

307-B-19

Farnham St.
Subdivision
Al Waxler

on Spreadsheet



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.
GOVERNOR

MARTHA KIRKPATRICK
COMMISSIONER

July 31, 2002

Mark S. Plummer
P.O. Box 3824
Portland, Maine 04104

RE: Farnham Street subdivision project, Portland, Maine

Dear Mr. Plummer:

I am writing in response to the June 24, 2002 letter that you sent to Kristen Haley. I'm sorry that it has taken the Department several weeks to get back to you, but the issue you raised required some research and numerous consultations which took some time to complete.

After consulting with the attorney general's office and the Army Corps of Engineers, the Department has determined that the transition language in Section 480-X of the Natural Resources Protection Act does not apply to Farnham Street subdivision project. The original developer of the project had local approval for the project, but did not have the required federal wetland approvals. If you would like to set up a pre-application meeting to further discuss your proposed project, please contact me at 822-6329.

Sincerely,

Linda Kokemuller, SMRO Licensing Supervisor
Division of Land Resource Regulation
Bureau of Land and Water Quality

Cc: Peggy McCloskey

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AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688
RAY BLDG., HOSPITAL ST.BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-1507

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DEPARTMENT OF ENVIRONMENTAL PROTECTIONANGUS S. KING, JR.
GOVERNORMARTHA KIRKPATRICK
COMMISSIONER

SOUTHERN MAINE REGIONAL OFFICE

FAX TRANSMITTAL INSTRUCTIONS

DATE: 8-21-02

DELIVER TO: Penny Littlell

COMPANY NAME: City of Portland

FAX NUMBER: 874-8497

SENT BY: L.J. K
Of Maine Department of Environmental Protection

NUMBER OF PAGES (Including Cover): 2

*Send
copy to Bill
Needleman
then file
Portland St/
Walter*

Serving Maine People & Protecting Their Environment

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688
RAY BLDG., HOSPITAL ST.BANGOR
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BANGOR, MAINE 04401
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PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-1507

CHAPTER 603

Effective June 5, 1968

SUBDIVISION ORDINANCE

The subdivision of land and the development of a suitable physical design and human environment go far beyond the engineering of streets and public improvements as stated in this ordinance. Therefore, it is the intent of this ordinance to provide standards for street design and public improvements, but not to restrict the development of imaginative and progressive subdivisions.

Preamble

The purpose of the "Pre-application Procedure" is to afford the subdivider an opportunity to avail himself of the advice and assistance of the Planning Board, and to consult early and informally with the Board staff before preparation of the preliminary plat and before formal application for its approval, to insure the development of a subdivision plan with mutual benefits for the subdivider and the City. The Public Works Department should be consulted as early as possible to obtain standards for street construction.

Guidance to
subdivider

The subdivider should also consult with parties, such as lending and mortgage insurance institutions, with a view to reaching, at this initial stage, firm conclusions regarding what part of the market demand should be served, the suitability of the location of the proposed subdivision, the most advantageous subdivision plan, the arrangement of streets, lots and other features of the proposed development.

The die being cast in the preliminary design, opportunities are assured or lost. Good counsel on all parts of the problem is essential at this state. The subdivider is encouraged to engage a land planning specialist qualified to help him resolve the major factors into a workable and well-designed subdivision plan.

Section 603.1 This ordinance shall govern each and every subdivision of land within the limits of the City of Portland, Maine. When application is made for the re-subdividing of a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the sole owner of all rights in the recorded subdivision.

Jurisdiction
603.1

Section 603.2 Should any section or provision of this ordinance be for any reason held void or invalid, it shall not affect the validity of any other section or provision hereof which is not itself void or invalid.

Separability
and
severability
603.2

Section 603.3 Whenever reference is made to any portion of this ordinance or to any other ordinance or statute, such reference shall apply to all amendments and additions to said ordinances or statutes.

References
603.3Section 603.4Definitions
603.4

Alley: Any way designed primarily for vehicular or utility access to the back or side of premises otherwise abutting on a street, unless officially designated otherwise.

City: The City of Portland, Maine

Council: City Council of City of Portland

Engineer: A registered professional engineer in good standing with the Board of Registration for Engineers in the State of Maine.

Final Plat: The completed subdivision plat in form for approval and recording.

Lot: A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map or by metes and bounds, for the purpose of sale or lease to, or separate of, another.

Sketch Plan: A very simple layout to show the location of the subdivision and gain informal comments of Planning Staff.

Preliminary Plat: A tentative Plan for a proposed subdivision for presentation to the Planning Board for its consideration.

Roadway: That portion of a street between the regularly established curb lines, or that part of a street or alley devoted to vehicular traffic.

Sidewalk: That portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic.

Street: A public way for vehicular and pedestrian traffic, whether designated as a street, highway, thorough-fare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated, excepting, however, an alley.

Arterial Street: A heavily travelled street of considerable continuity and primarily a traffic artery among large areas.

Marginal Access Street: A minor street which is adjacent to and substantially parallel with an arterial street and which provides access to abutting properties and protection from through traffic.

Collector Street: A non-arterial street which carries traffic from a minor street to arterial streets, including the principal entrance to streets of a residential development and streets for circulation within such a development.

Minor Street: A street which services one or more minor streets used primarily for access to abutting properties.

**Cul-de-sac or
Dead-end Street:** A minor street with only one outlet.

**Planned Residential
Unit Development:** An improved subdivision consisting of attached dwellings in an R-6 Residential Zone, or a series of attached dwellings with open space and recreational areas which are common to all of said dwellings, which dwellings and open space and recreational areas are designed, built, laid out, and controlled in accordance with a unified plan, and which dwellings are each on a separate lot and intended for primarily separate ownership.

Effective 1/4/71

Subdivider or applicant: Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

Subdivision: The division of a lot, tract, or parcel of land into three or more lots, plats, sites, or other divisions of land, whether described by metes and bounds or by any other description, for the purpose, whether immediate or future, of sale or of building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Surveyor: A qualified Registered Surveyor of good standing with the Board of Registration in the State of Maine.

Section 603.5 - Procedure for Approval of Subdivision

603.5

1. Application for Approval

603.5.1

- (a) To obtain approval of a proposed subdivision the subdivider or applicant shall prepare for the Planning Board a sketch plan, a Preliminary Plat, a Vicinity Sketch, and a Final Plat in accordance with the requirements as set forth in Section 603.6 below.
- (b) The sketch plan shall be prepared for staff study only and the subdivider and Public Works Staff will resolve any difficulties before submission of the preliminary plat to the Board.
- (c) The subdivider shall supply and submit four copies of the Preliminary Plat and the Vicinity Sketch to the office of the Planning Board of the City of Portland at least 15 days prior to a regular scheduled meeting of the Planning Board, to be in order for consideration (by the Board) at that meeting.
- (d) The Planning Department shall forward a copy of the Preliminary Plat and Vicinity Sketch to the Public Works Department, Parks Department, Health Department (if septic tanks are necessary) and Building Inspection, all of which shall submit recommendations to the Planning Department by the time of the initial hearing on the Preliminary Plat.

Section 603.5.2 - Preliminary Plat Approval

603.5.2

The Planning Board shall approve, approve conditionally, or disapprove such Preliminary Plats at a regular meeting. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the Planning Board may require the subdivider to submit a revised Preliminary Plat. If the Planning Board should disapprove the Preliminary Plat, the reasons for such action shall be stated and given in writing to the subdivider, and if possible, recommendations made on the basis of which the proposed subdivision would be approved. One copy of the Preliminary Plat as acted upon by the Planning Board shall be retained in its office, one copy forwarded

to the Public Works Department and one copy returned to the subdivider.

603.5.3

Section 603.5.3 - Effect of Preliminary Plat Approval

Receipt of the approved copy of the Preliminary Plat by the subdivider is not authorization that he may proceed with the construction of any improvements. No construction will be inspected or approved by any City department until the final plat has been approved by the Planning Board.

603.5.4

Section 603.5.4 - Engineering Requirements

- a. Upon receipt of approval of the preliminary plat, the subdivider shall furnish the Public Works Department with all engineering data and plans necessary for the completion of the required improvements. Such plans shall be furnished apart from the Preliminary Plan and Vicinity Sketch and be certified by a Registered Professional Engineer.

603.5.5

Section 603.5.5 - Final Plat Filing and Execution

- a. The subdivider shall file the final Plat and five copies thereof, which copies shall be distributed as hereinafter provided to the Planning office five (5) days prior to the date of the meeting of the Planning Board at which it is to be considered.

603.5.6

Section 603.5.6 - Approval of the Final Plat

- a. Approval or disapproval of the Final Plat shall take place within 30 days after the date of submission to it of the Preliminary Plat. If Plat is disapproved, the grounds for refusal shall be stated in the minutes of the Planning Board and given in writing to the subdivider. The action of the Planning Board shall be shown on the final Plat with the date of action over the signatures of the persons authorized by the Planning Board to sign such Plats.
- b. Approval of the Final Plat carries with it the condition that the subdivider will file with the Planning Director the bond hereinafter required before such Final Plat is recorded.

603.5.7

Section 603.5.7 - Final Plat Fees

- a. When the Final Plat is approved, the subdivider shall pay the actual cost of recording and reproducing 5 copies of the Final Plat.
- b. The Final Plat shall be recorded in the office of the Cumberland County Registry of Deeds by the City.
- c. The Registry book and page numbers will then be recorded on the 5 copies of the plan, of which one shall be kept at the office of the Planning Board, one sent to the Public Works Department, one to the Building Inspector, one to the City Clerk and one to the subdivider.

Section 603.6 - Plat Requirements

603.6

Each and every modification, variance or waiver of this Section sought by the subdivider shall be applied for in numerical order of the Section in writing by the subdivider. The decision of the Board on such request shall be final.

Section 603.6.1 - Sketch Plan

603.6.1

At the option of subdivider.

Preliminary Plat

603.6.2

The Preliminary Plat shall show the following:

- a. Date, north point, title, and graphic scale: Scale shall not be more than 60 feet to the inch unless lots are more than an acre, but in no event more than 100' to the inch.
- b. Topography: Based on a recent survey by the subdivider, contours at six foot intervals will be shown on the plan. Existing structures which are to remain will be delineated.
- c. Streets: Names of proposed streets, width of rights-of-way, and a typical cross section.
- d. Other rights-of-way or easements: Locations, widths and purposes.
- e. Radii of all curves
- f. Utilities: Location of those existing on or adjacent to the tract to be subdivided, including size and elevation of buried or underground utilities.
- g. Lot Lines: Lot numbers and approximate sizes of lots.
- h. Names of adjacent property owners with parcels 25,000 square feet or larger or names of adjacent subdivisions.
- i. If any portion of the land of the proposed subdivision is subject to inundation by storm sewers or overflow or ponding by storm water, such fact and portion shall be clearly shown and identified.
- j. Proposed parks and school sites, or other public open space that the developer proposes to give to the City.
- k. Proposed method of sewage disposal.
- l. At the option of the subdivider, any other information that may be necessary for the full and proper consideration of the subdivision shall be submitted in writing.
- m. Names and addresses of engineer, subdivider and owner.

Section 603.6.3 - Vicinity Sketch

A vicinity sketch or key map at a scale of 200 feet to the inch shall be shown on/or accompany the Preliminary Plat. This sketch or map shall show all existing subdivisions, streets, and tract lines of acreage parcels, rights-of-way and roadway width of all streets and easements abutting the proposed subdivision, together with the names of the record owners of all large parcels of land immediately adjoining the proposed subdivision. It shall show how streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most reasonable and logical development of the entire area. All maps and data available in the City files will be made available to the subdivider upon request.

Section 603.6.4 - Final Plat

The Final Plat shall be an original drawing, in ink, on cloth, or as necessary to be acceptable by the Registry of Deeds, and shall be tied to an accepted street or to a proposed street under construction and bonded to insure construction. This Plat also shall show the following:

- a. Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines of lots, with accurate dimensions, bearings, or deflection angles, radii, acres, and central angles of all curves.
- b. Street names and width of street rights-of-way, roadways, sidewalks and other rights-of-way.
- c. Locations, dimensions and purposes of any easement.
- d. Number to identify each lot or site.
- e. Purpose for which sites, other than residential lots, are dedicated or reserved; it being understood that any reservations of areas for other than residential purposes shall be subject to the proper zoning thereof.
- f. Location and description of monuments. Iron pipes shall be designated by a small circle at the point of installation.
- g. Reference to recorded subdivision plats of adjoining platted land by book and page number.
- h. Title, graphic scale, north arrow, name and registration number or seal of the engineer or surveyor, and date.
- i. Space for the signatures of the Portland Planning Board.

Section 603.7 - Design Standards1. Street Plan

- a. All streets shall be platted along contour elevations which will result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.

- b. The proposed street layout shall be co-ordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.
- c. Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.
- d. Street right-of-way width - shall not be less than:
 - 1) 50 feet for marginal access street
 - 2) 50 feet for minor street
 - 3) 60 feet for collector street

Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-ways are inadequate shall provide additional land to meet the minimum standards.

- e. Streets shall not occupy more land than needed to provide access nor create unnecessary fragmentation of the subdivision into small blocks. Streets will be so designed to discourage outside traffic from traversing the development.
- f. The minimum roadway width including gutters and sidewalks shall be:
 - 1) 50' right-of-way - 32' pavement - 5' sidewalks and curb
 - 2) 60' right-of-way - 40' pavement - 5' sidewalks and curb
 - 3) Street right-of-way on the Islands in Casco Bay shall comply with Chapter 707 of the Municipal Code.
- g. Sidewalks and Curbs:
 - 1) Sidewalks shall be constructed on each side of each street in accordance with Chapter 707 of the Municipal Code. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic, with preference given to interior walks away from streets in common open space in block interiors.
 - 2) Curbs shall be constructed on each side of each street. The curbing shall be constructed as provided in Chapter 705 of the Municipal Code.

2. Street Design

603.7.2

After the subdivision layout has received the combined preliminary approval of the Planning Board and Department of Public Works, profiles of each street or way shown thereon shall be prepared. They shall be drawn to a longitudinal scale of 40 feet to 1' and a vertical scale of four feet to one inch. Such profiles shall include separate profiles of each side line and center line of said street or way. Any buildings abutting on said street or way shall be shown on said profiles. Standard Federal Aid Profile Sheet shall be used.

603.7.3

3. Street Grades

- a. Street grades in all proposed subdivisions shall be subject to the approval of the Department of Public Works.

603.7.4

4. Street and Subdivision Names

- a. Street names for all subdivisions shall appear on the preliminary plat and be subject to approval by the Planning Board.
- b. Subdivision names for plats shall be subject to approval by the Planning Board and not duplicate the name of any plat already recorded.

603.7.5

5. Alleys, Half Streets and Easements

a. Alleys:

Alleys will be permitted for access by utilities to the rear of the premises otherwise abutting on a street.

- b. Easement other than for watercourses shall not be less than 10 feet in width. Where there exists a storm water ditch, creek or any other such watercourse, the easement shall be of sufficient width that a watercourse may be installed and maintained efficiently. The location of any such watercourse, creek, or stormwater ditch shall not be changed without the approval of the Public Works Department.

603.7.6

6. Sewers and Surface Drains

- a. The design of all sewers and storm drains shall be subject to approval by the Public Works Director or his designated representative.
- b. All subdivisions shall be provided with adequate storm drain systems within the subdivision separate from any sanitary sewer system required in Chapter 707.
- c. Lakes, ponds, and creeks and similar areas will be accepted for maintenance only if sufficient land is dedicated as public park and recreation area and if such areas are part of the necessary drainage control system. Such areas must be approved by the Parks Department and be accepted by the City Council before final approval of the Plat.
- d. The approval of the Health Director is required for all subdivisions involving the use of septic tanks and drainage fields for sewage disposal.
- e. The subdivider shall be responsible for the construction of all sewers and storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by the Public Works Director. All work shall be in accordance with Public Works specifications.

Effective
7/18/73

7. Platting Requirements

603.7.7

a. Blocks

1. Block size shall be the maximum consistent with the use and shape of the site and the convenience and safety of the occupants.
2. Blocks with lots having double frontage on streets shall be avoided.
3. The foregoing dimensions may be adjusted by the Planning Board where type of use and/or topography requires such modification.

b. Lots

1. Lot sizes shall conform to the City of Portland Zoning Ordinance and the City of Portland Health Code.
2. Where easements for public utilities, storm or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.

Section 603.8 - Public Areas

603.8

- a. In all subdivisions open space shall be provided for parks, recreational, and other public areas when there are no such facilities in close proximity to the development. The acceptance of lands for these purposes shall be first recommended by the various departments and Planning Board and sent to the City Council for final determination.

Section 603.9 - Required Improvements - Bonds

603.9

1. Improvements

Prior to the release of the approved Final Plat the subdivider shall file a bond as hereinafter provided, and prior to release of such bond the subdivider shall have completed all improvements as follows:

- a. All streets shall have been graded in conformity with the requirements set out in Section 603.7 and in accordance with Chapter 707 of the Municipal Code.
- b. On all streets, side streets, and alleys, a suitable hard surfaced permanent pavement shall be installed, meeting the requirements set forth in Chapter 707 of the Municipal Code.
- c. Water, gas and sanitary sewer mains and storm drains shall have been constructed prior to the installation of paving with all mains being extended and all lots having sufficient stub outs to insure no subsequent breaking of pavement.
- d. Sidewalks and curbs shall be constructed as required in Section 603.7.

- e. Adequate storm drains shall have been constructed subject to the provisions of Section 603.7 and in accordance with the Department of Public Works specifications.
- f. At least one tree per lot shall have been planted in the esplanade as directed by the Park Department's "Specifications for Tree Planting by Subdividers".
- g. Monuments - Monuments will be set as prescribed by the Public Works Department.
- h. All utility lines and equipment shall have been placed underground or been designed and located in such manner that its appearance is suitable for above ground installation.

603.9.2
Effective
7/18/73

Section 603.9.2 - Bond and Surety - Amount and Release

- a. Bonds shall be required to insure the fulfillment of the above requirements, as well as the requirement in Chapter 707 that the subdivider shall give the City prior to acceptance of the street as a public street a deed to the property within each street within the subdivision. Such bond shall specify the completion of the improvements required in the subdivision and delivery to the City of the deed or deeds to the streets within twenty-four months from the date of such bond.
- b. The bond shall not exceed 100% of the estimated cost of the improvements. The surety shall not be released from said bond except by a release in writing from the Director of Public Works and the Planning Board. In the event acceptance of the street as a public street and delivery of the deed cannot be completed prior to the date of expiration of the bond, the subdivider shall be required to extend his bond covering such subdivision, or secure a new bond, for such further period and in such amount as said Director of Public Works shall deem necessary provided that the Director of Public Works shall present to the Council a petition for acceptance of said streets within nine months after receipt of the petition for acceptance and certification by him that the streets were constructed according to the standards set forth in Chapter 707 of the Municipal Code.

603.9.3

Section 603.9.3 - Extension of the Bond Period

- a. When the subdivider constructs street and sewer improvements and the Director of Public Works has reasonable doubt concerning the stability or proper construction of such improvements, the subdivider shall be required to do such further work on said improvements as said Director of Public Works shall order before said improvements will be accepted by the City. In the event the subdivider's current bond shall expire before the extent or necessity for such further work can be determined, the subdivider shall be required to extend his bond covering such improvements, or secure a new bond, for such further period and in such amount as said Director of Public Works shall deem necessary.

603.10

Section 603.10 - Variances

- a. Where the Planning Board finds that extraordinary conditions

exist or that undue hardship may result from strict compliance with these regulations, it may vary the regulations, except for the requirement of sidewalks and curbing, so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the Comprehensive Plan and these regulations.

Section 603.11 - Modifications

603.11

- a. The standards and requirements of these regulations may be modified by the Planning Board in the case of a plan and program for a neighborhood unit, which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such covenants or other legal provisions as will assure conformity to and achievement of the Comprehensive Plan.

Section 603.12 - Conditions

603.12

In granting variances and modifications, the Planning Board may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements so varied or modified.

Section 603.13 Procedure for Approval of a Planned Residential
Unit Development

603.13
Effective
1/4/71

1. Preliminary Plat

The applicant shall submit a preliminary development plat to the Planning Board for review, which shall include the following:

- (a) Proposed site plan, showing building locations and land use areas.
- (b) Proposed traffic circulation, parking areas, pedestrian walks and landscaping.
- (c) Proposed construction sequence for buildings, parking spaces and landscaped areas.
- (d) Proposed time table for completion of the entire project, or for completion of each section if the project is to be done in stages.

The Planning Board shall review the preliminary plat and shall submit to the applicant for clarification and solution any anticipated problems which might arise due to the proposed development.

2. Final Plat

The applicant shall submit a full development plat to the Planning Board for review, which plat shall be prepared by an architect, landscape architect, engineer, land surveyor or planning consultant and shall contain the following information:

- (a) Survey of the property, showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, rights-of-way, and land use.
- (b) Site plan showing proposed building locations and land use areas.
- (c) Traffic circulation, parking areas and pedestrian walks.
- (d) Landscaping plans, including site grading and landscape design.
- (e) Preliminary drawings for buildings to be constructed in each phase, including floor plans, exterior elevations and sections.

- (f) Preliminary engineering plans, including street improvements, drainage system, and public utility extensions.
- (g) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development as required by the Planning Board after its review of the preliminary plans.
- (h) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.

This development plat shall be in general conformance with the approved preliminary development plat. Approval shall be secured by the applicant for each phase of the development.

3. Findings of Planning Board

The Planning Board, after determining that all the requirements of the Zoning Ordinance and other applicable codes have been met, shall within 30 days of receipt of the development plan, recommend the approval, approval with modifications, or disapproval of the development plat. The Planning Board shall enter its reasons for such action in its records. The Planning Board shall base its recommendations upon the following findings:

(a) General Standards:

- (1) That the planned residential unit development shall conform to applicable zoning ordinances and other applicable codes.
- (2) That the planned residential unit development shall be consistent with any applicable urban renewal plan.
- (3) That the planned residential unit development will not be detrimental to present and potential surrounding uses, but shall be in harmony with any existing or proposed development in the area surrounding the project site.
- (4) That existing and proposed utility services are adequate for the proposed development.
- (5) That the planned residential unit development shall include an area of at least one acre of contiguous land.

(b) Design Standards

- (1) All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and blocks.

- (2) Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide visually and physically integrated development.
- (3) Treatment of the sides and rear of all buildings within the planned development shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.
- (4) All building walls shall be so oriented as to insure adequate light and air exposures to the rooms within.
- (5) All buildings shall be arranged as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- (6) All buildings shall be arranged as to be accessible to emergency vehicles.

(c) Landscape Design Standards

- (1) Landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project.
- (2) Primary landscape treatment shall consist of shrubs, ground cover, and street trees, and shall combine with appropriate walks and street surfaces to provide a development pattern. Landscape materials selected should be appropriate to the growing conditions of the City's environment.
- (3) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.

(d) Circulation System Design Standards

- (1) There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, offstreet parking and loading space. Roads, pedestrian walks and open space shall be designed as an integral part of an overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped.
- (2) There shall be an adequate amount, in a suitable location, of pedestrian walks, malls and landscaped

spaces to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks, malls and public transportation loading places from general vehicular circulation facilities.

- (3) Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (4) Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
- (5) The location and design of pedestrian walks should emphasize desirable views of new and existing development in the area.
- (6) The maximum separation of private automobiles and service vehicles shall be provided through the use of separate service lanes.
- (7) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of durable quality and easily maintained.

(e) Parking and Loading Design Standards

- (1) Parking and loading facilities shall be landscaped to the extent necessary to eliminate unsightliness and monotony of parked cars.
- (2) Pedestrian connections between parking areas and building shall be via special pedestrian walkways and/or elevators.
- (3) Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access, and shall be developed as an integral part of an overall site design.

4. Application of other Sections

All other sections of the Subdivision Ordinance shall apply to the approval of planned residential developments to the extent that they do not conflict with the provisions of this section.

MEMO

TO: Bill Needelman, Senior Planner
City of Portland
Planning Department

FA: 756-8258
Tel: 874-8721

RE: July 26, letter

FROM: Mark S. Plummer

Date: August 14, 2002

Bill - Have you heard from Corporation Counsel.

Thanks,

Mark

Department of Planning & Development
Lee D. Urban, Director



CITY OF PORTLAND

Division Directors
Mark B. Adelson
Housing & Neighborhood Services

Alexander Q. Jaegerman, AICP
Planning

John N. Lufkin
Economic Development

July 26, 2002

Mr. Mark S. Plummer
Homecore Inc. and F. S. Plummer Co. Inc.
P.O. Box 3824
Portland, Maine 04104

Re: Farnum Street subdivision

Dear Mark:

Thank you for your letter dated July 22, 2002 regarding your request that the City drop its requirement for DEP approval for construction of the 22-lot subdivision. City Corporation Counsel is looking into your request and will provide a written response within the next two weeks. Thank you.

✓ Bill Needelman, Senior Planner

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Sarah Hopkins, Development Review Program Manager
Penny Littell, Associate Corporation Counsel

Department of Planning & Development
Lee D. Urban, Director



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Bill Needelman, Senior Planner

Two handwritten signatures in blue ink. The first signature appears to be "Bill Needelman" and the second is a cursive signature, possibly "WBH".

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Sarah Hopkins, Development Review Program Manager
Penny Littell, Associate Corporation Counsel

July 22, 2002

William Needleman, Senior Planner
Planning Department
City of Portland
Congress St.
Portland, Maine 04101

Via Fax-7568258

RE: Farnham St.-City requirment to produce D.E.P.
letter.

Dear Bill,

After further thought I believe that the Citys requirement to produce a letter from the D.E.P.on wetlands is in violation of the Court Order that exists on this project.

I base this belief on the following:

1. The City had no requirement concerning wetlands in 1979.
2. The parcel in question was not wetland in 1979.
3. The D.E.P.in 1979 did not require permits for wetlands in 1979.
4. The present statute clearly states that this project is exempt.(see statute page 21previously submitted)
5. The Court Order is clear-The City is required to allow this project to proceed based on 1979 processes, and Ordinances.

I request that you(the City)drop its request for a letter from the D.E.P..I ask that this be committed to writing.

Thank you in advance for you cooperation.

Regards,



Mark S. Plummer
Homecore Inc. &
F.S.Plummer Co., Inc.

389 Congress Street, 4th Floor
Portland, ME 04101
(207)874-8721 or (207)874-8719
Fax: (207)756-8258

**City of Portland
Planning and Development Department
Planning Division**

Fax

To: Kristen Haley Company: DEP
Fax: 822-6303 Date: 7-22-02
From: Bill Neederhman

Comments:

Re. Farum St. FYI

You should receive _____ page(s), including this cover sheet. If you do not receive all of the pages, please call (207)874-8721.

July 22, 2002

William Needleman, Senior Planner
Planning Department
City of Portland
Congress St.
Portland, Maine 04101

Via Fax-7568258

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Regards,



Mark S. Plummer
Homecore Inc. &
F.S. Plummer Co., Inc.

F.S. Plummer Co., Inc.
P.O. Box 3824
Portland, Maine
04104

facsimile transmittal

To: William NEEDHAM From: MARK J. PLUMMER
Fax: 756-8258 Date: 7/22/02
Phone: 874-0300 Pages: 2
Re: Franham & CC: ECON. DEV.

☐ Urgent ☐ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle

Notes:

NOTICE: The documentation included in this telecopier transmission may be in the nature of confidential communications which are subject to certain privileges against disclosure recognized by law. The use of telecopier transmission as a means of communications is not intended to waive or abrogate any such privilege. Please be sure to deliver this transmission to the recipient as soon as it is received.

If there is any problem or question with respect to the transmission of these documents, please call the sender at the above telephone number

July 22, 2002

William Needleman, Senior Planner
Planning Department
City of Portland
Congress St.
Portland, Maine 04101

Via Fax-7568258

RE: Farnham St.-City requirment to produce D.E.P.
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Dear Bill,

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Thank you in advance for you cooperation.

Regards,



Mark S. Plummer
Homecore Inc. &
F.S.Plummer Co., Inc.

To: Bill Needleman
CC:
From: Penny Littell
Date: June 18, 2002
Re: Farnum Street

Bill: I went through the current ordinance and compared it to the 1979 ordinance. Attached is the current ordinance. The highlighted sections are found in both the current and the 1979 ordinance. Where there was a difference I noted the same in capitalized and underlined font. Where the text is not highlighted, then it was NOT included in the 1979 ordinance. I hope this helps.

PS. City Council
wanted to know
if you could

ARTICLE IV. SUBDIVISIONS*

WAXLER

*Cross reference(s)--Ordinances dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-4(h).

State law reference(s)--Land subdivisions, 30-A M.R.S.A. § 4403.

Sec. 14-491. Authority and purpose.

This article is adopted pursuant to the terms and provisions of 30-A M.R.S.A. Sections 3001 and 4403, as amended. The purpose of this article is to provide for the harmonious and economic development of the city; for the orderly subdivision of land and its development; for the orderly development of the general area surrounding such subdivision; for the coordination of streets within the general area; for adequate provisions for drainage, flood control, light, air and other public purposes; for the adequate and proper installation of streets, drainage, sanitary sewers, water and other utilities and facilities; for the dedication to the city of land for streets, alleys or other public purposes or the transfer to the city of easements or other rights or privileges; for the reservation for the city of land to be acquired for public facilities; and to protect public safety.

(Code 1968, § 603.1; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 155-89, § 1, 11-20-89)

Sec. 14-492. Jurisdiction.

This article shall govern each and every subdivision of land within the limits of the city unless specifically exempted in section 14-508. When application is made for the resubdividing of a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the owner of rights in the recorded subdivision.

