condominium Documents and the deed to such Unit; *provided that*, nothing contained herein shall impose upon any tenant or holder of a mortgage on a Unit any obligation which the Act or one or more of the Condominium Documents, or both, make applicable only to Unit owners (including, without limitation, the obligation to pay assessments for Common Expenses). The acceptance of a deed or mortgage to any Unit, or the entering into of a lease or the entering into

occupancy of any Unit shall constitute an agreement that the provisions of the Act and the covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit are accepted and ratified by such grantee, holder of a mortgage on a Unit or tenant. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance mortgage or lease thereof. Failure to comply with the covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit shall be grounds for an action to recover damages or for injunctive relief, or both, maintainable by the Executive Board on behalf of the Association or by an aggrieved Unit owner.

Section 10.2. Eminent Domain. Whenever all or part of the Common Elements shall be taken, injured or destroyed by eminent domain, each Unit owner shall be entitled to notice thereof and to participate in the proceedings incident thereto; *provided, however,* that the Association shall officially represent the Unit owners in such proceedings. In any proceedings for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Unit owner's interest therein and any award for such damage shall be payable to the Association for the benefit of the Unit owners and of the Mortgagees.

ARTICLE 11

ASSOCIATION; EXECUTIVE BOARD OF THE ASSOCIATION

Section 11.1. The Association. The Association is the governing body for all Unit owners with respect to the administration, maintenance, repair, replacements, cleaning and management of the Common Elements. The membership of the Association shall at all times consist exclusively of all Unit owners. Each Unit owner shall automatically become and be a member of the Association as long as such person is a Unit owner and upon the termination of the interest of a Unit owner in the Condominium, such Unit owner's membership and any interest in the common funds of the Association shall thereupon automatically terminate and transfer and inure to the next Unit owner or Unit owners succeeding such Unit owner in interest. The Association shall have all of the powers granted pursuant to Section 1603-102 of the Act, including the powers to assign its right to future income.

Section 11.2. Members of the Executive Board.

- (a) The initial Executive Board shall consist of three (3) members.
- (b) There shall be no Declarant control period. The Unit owners (including the Declarants to the extent of any Units owned by a Declarant at that time) shall each have the right to appoint one person to be its designated representative on and a member of the Executive Board in accordance with the Bylaws. The members of the Executive Board so appointed shall serve until the first regular election of the Executive Board held at the next annual meeting of the Association held in accordance with the Bylaws; thereafter, members of the Executive Board shall be elected in accordance with the Bylaws. The Bylaws may provide for the members of the Executive Board to serve staggered terms.

(c) Subject to the terms and provision of the Act, this Declaration or the Bylaws, the Executive Board shall have the power to act on behalf of the Association. The Executive Board shall possess all of the duties and powers granted to the Executive Board by the Act.

Section 11.3. Disputes. In the event of any dispute or disagreement between any Unit owners relating to the Property, or any questions of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Executive Board shall be final and binding on each and all such Unit owners. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Section 11.3. All costs of obtaining such judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.

Section 11.4. Abating and Enjoining Violations by Unit Owners. The violation of any Rules and Regulations adopted by the Executive Board, the breach of any provision contained in the Condominium Documents, the deed to any Unit, or the Act by any Unit owner or any tenant of such Unit owner, shall give the Executive Board the right, in addition to any other rights to which it may be entitled, to enjoin, abate or remedy by appropriate legal proceedings, either by law or in equity, the continuance of any such violation or breach.

Section 11.5. Limited Liability of the Executive Board. To the maximum extent permitted by applicable law, the Executive Board, and its members in their capacity as members, officers and employees:

(a) Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Units, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;

(b) Shall not be liable as a result of the performance of the Executive Board members' duties for any mistakes of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

(c) Shall have no personal liability in contract to a Unit owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

(d) Shall not be liable to a Unit owner, or such Unit owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Unit owner or his tenants, employees, agents, customers or guests in a Unit, or in or

on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

(e) Shall have no personal liability in tort to a Unit owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

(f) Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence.

Section 11.6. Indemnification. Each member of the Executive Board in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon the Executive Board Member in connection with any proceeding in which the Executive Board member may become involved by reason of the Executive Board member being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not the Executive Board member is an Executive Board member, officer or both at the time such expenses are incurred, except with respect to any matter as to which such Executive Board member shall have been finally adjudicated in any action, suit or proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interests of the corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful; *provided that*, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if still an Executive Board member at the time of settlement) approves such settlement and reimbursement as being in the best interests of the Association. The indemnification by the Unit owners set forth in this Section 11.6 shall be paid by the Association on behalf of the Unit owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit owners or otherwise.

Section 11.7. Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit owners and the Eligible Mortgage Holders and such complaints shall be defended by the Association. The Unit owners and the Eligible Mortgage Holders shall have no right to participate other than through the Association in such defense. Complaints of a nature specified in Section 3.3. hereof against one or more but less than all Unit owners shall be defended by such Unit owners who are defendants themselves and such Unit owners shall promptly give written notice of the institution of any such suit to the Association and to the holders of any mortgages encumbering such Units.

Section 11.8. Storage: Disclaimer of Bailee Liability. Neither the Executive Board, the Association, any Unit owner nor the Declarant shall be considered a bailee of any personal property stored on the Common Elements (including property located in storage areas on the Common Elements, including the Limited Common Elements), whether or not exclusive possession of the particular area is given to a Unit owner for storage purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE 12 MANAGEMENT

The Association shall have the right to employ a professional, experienced managing agent who shall oversee the daily operation of the Condominium in accordance with the provisions of the Act and the Condominium Documents.

ARTICLE 13 ASSESSMENTS; LIABILITY OF UNIT OWNERS

Section 13.1. Power to Assess.

(a) The Association, acting through the Executive Board in accordance with the Bylaws, shall have the power to fix and determine, from time to time, the sums necessary and adequate to provide for the Common Expenses (based on the Budget for such fiscal period), including, but not limited to, such amounts as are necessary for (i) the maintenance, repair and replacement of the Common Elements and the Limited Common Elements, as set forth in Section 3.3(a) hereof, (ii) uncollectable assessments, (iii) budget deficits, (iv) such other reserves as are hereinafter described, (v) such additional reserves as the Executive Board shall deem necessary or prudent, and (vi) such other expenses as are specifically provided for in the Act, this Declaration, and the Bylaws. The Association may establish an adequate reserve fund for maintenance, repair and replacement of those Common Elements and Limited Common Elements for which the Association is responsible that are anticipated to require replacement, repair or maintenance on a periodic basis, and to cover any deductible amount for insurance policies maintained by the Association. If such reserve fund is established by the Association, the Association may fund it by the Monthly Assessments. Common Expenses, to the extent they are imposed, shall be assessed against each Unit in accordance with the allocation set forth in Section 5.2 above and Section 1602-107 of the Act. Charges incurred by the Association and related to Limited Common Elements shall be assessed against only those Units benefiting from the Limited Common Elements. After the adoption of the first annual proposed budget by the Executive Board, the Executive Board shall annually adopt a proposed budget (the "Budget"), and, within thirty (30) days of adoption shall provide a summary of the proposed Budget to all Unit owners, *provided that* the Association shall have no obligation to adopt the first Budget unless requested to do so by all of the Unit owners. The Executive Board shall also schedule a meeting of the

Unit owners to consider ratification of the Budget not less than fourteen (14) days nor more than thirty (30) days after the mailing of such summary. Unless at that meeting a majority of all of the Unit owners reject the Budget, the Budget is ratified, whether or not a quorum is present. In the event the Budget is not ratified, the current Monthly Assessment, if any, shall continue until the adoption of a new Budget is made at a meeting of the Association called for that purpose no sooner than fifteen (15) days nor later than thirty (30) days after the initial ratification meeting of the Unit owners. The Declarant shall pay the Monthly Assessment for Units owned by the Declarant in the same manner as the other Unit owners, beginning with the first Monthly Assessment as provided in Section 13.3 hereof.

(b) In addition to paragraph (a) of this Section 13.1, the following shall apply:

(1) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Unit or Units to which that Limited Common Element is assigned.

(2) Any payments, fees or charges for the use, rental or operation of any Common Element shall be applied first, to reduce the Common Expense relating to such Common Element and, second, any excess shall be applied to Common Expenses generally.

(3) Assessments to pay a judgment against the Association shall be a lien only against the Units in the Condominium at the time the judgment was entered, in proportion to their Common Expense liability.

(4) If any Common Expense is caused by the misconduct of any Unit owner, the Association may assess that expense exclusively against such Unit owner's Unit.

(5) If Common Expense liabilities are reallocated, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

(6) Any Common Expense that is to be reimbursed by Unit owners according to use shall be paid as part of the Common Expense installment billed at the same time as the reimbursable expense, and for all purposes except allocation by Percentage Interest in the Common Elements, all such reimbursable expenses shall be treated as Common Expenses.

Section 13.2. Special Assessments. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year for any reason (including by way of illustration and not limitation, any Unit owner's non-payment of its assessment or municipal assessments not yet assessed), the Executive Board shall have the power, at any time it deems necessary and proper, to levy one or more Special Assessments against each Unit owner. Special Assessments shall be due and payable in the manner and on the date set forth in the notice thereof.

Section 13.3. Payment of Assessments. Each Unit owner, including each Declarant to the extent a Declarant owns a Unit, shall pay all Monthly Assessments and Special Assessments levied by the Association in accordance with this Declaration and the Bylaws. Liability for such assessments shall be determined in accordance with Section 5.2 hereof. Such assessments shall begin accruing at the time of the creation of the Condominium and they shall be due and payable on a monthly basis as and if designated by the Executive Board. Assessments that are unpaid for over fifteen (15) days after the due date shall bear interest at the rate determined from time to time by the Executive Board from the due date until paid. In the sole discretion of the Executive Board, a late charge may be assessed against the delinquent Unit owner.

Section 13.4. New Assessments. After the initial assessment has been made by the Association, subsequent assessments shall be made by the Association annually on or before the anniversary date of the initial assessment or such other date as the Association may choose, based on the Budget adopted by the Association not later than sixty (60) days prior to the assessment. If the Executive Board shall fail to fix new Monthly Assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Unit owners shall continue to pay the same sums they were paying for such Monthly Assessments during the fiscal year just ended and such sum shall be deemed to be the new Monthly Assessments for the succeeding fiscal year. If the Executive Board shall change the Monthly Assessment at a later date, the difference between the new Monthly Assessment, if greater, and the previous year's Monthly Assessment up to the effective date of the new Monthly Assessment shall be treated as if it were a Special Assessment under Section 13.2. hereof; thereafter each Unit owner shall pay the new Monthly Assessment. In the event the new Monthly Assessment is less than the previous year's Monthly Assessment, in the sole discretion of the Executive Board, the excess shall either be refunded to the Unit owners, credited against future Monthly Assessments or retained by the Association for reserves.

Section 13.5. No Exemption by Waiver. No Unit owner may exempt himself from liability for the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of such Unit owner's Unit or otherwise.

Section 13.6. Personal Liability of Unit Owners. All sums assessed by the Association as a Monthly Assessment or Special Assessment shall constitute the personal liability of the owner of the Unit so assessed and also, until fully paid, shall constitute a lien against such Unit pursuant to Section 1603-116 of the Act. Multiple owners of a Unit shall each be jointly and severally liable for all unpaid Monthly Assessments and Special Assessments. The Association may take such actions as are permitted by Section 1603-116 of the Act for failure to pay any assessment or other charges. The delinquent owner shall be obligated to pay (a) all expenses of the Executive Board, including reasonable attorneys' fees, incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and (b) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

Section 13.7. Liability of Purchaser of Unit for Unpaid Assessments.

(a) Upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall not be personally liable with the grantor thereof for all unpaid assessments for Common Expenses which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, unless such grantee agrees to assume the obligation therefor; *provided, however*, except as provided in clause (b), a lien against the Unit so purchased for assessments imposed pursuant to this Declaration or the Act shall not be affected by such sale, conveyance or other transfer.

(b) Prior to or at the time of any conveyance of a Unit by Unit Owner, all unpaid assessments shall be paid in full. Any purchaser of a Unit shall be entitled to a written statement by the Association setting forth the accrued assessments for Common Expenses that are then unpaid, and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, accrued but unpaid assessments in excess of the amount therein set forth.

Section 13.8. Subordination of Certain Charges. The lien for any Monthly Assessments or any fees, charges, late charges, fines and interest that may be levied by the Association pursuant to Section 1603-102 of the Act shall be subordinate to any first mortgage lien recorded before or after such Monthly Assessment, fee, charge, late charge, fine or interest was due.

ARTICLE 14

SPECIAL DECLARANT RIGHTS AND DEVELOPMENT RIGHTS

Section 14.1. Special Declarant Rights and Development Rights. In addition to the easement rights reserved in Article 6, the Declarants reserve to themselves and for the benefit of their respective successors and assigns, and subjects the Property to, the right:

(a) to effect the construction of the Building and other improvements constituting Unit No. 2, in accordance with the description thereof set forth on the Plat.

(b) to effect an expansion of Unit No. 1, by (i) modifying the vertical boundaries thereof in the area of the single story structure attached to the west side of the Building constituting Unit No. 1 between the wing of said Building that extends southwesterly and the wing of said Building that extends in a northwesterly direction (the "Loading Structure"), as follows: (A) projecting in a northwesterly direction the vertical boundary that is three feet outside the southwest facing exterior wall of the Loading Structure that extends in a northwesterly direction from the northwest side of the southwesterly wing of said Building to the intersection of such projected vertical boundary with the extended vertical boundary described in clause (B); and (B) projecting the vertical boundary that is three feet outside the northwest facing fascia of overhanging roof of the Loading Structure that extends in a southwesterly direction from the westerly side of the Loading Structure to the intersection of such projected vertical

boundary with the projected vertical boundary described in clause (A); and (ii) constructing within the boundaries so modified additions to the Building and other improvements constituting Unit No. 1.

(b) until the construction of all Units is completed, to connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes;

(c) until the construction of all Units is completed, to use the Common Elements for ingress and egress, for the repair and construction of Units and Common Elements, including, but not limited to, the movement and temporary storage of construction materials and equipment, and for the installation of signs and lighting for sales and promotional purposes; and

(d) to use easements through the Common Elements for the purposes of making improvements within the Condominium.

The real estate subject to these Development Rights and Special Declarant Rights is the Property.

Section 14.2 Amendment. This Article 14 shall not be amended without the written consent of the Declarants duly recorded in the Cumberland County Registry of Deeds.

ARTICLE 15 ASSIGNABILITY OF DECLARANT'S RIGHTS

The Declarants may assign any or all of their respective rights or privileges reserved or established by this Declaration or the Act in accordance with the provisions of the Act.

ARTICLE 16 AMENDMENT OF DECLARATION

Section 16.1. Amendments to Declaration. Except as otherwise provided herein or in Section 1602-117 of the Act, this Declaration may be amended only by unanimous vote or agreement of the Unit owners.

Section 16.2. Rights of Mortgagees. Approval of amendments of a material nature must be obtained from Eligible Mortgage Holders representing at least 51% of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any of the following, except where such change may be effected by the Declarants, the Association or certain Unit owners under the Act or this Declaration, are deemed to be material:

- (a) voting rights;
- (b) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use;

- (c) boundaries of any Unit;
- (d) convertibility of Units into Common Elements or Common Elements into Units;
- (e) expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- (i) insurance;
- (j) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents;
- (k) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or
- (l) any provisions that expressly benefit holders of mortgages on the Units.

The approval of an Eligible Mortgage Holder may be assumed when that Eligible Mortgage Holder has failed to submit a response to any written proposal for an amendment within thirty (30) days after the proposal is made. No amendment to the Condominium Documents shall diminish or impair the rights of the Declarants under the Condominium Documents without the prior written consent of the Declarants. No amendment may modify this Article 16 or the rights of any person hereunder. Except as specifically provided in the Condominium Documents, no provision of the Condominium Documents shall be construed to grant to any Unit owner, or to any other person, any priority over any rights of mortgagees of any Unit owner.

ARTICLE 17 TERMINATION

The Condominium may be terminated only by agreement of the Unit owners representing one hundred percent (100%) of the Percentage Interests. Termination of the Condominium will be governed by the provisions of Section 1602-118 of the Act.

ARTICLE 18 GENERAL PROVISIONS

Section 18.1. Headings. The headings used in this Declaration and any table of contents are inserted solely as a matter of convenience for the readers of this Declaration and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

Section 18.2. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion

thereof shall not affect the validity or enforceability of any other provision or portion hereof unless such deletions shall destroy the uniform plan of development and operation of the Condominium which this Declaration is intended to create.

Section 18.3. Applicable Law. This Declaration shall be governed by and construed according to the laws of the State of Maine.

Section 18.4. Interpretation. The provisions of this Declaration shall be liberally construed in order to effect Declarants' desire to create a uniform plan for development and operation of the Condominium. In the event of any conflict or discrepancy between this Declaration, the Bylaws and the Plat, the provisions of this Declaration shall govern.

Section 18.5. Effective Date. This Declaration shall become effective when it and the Plat have been recorded.

Section 18.6. Notices. All notices and other communications required or permitted to be given under or in connection with this Declaration shall be in writing and shall be deemed given when delivered in person or on the second business day after the day on which mailed by certified mail, return receipt requested, addressed to the address maintained in the register of current addresses established by the Association.

Section 18.7. Exhibits. All exhibits attached to this Declaration are hereby made a part of this Declaration.

Section 18.8. Pronouns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders.

[The balance of this page is left blank intentionally. Signature page follows.]

IN WITNESS WHEREOF, the Declarants have caused this Declaration to be executed by their duly authorized representatives as of this 21 day of June, 2006.

JHA PROPERTIES, INC.

Holly Nicholson
Witness

By: Kathryn J. Callnan
Kathryn J. Callnan, President

CEDARS NURSING CARE CENTER, INC.

Holly Nicholson
Witness

By: Kathryn J. Callnan
Kathryn J. Callnan, President

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

June 21, 2006

Personally appeared the above-named Kathryn J. Callnan, President, of JHA PROPERTIES, INC., a Maine non-profit corporation, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said JHA PROPERTIES, INC.

Before me,

[Signature]
Notary Public/Attorney at Law
Print Name: Lynne Burr
My commission expires: 2009

Lynne A. Burr, Notary Public
State of Maine
My Commission Expires 12/5/2009

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

June 21, 2006

Personally appeared the above-named Kathryn J. Callnan, President, of CEDARS NURSING CARE CENTER, INC., a Maine non-profit corporation, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said CEDARS NURSING CARE CENTER, INC.,

Before me,

[Signature]
Notary Public/Attorney at Law
Print Name: Lynne Burr
My commission expires: 2009

Lynne A. Burr, Notary Public
State of Maine
My Commission Expires 12/5/2009

LIMITED JOINDER AGREEMENT OF MORTGAGEE

The undersigned, MAINE HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY, a public body corporate and politic of the State of Maine, created and existing under the Constitution and the laws of the State of Maine, with a place of business at 3 University Drive, P.O. Box 2268, Augusta, Maine 04330 (herein called the "Mortgagee"), as holder of and mortgagee under the following instruments:

1. A certain Loan Agreement and Mortgage by JHA Properties, Inc., a Maine nonprofit corporation ("JHA Properties"), to the Mortgagee, dated as of March 1, 1998 and recorded in the Cumberland County Registry of Deeds in Book 13709, Page 1, and a certain Mortgage by JHA Properties, Inc., to the Mortgagee, dated as of October 9, 1998 and recorded in the Cumberland County Registry of Deeds in Book 14221, Page 222 (the "JHA Properties Mortgage"); and

2. A certain Loan Agreement and Mortgage by Cedars Nursing Care Center, Inc., a Maine nonprofit corporation ("Cedars"), to the Mortgagee, dated as of May 1, 1993 and recorded in the Cumberland County Registry of Deeds in Book 10717, Page 311 (the "Cedars Mortgage");

(herein the instruments described in paragraphs 1 and 2 above are sometimes collectively called the "Mortgages"), for itself and its successors and assigns, hereby

- (i) joins with JHA Properties and Cedars (herein collectively called the "Declarants") in submitting the Property, as defined and described in this Declaration, separate portions of which are subject to the lien of one or the other of the Mortgages, to the provisions of the Maine Condominium Act, 33 M.R.S.A. Chapter 31, §§ 1601-101, et seq., as amended, for the sole and limited purposes of evidencing Mortgagee's consent as owner and holder of the Mortgages to the submission of the Property under this Declaration and to the creation and granting of those easements, uses, rights and privileges described in this Declaration and granting and releasing the liens, rights and interests described in clauses (ii) through (vi);
- (ii) grants and releases to Cedars, its successors and assigns, all of Mortgagee's right, title and interest under the JHA Properties Mortgage in and to Unit No. 1 as created by this Declaration;
- (iii) grants and releases to Cedars, its successors and assigns, and Properties, its successors and assigns, all of Mortgagee's right, title and interest under the Mortgages in and to Unit No. 2 as created by this Declaration and all Development Rights related to the construction of the Building and other improvements constituting Unit No. 2 in accordance with the description thereof set forth on the Plat;

- (iv) grants and releases to JHA Properties, its successors and assigns, all of Mortgagee's right, title and interest under the Cedars_Mortgage in and to Unit No. 3 as created by this Declaration;
- (v) grants and releases to JHA Properties and Cedars, their respective successors and assigns, all of Mortgagee's right, title and interest under either of the Mortgages in and to the following easements of record:
 - (A) Utility and Access Easement described as Parcel B in easement deed from Cedars Nursing Care Center, Inc., to JHA Services, Inc., dated May 25, 1990, and recorded in the Cumberland County Registry of Deeds, Book 9188, Page 115, as amended and modified Short Form Quitclaim Deed from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 17, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 319, and by Easement Modification, between JHA Services, Inc. and Cedars Nursing Care Center, Inc., dated April 1, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13708, Page 305 (the "Granting Deed");
 - (B) Emergency Access Road Easement described as Parcel C in the Granting Deed ;
 - (C) Parking Easement, Utility and Access Easement and Loop Road Easement retained as Items 1, 2 and 3 in the Granting Deed;
 - (D) Access Easement in easement deed from JHA Properties, Inc., to Cedars Nursing Care Center, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 321;
 - (E) Access Easement in easement from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 325; and
 - (F) Agreement and Reciprocal Easement Deed, between Cedars Nursing Care Center, Inc., and JHA Properties, Inc., dated as of March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 331; and
- (vi) expressly retains, excepts and reserves, for itself and its successors and assigns, the lien of and all other rights under the Cedars Mortgage in and to Unit No. 1; and

- (vii) expressly retains, excepts and reserves, for itself and its successors and assigns, the lien of and all other rights under the JHA Properties Mortgage in and to Unit No. 3;

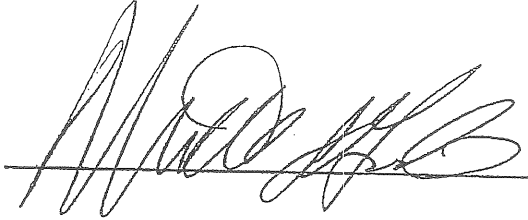
PROVIDED, that such joinder and consent shall not be construed to make said Mortgagee, its successors and assigns, as mortgagee, the Declarant or to impose on it any of the obligations or liabilities of the Declarant under this Declaration, including, without limitation, any obligation or liability of any kind to any purchaser(s) of any condominium unit(s), and said Mortgagee makes no warranties or covenants to any person or party, express or implied, as to title, merchantability, fitness for any particular purpose, physical condition or otherwise as to the Condominium premises.

The Mortgagee hereby agrees that its lien on Unit No. 1 under the Cedars Mortgage and its lien on Unit No. 3 under the JHA Property Mortgage, all as excepted and reserved herein, shall be subject to the provisions of said Maine Condominium Act and shall attach to the Units and Percentage Interests created by this Declaration, as it may be amended. The Mortgagee further agrees that, in the exercise of its rights as mortgagee under the aforesaid Mortgages, the Mortgagee will recognize the establishment of a condominium by this Declaration of Condominium.

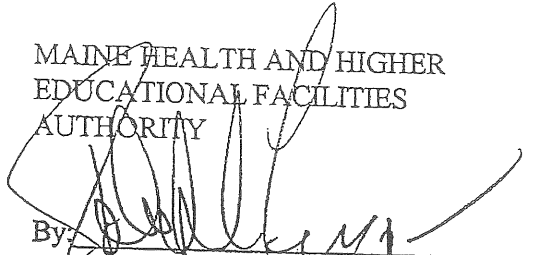
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IN WITNESS WHEREOF, the Mortgagee has caused this instrument to be executed and sealed in its corporate name by its officer thereunto duly authorized as of the date of the foregoing Declaration.

WITNESS:



MAINE HEALTH AND HIGHER
EDUCATIONAL FACILITIES
AUTHORITY

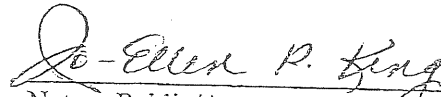
By: 

Robert O. Lenna
Its Executive Director

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

JUNE 29th, 2006

Personally appeared before me the above-named Robert O. Lenna, Executive Director of Maine Health and Higher Educational Facilities Authority, and acknowledged the foregoing instrument to be his free act and deed in said capacity, and the free act and deed of said Maine Health and Higher Educational Facilities Authority.



Notary Public/Attorney-at-Law
Print Name: JO-ELLEN P. KING
My Commission Expires: OCTOBER 27, 2011

Jo-Ellen P. King
Notary Public, Maine
My Commission Expires
October 27, 2011

EXHIBIT A

PROPERTY DESCRIPTION

A certain lot or parcel of land lying on the northwesterly side of Ocean Avenue and the northeasterly terminus of Byfield Road in the City of Portland, County of Cumberland, State of Maine, bounded and described as follows:

Beginning at a point and the intersection of the northeasterly terminus of said Byfield Road with the northwesterly sideline of said Byfield Road;

Thence S 50°04'08" W by the northwesterly sideline of said Byfield Road a distance of Thirty and 45/100 (30.45) feet to a point and the easterly corner of land now or formerly of Christopher J. King and Elizabeth C. King as described in a deed recorded in the Cumberland County Registry of Deeds in Book 20322, Page 332;

Thence N 39°56'15" W by said land of King a distance of Ninety-Nine and 20/100 (99.20) feet to a point;

Thence S 52°11'01" W by said land of King; by land now or formerly of Barry E. Scott and Mary A. Scott as described in a deed recorded in said Registry in Book 2809, Page 26; and by land now or formerly of N. Penrose Hollowell IV as described in a deed recorded in said Registry in Book 15501, Page 236, a distance of Two Hundred Thirty-Nine and 65/100 (239.65) feet to a point and the northeasterly corner of land now or formerly of Brian R. Sheets and Gaye L. Sheets as described in a deed recorded in said Registry in Book 13242, Page 35;

Thence N 37°59'05" W by said land of Sheets a distance of Sixty and 00/100 (60.00) feet to a point and the southeasterly line of land now or formerly of John Tevanian and Thelma M. Tevanian as described in a deed recorded in said Registry in Book 3627, Page 59;

Thence N 52°11'01" E by said land of Tevanian a distance of One Hundred and 04/100 (100.04) feet to a point;

Thence N 37°52'24" W by said land of Tevanian a distance of Sixty-Four and 64/100 (64.64) feet to a point and the southerly corner of land now or formerly of Old Port Realty Corp. as described in a deed recorded in said Registry in Book 4013, Page 113;

Thence N 52°11'01" E by said land of Old Port Realty Corp. a distance of Six Hundred Sixty-Eight and 07/100 (668.07) feet to a point and land now or formerly of Ledgewood Owners Association as described in a deed recorded in said Registry in Book 4446, Page 125;

Thence S 58°38'42"E by said land of Ledgewood Owners Association a distance of Zero and 97/100 (0.97) feet to a point, said point herein designated as "Point A";

Thence Southeasterly by said land of Ledgewood Owners Association following a non-tangent curve to the right having a radius of Two Hundred Fifty-Two and 54/100 (252.54) feet an arc distance of Two Hundred Fifteen and 57/100 (215.57) feet to a point, said point being located S 69°09'08" E a distance of Two Hundred Nine and 08/100 (209.08) feet from said "Point A";

Thence S 44°41'54" E by said land of Ledgewood Owners Association a distance of One Hundred Thirty-Nine and 56/100 (139.56) feet to a capped 5/8" rebar (PLS #199);

Thence S 44°27'57" E by said land of Ledgewood Owners Association a distance of Two Hundred Ninety-Nine and 33/100 (299.33) feet to a 1" iron pipe;

Thence S 43°59'21" E by said land of Ledgewood Owners Association a distance of Seventy and 26/100 (70.26) feet to a point and the northwesterly sideline of said Ocean Avenue;

Thence S 35°36'51" W by said Ocean Avenue a distance of Fifty-One and 28/100 (51.28) feet to a point;

Thence S 40°42'51" W by said Ocean Avenue a distance of Four Hundred Twenty-Six and 00/100 (426.00) feet to a point and the easterly corner of land now or formerly of David H. Littlefield and Bonnie S. Littlefield as described in a deed recorded in said Registry in Book 4458, Page 44;

Thence N 47°24'30" W by said Littlefield a distance of One Hundred and 58/100 (100.58) feet to a capped 5/8" rebar (PLS #509);

Thence S 45°36'30" W by said land of Littlefield a distance of One Hundred and 00/100 (100.00) feet to a point and land now or formerly of Domenico Floridino and Anna Floridino as described in a deed recorded in said Registry in Book 3029, Page 521;

Thence N 47°19'15" W by said land of Floridino; by land now or formerly of Peter J. Molloy and Elizabeth D. Molloy as described in a deed recorded in said Registry in Book 16537, Page 279; by land now or formerly of Elizabeth F. Searles and Harold E. Searles as described in a deed recorded in said Registry in Book 3122, Page 381; by land now or formerly of Leslie E. Conley and Avis J. Conley as described in deeds recorded in said Registry in Book 2640, Page 412 and Book 2649, Page 394; and by the northeasterly terminus of said Byfield Road a distance of Four Hundred Eighty and 78/100 (480.78) feet to the point of beginning.

Bearings are based on magnetic north 1924.

The above described parcel contains 10.57 acres.

Reference is herein made to a plan entitled "Cedars Condominiums Recording Plat/Condominium Plan, ALTA/ACSM Land Title Survey Cedars Plan/ALTA/ACSM/Land Title Survey" made for JHA Properties, Inc., Cedars Nursing Care Center, and JHA Assisted Living, Inc. dated September 8, 2005, and revised April 5, 2006, made by Titcomb Associates.

EXHIBIT B

<u>Unit Identifying Number</u>	<u>Percentage Interest</u>
Unit 1	33.333%
Unit 2	33.333%
Unit 3	33.333%

Formula Calculating Percentage Interest

All Units shall have an equal Percentage Interest to be calculated by (i) dividing one (1) by three (3).

Section 5

Evidence of Technical and Financial Capacity

Technical Capacity

Prior Experience

Cedars Nursing Care Center, Inc. and its predecessor, the Jewish Home for the Aged have been serving older persons since 1928. The Jewish community organized and built a home for older persons in 1929. That home was operated until 1955 when the corporation qualified for Hill-Burton funds and built a nursing care facility and converted the home to the same.

At that time, the Jewish Home became licensed by the State of Maine as a nursing home. This licensure required a level of nursing care to be performed by qualified and licensed staff. The quality of the program was monitored by the State of Maine.

Eventually, the corporate name was changed from Jewish Home for the Aged to Cedars Nursing Care Center, Inc. In 1990, JHA Services, inc. was also created. Then in 1996 this organization purchased additional properties, increasing the 630 Ocean Avenue property to 10.08 acres. Additionally, JHA Properties, Inc. was created to hold ownership of the newly acquired properties. Cedars Nursing Care Center, Inc., JHA Services, Inc. and JHA Properties, Inc. are all non-profit entities that are controlled by a Board of Trustees made up of members throughout the community.

This organization has successfully developed the Cedars Nursing Home, the Atrium independent living facility, and is currently completing the Assisted Living Facility.

Design Personnel

The following consultants are involved in the design and permitting for this project:

- Architect Tsomidies Associates
- Civil Engineer Sebago Technics, Inc.

Each of the professionals listed above have extensive experience working on similar development projects throughout the State of Maine. A qualifications package for each of these professionals has been attached and additional qualification data can be provided upon request.

Echo Bridge Office Park
389 Elliot Street
Newton Upper Falls, MA 02464
617/969-4774
617/969-4793 Fax
[http:// www.tsomides.com](http://www.tsomides.com)

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Architects
Planners**

A Nationally Recognized Leader

Tsomides Associates is a nationally recognized leader in the planning and design of senior living facilities. With more than 23 years of experience creating innovative continuing care retirement communities, assisted living facilities, nursing care facilities, and senior housing, the firm has a keen understanding of the senior adult's physical, environmental, and psychological needs. An extensive portfolio of more than 50 senior living projects showcases the firm's commitment to enhancing quality of life through sensitive and innovative functional planning and design.

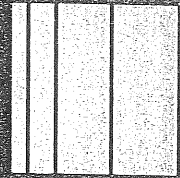
Whether developing a 50-acre master plan for a new CCRC or imaginatively renovating, expanding, and revitalizing an older facility, Tsomides Associates designs vibrant, supportive, and stimulating environments in a residential context. Above all, the firm strives to ensure the privacy, independence, and dignity of the senior adult resident.

A Wealth of Experience

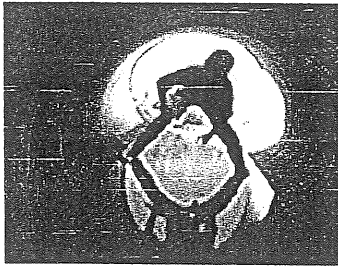
The professional staff of Tsomides Associates brings a wealth of experience to every project. Led by Constantine Tsomides, NCARB, AIA, the staff has individually and collectively designed senior living facilities of every building type.

With proficiency in programming, planning, and design, Tsomides Associates is an accomplished organization at the forefront of creating attractive, functional, and pace setting facilities that enhance residents' quality of life.

Tsomides Associates portfolio includes facilities in urban, rural, and suburban settings representing every stage of senior living. The premier projects on the following pages illustrate the firm's expertise in master planning, architecture and interior design. Visit our web site at: www.tsomides.com.



Introduction to Sebago Technics, Inc.



Sebago Technics, Inc.
Engineers
Land Surveyors
Landscape Architects
Soil Scientists

Since its formation in 1981, Sebago Technics has grown to a multi-service consulting firm of more than ninety design professionals and technical staff. Our multi-disciplinary project teams have played significant roles in the design, survey, engineering and implementation of many major projects throughout New England.

Our corporate philosophy is founded in our pride and commitment to provide our clients with creative, cost-effective professional services through an organized and responsive process. Our philosophy is supported by the emphasis placed on the major objectives of our practice: To provide a full range of consulting services; To provide our services in a responsive and timely manner; To maintain our continued involvement in quality projects; To provide our clients with design and engineering excellence.

Sebago Technics' historical interest and experience in public and private sector projects has served to form our reputation for quality technical services performed on time and on budget. Our current management and technical staff share these objectives, which have been so important to our growth and success. We are large enough to assemble the personnel and equipment resources necessary to accomplish large projects, yet small enough that principal managers maintain day-to-day involvement with our clients.

We believe our quality of life in the future will depend on the intelligent management of natural, physical, and human resources. At Sebago Technics, we are committed to the provision of professional services responsive to the needs of the people we serve and the protection of our natural, cultural and economic resources.

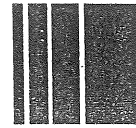
P.O. Box 1339, One Chabot Street
Westbrook, Maine 04098-1339
ph. (207) 856-0277 fax (207) 856-2206

400 Center Street
Auburn, Maine 04210
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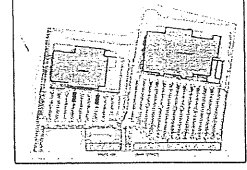
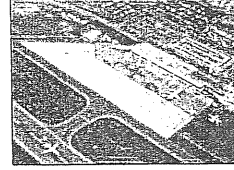
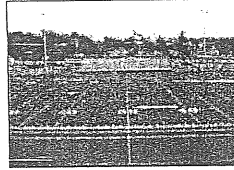
Engineering Expertise You Can Build On



*Civil Engineering • Environmental Engineering • Transportation Engineering • Geotechnical Engineering
Land Surveying • Landscape Architecture • Natural Resources • Land Planning • Artificial Turf Impact Testing*

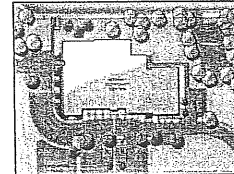
Civil Engineering

- Grading and Drainage
- Stormwater Management Planning
- Paving & Site Improvements
- Evaluation & Feasibility Studies
- Technical Engineering Review



Environmental Engineering

- Regulatory Permitting (Local, State & Federal)
- Site Assessments (ESA Phase I, II & III)
- Wastewater & Groundwater Treatment
- Underground Storage Tank Services
- Effluent & Groundwater Modeling/Monitoring
- Wastewater Minimization Studies
- Landfill Closure Plans
- Water Supply & Treatment System Design

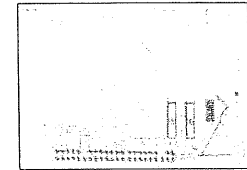


Transportation Engineering

- Highway & Drainage Design
- Pedestrian & Bike Trail Design
- Traffic Impact Analysis
- Signal Design & System Management
- Intermodal Facility Planning & Design
- Construction Administration

Landscape Architecture

- Site Selection Studies
- Conceptual & Site Design
- Recreation Facility Design
- Sidewalk & Streetscape Design
- Planting Design
- Irrigation System Design
- Construction Observation & Administration



Geotechnical Engineering

- Subsurface & Foundation Investigations
- Earth & Rock Slope Stability Analysis
- Field Instrumentation
- Construction Monitoring

Natural Resources

- Medium & High Intensity Soil Surveys
- On-Site Wastewater Disposal Systems Design
- HHE-200 Preparation
- Sediment & Erosion Control Plans
- Nutrient Loading & Mitigation Analysis
- Soil Testing
- Wetlands Delineation/Vernal Pools

Land Surveying

- Technical Deed Research
- Boundary Survey/Topographic Survey
- Land Title Surveys
- Hydrographic Surveys
- Mortgage Inspections
- Construction Layout
- As-Built Record Documentation
- Control of Aerial Photography
- Land Data Acquisition/Land Information Systems

Land Planning

- Zoning Analysis/Ordinance Writing
- Demographic Analysis
- Comprehensive Planning
- Contract Zoning
- Grant Writing
- Planning Board Representation

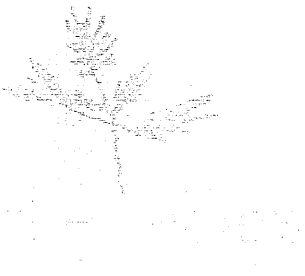
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DATE: August 20, 2008

Barbara Barhydt
Development Review Services Manager
Portland City Hall
389 Congress Street
Portland Maine 04101

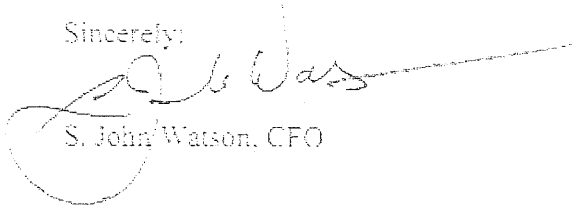
RE: Cedars Rehab Expansion; Letter of Financial Capacity

Dear Barbara:

Cedars is in the initial planning stages of securing city approval for an expansion of its rehab space. The cost of the project is estimated to be \$677,000. The sources of funds to build the project are to come from donations and Cedars endowment funds. Donors have pledged to give \$500,000 of the total cost. About \$266,000 has already been received. The balance of project costs as well as financing while pledges are received will be provided from Cedars Funded Depreciation and/or Endowment funds which total over \$2.6 million. Those funds are board designated funds and unencumbered or pledged as security for any debt instruments.

Please call me if you need any further information or support for the financial capacity of Cedars to undertake this project.

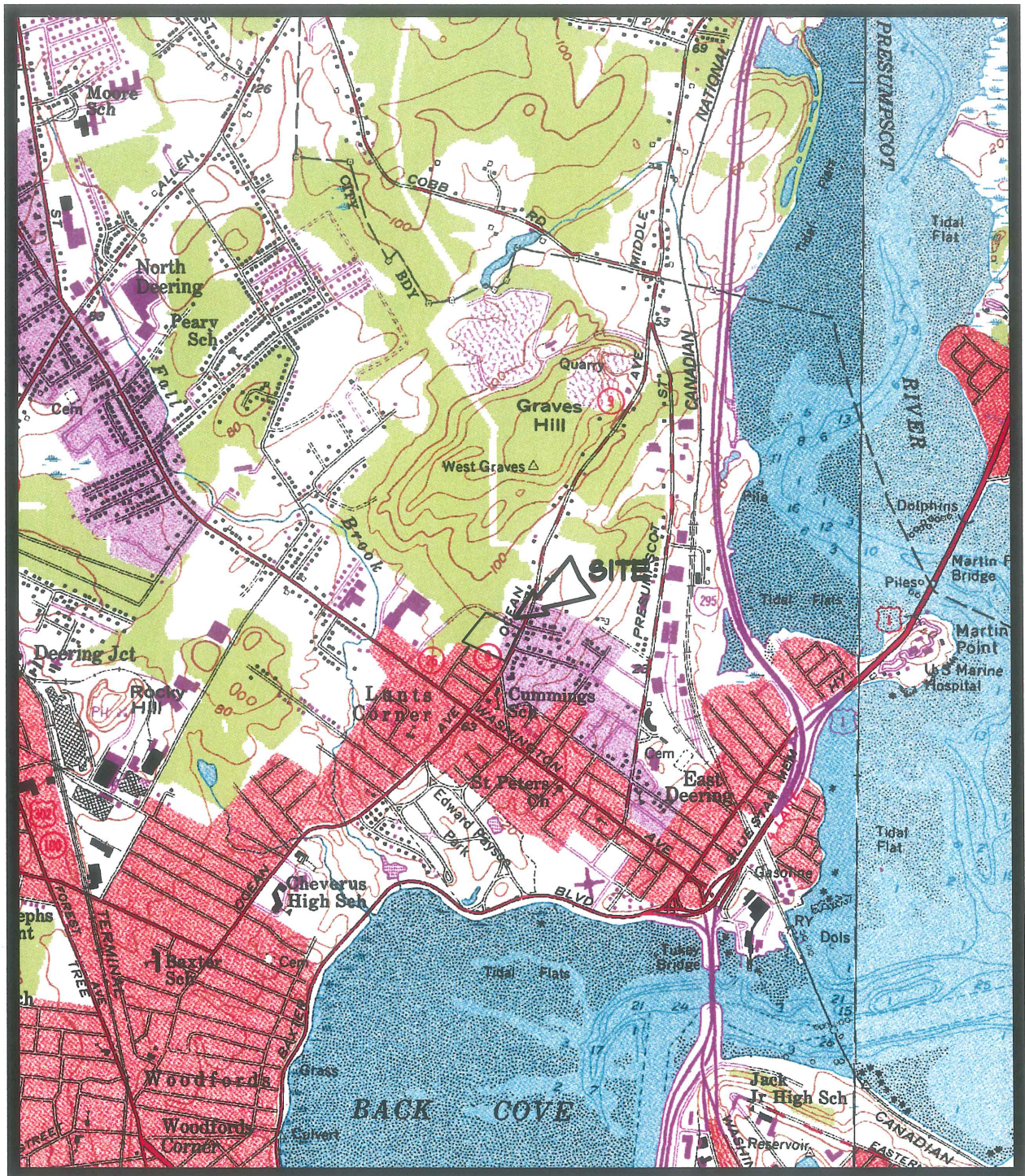
Sincerely:



S. John Watson, CFO

Section 6

Project Maps



USGS MAP
CEDARS HEALTHCARE CENTER
REHABILITATION CENTER ADDITION
PORTLAND, MAINE
SCALE 1" = 2,000'



SOILS MAP
CEDARS HEALTHCARE CENTER
REHABILITATION CENTER ADDITION
PORTLAND, MAINE
NOT TO SCALE

Section 7

Parking Study

Cedars/Atrium Assisted Living Project
Ocean Avenue, Portland

LUC

MAR 23 2005
RECEIVED

General

This project will result in an additional 30 units (60 beds) of assisted living at the existing site. The site currently has 102 beds of long term, extended care in the Cedars. There are also 61 units in the Atrium which seem to best meet the "congregate care facilities" definition in the City of Portland Land Use Ordinance. These 61 units have a total of 99 beds, as 38 units have 2 beds.

Parking Requirements

The City of Portland Land Use Ordinance uses three variables when applied to site parking as follows:

- Staff present during one weekday morning shift
- Number of beds
- Units of congregate care

Once the 30 units of assisted living are occupied, the number of staff present during one shift is 96: 70 for the Cedars, 12 in the Atrium and 14 for the new assisted living. The total number of beds on site would be 261, with 99 of these in the Atrium and the remainder either in the Cedars (102) or the new assisted living area (60).

Parking required by the Land Use Ordinance would be 96 spaces for the staff plus one space for each 5 beds in assisted living or long term care ($162 \text{ beds} / 5 = 32 \text{ spaces}$) and one space for each 3 units of congregate care ($61 \text{ units} / 3 = 20 \text{ spaces}$) for a total of 148 or 149 spaces. An alternate method of calculating the parking requirement of the ordinance would be the 96 staff spaces plus $261 \text{ beds} / 5 = 52 \text{ spaces}$, again totaling 148 or 149 spaces.

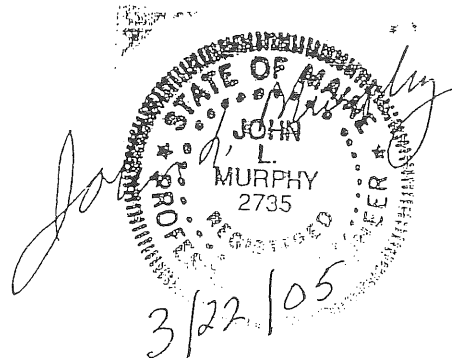
Proposed Parking

The proposed project will only result in actual construction of 3 parking spaces near the new assisted living quarters. These are to be handicapped spaces that are in critical need near this facility. Some other spaces that are currently available will be clearly striped with proper pavement marking. The resulting total number of spaces will be 188.

Thus, the site will have sufficient parking spaces to meet the Land Use Ordinance requirement of 148 or 149 spaces. A major consideration is the location of some of the spaces at a convenient distance from the housing areas to serve elderly residents who may be carrying packages or groceries. A second consideration is that extra spaces need to be available as some employees leave while the next group arrives. As noted in my earlier submission, the observed number of vacant spaces at 3:00 PM was 57. This will decrease by 14 plus 12, or 26 spaces, based upon the Land Use Ordinance calculations. There should be some extra spaces to provide for staff changes, cross over of groups of employees and convenience of the elderly residents.

Conclusions

1. The parking requirements of the Land Use Ordinance will be met by the proposed parking plan.
2. Only 3 new handicapped spaces will be constructed in an area convenient to the assisted living facility.
3. The existing parking will accommodate overlap of staff changes, possible future minor changes in staff numbers and, most important, maximum possible convenient location of parking for elderly residents.



Section 8

Stormwater Management Plan

STORMWATER MANAGEMENT PLAN

Cedars Rehabilitation Center Addition
Ocean Avenue

Portland, Maine

prepared for

Cedars Healthcare
630 Ocean Avenue
Portland, ME 04103

August 2008

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EXECUTIVE SUMMARY

Cedars Healthcare is proposing to renovate and expand their existing rehabilitation center located at the Cedars Care Center on Ocean Avenue in Portland. The renovations and expansion total 1,500 square feet and will expand over an existing paved parking/loading area to the rear of the existing facility. The Cedars Care Center is one of three facilities located on the 10.57 acre parcel. The overall development is subject to the Site Location of Development Act (SLDA) and was most recently modified and approved in 2005 by the City of Portland through their delegated review authority granted by the Maine Department of Environmental Protection (MDEP). The most recent approval also included various wetland impacts subject to the Natural Resource Protection Act (NRPA) and were permitted by the MDEP at that time (MDEP Order #L-22483-TG-B-M).

The 1,500 square foot renovation will expand over existing developed areas. Overall the project will result in a net decrease in impervious surface of 108 square feet. Approximately 3,000 square feet of land area will be disturbed by the project during construction. There will be no change to the land areas that are considered "Developed Area" as defined by the MDEP in Chapter 500.

The MDEP revised their stormwater regulations in 2005 (MDEP Rule Chapters 500 and 502). The revised rules require that any modification to an existing SLDA permit must meet current stormwater management standards (MDEP Chapter 500 Paragraph 16).

The scope of the proposed project is not expected to increase pollutant load in the post-development condition, and therefore, does not warrant modification of the existing stormwater management controls. During construction, the project will be subject to the outlined erosion and sedimentation control methodology and inspection and maintenance strategies. These measures will meet the required stormwater objectives of the Maine Department of Environmental Protection (MDEP) and the City of Portland.

STORMWATER MANAGEMENT PLAN

Cedars Rehabilitation Center Addition Ocean Avenue Portland, Maine

I. Introduction

This Stormwater Management Plan has been prepared to address the potential impacts associated with this project due to the proposed modification in stormwater runoff characteristics. The stormwater management controls that are outlined in this plan have been designed to best suit the proposed development and to comply with applicable regulatory requirements.

II. Existing Conditions

The project is located on a 10.57 acre condominium development, consisting of three main uses: The Cedars Care Center, The Cedars Assisted Living Facility, and The Atrium. The Cedars Care Center was permitted in 1988 and constructed in 1991. The Atrium was permitted in 1997 and constructed in 1999. The Cedars Assisted Living Facility was permitted in 2005 and construction is nearing completion. The majority of the site is developed area, with the exception of a few areas in the Southern corner of the site that have been set aside as “mitigation areas” as part of previous Natural Resource Protection Act (NRPA) permitting (MDEP Order #L-22483-TG-B-M).

A. Land Cover

The majority of the site has been developed over the past two decades and consists of significant amounts of roof and paved areas interspersed with landscaped plantings and lawn. The exception to this are a few areas located in the southern corner of the site that have been set aside as “mitigation areas”. These areas are generally wooded and contain dense vegetation.

B. Site Topography

As the site has been significantly developed, earthwork operations have graded the site relatively flat. Various 3H:1V slopes have been created around the site to transition grade between these developed areas.

C. Surface Water Features

A wetland area is located in the Southern corner of the site contained in one of the “mitigation areas.” Various permitted wetland impacts have occurred on the site over the history of this development. Refer to previous NRPA permitting (MDEP

Order # L-22483-TG-B-M) for additional information regarding the wetland areas. There are no natural streams or ponds on or abutting the site. Several manmade stormwater detention areas are located around the site.

D. Soils

Soil characteristics were obtained from the Soil Conservation Service (SCS) Medium Intensity Soil Survey of Cumberland County. The proposed site is located on sheets #76 and #82. Soils identified on the site (or within close proximity) are identified below in Table 1.

Table 1 – Proximity Soil Types and Characteristics			
Soil Type	Symbol	HSG	K Factor
Hollis fine sandy loam, 0 to 8 percent slopes	HrB	C/D	0.32
Hollis fine sandy loam, 8 to 15 percent slopes	HrC	C/D	0.32

The K factor is an erodibility index that relates each soil family based on a slight erosion potential of 0.10 to a high erosion potential of 0.64. An index number, greater than 0.32, indicates that a high level of erosion control measures must be taken in order to control erosion of this soil. The hydrologic soil group (HSG) designation is based on a rating of the relative permeability of a soil, with group “A” being extremely permeable such as coarse sand, to group “D” having low permeability such as clay.

E. Historic Flooding

The Federal Emergency Management Agency has not identified a flood hazard area located on or adjacent to the site (FEMA Community Panel Number 230051 0007 C, dated December 8, 1998). There is no known flooding history associated with the site.

III. Proposed Development

The proposed development consists of a 1,500 square foot building renovation and expansion to the existing Cedars Care Facility. The renovations will create an expansion of the existing rehabilitation center to provide additional space and modernized infrastructure. Slight modification to the existing parking area will be required to accommodate the addition.

A. Alterations to Land Cover

The 1,500 square foot renovation will expand over existing developed areas. An Alterations to Land Cover Map has been prepared and included as Attachment C. As shown on this plan approximately 515 square feet will be converted from pavement to roof area. Approximately 242 square feet will be converted from grass to roof area and 130 square feet will be converted from concrete to roof area. Another 350 square feet of pavement will be removed and revegetated as

grass. Overall the project will result in a net decrease in impervious surface of 108 square feet.

Approximately 3,000 square feet of land area will be disturbed by the project during construction. There will be no change to the land areas that are considered “Developed Area” as defined by the MDEP in Chapter 500.

IV. Downstream Ponds and Waterbodies

Stormwater from the proposed building renovations is entirely tributary to the abutting detention pond to the southwest. This detention pond discharges to the wetland area located in the southern corner of the site, which drains to the municipal stormwater system located in Ocean Avenue. The Ocean Avenue system conveys water to the southwest for approximately 300 feet prior to branching off to the southeast down Morse Street. The system eventually discharges to Back Cove and Casco Bay.

The Urban Impaired Stream Map prepared by the MDEP for Portland, ME depicts an approximate watershed boundary for Fall Brook that is shown near the site. As described above, the site is tributary to the municipal system in Ocean Avenue and is not conveyed to Fall Brook prior to discharge to Back Cove.

V. Regulatory Requirements

A. City of Portland, Maine

The City of Portland has outlined its Stormwater Management Standards in Section V of their Technical and Design Standards Manual. As stated in Section V.3.A, “all development proposals shall conform to the standards set forth in Chapter 500 of the Maine Department of Environmental Protection Stormwater Management and Direct Watersheds of Waterbodies Most at Risk from New Development Rules, and the practices delineated in the DEP’s Stormwater Best Management Practices.” An outline of the MDEP requirements is provided below.

