

P.O. BOX 10127 Portland, ME 04104

Diversified Properties Inc  
Barclay Avenue 1st Division

35-35 Barclay Ave, Portland, ME

339-D-009001

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

2007-0018  
Application I. D. Number

**DRC Copy**

1/25/2007  
Application Date

Barclay Avenue Lot Division  
Project Name/Description

35 - 35 Barclay Ave, Portland, Maine

Address of Proposed Site

339 D009001

Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply):  New Building  Building Addition  Change Of Use  Residential  Office  Retail

Applicant or Agent Daytime Telephone, Fax  Manufacturing  Warehouse/Distribution  Parking Lot  Apt 0  Condo 0  Other (specify) Lot Division

7,488

Proposed Building square Feet or # of Units  Zoning

**Check Review Required:**

Site Plan (major/minor)  Zoning Conditional - PB  Subdivision # of lots 1

Amendment to Plan - Board Review  Zoning Conditional - ZBA  Shoreland  Historic Preservation  DEP Local Certification

Amendment to Plan - Staff Review  Zoning Variance  Flood Hazard  Site Location

After the Fact - Major

After the Fact - Minor  Stormwater  Traffic Movement  Other

Fees Paid: Site Plan Subdivision Engineer Review Date

**DRC Approval Status:**

Reviewer

Approved

Approved w/Conditions

Denied

See Attached

Approval Date

Approval Expiration

Extension to

Additional Sheets Attached

Condition Compliance

signature

date

Performance Guarantee  Required\*  Not Required

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

Performance Guarantee Accepted

Inspection Fee Paid

Building Permit Issue

Performance Guarantee Reduced

Temporary Certificate of Occupancy

Final Inspection

Certificate Of Occupancy

Performance Guarantee Released

Defect Guarantee Submitted

Defect Guarantee Released

date

amount

expiration date

date

amount

expiration date

date

remaining balance

signature

expiration date

date

Conditions (See Attached)

signature

expiration date

date

signature

expiration date

submitted date

amount

expiration date

date

signature

expiration date

Circ to Pl Board  
at hearing 6.12.07



Memorandum  
Department of Planning and Development  
Planning Division

To: Chair Patterson and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: Prepared on: June 11th, 2007

Prepared for: June 12th, 2007 Planning Board Workshop

Re: Barclay Avenue Three Lot Subdivision, vicinity 35 Barclay Avenue  
APPENDUM #1

The potential conditions included in the hearing Report #25-07 re the Subdivision require some minor revision to more accurately reflect the current position on this project. The revisions are shown below:

Subdivision

2. That the plan is in conformance with the subdivision standards of the land use code.

Potential Conditions of Approval:

- i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to the drainage all easements, Performance Guarantee and relevant conditions; and
- ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and
- iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed construction easement for the ditch area between Lots 1 and 3; and
- iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and
- v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and
- vi. The applicant shall pay to include the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat.

Kami Bedard  
Homeowner: 39 Barclay Ave  
Portland, Me 04103  
(207) 791-1142

June 12, 2007

City of Portland Planning Board:

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1. I have had recent discussions (on 6/8/2007) with Jim Wolf and his Engineer, Doug Reynolds, regarding the grading and drainage issues and the swale/ditch line that already exists on my property at 39 Barclay Avenue. As you are likely aware, there has been a significant amount of back and forth on these issues. The City Engineer, Dan Goyette, has commented that there is a high spot on my lot that "prohibits runoff from the rear of Lot 1 and potentially Lot 3 from enter the ditch line and flowing out to the street" (5/29/2007 memo).

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Working from the survey

Memorandum  
Department of Planning and Development  
Planning Division



To: Chair Patterson and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: Prepared on: June 11th, 2007

Prepared for: June 12th, 2007 Planning Board Workshop

Re: Barlay Avenue Three Lot Subdivision, vicinity 35 Barlay Avenue  
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10' x 10' area in 50' long as the minimum, Barclay Avenue (except for driveway, damage or safety).

Why was it?

*[Handwritten signature]*

For installation, main terrace + use of a surface water drainage swale on



*Jean's amendment*



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*U.S. amendments of drainage easements*

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vii - add like tree on lot 1 'no cut' 10x10.

*viii lot 3 correct any problems created for lot # 1*

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inside lot 1

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ording from  
be leaving

shall be repairs; he  
in designing the common boundary  
of side area + in waste water  
line area. Mr. Breda  
Mr. sum. to approve  
provided Mr. Breda  
for Mr. Cig + ARC  
for Mr. Cig + ARC  
in determination. Mr. +  
A post detail. Mr. +  
the ~~for~~ Mr. M. and  
function for Mr. M. and  
shall be done lot 3, and  
on the side nearby and  
problem depend on the

6.12.07.

Pr. Bd. Hearn - Bandy Ave on Br

IL - can't vs drainage agreement

- fee - in court
- fee - PL to check on

they are questionable.

Doug Reynolds

- re drainage in lot

- ditch along #1/#3 - tough to see

Dan Getty's serve re grading/cont agreement

- agree w/ LL agreement that there

needs to be some restriction to give both

owners reasonable that <sup>after</sup> Hearn

went after.

- happy to put 10' x 10' cut section on

back corner of lot 3 to protect tree on  
lot # 1

Can to appl. open to the public

Ms Peland - re user and request for  
add'l conditions

Robert Haiman - why is this before you just

because am principle

- about decent require

street opening

if mentioned  
M's  
prevous  
comments

LL - clear intent, Appl. to get  
agreement for paving from  
owner of ~~lot~~ lot #2

JT - re KB rights if no condition  
penalty and that pte would  
have to prove

Conditions Addendum #1

1 - VI amended by LL

VII That a 10x10 area in the south<sup>ly</sup> of  
lot 3 shall be retained primarily <sup>deducted from</sup> parking  
interior w/ tree on lot #1 and no parking or  
other except for disease, damage disease,  
damage or injury as result of a/h limbs.

VIII The dco shall be resp. for design  
a term or snake for ... etc.  
that  
remedy etc.

5-0 passed

5-0  
agreed  
amendment

Staff Presentation: Barclay Avenue 3 Lot SubDivision

1. Four additional documents:
  - a. Revised potential conditions
  - b. Comments from the owner of Lot 1, Kami Bedard of 39 Barclay Ave.
  - c. Comments from the neighbor across the street raising concerns about the future drainage patterns created by the development of this 3<sup>rd</sup> lot;
  - d. Comments from Public Works regarding the field outlet within Lot 2 (shown on the subdivision Plat about 12 feet from Barclay Ave)
1. The applicant has revised the plans to be consistent and show all related information, except the information on drainage easement for the private outlet near the site in Lot 2 is still unclear. Public Works have commented that it is not referenced in the documentation related to the street acceptance and that the city would not want responsibility for it. AT present it appears no one is taking responsibility for it.
2. At the Workshop in April the key outstanding issue was the drainage and whether the grading plan would ensure that issues raised at the Workshop by the owner of Lot 1 would be fully addressed, along with any other issues related to all three lots. The owner has met with the applicant engineers and submitted a further letter today outlining her remaining concerns.
3. The applicant revised the grading on the side of Lot 1 to improve drainage at that point but the City's Reviewer considered that a small amount of additional grading would be required to achieve good drainage. For this reason an additional construction easement was suggested and a condition included to that effect.
4. The applicant requested the fourth condition in order to provide an option if agreement could not be reached regarding the easements. While it would be difficult to retain stormwater on the side of Lot 2 the applicants engineer suggests this would be possible.
5. The applicant originally did not show the curb cut for the drive for a house to Lot 3 and staff considered that the curb cut should be included so that the Plat reflects the need for this work and the implications of the moratorium street status of Barclay Avenue. The Plat contains a reference which is not considered clear in terms of future interpretation hence the inclusion of the potential Conditions v. and vi. (Penny Littell may want to add).
6. The applicant has requested a sidewalk waiver for the frontage of all of the lots and this is supported by staff.

City of Portland  
Meeting 6-12-07

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**From:** "Lisa and Lester Daniels" <ldaniels@maine.rr.com>  
**To:** <jf@portlandmaine.gov>  
**Date:** 6/10/2007 4:04:43 PM  
**Subject:** Sub-division proposal for 35 Barclay ave, 04103

Hello Ms Jean Fraser,  
My name is Mr Lester Daniels, and I live directly across from the proposed lot 35 Barclay ave open lot. I am unable to attend your upcoming Planning Board meeting on the decision to build on this lot. I have some concerns and proposals about this development, which I will state.  
Firstly, after reviewing a memorandum document to Ms Fraser from Dan Goyette of Woodard & Curran, dated 04/05/2007 and page Numbered 5D, from the document prepared for the Planning board 04/06/2007. I noticed there is a recommendation to have a drainage easement in place. I hope that the city take this seriously to avert any potential drainage issues that can arise to neighbours within a 500 ft radius of the proposed construction. I am aware of previous basement leakages at the other two lots being part of the sub division. I am proposing that if this permit is granted that the city or the Builder or seller take video evidence of neighbourhood basements to confirm their current state, and to bear responsibility for any potential water issues that may arise from this , by-passing of drainage easement and or construction heavy equipment drilling or blasting at the site. I find it not right for us to have a claim from our insurance for any such damage. I further want to state that who ever is deemed responsible, should be afforded a warranted/guaranteed period for neighbours affected to state their claim upon review of the claims and video evidence.  
Secondly, Why is this being proposed as only a Three lot sub division, when my lot # 36 and # 40 on the other side of the street was build at or around the same time as the two other lots on the proposed Subdivision. I am not legally knowledgeable on this issue , but my understanding of the city's position is (5) or more lots , and of course issues like this one. I hope that for no other reason, that the right decision is made at this time , pending all the discussions and workshops taken place to date, and that the wishes and best interests of the current neighbourhood are recognised. I also hope that the city is not foregoing potential tax dollars by granting a three lot subdivision, just for this application to go forward, since the owner of the lot had the opportunity at the time the other properties were built to have the curb cut and other permits granted.  
In closing , I hope that the appropriate decision is made since the 5 year ordinance for construction is not yet up. I support your informed decision , and seek appropriate and timely communication on this matter. I also feel timely and responsible communication should be coming from the Builder as a courtesy, since I have three children under three at my home to prevent any scares as to their safety and good health. Thanks so much for listening.