(Code 1968, § 603.3; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-493. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Alley shall mean any way designed primarily for vehicular or utility access to the back or side of premises otherwise abutting on a street, except driveways unless officially designated otherwise. THE SAME EXCEPT THE WORDS "EXCEPT DRIVEWAYS" NOT INCLUDED

Easement shall mean a right, privilege or liberty which one has in land owned by another for some special and definite purpose.

Engineer shall mean a registered professional engineer in good standing with the state board of registration for engineers. THE SAME

Esplanade shall mean that portion of a street right-of-way which is located between the curbline and the edge of the sidewalk closest to the street.

Freshwater wetland shall mean freshwater swamps, marshes, bogs and similar areas which are:

- (a) Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- (b) Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

Land development plan shall mean any part or element of the land development plan for the city as adopted by city council resolution No. 540 of 1974, as amended.

Lot shall mean a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision of record or survey map or by metes and bounds, for the purpose of sale or lease to another. SAME EXCEPT "OR SEPARATE TO" INCLUDED AFTER LEASE TO...

Nonresidential subdivision shall mean a subdivision which is not intended for human habitation, such as a commercial or industrial subdivision.

Performance guarantee shall mean a surety bond, letter of credit or escrow account in an amount and form meeting the requirements of section 14-501.

Planned unit development shall mean a residential subdivision consisting of attached dwellings or a series of attached dwellings intended for separate ownership, with open spaces, recreational areas, access ways and buildings which are designed, built and controlled in accordance with a unified development plan. DIFFERENT (an improved subdivision consisting of attached dwellings in an R-6 residential zone, or a series of attached dwellings with open space and recreational areas which are common to all of said dwellings, which dwellings and open space and recreational areas are designed, built, laid out, and controlled in accordance with a unified plan, and which dwellings are each on a separate lot and intended for primarily separate ownership.)

Recording plat shall mean the completed subdivision plat in form for approval and recording.

Roadway shall mean that portion of a street between the regularly established curblines, or that part of a street or alley devoted to vehicular traffic. SAME

Sidewalk shall mean that portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic. SAME

Sketch plan shall mean a very simple layout to show the location of the subdivision to gain informal comments of city staff. SAME

Street shall mean a public way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated, excepting, however, an alley. SAME

- (a) *Arterial street* shall mean a heavily traveled street of considerable continuity used primarily as a traffic artery among large areas. SAME
- (b) *Collector street* shall mean a nonarterial street which carries traffic from a minor street to arterial streets, including the principal entrance to streets of a residential development and streets for circulation within such a development. SAME
- (c) *Marginal access street* shall mean a minor street which is adjacent to and substantially parallel with an arterial street and which provides access to abutting properties and protection from through traffic. SAME
- (d) *Minor street* shall mean a street which services one (1) or more minor streets used primarily for access to abutting properties. SAME
- (e) *Cul-de-sac or dead-end street* shall mean with only one (1) outlet. SAME

Subdivider or applicant shall mean any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another. SAME

Subdivision shall mean the division of a lot, tract or parcel of land into three (3) or more lots, including lots of forty (40) acres or more, within any five-year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in 30-A M.R.S.A. Section 4401. The term subdivision shall also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph. A dwelling unit shall include any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing condominiums, time-share units and apartments. DEFINED AS (the division of a lot tract, or parcel of land into three or more lots, plats, sites, or other divisions of land, whether described by metes and bounds or by any other

description, for the purpose whether immediate or future, or sale or of building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.)

Subdivision plat shall mean a plan of the proposed subdivision for presentation to the planning board and the public.

Surveyor shall mean a qualified registered surveyor of good standing with the state board of registration. SAME

Tract (or parcel) of land shall mean all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Vicinity sketch shall mean a sketch of the proposed subdivision location, not necessarily drawn to scale, showing the proximity of the subdivision to surrounding streets and highways. (Code 1968, § 603.5; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 1, 2-18-87; Ord. No. 247-88, 11-28-88; Ord. No. 155-89, § 2, 11-20-89)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 14-494. Guidance to subdivider.

The purpose of the preapplication procedure is to afford the subdivider an opportunity to avail himself of the advice and assistance of the planning board, and to consult early and informally with the board staff before preparation of the subdivision plat and before formal application for its approval, to insure the development of a subdivision plan with mutual benefits for the subdivider and the city. GENERALLY THE SAME AS EARLIER PURPOSE STATEMENT
(Code 1968, § 603.2; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-495. Procedure for approval of a subdivision.

- (a) *Application for approval:*
- (1) To obtain approval of a proposed subdivision the subdivider or applicant shall prepare for the planning board a subdivision plat, a vicinity sketch, and a recording plat in accordance with the requirements and standards established by this article.
 - (2) The sketch plan may be prepared for staff and planning board review if desired by the applicant prior to formal submission of the subdivision plat.
 - (3) The subdivider shall supply and submit five (5) copies of the complete subdivision plat and the vicinity sketch to the office of the planning authority

at least fifteen (15) days prior to a regularly scheduled meeting of the planning board, to be in order for consideration by the board at the meeting.

- (4) The planning authority shall forward a copy of the subdivision plat and vicinity sketch to the public works authority, parks authority, fire department and building authority, all of which shall submit recommendations to the planning authority by the time of the initial hearing on the subdivision plat.
- (5) Prior to the date upon which the planning authority meets to consider the subdivision plat the applicant shall pay all costs incurred in providing public notice. The planning authority shall determine the amount of this fee based on the actual costs incurred in newspaper advertising and postage, and shall also be responsible for collecting and accounting for such fee. Public notice in the form of newspaper advertisement shall be provided as required under 14-32.
- (6) Notice shall be provided in accordance with section 14-32. Notice shall also be sent to the clerk and the reviewing authority of municipalities that abut or include any portion of a proposed subdivision.
- (7) The city council may from time to time establish by order reasonable application fees to defray the costs of reviewing subdivisions.

SECTIONS 1-4 THE SAME, 5 - 7 NOT INCLUDED IN EARLIER VERSION

(b) *Timing of subdivision review:* A public hearing shall be commenced within thirty (30) days following the receipt of a complete subdivision application. The staff shall notify the applicant in writing either that the application is complete or, if it is determined to be incomplete, the specific additional materials needed to make it a complete application. The planning board shall render its decision on any application submitted to it within sixty (60) days following receipt of a complete application, or such other time as may be mutually agreed to by the planning board and the applicant.

(c) *Engineering requirements:*

- (1) The applicant shall furnish the public works authority with all engineering data and plans necessary for the completion of the required improvements, as enumerated in section 14-496(b). Such plans may be furnished apart from but at the same time as the subdivision plat and vicinity sketch and shall be certified by a registered professional engineer. INCLUDED AS PART OF PRELIMINARY REVIEW STAGE
- (2) The public works authority shall review the plans submitted as required in subsection (c)(1) above and shall approve, approve conditionally, or disapprove same within ten (10) days of submission as to whether such plans are in conformance with the standards set forth in this article.

(d) *Subdivision plat approval:* The planning board shall approve, approve conditionally or disapprove such subdivision plat at a public meeting. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the planning board may require the subdivider to submit a revised subdivision plat. If the planning board should disapprove the subdivision plat, the reasons for such action shall be stated and given in writing to the subdivider, and the board may state the conditions under which the proposed subdivision would be approved. One (1) copy of the subdivision plat as acted upon by the planning board shall be retained in its office, one (1) copy forwarded to the public works authority and one (1) copy returned to the subdivider.

(e) *Effect of subdivision plat approval:* Receipt of the approved copy of the subdivision plat of the subdivider is not authorization that he may proceed with the construction of any improvements. No construction will proceed until the recording plat has been approved by the planning board and has been properly recorded as required hereinafter in subsection (g).

(f) *Recording plat approval:*

(1) The applicant shall submit the recording plat and five (5) copies thereof to the planning authority at least fifteen (15) days prior to the date of the meeting of the planning board at which it is intended to be considered, which copies shall be distributed as hereinafter provided.

(2) Consideration of the recording plat, however, shall not take place until approvals required in subsections (c) and (d) are obtained.

(g) *Recording:*

(1) When the recording plat is approved, the subdivider shall pay the actual cost of recording and reproducing five (5) copies of the plat, one (1) of which shall be on mylar for the public works authority records.

(2) The recording plat shall be recorded in the office of the county registry of deeds by the subdivider.

(3) The registry book and page numbers will then be recorded on the five (5) copies of the plan, of which one (1) shall be kept at the office of the planning board, one (1) sent to the building authority, one (1) copy on mylar sent to the public works authority, one (1) to the assessor's office and one (1) to the subdivider.

(4) Unless the subdivider shall record his or her approved recording plat within three (3) years after the planning board has approved the subdivision plat, the recording plat approval shall become null and void. The preceding sentence notwithstanding, if the planning board's initial approval of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards, no such variance shall be valid unless that fact shall be expressly noted on the face of the recording plat and shall be noted in a certificate,

each of which shall conform to 30-A M.R.S.A. Section 4406, and such recording plat or such certificate or both of them are recorded in the Cumberland County Registry of Deeds within ninety (90) days of final subdivision approval.

(h) *Sectional recordings:* Following subdivision plat approval, the planning board may permit the subdivision to be divided into two (2) or more sections for recording purposes subject to any conditions that the board deems necessary in order to insure the orderly development of the plan. The applicant may seek approval of and record a sectional recording plat with the county registry of deeds only if the section constitutes at least twenty (20) percent of the total number of lots contained in the approval plat and, in addition, shows the entire tract or parcel. In these circumstances, if the first section of the plat has been recorded within three (3) years after planning board approval, subdivision plat approval of the remaining sections of the plat shall remain in effect for five (5) years after planning board approval.
(Code 1968, § 603.6; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 692-81, 5-18-81; Ord. No. 123-85, 10-7-85; Ord. No. 127-87, §§ 2-4, 2-18-87; Ord. No. 94-88, 7-19-88; Ord. No. 155-89, §§ 3, 4, 11-20-89; Ord. No. 227-01, 4-2-01)

***Editor's note--**Ord. No. 94-88, adopted July 19, 1988, amended § 14-495(g)(4) to read as herein set out. See also the editors note to Art. III of this chapter for additional provisions relative to Ord. No. 94-88.

Sec. 14-496. Plat requirements.

Each and every modification of the information required to be shown on the plat in this section shall be applied for in writing by the subdivider. The decision of the planning board on such request shall be final.

(a) *Information on subdivision plat.* The following information shall be shown on one (1) subdivision plat unless otherwise indicated:

1. **Date, north point, title and graphic scale. Scale shall not be more than sixty (60) feet to the inch unless lots are more than an acre, but in no event more than one hundred (100) feet to the inch;**
2. **Based on a recent survey by the subdivider, existing contours at two (2) feet intervals or as otherwise required by the public works authority. Existing structures which are to remain will be delineated; REQUIRED TOPO AT 6 FT INTERVALS. NOT NEC BASED ON SURVEY**
3. **Names of proposed streets, width of rights-of-way, and typical cross section reservation, and depth of construction materials; DID NOT INCLUDE DEPTH OF CONSTRUCTION MATERIALS**

4. Locations, widths and purposes of other rights-of-way or easements to be recorded;
5. All appropriate street curve information, including point of curvature, point of tangency, tangent distance, radii and interior angle, in standard engineering format; "RADI OF ALL CURVES"
6. Location of those utilities existing on or adjacent to the tract to be subdivided, including size and elevation of buried or underground utilities (may be shown on separate plan);
7. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered; "LOT NUMBERS AND APPROXIMATE SIZES OF LOTS"
8. Names of adjacent property owners with parcels over twenty-five thousand (25,000) square feet OR LARGER or names of adjacent subdivision;
9. Designation of flood hazard areas, as defined by the National Flood Insurance Program and shown on the city flood hazard boundary map, as well as any other areas in the subdivision subject to inundation by storm water or storm sewer overflow; IF ANY PORTION OF THE LAND OF THE PROPOSED SUBDIVISION IS SUBJECT TO INUNDATION BY STORM SEWERS OR OVERFLOW OR PONDING BY STORM WATER, SUCH FACT AND PORTION SHALL BE CLEARLY SHOWN AND IDENTIFIED
10. Existing historic sites and structures which either appear on the National Register or are nominated to the National Register by the state historic preservation officer;
11. Proposed private and public utility system including water, gas, telephone, fire hydrants, and any other services which shall supply the area (may be shown on separate plan);
12. Sanitary sewer and storm drain plans and profiles showing size, kind and slope of pipe, proposed manhole rim and invert elevations and catch basin locations and drains (may be shown on separate plan); PROPOSED METHOD OF SEWAGE DISPOSAL
13. Lighting plan showing the location, design, height and spacing from each other of the support poles, in accordance with standards and specifications established by the public works authority (may be shown on separate plan);

14. Tree plan showing groups of existing, sizeable trees which the subdivider intends to preserve (may be shown on separate plan);
15. A detailed plan of the entire subdivision and the immediate vicinity showing all existing and proposed drainage both on and off-site including drainage swales, ditches, etc., with directional flow arrows and approximate slope grades, and showing proposed finished "spot elevations" around the perimeter of the subdivision. Proposed drainage shall be shown as it may affect or restrict development on individual lots and with reference to improvements for which a performance guarantee is required under this article. Where deemed feasible by the public works authority, proposed finished contours at intervals of two (2) feet shall be provided on the drainage plan upon request (may be shown on separate plat);
16. Location and designation of any zoning district boundaries affecting the subdivision;;
17. All future phases and sections of the subdivision proposed by the subdivider (may be shown on separate plat);
18. **Proposed parks and school sites, or other public open space that the developer proposes to convey to the city;**
19. **Names and addresses of registered professional engineer, subdivider and owner;**
20. **At the option of the subdivider, any other information that may be necessary for the full and proper consideration of the subdivision shall be submitted in writing;**
21. Streets and right-of-way monuments and property line markers;
22. Vicinity sketch, as defined in section 14-493 (may be shown on separate plan); ???603.6.3????
23. Total site data, including total area of the subdivision, total area in streets, total area in recreation or open space and number of house lots;
24. Additional submission items if required by the planning board and insofar as feasible (may be shown on separate sheets or by other appropriate method):

- a. When private sewage systems are used, the results and supporting data of a soil test of each lot in the subdivision conducted by a soil evaluator licensed in the state;
- b. When the adequacy of the subdivision's load bearing capacity is in question, the results and supporting data of test borings conducted by a professional engineer registered in the state;
- c. When conditions warrant, a program which shall be implemented by the subdivider to control dust, erosion and sedimentation and/or vehicular traffic during construction;
- d. Evidence of the applicant's financial capability to carry out all phases of the proposed development;
- e. Evidence of state and federal approvals, licenses or permits required by law, or the status of applications therefor;
- f. Price range of houses that will be built in the subdivision;
- g. Traffic impact analysis;
- h. High intensity soil survey, if required by the planning authority;
- i. Evidence of technical capacity to undertake the development;
- j. Types and estimated quantities of solid waste to be generated by the development;
- k. Construction plan outlining the anticipated sequence of construction of the major features of the project including without limitation roads, retention basins, sewer lines, seeding and other erosion and sedimentation control measures, and pollution abatement measures and also setting forth the approximate dates for commencement and completion of the project;
- l. A narrative and a plan showing all proposed buffer strips, their dimensions, and maintenance plans and responsibilities; and
- m. A description of any wetlands, wildlife and fisheries habitats, archaeological sites or unusual natural areas located on or near the project site and a description of the methods that will be used to protect such areas.

- n. Where submission drawings are available in electronic form, the applicant shall submit any available electronic CADD.DXF files with final plans.

(b) **Recording plat.** The recording plat shall be an original ink drawing on linen or mylar, or as necessary to be acceptable to the registry of deeds, and shall be tied to an accepted street or to a proposed street under construction and bonded to insure construction. This plat also shall show the following:

1. Title, date, graphic scale, north arrow, name, signature and registration number or seal of a registered land surveyor licensed in the state, name and address of developer and owner;
2. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
3. All appropriate street curve information, including point of tangency, tangent distance, radii and interior angles, in standard engineering form;
4. Street names, width of street rights-of-way and typical cross section showing only surface dimensions of roadway pavement, esplanade and sidewalk reservation;DID NOT INCLUDE "TYPICAL CROSS SECTIONS"
5. Street and right-of way monuments and property markers. Iron pipes shall be designated by a small circle at the point of installation;
6. Locations, dimensions and purposes of any easement or right-of-way;
7. Purpose for which sites, other than residential lots, are dedicated or reserved; it being understood that any reservations of areas shall be subject to the proper zoning thereof;
8. Reference to recorded subdivision plats of adjoining platted land by book and page number;
9. Space for the signatures of the planning board and date of approval;
10. Where required by 30-A M.R.S.A. Section 4406, the fact that initial approval or subsequent amendment of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards.

(c) *Alterations to an approved plot.* The planning authority may approve alterations to an approved recording plat when all of the following conditions are met; otherwise, a new subdivision plat must be submitted to the planning board:

1. The rearrangement of lot lines does not increase the number of lots within a block or other subdivision unit or area;
2. The alteration will not affect any street, alley, utility easement or drainage easement;
3. The alteration meets all of the minimum requirements of this article, article III of this chapter on zoning and other applicable state and local codes;
4. The alteration is approved by the public works authority and the fire department.

Such approved alterations shall be properly recorded in the registry within thirty (30) days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S.A. Section 4406.

(d) *Vacation of plats.* Any such plat recorded, or any portion thereof, may be vacated with the consent of the city council as follows:

1. At any time before the sale of any lot therein, by written instrument, signed by the city and the owners of such subdivision, declaring the same to be vacated and describing therein the part or portion to be so vacated.
2. At any time after the sale of any lot therein and by written instrument, signed by the city and all owners of record of lots shown on the plat, declaring the same to be vacated and describing therein the part or portion to be so vacated.

Any instrument so executed vacating all or a portion of any plat shall be duly filed and recorded in the county registry of deeds. The execution and recording of the instrument described in subsection (d)2 above shall vest fee simple title to the centerline of the street, alley or easement for public passage so vacated in the owners of abutting properties. Title to property located within the vacated streets, alleys or easements for public passage shall pass to abutting property owners free and clear of any rights of the public or other owners of lots shown in the plan, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

(Code 1968, § 603.7; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, §§ 5, [12], 2-18-87; Ord. No. 95-88, §§ 1, 2, 7-19-88; Ord. No. 155-89, § 5, 11-20-89; Ord. No. 177-93, §§ 1, 2, 1-4-93; Ord. No. 165-97, 1-6-97)

*Editor's note--Ord. No. 95-88, adopted July 19, 1988, amended subsections (b) and (c) of this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 95-88.

Sec. 14-497. General requirements.

(a) *Review criteria.* When reviewing any subdivision for approval, the planning board shall consider, among others, the following review criteria and before granting approval shall determine that the proposed subdivision:

- (1) Will not result in undue water or air pollution. In making this determination it shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; the conformity to the applicable state and local health and water resources regulations;
- (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- (3) Will not cause unreasonable burden on an existing water supply;
- (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highway or public roads existing or proposed;
- (6) Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- (7) Will not cause an unreasonable burden on the ability of the city to dispose of solid waste and sewage if municipal services are to be utilized;
- (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or by the city, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. For subdivisions within historic districts designated pursuant to article IX of this chapter, the planning board shall apply the standards of section 14-651(c) of article IX. The planning board may request that the historic preservation

committee prepare an evaluation of the proposed subdivision based upon the standards of section 14-651(c);

- (9) Is in conformance with the land development plan or its successor;
- (10) The subdivider has adequate financial and technical capacity to meet the standards of this section;
- (11) Whenever situated, in whole or in part, within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;
- (12) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;
- (13) Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation;
- (14) All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands. Any mapping of wetlands may be done with the help of the local soil and water conservation district; and
- (15) Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 M.R.S.A. Section 480-B, subsection 9.

(b) *Burden of proof.* In all instances the burden of proof shall rest upon the person proposing the subdivision.

(c) *Conformity with Code.* Any proposed subdivision shall be in conformity with all relevant provisions of this Code.

(d) *Reserved.*

(e) *Construction records and inspection.*

(1) The project engineer and city engineer shall have the right to enter and inspect the construction site during all phases of the project to ensure compliance with this article.

(2) After approval of the subdivision plat and prior to the construction of any of the subdivision's public improvements, the subdivider shall supply the city engineer with a complete set of engineering drawings on mylar or linen showing all streets, sanitary sewers and surface water drains and all appurtenant work within the subdivision.

(3) The subdivider shall provide the project engineer with a complete and accurate list of any changes from the engineering drawings as approved by the planning board prior to the release of the performance bond.

(Code 1968, § 603.8; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, §§ 6, [13], 2-18-87; Ord. No. 155-89, § 6, 11-20-89; Ord. No. 15-92, § 31, 6-15-92; Ord. No. 221-93, 5-17-93)

Sec. 14-497.5. Adjustment of dimensional requirements for subdivisions in the R-3 zone.

Notwithstanding section 14-90 and any other section of this chapter, up to twenty-five (25) percent of the lots in a subdivision located in the R-3 zone may have reduced street frontage and/or lot widths, provided that the planning board finds as part of subdivision approval that the following standards are met:

- (a) The subdivision is approved for the first time on or after December 1, 1997;
 - (b) The subdivision has a minimum land area of three (3) acres;
 - (c) The fire department determines that the reduced street frontage is adequate to provide access required to provide emergency services to each lot; and
 - (d) A lot with reduced lot width shall meet all required setbacks.
- (Ord. No. 165-97, § 6, 12-1-97)

Sec. 14-498. Technical and design standards.

(a) *Adoption and amendment of standards:* The public works authority may promulgate technical and design standards for subdivisions and site plans. Such technical and design standards or any amendments thereto shall become effective only upon approval of the planning board following a public hearing before the planning board. In approving the technical and design standards, the planning board may direct staff to make changes with respect to format and text but, to the extent that standards are based upon sound engineering practice, shall not direct changes in the standards themselves. Such standards shall be additional to and consistent with the provisions of this article and shall be necessary and reasonable and shall be in accord with sound engineering practice. The public works authority shall maintain for public inspection current copies of the effective standards.

(b) *Street plan:*

- (1) All streets shall be platted along contour elevations which result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.
- (2) The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.
- (3) Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.
- (4) Street right-of-way widths shall not be less than:
 - a. Fifty (50) feet for marginal access street;
 - b. Fifty (50) feet for minor street;
 - c. Sixty (60) feet for collector street.

Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-way are inadequate shall provide additional land to meet the minimum standards.

- (5) Streets shall not occupy more land than needed to provide access nor create unnecessary fragmentation of the subdivision into small blocks. Streets will be designed to discourage outside traffic from traversing the development.
- (6) All dead-end streets shall provide for a cul-de-sac or, in the case of a dead-end street which will be extended, a temporary turn-around at the end of the street, subject to the approval of the public works authority.
- (7) The minimum roadway width including esplanades GUTTERS and sidewalks shall be:
 - a. Fifty (50) foot right-of-way, thirty-two (32) foot pavement, five (5) foot sidewalks and four (4) foot esplanades and curb. ESPLANADE NOT REQUIRED
 - b. Sixty (60) foot right-of-way, forty (40) foot pavement, five (5) foot sidewalks and five (5) foot esplanades and curb. ESPLANADE NOT REQUIRED

- c. **Street right-of-way on the islands in Casco Bay shall comply with article III of chapter 25.**
- (8) **Sidewalks and curbs:**
- a. **Sidewalks shall be constructed on each side of each street in accordance with article III of chapter 25. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic, with preference given to interior walks away from streets in common open space in block interiors.**
 - b. **Curbs shall be constructed on each side of each street. The curbing shall be constructed as provided in article VI of chapter 25.**
- (c) ***Street design:***
- (1) **Profiles of each street or way in the subdivision shall be shown on the subdivision plat. They shall be drawn to a longitudinal scale of forty (40) feet to one (1) foot and a vertical scale of four (4) feet to one (1) inch. Such profiles shall include separate profiles of each side line and center line of the street or way. Any buildings abutting on the street shall be shown in standard engineering format as requested by the public works authority. STANDARD FEDERAL AID PROFILE SHEET SHALL BE USED.**
 - (2) **Street grades in all proposed subdivisions shall be subject to the approval of the public works authority.**
 - (3) **The public works authority shall establish the sequence in which work is to be accomplished. Where it is determined by the public works authority that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section and of chapter 25, the director of parks and public works or an inspector from the public works authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the director of parks and public works or an inspector from the public works authority. Violation of the stop work order shall be considered an offense.**
- (d) ***Street and subdivision names:***
- (1) **Street names for all subdivisions shall appear on the subdivision plat and be subject to approval by the planning board.**
 - (2) **Subdivision names for plats shall be subject to approval by the planning board and not duplicate the name of any plat already recorded.**

(e) *Exception for private streets within PRUD's and manufactured housing parks.* Private streets within PRUD's and manufactured housing parks shall be exempt from the street right-of-way and roadway width requirements set forth above, provided that no such street shall be accepted by the city unless it is first improved to the standards set forth above at the expense of those persons requesting the street acceptance. Private streets within a PRUD or a manufactured housing park shall meet specifications established by the public works department. All private streets shall be designed by a professional engineer and shall be built according to accepted engineering standards.

(f) *Sewers and storm drains:*

(1) The design of all sewers and storm drains shall be subject to approval by the public works authority.

(2) All subdivisions shall be provided with adequate storm drain systems within the subdivision separate from any sanitary sewer system required in article III of chapter 25.

(3) Any natural or manmade areas, systems or facilities designated for stormwater control purposes and intended for city maintenance shall, except for detention or retention ponds or basins and regularly free-flowing watercourses, be structurally enclosed in accordance with the standards of the public works authority, and shall be dedicated with sufficient land for maintenance purposes. Warranty deeds to such areas shall be submitted for acceptance by the city council at the same time as the acceptance of streets. All such areas as are not intended for city maintenance shall be permanently protected and maintained by private agreement, deed covenant or restriction, as appropriate, in form approved by the corporation counsel.

(4) The approval of the plumbing inspector is required for all subdivisions involving the use of septic tanks and drainage fields for sewage disposal.

(5) The subdivider shall be responsible for the construction of all sewers and storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by the public works authority. All work shall be in accordance with public works specifications.

(6) The public works authority shall establish the sequence in which work is to be accomplished. Where it is determined by the public works authority that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section and of chapter 24, the director of parks and public works or an inspector from the public works authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by

the director of parks and public works or an inspector from the public works authority. Violation of the stop work order shall be considered an offense.

(g) *Blocks:*

(1) A maximum block length of eight hundred (800) feet, measured from the nearest street lines of intersecting streets, shall be observed except where, in the opinion of the planning board, conditions justify a departure from this standard. In general, **block size should be the maximum consistent with the use and shape of the site and the convenience and safety of the occupants.**

(2) In blocks exceeding eight hundred (800) feet in length, measured from the nearest street lines of intersecting streets, the planning board may require where feasible the reservation of a twenty (20) foot wide easement to the city through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4) foot wide paved foot path be included.

(3) The length, width and shape of blocks shall be determined on the basis of:

- a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
- b. Zoning requirements as to lot sizes, setbacks and dimensions;
- c. Needs for convenient access, circulation, control and safety of street traffic;
- d. Limitations and opportunities of topography.

(4) **Blocks with lots having double frontage on streets shall be avoided.**

(5) **The foregoing dimensions may be adjusted by the planning board where type of use or topography requires such modification.**

(h) *Lots:*

(1) **Lot sizes shall conform to the zoning ordinance in article III of this chapter and the city health code.**

(2) **Where easements for public utilities, storm or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.**

- (3) Lots which are reserved or laid out for business, commercial or industrial purposes shall have sufficient width and depth to accommodate the off-street parking and loading facilities required for the type of use and development contemplated, as established in article III of this chapter.
- (4) Where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines).
- (i) *Public open space:*
 - (1) In all subdivisions open space may SHALL be provided for parks, recreational and other public areas. WHEN THERE ARE NO SUCH FACILITIES IN CLOSE PROXIMITY TO THE DEVELOPMENT. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under section 14-497(a), general requirements, the planning board may require provision of land for park or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this section, subject to the approval of the planning board.
 - (2) If a tract or parcel is intended for public ownership and is so designated on the subdivision plat, **the acceptance of such land shall be first recommended by the various departments and the planning board and sent to the city council for final determination.**
 - (3) If a tract or parcel is designed or intended to be owned and used in common for recreational or other public or semipublic purposes and such intent is so designated on the subdivision plat, appropriate documents in form approved by the corporation counsel shall be submitted to the planning board. Such documents shall clearly:
 - a. Set forth the nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property for its share of the cost of administering and maintaining such common property;
 - b. Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.
- (j) *Access to shoreline:*
 - (1) In all subdivisions having shore frontage on the island of Casco Bay, existing legal rights of public access to the shoreline shall be preserved. The proposed street layout and circulation plan shall be suitably integrated with such existing public access in a manner that reasonably promotes the public use of such access.

The proposed street layout and circulation plan shall also be designed to preserve any legal rights to any significant water views and scenic vistas from such rights-of-way.

- (2) In all subdivisions having any lots within the shoreland zone, legal rights of private access to waters shall, to the extent reasonably feasible, be established for the benefit of all lots within the subdivision not otherwise having such access.
(Code 1968, 603.9; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 41-84, § 1, 6-18-84; Ord. No. 98-85, § 1, 7-15-85; Ord. No. 127-87, §§ 7, 8, 2-18-87; Ord. No. 104-87, 10-19-87; Ord. No. 66-88, 7-18-88; Ord. No. 201-89, § 1, 12-18-89)

***Editor's note**--Ord. No. 66-88, adopted July 18, 1988, amended § 14-498 by adding subsections (c)(3) and (f)(6). The ordinance further provided as follows:

Be it further ordained and determined by the city council that the above amendments are necessary in order to prevent further work being done which is not in accordance with City technical standards. Therefore, this enactment shall take effect immediately as an emergency pursuant to Article II, Section 8 of the Charter and shall further apply to all pending proceedings, applications, petitions and to all projects which have work that remains to be completed at the date of enactment of these amendments.