B. Maine Department of Environmental Protection (MDEP)

The City of Portland has utilized their delegated review authority granted by the MDEP to review all previous site and stormwater permitting. This project has previously been permitted under local review of the Site Location of Development Act (SLDA). The proposed addition is a modification of this previous SLDA permit.

The MDEP revised their Stormwater Regulations in 2005 (MDEP Rule Chapters 500 and 502). The revised rules require that any modification to an existing SLDA permit must meet current stormwater management standards (MDEP Chapter 500 Paragraph 16). The following sections describe how this project will address these stormwater management performance standards.

Basic Standards: A project must meet basic standards if it disturbs an area greater than one (1) acre. As this development includes disturbed areas greater than this threshold (when considering the entire permitted project), it must meet these basic standards. These standards include various erosion and sedimentation controls, inspection and maintenance procedures, and general housekeeping requirements. These performance standards have been addressed in two separate reports entitled “Erosion and Sedimentation Control Plan” and “Inspection, Maintenance, and Housekeeping Plan” (Attachments A and B respectively). Please refer to these plans for more detailed information.

General Standards: A project is subject to the general standards if it results in the creation of one (1) or more acres of impervious area or developed areas greater than five (5) acres. As this development includes impervious areas greater than this threshold (when considering the entire permitted project), it must meet the general standards. Refer to Section VI – Existing Impervious Reduction and Elimination for a more detail description of how this project will meet this standard.

Phosphorous Standards: Stormwater from this project is not tributary to a lake watershed and, therefore, is not subject to the phosphorus standards.

Urban Impaired Stream Standards: Stormwater from this project is not tributary to an “Urban Impaired Stream” as defined by MDEP Chapter 502 and, therefore, is not subject to the urban impaired stream standards.

Flooding Standards: The MDEP requires that projects creating impervious areas greater than three (3) acres, or developed areas greater than twenty (20) acres, address various flooding standards. As this development includes impervious areas greater than this threshold (when considering the entire permitted project), it must meet the flooding standards. Refer to Section VII – Peak Flow Analysis for a discussion of how the project will address this standard.

VI. Existing Impervious Reduction and Elimination

As shown on the Alterations to Land Cover Map (Attachment C), the project results in an overall reduction in impervious surface of 108 square feet. These modifications will result in an overall reduction in pollutant load.

There is a 242 square foot area of grass that will be converted to roof area. In order to mitigate for this modification, a 350 square foot area that is currently pavement will be converted to grass. When the pavement is removed, the underlying ground surface will be aerated and revegetated. Additionally, it is recognized by the MDEP that roof surfaces generate less pollutant load than paved surfaces. As such, the conversion of pavement surface to grass and replacement of grass with roof surface in these areas will result in a net reduction in pollutant load.

There are also two areas of pavement and concrete that will be replaced by roof surface totaling 515 square feet and 130 square feet, respectively. As stated above, it is recognized by the MDEP that roof surfaces generate less pollutant load than paved surfaces. As such, the removal of the higher pollutant load surfaces (pavement and concrete) and replacement with lower pollutant load surfaces (roof) will result in an overall reduction in pollutant load.

We request that the MDEP consider the provisions outlined in Chapter 500, Section 6 in support of this impervious surface mitigation and pollutant load reduction.

VII. Peak Flow Analysis

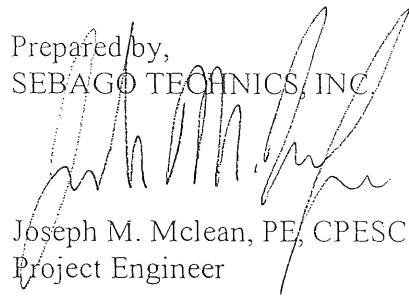
As stated previously, the overall impervious area on this project will be reduced by 108 square feet. All runoff from this project is ultimately tributary to the same location (stormwater detention pond and wetland area).

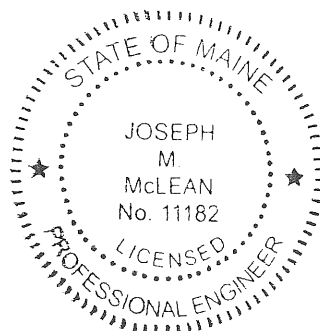
Previous stormwater peak flow analysis for this project have utilized the SCS TR-20 methodology to model the modifications in peak flow rates resulting from development. Runoff Curve Numbers (CN) are utilized by the SCS TR-20 method to describe the amount of stormwater a particular watershed will discharge in a given rain event. These CN values are calculated based upon the ability of the watershed surfaces to absorb stormwater runoff. As the overall watershed will be removing impervious area and replacing it with grass, the overall CN value will decrease. This will result in an overall reduction in stormwater runoff and a corresponding decrease in the resulting post-development peak flow rates to tributary areas for all stormwater events.

VIII. Conclusions

The proposed development will meet all regulatory requirements of the MDEP and the City of Portland. Additionally, erosion and sedimentation controls along with associated maintenance and housekeeping methodology has been outlined to prevent unreasonable impacts on the site and to the surrounding environment.

Prepared by,
SEBAGO TECHNICS, INC


Joseph M. Mclean, PE, CPESC
Project Engineer



Attachment A

EROSION AND SEDIMENTATION CONTROL PLAN

EROSION AND SEDIMENTATION CONTROL PLAN Attachment A

Cedars Rehabilitation Center Expansion Portland, Maine

Introduction

This Erosion and Sedimentation Control Plan (hereafter referred to as “this plan”) has been developed to provide a strategy to prevent unreasonable erosion of soil and sediment transport beyond the project site or into a protected natural resource. These strategies apply to the proposed development immediately prior to soil disturbing activities on the site and shall remain in place until the site is permanently stabilized.

The information presented in this plan is provided as an overview of the anticipated measures to be used on this site. In some instances, additional measures may be required due to unexpected conditions that arise during construction. Also, specific detail on the application of a recommended practice for an unexpected instance may not be covered in this plan. For additional detail on any of the erosion and sedimentation control measures discussed in this plan or for further recommendations of applicable practices, refer to the “Maine Erosion and Sedimentation Control BMP” manual published by the Maine Department of Environmental Protection (MDEP) dated March 2003, as revised.

Plan Implementation Phases

Generally, the implementation of this plan occurs in three distinct phases as described below. For a more specific construction sequence for this project refer to Attachment 1 - General Construction Sequence.

1. Pre-Construction Phase

Prior to the beginning of any construction, perimeter sediment barriers (i.e. silt fence, erosion control mix berm, etc...) shall be installed at, or just below, the limits of clearing or grubbing, and/or just above any adjacent property line or protected natural resource. Prior to any clearing or grubbing, a construction entrance shall be constructed at the intersection with the proposed access drive and the existing roadway to avoid tracking of mud, dust and debris from the site.

2. Construction Phase

Areas undergoing actual construction shall only expose that amount of mineral soil necessary for progressive and efficient site construction. Any area that has been disturbed and is not “permanently stabilized” (as described by this plan) shall be considered “open.” Open areas shall be protected and stabilized with temporary erosion and sedimentation control measures as shown on the development plans and as described within this plan.

Preparation for winter stabilization applies to some disturbed areas that are open on or after September 15 of the construction season (refer to the Winter Construction Section of this plan, Paragraph B – Overwinter Stabilization Timeframe). Any areas that remain open after November 1 or new soil disturbance that occurs after November 1, but before April 15, must be protected by additional measures as described in the Winter Construction section of this plan. The recommendations outlined in the Winter Construction section of this plan shall supersede other conflicting recommendations.

3. Post-Construction Phase

Once the site has reached permanent stabilization, remove any temporary sediment control measures, such as silt fence, within 30 days. All accumulated sediment/debris in the permanent stormwater management system, ditches, swales, paved surfaces, and/or any other location that has accumulated sediment/debris during construction shall be removed and disposed of in an approved manner.

Permanent Stabilization

The strategies outlined in this plan shall be in effect until the site reaches permanent stabilization. Newly seeded or sodded areas must be protected from vehicle traffic, excessive pedestrian traffic, and concentrated runoff until the vegetation is well established. If necessary, areas must be seeded and mulched again if germination is sparse, plant coverage is spotty, or topsoil erosion is evident. The following list defines permanent stabilization for applicable situations.

1. Seeded Areas: For seeded areas, permanent stabilization means a 90% cover of vigorous perennial growth with no evidence of washing or rilling of the topsoil.
2. Sodded Areas: For sodded areas, permanent stabilization means the complete binding of the sod roots into the underlying soil with no slumping of the sod or die-off.
3. Permanent Mulch: For mulched areas, permanent mulching means total coverage of the exposed area with an approved mulch material. Erosion control mix may be used as mulch for permanent stabilization according to approved application rates and limitations.
4. Riprap: For areas stabilized with riprap, permanent stabilization means that slopes stabilized with riprap have an appropriate backing of well-graded gravel or approved geotextile to prevent soil movement from behind the riprap.
5. Paved Areas: For paved areas, permanent stabilization means the placement of compacted gravel subbase is completed.
6. Ditches, channels, and swales: For open channels, permanent stabilization means the channel is stabilized with a 90% cover of vigorous perennial growth, a well-graded riprap lining, or with another non-erosive lining such as specified. There must be no evidence of slumping of the channel lining, undercutting of the channel banks, or down-cutting of the channel.

Temporary Erosion and Sedimentation Control BMPs

The placement/use of the following erosion and sedimentation control measures shall be in accordance with the "Maine Erosion and Sedimentation Control BMP" manual published by the Maine Department of Environmental Protection (MDEP) dated March 2003, as revised.

1. Sediment Barriers

Prior to the beginning of any construction, sediment barriers (i.e. silt fence, erosion control mix berms, etc...) shall be installed across the slope(s), on the contour, at or just below the limits of clearing or grubbing, and/or just above any adjacent property line or watercourse to protect against construction related erosion. Sediment barriers shall be maintained until all tributary open areas have been permanently stabilized. The following are recommended perimeter sediment barriers:

- Silt fence: Shall be installed per the detail on the plans. The effective height of the fence shall not exceed 36 inches. It is recommended that silt fence be removed by cutting the fence materials at ground level so as to avoid additional soil disturbance.
- Staked hay bales: Shall be installed per the detail on the plans. Bales shall be wire-bound or string-tied and these bindings must remain parallel with the ground surface during installation to prevent deterioration of the bindings. Bales shall be installed within a minimum four (4) inch deep trench line with ends of adjacent bales tightly abutting another.
- Erosion control mix berm: Shall be installed per the detail on the plans. The mix shall consist primarily of organic material and contain a well-graded mixture of particle sizes. The mix must meet the most recent composition specifications published by the MDEP. No trenching is required for installation of this barrier.

2. Surface Stabilization

All disturbed areas that will not be worked for more than 7 days shall be protected and stabilized with mulch or other non-erodable cover. Areas located within 75 feet of a wetland or waterbody must be protected and stabilized within 48 hours of the initial disturbance of the soil or prior to any storm event, whichever comes first. Areas that have been seeded (temporary or permanent) shall be stabilized immediately. The following are recommended practices for surface stabilization:

- Hay or straw mulch: Organic mulches including hay and straw need to be air-dried, free of undesirable seeds and coarse materials. Application rate shall be 2 bales (70-90 lbs) per 1000 square feet or 1.5 to 2 tons (90-100 bales) per acre. This type of mulch must be anchored with a tackifier amendment and/or via physical means (i.e. vehicle tracking, jute netting, etc...) to avoid displacement by wind or water.
- Erosion control mix: Erosion Control Mix can be manufactured on or off the site. It is composed primarily of shredded bark, stump grindings, composted bark, or other acceptable products based on a similar raw source. The mix must meet the most recent composition specifications published by the MDEP. The mix shall be placed

evenly and must provide 100% soil coverage. Erosion control mix shall be applied such that the thickness on slopes 3:1 or less is 2 inches plus ½ inch per 20 feet of slope up to 100 feet. The thickness on slopes between 3:1 and 2:1 is 4 inches plus ½ inch per 20 feet of slope up to 100 feet. This shall not be used on slopes greater than 2:1.

- Erosion control blankets: Erosion Control Blankets are used on steep slopes (greater than 3H:1V) and also areas that will receive concentrated stormwater flows. Blankets aid in controlling erosion on disturbed soils and critical areas during the establishment period of vegetation. Various forms of erosion control blankets are commercially available, each with different advantages for different applications. The type of blanket to be used for individual applications shall be as indicated on the development plan set or via the use of an approved equivalent blanket. In all applications, the blanket manufacturer's specifications and installation methods shall be referenced and adhered to.

3. Soil Stockpiles

All topsoil shall be stockpiled for future use on the project at a stable location on-site. Structural measures, such as sediment barriers, may be warranted for additional sediment control of the stockpile areas. Stockpiles of soil or subsoil shall be mulched with hay or straw or with erosion control mix. This must be done within 24 hours of stocking and re-established prior to any rainfall. Any soil stockpile will not be placed (even covered with hay or straw) within 75 feet from any protected natural resources.

4. Stone Check Dams

Stone check dams are generally temporary devices, which are constructed across a swale or drainage ditch. Their purpose is to reduce the velocity of concentrated stormwater flows, thereby reducing erosion of the swale or ditch. These devices will also trap small amounts of sediment generated in the ditch itself, however, they are not an effective sediment trapping device and should not be used as such. Stone check dams are typically constructed of 2"-3" crushed stone and stand 24 inches in height.

5. Stormdrain Inlet Protection

Storm drains are typically operational prior to permanent stabilization of tributary areas. In these instances hay bales, crushed stone barriers, and/or silt sacks shall be used at a catch basin or prior to a pipe entrance. This temporary protection will assist in the removal of sediment prior to entrance into a storm drainage system and the prevention of clogging and/or loss of capacity. These devices alone will not prevent all sediment from entering the stormwater system and should be used in conjunction with other devices and practices to achieve desired sediment removal levels.

6. Dust Control

Dust control during construction shall be achieved by the use of a watering truck to periodically sprinkle the exposed roadway areas as necessary to reduce dust during the dry months. Applying other dust control products such as calcium chloride or other

manufactured products are allowed if authorized by the proper local, state and/or federal regulating agencies. However, it is the contractor's ultimate responsibility to mitigate dust and soil loss from the site.

Vegetative Measures

1. Temporary Vegetation

If any disturbed area of soil will be left bare for more than 7 days, or if construction is to be completed in phases over an extended duration, temporary seeding and mulching shall commence immediately following initial fine grading of the site. In sensitive areas (within 75 feet of protected natural resources) temporary mulch must be applied within 48 hours or prior to any storm event on all disturbed surfaces. It shall be maintained and reseeded, as necessary, to ensure good vegetative cover for the entire duration of construction. Seed will be selected from the following table (Table 1 - Temporary Seed Mixture) according to the time of year or via an approved equivalent method.

TABLE 1 - TEMPORARY SEED MIXTURE			
Seed	Lbs./Acre	Lbs./1000s.f.	Recommended Seeding Date
Winter Rye	112	2.6	8/15 thru 10/1
Oats	80	1.8	4/1 thru 7/1 8/15 thru 9/15
Annual Ryegrass	40	0.9	4/1 thru 7/1
Sudangrass	40	0.9	5/15 thru 8/15
Perennial	40	0.9	8/15 thru 9/15

Note:

1) Some tree and shrub species may be desirable for sites primarily covered with sand and gravel. These methods shall be approved by the appropriate regulatory authority prior to use.

2. Permanent Vegetation

Revegetation measures shall commence immediately upon completion of final grading of areas to be loamed and seeded. Revegetation measures shall consist of the following:

A. Seedbed Preparation

- Four (4) inches of loam will be spread over disturbed areas and smoothed to a uniform surface. Loam shall be free of subsoil, clay lumps, stones and other objects over 2" in any dimension, and without weeds, roots or other objectionable material.
- Soil tests shall be taken at the time of soil stripping to determine fertilization requirements. Soil tests shall be taken promptly as to not interfere with the 7-day limit on soil exposure (48-hours adjacent to a protected natural resource). Based upon test results, soil amendments shall be incorporated into the soil prior to final seeding. In lieu of soil tests, soil amendments may be applied as shown below in Table 2:

Item	Application Rate
10-20-20 Fertilizer (N-P205-K20 or equal)	18.4lbs./1,000 s.f.
Ground Limestone (50% calcium and magnesium oxide)	138-lbs./1,000 s.f.

- Work lime and fertilizer into the soil as nearly as practical to a depth of four (4) inches with proper equipment. Roll the area to firm the seedbed except on clay, silty soils or coarse sand.

B. Application of Seed

- Seeding: The seed mixture shown below in Table 3 shall be utilized for permanent seeding applications. Alternate seed mixtures may be utilized as approved. Refer to Appendix A of the MDEP Erosion and Sedimentation Control BMP manual for additional seed mixture options.

Seed Type	Application Rate
Creeping Red Fescue	0.46 lbs/1,000 s.f. (20 lbs/acre)
Red Top	0.05 lbs/1,000 s.f. (2 lbs/acre)
Tall Fescue	0.46 lbs/1,000 s.f. (20 lbs/acre)
Total:	0.97 lbs/1,000 s.f. (42 lbs/acre)

- Hydroseeding: Shall be conducted on prepared areas as described above. Hydroseeding shall not be done on slopes steeper than 2H:1V. Lime and fertilizer may be applied simultaneously with the seed. Recommended seeding rates must be increased by 10% when hydroseeding.
- Surface Stabilization: Mulching or other approved surface stabilization methods shall commence immediately after seed is applied. Refer to the surface stabilization section of this plan for more information.

C. Sodding

Following seedbed preparation, sod can be applied in lieu of seeding in areas where immediate vegetation is most beneficial such as ditches, around stormwater drop inlets and areas of aesthetic value. Sod should be laid at right angles to the direction of flow starting at the lowest elevation. Sod should be rolled or tamped down to even out the joints once laid down. Where flow is prevalent the sod must be properly anchored down. Irrigate the sod immediately after installation. In most cases, sod can be best established between April 1 and November 15 of the construction year.

Winter Construction

The winter construction period is from November 1 through April 15. If the construction site is not permanently stabilized by November 15 then the site needs to be protected with over-winter stabilization.

Winter excavation and earthwork shall be completed such that no more than 1 acre of the site is without stabilization at any one time. Limit the exposed area to those areas in which work is expected to be under taken during the proceeding 15 days and that can be mulched in one day prior to any snow event. All areas shall be considered to be denuded until the subbase gravel is installed in roadway areas or the areas of future loam and seed have been loamed, seeded and mulched.

Any added measures, which may be necessary to control erosion/sedimentation from the site dependent upon the actual site and weather conditions, must be installed. Continuation of earthwork operations on additional areas shall not begin until the exposed soil surface on the area being worked has been stabilized, in order to minimize areas without erosion control protection.

A. Winter Construction BMP Adjustments

1. Sediments Barriers:

During frozen conditions, sediment barriers shall consist of erosion control mix berms as frozen soil prevents the proper installation of hay bales and silt fences.

2. Mulching:

Between the dates of November 1 and April 15, all mulch shall be anchored by either mulch netting, asphalt emulsion chemical, track or weed cellulose fiber. When the ground surface is not visible through the mulch then cover is sufficient. After November 1st, mulch and anchoring of all exposed soil shall occur at the end of each final grading workday.

- Open Surfaces (flatter than 8%): Hay and straw mulch shall be applied at a rate of 150 lb. per 1,000 square feet or 3 tons/acre (twice the normal accepted rate of 75-lbs./1,000 square feet or 1.5 tons/acre) and shall be properly anchored. Mulch shall not be spread on top of snow. The snow will be removed down to one-inch depth or less prior to application. After each day of final grading, the area will be properly stabilized with anchored hay or straw or erosion control matting. An area shall be considered to have been stabilized when exposed surfaces have been either mulched with straw or hay at a rate of 150 lb. per 1,000 square feet (3 tons/acre) and adequately anchored that ground surface is not visible through the mulch.
- Open Slopes (8% or steeper) and Drainage Ways: Slopes shall not be left exposed for any extended time of work suspension unless fully mulched and anchored with netting or erosion control blankets. Mulching shall be applied at a rate of 230-lbs/1,000 square feet on all slopes steeper than 8%. Mulch netting shall be used to anchor mulch in all drainage ways with a slope steeper than 3% for slopes exposed to direct winds and for all other slopes steeper than 8%. Erosion control blankets shall be used in lieu of mulch in all drainage ways. Erosion control mix can be used to substitute erosion control blankets on slopes that do not exceed 2H:1V. In this case, the erosion control

mix shall be spread out, not placed in a berm as it is installed as a sedimentation barrier.

3. Soil Stockpiles:

Stockpiles of soil or subsoil shall be mulched for over winter protection with hay or straw at twice the normal rate or at 150-lbs/1,000 square feet (3 tons per acre) or with a four-inch layer of wood waste erosion control mix. This will be done within 24 hours of stocking and re-established prior to any rainfall or snowfall. Any soil stockpile will not be placed (even covered with hay or straw) within 100 feet from any natural resources.

4. Natural Resources Protection:

Any areas within 100 feet from any protected natural resources, if not stabilized with a minimum of 90% mature vegetation catch, shall be mulched by December 1 and anchored with plastic netting or protected with erosion control mats. During winter construction, a double line of sediment barriers (i.e. silt fence backed with hay bales or erosion control mix) will be placed between any natural resource and the disturbed area. Projects crossing the natural resource shall be protected a minimum distance of 100 feet on either side from the resource. Existing projects not stabilized by December 1 shall be protected with the second line of sediment barrier to ensure functionality during the spring thaw and rains.

5. Seeding:

Between the dates of October 15 and April 1st, loam or seed will not be required. During periods of above freezing temperatures finished areas shall be fine graded and either protected with mulch or temporarily seeded and mulched until such time as the final treatment can be applied. If the date is after November 1st and if the exposed area has been loamed, final graded with a uniform surface, then the area may be dormant seeded at a rate of 3 times higher than specified for permanent seed and then mulched.

Dormant seeding may be selected to be placed prior to the placement of mulch and fabric netting anchored with staples. If dormant seeding is used for the site, all disturbed areas shall receive 4" of loam and seed at an application rate of 5-lbs/1000 square feet. All areas seeded during the winter will be inspected in the spring for adequate catch. All areas insufficiently vegetated (less than 90% catch) shall be revegetated by replacing loam, seed and mulch. If dormant seeding is not used for the site, all disturbed areas shall be revegetated in the spring.

B. Overwinter Stabilization Timeframe

1. Ditches and Channels:

All stone-lined ditches and channels must be constructed and stabilized on the site by November 15. All grass-lined ditches and channels must be constructed and stabilized by September 15. If a ditch or channel is not grass-lined by September

15, then one of the following actions must be taken to stabilize the ditch for late fall and winter.

- Install a sod lining in the ditch: A ditch must be lined with properly installed sod by October 1. Proper installation includes the contractor pinning the sod onto the soil with wire pins, rolling the sod to guarantee contact between the sod and underlying soil, watering the sod to promote root growth into the disturbed soil, and anchoring the sod with jute or plastic mesh to prevent the sod strips from sloughing during flow conditions.
- Install a stone lining in the ditch: A ditch must be lined with stone riprap by November 15. A registered professional engineer must determine the stone size and lining thickness needed to withstand the anticipated flow velocities and flow depths within the ditch. If necessary, the ditch must be regraded prior to placing the stone lining to prevent the stone lining from reducing the ditch's cross-sectional area.

2. Disturbed Slopes

All stone-covered slopes must be constructed and stabilized by November 15. All slopes to be vegetated must be seeded by September 15. The MDEP will consider any area having a grade greater than 15% (10H:1V) to be a slope. If a slope to be vegetated is not stabilized by September 1, then one of the following actions must be taken to stabilize the slope for late fall and winter.

- Stabilize the soil with temporary vegetation and erosion control blankets: By October 1 the disturbed slope must be seeded with winter rye at a seeding rate of 3 pounds per 1,000 square feet and apply erosion control blankets over the mulched slope. If the rye fails to grow at least three inches or cover at least 90% of the disturbed slope by November 1, the slope will be covered with a layer of erosion control mix or stone riprap as described in the following standards.
- Stabilize the slope with sod: The disturbed slope must be stabilized with properly installed sod by October 1. Proper installation includes pinning the sod onto the slope with wire pins, rolling the sod to guarantee contact between the sod and underlying soil, and watering the sod to promote root growth into the disturbed soil. Slopes steeper than 33% (3H:1V) or having groundwater seeps on the slope face, may not use late-season sod installation for stabilization.
- Stabilize the slope with erosion control mix: A six-inch layer of erosion control mix must be spread over the slope by November 15. Prior to placing the erosion control mix, any snow accumulation on the disturbed slope must be removed. Slopes steeper than 50% (2H:1V) or having groundwater seeps on the slope face cannot use erosion control mix to stabilize slopes.

- Stabilize the slope with stone riprap: A layer of stone riprap can be placed on the slope by November 15. A registered professional engineer must determine the stone size needed for stability and to design a filter layer for underneath the riprap.

3. Other Disturbed Soils:

By September 15, all disturbed soils on areas having a slope flatter than 15% (10H:1V) must receive seed and mulch. If disturbed areas are not stabilized by this date, then one of the following actions must be taken to stabilize the soil for late fall and winter.

- Stabilize the soil with temporary vegetation: By October 1, seed the disturbed soil with winter rye at a seeding rate of 3 pounds per 1,000 square feet, lightly mulch the seeded soil with hay or straw at 75 pounds per 1000 square feet, and anchor the mulch with plastic netting. Monitor growth of the rye over the next 30 days. If the rye fails to grow at least three inches or cover at least 90% of the disturbed soil before November 1, then mulch the area for over-winter protection as described in the following “Stabilize the soil with mulch” standard.
- Stabilize the soil with sod: Stabilize the disturbed soil with properly installed sod by October 1. Proper installation includes pinning the sod onto the soil with wire pins, rolling the sod to guarantee contact between the sod and underlying soil, and watering the sod to promote root growth into the disturbed soil.
- Stabilize the soil with mulch: By November 15, mulch the disturbed soil by spreading hay or straw at a rate of at least 150 pounds per 1000 square feet on the area so that no soil is visible through the mulch. Prior to applying the mulch, any snow accumulation on the disturbed area must be removed. Immediately after applying the mulch, anchor the mulch with plastic netting to prevent wind from moving the mulch off the disturbed soil.

Inspection and Maintenance

Inspection and maintenance are required of all erosion and sedimentation control measures outlined in this plan. Refer to the Inspection, Maintenance, and Housekeeping plan for this project (provided under separate cover) for an outline of the associated inspection and maintenance requirements.

Attachment B

INSPECTION, MAINTAINANCE, AND HOUSEKEEPING PLAN

INSPECTION, MAINTENANCE, AND HOUSEKEEPING PLAN Attachment B

Cedars Rehabilitation Center Addition Portland, Maine

Introduction

The following plan outlines the anticipated inspection and maintenance procedures for the erosion and sedimentation controls as well as stormwater management devices for the project site. Also, this plan outlines several housekeeping requirements that shall be followed during and after construction. These procedures should be followed in order to ensure the intended function of the designed measures and to prevent unreasonable adverse impacts to the surrounding environment.

The procedures outlined in this inspection and maintenance plan are provided as an overview of the anticipated practices to be used on this site. In some instances, additional measures may be required due to unexpected conditions. For additional detail on any of the erosion and sedimentation control measures or stormwater management devices to be utilized on this project, refer to the most recently revised edition of the "Maine Erosion and Sedimentation Control BMP" manual and/or the "Stormwater Management for Maine: Best Management Practices" manual as published by the Maine Department of Environmental Protection (MDEP).

During Construction

1. **Inspection:** During the construction process, it is the Contractor's responsibility to comply with the inspection and maintenance procedures outlined in this section. These responsibilities include inspecting disturbed and impervious areas, erosion control measures, materials storage areas that are exposed to precipitation, and locations where vehicles enter or exit the site. These areas shall be inspected at least once a week as well as before and after a storm event, and prior to completing permanent stabilization measures. A person with knowledge of erosion and stormwater control, including the standards and conditions in any applicable permits, shall conduct the inspections.
2. **Maintenance:** All measures shall be maintained in an effective operating condition until areas are permanently stabilized. If Best Management Practices (BMPs) need to be maintained or modified, additional BMPs are necessary, or other corrective action is needed, implementation must be completed within 7 calendar days and prior to any storm event (rainfall).
3. **Documentation:** A log summarizing the inspections and any corrective action taken must be maintained on-site. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of erosion and sedimentation controls, material storage areas,

and vehicle access points to the site. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. The log must be made accessible to the appropriate regulatory agency upon request. The permittee shall retain a copy of the log for a period of at least three years from the completion of permanent stabilization.

4. **Specific Inspection and Maintenance Tasks:** The following is a list of erosion control and stormwater management measures and the specific inspection and maintenance tasks to be performed during construction.

A. Sediment Barriers:

- Hay bale barriers, silt fences, and filter berms shall be inspected immediately after each rainfall and at least daily during prolonged rainfall.
- If the fabric on a silt fence or filter barrier should decompose or become ineffective prior to the end of the expected usable life and the barrier is still necessary, it shall be replaced.
- Sediment deposits should be removed after each storm event. They must be removed before deposits reach approximately one-half the height of the barrier.
- Filter berms shall be reshaped as needed.
- Any sediment deposits remaining in place after the silt fence or filter barrier is no longer required should be dressed to conform to the existing grade, prepared, and seeded.

B. Riprap Materials:

- Once a riprap installation has been completed, it should require very little maintenance. It shall, however, be inspected periodically to determine if high flows have caused scour beneath the riprap or dislodged any of the stone.

C. Stone Check Dams:

- Inspect the center of the dam to make sure it is lower than the edges. Erosion caused by high flows around the edges of the dam must be corrected.
- Sediment accumulation shall be removed prior to reaching half of the original design height.
- Areas beneath stone check dams must be seeded and mulched upon removal.

D. Temporary Storm Drain Inlet Protection:

- The inlet protection structure shall be inspected before each rain event and repaired as necessary.
- Sediment shall be removed and the storm drain sediment barrier restored to its original dimensions when the sediment has accumulated to half of the design

depth of the trap.

- Structures shall be removed upon permanent stabilization of the tributary area.
- Upon removal of the structure, all accumulated sediments downstream of the structure shall be cleaned from the storm drain system.

E. Temporary Seed and Mulch:

- Mulched areas should be inspected after rain events to check for rill erosion.
- If less than 90% of the soil surface is covered by mulch, additional mulch shall be applied in bare areas.
- In applications where seeding and mulch have been applied in conjunction with erosion control blankets, the blankets must be inspected after rain events for dislocation or undercutting.
- Mulch shall continue to be reapplied until 95% of the soil surface has established temporary vegetative cover.

F. Stabilized Temporary Drainage Swales:

- Sediment accumulation in the swale shall be removed once the cross section of the swale is reduced by 25%.
- The swales shall be inspected after rainfall events. Any evidence of sloughing of the side slopes or channel erosion shall be repaired and corrective action should be taken to prevent reoccurrence of the problem.
- In addition to the stabilized lining of the channel (i.e. erosion control blankets), stone check dams may be needed to further reduce channel velocity.

5. **Permanent Measures:** As areas become permanently stabilized and permanent stormwater management measures are completed (i.e. ponds, catch basins, culverts, etc...), the Specific Inspection and Maintenance Tasks outlined in the "After Construction" section of this plan shall be performed until all construction operations are completed and the project is turned over to the owner or assigned heirs.

After Construction

1. **Inspection:** After construction, it is the responsibility of the owner or assigned heirs to comply with the inspection and maintenance procedures outlined in this section. All measures must be maintained in effective operating condition. A person with knowledge of erosion and stormwater control, including the standards and conditions in all applicable permits, shall conduct the inspections.
2. **Specific Inspection and Maintenance Tasks:** The following is a list of permanent erosion control and stormwater management measures and the inspection and maintenance tasks to be performed after construction.

A. Vegetated Areas:

- Inspect vegetated areas, particularly slopes and embankments, early in the

growing season or after heavy rains to identify active or potential erosion problems.

- Replant bare areas or areas with sparse growth. Where rill erosion is evident, armor the area with an appropriate lining or divert the erosive flows to on-site areas able to withstand the concentrated flows.

B. Ditches, Swales, and Other Open Channels:

- Inspect ditches, swales and other open stormwater channels in the spring, in the late Fall, and after heavy rains to remove any obstructions to flow. Remove accumulated sediments and debris, remove woody vegetative growth that could obstruct flow, and repair any erosion of the ditch lining.
- Vegetated ditches must be mowed at least annually or otherwise maintained to control the growth of woody vegetation and maintain flow capacity.
- Any woody vegetation growing through riprap linings must also be removed. Repair any slumping side slopes as soon as practicable.
- If the ditch has a riprap lining, replace riprap in areas where any underlying filter fabric or underdrain gravel is showing through the stone or where stones have dislodged.

C. Winter Sanding:

- Clear accumulations of winter sand in parking lots and along roadways at least once a year, preferably in the spring.
- Accumulations on pavement may be removed by pavement sweeping.
- Accumulations of sand along road shoulders may be removed by grading excess sand to the pavement edge and removing it manually or by a front-end loader or other acceptable method.

D. Paved and Gravel Areas:

- Paved and gravel areas should be inspected at least semi-annually for evidence of puddling and/or erosion.
- Drainage along curb lines or other shallow-concentrated flow areas shall be checked to ensure proper flow patterns.
- Corrective action should be taken immediately upon identification of problems.

3. **Documentation:** A log summarizing the inspections and any corrective action taken must be maintained. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of controls. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. The log must be made accessible to

- the appropriate regulatory agency upon request.
4. **Recertification:** A certification of the following shall be submitted to the Maine Department of Environmental Protection (MDEP) within three months of the expiration of each five year interval from the date of issuance of MDEP permits.
 - A. Identification and repair of erosion problems. All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
 - B. Inspection and repair of stormwater control system. All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the system, or portions of the system.
 - C. The Inspection, Maintenance, and Housekeeping Plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the MDEP, and the maintenance log is being maintained.
 5. **Duration of Maintenance:** Perform maintenance as described and required for any associated permits unless and until the system is formally accepted by a municipality or quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system. If a municipality or quasi-municipal district chooses to accept a stormwater management system, or a component of a stormwater system, it must provide a letter to the MDEP stating that it assumes responsibility for the system. The letter must specify the components of the system for which the municipality or district will assume responsibility, and that the municipality or district agrees to maintain those components of the system in compliance with MDEP standards. Upon such assumption of responsibility, and approval by the MDEP, the municipality, quasi-municipal district, or association becomes a co-permittee for this purpose only and must comply with all terms and conditions of the permit.

Housekeeping

The following general performance standards apply to the proposed project both during and after construction.

- A. Spill prevention: Controls must be used to prevent pollutants from being discharged from materials and equipment on-site, including storage practices to minimize exposure of the materials to stormwater, and appropriate spill prevention, containment, and response planning and implementation.
- B. Groundwater protection: During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the site draining to an infiltration area. An "infiltration area" is any area of the site that by design or as a result of soils, topography and other relevant factors, accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the site for the purposes of storage and handling of these materials.

- C. Fugitive sediment and dust: Actions must be taken to insure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control.
- D. Debris and other materials: Litter, construction debris, and chemicals exposed to stormwater must be prevented from becoming a pollutant source.
- E. Trench or foundation dewatering: Trench dewatering is the removal of water from trenches, foundations, cofferdams, ponds, and other areas within the construction area that retain water after excavation. In most cases, the collected water is heavily silted and hinders correct and safe construction practices. The collected water must be removed from the ponded area, either through gravity or pumping, and must be spread through natural wooded buffers or removed to areas that are specifically designed to collect the maximum amount of sediment possible, like a cofferdam sedimentation basin. Avoid allowing the water to flow over disturbed areas of the site. Equivalent measures may be taken if approved.

Attachment C

ALTERATIONS TO LAND COVER MAP

Section 9

Architectural Plan and Elevations

Section 10

Development Plans

CEDARS HEALTHCARE CENTER: REHABILITATION CENTER ADDITION

VICINITY OF 630 OCEAN AVENUE

CONDITIONAL USE AND SITE PLAN REVIEW

CEDARS HEALTHCARE , APPLICANT

Submitted to:
Portland Planning Board
Portland, Maine
October 14, 2008

Submitted by:
Jean Fraser, Planner
October 10, 2008

I. INTRODUCTION

Cedars Healthcare requests conditional use and minor site plan approval for the proposed expansion of the rehabilitation center within the Cedars Care Center part of this complex at 630 Ocean Avenue. The proposed expansion would comprise an 890 sq ft addition to the existing building footprint to facilitate a 1500 sq ft renovation and enlargement of the rehabilitation center. The renovation is stated to be a reorganization and modernization of the existing rehabilitation center to improve the current level of service; it is not intended to increase the capacity to serve additional patients.

The project is referred to the Planning Board as it is a conditional use under the R-3 zone; it is also being reviewed for compliance with the Site Plan Standards.

Notices were sent to 338 parties including interested citizens and neighbors within 500 feet of the outer boundary of the Cedars site; a notice also appeared in the *Portland Press Herald*. One neighbor (Ms Manduca) contacted Planning staff at the time of the Workshop and her comments were circulated to the Planning Board at the Workshop and are included in Attachment E.

A Neighborhood Meeting is not legally required by the City's Ordinance for this type of project and the applicant was not requested to undertake a neighborhood meeting by the Planning Board at the Workshop. However, it is understood that the applicant has contacted neighbors to ascertain whether there are any concerns and will update the Board on this at the Hearing. The applicant has also forwarded a 2005 letter (Attachment F) regarding steps taken in the past to address Ms Manducas' concerns at that time.

Background

In 1988, the Planning Board approved a 99 bed long term care facility and a 50 bed intermediate care facility for this site. The property totaled 5.93 acres at that time. The long term care facility was built with 102 beds (23,200 sq. ft. footprint/65,648 sq ft floor area) and is now known as Cedars Care Center and is the location of the Rehabilitation Center. The intermediate care facility was deferred. In 1997 Cedars acquired an additional 4 acres and received approval to add a 61 bed intermediate care facility (95,332 sq. ft. total floor area) now known as the Atrium.

In 2005 approval was given for a 2-story addition for 30 assisted living units (12,371 sq. ft. footprint/ 26,119 sq. ft. floor area), now almost complete and known as the Cedars Assisted Living Facility (Approval letter in Attachment Aiii). At that time the site was reorganized into a condominium form of ownership so that each facility is a condominium unit and the balance of the site is a "common element" to be used in common by all three units (Condominium documents were submitted and are included at Attachment Aiv).

The first two Cedar projects (Cedars Care Center and Atrium) impacted wetlands and a Tier II wetlands permit was issued by DEP/ACE subject to on-site provision of three mitigation parcels identified as Parcels A, B and C. The assisted living development approved in 2005 was constructed over part of Mitigation Parcel B and an underground storm water detention/treatment system was incorporated into the project on the side nearest Ocean Avenue. The most recent development (the assisted living facility) triggered a Tier III review and was permitted by the MDEP (Permit submitted and attached as in Attachment Aiii).

All of these projects secured an SLDA permit which at that time was permitted by the City on behalf of MDEP. The current proposal is a modification of the SLDA and was reviewed and determined to be acceptable by the MDEP (Attachment H). A summary of the storm water and

drainage improvements on the overall site was requested by staff and is included in Attachment B as the site is close to residential properties.

II. SUMMARY OF FINDINGS

Zone:	R-3
Site Area:	Overall complex: 10.57 acres
Existing Use:	Healthcare Rehabilitation Center
Proposed Use:	Continued use as Rehabilitation Center
Existing Bldg. Floor Area:	71,840 sq ft
Proposed Bldg. Floor Area:	72,730 sq ft
Net inc. in footprint for Rehabilitation Center renovation:	890 sq ft
Building Addition Height:	single story
Existing Parking:	188 spaces
Proposed Parking:	186 spaces
Required Parking:	186 spaces

III. PROPOSED DEVELOPMENT

Current proposal

Cedars Healthcare is proposing to renovate the existing rehabilitation center located on the first floor on the westerly side of the Cedars Care Center (approved 1988; completed 1991). The proposal involves an addition of 1500 sq ft to the current first floor area to allow for modernization of the rehabilitation center and associated infrastructure (further description by the applicant is contained in Attachment Ai, with the layout shown in Attachment L and elevations/floor plan in Attachment N.)

The aerial photograph in Attachment E shows the location and scale of the proposal within the Cedars complex. The photograph below shows the existing loading area and external wall of the existing rehabilitation center, as viewed from the parking areas to the west.



The 1500 sq ft will be made up as follows:

- 610 sq ft within the existing loading dock, which is redundant (another loading dock was created in another phase)
- 890 sq ft building footprint expansion partly under the existing roof and into the paved parking and loading areas adjacent to the existing building.

The proposal includes removal of 350 sq ft of existing paved area which will be revegetated, which results in a net reduction in impervious area of 108 sq ft. (described in Attachment Aviii and illustrated with calculations in Attachment M).

IV. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the conditional use and plan ordinances. Staff comments are highlighted in this report.

V. INSTITUTIONAL CONDITIONAL USE REVIEW

Sec. 14-88 (c)

- a. *In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or building and will not cause significant physical encroachment into established residential areas.*

The proposed expansion takes place on the existing site on the rear elevation of the existing Care Center. It appears to efficiently utilize the former loading area, and otherwise is located beneath a section of the existing roof overhang and partly within paved parking and loading areas.

- b. *The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter.*

This project does not result in a displacement or conversion of a residential use.

- c. *In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.*

The minimum lot size is met.

Sec. 14-474

- a. *There are unique or distinctive characteristics or effects associated with the proposed conditional use.*

There are no known or distinctive characteristics associated with this use. It is a small expansion of the original Cedars long term care use which has been on this site since 1988.

- b. *There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.*

The Cedars facility has been on this site since 1988 with no reported adverse impact upon the public health, safety or welfare. The proposal involves minor construction within the building/activity envelope. The applicants state that the proposal does not increase the capacity to serve additional patients but aims to improve the level of service for existing patients.

- a. *Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

There are no known technical issues associated with this expanded use that would lead one to conclude that the project impact would differ from other such uses.

- (d) *Conditions on conditional use permits. The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.*

The proposal does not appear to have any adverse impacts upon other property in the neighborhood.

VI. SITE PLAN REVIEW

1/2. Traffic

The project does not generate any additional traffic or parking as no increase in patient numbers is envisaged.

The expanded footprint results in the loss of two parking spaces, leaving 186 spaces on the site. The submitted cover letter and 2005 Parking Study (Attachment A) refer to a zoning requirement of 149 spaces, but the approval in 2005 was based on the provision of 186 spaces to meet the zoning requirement. The Zoning Administrator has confirmed that the proposal meets parking and other zoning requirements; her comments were based on the requirement being 186 spaces (Attachment C).

3/4. Bulk, Location, Health, Safety Air, Height of Proposed Buildings

The proposal is small and well-integrated into the existing single story building and does not raise any review issues.

5. Sewers, Stormdrains, Water

The proposal does not affect the capacity of these services.

6. Landscaping and Existing Vegetation

The proposal results in the loss of one mid-size pine tree which currently helps screen a condenser and above-ground oil tank enclosure. At the suggestion of staff, the applicant has introduced additional shrub planting around these structures as shown in the revised Site Plan (Attachment L).

7. Soils and Drainage

The proposed addition will expand over existing developed areas and the storm water runoff from the building addition will drain into the detention pond to the southeast (towards Ocean Avenue) and then into the municipal storm water system in Ocean Avenue.

The Storm Water Management Plan in Attachment Aviii outlines how the addition will reduce net impervious surface and potential pollution. The City's Engineering Reviewer has confirmed that there are no storm water concerns (Attachment D). The MDEP (in reviewing the amendment to Stormwater Management Law) have determined that the proposed stormwater management system is acceptable (Attachment H).

Staff has received one telephone call from a neighbor, Ms Manduca, who owns the property approximately 500 feet to the west of the proposed addition. It is understood that Ms Manduca considers that the Cedars development has increased the storm water impact on her property, particularly from the road around the western edge of the site and snow dumping in the vicinity of the wetlands near her lot.

Staff notes that the proposal under review would not affect Ms Manduca since the new addition is downhill from the western roadway and drains to the south east ie the opposite direction. The applicant has provided additional information: John Watson (Cedars CFO) submitted an e-mail on 9.18.2008 (Attachment B) that summarizes previous storm water and drainage issues and how Cedars has sought to address concerns raised by reviewers and neighbors in the past. Further detail regarding Ms Manduca's property is set out in a 2005 letter from the applicant in Attachment F.

8. Exterior Lighting

The proposals do not include exterior lighting.

9. Fire

The applicant has submitted requested information to the Fire Department (Attachment G). These items would be reviewed as part of the Building Permit review and there are no implications for the Site Plan review.

10. City Infrastructure

The proposals do not have any implications for city infrastructure.

VII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #53-97 relevant to standards for conditional use and site plan regulations, and other findings as follows:

1. That the proposed plans are in conformance with the R3 Conditional Use Regulations of the Land Use Code (section 14-88c and 14-474).
2. That the proposed plans are in conformance with the site plan standards of the Land Use Code.

Attachments presented to PB Workshop September 23, 2008

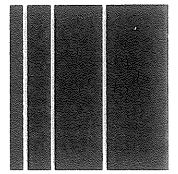
- A. Original Submission
 - i. Cover letter and Site Plan Application Form
 - ii. Conditional Use Application Form
 - iii. Previous Approval documents
 - iv. Right, title and Interest (Declaration of Condominium Document)
 - v. Technical and financial Capability
 - vi. Project maps
 - vii. Parking Study (from 2005)
 - viii. Storm water Management Plan (August 2008)
- B. E-mail from Cedars CFO John Watson dated Sept 18, 2008 presenting further clarification re Storm Water Management for the entire Cedars complex
- C. Memo from City Zoning Administrator dated Sept 10, 2008
- D. Memo from City Engineering Reviewer, Dan Goyette (Woodard & Curran) dated Sept 18, 2008

Attachments received since the PB Workshop September 23, 2008

- E. E-mail comments from Ms Manduka dated September 21, 2008
- F. Previous correspondence regarding Ms Manduka's concerns (submitted by applicant)
- G. Fire Department checklist submittal
- H. MDEP Letter with Permit dated October 2008
- I. Aerial Location Plan (prepared by staff)

Final Plan Set

- J. Boundary Survey
- K. Project Location Map
- L. Site Plan (as revised 10.01.2008)
- M. Alterations to Land Cover Map (re impervious area calculations)
- N. Architectural Plan and Elevations



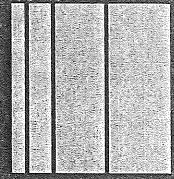
**MINOR SITE PLAN AND
CONDITONAL USE APPLICATIONS**

**Cedars Rehabilitation Center Addition
Portland, Maine**

on behalf of

Cedars Healthcare
630 Ocean Avenue
Portland, ME 04103

August 2008



August 21, 2008
08318

Ai 2

Ms. Barbara Barhydt,
Development Review Services Manager
City of Portland - Planning and Development Department
389 Congress Street
Portland, ME 04101

**Cedars Healthcare Center, Rehabilitation Center Addition – 630 Ocean Avenue
Minor Site Plan and Conditional Use Applications**

Dear Ms. Barhydt:

On behalf of Cedars Healthcare, we are pleased to submit the attached applications for a minor site plan and expansion of a conditional use. The project is located at 630 Ocean Avenue in the R-3 Residential district on a 10.57-acre parcel, which currently contains The Cedars Care Center, The Atrium Independent Living Facility, and is currently completing construction of the Cedars Assisted Living Facility. For additional information regarding the project's location, refer to the USGS Map included in Section 6 of the attached application package.

The Cedars Care Center was permitted in 1988 and constructed in 1991. The Atrium was permitted in 1997 and constructed in 1999. The Cedars Assisted Living Facility was permitted in 2005 and construction is nearing completion. Throughout this process, the City of Portland has granted approval for all site, conditional use, and stormwater permitting. Additionally there have been some natural resource impacts on the site that have been permitted through the Maine Department of Environmental Protection (MDEP) Natural Resource Protection Act (NRPA) as well as by the United States Army Corps of Engineers (ACOE). The most recent City approval and associated MDEP and ACOE documentation has been included in Section 3 of the attached application package.

At this time, Cedars Healthcare is proposing to renovate the existing rehabilitation center located in The Cedars Care Center and expand the current floor area by approximately 1,500 square feet. These renovations and addition will provide a reorganization of the existing rehabilitation center space and will also allow The Cedars to modernize their existing infrastructure. This construction will improve the current level of service that can be provided to the patients, however, it will not increase the capacity to serve additional patients. The Architectural plan and elevations for the proposed improvements have been included in the attached application package in Section 9.

The rehabilitation center is located on the westerly side of the Cedars Care Center adjacent to an existing loading dock. This loading dock was originally constructed in 1991. Since that time,

The Atrium independent living facility was constructed (1999), which included a new and improved loading dock area, which services both facilities. The proposed renovations will extend over this older and unused loading dock area (approximately 610 square feet) as well as some of the adjacent paved areas. Overall the footprint of the building will be expanded by 890 square feet and will total approximately 1,500 square feet of additional enclosed building space (890 square feet of footprint expansion and 610 square foot renovation of loading dock area). The project will maintain adequate loading areas, as required by Chapter 14 of the City of Portland Code of Ordinances (14-351.c). Each facility has loading space at the front of their building entrances that can facilitate the service and access for ambulances. Additionally, each of the facilities share a separate truck service and delivery loading area located in rear of The Atrium.

The 890 square feet of building footprint expansion will extend over the paved and landscaped area adjacent to the facility. There are two parking spaces that will need to be eliminated to accomplish the addition, lowering the total parking spaces on the site to 186 spaces. As demonstrated in the Parking Study prepared by John L. Murphy, P.E. dated 3-22-05 and submitted as part of previous permitting efforts (attached as Section 7), the Cedars facility is required by Chapter 14 of the City of Portland Code of Ordinances to contain 149 spaces. As the site will provide 186 spaces after the addition, the facility will exceed the Ordinance requirements.

The project does not propose any modifications to the layout of the existing utilities that serve the site. The facility is currently served by public water, sewer, electric, telephone, and cable television. No significant change in service is anticipated as part of the proposed improvements.

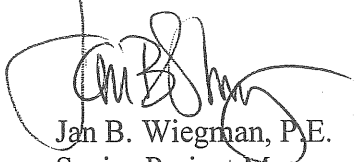
In 1997, the size of the Atrium development subjected the project to the MDEP Site Location of Development Act (SLDA). The City of Portland has utilized their delegated review authority to review all previous site and stormwater permitting on behalf of the MDEP. The proposed addition is a modification of this previous SLDA permit. Since the MDEP revised their stormwater regulations in 2005, the City of Portland no longer has delegated authority to review Stormwater Permits on behalf of the MDEP. As such, a Stormwater Permit application has been submitted to the MDEP's Portland Office and is currently under review.

Overall the project will result in a net decrease in impervious surface of 108 square feet. Approximately 3,000 square feet of land area will be disturbed by the project during construction. There will be no change to the land areas that are considered "Developed Area" as defined by the MDEP in Chapter 500. As the project results in a net decrease in impervious area, the proposed development will not create an increased pollutant load to any tributary areas, nor will it increase peak flow rates off the site. Additionally, erosion and sedimentation controls along with associated maintenance and housekeeping methodology have been outlined to prevent unreasonable impacts on the site and to the surrounding environment. Refer to the Stormwater Management Plan included in Section 8 for additional information.

We hope you find this application complete and can take action at your next scheduled meeting. We will attend the meeting to answer questions you may have.

Sincerely,

SEBAGO TECHNICS, INC.



Jan B. Wiegman, P.E.
Senior Project Manager

JMM:JBSW/cd

Enc.

cc: John Watson
Tom Yoder

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Section 1

Development Review Application Form and Site Plan Checklist

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Development Review Application
Portland, Maine

Department of Planning and Development, Planning Division and Planning Board

Address of Proposed Development: 630 Ocean Avenue

Zone: R-3 Residential Zone

Project Name: The Cedars Care Center - Rehabilitation Center Addition

Existing Building Size:	71,840 sq. ft.	Proposed Building Size:	72,730 sq. ft.
Existing Acreage of Site:	460,350 sq. ft.	Proposed Acreage of Site:	460,350 sq. ft.

Proposed Total Disturbed Area of the Site: 3,000 sq. ft.

* If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) or Chapter 500, Stormwater Management Permit with the Maine Department of Environmental Protection (DEP).

Tax Assessor's Chart, Block & Lot: Chart # 174 and 170 Block # A013 and A020 Lot #	Property Owners Name/ Mailing address: Cedars Healthcare 630 Ocean Avenue Portland, ME 04103	Telephone #: (207) 772-5456 Cell Phone #:
Consultant/Agent Name, Mailing Address, Telephone #, Fax # and Cell Phone #: Jan Wiegman, P.E. Sebago Technics, Inc. 400 Center Street Auburn, ME 04210 (207) 783-5656	Applicant's Name/ Mailing Address: Cedars Healthcare 630 Ocean Avenue Portland, ME 04103	Telephone #: (207) 772-5456 Cell Phone #:

Fee for Service Deposit (all applications) \$200.00

Proposed Development (check all that apply)

- New Building Building Addition Change of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot
 ___ Department: \$300.00 - amount of fee ___ \$25.00 per lot ___ \$___ - amount to applicant to upgrade to
 ___ Re-evaluation of Development (\$5000.00)
 ___ except for residential projects which shall be \$2500.00 per lot
 ___ Traffic Management \$1000.00 ___ Stormwater Quality \$250.00
 ___ Section 14-405 Review \$400.00 + \$25.00 per lot
 ___ Other: _____

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Major Development (more than 10,000 sq. ft.)