Sincerely,  
Lester Daniels

**CC:** <kbedard@pierceratwood.com>

atc h r r. lsd ed  
Hearings

**From:** Michael Farmer  
**To:** Fraser, Jean  
**Date:** 6/12/2007 9:08:16 AM  
**Subject:** Re: \$cost re Barclay Street opening fee

Jean:

I did some research regarding the field drainage inlet you asked about yesterday. There is no mention in the deed or the acceptance order for Barclay Avenue of any drainage easement or any field inlet. The survey plan for the project does not show a drainage easement in the area of the field inlet. Inasmuch as the drainage inlet in question is on private land, it appears the City has no right to gain access to it or responsibility to maintain it. The inlet appears to serve private property, not the City accepted street. Therefore, there is no compelling reason for the City to accept the ownership and responsibility of maintaining the field inlet

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

6.12.07  
CNC to H. Bd. on 6/12/07

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**From:** "Lisa and Lester Daniels" <ldaniels@maine.rr.com>  
**To:** <fr@portlandmaine.gov>  
**Date:** 6/10/2007 4:04:43 PM  
**Subject:** Sub-division proposal for 35 Barclay ave, 04103

Hello Ms Jean Fraser,  
 My name is Mr Lester Daniels, and I live directly across from the proposed lot 35 Barclay ave open lot. I am unable to attend your upcoming Planning Board meeting on the desction to build on this lot. I have some concerns and proposals about this development, which I will state.  
 Firstly, after reviewing a memorandum ducument to Ms Fraser from Dan Goyette of Woodard & Curran, dated 04/05/2007 and page Numbered 5D, from the document prepared for the Planning board 04/06/2007. I noticed there is a recommendation to have a drainage easement in place. I hope that the city take this seriously to avert any potential drainage issues that can arise to neighbours within a 500 ft radius of the proposed construction. I am aware of previous basement leakages at the other two lots being part of the sub division. I am proposing that if this permit is granted that the city, or the Builder or seller take video evidence of neighbourhood basements to confirm their current state, and to bear responsibility for any potential water issues that may arise from this , by-passing of drainage easement and or construction heavy equipment drilling or blasting at the site. I find it not right for us to have a claim from our insurance for any such damage. I further want to state that who ever is deemed responsible, should be afforded a warranted/ gauranteed period for neighbours affected to state their claim upon review of the claims and video evidence.  
 Secondly, Why is this being proposed as only a Three lot sub division, when my lot # 36 and # 40 on the other side of the street was build at or around the same time as the two other lots on the proposed Subdivision. I am not legally knowledgeable on this issue , but my understanding of the city's position is (5) or more lots , and of course issues like this one. I hope that for no other reason, that the right decision is made at this time , pending all the discussions and workshops taken place to date, and that the wishes and best interests of the current neighbourhood are recognised. I also hope that the city is not foregoing potential tax dollars by granting a three lot subdivision, just for this application to go forward, since the owner of the lot had the opportunity at the time the other properties were built to have the curb cut and other permits granted.  
 In closing , I hope that the appropriate decision is made since the 5 year ordinance for construction is not yet up. I support your informed desction , and seek appropriate and timely communication on this matter. I also feel timely and responsible communication should be coming fort from the Builder as a courtesy, since I have three children under three at my home to prevent any scares as to their safety and good health. Thanks so much for listening.

Sincerely,  
 Lester Daniels

**CC:** <kbedard@pierceratwood.com>

**From:** Jean Fraser  
**To:** jmw1@maine.rr.com; Reynolds, Doug  
**Date:** 6/12/2007 4:04:06 PM  
**Subject:** Barclay Ave subdivision

Please see attached the comments which Kami Bedard has asked to be circulated to the Planning Board.

Jean

Preparation for Hearing  
Barclay Ave.  
June 12, 2007.

- ① Discussion with neighbors.  
Stacy Ayres (31 Barclay (lot 2)) 797 6235  
- problem of parking - her name had changed  
- also will contact neighbors  
- ? re field visit + agreement (explained)

Water Daniels. across the St. 797 0293  
- sending comments  
- concerned of impact of drainage  
- neighbors + hard roads to make  
sure OK.

- ② Discussion with applicant, agent, Jenny +  
Mike Farmer re easements and costs of  
street opening. Determined.

- between lots 1+3 temporary easement  
not enough for permit situation  
no add another condition  
- between lots 2+3 City doesn't want  
interest, so between these lots  
add condition on full back.

- final prep for conditions v1:  
#2,2



**BARCLAY AVENUE #35 AND Subdivision**

Summary of Sales and Divisions based on Planning File

	Date	Purchase by	Deed status
Lot 1 (Parcel C)	1922 (Wolf says 1928)	Joyce family	have
	December 2001	Bono, Inc Profit sharing Trust	have
	November 2003	C. G. B. Properties LLC	X
	?	Kami Bedard	X
Lot 2 (Parcel A)	Curran family	have	
	2001	Maggie Lane Development, LLC	have
	November 2003	C.G.B. Properties LLC	have
	November 2003	Brindle	have
Lot 3 (Parcel B)		Curran family	X
	2001	Maggie Lane Development, LLC	have
	December 2003	Diversified Properties Inc	have

**From:** Jean Fraser  
**To:** Bedard, Kami  
**Date:** 6/12/2007 4:00:44 PM  
**Subject:** Re: My comments for 35 Barclay

I suggest you speak "to" it ie not read it verbatim but pick out the key points in the same order as in your comments.

The board will by then have seen a lot of paper so it won't hurt for you to make the points too.

Jean

>>> "Kami Bedard" <kbedard@PierceAtwood.com> 6/12/2007 3:50:27 PM >>>  
 Jean:

See attached.

Since I'm submitting this to you now, need to stand up and repeat it tonight-- or can I just listen? Please advise.

Thank you,

Kami

<<35 Barclay Ave Subdivision (W0776148).DOC>>

Kami L. Bedard

Manager of Library Services

Pierce Atwood Law Library

Pierce Atwood LLP

One Monument Square

Portland, ME 04101

207-791-1142 direct

207-791-1350 fax

mailto:kbedard@pierceanwood.com

<http://www.pierceanwood.com>

This email was sent from the law firm Pierce Atwood LLP. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it, please delete it and notify us as soon as possible. Thank you.

**From:** Jean Fraser  
**To:** Littell, Penny  
**Date:** 6/11/2007 11:07:11 AM  
**Subject:** Barclay Ave.

Penny,

You will see that Alex asked me to add in another easement for Lot 1 (Karni Bedard) to cover the possibility (likelihood?) that in order to resolve the drainage some minor work would need to be done on her property.

Gorri-Palmer's Engineer (Doug Reynolds) has just called to say Jim Wolf is very concerned about that new condition as it means Ms Bedard can hold up the entire project. He is so upset he wants a meeting with us today/tomorrow and maybe wants to table the Hearing Report.

I indicated that I thought it might be difficult to arrange that meeting as diaries were very full and I also couldn't guarantee that this item could automatically move to the July 26 agenda. I also indicated that there were some other concerns being raised about neighbor's recourse if problems develop later on.

Doug was going to speak with Jim Wolf and consider what they wanted to do.

Jean

**CC:** Alex Jaegerman

**From:** "Lisa and Lester Daniels" <ldaniels@maine.rr.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 6/11/2007 1:13:46 PM  
**Subject:** Re: Sub-division proposal for 35 Barclay ave, 04103

Hello Ms Fraser,  
Thank You for your response. I trust your Boards judgement on this matter. I am merely using my opportunity to state my concerns about the application which had some Debatable questions hence this review. Please proceed as your Board seems fit to resolve this matter, to save time and ultimately money. On my lot #36 and #40 across the street has in place two drainage easements, which has done what it has intended for, no water in basements, so I guess this easement can resolve some of the neighbors problems. I do not like having part part of my lot taken up for this but it has proven worthy. Thanks for listening.  
Sincerely,  
Lester Daniels

----- Original Message -----  
From: "Jean Fraser" <JF@portlandmaine.gov>  
To: <ldaniels@maine.rr.com>  
Sent: Monday, June 11, 2007 12:37 PM  
Subject: Re: Sub-division proposal for 35 Barclay ave, 04103

> Hello Mr Daniels,  
>  
> Thank you for these comments and they will be passed on to all the  
> Planning board members.  
>  
> I have asked my legal advisors to comment on some of the points you  
> raised as the drainage easement mentioned relates to where one party is  
> using the land of another party to drain their land (ie over the private  
> land into a swale/ditch or outlet). Therefore any easement would only  
> relate to the owners of lots 1 and 2.  
>  
> For it to be a subdivision there need to be division into 3 lots or  
> more within 5 years so I am not sure about all of the houses.  
>  
> If I have any further information to pass on I will do so, although it  
> may end up being a discussion at the Planning Board with our legal  
> advisors clarifying for all parties at that time.  
>  
> Jean (Fraser)  
> Planner  
>>>> "Lisa and Lester Daniels" <ldaniels@maine.rr.com> 6/10/2007 4:37:09  
> PM >>>  
> Hello Ms Jean Fraser,  
>  
> Sorry, I forgot to proof read my prior email.  
>  
> My name is Mr Lester Daniels, and I live directly across from the  
> proposed lot 35 Barclay Ave open lot. I am unable to attend your  
> upcoming Planning Board meeting on the descision to build on this lot. I  
> have some concerns and proposals about this development, which I will  
> state.