Sec. 14-499. Required improvements.

Prior to the release of the approved recording plat the subdivider shall file a guarantee BOND as hereinafter provided, and prior to release of such BOND guarantee the subdivider shall have completed all improvements as follows:

- (a) All streets shall be graded in conformity with the requirements set out in section 14-498 and in accordance with article III of chapter 25.
- (b) On all streets, side streets, and alleys, a suitable hard surfaced permanent pavement shall be installed meeting the requirements set forth in article III of chapter 25.
- (c) Water, gas and sanitary sewer mains and storm drains shall be constructed prior to the installation of paving with all mains being extended from all lots having sufficient stub outs to avoid subsequent breaking of pavement.
- (d) Sidewalks and curbs shall be constructed as required in section 14-498.
- (e) Adequate storm drains shall be constructed subject to the provisions of section 14-496 and in accordance with the department of public works specifications.

- (f) A total of two (2) trees per lot, which shall be street trees, shall be planted near the street line in full public view on private property, as directed by the city arborist pursuant to "Arboricultural Specifications and Standards of Practice" contained in the public works authority's "Technical and Design Standards." Existing healthy trees may be credited toward this requirement, subject to the approval of the city arborist. "AT LEAST ONE TREE PER LOT SHALL BE PLANTED IN THE ESPLANADE AS DIRECTED BY "SPECS FOR TREE PLANTING FOR SUBDIVIDERS"
 - (g) Permanent markers will be set as prescribed by the public works authority.
 - (h) All utility lines shall be placed underground OR BEEN DESIGNED AND LOCATED IN SUCH MANNER THAT ITS APPEARANCE IS SUITABLE FOR ABOVE GROUND INSTALLATION." unless otherwise approved by the planning board.
 - (i) Street lighting shall be installed in accordance with the standards of the public works authority.
 - (j) A public water supply shall be installed subject to the approval of the Portland Water District.
 - (k) Erosion control measures shall be taken both during and after construction in accordance with the standards of the public works authority.
- (Code 1968, § 603.10; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 9, 2-18-87; Ord. No. 105-87, § 1, 10-19-87)

Sec. 14-499.5. Additional requirements for manufactured housing parks.

All manufactured housing parks and subdivisions as defined in section 14-47 shall meet the requirements for residential subdivisions established by this article, the site plan and the zoning ordinance, in addition to the following requirements for manufactured housing parks:

- (a) The entire development shall be properly screened from abutting neighborhoods and uses. Such screen shall consist of plantings, or a combination of earth berm and plantings, not less than three (3) feet in width and six (6) feet in height at the time of initial occupancy of such development, and shall be set back on corner lots so as to comply with section 14-434. Individual shrubs or trees, as approved by the city arborist, shall be planted so as to establish a dense visual screen year round. At least fifty (50) percent of the plantings shall consist of evergreens. Such screen shall thereafter be permanently maintained in a condition meeting the specifications and intent of this subsection. In cases where such screen areas are to be separately owned, the deed of conveyance shall contain a requirement that the grantee shall likewise maintain the screen area. Such requirement shall be in a form acceptable to the corporation counsel. Any area intended to be owned and used in common shall thereafter be maintained by a permanent organization as set

forth in section 14-498(i)(3). Existing vegetation may substitute for new plantings if it forms an acceptable dense visual screen consistent with the intent of this subsection.

- (b) All manufactured housing units and any accessory structure within such development shall be located at least fifty (50) feet from any external property boundary of the development where the proposed park density is two (2) or more times greater than the density of residential development on adjacent parcels or the maximum permitted density of adjacent vacant parcels.
 - (c) All units within such development shall be set back from any existing collector or arterial street, as defined in section 14-493, in accordance with the setback provisions for the underlying zone.
 - (d) All fuel oil supply systems shall be constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
 - (e) All trash containers, bottled gas tanks, storage sheds, utility meters, or other similar items or accessory structures except parking garages, shall be located and suitably screened by plantings or fencing so as not to be clearly visible from the street or abutting properties.
 - (f) All manufactured housing units shall be placed either on a foundation which forms a complete enclosure under exterior walls, or on suitable blocks on a foundation pad, in which case the unit shall be boxed or skirted with suitable material designed for such use.
 - (g) All manufactured housing units shall be properly installed, blocked and leveled or affixed to a foundation wall, so as to rest on the wheels used to transport the unit. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation.
 - (h) Notwithstanding the provisions of sections 14-498 and 14-499, private roads within a manufactured housing park shall be a minimum of twenty-three (23) feet wide, with a minimum pavement width of twenty (20) feet.
- (Ord. No. 611-82, § 1, 7-7-82; Ord. No. 358-84, § 1, 12-17-84; Ord. No. 201-89, § 2, 12-18-89)

Sec. 14-500. Additional requirements for nonresidential subdivisions.

All nonresidential subdivisions must meet the requirements for residential subdivisions established by this article, the site plan in article V of this chapter and the zoning ordinance in article III of this chapter, in addition to the following considerations, except as waived by the planning board due to the commercial or industrial nature of the development:

- (a) Proposed industrial parcels shall be suitable in area and dimensions to the commercial or industrial development anticipated.
 - (b) Street rights-of-way and pavement shall be adequate to accommodate the type, weight and volume of traffic anticipated to be generated.
 - (c) The design and installation of public utilities including water, sewers and storm water drainage, shall be adequate to accommodate the anticipated usage.;
 - (d) Streets carrying truck traffic shall not normally be extended to the boundaries of adjacent existing or potential residential areas.
- (Code 1968, § 603.11; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-501. Performance and defect guarantees; engineering review, inspection fees and administrative fees.

- (a) The performance guarantee shall be a letter of credit or escrow account with a responsible financial institution or the deposit, with the finance department of the city, of a sum required for the guarantee. (The city shall hold such funds in a noninterest bearing account until the completion of all of the improvements.) The performance guarantee shall be in the name of the city and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency.
- (b) **BONDS** Performance guarantees shall be required to ensure the fulfillment of all improvements as required by section 14-499, as well as the requirement in article III of chapter 25 that the subdivider shall give to the city, prior to the release of the performance guarantee a warranty deed (with metes and bounds description) to the property within each street within the subdivision, as well as delivery to the city of the warranty deeds to all other improvements intended for city maintenance. Such guarantee shall specify the completion date of the improvements required in the subdivision and the delivery date to the city of such deed or deeds prior to the expiration of the performance guarantee. The performance guarantee shall be for a term not less than one (1) year. Furthermore, the performance guarantee shall be released only upon the completion, to the satisfaction of the city, of the public improvements and the tendering of a defect guarantee as required in subsections (e) and (f).
- (c) The guarantee shall be equal in value to one hundred (100) percent of the estimated cost of the improvements as determined by the public works authority and the planning authority. The guarantor shall not be released from the guarantee except by a release in writing from the public works authority and the planning authority.
- (d) Performance guarantees may be reduced periodically by the public works authority and the planning authority in the manner provided herein. Upon request, but in no event more than three (3) times in any calendar year, the developer shall be eligible to receive reductions in the performance guarantee equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced (1) by less than

one hundred thousand dollars (\$100,000.00) or fifty (50) percent of the initial amount of the performance guarantee, whichever is less, at any one (1) time; or (2) in any line item where improvements remain to be completed; or (3) to a value which is less than the estimated cost of completing all remaining prescribed improvements for which a performance guarantee is required by section 14-525(j) as determined by the public works authority. Notwithstanding any other provision of this section, no performance guarantee shall be reduced to less than the amount of the defect guarantee to be posted upon completion of the improvements.

(e) Upon the satisfactory completion of the subdivision's prescribed improvements, excepting tree planting and other landscaping if in the opinion of the city arborist the installation of such plantings is not feasible due to weather conditions, and following the city's receipt of the warranty deeds referred to in (b) above, the subdivider shall file a defect guarantee with the city. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the roadways, curbing, esplanades, sidewalks, sanitary sewerage systems (including manholes and house drain laterals), storm drainage systems (including manholes, catch basins and catch basin drains), street lighting, tree planting, other appropriate landscaping and all other public improvements which may become defective within one (1) year period, all as determined by the public works authority. The defect guarantee shall also ensure the proper installation of any required tree plantings or landscaping which were not installed prior to the filing of the defect guarantee during the next appropriate planting season, as determined by the city arborist. The defect guarantee shall be filed prior to the release of the performance guarantee and it shall not expire between October 30 and April 15 of the following year.

(f) The defect guarantee shall be a letter of credit or escrow account with a responsible financial institution or the deposit, with the finance department of the city, of a sum required for the guarantee (the city shall hold such funds in a noninterest bearing account until the completion of all of the improvements), equal in value to ten (10) percent of the estimated cost of public improvements. It shall be in the name of the city and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency. A guarantee which contains appropriate terms and conditions to cover both the performance and defect guarantee provisions as specified in subsections (a)--(e) above is an acceptable form of guarantee.

(g) A performance guarantee and defect guarantee shall also be required to ensure the completion of all improvements as required by section 14-499.5, as well as all improvements for the circulation, recreation, landscaping, light, air, drainage and service needs of a planned unit development which are not subject to section 14-501(b). For purposes of this subsection, sections 14-501(c) and (d) shall also apply. The planning authority may waive all or any portion of this requirement if it determines that the developer has a proven record of satisfactory performance and sufficient financial capability.

(h) At the same time that the developer posts a performance guarantee, the developer shall also pay to the city the subdivision inspection fee equal to two (2) percent of the estimated costs of improvements required by this article, with actual inspection costs in excess of two (2) percent invoiced by the city at the completion of the project or as deemed necessary by the city.

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.

(i) The developer shall also pay a fee to cover the engineering review costs and administrative costs to be incurred by the city. The fee shall be based upon the actual hours of review time and prevailing hourly rate for reimbursement of city costs, and shall be invoiced periodically by the city.

No land use permits or applications of any kind shall be processed, reviewed or issued, no signed subdivision plats shall 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 city code. No performance guarantee shall be released until all fees generated by the project are paid to the city, including but not limited to engineering, inspection and administrative fees as provided in section 14-525.

(Code 1968, § 603.12; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 611-82, §§ 2, 3, 7-7-82; Ord. No. 127-87, § 10, 2-18-87; Ord. No. 524-87, §§ 1, 2, 5-18-87; Ord. No. 122-91, § 1, 9-16-91; Ord. No. 262-96, §§ 1, 2, 5-20-96; Ord. No. 227-00, §2, 5-15-00)

Sec. 14-502. Extension of the guarantee period.

When the subdivider constructs improvements for which a performance guarantee is required and the public works authority has reasonable doubt concerning the stability or proper construction of such improvements, the subdivider shall be required to do such further work on the improvements as the public works authority shall order before the improvements will be accepted by the city. If the subdivider's current performance guarantee shall expire before the extent or necessity for such further work can be determined, the subdivider shall be required to extend his or her guarantee covering such improvements, or secure a new guarantee, for such further period and in such amount as the public works authority shall deem necessary.

(Code 1968, § 603.13; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 11, 2-18-87)

Sec. 14-503. Sale of partially completed subdivisions.

The purchasing party or other succeeding owner of a subdivision for which a recording plat has received prior approval shall assume full responsibility for completion of the subdivision's improvements until acceptance of such improvements by the city. The purchaser or other succeeding owner of an unaccepted subdivision shall be required to comply with all the provisions of this article as if he were the original subdivider, and shall become responsible for completing such improvements in the same manner as the original subdivider.

(Code 1968, § 603.14; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-504. Enforcement, conveyance, markers and recording.

(a) No person may sell, lease, develop or build upon or convey for consideration, offer or agree to sell, lease, develop or build upon or convey for consideration any land in a subdivision unless the subdivision has been approved by the planning board, and unless a recording plat showing permanent marker locations at all lot corners has been recorded in the county registry of deeds.

(b) The term permanent marker is limited to the following: A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the public works authority. No subdivision plan shall be recorded by the registry of deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received planning board approval.

(c) Any person who sells, leases, develops or builds upon or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be punished by a fine of not more than five hundred dollars (\$500.00) for each such occurrence. The city may institute proceedings to enjoin any violation of this section.

(d) Notwithstanding the foregoing, alterations may be made to a site with a pending subdivision application if:

- (1) At minimum, a performance guarantee for the proposed site alterations has been posted and final site plans have been submitted to the planning authority; and
- (2) Written permission has been received from the director of planning and urban development or his designee that such site alterations may proceed pending subdivision approval. Such permission is solely within the discretion of the director of planning and urban development and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the subdivision application. An erosion control plan shall also be submitted when deemed necessary by the planning authority. Such written permission shall not be required when the only work proposed is the digging of test pits.

(Code 1968, § 603.15; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 95-01/02, 11-5-01)

Sec. 14-505. Appeals.

An appeal from any final decision of the planning board regarding subdivision approval may be taken by the applicant or his authorized agent to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(Code 1968, § 603.16; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-506. Modifications.

(a) Except for the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, the planning board if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

(b) Where the planning board finds that extraordinary conditions exist or that undue hardship may result from strict compliance with the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose of the land development plan and the regulations of this article. For purposes of this subsection, the planning board may, but need not, consider such circumstances as where a street is a dead-end street, or where an alternative walking route is reasonably available, or where a street is scheduled for major reconstruction, or where the development of abutting land is substantially restricted.

(c) The standards and requirements of this article may be modified by the planning board in the case of a plan and program for a planned unit development which in the judgment of the planning board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the land development plan.

(d) If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the project engineer and the public works authority that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the public works authority may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the planning board.

(Code 1968, § 603.17; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 41-84, §§ 2, 3, 6-18-84)

Sec. 14-507. Conditions.

In granting variances and modifications, the planning board and city council may require such conditions as will, in their judgement, secure substantially the objectives of the standards or requirement so varied or modified.

(Code 1968, § 603.18; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-508. Exemptions.

(a) This article does not apply to subdivisions approved prior to June 6, 1979, nor to subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in the registry of deeds prior to June 6, 1979.

(b) A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this article, or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.

(Code 1968, § 603.19; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

THERE ARE SEPARATE PROCEDURES AND STANDARDS FOR PRUDS IN THE
EARLIER VERSION

ARTICLE VI. SIDEWALK AND CURBING CONSTRUCTION AND MAINTENANCE

Sec. 25-96. Required for nonresidential development; exceptions.

Where a nonresidential development requiring site plan approval abuts any accepted street and a sidewalk with granite curbing satisfactory to the public works authority has not already been provided, a sidewalk constructed of bituminous concrete, portland cement concrete, brick or other paving material and granite curbing shall be provided along the entire street frontage of the lot. If either a sidewalk or curbing, but not both, shall exist at such location which is satisfactory to the public works authority, only a sidewalk or curbing, as the case may be, shall be provided. IF CITY INSTALLS, CITY COLLECTS 1/2 COST In either case, such sidewalk and curbing shall be constructed in accordance with the specifications and to the satisfaction of the public works authority at no cost to the city. In conjunction with site plan review, the planning board may waive or modify the requirements contained herein upon a like finding and on the same terms and conditions as set forth in section 14-506(b) of this Code.

(Code 1968, § 705.1; Ord. No. 42-84, § 1, 6-18-84)

Sec. 25-97. May be required generally; apportionment of cost.

(a) Notwithstanding the provisions of section 25-96, the city council may at any time direct the construction of a sidewalk of bituminous concrete, Portland cement concrete, brick or other paving material or granite curbing, or both, along any accepted street in the city. Such sidewalk or curbing shall be constructed by the city and the cost thereof shall be borne by the city.

(b) Such improvements may be ordered by the council upon petition of an abutting landowner, and one-half of the cost thereof shall be assessed to such abutting landowner and shall be collected by the city in the manner provided in sections 25-102 and 25-103.

(Code 1968, § 705.2; Ord. No. 30-75, § 1, 1-6-75)

Sec. 25-98. Reconstruction; apportionment of cost.

(a) The city council may at any time direct the reconstruction of any sidewalk or curbing which has been constructed along any accepted street by other than the city and which has not been accepted as the responsibility of the city.

Such sidewalk or curbing shall be reconstructed by the city and the cost thereof shall be borne by the city.

(b) Such improvements may be ordered by the council upon the petition of an abutting landowner, and one-half of the cost thereof shall be assessed to such abutting landowner and shall be collected by the city in the manner provided in sections 25-102 and 25-103.

(Code 1968, § 705.3; Ord. No. 30-75, § 2, 1-6-75)

Sec. 25-99. Waiver or amendment of requirements.

Except as otherwise provided in section 25-96 or 14-506, the city council may, upon application to it in writing, waive or amend by order the requirements of sidewalks or curbing when it finds that the circumstances in a specific case warrant such waiver or amendment; however, no such order shall be construed as waiving the requirement of cost apportionment, assessment and collection unless expressly stated therein.

(Code 1968, § 705.4; Ord. No. 54-76, § 1, 1-19-76; Ord. No. 42-84, § 2, 6-18-84)

Sec. 25-100. Substitution of materials.

The public works authority may permit the substitution of other types of materials for sidewalks or curbing when, in his or her sole and exclusive judgment, he or she finds such substituted materials to be equal to or better than the materials required herein.

(Code 1968, § 705.5)

Sec. 25-101. Service ways and curb cuts; sidewalks and curbing not to be removed; exceptions.

The design and location of service ways and curb cuts in sidewalks or curbing shall be as approved by the traffic engineer and the public works authority. No additional service ways or curb cuts and no alterations in existing service ways or curb cuts shall be made without the prior consent of the traffic engineer and public works authority, and no such sidewalk or curbing shall be removed except by the city through its duly authorized agents or as authorized by a permit issued by the public works authority.

(Code 1968, § 705.6)

Sec. 25-102. Public works authority authorized to perform work; lien.

The public works authority is authorized in accordance with the provisions of sections 25-96, 25-97 and 25-98, to construct or reconstruct sidewalks or curbing along any accepted street in the city, and the city shall have a lien on that abutting property to which one-half of the expense thereof is properly assessable pursuant to the provisions of sections 25-96, 25-97(b) and 25-98(b). THIRTY DAYS WRITTEN PRIOR NOTICE WAS REQUIRED

(Code 1968, § 705.7; Ord. No. 30-75, § 3, 1-6-75)

Sec. 25-103. Lien procedure.

The public works authority shall keep an accurate account of the expense of work under this article and shall, as soon as practicable, after the completion thereof, make a return showing the location of each such sidewalk or curbing, its length and width, material of which constructed, cost of construction, and the names of the owners of the abutting property with the amounts properly chargeable against each. Within one (1) year after the completion of such work, the city council shall assess upon the abutting properties their just proportion of the cost thereof and all assessments so made shall constitute a lien on the property to be enforced in the manner provided for the collection of sewer assessments in the city, except that no owner shall be assessed for more than two hundred (200) feet in length of sidewalk or curbing on any one (1) street in front of any unimproved lots or parcels of land.

(Code 1968, § 705.8)

Sec. 25-104. Repair and maintenance.

The public works authority is authorized whenever he or she shall deem it expedient or necessary to repair and maintain at the sole expense of the city sidewalks or curbing previously constructed by the city or constructed under the provisions hereof. The public works authority is further authorized, whenever he or she shall deem it expedient or necessary because of a dangerous or hazardous condition, to make spot repairs at

City of Portland
Code of Ordinances
Sec. 25-27

Streets, Sidewalks and Other Public Places
Chapter 25
Rev. 5-6-02

the sole expense of the city on any type of sidewalk, however
constructed.

(Code 1968, § 705.9)

City of Portland
Code of Ordinances
Sec. 25-28

Streets, Sidewalks and Other Public Places
Chapter 25
Rev. 5-6-02

DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM
 (For use with DEP Regulation, Chapter 305)

PLEASE TYPE OR PRINT IN BLACK INK ONLY (3 COPIES, PLEASE BEAR DOWN)

Name of Applicant:		Homecore Inc.		Name of Owner:		Alfred J. Waxler	
Mailing Address:		P.O. Box 3824		Town/City:		Portland	
State:	Maine	Zip Code:	04104	Daytime Telephone No: (include area code)		207 8286711	
Name of Wetland, Water Body or Stream:				XXXX Forested/Scrub/Emergent///No stream			
Detailed Directions to Site:				See attached direction map/USGS MAP			
From exit 8 of MTP take right on exit, go to Route 302 (1 mile) take right at light, go approx. 1/2 mile to Farnham St on right - site at end							
Project Location: (Town/City):		Portland		UTM Northing:		UTM Easting:	
Map #:	307-B-19 310-B-2	Lot #:	19, 2, 35	County:		Cumberland	
Description of Project: 310-10-35 Sitework for a 22 lot residential subdivision, road and homes - licenses for project in hand as of 1979. see plot plan.							
See attached continued sheet				Part of a larger project?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

(CHECK ONE) This project: does ☐ does not ☒ involve work below mean low water.

I am filing notice of my intent to carry out work which meets the requirements for Permit By Rule (PBR) under DEP Regulation, Chapter 305. I have a copy of PBR Sections checked below. I have read and will comply with all of the standards.

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Sec. (2) Soil Disturbance | <input checked="" type="checkbox"/> Sec. (8) Shoreline stabilization | <input checked="" type="checkbox"/> Sec. (14) Piers, Wharves & Pilings |
| <input checked="" type="checkbox"/> Sec. (3) Intake Pipes | <input checked="" type="checkbox"/> Sec. (9) Utility Crossing | <input checked="" type="checkbox"/> Sec. (15) Public Boat Ramps |
| <input checked="" type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (10) Stream Crossing | <input checked="" type="checkbox"/> Sec. (16) Coastal Sand Dune Projects |
| <input checked="" type="checkbox"/> Sec. (5) REPEALED | <input checked="" type="checkbox"/> Sec. (11) State Transportation Facilities | <input checked="" type="checkbox"/> Sec. (17) Transfers/Permit Extension |
| <input checked="" type="checkbox"/> Sec. (6) Movement of Rocks or Vegetation | <input checked="" type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input checked="" type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input checked="" type="checkbox"/> Sec. (7) Outfall Pipes | <input checked="" type="checkbox"/> Sec. (13) F&W Creation/Enhance/Water Quality Improvement | |

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. I also understand that **this permit is not valid until approved by the Department or 14 days after receipt by the Department, whichever is less.**

I have attached all of the following required submittals. **NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS:**

- ☒ **Attach** a check for \$50 (non-refundable) made payable to: "Treasurer, State of Maine".
- ☒ **Attach** a U.S.G.S. topo map or Maine Atlas & Gazetteer map with the project site clearly marked.
- ☒ **Attach** photographs showing existing site conditions (unless not required under standards).

Signature of Applicant:	Homecore Inc. Mark S. Plummer	Date:	7/10/2002
--------------------------------	----------------------------------	--------------	-----------

Keep the bottom copy as a record of permit. Send the form with attachments via certified mail to the Maine Dept. of Environmental Protection at the appropriate regional office listed below. The DEP will send a copy to the Town Office as evidence of the DEP's receipt of notification. No further authorization by DEP will be issued after receipt of notice. Permits are valid for two years. Work carried out in violation of any standard is subject to enforcement action.

AUGUSTA DEP
 STATE HOUSE STATION 17
 AUGUSTA, ME 04333-0017
 (207)287-2111

PORTLAND DEP
 312 CANCO ROAD
 PORTLAND, ME 04103
 (207)822-6300

BANGOR DEP
 106 HOGAN ROAD
 BANGOR, ME 04401
 (207)941-4570

PRESQUE ISLE DEP
 1235 CENTRAL DRIVE
 PRESQUE ISLE, ME 04769
 (207)764-0477

OFFICE USE ONLY	Ck.#		Staff	Staff	
PBR #	FP	Date	Acc. Date	Def. Date	After Photos

PERMIT BY RULE NOTIFICATION FORM

DESCRIPTION OF PROJECT- CONTINUED

The approval(licences) for this project were obtained in 1979. At the time the only approval necessary was the City of Portland. Under the NRPA standards and exemptions from jurisdiction(section 480-Q) and (section 480-X).

480-X. Alterations of freshwater wetland⁹

exempts this project, see below:

§ 480-X. Alterations of freshwater wetlands⁹

An application for a permit to undertake activities altering freshwater wetlands must be processed by the department using the review process described in this section.

1. Application. This section does not apply to activities otherwise qualifying for reduced review procedures, such as permits by rule or general permits; activities exempt from review under another section of this article; or activities involving protected natural resources other than freshwater wetlands, such as great ponds, coastal wetlands and rivers, streams or brooks.

2. Three-tiered review process; tiers defined. Except as provided in subsection 1, an application for a permit to undertake activities altering freshwater wetlands must be reviewed in accordance with the following.

⁹This section as originally enacted, and other provisions enacted by Laws 1995, ch. 460, are affected by an application provision which reads:

"This Act:

1. Does not apply to an activity that occurred prior to the effective date of this Act and for which a permit was required under the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 5-A prior to the effective date of this Act;

2. Does not apply to an activity for which a permit was not required under the Maine Revised Statutes, Title 38, chapter 3, subchapter I, article 5-A prior to the effective date of this Act, but is required if the activity began prior to the effective date of this Act; and

3. With the exception of those sections of this Act that amend the Maine Revised Statutes, Title 38, section 480-Q, subsection 6 and enact Title 38, section 480-Q, subsection 17, does not apply to an activity performed or caused to be performed on or after the effective date of this Act if the person performing the activity, or causing the activity to be performed, was in possession of applicable federal, state or local licenses prior to the effective date of this Act."

Laws 1995, ch. 460, §12 (effective September 29, 1995).

The Department is also required to monitor the effectiveness of the regulatory program established by 38 M.R.S.A. § 480-X and report back to the Legislature. See Laws 1995, § 10.

PORTLAND

Location Map

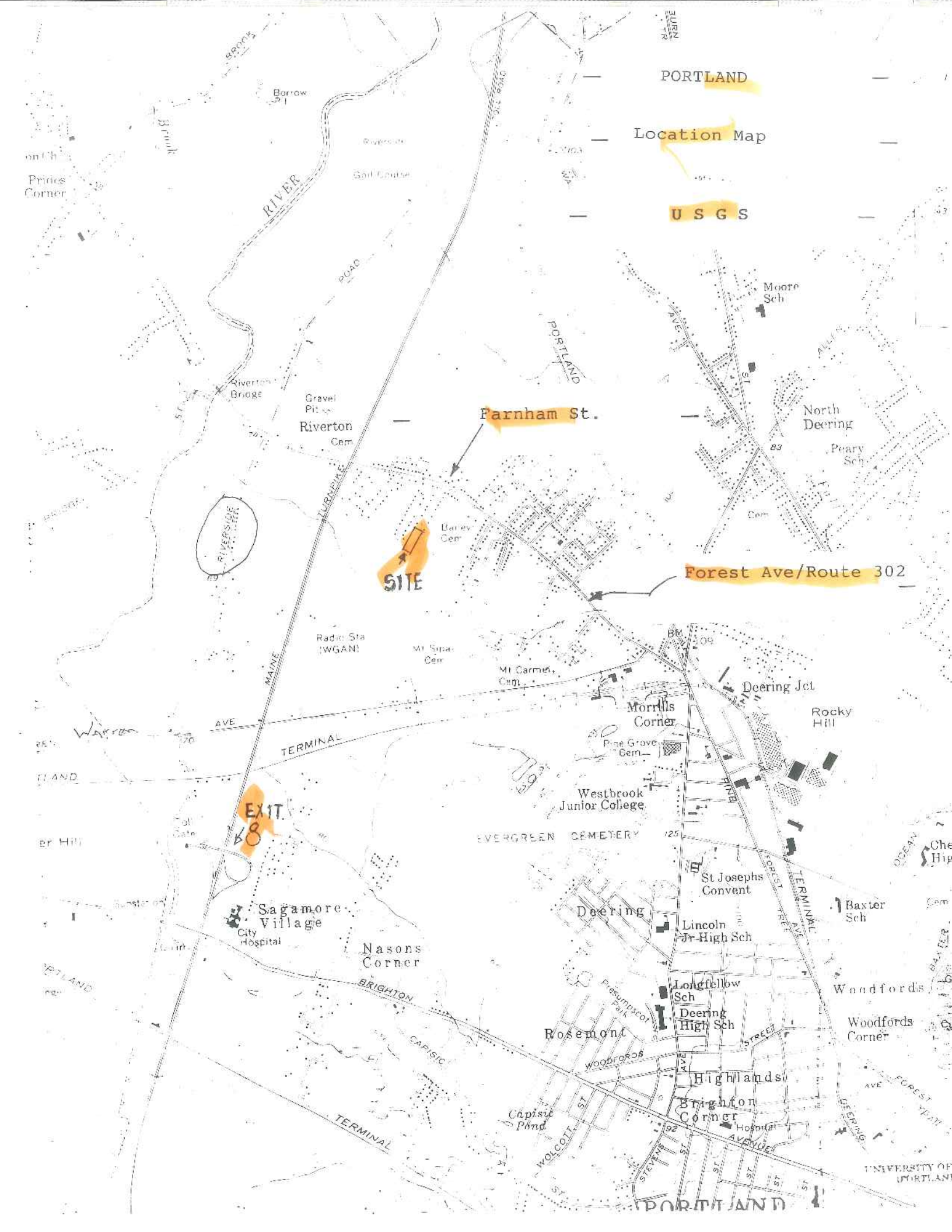
USGS

Farnham St.