- Under 50,000 sq. ft. (\$500.00)
- 50,000 - 100,000 sq. ft. (\$1,000.00)
- Parking Lots over 100 spaces (\$1,000.00)
- 100,000 - 200,000 sq. ft. (\$2,000.00)
- 200,000 - 500,000 sq. ft. (\$3,000.00)
- Over 500,000 sq. ft. (\$5,000.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Minor Site Plan Review

- Less than 10,000 sq. ft. (\$400.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Plan Amendments

- Planning Staff Review (\$250.00)
- Planning Board Review (\$500.00)

Billing Address: (name, address and contact information)

Cedars Healthcare
 Attn: John Watson
 630 Ocean Avenue
 Portland, ME 04103

Submittals shall include seven (7) folded packets containing of the following materials:

- A. Copy of the application.
- B. Cover letter stating the nature of the project.
- C. Written Submittal (Sec. 14-525 2, (c)), including evidence of right, title and interest.
- D. A standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
- E. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
- F. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
- F. In addition to the seven (7) sets of documents listed above, one (1) set of the site plans reduced to 11 x 17" must be submitted.

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

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

This application is for site review only; a Performance Guarantee, Inspection Fee, Building Permit Application and associated fees will be required prior to construction.

Signature of Applicant:

Date:

8/19/2008



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Site Plan Checklist Portland, Maine

Department of Planning and Development, Planning Division and Planning Board

Project Name, Address of Project _____

Application Number _____

The form is to be completed by the Applicant or Designated Representative:

Check Submitted	Site Plan Item	Required Information	Section 14-525 (b,c)
✓	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	d
✓	(2)	Name and address of applicant and name of proposed development	a
✓	(3)	Scale and north points	b
✓	(4)	Boundaries of the site	c
✓	(5)	Total land area of site	d
✓	(6)	Topography - existing and proposed (2 feet intervals or less)	e
✓	(7)	Plans based on the boundary survey including:	f
✓	(8)	Existing soil conditions	a
✓	(9)	Location of water courses, wetlands, marshes, rock outcroppings and wooded areas	b
✓	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
✓	(11)	Approx location of buildings or other structures on parcels abutting the site and a zoning summary of applicable dimensional standards (example page 9 of packet)	d
	(12)	Location of on-site waste receptacles	e
	(13)	Public utilities	f
	(14)	Water and sewer mains	a
	(15)	Culverts, drains, existing and proposed, showing size and directions of flow	c
✓	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	d
✓	(17)	Location and dimensions of on-site pedestrian and vehicular access ways	e
✓	(18)	Parking areas	f
✓	(19)	Loading facilities	a
✓	(20)	Design of ingress and egress of vehicles to and from the site using public streets	b
✓	(21)	Curb and sidewalks	c
	(22)	Landscape plan showing:	d
	(23)	Location of existing vegetation and proposed vegetation	e
	(24)	Type of vegetation	f
	(25)	Quantity of plantings	a
	(26)	Size of proposed landscaping	b
	(27)	Existing areas to be preserved	c
	(28)	Preservation measures to be employed	d
	(29)	Details of planting and preservation specifications	e
	(30)	Location and dimensions of all fencing and screening	f
	(31)	Location and intensity of outdoor lighting system	a
	(32)	Location of fire hydrants, existing and proposed (refer to Fire Department checklist)	b
✓	(33)	Written statements to include:	c
✓	(34)	Description of proposed uses to be located on site	d
✓	(35)	Quantity and type of residential units	e
✓	(36)	Local land area of the site	f
✓	(37)	Total floor area, total distressed area and ground coverage of both proposed building and structure	a
✓	(38)	General summary of existing and proposed easements or other burdens	b
✓	(39)	Type, quantity and method of handling solid waste disposal	c
	(40)	Applicant's evaluation or evidence of availability of off-site public facilities, including sewer, water and streets	d
✓	(41)	Description of existing surface drainage and a proposed stormwater management plan or description of measures to control surface runoff	e

Section 2

Conditional Use Application Form



Conditional Use Application

Department of Planning and Development
Portland Planning Board

1. Applicant Information:

Cedars Healthcare

Name

630 Ocean Avenue

Address

Portland, ME 04103

(207) 772-5456

Phone

Fax

2. Subject Property:

630 Ocean Avenue

Address

Portland, ME 04103

174 A013 and 174 A020

Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other

Name

Address

Phone

Fax

4. Current Zoning Designation(s):

R-3 Residential Zone

w/ Conditional Use

5. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property.

The applicant owns the property

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

6. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and its current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

7. Existing Use: **Institutional - long term & extended care facility and intermediate care facility**

Describe the existing use of the subject property:

8. Type of Conditional Use Proposed: **Expansion of Existing Institutional Use**

9. **Sketch Plan:** On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100')

10. **Conditional Use Authorized by:** Section 14- 88.(c).2.a & 88.(c).2.b

11. **Standards - Criteria for Conditional Use Appeal**

Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

- a. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
- b. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area;
- c. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

12. **Application Fee:** A fee for must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

- ✓ Fee for Service Deposit (\$200.00)
(Required for all applications in addition to the applicable application fee listed below)
- ✓ Conditional Use \$100.00
- Legal Advertisements percent of total bill
- Notices .55 cents each
(workshop and public hearing)

13. **Signature:** The above information is true and accurate to the best of my knowledge.

5/19/2018
Date of Filing

John Waters, CFO
Signature of Applicant

Further Information: Please contact the Planning Director for further information regarding the conditional use process. Applicants are encouraged to make an appointment to discuss their conditional use before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the conditional use application which can provide additional background or contextual information, and describe the proposed conditional use and reasons for the request in a manner that best suits the situation.

Portland Planning Board, Portland, Maine. Effective: July 6, 1998

Section 3

Previous Approval Documents

Aiii 2



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

Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

LUC

OCT 14 2005
R E C E I V E D

September 19, 2005

Mr. David Kamila
Land Use Consultants
966 Riverside Street
Portland ME 04103

RE: Cedars Assisted Living Facility Expansion; 630 Ocean Avenue
CBL: 174-A-013, 174-A-014, 170-A-002,
#2004-0078

Dear Mr. Kamila:

On September 13, 2005, the Portland Planning Board voted on the following motions for the Cedars Assisted Living Facility expansion in the vicinity of 630 Ocean Avenue.

1. The Planning Board voted 7-0 that the plan was in conformance with the Conditional Use standards of the Land Use Code.
2. The Planning Board voted 7-0 that the plan was in conformance with the Site Plan Ordinance (including Site Location of Development Law) of the Land Use Code with the following conditions of approval:
 - i. The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.
 - ii. The site plan shall meet the requirements stated in Jim Seymour's memo dated September 8, 2005 except paragraph 2A.
 - iii. The final condominium documents shall be reviewed and approved by Corporation Counsel.

O:\PLANNING\REV\WOCEAN630\9-13-05\APPROVALLETTER.DOC

3. The Planning Board voted 7-0 that the plan was in conformance with the Subdivision Ordinance of the Land Use Code with the following conditions of approval:
 - i. The Applicant shall submit documentation from the DEP/ACE approving the Natural Resources Protection Act Permit application for the proposed mitigation plan and that the City Council approves the DEP covenant agreement for the Evergreen Cemetery mitigation.
 - ii. The plan shall meet the requirement stated in Jim Seymour's memo dated September 8, 2005 except for paragraph 2A.
 - iii. That the final condominium documents shall be reviewed and approved by Corporation Counsel.
 - iv. That the final plat shall be reviewed and approved by planning staff.

The approved plan includes 30 assisted living units.

The approval is based on the submitted site plan and the findings related to Conditional Use, Site Plan (including Site Location of Development Law) and Subdivision review standards as contained in Planning Report #52-05, which is attached.

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

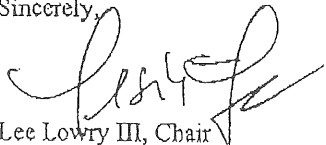
1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. 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.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

- 5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work'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.
- 6. 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. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 Richard Knowland at 874-8725.

Sincerely,



Lee Lowry III, Chair
Portland Planning Board

- cc: Lee D. Urban, Planning and Development Department Director
 Alexander Jaegerman, Planning Division Director
 Sarah Hopkins, Development Review Services Manager
 Richard Knowland, Senior Planner
 Jay Reynolds, Development Review Coordinator
 Marge Schmuckal, Zoning Administrator
 Inspections Division
 Michael Bobinsky, Public Works Director
 Traffic Division
 Eric Labelle, City Engineer
 Jeff Tarling, City Arborist
 Penny Littell, Associate Corporation Counsel
 Greg Cass, Fire Prevention
 Assessor's Office
 Approval Letter File
 Kathryn Callnan, President, The Cedars, 630 Ocean Avenue, Portland ME 04103



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

DEPARTMENT ORDER

IN THE MATTER OF

JHA ASSISTED LIVING INC.) NATURAL RESOURCES PROTECTION
Portland, Cumberland County) TIER 3 WETLAND ALTERATION
CEDARS EXPANSION) WATER QUALITY CERTIFICATION
L-22483-TG-B- <i>m</i>) MINOR REVISION/MODIFICATION
(approval, partial after-the-fact)) FINDINGS OF FACT AND ORDER

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

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order #L-22483-TG-A-N, dated September 26, 1997, the Department approved the filling of 35,504 square feet of forested freshwater wetlands for the construction of the Atrium, an Independent Living Facility. The Atrium Independent Living facility is located on the same site as the Cedars Nursing Care facility. As part of the Department Order, the applicant was required to compensate for wetland impacts by creating 10,100 square feet of wetland, enhancing 18,800 square feet of wetland and preserving 51,755 square feet of on-site forested freshwater wetlands with a deed restriction. The project site is located off Ocean Avenue in the City of Portland.

The facility is now under different management. The applicant conducted a thorough review of the existing site conditions and determined that they only partially completed the compensation required under DEP #L-22483-TG-A-N.

B. Summary: The applicant proposes to construct an Assisted Living facility connecting the existing Independent Living Facility and the existing Nursing Care Center. The proposed building addition, driveway and parking spaces will fill 16,018 square feet of forested freshwater wetland. The applicant is also seeking approval for 1,000 square feet of after-the-fact wetland fill associated with the construction of an entrance driveway off Ocean Avenue. Cumulative wetland fill on the project site totals 52,522 square feet.

The proposed building addition is located within the previously-approved compensation area. The applicant proposes to remove the deed restriction from the area of wetland that will be filled by the construction of the Assisted Living Facility. The applicant proposes to provide wetland compensation for the total cumulative wetland impacts on-site.

A-iii 6

C. Current Use of Site: The project site is developed with the existing Cedars Nursing Care Facility, the Atrium Independent Living Facility and associated infrastructure. Undeveloped portions of the parcel are primarily forested freshwater wetlands. It is surrounded by residential development and is accessed from Byfield Road and Ocean Avenue. The property is further identified as Lots #13A and #14A on the City of Portland's Tax Map #174.

2. WATER QUALITY CONSIDERATIONS:

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

3. HABITAT CONSIDERATIONS:

The Maine Department of Inland Fisheries and Wildlife reviewed the proposed project and stated that there are no Essential or Significant Wildlife Habitats at the project site.

4. WETLANDS AND WATERBODIES PROTECTION RULES:

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

a. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. Each application for a freshwater wetland permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicant submitted an alternative analysis for the proposed project completed by Divine, Tarbell & Associates Inc. and dated July 2005. The proposed project will offer an intermediate level of health care on the same campus as the existing Nursing Care Center and the Independent Living Facility. It will allow couples to remain in the same complex for a longer period of time, enhancing the quality of life for each person. The building was oriented on the property to connect the other two facilities so that individuals can safely visit other facilities and their loved ones regardless of their physical conditions and the outside elements. There is no other possible location for the proposed project on the property that would impact less wetland.

b. Minimal Alteration. The amount of freshwater wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant proposes to fill 16,018 square feet for the construction of the Assisted Living Facility and is seeking approval for 1,000 square feet of after-the-fact wetland fill. The proposed project has been designed to minimize wetland impacts by keeping the fill slopes close to the building, constructing the subsurface detention facility in the middle of an existing cul-de-sac and minimizing parking spaces.

c. Compensation. In accordance with Chapter 310(5)(C), compensation is required to achieve the goal of no net loss of freshwater wetland functions and values. The applicant proposes to compensate for cumulative wetland impacts on the site. The applicant submitted a Wetland Function and Value Assessment as Attachment 12 of the application and dated July 2005. Flood Flow Attenuation, Sediment/Toxicant Retention and Nutrient Removal/Retention Transformation were identified as the primary functions of the impacted wetlands. The applicant proposes to compensate for these lost functions and values, on site, by restoring two small wetlands, enhancing another wetland area and the existing detention pond, constructing an underground detention facility and preserving the remaining wetland areas on site. Utilizing wetland mitigation ratios found in Chapter 310, the applicant can be credited with 30,056 square feet of wetland compensation on site, plus the additional floodflow attenuation, sediment/toxicant retention and nutrient removal/retention that will be provided by the proposed underground detention facility. The applicant also proposes off-site compensation, at Evergreen Cemetery which is owned by the City of Portland. The applicant proposes to restore an existing wetland at the cemetery by creating a mixture of wetland types, mound and pool micro topography and an aquatic marsh habitat. It also proposes to improve stream flows by replacing four stream culverts that are in various stages of disrepair with simple wooden bridges. Off site wetland compensation will total 20,370 square feet. The total compensation package includes 50,426 square feet of wetland restoration, enhancement and preservation plus the replacement of lost functions and values provided by the underground detention facility to be constructed on site. The compensation plan is further described in Attachment 13 of the application, dated July 2005. The applicant submitted a construction plan, a monitoring plan, draft deed restrictions and a Memorandum of Agreement with the City of Portland.

The Department finds that the applicant has avoided and minimized freshwater wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project provided the applicant submits a recorded copy of the on-site deed restriction and a signed copy of the final agreement with the City of Portland prior to project construction, and that the applicant submits an annual wetland mitigation monitoring report, for a period of five years after implementation of the wetland compensation plan. The reports must be submitted no later than December 31 of each year.

5. OTHER CONSIDERATIONS:

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

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

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that the applicant submits a recorded copy of the deed restriction and a signed copy of the final agreement with the City of Portland prior to project construction, and that the applicant submits an annual wetland mitigation monitoring report for a period of five years after implementation of the wetland compensation plan. The report must be submitted no later than December 31 of each year.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S.A. Section 480-P.

THEREFORE, the Department APPROVES the above noted application of JHA ASSISTEDLIVING INC to fill 16,018 square feet of forested freshwater wetlands and for the after-the-fact filling of 1,000 square feet of forested freshwater wetlands in order to construct an Independent Living Facility, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

- 1. Standard Conditions of Approval, a copy attached.
- 2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.

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L-22483-TG-B. m

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- 3. The applicant shall submit a recorded copy of the on-site deed restriction and a signed copy of the final agreement with the City of Portland prior to the start of construction.
- 4. The applicant shall an annual wetland mitigation monitoring report for a period of five years after implementation of the wetland compensation plan. The report must be submitted to the Bureau of Land and Water Quality no later than December 31 of each year.

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

DONE AND DATED AT AUGUSTA, MAINE, THIS 20th DAY OF February, 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

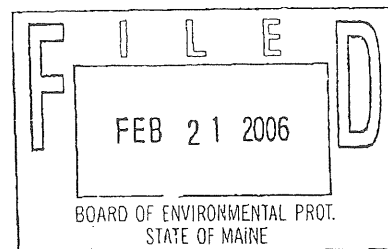
By: 
 DAVID P. LITTELL, COMMISSIONER

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application July 5, 2005

Date of application acceptance July 12, 2005

Date filed with Board of Environmental Protection
DEH/ATS#55770/L22483BM



Att 10



NATURAL RESOURCE PROTECTION ACT (NRPA) STANDARD CONDITIONS

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

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

Revised (4/92)
DEP LW0428

Aiii 11



DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

REPLY TO:
ATTENTION OF:

MAINE PROGRAMMATIC GENERAL PERMIT (PGP)
AUTHORIZATION LETTER AND SCREENING SUMMARY

JHA Assisted Living, Inc.
c/o Kathryn Callnan, President
630 Ocean Avenue
Portland, Maine 04103

CORPS PERMIT # NAE-2005-2407
CORPS PGP ID# 05-375
STATE ID# L

DESCRIPTION OF WORK:

To place fill in 33,036 SF (0.76 acres) of wetland in conjunction with the construction of an assisted living facility at the existing Codara Nursing Care Center off 630 Ocean Avenue at Portland, Maine. 35,504 SF (0.82 acres) of impact was previously authorized under Corps Permit 199701670. Cumulative wetland impact for the site is 1.57 acres. To address State requirements for compensatory mitigation, approximately 1.2 acres of wetland restoration/ enhancement is proposed on site and an additional .47 acres of wetland restoration enhancement off site at Evergreen Cemetery to include restoration and enhancement of an unnamed tributary stream to Capisic Brook. SEE ATTACHED CONDITIONS

LAT-LONG COORDINATES : 43.6890060 N 70.2670056 W USGS QUAD: Portland West, ME

I. CORPS DETERMINATION:

Based on our review of the information you provided, we have determined that your project will have only minimal individual and cumulative impacts on waters and wetlands of the United States. Your work is therefore authorized by the U.S. Army Corps of Engineers under the enclosed Federal Permit, the Maine Programmatic General Permit (PGP).

You must perform the activity authorized herein in compliance with all the terms and conditions of the PGP [including any attached Additional Special Conditions and any conditions placed on the State 401 Water Quality Certification including any required mitigation]. Please review the enclosed PGP carefully, including the PGP conditions beginning on page 7, to familiarize yourself with its contents. You are responsible for complying with all of the PGP requirements; therefore you should be certain that whoever does the work fully understands all of the conditions. You may wish to discuss the conditions of this authorization with your contractor to ensure the contractor can accomplish the work in a manner that conforms to all requirements.

if you change the plans or construction methods for work within our jurisdiction, please contact us immediately to discuss modification of this authorization. This office must approve any changes before you undertake them.

Condition 38 of the PGP (page 15) provides one year for completion of work that has commenced or is under contract to commence prior to the expiration of the PGP on October 11, 2010. You will need to apply for reauthorization for any work within Corps jurisdiction that is not completed by October 11, 2011.

No work may be started unless and until all other required local, State and Federal licenses and permits have been obtained. This includes but is not limited to a Flood Hazard Development Permit issued by the town if necessary. Also, this permit requires you to notify us before beginning work and allow us to inspect the project. Hence, you must complete and return the attached Work Start Notification Form(s) to this office no later than 2 weeks before the anticipated starting date. (For projects requiring mitigation, be sure to include the MITIGATION WORK START FORM).

II. STATE ACTIONS: PENDING [], ISSUED [], DENIED [] DATE _____

APPLICATION TYPE: PBR: _____ TIER 1: _____ TIER 2: _____ TIER 3: X LURC: _____ DMR LEASE: _____ NA: _____

III. FEDERAL ACTIONS:

JOINT PROCESSING MEETING: 7/14/05 LEVEL OF REVIEW: CATEGORY 1: _____ CATEGORY 2: X

AUTHORITY: SEC 10 _____ 404 X 10/404 _____ 103 _____

EXCLUSIONS: The exclusionary criteria identified in the general permit do not apply to this project.

ESSENTIAL FISH HABITAT (EFH): EFH PRESENT Y (N) (CIRCLE ONE)

IF YES: Based on the terms and conditions of the PGP, which are intended to ensure that authorized projects cause no more than minimal environmental impacts, the Corps of Engineers has preliminary determined that this project will not cause more than minimal adverse effects to EFH identified under the Magnuson-Stevens Fisheries Conservation and Management Act.

FEDERAL RESOURCE AGENCY OBJECTIONS: EPA NO USF&WS NO NMFS NO

If you have any questions on this matter, please contact my staff at 207-623-8367 at our Manchester, Maine Project Office.

Rodney A. Howe
RODNEY A. HOWE
SENIOR PROJECT MANAGER
MAINE PROJECT OFFICE

FRANK J. DELGIUDICE _____ DATE _____
CHIEF, PERMITS & ENFORCEMENT BRANCH
REGULATORY DIVISION

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ADDITIONAL CONDITIONS FOR
DEPARTMENT OF THE ARMY
PROGRAMMATIC GENERAL PERMIT
NO. NAE-2005-2407
JHA Assisted Living, Inc.
630 Ocean Avenue
Portland, Maine

1. This permit authorizes impacts to only those areas of wetlands shown on the project plans entitled CEDARS ASSISTED LIVING FACILITY, 630 OCEAN AVENUE, PORTLAND, MAINE, in 12 sheets dated 6-27-05. No other filling, clearing or other disturbance in wetlands shall occur. Any additional proposals that would further impact wetlands will require additional permitting.
2. The permittee shall assure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers' jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for the work. If the permit is issued after construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. The term "entire permit" includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps of Engineers jurisdiction.
3. Adequate sedimentation and erosion control devices, such as geotextile silt fences or other devices capable of filtering the fines involved, shall be installed and properly maintained to minimize impacts during construction. These devices must be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.

April 13

APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN BLACK INK ONLY

→ SEE DETACHABLE INSTRUCTIONS

1. Name of Applicant:	JHA Assisted Living, Inc.	4. Name of Agent: (If applicable)	Kathryn Callinan, President	
2. Applicant's Mailing Address:	c/o Kathryn Callinan 630 Ocean Avenue, Portland, ME 04103	5. Agent's Mailing Address:	630 Ocean Avenue, Portland, ME 04103	
3. Applicant's Daytime Phone #	(207) 772-5456	6. Agent's Daytime Phone #	(207) 772-5456	
7. Location of Project: (Nearest Road, Street, Rte.)	630 Ocean Avenue	8. Town:	Portland	9. County: Cumberland
10. Type of Resource (Check all that apply)	<input type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input type="checkbox"/> Coastal Wetland <input checked="" type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain	11. Name of Resource:	Unnamed wetland	
13. Type of Freshwater Wetland (Check all that apply)	<input checked="" type="checkbox"/> Forested <input checked="" type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input type="checkbox"/> Other _____	12. Amount of Impact: (Sq. Ft.)	Fill: 17,018	(0.391 ac.) Dredging/Veg Removal/Other:
14. Brief Project Description:	<p>FOR FRESHWATER WETLANDS:</p> <p><i>Tier 1:</i></p> <input type="checkbox"/> 0 - 4,999 sq. ft. <input type="checkbox"/> 5,000 - 9,999 sq. ft. <input type="checkbox"/> 10,000 - 14,999 sq. ft. <p><i>Tier 2/3:</i></p> <input checked="" type="checkbox"/> 15,000 - 19,999 sq. ft. <input type="checkbox"/> 20,000 - 43,560 sq. ft. <input type="checkbox"/> > 43,560 sq. ft.			
15. Size of Lot or Parcel	<input type="checkbox"/> square feet, or 10.8 <input checked="" type="checkbox"/> acres			
16. Title, Right or Interest	<input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement			
17. Deed Reference Numbers	Book#: 7282 Page: 133	18. Map and Lot Numbers	Map #: 174	Lot #: 13A & 14A
19. DEP Staff Previously Contacted:	Linda Kokemuller Dawn Hallowell	20. Part of a larger project	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	After-the-Fact <input type="checkbox"/> Yes <input type="checkbox"/> No
21. Resubmission of Application	<input checked="" type="checkbox"/> Yes → <input type="checkbox"/> No	If yes, previous application #	97-441-S	Previous project manager
22. Written Notice of Violation	<input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No	If yes, name of DEP enforcement staff involved		23. Previous Wetland Alteration <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
24. Detailed Directions to the Project Site	From the North, take I-295 South in Portland to Baxter Blvd/Washington Avenue Exit (Rte 100 N); turn right off Exit ramp, then left at traffic light onto Washington Ave. Travel approx. 1 mi.; at traffic light turn right onto Ocean Ave (Route 9). Travel approx. 0.2 mi., then turn left into the Cedars Campus.			
25. TIER 1	TIER 2/3 AND INDIVIDUAL PERMITS			
<input type="checkbox"/> Fee <input type="checkbox"/> Topographic Map <input type="checkbox"/> Documentation of Title, Right or Interest <input type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input type="checkbox"/> Photos of Area <input type="checkbox"/> Statement of Avoidance & Minimization <input type="checkbox"/> Statement/Copy of cover letter to Maine Historic Preservation Commission <input type="checkbox"/> Copy to municipality	<input checked="" type="checkbox"/> Fee <input checked="" type="checkbox"/> Topographic Map <input checked="" type="checkbox"/> Documentation of Title, Right, Interest <input checked="" type="checkbox"/> Photos of Area <input checked="" type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input checked="" type="checkbox"/> Copy of Public Notice <input checked="" type="checkbox"/> Professional Certification/Delineation <input checked="" type="checkbox"/> Erosion Control Plan	<input checked="" type="checkbox"/> Alternatives Analysis, if required <input checked="" type="checkbox"/> Description of Avoidance & Minimization <input checked="" type="checkbox"/> Compensation Plan (if required) <input type="checkbox"/> Description of Previously Mined Peatland (if required) <input checked="" type="checkbox"/> Statement/Copy of cover letter to Maine Historic Preservation Commission <input checked="" type="checkbox"/> Construction Plan, if required <input checked="" type="checkbox"/> Copy to municipality		
26. FEES, Amount Enclosed:	\$401.62			

FOR DEP USE	L- AT#	Total FEES	CK#	Date Rec'd
FOR CORPS USE	App#:	Office Code:	Date Rec'd:	Date Completed:

Aiv

Section 4

Right, Title, Interest

Aiv 2

DECLARATION OF CONDOMINIUM

OF

CEDARS CONDOMINIUMS

Portland, Maine

June 30, 2006

Av 3

DECLARATION OF CONDOMINIUM
OF
CEDARS CONDOMINIUMS
PORTLAND, MAINE

THIS DECLARATION OF CONDOMINIUM is made this 30th day of June 2006, by and between JHA Properties, Inc. a Maine non-profit corporation, its successors and assigns ("JHA Properties"), and Cedars Nursing Care Center, Inc., a Maine non-profit corporation, its successors and assigns ("Cedars", together with JHA Properties, the "Declarants"), each with a place of business at 630 Ocean Avenue, Portland, Maine 04103, as the owners in fee simple of the Real Estate (as hereinafter defined).

ARTICLE I
SUBMISSION

Section 1.1. Property. Declarants hereby submit the real estate described in Exhibit A attached hereto and made a part hereof (the "Real Estate") situated in the City of Portland, County of Cumberland and State of Maine, together with and subject to all easements, rights and appurtenances thereto belonging and the Buildings (as hereinafter defined) thereon (collectively, the "Property") to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, as the same may be amended from time to time, known as the Maine Condominium Act (the "Act") and hereby creates with respect to the Property a condominium to be known as "Cedars Condominiums" (the "Condominium"). The Condominium consists of the land described in Exhibit A and those Units (as hereinafter defined) listed in Exhibit B, attached hereto and made a part hereof, and depicted on the Plat (as hereinafter defined).

The submission of the Real Estate to the Condominium shall create three (3) Condominium Units, as more particularly described herein, which upon recording of the Declaration shall be owned in fee by the Declarants as follows:

(a) Unit No. 1 shall be owned in fee by Cedars, its successors and assigns, and JHA Properties, for itself and its successors and assigns, hereby grants and releases to Cedars, its successors and assigns all right, title and interest JHA Properties may have in and to Unit No.1 and the development rights associated therewith.

(b) Unit No. 2 shall be owned in fee by Cedars, its successors and assigns, and JHA Properties, its successors and assigns, as tenants in common, in the following percentages:

- (i) Cedars 33.6% ("Cedars' Tenancy-in-Common Interest"); and
- (ii) JHA Properties 66.4% ("JHA Properties' Tenancy-in-Common Interest").

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JHA Properties, for itself and its successors and assigns, hereby grants and releases to Cedars, its successors and assigns all right, title and interest JHA Properties may have in and to Cedars' Tenancy-in-Common Interest in Unit No.2 and the development rights associated therewith. Cedars, for itself and its successors and assigns, hereby grants and releases to JHA Properties, its successors and assigns all right, title and interest Cedars may have in and to JHA Properties' Tenancy-in-Common Interest in Unit No.2 and the development rights associated therewith.

(c) Unit No. 3 shall be owned in fee by JHA Properties, its successors and assigns, and Cedars, for itself and its successors and assigns, hereby grants and releases to JHA Properties, its successors and assigns all right, title and interest Cedars may have in and to Unit No.3 and any development rights associated therewith.

(d) In consideration of the rights and easements created under this Declaration each of the Declarants, for itself and its successors and assigns, hereby grants and releases to the other all right, title and interest it may have in and to the following easements of record with respect to the Real Estate:

(i) Utility and Access Easement described as Parcel B in easement deed from Cedars Nursing Care Center, Inc., to JHA Services, Inc., dated May 25, 1990, and recorded in the Cumberland County Registry of Deeds, Book 9188, Page 115; as amended and modified Short Form Quitclaim Deed from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 17, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 319, and by Easement Modification, between JHA Services, Inc. and Cedars Nursing Care Center, Inc., dated April 1, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13708, Page 305 (said deed dated May 25, 1990, as so modified being the "Granting Deed");

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(ii) Emergency Access Road Easement described as Parcel C in the Granting Deed;

(iii) Parking Easement, Utility and Access Easement and Loop Road Easement retained as Items 1, 2 and 3 of Parcel C in the Granting Deed;

(iv) Access Easement in easement deed from JHA Properties, Inc., to Cedars Nursing Care Center, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 321;

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(v) Access Easement in easement from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 325; and

reference

(v) Agreement and Reciprocal Easement Deed, between Cedars Nursing Care Center, Inc., and JHA Properties, Inc., dated as of March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 331.

reference

Section 1.2. Maximum Number of Units. The maximum number of Units the Declarants reserve the right to create is three (3).

Section 1.3. Address of Condominium. The address of the Condominium is:

Cedars Condominiums
630 Ocean Avenue
Portland, Maine 04103

ARTICLE 2
DEFINITIONS

Section 2.1. Terms Defined in the Act. Capitalized terms not otherwise defined in this Declaration or in the Plat, shall have the meanings specified or used in the Act.

Section 2.2. Terms Specifically Defined in this Declaration. In addition to the terms defined above, the following terms shall have the following meanings in this Declaration, the Bylaws, and the Plat:

- (a) "Act" has the meaning set forth in Section 1.1.
- (b) "Association" means the Unit owners' association of the Condominium, which shall be known as the Cedars Condominiums Owners Association.
- (c) "Budget" has the meaning set forth in Section 13.1(a).
- (d) "Buildings" (or in the singular, a "Building") means any residential, commercial, long term care, service or recreational structure or other improvement now existing or hereafter constructed on the Real Estate.
- (e) "Bylaws" means the document having that name and providing for the governance of the Association, pursuant to Section 1603-106 of the Act, as such document may be amended from time to time.
- (f) "Cedars" has the meaning set forth in introductory paragraph of this Declaration.
- (g) "Cedars' Tenancy-in-Common Interest" has the meaning set forth in Section 1.1(b).
- (h) "Common Elements" (or in the singular, a "Common Element") means those parts of the Property either described in the Act as being common elements or described in this Declaration or in the Plat as being common elements.
- (i) "Common Expenses" means expenditures made by or financial liabilities of the Association together with any allocations to reserves.

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- (j) "Condominium" means the condominium described in Section 1.1.
- (k) "Condominium Documents" means the Declaration, the Plat, Bylaws and Rules and Regulations.
- (l) "Declarants" has the meaning set forth in introductory paragraph of this Declaration.
- (m) "Declaration" means this document, as the same may be amended from time to time.
- (n) "Development Rights" means those rights, if any, which the Declarants have reserved to themselves as set forth in Article 14 and elsewhere in this Declaration.
- (o) "Eligible Mortgage Holder" means the holder of a recorded first mortgage on a Unit which has requested in writing that the Association notify it of actions by the Association upon which such mortgage holders are entitled to vote or whose consent is required under this Declaration.
- (p) "Executive Board" means the executive board of the Association.
- (q) "JHA Properties" has the meaning set forth in introductory paragraph of this Declaration.
- (r) "JHA Properties' Tenancy-in-Common Interest" has the meaning set forth in Section 1.1(b).
- (s) "Identifying Number" means the number assigned to a Unit in the Plat.
- (t) "Insurance Trust Agreement" means that certain agreement, if any, between the Association and the Insurance Trustee providing for the management and disbursement of insurance proceeds in accordance with Section 9.2 hereof.
- (u) "Insurance Trustee" means that certain entity responsible for the management and disbursement of insurance proceeds pursuant to the Insurance Trust Agreement, if any.
- (v) "Limited Common Elements" (or in the singular, a "Limited Common Element") means those parts of the Property either described in the Act as being limited common elements or described herein or in the Plat as being limited common elements.
- (w) "Monthly Assessment" means the Unit owner's share of the anticipated Common Expenses, allocated by Unit, for each month of the Association's fiscal year as reflected in the budget adopted by the Executive Board for such year.

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(x) "Mortgagee" means the holder of any recorded first mortgage encumbering one or more of the Units.

(y) "Percentage Interest" means the undivided interest in the Common Elements appurtenant to a Unit, as set forth on Exhibit B attached hereto, as the same may be amended from time to time.

(z) "Plat" means the Cedars Condominiums Recording Plat/Condominium Plan/ALTA/ASCM/Land Title Survey, made for JHA Properties, Inc., & Cedars Nursing Care Center, Inc., JHA Assisted Living, Inc., prepared by Titcomb Associates, dated September 8, 2005, and revised April 5, 2006, recorded in the Cumberland County Registry of Deeds in Plan Book 206 at Page 430 as the same may be amended from time to time, reduced photocopies of which are attached hereto as Exhibit C.

(aa) "Property" has the meaning set forth in Section 1.1.

(bb) "Real Estate" has the meaning set forth in Section 1.1.

(cc) "Record" means to record in the Cumberland County Registry of Deeds.

(dd) "Rules and Regulations" means such rules and regulations as are promulgated by the Declarants or the Executive Board from time to time with respect to the use of all or any portion of the Property.

(ee) "Special Assessment" means a Unit owner's share of any assessment made by the Executive Board in addition to the Monthly Assessment.

(ff) "Special Declarant Rights" means those rights which the Declarants have reserved to themselves as set forth in Article 14 and elsewhere in this Declaration.

(gg) "Unit" means a physical portion of the Condominium created by this Declaration or any amendment thereto and designated for separate ownership or occupancy, the boundaries of which are described in Article 3 or in any amendment creating such Unit.

Section 2.3. Provisions of the Act. The provisions of the Act shall apply to and govern the operation and governance of the Condominium, except to the extent that contrary provisions, not prohibited by the Act, are contained in one or more of the Condominium Documents.

ARTICLE 3
UNIT BOUNDARIES AND MAINTENANCE RESPONSIBILITIES

Section 3.1. Unit Boundaries.

(a) The boundary lines of each Unit are formed by the following planes:

(1) the upper boundary shall be a horizontal plane at an elevation of one hundred and thirty-five feet (135) above sea level (determined by reference to City of Portland datum: masonry nail in Utility Pole #82 located on Ocean Avenue (elevation=70.90) as shown on the Plat),

(2) the lower boundary shall be a horizontal plane at an elevation of forty-five (45) feet above sea level; and

(3) the vertical boundaries shall be perpendicular planes located three (3.00) feet outside the perimeter of the footprint of the building located or to be located within said Unit as shown on the Plat, each projected (A) horizontally to meet the projection of the adjacent vertical planes and (B) downward and upward to meet the upper and lower horizontal boundaries; except that, at those locations where the outside surface of an exterior wall of a Building in one Unit is adjacent to the outside surface of an exterior wall of a Building in another Unit, the vertical boundary of each Unit shall be a vertical plane that is equidistant between the outside of the finish material forming the exterior walls of the Buildings in question, except that in the case of Unit No. 1, Unit No. 1 shall also include:

(i) The enclosed triangular structure on the first floor at the intersection of the north-facing exterior surfaces of the two Building wings at the north end of the Building in Unit No. 1, one wing that extends in a northwesterly direction and the other wing that extends in a northeasterly direction;

(ii) The enclosed triangular structure on the first floor at the intersection of the south-facing exterior surfaces of the two Building wings at the south end of the Building in Unit No. 1, one wing that extends in a southwesterly direction and the other wing that extends in a southeasterly direction; and

(iii) The enclosed vestibule at the entrance of Unit No. 1 on the east side of the Building in Unit No. 1.

NOTE: Although the foundations of each Building will be located as shown on the Plat, the vertical boundaries for each Unit described above are located outside of the perimeter of such foundations in order to accommodate roof eaves and overhangs and other building features that extend beyond such foundation perimeter.

(b) Each Unit consists of all portions of any Building that is located within the aforesaid boundary lines, except the air space displaced Common Elements extending into or within such Unit which serve other Unit(s) and/or the Common Elements, including without limitation chutes, flues, chases, ducts, wires, conduits and pipe runs as described in clause (a)(3) of this section. The finish material, such as plaster or drywall, and furring around chutes, flues, chases, ducts, conduits, pipe runs and similar structures containing wires, vents, pipes, utilities or services that serve another Unit or Units and/or the Common Elements, the Unit to include the thickness of such finish material around chutes, flues, chases, ducts, conduits, pipe runs and

similar structures but not the cavity within such wires, vents, pipes, utilities or services are located.

- (c) Each Unit's Identifying Number is shown on the Plat.

Section 3.2. Relocation of Unit Boundaries; Subdivision of Unit. The owners of any Unit shall be permitted to (i) relocate boundaries between Units or (ii) subdivide a Unit in accordance with the procedures for an amendment of this Declaration as set forth in Article 16 below.

Section 3.3. Maintenance Responsibilities.

(a) The Association, through the Executive Board and as determined by the Unit owners, shall be responsible for (i) maintenance, repair and replacement of the Common Elements, but excluding the Limited Common Elements, and (ii) maintenance, repair and replacements as may be required for the functioning of or for the bringing of utilities, such as water, gas, electricity and sewer to all of the Units, all of which maintenance, repair and replacement shall be furnished by the Association as part of the Common Expenses.

(b) The Association, through the Executive Board and as determined by the Unit owners, shall be responsible for maintenance, repair and replacement of the Limited Common Elements at the cost and expense of the owners of the Unit or Units to which such Limited Common Elements are allocated.

(c) If damage is caused to (i) the Common Elements or (ii) any other part of the Condominium, in each case by any Unit owner, or guests, tenants, or invitees of such Unit owner for which maintenance, repairs and replacements shall be required that would otherwise be a Common Expense, such Unit owner shall pay for such damage and such maintenance, repairs and replacement as may be determined necessary or advisable by the Association. Each Unit owner shall be responsible for the cleanliness, including, but not limited to, ice and snow removal, of any Limited Common Element allocated to such Unit owner's Unit. In addition to the maintenance, repair and replacement of the Common Elements, the Association, through the Executive Board and upon the request of the Unit owners, shall arrange for or provide to each Unit owner trash and garbage removal service on a regular basis. The Executive Board, in its discretion, may provide the maintenance and other services described in this Section 3.2(a) either through its own employees or through independent contractors or both. The cost of the provision of such services shall be a Common Expense.

(d) Each Unit owner is responsible for the maintenance, repair and replacement of such Unit owner's Unit, including, without limitation, exterior glass windows, roofs, skylights, garage doors and other doors included within the Unit. Each Unit owner shall afford to the Association, and other Unit owners, and to their agents and employees, access through such Unit owner's Unit reasonably necessary for the maintenance, repair and replacement of the Common Elements and the shared Limited Common Elements.

(e) Charges for electric, sewer, water service, telephone and cable television service will be separately metered and each Unit owner will be responsible for the cost of such services furnished to such owner's Unit. Utilities that are not separately metered or billed by the respective utility companies and that are used by all of the Units shall be treated as part of the Common Expenses. Electricity for lighting of the Common Elements may be provided by the Association as part of the Common Expenses.

ARTICLE 4
DESCRIPTION AND ALLOCATION OF COMMON ELEMENTS AND
LIMITED COMMON ELEMENTS

Section 4.1. Description of Common Elements. Common Elements shall include:

(a) Within Unit Boundaries. The following portions of any Building within the boundaries of a Unit that are not Limited Common Elements: (i) the portion of any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture within the designated boundaries of a Unit that serve, in whole or in part, another Unit or Units and/or the Common Elements, (ii) all driveways on the Property providing access to and from any public way, (iii) those parking areas not designated as Limited Common Elements on the Plat, (iv) any signage not physically attached to a Unit; (v) those portions identified and designated as Common Elements on the Plat, in each case including, by way of description but not limitation, and, if applicable, within the Units' boundaries to the extent that they are constructed:

(b) Land. All lands submitted to the Condominium as described herein, except land (i) directly under a Unit, which land shall be a Limited Common Element allocated to such Unit, and (ii) other Limited Common Elements, all subject to the easements set forth in Article 6 of this Declaration.

(c) Improvements. All improved surfaces, drives, driveways, curbs, sidewalks and parking spaces that are not Limited Common Elements, subject to the easements and provisions set forth in Article 6 of this Declaration.

(d) Ornamentals, Drainage System and Utilities. Lawn areas, drainage systems located on the Property, shrubbery, and waterways, and all conduits and utility lines over, on or under the Land that are not Limited Common Elements, subject to the easements and provisions set forth in Article 6 of this Declaration.

(e) Utilities. Connections for gas, electricity, light, telephone and water not owned by the public utility or other agencies providing such services, provided that any portion of such connections that serves only one or two of the Units shall be a Limited Common Element allocated with the Unit or Units so served.

(f) Lighting. Any exterior lighting or other facilities necessary to the upkeep and safety of the grounds.

(g) After-Constructed Improvements. All other improvements that may be constructed on the property except those improvements that are part of a Unit or a Limited Common Element.

(h) Certain Other Buildings and Improvements. The so-called "White House" located near Ocean Avenue and northeasterly of the entrance drive to the Condominium from Ocean avenue shall be a Common Element.

(i) Other Elements. All other elements of the Condominium rationally of common use and necessary to the existence, upkeep and safety thereof and, in general, all other devices or installations existing for common use that are not Limited Common Elements.

Section 4.2. Description of Limited Common Elements. Limited Common Elements shall include (i) at those locations where the outside surface of an exterior wall of a Building in one Unit is adjacent to the outside surface of an exterior wall of a Building in another Unit, any expansion joints connecting such exterior walls, and any expansion joints connecting the roofs of such Units, all of which shall be a Limited Common Element associated with both of such Units; (ii) the portion of any chute, flue, chase, duct, wire, conduit, bearing wall, bearing column or any other fixture lying within the designated boundaries of a Unit that serves less than all of the Units, which shall be Limited Common Elements associated with the Unit or Units so served, (iii) the portion of any connections for gas, electricity, light, telephone and water not owned by the public utility or other agencies providing such services that serves only one or two of the Units, which shall be a Limited Common Element associated with the Unit or Units so served or (iv) any structure, improvement or other property that is identified and designated as Limited Common Elements on the Plat, including, without limitation, the garages that are assigned as Limited Common Elements to Unit 3. Those portions of the Limited Common Elements serving only the Unit adjacent to such Limited Common Element are Limited Common Elements allocated only to the Unit which they serve. This allocation shall not be changed without the consent of the Unit owners served or benefited by such Limited Common Elements.

Section 4.3. [Intentionally Omitted.]

Section 4.4. [Intentionally Omitted.]

Section 4.5. Reserved Common Elements: The Executive Board shall have the power in its discretion from time to time to grant revocable licenses in designated Common Elements to the Association or to any Unit owners and to establish a reasonable charge to such Unit owners for the use and maintenance thereof. Such designation by the Executive Board shall not be construed as a sale or disposition of the Common Elements.

Section 4.6. Alteration of Common Elements by the Declarant. The Declarants reserve the right to modify, alter, remove or improve portions of the Common Elements, including without limitation, any equipment, fixtures and appurtenances, when in the Declarants' judgment it is necessary or desirable to do so, until the completion of all Units. Such rights do not include rights to add or remove real estate not deemed to be fixtures.

Section 4.7. Allocation of Common Elements. Each Unit owner shall acquire, as an appurtenance to each Unit, its Percentage Interest in the Common Elements as set forth on Exhibit B attached hereto, as the same may be amended from time to time. The said Percentage Interest shall not be divisible from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Except as otherwise permitted under the Act or this Declaration, the Percentage Interest of each Unit owner shall not be altered without the consent of all of the Unit owners expressed in an amendment to this Declaration duly recorded. Said Percentage Interests shall be used to allocate the division of proceeds, if any, resulting from any casualty, loss, eminent domain proceedings, common surplus, or from any other disposition of the Property.

Section 4.8. Allocation of Parking Spaces. The Declarant reserves the right, until the construction of all Units is completed, to allocate to particular Units as Limited Common Elements the parking spaces shown on the Plat that are not otherwise designated Limited Common Elements on said Plat. Such right shall be deemed a Development Right and shall be subject to the terms and conditions set forth in Article 14 of this Declaration. After the expiration of such Development Right pursuant to Article 14 of this Declaration, the Executive Board shall have the power in its discretion from time to time to so allocate those parking spaces.

ARTICLE 5

ALLOCATION OF PERCENTAGE INTERESTS IN COMMON EXPENSES AND VOTING RIGHTS

Section 5.1. Percentage Interests. Attached as Exhibit B hereto is a list of all Units by their Identifying Number and the Percentage Interest appurtenant to each Unit, together with an explanation of the formula by which such Percentage Interest is determined. All calculations on Exhibit B shall be conclusive and binding on all Unit owners, the Executive Board, the Association and any Mortgagees.

Section 5.2. Common Expenses. The liability allocated to each Unit for the Common Expense of the Condominium shall be the same percentage share as the Percentage Interest allocated to such Unit on Exhibit B.

Section 5.3. Allocation of Unit Owner's Voting Rights. Each Unit owner shall be entitled to one (1) vote for each Unit owned by such person to permit equality of voting power among the Units.

ARTICLE 6 EASEMENTS

Section 6.1. Utility Easements. The Units, Common Elements and Limited Common Elements shall be, and hereby are, made subject to easements in favor of the

Declarants, other Unit owners, appropriate utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created by this Section 6.1 shall include, without limitation, rights of the Declarants, any Unit owner or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. **Notwithstanding the foregoing provisions of this Section 6.1, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of the completion of the initial construction of the Buildings and other improvements within the affected Unit or so as not to materially interfere with the use or occupancy of such Buildings and other improvements by its occupants.** With respect to any utility lines or equipment serving only the Condominium and located upon the Common Elements, the Executive Board shall have the right and power to assign the easement related to such Common Elements to any private or public utility company. The Executive Board shall also have the right and power to convey to any private or public utility company permits, licenses and easements over the Common Elements for the installation, maintenance, repair and replacement of utility poles, lines, wires and other equipment. In addition, the Executive Board shall have the right to grant permits, licenses and easements over the Common Elements for the building and maintenance of roads and for other purposes necessary for the proper operation of the Condominium.

Section 6.2. Maintenance of Surface Water Drainage. Declarants reserve for themselves and the Association an easement on, over and under those portions of the Common Elements not located within a Unit for the purpose of maintaining and/or correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance and to comply with and observe any conservation easement or declaration now or hereafter recorded with respect of the Property or any portion thereof. The easement created by this Section 6.2 expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably determined to be necessary and otherwise in compliance with applicable standards of health, safety and appearance conservation easements or declarations. The Declarants or the Association, as the case may be, shall restore the affected property as closely to its original condition as is practicable.

Section 6.3. Common Elements Easements. The Common Elements (other than the Limited Common Elements) shall be, and hereby are, made subject to an easement in favor of the Unit owners and their invitees, employees, tenants and servants, the Association and the agents and employees of the Association for access, egress and ingress over, through and across each portion thereof, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe; *provided* that nothing contained herein shall create any access easement in favor of Unit owners with respect to such portions of the Common Elements that are not needed in order to gain access to one or more Units and as to which the Executive Board may from time to time determine it to be necessary or desirable to limit or control access

by Unit owners or the occupants of Units, or both, including, by way of illustration and not limitation, machinery and equipment rooms; *provided, further*, that every Unit owner shall have an unrestricted right of ingress and egress to such Unit owner's Unit.

Section 6.4. Declarant's Easements for Maintenance Repair and Renovation. The Units, Common Elements and Limited Common Elements are subject to an easement in favor of the Declarants for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Common Elements or Limited Common Elements.

Section 6.5. Association's Easements for Maintenance, Repair and Renovation. The Units, Common Elements and the Limited Common Elements shall be and hereby are made subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements and the Limited Common Elements.

Section 6.6. Easements Burdening Common Elements and Limited Common Elements. The Common Elements and the Limited Common Elements shall be and hereby are made subject to the following easements in favor of the Units benefited:

(a) For the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are part of or exclusively serve a single Unit and which pass across or through a portion of the Common Elements;

(b) For the installation, repair, maintenance, use, removal and/or replacement of overhead lighting fixtures, electrical receptacles and the like which are located in a portion of the ceiling, wall or floor adjacent to a Unit which is a part of the Common Elements; *provided that* the installation, repair, maintenance, use, removal or replacement of such fixtures, receptacles and the like does not unreasonably interfere with the common use of any part of the Common Elements or impair or structurally weaken any Building;

(c) For the maintenance of the encroachment of any lighting devices, outlets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Element or Limited Common Element; and

(d) For the construction of improvements upon Limited Common Elements as such construction may be approved in writing by the Executive Board. Each Unit owner shall be liable to the Association for any damage to the Common Elements as the result of such Unit owner's exercise of the easement rights described in this paragraph (e).

Section 6.7. Structural Support Easements. To the extent necessary, each Unit shall have an easement for structural support over every other Unit, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an

easement for structural support in favor of every other Unit, the Common Elements and the Limited Common Elements.

Section 6.8. Easements Burdening Units and Limited Common Elements. The Units and the Limited Common Elements are hereby made subject to the following easements:

(a) In favor of the Association and its agents, employees and independent contractors, (i) for inspection of the Units and Limited Common Elements in order to verify the performance by Unit owners of all items of maintenance and repair for which they are responsible, (ii) for inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from such Units or Limited Common Elements or both, (iii) for correction of emergency conditions in one or more Units or Limited Common Elements, or both, or casualties to the Common Elements, the Limited Common Elements and/or the Units, and (iv) to do any other work reasonably necessary for the proper maintenance of the Condominium, it being understood and agreed that the Association and its agents, employees and independent contractors shall take reasonable steps to minimize any interference with a Unit owner's use of his Unit resulting from the Association's exercise of any rights it may have pursuant to this Section 6.8; and

(b) In favor of the Unit owner benefited thereby and the Association, and their respective agents, employees and independent contractors, for the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, electrical, telephone, telegraph or other communication systems and all other utility lines and conduits which are part of the Common Elements and which pass across or through a portion of one or more Units.

(c) In favor of the Unit owner or owners benefited thereby and the Association and their respective patients, residents, tenants, invitees, agents, employees and independent contractors to the full extent from time to time required in order that the Units and the Buildings conform with all applicable life safety and other governmental and licensing requirements (i) for egress from Unit No. 1 through adjacent first floor corridors and hallways of the so-called "Service Connector" portion of Unit No. 3 to exterior exits located in said "Service Connector"; (ii) for egress from Unit No. 2 through adjacent first floor corridors and hallways in Unit No. 1 to exterior exits located in Unit No. 1; (iii) for egress from the exterior court yard area enclosed by the Buildings in Unit No. 1, Unit No. 2 and Unit No. 3, through the first floor corridors and hallways in the "Service Connector" portion of Unit No. 3 to exterior exits located in said Service Connector; and (iv) for egress from any Unit through adjacent corridors and hallways in any other for purposes of providing access to exits or other life safety features now or hereafter required for compliance with applicable life safety and other governmental and licensing requirements.

(d) In favor of the Unit owners benefited thereby and the Association and their agents, employees and independent contractors, for the installation, repair, maintenance, use, removal and/or replacement of walls, doors, jambs and doorframes in any corridor providing passage from one Unit to another in order to regulate or restrict passage between the Units

through such corridor (a "Corridor Separation Structure"), *provided that* (i) the Association shall be required to install a Corridor Separation Structure only at the written request of the Unit owner and Mortgagee of at least one of the Units in question; (ii) the costs of design and installation of a Corridor Separation Structure shall be born by the Unit owner or Unit owners requesting such Corridor Separation Structure; (iii) a Corridor Separation Structure shall be designed, installed, maintained and operated so that the requirements of all applicable life safety and other governmental and licensing requirements are satisfied; (iv) each Corridor Separation Structure shall be a Limited Common Element with the costs of maintenance, operation, repair, replacement and removal thereof allocated to the Units in question; and (v) a Corridor Separation Structure shall be removed only at the written request of the Unit owners and Mortgagees of both of the Units in question.

Section 6.9. Easements for Encroachments. If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Condominium results either in the Common Elements encroaching on any Unit, or in any Unit encroaching on the Common Elements or on any other Unit, a valid easement shall exist during the period of the encroachment for the encroachment and for the maintenance thereof.

Section 6.10. Duration of Easements. All easements, rights and restrictions described and mentioned in this Declaration are easements appurtenant, running with the land and the Property, including by way of illustration but not limitation, the Units, the Common Elements and the Limited Common Elements, and (except as expressly may be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

Section 6.11. Certain Other Easements. The Property is subject to, and benefited by, the following easements:

(a) Snow Plowing Easement given by Cedars Nursing Care Center, Inc. to the City of Portland, dated April 17, 1990, and recorded in the Cumberland County Registry of Deeds, Book 9260, Page 236;

(b) Utility Easements given by Cedars Nursing Care Center, Inc. to Central Maine Power Company and New England Telephone and Telegraph Company, dated May 7, 1990 and September 5, 1990, and recorded in the Cumberland County Registry of Deeds respectively in Book 9162, Page 206 and Book 9306, Page 219;

(c) Utility Easements given by JHA Properties, Inc. to Central Maine Power Company, dated July 26, 1990, and recorded in the Cumberland County Registry of Deeds, Book 14382, Pages 187 and 188;

(d) Declaration of Covenants and Restrictions made by Cedars Nursing Care Center, Inc. and JHA Properties, Inc. dated March 27, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13709, Page 75, as amended by Amendment to Declaration of Covenants and Restrictions, among the Maine Department of Environmental Protection, Cedars

(g) The owner of a Unit shall be responsible for the cleanliness of any Limited Common Element serving such Unit, at the expense of such Unit owner.