*exchange with Daniels*

> After reviewing a memorandum document to Mrs. Fraser from Dan Goyette of  
 > Woodard & Curran, dated 04/05/2007 and page Numbered 5D, from the  
 > document prepared for the Planning board 04/06/2007. I noticed there is  
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 > city take this seriously to avert any potential drainage issues that can  
 > arise to neighbors within a 500 ft radius of the proposed construction.  
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 > part of the sub division. I am proposing that if this permit is granted,  
 > that the city, the Builder, or seller take video evidence of  
 > neighborhood basements to confirm their current state, and to bear  
 > responsibility for any potential water issues that may arise from this,  
 > by passing of drainage easement and or construction heavy equipment  
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 > claim on our homeowners insurance for any such damage. I further want to  
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 > upon review of the claims and video evidence.

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 > Why is this being proposed as only a Three lot sub division? My lot #  
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 > All the homes were built around the same time. I am not legally  
 > knowledgeable on this issue , but my understanding of the city's position  
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 > home to prevent any scares as to their safety and good health. Thanks so  
 > much for listening.  
 >  
 > Sincerely,  
 >  
 > Lester Daniels

**From:** Jean Fraser  
**To:** Daniels, Lisa and Lester  
**Date:** 6/11/2007 12:37:15 PM  
**Subject:** Re: Sub-division proposal for 35 Barclay ave, 04103

Hello Mr Daniels,

Thank you for these comments and they will be passed on to all the Planning board members.

I have asked my legal advisors to comment on some of the points you raised as the drainage easement mentioned relates to where one party is using the land of another party to drain their land (ie over the private land into a swale/ditch or outlet). Therefore any easement would only relate to the owners of lots 1 and 2.

For it to be a subdivision there need to be division into 3 lots or more within 5 years so I am not sure about all of the houses.

If I have any further information to pass on I will do so, although it may end up being a discussion at the Planning Board with our legal advisors clarifying for all parties at that time.

Jean (Fraser)

Planner

<<< "Lisa and Lester Daniels" <daniels@maine.rr.com> 6/10/2007 4:37:09 PM >>>

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Thanks so much for listening.

Sincerely,

Lester Daniels

**From:** "Lisa and Lester Daniels" <ldaniels@maine.rr.com>  
**To:** <f@portlandmaine.gov>  
**Date:** 6/10/2007 4:37:52 PM  
**Subject:** Sub-division proposal for 35 Barclay ave, 04103

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Sincerely,

Lester Daniels



From: Michael Farmer  
To: Fraser, Jean  
Date: Tue, Jun 12, 2007 9:08 AM  
Subject: Re: \$cost re Barclay Street opening fee

Jean:

I did some research regarding the field drainage inlet you asked about yesterday. There is no mention in the deed or the acceptance order for Barclay Avenue of any drainage easement or any field inlet. The survey plan for the project does not show a drainage easement in the area of the field inlet. Inasmuch as the drainage inlet in question is on private land, it appears the City has no right to gain access to it or responsibility to maintain it. The inlet appears to serve private property, not the City accepted street. Therefore, there is no compelling reason for the City to accept the ownership and responsibility of maintaining the field inlet

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

>>> Jean Fraser 06/08 1:50 PM >>>

Thank you for getting this to me so quickly- so I can get one report out of the way!!!!

>>> Michael Farmer 6/8/2007 1:42:41 PM >>>

Jean:

My estimate for the street opening fee is \$13,900.00.

I have the following comments regarding the request for a sidewalk waiver. The Planning Authority has the authority to approve a sidewalk pursuant to Sec. 14-506(b). There is a sidewalk on the opposite side of the street from the new lot, which would meet condition 3 in the Code. The applicant has to meet at least one more of the conditions listed in the Code to justify the waiver. If the sidewalk waiver issue was previously reviewed and resolved as part of the Barclay Ave. dedication and acceptance process, I think it would make sense to follow the decisions reached at that time. If the sidewalk waiver issue was not resolved previously, then the Planning Authority can consider the current sidewalk waiver request on its own merits. If the Planning Authority is inclined to require a sidewalk on the southwest side of Barclay Ave, I think a sidewalk should be built the full length of the street.

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

>>> Jean Fraser 06/08 9:51 AM >>>

Mike,

Penny has just agreed that the following condition should be suggested for the approval of this project in the Hearing report:

Can you give me the figure to go in here, as requested at Dev Rev on Wed.

Needed by noon please (along with comment in support of the sidewalk waiver).

*Handwritten notes:*  
The owner of the Court is  
Set with the  
Stacy Ayres  
31 Barclay Ave  
I sent the copy of app letter  
to Stacy Ayres  
on 6/1/07  
copy of app letter  
to Stacy Ayres  
on 6/1/07  
copy of app letter  
to Stacy Ayres  
on 6/1/07

Thanks  
Jean

CONDITION:

"!!!!. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation, which includes the street opening fee of \$\_\_\_\_\_ (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required)."

**From:** Michael Farmer  
**To:** Fraser, Jean  
**Date:** Mon, Jun 11, 2007 11:12 AM  
**Subject:** Re: \$cost re Barclay Street opening fee

Jean:

Jim Wolf called me today. He questioned why the street opening fee would be included in the performance guarantee. He raised a valid point. I talked this over with Todd Merkle. Here is the outcome of the discussion.

The performance guarantee is intended to cover the cost of work the developer or house builder does or is required to do. In this case, the developer or builder has to remove some curb, put some new curb back in, and build a driveway apron. The estimated cost of this work is about \$2,200. In addition, the developer or builder has to pay the street opening fee (about \$12,000) to the City. The street opening fee covers the cost of work that the City will do in the future to make a permanent street repair. The developer or builder should not have to include the cost of the street opening fee in the performance guarantee because they do not have to Guarantee the City's work.

Jim Wolf thought my street opening estimate was too high. I checked with Todd Merkle, and he estimated it at about \$12,300. I do not have a problem if you use that figure.

Michael Farmer, Project Engineer  
 Dept. of Public Works  
 55 Portland Street  
 Portland, ME 04101  
 phone: 207-874-8845  
 fax: 207-874-8852

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BARCLAY AVENUE THREE LOT SUBDIVISION  
VICINITY 35 BARCLAY AVENUE  
SUBDIVISION REVIEW  
DIVERSIFIED PROPERTIES INC, APPLICANT

Submitted to:

Portland Planning Board  
Portland, Maine

Submitted by:

Jean Fraser, Planner

June 12, 2007

## I. INTRODUCTION

Diversified Properties Inc has requested an after the fact Subdivision Review and approval for a three (3) lot subdivision on Barclay Avenue within the R-3 residential zone. Two of the three lots have been developed as single family homes and are now sold to other parties. The Subdivision review was triggered by the applicant's Site Plan and Building Permit applications to construct a house on the third lot in their ownership.

The original overall parcel lies between Barclay Avenue and Hampton Street and comprises some 30,561 sq ft. All three of the lots are accessed from Barclay Avenue, which was constructed by the applicant (with utilities, turnaround and associated easement to the City of Portland) and accepted by the City in 2005.

There is a difference of view between the applicant and the City as to whether this proposal constitutes a subdivision. The history of the lots and their ownership was discussed during the Workshop.

The key issue raised at the Workshop was that the overall drainage for all three lots should be made consistent and address the concerns raised by the owner of Lot 1 (Ms Bedard).

A total of 190 notices were sent to area residents and interested citizens. A notice also appeared in the *Portland Press Herald*. One abutter, Ms Bedard (owner of Lot 1), has made telephone representations to the Planning office. The applicant does not need to hold a neighborhood meeting as this is required only for sub divisions where the number of lots is 5 or more.

## II. DETERMINATION OF THIS AS A SUBDIVISION

The applicant has submitted the 2001 Standard Boundary Survey (Attachment 12) relating to the lot in question and the surrounding lots. This Survey has been updated and used for the draft Subdivision Recording Plat (Attachment 13), where Lot 1 is Parcel C of the 2001 Boundary Survey; Lot 2 is Parcel A of the 2001 Boundary Survey; and Lot 3 is Parcel B of the 2001 Boundary survey and undeveloped.

The applicant was requested to provide a narrative outlining the chronology of the lot division and this was received 4.5.2007 and is enclosed as the first letter within Attachment 3. The submitted chronology uses the lot numbering as in Attachment 13 rather than the letter references of the 2001 Boundary Survey. Some of the deeds supporting the chronology are included in Attachments 1 and 3.

The City's Associate Corporation Counsel has compiled the following summary of the chronology from the City viewpoint:

“ 2001 - Diversified sought PW approval to build the street  
2002 - City inquired into plans for the area / had not received site plan or  
subdivision application  
2002 - City determined checkerboarding of lot ownership undertaken to circumvent  
the intent of obtaining subdivision approval. Checkerboarding of lot  
ownership involved three corporations (Maggie Lane Development LLC; Bono  
Inc.; and Diversified Properties Inc) with James Wolf involved to some extent  
in all of them: James Wolf is an individual residing in the town of Falmouth,  
Maine. He is one of two shareholders in Maggie Lane Development LLC.