Forest Ave/Route 302

SITE

EXIT 68



March 25, 2001

Linda Kokemuller, Manager
Environmental Protection Dept
Southern Regional
312 Canco Rd.
Portland, Me 04103

RE: Pre-Application meeting
Farnham St. 22 lot subdivision Portland, Me..
Single Family lots, Approved (1979)
2002 Wetlands deliniation

Dear Ms. Kokemuller,

I am writing to request the scheduling of a joint pre-application conference on the above named project as named above and its history described as follows:

HISTORY

- ° The Farnham Street project is a project that was approved by the City of Portland in 1979.
- ° Subsequently to that approval the then developer Your Home Inc. and the City were involved in a legal dispute over the project.
- ° The dispute was resolved by the parties in January of 1996. A Court Order was issued. That document is attached (Exhibit A)
- ° The sewer line for the 22 lot subdivision was installed in the late seventys or early eightys, I think by the City.
- ° Sewer stubs were installed by the original developer.
- ° The original developer attempted to start the project in 1998 and 1999. For one reason or another the developer did not complete the process.
- ° During the 98 and 99 processes the Environmental Protection Department of Maine was involved. To what extent, I'm not sure.

It would be helpful to have the previous information that was previously generated and would ask you do that.

I look forward to hearing from the Department on a meeting time. I may be reached at 207-828-6711.

Mark Plummer
P.O. Box 3824, Portland, Me 04104

cc

Ms. Hallowell, project manager DEP
Mark Adelson, City Director of Housing and Neighborhood
Services
William Needleman, Planner, City of Portland
Lee D. Urban, Economic Director, City of Portland
Anthony Lombardo, Engineer, Public Works
Corps of engineers, Augusta, Rod
Joseph E. Gray, Jr., City Manager

enc.

From: Jay Hibbard <jayhibb@javanet.com>
To: Mark Adelson <MBA@ci.portland.me.us>
Date: Wed, Sep 22, 1999 3:05 PM
Subject: Re: Waxler

Mark,

As I observed the discussion last night, it was clear that the purpose of the meeting was missed. From the outset, rather than a discussion about the easement this session focused on Al's credibility and issues related to the development that are not up for hearings or discussion -- traffic, site plan, etc.. Some of the folks there told me afterwards that much of that was intended to *brief* others (new residents, me???) on the history rather than being focus points for future discussion. Clearly Al Waxler's credibility among the abutters is an issue but given the difficult process that this project has faced for the 20+ years some of his actions may not be surprising. Frustration expresses itself in many ways, sometimes in ways that may be detrimental to the ultimate objective.

It is not clear to me that the 10-12 attendees really speak for the greater neighborhood -- some would not accept this project under any circumstance -- or that they appreciate the opportunity the easement negotiation provides to the city to ensure the highest quality development possible. If the easement issue does not go forward there is no way for the city to ask for or require -- other than enforcing the ordinances that are to be applied to the project from 1979 -- changes that might result in a better development. The improvement to the drainage ditch, the installation of a fence, the placement of double-wide units on that side of the project, perhaps longer, bigger ones, etc would all be lost. Furthermore, I heard Al pledge last night that he would install all NEW manufactured housing in the project. Certainly, this would be more palatable to the neighbors than the *rectangular rust bucket* he placed on the existing pad which caused much of the controversy. It was also clear from the discussion that they do not appreciate the limitations of the city to impose standards on these units any more than on stick-built units, i.e. full landscaping, lot design, etc.

In the hour-long post meeting meeting, the prospect of new units, which would be more valuable and hence mitigate some of the valuation concerns, was attractive. Furthermore, there was a growing appreciation for the fact that having a contractual agreement in place between the developer and the City would provide a greater ability to influence the project.

I suggested to Al last night that he proceed with the item on the Housing Committee agenda on Thursday, although I would also expect a decision to be delayed until after a city-sponsored meeting with appropriate notice to a wider group of homeowners could be held.

It is impossible to predict what the development would look like if left entirely to market forces. It may turn out fine, it may not. As a practical matter, are we better off to err on the side of caution and attempt to direct some in order to achieve the highest level of compatibility with the existing neighborhood or just let happen what may?

I also have additional questions that I would like information on.

1) If an individual purchases a lot but elects to construct a stick-built home on the site, what standards apply? 1979 or 1999? As an extension of that question, if the original purchaser buys a lot and places a manufactured unit on it and subsequently moves and takes it with them, what standards apply to the replacement in the event a new lot owner desires a stick-built? These lots are 6500 sq ft which is below the current standard, right?

2) Given the condition of some of the land, should we request the DEP to review the project? I've been given to understand that there is no grandfathering available from DEP rules and regs.

3) The separation of sewer and storm is an issue. It was not required in 1979, it is now. Who pays? Waxler's plan shows a combined flow to Lane Avenue. Is there any capacity issue?

4) In the event Riverton School needs to be expanded to accomodate the growing elementary population, will the loss of this land have any impact on any aspect of that expansion?

The decision to proceed is one that is Al Waxler's to make, not the city's. I made my suggestion to him last night. It's now up to him to decide. It is clear in any event that the city's inspection efforts will have to be the most vigilant on this project. There is no other way to satisfy the concerns of the neighborhood that things are going to be done to city code -- even 1979 code.

Mark Adelson wrote:

> After last night's very negative neighborhood meeting, Al W. is leaving it up to the City to proceed with the land sale. If the District Councilor and Housing Committee thinks it is a good idea and will help the project he will proceed, otherwise he doesn't need the aggravation. The basic message from the neighbors is Al's lack of credibility. It doesn't matter if it's single-wide homes or double-wide homes, they have no doubt it will be awful project, so why should the City help him. Al is looking for direction before tomorrow's Housing Committee meeting. Let me know your thoughts.

> Thanks, Mark A.

CC: Portland.CityHall(RBG,JEG,AQJ,GARY),Portland.gwsmt...

Robert and Irma Andrews
66 Farnham Street
Portland ME 04103

Rec 10/15/99

October 14, 1999

Mr. Mark Adelson, Director
Housing & Neighborhood Services
Portland City Hall
Portland ME 04101

Re: Development of Waxler's Farnham St. Mobile Home Subdivision

Dear Mr. Adelson,

Following the 9/21/99 presentation by Mr. Waxler at the Riverton School, the Farnham St. residents identified two major concerns relative to the proposed development of the subdivision at the foot of Farnham St. as follows:

1. Need to Involve the DEP to control the larger wetlands issues.

Note that the DEP was bypassed in the development of both the Lane Ave. subdivision and the Riverton School complex, thus creating ongoing problems in both those areas, by attempting to squeeze the spongy wetlands into an ever smaller area between Forest Ave. and Warren Ave.

2. Need to cover Mr. Waxler's mobile home lot at 92 Farnham St. with the same protections for the benefit of prospective homeowners that may apply to the development and management of the subdivision.

We wish to thank you for the time you spent with us on such notice. As a result, on Monday 9/20/99, the Farnham St. residents met to prepare for the two hearings to be held that week. Enclosed is a copy of the minutes documenting our comments and concerns voiced at our meeting. We wanted to present both the immediate and larger concerns to the Housing Committee, as well as a factual historical perspective on Mr. Waxler's style of ground-rent management, as exemplified by his performance over the past 15 years with respect to his lot at 92 Farnham St. This is his one lot left which abuts the subdivision, but is not part of it.

We were glad to see you at the presentation by Mr. Waxler at the Riverton School. We realized next day the importance of supporting the city's position at the upcoming Thursday hearing. We all regret that the 9/23/99 hearing was subsequently canceled. Please keep us informed of what is happening next in this unfolding drama!

Sincerely,



Robert and Irma Andrews

End,

THE RESIDENTS OF FARNHAM STREET

September 21, 1999

The following is a summary of concerns expressed at a meeting of Farnham Street residents held at 82 Farnham St. on September 20, 1999, regarding Mr. Waxler's proposal to go ahead with his trailer park development.

The over-riding concern is that the residents and the city need more time to properly assess the impact of the trailer park as it relates to a number of important issues which are listed below.

1. The Impact of Increased Traffic on the Street

- A) there will be an increase of at least twenty two cars on the street potentially creating serious traffic congestion trying to get on and off of Forest Avenue during rush hour periods
- B) Lane Avenue is experiencing bottlenecks at the top of the street during peak traffic hours because of the additional vehicle traffic associated with the new construction
- C) there is a significant blind spot because of the curve on the east side of Farnham Street which makes pulling on to Forest Ave. dangerous
- D) Farnham Street marks the beginning of the Riverton School zone so children are always present during rush hour periods and represent a constant concern when pulling into and out of the street
- E) All of these factors are of greater concern during the winter when icy roads and snow-banks make negotiating the turn at the top of the street a challenge even to the most experienced drivers
- F) the transport of trailer homes and heavy construction equipment up and down the street will be a major inconvenience to the residents as well as pose a threat to vehicles parked on the street
- G) if the street is ultimately extended to Warren Ave. the traffic from its use as a short cut from Forest Ave. to Warren Ave. will further exacerbate the traffic issue

2. Environmental Impact Associated with the Wetlands

- A) the residential development that has extended Belfort Street and Lane Avenue has seriously impacted the wetlands just south of Farnham Street
- B) the additional development extending Farnham Street will push the wetlands further south toward Warren Avenue potentially altering the environmental landscape and subsequently jeopardizing one of the few tax base loss land properties left in the city
- C) if Mr. Waxler obtained a permit from the Department of Environmental Protection (DEP) when he first proposed to develop the property in 1976 it has expired by now and many environmental rules and regulations have changed and are not grand-fathered
- D) the Environmental Protection Agency and the DEP need to study the potential short and long-term impact of this development on the wetland area and re-assess Mr. Waxler's proposal according to the new EPA and DEP guidelines

3. Impact on Riverton School

- A) Riverton School may not be able to adequately absorb the additional students
- B) the additional footage associated with the sale of drainage ditch property will place the lots directly adjacent to the Riverton School ball fields
- C) since the ball fields are on a higher level than the proposed lot properties, even a high quality six foot chain linked fence would not provide adequate protection to homeowners and their children from injury or property damage associated with fly balls, overthrown passes or wildly kicked soccer balls
- D) if residential property is directly adjacent to the ball fields spectators will be limited to watching the games from only one side of the field

4. Concern for Lack of Controls on Implementation of Development Project

- A) the Housing Committee needs to review Mr. Waxler's proposal with respect to city ordinances governing construction of trailer parks in the City of Portland if regulations are not grand-fathered to 1979
- B) Farnham Street residents need time to examine Mr. Waxler's development plan in detail so that they can develop a proposal for specific quality control restrictions and requirements that must be adhered to during the development process (examples include developing the entire street, sewer and associated infrastructure prior to developing lots, chain linked fences in the back yards, no previously owned trailers, an access path out to Riverton School, etc. More specific concerns will arise after we see Mr. Waxler's proposal on 19 September.)
- C) there needs to be an oversight committee designated by the city and a plan established outlining how the oversight process is going to work and who will be responsible for it, and this information conveyed to the residents of Farnham Street
- D) a point of contact should be assigned for Farnham Street residents to present future questions, concerns or grievances throughout the development process

5. Concern for Mr. Waxler's Past Performance and Failure to Keep His Word

- A) Gary C. Wood (Corporation Council for the city of Portland) documented very clearly in his letter to Mr. Waxler, dated July 11, 1997, that Mr. Waxler has repeatedly failed to live up to his word throughout the litigation process.
- B) Mr. Waxler has also demonstrated to Farnham Street residents that he cannot be trusted to place high quality trailers on the lots or keep the lots in a high state of repair
- C) Mr. Waxler claims to be concerned for providing housing to low income families but his sales scheme is more conducive to taking advantage of them and ripping them off
- D) before assisting Mr. Waxler with his development through the sale of the drainage ditch property, the city should evaluate the potential impact of his sales practices on unsuspecting and vulnerable lower income families

6. Concern for the Big Picture Perspective

- A) this development project affects more than just the residents of Farnham Street and everyone involved needs to be notified and given a chance to respond to the proposed sale of the drainage ditch property by the city
- B) the homeowners on Lane Ave., whose lots will be directly behind and adjacent to Mr. Waxler's trailer park lots, have no idea what is being proposed and consequently have not had a chance to express their concerns regarding the sale of this property and the development of the project
- C) parents of children attending Riverton school should be informed so they can express their concerns regarding the possible impact on quality of education
- D) if the city of Portland is going to sell a piece of real property the property should first be put up for bid to see if another developer could make better use of the property
- E) the way this development project is handled will set a precedent for future proposed trailer parks in the city of Portland (such as the trailer park proposal in District Four which is awaiting the results of this proposal) and failure to thoroughly assess the impact of this proposal in all of its aspects may result in degradation of quality of living for those involved as well as serious litigation problems for the city and other residential areas

Other Points Raised at the Meeting

1. the residents of Farnham Street are not opposed to the concept of a properly developed and well maintained trailer park that enhances rather than detracts from the present quality of life for the neighborhood
2. The Spurwink School provides a good example of how a well managed alternative housing business venture can function within the residential community

Additional Information

1. Riverton School Meeting is at 6:30 pm tonight
2. The Housing Committee Review of Mr. Waxler's proposal is at City Hall on Thursday, 23 September, at 4:00 pm and they will be taking public comment
3. if possible take notes at the meeting tonight so additional points may be added to this summary and presented at Thursday's meeting at City Hall

BULLETIN

Mobile-home bills need more teeth

A RECENT AARP SURVEY found that more than three-fourths of new manufactured-housing owners have had significant problems with their homes. Even though 95 percent of these homes carried a warranty, only about a third of the homes with problems were repaired under the warranty, leaving two-thirds of owners to pay for the repairs out of their own pockets or not fix the problem.

With manufactured housing—or mobile homes—representing more than one-third of all single-family homes being sold today and providing housing for more than 19 million people (44 percent age 50 or older), Congress is seeking to update the 1974 Manufactured Housing Act. Yet the current legislation fails to address key consumer concerns with regard to safety, quality and warranty protections. Moreover, it gives individual states exclusive authority over installation standards.

AARP's survey shows current federal standards for the manufacturing of mobile homes are not adequately enforced nationwide. AARP believes new legislation must include a comprehensive warranty and a guarantee of proper installation.

For many people, manufactured housing is the gateway to the American dream of owning a home. But without national standards for safety, quality and installation, plus enforceable warranty protections, that dream can quickly become a nightmare.

If you have a complaint against a seller or manufacturer of manufactured housing, use the following toll-free numbers to call the U.S. Department of Housing and Urban Development at (800) 927-2891 or the Federal Trade Commission at (877) 382-4357. We urge you to contact your members of Congress to tell them how important national standards and enforceable warranty protections are for consumers.

November 3, 1999

Mr. Alfred Waxler
P.O. Box 6681
Portland, Maine 04101

RE: Farnum Street Subdivision Review

Dear Mr. Waxler,

This is a letter following up on the previous letter sent to you on October 12, 1999. City Planning and Public Works has continued to review the available information at our disposal regarding the approved subdivision on Farnum Street. The subdivision of land and the layout of the lots has been approved and is not undergoing further review, but several serious concerns have arisen with regards to the engineering of the road and drainage system.

Publics Works engineering staff and the City Planning staff's consulting engineer both agree that, according to 1979 standards, the proposed preliminary engineering drawings for the Farnum Street extension will not drain properly and can not be accepted by the City. The wet nature of the land will require substantial redesigning of the road and drainage systems. Revised drawings, stamped by a professional engineer, will be needed. Copies of the engineering memos are enclosed with this letter.

As stated in the October 12 letter, environmental permits from Maine DEP and the Army Corps of Engineers will be needed for this project. Substantial filling is unavoidable for constructing this subdivision and wetland conditions are apparent on your property. City Planning staff encourages you to begin discussion with state and federal permitting agencies prior to re-engineering this project, as these agencies may have additional requirements and concerns separate from those of City Public Works.

If you decide to apply for state and federal permits with the present set of engineering drawings, please understand that even with environmental permits, the present engineering of the streets will not be accepted by the City.

I am in the Planning Office on Tuesday, Wednesday and Thursday on most work weeks and can be reached at tel. extension 874-8722. Please call if you have any questions, and inform us of how you intend to proceed with your project. We look forward to working with you in the completion of your project.

Sincerely,

William B. Needelman, Planner

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jacgerman, Chief Planner
Penny Littell, Associate Corporation Counsel
Gary Wood, Corporation Counsel
Mark Adelson, Director of Housing and Neighborhood Services
Anthony Lombardo, Public Works Engineer

enc.

October 12, 1999

Mr. Alfred Waxler
P.O. Box 6681
Portland, Maine 04101

RE: Farnum Street Subdivision Review

Dear Mr. Waxler,

As a means to expedite the review of your approved subdivision on Farnum Street I am writing this letter to begin the process of finalizing the engineering review, performance guarantee, construction, and street acceptance of your project. I am in the Planning Office on Tuesday, Wednesday and Thursday on most work weeks and can be reached at tel. extension 874-8722. Please call if you have any questions.

Pursuant to the 1996 court order, we will review this subdivision according to the 1979 Land Use Ordinance, of which the applicable sections have been enclosed. Upon preliminary review of the available material, Planning staff has several initial concerns and information requests which are listed below.

1. State and Federal Review.

Please submit to the Planning Office all necessary permits or letters of non-applicability from the Maine DEP and Army Corps of Engineers. Maine DEP land-use telephone # is 822-6300.

2. Street and Sewer Design.

Please submit any plans and/or detail drawings that were stamped as "approved" by Public Works as part of the 1979 review. Planning staff has copies of the preliminary plans, but after the time lapse, we have no record of the resolution of the public works review. If there is no existing proof of approval for the street, sewer and drainage design, Public works will review the Preliminary Plans according to 1979 standards.

Our records indicate that City Council waived the need for sidewalks for this development. Curbing will be needed according to 1979 Public Works standards.

3. Please provide copies of all deeds for drainage, sewer, and utility easements necessary for the construction, maintenance and function of the subdivision. Our 10/6/99 telephone

conversation indicated that sewer stubs have been constructed to all of the lots. Provide plans, design material, as-builts, and record of inspection for these stubs.

4. Performance Guarantees will be need for all site work. These can be in the form of Letters of Credit, Escrow Accounts or Bonds. An updated schedule of costs will be needed as the basis for the guarantee.

Back Lot Drainage Design:

Whereas an improper design and construction of the back lot drainage will result in ponding and off site drainage impacts, all drainage ditches need to be designed to accommodate anticipated flow and must discharge with no adverse impacts to residences and protected natural resources. Engineering of the swale now will facilitate coordinated review and approval of individual house lot plans as you develop each lot.

Again, please call if you have any questions.

Sincerely,

William B. Needelman, Planner

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
Penny Littell, Associate Corporation Counsel
Mark Adelson, Director of Housing and Neighborhood Services

**City of Portland, Maine
MEMORANDUM**

To: Housing Committee Members,
Councilor Karen Geraghty, Chair

From: Mark B. Adelson, Housing and Neighborhood Services Director *MA*

Subject: **Request From Alfred Waxler Re: Farnum Street Subdivision**

Date: September 2, 1999

Alfred Waxler of Portland, is the owner and developer of a 22 lot subdivision for manufactured housing on Farnum Street, off of Forest Ave, next to and behind the Riverton School. The City and Mr. Waxler have been in legal action over this how this land can be developed since 1976. In April, 1999, the court ruled against the City, that Mr. Waxler does have the right to develop this subdivision with manufactured housing as originally planned.

Mr Waxler now plans to proceed with the development, but would like to purchase a 10ft x 1,900ft. strip of land from the City to allow the placement of larger, more valuable, double-wide manufactured homes on the lots. The strip of land would add 10ft. to the rear of each lot and satisfy the set back requirement for the dimensions of a double-wide home. Without the additional strip of land he will only be allowed to place less valuable and less marketable single-wide homes on these lots. Currently, the 10'x1,900' strip of land is part of a drainage ditch that borders the City owned land surrounding the Riverton School.

Dimensions: Currently each lot is 65ft.x 100ft. With the 25ft. front and back required setbacks, a double-wide home measuring 24ft.x52ft. could not be placed on the lot. A single-wide or double-wide 48ft. long could be placed on the lot. However, Mr. Waxler feels the 52ft. long homes are nicer, more desirable and more marketable.

Mr. Waxler is convinced this will make a much nicer neighborhood for current residents of Farnum St. and the City.

Proposal: The City will sell the land to Mr. Waxler for one dollar (\$1.).

In exchange for the land, Mr. Waxler agrees to:

1. Deed an easement back to the City so it can continued to be used as a drainage ditch for the school land.
2. Pay for the surveying costs.
3. Pay all legal and recording fees.
4. Pay to have the drainage ditch cleared of all debris as the lots are sold or leased.
5. Pay to have the drainage ditch maintained to ensure properly functioning.
6. Pay to erect a fence at the rear of each lot separating ditch from the rest of the usable yard.
7. Guarantee that only double-wide homes would be placed on the adjacent lots (east side).
8. Build the streets, sidewalks, drainage and other public improvements to city standards.
9. Hold a neighborhood meeting in September at Riverton School to explain his proposal to Farnum Street residents.

Other Issues:

Mr. Waxler is not guaranteeing that double-wide homes will be placed on lots on the other or west side of Farnum Street, although there is room from now. He feels he would like the flexibility to sell and place single-wide homes if the demand is there.

Mr. Waxler is requesting that to purchase the strip along the full 1,900ft. of his property, although the length of the approved subdivision is only 715ft. The additional 1,185 ft. runs the length of his property beyond his subdivision to Warren Ave. which he hopes to develop in the future.

Mr. Waxler will either sell or lease the lots to the purchasers of the homes. Each lot will have a concrete pad, lawn and gravel driveway, no other amenities are planned.

Mr. Waxler must apply for a building permit for each lot he wants to develop. Each lot will be reviewed under the City's administrative (minor-minor) site plan procedures.

Process:

Mr. Waxler will present his request to the Housing Committee in a workshop setting on September 9th. The Committee will have an opportunity to ask questions and request additional information. Mr. Waxler will then hold a neighborhood meeting at Riverton School with the Farnum Street residents between Sept. 9 and Sept. 22. The Housing Committee will review Mr. Waxler's proposal again on September 23rd, take public comment and make a recommendation to the City Council.

Attached are a map of the subdivision, examples of the single-wide and double-wide homes, Mr. Waxler's original letter to the City, and a memo from Portland Schools staff Donn Davis regarding the impact of this request. .

cc: Councilor Hibbard
Gary Wood
Joe Gray

From: Donn Davis
To: Gary Wood
Date: Tue, Aug 10, 1999 8:08 am
Subject: Al Waxler/Riverton School

Gary,

I'm sorry to say that neither Hank nor I can attend the meeting with Al this morning.

However, I was able to meet with Al yesterday afternoon at the site. I met him at the Warren Ave. side and we worked our way around to both Farnum St. and then cut through to the Riverton School property where the property abuts Mr. Waxler.

Generally, our conversation was limited to the impact on schools. I shared with him what you and I had already discussed and perhaps a few other things. Specifically, I noted my concern for school enrollments in this already somewhat dense part of the city, our desire to have no out of pocket expenses for fencing (as it was likely that balls would escape from the playing field, etc). I also noted that we had little control as regards to children cutting through his property and the like. I did note that there was some wet land type areas (cat and nine tails) near the far end of the property.

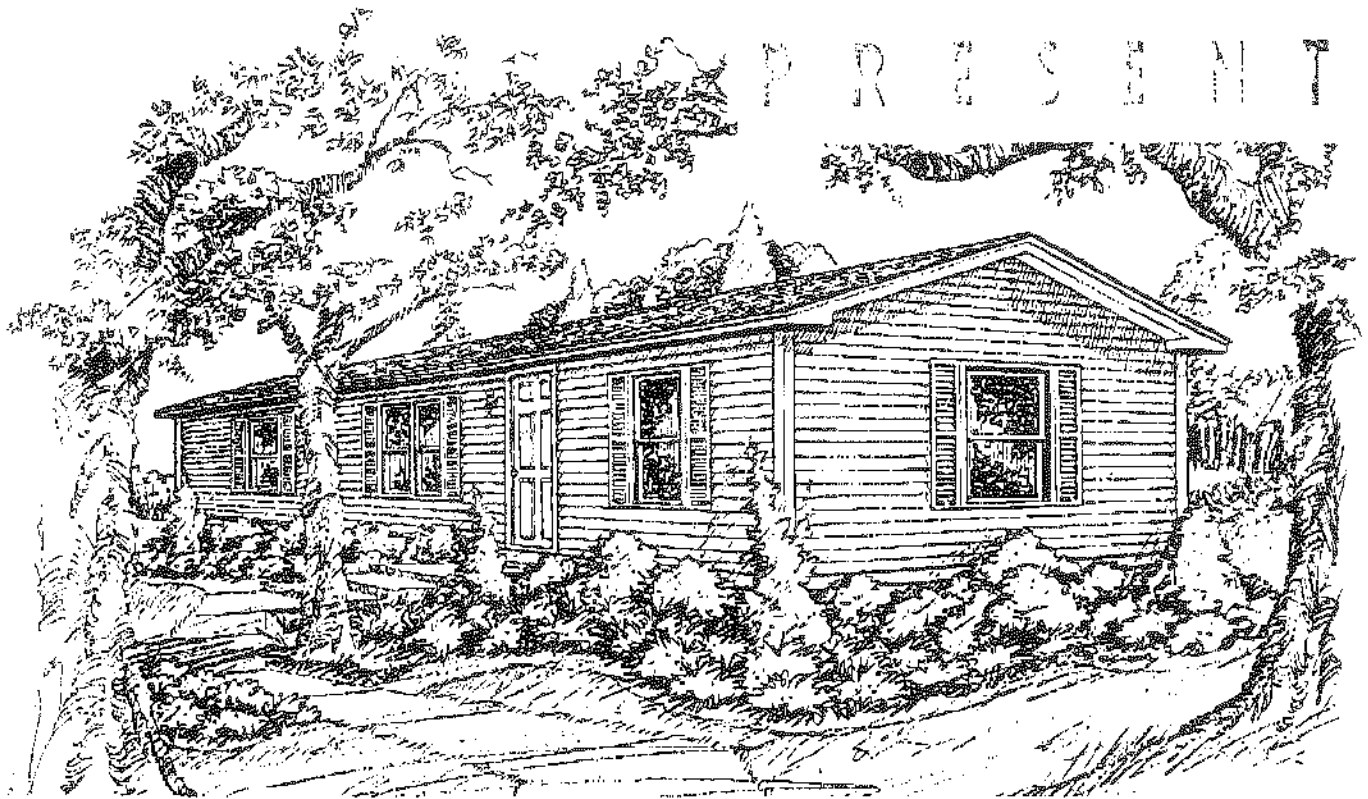
Essentially, Gary, I made no statements about the merit of his actions. However, please know we are willing to support you in any way that makes sense for all the parties in interest.

Good luck with your meeting and please feel free to call if we can do anything from this end.

