

19: Preservation of Significant Natural Features (14-526 (b) 1), if applicable

- Trees, plants, habitats listed on State or Federal list of endangered or threatened
 - (i) The State of Maine Department of Agriculture, Conservation and Forestry Natural Areas Program (MNAP) did not identify known mapped significant natural features within the project site. Reference is made to the MNAP letter, this section. The Beginning with Habitat (BWH)-Primary Map 2, High Value Plants and Animals – Portland does not identify plant or animal habitats within the project area.
 - (ii) Per the U.S. Department of Interior, Fish and Wildlife Service, no critical habitats are identified within the project area. The official species list is limited to the threatened Northern Long-eared bat *Myotis septentrionalis*. No known hibernacula occurs on the site and tree removal will not take place during the spring-summer bat pup-rearing season. See attached letter received from the Maine Ecological Field Services Office, this section.
- High and moderate value waterfowl and wading habitat
 - (iii) A site review request has been requested of Maine Department of Inland Fisheries and Wildlife. Available online mapping and the BWH map for Portland does not identify high or moderate waterfowl or wading habitat within the site. A copy of the MDIFW response will be forwarded to the City upon receipt.
- Aquifers on Casco Bay Islands
 - (iv) Not applicable.
- Waterbodies (including wetlands, watercourses, significant vernal pools and floodplains)
 - (v) No waterbodies are located on the proposed project site.

Per review of the City of Portland GIS Map Viewer-Flood Map (1986 FEMA flood boundaries), the project is not located in a flood plain.
- Proposed preservation areas and protection measures

No dedicated preservation areas or protection measures are proposed as part of the Pine State Family Mart project.
- Documentation from environmental consultants determinations from applicable state agencies

Reference is made to the aforementioned correspondence regarding natural features.



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

93 STATE HOUSE STATION
AUGUSTA, MAINE 04333

WALTER E. WHITCOMB
COMMISSIONER

September 4, 2018

Stefanie Nichols
Sebago Technics
75 John Roberts Road, Suite 4A
South Portland, ME 04106

Via email: snichols@sebagotechnics.com

Re: Rare and exemplary botanical features in proximity to: #11142, Chau Property, 1884 Forest Ave, Portland, Maine

Dear Ms. Nichols:

I have searched the Natural Areas Program's Biological and Conservation Data System files in response to your request received August 28, 2018 for information on the presence of rare or unique botanical features documented from the vicinity of the project in Portland, Maine. Rare and unique botanical features include the habitat of rare, threatened, or endangered plant species and unique or exemplary natural communities. Our review involves examining maps, manual and computerized records, other sources of information such as scientific articles or published references, and the personal knowledge of staff or cooperating experts.

Our official response covers only botanical features. For authoritative information and official response for zoological features you must make a similar request to the Maine Department of Inland Fisheries and Wildlife, 284 State Street, Augusta, Maine 04333.

According to the information currently in our Biological and Conservation Data System files, there are no rare botanical features documented specifically within the project area. This lack of data may indicate minimal survey efforts rather than confirm the absence of rare botanical features. You may want to have the site inventoried by a qualified field biologist to ensure that no undocumented rare features are inadvertently harmed.

If a field survey of the project area is conducted, please refer to the enclosed supplemental information regarding rare and exemplary botanical features documented to occur in the vicinity of the project site. The list may include information on features that have been known to occur historically in the area as well as recently field-verified information. While historic records have not been documented in several years, they may persist in the area if suitable habitat exists. The enclosed list identifies features with potential to occur in the area, and it should be considered if you choose to conduct field surveys.

This finding is available and appropriate for preparation and review of environmental assessments, but it is not a substitute for on-site surveys. Comprehensive field surveys do not exist for all natural areas in Maine, and in the absence of a specific field investigation, the Maine Natural Areas Program cannot provide a definitive statement on the presence or absence of unusual natural features at this site.

MOLLY DOCHERTY, DIRECTOR
MAINE NATURAL AREAS PROGRAM



PHONE: (207) 287-8044
FAX: (207) 287-8040
WWW.MAINE.GOV/DACF/MNAP

Letter to Sebago
Comments RE: 1884 Forest Ave, Portland
September 4, 2018
Page 2 of 2

The Natural Areas Program is continuously working to achieve a more comprehensive database of exemplary natural features in Maine. We would appreciate the contribution of any information obtained should you decide to do field work. The Natural Areas Program welcomes coordination with individuals or organizations proposing environmental alteration, or conducting environmental assessments. If, however, data provided by the Natural Areas Program are to be published in any form, the Program should be informed at the outset and credited as the source.