James Wolf is the sole shareholder of Bono Inc. and he is one of two shareholders of Diversified Properties, Inc.  
Lloyd Wolf is the father of James Wolf. Lloyd Wolf is the second of two shareholders in Maggie Lane Development LLC and is the second of two shareholders of Diversified Properties Inc.

It was communicated to Jimmy Wolf that he could only develop two lots along Barclay Street and that if he wished to develop a third, then that would trigger subdivision review. At the time, Mr. Wolf represented to the City he would wait the five year period. However, it was discovered that in 2003 Mr. Wolf sold the one lot (Parcel C) to Dwight Brackett, of C.G.B. Properties LLC, an entity which frequently buys lots for development from Jim Wolf or one of his companies.  
Mr. Wolf was advised that subdivision approval needed to be obtained or the City would file an 80K Land Use action for violating the Subdivision Law. Rather than proceed to court, Mr. Wolf has voluntarily submitting to subdivision review.”

Attachment 6 comprises a 2003 e-mail exchange between the agent acting for the applicant (Gortli-Palmer) and Public Works, as copied to the applicant, which also refers to the need for subdivision approval if the third lot were to be developed.

The Right Title and Interest Documents are included in Attachment 1 and 3 and have been reviewed and found acceptable. Evidence of the City's Acceptance of the Street is included in Attachment 2.

### III. ZONING

The Zoning Administrator has determined (Attachment 5b.) that the three lots meet zoning requirements although the submitted information is not shown clearly on the Draft Subdivision Recording Plat (Attachment 12) or the Permit Plans. The letter of 4.5.2007 and revised Subdivision Recording Plat arrived too late for any further comments to be incorporated in this Memo.

### IV. SUMMARY OF FINDINGS

Zoning: R-3  
Number of Lots: 3  
Developed: Lot 1: 6,561 sq ft; Lot 2: 16,512 sq ft Undeveloped: Lot 3: 7,488 sq ft  
Parcel Size: 30,561 sq ft  
Proposal: Three single family home lots; two already constructed and sold to third parties  
Easements: The property is burdened with 2 easements: one small one (10 feet square) to CMP; another 30 feet square to the City of Portland for the turnaround serving Barclay Avenue.

### V. PROPOSED DEVELOPMENT

An “Existing conditions” Plan was submitted (Attachment 15) and shows how the undeveloped lot slopes away from Barclay Avenue. The proposals for this lot are described by the applicant in letters dated 1.25.2007 (Attachment 1), 2.8.2007 (Attachment 2), 4.5.2007 (Attachment 3) and 5.25.2007 (Attachment 9); they are illustrated in the Plan Set (Attachments 12, 13, 14 & 15).

Barclay Avenue was constructed by the applicant to City Standards in 2001 and accepted in 2005; it includes a turnaround plus a curb cut for each of the other 2 lots.

The undeveloped lot has utility stubs (and an associated easement to CMP) in place, as agreed with City Public Works at the time (Attachment 6). At that time a curb cut for a third driveway was not allowed because this was not part of an approved subdivision (Attachment 3 includes relevant e-mails with Public Works).

The applicant has revised the proposals since the Workshop so that:

- Information is more consistent and complete
- Drainage issues have been addressed
- The Subdivision Plat includes the proposed curb cut and references to the Moratorium Street, though the question of what would be covered by the Performance Guarantee is still an issue

## VI. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision ordinances. Staff comments are highlighted in this report.

## VII. SUBDIVISION REVIEW

### Water and Air Pollution

There is no water or air pollution anticipated to result from this proposal.

2/3.

### Water

The applicant has submitted a 2002 letter (dating from when the street was constructed) (Attachment 3, last document) confirming that the proposed development (all three lots) would not cause an unreasonable burden on the existing water supply.

4.

### Soil Erosion

An Overall Grading Plan was submitted and did not raise any issues relating to soil erosion.

5.

### Traffic

The proposed subdivision includes two existing driveways from Barclay Avenue and these meet city standards in terms of width and distance from other driveways. The Overall Grading Plan (Attachment 14) shows an acceptable driveway, apron and curb cut to Barclay Avenue, though only the curb cut is shown on the Subdivision Plat (Attachment 13).

Creation of the new driveway for the undeveloped lot does not create unsafe traffic conditions but the curb cut would attract a reopening fee as Barclay Avenue is a moratorium street until October 2009 (see Public Works comments in Attachment 5b&c and 10 c).

The applicant has requested a waiver from the 5 year street moratorium opening fee in Attachment 3, page 4), citing the previous denial and high cost. The City considers that



this situation was created by the applicant's failure to seek approval to this Subdivision at the time the street was constructed and does not support a waiver- see comments from the Engineering Reviewer in Attachment 5d.

The applicant has added a note to the subdivision Plat which states: "Any disturbance of Barclay Avenue prior to October 22, 2009 that requires a street opening permit shall be subject to a five year street moratorium permit" (Attachment 13). Public works have confirmed that a curb cut would require a street opening permit and fee if it takes place before October 22, 2009 as any curb cut would also require an apron and additional work in the highway (Attachment 5b&c and 10c).

The cost of the curb cut and apron and the associated street opening fee (\$13,900.00) (Attachment 10d) would need to be included in the Performance Guarantee and in order to have this clear for the record a suggested condition is included and a note to this effect should be added to the Subdivision Plat.

A sidewalk has been constructed on the other side of the Barclay Avenue and the applicant has stated in the letter of 4.5.2007 (Attachment 3, page 3 Item 7) that a waiver was given for a sidewalk along the frontage when the street was formally accepted in 2005. The applicant has requested a waiver from the subdivision requirement to provide a sidewalk along the frontage of the three lots on the west side of Barclay Avenue, making reference to three criteria (quote from Attachment 9):

1. There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site. Barclay Avenue is a dead-end street, and it is not anticipated that significant pedestrian use will be required.
2. An alternative-walking route exists, by way of a sidewalk on the opposite side of Barclay Avenue.
3. Strict adherence to the sidewalk requirement would result in the loss of significant amount of driveway and lawn area on the corner of Barclay and Harris Avenue, as well as the front lawn of Ms. Bedard.

Public Works support the waiver (Attachment 10d); staff consider all three criteria apply. The existing Fire Hydrant was requested to be shown on the plan and this has been added to the Existing Conditions Plan (Attachment 15).

#### Sanitary Sewer/Soils

The applicant has indicated that "existing utilities" for the third lot were constructed as part of the construction of Barclay Street as shown on the Overall Grading plan (Attachment 14). Public Works agreed to the inclusion of utility stubs within the construction of the street (Attachments 3 and 6).

The sanitary sewer capacity letter was submitted (Attachment 8).

#### Stormwater

The Overall Grading Plan (Attachment 14) has been revised substantially to reflect the existing conditions. The previous comments from the Engineering Reviewer (4.5.08) were that "It appears from the grading plan that stormwater from the proposed lot will

discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required." (Attachment 5d).

The letter from Gorrill-Palmer of 5.25.2007 (Attachment 9, last para) addresses this point and implies it is a City field inlet whereas the "as built" road drawings seen by staff state it is a private field inlet. In addition, the "Easements of Record" shown on the Boundary Survey and Subdivision Plat are not consistent and do not refer to any drainage easement. A suggested condition of approval seeks confirmation and an additional easement if appropriate.

The Engineering Reviewer was requested to review the revised Overall Grading Plans and confirm that the issues raised by the abutter Ms Bedard (Lot 1 at 39 Barclay Avenue) were addressed. He commented (Attachment 7b):

"The grading scheme presented on Sheet 1, particularly the ditch between Lots 1 and 3, would appear to direct stormwater runoff to the hammerhead on Barclay Avenue. After conducting a site visit on May 29, 2007, it became apparent that although the ditch does exist, approximately 20 feet from the edge of pavement a high spot exists that prohibits runoff from the rear of Lot 1 and potentially Lot 3 from entering the ditch line and flowing out to the street. The ditch line should be regraded during the development of Lot 3 to insure that the stormwater will enter the ditch and flow out to the street. A note should be added to the plans to indicate that the ditch line should be graded in the field to flow to the street."

In response to that comment the applicant agreed to add a note to the plan (Attachment 10b) and both the Subdivision Plat (Attachment 13) and the Overall Grading Plan (Attachment 14) include this note. The applicant arranged to meet with Ms Bedard on site on June 8<sup>th</sup>, 2007 to clarify the proposals. If any regrading is required on Ms Bedard's property (which appears likely) then a drainage easement is required. A suggested condition is included in this report.

Solid Waste Disposal

The proposals do not create an unreasonable burden on the ability of the City to dispose of solid waste.

Scenic Beauty

The lot does not contain any significant trees. The required two street trees per lot have already been planted for lots 1 and 3. The proposals include two street trees for the undeveloped lot. These are shown on the Subdivision Plat (Attachment 13) along with a note (#10) confirming their provision.

Comprehensive Plan

The proposals are consistent with the City's Comprehensive Plan.

Financial Capability

The applicant has submitted a letter from Bank North dated 1.22.2007 and is included in Attachment 1.

Groundwater

The proposals do not adversely affect the quality or quantity of groundwater.