CC: Hank Dresch

EX: SINGLE-WIDE HOME

P R E S E N T S



ARTS & CRAFTS
HOME FEATURES SHOWN ARE OPTIONAL

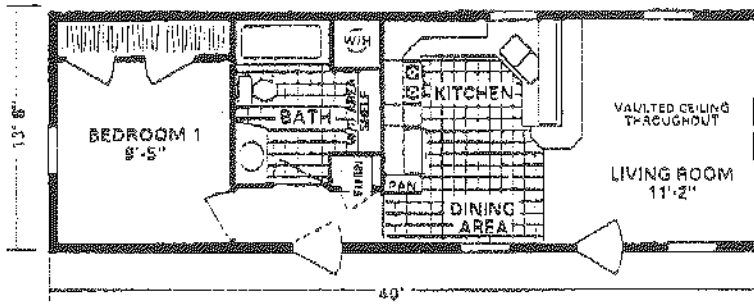
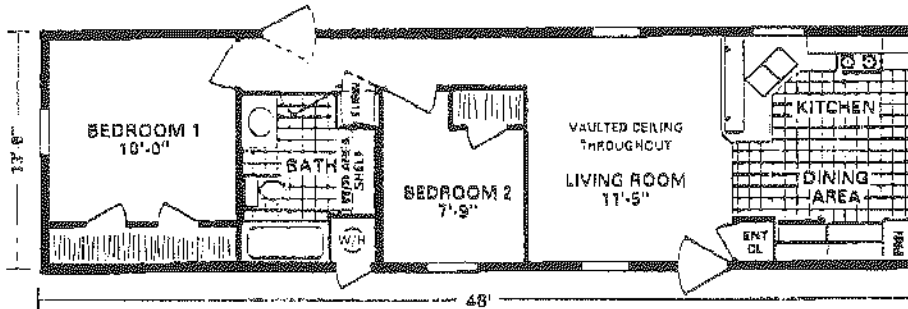
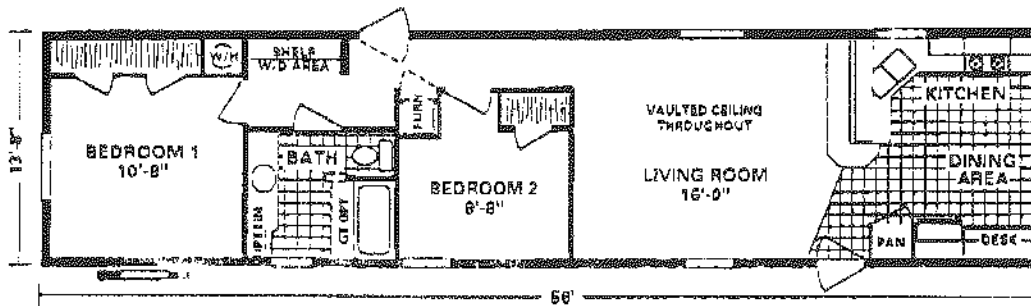
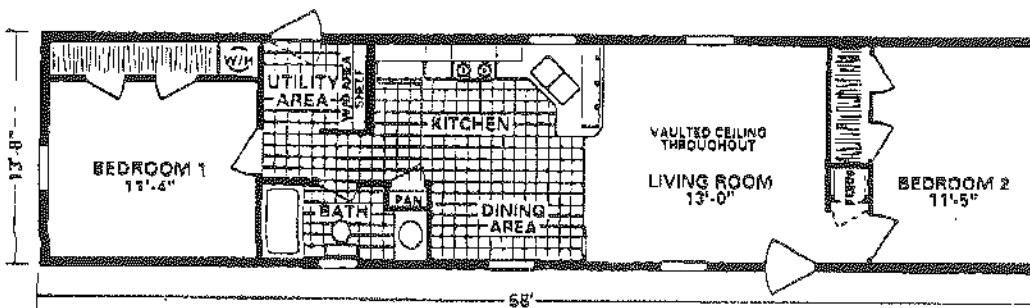
CUSTOM 2000

SINGLE SECTION MODELS

THE OLDEST, MOST EXPERIENCED BUILDER OF MANUFACTURED HOUSING

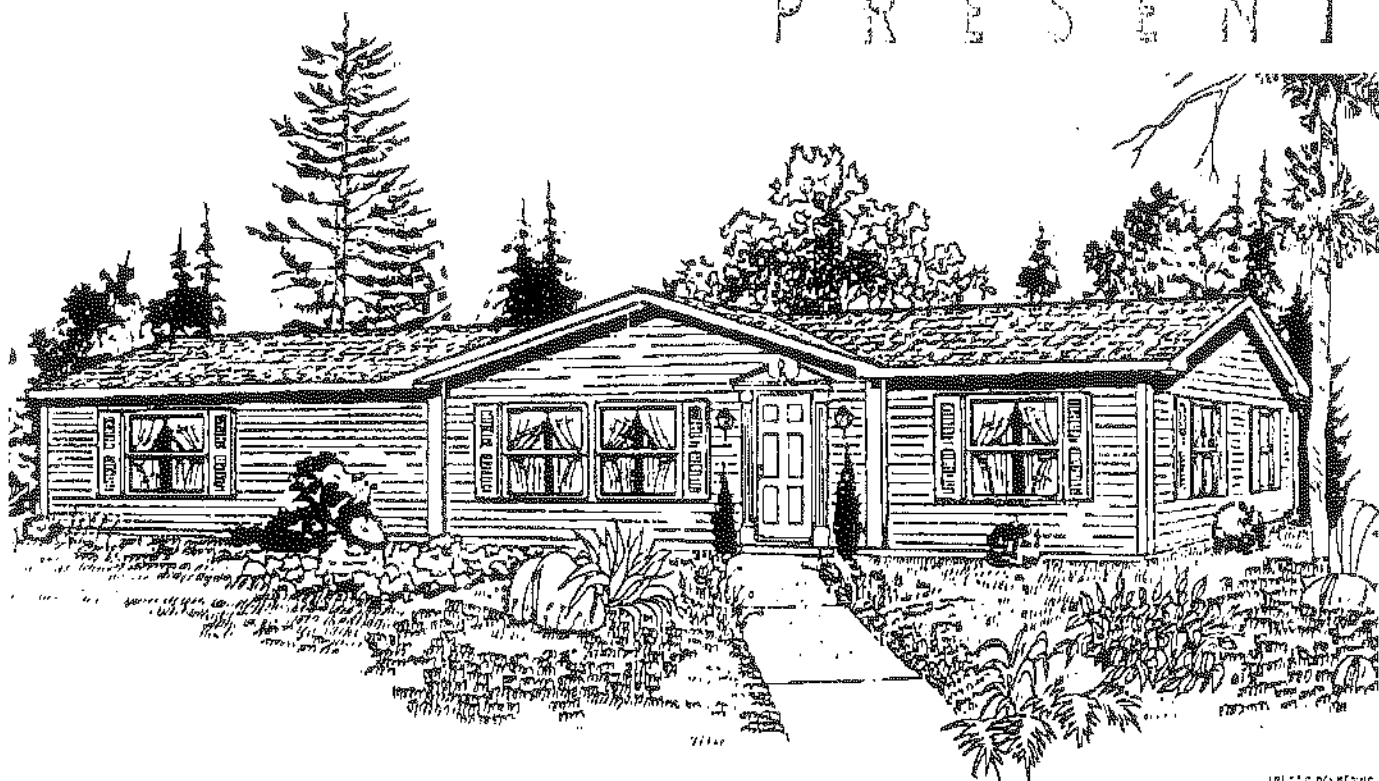


2

*Ex. Single-Wide FH Plan****MODEL 4414-77-2-N — 547 SQ. FT.—1 BEDROOM—FRONT LIVING ROOM****MODEL 5214-503 — 656 SQ. FT. —2 BEDROOM—FRONT KITCHEN****MODEL 6014-516-N — 766 SQ. FT.—2 BEDROOM—FRONT KITCHEN*****MODEL L6014-320 — 766 SQ. FT.—2 BEDROOM—FRONT BEDROOM**

Ex. Double-WIDE Home

P R E S E N T S



ARTIST'S RENDERING
SOME FEATURES SHOWN MAY BE OPTIONAL

GRAND VILLA II

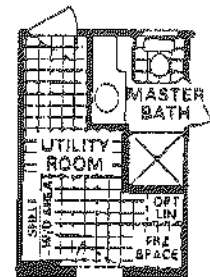
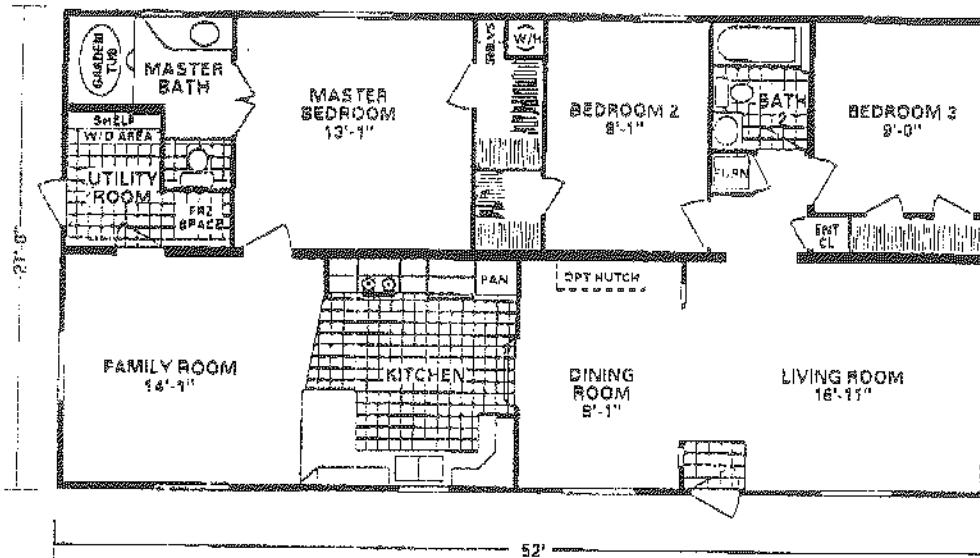
SECTIONAL MODELS

THE OLDEST, MOST EXPERIENCED BUILDER OF MANUFACTURED HOUSING

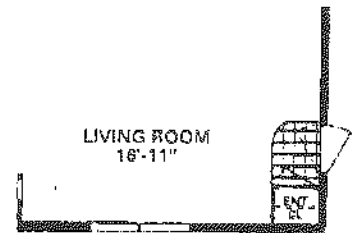


8

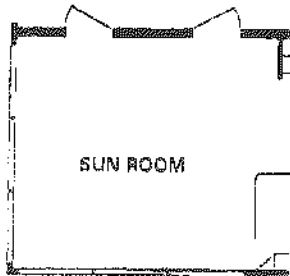
Ext. Double-Window Fl. Plan **MODEL 5228-318-1—1439 SQ. FT.—3 BEDROOM—2 BATH**



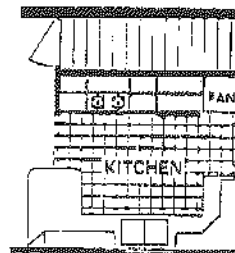
UTILITY ROOM OPTION

LIVING ROOM
16'-11"

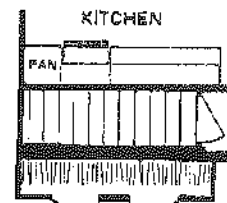
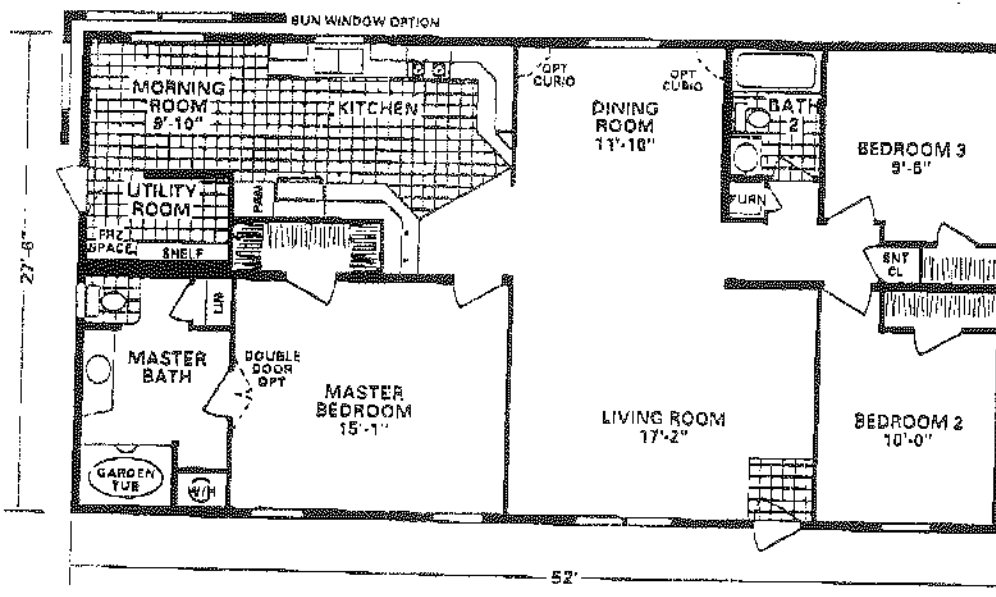
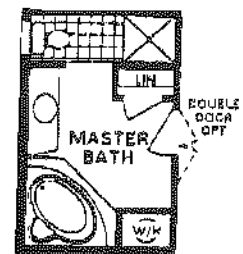
END ENTRY OPTION



SUN ROOM OPTION

BASEMENT STAIRWELL
OPTION

MODEL 5228-330-1—1439 SQ. FT.—3 BEDROOM—2 BATH

BASEMENT STAIRWELL
OPTIONCORNER TUB BATH
WITH 32" SHOWER
OPTION

ALFRED J. WAXLER

Mail:
P.O. Box 6681
04101

Phone (207) 773-5853
Fax (207) 772-7554

PORTLAND, MAINE

July 26, 1999

Mr. Mark Adelson
Director of Community Relations
Portland City Hall
389 Congress Street
Portland, Maine 04101

SENT VIA FAX TO 874 8949
3:50 TODAY

Re: Manufactured Housing / FARNHAM STREET

Dear Mr. Adelson:

Friday I received the City calendar showing the Housing Committee meeting on July 29th. It was not listed on the previous calendar.

There are three subjects of immediate importance to the citizens of Portland.

1. The drainage ditch on the Riverton School property abuts the entire length of my Farnham Street property. The lots on my property are 100' deep. The zoning setback requirements are-- 25' front and 25' rears.

Manufactured housing is made in 4' increments. That is 48' and 52'. If the City would deed the drainage area to my Farnham Street property, a drainage easement would be deeded back to the City. I would agree to place only double-wide housing on that side of the Street. This would make for an upscale housing project and increase the City's tax base.

2. Since in May Judge Cole ruled in my favor in the case against the city, the impact of this ruling must be addressed.

3. Why are the residents of Portland denied access to Manufactured Housing while a serious shortage of affordable housing exists? Is Portland serious about affordable housing issues or just paying lip service to the issue until more **Public Housing can be built?**

City of Portland
Planning Department

389 Congress Street, 4th Floor
Portland, ME 04101
207-874-8721 or 207-874-8719
Fax: 207-756-8258

FAX TRANSMISSION COVER SHEET

Date:

To:

Company:

Fax #:

From:

RE:

Steno Bushey

879-0896

Alex Freeman

Proposal for Stable +
11 lot grading

Mark Adelson
may have plans
Talk w/ Tony

Thurs: 4:00 p.m.

need proposal

YOU SHOULD RECEIVE 10 PAGE(S),
INCLUDING THIS COVER SHEET.
IF YOU DO NOT RECEIVE ALL THE PAGES,
PLEASE CALL 207-874-8721 OR 207-874-8719.

October 12, 1999

Mr. Alfred Waxler
P.O. Box 6681
Portland, Maine 04101

RE: Farnum Street Subdivision Review

Dear Mr. Waxler,

As a means to expedite the review of your approved subdivision on Farnum Street I am writing this letter to begin the process of finalizing the engineering review, performance guarantee, construction, and street acceptance of your project. I am in the Planning Office on Tuesday, Wednesday and Thursday on most work weeks and can be reached at tel. extension 874-8722. Please call if you have any questions.

Pursuant to the 19 - ? court order, we will review this subdivision according to the 1979 Land Use Ordinance, of which the applicable sections have been enclosed. Upon preliminary review of the available material, Planning staff has several initial concerns and information requests which are listed below.

1. State and Federal Review.

Please submit to the Planning Office all necessary permits or letters of non-applicability from the Maine DEP and Army Corps of Engineers. Maine DEP land-use telephone # is 822-6300.

2. Street and Sewer Design.

Please submit any plans and/or detail drawings that were stamped as "approved" by Public Works as part of the 1979 review. Planning staff has copies of the preliminary plans, but after the time lapse, we have no record of the resolution of the public works review. If there is no existing proof of approval for the street, sewer and drainage design, Public works will review the Preliminary Plans according to 1979 standards.

Our records indicate that City Council waived the need for sidewalks for this development. Curbing will be needed according to 1979 Public Works standards.

3. Please provide copies of all deeds for drainage, sewer, and utility easements necessary for the construction, maintenance and function of the subdivision. Our 10/699 telephone conversation indicated that sewer stubs have been constructed to all of the lots. Provide plans, design material, as-builts, and record of inspection for these stubs.

4. Performance Guarantees will be need for all site work. These can be in the form of Letters of Credit, Escrow Accounts or Bonds. An updated schedule of costs will be

needed as the basis for the guarantee.

Back Lot Drainage Design:

Whereas an improper design and construction of the back lot drainage will result in ponding and off site drainage impacts, all drainage ditches need to be designed to accommodate anticipated flow and must discharge with no adverse impacts to residences and protected natural resources. Engineering of the swale now will facilitate coordinated review and approval of individual house lot plans as you develop each lot.

Again, please call if you have any questions.

Sincerely,

William B. Needelman, Planner

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
Penny Littell, Associate Corporation Counsel
Mark Adelson, Director of Housing and Neighborhood Services

12
October 7, 1999

Mr. Alfred Waxler
P.O. Box 6681
Portland, Maine 04101

RE: Farnum Street Subdivision Review

Dear Mr. Waxler,

As a means to expedite the review of your approved subdivision on Farnum Street I am writing this letter to begin the process of finalizing the engineering review, performance guarantee, construction, and street acceptance of your project. Understanding the confrontational history of this project, please be assured that the Planning Staff will work for a thorough and timely review and resolution of this process. I am in the Planning Office on Tuesday, Wednesday and Thursday on most work weeks and can be reached at tel. extension 874-8722. Please call if you have any questions.

Pursuant to the court order, we will review this subdivision according to the 1979 Land Use Ordinance, of which the applicable sections have been enclosed. Upon preliminary review of the available material, Planning staff has several specific concerns and information requests which are listed below.

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as-built

Draft

O/Plan/devrev/Farnum

4. Performance Guarantees will be need for all site work. These can be in the form of Letters of Credit, Escrow Accounts or Bonds. An updated schedule of costs will be needed as the basis for the guarantee.

5.

Back lot Drainage Design!

~~Planning staff strongly encourages the proper and necessary engineering of the back lot drainage swales.~~ Where as an improper design and construction of the back lot drainage will result in ponding and off site drainage impacts, all drainage ditches need to be designed to accommodate anticipated flow and must discharge with no adverse impacts to residences and protected natural resources.

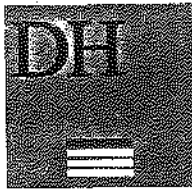
*Engineering of the swale
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approval of
individual
house lot plans
as you develop
each lot*

Again, please call if you have any questions.

Sincerely,

William B. Needelman, Planner

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
Penny Littell, Associate Corporation Counsel
Mark Adelson, Director of Housing and Neighborhood Services



DELL CA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

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

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

MEMORANDUM

TO: William Needelman, Planner
FROM: Steve Bushey, Acting Development Review Coordinator
RE: Al Waxler Subdivision Proposal – Farnum Avenue
DATE: October 25, 1999

I have reviewed the available materials for the proposed subdivision off Farnum Avenue and I completed a site walk to review actual field conditions. Based on my review, I offer the following comments:

1. The proposed 22-lot subdivision will require an extension of Farnum Avenue of approximately 850 linear feet. It is my understanding that the street construction would be in accordance with the City's 1979 Standards. Although the Public Works Department will have the ultimate say in the construction, I offer the following for consideration:
 - The street section should include an underdrain on each side of the road due to the severe wet soils conditions.
 - The street profile should be raised above existing grades in order to improve pavement section drainage. The use of geosynthetic material may be necessary for the road to remain stable long term.
 - The design should include multiple culvert crossings to allow drainage to cross the road from south to north. An engineered drainage system should be requested of the developer.
2. The development site appears significantly constrained by poorly drained soils and wetlands. I reviewed the National Wetland Inventory Map which shows significant mapped wetlands just south of the development area. I also observed significant areas of wetland vegetation and standing water on our site walk. The areas along lots 5 through 21 on the south side of the proposed street were especially wet. The developer is required to obtain permits from both the Maine Department of Environmental Protection under the Natural Resource Protection Act (NRPA), and the U.S. Army Corps of Engineers (ACOE). These permits are described as follows:
 - a. **Department of The Army Individual Permit Granted by the U.S. Army Corps of Engineers**

It is anticipated that any impacts associated with development could involve Army Corps of Engineers (ACOE) permit review. Mr. Jay Clement of the U.S. Army Corps of Engineers has stated that the project would be subject to current regulations for natural resource impacts. The following is provided for informational purposes.

- An Individual Permit is required for cumulative wetland impacts, by dredging or filling, greater than three acres in size or as determined by the ACOE, depending on the level of natural resource impacts.
- Secondary impacts to wetlands such as alteration of vegetation, wildlife habitat impacts, and changes in hydrology, i.e., changes in water level due to separated stormwater discharges, only come under the purview of the ACOE when federal jurisdiction is triggered by a primary impact involving dredging or filling within a federally jurisdictional wetland.
- A permit may be issued only for the Least Environmentally Damaging Practicable Alternative (LEDPA). When a proposed project is nonwater depending, the Section 404(b) 1 guidelines presume that a less environmentally damaging alternative exists, unless the applicant can clearly demonstrate otherwise (40 CFR 230.10(a)).
- The discharge of dredged or filled material cannot violate any applicable state water quality standard (40 CFR 230.10(b)(1)).
- Permits shall not be issued if the proposed activity would jeopardize the continued existing of federally threatened or endangered species, or adversely affect the critical habitat of these species (40 CFR 230.10(b)(3)).
- Permits shall not be issued if the proposed activity would cause or contribute to significant degradation of waters of the United States. Significant degradation includes, but is not limited to significant adverse effects on wildlife habitat, and on ecological stability, diversity, or productivity (40 CFR 230.10(c)).
- All appropriate and practicable steps must be taken to minimize impacts to the aquatic ecosystem (40 CFR 230.10(d)).
- Mitigation is required for unavoidable impacts.

The Army Corps of Engineers (ACOE) revoked all Nationwide Permits for work in Maine as of September 29, 1995 and subsequently adopted a Statewide Programmatic General Permit (SPGP) regulatory program. The SPGP for Maine identifies the applicable level of regulatory review based on the extent of cumulative wetland impacts. Project with less than 4,300 s.f. of cumulative impact fall within a "non-reporting" category. Category I projects involve impacts between 4,300 and 15,000 s.f. and are considered a "screening category". These projects will be screened concurrently with the State of Maine under the Natural Resources Protection Act. Category II projects include projects with proposed impacts between 15,000 s.f. and three acres. Category III projects including all project with impacts greater than three acres will be reviewed under the Individual Permit process. The State of Maine also regulates certain activities impacting natural resources, under a "Permit By Rule" program. Typical activities include stream crossings and other minor resource activities.

Based on my initial review, it appears that wetland impacts will likely occur on the development site. Based on the observed limits of possible onsite wetlands, impacts would likely exceed 1 acre and may need both U.S. ACOE and MeDEP review. A U.S. ACOE Individual Permit may also be required, even if impacts are below 3 acres.

b. Natural Resources Protection Act Permit Issued by the Maine Department of Environmental Protection

As earlier stated, it is anticipated that the development could involve significant natural resources permitting, either by the Army Corps of Engineers or the Maine Department of Environmental Protection. The following is provided for informational purposes.

- Projects involving greater than one acre of cumulative wetland impact or potentially impacting high value wetlands or significant wildlife habitat as mapped by the Department of Inland Fisheries and Wildlife require a full Natural Resource Protection Act permit application.
- An alternatives analysis and wetland functions and value assessment are required for a full NRPA review.
- Unavoidable impact may require compensation for loss of wetland function and/or value.
- Provisions for erosion and sedimentation control during construction are required.

The State of Maine revised its NRPA permitting process concurrently with the adoption of the ACOE's Statewide Programmatic General Permit discussed previously. Prior to the adoption of this regulatory program, the State of Maine only regulated wetlands of greater than ten acres in size. Maine has established a tiered review process that provides expedited review for projects having less than 15,000 s.f. of wetland impact but greater than 4,300 s.f. (Tier 1) and 60 days or less for projects having between 15,000 s.f. and one acre of impact (Tier 2), unless significant wetland functions would be affected. Projects not qualifying for Tier 1 or 2 review because they might affect significant wetland functions include activities occurring in freshwater wetlands that:

- Are within 250 feet of coastal wetlands or great ponds;
- Are within 25 feet of a river, stream or brook;
- Contain at least 20,000 s.f. of open water or emergent vegetation;
- Are in a floodplain;
- Contain significant wildlife habitat as defined by the DIF&W;
- Consist of peatland.

Projects having less than 4,300 s.f. of freshwater wetland impact, and that do not occur in or over a wetland with significant wetland functions, are exempt from NRPA

permit requirements, unless the affected area of wetland is in a Shoreland Zone based on a local Shoreland Zoning requirements.

3. In order to provide adequate individual lot drainage, it is apparent that each lot will require significant filling and proper grading. I would recommend that each site's pad area be raised a minimum of 2 feet and that grading between lots and to the rear of each lot be accomplished to carry runoff toward the street or to a planned drainage swale at the rear of each lot. Needless to say, as each lot is reviewed during the building permit process, these issues should be reviewed closely.
4. The developer should provide plans outlining the limits of disturbance and the proposed erosion control measures to be taken during construction. These items are essential not only to meeting local standards, but State construction standards as well.

c: Tony Lombardo, Public Works

PUBLIC WORKS ENGINEERING

MEMORANDUM

To: William Needleman, Senior Planner

From: Anthony Lombardo, P.E., Project Engineer

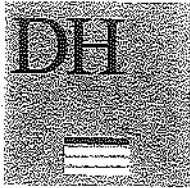
Date: October 20, 1999

Subject: Your Home Inc., ...Al Waxler Subdivision on Farnham St.

The following comments were generated during Public Works Engineering review of proposed subdivision on Farnham St.:

- The storm drain system proposed on the plan and profile sheet entitled "Preliminary Plan ...Phase I" has several concerns for Public Works.
 1. Public Works will not accept the use of asbestos cement pipe as specified on the 1979 plans. The pipe material needs to be CMP, PVC, RCP or HDPE.
 2. The proposed "temporary storm drain" extending between Lots 12 and 14 and continuing to Lot 24 is specified to be installed flat with no positive slope. This particular area is extremely flat already and experiences problems associated with poor drainage. Installing a new storm system with inadequate slope with only enhance an already poor drainage situation.
 3. The applicant needs to provide some pipe sizing information to ensure the proper sizing of this new system.
 4. This drainage system is labeled as "temporary". What guarantees does the applicant provide to the City that the dry system proposed in Farnham St. will ever be extended.
- Public Works is recommending the applicant be required to install all storm drain infrastructure within the Farnham St. right of way. The proposed 15" storm drain should not be installed as a "dry" and inactive system. Instead this 15" diameter pipe should be extended beyond the proposed end of Farnham St. Phase I until it daylights. When the developer plans to extend Farnham St., this storm drain system can then be extended further within the right of way.
- The road profile, as proposed, is not acceptable to Public Works. A recent site walk revealed that this development area is extremely wet. In fact, unless the developer chooses to install underdrain on both sides of the street, it is Public Works' opinion that this proposed extension of Farnham St. will deteriorate due to its inability to drain freely. Public Works is recommending the applicant raise the profile of the street to a minimum of two (2) feet above existing grade.
- According to the "subdivision ordinance", Chap 603, effective 6/5/68, the developer is required to install granite curb and a five (5) feet wide sidewalk on both sides of the street, unless a waiver was granted as part of this subdivision. Due to the poor drainage conditions in this area, Public Works is stressing the need for granite curb to be installed on both sides of the street.

(Sidewalks waived)



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

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

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

MEMORANDUM

TO: William Needelman, Planner
FROM: Steve Bushey, Acting Development Review Coordinator
RE: Al Waxler Subdivision Proposal – Farnum Avenue
DATE: October 25, 1999

I have reviewed the available materials for the proposed subdivision off Farnum Avenue and I completed a site walk to review actual field conditions. Based on my review, I offer the following comments:

1. The proposed 22-lot subdivision will require an extension of Farnum Avenue of approximately 850 linear feet. It is my understanding that the street construction would be in accordance with the City's 1979 Standards. Although the Public Works Department will have the ultimate say in the construction, I offer the following for consideration:
 - The street section should include an underdrain on each side of the road due to the severe wet soils conditions.
 - The street profile should be raised above existing grades in order to improve pavement section drainage. The use of geosynthetic material may be necessary for the road to remain stable long term.
 - The design should include multiple culvert crossings to allow drainage to cross the road from south to north. An engineered drainage system should be requested of the developer.
2. The development site appears significantly constrained by poorly drained soils and wetlands. I reviewed the National Wetland Inventory Map which shows significant mapped wetlands just south of the development area. I also observed significant areas of wetland vegetation and standing water on our site walk. The areas along lots 5 through 21 on the south side of the proposed street were especially wet. The developer is required to obtain permits from both the Maine Department of Environmental Protection under the Natural Resource Protection Act (NRPA), and the U.S. Army Corps of Engineers (ACOE). These permits are described as follows:
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c: Tony Lombardo, Public Works

CHAPTER 603

SUBDIVISION ORDINANCE

Effective June 5, 1968

The subdivision of land and the development of a suitable physical design and human environment go far beyond the engineering of streets and public improvements as stated in this ordinance. Therefore, it is the intent of this ordinance to provide standards for street design and public improvements, but not to restrict the development of imaginative and progressive subdivisions.

Preamble

The purpose of the "Pre-application Procedure" is to afford the subdivider an opportunity to avail himself of the advice and assistance of the Planning Board, and to consult early and informally with the Board staff before preparation of the preliminary plat and before formal application for its approval, to insure the development of a subdivision plan with mutual benefits for the subdivider and the City. The Public Works Department should be consulted as early as possible to obtain standards for street construction.

Guidance to
subdivider

The subdivider should also consult with parties, such as lending and mortgage insurance institutions, with a view to reaching, at this initial stage, firm conclusions regarding what part of the market demand should be served, the suitability of the location of the proposed subdivision, the most advantageous subdivision plan, the arrangement of streets, lots and other features of the proposed development.

The die being cast in the preliminary design, opportunities are assured or lost. Good counsel on all parts of the problem is essential at this state. The subdivider is encouraged to engage a land planning specialist qualified to help him resolve the major factors into a workable and well-designed subdivision plan.

Section 603.1 This ordinance shall govern each and every subdivision of land within the limits of the City of Portland, Maine. When application is made for the re-subdividing of a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the sole owner of all rights in the recorded subdivision.

Jurisdiction
603.1

Section 603.2 Should any section or provision of this ordinance be for any reason held void or invalid, it shall not affect the validity of any other section or provision hereof which is not itself void or invalid.

Separability
and
severability
603.2

Section 603.3 Whenever reference is made to any portion of this ordinance or to any other ordinance or statute, such reference shall apply to all amendments and additions to said ordinances or statutes.

References
603.3

Section 603.4

Alley: Any way designed primarily for vehicular or utility access to the back or side of premises otherwise abutting on a street, unless officially designated otherwise.