(h) Without the prior written consent of the Executive Board, the owner of a Unit shall not alter in any way any portion of such Unit owner's Unit that is part of the exterior facade of the Units, including by way of example, but not by way of limitation, roofing materials or design, exterior doors, siding type and color, and windows.

Section 7.2. Sale and Lease of Units.

A Unit owner, including but not limited to any Declarant, may sell or lease such Unit owner's Unit at any time and from time to time, *provided* that each tenant and lease shall be subject to and be bound by all of the covenants, restrictions and conditions set forth in the Condominium Documents.

ARTICLE 8

RIGHTS OF MORTGAGE HOLDERS, INSURERS AND GUARANTORS

Section 8.1. Subject to Declaration. Whether or not it expressly so states, any mortgage constituting a lien against a Unit and an obligation secured thereby shall provide generally that the mortgage and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act, the Declaration, the Plat and any Rules and Regulations.

Section 8.2. Rights of Eligible Mortgage Holders.

(a) The Association shall send reasonable prior written notice by prepaid United States mail to Eligible Mortgage Holders of the consideration by the Association of the following proposed actions:

(1) The termination of the Condominium pursuant to Section 1602-118 of the Act;

(2) A change in the allocated interest of a Unit, a change in the boundaries of a Unit or a subdivision of a Unit;

(3) The merger or consolidation of the Condominium with another condominium;

(4) The conveyance or subjection to a security interest of any portion of the Common Elements;

(5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under Section 1603-113(a) of the Act for purposes other than the repair or restoration of the damaged property;

(6) The adoption of any proposed budget by the Executive Board under Section 1603-103(c) of the Act, and of the date of the scheduled Unit owners meeting to consider ratification thereof, which notice shall be accompanied by a summary of the proposed Budget; and

(7) Any default in the performance or payment by a Unit owner of any obligations under this Declaration, including, without limitation, default in the payment of Common Expense liabilities.

(b) In the event of any proposed actions described in clauses (1) through (5) of paragraph (a) of this Section 8.2, an Eligible Mortgage Holder shall have the right, but not the obligation, in place of the Unit owner to cast the votes allocated to that Unit or give or withhold any consent required of the Unit owner for such action by delivering written notice to the Association with a copy to the Unit owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall not constitute a waiver thereof and shall not preclude the Unit owner from exercising such right. In the event of any default described in subsection (a), paragraph (7) of this Section 8.2, the Eligible Mortgage Holder shall have the right, but not the obligation, to cure such default.

(c) An Eligible Mortgage Holder, or its representative, shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in paragraphs (1) through (6) of Section 8.2 (a).

Section 8.3. Rights of Mortgage Holders, Insurers or Guarantors.

(a) The Association shall send timely prior written notice of the following matters by prepaid United States mail to holders, insurers and guarantors of a mortgage on any Unit:

(1) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing the mortgage;

(2) A lapse, cancellation or material modification of any insurance policy maintained by the Association; and

(3) Any proposed action that requires the consent of fifty-one percent (51%) of the Eligible Mortgage Holders.

(b) To receive such notice, the mortgage holder, insurer or guarantor shall send a written request therefor to the Association, stating its name and address and the Unit identifying number or address of the Unit on which it holds, insures or guarantees the mortgage.

Section 8.4. Liability for Use and Charges. Notwithstanding any term in Section 10.1 hereof to the contrary, any Mortgagee who obtains title to a Unit pursuant to the remedies provided in a mortgage for foreclosure of such mortgage or a deed in lieu of foreclosure shall not

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be liable for such Unit owner's unpaid assessments or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee, except to the extent otherwise provided for in the Act and except to the extent that such Mortgagee is liable as a Unit owner for the payment of such unpaid assessment or charge that is assessed against the Mortgagee as a result of all Unit owners being reassessed for the aggregate amount of such deficiency.

Section 8.5. Condemnation Rights. No provision of this Declaration shall give a Unit owner, or any other party, priority over any rights of the Mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Unit owner of insurance proceeds or condemnation award for loss to or a taking of one or more Units and/or Common Elements.

Section 8.6. Books and Records. Any Mortgagee shall have the right, exercisable by written notice to the Executive Board, to examine the books and records of the Association and to require that it be provided with a copy of each annual report of the Association and other financial data of the Association reasonably requested by such Mortgagee.

ARTICLE 9
INSURANCE

Section 9.1. Types and Amounts. The Association shall maintain at a minimum, as a Common Expense and to the extent reasonably available, the following types and amounts of insurance:

(a) Property insurance on the Common Elements, insuring against all risks of direct physical loss commonly insured against under the fire and extended coverage endorsement and such other insurance as the Executive Board deems necessary or desirable. The total amount of any insurance after application of any deductions shall not be less than 80% of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date exclusive of land, foundations, excavation and other items normally excluded from property policies. The loss payable clause of such policy shall show the Association or the Insurance Trustee, if any, as a trustee for each Unit owner and each Mortgagee of a Unit. Such policy may also contain the standard mortgagee clause, naming each Mortgagee, its successors and assigns. If the Executive Board fails within sixty (60) days after the date of an insured loss to initiate a claim for damages recoverable under the policy or policies obtained pursuant to this paragraph (a), any Mortgagee may initiate such a claim on behalf of the Association.

(b) Liability insurance, including medical payments insurance, complying with the requirements of Section 9.2 hereof, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Such insurance policy shall contain a "severability of interest endorsement" or equivalent coverage which precludes the insurer from denying the claim of a Unit owner because of the negligent acts of the Association or another Unit owner. The amount of such liability insurance shall be at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The scope and amount of coverage of all liability insurance policies shall be reviewed at least once each year by the Executive Board and may be changed in

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its discretion, *provided* that such policies shall continue to comply with the requirements of this Section 9.1 and Section 9.2 hereof.

(c) If the insurance described in paragraphs (a) and (b) of this Section 9.1 is not reasonably available, the Association shall provide notice of the same to the Unit owners and shall carry any other insurance that will provide similar coverage that can be reasonably obtained.

(d) Such worker's compensation insurance as applicable laws may require.

(e) Insurance to satisfy the indemnification obligation of the Association set out in Section 10.2 hereof, if and to the extent reasonably available, including but not limited to insurance coverage commonly referred to as "directors and officers insurance".

(f) If at any time it is determined that all or any part of the Property lies within a special flood hazard area, a master or blanket policy of flood insurance covering the Property, including but not limited to, all Common Elements and Limited Common Elements, the Units and all improvements, fixtures and appliances contained within the Unit as of the date of settlement on the Unit or the value thereof, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding any improvements or appliances subsequently added by a Unit owner and all other personal property of the Unit owner. The amount of any such flood insurance obtained pursuant to this paragraph (f) shall be equal to the lesser of one hundred percent (100%) of the insurable value of the property insured or the maximum coverage available under the appropriate National Flood Insurance Administration program. Such flood insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed the lesser of \$5,000 or one percent (1%) of the policy face amount. Funds to cover this amount shall be included in the Association reserve fund.

Section 9.2. Required Provisions. Insurance obtained by the Association shall be in accordance with the following provisions:

(a) Exclusive authority to adjust losses under policies hereafter in force on the Common Elements and the Limited Common Elements shall be vested in the Executive Board or its authorized representative.

(b) Each Unit owner may obtain additional insurance at his own expense; *provided, however,* that: (1) such policies shall not be invalidated by the waivers of subrogation required to be contained in policies required by this Declaration; and (2) no Unit owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time.

(c) With respect to the insurance policies described in paragraphs (a) and (b) of Section 9.1 issued to the Association and covering all or any part of the Property, the Association shall cause such policies to provide that:

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(1) Each Unit owner is an insured person under such policies with respect to liability arising out of such Unit owner's ownership of an undivided interest in the Common Elements or membership in the Association.

(2) The insurer waives its right to subrogation under the policy against any Unit owner or members of such Unit owner's household.

(3) No act or omission by any Unit owner, unless acting within the scope of his authority on behalf of the Association, will void such policies or be a condition to recovery under such policies.

(4) If at the time of a loss under such policies there is other insurance in the name of a Unit owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(5) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Unit owner.

(6) An insurer that has issued an insurance policy under this Article shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit owner or Mortgagee. Such policies may not be canceled nor may coverage thereunder be substantially changed (whether or not requested by the Executive Board) except by the insurer giving at least twenty (20) days prior written notice thereof to the Executive Board, the Insurance Trustee, if any, Unit owners, each holder of a first mortgage on a Unit, and every other party in interest who shall have requested such notice of the insurer;

(7) The insurer will recognize any Insurance Trust Agreement entered into by the Association.

Section 9.3. Additional Insurance. Nothing in this Declaration shall be construed to limit the authority of the Executive Board to obtain additional insurance which it deems advisable.

ARTICLE 10

UNITS SUBJECT TO CONDOMINIUM DOCUMENTS; EMINENT DOMAIN

Section 10.1. Applicability of Condominium Documents. Each present and future owner, tenant, occupant and holder of a mortgage on a Unit shall be subject to and shall comply with the provisions of the Act, and with the covenants, conditions and restrictions as set forth in the Condominium Documents and the deed to such Unit; *provided that*, nothing contained herein shall impose upon any tenant or holder of a mortgage on a Unit any obligation which the Act or one or more of the Condominium Documents, or both, make applicable only to Unit owners (including, without limitation, the obligation to pay assessments for Common Expenses). The acceptance of a deed or mortgage to any Unit, or the entering into of a lease or the entering into

occupancy of any Unit shall constitute an agreement that the provisions of the Act and the covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit are accepted and ratified by such grantee, holder of a mortgage on a Unit or tenant. All of such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance mortgage or lease thereof. Failure to comply with the covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit shall be grounds for an action to recover damages or for injunctive relief, or both, maintainable by the Executive Board on behalf of the Association or by an aggrieved Unit owner.

Section 10.2. Eminent Domain. Whenever all or part of the Common Elements shall be taken, injured or destroyed by eminent domain, each Unit owner shall be entitled to notice thereof and to participate in the proceedings incident thereto; *provided, however,* that the Association shall officially represent the Unit owners in such proceedings. In any proceedings for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Unit owner's interest therein and any award for such damage shall be payable to the Association for the benefit of the Unit owners and of the Mortgagees.

ARTICLE 11

ASSOCIATION; EXECUTIVE BOARD OF THE ASSOCIATION

Section 11.1. **The Association.** The Association is the governing body for all Unit owners with respect to the administration, maintenance, repair, replacements, cleaning and management of the Common Elements. The membership of the Association shall at all times consist exclusively of all Unit owners. Each Unit owner shall automatically become and be a member of the Association as long as such person is a Unit owner and upon the termination of the interest of a Unit owner in the Condominium, such Unit owner's membership and any interest in the common funds of the Association shall thereupon automatically terminate and transfer and inure to the next Unit owner or Unit owners succeeding such Unit owner in interest. The Association shall have all of the powers granted pursuant to Section 1603-102 of the Act, including the powers to assign its right to future income.

Section 11.2. **Members of the Executive Board.**

(a) The initial Executive Board shall consist of three (3) members.

(b) There shall be no Declarant control period. The Unit owners (including the Declarants to the extent of any Units owned by a Declarant at that time) shall each have the right to appoint one person to be its designated representative on and a member of the Executive Board in accordance with the Bylaws. The members of the Executive Board so appointed shall serve until the first regular election of the Executive Board held at the next annual meeting of the Association held in accordance with the Bylaws; thereafter, members of the Executive Board shall be elected in accordance with the Bylaws. The Bylaws may provide for the members of the Executive Board to serve staggered terms.

(c) Subject to the terms and provision of the Act, this Declaration or the Bylaws, the Executive Board shall have the power to act on behalf of the Association. The Executive Board shall possess all of the duties and powers granted to the Executive Board by the Act.

Section 11.3. Disputes. In the event of any dispute or disagreement between any Unit owners relating to the Property, or any questions of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Executive Board shall be final and binding on each and all such Unit owners. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Section 11.3. All costs of obtaining such judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.

Section 11.4. Abating and Enjoining Violations by Unit Owners. The violation of any Rules and Regulations adopted by the Executive Board, the breach of any provision contained in the Condominium Documents, the deed to any Unit, or the Act by any Unit owner or any tenant of such Unit owner, shall give the Executive Board the right, in addition to any other rights to which it may be entitled, to enjoin, abate or remedy by appropriate legal proceedings, either by law or in equity, the continuance of any such violation or breach.

Section 11.5. Limited Liability of the Executive Board. To the maximum extent permitted by applicable law, the Executive Board, and its members in their capacity as members, officers and employees:

(a) Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Units, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;

(b) Shall not be liable as a result of the performance of the Executive Board members' duties for any mistakes of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

(c) Shall have no personal liability in contract to a Unit owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

(d) Shall not be liable to a Unit owner, or such Unit owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Unit owner or his tenants, employees, agents, customers or guests in a Unit, or in or

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on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

(e) Shall have no personal liability in tort to a Unit owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

(f) Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence.

Section 11.6. Indemnification. Each member of the Executive Board in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon the Executive Board Member in connection with any proceeding in which the Executive Board member may become involved by reason of the Executive Board member being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not the Executive Board member is an Executive Board member, officer or both at the time such expenses are incurred, except with respect to any matter as to which such Executive Board member shall have been finally adjudicated in any action, suit or proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interests of the corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful; *provided that*, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if still an Executive Board member at the time of settlement) approves such settlement and reimbursement as being in the best interests of the Association. The indemnification by the Unit owners set forth in this Section 11.6 shall be paid by the Association on behalf of the Unit owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit owners or otherwise.

Section 11.7. Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit owners and the Eligible Mortgage Holders and such complaints shall be defended by the Association. The Unit owners and the Eligible Mortgage Holders shall have no right to participate other than through the Association in such defense. Complaints of a nature specified in Section 3.3. hereof against one or more but less than all Unit owners shall be defended by such Unit owners who are defendants themselves and such Unit owners shall promptly give written notice of the institution of any such suit to the Association and to the holders of any mortgages encumbering such Units.

Section 11.8. Storage; Disclaimer of Bailee Liability. Neither the Executive Board, the Association, any Unit owner nor the Declarant shall be considered a bailee of any personal property stored on the Common Elements (including property located in storage areas on the Common Elements, including the Limited Common Elements), whether or not exclusive possession of the particular area is given to a Unit owner for storage purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE 12 MANAGEMENT

The Association shall have the right to employ a professional, experienced managing agent who shall oversee the daily operation of the Condominium in accordance with the provisions of the Act and the Condominium Documents.

ARTICLE 13 ASSESSMENTS; LIABILITY OF UNIT OWNERS

Section 13.1. Power to Assess.

(a) The Association, acting through the Executive Board in accordance with the Bylaws, shall have the power to fix and determine, from time to time, the sums necessary and adequate to provide for the Common Expenses (based on the Budget for such fiscal period), including, but not limited to, such amounts as are necessary for (i) the maintenance, repair and replacement of the Common Elements and the Limited Common Elements, as set forth in Section 3.3(a) hereof, (ii) uncollectable assessments, (iii) budget deficits, (iv) such other reserves as are hereinafter described, (v) such additional reserves as the Executive Board shall deem necessary or prudent, and (vi) such other expenses as are specifically provided for in the Act, this Declaration, and the Bylaws. The Association may establish an adequate reserve fund for maintenance, repair and replacement of those Common Elements and Limited Common Elements for which the Association is responsible that are anticipated to require replacement, repair or maintenance on a periodic basis, and to cover any deductible amount for insurance policies maintained by the Association. If such reserve fund is established by the Association, the Association may fund it by the Monthly Assessments. Common Expenses, to the extent they are imposed, shall be assessed against each Unit in accordance with the allocation set forth in Section 5.2 above and Section 1602-107 of the Act. Charges incurred by the Association and related to Limited Common Elements shall be assessed against only those Units benefiting from the Limited Common Elements. After the adoption of the first annual proposed budget by the Executive Board, the Executive Board shall annually adopt a proposed budget (the "Budget"), and, within thirty (30) days of adoption shall provide a summary of the proposed Budget to all Unit owners, *provided that* the Association shall have no obligation to adopt the first Budget unless requested to do so by all of the Unit owners. The Executive Board shall also schedule a meeting of the

Unit owners to consider ratification of the Budget not less than fourteen (14) days nor more than thirty (30) days after the mailing of such summary. Unless at that meeting a majority of all of the Unit owners reject the Budget, the Budget is ratified, whether or not a quorum is present. In the event the Budget is not ratified, the current Monthly Assessment, if any, shall continue until the adoption of a new Budget is made at a meeting of the Association called for that purpose no sooner than fifteen (15) days nor later than thirty (30) days after the initial ratification meeting of the Unit owners. The Declarant shall pay the Monthly Assessment for Units owned by the Declarant in the same manner as the other Unit owners, beginning with the first Monthly Assessment as provided in Section 13.3 hereof.

(b) In addition to paragraph (a) of this Section 13.1, the following shall apply:

(1) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Unit or Units to which that Limited Common Element is assigned.

(2) Any payments, fees or charges for the use, rental or operation of any Common Element shall be applied first, to reduce the Common Expense relating to such Common Element and, second, any excess shall be applied to Common Expenses generally.

(3) Assessments to pay a judgment against the Association shall be a lien only against the Units in the Condominium at the time the judgment was entered, in proportion to their Common Expense liability.

(4) If any Common Expense is caused by the misconduct of any Unit owner, the Association may assess that expense exclusively against such Unit owner's Unit.

(5) If Common Expense liabilities are reallocated, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

(6) Any Common Expense that is to be reimbursed by Unit owners according to use shall be paid as part of the Common Expense installment billed at the same time as the reimbursable expense, and for all purposes except allocation by Percentage Interest in the Common Elements, all such reimbursable expenses shall be treated as Common Expenses.

Section 13.2. Special Assessments. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year for any reason (including by way of illustration and not limitation, any Unit owner's non-payment of its assessment or municipal assessments not yet assessed), the Executive Board shall have the power, at any time it deems necessary and proper, to levy one or more Special Assessments against each Unit owner. Special Assessments shall be due and payable in the manner and on the date set forth in the notice thereof.

Section 13.3. Payment of Assessments. Each Unit owner, including each Declarant to the extent a Declarant owns a Unit, shall pay all Monthly Assessments and Special Assessments levied by the Association in accordance with this Declaration and the Bylaws. Liability for such assessments shall be determined in accordance with Section 5.2 hereof. Such assessments shall begin accruing at the time of the creation of the Condominium and they shall be due and payable on a monthly basis as and if designated by the Executive Board. Assessments that are unpaid for over fifteen (15) days after the due date shall bear interest at the rate determined from time to time by the Executive Board from the due date until paid. In the sole discretion of the Executive Board, a late charge may be assessed against the delinquent Unit owner.

Section 13.4. New Assessments. After the initial assessment has been made by the Association, subsequent assessments shall be made by the Association annually on or before the anniversary date of the initial assessment or such other date as the Association may choose, based on the Budget adopted by the Association not later than sixty (60) days prior to the assessment. If the Executive Board shall fail to fix new Monthly Assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Unit owners shall continue to pay the same sums they were paying for such Monthly Assessments during the fiscal year just ended and such sum shall be deemed to be the new Monthly Assessments for the succeeding fiscal year. If the Executive Board shall change the Monthly Assessment at a later date, the difference between the new Monthly Assessment, if greater, and the previous year's Monthly Assessment up to the effective date of the new Monthly Assessment shall be treated as if it were a Special Assessment under Section 13.2. hereof; thereafter each Unit owner shall pay the new Monthly Assessment. In the event the new Monthly Assessment is less than the previous year's Monthly Assessment, in the sole discretion of the Executive Board, the excess shall either be refunded to the Unit owners, credited against future Monthly Assessments or retained by the Association for reserves.

Section 13.5. No Exemption by Waiver. No Unit owner may exempt himself from liability for the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of such Unit owner's Unit or otherwise.

Section 13.6. Personal Liability of Unit Owners. All sums assessed by the Association as a Monthly Assessment or Special Assessment shall constitute the personal liability of the owner of the Unit so assessed and also, until fully paid, shall constitute a lien against such Unit pursuant to Section 1603-116 of the Act. Multiple owners of a Unit shall each be jointly and severally liable for all unpaid Monthly Assessments and Special Assessments. The Association may take such actions as are permitted by Section 1603-116 of the Act for failure to pay any assessment or other charges. The delinquent owner shall be obligated to pay (a) all expenses of the Executive Board, including reasonable attorneys' fees, incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and (b) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

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Section 13.7. Liability of Purchaser of Unit for Unpaid Assessments.

(a) Upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall not be personally liable with the grantor thereof for all unpaid assessments for Common Expenses which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, unless such grantee agrees to assume the obligation therefor; *provided, however*, except as provided in clause (b), a lien against the Unit so purchased for assessments imposed pursuant to this Declaration or the Act shall not be affected by such sale, conveyance or other transfer.

(b) Prior to or at the time of any conveyance of a Unit by Unit Owner, all unpaid assessments shall be paid in full. Any purchaser of a Unit shall be entitled to a written statement by the Association setting forth the accrued assessments for Common Expenses that are then unpaid, and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, accrued but unpaid assessments in excess of the amount therein set forth.

Section 13.8. Subordination of Certain Charges. The lien for any Monthly Assessments or any fees, charges, late charges, fines and interest that may be levied by the Association pursuant to Section 1603-102 of the Act shall be subordinate to any first mortgage lien recorded before or after such Monthly Assessment, fee, charge, late charge, fine or interest was due.

ARTICLE 14

SPECIAL DECLARANT RIGHTS AND DEVELOPMENT RIGHTS

Section 14.1. Special Declarant Rights and Development Rights. In addition to the easement rights reserved in Article 6, the Declarants reserve to themselves and for the benefit of their respective successors and assigns, and subjects the Property to, the right:

(a) to effect the construction of the Building and other improvements constituting Unit No. 2, in accordance with the description thereof set forth on the Plat.

(b) to effect an expansion of Unit No. 1, by (i) modifying the vertical boundaries thereof in the area of the single story structure attached to the west side of the Building constituting Unit No. 1 between the wing of said Building that extends southwesterly and the wing of said Building that extends in a northwesterly direction (the "Loading Structure"), as follows: (A) projecting in a northwesterly direction the vertical boundary that is three feet outside the southwest facing exterior wall of the Loading Structure that extends in a northwesterly direction from the northwest side of the southwesterly wing of said Building to the intersection of such projected vertical boundary with the extended vertical boundary described in clause (B); and (B) projecting the vertical boundary that is three feet outside the northwest facing fascia of overhanging roof of the Loading Structure that extends in a southwesterly direction from the westerly side of the Loading Structure to the intersection of such projected vertical

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boundary with the projected vertical boundary described in clause (A); and (ii) constructing within the boundaries so modified additions to the Building and other improvements constituting Unit No. 1.

(b) until the construction of all Units is completed, to connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes;

(c) until the construction of all Units is completed, to use the Common Elements for ingress and egress, for the repair and construction of Units and Common Elements, including, but not limited to, the movement and temporary storage of construction materials and equipment, and for the installation of signs and lighting for sales and promotional purposes; and

(d) to use easements through the Common Elements for the purposes of making improvements within the Condominium.

The real estate subject to these Development Rights and Special Declarant Rights is the Property.

Section 14.2 Amendment. This Article 14 shall not be amended without the written consent of the Declarants duly recorded in the Cumberland County Registry of Deeds.

ARTICLE 15
ASSIGNABILITY OF DECLARANT'S RIGHTS

The Declarants may assign any or all of their respective rights or privileges reserved or established by this Declaration or the Act in accordance with the provisions of the Act.

ARTICLE 16
AMENDMENT OF DECLARATION

Section 16.1. Amendments to Declaration. Except as otherwise provided herein or in Section 1602-117 of the Act, this Declaration may be amended only by unanimous vote or agreement of the Unit owners.

Section 16.2. Rights of Mortgagees. Approval of amendments of a material nature must be obtained from Eligible Mortgage Holders representing at least 51% of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any of the following, except where such change may be effected by the Declarants, the Association or certain Unit owners under the Act or this Declaration, are deemed to be material:

- (a) voting rights;
- (b) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use;

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- (c) boundaries of any Unit;
- (d) convertibility of Units into Common Elements or Common Elements into Units;
- (e) expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- (i) insurance;
- (j) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents;
- (k) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or
- (l) any provisions that expressly benefit holders of mortgages on the Units.

The approval of an Eligible Mortgage Holder may be assumed when that Eligible Mortgage Holder has failed to submit a response to any written proposal for an amendment within thirty (30) days after the proposal is made. No amendment to the Condominium Documents shall diminish or impair the rights of the Declarants under the Condominium Documents without the prior written consent of the Declarants. No amendment may modify this Article 16 or the rights of any person hereunder. Except as specifically provided in the Condominium Documents, no provision of the Condominium Documents shall be construed to grant to any Unit owner, or to any other person, any priority over any rights of mortgagees of any Unit owner.

ARTICLE 17
TERMINATION

The Condominium may be terminated only by agreement of the Unit owners representing one hundred percent (100%) of the Percentage Interests. Termination of the Condominium will be governed by the provisions of Section 1602-118 of the Act.

ARTICLE 18
GENERAL PROVISIONS

Section 18.1. Headings. The headings used in this Declaration and any table of contents are inserted solely as a matter of convenience for the readers of this Declaration and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

Section 18.2. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion

Att 32

thereof shall not affect the validity or enforceability of any other provision or portion hereof unless such deletions shall destroy the uniform plan of development and operation of the Condominium which this Declaration is intended to create.

Section 18.3. Applicable Law. This Declaration shall be governed by and construed according to the laws of the State of Maine.

Section 18.4. Interpretation. The provisions of this Declaration shall be liberally construed in order to effect Declarants' desire to create a uniform plan for development and operation of the Condominium. In the event of any conflict or discrepancy between this Declaration, the Bylaws and the Plat, the provisions of this Declaration shall govern.

Section 18.5. Effective Date. This Declaration shall become effective when it and the Plat have been recorded.

Section 18.6. Notices. All notices and other communications required or permitted to be given under or in connection with this Declaration shall be in writing and shall be deemed given when delivered in person or on the second business day after the day on which mailed by certified mail, return receipt requested, addressed to the address maintained in the register of current addresses established by the Association.

Section 18.7. Exhibits. All exhibits attached to this Declaration are hereby made a part of this Declaration.

Section 18.8. Pronouns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders.

[The balance of this page is left blank intentionally. Signature page follows.]

Att 32

IN WITNESS WHEREOF, the Declarants have caused this Declaration to be executed by their duly authorized representatives as of this 21 day of June, 2006.

JHA PROPERTIES, INC.

Holly Nicholson
Witness

By: Kathryn J. Callman
Kathryn J. Callman, President

CEDARS NURSING CARE CENTER, INC.

Holly Nicholson
Witness

By: Kathryn J. Callman
Kathryn J. Callman, President

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

June 21, 2006

Personally appeared the above-named Kathryn J. Callman, President, of JHA PROPERTIES, INC., a Maine non-profit corporation, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said JHA PROPERTIES, INC.

Before me,

[Signature]
Notary Public/Attorney at Law
Print Name: Lynne Burr
My commission expires: 2009

Lynne A. Burr, Notary Public
State of Maine
My Commission Expires 12/5/2009

STATE OF MAINE
COUNTY OF CUMBERLAND, ss

June 21, 2006

Personally appeared the above-named Kathryn J. Callman, President, of CEDARS NURSING CARE CENTER, INC., a Maine non-profit corporation, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said CEDARS NURSING CARE CENTER, INC.,

Before me,

[Signature]
Notary Public/Attorney at Law
Print Name: Lynne Burr
My commission expires: 2009

Lynne A. Burr, Notary Public
State of Maine
My Commission Expires 12/5/2009

LIMITED JOINDER AGREEMENT OF MORTGAGEE

The undersigned, MAINE HEALTH AND HIGHER EDUCATIONAL FACILITIES AUTHORITY, a public body corporate and politic of the State of Maine, created and existing under the Constitution and the laws of the State of Maine, with a place of business at 3 University Drive, P.O. Box 2268, Augusta, Maine 04330 (herein called the "Mortgagee"), as holder of and mortgagee under the following instruments:

1. A certain Loan Agreement and Mortgage by JHA Properties, Inc., a Maine nonprofit corporation ("JHA Properties"), to the Mortgagee, dated as of March 1, 1998 and recorded in the Cumberland County Registry of Deeds in Book 13709, Page 1, and a certain Mortgage by JHA Properties, Inc., to the Mortgagee, dated as of October 9, 1998 and recorded in the Cumberland County Registry of Deeds in Book 14221, Page 222 (the "JHA Properties Mortgage"); and

2. A certain Loan Agreement and Mortgage by Cedars Nursing Care Center, Inc., a Maine nonprofit corporation ("Cedars"), to the Mortgagee, dated as of May 1, 1993 and recorded in the Cumberland County Registry of Deeds in Book 10717, Page 311 (the "Cedars Mortgage");

(herein the instruments described in paragraphs 1 and 2 above are sometimes collectively called the "Mortgages"), for itself and its successors and assigns, hereby

- (i) joins with JHA Properties and Cedars (herein collectively called the "Declarants") in submitting the Property, as defined and described in this Declaration, separate portions of which are subject to the lien of one or the other of the Mortgages, to the provisions of the Maine Condominium Act, 33 M.R.S.A. Chapter 31, §§ 1601-101, et seq., as amended, for the sole and limited purposes of evidencing Mortgagee's consent as owner and holder of the Mortgages to the submission of the Property under this Declaration and to the creation and granting of those easements, uses, rights and privileges described in this Declaration and granting and releasing the liens, rights and interests described in clauses (ii) through (vi);
- (ii) grants and releases to Cedars, its successors and assigns, all of Mortgagee's right, title and interest under the JHA Properties Mortgage in and to Unit No. 1 as created by this Declaration;
- (iii) grants and releases to Cedars, its successors and assigns, and Properties, its successors and assigns, all of Mortgagee's right, title and interest under the Mortgages in and to Unit No. 2 as created by this Declaration and all Development Rights related to the construction of the Building and other improvements constituting Unit No. 2 in accordance with the description thereof set forth on the Plat;

- (iv) grants and releases to JHA Properties, its successors and assigns, all of Mortgagee's right, title and interest under the Cedars_Mortgage in and to Unit No. 3 as created by this Declaration;
- (v) grants and releases to JHA Properties and Cedars, their respective successors and assigns, all of Mortgagee's right, title and interest under either of the Mortgages in and to the following easements of record:
- (A) Utility and Access Easement described as Parcel B in easement deed from Cedars Nursing Care Center, Inc., to JHA Services, Inc., dated May 25, 1990, and recorded in the Cumberland County Registry of Deeds, Book 9188, Page 115, as amended and modified Short Form Quitclaim Deed from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 17, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 319, and by Easement Modification, between JHA Services, Inc. and Cedars Nursing Care Center, Inc., dated April 1, 1998, and recorded in the Cumberland County Registry of Deeds, Book 13708, Page 305 (the "Granting Deed");
 - (B) Emergency Access Road Easement described as Parcel C in the Granting Deed;
 - (C) Parking Easement, Utility and Access Easement and Loop Road Easement retained as Items 1, 2 and 3 in the Granting Deed;
 - (D) Access Easement in easement deed from JHA Properties, Inc., to Cedars Nursing Care Center, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 321;
 - (E) Access Easement in easement from Cedars Nursing Care Center, Inc., to JHA Properties, Inc., dated March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 325; and
 - (F) Agreement and Reciprocal Easement Deed, between Cedars Nursing Care Center, Inc., and JHA Properties, Inc., dated as of March 27, 1998 and recorded in the Cumberland County Registry of Deeds, Book 13696, Page 331; and
- (vi) expressly retains, excepts and reserves, for itself and its successors and assigns, the lien of and all other rights under the Cedars Mortgage in and to Unit No. 1; and

- (vii) expressly retains, excepts and reserves, for itself and its successors and assigns, the lien of and all other rights under the JHA Properties Mortgage in and to Unit No. 3;

PROVIDED, that such joinder and consent shall not be construed to make said Mortgagee, its successors and assigns, as mortgagee, the Declarant or to impose on it any of the obligations or liabilities of the Declarant under this Declaration, including, without limitation, any obligation or liability of any kind to any purchaser(s) of any condominium unit(s), and said Mortgagee makes no warranties or covenants to any person or party, express or implied, as to title, merchantability, fitness for any particular purpose, physical condition or otherwise as to the Condominium premises.

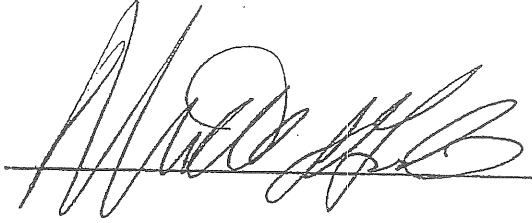
The Mortgagee hereby agrees that its lien on Unit No. 1 under the Cedars Mortgage and its lien on Unit No. 3 under the JHA Property Mortgage, all as excepted and reserved herein, shall be subject to the provisions of said Maine Condominium Act and shall attach to the Units and Percentage Interests created by this Declaration, as it may be amended. The Mortgagee further agrees that, in the exercise of its rights as mortgagee under the aforesaid Mortgages, the Mortgagee will recognize the establishment of a condominium by this Declaration of Condominium.

[The balance of this page is left blank intentionally. Signature page follows.]

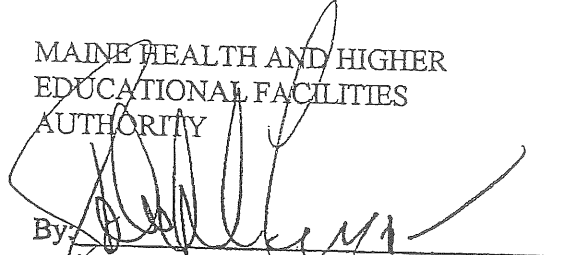
AV 317

IN WITNESS WHEREOF, the Mortgagee has caused this instrument to be executed and sealed in its corporate name by its officer thereunto duly authorized as of the date of the foregoing Declaration.

WITNESS:



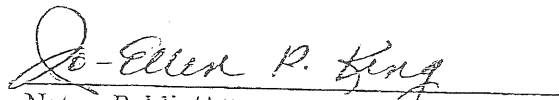
MAINE HEALTH AND HIGHER
EDUCATIONAL FACILITIES
AUTHORITY


By: _____
Robert O. Lenna
Its Executive Director

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

JUNE 29th, 2006

Personally appeared before me the above-named Robert O. Lenna, Executive Director of Maine Health and Higher Educational Facilities Authority, and acknowledged the foregoing instrument to be his free act and deed in said capacity, and the free act and deed of said Maine Health and Higher Educational Facilities Authority.


Notary Public/Attorney-at-Law
Print Name: JO-ELLEN P. KING
My Commission Expires: OCTOBER 27, 2011

Jo-Ellen P. King
Notary Public, Maine
My Commission Expires
October 27, 20 11

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EXHIBIT A

PROPERTY DESCRIPTION

A certain lot or parcel of land lying on the northwesterly side of Ocean Avenue and the northeasterly terminus of Byfield Road in the City of Portland, County of Cumberland, State of Maine, bounded and described as follows:

Beginning at a point and the intersection of the northeasterly terminus of said Byfield Road with the northwesterly sideline of said Byfield Road;

Thence S 50°04'08" W by the northwesterly sideline of said Byfield Road a distance of Thirty and 45/100 (30.45) feet to a point and the easterly corner of land now or formerly of Christopher J. King and Elizabeth C. King as described in a deed recorded in the Cumberland County Registry of Deeds in Book 20322, Page 332;

Thence N 39°56'15" W by said land of King a distance of Ninety-Nine and 20/100 (99.20) feet to a point;

Thence S 52°11'01" W by said land of King; by land now or formerly of Barry E. Scott and Mary A. Scott as described in a deed recorded in said Registry in Book 2809, Page 26; and by land now or formerly of N. Penrose Hallowell IV as described in a deed recorded in said Registry in Book 15501, Page 236, a distance of Two Hundred Thirty-Nine and 65/100 (239.65) feet to a point and the northeasterly corner of land now or formerly of Brian R. Sheets and Gaye L. Sheets as described in a deed recorded in said Registry in Book 13242, Page 35;

Thence N 37°59'05" W by said land of Sheets a distance of Sixty and 00/100 (60.00) feet to a point and the southeasterly line of land now or formerly of John Tevanian and Thelma M. Tevanian as described in a deed recorded in said Registry in Book 3627, Page 59;

Thence N 52°11'01" E by said land of Tevanian a distance of One Hundred and 04/100 (100.04) feet to a point;

Thence N 37°52'24" W by said land of Tevanian a distance of Sixty-Four and 64/100 (64.64) feet to a point and the southerly corner of land now or formerly of Old Port Realty Corp. as described in a deed recorded in said Registry in Book 4013, Page 113;

Thence N 52°11'01" E by said land of Old Port Realty Corp. a distance of Six Hundred Sixty-Eight and 07/100 (668.07) feet to a point and land now or formerly of Ledgewood Owners Association as described in a deed recorded in said Registry in Book 4446, Page 125;

Thence S 58°38'42"E by said land of Ledgewood Owners Association a distance of Zero and 97/100 (0.97) feet to a point, said point herein designated as "Point A";

Aiv 39

Thence Southeasterly by said land of Ledgewood Owners Association following a non-tangent curve to the right having a radius of Two Hundred Fifty-Two and 54/100 (252.54) feet an arc distance of Two Hundred Fifteen and 57/100 (215.57) feet to a point, said point being located S 69°09'08" E a distance of Two Hundred Nine and 08/100 (209.08) feet from said "Point A";

Thence S 44°41'54" E by said land of Ledgewood Owners Association a distance of One Hundred Thirty-Nine and 56/100 (139.56) feet to a capped 5/8" rebar (PLS #199);

Thence S 44°27'57" E by said land of Ledgewood Owners Association a distance of Two Hundred Ninety-Nine and 33/100 (299.33) feet to a 1" iron pipe;

Thence S 43°59'21" E by said land of Ledgewood Owners Association a distance of Seventy and 26/100 (70.26) feet to a point and the northwesterly sideline of said Ocean Avenue;

Thence S 35°36'51" W by said Ocean Avenue a distance of Fifty-One and 28/100 (51.28) feet to a point;

Thence S 40°42'51" W by said Ocean Avenue a distance of Four Hundred Twenty-Six and 00/100 (426.00) feet to a point and the easterly corner of land now or formerly of David H. Littlefield and Bonnie S. Littlefield as described in a deed recorded in said Registry in Book 4458, Page 44;

Thence N 47°24'30" W by said Littlefield a distance of One Hundred and 58/100 (100.58) feet to a capped 5/8" rebar (PLS #509);

Thence S 45°36'30" W by said land of Littlefield a distance of One Hundred and 00/100 (100.00) feet to a point and land now or formerly of Domenico Floridino and Anna Floridino as described in a deed recorded in said Registry in Book 3029, Page 521;

Thence N 47°19'15" W by said land of Floridino; by land now or formerly of Peter J. Molloy and Elizabeth D. Molloy as described in a deed recorded in said Registry in Book 16537, Page 279; by land now or formerly of Elizabeth F. Searles and Harold E. Searles as described in a deed recorded in said Registry in Book 3122, Page 381; by land now or formerly of Leslie E. Conley and Avis J. Conley as described in deeds recorded in said Registry in Book 2640, Page 412 and Book 2649, Page 394; and by the northeasterly terminus of said Byfield Road a distance of Four Hundred Eighty and 78/100 (480.78) feet to the point of beginning.

Bearings are based on magnetic north 1924.

The above described parcel contains 10.57 acres.

Reference is herein made to a plan entitled "Cedars Condominiums Recording Plat/Condominium Plan, ALTA/ACSM Land Title Survey Cedars Plan/ALTA/ACSM/Land Title Survey" made for JHA Properties, Inc., Cedars Nursing Care Center, and JHA Assisted Living, Inc. dated September 8, 2005, and revised April 5, 2006, made by Titcomb Associates.

Air 40

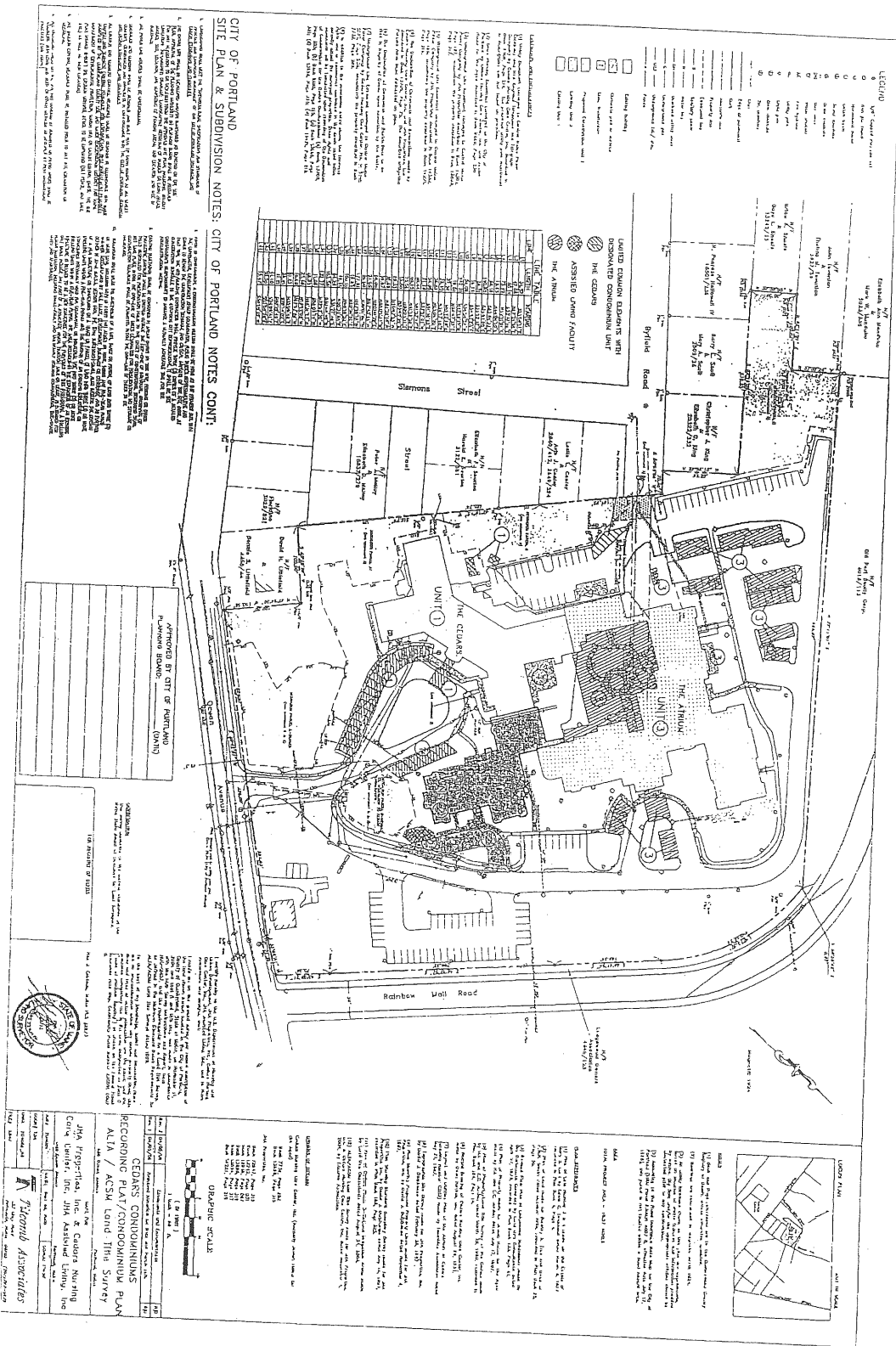
EXHIBIT B

<u>Unit Identifying Number</u>	<u>Percentage Interest</u>
Unit 1	33.333%
Unit 2	33.333%
Unit 3	33.333%

Formula Calculating Percentage Interest

All Units shall have an equal Percentage Interest to be calculated by (i) dividing one (1) by three (3).

Aiv
41



Received
Recorded Register of Deeds
Jun 30, 2006 01:45:01P
Cumberland County
John B O'Brien

Ar.

Section 5

Evidence of Technical and Financial Capacity

Technical Capacity

Prior Experience

Cedars Nursing Care Center, Inc. and its predecessor, the Jewish Home for the Aged have been serving older persons since 1928. The Jewish community organized and built a home for older persons in 1929. That home was operated until 1955 when the corporation qualified for Hill-Burton funds and built a nursing care facility and converted the home to the same.

At that time, the Jewish Home became licensed by the State of Maine as a nursing home. This licensure required a level of nursing care to be performed by qualified and licensed staff. The quality of the program was monitored by the State of Maine.

Eventually, the corporate name was changed from Jewish Home for the Aged to Cedars Nursing Care Center, Inc. In 1990, JHA Services, inc. was also created. Then in 1996 this organization purchased additional properties, increasing the 630 Ocean Avenue property to 10.08 acres. Additionally, JHA Properties, Inc. was created to hold ownership of the newly acquired properties. Cedars Nursing Care Center, Inc., JHA Services, Inc. and JHA Properties, Inc. are all non-profit entities that are controlled by a Board of Trustees made up of members throughout the community.

This organization has successfully developed the Cedars Nursing Home, the Atrium independent living facility, and is currently completing the Assisted Living Facility.

Design Personnel

The following consultants are involved in the design and permitting for this project:

- Architect Tsomidies Associates
- Civil Engineer Sebago Technics, Inc.

Each of the professionals listed above have extensive experience working on similar development projects throughout the State of Maine. A qualifications package for each of these professionals has been attached and additional qualification data can be provided upon request.

Av. 3

Echo Bridge Office Park
389 Elliot Street
Newton Upper Falls, MA 02464
617/969-4774
617/969-4793 Fax
[http:// www.tsomides.com](http://www.tsomides.com)

**Tsomides
Associates
Architects
Planners**

A Nationally Recognized Leader

Tsomides Associates is a nationally recognized leader in the planning and design of senior living facilities. With more than 23 years of experience creating innovative continuing care retirement communities, assisted living facilities, nursing care facilities, and senior housing, the firm has a keen understanding of the senior adult's physical, environmental, and psychological needs. An extensive portfolio of more than 50 senior living projects showcases the firm's commitment to enhancing quality of life through sensitive and innovative functional planning and design.

Whether developing a 50-acre master plan for a new CCRC or imaginatively renovating, expanding, and revitalizing an older facility, Tsomides Associates designs vibrant, supportive, and stimulating environments in a residential context. Above all, the firm strives to ensure the privacy, independence, and dignity of the senior adult resident.

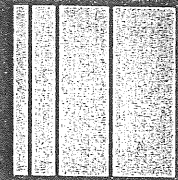
A Wealth of Experience

The professional staff of Tsomides Associates brings a wealth of experience to every project. Led by Constantine Tsomides, NCARB, AIA, the staff has individually and collectively designed senior living facilities of every building type.

With proficiency in programming, planning, and design, Tsomides Associates is an accomplished organization at the forefront of creating attractive, functional, and pace setting facilities that enhance residents' quality of life.

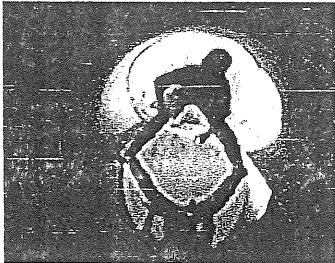
Av 4

Tsomides Associates portfolio includes facilities in urban, rural, and suburban settings representing every stage of senior living. The premier projects on the following pages illustrate the firm's expertise in master planning, architecture and interior design. Visit our web site at: www.tsomides.com.



Introduction to Sebago Technics, Inc.

Av. 5



Sebago Technics, Inc.
Engineers
Land Surveyors
Landscape Architects
Soil Scientists

Since its formation in 1981, Sebago Technics has grown to a multi-service consulting firm of more than ninety design professionals and technical staff. Our multi-disciplinary project teams have played significant roles in the design, survey, engineering and implementation of many major projects throughout New England.

Our corporate philosophy is founded in our pride and commitment to provide our clients with creative, cost-effective professional services through an organized and responsive process. Our philosophy is supported by the emphasis placed on the major objectives of our practice: To provide a full range of consulting services; To provide our services in a responsive and timely manner; To maintain our continued involvement in quality projects; To provide our clients with design and engineering excellence.

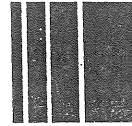
Sebago Technics' historical interest and experience in public and private sector projects has served to form our reputation for quality technical services performed on time and on budget. Our current management and technical staff share these objectives, which have been so important to our growth and success. We are large enough to assemble the personnel and equipment resources necessary to accomplish large projects, yet small enough that principal managers maintain day-to-day involvement with our clients.

We believe our quality of life in the future will depend on the intelligent management of natural, physical, and human resources. At Sebago Technics, we are committed to the provision of professional services responsive to the needs of the people we serve and the protection of our natural, cultural and economic resources.

P.O. Box 1339, One Chabot Street
Westbrook, Maine 04098-1339
ph. (207) 856-0277 fax (207) 856-2206

400 Center Street
Auburn, Maine 04210
ph. (207) 783-5656 fax (207) 783-5655

100% Employee Owned
www.sebagotechnics.com

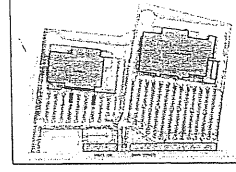
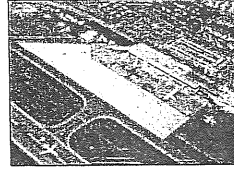
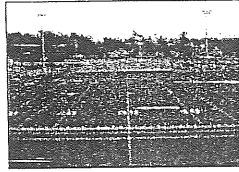


Av.
6

*Civil Engineering • Environmental Engineering • Transportation Engineering • Geotechnical Engineering
Land Surveying • Landscape Architecture • Natural Resources • Land Planning • Artificial Turf Impact Testing*

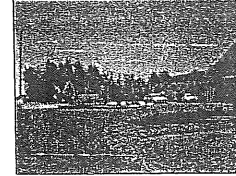
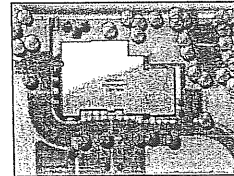
Civil Engineering

- Grading and Drainage
- Stormwater Management Planning
- Paving & Site Improvements
- Evaluation & Feasibility Studies
- Technical Engineering Review



Environmental Engineering

- Regulatory Permitting (Local, State & Federal)
- Site Assessments (ESA Phase I, II & III)
- Wastewater & Groundwater Treatment
- Underground Storage Tank Services
- Effluent & Groundwater Modeling/Monitoring
- Wastewater Minimization Studies
- Landfill Closure Plans
- Water Supply & Treatment System Design

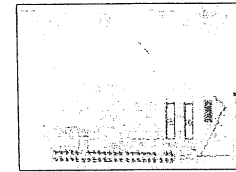


Transportation Engineering

- Highway & Drainage Design
- Pedestrian & Bike Trail Design
- Traffic Impact Analysis
- Signal Design & System Management
- Intermodal Facility Planning & Design
- Construction Administration

Landscape Architecture

- Site Selection Studies
- Conceptual & Site Design
- Recreation Facility Design
- Sidewalk & Streetscape Design
- Planting Design
- Irrigation System Design
- Construction Observation & Administration



Geotechnical Engineering

- Subsurface & Foundation Investigations
- Earth & Rock Slope Stability Analysis
- Field Instrumentation
- Construction Monitoring

Natural Resources

- Medium & High Intensity Soil Surveys
- On-Site Wastewater Disposal Systems Design
- HHE-200 Preparation
- Sediment & Erosion Control Plans
- Nutrient Loading & Mitigation Analysis
- Soil Testing
- Wetlands Delineation/Vernal Pools

Land Surveying

- Technical Deed Research
- Boundary Survey/Topographic Survey
- Land Title Surveys
- Hydrographic Surveys
- Mortgage Inspections
- Construction Layout
- As-Built Record Documentation
- Control of Aerial Photography
- Land Data Acquisition/Land Information Systems

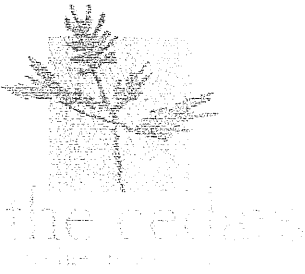
Land Planning

- Zoning Analysis/Ordinance Writing
- Demographic Analysis
- Comprehensive Planning
- Contract Zoning
- Grant Writing
- Planning Board Representation

Artificial Turf Impact Testing

- Municipal Fields
- College Facilities
- Professional Athletic Facilities

100% Employee Owned
www.sebagotechnics.com



Av. 7

DATE: August 20, 2008

Barbara Barhydt
Development Review Services Manager
Portland City Hall
389 Congress Street
Portland Maine 04101

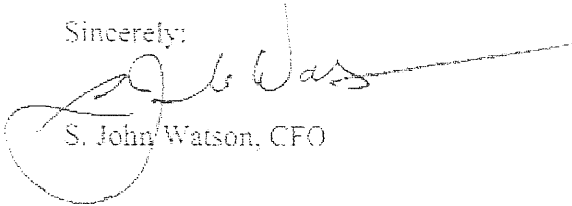
RE: Cedars Rehab Expansion; Letter of Financial Capacity

Dear Barbara:

Cedars is in the initial planning stages of securing city approval for an expansion of its rehab space. The cost of the project is estimated to be \$677,000. The sources of funds to build the project are to come from donations and Cedars endowment funds. Donors have pledged to give \$500,000 of the total cost. About \$266,000 has already been received. The balance of project costs as well as financing while pledges are received will be provided from Cedars Funded Depreciation and/or Endowment funds which total over \$2.6 million. Those funds are board designated funds and unencumbered or pledged as security for any debt instruments.

Please call me if you need any further information or support for the financial capacity of Cedars to undertake this project.