13./14 Flood Hazard/Shoreland/Wetlands

The site is not in a flood-prone area nor near shoreland and the applicant has confirmed in the 2.8.2007 letter (Attachment 2) that there are no wetlands on the site.

### VIII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report # 25-07 relevant to standards for subdivision, evidence presented at the public hearing, and other findings as follows:

#### Sidewalk Waiver

1. The planning board finds that two of the following criteria **do/do not** apply, (namely \_\_\_\_\_ and \_\_\_\_\_) and therefore **waives/does not waive** the requirement for a sidewalk along the west side of Barclay Avenue:

A) There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.

B) There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.

C) A safe alternative-walking route is reasonably available, for example, by way of a sidewalk on the other side of the street.

D) The reconstruction of the street is specifically identified in the first or second year of the current capital improvement program.

E) The street has been constructed or reconstructed without sidewalks within the last 24 months.

F) Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

#### Subdivision

2. That the plan is in conformance with the subdivision standards of the land use code.

#### Potential Conditions of Approval:

i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to the drainage easements, Performance Guarantee and relevant conditions; and

ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and

- iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for the ditch area between Lots 1 and 3; and
- iv. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation, to include the street opening fee of \$13,900.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required).

Attachments

Planning Board Workshop of April 10, 2007 (excluding plans)

- 1: Application with cover letter, right, title and interest documents, permit documents, easement documents and letter of financial capability from Banknorth
- 2. Applicants second letter of February 8, 2007
- 3. Applicants third letter dated April 4, 2007 and document attachments
  - a. Letter outlining chronology of lot divisions to date; statement that a waiver was given re frontage sidewalk; zoning information; request for Waiver from 5 year street moratorium opening fee re curbing
  - Lot 1 Decds
  - 2004 E-mail exchanges with PW
  - 2003 correspondence with Portland Water District
  - Capacity letter Portland Water District (2002)
- 4. Staff letter of March 16, 2007
- 5. Staff comments:
  - a. Zoning Administrator comments of March 15, 2007
  - b. PW comments (Mike Farmer) of March 6, 2007
  - c. PW comments (Mike Farmer) of April 4, 2007
  - d. Engineering Review comments (Dan Goyette of Woodard & Curran) of April 5, 2007
- 6. E-mail exchange of 2003 re subdivision status/service stubs for the third lot

Since the Planning Board Workshop

- 7. Staff letter dated April 24, 2007
- 8. Wastewater Capacity letter dated May 23, 2007
- 9. Gorrill-Palmer letter dated May 25, 2007
- 10. Staff Comments
  - a. DRC comments May 29, 2007
  - b. Staff e-mail dated May 29, 2007
  - c. Public Works dated June 4, 2007
  - d. Public Works dated June 8, 2007 re sidewalk waiver and street opening fee
- 11. Diversified Properties Memo dated June 5, 2007

Plan Set

- 12. 2001 Standard Boundary Survey
- 13. Subdivision Recording Plat (Based on 2007 Standard Boundary Survey)
- 14. Overall Grading Plan (Plan 1 revised 5.30.07)
- 15. Existing Conditions Plan (Plan 2 revised 5. 25.07)

Attachment 1

**Diversified Properties, Inc.**

P.O. Box 10127, Portland, ME 04104  
Tel 207-773-4988 • Fax 207-773-6875

January 25, 2007

Barbara Barhydt  
Planning Department  
Portland City Hall  
389 Congress Street  
Portland, ME 04101

RE: Barclay Avenue Land Division

Dear Barbara:

Enclosed please find an application and supporting information for an after the fact land division on Barclay Avenue. Diversified Properties, Inc. has retained Gorrill Palmer Consulting Engineers and Titcomb Associates to prepare plans for review and approval by the City Planning Department and Planning Board. The land division took place in 2003. The applicant and corporation counsel differ in opinion if a subdivision has occurred. In order to bring closure to the issue Diversified and corporation counsel agreed to bring this issue to the Board. (Parcel B shown on the attached plan). Prior to its division Parcel A & B were under the common ownership of Maggie Lane Development. At the time Bono Inc. Profit Sharing Trust owned Parcel C.

Total Land Area/Site Description

The site is located on Barclay Avenue and consists of a 7,488 square foot vacant piece of land. See Parcel B on Plan.

Zoning

The project site is zoned R-3 (residential Zone).

Proposed Use/Status of Pending Application

On August 14, 2006 an application was made to construct one 24' x 32' cape style single family home on the lot. This application is waiting for approval from the Board for any lot division issues.

Access

Access to the lot is via Barclay Avenue. Barclay Avenue was formerly accepted by the City of Portland in 2005.

Utilities

In 2003, water, sewer and storm drain services were installed to the lot as part of Barclay Avenue's road construction. Power, cable and phone are located on the corner of the site.

Existing/Proposed Easements

The site is encumbered by a CMP easement and a turnaround easement. No other easements are proposed.

Solid Waste Disposal

The City of Portland provides curb side pick up on Barclay Avenue.

Drainage/Topography Issues

No problematic drainage issues exist. The lot is relatively flat and drainage is shown on the proposed building permit application.

Applicant

Information has been provided, which indicates that the applicant is a corporation in good standing with the State of Maine.

Wetlands

There are no wetlands on the site. Survey information has been completed by Titcomb Associates of Falmouth, Maine.

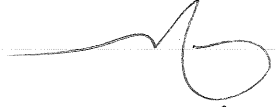
Barbara Barhydt  
January 25, 2007  
Page 3

Performance Guarantee/Time Period For Completion

Being a division of land only is being proposed with no infracture required; we question the need for a performance guarantee. If a performance guarantee is required one will be provided. We anticipate the project being completed upon the recording of the signed subdivision plan. See letter from TD Banknorth.

I look forward to working with staff to complete this land division.

Very Truly Yours,



James M. Wolf

Diversified Properties

[jmwl@maine.tr.com](mailto:jmwl@maine.tr.com)

Enclosures

16

**City of Portland Site Plan Application**



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

Address of Proposed Development: <b>35 Barclay Avenue</b> Zone: <b>R-3</b>	
Existing Building Size: _____ sq. ft.	Proposed Building Size: _____ sq. ft.
Existing Acreage of Site: _____ sq. ft.	Proposed Acreage of Site: <b>7,488</b> sq. ft.
Tax Assessor's Chart, Block & Lot: Chart# <b>339</b> Block# <b>D</b> Lot# <b>9</b>	Property owner's mailing address: <b>Diversified Properties, Inc.</b> P.O. Box 10127 Portland Maine 04104
Consultant/Agent, mailing address, phone # & contact person: <b>James Wolf</b> Same information as applicant	Applicant's name, mailing address, telephone #/Fax#/Pager#: <b>773-4988</b> <b>Diversified Properties, Inc.</b> 773-6975 FAX Barclay Avenue Lot Division
Project name:	Telephone #: <b>773-4988</b>

Fee For Service Deposit (all applications)  (\$200.00)

**Proposed Development (check all that apply)**  
 New Building  Building Addition  Change of Use  Residential  Office  Retail  
 Subdivision (\$500.00) + amount of lots \_\_\_\_\_ (\$25.00 per lot) + major site plan fee if applicable  
 Site Location of Development (\$3,000.00)  
 (except for residential projects which shall be \$200.00 per lot)  
 Traffic Movement (\$1,000.00)  Storm water Quality (\$250.00)  
 Section 14-403 Review (\$400.00 + \$25.00 per lot)  
 Other \_\_\_\_\_

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

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

**Minor Site Plan Review**

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

**Plan Amendments**

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

~ Please see next page ~



Who billing will be sent to: (Company, Contact Person, Address, Phone #)

PAT WAIVER  
c/o Diversified Properties, INC.  
P.O. Box 10127  
Portland, ME. 04104  
773-4988 ext. 5

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

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans checklist
- d. 1 set of 11 x 17 plans

Amendment to Plans: Amendment applications should include 9 separate packets of the above (a, b, & c)  
ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

Section 14-522 of the Zoning Ordinance outlines the process which is available on our web site: [portlandmaine.gov](http://portlandmaine.gov)

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

Signature of applicant:	Date: 1-24-07
-------------------------	---------------

This application is for site review ONLY; a building Permit application and associated fees will be required prior to construction.

WARRANTY DEED

MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability company with a principal place of business in Portland, in the County of Cumberland and State of Maine  
For Consideration Paid, GRANT with WARRANTY COVENANTS TO:  
DIVERSIFIED PROPERTIES, INC., a Maine corporation with a principal place of business in Portland, County of Cumberland and State of Maine

A certain lot or parcel of land situated on the westerly side of Barclay Avenue in the City of Portland, County of Cumberland and State of Maine, and being Parcel B described on a plan entitled "Standard Boundary Survey made for Diversified Properties" dated May 15, 2001 prepared by Tricomb Associates and recorded at the Cumberland County Registry of Deeds in Plan Book 203, Page 325, containing 7,488 square feet/.17 acres.

Being a portion of the premises conveyed to the Grantor herein by deed of Adelaide M. Curran dated November 20, 2001 and recorded at the Cumberland County Registry of Deeds in Book 17008, Page 32.

Together with and subject to the rights in common with others in and to Barclay Avenue. EXCEPTING AND RESERVING to the Grantor, its successors and assigns, all right, title and interest in and to the fee interest in "Barclay Avenue", so-called, as shown on the plan. The purpose of this reservation is to preserve the Grantor's right in and to such ways pursuant to 23 M.R.S.A. §3031 (4) and 33 M.R.S.A. §460 et seq. together with the right to convey said fee interest to the City of Portland.