City: The City of Portland, Maine

Council: City Council of City of Portland

Definitions
603.4

- Engineer: A registered professional engineer in good standing with the Board of Registration for Engineers in the State of Maine.
- Final Plat: The completed subdivision plat in form for approval and recording.
- Lot: A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map or by metes and bounds, for the purpose of sale or lease to, or separate of, another.
- Sketch Plan: A very simple layout to show the location of the subdivision and gain informal comments of Planning Staff.
- Preliminary Plat: A tentative Plan for a proposed subdivision for presentation to the Planning Board for its consideration.
- Roadway: That portion of a street between the regularly established curb lines, or that part of a street or alley devoted to vehicular traffic.
- Sidewalk: That portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic.
- Street: A public way for vehicular and pedestrian traffic, whether designated as a street, highway, thorough-fare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated, excepting, however, an alley.
- Arterial Street: A heavily travelled street of considerable continuity and primarily a traffic artery among large areas.
- Marginal Access Street: A minor street which is adjacent to and substantially parallel with an arterial street and which provides access to abutting properties and protection from through traffic.
- Collector Street: A non-arterial street which carries traffic from a minor street to arterial streets, including the principal entrance to streets of a residential development and streets for circulation within such a development.
- Minor Street: A street which services one or more minor streets used primarily for access to abutting properties.
- Cul-de-sac or
Dead-end Street: A minor street with only one outlet.
- Planned Residential
Unit Development: An improved subdivision consisting of attached dwellings in an R-6 Residential Zone, or a series of attached dwellings with open space and recreational areas which are common to all of said dwellings, which dwellings and open space and recreational areas are designed, built, laid out, and controlled in accordance with a unified plan, and which dwellings are each on a separate lot and intended for primarily separate ownership.
- Effective 1/4/71

Subdivider or applicant: Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

Subdivision: The division of a lot, tract, or parcel of land into three or more lots, plats, sites, or other divisions of land, whether described by metes and bounds or by any other description, for the purpose, whether immediate or future, or sale or of building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Surveyor: A qualified Registered Surveyor of good standing with the Board of Registration in the State of Maine.

Section 603.5 - Procedure for Approval of Subdivision

603.5

1. Application for Approval

603.5.1

- (a) To obtain approval of a proposed subdivision the subdivider or applicant shall prepare for the Planning Board a sketch plan, a Preliminary Plat, a Vicinity Sketch, and a Final Plat in accordance with the requirements as set forth in Section 603.6 below.
- (b) The sketch plan shall be prepared for staff study only and the subdivider and Public Works Staff will resolve any difficulties before submission of the preliminary plat to the Board.
- (c) The subdivider shall supply and submit four copies of the Preliminary Plat and the Vicinity Sketch to the office of the Planning Board of the City of Portland at least 15 days prior to a regular scheduled meeting of the Planning Board, to be in order for consideration (by the Board) at that meeting.
- (d) The Planning Department shall forward a copy of the Preliminary Plat and Vicinity Sketch to the Public Works Department, Parks Department, Health Department (if septic tanks are necessary) and Building Inspection, all of which shall submit recommendations to the Planning Department by the time of the initial hearing on the Preliminary Plat.

Section 603.5.2 - Preliminary Plat Approval

603.5.2

The Planning Board shall approve, approve conditionally, or disapprove such Preliminary Plats at a regular meeting. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the Planning Board may require the subdivider to submit a revised Preliminary Plat. If the Planning Board should disapprove the Preliminary Plat, the reasons for such action shall be stated and given in writing to the subdivider, and if possible, recommendations made on the basis of which the proposed subdivision would be approved. One copy of the Preliminary Plat as acted upon by the Planning Board shall be retained in its office, one copy forwarded

to the Public Works Department and one copy returned to the subdivider.

603.5.3

Section 603.5.3 - Effect of Preliminary Plat Approval

Receipt of the approved copy of the Preliminary Plat by the subdivider is not authorization that he may proceed with the construction of any improvements. No construction will be inspected or approved by any City department until the final plat has been approved by the Planning Board.

603.5.4

Section 603.5.4 - Engineering Requirements

- a. Upon receipt of approval of the preliminary plat, the subdivider shall furnish the Public Works Department with all engineering data and plans necessary for the completion of the required improvements. Such plans shall be furnished apart from the Preliminary Plan and Vicinity Sketch and be certified by a Registered Professional Engineer.

603.5.5

Section 603.5.5 - Final Plat Filing and Execution

- a. The subdivider shall file the final Plat and five copies thereof, which copies shall be distributed as hereinafter provided to the Planning office five (5) days prior to the date of the meeting of the Planning Board at which it is to be considered.

603.5.6

Section 603.5.6 - Approval of the Final Plat

- a. Approval or disapproval of the Final Plat shall take place within 30 days after the date of submission to it of the Preliminary Plat. If Plat is disapproved, the grounds for refusal shall be stated in the minutes of the Planning Board and given in writing to the subdivider. The action of the Planning Board shall be shown on the final Plat with the date of action over the signatures of the persons authorized by the Planning Board to sign such Plats.
- b. Approval of the Final Plat carries with it the condition that the subdivider will file with the Planning Director the bond hereinafter required before such Final Plat is recorded.

603.5.7

Section 603.5.7 - Final Plat Fees

- a. When the Final Plat is approved, the subdivider shall pay the actual cost of recording and reproducing 5 copies of the Final Plat.
- b. The Final Plat shall be recorded in the office of the Cumberland County Registry of Deeds by the City.
- c. The Registry book and page numbers will then be recorded on the 5 copies of the plan, of which one shall be kept at the office of the Planning Board, one sent to the Public Works Department, one to the Building Inspector, one to the City Clerk and one to the subdivider.

Section 603.6 - Plat Requirements

603.6

Each and every modification, variance or waiver of this Section sought by the subdivider shall be applied for in numerical order of the Section in writing by the subdivider. The decision of the Board on such request shall be final.

Section 603.6.1 - Sketch Plan

603.6.1

At the option of subdivider.

Preliminary Plat

603.6.2

The Preliminary Plat shall show the following:

- a. Date, north point, title, and graphic scale: Scale shall not be more than 60 feet to the inch unless lots are more than an acre, but in no event more than 100' to the inch.
- b. Topography: Based on a recent survey by the subdivider, contours at six foot intervals will be shown on the plan. Existing structures which are to remain will be delineated.
- c. Streets: Names of proposed streets, width of rights-of-way, and a typical cross section.
- d. Other rights-of-way or easements: Locations, widths and purposes.
- e. Radii of all curves
- f. Utilities: Location of those existing on or adjacent to the tract to be subdivided, including size and elevation of buried or underground utilities.
- g. Lot Lines: Lot numbers and approximate sizes of lots.
- h. Names of adjacent property owners with parcels 25,000 square feet or larger or names of adjacent subdivisions.
- i. If any portion of the land of the proposed subdivision is subject to inundation by storm sewers or overflow or ponding by storm water, such fact and portion shall be clearly shown and identified.
- j. Proposed parks and school sites, or other public open space that the developer proposes to give to the City.
- k. Proposed method of sewage disposal.
- l. At the option of the subdivider, any other information that may be necessary for the full and proper consideration of the subdivision shall be submitted in writing.
- m. Names and addresses of engineer, subdivider and owner.

Section 603.6.3 - Vicinity Sketch

A vicinity sketch or key map at a scale of 200 feet to the inch shall be shown on/or accompany the Preliminary Plat. This sketch or map shall show all existing subdivisions, streets, and tract lines of acreage parcels, rights-of-way and roadway width of all streets and easements abutting the proposed subdivision, together with the names of the record owners of all large parcels of land immediately adjoining the proposed subdivision. It shall show how streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in neighboring subdivisions or undeveloped property to produce the most reasonable and logical development of the entire area. All maps and data available in the City files will be made available to the subdivider upon request.

Section 603.6.4 - Final Plat

The Final Plat shall be an original drawing, in ink, on cloth, or as necessary to be acceptable by the Registry of Deeds, and shall be tied to an accepted street or to a proposed street under construction and bonded to insure construction. This Plat also shall show the following:

- a. Tract boundary lines, right-of-way lines of streets, easements, and other rights-of-way, and property lines of lots, with accurate dimensions, bearings, or deflection angles, radii, acres, and central angles of all curves.
- b. Street names and width of street rights-of-way, roadways, sidewalks and other rights-of-way.
- c. Locations, dimensions and purposes of any easement.
- d. Number to identify each lot or site.
- e. Purpose for which sites, other than residential lots, are dedicated or reserved; it being understood that any reservations of areas for other than residential purposes shall be subject to the proper zoning thereof.
- f. Location and description of monuments. Iron pipes shall be designated by a small circle at the point of installation.
- g. Reference to recorded subdivision plats of adjoining platted land by book and page number.
- h. Title, graphic scale, north arrow, name and registration number or seal of the engineer or surveyor, and date.
- i. Space for the signatures of the Portland Planning Board.

Section 603.7 - Design Standards1. Street Plan

- a. All streets shall be platted along contour elevations which will result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.

- b. The proposed street layout shall be co-ordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.
- c. Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.
- d. Street right-of-way width - shall not be less than:
 - 1) 50 feet for marginal access street
 - 2) 50 feet for minor street
 - 3) 60 feet for collector street

Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-ways are inadequate shall provide additional land to meet the minimum standards.

- e. Streets shall not occupy more land than needed to provide access nor create unnecessary fragmentation of the subdivision into small blocks. Streets will be so designed to discourage outside traffic from traversing the development.
- f. The minimum roadway width including gutters and sidewalks shall be:
 - 1) 50' right-of-way - 32' pavement - 5' sidewalks and curb
 - 2) 60' right-of-way - 40' pavement - 5' sidewalks and curb
 - 3) Street right-of-way on the Islands in Casco Bay shall comply with Chapter 707 of the Municipal Code.
- g. Sidewalks and Curbs:
 - 1) Sidewalks shall be constructed on each side of each street in accordance with Chapter 707 of the Municipal Code. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic, with preference given to interior walks away from streets in common open space in block interiors.
 - 2) Curbs shall be constructed on each side of each street. The curbing shall be constructed as provided in Chapter 705 of the Municipal Code.

2. Street Design

603.7.2

After the subdivision layout has received the combined preliminary approval of the Planning Board and Department of Public Works, profiles of each street or way shown thereon shall be prepared. They shall be drawn to a longitudinal scale of 40 feet to 1' and a vertical scale of four feet to one inch. Such profiles shall include separate profiles of each side line and center line of said street or way. Any buildings abutting on said street or way shall be shown on said profiles. Standard Federal Aid Profile Sheet shall be used.

603.7.3

3. Street Grades

- a. Street grades in all proposed subdivisions shall be subject to the approval of the Department of Public Works.

603.7.4

4. Street and Subdivision Names

- a. Street names for all subdivisions shall appear on the preliminary plat and be subject to approval by the Planning Board.
- b. Subdivision names for plats shall be subject to approval by the Planning Board and not duplicate the name of any plat already recorded.

603.7.5

5. Alleys, Half Streets and Easements

a. Alleys:

Alleys will be permitted for access by utilities to the rear of the premises otherwise abutting on a street.

- b. Easement other than for watercourses shall not be less than 10 feet in width. Where there exists a storm water ditch, creek or any other such watercourse, the easement shall be of sufficient width that a watercourse may be installed and maintained efficiently. The location of any such watercourse, creek, or stormwater ditch shall not be changed without the approval of the Public Works Department.

603.7.6

6. Sewers and Surface Drains

- a. The design of all sewers and storm drains shall be subject to approval by the Public Works Director or his designated representative.
- b. All subdivisions shall be provided with adequate storm drain systems within the subdivision separate from any sanitary sewer system required in Chapter 707.
- c. Lakes, ponds, and creeks and similar areas will be accepted for maintenance only if sufficient land is dedicated as public park and recreation area and if such areas are part of the necessary drainage control system. Such areas must be approved by the Parks Department and be accepted by the City Council before final approval of the Plat.
- d. The approval of the Health Director is required for all subdivisions involving the use of septic tanks and drainage fields for sewage disposal.
- e. The subdivider shall be responsible for the construction of all sewers and storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by the Public Works Director. All work shall be in accordance with Public Works specifications.

Effective
7/18/73

7. Platting Requirements

603.7.7

a. Blocks

1. Block size shall be the maximum consistent with the use and shape of the site and the convenience and safety of the occupants.
2. Blocks with lots having double frontage on streets shall be avoided.
3. The foregoing dimensions may be adjusted by the Planning Board where type of use and/or topography requires such modification.

b. Lots

1. Lot sizes shall conform to the City of Portland Zoning Ordinance and the City of Portland Health Code.
2. Where easements for public utilities, storm or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.

Section 603.8 - Public Areas

603.8

- a. In all subdivisions open space shall be provided for parks, recreational, and other public areas when there are no such facilities in close proximity to the development. The acceptance of lands for these purposes shall be first recommended by the various departments and Planning Board and sent to the City Council for final determination.

Section 603.9 - Required Improvements - Bonds

603.9

1. Improvements

Prior to the release of the approved Final Plat the subdivider shall file a bond as hereinafter provided, and prior to release of such bond the subdivider shall have completed all improvements as follows:

- a. All streets shall have been graded in conformity with the requirements set out in Section 603.7 and in accordance with Chapter 707 of the Municipal Code.
- b. On all streets, side streets, and alleys, a suitable hard surfaced permanent pavement shall be installed, meeting the requirements set forth in Chapter 707 of the Municipal Code.
- c. Water, gas and sanitary sewer mains and storm drains shall have been constructed prior to the installation of paving with all mains being extended and all lots having sufficient stub outs to insure no subsequent breaking of pavement.
- d. Sidewalks and curbs shall be constructed as required in Section 603.7.

- e. Adequate storm drains shall have been constructed subject to the provisions of Section 603.7 and in accordance with the Department of Public Works specifications.
- f. At least one tree per lot shall have been planted in the esplanade as directed by the Park Department's "Specifications for Tree Planting by Subdividers".
- g. Monuments - Monuments will be set as prescribed by the Public Works Department.
- h. All utility lines and equipment shall have been placed underground or been designed and located in such manner that its appearance is suitable for above ground installation.

603.9.2
Effective
7/18/73

Section 603.9.2 - Bond and Surety - Amount and Release

- a. Bonds shall be required to insure the fulfillment of the above requirements, as well as the requirement in Chapter 707 that the subdivider shall give the City prior to acceptance of the street as a public street a deed to the property within each street within the subdivision. Such bond shall specify the completion of the improvements required in the subdivision and delivery to the City of the deed or deeds to the streets within twenty-four months from the date of such bond.
- b. The bond shall not exceed 100% of the estimated cost of the improvements. The surety shall not be released from said bond except by a release in writing from the Director of Public Works and the Planning Board. In the event acceptance of the street as a public street and delivery of the deed cannot be completed prior to the date of expiration of the bond, the subdivider shall be required to extend his bond covering such subdivision, or secure a new bond, for such further period and in such amount as said Director of Public Works shall deem necessary provided that the Director of Public Works shall present to the Council a petition for acceptance of said streets within nine months after receipt of the petition for acceptance and certification by him that the streets were constructed according to the standards set forth in Chapter 707 of the Municipal Code.

603.9.3

Section 603.9.3 - Extension of the Bond Period

- a. When the subdivider constructs street and sewer improvements and the Director of Public Works has reasonable doubt concerning the stability or proper construction of such improvements, the subdivider shall be required to do such further work on said improvements as said Director of Public Works shall order before said improvements will be accepted by the City. In the event the subdivider's current bond shall expire before the extent or necessity for such further work can be determined, the subdivider shall be required to extend his bond covering such improvements, or secure a new bond, for such further period and in such amount as said Director of Public Works shall deem necessary.

603.10

Section 603.10 - Variances

- a. Where the Planning Board finds that extraordinary conditions

exist or that undue hardship may result from strict compliance with these regulations, it may vary the regulations, except for the requirement of sidewalks and curbing, so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the Comprehensive Plan and these regulations.

Section 603.11 - Modifications

603.11

- a. The standards and requirements of these regulations may be modified by the Planning Board in the case of a plan and program for a neighborhood unit, which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such covenants or other legal provisions as will assure conformity to and achievement of the Comprehensive Plan.

Section 603.12 - Conditions

603.12

In granting variances and modifications, the Planning Board may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements so varied or modified.

Section 603.13 Procedure for Approval of a Planned Residential
Unit Development

603.13
Effective
1/4/71

1. Preliminary Plat

The applicant shall submit a preliminary development plat to the Planning Board for review, which shall include the following:

- (a) Proposed site plan, showing building locations and land use areas.
- (b) Proposed traffic circulation, parking areas, pedestrian walks and landscaping.
- (c) Proposed construction sequence for buildings, parking spaces and landscaped areas.
- (d) Proposed time table for completion of the entire project, or for completion of each section if the project is to be done in stages.

The Planning Board shall review the preliminary plat and shall submit to the applicant for clarification and solution any anticipated problems which might arise due to the proposed development.

2. Final Plat

The applicant shall submit a full development plat to the Planning Board for review, which plat shall be prepared by an architect, landscape architect, engineer, land surveyor or planning consultant and shall contain the following information:

- (a) Survey of the property, showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, rights-of-way, and land use.
- (b) Site plan showing proposed building locations and land use areas.
- (c) Traffic circulation, parking areas and pedestrian walks.
- (d) Landscaping plans, including site grading and landscape design.
- (e) Preliminary drawings for buildings to be constructed in each phase, including floor plans, exterior elevations and sections.

- (f) Preliminary engineering plans, including street improvements, drainage system, and public utility extensions.
- (g) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development as required by the Planning Board after its review of the preliminary plans.
- (h) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.

This development plat shall be in general conformance with the approved preliminary development plat. Approval shall be secured by the applicant for each phase of the development.

3. Findings of Planning Board

The Planning Board, after determining that all the requirements of the Zoning Ordinance and other applicable codes have been met, shall within 30 days of receipt of the development plan, recommend the approval, approval with modifications, or disapproval of the development plat. The Planning Board shall enter its reasons for such action in its records. The Planning Board shall base its recommendations upon the following findings:

(a) General Standards:

- (1) That the planned residential unit development shall conform to applicable zoning ordinances and other applicable codes.
- (2) That the planned residential unit development shall be consistent with any applicable urban renewal plan.
- (3) That the planned residential unit development will not be detrimental to present and potential surrounding uses, but shall be in harmony with any existing or proposed development in the area surrounding the project site.
- (4) That existing and proposed utility services are adequate for the proposed development.
- (5) That the planned residential unit development shall include an area of at least one acre of contiguous land.

(b) Design Standards

- (1) All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and

- (2) Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide visually and physically integrated development.
- (3) Treatment of the sides and rear of all buildings within the planned development shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.
- (4) All building walls shall be so oriented as to insure adequate light and air exposures to the rooms within.
- (5) All buildings shall be arranged as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
- (6) All buildings shall be arranged as to be accessible to emergency vehicles.

(c) Landscape Design Standards

- (1) Landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project.
- (2) Primary landscape treatment shall consist of shrubs, ground cover, and street trees, and shall combine with appropriate walks and street surfaces to provide a development pattern. Landscape materials selected should be appropriate to the growing conditions of the City's environment.
- (3) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.

(d) Circulation System Design Standards

- (1) There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, offstreet parking and loading space. Roads, pedestrian walks and open space shall be designed as an integral part of an overall site design. They shall be properly related to existing and proposed buildings and appropriately landscaped.
- (2) There shall be an adequate amount, in a suitable location, of pedestrian walks, malls and landscaped

spaces to prevent pedestrian use of vehicular ways and parking spaces and to separate pedestrian walks, malls and public transportation loading places from general vehicular circulation facilities.

- (3) Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
 - (4) Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
 - (5) The location and design of pedestrian walks should emphasize desirable views of new and existing development in the area.
 - (6) The maximum separation of private automobiles and service vehicles shall be provided through the use of separate service lanes.
 - (7) Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of durable quality and easily maintained.
- (e) Parking and Loading Design Standards

- (1) Parking and loading facilities shall be landscaped to the extent necessary to eliminate unsightliness and monotony of parked cars.
- (2) Pedestrian connections between parking areas and building shall be via special pedestrian walkways and/or elevators.
- (3) Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access, and shall be developed as an integral part of an overall site design.

4. Application of other Sections

All other sections of the Subdivision Ordinance shall apply to the approval of planned residential developments to the extent that they do not conflict with the provisions of this section.

CHAPTER 705

SIDEWALK CONSTRUCTION AND MAINTENANCE

Section 705.1 Where a business or industrial use, other than one of a purely temporary or interim use where no structures and/or no site improvements are involved, is newly established abutting any accepted street, or such an existing use is enlarged, reconstructed or changed to another such use, if a sidewalk with granite curbing satisfactory to the Director of Public Works of the City of Portland has not already been provided, a sidewalk constructed of bituminous concrete, portland cement concrete, brick or other paving material and granite curbing shall be provided along such street wherever such use shall abut such street. If either a sidewalk or curbing, but not both, shall exist at such location which is satisfactory to the said Director of Public Works, only a sidewalk or curbing, as the case may be, shall be provided wherever such use shall abut such street. Such sidewalk and/or curbing shall be constructed by the City of Portland and one-half of the cost thereof shall be assessed and collected by the City of Portland in the manner provided in Sections 705.7 and 705.8 hereof. However, if any owner of such property desires to construct said sidewalk and/or curbing at his own expense and does so in accordance with the specifications of and to the satisfaction of the said Director of Public Works, the City of Portland will assume responsibility for such sidewalk and/or curbing upon completion, but will not assume any part of the cost of such sidewalk and/or curbing.

Sidewalk and curbing required for business and industrial uses; exceptions; apportionment of cost; exception
705.1

Section 705.2 Notwithstanding the provisions of the above Section, the City Council may at any time order the construction of a sidewalk of bituminous concrete, portland cement concrete, brick or other paving material or granite curbing, or both, along any accepted street in the City of Portland, except that no such order shall require the construction of more than 200 feet in length of sidewalk and/or curbing on any one street in front of any unimproved lots or parcels of land. Such sidewalk and/or curbing shall be constructed by the City of Portland and one-half of the cost thereof shall be assessed and collected by the City of Portland in the manner provided in Sections 705.7 and 705.8 hereof.

Sidewalk and curbing may be required generally; apportionment of cost
705.2

Section 705.3 The City Council may at any time order the reconstruction of any sidewalk and/or curbing which has been constructed along any accepted street by other than the City of Portland and which has not been accepted as the responsibility of the City of Portland. Such sidewalk and/or curbing shall be reconstructed by the City of Portland and one-half of the cost thereof shall be assessed and collected by the City of Portland in the manner provided in Sections 705.7 and 705.8 hereof.

Reconstruction of sidewalks and curbing; apportionment of cost
705.3

Sidewalk and/or
curbing require-
ments waived or
amended

705.4

Substitution of
materials for
sidewalks and
curbing

705.5

Service ways
and curb cuts;
sidewalks and
curbing not to
be removed;
exceptions

705.6

Director authorized
to perform work;
lien imposed

705.7

Lien procedure
705.8

Section 705.4 The City Council may, upon application to it in writing, waive or amend the requirements of sidewalks and/or curbing when it finds that the circumstances in a specific case warrant such waiver or amendment.

Section 705.5 The Director of Public Works may permit the substitution of other types of materials for sidewalks and/or curbing when, in his sole and exclusive judgment, he finds such substituted materials to be equal to or better than the materials required herein.

Section 705.6 The design and location of service ways and curb cuts in such sidewalks and/or curbing shall be as approved by the Traffic Engineer and the Director of Public Works. No additional service ways or curb cuts and no alterations in existing service ways or curb cuts shall be made without the prior consent of the Traffic Engineer and Director of Public Works, and no such sidewalk or curbing shall be removed except by the City of Portland through its duly authorized agents or as authorized by a permit issued by the Director of Public Works.

Section 705.7 The Director of Public Works is authorized in accordance with the provisions of Sections 705.1, 705.2, and 705.3 above, or upon the application of an owner of any abutting property, to construct or reconstruct sidewalks and/or curbing along any accepted street in the City of Portland, and the City of Portland shall have a lien on the property abutting said street for one-half of the expense of such work in the manner set forth in the following section. Before beginning construction or reconstruction in accordance with the provisions of Sections 705.2 and 705.3 hereof, the said Director of Public Works shall give at least thirty days' written notice to the owners of property abutting said street of said order and of his intention to proceed with said construction or reconstruction.

Section 705.8 The Director of Public Works shall keep an accurate account of the expense of such work and shall, as soon as practicable after the completion thereof, make a return showing the location of each such sidewalk and/or curbing, its length and width, material of which constructed, cost of construction, and the names of the owners of the abutting property with the amounts properly chargeable against each. Within one year after the completion of such work, the City Council shall assess upon the abutting properties their just proportion of the cost thereof and all assessments so made shall constitute a lien on said property to be enforced in the manner provided for the collection of sewer assessments in the City of Portland, except that no owner shall be assessed for more than two hundred feet in length of sidewalk and/or curbing on any one street in front of any unimproved lots or parcels of land.

Section 705.9 The Director of Public Works is authorized whenever he shall deem it expedient or necessary to repair and maintain at the sole expense of the City of Portland sidewalks and/or curbing previously constructed by the City or constructed under the provisions hereof. The said Director is further authorized, whenever he shall deem it expedient or necessary because of a dangerous or hazardous condition, to make spot repairs at the sole expense of the City on any type of sidewalk, however constructed.

Repair and
maintenance of
sidewalks and
curbing

705.9

CHAPTER 707

STREET ACCEPTANCE

Section 707.1 No street or way shall be laid out and accepted as a public street or way by the City of Portland except in accordance with the provisions of this Ordinance.

General

707.1

Section 707.2 A street or way dedicated for public travel prior to July 7, 1948 shall be laid out and accepted as a public street or way by the City of Portland only upon the following conditions:

Acceptance of
streets and wa
dedicated for
public travel
prior to July
1948

(a) Said street or way shall have a minimum width of 50 feet unless the owners of property adjoining said street or way shall convey to the City of Portland sufficient land to lay out a 50-foot street; provided, however, that the Director of Public Works may permit a lesser width when a 50-foot street is impracticable. Provided further that any such street or way located on any of the islands in Casco Bay, which is not considered to be a collector street in the opinion of the Director of Public Works and the Planning Board, may have a minimum width of 32 feet.

707.2

707.2 (a)

(b) A plan of said street or way shall have been recorded in the Cumberland County Registry of Deeds prior to July 7, 1948.

707.2 (b)

(c) A majority of the abutters upon said street or way shall in writing, on a form to be prescribed by the Director of Public Works, petition the City Council to improve said street by grading, curbing, gravelling, macadamizing, paving, or in any other way making a permanent street of the same, or any part thereof; and in said petition shall waive any damages resulting from the laying out and acceptance of said street or way, or any necessary changes in the grade thereof; and shall agree to pay their just proportion of one-third of the cost thereof. For purposes of this ordinance, a majority of the abutters shall mean those abutters who own more than fifty percent of the frontage, both in front-feet and in assessed value.

707.2 (c)

(d) When said street or way shall have been laid out and accepted as a public street or way, and such improvements have been made, one-third of the cost thereof shall be assessed on the property adjacent to and bounded on said street or way in the manner, and with the same right of appeal, provided in Sections 3601-3605 of Title 23 of Maine Revised Statutes Annotated.

707.2 (d)

Section 707.3 A street or way constructed on private lands by the owner thereof, and a street or way not dedicated for public travel prior to July 7, 1948, shall be laid out and accepted as a public street or way by the City of Portland only upon the following conditions:

Acceptance of
streets and way
not previously
dedicated for
public travel

707.3

707.3 (a)

(a) The owners shall give the City a deed to the property within the boundaries of the street.

707.3 (b)

(b) Said street or way shall have a minimum width of 50 feet. However, said street or way may have a lesser width if the plan thereof, showing such lesser width, has been approved by the Planning Board and the Director of Public Works. Provided that any such street or way located on any of the islands in Casco Bay, which is not considered to be a collector street in the opinion of the Director of Public Works and the Planning Board, may have a minimum width of 32 feet. In such cases, all other provisions of this ordinance shall apply except that not more than 16 feet of such street or way shall be required to be developed for travel and only 6" of gravel shall be required, but the entire width of such street or way shall be cleared of all stumps, roots, brush, perishable material, and trees not intended for preservation as specified by the Director of Public Works. There shall be no exceptions to the provisions of this ordinance in the case of collector streets as determined as set forth above.

707.3 (c)

(c) A plan of said street or way shall be recorded in the Cumberland County Registry of Deeds.

707.3 (d)

(d) A petition for the laying out and acceptance of said street or way shall be submitted to the City Council upon a form to be prescribed by the Director of Public Works. Said petition shall be accompanied by a plan, plot plan, profile and cross-section of said street or way as follows:

707.3 (d) (1)

(1) A plan and a plot plan drawn, when practicable, to a scale of 40 feet to 1 inch, and to be on one or more sheets of paper not exceeding 24 inches by 33 inches in size. Said plot plan shall show the north point, the area of all lots, the length of all lot lines, the location and ownership of all adjoining subdivisions and adjacent acreage, passageways, street lines, buildings, boundary monuments, waterways, topography and natural drainage courses with contours at not greater than six-foot intervals, all angles necessary for the plotting of said street and lots and their reproduction on the ground, the distance to the nearest established street line, and any buildings abutting on said street or way, together with the stations of their side lines.

707.3 (d) (2)

(2) A profile of said street or way drawn to a longitudinal scale of 40 feet to 1 inch and a vertical scale of 4 feet to one inch. Said profile shall show the profile of the side lines and center lines of said street or way and the proposed grades thereof. Any buildings abutting on said street or way shall be shown on said profile.

(3) A cross-section of said street or way drawn to a horizontal scale of 5 feet to 1 inch and a vertical scale of 1 foot to 1 inch.

707.3 (d) (3)

(4) The location and size of the proposed watermain in accordance with this ordinance.