The Natural Areas Program has instituted a fee structure of \$75.00 an hour to recover the actual cost of processing your request for information. You will receive an invoice for \$150.00 for two hours of our services.

Thank you for using the Natural Areas Program in the environmental review process. Please do not hesitate to contact me if you have further questions about the Natural Areas Program or about rare or unique botanical features on this site.

Sincerely,



Kristen Puryear | Ecologist | Maine Natural Areas Program
207-287-8043 | kristen.puryear@maine.gov

Rare and Exemplary Botanical Features within 4 miles of Project: 11142, Chau Property, 1884 Forest Ave, Portland, Maine

Common Name	State Status	State Rank	Global Rank	Date Last Observed	Occurrence Number	Habitat
Allegheny Vine	E	S1	G4	1860-10	9	Rocky summits and outcrops (non-forested, upland),Dry barrens (partly forested, upland)
American Sea-blite	T	S2	G5	1932-09-12	5	Tidal wetland (non-forested, wetland)
Bottlebrush Grass	T	S2	G5	2011-08-15	17	Tidal wetland (non-forested, wetland)
Broad Beech Fern	SC	S3	G5	1905-09-13	10	Hardwood to mixed forest (forest, upland)
Clothed Sedge	SC	S2	G5	1872-08	15	Hardwood to mixed forest (forest, upland)
Ebony Spleenwort	E	S1	G5	2000-06-06	5	Dry barrens (partly forested, upland)
Engelmann's Spikerush	SC	S2	G5	1910-06-06	10	Rocky summits and outcrops (non-forested, upland),Hardwood to mixed forest (forest, upland)
Fern-leaved False Foxglove	PE	SH	G4G5	1916-08-31	2	Open wetland, not coastal nor rivershore (non-forested, wetland)
Great Blue Lobelia	SC	S3	G5	1902-09-02	13	Dry barrens (partly forested, upland),Hardwood to mixed forest (forest, upland)
Hollow Joe-pye Weed	PE	SX	G5	1905-09	3	Forested wetland,Non-tidal rivershore (non-forested, seasonally wet)
	SC	S2	G5?	2014-06-18	24	Open wetland, not coastal nor rivershore (non-forested, wetland),Old field/roadside (non-forested, wetland or upland)
	SC	S2	G5?	2007-10-22	18	Open wetland, not coastal nor rivershore (non-forested, wetland),Old

Rare and Exemplary Botanical Features within 4 miles of Project: 11142, Chau Property, 1884 Forest Ave, Portland, Maine

Common Name	State Status	State Rank	Global Rank	Date Last Observed	Occurrence Number	Habitat
Horned Pondweed	SC	S2	G5?	2011-08-04	19	field/roadside (non-forested, wetland or upland) Open wetland, not coastal nor rivershore (non-forested, wetland), Old field/roadside (non-forested, wetland or upland)
Marsh Milkwort	SC	S2	G5	1913-09-13	9	Tidal wetland (non-forested, wetland)
Missouri Rockcress	PE	SH	G5T4	1903-08-18	1	Dry barrens (partly forested, upland), Open wetland, not coastal nor rivershore (non-forested, wetland)
Mountain Honeysuckle	T	S1	G5	1905-06-11	5	Rocky summits and outcrops (non-forested, upland), Hardwood to mixed forest (forest, upland)
	E	S2	G5	2014-08-03	14	Dry barrens (partly forested, upland), Hardwood to mixed forest (forest, upland)
	E	S2	G5	2007-10-05	11	Dry barrens (partly forested, upland), Hardwood to mixed forest (forest, upland)
	E	S2	G5	2015-07-07	17	Dry barrens (partly forested, upland), Hardwood to mixed forest (forest, upland)
Pitch Pine Woodland	<null>	S3	G2	2005-12-08	28	Rocky summits and outcrops (non-forested, upland)
Small Reed Grass	SC	S3	G5	2011-08-28	18	Old field/roadside (non-forested, wetland or upland)
Spotted Pondweed	T	S1	G5	1995-10-01	3	Open water (non-forested, wetland)
Tidal Marsh Estuary Ecosystem	<null>	S3	GNR	2011-08-25	8	Tidal wetland (non-forested, wetland)
Upright Bindweed						

Rare and Exemplary Botanical Features within 4 miles of Project: 11142, Chau Property, 1884 Forest Ave, Portland, Maine