The conveyance is subject to a thirty (30) foot by fifteen (15) foot turnaround easement situated on the northerly corner of the lot herein conveyed described in an easement deed from the Grantor herein to the City of Portland to be recorded at said Registry of Deeds. This conveyance is mad SUBJECT to the current real estate taxes to the City of Portland subject to proration at the closing, which Grantee herein by its acceptance of this deed hereby assumes and agrees to pay.

MAINE REAL ESTATE TAX PAID

10/3

12

14

IN WITNESS WHEREOF, the said MAGGIE LANE DEVELOPMENT, LLC has caused this instrument to be signed and sealed by James M. Wolf, its authorized member thereunto duly authorized this 11<sup>th</sup> day of December, 2003.

MAGGIE LANE DEVELOPMENT, LLC

By:

Its Authorized Member

*James M. Wolf*

STATE OF MAINE  
CUMBERLAND, SS.

*Dec. 11, 2003*

Then personally appeared the above-named JAMES M. WOLF, Authorized Member of MAGGIE LANE DEVELOPMENT, LLC as aforesaid and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Limited Liability Company.

Before me,

Notary Public

*Joyce M. Yates*

SEAL

JOYCE M. YATES  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010

Received  
Recorded Register of Deeds  
Dec 17, 2003 09:43:31A  
Cumberland County  
John B. O'Brien



**CITY OF PORTLAND, MAINE**  
Department of Building Inspections

8.14 2006

Received from Diversified Prop.

Location of Work 35 Broadway

Cost of Construction \$ 1100 Build

Permit Fee \$ 3000:ic

Building (11)  Plumbing (15)  Electrical (12)  Site Plan (12)

Other \_\_\_\_\_

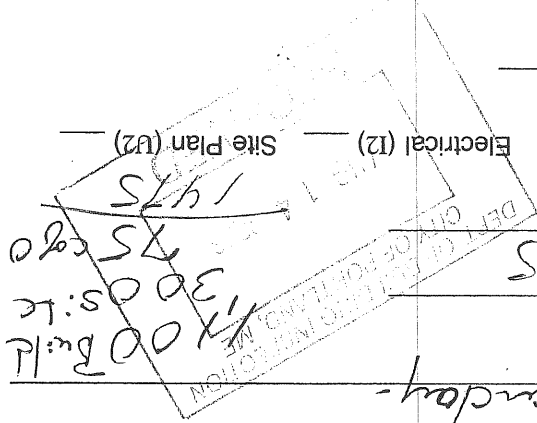
CBL: 339-D-9

Check #: 7382 - Total Collected \$ 1475

**THIS IS NOT A PERMIT**

No work is to be started until PERMIT CARD is actually posted upon the premises. Acceptance of fee is no guarantee that permit will be granted. PRESERVE THIS RECEIPT. In case permit cannot be granted the amount of the fee will be refunded upon return of the receipt less \$10.00 or 10% whichever is greater.

WHITE - Applicant's Copy  
YELLOW - Office Copy  
PINK - Permit Copy



# All Purpose Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: BARRELLAY AVE, PORTLAND MAINE 04107 Parcel 339/D19

Total Square-Footage of Proposed Structure: \_\_\_\_\_  
 Square Footage of Lot: 7488 S.F.

Tax Assessor's Chart, Block & Lot: \_\_\_\_\_  
 Chart# D 339  
 Block# 9  
 Lot# 9

Applicant name, address & telephone: \_\_\_\_\_  
 DIVERSIFIED PROPERTIES  
 P.O. BOX 10127, PORTLAND, ME  
 TEL: 207-723-4988

Lessor/Buyer's Name (if Applicable): \_\_\_\_\_

Current use: VACANT LAND  
 If the location is currently vacant, what was prior use: 35 Barclay Ave  
 Approximately how long has it been vacant: Always

Proposed use: \_\_\_\_\_  
 Project description: \_\_\_\_\_

Contractor's name, address & telephone: \_\_\_\_\_  
 Who should we contact when the permit is ready: TIM WOLF  
 Mailing address: DIVERSIFIED PROPERTIES INC. P.O. BOX 10127 PORTLAND, ME 04107  
 We will contact you by phone when the permit is ready. You must come in and pick up the permit and review the requirements before starting any work, with a Plan Reviewer. A stop work order will be issued and a \$100.00 fee if any work starts before the permit is picked up. PHONE: 207-723-4988

IF THE REQUIRED INFORMATION IS NOT INCLUDED IN THE SUBMISSIONS THE PERMIT WILL BE AUTOMATICALLY DENIED AT THE DISCRETION OF THE BUILDING/PLANNING DEPARTMENT, WE MAY REQUIRE ADDITIONAL INFORMATION IN ORDER TO APPROVE THIS PERMIT.

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

Signature of applicant: \_\_\_\_\_  
 Date: 8-9-06

This is NOT a permit, you may not commence ANY work until the permit is issued. If you are in a Historic District you may be subject to additional permitting and fees with the Planning Department on the 4th floor of City Hall

Order 220-04/05  
Passed 9-04-25-05  
MILL C. DUSON (MAYOR)(A/L)  
PETER O'DONNELL (A/L)  
JAMES F. CLOUTIER (A/L)  
NICHOLAS M. MAVODONES (A/L)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

WILLIAM R. GORHAM (1)  
KAREN A. GERRAGHTY (2)  
DONNA J. CARR (3)  
CHERYL A. LEBMAN (4)  
JAMES I. COHEN (5)

**ORDER ACCEPTING BARCLAY AVE  
AS A CITY WAY**

**ORDERED**, that pursuant to 23 M.R.S.A. §3025, the City hereby accepts Barclay Ave (see Exhibit A) as a city way and further accepts the Deeds for said road and the fee title conveyed therein according to the Deeds and descriptions attached to this Order as Exhibit A.

A TRUE COPY

Linda C. Cohen, CMC, City Clerk  
Portland, Maine

ATTEST.

DATE 4/26/05

SEAL



**SPACE AND BULK REQUIREMENTS - R-3 ZONE**

MINIMUM LOT SIZE: 6,500 S.F.

MINIMUM FRONTAGE: 50 FT.

MINIMUM SETBACKS:

FRONT YARD 25 FT.  
 REAR YARD 25 FT.

SIDE YARD\*

1 STORY 8 FT.

1 1/2 STORY 8 FT.

2 STORY 14 FT.

2 1/2 STORY 16 FT.

MINIMUM LOT WIDTH: 65 FT.

OTHER USES:

\* THE WIDTH OF ONE (1) SIDE YARD MAY BE REDUCED ONE (1) FOOT FOR EVERY FOOT THAT THE OTHER SIDE YARD IS CORRESPONDINGLY INCREASED, BUT NO SIDE YARD SHALL BE LESS THAN EIGHT (8) FEET IN WIDTH.  
 THE SIDE YARDS SHOWN ON THE FOLLOWING FIGURES ARE BASED UPON A 2 STORY STRUCTURE AND MAY BE INCREASED OR DECREASED DEPENDING UPON THE NUMBER OF STORIES.

Design:	JML	Date:	1/07
Draft:	CMF	Job No.:	374
Checked:	AMP	Scale:	NTS
File Name: 374-SP.DWG			

**GP**  
 Gortill-Palmer Consulting Engineers, Inc.  
 Traffic and Civil Engineering Services

PO Box 1237, 26 Main Street  
 Gray, ME 04039  
 207-657-6910

Drawing Name: **Space & Bulk Requirements**  
 Project: **BARCLAY AVENUE, PORTLAND**

Figure No. **1**

U

1K



TD Banknorth, N.A.  
One Portland Square  
P.O. Box 9540  
Portland, ME 04112-9540  
T: 207 761-8500  
Toll Free: 800 462-3666  
TDBanknorth.com

January 22, 2007

City of Portland  
Planning Department  
389 Congress Street, 4<sup>th</sup> Floor  
Portland, Maine 04101

RE: Diversified Properties, Inc. - Barclay Avenue lot division

To Whom It May Concern:

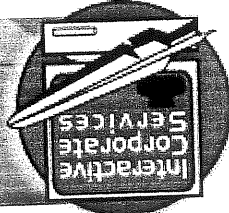
James Wolf, owner of Diversified Properties, Inc. is a long standing customer of the Bank. In our opinion, Diversified Properties, Inc. has the financial capacity to complete the proposed lot division at Barclay Avenue in Portland, Maine.

Should you have any further questions, I can be reached at 756-6842

Sincerely,

Kimberly Donnelly  
Vice President, Commercial Lending





## Information Summary

[Subscriber activity report](#)

This record contains information from the CEC database and is accurate as of: Tue Jan 23 2007 11:03:31. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
DIVERSIFIED PROPERTIES, INC.	19921430 D	BUSINESS CORPORATION	GOOD STANDING
		Expiration Date	Jurisdiction
		02/21/1992	MAINE
		N/A	
Other Names			(A=Assumed ; F=Former)

NONE

Clerk/Registered Agent

TERRY N. SNOW  
294 MAIN ST., PO BOX 275  
CUMBERLAND, ME 04021

Obtain a Certified Copy of this record for an additional \$5.00 fee

[Back to previous screen](#) | [New Search](#)

[Click on a link to obtain additional information.](#)

**Diversified Properties, Inc.**

P.O. Box 10127, Portland, ME 04104  
Tel 207-773-4988 • Fax 207-773-6875

Attachment 2

February 8, 2007

Barbara Barhydt  
Planning Department  
City of Portland  
389 Congress Street  
Portland, ME 04101

RE: (Barclay Avenue Lot Division), (35 Barclay Avenue), (Application ID # 2007-0018).