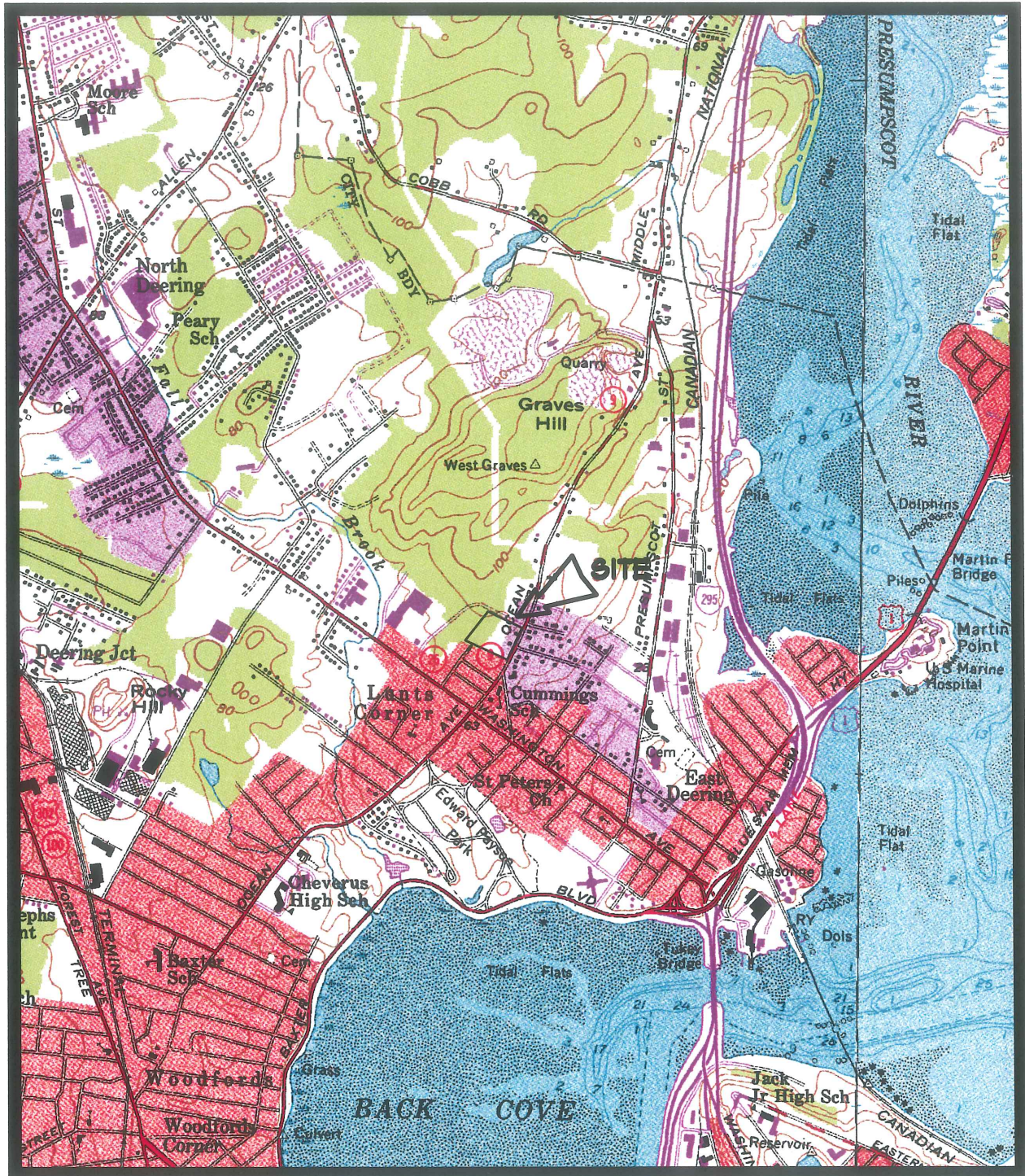
Sincerely:



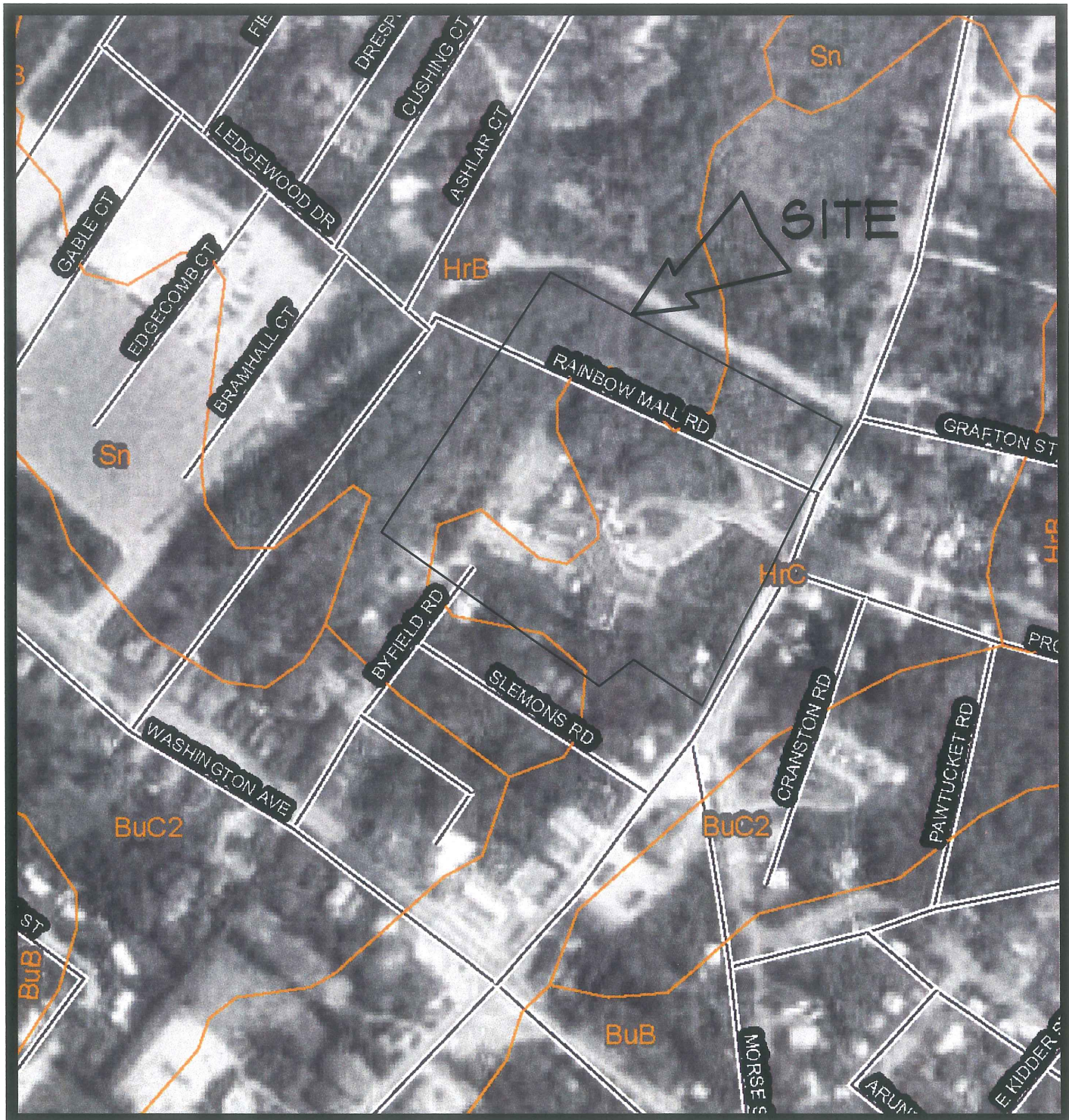
S. John Watson, CFO

Section 6

Project Maps



USGS MAP
CEDARS HEALTHCARE CENTER
REHABILITATION CENTER ADDITION
PORTLAND, MAINE
SCALE 1" = 2,000'



SOILS MAP
CEDARS HEALTHCARE CENTER
REHABILITATION CENTER ADDITION
PORTLAND, MAINE
NOT TO SCALE

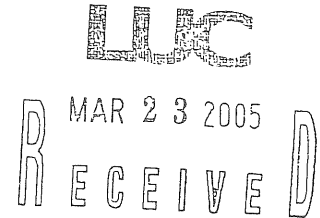
Section 7

Parking Study

Civil Engineer
Traffic Engineer

Avii 2
221 BROWN ROAD
WEST BALDWIN, MAINE 04091
207-625-8222

Cedars/Atrium Assisted Living Project
Ocean Avenue, Portland



General

This project will result in an additional 30 units (60 beds) of assisted living at the existing site. The site currently has 102 beds of long term, extended care in the Cedars. There are also 61 units in the Atrium which seem to best meet the "congregate care facilities" definition in the City of Portland Land Use Ordinance. These 61 units have a total of 99 beds, as 38 units have 2 beds.

Parking Requirements

The City of Portland Land Use Ordinance uses three variables when applied to site parking as follows:

- Staff present during one weekday morning shift
- Number of beds
- Units of congregate care

Once the 30 units of assisted living are occupied, the number of staff present during one shift is 96: 70 for the Cedars, 12 in the Atrium and 14 for the new assisted living. The total number of beds on site would be 261, with 99 of these in the Atrium and the remainder either in the Cedars (102) or the new assisted living area (60).

Parking required by the Land Use Ordinance would be 96 spaces for the staff plus one space for each 5 beds in assisted living or long term care ($162 \text{ beds} / 5 = 32 \text{ spaces}$) and one space for each 3 units of congregate care ($61 \text{ units} / 3 = 20 \text{ spaces}$) for a total of 148 or 149 spaces. An alternate method of calculating the parking requirement of the ordinance would be the 96 staff spaces plus $261 \text{ beds} / 5 = 52 \text{ spaces}$, again totaling 148 or 149 spaces.

Proposed Parking

The proposed project will only result in actual construction of 3 parking spaces near the new assisted living quarters. These are to be handicapped spaces that are in critical need near this facility. Some other spaces that are currently available will be clearly striped with proper pavement marking. The resulting total number of spaces will be 188.

Thus, the site will have sufficient parking spaces to meet the Land Use Ordinance requirement of 148 or 149 spaces. A major consideration is the location of some of the spaces at a convenient distance from the housing areas to serve elderly residents who may be carrying packages or groceries. A second consideration is that extra spaces need to be available as some employees leave while the next group arrives. As noted in my earlier submission, the observed number of vacant spaces at 3:00 PM was 57. This will decrease by 14 plus 12, or 26 spaces, based upon the Land Use Ordinance calculations. There should be some extra spaces to provide for staff changes, cross over of groups of employees and convenience of the elderly residents.

Conclusions

1. The parking requirements of the Land Use Ordinance will be met by the proposed parking plan.
2. Only 3 new handicapped spaces will be constructed in an area convenient to the assisted living facility.
3. The existing parking will accommodate overlap of staff changes, possible future minor changes in staff numbers and, most important, maximum possible convenient location of parking for elderly residents.

STATE OF MARYLAND
JOHN L. MURPHY
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REGISTERED PROFESSIONAL ENGINEER
3/22/05

Section 8

Stormwater Management Plan

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STORMWATER MANAGEMENT PLAN

Cedars Rehabilitation Center Addition
Ocean Avenue

Portland, Maine

prepared for

Cedars Healthcare
630 Ocean Avenue
Portland, ME 04103

August 2008

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EXECUTIVE SUMMARY

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Cedars Healthcare is proposing to renovate and expand their existing rehabilitation center located at the Cedars Care Center on Ocean Avenue in Portland. The renovations and expansion total 1,500 square feet and will expand over an existing paved parking/loading area to the rear of the existing facility. The Cedars Care Center is one of three facilities located on the 10.57 acre parcel. The overall development is subject to the Site Location of Development Act (SLDA) and was most recently modified and approved in 2005 by the City of Portland through their delegated review authority granted by the Maine Department of Environmental Protection (MDEP). The most recent approval also included various wetland impacts subject to the Natural Resource Protection Act (NRPA) and were permitted by the MDEP at that time (MDEP Order #L-22483-TG-B-M).

The 1,500 square foot renovation will expand over existing developed areas. Overall the project will result in a net decrease in impervious surface of 108 square feet. Approximately 3,000 square feet of land area will be disturbed by the project during construction. There will be no change to the land areas that are considered "Developed Area" as defined by the MDEP in Chapter 500.

The MDEP revised their stormwater regulations in 2005 (MDEP Rule Chapters 500 and 502). The revised rules require that any modification to an existing SLDA permit must meet current stormwater management standards (MDEP Chapter 500 Paragraph 16).

The scope of the proposed project is not expected to increase pollutant load in the post-development condition, and therefore, does not warrant modification of the existing stormwater management controls. During construction, the project will be subject to the outlined erosion and sedimentation control methodology and inspection and maintenance strategies. These measures will meet the required stormwater objectives of the Maine Department of Environmental Protection (MDEP) and the City of Portland.

STORMWATER MANAGEMENT PLAN

Cedars Rehabilitation Center Addition Ocean Avenue Portland, Maine

I. Introduction

This Stormwater Management Plan has been prepared to address the potential impacts associated with this project due to the proposed modification in stormwater runoff characteristics. The stormwater management controls that are outlined in this plan have been designed to best suit the proposed development and to comply with applicable regulatory requirements.

II. Existing Conditions

The project is located on a 10.57 acre condominium development, consisting of three main uses: The Cedars Care Center, The Cedars Assisted Living Facility, and The Atrium. The Cedars Care Center was permitted in 1988 and constructed in 1991. The Atrium was permitted in 1997 and constructed in 1999. The Cedars Assisted Living Facility was permitted in 2005 and construction is nearing completion. The majority of the site is developed area, with the exception of a few areas in the Southern corner of the site that have been set aside as "mitigation areas" as part of previous Natural Resource Protection Act (NRPA) permitting (MDEP Order #L-22483-TG-B-M).

A. Land Cover

The majority of the site has been developed over the past two decades and consists of significant amounts of roof and paved areas interspersed with landscaped plantings and lawn. The exception to this are a few areas located in the southern corner of the site that have been set aside as "mitigation areas". These areas are generally wooded and contain dense vegetation.

B. Site Topography

As the site has been significantly developed, earthwork operations have graded the site relatively flat. Various 3H:1V slopes have been created around the site to transition grade between these developed areas.

C. Surface Water Features

A wetland area is located in the Southern corner of the site contained in one of the "mitigation areas." Various permitted wetland impacts have occurred on the site over the history of this development. Refer to previous NRPA permitting (MDEP

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grass. Overall the project will result in a net decrease in impervious surface of 108 square feet.

Approximately 3,000 square feet of land area will be disturbed by the project during construction. There will be no change to the land areas that are considered "Developed Area" as defined by the MDEP in Chapter 500.

IV. Downstream Ponds and Waterbodies

Stormwater from the proposed building renovations is entirely tributary to the abutting detention pond to the southwest. This detention pond discharges to the wetland area located in the southern corner of the site, which drains to the municipal stormwater system located in Ocean Avenue. The Ocean Avenue system conveys water to the southwest for approximately 300 feet prior to branching off to the southeast down Morse Street. The system eventually discharges to Back Cove and Casco Bay.

The Urban Impaired Stream Map prepared by the MDEP for Portland, ME depicts an approximate watershed boundary for Fall Brook that is shown near the site. As described above, the site is tributary to the municipal system in Ocean Avenue and is not conveyed to Fall Brook prior to discharge to Back Cove.

V. Regulatory Requirements

A. City of Portland, Maine

The City of Portland has outlined its Stormwater Management Standards in Section V of their Technical and Design Standards Manual. As stated in Section V.3.A, "all development proposals shall conform to the standards set forth in Chapter 500 of the Maine Department of Environmental Protection Stormwater Management and Direct Watersheds of Waterbodies Most at Risk from New Development Rules, and the practices delineated in the DEP's Stormwater Best Management Practices." An outline of the MDEP requirements is provided below.

B. Maine Department of Environmental Protection (MDEP)

The City of Portland has utilized their delegated review authority granted by the MDEP to review all previous site and stormwater permitting. This project has previously been permitted under local review of the Site Location of Development Act (SLDA). The proposed addition is a modification of this previous SLDA permit.

The MDEP revised their Stormwater Regulations in 2005 (MDEP Rule Chapters 500 and 502). The revised rules require that any modification to an existing SLDA permit must meet current stormwater management standards (MDEP Chapter 500 Paragraph 16). The following sections describe how this project will address these stormwater management performance standards.

Basic Standards: A project must meet basic standards if it disturbs an area greater than one (1) acre. As this development includes disturbed areas greater than this threshold (when considering the entire permitted project), it must meet these basic standards. These standards include various erosion and sedimentation controls, inspection and maintenance procedures, and general housekeeping requirements. These performance standards have been addressed in two separate reports entitled “Erosion and Sedimentation Control Plan” and “Inspection, Maintenance, and Housekeeping Plan” (Attachments A and B respectively). Please refer to these plans for more detailed information.

General Standards: A project is subject to the general standards if it results in the creation of one (1) or more acres of impervious area or developed areas greater than five (5) acres. As this development includes impervious areas greater than this threshold (when considering the entire permitted project), it must meet the general standards. Refer to Section VI – Existing Impervious Reduction and Elimination for a more detail description of how this project will meet this standard.

Phosphorous Standards: Stormwater from this project is not tributary to a lake watershed and, therefore, is not subject to the phosphorus standards.

Urban Impaired Stream Standards: Stormwater from this project is not tributary to an “Urban Impaired Stream” as defined by MDEP Chapter 502 and, therefore, is not subject to the urban impaired stream standards.

Flooding Standards: The MDEP requires that projects creating impervious areas greater than three (3) acres, or developed areas greater than twenty (20) acres, address various flooding standards. As this development includes impervious areas greater than this threshold (when considering the entire permitted project), it must meet the flooding standards. Refer to Section VII – Peak Flow Analysis for a discussion of how the project will address this standard.

VI. Existing Impervious Reduction and Elimination

As shown on the Alterations to Land Cover Map (Attachment C), the project results in an overall reduction in impervious surface of 108 square feet. These modifications will result in an overall reduction in pollutant load.

There is a 242 square foot area of grass that will be converted to roof area. In order to mitigate for this modification, a 350 square foot area that is currently pavement will be converted to grass. When the pavement is removed, the underlying ground surface will be aerated and revegetated. Additionally, it is recognized by the MDEP that roof surfaces generate less pollutant load than paved surfaces. As such, the conversion of pavement surface to grass and replacement of grass with roof surface in these areas will result in a net reduction in pollutant load.

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There are also two areas of pavement and concrete that will be replaced by roof surface totaling 515 square feet and 130 square feet, respectively. As stated above, it is recognized by the MDEP that roof surfaces generate less pollutant load than paved surfaces. As such, the removal of the higher pollutant load surfaces (pavement and concrete) and replacement with lower pollutant load surfaces (roof) will result in an overall reduction in pollutant load.

We request that the MDEP consider the provisions outlined in Chapter 500, Section 6 in support of this impervious surface mitigation and pollutant load reduction.

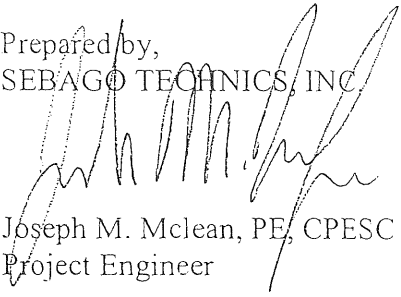
VII. Peak Flow Analysis

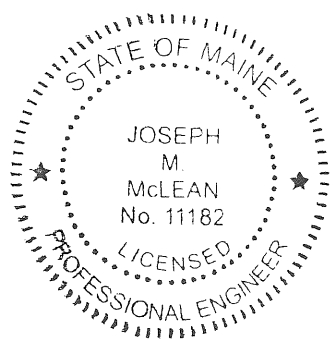
As stated previously, the overall impervious area on this project will be reduced by 108 square feet. All runoff from this project is ultimately tributary to the same location (stormwater detention pond and wetland area).

Previous stormwater peak flow analysis for this project have utilized the SCS TR-20 methodology to model the modifications in peak flow rates resulting from development. Runoff Curve Numbers (CN) are utilized by the SCS TR-20 method to describe the amount of stormwater a particular watershed will discharge in a given rain event. These CN values are calculated based upon the ability of the watershed surfaces to absorb stormwater runoff. As the overall watershed will be removing impervious area and replacing it with grass, the overall CN value will decrease. This will result in an overall reduction in stormwater runoff and a corresponding decrease in the resulting post-development peak flow rates to tributary areas for all stormwater events.

VIII. Conclusions

The proposed development will meet all regulatory requirements of the MDEP and the City of Portland. Additionally, erosion and sedimentation controls along with associated maintenance and housekeeping methodology has been outlined to prevent unreasonable impacts on the site and to the surrounding environment.

Prepared by,
SEBAGO TECHNICS, INC

Joseph M. Mclean, PE, CPESC
Project Engineer



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Attachment A

EROSION AND SEDIMENTATION CONTROL PLAN

EROSION AND SEDIMENTATION CONTROL PLAN Attachment A

Cedars Rehabilitation Center Expansion Portland, Maine

Introduction

This Erosion and Sedimentation Control Plan (hereafter referred to as "this plan") has been developed to provide a strategy to prevent unreasonable erosion of soil and sediment transport beyond the project site or into a protected natural resource. These strategies apply to the proposed development immediately prior to soil disturbing activities on the site and shall remain in place until the site is permanently stabilized.

The information presented in this plan is provided as an overview of the anticipated measures to be used on this site. In some instances, additional measures may be required due to unexpected conditions that arise during construction. Also, specific detail on the application of a recommended practice for an unexpected instance may not be covered in this plan. For additional detail on any of the erosion and sedimentation control measures discussed in this plan or for further recommendations of applicable practices, refer to the "Maine Erosion and Sedimentation Control BMP" manual published by the Maine Department of Environmental Protection (MDEP) dated March 2003, as revised.

Plan Implementation Phases

Generally, the implementation of this plan occurs in three distinct phases as described below. For a more specific construction sequence for this project refer to Attachment 1 - General Construction Sequence.

1. Pre-Construction Phase

Prior to the beginning of any construction, perimeter sediment barriers (i.e. silt fence, erosion control mix berm, etc...) shall be installed at, or just below, the limits of clearing or grubbing, and/or just above any adjacent property line or protected natural resource. Prior to any clearing or grubbing, a construction entrance shall be constructed at the intersection with the proposed access drive and the existing roadway to avoid tracking of mud, dust and debris from the site.

2. Construction Phase

Areas undergoing actual construction shall only expose that amount of mineral soil necessary for progressive and efficient site construction. Any area that has been disturbed and is not "permanently stabilized" (as described by this plan) shall be considered "open." Open areas shall be protected and stabilized with temporary erosion and sedimentation control measures as shown on the development plans and as described within this plan.

Preparation for winter stabilization applies to some disturbed areas that are open on or after September 15 of the construction season (refer to the Winter Construction Section of this plan, Paragraph B – Overwinter Stabilization Timeframe). Any areas that remain open after November 1 or new soil disturbance that occurs after November 1, but before April 15, must be protected by additional measures as described in the Winter Construction section of this plan. The recommendations outlined in the Winter Construction section of this plan shall supersede other conflicting recommendations.

3. Post-Construction Phase

Once the site has reached permanent stabilization, remove any temporary sediment control measures, such as silt fence, within 30 days. All accumulated sediment/debris in the permanent stormwater management system, ditches, swales, paved surfaces, and/or any other location that has accumulated sediment/debris during construction shall be removed and disposed of in an approved manner.

Permanent Stabilization

The strategies outlined in this plan shall be in effect until the site reaches permanent stabilization. Newly seeded or sodded areas must be protected from vehicle traffic, excessive pedestrian traffic, and concentrated runoff until the vegetation is well established. If necessary, areas must be seeded and mulched again if germination is sparse, plant coverage is spotty, or topsoil erosion is evident. The following list defines permanent stabilization for applicable situations.

1. Seeded Areas: For seeded areas, permanent stabilization means a 90% cover of vigorous perennial growth with no evidence of washing or rilling of the topsoil.
2. Sodded Areas: For sodded areas, permanent stabilization means the complete binding of the sod roots into the underlying soil with no slumping of the sod or die-off.
3. Permanent Mulch: For mulched areas, permanent mulching means total coverage of the exposed area with an approved mulch material. Erosion control mix may be used as mulch for permanent stabilization according to approved application rates and limitations.
4. Riprap: For areas stabilized with riprap, permanent stabilization means that slopes stabilized with riprap have an appropriate backing of well-graded gravel or approved geotextile to prevent soil movement from behind the riprap.
5. Paved Areas: For paved areas, permanent stabilization means the placement of compacted gravel subbase is completed.
6. Ditches, channels, and swales: For open channels, permanent stabilization means the channel is stabilized with a 90% cover of vigorous perennial growth, a well-graded riprap lining, or with another non-erosive lining such as specified. There must be no evidence of slumping of the channel lining, undercutting of the channel banks, or down-cutting of the channel.

Temporary Erosion and Sedimentation Control BMPs

The placement/use of the following erosion and sedimentation control measures shall be in accordance with the "Maine Erosion and Sedimentation Control BMP" manual published by the Maine Department of Environmental Protection (MDEP) dated March 2003, as revised.

1. Sediment Barriers

Prior to the beginning of any construction, sediment barriers (i.e. silt fence, erosion control mix berms, etc...) shall be installed across the slope(s), on the contour, at or just below the limits of clearing or grubbing, and/or just above any adjacent property line or watercourse to protect against construction related erosion. **Sediment barriers shall be maintained until all tributary open areas have been permanently stabilized.** The following are recommended perimeter sediment barriers:

- Silt fence: Shall be installed per the detail on the plans. The effective height of the fence shall not exceed 36 inches. It is recommended that silt fence be removed by cutting the fence materials at ground level so as to avoid additional soil disturbance.
- Staked hay bales: Shall be installed per the detail on the plans. Bales shall be wire-bound or string-tied and these bindings must remain parallel with the ground surface during installation to prevent deterioration of the bindings. Bales shall be installed within a minimum four (4) inch deep trench line with ends of adjacent bales tightly abutting another.
- Erosion control mix berm: Shall be installed per the detail on the plans. The mix shall consist primarily of organic material and contain a well-graded mixture of particle sizes. The mix must meet the most recent composition specifications published by the MDEP. No trenching is required for installation of this barrier.

2. Surface Stabilization

All disturbed areas that will not be worked for more than 7 days shall be protected and stabilized with mulch or other non-erodable cover. Areas located within 75 feet of a wetland or waterbody must be protected and stabilized within 48 hours of the initial disturbance of the soil or prior to any storm event, whichever comes first. Areas that have been seeded (temporary or permanent) shall be stabilized immediately. The following are recommended practices for surface stabilization:

- Hay or straw mulch: Organic mulches including hay and straw need to be air-dried, free of undesirable seeds and coarse materials. Application rate shall be 2 bales (70-90 lbs) per 1000 square feet or 1.5 to 2 tons (90-100 bales) per acre. This type of mulch must be anchored with a tackifier amendment and/or via physical means (i.e. vehicle tracking, jute netting, etc...) to avoid displacement by wind or water.
- Erosion control mix: Erosion Control Mix can be manufactured on or off the site. It is composed primarily of shredded bark, stump grindings, composted bark, or other acceptable products based on a similar raw source. The mix must meet the most recent composition specifications published by the MDEP. The mix shall be placed

evenly and must provide 100% soil coverage. Erosion control mix shall be applied such that the thickness on slopes 3:1 or less is 2 inches plus ½ inch per 20 feet of slope up to 100 feet. The thickness on slopes between 3:1 and 2:1 is 4 inches plus ½ inch per 20 feet of slope up to 100 feet. This shall not be used on slopes greater than 2:1.

- Erosion control blankets: Erosion Control Blankets are used on steep slopes (greater than 3H:1V) and also areas that will receive concentrated stormwater flows. Blankets aid in controlling erosion on disturbed soils and critical areas during the establishment period of vegetation. Various forms of erosion control blankets are commercially available, each with different advantages for different applications. The type of blanket to be used for individual applications shall be as indicated on the development plan set or via the use of an approved equivalent blanket. In all applications, the blanket manufacturer's specifications and installation methods shall be referenced and adhered to.

3. Soil Stockpiles

All topsoil shall be stockpiled for future use on the project at a stable location on-site. Structural measures, such as sediment barriers, may be warranted for additional sediment control of the stockpile areas. Stockpiles of soil or subsoil shall be mulched with hay or straw or with erosion control mix. This must be done within 24 hours of stocking and re-established prior to any rainfall. Any soil stockpile will not be placed (even covered with hay or straw) within 75 feet from any protected natural resources.

4. Stone Check Dams

Stone check dams are generally temporary devices, which are constructed across a swale or drainage ditch. Their purpose is to reduce the velocity of concentrated stormwater flows, thereby reducing erosion of the swale or ditch. These devices will also trap small amounts of sediment generated in the ditch itself, however, they are not an effective sediment trapping device and should not be used as such. Stone check dams are typically constructed of 2"-3" crushed stone and stand 24 inches in height.

5. Stormdrain Inlet Protection

Storm drains are typically operational prior to permanent stabilization of tributary areas. In these instances hay bales, crushed stone barriers, and/or silt sacks shall be used at a catch basin or prior to a pipe entrance. This temporary protection will assist in the removal of sediment prior to entrance into a storm drainage system and the prevention of clogging and/or loss of capacity. These devices alone will not prevent all sediment from entering the stormwater system and should be used in conjunction with other devices and practices to achieve desired sediment removal levels.

6. Dust Control

Dust control during construction shall be achieved by the use of a watering truck to periodically sprinkle the exposed roadway areas as necessary to reduce dust during the dry months. Applying other dust control products such as calcium chloride or other

manufactured products are allowed if authorized by the proper local, state and/or federal regulating agencies. However, it is the contractor's ultimate responsibility to mitigate dust and soil loss from the site.

Vegetative Measures

1. Temporary Vegetation

If any disturbed area of soil will be left bare for more than 7 days, or if construction is to be completed in phases over an extended duration, temporary seeding and mulching shall commence immediately following initial fine grading of the site. In sensitive areas (within 75 feet of protected natural resources) temporary mulch must be applied within 48 hours or prior to any storm event on all disturbed surfaces. It shall be maintained and reseeded, as necessary, to ensure good vegetative cover for the entire duration of construction. Seed will be selected from the following table (Table 1 - Temporary Seed Mixture) according to the time of year or via an approved equivalent method.

TABLE 1 - TEMPORARY SEED MIXTURE			
Seed	Lbs./Acre	Lbs./1000s.f.	Recommended Seeding Date
Winter Rye	112	2.6	8/15 thru 10/1
Oats	80	1.8	4/1 thru 7/1 8/15 thru 9/15
Annual Ryegrass	40	0.9	4/1 thru 7/1
Sudangrass	40	0.9	5/15 thru 8/15
Perennial	40	0.9	8/15 thru 9/15

Note:

- 1) Some tree and shrub species may be desirable for sites primarily covered with sand and gravel. These methods shall be approved by the appropriate regulatory authority prior to use.

2. Permanent Vegetation

Revegetation measures shall commence immediately upon completion of final grading of areas to be loamed and seeded. Revegetation measures shall consist of the following:

A. Seedbed Preparation

- Four (4) inches of loam will be spread over disturbed areas and smoothed to a uniform surface. Loam shall be free of subsoil, clay lumps, stones and other objects over 2" in any dimension, and without weeds, roots or other objectionable material.
- Soil tests shall be taken at the time of soil stripping to determine fertilization requirements. Soil tests shall be taken promptly as to not interfere with the 7-day limit on soil exposure (48-hours adjacent to a protected natural resource). Based upon test results, soil amendments shall be incorporated into the soil prior to final seeding. In lieu of soil tests, soil amendments may be applied as shown below in Table 2:

Item	Application Rate
10-20-20 Fertilizer (N-P205-K20 or equal)	18.4lbs./1,000 s.f.
Ground Limestone (50% calcium and magnesium oxide)	138-lbs./1,000 s.f.

- Work lime and fertilizer into the soil as nearly as practical to a depth of four (4) inches with proper equipment. Roll the area to firm the seedbed except on clay, silty soils or coarse sand.

B. Application of Seed

- Seeding: The seed mixture shown below in Table 3 shall be utilized for permanent seeding applications. Alternate seed mixtures may be utilized as approved. Refer to Appendix A of the MDEP Erosion and Sedimentation Control BMP manual for additional seed mixture options.

Seed Type	Application Rate
Creeping Red Fescue	0.46 lbs/1,000 s.f. (20 lbs/acre)
Red Top	0.05 lbs/1,000 s.f. (2 lbs/acre)
Tall Fescue	0.46 lbs/1,000 s.f. (20 lbs/acre)
Total:	0.97 lbs/1,000 s.f. (42 lbs/acre)

- Hydroseeding: Shall be conducted on prepared areas as described above. Hydroseeding shall not be done on slopes steeper than 2H:1V. Lime and fertilizer may be applied simultaneously with the seed. Recommended seeding rates must be increased by 10% when hydroseeding.
- Surface Stabilization: Mulching or other approved surface stabilization methods shall commence immediately after seed is applied. Refer to the surface stabilization section of this plan for more information.

C. Sodding

Following seedbed preparation, sod can be applied in lieu of seeding in areas where immediate vegetation is most beneficial such as ditches, around stormwater drop inlets and areas of aesthetic value. Sod should be laid at right angles to the direction of flow starting at the lowest elevation. Sod should be rolled or tamped down to even out the joints once laid down. Where flow is prevalent the sod must be properly anchored down. Irrigate the sod immediately after installation. In most cases, sod can be best established between April 1 and November 15 of the construction year.

Winter Construction

The winter construction period is from November 1 through April 15. If the construction site is not permanently stabilized by November 15 then the site needs to be protected with over-winter stabilization.

Winter excavation and earthwork shall be completed such that no more than 1 acre of the site is without stabilization at any one time. Limit the exposed area to those areas in which work is expected to be under taken during the proceeding 15 days and that can be mulched in one day prior to any snow event. All areas shall be considered to be denuded until the subbase gravel is installed in roadway areas or the areas of future loam and seed have been loamed, seeded and mulched.

Any added measures, which may be necessary to control erosion/sedimentation from the site dependent upon the actual site and weather conditions, must be installed. Continuation of earthwork operations on additional areas shall not begin until the exposed soil surface on the area being worked has been stabilized, in order to minimize areas without erosion control protection.

A. Winter Construction BMP Adjustments

1. Sediments Barriers:

During frozen conditions, sediment barriers shall consist of erosion control mix berms as frozen soil prevents the proper installation of hay bales and silt fences.

2. Mulching:

Between the dates of November 1 and April 15, all mulch shall be anchored by either mulch netting, asphalt emulsion chemical, track or weed cellulose fiber. When the ground surface is not visible through the mulch then cover is sufficient. After November 1st, mulch and anchoring of all exposed soil shall occur at the end of each final grading workday.

- Open Surfaces (flatter than 8%): Hay and straw mulch shall be applied at a rate of 150 lb. per 1,000 square feet or 3 tons/acre (twice the normal accepted rate of 75-lbs./1,000 square feet or 1.5 tons/acre) and shall be properly anchored. Mulch shall not be spread on top of snow. The snow will be removed down to one-inch depth or less prior to application. After each day of final grading, the area will be properly stabilized with anchored hay or straw or erosion control matting. An area shall be considered to have been stabilized when exposed surfaces have been either mulched with straw or hay at a rate of 150 lb. per 1,000 square feet (3 tons/acre) and adequately anchored that ground surface is not visible through the mulch.
- Open Slopes (8% or steeper) and Drainage Ways: Slopes shall not be left exposed for any extended time of work suspension unless fully mulched and anchored with netting or erosion control blankets. Mulching shall be applied at a rate of 230-lbs./1,000 square feet on all slopes steeper than 8%. Mulch netting shall be used to anchor mulch in all drainage ways with a slope steeper than 3% for slopes exposed to direct winds and for all other slopes steeper than 8%. Erosion control blankets shall be used in lieu of mulch in all drainage ways. Erosion control mix can be used to substitute erosion control blankets on slopes that do not exceed 2H:1V. In this case, the erosion control

mix shall be spread out, not placed in a berm as it is installed as a sedimentation barrier.

3. Soil Stockpiles:

Stockpiles of soil or subsoil shall be mulched for over winter protection with hay or straw at twice the normal rate or at 150-lbs/1,000 square feet (3 tons per acre) or with a four-inch layer of wood waste erosion control mix. This will be done within 24 hours of stocking and re-established prior to any rainfall or snowfall. Any soil stockpile will not be placed (even covered with hay or straw) within 100 feet from any natural resources.

4. Natural Resources Protection:

Any areas within 100 feet from any protected natural resources, if not stabilized with a minimum of 90% mature vegetation catch, shall be mulched by December 1 and anchored with plastic netting or protected with erosion control mats. During winter construction, a double line of sediment barriers (i.e. silt fence backed with hay bales or erosion control mix) will be placed between any natural resource and the disturbed area. Projects crossing the natural resource shall be protected a minimum distance of 100 feet on either side from the resource. Existing projects not stabilized by December 1 shall be protected with the second line of sediment barrier to ensure functionality during the spring thaw and rains.

5. Seeding:

Between the dates of October 15 and April 1st, loam or seed will not be required. During periods of above freezing temperatures finished areas shall be fine graded and either protected with mulch or temporarily seeded and mulched until such time as the final treatment can be applied. If the date is after November 1st and if the exposed area has been loamed, final graded with a uniform surface, then the area may be dormant seeded at a rate of 3 times higher than specified for permanent seed and then mulched.

Dormant seeding may be selected to be placed prior to the placement of mulch and fabric netting anchored with staples. If dormant seeding is used for the site, all disturbed areas shall receive 4" of loam and seed at an application rate of 5-lbs/1000 square feet. All areas seeded during the winter will be inspected in the spring for adequate catch. All areas insufficiently vegetated (less than 90% catch) shall be revegetated by replacing loam, seed and mulch. If dormant seeding is not used for the site, all disturbed areas shall be revegetated in the spring.

B. Overwinter Stabilization Timeframe

1. Ditches and Channels:

All stone-lined ditches and channels must be constructed and stabilized on the site by November 15. All grass-lined ditches and channels must be constructed and stabilized by September 15. If a ditch or channel is not grass-lined by September

15, then one of the following actions must be taken to stabilize the ditch for late fall and winter.

- Install a sod lining in the ditch: A ditch must be lined with properly installed sod by October 1. Proper installation includes the contractor pinning the sod onto the soil with wire pins, rolling the sod to guarantee contact between the sod and underlying soil, watering the sod to promote root growth into the disturbed soil, and anchoring the sod with jute or plastic mesh to prevent the sod strips from sloughing during flow conditions.
- Install a stone lining in the ditch: A ditch must be lined with stone riprap by November 15. A registered professional engineer must determine the stone size and lining thickness needed to withstand the anticipated flow velocities and flow depths within the ditch. If necessary, the ditch must be regraded prior to placing the stone lining to prevent the stone lining from reducing the ditch's cross-sectional area.

2. Disturbed Slopes

All stone-covered slopes must be constructed and stabilized by November 15. All slopes to be vegetated must be seeded by September 15. The MDEP will consider any area having a grade greater than 15% (10H:1V) to be a slope. If a slope to be vegetated is not stabilized by September 1, then one of the following actions must be taken to stabilize the slope for late fall and winter.

- Stabilize the soil with temporary vegetation and erosion control blankets: By October 1 the disturbed slope must be seeded with winter rye at a seeding rate of 3 pounds per 1,000 square feet and apply erosion control blankets over the mulched slope. If the rye fails to grow at least three inches or cover at least 90% of the disturbed slope by November 1, the slope will be covered with a layer of erosion control mix or stone riprap as described in the following standards.
- Stabilize the slope with sod: The disturbed slope must be stabilized with properly installed sod by October 1. Proper installation includes pinning the sod onto the slope with wire pins, rolling the sod to guarantee contact between the sod and underlying soil, and watering the sod to promote root growth into the disturbed soil. Slopes steeper than 33% (3H:1V) or having groundwater seeps on the slope face, may not use late-season sod installation for stabilization.
- Stabilize the slope with erosion control mix: A six-inch layer of erosion control mix must be spread over the slope by November 15. Prior to placing the erosion control mix, any snow accumulation on the disturbed slope must be removed. Slopes steeper than 50% (2H:1V) or having groundwater seeps on the slope face cannot use erosion control mix to stabilize slopes.

- Stabilize the slope with stone riprap: A layer of stone riprap can be placed on the slope by November 15. A registered professional engineer must determine the stone size needed for stability and to design a filter layer for underneath the riprap.

3. Other Disturbed Soils:

By September 15, all disturbed soils on areas having a slope flatter than 15% (10H:1V) must receive seed and mulch. If disturbed areas are not stabilized by this date, then one of the following actions must be taken to stabilize the soil for late fall and winter.

- Stabilize the soil with temporary vegetation: By October 1, seed the disturbed soil with winter rye at a seeding rate of 3 pounds per 1,000 square feet, lightly mulch the seeded soil with hay or straw at 75 pounds per 1000 square feet, and anchor the mulch with plastic netting. Monitor growth of the rye over the next 30 days. If the rye fails to grow at least three inches or cover at least 90% of the disturbed soil before November 1, then mulch the area for over-winter protection as described in the following "Stabilize the soil with mulch" standard.
- Stabilize the soil with sod: Stabilize the disturbed soil with properly installed sod by October 1. Proper installation includes pinning the sod onto the soil with wire pins, rolling the sod to guarantee contact between the sod and underlying soil, and watering the sod to promote root growth into the disturbed soil.
- Stabilize the soil with mulch: By November 15, mulch the disturbed soil by spreading hay or straw at a rate of at least 150 pounds per 1000 square feet on the area so that no soil is visible through the mulch. Prior to applying the mulch, any snow accumulation on the disturbed area must be removed. Immediately after applying the mulch, anchor the mulch with plastic netting to prevent wind from moving the mulch off the disturbed soil.

Inspection and Maintenance

Inspection and maintenance are required of all erosion and sedimentation control measures outlined in this plan. Refer to the Inspection, Maintenance, and Housekeeping plan for this project (provided under separate cover) for an outline of the associated inspection and maintenance requirements.

Attachment B

INSPECTION, MAINTAINANCE, AND HOUSEKEEPING PLAN

and vehicle access points to the site. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. The log must be made accessible to the appropriate regulatory agency upon request. The permittee shall retain a copy of the log for a period of at least three years from the completion of permanent stabilization.

4. **Specific Inspection and Maintenance Tasks:** The following is a list of erosion control and stormwater management measures and the specific inspection and maintenance tasks to be performed during construction.

A. Sediment Barriers:

- Hay bale barriers, silt fences, and filter berms shall be inspected immediately after each rainfall and at least daily during prolonged rainfall.
- If the fabric on a silt fence or filter barrier should decompose or become ineffective prior to the end of the expected usable life and the barrier is still necessary, it shall be replaced.
- Sediment deposits should be removed after each storm event. They must be removed before deposits reach approximately one-half the height of the barrier.
- Filter berms shall be reshaped as needed.
- Any sediment deposits remaining in place after the silt fence or filter barrier is no longer required should be dressed to conform to the existing grade, prepared, and seeded.

B. Riprap Materials:

- Once a riprap installation has been completed, it should require very little maintenance. It shall, however, be inspected periodically to determine if high flows have caused scour beneath the riprap or dislodged any of the stone.

C. Stone Check Dams:

- Inspect the center of the dam to make sure it is lower than the edges. Erosion caused by high flows around the edges of the dam must be corrected.
- Sediment accumulation shall be removed prior to reaching half of the original design height.
- Areas beneath stone check dams must be seeded and mulched upon removal.

D. Temporary Storm Drain Inlet Protection:

- The inlet protection structure shall be inspected before each rain event and repaired as necessary.
- Sediment shall be removed and the storm drain sediment barrier restored to its original dimensions when the sediment has accumulated to half of the design

depth of the trap.

- Structures shall be removed upon permanent stabilization of the tributary area.
- Upon removal of the structure, all accumulated sediments downstream of the structure shall be cleaned from the storm drain system.

E. Temporary Seed and Mulch:

- Mulched areas should be inspected after rain events to check for rill erosion.
- If less than 90% of the soil surface is covered by mulch, additional mulch shall be applied in bare areas.
- In applications where seeding and mulch have been applied in conjunction with erosion control blankets, the blankets must be inspected after rain events for dislocation or undercutting.
- Mulch shall continue to be reapplied until 95% of the soil surface has established temporary vegetative cover.

F. Stabilized Temporary Drainage Swales:

- Sediment accumulation in the swale shall be removed once the cross section of the swale is reduced by 25%.
- The swales shall be inspected after rainfall events. Any evidence of sloughing of the side slopes or channel erosion shall be repaired and corrective action should be taken to prevent reoccurrence of the problem.
- In addition to the stabilized lining of the channel (i.e. erosion control blankets), stone check dams may be needed to further reduce channel velocity.

5. **Permanent Measures:** As areas become permanently stabilized and permanent stormwater management measures are completed (i.e. ponds, catch basins, culverts, etc...), the Specific Inspection and Maintenance Tasks outlined in the "After Construction" section of this plan shall be performed until all construction operations are completed and the project is turned over to the owner or assigned heirs.

After Construction

1. **Inspection:** After construction, it is the responsibility of the owner or assigned heirs to comply with the inspection and maintenance procedures outlined in this section. All measures must be maintained in effective operating condition. A person with knowledge of erosion and stormwater control, including the standards and conditions in all applicable permits, shall conduct the inspections.
2. **Specific Inspection and Maintenance Tasks:** The following is a list of permanent erosion control and stormwater management measures and the inspection and maintenance tasks to be performed after construction.

A. Vegetated Areas:

- Inspect vegetated areas, particularly slopes and embankments, early in the

growing season or after heavy rains to identify active or potential erosion problems.

- Replant bare areas or areas with sparse growth. Where rill erosion is evident, armor the area with an appropriate lining or divert the erosive flows to on-site areas able to withstand the concentrated flows.

B. Ditches, Swales, and Other Open Channels:

- Inspect ditches, swales and other open stormwater channels in the spring, in the late Fall, and after heavy rains to remove any obstructions to flow. Remove accumulated sediments and debris, remove woody vegetative growth that could obstruct flow, and repair any erosion of the ditch lining.
- Vegetated ditches must be mowed at least annually or otherwise maintained to control the growth of woody vegetation and maintain flow capacity.
- Any woody vegetation growing through riprap linings must also be removed. Repair any slumping side slopes as soon as practicable.
- If the ditch has a riprap lining, replace riprap in areas where any underlying filter fabric or underdrain gravel is showing through the stone or where stones have dislodged.

C. Winter Sanding:

- Clear accumulations of winter sand in parking lots and along roadways at least once a year, preferably in the spring.
- Accumulations on pavement may be removed by pavement sweeping.
- Accumulations of sand along road shoulders may be removed by grading excess sand to the pavement edge and removing it manually or by a front-end loader or other acceptable method.

D. Paved and Gravel Areas:

- Paved and gravel areas should be inspected at least semi-annually for evidence of puddling and/or erosion.
- Drainage along curb lines or other shallow-concentrated flow areas shall be checked to ensure proper flow patterns.
- Corrective action should be taken immediately upon identification of problems.

3. **Documentation:** A log summarizing the inspections and any corrective action taken must be maintained. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of controls. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. The log must be made accessible to

- the appropriate regulatory agency upon request.
4. **Recertification:** A certification of the following shall be submitted to the Maine Department of Environmental Protection (MDEP) within three months of the expiration of each five year interval from the date of issuance of MDEP permits.
 - A. Identification and repair of erosion problems. All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
 - B. Inspection and repair of stormwater control system. All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the system, or portions of the system.
 - C. The Inspection, Maintenance, and Housekeeping Plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the MDEP, and the maintenance log is being maintained.

 5. **Duration of Maintenance:** Perform maintenance as described and required for any associated permits unless and until the system is formally accepted by a municipality or quasi-municipal district, or is placed under the jurisdiction of a legally created association that will be responsible for the maintenance of the system. If a municipality or quasi-municipal district chooses to accept a stormwater management system, or a component of a stormwater system, it must provide a letter to the MDEP stating that it assumes responsibility for the system. The letter must specify the components of the system for which the municipality or district will assume responsibility, and that the municipality or district agrees to maintain those components of the system in compliance with MDEP standards. Upon such assumption of responsibility, and approval by the MDEP, the municipality, quasi-municipal district, or association becomes a co-permittee for this purpose only and must comply with all terms and conditions of the permit.

Housekeeping

The following general performance standards apply to the proposed project both during and after construction.

- A. Spill prevention: Controls must be used to prevent pollutants from being discharged from materials and equipment on-site, including storage practices to minimize exposure of the materials to stormwater, and appropriate spill prevention, containment, and response planning and implementation.

- B. Groundwater protection: During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the site draining to an infiltration area. An "infiltration area" is any area of the site that by design or as a result of soils, topography and other relevant factors, accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the site for the purposes of storage and handling of these materials.

- C. Fugitive sediment and dust: Actions must be taken to insure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control.
- D. Debris and other materials: Litter, construction debris, and chemicals exposed to stormwater must be prevented from becoming a pollutant source.
- E. Trench or foundation dewatering: Trench dewatering is the removal of water from trenches, foundations, cofferdams, ponds, and other areas within the construction area that retain water after excavation. In most cases, the collected water is heavily silted and hinders correct and safe construction practices. The collected water must be removed from the ponded area, either through gravity or pumping, and must be spread through natural wooded buffers or removed to areas that are specifically designed to collect the maximum amount of sediment possible, like a cofferdam sedimentation basin. Avoid allowing the water to flow over disturbed areas of the site. Equivalent measures may be taken if approved.

Att. B

From: "John Watson" <JWatson@thecedarsportland.org>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/18/2008 5:41:30 PM
Subject: Cedars Rehab Expansion

Hi Jean:

At your request, little bit of history with respect to stormwater and drainage of the Cedars site:

Cedars (Phase 1) was the original building constructed on this site and was completed in 1991. There were wetlands and an abundance of ledge that had to be considered in developing the site. The approved site plan for that project included the addition of an assisted living facility (Phase 2) which was never built due to lack of assisted living demand and abandoned in favor of an independent housing project (the Atrium) that was completed and opened in January 2000. That project required significant blasting of ledge as well as some wetlands mitigation required by the DEP.

Our latest project, The Osher Inn, was just completed and opened on August 5, 2008. That project required wetlands mitigation as well but no changes to the stormwater management design were deemed necessary by the land use consultant (LUC) or the city except for the front of our own facilities facing Ocean Avenue. An underground filtration system was required by the DEP to control the quality of stormwater and was installed as designed in the front of Cedars.

Prior to the start of that project, we had our land use consultants who designed the stormwater plan (LUC) come back and review the site a few years ago to address concerns raised about stormwater runoff (summer of 2005). They confirmed that the plan was installed as designed and was actually improving the runoff for the neighborhood. They concluded that water runs out through cracks in the ledge that forms the neighborhood as well as downhill from undeveloped property owned by JB Brown and settles in the lowest parts of the neighborhood as it always has. They recommended that we install gutters on the garage roofs and drain them into existing stormwater drains to redirect runoff to those drains, which we did. To further minimize runoff, we altered our snow plowing scheme three winters ago to prevent build up of plowed snow in the truck turnaround area abutting our neighbors to the rear of our facilities. Prior to changing that plowing scheme, we also had snow removed from our previous storage location to minimize snow melt at the truck turnaround.

Our current rehab expansion project has submitted a stormwater application to the MDEP (completed by Sebago Technics and dated August 18). The summary of that application states that there will be a "net decrease in impervious surface of 108 sq feet" and "no change to the land areas that are considered "Developed Area" as defined by MDEP". The scope of the project is small, "not expected to increase pollutant load in the post development condition" and "therefore, does not warrant modification of the existing stormwater management controls". This application and report are being currently reviewed by the MDEP.

B
2

Let me know if I can answer any questions you may have.

Sender:

S. John Watson, CFO

630 Ocean Ave.

Portland ME 04103

Main number: 207-772-5456

Direct dial: 207-221-7019

Fax: 207-874-2419

CONFIDENTIALITY STATEMENT

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify the sender at The Cedars immediately at either (207) 772-5456 or at jwatson@thecedarsportland.org and destroy all copies of this message and any attachments.

Act. C.

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2008-0126

Date: 9/10/2008

The project is located within an R-3 Zone which permits this institutional use. This small addition is an expansion of the existing use (sal-be-it small) but still requires conditional use PB approval.

All the R-3 Zone requirements including setbacks and lot coverage, height and parking are being met with this proposal.

Separate permits would be required for any new signage.

Marge Schmuckal
Zoning Administrator



MEMORANDUM

TO: Jean Fraser
FROM: Dan Goyette, PE
DATE: September 18, 2008
RE: Cedar's Rehab Center Expansion, 630 Ocean Avenue

Woodard & Curran has reviewed the Application for Site Plan Review for Cedar's Rehab Center Expansion located at 630 Ocean Avenue in Portland. A 1500 square foot expansion of the floor area.

Documents Reviewed

- Application and attachments for Site Plan Review for 630 Ocean Avenue, prepared by Sebago Technics, dated August 21, 2008.

Comments

- The proposal is going to decrease the amount impervious surface on the site and no grading changes are being proposed. Therefore, no stormwater impacts are anticipated.

Please contact our office if you have any questions.
DRG
203939.22

Attachment E:

[Circulated at PB Workshop
9-23-08]

From: Manduca Music <manduca@maine.edu>
To: <jf@portlandmaine.gov>
Date: 9/21/2008 11:25:07 AM
Subject: Cedars Project

Dear Ms. Fraser,

I am writing concerning the Cedars Healthcare project that will be considered Tuesday night. I am not able to attend the meeting, but wish to share with you my concerns. I own property directly behind Cedars-861 Washington Ave. We have had a lot of damage as a result of all phases of these projects which I will outline below. The administration at Cedars has been very polite and nice to us, but have not really done what needs to be done to stop street runoff on our property. This run-off eventually makes its way to the neighboring properties as well. All we are asking is that they put a tree/vegetation buffer around the end of the road surrounding the parking area for their vehicles. This will help to filter the run-off from the road. Or that they find a way to channel this run-off.

1. When the project was originally done, we had blasting damage done to various parts of our property. We were told by engineers hired by Cedars that these things couldn't possibly have happened by their blasting. The blasters that I spoke with said that it absolutely caused this type of damage.