Common Name	State Status	State Rank	Global Rank	Date Last Observed	Occurrence Number	Habitat
Variable Sedge	T	S2	G4G5	2007-06-28	5	Dry barrens (partly forested, upland), Old field/roadside (non-forested, wetland or upland)
Vasey's Pondweed	E	S1	G3	1911	8	Dry barrens (partly forested, upland), Hardwood to mixed forest (forest, upland)
	E	S1	G3	1911-06-29	9	Dry barrens (partly forested, upland), Hardwood to mixed forest (forest, upland)
Wild Garlic	SC	S2	G4	1901-08-04	7	Open water (non-forested, wetland)
	SC	S2	G5	1918-07-16	6	Forested wetland, Hardwood to mixed forest (forest, upland)

STATE RARITY RANKS

- S1** Critically imperiled in Maine because of extreme rarity (five or fewer occurrences or very few remaining individuals or acres) or because some aspect of its biology makes it especially vulnerable to extirpation from the State of Maine.
- S2** Imperiled in Maine because of rarity (6-20 occurrences or few remaining individuals or acres) or because of other factors making it vulnerable to further decline.
- S3** Rare in Maine (20-100 occurrences).
- S4** Apparently secure in Maine.
- S5** Demonstrably secure in Maine.
- SU** Under consideration for assigning rarity status; more information needed on threats or distribution.
- SNR** Not yet ranked.
- SNA** Rank not applicable.
- S#?** Current occurrence data suggests assigned rank, but lack of survey effort along with amount of potential habitat create uncertainty (e.g. S3?).

Note: **State Rarity Ranks** are determined by the Maine Natural Areas Program for rare plants and rare and exemplary natural communities and ecosystems. The Maine Department of Inland Fisheries and Wildlife determines State Rarity Ranks for animals.

GLOBAL RARITY RANKS

- G1** Critically imperiled globally because of extreme rarity (five or fewer occurrences or very few remaining individuals or acres) or because some aspect of its biology makes it especially vulnerable to extinction.
- G2** Globally imperiled because of rarity (6-20 occurrences or few remaining individuals or acres) or because of other factors making it vulnerable to further decline.
- G3** Globally rare (20-100 occurrences).
- G4** Apparently secure globally.
- G5** Demonstrably secure globally.
- GNR** Not yet ranked.

Note: **Global Ranks** are determined by NatureServe.

STATE LEGAL STATUS

Note: State legal status is according to 5 M.R.S.A. § 13076-13079, which mandates the Department of Conservation to produce and biennially update the official list of Maine's **Endangered and Threatened** plants. The list is derived by a technical advisory committee of botanists who use data in the Natural Areas Program's database to recommend status changes to the Department of Conservation.

- E** ENDANGERED; Rare and in danger of being lost from the state in the foreseeable future; or federally listed as Endangered.
- T** THREATENED; Rare and, with further decline, could become endangered; or federally listed as Threatened.

NON-LEGAL STATUS

- SC** SPECIAL CONCERN; Rare in Maine, based on available information, but not sufficiently rare to be considered Threatened or Endangered.
- PE** Potentially Extirpated; Species has not been documented in Maine in past 20 years or loss of last known occurrence has been documented.

ELEMENT OCCURRENCE RANKS - EO RANKS

Element Occurrence ranks are used to describe the quality of a rare plant population or natural community based on three factors:

- **Size**: Size of community or population relative to other known examples in Maine. Community or population's viability, capability to maintain itself.
- **Condition**: For communities, condition includes presence of representative species, maturity of species, and evidence of human-caused disturbance. For plants, factors include species vigor and evidence of human-caused disturbance.
- **Landscape context**: Land uses and/or condition of natural communities surrounding the observed area. Ability of the observed community or population to be protected from effects of adjacent land uses.

These three factors are combined into an overall ranking of the feature of **A**, **B**, **C**, or **D**, where **A** indicates an **excellent** example of the community or population and **D** indicates a **poor** example of the community or population. A rank of **E** indicates that the community or population is **extant** but there is not enough data to assign a quality rank. The Maine Natural Areas Program tracks all occurrences of rare (S1-S3) plants and natural communities as well as A and B ranked common (S4-S5) natural communities.

Note: **Element Occurrence Ranks** are determined by the Maine Natural Areas Program for rare plants and rare and exemplary natural communities and ecosystems. The Maine Department of Inland Fisheries and Wildlife determines Element Occurrence ranks for animals.