Dear Barbara:

Thank you for your letter dated February 1, 2007. The following is a response to your concerns.

1. Recording plat meeting the requirements of the subdivision Ordinance.  
Answer: A plat has been included with this submission.
2. Location of easements and copies of easements.  
Answer: A Central Maine Power and turnaround easement are shown on the plat with copies of each included with this submission.
3. Evidence of utilities  
Answer: The record drawing of the Barclay Avenue road construction has been included with this submission. Evidence of existing utilities is shown on the plan.
4. Topography for all lots.  
Answer: Included with this submission is an overall grading/drainage plan for those lots abutting the parcel to be divided.
5. Storm water drainage plan  
Answer: See #4.
6. Wetland delineation and or other significant environmental features.  
Answer: No wetlands are located on the site. See note on plat and in original submission summary.


2a

7. Street improvements, including curb cuts, sidewalks and other details.  
Answer: One curb cut is proposed. The proposed location of the curb cut is shown on the building permit application previously submitted. The street will not be opened to complete this work.

8. Landscaping and tree specifications  
Answer: A note on the plat states two street trees to city specifications will be planted. Two street trees are shown on the building permit application.

9. Evidence of financial capability  
Answer: A letter from TD Banknorth is included. Please note this letter was part of our initial submission.

Thank you for the opportunity for this submission and I look forward to hearing from you.

Very Truly Yours,  


James M. Wolf  
Diversified Properties  
[jmw1@maine.rr.com](mailto:jmw1@maine.rr.com)

Enclosures



January 22, 2007

City of Portland  
Planning Department  
389 Congress Street, 4<sup>th</sup> Floor  
Portland, Maine 04101

RE: Diversified Properties, Inc. – Barclay Avenue lot division

To Whom It May Concern:

James Wolf, owner of Diversified Properties, Inc. is a long standing customer of the Bank. In our opinion, Diversified Properties, Inc. has the financial capacity to complete the proposed lot division at Barclay Avenue in Portland, Maine.

Should you have any further questions, I can be reached at 756-6842

Sincerely,

Kimberly Donnelly  
Vice President, Commercial Lending

Magle Lane Development LLC, a Maine corporation with a mailing address of P.O. Box 10127, Portland, ME, 04104 (Grantor(s)), for consideration given, grants to CENTRAL MAINE POWER COMPANY, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336, and VERIZON NEW ENGLAND, INC. A New York corporation with a mailing address of 125 High Street, Boston, Massachusetts, 02110, and their respective successors and assigns (collectively "Grantees"), with warranty covenants, the right and easement to erect, bury, maintain, rebuild, repack, patrol, operate, and do all other actions involving electric and communication distribution equipment and facilities, consisting of wires, cables, together with all necessary fixtures and appurtenances under the surface of the land of the Grantor(s) in the City/Town of Portland, Cumberland County, Maine. The said equipment and facilities are attached to a line commencing at Pole(s)/Pad(s) 1, Barclay Ave., Portland and extending to include Pole(s)/Pad(s) 2 to serve Grantor(s) and others. This easement affects land or rights conveyed to the Grantor(s) in a deed from Adelaide M. Curran, dated November 28, 2001, and recorded in the Cumberland County Registry of Deeds in Book 17008 Page 32. The rights granted herein include the right to keep the surface above its underground cables and other electrical equipment free from structures, improvements and growth which, in the judgment of the Grantees, may interfere with the proper operation or maintenance of said underground cables; and the right to enter upon the land of the Grantor(s) for any and all of the foregoing purposes.

WITNESS the hand(s) and seal(s) of Grantor(s) duly authorized representatives on MAR 28 2002

*[Signature]*  
James Wolf  
Member  
Magle Lane Development LLC

*[Signature]*  
Joyce M. Yates  
Witness(es)

Signed, Sealed and Delivered in the presence of:

State of MAINE  
County of Cumberland

The above-named JAMES M. WOLF personally appeared before me this 28th day of MAY, 2002, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Magle Lane Development LLC.

WR# 0104111013 Acct# 441-1678674-001  
WO# 041-09942  
*[Signature]*  
Joyce M. Yates  
Notary Public/Attorney

JOYCE M. YATES  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 19, 2003  
SEAL

RECEIVED  
RECORDED REGISTRY OF DEEDS  
2002 APR -8 AM 8: 32  
CUMBERLAND COUNTY  
*[Signature]*  
John B. Brown

CM P

2c

201

KNOW ALL MEN BY THESE PRESENTS

THAT DIVERSIFIED PROPERTIES, INC., a Maine corporation with a principal place of business in the City of Portland, County of Cumberland and State of Maine, and MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability Company with a principal place of business in the City of Portland, County of Cumberland and State of Maine, in consideration of One Dollar and other valuable considerations paid by the CITY OF PORTLAND, a municipal corporation organized and existing under the laws of the State of Maine, the receipt whereof it does remise, release, bargain, sell and convey, and forever quitclaim unto the said City of Portland, for highway purposes only, all its right, title and interest in

The following described real property situated in the City of Portland, County of Cumberland and State of Maine, being property described in Exhibits A and B annexed hereto and made a part hereof.

Meaning and intending to describe all of Barclay Avenue and portions of Lots 217 and 218 as shown on a Plan of Harris Farms dated June 5, 1919 and recorded at the Cumberland and County Registry of Deeds in Plan Book 14, Page 19.

To have and to hold the same, together with all privileges and appurtenances thereunto belonging, to said City of Portland, its successors and assigns forever.

IN WITNESS WHEREOF, the said DIVERSIFIED PROPERTIES, INC. has caused this instrument to be signed in its corporate name and sealed with its corporate seal by James M. Wolf, its President therunto duly authorized this 18 day of JUNE, 2002.

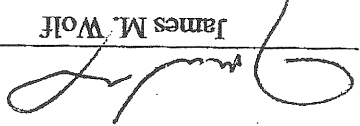
DIVERSIFIED PROPERTIES, INC.



Its President

James M. Wolf

By:



Sheet

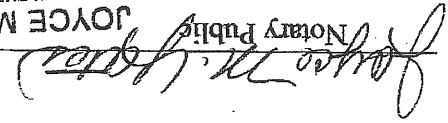
2c

STATE OF MAINE  
CUMBERLAND, SS

JUNE 18, 2002

Then personally appeared the above-named James M. Wolf, President of DIVERSIFIED PROPERTIES, INC., as aforesaid and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

  
Notary Public  
JOYCE M. YATES

NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010

IN WITNESS WHEREOF, the said MAGGIE LANE DEVELOPMENT, LLC has caused this instrument to be signed and sealed by James M. Wolf, its Member, thereunto duly authorized this JUNE 18 day of JUNE, 2002

MAGGIE LANE DEVELOPMENT, LLC

By:

  
James M. Wolf

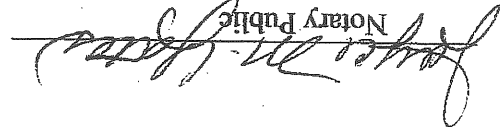
Its Member

STATE OF MAINE  
CUMBERLAND, SS

JUNE 18, 2002

Then personally appeared the above-named James M. Wolf, Member of MAGGIE LANE DEVELOPMENT, LLC as aforesaid and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Limited Liability Company.

Before me,

  
Notary Public  
JOYCE M. YATES

NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010

EXHIBIT A

Doc# 25862 BK:22566 Pg: 244

Quitclaim Deed from  
Diversified Properties, Inc.  
to the City of Portland

Deed Description of Barclay Avenue  
Portland, Maine

A certain lot or parcel of land lying on the southeasterly side of Harts Avenue, in the City of  
Portland, County of Cumberland, State of Maine, bounded and described as follows:

Beginning on the southeasterly sideline of said Harts Avenue and the westerly corner of Lot 225  
as shown on a Plan of Harts Farms dated June 5, 1919 and recorded in the Cumberland County  
Registry of Deeds in Plan Book 14, Page 19. Thence:

1) S 29° 16' 00" E by said Lot 225 and Lots 228 through 233 as shown on said plan a distance of  
Two Hundred Eighty-Five and 75/100 (285.75) feet to a 5/8" rebar with cap set at the southerly  
corner of said Lot 233 and the northwesterly line of land now or formerly of Patricia  
McDonough et al as described in a deed recorded in the Cumberland County Registry of Deeds  
in Book 3720, Page 141.

2) S 60° 48' 52" W by said McDonough and the northwesterly line of land now or formerly of  
Mark A. Duest and Sandra A. Lowe as described in a deed recorded in the Cumberland County  
Registry of Deeds in Book 7820, Page 88 a distance of Fifty and 00/100 (50.00) feet to a 5/8"  
rebar set at the easterly corner of Lot 216 as shown on said plan.

3) N 29° 16' 00" W by said Lot 216, Lots 217 through 221 and Lot 224 a distance of Two  
Hundred Eighty-Five and 68/100 (285.68) feet to the northerly corner of Lot 224 and the  
southeasterly sideline of said Harts Avenue.

4) N 60° 44' 00" E by said Harts Avenue a distance of Fifty and 00/100 (50.00) feet to the point  
of beginning.

The above described parcel contains 14,286 square feet.

Bearings are referenced to Magnetic North 1919.

Reference is herein made to a Standard Boundary Survey made for Diversified Properties by  
Ticom Associates May 5, 2001.