2. The road was graded and sloped directly into our backyard area. We had to have a landscaping job done, raising garden beds just to be able to walk out there because it became so wet. You can watch the path the water takes during heavy rainstorms. The trail is very mucky even through the dry season, and we cannot go through our backyard without boots.

3. Cedars piled snow at the end of the road which eventually drained into our property along with damaging sand and/or salt. We could also see gas type run-off in rivulets in trenches that we had dug. We asked them to stop pushing all the snow to this area, and they did stop.

4. In the last meeting we had with them, they said they would certainly look into a berm for that area. Now, I see that they have planted trees along the roadway, but none where we need it. They once told us that they couldn't put trees there because it was classified as a wetland. I asked them then how could they have been given permission by the city to build on a wetland in the first place!

5. My daughter is a wildlife major and has studied the effects of pollution and run-off on trees. We took a walk a few weeks ago behind the fence and she pointed out how the native vegetation is dying and being replaced with invasive trees like buckthorn. When we recently had the big rainstorms, the run-off washed away most of the landscape mulch I had just put down.

In closing, please understand that I am not against what Cedars does. But please do not have them continue to tell us that everything has been done in their power to help with this issue when they haven't. The problems are still the same and my property and the neighbors properties continue to degrade. I may not pay as much in property

Att Eü

taxes as they do, but I deserve the city's attention to this matter.

Sincerely, Elizabeth Manduca

773-7012
Manduca Music
www.manducamusic.com

Attachment F
[Submitted by applicant]



Cedars Rehabilitation and Nursing Care Center

Kathryn Calhoun, President
and Chief Executive Officer

Joseph Rubin, M.D.
Medical Director

August 23, 2005

Rick Knowland
Senior Planner, Planning Division
City of Portland
Dept. of Planning & Development
389 Congress Street
Portland, ME 04101

Dawn Hallowell
Maine DEP
SMRO
312 Canco Road
Portland, ME 04103

Re: Correspondence from Elizabeth Manduca

Dear Rick and Dawn:

Rick Knowland was kind enough to share with the Cedars a copy of a letter from Elizabeth Manduca to Dawn Hallowell, outlining her concerns about the Cedars Assisted Living Project and, in particular, the effect of water on her property. We are also aware of an earlier letter from Mrs. Manduca to the City of Portland Planning Department, raising similar issues. On behalf of the Cedars, I wanted to share with both of you the steps that we have taken in response to these concerns, as well as our understanding of the nature of the problems that the Manducas are dealing with and the appropriate response from the Cedars.

First, let me note that the Cedars respects the genuine concerns expressed by Mrs. Manduca and has sought opportunities for constructive dialogue about their concerns. We have met with the Manducas and toured their property in the past, and we hope to meet with her again in the near term.

Regarding the issue of blasting, we do not expect that the blasting related to our new project, if any, will raise the kinds of concerns that the Manducas recall from our earlier construction work. In fact, there may be no blasting at all, as much of this work was done during the earlier construction of The Atrium. Nevertheless, we remain open to discussions with all of our neighbors any remaining concerns they may have about blasting.

With regard to drainage and the water level on your property, Cedars has conferred at length with a drainage and land use expert, David Kamila, who has carefully reviewed the Manducas concerns in light of prior plans, the actual drainage as built for our most recent project, and the design for the Assisted Living Facility. Mr. Kamila was involved in the design of both projects, met with us and the Manducas on their property quite some time ago, and has more recently reanalyzed their concerns at our request. Based on these reviews, we are reassured that our current facilities have not increased the flow of water onto the Manduca property and, if anything, may have improved the situation.

I have reviewed our original drainage study for the Atrium and it details the amount of storm water runoff that flows in her direction from the Cedars property before and after the Atrium was constructed as follows:

Before Construction of the Atrium

Prior to constructing the Atrium, this area was relatively undeveloped with the exception of one home owned by Liza Townsend. The total area draining toward Manduca was 1.7 acres and included approximately 500 sq. ft. of impervious area associated with Townsend. For a 2-year storm event, which assumes 3.0 inches of rainfall during a 24-hour period, the maximum amount of runoff from Cedars in her direction is calculated to be .91 cu. ft. per second or roughly 400 gallons per minute at its peak.

After Construction of the Atrium

After construction of the Atrium, this area was developed for parking. The majority of the area that previously drained toward Manduca, however was drained through a series of catch basins and storm drains which diverted the runoff away from her property and directed it into the overall drainage system for Cedars which discharges into the City storm drain system in Ocean Avenue. There is a small area immediately adjacent to Manduca, which due to existing contours, we were unable to collect and redirect towards Ocean Avenue. The area is .46 acres and includes approximately 4,500 sq. ft. of pavement. The 2-year storm runoff is calculated to be .32 Cu. ft. per second or roughly 150 gallons per minute at its peak.

Conclusion & Recommendations

Based on the analysis described above, that the construction of the Atrium resulted in a 65% net reduction of storm water runoff from the Cedars property onto the neighboring property of Manduca. Having said that, the reduced runoff is probably more apparent to Manduca, because the truck turn-around is elevated on fill, and snow piles up there over the winter, especially during a snowy one such as this past year: the runoff is more obvious than in the undeveloped condition.

There are some things which could be done to alleviate some of this "nuisance" runoff. Snow could be piled away from the turn-around area in the winter months. The gutters she mentioned on the garages would have little or no impact because the runoff from the garages is collected in the drainage system which leads to Ocean Avenue. An erosion control berm could be installed at the base of the fill slope near her lot line to help filter the runoff and prevent any silt and sand from being deposited on her lot.

I would like to also comment on her statement about her land sinking and the landscaping work she had done. The area in the rear of her lot as well as the abutting lot of Tevanian both appear to be wetlands and have been identified as such by Cole Peters [the wetlands scientist working on the assisted living project]. The idea that the land is actually subsiding is likely a perception on her part. The only way land can subside is as a result of a sink hole, earth quake or erosion. The likelihood of a sink hole is remote in this area due to our geology, which in this area is mostly controlled by competent bedrock. I am not aware of any recent earthquakes that would have caused a subsidence. Erosion is the only realistic possibility, and based on the analysis above, we have reduced the amount of runoff, which has a direct correlation to erosion potential, which is also reduced.

As for our snow removal, we are in the process of a full review regarding snow storage and removal from the site. This winter has been especially difficult for businesses and homeowners throughout the region, with more than 100" of snow falling in Portland. We are looking into ways to modify our operations and facilities to address this for future winters.

We are planning to address these issues with the Manducas directly and during our neighborhood meeting. If either of you have further questions, please let me know.

In short, there is one possible measure that might be somewhat helpful, and we are willing to consider this if it can be accomplished economically and without compromising the wetlands mitigation work and project objectives. We firmly believe that Cedars is not responsible for the problems facing the Manducas, yet we want to be good neighbors and remain open to working with them to alleviate their concerns to the extent we can.

Sincerely,



Kathryn Callnan
President and CEO

Attachment G
[Submission]



PORTLAND FIRE DEPARTMENT SITE REVIEW FIRE DEPARTMENT CHECKLIST

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

- Name, address, telephone number of applicant.
Cedars Nursing Care Center, 630 Ocean Ave., Portland, ME 04112
- Name address, telephone number of architect
Tsomides Associates, 389 Elliot St., Newton, MA 02464
- Proposed uses of any structures [NFPA and IBC classification]
NFPA 101:Healthcare; IBC: I-2, Nursing Home
- Square footage of all structures [total and per story]

<u>Building Area</u>	<u>Gross Area</u>
Basement	6,886 s.f.
First Floor	24,375 s.f.
<u>Second Floor</u>	<u>21,103 s.f.</u>
Total existing	52,364 s.f.
Proposed (973 s.f. footprint)	1,420 gross s.f.
Total Building Incl. proposed	53,784 s.f.

- Elevation of all structures
Existing 2 story building: approximately 34'
Proposed 1 story addition: approximately 17'
- Proposed fire protection of all structures
Automatic sprinkler system per NFPA 13

Gii

7. Hydrant locations

Refer to the attached plan that depicts all hydrant locations on the site

8. Water main[s] size and location

Refer to the attached plan that depicts all water main locations

9. Access to any fire department connections

Refer to the attached plan that depicts all fire department connections

10. Access to all structures [min. 2 sides]

Refer to the attached plan that shows all access drives around the building

11. A code summary shall be included referencing NFPA 1 and all fire department. technical standards

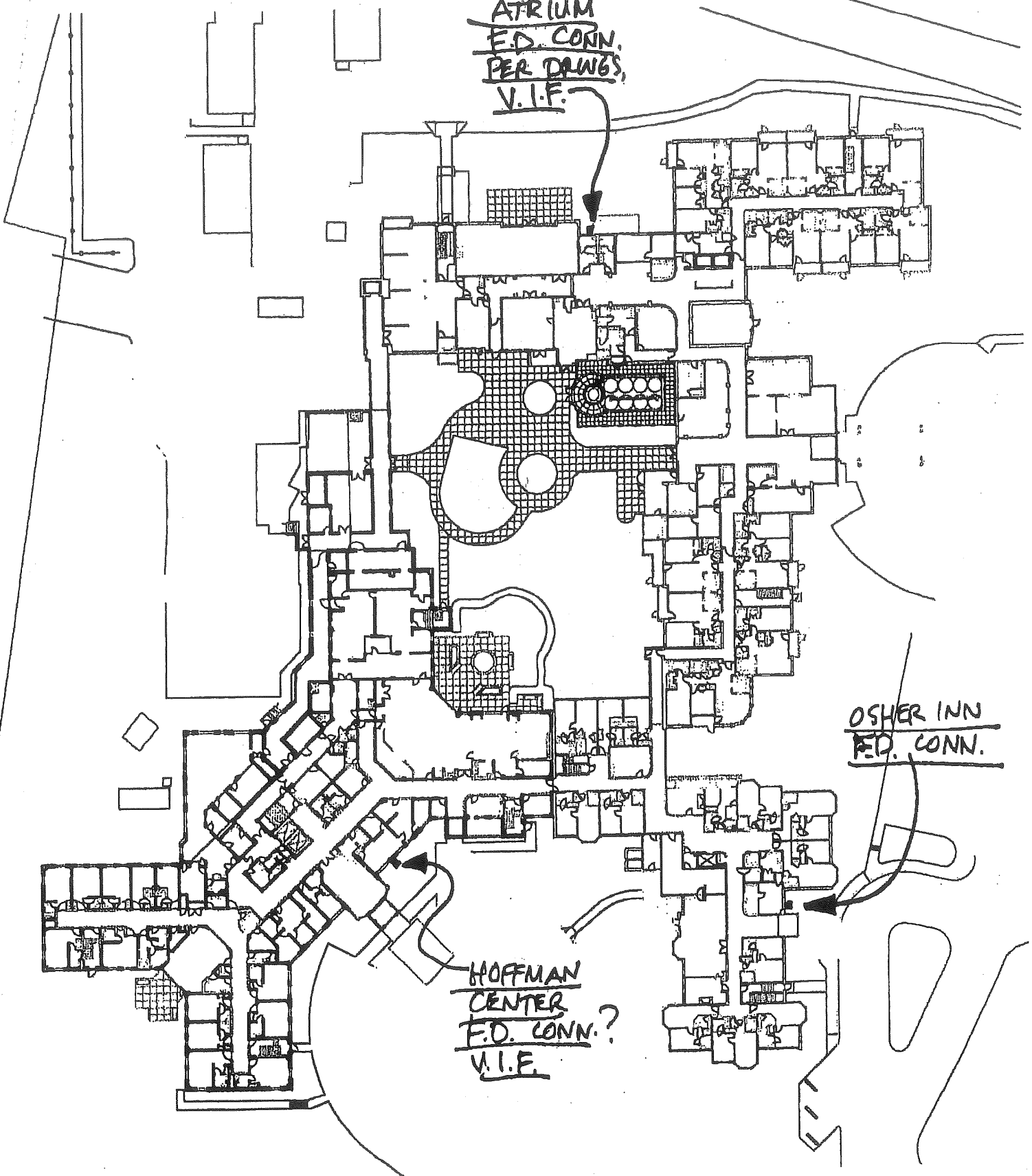
The architect is prepared to respond to this item, however they are unsure about the intent of the code summary. Please clarify the intent of this requirement.

G iii

ATRIUM
F.D. CONN.
PER DWGS,
V.I.F.

OSHER INN
F.D. CONN.

HOFFMAN
CENTER
F.D. CONN.?
V.I.F.



Attachment H



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

October, 2008

Cedars Healthcare
Attn: Scott Watson
630 Ocean Avenue
Portland ME 04103

RE: Stormwater Management Law Application, Portland, #L-22483-NI-D-N

Dear Mr. Watson:

Your application for the above referenced permit has been reviewed by the Department of Environmental Protection pursuant to current statutes and associated rules. Based on this review, the Department has determined that your proposed project is acceptable based on current permitting criteria. Please find enclosed your land use permit. The permit is presented in a format that includes findings of fact relevant to the permitting criteria of the law under which the permit is issued, conclusions based on those facts and conditions of approval. Please carefully read your permit, especially the conditions of approval. If an error has occurred, please let us know and a corrected order will be issued.

Also find attached a copy of the Department's appeal procedure for your information. Project modifications, condition compliance, and transfers applications are available upon request at the regional Department offices listed below.

Please feel free to call me at (207) 287-7848 if you have any questions regarding this project.

Sincerely,

A handwritten signature in black ink that reads "Jeff Madore".

JEFFREY G. MADORE
Division Director
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550 FAX: (207) 624-6024
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507

web site: www.maine.gov/des



Hi

DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

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

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

There is a charge for copies or copying services.

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

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

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

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

II APPEALS TO MAINE SUPERIOR COURT

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

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

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



Hiv.

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

DEPARTMENT ORDER
IN THE MATTER OF

CEDARS HEALTHCARE) STORMWATER MANAGEMENT LAW
Portland, Cumberland County)
BUILDING ADDITION)
L-22483-NI-D-N (Approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Section 420-D, and Chapters 500 and 502 of the Department's Regulations, the Department of Environmental Protection has considered the application of CEDARS HEALTHCARE with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a stormwater management system for a building addition over an existing paved area with 0.03 acres of impervious area and 0.07 acres of disturbed area. The proposed project will reduce the total impervious area on the project site by 108 square feet. The project is shown on set of plans the first of which is entitled "Cedars Rehabilitation Center Addition," prepared by Sebago Technics, and dated August 14, 2008 with a latest revision date on any of the sheets of September 18, 2008. The project site is located off Ocean Avenue in the City of Portland.

B. Current Use of the Site: The site of the proposed project is currently a paved loading dock. The property is developed with the Cedars retirement facility.

2. STORMWATER STANDARDS:

The proposed project includes approximately 0.03 acres of impervious area and 0.07 acres of developed area. It lies within the watershed of Casco Bay. The applicant submitted a stormwater management plan based on the basic and general standards contained in Department Rules, Chapter 500. The proposed stormwater management system consists of a rain garden.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMP's, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in

response to the comments of the Division of Watershed Management (DWM) of the Bureau of Land and Water Quality (BLWQ).

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. This plan was reviewed by, and revised in response to the comments of DWM. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. The applicant will be responsible for the maintenance of all common facilities including the stormwater management system.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on DWM's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500(4)(A).

B. General Standard: The applicant's stormwater management plan includes general treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This mitigation is being achieved by using Best Management Practices that will control runoff from no less than 95% of the impervious area and no less than 80% of the developed area.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. After a final review, DWM commented that the proposed stormwater management system is designed in accordance with the Chapter 500 General Standard.

Based on the stormwater system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Basic and General Standards. The Department further finds that the proposed project will meet the Chapter 500 standards for the management of stormwater discharges.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Section 420-D, and Chapters 500 and 502 of the Department's Regulations:

A. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 Basic Standards for: (1) erosion and sediment control; (2) inspection and maintenance; (3) housekeeping; and (4) grading and construction activity.

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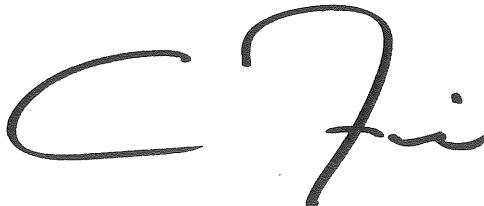
- B. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 General Standard.
- C. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 standards for the management of stormwater discharges.

THEREFORE, the Department APPROVES the above noted application of CEDARS HEALTHCARE to construct a stormwater management system associated with a building addition as described above in Portland, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached.
2. In addition to any specific erosion control measures described in this order, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant or other responsible party shall, within three months of the expiration of each five-year interval from the date of this Order, submit a report certifying that the items listed in Department Rules, Chapter 500, Appendix B(4) have been completed in accordance with the approved plans.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M. R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2008.10.08 10:31:45 -04'00'

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

DEH/L#22483DN/ATS#68505

STORMWATER STANDARD CONDITIONS

STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL

Standard conditions of approval. Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions pursuant to Chapter 500 Stormwater Management Law.

- (1) Approval of variations from plans. The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S.A. § 420-D(8) and is subject to penalties under 38 M.R.S.A. § 349.
- (2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- (3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
- (4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.
- (5) Initiation of project within two years. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference.
- (6) Reexamination after five years. If the project is not completed within five years from the date of the granting of approval, the department may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances or requirements which may have occurred during the five-year period.
- (7) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the

conditions by the developer, and the owner and each contractor and subcontractor has certified, on a form provided by the department, that the approval and conditions

received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.

- (8) Maintenance. The components of the stormwater management system must be adequately maintained to ensure that the system operates as designed, and as approved by the department.
- (9) Recertification requirement. Within three months of the expiration of each five-year interval from the date of issuance of the permit, the permittee shall certify the following to the department.
 - (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
 - (b) All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the facilities.
 - (c) The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained

November 16, 2005

From: Jean Fraser
To: Wiegman, Jan
Date: 11/12/2008 3:28:12 PM
Subject: Cedars- final copies of site Plan

Jan

You will see in the standard requirement #2 of the approval letter that 7 scaled sets of the final plans need to be submitted (these get stamped and circulated to Assessors and other Depts).

In this case we do not need 7 sets; please send 3 sets scaled and 1 set at 11X17 of just the final Site Plan (Rev E).

ASAP as these should be with us prior to the release of the Building Permit (in this case we have not held up the BP).

thanks
Jean (Fraser)
Planning
874 8728

CC: JWatson@thecedarsportland.org

rec'd 11.13.08
& circulated to
all Depts + Assessors

SEBAGO TECHNICS, INC.
 250 Goddard Road, Suite B
 Lewiston, ME 04240

LETTER OF TRANSMITTAL

Phone (207) 783-5656 FAX (207) 783-5655

TO: City of Portland
 Planning and Development Department
 389 Congress Street
 Portland, ME 04101

DATE:	11-13-08	STI Project:	08318
ATTENTION:	Jean Fraser		

WE ARE SENDING YOU Attached Under separate cover via _____ the following items:

COPIES	DATE	RFI NO.	DESCRIPTION
1			11 x 17 copy Site Plan-Cedars Rehabilitation Center Addition
3			Full Size copies Site Plan-Cedars Rehabilitation Center Addition

THESE ARE TRANSMITTED as checked below:

- For approval
 For your use
 As requested
 For review and comment

REMARKS:

COPY TO: _____

SIGNED: _____

If enclosures are not as noted, kindly notify us at once.

file copy



PORTLAND MAINE

Planning Division
Jean Fraser, Planner

10-17-08

TO: Marge Schmuckal
Phil Di Peiro

Re: Cedars Healthcare
Rehab. Center Addition
2008-0126

This was approved by the Planning Board on 10/14/08 but the approval letter will be delayed by need to have the PB chair sign.

I attach the final approved site plan so that you can progress the Perf Guar / inspection fee / Building Permit review but please DO NOT ISSUE the building permit until Phil signs off re receipt of any Perf. Guar. Thanks Jan

CITY OF PORTLAND, MAINE

PLANNING BOARD

Janice E. Tevanian, Chair
David Silk, Vice Chair
Bill Hall
Joe Lewis
Lee Lowry, III
Shalom Odokara
Michael J. Patterson

October 28, 2008

Jan Wiegman, PE
Sebago Technics Inc
400 Center Street
Auburn ME 04210

John Watson, CFO
Cedars Healthcare
630 Ocean Avenue
Portland ME 04103

**RE: Cedars Healthcare, Rehabilitation Center Addition
630 Ocean Avenue**

**CBL: 174 A013 and 174 A020
Application ID: #2008-0126**

Dear Messrs Wiegman and Watson,

On October 14, 2008 the Portland Planning Board considered the proposal for an 890sq ft addition to the existing building footprint to accommodate expansion of the existing Rehabilitation Center within the Cedars Care Center. The Planning Board reviewed the proposal for conformance with the standards of the Conditional Use Review and Site Plan Ordinances. The Planning Board voted unanimously 6-0 (Lowry absent) to approve the application with the following motions:

CONDITIONAL USE

The Planning Board voted unanimously (6-0, Lowry absent) that the proposed plans are in conformance with the R3 Conditional Use Regulations of the Land Use Code (section 14-88c and 14-474).

SITE PLAN REVIEW

The Planning Board voted unanimously (6-0, Lowry absent) that the plan is in conformance with the site plan standards of the Land Use Code.

The approval is based on the plans and materials submitted by the applicant and on the basis of information contained in Planning Report #53-08 relevant to standards for conditional use and site plan regulations (copy attached), and other findings as presented.

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

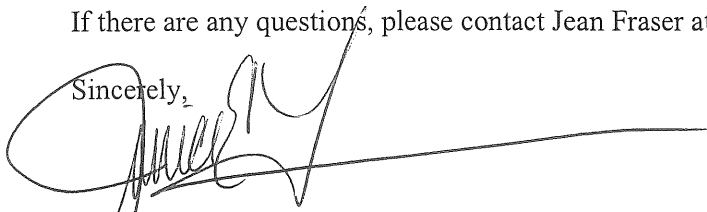
1. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Dept. prior to the release of 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.

3. 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 this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.
4. 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.
5. 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.
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.)

Philip DiPierro, 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 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 874-8728.

Sincerely,



Janice Tevanian, Chair
Portland Planning Board

Attachments:

1. Planning Board Report #53-08
2. 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
Jean Fraser, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Inspections Division
Lisa Danforth, Administrative Assistant
Michael Bobinsky, Public Services Director
Katherine Earley, Public Works

Bill Clark, Public Works
Michael Farmer, Public Works
Jim Carmody, City Transportation Engineer
Jane Ward, Public Works
Captain Greg Cass, Fire Prevention
Jeff Tarling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File

Hard Copy: Project File

CEDARS HEALTHCARE CENTER: REHABILITATION CENTER ADDITION

VICINITY OF 630 OCEAN AVENUE

CONDITIONAL USE AND SITE PLAN REVIEW

CEDARS HEALTHCARE , APPLICANT

Submitted to:
Portland Planning Board
Portland, Maine
October 14, 2008

Submitted by:
Jean Fraser, Planner
October 10, 2008

I. INTRODUCTION

Cedars Healthcare requests conditional use and minor site plan approval for the proposed expansion of the rehabilitation center within the Cedars Care Center part of this complex at 630 Ocean Avenue. The proposed expansion would comprise an 890 sq ft addition to the existing building footprint to facilitate a 1500 sq ft renovation and enlargement of the rehabilitation center. The renovation is stated to be a reorganization and modernization of the existing rehabilitation center to improve the current level of service; it is not intended to increase the capacity to serve additional patients.

The project is referred to the Planning Board as it is a conditional use under the R-3 zone; it is also being reviewed for compliance with the Site Plan Standards.

Notices were sent to 338 parties including interested citizens and neighbors within 500 feet of the outer boundary of the Cedars site; a notice also appeared in the *Portland Press Herald*. One neighbor (Ms Manduca) contacted Planning staff at the time of the Workshop and her comments were circulated to the Planning Board at the Workshop and are included in Attachment E.

A Neighborhood Meeting is not legally required by the City's Ordinance for this type of project and the applicant was not requested to undertake a neighborhood meeting by the Planning Board at the Workshop. However, it is understood that the applicant has contacted neighbors to ascertain whether there are any concerns and will update the Board on this at the Hearing. The applicant has also forwarded a 2005 letter (Attachment F) regarding steps taken in the past to address Ms Manducas' concerns at that time.

Background

In 1988, the Planning Board approved a 99 bed long term care facility and a 50 bed intermediate care facility for this site. The property totaled 5.93 acres at that time. The long term care facility was built with 102 beds (23,200 sq. ft. footprint/65,648 sq ft floor area) and is now known as Cedars Care Center and is the location of the Rehabilitation Center. The intermediate care facility was deferred. In 1997 Cedars acquired an additional 4 acres and received approval to add a 61 bed intermediate care facility (95,332 sq. ft. total floor area) now known as the Atrium.

In 2005 approval was given for a 2-story addition for 30 assisted living units (12,371 sq. ft. footprint/ 26,119 sq. ft. floor area), now almost complete and known as the Cedars Assisted Living Facility (Approval letter in Attachment Aiii). At that time the site was reorganized into a condominium form of ownership so that each facility is a condominium unit and the balance of the site is a "common element" to be used in common by all three units (Condominium documents were submitted and are included at Attachment Aiv).

The first two Cedar projects (Cedars Care Center and Atrium) impacted wetlands and a Tier II wetlands permit was issued by DEP/ACE subject to on-site provision of three mitigation parcels identified as Parcels A, B and C. The assisted living development approved in 2005 was constructed over part of Mitigation Parcel B and an underground storm water detention/treatment system was incorporated into the project on the side nearest Ocean Avenue. The most recent development (the assisted living facility) triggered a Tier III review and was permitted by the MDEP (Permit submitted and attached as in Attachment Aiii).

All of these projects secured an SLDA permit which at that time was permitted by the City on behalf of MDEP. The current proposal is a modification of the SLDA and was reviewed and determined to be acceptable by the MDEP (Attachment H). A summary of the storm water and

drainage improvements on the overall site was requested by staff and is included in Attachment B as the site is close to residential properties.

II. SUMMARY OF FINDINGS

Zone:	R-3
Site Area:	Overall complex: 10.57 acres
Existing Use:	Healthcare Rehabilitation Center
Proposed Use:	Continued use as Rehabilitation Center
Existing Bldg. Floor Area:	71,840 sq ft
Proposed Bldg. Floor Area:	72,730 sq ft
Net inc. in footprint for Rehabilitation Center renovation:	890 sq ft
Building Addition Height:	single story
Existing Parking:	188 spaces
Proposed Parking:	186 spaces
Required Parking:	186 spaces

III. PROPOSED DEVELOPMENT

Current proposal

Cedars Healthcare is proposing to renovate the existing rehabilitation center located on the first floor on the westerly side of the Cedars Care Center (approved 1988; completed 1991). The proposal involves an addition of 1500 sq ft to the current first floor area to allow for modernization of the rehabilitation center and associated infrastructure (further description by the applicant is contained in Attachment Ai, with the layout shown in Attachment L and elevations/floor plan in Attachment N.)

The aerial photograph in Attachment E shows the location and scale of the proposal within the Cedars complex. The photograph below shows the existing loading area and external wall of the existing rehabilitation center, as viewed from the parking areas to the west.



The 1500 sq ft will be made up as follows:

- 610 sq ft within the existing loading dock, which is redundant (another loading dock was created in another phase)
- 890 sq ft building footprint expansion partly under the existing roof and into the paved parking and loading areas adjacent to the existing building.

The proposal includes removal of 350 sq ft of existing paved area which will be revegetated, which results in a net reduction in impervious area of 108 sq ft. (described in Attachment Aviii and illustrated with calculations in Attachment M).

IV. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the conditional use and plan ordinances. Staff comments are highlighted in this report.

V. INSTITUTIONAL CONDITIONAL USE REVIEW

Sec. 14-88 (c)

- a. *In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or building and will not cause significant physical encroachment into established residential areas.*

The proposed expansion takes place on the existing site on the rear elevation of the existing Care Center. It appears to efficiently utilize the former loading area, and otherwise is located beneath a section of the existing roof overhang and partly within paved parking and loading areas.

- b. *The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter.*

This project does not result in a displacement or conversion of a residential use.

- c. *In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.*

The minimum lot size is met.

Sec. 14-474

- a. *There are unique or distinctive characteristics or effects associated with the proposed conditional use.*

There are no known or distinctive characteristics associated with this use. It is a small expansion of the original Cedars long term care use which has been on this site since 1988.

- b. *There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.*

The Cedars facility has been on this site since 1988 with no reported adverse impact upon the public health, safety or welfare. The proposal involves minor construction within the building/activity envelope. The applicants state that the proposal does not increase the capacity to serve additional patients but aims to improve the level of service for existing patients.

- a. *Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

There are no known technical issues associated with this expanded use that would lead one to conclude that the project impact would differ from other such uses.

- (d) *Conditions on conditional use permits. The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.*

The proposal does not appear to have any adverse impacts upon other property in the neighborhood.

VI. SITE PLAN REVIEW

1/2. Traffic

The project does not generate any additional traffic or parking as no increase in patient numbers is envisaged.

The expanded footprint results in the loss of two parking spaces, leaving 186 spaces on the site. The submitted cover letter and 2005 Parking Study (Attachment A) refer to a zoning requirement of 149 spaces, but the approval in 2005 was based on the provision of 186 spaces to meet the zoning requirement. The Zoning Administrator has confirmed that the proposal meets parking and other zoning requirements; her comments were based on the requirement being 186 spaces (Attachment C).

3/4. Bulk, Location, Health, Safety Air, Height of Proposed Buildings

The proposal is small and well-integrated into the exiting single story building and does not raise any review issues.

5. Sewers, Stormdrains, Water

The proposal does not affect the capacity of these services.

6. Landscaping and Existing Vegetation

The proposal results in the loss of one mid-size pine tree which currently helps screen a condenser and above-ground oil tank enclosure. At the suggestion of staff, the applicant has introduced additional shrub planting around these structures as shown in the revised Site Plan (Attachment L).

7. Soils and Drainage

The proposed addition will expand over existing developed areas and the storm water runoff from the building addition will drain into the detention pond to the southeast (towards Ocean Avenue) and then into the municipal storm water system in Ocean Avenue.

The Storm Water Management Plan in Attachment Aviii outlines how the addition will reduce net impervious surface and potential pollution. The City's Engineering Reviewer has confirmed that there are no storm water concerns (Attachment D). The MDEP (in reviewing the amendment to Stormwater Management Law) have determined that the proposed stormwater management system is acceptable (Attachment H).

Staff has received one telephone call from a neighbor, Ms Manduca, who owns the property approximately 500 feet to the west of the proposed addition. It is understood that Ms Manduca considers that the Cedars development has increased the storm water impact on her property, particularly from the road around the western edge of the site and snow dumping in the vicinity of the wetlands near her lot.

Staff notes that the proposal under review would not affect Ms Manduca since the new addition is downhill from the western roadway and drains to the south east ie the opposite direction. The applicant has provided additional information: John Watson (Cedars CFO) submitted an e-mail on 9.18.2008 (Attachment B) that summarizes previous storm water and drainage issues and how Cedars has sought to address concerns raised by reviewers and neighbors in the past. Further detail regarding Ms Manduca's property is set out in a 2005 letter from the applicant in Attachment F.

8. Exterior Lighting

The proposals do not include exterior lighting.

9. Fire

The applicant has submitted requested information to the Fire Department (Attachment G). These items would be reviewed as part of the Building Permit review and there are no implications for the Site Plan review.

10. City Infrastructure

The proposals do not have any implications for city infrastructure.

VII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #53-97 relevant to standards for conditional use and site plan regulations, and other findings as follows:

1. That the proposed plans are in conformance with the R3 Conditional Use Regulations of the Land Use Code (section 14-88c and 14-474).
2. That the proposed plans are in conformance with the site plan standards of the Land Use Code.

Attachments presented to PB Workshop September 23, 2008

- A. Original Submission
 - i. Cover letter and Site Plan Application Form
 - ii. Conditional Use Application Form
 - iii. Previous Approval documents
 - iv. Right, title and Interest (Declaration of Condominium Document)
 - v. Technical and financial Capability
 - vi. Project maps
 - vii. Parking Study (from 2005)
 - viii. Storm water Management Plan (August 2008)
- B. E-mail from Cedars CFO John Watson dated Sept 18, 2008 presenting further clarification re Storm Water Management for the entire Cedars complex
- C. Memo from City Zoning Administrator dated Sept 10, 2008
- D. Memo from City Engineering Reviewer, Dan Goyette (Woodard & Curran) dated Sept 18, 2008

Attachments received since the PB Workshop September 23, 2008

- E. E-mail comments from Ms Manduka dated September 21, 2008
- F. Previous correspondence regarding Ms Manduka's concerns (submitted by applicant)
- G. Fire Department checklist submittal
- H. MDEP Letter with Permit dated October 2008
- I. Aerial Location Plan (prepared by staff)

Final Plan Set

- J. Boundary Survey
- K. Project Location Map
- L. Site Plan (as revised 10.01.2008)
- M. Alterations to Land Cover Map (re impervious area calculations)
- N. Architectural Plan and Elevations

PB HEARING 10.14.2008: CEDARS HEALTHCARE CENTER; REHABILITATION CENTER ADDITION

1. Review: Conditional Use under R-3 although a minor development in terms of Site Plan
2. Proposal:
Renovation and enlargement of the existing rehabilitation center to the rear on the south side of this facility. The center will be enlarged by 1500 sq ft but because it makes use of some redundant existing floor space the net increase is 890 sq ft.
3. Public Notice: This hearing has been noticed to 338 parties and there have been no further comments received other than those from Ms Manduca at the time of the Workshop and included in this report as Att. E.
4. Since the Workshop ^{Stormwater Management Law.} the applicant has submitted:
 - a. The MDEP Permit that relates to this proposal
 - b. Revised site plan that has added some planting to replace the tree that is removed as part of the proposal;
 - c. A copy of a 2005 letter which provides additional information regarding how the stormwater issue raised by neighbor Ms Manduca has been addressed
5. Staff consider that the project has met the conditional use and site plan standards and have not identified any potential conditions



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

October 10, 2008

Jean Fraser, Planner
City of Portland
389 Congress St
Portland ME 04101

RE: Cedars Healthcare Building Addition
DEP #L-22483-87-E-D

Dear Ms. Fraser:

This letter is to inform you that the Department of Environmental Protection has received the Notification of Application Acceptance concerning the application of Cedars Healthcare, regarding a building addition. The Department is satisfied that the notice provisions of 38 M.R.S.A. Section 489-A Subsection 8 for Municipal Review of Development have been satisfied by the City of Portland and the applicant. Based upon its review of the notice and application, the Department will not be exercising jurisdiction over this application pursuant to 38 M.R.S.A. Section 489-A Subsection 9. However, this determination of non-jurisdiction does not apply to any Natural Resources Protection Act (NRPA) issues that may relate to the proposed project

If the application is amended prior to the municipality taking final action, another Notification of Application Acceptance may be required. Please contact me should this occur. The municipality is also required to submit one copy of the record of review and basis of decision within 40 working days of the final action by the reviewing authority.

If you have any questions concerning this, please call me at 822-6324.

Sincerely,

Dawn Hallowell
Division of Land Resource Regulation
Bureau of Land and Water Quality

C: File

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143

color



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

October, 2008

Cedars Healthcare
Attn: Scott Watson
630 Ocean Avenue
Portland ME 04103

RE: Stormwater Management Law Application, Portland, #L-22483-NI-D-N

Dear Mr. Watson:

Your application for the above referenced permit has been reviewed by the Department of Environmental Protection pursuant to current statutes and associated rules. Based on this review, the Department has determined that your proposed project is acceptable based on current permitting criteria. Please find enclosed your land use permit. The permit is presented in a format that includes findings of fact relevant to the permitting criteria of the law under which the permit is issued, conclusions based on those facts and conditions of approval. Please carefully read your permit, especially the conditions of approval. If an error has occurred, please let us know and a corrected order will be issued.

Also find attached a copy of the Department's appeal procedure for your information. Project modifications, condition compliance, and transfers applications are available upon request at the regional Department offices listed below.

Please feel free to call me at (207) 287-7848 if you have any questions regarding this project.

Sincerely,

JEFFREY G. MADORE
Division Director
Division of Land Resource Regulation
Bureau of Land & Water Quality

pc: File

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550 FAX: (207) 624-6024
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507

web site: www.maine.gov/dep



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

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

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

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

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

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

There is a charge for copies or copying services.

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

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

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

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

II APPEALS TO MAINE SUPERIOR COURT

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

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

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



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

DEPARTMENT ORDER
IN THE MATTER OF

CEDARS HEALTHCARE) STORMWATER MANAGEMENT LAW
Portland, Cumberland County)
BUILDING ADDITION)
L-22483-NI-D-N (Approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Section 420-D, and Chapters 500 and 502 of the Department's Regulations, the Department of Environmental Protection has considered the application of CEDARS HEALTHCARE with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to construct a stormwater management system for a building addition over an existing paved area with 0.03 acres of impervious area and 0.07 acres of disturbed area. The proposed project will reduce the total impervious area on the project site by 108 square feet. The project is shown on set of plans the first of which is entitled "Cedars Rehabilitation Center Addition," prepared by Sebago Technics, and dated August 14, 2008 with a latest revision date on any of the sheets of September 18, 2008. The project site is located off Ocean Avenue in the City of Portland.

B. Current Use of the Site: The site of the proposed project is currently a paved loading dock. The property is developed with the Cedars retirement facility.

2. STORMWATER STANDARDS:

The proposed project includes approximately 0.03 acres of impervious area and 0.07 acres of developed area. It lies within the watershed of Casco Bay. The applicant submitted a stormwater management plan based on the basic and general standards contained in Department Rules, Chapter 500. The proposed stormwater management system consists of a rain garden.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMP's, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in

response to the comments of the Division of Watershed Management (DWM) of the Bureau of Land and Water Quality (BLWQ).

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. This plan was reviewed by, and revised in response to the comments of DWM. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. The applicant will be responsible for the maintenance of all common facilities including the stormwater management system.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on DWM's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500(4)(A).

B. General Standard: The applicant's stormwater management plan includes general treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This mitigation is being achieved by using Best Management Practices that will control runoff from no less than 95% of the impervious area and no less than 80% of the developed area.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. After a final review, DWM commented that the proposed stormwater management system is designed in accordance with the Chapter 500 General Standard.

Based on the stormwater system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Basic and General Standards. The Department further finds that the proposed project will meet the Chapter 500 standards for the management of stormwater discharges.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Section 420-D, and Chapters 500 and 502 of the Department's Regulations:

A. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 Basic Standards for: (1) erosion and sediment control; (2) inspection and maintenance; (3) housekeeping; and (4) grading and construction activity.

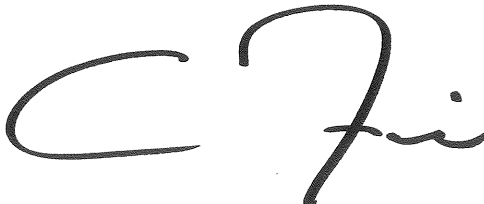
- B. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 General Standard.
- C. The applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500 standards for the management of stormwater discharges.

THEREFORE, the Department APPROVES the above noted application of CEDARS HEALTHCARE to construct a stormwater management system associated with a building addition as described above in Portland, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations:

- 1. The Standard Conditions of Approval, a copy attached.
- 2. In addition to any specific erosion control measures described in this order, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.
- 3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
- 4. The applicant or other responsible party shall, within three months of the expiration of each five-year interval from the date of this Order, submit a report certifying that the items listed in Department Rules, Chapter 500, Appendix B(4) have been completed in accordance with the approved plans.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M. R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2008.10.08 10:31:45 -04'00'

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

DEH/L#22483DN/ATS#68505

STORMWATER STANDARD CONDITIONS

STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL

Standard conditions of approval. Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions pursuant to Chapter 500 Stormwater Management Law.

- (1) Approval of variations from plans. The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S.A. § 420-D(8) and is subject to penalties under 38 M.R.S.A. § 349.
- (2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- (3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
- (4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.
- (5) Initiation of project within two years. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference.
- (6) Reexamination after five years. If the project is not completed within five years from the date of the granting of approval, the department may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances or requirements which may have occurred during the five-year period.
- (7) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the

conditions by the developer, and the owner and each contractor and subcontractor has certified, on a form provided by the department, that the approval and conditions

received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.

- (8) Maintenance. The components of the stormwater management system must be adequately maintained to ensure that the system operates as designed, and as approved by the department.
- (9) Recertification requirement. Within three months of the expiration of each five-year interval from the date of issuance of the permit, the permittee shall certify the following to the department.
 - (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
 - (b) All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the facilities.
 - (c) The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained

November 16, 2005



PORTLAND FIRE DEPARTMENT

SITE REVIEW

FIRE DEPARTMENT CHECKLIST

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

1. Name, address, telephone number of applicant.
Cedars Nursing Care Center, 630 Ocean Ave., Portland, ME 04112
2. Name address, telephone number of architect
Tsomides Associates, 389 Elliot St., Newton, MA 02464
3. Proposed uses of any structures [NFPA and IBC classification]
NFPA 101:Healthcare; IBC: I-2, Nursing Home

4. Square footage of all structures [total and per story]

<u>Building Area</u>	<u>Gross Area</u>
Basement	6,886 s.f.
First Floor	24,375 s.f.
<u>Second Floor</u>	<u>21,103 s.f.</u>
Total existing	52,364 s.f.
Proposed (973 s.f. footprint)	<u>1,420 gross s.f.</u>
Total Building Incl. proposed	53,784 s.f.

5. Elevation of all structures
Existing 2 story building: approximately 34'
Proposed 1 story addition: approximately 17'
6. Proposed fire protection of all structures
Automatic sprinkler system per NFPA 13

7. Hydrant locations

Refer to the attached plan that depicts all hydrant locations on the site

8. Water main[s] size and location

Refer to the attached plan that depicts all water main locations

9. Access to any fire department connections

Refer to the attached plan that depicts all fire department connections

10. Access to all structures [min. 2 sides]

Refer to the attached plan that shows all access drives around the building

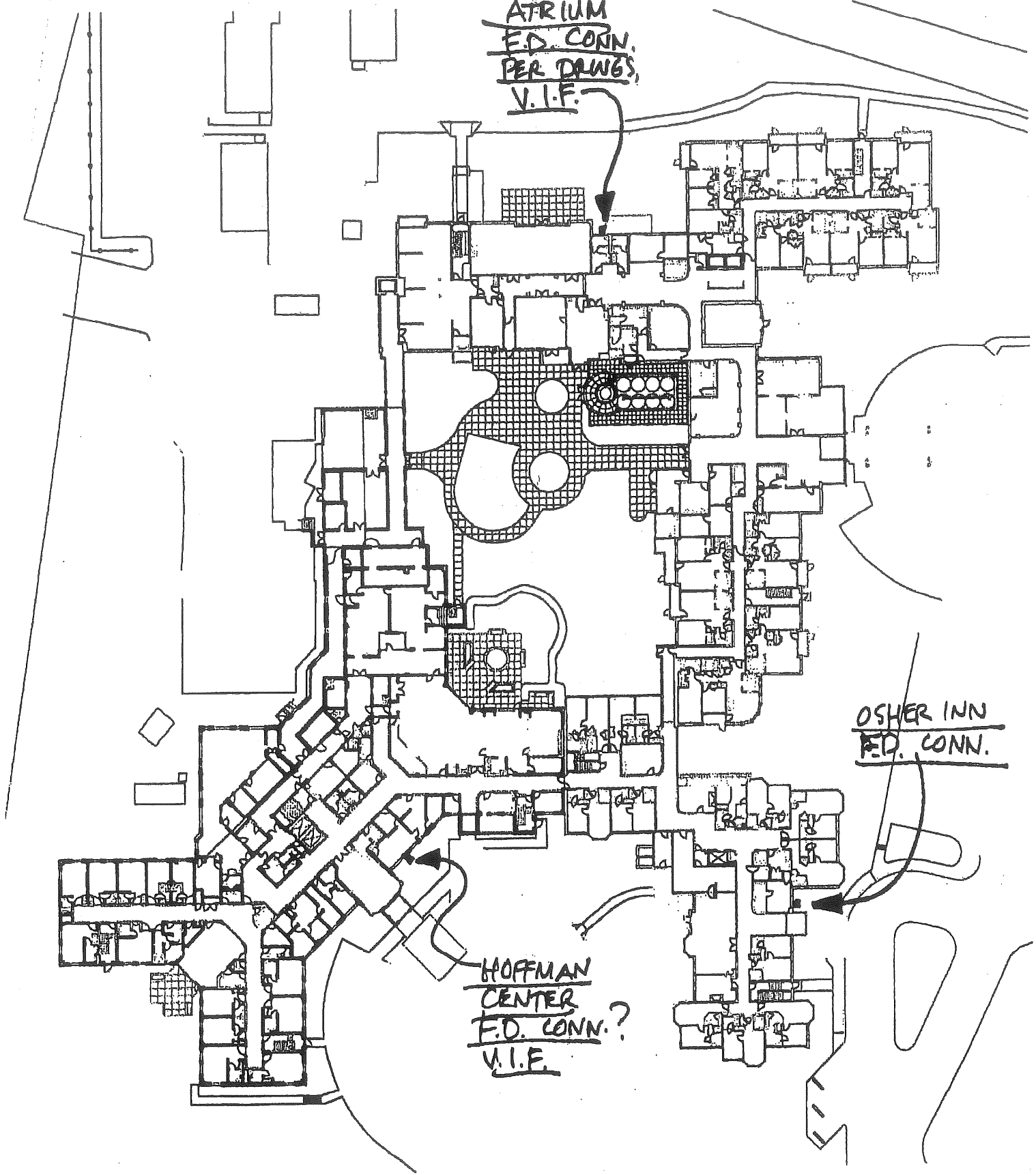
11. A code summary shall be included referencing NFPA 1 and all
fire department. technical standards

The architect is prepared to respond to this item, however they are unsure about the intent of the code summary. Please clarify the intent of this requirement.

ATRIUM
F.D. CONN.
PER DWGS.
V.I.F.

OSHER INN
F.D. CONN.

HOFFMAN
CENTER
F.D. CONN.?
V.I.F.



SEBAGO TECHNICS, INC.
 250 Goddard Road, Suite B
 Lewiston, ME 04240

LETTER OF TRANSMITTAL

Phone (207) 783-5656 FAX (207) 783-5655

DATE: 10-02-08	STI Project: 08318
ATTENTION:	
Cedars Rehabilitation Center Addition	

TO: Jean Fraser
 City of Portland Planning Department

WE ARE SENDING YOU Attached Under separate cover via _____ the following items:

- Shop drawings Prints Plans Specifications Samples
 Copy of letter Change order _____

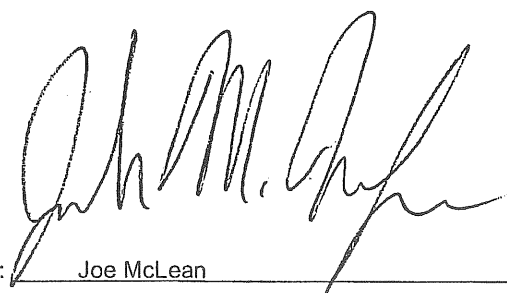
COPIES	DATE	RFI NO.	DESCRIPTION
1	10-02-08		Portland Fire Department Site Review Checklist Submittal Package
1	10-01-08		Site Plan – Cedars Rehabilitation Center Addition (Full Size)
1	10-01-08		Site Plan – Cedars Rehabilitation Center Addition (Reduced Size)
1	9-16-08		Site Location Map

THESE ARE TRANSMITTED as checked below:

- For approval Approved as submitted Resubmit _____ copies for approval
 For your use Approved as noted Submit _____ copies for distribution
 As requested Returned for corrections Return _____ corrected prints
 For review and comment _____
 FOR BIDS DUE _____ PRINTS RETURNED AFTER LOAN TO US

REMARKS: **Feel free to call us with questions.**

COPY TO: _____

SIGNED:  _____
 Joe McLean

If enclosures are not as noted, kindly notify us at once.

SEBAGO TECHNICS, INC.
 250 Goddard Road, Suite B
 Lewiston, ME 04240

LETTER OF TRANSMITTAL

Phone (207) 783-5656 FAX (207) 783-5655

DATE:	10-02-08	STI Project:	08318
ATTENTION:			
Cedars Rehabilitation Center Addition			

TO: Greg Cass
 City of Portland Fire Department

WE ARE SENDING YOU Attached Under separate cover via _____ the following items:

- Shop drawings Prints Plans Specifications Samples
 Copy of letter Change order _____

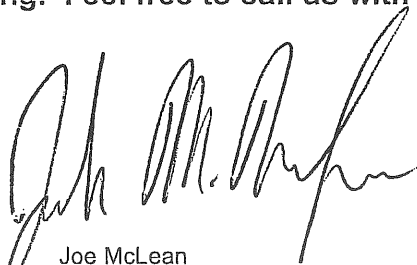
COPIES	DATE	RFI NO.	DESCRIPTION
1	10-02-08		Portland Fire Department Site Review Checklist Submittal Package
1	10-01-08		Site Plan – Cedars Rehabilitation Center Addition
1	9-16-08		Project Location Map
1	8-21-08		City of Portland Application – Cover Letter

THESE ARE TRANSMITTED as checked below:

- For approval Approved as submitted Resubmit _____ copies for approval
 For your use Approved as noted Submit _____ copies for distribution
 As requested Returned for corrections Return _____ corrected prints
 For review and comment _____
 FOR BIDS DUE _____ PRINTS RETURNED AFTER LOAN TO US

REMARKS: **Please review and pass comments along to Jean Frasier with the City of Portland Planning Department. We anticipate our next Planning Board meeting on October 14th. We would appreciate your comments prior to that meeting. Feel free to call us with questions or if you would like to meet to discuss the project.**

COPY TO: Jean Frasier

SIGNED:  Joe McLean



Cedars Rehabilitation and Nursing Care Center

Joseph Robin, M.D.
Medical Director

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Medical Director

August 23, 2005

Rick Knowland
Senior Planner, Planning Division
City of Portland
Dept. of Planning & Development
389 Congress Street
Portland, ME 04101

Dawn Hallowell
Maine DEP
SMRO
312 Canco Road
Portland, ME 04103

Re: Correspondence from Elizabeth Manduca

Dear Rick and Dawn:

Rick Knowland was kind enough to share with the Cedars a copy of a letter from Elizabeth Manduca to Dawn Hallowell, outlining her concerns about the Cedars Assisted Living Project and, in particular, the effect of water on her property. We are also aware of an earlier letter from Mrs. Manduca to the City of Portland Planning Department, raising similar issues. On behalf of the Cedars, I wanted to share with both of you the steps that we have taken in response to these concerns, as well as our understanding of the nature of the problems that the Manducas are dealing with and the appropriate response from the Cedars.

First, let me note that the Cedars respects the genuine concerns expressed by Mrs. Manduca and has sought opportunities for constructive dialogue about their concerns. We have met with the Manducas and toured their property in the past, and we hope to meet with her again in the near term.

Regarding the issue of blasting, we do not expect that the blasting related to our new project, if any, will raise the kinds of concerns that the Manducas recall from our earlier construction work. In fact, there may be no blasting at all, as much of this work was done during the earlier construction of The Atrium. Nevertheless, we remain open to discussions with all of our neighbors any remaining concerns they may have about blasting.

With regard to drainage and the water level on your property, Cedars has conferred at length with a drainage and land use expert, David Kamila, who has carefully reviewed the Manducas concerns in light of prior plans, the actual drainage as built for our most recent project, and the design for the Assisted Living Facility. Mr. Kamila was involved in the design of both projects, met with us and the Manducas on their property quite some time ago, and has more recently reanalyzed their concerns at our request. Based on these reviews, we are reassured that our current facilities have not increased the flow of water onto the Manduca property and, if anything, may have improved the situation.

I have reviewed our original drainage study for the Atrium and it details the amount of storm water runoff that flows in her direction from the Cedars property before and after the Atrium was constructed as follows:

Before Construction of the Atrium

Prior to constructing the Atrium, this area was relatively undeveloped with the exception of one home owned by Liza Townsend. The total area draining toward Manduca was 1.7 acres and included approximately 500 sq. ft. of impervious area associated with Townsend. For a 2-year storm event, which assumes 3.0 inches of rainfall during a 24-hour period, the maximum amount of runoff from Cedars in her direction is calculated to be .91 cu. ft. per second or roughly 400 gallons per minute at its peak.

After Construction of the Atrium

After construction of the Atrium, this area was developed for parking. The majority of the area that previously drained toward Manduca, however was drained through a series of catch basins and storm drains which diverted the runoff away from her property and directed it into the overall drainage system for Cedars which discharges into the City storm drain system in Ocean Avenue. There is a small area immediately adjacent to Manduca, which due to existing contours, we were unable to collect and redirect towards Ocean Avenue. The area is .46 acres and includes approximately 4,500 sq. ft. of pavement. The 2-year storm runoff is calculated to be .32 Cu. ft. per second or roughly 150 gallons per minute at its peak.

Conclusion & Recommendations

Based on the analysis described above, that the construction of the Atrium resulted in a 65% net reduction of storm water runoff from the Cedars property onto the neighboring property of Manduca. Having said that, the reduced runoff is probably more apparent to Manduca, because the truck turn-around is elevated on fill, and snow piles up there over the winter, especially during a snowy one such as this past year; the runoff is more obvious than in the undeveloped condition.

There are some things which could be done to alleviate some of this "nuisance" runoff. Snow could be piled away from the turn-around area in the winter months. The gutters she mentioned on the garages would have little or no impact because the runoff from the garages is collected in the drainage system which leads to Ocean Avenue. An erosion control berm could be installed at the base of the fill slope near her lot line to help filter the runoff and prevent any silt and sand from being deposited on her lot.