707.3 (d) (4)

(e) Said street or way shall be previously constructed in accordance with the following specifications:

707.3 (e)

(1) RESIDENTIAL AREAS. The roadway shall be built with a minimum thickness of fifteen inches of road gravel, and three inches of aggregate base gravel, both of which shall be satisfactory to the Director of Public Works. The roadway shall be surfaced with two inches of hot bituminous concrete properly prepared and laid in two courses of one inch each, in accordance with specifications of the Department of Public Works.

Residential
areas

707.3 (e) (1)
Effective 7/18/73

The sidewalks shall be built of gravel six inches in depth and the driveways, including that part crossing the sidewalk, shall be built of gravel ten inches in depth, both to be covered by two inch top of hot bituminous concrete, properly prepared and laid in two courses of one inch each, in accordance with the standard specifications of the Department of Public Works. Curbing shall be provided as required in Chapter 603.

Effective 7/18/73

(2) Said street or way shall be constructed by the following method:

707.3 (e) (2)

It shall be cleared of all stumps, roots, brush, perishable material and all trees not intended for preservation. All loam, loamy material and clay shall be removed from said street or way to the depths specified by the Director of Public Works. The street shall then be graded to a subgrade of not less than twenty inches in the roadway location and not less than twelve inches in the driveway areas, below and parallel to the finished grade as shown on the plans, profiles and cross-section of said street or way. The subgrade shall be carefully shaped and thoroughly compacted before the gravel is placed. When a minimum length of 300 feet, or the entire length of street if less than 300 feet, has been excavated to subgrade and this subgrade properly prepared for the gravel, the Director of Public Works shall be notified and after inspection his approval obtained for placing the gravel.

Effective 7/18/73

The gravel shall then be placed and compacted in layers of not more than six inches in the roadway and driveway area and not more than eight inches in the sidewalk areas. Before the roadway is paved, and the bituminous concrete laid in the sidewalk and driveway areas, the work shall again be inspected and approved by the Director. Suitable forms or headers must be used for the construction of the bituminous top to insure proper alignment and grade.

Effective 7/18/73

(3) INDUSTRIAL AREAS. Roadways shall be paved with a High Type pavement in accordance with the Standard Specifications of the Department of Public Works.

Industrial
areas

707.3 (e) (3)

707.3 (f) (f) All engineering work, including the setting of grade stakes, necessary for the construction of the street and sidewalks, shall be performed by the developer at his expense.

707.3 (g) (g) Any sewers and appurtenances, drains, including house drains and catch basins, which are to be built in the street or sidewalks, and all underground utilities and their respective services, shall be constructed before any road material is placed, except for house connections to serve lots where no construction has begun prior to the placing of such road material. In any event a minimum of seventy-five percent of all lots on any one street within the section of the subdivision being constructed shall have the house connections completed within the street right-of-way before the aggregate base course is placed thereon. If a hardship is created by strict compliance with the above requirements, request for a variance may be made in writing to the Director of Public Works who shall respond in writing to the City Council stating approval or disapproval.

Effective
7/18/73

707.3 (h) (h) Whenever it shall be deemed necessary by the Director of Public Works that a sanitary sewer and/or storm sewer be constructed to serve the street under consideration, such sanitary sewer and/or storm sewer shall be completed before the gravel or road material is placed thereon. Said sewer shall be built by the developer in accordance with one of the following methods:

Effective
7/18/73

707.3 (h) (1) (1) The developer shall cause the sanitary sewers and storm sewers and appurtenances, including catch basins to be built to the specifications of the Director of Public Works and under his supervision. Such construction shall be by competitive bids, duly advertised, and to the satisfaction of the Director of Public Works. When said sewer and an easement therefor have been deeded to the City, the City may make payment to the developer of the cost of any catch basins plus one-third of the total remaining costs thereof, as determined by the Director of Public Works, the City's engineering costs to be included in said total cost and deducted from the City's payment; or

707.3 (h) (2) (2) The developer shall cause the sanitary sewers and storm sewers and appurtenances, including catch basins, to be built to the specifications of the Director of Public Works and under his supervision, but without regard to competitive bids. When said street has been accepted, said sewer shall be deeded to the City as a public sewer at no cost to the City.

(3) When the Director of Public Works requires such sewer to be of a larger size than would be needed for the development under consideration, the added cost for the excess size as determined by the Director of Public Works may be paid by the City upon authorization by the City Council, provided the sewer is built through competitive bidding, properly advertised, and to the satisfaction of the Director of Public Works.

707.3 (h) (3)

(i) A reasonably available water main of at least eight inches in diameter must exist for the use of buildings, residents and occupants of the street to be accepted and the Chief of the Fire Department must, in writing, certify that adequate water service for sufficient fire protection hydrants obtains. In the case of a street or way located on the islands in Casco Bay, no water main need be provided when the Chief of the Fire Department and the Planning Board shall certify in writing that no water supply is reasonably available to serve such street or way. Provided, however, that the City Council may accept a street with a water main of less than eight inches in diameter when the Chief of the Fire Department and the Planning Board, in writing, certify that a water main of less than eight inches in diameter will furnish adequate water service for sufficient fire protection hydrants for the street to be accepted and any future extension or extensions of said street. It shall be the policy of the City to cause the installation of such hydrants as may be required for fire protection at the same time as the installation of the water main.

707.3 (i)

Section 707.4 Notwithstanding the provisions of Section 707.2 and 707.3 hereof, the City Council may, at any time, lay out and accept any street or way in the City of Portland, as a public street or way of said City, the cost thereof to be borne by said City, whenever the general public interest so requires.

Acceptance of streets and ways required by the general public interest

707.4

Section 707.5 No street or way shall be laid out and accepted by the City of Portland until the City Planning Board and the Director of Public Works shall have made careful investigation thereof and shall have reported to the City Council their recommendations with respect thereto.

No street or way to be accepted until after report by Planning Board and Director of Public Works

707.5

Section 707.6 When any person or persons owning property on a street which has been accepted but has not been improved or used for public travel prior to passage of this ordinance shall petition for the improvement of such street, such improvement may be ordered by the City Council. Said petition shall be in writing, shall be signed by a majority of the abutters on such street, and

Improvement of streets which have been accepted but not improved or used for public travel

707.6

shall contain a waiver of any damages resulting from the improvement of said street and an agreement to pay their just proportion of one-third of the cost of said improvement.

When said street shall have been improved, one-third of the cost thereof shall be assessed on the property adjacent to and bounded on said street in the manner, and with the same right of appeal, provided in Sections 3601-3605 of Title 23 of Maine Revised Statutes Annotated.

A street shall be deemed, for purposes of this ordinance, to have been improved and used for public travel if at some time in the past it has been graded to the established grade and surfaced with gravel or with some other type of street surfacing material authorized at the time by the Director of Public Works.

Improvement of streets
required by the
public interest
707.7

Section 707.7 Notwithstanding the provisions of Section 707.6 hereof, the City Council may, at any time, order the improvement of streets which have been accepted but not improved or used for public travel, the cost thereof to be borne by said City, whenever the general public interest so requires.

November 2, 1999

Mr. Alfred Waxler
P.O. Box 6681
Portland, Maine 04101

RE: Farnum Street Subdivision Review

Dear Mr. Waxler,

This is a letter to following up on the previous letter sent to you on October 12, 1999. City Planning and Public Works has continued to review the available information at our disposal regarding the approved subdivision on Farnum Street. The subdivision of land and the layout of the lots has been approved and is not undergoing further review, but several serious concerns have arisen with regards to the engineering of the road and drainage system.

Publics Works engineering staff and the City Planning staff's consulting engineer both agree that, according to 1979 standards, the proposed preliminary engineering drawings for the Farnum Street extension will not drain properly and can not be accepted by the City. The wet nature of the land will require substantial redesigning of the road and drainage systems. Revised drawings, stamped by a licenced professional engineer, will be needed. Copies of the engineering memos are enclosed with this letter.

As stated in the October 12 letter, environmental permits from Maine DEP and the Army Corps of Engineers will be needed for this project. Substantial filling is unavoidable for constructing this subdivision and wetland conditions are apparent on your property. City Planning staff encourages you to begin discussion with state and federal permitting agencies prior to re-engineering this project, as these agencies may have additional requirements and concerns separate from those of City Public Works.

If you decide to apply for state and federal permits with the present set of engineering drawings, please understand that even with environmental permits, the present engineering of the streets will not be accepted by the City.

I am in the Planning Office on Tuesday, Wednesday and Thursday on most work weeks and can be reached at tel. extension 874-8722. Please call if you have any questions, and to

In for us if you are interested in proceeding with the project. We look forward to working with you.

Sincerely,

William B. Needelman, Planner

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
Penny Littell, Associate Corporation Counsel
Gary Wood, Corporation Counsel
Mark Adelson, Director of Housing and Neighborhood Services
Anthony Lombardo, Public Works Engineer



CITY OF PORTLAND, MAINE

55 PORTLAND STREET
PORTLAND, MAINE 04101
(207) 874-8300

PARKS & PUBLIC WORKS

GEORGE A. FLAHERTY
DIRECTOR

October 26, 1988

Mr. Peter Hoglund
56 Lane Avenue
Portland, Maine 04103

RE: Pine Tree Terrace Subdivision Storm and Sanitary System Acceptance

Dear Mr. Hoglund:


It has been brought to my attention that there is an apparent problem with the sanitary sewer on Lane Avenue. The terminus manhole that Delta Realty has tied into needed to be pumped prior to the connection. Also the drop manhole on Lane Avenue appears to be plugged.

These developments pertaining to the sewer systems that have been built and never accepted by the City, inforces the need for the City to televise the system to determine any deficiencies. I have discussed the situation with Bill Boothby and Charlie Perry and have determined that the entire storm and sanitary sewer system pertaining to your development needs to be cleaned and the buried manholes exposed and raised to grade. After the system is cleaned, the Sewer Division will televise both the storm and sanitary lines.

It is my understanding since the City has not accepted the sewers and streets in question that you as the developer/owner retain all the responsibilities and liabilities associated with the project.

We would like to resolve the situation as soon as possible. Please let me know when you plan to have the lines cleaned so we can televise the system or if you have any questions. I can be reached at 874-8838.

Sincerely yours,


Paul Nichoff
Materials Engineer

PN/sc

cc: George A. Flaherty, Director of Parks/Public Works
Charles Perry, Superintendent of Sewers
Tom Eaton, City Engineer
Bill Boothby, Principal Engineer
David Lourie, Corporation Counsel

The NAABEK Co.

RECEIVED

MAR 23 1989

PARKS/PUBLIC WORKS

March 23, 1989

Mr. Stephen K. Harris
Planning Engineer
City of Portland
55 Portland Street
Portland, Maine

Re: Lane Avenue Subdivision

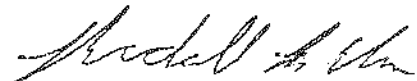
Dear Mr. Harris:

I am writing in confirmation of our telephone conversation of last Monday, concerning partial approval of Peter Hoglund's Lane Avenue subdivision.

As we discussed, Naabek is attempting to secure approval of subdivision for Delta Realty at the lower end of Lane Avenue. At present, the only apparent hindrance for us to proceed with the approval process of our clients subdivision is the lack of acceptance of Peter Hoglund's subdivision. The section of Mr. Hoglund's subdivision which creates this hindrance is directly on Lane Avenue. In discussing this with Mr. Hoglund, he indicated that this section is ready for review and acceptance, however, the remaining portion of his project is not yet ready. He has agreed to apply for acceptance of this section if the city will agree to consider this option. Therefore, I am asking that the City of Portland agree to consider this option as a plausible solution to our above stated problem.

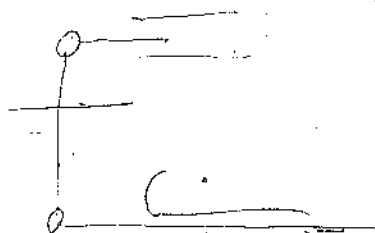
I would greatly appreciate your timely response to this request. If you have any questions or would like to meet with me to further discuss this matter, please do not hesitate to call me at 774-2104.

Sincerely,
The Naabek Company



Randall K. LaClaire
President

RKL/dp



CITY OF PORTLAND

April 13, 1989

Peter Hoglund
56 Lane Avenue
Portland, ME 04103

Re: The City of Portland Acceptance of Lane Avenue

Dear Mr. Hoglund:

Upon receiving a copy of the Naabek Co. letter written by Randall K. LaClaire dated March 23, 1989, he indicates that you feel the section in question (from approximately house number 100 to the last manholes and catch basins by Label Ave) is ready for review and acceptance. This letter will hopefully clarify what is needed before the City will accept this section.

Construction Related Items:

1. Install Casco Traps on all catch basins
2. Cut back throat and parge bricks on catch basin by house #154.
3. Grind access slots on all manhole covers storm and sanitary. *8" pick hole*
4. Install steps on drain manhole by house #113.
5. Possible plug in storm line between that manhole and manhole at house #136.
6. Construct weir @ drop inlet in sanitary manhole at Epping Street intersection. Remove concrete blocking channel.
7. Construct channel in drain manhole at house #154. Also, parge brick work.
8. Construct channel in drain manhole at Epping Street.
9. Parge brick at sanitary manhole at house #168.
10. Install steps in drain manhole by house #178.
11. Attach frame, clean channel, parge bricks on drain manhole by house #188.


Other Remaining Items

1. The City of Portland Sewer division will be televising both the storm and sanitary sewers.
2. Black line as built mylars showing all utilities will be submitted to Public Works.
3. A metes and bounds deed description of the street and any related easements, etc.
4. A Maintenance bond to cover any defects in the materials or workmanship of that section of Lane Avenue.
5. A letter requesting the City to accept the streets.
6. Install any required monuments.

We would like to start proceedings to accept Lane Avenue as soon as possible. Your timely response to these items would be greatly appreciated.

If you have any questions, please call me at 874-8300, extension 8838.

Sincerely yours,


Paul Nichoff
Materials Engineer

PN/sed

cc: Robert B. Ganley, City Manager
George A. Flaherty, Director of Parks/Public Works
William S. Boothby, Acting City Engineer
David Lourie, Corporation Counsel
Charles Perry, Superintendent of Sewers
Elizabeth A. Hoglund, Esquire
Sarah Green, Planner
Natalie Burns, Corporation Counsel
Maureen O'Meara, Senior Planner

SIEVE ANALYSIS AND MOISTURE-DENSITY DATA SHEET

DATE: 7-11-89 LAB No.: 89-27 PROJECT: WENDALL
MATERIAL USE: SW 83452 TYPE: D HOLE OR STATION: COMPOSITE
PRODUCER: GRONOW SAMPLED BY: MJB LOCATION: _____
PIT: GRONOW SAMPLED FROM: RDWY

SIEVE SIZE	WGT	% RET.	% PASS	SPEC
3"	0	0		100
2"	0	0	100	
1"	660	22	78	
3/4"	739	24	76	
1/2"	715	26	74	
3/8"	861	28	72	
1/4"	983	32	68	85/70
# 4	1055	35	65	
# 8				
# 10	1319	43	57	
# 16				
# 20				
# 30				

DENSITY OF COMPACTED SOIL, PCF

[illegible]

MOISTURE CONTENT, %

ASTM 557 METHOD A B C D

					METHODS A B C D				
# 40	2089	68	32	0/30	SPEC. No.				
# 50					WGT MOLD + SPEC. lbs				
# 60					WGT MOLD, lbs.				
# 80	2578	83	17		WGT SPEC. lbs.				
# 100					VOLUME OF MOLD, CF				
# 200	2782	91.1	8.9	0/10	WET DENSITY PCF				
- 200					MOISTURE, %				
TOTAL	3055				DRY DENSITY PCF				

REMARKS: OVERSIZED MATERIAL OBSERVED AT SITE

SIEVE ANALYSIS AND MOISTURE-DENSITY DATA SHEET

DATE: 7-11-89

LAB No.: 89-27

PROJECT: LABEL

MATERIAL USE: 5183458

TYPE: D

HOLE OR STATION: COMPOSITE

PRODUCER: _____

SAMPLED BY: MOB

LOCATION :

PIT: EPON

SAMPLED FROM: ROWY

SIEVE SIZE	WGT	% RET.	% PASS	SPEC
3"	0	0		100
2"	469	16	84	
1"	526	78	72	
3/4"	988	33	67	
1/2"	1172	40	60	
3/8"	1267	43	57	
1/4"	1368	46	54	75/100
# 4	1449	49	51	
# 8				
# 10	1723	58	42	
# 16				
# 20				
# 30				

DENSITY OF COMPACTED SOIL, PCF

[illegible]

MOISTURE CONTENT, %

ASTM 1557 METHOD A B C D

					TEST METHOD A B C D				
# 40	1903	64	36	% ₃₀	SPEC. No.				
# 50					WGT MOLD + SPEC., lbs.				
# 60					WGT MOLD, lbs.				
# 80	2592	81	19		WGT SPEC., lbs.				
# 100					VOLUME OF MOLD, CF				
# 200	2730	72.4	7.6	% ₁₀	WET DENSITY PCF				
- 200					MOISTURE, %				
TOTAL	2954				DRY DENSITY PCF				

REMARKS: OVERSIZED MATERIAL OBSERVED AT SITE

SIEVE ANALYSIS AND MOISTURE-DENSITY DATA SHEET

DATE: 7-11-89 LAB No.: 89-27 PROJECT: WILKIE
MATERIAL USE: SILVER TYPE: D HOLE OR STATION: COMPOSITE
PRODUCER: DW SAMPLED BY: MOB LOCATION:
PIT: SPRINT SAMPLED FROM: RDNT

SIEVE SIZE	WGT	% RET.	% PASS	SPEC
3"	0	0	100	100
2"	404	13	87	
1"	618	21	79	
3/4"	652	22	78	
1/2"	972	32	68	
3/8"	1157	39	61	
1/4"	1362	45	55	#5/10
# 4	1463	49	51	
# 8				
# 10	1768	59	41	
# 16				
# 20				
# 30				

DENSITY OF COMPACTED SOIL, PCF

[illegible]

MOISTURE CONTENT, %

ASTM 1557 METHOD		A	B	C	D
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9
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13	13	13	13	13	13
14	14	14	14	14	14
15	15	15	15	15	15
16	16	16	16	16	16
17	17	17	17	17	17
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70	70	70	70	70	70
71	71	71	71	71	71
72	72	72	72	72	72
73	73	73	73	73	73
74	74	74	74	74	74
75	75</				

#	2559	85	15	0%	SPEC. No.						
# 50					WGT MOLD + SPEC. lbs.						
# 60					WGT MOLD, lbs.						
# 80	2713	90	10		WGT SPEC. lbs.						
# 100					VOLUME OF MOLD, CF						
# 200	2852	94.9	5.1	0%	WET DENSITY PCF						
- 200					MOISTURE, %						
TOTAL	3004				DRY DENSITY PCF						

REMARKS:

CITY OF PORTLAND, MAINE
MEMORANDUM


TO: Joseph E. Gray, Director of Planning/Urban Development
FROM: George A. Flaherty, Director of Parks/Public Works
SUBJECT: Hoglund Development - Lane Avenue

DATE:

During our storm of November 5, 1985, we received a number of requests for service from the Hoglund Development area concerning surface water flooding, etc.

By copy of this memorandum, I am requesting the Engineers to take a look at the situation out there and submit a report. The factors which should be noted are that the City has not accepted liability for the public infrastructure in this area. At this time we have no plans of the area and little or no knowledge of the systems in the area; therefore, we were unable to be of assistance to the residents.

Would you please advise what our timetable is for the final completion of this subdivision. Furthermore, we may have to take a look at this development in order to determine if we have another problem similar to that off of Wayside and Brighton Avenue.



GAF/nba

cc: Marc Guimont, City Engineer

GR

Rec 10/19/99

Robert and Irma Andrews
66 Farnham St.
Portland ME 04103

October 18, 1999

The Honorable Nick Mavodones, Jr.
Jay Hibbard, Counselor District 5
Karen Garaghty, Chairperson of Housing Committee
Portland City Hall
389 Congress St.
Portland, ME 04103

Re: Proposed Development of A. Waxler Farnham St. Mobile Home Subdivision
upon Wetlands in the City of Portland, Maine

Dear Mayor Mavodones, Counselor Hibbard, Counselor Garaghty:

The Farnham St. residents need to know if the State Department of Environmental Protection (DEP) is or will be conducting an environmental review assessing the impact of this subdivision upon the wetlands that exists between Forest Avenue and Warren Avenue. Such a review needs to be done before the City issues construction, building, or siting permits. Impact of continuing development is also a concern.

Both the Lane Avenue subdivision and the Riverton School complex bypassed completely any initial review by the DEP, thus creating ongoing soggy water problems. These areas border the Waxler subdivision.

The wetlands are now a habitat containing myriad cat-o'-nine-tail's, water bird sightings, and various other aquatic creatures. Immediate short range impact could very well exacerbate existing ground flooding problems.

Managing wetlands truly needs long range planning rather than random development in the 21st century. Lack of vision could preclude desirable business expansion on the Warren Avenue border, or possibly preserving open space for a wetlands park to serve the quality of life for an expanding population in the Riverton area of Portland.

Sincerely,

Bob and Irma Andrews

Robert and Irma Andrews

cc; list on next page

cc:

Representative Bill Norbert

Senator Sharon Treat, Chairperson of the Joint Standing Committee on Natural Resources

Martha Kilpatrick, Commissioner of Environmental Protection

Richard Baker, Department of Environmental Protection

Gary Wood, Corporation Counsel

Counselor Nathan Smith, Housing Committee

Counselor Tom Kane, Housing Committee

John Carroll, Chairperson of the Planning Board

Mark Adelson, Director, Housing and Neighborhood Services

Riverton Community Association

Farnham Street Committee

City of Portland, Maine
MEMORANDUM

To: Housing Committee Members,
Councilor Karen Geraghty, Chair

From: Mark B. Adelson, Housing and Neighborhood Services Director



Subject: **Request From Alfred Waxler Re: Farnum Street Subdivision**

Date: September 2, 1999

Alfred Waxler of Portland, is the owner and developer of a 22 lot subdivision for manufactured housing on Farnum Street, off of Forest Ave, next to and behind the Riverton School. The City and Mr. Waxler have been in legal action over this how this land can be developed since 1976. In April, 1999, the court ruled against the City, that Mr. Waxler does have the right to develop this subdivision with manufactured housing as originally planned.

Mr Waxler now plans to proceed with the development, but would like to purchase a 10ft.x 1,900ft. strip of land from the City to allow the placement of larger, more valuable, double-wide manufactured homes on the lots. The strip of land would add 10ft. to the rear of each lot and satisfy the set back requirement for the dimensions of a double-wide home. Without the additional strip of land he will only be allowed to place less valuable and less marketable single-wide homes on these lots. Currently, the 10'x1,900' strip of land is part of a drainage ditch that borders the City owned land surrounding the Riverton School.

Dimensions: Currently each lot is 65ft.x 100ft. With the 25ft. front and back required setbacks, a double-wide home measuring 24ft.x52ft. could not be placed on the lot. A single-wide or double-wide 48ft. long could be placed on the lot. However, Mr. Waxler feels the 52ft. long homes are nicer, more desirable and more marketable.

Mr. Waxler is convinced this will make a much nicer neighborhood for current residents of Farnum St. and the City.

Proposal: The City will sell the land to Mr. Waxler for one dollar (\$1.).

In exchange for the land, Mr. Waxler agrees to:

1. Deed an easement back to the City so it can continued to be used as a drainage ditch for the school land.
2. Pay for the surveying costs.
3. Pay all legal and recording fees.
4. Pay to have the drainage ditch cleared of all debris as the lots are sold or leased.
5. Pay to have the drainage ditch maintained to ensure properly functioning.
6. Pay to erect a fence at the rear of each lot separating ditch from the rest of the usable yard.
7. Guarantee that only double-wide homes would be placed on the adjacent lots (east side).
8. Build the streets, sidewalks, drainage and other public improvements to city standards.
9. Hold a neighborhood meeting in September at Riverton School to explain his proposal to Farnum Street residents.

Other Issues:

Mr. Waxler is not guaranteeing that double-wide homes will be placed on lots on the other or west side of Farnum Street, although there is room from now. He feels he would like the flexibility to sell and place single-wide homes if the demand is there.

Mr. Waxler is requesting that to purchase the strip along the full 1,900ft. of his property, although the length of the approved subdivision is only 715ft. The additional 1,185 ft. runs the length of his property beyond his subdivision to Warren Ave. which he hopes to develop in the future.

Mr. Waxler will either sell or lease the lots to the purchasers of the homes. Each lot will have a concrete pad, lawn and gravel driveway, no other amenities are planned.

Mr. Waxler must apply for a building permit for each lot he wants to develop. Each lot will be reviewed under the City's administrative (minor-minor) site plan procedures.

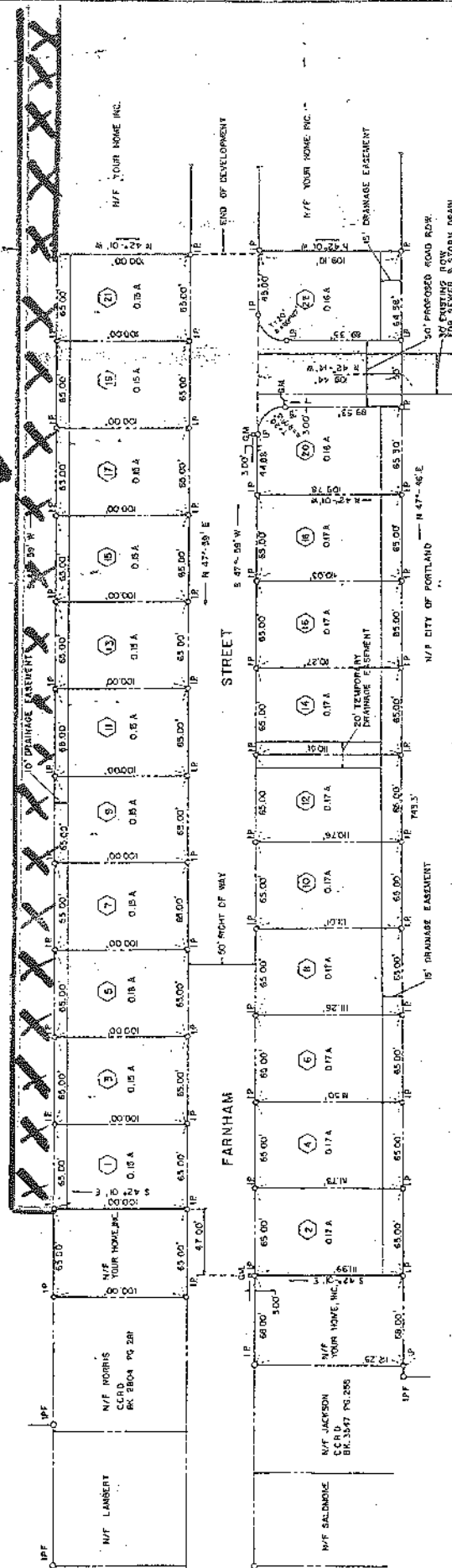
Process:

Mr. Waxler will present his request to the Housing Committee in a workshop setting on September 9th. The Committee will have an opportunity to ask questions and request additional information. Mr. Waxler will then hold a neighborhood meeting at Riverton School with the Farnum Street residents between Sept. 9 and Sept. 22. The Housing Committee will review Mr. Waxler's proposal again on September 23rd, take public comment and make a recommendation to the City Council.

Attached are a map of the subdivision, examples of the single-wide and double-wide homes, Mr. Waxler's original letter to the City, and a memo from Portland Schools staff Donn Davis regarding the impact of this request. .

cc: Councilor Hibbard
Gary Wood
Joe Gray

NEW CITY OF PORTLAND



0 02 0 40 80

THIS PLAN IS A REVISION OF A SUBDIVISION RECORDING PLAN THAT WAS ORIGINALLY APPROVED BY THE CITY OF PORTLAND PLANNING DEPARTMENT ON AUGUST 16, 1976. THIS AMENDMENT RECORDING PLAN HAS BEEN APPROVED BY THE DIRECTOR OF PLANNING AND URBAN DEVELOPMENT IN ACCORDANCE WITH CHAPTER 601.5.3 OF THE MUNICIPAL CODE.