Visit our website for more information on rare, threatened, and endangered species!
<http://www.maine.gov/dacf/mnap>



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Maine Ecological Services Field Office

P. O. Box A

East Orland, ME 04431

Phone: (207) 469-7300 Fax: (207) 902-1588

<http://www.fws.gov/mainefieldoffice/index.html>

In Reply Refer To:

August 28, 2018

Consultation Code: 05E1ME00-2018-SLI-1029

Event Code: 05E1ME00-2018-E-02121

Project Name: Pine State Family Mart

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies the threatened, endangered, candidate, and proposed species and designated or proposed critical habitat that may occur within the boundary of your proposed project or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC Web site at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the Endangered Species Consultation Handbook at: <http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

This species list also identifies candidate species under review for listing and those species that the Service considers species of concern. Candidate species have no protection under the Act but are included for consideration because they could be listed prior to completion of your project. Species of concern are those taxa whose conservation status is of concern to the Service (i.e., species previously known as Category 2 candidates), but for which further information is needed.

If a proposed project may affect only candidate species or species of concern, you are not required to prepare a Biological Assessment or biological evaluation or to consult with the Service. However, the Service recommends minimizing effects to these species to prevent future conflicts. Therefore, if early evaluation indicates that a project will affect a candidate species or species of concern, you may wish to request technical assistance from this office to identify appropriate minimization measures.

Please be aware that bald and golden eagles are not protected under the Endangered Species Act but are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.). Projects affecting these species may require development of an eagle conservation plan: http://www.fws.gov/windenergy/eagle_guidance.html Information on the location of bald eagle nests in Maine can be found on the Maine Field Office Web site: <http://www.fws.gov/mainefieldoffice/Project%20review4.html>

Additionally, wind energy projects should follow the wind energy guidelines: <http://www.fws.gov/windenergy/> for minimizing impacts to migratory birds and bats. Projects may require development of an avian and bat protection plan.

Migratory birds are also a Service trust resource. Under the Migratory Bird Treaty Act, construction activities in grassland, wetland, stream, woodland, and other habitats that would result in the take of migratory birds, eggs, young, or active nests should be avoided. Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g.,

cellular, digital television, radio, and emergency broadcast) can be found at:
<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm> and at:
<http://www.towerkill.com>; and at:
<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Maine Ecological Services Field Office

P. O. Box A

East Orland, ME 04431

(207) 469-7300

Project Summary

Consultation Code: 05E1ME00-2018-SLI-1029

Event Code: 05E1ME00-2018-E-02121

Project Name: Pine State Family Mart

Project Type: DEVELOPMENT

Project Description: Scope: Development of mixed use retail building and a convenience store/
gas Station

+/- 1.61 Acre lot

Timing: 2018-2019

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/43.69991417790426N70.3196235655184W>



Counties: Cumberland, ME

Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



August 28, 2018
11142

Mr. John Perry
Environmental Coordinator
Maine Department of Inland Fisheries
41 State House Station
Augusta, Maine 04333

Maine Department of Inland Fisheries & Wildlife Project Review
Pine State Family Mart - 1884 Forest Avenue, Portland
Record Owner: John Chau, Phuong Neang (JT)

Dear John:

Sebago Technics, Inc. respectfully requests a project review of a 1.61 ± acre wooded property located at 1884 Forest Avenue in the City of Portland. The site is identified by the assessor as 327-B-3 and is currently unimproved. The site design consists of a 7,800 square foot ± mixed-use retail building and a 5,000 square foot convenience store with four fueling islands. Sebago Technics is preparing a City of Portland Planning Board Site Plan Review Application. Review of the *Beginning with Habitat, Map 2 – High Value Plant & Animal Habitats* did not identify habitat area within the project bounds.

The property is surrounded by existing development including three residential apartment complexes (Riverton Park, Wellesley Estates, and Terrace Pond) and it is opposite from Tortilla Flats restaurant. A dance club/event center is located immediately to the east.

For your reference, I have enclosed a USGS Site Location Map and an aerial photograph for your reference and record. If you have any questions about the proposed development, please do not hesitate to contact me at snichols@sebagotechnics.com or on my direct line at (207) 200-2120. I look forward to hearing from you.

Sincerely,
SEBAGO TECHNICS, INC.

A handwritten signature in black ink that reads "Stefanie Nichols".

Stefanie Nichols
Permitting Specialist/Project Coordinator

enc.