I would like to also comment on her statement about her land sinking and the landscaping work she had done. The area in the rear of her lot as well as the abutting lot of Tevanian both appear to be wetlands and have been identified as such by Cole Peters (the wetlands scientist working on the assisted living project). The idea that the land is actually subsiding is likely a perception on her part. The only way land can subside is as a result of a sink hole, earth quake or erosion. The likelihood of a sink hole is remote in this area due to our geology, which in this area is mostly controlled by competent bedrock. I am not aware of any recent earthquakes that would have caused a subsidence. Erosion is the only realistic possibility, and based on the analysis above, we have reduced the amount of runoff, which has a direct correlation to erosion potential, which is also reduced.

As for our snow removal, we are in the process of a full review regarding snow storage and removal from the site. This winter has been especially difficult for businesses and homeowners throughout the region, with more than 100" of snow falling in Portland. We are looking into ways to modify our operations and facilities to address this for future winters.

We are planning to address these issues with the Manducas directly and during our neighborhood meeting. If either of you have further questions, please let me know.

In short, there is one possible measure that might be somewhat helpful, and we are willing to consider this if it can be accomplished economically and without compromising the wetlands mitigation work and project objectives. We firmly believe that Cedars is not responsible for the problems facing the Manducas, yet we want to be good neighbors and remain open to working with them to alleviate their concerns to the extent we can.

Sincerely,



Kathryn Callinan
President and CEO

From: Jean Fraser
To: Watson, John
Date: 9/24/2008 3:24:17 PM
Subject: Re: October 14 public hearing date/Manduca concerns

Hello John

Firstly I can confirm that we can include your project on the October 14th Planning Board Hearing Agenda. The meeting starts at 7pm but I do not yet know when your item will be scheduled.

Regarding the issues raised by the Manduca e-mail, I will get back to you after I have read your attachment and had a further conversation with Rick Knowland.

Regarding any meeting with neighbors, if you are going to have a meeting I suggest you document who you invited, where held etc and ensure all neighbors in the relevant area are invited (we can help with up to date labels of property owners if you wish; small charge).

Jean (Fraser)
Planner
874 8728

>>> "John Watson" <JWatson@thecedarsportland.org> 9/24/2008 1:05:01 PM >>>
Hi Jean:

After the meeting last night I came away with a couple of concerns that I wanted to address with you. One is the date for being our project to be on the Planning Board public hearing meeting and the other is the Manduca concerns that you raised for the planning board's consideration. Given the size, scope of our project, the lack of concerns raised by the Planning Board and the lack of need for a neighborhood meeting we would like to be included in the October 14 planning meeting. We will meet with our neighbors as we always have, on a direct personal level. We'll review our plans, ask for their concerns and invite them in when our project is complete. We truly want to get the project in the ground asap and want our neighbors to be comfortable with it.

My other concern relates to the Manduca property. It seemed to me that the Planning Board was given the impression that the Manduca concerns have not been addressed to their fullest as evidenced by a comment made by Mr. Lowrie at the end of my review of those concerns. Perhaps I should have dug out the attached letter that was sent to Rick Knowland and the DEP addressing how we responded to that neighbor's concerns and sent it to you for inclusion in your materials. Please review the attached letter. It gives a better picture of our efforts than my email did and clearly establishes the time and expense given to this matter.

The context in which we view the concerns is that they were never raised until five years after our project was completed, were raised after a winter with a very heavy snowfall and only after we were in the city pipeline for our assisted living project. As the attached letter indicates, our land use engineer feels the runoff has been improved by the project, not made worse and that we committed reasonable resources to address a perception, not a reality. Had the property owner's concerns been raised in the first spring following our project completion and every year thereafter, it would seem a more plausible concern. The reality is that the back of the Manduca property lies at

the base of a ledge elevation owned by JB Brown and will always be wet, with some years wetter than others.

John

Sender:

S. John Watson, CFO

630 Ocean Ave.

Portland ME 04103

Main number: 207-772-5456

Direct dial: 207-221-7019

Fax: 207-874-2419

CONFIDENTIALITY STATEMENT

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify the sender at The Cedars immediately at either (207) 772-5456 or at jwatson@thecedarsportland.org and destroy all copies of this message and any attachments.

CC: Barhydt, Barbara

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Land Quality Control
State House Station 17
Augusta, Maine 34333
Tel: (207) 287-2111

FOR DEP USE

#L- _____
Date Received _____

NOTIFICATION OF APPLICATION ACCEPTANCE
MUNICIPAL REVIEW OF DEVELOPMENT
(38 M.R.S.A. Section 489-A)

This form is to be used by a registered municipality to notify the Department upon the acceptance of an application for review pursuant to 38 M.R.S.A. Section 489-A. This form must be received by the Department within 14 days of acceptance of an application. The municipality must also submit one copy of the project application and one copy of the record of review and action.

If the application which is the subject of this notice should subsequently be amended during the review process, this form should also be used to submit notice to the Department of the amendment.

Municipality: City of Portland
Contact Person: Jean Fraser, Planner
Address and Phone: 389 Congress St., Portland 04101 874-8728
Project Applicant: Cedars Healthcare
Address and Phone: 630 Ocean Ave, Portland 04103 772-5456
Title of Project: Cedars Care Center- Rehabilitation Center Addition
Date Accepted as Complete by Municipality: 8/25/2008

- I. Type of Project for which permit is sought: (Check One)
- Subdivision as described in section 482, subsection 5 of more than 20 acres but less than 100 acres;
 - Structure as described in section 482, subsection 6, paragraph B, in excess of 3 acres but less than 7 acres;
 - Excavation on more than 5 acres of land for borrow, topsoil, clay or silt, whether alone or in combination as described in section 482, subsection 2-B.

modification of SLDA (minor)

I. Description of Project. (Include number of units or lots, parcel size, footprint, etc.)

Expansion of existing building footprint by 890 sq ft to allow rehabilitation center to be renovated, modernized and expanded to 1500 sq ft.

Expansion of footprint is into existing paved area (now loading dock + parking); revegetation of some parking area results in net decrease in impervious area of 108 sq ft.

II. Submit as attachments to this form:

- A. One copy of complete application filed with municipality (include site plans);
- B. Identification of any outside review agents or consultants who will be performing reviews of any aspect of the application;
- C. One copy of the legal notices served by the municipality.

(Legal Ad + Notice of PB workshop)

see attached
Woodard + Curran has reviewed for City

NOTE: APPLICANT IS ADVISED TO REVIEW THE NATURAL RESOURCES PROTECTION ACT 38 M.R.S.A. SECTIONS 480-A 480-U (N.R.P.A.) TO ENSURE CONSISTENCY WITH THAT LAW. THE MUNICIPALITY'S DELEGATED REVIEW AUTHORITY PURSUANT TO 38 M.R.S.A. SECTION 489-A DOES NOT EXTEND TO THE N.R.P.A. IF AN N.R.P.A. PERMIT IS NECESSARY IT MUST BE OBTAINED FROM THE DEPARTMENT PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.

Town or City of: Portland, MAINE

Date: Sept 29, 2008

By: Jean Fraser *Jean Fraser*

Print Name: Jean Fraser

and Title: Planner, Planning Division

incl. PB workshop Report (Memo) which incl. application + plans.

From: "John Watson" <JWatson@thecedarsportland.org>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/24/2008 4:21:52 PM
Subject: RE: October 14 public hearing date/Manduca concerns

Thanks, Jean.

Kathy will definitely document who is contacted and what is reviewed - and thanks for that reminder. Sometimes the contact is so casual/comfortable it's easy to forget you are communicating in an official capacity.

Re: Oct 14, that's great news.

John

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Wednesday, September 24, 2008 3:24 PM
To: John Watson
Cc: Barbara Barhydt
Subject: Re: October 14 public hearing date/Manduca concerns

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and destroy all copies of this message and any attachments.

No virus found in this incoming message.
Checked by AVG - <http://www.avg.com>
Version: 8.0.169 / Virus Database: 270.7.1/1686 - Release Date:
9/23/2008 7:38 AM

CC: "Barbara Barhydt" <BAR@portlandmaine.gov>

Cedars workshop

- ① Referred to the Board because it is an expansion of a conditional use within R-3
- ② one comment from Ms Manduca
- ③ net increase in footprint is 890 sq ft, most taken from existing paved areas adjacent to the rear of the building with a net reduction in impervious area + no stormwater implications

④ Att. B. sets out some of the background regarding the overall stormwater management of the site; the city has not seen an MOEP determination as they are now permitting authority for an amendment to site location of Dev. Permit.

⑤ Att 7 ~~pro~~ includes the MOEP wetlands fill permit + describes the actions required to minimize impact on wetlands.

⑥ Staff ~~recommend~~ note that Ms Manduca has indicated that there may be some residual issues related to earlier phases of the facility and suggest that a voluntary Neighborhood mtg be arranged with notices to those on the S. boundary. A formal Neighborhood mtg is not required under the Ordinance $\begin{cases} \text{major} \\ \text{subdivision's} \\ \text{contract zones} \end{cases}$

Staff unable to comment on detail on Ms Manduca's comments - note

Cedars Addition

9/23/08 workshop.
JT/DS/LL/BH/SO

① Kamimoto

② Jan Weigman -

reason for the proposal / need for the space
clarified loss of 2 spaces

SLOD - stormwater - applied MDEP

had discussions + expect permit soon.

③ Public Mr. Haunies - ~~done~~ done by staff

AT - for the record is coming to Bd because
no a cond use.

BH - asked for clar. re cond use.

SO - ? for goodwill, writing to hold vol.

Neighborhood Mtg.

JW confirmed OK + this was done previously

LL - any chance to assess her comments?

John Watson summarized prev. concerns

- snow dumping stepped + moved

- own mitigation land - wetlands

- gutters on garages to drain to Cedar Ave

notes shes still concerned.

confirm in hearing
report re prev figs

go to dean re parking reqs - their
report discrepancy w/ zoning admin req.

DS - not req. a N'hood Mtg.

BB - said will review
scope for Oct 14
Hearing.

From: Manduca Music <manduca@maine.edu>
To: <jf@portlandmaine.gov>
Date: 9/21/2008 11:25:07 AM
Subject: Cedars Project

PB workshop
Cedars Healthcare -
Rehab Center Addition

Dear Ms. Fraser,

I am writing concerning the Cedars Healthcare project that will be considered Tuesday night. I am not able to attend the meeting, but wish to share with you my concerns. I own property directly behind Cedars-861 Washington Ave. We have had a lot of damage as a result of all phases of these projects which I will outline below. The administration at Cedars has been very polite and nice to us, but have not really done what needs to be done to stop street runoff on our property. This run-off eventually makes its way to the neighboring properties as well. All we are asking is that they put a tree/vegetation buffer around the end of the road surrounding the parking area for their vehicles. This will help to filter the run-off from the road. Or that they find a way to channel this run-off.

1. When the project was originally done, we had blasting damage done to various parts of our property. We were told by engineers hired by Cedars that these things couldn't possibly have happened by their blasting. The blasters that I spoke with said that it absolutely caused this type of damage.

2. The road was graded and sloped directly into our backyard area. We had to have a landscaping job done, raising garden beds just to be able to walk out there because it became so wet. You can watch the path the water takes during heavy rainstorms. The trail is very mucky even through the dry season, and we cannot go through our backyard without boots.

3. Cedars piled snow at the end of the road which eventually drained into our property along with damaging sand and/or salt. We could also see gas type run-off in rivulets in trenches that we had dug. We asked them to stop pushing all the snow to this area, and they did stop.

4. In the last meeting we had with them, they said they would certainly look into a berm for that area. Now, I see that they have planted trees along the roadway, but none where we need it. They once told us that they couldn't put trees there because it was classified as a wetland. I asked them then how could they have been given permission by the city to build on a wetland in the first place!

5. My daughter is a wildlife major and has studied the effects of pollution and run-off on trees. We took a walk a few weeks ago behind the fence and she pointed out how the native vegetation is dying and being replaced with invasive trees like buckthorn. When we recently had the big rainstorms, the run-off washed away most of the landscape mulch I had just put down.

In closing, please understand that I am not against what Cedars does. But please do not have them continue to tell us that everything has been done in their power to help with this issue when they haven't. The problems are still the same and my property and the neighbors properties continue to degrade. I may not pay as much in property

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taxes as they do, but I deserve the city's attention to this matter.

Sincerely, Elizabeth Manduca

773-7012
Manduca Music
www.manducamusic.com

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From: "John Watson" <JWatson@thecedarsportland.org>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/18/2008 5:41:30 PM
Subject: Cedars Rehab Expansion

Hi Jean:

At your request, little bit of history with respect to stormwater and drainage of the Cedars site:

Cedars (Phase 1) was the original building constructed on this site and was completed in 1991. There were wetlands and an abundance of ledge that had to be considered in developing the site. The approved site plan for that project included the addition of an assisted living facility (Phase 2) which was never built due to lack of assisted living demand and abandoned in favor of an independent housing project (the Atrium) that was completed and opened in January 2000. That project required significant blasting of ledge as well as some wetlands mitigation required by the DEP.

Our latest project, The Osher Inn, was just completed and opened on August 5, 2008. That project required wetlands mitigation as well but no changes to the stormwater management design were deemed necessary by the land use consultant (LUC) or the city except for the front of our own facilities facing Ocean Avenue. An underground filtration system was required by the DEP to control the quality of stormwater and was installed as designed in the front of Cedars.

Prior to the start of that project, we had our land use consultants who designed the stormwater plan (LUC) come back and review the site a few years ago to address concerns raised about stormwater runoff (summer of 2005). They confirmed that the plan was installed as designed and was actually improving the runoff for the neighborhood. They concluded that water runs out through cracks in the ledge that forms the neighborhood as well as downhill from undeveloped property owned by JB Brown and settles in the lowest parts of the neighborhood as it always has. They recommended that we install gutters on the garage roofs and drain them into existing stormwater drains to redirect runoff to those drains, which we did. To further minimize runoff, we altered our snow plowing scheme three winters ago to prevent build up of plowed snow in the truck turnaround area abutting our neighbors to the rear of our facilities. Prior to changing that plowing scheme, we also had snow removed from our previous storage location to minimize snow melt at the truck turnaround.

Our current rehab expansion project has submitted a stormwater application to the MDEP (completed by Sebago Technics and dated August 18). The summary of that application states that there will be a "net decrease in impervious surface of 108 sq feet" and "no change to the land areas that are considered "Developed Area" as defined by MDEP". The scope of the project is small, "not expected to increase pollutant load in the post development condition" and "therefore, does not warrant modification of the existing stormwater management controls". This application and report are being currently reviewed by the MDEP.

Let me know if I can answer any questions you may have.

Sender:

S. John Watson, CFO

630 Ocean Ave.

Portland ME 04103

Main number: 207-772-5456

Direct dial: 207-221-7019

Fax: 207-874-2419

CONFIDENTIALITY STATEMENT

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify the sender at The Cedars immediately at either (207) 772-5456 or at jwatson@thecedarsportland.org and destroy all copies of this message and any attachments.

From: Jean Fraser
To: McLean, Joseph
Date: 9/17/2008 1:57:15 PM
Subject: RE: Cedars Health Care Center

Joe,

This was a telephone conversation with Barbara Barhydt, Development Services Manager and we don't have a written set of comments.

I understand that Ms Manduka's concern is the impact of the road at that end of the facility- she mentioned that snow was being dumped and there were substantial flows of storm water that were not there previously.

I note that the area adjacent to her lot is denoted as a mitigating wetland and its possible that even a small amount of additional storm run off/snow melt would cause the wetland area to expand into her lot. The way the pull off is designed also could contribute to this issue.

The Workshop Memo will make clear that the proposed minor addition to the footprint would not cause any drainage problems in and of itself; therefore the issue is whether the previously approved/constructed parts of the project were constructed as approved and/or whether some reasonable changes could be made now to reduce the problem.

We anticipate that neighbors will be attending the Workshop but it is difficult to predict what the Planning Board will say. Many of the neighbors will not know the exact location of the proposed addition as all they have seen is the notice.

Jean (Fraser)
Planner
874 8728

>>> "Joseph McLean" <JMcLean@sebagotechnics.com> 9/16/2008 4:36:42 PM >>>
Thanks Jean. Is it possible to get a copy of the specific issues raised by Ms. Manduka?

Thanks,
Joe

Joseph M. McLean, P.E.
Project Engineer
Sebago Technics, Inc.
250 Goddard Road, Suite B
Lewiston, ME 04240
Voice: (207) 783-5656
Fax: (207) 783-5655

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Tuesday, September 16, 2008 12:20 PM
To: Joseph McLean
Cc: 08318; Jan Wiegman
Subject: Re: Cedars Health Care Center

Thank you for these.

*John Watson, CEO Cedars
Tel. conv. 9/17/08*

- ① Have had abt 10 reports on wetland / stormwater issues for Ms Manduka + main source is ledge not on Cedars site
- ② OK w/ neigh mtg - ? official or not;
- ③ Tevian's house unoccupied
- ④ snow dumping expressly avoided
- ⑤ Agreed to write summary of stormwater / wetland history / context in memo

JF.

With reference to my conversation with Jan yesterday, I confirm that we will be recommending a Neighborhood Meeting; it needs to be after the PB workshop and noticed 7 days in advance (labels from us) and held at least 7 days before the Hearing date (we have a Guidance Note which I can send if you need).

At the moment the PB Hearing on this is tentatively scheduled for Oct 28th to allow time for the Neighborhood Meeting and for you to respond to any issues raised by the Planning Board. If on Sept 23 it looks like an earlier Hearing date would be feasible then the date can be reviewed.

We have been contacted by a neighbor Liz Manduka who is concerned at the extent of run off and wants measures to stop/reduce the run off (she outlined a number of reasons why the run off is higher than predicted during the review of the development). I have not had a chance to investigate in detail.

Jean

>>> "Joseph McLean" <JMcLean@sebagotechnics.com> 9/16/2008 9:29:46 AM
>>>
Jean,

As requested, please find the attached plans in pdf format:

- ACSM/ALTA Land Title Survey prepared by Titcomb Associates
- Site Plan prepared by Sebago Technics, Inc.
- Project Location Map prepared by Sebago Technics, Inc.

Feel free to contact us with further questions or concerns. We look forward to working with you further.

Thanks,

Joe

Joseph M. McLean, P.E.

Project Engineer

Sebago Technics, Inc.

250 Goddard Road, Suite B

Lewiston, ME 04240

Voice: (207) 783-5656

Fax: (207) 783-5655

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2008-0126

Date: 9/10/2008

The project is located within an R-3 Zone which permits this institutional use. This small addition is an expansion of the existing use (sal-be-it small) but still requires conditional use PB approval.

All the R-3 Zone requiremnets including setbacks and lot coverage, height and parking are being met with this proposal.

Separate permits would be required for any new signage.

Marge Schmuckal
Zoning Administrator

MEMORANDUM



TO: Jean Fraser
FROM: Dan Goyette, PE
DATE: September 18, 2008
RE: Cedar's Rehab Center Expansion, 630 Ocean Avenue

Woodard & Curran has reviewed the Application for Site Plan Review for Cedar's Rehab Center Expansion located at 630 Ocean Avenue in Portland. A 1500 square foot expansion of the floor area.

Documents Reviewed

- Application and attachments for Site Plan Review for 630 Ocean Avenue, prepared by Sebago Technics, dated August 21, 2008.

Comments

- The proposal is going to decrease the amount impervious surface on the site and no grading changes are being proposed. Therefore, no stormwater impacts are anticipated.

Please contact our office if you have any questions.
DRG
203939.22





rcvd:
7/29/08

PretiFlaherty

ERIC P. STAUFFER
estauffer@preti.com

July 25, 2008

Via e-mail

Penny Littell, Esq. [pl@portlandmaine.gov]
Director of Planning
CITY OF PORTLAND
389 Congress Street
Portland, ME 04101

Marge Schmuckal [mes@portlandmaine.gov]
Zoning Administrator
CITY OF PORTLAND
389 Congress Street
Portland, ME 04101

Dear Penny and Marge:

I hope you are both well.

I am writing at the request of Cedars Nursing Care Center, Inc., on the subject of its planned renovations, which include an approximate 1,500 sq. ft. extension of the building footprint (the "Addition"). Jan Wiegman of Sebago Technics, Inc. has shared with me some of the highlights of his positive meeting with Marge and members of the planning staff recently. The process seems underway for municipal approval of an expansion of a conditional use as well as modifications of the municipal site plan and the applicable SLODA permit, and I would not want this letter to interfere with progress on that front.

Cedars' management asked me to look through the Zoning Ordinances to see if Planning Board approval is essential. As a result, my focus was primarily on the conditional use permit rather than with the need for approval of the site plan and SLODA permit.

I must admit the possibility that I may have missed it in my review of the Portland Zoning Ordinance, but I could not find explicit language that required further conditional use approval if structures are increased in size on a lot for which an approved conditional use permit has been granted. I hope you will forgive my reciting material that is more than familiar to you, but I thought it would be most efficient if I shared my research chain with a few observations along the way.

Preti Flaherty Beliveau Pachios & Haley LLC
One City Center P.O. Box 9546 Portland, Maine 04112-9546

Portland · Augusta · Bath · Concord
207.791.3000 207.791.3111 FAX www.preti.com

The Conditional Use Permit:

- Section 14-474 of the Zoning Ordinance provides that the Zoning Board of Appeals has jurisdiction to grant conditional use permits generally, but Section 14-88 gives the Planning Board jurisdiction over conditional use permits for institutional uses in the R-3 Zone.
- Conditional Use permits must be granted unless the reviewing body determines that
 - "a. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
 - "b. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
 - "c. Such impact differs substantially from the impact which would normally occur from such a use in that zone."

Observation (and a bit of argument): The focus of the conditional use process is on the use and its effects--not the structures as such. If the original construction did not trigger the three-part denial standard, a 1,500 square foot addition should not produce a different conclusion about the appropriateness of that use on that lot in that zone.

- Section 14-474(e) establishes the significance of design detail to a conditional use permit and seems to defer to the other provisions of the zoning ordinance for regulation of size, design and other features of any related structures.
 - "(e) *Effect of issuance of a conditional use permit.* The issuance of a conditional use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the city, including but not limited to a building permit, a certificate of occupancy, subdivision approval and site plan approval."

Observation (and a bit more argument): The details of site design seem to be the function and concern of the Site Plan provisions of the ordinance. Further illustration of the significance of detailed site design to the conditional use process can be found in Section 14-474(b)(1)(g) which requires the applicant for a conditional use permit to include a site plan in a conditional use permit application only if the project will also require site plan approval by the Planning Board--otherwise only a "general description" of the proposed conditional use is required.

- I could not find a provision that explicitly addressed "expansions" of conditional uses (compare the limitations on non-conforming uses and the conventional wisdom is that

Penny Littell, Esq.
Marge Schmuckal
July 25, 2008
Page 3

approved conditional uses are permitted uses for purposes of the non-conformity provisions of a zoning ordinance).

- Of course, the Planning Board may have imposed an explicit further review condition in the original conditional permit grant:

"The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article."

Thus, the Planning Board vote that granted the conditional use permit in the first place may have a condition regarding approval of expansions of the conditional use.

Site Plan Modifications: If conditional use review is not required, then my focus shifts to the site plan modification process. Again, let me lay out the familiar provisions:

- Section 14-522 of the Site Plan Article defines "development" to include the following as a minor development for which staff approval would be required--

"(d) The construction of any building addition(s) having a total floor area of up to ten thousand (10,000) square feet cumulatively within a three-year period;"

"(f) A change in the use of a total floor area of between five thousand (5,000) and ten thousand (10,000) square feet in any existing building cumulatively within any three-year period;"

- Section 14-525 of the Site Plan Article on revisions to approved site plans--

"(l) *Site plan revisions.* 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 this article."

- Of course, the staff has the discretion to bump minor site plan applications to the Planning Board--

"(h) *Referral of plans to Planning Board.* If at any time before approval or disapproval of a plan for minor development, the planning authority determines that, due to its nature or location, the development should be reviewed by the Planning Board, the planning authority may refer the plan to the Planning Board, whose decision shall be substituted for the planning authority's unless it declines jurisdiction. The Planning Board

Penny Littell, Esq.
Marge Schmuckal
July 25, 2008
Page 4

may decline jurisdiction and refer the matter back to the planning authority at any public meeting, including a workshop."

Conclusion:

We acknowledge that the planning staff has the wherewithal to get the matter before the Planning Board under the Site Plan Ordinance by using its discretion to find that it warrants that level of attention. However, if the expansion of the conditional use itself does not require Planning Board approval under the conditional use provisions of the ordinance, the staff would appear to have the authority to grant the site plan approval without Planning Board participation. Given the size of the expansion as falling well below the threshold for major development review, we would then ask that the staff exercise its discretion to proceed without Planning Board approval.

Again, I recognize that I may have missed something in the ordinance or a long standing practice of interpretation that supports treating this modification to a structure as triggering the need for further conditional use review. However, if there is room to determine that the conditional use permit is not affected, we would very much like to proceed in the less formal fashion.

I am copying Jan Wiegman for his information, knowing that he intends to continue with the process laid out in his meeting with City staff. Only if the issues raised in this letter have merit, would we need to discuss any change in the approach you discussed with him.

Very truly yours,



Eric P. Stauffer

cc: John Watson
Jan Wiegman, PE

CEDARS HEALTHCARE CENTER: REHABILITATION CENTER ADDITION

VICINITY OF 630 OCEAN AVENUE

CONDITIONAL USE AND SITE PLAN REVIEW

CEDARS HEALTHCARE , APPLICANT

Submitted to:
Portland Planning Board
Portland, Maine
October 14, 2008

Submitted by:
Jean Fraser, Planner
October 10, 2008

I. INTRODUCTION

Cedars Healthcare requests conditional use and minor site plan approval for the proposed expansion of the rehabilitation center within the Cedars Care Center part of this complex at 630 Ocean Avenue. The proposed expansion would comprise an 890 sq ft addition to the existing building footprint to facilitate a 1500 sq ft renovation and enlargement of the rehabilitation center. The renovation is stated to be a reorganization and modernization of the existing rehabilitation center to improve the current level of service; it is not intended to increase the capacity to serve additional patients.

The project is referred to the Planning Board as it is a conditional use under the R-3 zone; it is also being reviewed for compliance with the Site Plan Standards.

Notices were sent to 338 parties including interested citizens and neighbors within 500 feet of the outer boundary of the Cedars site; a notice also appeared in the *Portland Press Herald*. One neighbor (Ms Manduca) contacted Planning staff at the time of the Workshop and her comments were circulated to the Planning Board at the Workshop and are included in Attachment E.

A Neighborhood Meeting is not legally required by the City's Ordinance for this type of project and the applicant was not requested to undertake a neighborhood meeting by the Planning Board at the Workshop. However, it is understood that the applicant has contacted neighbors to ascertain whether there are any concerns and will update the Board on this at the Hearing. The applicant has also forwarded a 2005 letter (Attachment F) regarding steps taken in the past to address Ms Manducas' concerns at that time.

Background

In 1988, the Planning Board approved a 99 bed long term care facility and a 50 bed intermediate care facility for this site. The property totaled 5.93 acres at that time. The long term care facility was built with 102 beds (23,200 sq. ft. footprint/65,648 sq ft floor area) and is now known as Cedars Care Center and is the location of the Rehabilitation Center. The intermediate care facility was deferred. In 1997 Cedars acquired an additional 4 acres and received approval to add a 61 bed intermediate care facility (95,332 sq. ft. total floor area) now known as the Atrium.

In 2005 approval was given for a 2-story addition for 30 assisted living units (12,371 sq. ft. footprint/ 26,119 sq. ft. floor area), now almost complete and known as the Cedars Assisted Living Facility (Approval letter in Attachment Aiii). At that time the site was reorganized into a condominium form of ownership so that each facility is a condominium unit and the balance of the site is a "common element" to be used in common by all three units (Condominium documents were submitted and are included at Attachment Aiv).

The first two Cedar projects (Cedars Care Center and Atrium) impacted wetlands and a Tier II wetlands permit was issued by DEP/ACE subject to on-site provision of three mitigation parcels identified as Parcels A, B and C. The assisted living development approved in 2005 was constructed over part of Mitigation Parcel B and an underground storm water detention/treatment system was incorporated into the project on the side nearest Ocean Avenue. The most recent development (the assisted living facility) triggered a Tier III review and was permitted by the MDEP (Permit submitted and attached as in Attachment Aiii).

All of these projects secured an SLDA permit which at that time was permitted by the City on behalf of MDEP. The current proposal is a modification of the SLDA and was reviewed and determined to be acceptable by the MDEP (Attachment H). A summary of the storm water and

drainage improvements on the overall site was requested by staff and is included in Attachment B as the site is close to residential properties.

II. SUMMARY OF FINDINGS

Zone:	R-3
Site Area:	Overall complex: 10.57 acres
Existing Use:	Healthcare Rehabilitation Center
Proposed Use:	Continued use as Rehabilitation Center
Existing Bldg. Floor Area:	71,840 sq ft
Proposed Bldg. Floor Area:	72,730 sq ft
Net inc. in footprint for Rehabilitation Center renovation:	890 sq ft
Building Addition Height:	single story
Existing Parking:	188 spaces
Proposed Parking:	186 spaces
Required Parking:	186 spaces

III. PROPOSED DEVELOPMENT

Current proposal

Cedars Healthcare is proposing to renovate the existing rehabilitation center located on the first floor on the westerly side of the Cedars Care Center (approved 1988; completed 1991). The proposal involves an addition of 1500 sq ft to the current first floor area to allow for modernization of the rehabilitation center and associated infrastructure (further description by the applicant is contained in Attachment Ai, with the layout shown in Attachment L and elevations/floor plan in Attachment N.)

The aerial photograph in Attachment E shows the location and scale of the proposal within the Cedars complex. The photograph below shows the existing loading area and external wall of the existing rehabilitation center, as viewed from the parking areas to the west.



The 1500 sq ft will be made up as follows:

- 610 sq ft within the existing loading dock, which is redundant (another loading dock was created in another phase)
- 890 sq ft building footprint expansion partly under the existing roof and into the paved parking and loading areas adjacent to the existing building.

The proposal includes removal of 350 sq ft of existing paved area which will be revegetated, which results in a net reduction in impervious area of 108 sq ft. (described in Attachment Aviii and illustrated with calculations in Attachment M).

IV. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the conditional use and plan ordinances. Staff comments are highlighted in this report.

V. INSTITUTIONAL CONDITIONAL USE REVIEW

Sec. 14-88 (c)

- a. *In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or building and will not cause significant physical encroachment into established residential areas.*

The proposed expansion takes place on the existing site on the rear elevation of the existing Care Center. It appears to efficiently utilize the former loading area, and otherwise is located beneath a section of the existing roof overhang and partly within paved parking and loading areas.

- b. *The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter.*

This project does not result in a displacement or conversion of a residential use.

- c. *In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.*

The minimum lot size is met.

Sec. 14-474

- a. *There are unique or distinctive characteristics or effects associated with the proposed conditional use.*

There are no known or distinctive characteristics associated with this use. It is a small expansion of the original Cedars long term care use which has been on this site since 1988.

- b. *There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.*

The Cedars facility has been on this site since 1988 with no reported adverse impact upon the public health, safety or welfare. The proposal involves minor construction within the building/activity envelope. The applicants state that the proposal does not increase the capacity to serve additional patients but aims to improve the level of service for existing patients.

- a. *Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

There are no known technical issues associated with this expanded use that would lead one to conclude that the project impact would differ from other such uses.

- (d) *Conditions on conditional use permits. The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.*

The proposal does not appear to have any adverse impacts upon other property in the neighborhood.

VI. SITE PLAN REVIEW

1/2. Traffic

The project does not generate any additional traffic or parking as no increase in patient numbers is envisaged.

The expanded footprint results in the loss of two parking spaces, leaving 186 spaces on the site. The submitted cover letter and 2005 Parking Study (Attachment A) refer to a zoning requirement of 149 spaces, but the approval in 2005 was based on the provision of 186 spaces to meet the zoning requirement. The Zoning Administrator has confirmed that the proposal meets parking and other zoning requirements; her comments were based on the requirement being 186 spaces (Attachment C).

3/4. Bulk, Location, Health, Safety Air, Height of Proposed Buildings

The proposal is small and well-integrated into the exiting single story building and does not raise any review issues.

5. Sewers, Stormdrains, Water

The proposal does not affect the capacity of these services.

6. Landscaping and Existing Vegetation

The proposal results in the loss of one mid-size pine tree which currently helps screen a condenser and above-ground oil tank enclosure. At the suggestion of staff, the applicant has introduced additional shrub planting around these structures as shown in the revised Site Plan (Attachment L).

Attachment B

INSPECTION, MAINTAINANCE, AND HOUSEKEEPING PLAN

and vehicle access points to the site. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. The log must be made accessible to the appropriate regulatory agency upon request. The permittee shall retain a copy of the log for a period of at least three years from the completion of permanent stabilization.

4. **Specific Inspection and Maintenance Tasks:** The following is a list of erosion control and stormwater management measures and the specific inspection and maintenance tasks to be performed during construction.

A. Sediment Barriers:

- Hay bale barriers, silt fences, and filter berms shall be inspected immediately after each rainfall and at least daily during prolonged rainfall.
- If the fabric on a silt fence or filter barrier should decompose or become ineffective prior to the end of the expected usable life and the barrier is still necessary, it shall be replaced.
- Sediment deposits should be removed after each storm event. They must be removed before deposits reach approximately one-half the height of the barrier.
- Filter berms shall be reshaped as needed.
- Any sediment deposits remaining in place after the silt fence or filter barrier is no longer required should be dressed to conform to the existing grade, prepared, and seeded.

B. Riprap Materials:

- Once a riprap installation has been completed, it should require very little maintenance. It shall, however, be inspected periodically to determine if high flows have caused scour beneath the riprap or dislodged any of the stone.

C. Stone Check Dams:

- Inspect the center of the dam to make sure it is lower than the edges. Erosion caused by high flows around the edges of the dam must be corrected.
- Sediment accumulation shall be removed prior to reaching half of the original design height.
- Areas beneath stone check dams must be seeded and mulched upon removal.

D. Temporary Storm Drain Inlet Protection:

- The inlet protection structure shall be inspected before each rain event and repaired as necessary.
- Sediment shall be removed and the storm drain sediment barrier restored to its original dimensions when the sediment has accumulated to half of the design

growing season or after heavy rains to identify active or potential erosion problems.

- Replant bare areas or areas with sparse growth. Where rill erosion is evident, armor the area with an appropriate lining or divert the erosive flows to on-site areas able to withstand the concentrated flows.

B. Ditches, Swales, and Other Open Channels:

- Inspect ditches, swales and other open stormwater channels in the spring, in the late Fall, and after heavy rains to remove any obstructions to flow. Remove accumulated sediments and debris, remove woody vegetative growth that could obstruct flow, and repair any erosion of the ditch lining.
- Vegetated ditches must be mowed at least annually or otherwise maintained to control the growth of woody vegetation and maintain flow capacity.
- Any woody vegetation growing through riprap linings must also be removed. Repair any slumping side slopes as soon as practicable.
- If the ditch has a riprap lining, replace riprap in areas where any underlying filter fabric or underdrain gravel is showing through the stone or where stones have dislodged.

C. Winter Sanding:

- Clear accumulations of winter sand in parking lots and along roadways at least once a year, preferably in the spring.
- Accumulations on pavement may be removed by pavement sweeping.
- Accumulations of sand along road shoulders may be removed by grading excess sand to the pavement edge and removing it manually or by a front-end loader or other acceptable method.

D. Paved and Gravel Areas:

- Paved and gravel areas should be inspected at least semi-annually for evidence of puddling and/or erosion.
- Drainage along curb lines or other shallow-concentrated flow areas shall be checked to ensure proper flow patterns.
- Corrective action should be taken immediately upon identification of problems.

3. **Documentation:** A log summarizing the inspections and any corrective action taken must be maintained. The log must include the name(s) and qualifications of the person making the inspections, the date(s) of the inspections, and major observations about the operation and maintenance of controls. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and locations where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. The log must be made accessible to

AVIII 217

- C. Fugitive sediment and dust: Actions must be taken to insure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control.
- D. Debris and other materials: Litter, construction debris, and chemicals exposed to stormwater must be prevented from becoming a pollutant source.
- E. Trench or foundation dewatering: Trench dewatering is the removal of water from trenches, foundations, cofferdams, ponds, and other areas within the construction area that retain water after excavation. In most cases, the collected water is heavily silted and hinders correct and safe construction practices. The collected water must be removed from the ponded area, either through gravity or pumping, and must be spread through natural wooded buffers or removed to areas that are specifically designed to collect the maximum amount of sediment possible, like a cofferdam sedimentation basin. Avoid allowing the water to flow over disturbed areas of the site. Equivalent measures may be taken if approved.

Att. B

From: "John Watson" <JWatson@thecedarsportland.org>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/18/2008 5:41:30 PM
Subject: Cedars Rehab Expansion

Hi Jean:

At your request, little bit of history with respect to stormwater and drainage of the Cedars site:

Cedars (Phase 1) was the original building constructed on this site and was completed in 1991. There were wetlands and an abundance of ledge that had to be considered in developing the site. The approved site plan for that project included the addition of an assisted living facility (Phase 2) which was never built due to lack of assisted living demand and abandoned in favor of an independent housing project (the Atrium) that was completed and opened in January 2000. That project required significant blasting of ledge as well as some wetlands mitigation required by the DEP.

Our latest project, The Osher Inn, was just completed and opened on August 5, 2008. That project required wetlands mitigation as well but no changes to the stormwater management design were deemed necessary by the land use consultant (LUC) or the city except for the front of our own facilities facing Ocean Avenue. An underground filtration system was required by the DEP to control the quality of stormwater and was installed as designed in the front of Cedars.

Prior to the start of that project, we had our land use consultants who designed the stormwater plan (LUC) come back and review the site a few years ago to address concerns raised about stormwater runoff (summer of 2005). They confirmed that the plan was installed as designed and was actually improving the runoff for the neighborhood. They concluded that water runs out through cracks in the ledge that forms the neighborhood as well as downhill from undeveloped property owned by JB Brown and settles in the lowest parts of the neighborhood as it always has. They recommended that we install gutters on the garage roofs and drain them into existing stormwater drains to redirect runoff to those drains, which we did. To further minimize runoff, we altered our snow plowing scheme three winters ago to prevent build up of plowed snow in the truck turnaround area abutting our neighbors to the rear of our facilities. Prior to changing that plowing scheme, we also had snow removed from our previous storage location to minimize snow melt at the truck turnaround.

Our current rehab expansion project has submitted a stormwater application to the MDEP (completed by Sebago Technics and dated August 18). The summary of that application states that there will be a "net decrease in impervious surface of 108 sq feet" and "no change to the land areas that are considered "Developed Area" as defined by MDEP". The scope of the project is small, "not expected to increase pollutant load in the post development condition" and "therefore, does not warrant modification of the existing stormwater management controls". This application and report are being currently reviewed by the MDEP.

B₂

Let me know if I can answer any questions you may have.

Sender:

S. John Watson, CFO

630 Ocean Ave.

Portland ME 04103

Main number: 207-772-5456

Direct dial: 207-221-7019

Fax: 207-874-2419

CONFIDENTIALITY STATEMENT

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify the sender at The Cedars immediately at either (207) 772-5456 or at jwatson@thecedarsportland.org and destroy all copies of this message and any attachments.

Att. C.

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2008-0126

Date: 9/10/2008

The project is located within an R-3 Zone which permits this institutional use. This small addition is an expansion of the existing use (sal-be-it small) but still requires conditional use PB approval.

All the R-3 Zone requiremnets including setbacks and lot coverage, height and parking are being met with this proposal.

Separate permits would be required for any new signage.

Marge Schmuckal
Zoning Administrator

MEMORANDUM



TO: Jean Fraser
FROM: Dan Goyette, PE
DATE: September 18, 2008
RE: Cedar's Rehab Center Expansion, 630 Ocean Avenue

Woodard & Curran has reviewed the Application for Site Plan Review for Cedar's Rehab Center Expansion located at 630 Ocean Avenue in Portland. A 1500 square foot expansion of the floor area.

Documents Reviewed

- Application and attachments for Site Plan Review for 630 Ocean Avenue, prepared by Sebago Technics, dated August 21, 2008.

Comments

- The proposal is going to decrease the amount impervious surface on the site and no grading changes are being proposed. Therefore, no stormwater impacts are anticipated.

Please contact our office if you have any questions.
DRG
203939.22

PLANNING BOARD REPORT #53-98

**SEAWARD HEIGHTS
VICINITY OF 733 OCEAN AVENUE
SITE PLAN AND SUBDIVISION REVIEW
TIMBERLAND DEVELOPMENT CORP., APPLICANT**

Submitted to:

Portland Planning Board
Portland, Maine

December 8, 1998

I. INTRODUCTION

Timberland Development Corp. is requesting review for a 30-unit condominium development in the vicinity of 733 Ocean Avenue. The site is located directly behind the existing Wellstone Condominiums. To the east of the site is Coles Express, which is located on Presumpscot Street. The site is 7.1 acres and zoned R-5. The development is proposed as a Planned Residential Unit Development (PRUD) and will be subject to site plan and subdivision review.

312 notices were sent to area residents. A legal ad appeared in the November 30th and December 1st editions of the Portland Press Herald.

II. SUMMARY OF FINDINGS

Zone:	R-5
Parcel Size:	7.1 acres
Number of Units:	30 units
Adjacent Land Use:	Residential, Industrial

III. PROPOSED DEVELOPMENT

The site is a "porkchop" shaped lot. The site has 174 feet of frontage on Ocean Avenue. The long portion of the property is where the proposed 24 ft. wide access road is to be located. The access road will be approximately 1,200 feet long. This roadway is planned to be privately owned and maintained.

The long portion of the site is where a CMP easement is located. The applicant has submitted an executed agreement with CMP that allows the access road to go through a portion of the easement.

The site is a heavily vegetated area that has been used by the surrounding area. There are many trails throughout the site. The parcel is also characterized by substantial ledge outcroppings. The area where the units are proposed is the highest point between Ocean Avenue and Presumpscot Street and from section of this site, Casco Bay is visible.

IV. STAFF REVIEW

The proposal has been reviewed for compliance with the Subdivision and Site Plan Ordinance of the Land Use Code.

V. SUBDIVISION REVIEW

1. Water and Air Pollution

The development will not result in undue water or air pollution.

2/3. Water

The applicant is proposing to tie into the existing 12 inch water line which terminates at the end of Wellstone Drive. The Portland Water District has submitted a letter indicating that they have sufficient capacity to serve this project for fire protection and domestic water service demands. The letter is included as Attachment A-7.

4. Soil Erosion

The applicant has included a sedimentation and erosion control plan with the proposed development.

5. Traffic

Access to the site will be from Ocean Avenue and will run through a CMP easement. The applicant is proposing a 24 ft. wide access road which will be approximately 1,200 feet long.

The applicant has shown a five (5) foot sidewalk along the frontage of Ocean Avenue and is proposing granite curb at the driveway radius. The ordinance states that sidewalk and granite curb shall be installed along the entire frontage of the site. The applicant is requesting a waiver of curb and sidewalk because of the amount of ledge in this area. As part of the original Wellstone approval, Wellstone was required by the Planning Board to install sidewalk along the frontage of their property. The City has tried to adhere to a strict sidewalk policy because eventually we hope to have a complete sidewalk network.

Each unit will connect to a 4 ft. wide sidewalk that will run along the parking areas and will connect to one another to continue down to the recreation area.

6. Sanitary/Stormwater

Sanitary

The applicant is proposing to dispose the sanitary waste from the project into the existing 8 inch sanitary line that terminates at Wellstone Drive. The applicant is currently in the process of obtaining a sanitary sewer capacity letter. Corporation Counsel is also currently reviewing documents as to whether Timberland Development has the rights to connect into existing utilities at Wellstone. A potential condition of approval is:

- that Timberland Development Corp. establish, to the satisfaction of the Corporation Counsel, their right, title & interest to access and utilize the Wellstone Condominiums utilities and emergency access road.

Stormwater

The development site is characterized by extensive ledge. In order to construct the units and the access drive, blasting and fill will occur.

Jim Wendel, Development Review Coordinator, has reviewed the plans and has provided comments which are included as Attachment G.

The site is at the top of a hill which slopes toward both Ocean Avenue and Presumpscot Street. Currently all the runoff from this site flows toward Presumpscot Street. The applicant is proposing that the runoff will flow toward catch basins, which will then connect to a detention basin below units #20 and 21. It will then be a controlled release from a 30' level lip spreader to sheet flow down the slope toward Presumpscot Street.

From the DRC's review, two major issues were raised. The first issue is a technical one. The applicant is basing the stormwater calculations on his position that the site is one watershed, therefore the post-development runoff will be less than the pre-development runoff. The DRC feels from a recent site visit and the topo map, that there are actually three (3) watersheds within the site. The applicant is proposing to combine the runoff from the three watersheds and then discharge all of it in the smallest watershed. Thus, this does not meet the City Stormwater Management Standard (Section V, 3B is included as Attachment H, which states that a development cannot increase runoff for *any* watershed.

The second and related issue is that all of the runoff will be concentrated into one basin and level lip spreader. It will then be released along the 30' spreader, down a wooded slope. It will then flow through private property to city structures within Presumpscot Street. Good cautious stormwater management would be to not concentrate runoff in one location. The soil condition along the slope is a shallow granular soil on ledge. This concentration of runoff could result in erosion or slope failure.

To summarize this issue, the drainage from the undeveloped site flows generally to the rear along the 600' rear property line, down the slope across the adjacent property to Presumpscot Street and into the Presumpscot River. The DRC reads the site to include three sub watersheds across the property line, while the applicant's engineer asserts that there is a single watershed, hence the disagreement about conformance with the pre and post development calculations.

Whether there is one watershed or three, the applicant proposes to collect stormwater which is presently sheeting across a 600' distance, and discharge it across a 30' level lip spreader, includes increases in quantity from the paved and built areas.

Some Board members might recall the site plan for the medical building at 1600 Congress Street. In a similar situation with stormwater discharging down a slope, five (5) level lip spreaders were installed to distribute the discharge in several locations, with the combined lip spreader distance of 290 feet on a 6.5 acre site with just under 700,000 sq. ft. of impervious surface.

In this project, with about 50,000 square feet of impervious surface in five plus acres, it is recommended that the discharge be distributed over a larger area, with multiple spreaders to avoid any possible downgradient impacts. The details and specifications for revised stormwater management should be submitted for review by the DRC, or the

Board might prefer to table this item until this issue is further resolved.

As mentioned above, the DRC's comments are attached. A potential condition of approval is:

- that the applicant revise the plan in accordance with the DRC's memo dated 12/4/98 regarding the distribution of the stormwater discharge over a larger area, additional spot grades in parking area and construction of roadway.

7. Solid Waste Disposal

The Condominium's Association will be required to contract with a private hauler for the removal of solid waste.

8. Scenic Beauty

This development will not cause an undue adverse effect on the scenic or natural beauty of the area aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural area.

9. Comprehensive Plan

This development meets the requirements of the City of Portland Comprehensive Plan.

10. Financial Capability

A letter of financial capability is included as Attachment A-12.

11. Groundwater

The development as proposed will not adversely affect the quality or quantity of groundwater.

12. Flood Hazard/Shoreline

The site is not located in the flood hazard or shoreland zones.

13. Wetlands

There are wetlands present in the vicinity of the proposed access road and approximately 6,900 sq. ft. of the wetlands will be impacted. The applicant has applied for a Tier 1 review under the Natural Resource Protection Act.

VI. SITE PLAN REVIEW

1/2. Traffic

The traffic comments have been consolidated in the subdivision review section.

3. Proposed Buildings

The development consists of a 3-unit (70 feet long) and a 4-unit building (95 feet long). There will be 8 buildings. The structures will be two-story townhouse style units. The facade will consist of cement board siding with decorative trim and porches. A sample of the cement board siding will be available at the Planning Board meeting. Facade elevations are included as Attachment K.

4. Sewer, Storm Drain and Water

The sewer, storm drain and water comments have been consolidated in the subdivision review section.

5. Landscaping/Existing Vegetation

The site is currently heavily vegetated and is a buffer for the Wellstone Condominiums from Presumpscot Street. Because of the extensive ledge and the blasting that will need to take place, the majority of the existing growth will be removed. A landscape plan has been provided. The applicant is proposing to preserve the vegetation in the easterly area of the site. This will provide a buffer from the Coles Express site and Presumpscot Street.

The landscape plan does show a screen planting between Wellstone Condominiums and the Seaward Heights project, although it does not state the species type or number of screening. The applicant is proposing maple, arborvitae, and mixed shrubs around the site.

The subdivision ordinance requires two trees per unit. The City Arborist has reviewed the landscape plan and is requesting a more complete landscape plan. The City Arborist is requesting that the applicant provide information regarding species of the mixed shrub plantings, the screen plantings and the trees proposed throughout the site. He is also requesting that they provide information regarding size of plantings and trees based on the standards provided in the City of Portland Technical and Design Standards and Guidelines. The applicant is proposing 12 trees. Based on the number of units, the applicant will need to provide 48 additional trees on the site. A potential condition of approval is:

- that the applicant revise the landscaping plan in regards to species type, sizes, and additional trees and submit to staff for review and approval by the City Arborist.

6. Soils and Drainage

Soils and drainage have been consolidated in the subdivision review section.

7. Exterior Lighting

The applicant is proposing thirteen (13), 15 ft. high, 150 watt, cut-off roadway luminaires along the access road and within the parking area. A photometrics plan is included as Attachment L. Lighting catalogue cuts are included as Attachment A-32.

8. Fire

The Fire Department has reviewed the proposed plans for emergency apparatus access and fire hydrant location and finds the plans to be acceptable. Both the City Fire Department and State Fire Marshall will permit and oversee the blasting operation once construction begins.

9. City Infrastructure

The proposed development will not place any strain on the City infrastructure as previously discussed in the traffic and stormwater section.

10. Planned Residential Unit Development Review

A. Design Relationship to Site

The main design theme of the proposed development is the preservation of the natural features of the site including ledge, woods, and wetlands. The applicant proposes to build the units and the road with the minimal amount of disturbance to the ledge and wetland areas.

B. Internal Design Character and Relationship to Surrounding Neighborhoods

The surrounding neighborhood includes a mixture of residential and industrial uses. The residential development range from single family home and condominium units.

C. Recreation and Open Space

1. External Buffers

The applicant proposes to preserve a buffer in the easterly area of the site. Where existing vegetation will be removed the applicant is proposing to plant additional vegetation to buffer the Wellstone neighbors from the condo units.

2. Internal Buffers

As mentioned in the landscaping section previously, the internal landscaping needs to be improved upon.

3. Active Recreational Open Space

The PRUD standards require 300 sq. ft. of active recreation space per dwelling unit. This area shall be a contiguous area with a minimum dimension of fifty feet and shall be level graded, dry, accessible and properly drained. Based on the number of units, the applicant is proposing 9,000 sq. ft. of open space area. The open space area is to the west of units 16-23. It is proposed to be located down the slope from the units. A sidewalk will connect the open space area to the units and will meet ADA regulations.

12. Condominium Documents

Penny Littell, Associate Corporation Counsel, has reviewed the condominium documents and finds them to be satisfactory.

VII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and material submitted by the applicant and on the basis of information contained in Planning Report #52-98 relevant to the standards of Site Plan and Subdivision Review, the Planning Board finds:

- a. Extraordinary conditions do/do not exist (if yes, please specify those conditions); or
- b. Undue hardship will/will not result (if yes, please specify the hardship).

The Board further finds that the granting of the waiver will/will not create potentially hazardous vehicle and pedestrian conflict or that it will/will not nullify the intent and purpose of the land development plan and the City ordinances.

As a result, the Board does/does not grant the request for a waiver of the curb and sidewalk requirements.

The Planning Board also finds:

- i. That the proposed development is/is not in conformance with the Subdivision Ordinance of the Land Use Code

Potential Conditions of Approval:

- that Timberland Development Corp. establish, to the satisfaction of the Corporation Counsel, their right, title & interest to access and utilize the Wellstone Condominiums utilities and emergency access road.
- that the applicant revise the plan in accordance with the DRC's memo dated 12/4/98 regarding the distribution of the stormwater discharge over a larger area,

additional spot grades in parking area, and construction of roadway.

- that the applicant revise the landscaping plan in regards to species type, sizes, and additional trees and submit to staff for review and approval by the City Arborist.
- ii. That the proposed development is/is not in conformance with the Site Plan Ordinance of the Land Use Code

Attachments:

- A. Submission from Applicant dated 8-4-98
- B. Condominium Bylaws
- C. Letter from Wellstone Condominium Association
- D. Letter from Applicant dated 11-3-98
- E. Letter from Applicant dated 11-16-98
- F. Drainage Study, Revised 11-16-98
- G. Development Review Coordinator's Memo
- H. City of Portland - Section V. Stormwater Management Standards
- I. Wellstone Plat
- J. Plans
- K. Elevations
- L. Lighting Photometric Plan

WARRANTY DEED

Marci Jacutone, of 22 Spadlowick Drive, Nashua, ~~HILLSBOROUGH~~ County, New Hampshire, for consideration paid, grants to Timberland Development Co. of 249 Middle Road, Falmouth, ~~CUMBERLAND~~ County, Maine 04105, with Warranty Covenants, the land in Portland, Cumberland County, Maine.

A certain lot or parcel of land situated on the southeasterly side of Ocean Avenue in the City of Portland, County of Cumberland and State of Maine, and being more particularly bounded and described in Schedule A, attached hereto and made a part hereof.

Being the same premises conveyed to by Wellstone Associates, Inc., by deed dated December 13, 1990 and recorded in the Cumberland County Registry of Deeds in Book 9385, Page 193.

Witness my hand and seal this 15th day of JUNE, 1998.

[Handwritten signature]

[Handwritten signature]
Marci Jacutone

STATE OF MAINE
COMMONWEALTH OF MASSACHUSETTS

4006

JUNE 15, 1998

Then personally appeared the above-named Marci Jacutone and acknowledged the foregoing to be her free act and deed, before me.