DIRECTOR OF PLANNING AND BUDGET
DEVELOPMENT

0276

LEADS

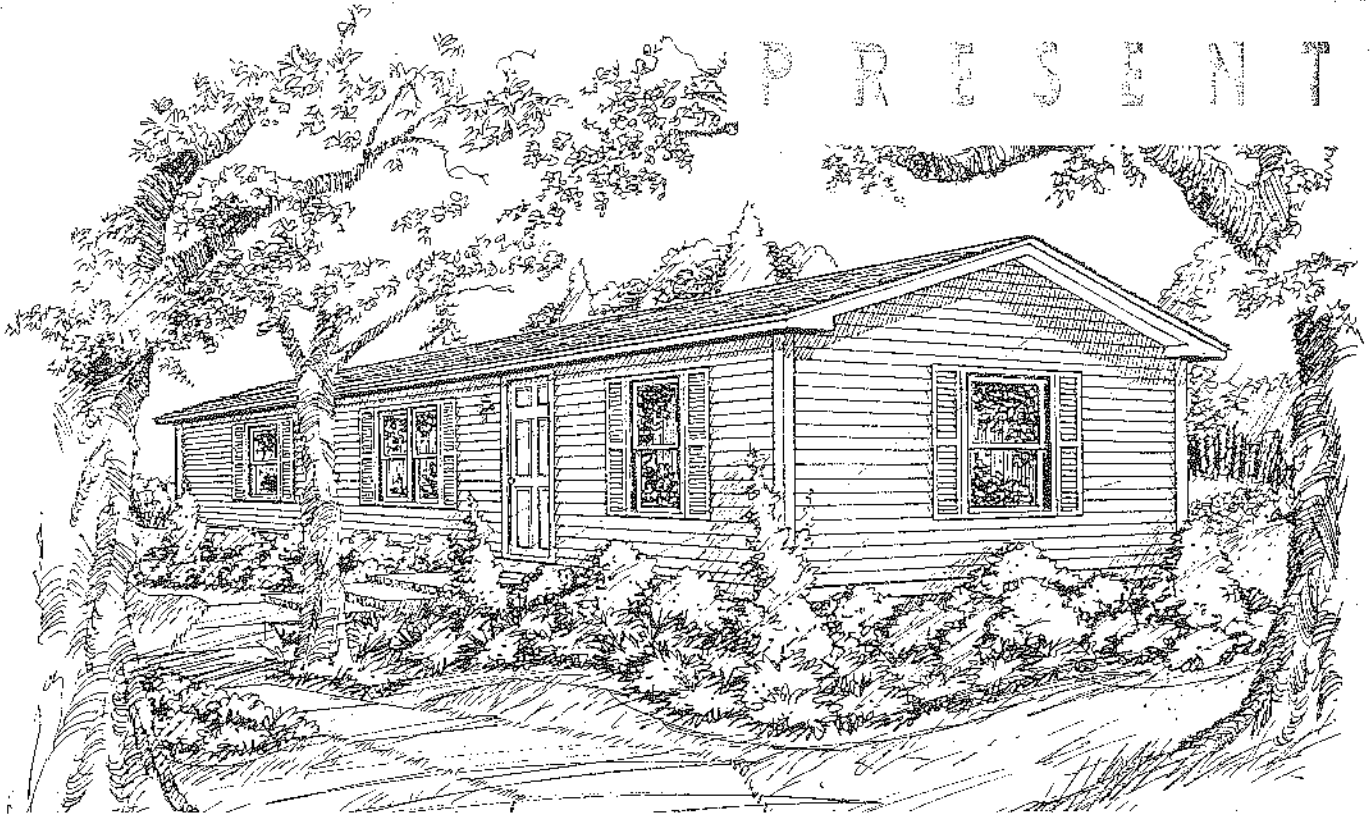
- [illegible]

REVIEWED AND APPROVED BY THE
PORTLAND PLANNING BOARD

24

EX: SINGLE-WIDE HOME

P R E S E N T S



ARTIST'S RENDERING
SOME FEATURES SHOWN MAY BE OPTIONAL

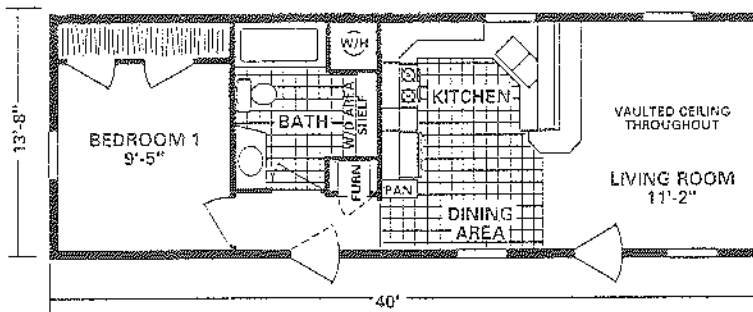
CUSTOM 2000 SINGLE SECTION MODELS

THE OLDEST, MOST EXPERIENCED BUILDER OF MANUFACTURED HOUSING

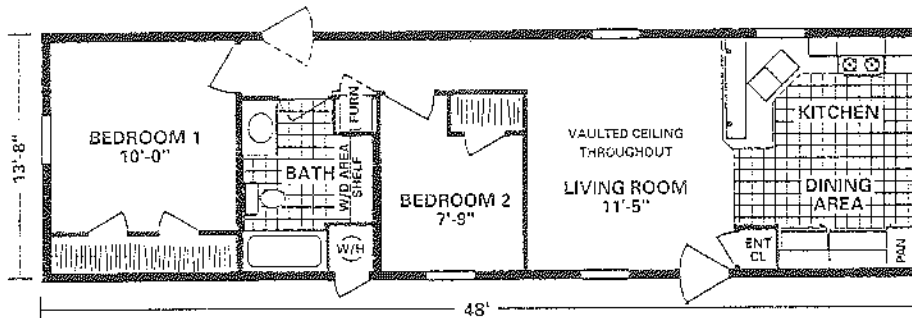


Ex. Single-Wide F.H. Plan

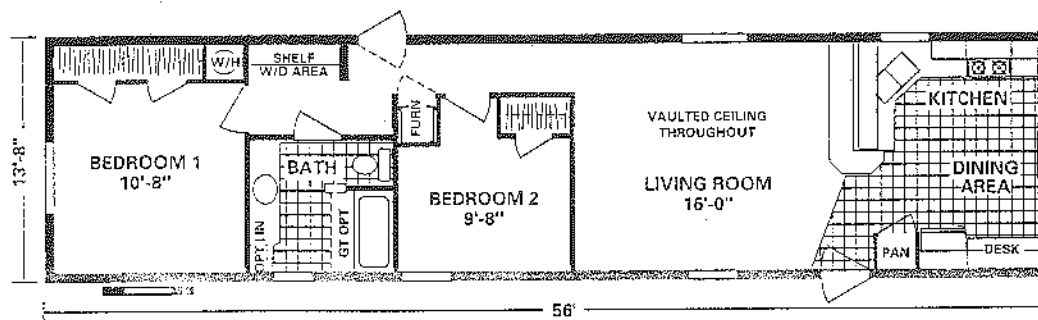
*MODEL 4414-77-2-N — 547 SQ. FT.—1 BEDROOM—FRONT LIVING ROOM



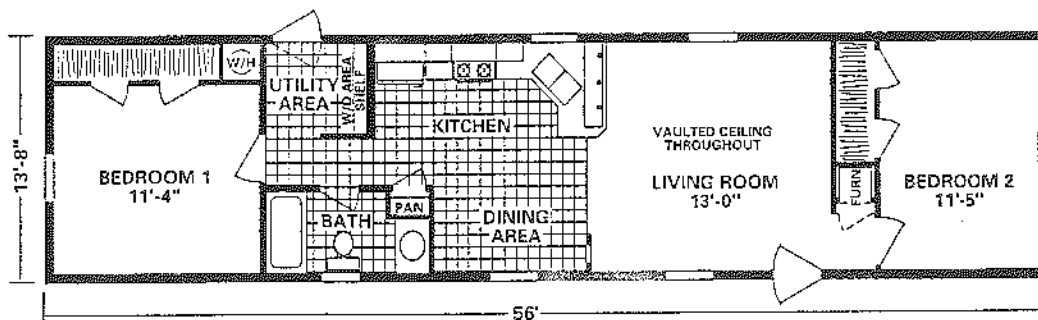
MODEL 5214-503 — 656 SQ. FT.—2 BEDROOM—FRONT KITCHEN



MODEL 6014-516-N — 766 SQ. FT.—2 BEDROOM—FRONT KITCHEN

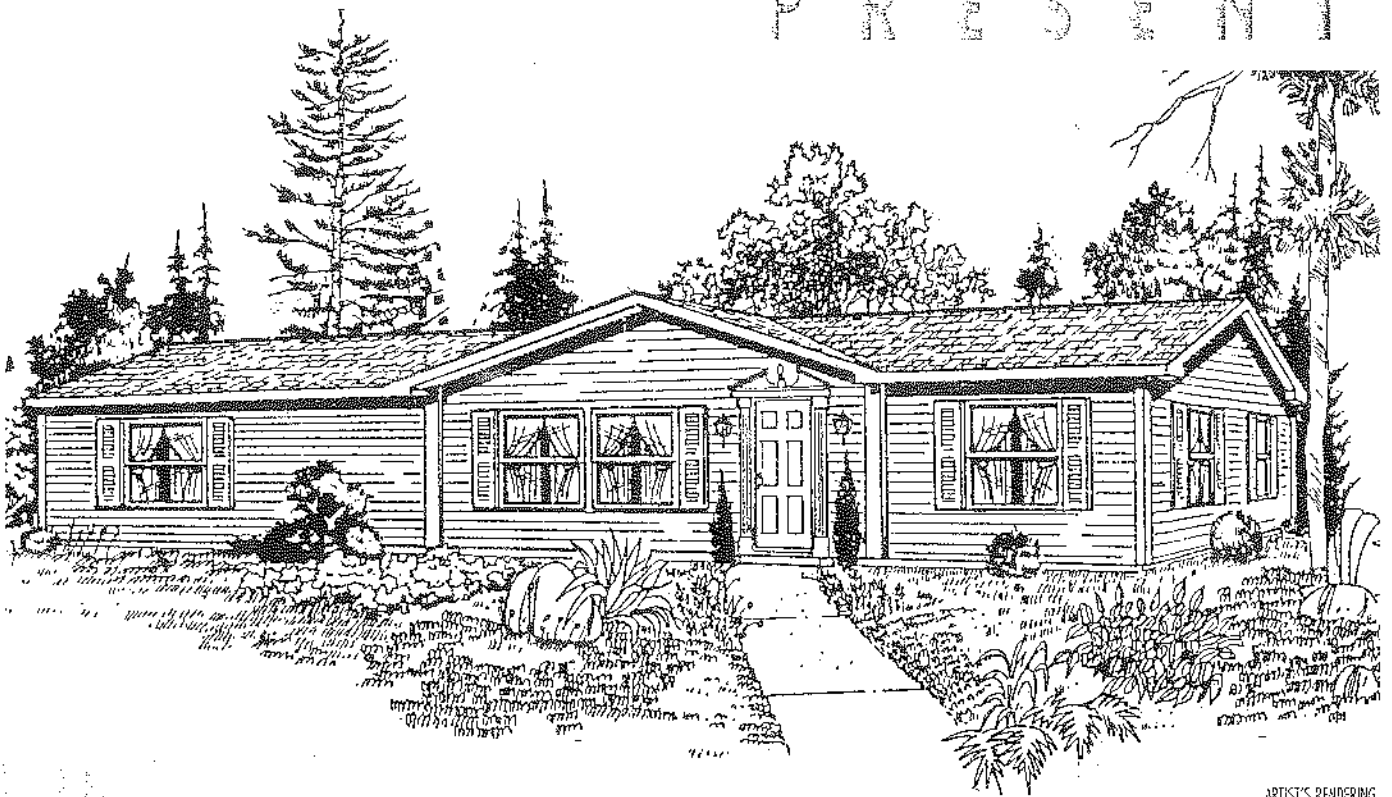


*MODEL L6014-320 — 766 SQ. FT.—2 BEDROOM—FRONT BEDROOM



Ex. Double-WIDE Home

P R E S E N T S



ARTIST'S RENDERING
SOME FEATURES SHOWN MAY BE OPTIONAL

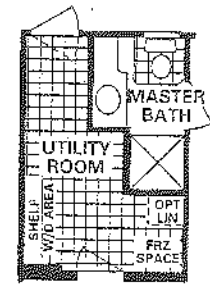
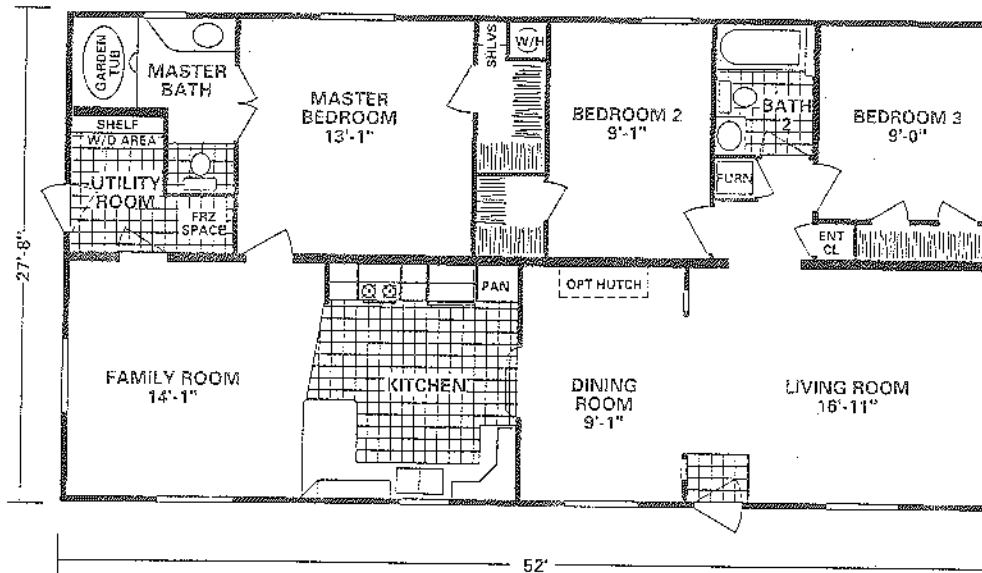
GRAND VILLA II

SECTIONAL MODELS

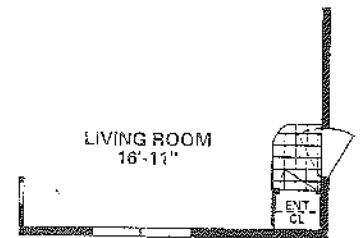
THE OLDEST, MOST EXPERIENCED BUILDER OF MANUFACTURED HOUSING



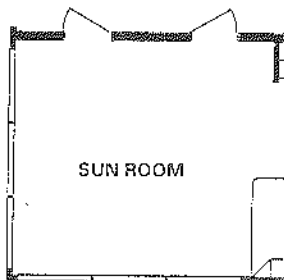
Ex. Double-wide Fl. Plan MODEL 5228-318-1— 1439 SQ. FT.—3 BEDROOM—2 BATH



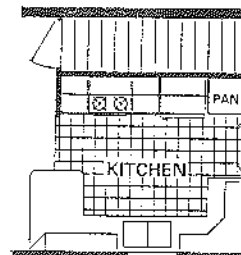
UTILITY ROOM OPTION



END ENTRY OPTION

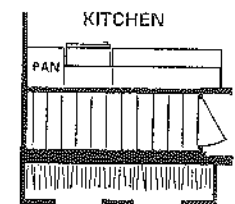
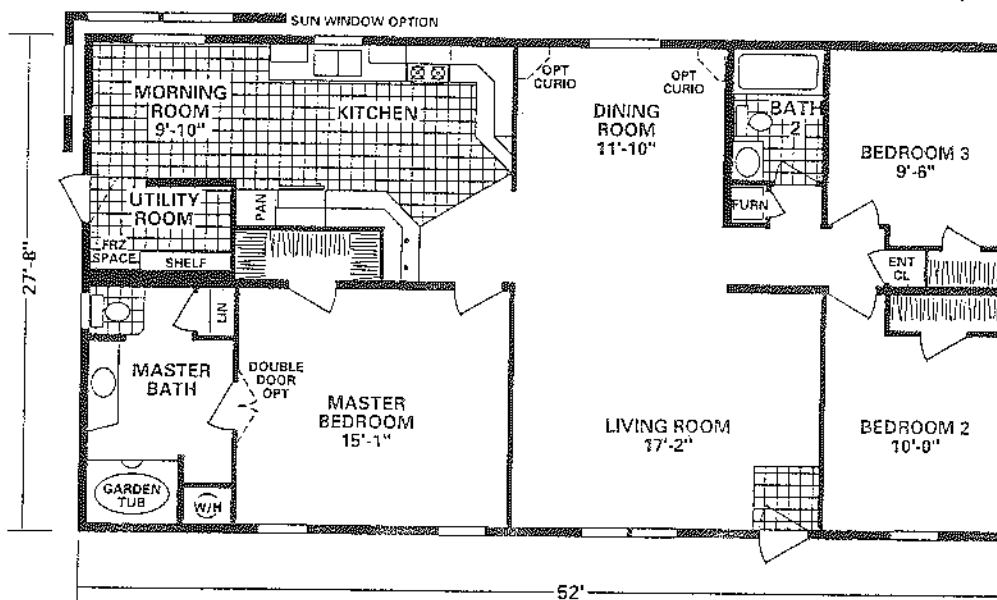


SUN ROOM OPTION

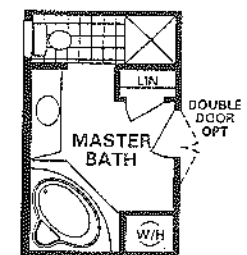


BASEMENT STAIRWELL OPTION

MODEL 5228-330-1— 1439 SQ. FT.—3 BEDROOM—2 BATH



BASEMENT STAIRWELL OPTION



CORNER TUB BATH WITH 32" SHOWER OPTION

ALFRED J. WAXLER

Mail:
P.O. Box 6681
04101

Phone (207) 773-5853
Fax (207) 772-7554

PORTLAND, MAINE

July 26, 1999

Mr. Mark Adelson
Director of Community Relations
Portland City Hall
389 Congress Street
Portland, Maine 04101

SENT VIA FAX TO 874 8949
3:50 TODAY

Re: Manufactured Housing / FARNHAM STREET

Dear Mr. Adelson:

Friday I received the City calendar showing the Housing Committee meeting on July 29th. It was not listed on the previous calendar.

There are three subjects of immediate importance to the citizens of Portland.

1. The drainage ditch on the Riverton School property abuts the entire length of my Farnham Street property. The lots on my property are 100' deep. The zoning setback requirements are-- 25' front and 25' rears.

Manufactured housing is made in 4' increments. That is 48' and 52'. If the City would deed the drainage area to my Farnham Street property, a drainage easement would be deeded back to the City. I would agree to place only double-wide housing on that side of the Street. This would make for an upscale housing project and increase the City's tax base.

2. Since in May Judge Cole ruled in my favor in the case against the city, the impact of this ruling must be addressed.

3. Why are the residents of Portland denied access to Manufactured Housing while a serious shortage of affordable housing exists? Is Portland serious about affordable housing issues or just paying lip service to the issue until more Public Housing can be built?

From: Donn Davis
To: Gary Wood
Date: Tue, Aug 10, 1999 8:08 am
Subject: Al Waxler/Riverton School

Gary,

I'm sorry to say that neither Hank nor I can attend the meeting with Al this morning.

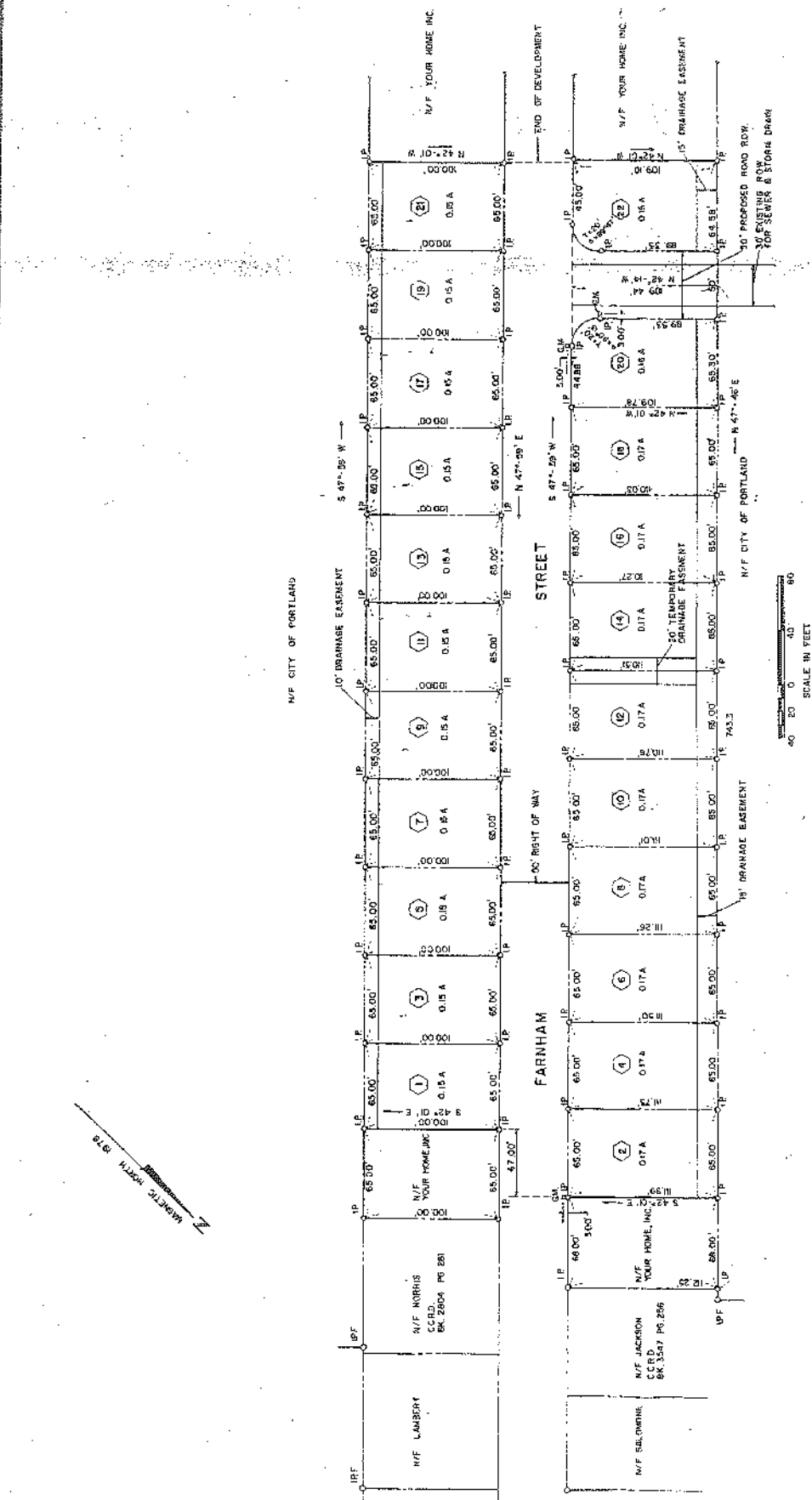
However, I was able to meet with Al yesterday afternoon at the site. I met him at the Warren Ave. side and we worked our way around to both Farnum St. and then cut through to the Riverton School property where the property abuts Mr. Waxler.

Generally, our conversation was limited to the impact on schools. I shared with him what you and I had already discussed and perhaps a few other things. Specifically, I noted my concern for school enrollments in this already somewhat dense part of the city, our desire to have no out of pocket expenses for fencing (as it was likely that balls would escape from the playing field, etc). I also noted that we had little control as regards to children cutting through his property and the like. I did note that there was some wet land type areas (cat and nine tails) near the far end of the property.

Essentially, Gary, I made no statements about the merit of his actions. However, please know we are willing to support you in any way that makes sense for all the parties in interest.

Good luck with your meeting and please feel free to call if we can do anything from this end.

CC: Hank Dresch



THIS PLAN IS A REVISION OF A SUBDIVISION RECORDING PLAT THAT WAS ORIGINALLY APPROVED BY THE CITY OF PORTLAND PLANNING BOARD ON APRIL 14, 1979. THIS AMENDED RECORDING PLAT HAS BEEN APPROVED BY THE DIRECTOR OF PLANNING AND URBAN DEVELOPMENT IN ACCORDANCE WITH CHAPTER 802.3 OF THE MUNICIPAL CODE.


- NOTES:
1. Reference is made to the following:
 - a. "Plan for No. 1, Farnham, Inc. Inc." by E. C. Jordan & Co., recorded in the C. & F. A. Book 14, Page 100, and the establishment of the street of Farnham Street and the establishment of Farnham Street as a dedicated way.
 - b. "Plan for No. 1, Farnham, Inc. Inc." by E. C. Jordan & Co., recorded in the C. & F. A. Book 14, Page 100, and the establishment of the street of Farnham Street and the establishment of Farnham Street as a dedicated way.
 - c. "Plan for No. 1, Farnham, Inc. Inc." by E. C. Jordan & Co., recorded in the C. & F. A. Book 14, Page 100, and the establishment of the street of Farnham Street and the establishment of Farnham Street as a dedicated way.
 - d. "Plan for No. 1, Farnham, Inc. Inc." by E. C. Jordan & Co., recorded in the C. & F. A. Book 14, Page 100, and the establishment of the street of Farnham Street and the establishment of Farnham Street as a dedicated way.
 2. The area of the subdivision is 1.15 acres, more or less.
 3. The area of the subdivision is 1.15 acres, more or less.
 4. The area of the subdivision is 1.15 acres, more or less.
 5. The area of the subdivision is 1.15 acres, more or less.
 6. The area of the subdivision is 1.15 acres, more or less.

APPROVED BY THE PLANNING BOARD

DATE

CITY OF PORTLAND, MAINE
M E M O R A N D U M

TO: Mark Adelson, Director of Housing & Neighborhood Services

FROM: Gary C. Wood, Corporation Counsel 
Ext. 8480

DATE: September 21, 1999

RE: Legal Status of Al Waxler's Subdivision on Lower Farnham Street

I'm sorry that I cannot join the Farnham Street neighbors and Mr. Waxler at tonight's meeting. I had prior commitments that I was not able to break. I will meet with Mr. Waxler and the neighborhood if there are unresolved legal questions that come up during your meeting or I will respond to the questions in writing, if that works better.

The most important legal point in relation to this subdivision is that Mr. Waxler has a legal right to develop the subdivision under the laws of the City and the state as they existed in July of 1979. That is when the City's Planning Board approved the subdivision. The good news is that the City laws in effect at that time were not substantially different than those that we have in place today. They are rigorous but fair standards. They will protect the health, welfare and safety of residents in the subdivision and in the existing neighborhood, particularly on the most important issue in subdivisions, i.e. the proper construction of the street and sewer lines that serve the subdivision. In relation to the street, Mr. Waxler will have to put in a 50-foot road that meets the City standards that were in effect in 1979. He will also have to put in a sewer line that is adequate to serve residential dwellings on the 22 lots in the subdivision.

The only outstanding legal issue, of which I am aware, is whether the 1979 City Council waived the requirement that the subdivision have both sidewalks and granite curbs. Those requirements existed under the City's subdivision law in 1979, but the Council did have authority to waive them. If we cannot reach agreement with Mr. Waxler about this issue, then, we will have to go to court for a resolution. Mr. Waxler's position is that the Council did waive the requirements. The City's position is that it did not.

Finally, as a result of the court's decision in 1998, the case involving the single-wide mobile home that Mr. Waxler placed on his lot at 92 Farnham Street, Mr. Waxler can place single-wide manufactured homes on his lots in the subdivision, so long as those manufactured homes meet the setback requirements. Because the front and back setback requirements are both 25 feet, what that means as a practical matter is that any manufactured home placed in a lot on the side of the subdivision that abuts Riverton School, that has its narrow end placed parallel to Farnham Street, would have to be 50

Mark Adelson
September 21, 1999
Page 2

feet or less in length. That is because the lots are only 100 feet deep on that side of the subdivision. On the other side of the subdivision, the mobile homes would have to be 60 feet or less in length because the lots on that side are about 10 feet deeper. Another alternative available to Mr. Waxler is to place slightly longer mobile homes on either side of the subdivision street on the diagonal of the lot. Using the diagonal of the lot would allow Mr. Waxler to use slightly longer mobile homes and still meet the 25-foot setback requirements.

Another legal question that may arise is whether Mr. Waxler can lease the lots rather than sell them. The answer is yes. State law allows leasing. Please note that leasing the lots does not legally turn Mr. Waxler's subdivision into a mobile home park. He will still have to comply with the 1979 City and state law on subdivisions, streets, sewers, etc. He will not get the benefit of lesser standards applicable under state law to mobile home parks. He will also have to meet the requirement in our ordinance that still apply to manufactured houses (pitched roof, foundation, etc.). I have attached a copy of those requirements.

Two years ago Natalie Burns and I met with the neighbors and told them that Mr. Waxler had a legal right to go forward with his approved subdivision. The neighbors said they understood that. He still has that right. Our job now is to hold him to the appropriate standards, just like any developer, but not throw unfair or unreasonable roadblocks in his way.

GCW:dlc
Enc.
O:\WP\GARYADELSON.MMO

such development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of this chapter. Such development shall be subject to review and approval by the planning board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.

- d. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
- e. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
- f. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - i. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - ii. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - iii. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
 - ~~iv. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.~~
 - v. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
 - vi. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.

- vii. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(2) *Other:*

- a. Parks, and other active and passive noncommercial recreation spaces;
- b. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- c. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- d. Municipal uses, excluding those specifically set forth in section 14-118 of this division.
- e. Special needs independent living units on lots of less than two (2) acres, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.

(Ord. No. 536-84, 5-7-84; Ord. No. 265-84, § 1, 12-17-84; Ord. No. 98-86, § 1, 10-6-86; Ord. No. 83-88, §§ 2, 3, 7-19-88; Ord. No. 387-89, 4-3-89; Ord. No. 86A-89, § 5, 8-21-89; Ord. No. 95-89, § 1, 9-6-89; Ord. No. 279-90, § 1, 3-10-90; Ord. No. 33-91, § 6, 1-23-91; Ord. No. 33A-91, § 4, 4-17-91; Ord. No. 220-95, 4-3-95; Ord. No. 165-97, § 3, 12-1-97)

Editor's note—Ord. No. 83-88, §§ 2, 3, adopted July 19, 1988, amended subsections 14-117(1) and (2)d to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88. Ord. No. 95-89, § 1, adopted Sept. 6, 1989, amended subsection (1)a of § 14-117 to read as set out and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."

9/22/99 mtg Note

Favulin ~~to~~

Get 1979 Standards

Site location of Development w/ site

wetlands Impacts

Street development Standards
See Tony

Roll Waxler file for 1979

Standard conditions of Site location of
Development
" No further subel of
panel "

Call DEP ^{or W} Sherry Boyman Manager
ask for status

287 2111 - Keeper of Records
" Your Home Free

Roll Street Article