[Handwritten signature]
Notary Public *[Handwritten signature]*
STEVENA CAMPBELL
My Commission Expires: 4/1

SCHEDULE A

A certain lot of parcel of land together with the improvements thereon situated on the easterly side of Ocean Avenue, so-called, in the City of Portland, County of Cumberland and State of Maine being more particularly bounded and described as follows:

Beginning at an iron pipe set in the ground in the apparent easterly sideline of Ocean Avenue, said iron pipe marking the northwesterly corner of a parcel of land conveyed by Wellstone Associates, Inc. to Wellstone Partners by deed dated July 22, 1985 and recorded with the Cumberland County Registry of Deeds in Book 6234, page 203;

Thence S 60 degrees 52' 09" E along said land conveyed to Wellstone Partners a distance of 673.97 feet to an iron pipe set in the ground;

Thence S 32 degrees 25' 53" W along said Wellstone partners land a distance of 483.70 feet to an iron pipe set in the ground, a stone wall and land now or formerly of Clifford R. Card and Elizabeth M. Card;

Thence S 62 degrees 06' 53" E along said stone wall and land of said Card a distance of 363.22 feet to an iron pipe set in the ground, the point of intersection of two stone walls and land now or formerly of W. J. Foley Trucking Co.;

thence N 24 degrees 16' 33" E along said W. J. Foley Trucking Co. land a distance of 607.31 feet to an iron pipe set in the ground, a stone wall and land now or formerly of Edward H. Robinson;

Thence N 60 degrees 53' 43" W along said stone wall, land of said Robinson and land now or formerly of Gerald W. Oliver and Lurine Oliver a distance of 402.09 feet to an iron pipe set in the ground at an angle to said stone wall;

Thence N 35 degrees 03' 40" E along said stone wall and said Oliver land a distance of 34.34 feet to an iron pipe set in the ground;

Thence N 59 degrees 50' 40" W along said Oliver land and partially along a stone wall a distance of 369.61 feet to an iron pipe set in the ground in the apparent easterly sideline of Ocean Avenue;

Thence S 25 degrees 46' 44" W along the apparent easterly sideline of Ocean Avenue a distance of 174.59 feet to the iron pipe set in the ground marking the point and place of beginning.

Meaning and intending to describe a parcel of land containing 7.01 acres, more or less, and being a portion of the land conveyed to Fred I. Merrill, Inc., by Union Construction Co., Inc., dated March 1, 1978 and recorded in said Registry of Deeds in Book 4264, page 205. The above described premises are also shown as Lot 2 on a plan entitled "Standard Boundary Survey - Wellstone Condominium" by Sebago Technics dated June 19, 1985.

The above described premises are conveyed subject to certain easement 135' in width granted to Central Maine Power Company by Frederick T. Knowles, March 29, 1954 and recorded in said Registry of Deeds in Book 2173, page 112.

Bearings herein are based on a magnetic observation, February, 1984.

The above described premises are also conveyed subject to and together with the benefit of the "Emergency Access Drive" as the same is more fully described in deed from Wellstone Associates, Inc. to Wellstone Partners dated July 22, 1985 and recorded in the Cumberland County Registry of Deeds in Book 6834, Page 203.

Grantor also hereby conveys any and all right, title and interest Wellstone Associates, Inc. retained in and to the "Wellstone Drive 24' wide access and drainage easement to Lot 2", as the same is more fully shown on the plan above referenced.

Being all and the same premises conveyed to the Grantor herein by Wellstone Associates, Inc., by deed dated December 13, 1990 and recorded in the Cumberland County Registry of Deeds in Book 9385, Page 193.

USE AGREEMENT

This Agreement is entered into on this _____ day of July, 1998, by and between Central Maine Power Company, a Maine corporation with offices at 83 Edison Drive, Augusta, Maine 04336 ("CMP"), and Timberland Development, 249 Middle Road, Falmouth, Maine 04105 ("User").

WHEREAS, CMP has certain easement rights on a 135 foot strip of land designated as Transmission Section 180A in the Town of Portland, conveyed to it by a deed dated March 29, 1954 and recorded at the Cumberland County Registry of Deeds in Book 2173, Page 112 ("Parcel"). Said rights include the right to prohibit the construction or placement of structures on the Parcel and other actions which may interfere with CMP's use of the Parcel.

WHEREAS, User desires to use the Parcel under the conditions described in Attachment A hereto and made a part hereof.

NOW THEREFORE, CMP agrees that it will not object to the use described in Attachment A hereto provided the following terms and conditions are complied with:

1. User uses the Parcel only in accordance with the purposes, locations and conditions listed in Attachment A hereto;
2. Since CMP only has an easement interest in the Parcel, User is responsible for obtaining permission for the stated use from the fee owner of the Parcel, if necessary;
3. User shall notify CMP prior to commencement of construction on the Parcel;
4. This Agreement shall in no way encumber CMP's easement rights to operate and maintain a transmission line within the Parcel;
5. CMP shall not be liable to User for any damage to User's property on the Parcel caused by CMP's use of the Parcel for public utility purposes;
6. User shall be responsible for acquiring all necessary permits for said construction and shall comply with all municipal, state, and federal laws and regulations;
7. User shall notify the Dig Safe Call Center prior to commencement of any excavation on the Parcel at 1-800-225-4977 and comply with the provisions of both the Maine Dig Safe Statute Title 23, M.R.S.A. Section 3360-A and the Overhead High-Voltage Line Safety Act Section 751 et seq. Title 35A, Chapter 7-A.
8. This Agreement applies only to CMP's current use of the Parcel and the current laws and regulations affecting such use. This Agreement does not in any way

restrict CMP's right to assert that User's use of the Parcel infringes on CMP's rights in the future;

9. User for itself, its employees, agents, contractors, subcontractors, successors and assigns, releases CMP and its directors, officers, employees, contractors, agents, successors and assigns from all claims of any type or nature, it may now have or may have in the future, including but not limited to personal injury, death, damage to property or loss of business, sustained by User or any person or entity using the Parcel pursuant or related to this Agreement, except claims resulting from damage caused solely by the negligent acts of CMP;
10. User agrees to defend, at CMP's option, indemnify and hold harmless CMP and its directors, officers, employees, contractors, successors and assigns from and against any and all losses of any type or nature, including but not limited to claims, liabilities, penalties, expenses and judgments arising out of or related to the use of the property by User or its employees, contractors, subcontractors, agents, successors or assigns, excepting losses caused solely by the negligent acts of CMP;
11. In the event that CMP should rebuild, replace, re-space or relocate its transmission line within the Parcel, CMP shall not be responsible for any damage to User's improvements on the Parcel and CMP may require User to relocate User's improvements to avoid interference with CMP's use of the Parcel authorized by its said easement.

The parties hereto agree to the terms of this Agreement as indicated below by their signatures or the signatures of their duly authorized representatives.

CENTRAL MAINE POWER COMPANY

TIMBERLAND DEVELOPMENT

By: _____
Kenneth H. Freye, Principal
Real Estate Specialist

By: _____
Steven Searle, President

ATTACHMENT A

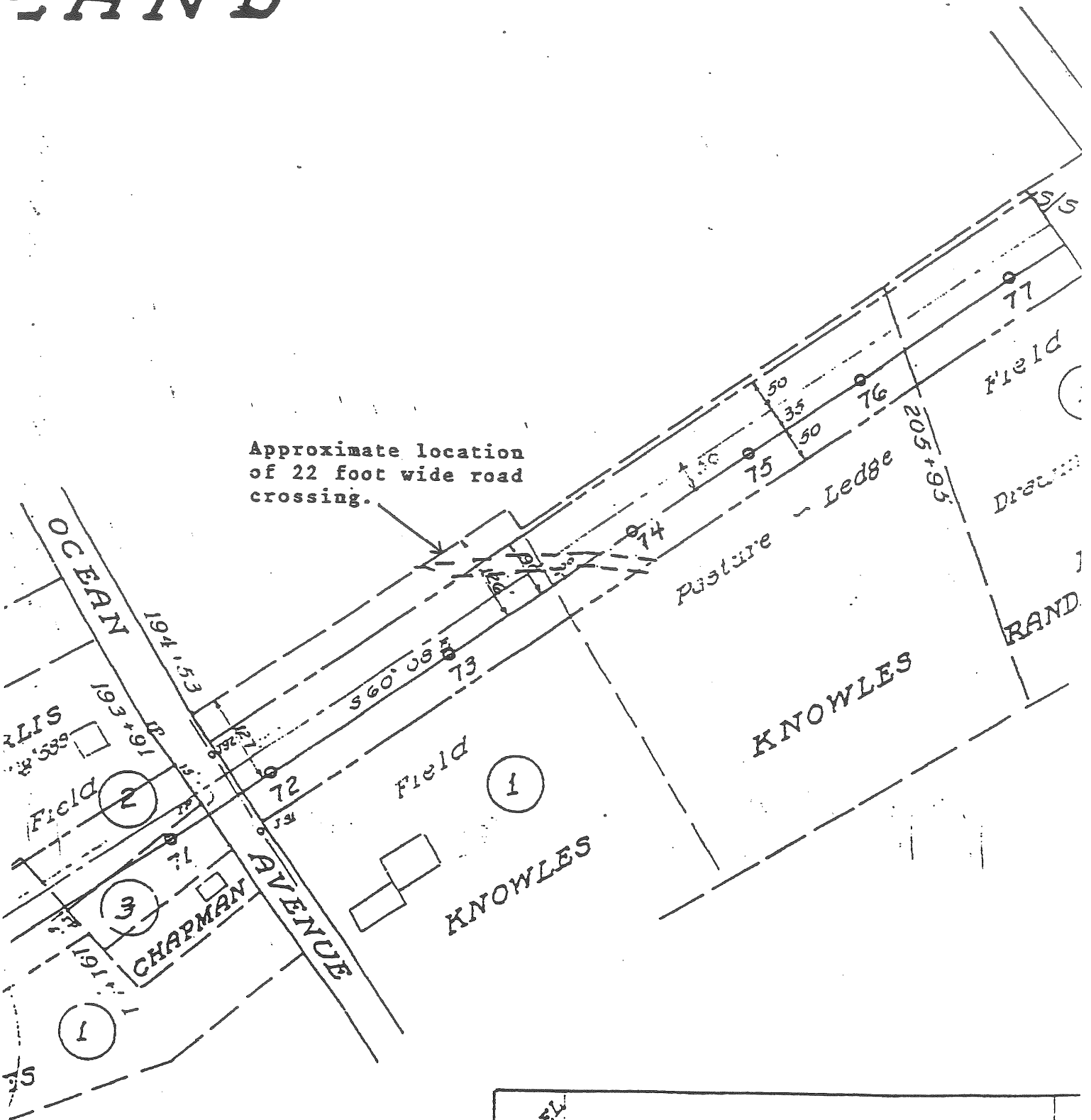
User intends to construct and maintain a 22 foot wide private access road together with the installation, construction, repair and maintenance of underground utilities, said utilities to include sewer and water lines, across CMP's transmission line corridor designated Section 180A between poles 73 and 74 and approximately as shown on the attached plan.

CONDITIONS

1. User is responsible for providing a copy of this Agreement to it's employees, contractors, subcontractors and/or agents. User may be asked to provide to the Company an acknowledgment of receipt of this Agreement by said employees, contractors, subcontractors and/or agents.
2. No piling of snow shall be allowed on the Parcel.
3. The ground elevation shall not be considerably increased or decreased beyond the existing grade.
4. No vehicles shall be parked or stored on the Parcel.
5. The edge of said roadway shall be 25 feet from CMP's poles and or guy wires.
6. Underground electrical utilities shall be installed with the limits of said 22 foot wide access road and said installation shall be coordinated with CMP's District Line Supervisor in Portland.
7. User will notify CMP prior to installation of any other underground utilities, such as water and sewer lines.
8. All construction, excavation, installations and repairs will be made in a safe and workmanlike manner so as not to interfere with the construction, operation or maintenance of the electric transmission or distribution lines of CMP on the Parcel and shall be at the sole risk and expense of the User
9. All work on the Parcel shall be in compliance with attached plan. Any deviation from said Attachment shall require prior written approval from CMP.
10. User shall not expand the use of the Parcel beyond what is stated in this Agreement.

9803

LAND



PARCEL	GRANTOR	L
1	George Wilson	4
3	Everett F. Chapman	1
2	Kenneth H. Corlies	1

98037

A-17

Maine Drilling & Blasting

July 23, 1998

James A. Thibodeau, P.E.
Associated Design Partners, Inc.
71 Federal Street
Portland, Maine 04101

Re: Seaward Heights
Ocean Avenue, Portland, Maine

Dear Mr. Thibodeau:

Thank you very much for the time and effort spent on our visit to the proposed site. We were able to inspect the site and to consider a safe, practical and efficient way to employ drilling and blasting. We do feel that the site is manageable for blasting and would be pleased to discuss it further with you if you desire.

I am enclosing a "Typical" Blast Plan for your perusal. I say, "Typical" because, while there are many items that will be in any plan, we do tailor our designs and operations to closely fit the site conditions, abutters, local conditions and, of course, your own specifications.

We do our own in-house Pre and post blast Surveys and claim services backed by the Liberty Mutual Insurance Companies. We have an extensive array of State of the Art Seismographs that we use to record every shot and our Blasting Foremen are experienced and multi-licensed in all the New England States.

If you have any questions please advise and I, or one of my associates, will be happy to meet with you at your convenience.

Sincerely,


Wayne Flagg, Division Manager

cc: Dick Rosenberg, Safety
: File

Maine Drilling and Blasting, Inc.
P.O. Box 1140
Brunswick Road
Gardiner, ME 04345
207 582-2338

Divisional Offices:
Maine 207 582-2338
Massachusetts 508 689-2983
New Hampshire 603 647-0299
Vermont/New York 802 479-3341

98037

A-18

DRAFT
(TYPICAL)

Blasting Plan
for
Seaward Heights

site prep.

Ocean Avenue
Portland, ME 04101

Thursday, July 23, 1998

Prepared By : Maine Drilling & Blasting, Inc. Gardiner, ME

Name

Title

98037

A-19

Divisional Office :

P.O. Box 1140
Brunswick Road
Gardiner, ME 04345

JobID : J#12345

Divisional Telephone: (207) 582-2338
Divisional FAX: (207) 582-8794

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General

Maine Drilling & Blasting considers safety as the priority during all phases of blasting operations. We are knowledgeable of and will follow all local, state and federal regulations related to transportation and use of explosives. The project specifications and conditions have been reviewed. Details of procedures for pre-blast surveys, explosives use, blast security, monitoring and documentation are enclosed.

Pre-Blast Surveys

Pre-blast surveys will be offered to all property owners within a 200 foot radius of the blast site. Appropriate notices will be given and appointments arranged for those owners who desire a survey. Pre-blast surveys will be conducted by Maine Drilling And Blasting. Results of those surveys will be documented through video or still photographs and appropriate narration or written reports.

Blast Monitoring

All blasts will be monitored by a representative of Maine Drilling & Blasting who has been properly trained in the setup and use of seismic monitoring equipment. At least one seismograph will be in use at all times. Placement of monitoring equipment will be at the nearest structures to the blast site. M D & B monitoring equipment will consist of Instantel type seismographs. Details are enclosed. Maine Drilling And Blasting will perform additional monitoring as required. Results of blast monitoring will typically be available before the next blast, usually immediately following a blast. Results can be reviewed and modifications can be made to the blast design for the next blast if necessary.

Sequence of Blasting

All blasting operations will be strictly coordinated with the project contractor, engineers, the Portland Fire Department, and General Contractor. Emphasis will be on the safe and efficient removal of the rock existing on this project without impact on none. Blasts will be developed so as to create adequate relief which will minimize ground vibrations and offer the greatest protection possible to the surrounding structures.

Blasting Procedures

1. Blasting operations shall commence after 8:00 AM and cease before 4:00 PM, Monday through Friday.
2. Blasting may not be conducted at times different from those announced in the blasting schedule except in emergency situations, such as electrical storms or public safety required unscheduled detonation.
3. Warning and all-clear signals of different character that are audible within a range of one-half mile from the point of the blast shall be given. All persons within the permit area shall be notified of the meaning of the signals through appropriate instructions and signs posted.
4. Access to the blasting area shall be regulated to protect the public from the effects of blasting. Access to the blasting area shall be controlled to prevent unauthorized entry before each blast and until the permittee's authorized representative has determined that no unusual circumstances exist after the blast. Access to and travel in or through the area can then safely resume.
5. Areas in which charged holes are awaiting firing shall be guarded, barricaded and posted, or flagged against unauthorized entry.
6. All blasts shall be made in the direction of the stress relieved face previously marked out or previously blasted.
7. All stemming shall be minimum as specified using clean, dry 3/8" crushed stone.
8. Blasting mats shall be used as necessary to cover blasts.
9. The Blasting Contractor shall insure that extra safety and judgment is exercised by his blaster to prevent the simultaneous blasting of numerous holes.

9/30/02

A-22

Blasting Mats

Blasting mats and backfill will be used to control excessive amounts of rock movement when blasting in close proximity to structures. Placement and number of mats are typically determined by the blaster. Mats will be placed so as to protect all people and structures on, or surrounding the blast site and property. Rubber tire type blasting mats will be utilized on this project and will be approximately 12' x 12' in size; Rubber mat @ 12' x 12' 38 lbs./s.f. = 5,472 lbs/ea.

Blast Security and Warning Whistles

Each blast will be preceded by a security check of the affected area and then a series of warning whistles. Communications will be made with job site supervisors, General Contractor, and local officials as required to ensure the safest possible operation. All personnel in the vicinity closest to the blast area will be warned. The Warning Whistles will follow the following sequence:

- 3 Whistles - 5 Minutes to Blast
- 2 Whistles - 1 Minute to Blast
- 1 Whistle - All Clear

The blast site will be examined by the blaster prior to the all clear signal to determine that it is safe to resume work. No blast will be fired until the area has been secured and determined safe.

Explosives

All explosives will be delivered to the job site on a daily basis. It is anticipated that there will be 1 to 4 blasts per day. There will be no overnight storage. Only the amount of explosives required to perform the day's work will be brought to the site. All explosives will be stored in approved magazines when not in use.

Enclosed are Technical Data and MSDS sheets for the explosive products proposed for use on this project. Any one of, or a combination of these products may be in use at any one time on the site.

Blaster Qualifications

All MD&B blasters on this job will be licensed in the State of Maine and have received various amounts of training in the safe use and handling of explosives. Additionally, MD&B blasters are familiar with all OSHA Regulations, State Regulations, and Federal Regulations regarding construction site safety, including transportation, use, and handling of explosive materials. Weekly safety meetings are to be held on site by the MD&B job foreman, with a record of that meeting returned to the MD&B office.

98031

A-23

Blast Vibration

Blast vibration will be monitored at the blast site, typically at the structure(s) closest to the blast site. Vibration limits will closely follow those limits described in the project specifications and the Maine Regulations. Blast designs will be modified as required to stay within the guidelines and meet project schedules as well. Blasting operations will be modified accordingly when approaching buildings and utilities. Enclosed are preliminary vibration calculations based on known distances to the structures of concern and anticipated initial blast designs.

Blast Reports

Enclosed is a sample of a M D&B Blast Report. This report will be filled out for each blast and copies supplied as needed.

Typical Blast Design

Enclosed are what would be considered typical blast designs for this project. Hole sizes, depths, spacings and loading information is provided. These designs are to be considered a good starting point. Modifications are usually made, if necessary, following the first blasts to meet control and seismic considerations.

980E
A-24

Blasting Personnel

All blasting operations shall be conducted by experienced, trained and competent persons who understand the hazards involved. Persons working with explosive materials shall:

1. Have demonstrated a knowledge of, and a willingness to comply with, safety and security requirements.
2. Be capable of using mature judgment in all situations.
3. Be in good physical condition and not addicted to intoxicants, narcotics, or other similar type of drugs.
4. The person(s) responsible for the explosives shall possess current knowledge of the local, State and Federal laws and regulations applicable to his work.
5. The person(s) responsible for the explosives shall have obtained a Certificate of Competency or a license as required by State law.

Licenses and Permits

M D&B is fully licensed and insured for the transportation, use, and handling of explosives. Evidence of insurance is supplied with the blast plan. Blasting permits will be applied for as required from the local authorities by the M D&B Blaster/Foreman when blasting is about to begin.

Blasting Personnel

All blasting operations shall be conducted by experienced, trained and competent persons who understand the hazards involved. Persons working with explosive materials shall:

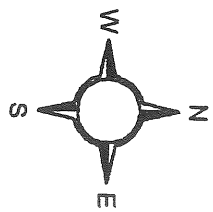
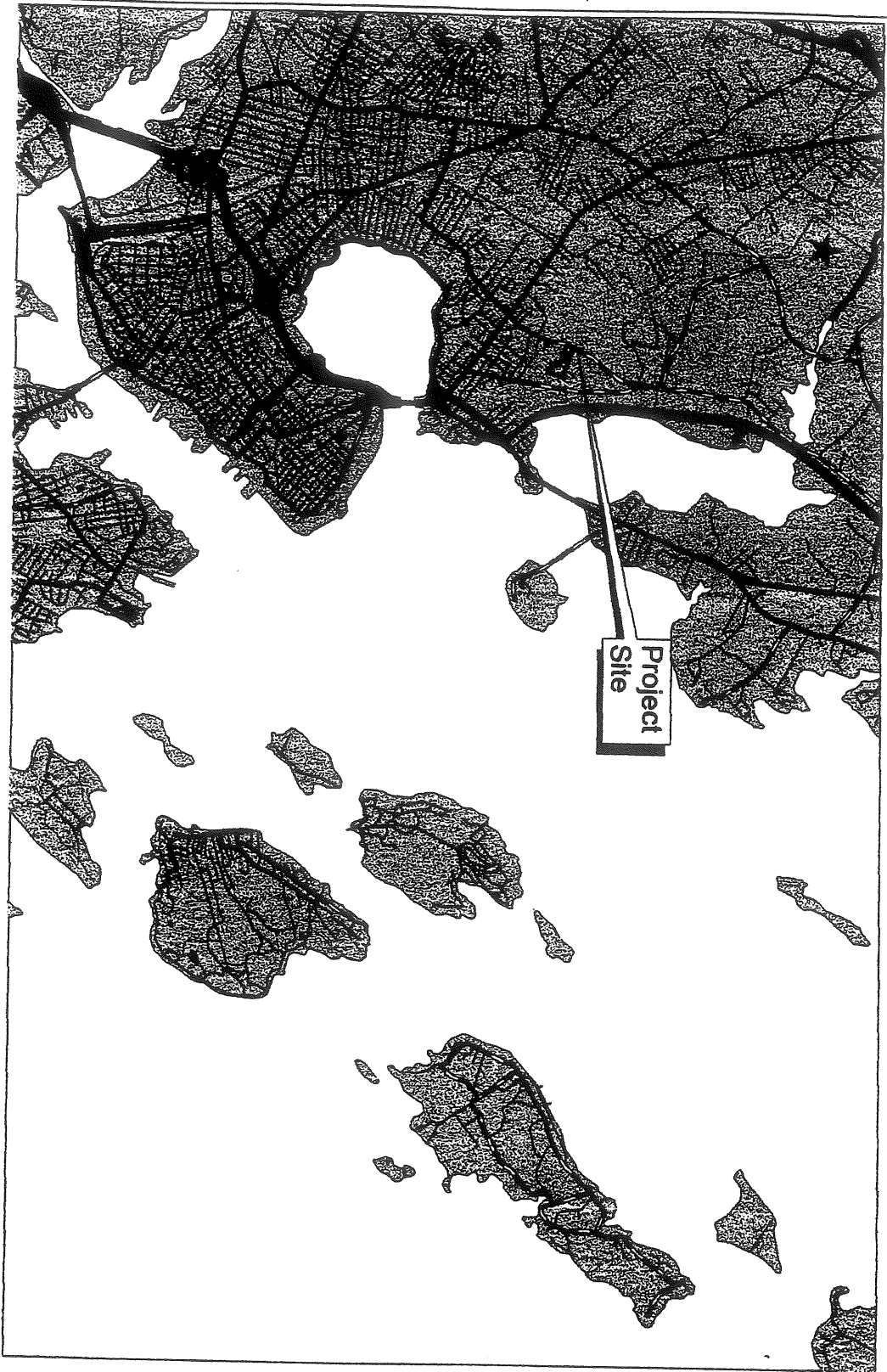
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IF&W Report Landmark Surveying Request for Information

07/29/1998



- Animal Species (BCD)
- Deer Wintering Areas - (NRPA)
- Lakes and Ponds
- Rivers
- Roads**
 - Dual Highway
 - Primary Highway
 - Secondary Highway
 - Light Duty Road
 - Unimproved Road
 - Trail
- IF&W Region**
 - A
 - B
 - C
 - D
 - E
 - F
 - G
- Permits/Requests**

Department of Inland Fisheries and Wildlife

(207) 657-2345



Biologist Notes

No Identified Mark...

93037

P.4

0004

A-27

HARDIPLANK® HARDIPANEL®

Fiber-Cement Siding

• The Warmth of Wood
the Durability Of
Fiber-Cement

• 50 Year Transferable
Warranty

• Resists Moisture Damage

• Low Maintenance

• Won't Crack, Rot
Or Deteriorate

• Withstands Termite
Attack

• 100% Comestible



James Hardie

**Extreme Durability.
Extraordinary Looks.**



95037

P.C.

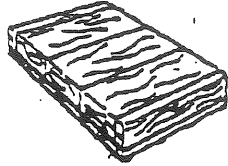
LAP SIDING - INSTALLATION INSTRUCTIONS

CEDARMILL * SMOOTH * COLONIAL SMOOTH * COLONIAL ROUGHSAWN

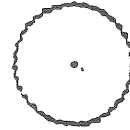
MARCH 1997

IMPORTANT: FAILURE TO INSTALL AND FINISH HARDIPLANK® PER JAMES HARDIE'S WRITTEN INSTRUCTIONS MAY EFFECT PRODUCT PERFORMANCE AND WILL VOID THE WARRANTY. LOCAL BUILDING CODE REQUIREMENTS ALSO APPLY.

HANDLING & STORAGE:
Store flat and keep dry prior to installation. Installing Hardiplank wet or saturated may result in shrinkage at butt joints. Carry on edge.



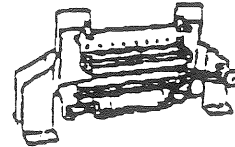
CUTTING OPTIONS:



Group size with carbide tipped blades



"SNAPPER STEEL HEAD" Electric Hand Shear



"SNAPPER SHEAR" Pneumatic Shear

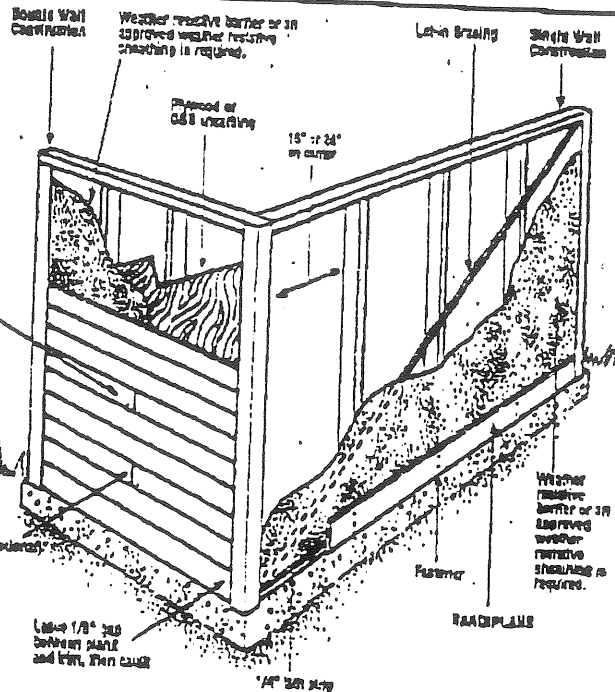
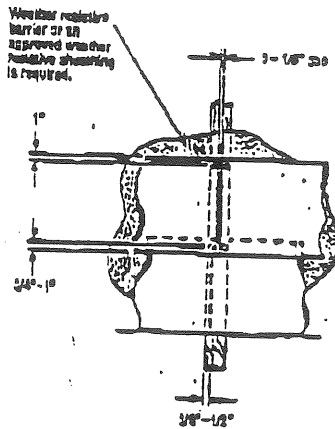


Saw and trap knife

The "SNAPPER STEEL HEAD" and "SNAPPER SHEAR"® Metals are available from Pacific Unimaterial Tool And Shear 1-800-297-9447

FRAMING REQUIREMENTS:
Hardiplank Lap siding can be installed over wood or steel studs spaced a maximum of 24" o.c. Hardiplank Lap siding can also be installed over foam insulation up to 1" thick. Irregularities in framing, sheathing and or foam insulation can mirror through the finished application. Weather resistive barrier or an approved weather resistive sheathing is required.

Figure #1

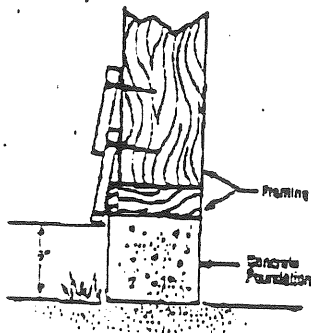


Top Edge
Fasteners should be placed 1" from top plank edge.

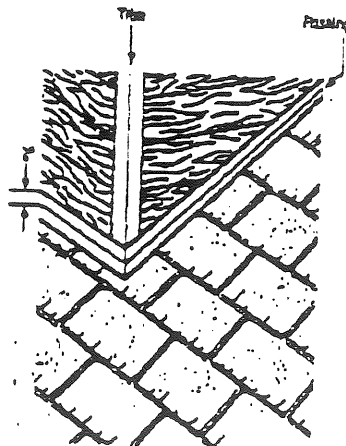
Side Edge
Fasteners shall be placed no closer than 3/8" and no further than 1/2" from the plank side edge.

Bottom Edge
Fasteners shall be placed no closer than 3/4" and no further than 1" from the plank bottom edge.

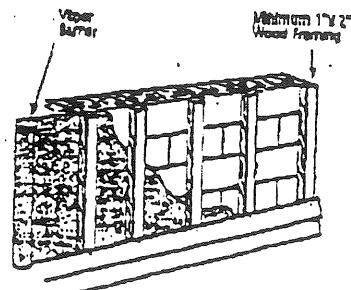
GRADE CLEARANCE: Figure #3
A minimum of 5" clearance is required between bottom edge of siding and earth or finished landscaping.



ROOF CLEARANCE: Figure #3
Leave 2" clearance between roofing and bottom edge of siding.



CONCRETE CONSTRUCTION: Figure #4
When Hardiplank is installed over concrete construction, the wall must be furred out with minimum 1"x2" wood framing or minimum 1/2"x2" (min. 20 gauge studs) metal hat sections anchored to the existing wall. Framing can be spaced up to 24" o.c. A vapor barrier is recommended between the framing and concrete wall.



continued on reverse side

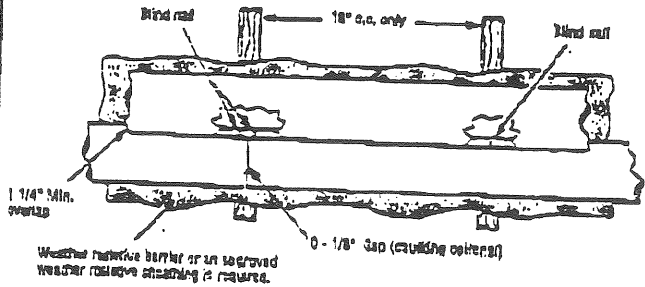
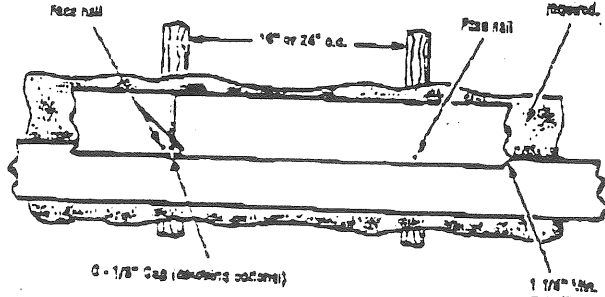
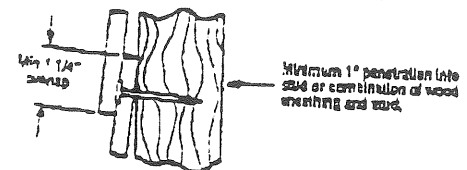
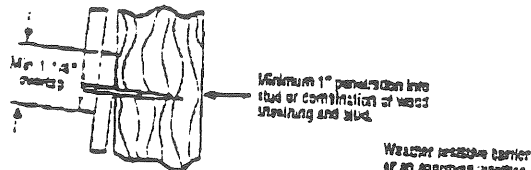
LAP SIDING - INSTALLATION INSTRUCTIONS

FACE NAIL: (All Lap Products) Figure 15

- Corrosion Resistant Nails (galvanized or stainless steel)
 - 6d (min. .118" shank x .267" HD)
 - Siding nail (min. .093" shank x .222" HD)
 - Nails must penetrate 1" into stud or combination of wood sheathing and stud.
- Corrosion Resistant Screws
 - Ribbed Bugle-head or equivalent (min. No. 8-18 x .323" HD x 1-5/8" long)
 - Screws must penetrate 1/4" or 3 threads into metal framing.

BLIND NAIL: Figure 16

- (HARDIPLANK™ cannot be blind nailed 24" on center. 12" HARDIPLANK™ cannot be blind nailed.)
- Corrosion Resistant Nails (galvanized or stainless steel)
 - 2.5" HARDIPLANK™
 - Roofing nail (min. .121" shank x .375 HD) 8.25", 8", 7.5", 6.25"
 - 8" HARDIPLANK™
 - Recommended: Roofing nail (min. .121" shank x .375 HD) or
 - 6d (min. .118" shank x .267" HD)
 - Minimum Requirement: Siding nail (min. .093" shank x .222 HD)
 - Nails must penetrate 1" into stud or combination of wood sheathing and stud.
- Corrosion Resistant Screws
 - (8.25", 8", 7.5", 6.25", 6" HARDIPLANK™ lap only)
 - Ribbed Bugle-head or equivalent (min. No. 8-18 x .375" HD x 1-5/8" long)
 - Screws must penetrate 1/4" or 3 threads into metal framing.



*The use of a siding nail may not be applicable to all installations where greater windloads or higher exposure categories of wind resistance is required by the Local Building Code. Consult Report No. NER-405 for specific details.

PNEUMATIC FASTENING:

Hardiplank Lap siding can be hand nailed or fastened with the use of a pneumatic tool. Hardiplank Lap siding may be installed over Extruded Polystyrene and Polyisocyanurate Foam Insulation using a pneumatic tool. Set your air pressure so that the fastener is driven snug with the plank surface.

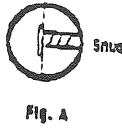


FASTENER REQUIREMENTS:

- Drive fasteners perpendicular to siding and framing.
- Fastener heads should fit snug against siding. (Fig. A)
- Do not over-drive tall heads or drive nails at an angle.
- If nail is countersunk, caulk nail hole and add a nail. (Figs. B & C)

RECOMMENDED:

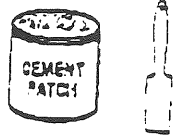
Use a flush mount attachment on pneumatic tool. This will help control the depth that the nail is driven. This will be especially helpful when more than one pneumatic tool is being used off the same compressor.



FINISHING HARDIPLANK:

Patching:

Dents, chips and cracks can be filled with a cementitious patching compound.



Caulking:

A high quality, paintable Latex caulk is recommended. For best results use a latex caulk that complies with ASTM C 934. Caulking should be applied in accordance with caulking manufacturers written application instructions. (Leave 1/8" gap at trim and caulk. Caulking at butt joints is optional)



Painting:

HARDIPLANK™ primed and unprimed are required to be painted with a minimum of one top coat of paint. FOR BEST RESULTS with unprimed Hardiplank™ Hardie recommends the application of two coats of 100% Acrylic paint, which can be brush, spray or roller applied. (For paint. Manufacturers paint specifications, refer to JH Technical Bulletin No. S-100)



PPPCVALS: HARDIPLANK™ Lap Siding is recognized as an exterior wall cladding in National Evaluation Report No. NER-405 (BOCA, ICCB, STC) City of Los Angeles, Research Report No. 14522; Metro-Dade County, Florida, Acceptance No. 34-1284 04, US Dept. of HUD Materials Research 1983 and City of New York MEA 223-18-84. These documents should be consulted for additional information concerning the suitability of this product for specific applications. For Technical assistance Call 1-800-8-HARDIE. Always wear safety glasses and dust protection when operating power tools. For information regarding just information, refer to the MATERIAL SAFETY DATA SHEET available wherever James Hardie Fiberglass products are sold. 11807 James Hardie Building Products

For Technical assistance Call 1-800-8-HARDIE



HARDIPLANK® HARDIPANEL®

Hardiplank and Hardipanel fiber-cement exterior sidings are durable, attractive alternatives to traditional wood composite cedar, vinyl, brick or stucco sidings.

Combining the look and warmth of natural wood with the durability of fiber-cement, Hardiplank and Hardipanel resist damage from extended exposure to humidity, rain, snow, salt air and termites. They are dimensionally stable and under normal conditions will not crack, rot or delaminate.

Hardiplank and Hardipanel install just as easily as natural wood siding—but offer a lifetime of low maintenance backed by a 50-year product warranty.

Ideal for residential and light commercial applications, Hardiplank lap siding is available factory primed in four attractive profiles. A variety of widths provide regional design flexibility.

Hardipanel vertical siding has excellent structural and impact properties and can be used as a shear panel. It is available in three sheet sizes and four distinct textures.

James Hardie also offers finishing touches like Hardiscffit and Harditrim in textures to complement the siding of your choice.

Product Specifications

Basic Composition/Size

Portland cement, ground sand, cellulose fiber, select additives and water.

Hardiplank and Hardipanel contain no asbestos, fiberglass or formaldehyde.

Hardiplank

Thickness: 5/16"
Weight: 2.3 lbs./sq. ft.
Width:

Smooth and Cedarmill

6 1/4" (5" exposure)
8 1/4" (7" exposure)
9 1/2" (8 1/4" exposure)
12" (10 3/4" exposure)

Colonial Smooth and Colonial Roughsawn

8" (3 3/4" exposure)

All Lengths:

12'

Hardipanel

Thickness: 5/16"
Weight: 2.3 lbs./sq. ft.
Sheet Sizes: 4' x 8', 4' x 9', 4' x 10'

Approvals

Hardiplank lap siding and Hardipanel vertical siding are recognized as exterior claddings in National Evaluation Service (NES), Inc., Report No. NER-405 (SCCA, ICBC, SBCCI); City of Los Angeles, Research Report No. 24862; Texas Department of Insurance; United States Department of Housing and Urban Development; and City of New York VEA No. 223-93-M. These documents should also be consulted for additional information concerning the suitability of this product for specific applications.

Durability

James Hardie fiber-cement building products are autoclaved, will not rot and resist permanent damage from water and salt spray.

Flexural Strength

Typical based on Equilibrium Moisture Content in accordance with ASTM test method C1185.

Along direction of sheet: 1850 psi

Across direction of sheet: 2500 psi

Non-Combustibility

Hardiplank and Hardipanel sidings are non-combustible and show no flame support or loss of integrity when tested in accordance with ASTM test method E-136.

Surface Burning Capabilities

When tested in accordance with ASTM test method E-84:

Flame Spread	0
Fuel Contributed	0
Smoke Developed	5

Thermal Resistance

(Approximate values)

5/16" thick: R = 0.15

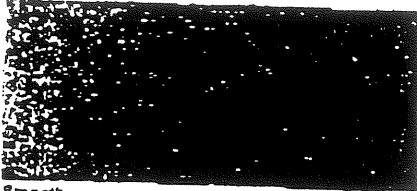
*Refer to National Evaluation Service Report No. NER 405.

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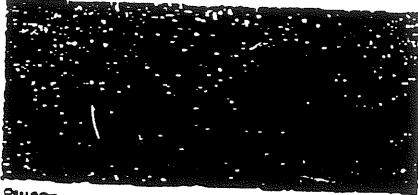
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Hardipanel

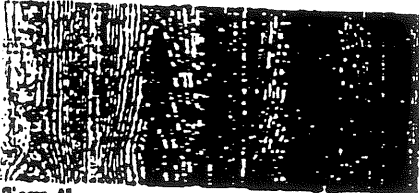
Hardipanel vertical siding is available in an array of beautiful textures: Smooth, Stucco, Sierra-3[®] and Sierra-4[®]. Sierra-3[®] provides a natural, rustic appearance with 5/8" grooves, 8" on-center and Sierra-4[®] offers a rough-textured appearance with molded grooves at 4" intervals. Smooth and Stucco textures help you achieve the exact look you want with the durability and reliability of a fiber-cement siding.



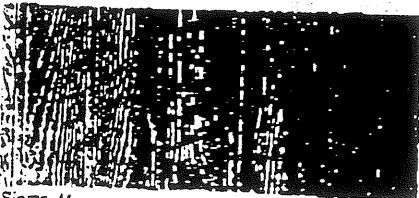
Smooth



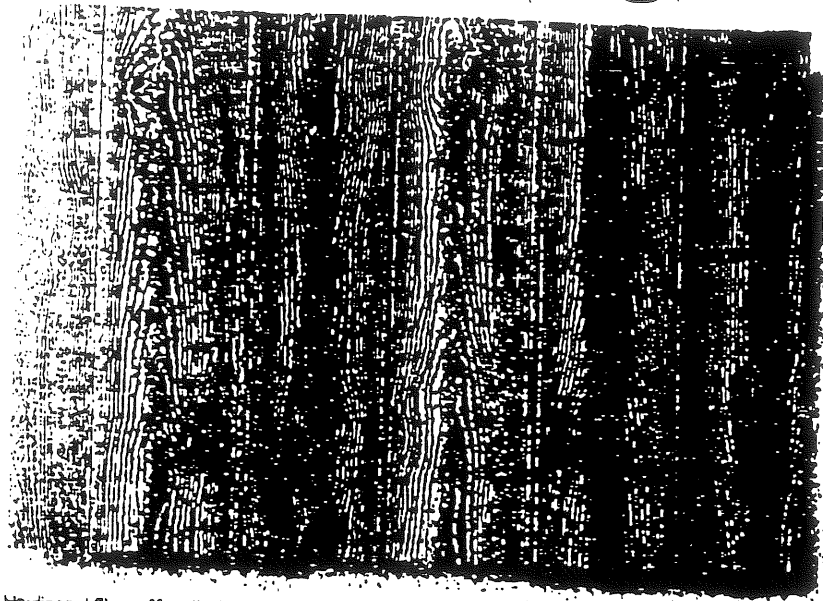
Stucco



Sierra-3[®]



Sierra-4[®]



Hardipanel Sierra-3[®] vertical siding



Hardipanel Stucco vertical siding

Factory Priming

Hardiplank and Hardipanel are also available factory primed. Our long-lasting, acrylic-based primer provides full, even coverage, furnishes an excellent surface for adhesion of latex or oil based topcoats and reduces in-place siding costs.



James Hardie exterior siding products are protected by a 50-Year Limited, Transferable, Product Warranty. Codes are available wherever James Hardie products are sold or from James Hardie Building Products.

HARDIPLANK[®]

HARDIPANEL[®]

Fiber-Cement Siding

 James Hardie[™]

1-800-9-HARDIE



26300 La Alameda, Suite 250, Mission Viejo, CA 92691

This product literature superseded all previously dated literature.

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UL
Listed For
Wall Mounting

A-32

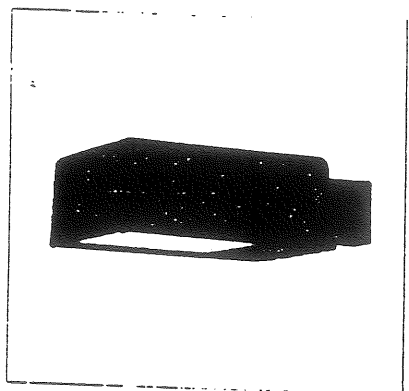
150 WATT

SAR Series

CUT-OFF AREA/ROADWAY LUMINAIRE

DIE CAST HOUSING

100 to 400 Watts
High Pressure Sodium
Metal Halide



SPECIFICATIONS

▲ APPLICATIONS

The SAR Series Luminaire is designed for downlight illumination of building perimeters, parks and recreation areas, parking areas, roadways, outdoor sales areas (Auto, equipment, etc.), sports courts and many other outdoor areas.

▲ CONSTRUCTION

Precision die-cast aluminum housing. One-piece construction eliminates the threat of leaking. Finished in Duraplex II™ architectural dark bronze polyester powder coat for superior resistance against the elements. One-piece die-cast aluminum lens frame fastened with captive corrosion resistant hardware. Heat and shock resistant tempered glass lens is permanently sealed to lens frame via liquid silicone. Lens frame assembly is sealed to housing via a one piece silicone rubber gasket. Premium porcelain socket, pulse rated for 4KV, equipped with vibration proof "lamp-grip" shell with reinforced center contact for positive fit.

▲ OPTICS

Reflector systems are designed to provide Types II, III and Forward Throw distributions. All are constructed from high grade, anodized aluminum lighting

sheet. Type II and III reflectors are hydro-formed. Forward Throw are formed, multi-segment designs.

▲ BALLAST

HX(H-IPF) or CWA(H-IPF) ballast as detailed are mounted to integral heat-sink for maximum heat dissipation to outside ambient. Ballast is Class H 180°C insulated, and capable of -20°F starting on Metal Halide, and -40°F on High Pressure Sodium. For 50 Hertz, 220/240 Volts consult factory. All ballast components are 100% tested to ensure maximum performance and reliability.

▲ INSTALLATION

Standard field installed extruded aluminum surface mounting arm provides easy installation to square poles. See accessories for mounting to round poles.

▲ LAMP

(Not supplied) Clear mogul base as detailed. Type II and Forward Throw metal halide optics use reduced outer jacket lamps.

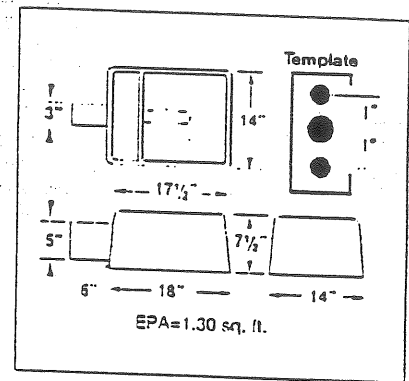
▲ USER PROTECTION

Published Five Year Limited Warranty

▲ NON STANDARD FINISH Available—SEE PAGE 6-18

OPTIONS - SEE PAGE 3-10
ACCESSORIES—SEE PAGE 3-11
PHOTOMETRICS—SEE PAGE 3-12

DIMENSIONS



ORDERING GUIDE

I.E.S. Type II Distribution	I.E.S. Type III Distribution	Forward Throw Distribution	Watts	Lamp	Base	Voltage	Ballast	Wt. (Lbs.)
METAL HALIDE								
SAR172MA	SAR173MA	SAR174MA	175	E/BT/ED-28	Mogul	Specify	CWA (HPF)	32
SAR252MA	SAR253MA	SAR254MA	250	E/BT/ED-28	Mogul	Specify	CWA (HPF)	34
SAR402MA*	SAR403MA	SAR404MA*	400	ED/BT-37	Mogul	Specify	CWA (HPF)	36
			400	ED/BT28	Mogul	Specify	CWA (HPF)	36
HIGH PRESSURE SODIUM								
SAR102LX	SAR103LX	SAR104LX	100	ED/ET-23.5	Mogul	Specify	HX (HPF)	34
SAR152LX	SAR153LX	SAR154LX	150	ED/ET-23.5	Mogul	Specify	HX (HPF)	36
SAR252LX	SAR253LX	SAR254LX	250	ED/ET-23.5	Mogul	Specify	CWA (HPF)	38
SAR402LX	SAR403LX	SAR404LX	400	ED/ET-18	Mogul	Specify	CWA (HPF)	42

Specify voltage: Standard H.I.D. fixtures are furnished with H-IPF ballasts and use the following numerical designations to indicate voltage: 1=120V, 2=208V, 3=240V, 4=277V and 5=480V. 8=Quad Volt ballasts (120V, 208V, 240V and 277V.) To specify, add voltage to catalog number. Quad Volt is standard.
Example: SAR403LX-8.

* Requires reduced outer jacket lamp.

ARCHITECTURAL AREA LIGHTING

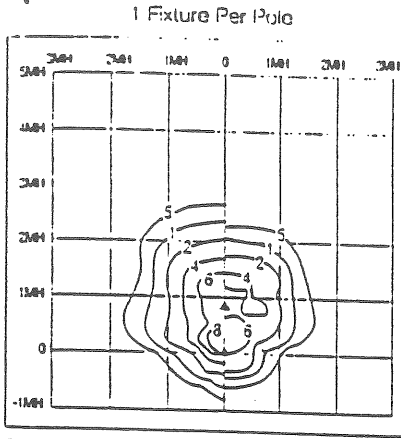
Exceline

Genlyte • P.O. Box 129 • Union • New Jersey 07083 • Tel (908) 964-7000 • FAX (908) 688-1388

LIGHTOLIER

SAR Luminaires - 150 to 400 Watts

98037
A-33



SAR404LX
LU400
50,000 Lumens
30' Mount. Hgt.
Forward Throw

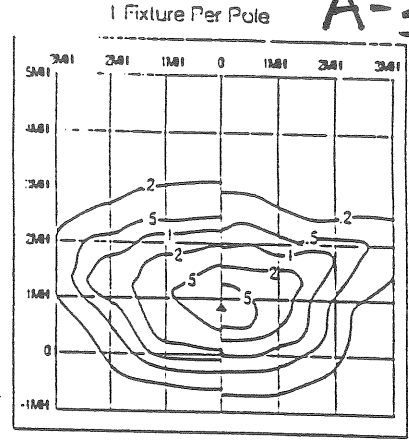
SAR404MA
MH400/U
34,000 Lumens
30' Mount. Hgt.
Forward Throw

Footcandle Correction
Different Lamps/Watts
Multiply the following factors times the footcandle values for changes in lamps/watts:

100W	HPS	1.0	400W	MH	1.0
250W	111'S	.55	250W	MH	.60
150W	MA	.32	175W	MH	.41

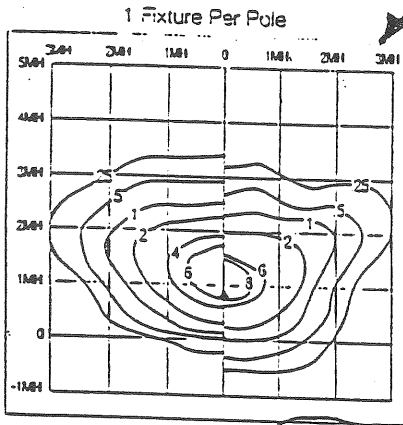
Different Mounting Height
Multiply the following factors times the footcandle values for changes in mounting height:

To Change From 30'					
New Height	20'	25'	30'	35'	40'
Factor	2.25	1.4	1.0	.73	.56



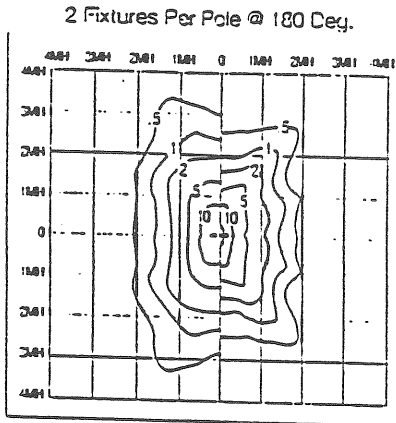
SAR402LX
LU400
50,000 Lumens
30' Mount. Hgt.
Type II Distrib.

SAR402MA
MH400/U
34,000 Lumens
30' Mount. Hgt.
Type II Distrib.



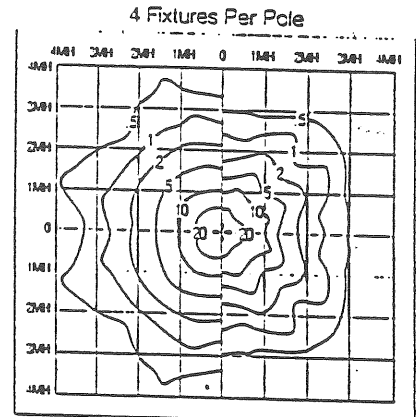
SAR403LX
LU400
50,000 Lumens
30' Mount. Hgt.
Type III Distrib.

SAR403MA
MH400/U
34,000 Lumens
30' Mount. Hgt.
Type III Distrib.



SAR403LX
LU400
50,000 Lumens
30' Mount. Hgt.
Type III Distrib.

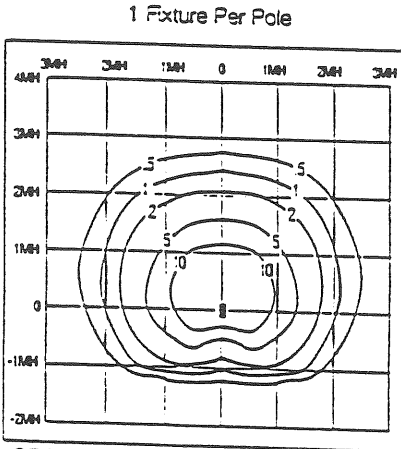
SAR403MA
MH400/U
34,000 Lumens
30' Mount. Hgt.
Type III Distrib.



SAR403LX
LU400
50,000 Lumens
30' Mount. Hgt.
Type III Distrib.

SAR403MA
MH400/U
34,000 Lumens
30' Mount. Hgt.
Type III Distrib.

SBR Cutoff Luminaires



SBR153NLXL
LU150/55/MED
16,000 Lumens
10' Mount. Hgt.
Type III Distrib.

Footcandle Correction
Different Lamps/Watts
Multiply the following factors times the footcandle values for changes in lamps/watts:

35W	HPS	.14	50W	MA	.21
50W	HPS	.25	70W	MA	.34
70W	HPS	.34	100W	MA	.45
100W	HPS	.60			
150W	HPS	1.00			

Different Mounting Height
Multiply the following factors times the footcandle values for changes in mounting height:

To Change From 10'					
New Height	5'	3'	10'	12'	15'
Factor	2.8	1.6	1.0	.69	.44