27



Quitclaim Deed from  
Diversified Properties, Inc.  
to the City of Portland

Doc#: 25862 BK:22566 Pg: 245

EXHIBIT B

**Deed Description of Proposed Turnaround Easement  
Barclay Avenue  
Portland, Maine**

A certain easement lying on the southwesterly side of Barclay Avenue, in the City of Portland, County of Cumberland, State of Maine, bounded and described as follows:

Beginning on the southwesterly sideline of said Barclay Avenue and the northerly corner of Lot 217 as shown on a Plan of Harris Farms dated June 5, 1919 and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19. Thence:

1) S 29° 16' 00" E by said Barclay Avenue a distance of Fifteen and 00/100 (15.00) feet to a point.

2) S 60° 44' 00" W a distance of Thirty and 00/100 (30.00) feet to a point.

3) N 29° 16' 00" W a distance of Thirty and 00/100 (30.00) feet to a point.

4) N 60° 44' 00" E a distance of Thirty and 00/100 (30.00) feet to a point on the southwesterly sideline of said Barclay Avenue.

5) S 29° 16' 00" E by said Barclay Avenue a distance of Fifteen and 00/100 (15.00) feet to the point of beginning.

The above described parcel contains 900 square feet and lies over portions of Lot 217 and Lot 218 as shown on said plan.

Bearings are referenced to Magnetic North 1919.

Reference is herein made to a Standard Boundary Survey made for Diversified Properties by Titcomb Associates dated May 5, 2001.

Turnaround

29

**Diversified Properties, Inc.**

P.O. Box 10127, Portland, ME 04104  
Tel 207-773-4988 • Fax 207-773-6875

**RECEIVED**

**APR - 5 2007**

City of Portland  
Planning Division

Shukria Wiar  
Planner  
City of Portland  
389 Congress Street  
Portland, Maine 04101

April 4, 2007

RE: Site Plan Review: 35 Barclay Avenue  
Application #2007-0018;CBL 339 D009001

Dear Ms. Wiar:

In response to your letter dated March 16, 2007 I offer the following:

1

The applicant shall provide a narrative with a chronology of the lot divisions to date.

The land being discussed was originally shown on a plan entitled Plan of Harris Farms dated June 5, 1919 and recorded in Book 14, Page 19.

Lot 1 on our plan consists of lots 216 and 217 on the Harris Farm Plan. These lots were purchased by Joseph and Annie Joyce in 1928 and remained in the Joyce family until December 7, 2001 when they were purchased by the Bono, Inc. Profit Sharing Trust. Neither the Joyce family nor Bono Inc. ever owned any abutting land. In 2003, the City of Portland considered this lot a grandfathered building lot and issued a building permit despite the fact it lacked proper lot width. The lot was sold to C.G.B. Properties in 2003 who built a home selling to the current owner, Kami Bedard.

Lots 2 and 3 on our plan consist of lots 210-213 and 218-221. These lots were purchased by Timothy and Adelaide Curran as follows:

- A. Lots 212, 213, 218 and 219 were purchased from John Curran in August 1957. John Curran acquired lots 212 and 213 in 1919; lots 213 and 219 were acquired in 1926.
- B. Lots 210, 211, 220 and 221 were acquired by Portland tax title in 1927 and sold to the Currans in 1959.

The property remained in the Curran family until November 20, 2001 when it was purchased by Maggie Lane Development. In November 2003 Maggie Lane Development sold parcel 2 to C.G.B. Properties who built a home selling to the current owner, Stacy Brindle and her former husband. In 2003 lot 3 was transferred to Diversified Properties, Inc., the lot's current owner. For a nonconforming lot such as lot 1 on our plan to enjoy grandfathered state, the Portland ordinance requires it to be "held under separate and distinct ownership from the adjacent lots." In the past we have shown lot 1 to be a grandfathered lot as illustrated by Portland granting a building permit on this lot.

It is the developers' contention that one lot division only has been made thus creating lots 2 and 3 shown on our plan. The creation of lot 1 on the plan was completed in 1919 by the original divider. It is this difference of opinion that brings us to the Planning Board. Please see attachment I for supporting material.

2. The subdivision ordinance contains review standards and required improvements in your narrative. The Planning Office recommends that you address how your application meets the subdivision regulations and standards. Lot 3, the parcel in question, is currently a vacant parcel of land. During the construction of Barclay Avenue the parcel was improved with water, sewer and storm services. The abutting parcels shown as lots 1 and 2 are developed residential lots.

3. Identify the current zoning information for the subdivision and identify the lot sizes for the original parcel and the proposed lots.

The location of the site is in zoning district R-3. Residential homes are a permitted use within this zone; space and bulk requirements for this zone are provided on the recording plan. The original and current lot sizes for parcels 1 thru 3 are:

Original	1.	6,560 sf.
Current		6,560 s.f. unchanged
	2.	portion of 24,000 sf.
		16,512 sf.
	3.	portion of 24,000 sf.
		7,488 sf.

4. The Planning Department requests that the plans show all three parcels on each plan sheet, as the proposal is being reviewed as a three-lot subdivision, and ensure that there is consistency of information between the plans.

The lots have been identified on the plans as 1 thru 3.

5. The following plan set needs to be submitted:

- a. Existing conditions of the site (show the one lot that will be divided) each lot)
- b. Proposed site plan with landscaping (show the two tree requirement on each lot)
- c. Utility plan
- d. Grading and Stormwater Drainage plans
- e. Details/Civil details.

Enclosed with this package is a revised recording plan. Added to the plan are lot numbering, lot sizes, FEMA Flood information and an additional note regarding street trees for lot 3 as well as lots 1 and 2. Also enclosed is a revised grading plan. This plan showing existing and proposed grading including the existing field drain on lot 2 that will receive the grading from lots 2 and 3. No utility plan is enclosed as no new utilities are proposed. No detail plan is enclosed as no work with the exception of two street trees on parcel 3 is proposed. Whether a curb cut for lot 3 is necessary or will be utilized is still uncertain.

6. Remove the building envelope on the proposed.

The building envelope has been removed from the plan.

7. The subdivision ordinance includes required improvements (Section 14-499), such as two street trees per lot and curbs and sidewalks. The plan should address those requirements and if you are seeking a waiver from the sidewalk and curb standards (criteria for curb and sidewalk criteria attached) this request must be in writing.

Barclay Avenue was constructed to City standards including granite curb and sidewalks on one side of the street in 2003/2004 and formally accepted in 2005. When constructed, the City waived sidewalks in front of these lots. This waiver took place because:

- A. There was not reasonable expectation for pedestrian usage coming from, going to and traversing the site.
- B. An alternative walking route existed by way of a sidewalk on the other side of the street.
- C. Strict adherence to the sidewalk requirement would have caused loss of a significant amount of driveway and lawn area to the existing home on the corner of Barclay and Harris Avenues.

With regard to curbing the applicant requests a waiver from 5 year street moratorium opening fee. This waiver is requested because

A. While the road was under construction the applicant requested and was denied permission to install a curb cut.

B. The cost of the permit would be in excess of Ten Thousand dollars (\$10,000.00) and was preventable when the applicant requested permission from Portland and was denied. The only other cost associated with the project is the installation of two street trees and the curb cut itself.

C. The curb cut can be completed without having to open the street if the detail curb installation is waived.

8. Please submit water and sewer capacity letters.

Enclosed with this package please find confirmation from the Portland Water District that an acceptable service exists. In addition, enclosed is an application for a waste water capacity letter. Please note that all services are stubbed to the property. See attachment 2.

9. Are these lots in a flood-prone area?

A note has been added to the subdivision plan stating that lots 1 thru 3 do not lie in a special flood hazard zone.

Zoning Department comments:

The given subdivision plan does not reflect basic zoning information. This 3-lot subdivision is located within an R-3 Zone. The only lot size given is the newly created front lot of 7,488 sq. feet. There is nothing to reflect the size of the remaining developed lot. All three-lot sizes should be given. The new lot meets the R-3 Zone requirements as depicted. The older lots meet the R-3 Zone requirements as depicted. Also the plan reviewed did not have the plans numbered to clearly show the lots involved.

As a note, Hampton Street is not being shown on the plans. Applicant should show all abutting property owners and streets on a subdivision plan.

The subdivision plan has been revised to show the lot sizes of all parcels as well as establish numbering.

Department of Public Works comments:

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

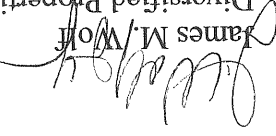
*If a waiver to the 5-year moratorium fee cannot be obtained as previously requested the developer will either 1. pay the fee, 2. wait for the expiration of the 5-year period or 3. redesign said building permit and access via the built turnaround.*

Fire Department comments:

Please show the nearest fire hydrant.

*The existing hydrant is shown on the subdivision plan at the corner of Barclay and Harris Avenue.*

Very Truly Yours,

  
James M. Wolf  
Diversified Properties  
jmw1@maine.rr.com  
Enclosures

3c

ATTACHMENT 1

0095116 SK 170676042

DEED OF SALE BY PERSONAL REPRESENTATIVE

(Intestate)  
Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, THAT I, JOHN F. MARSH of Old Orchard Beach, Maine, duly appointed and acting Successor Personal Representative of the ESTATE OF WALTER J. JOYCE, deceased (intestate), as shown by the probate records of the County of Cumberland, Maine, Docket No. 1986-801, by the power conferred by the Probate Code, and every other power, having provided ten (10) day notice to interested parties, for consideration paid, grant to JAMES WOLF, Trustee of Bone, Inc. Profit Sharing Trust, with December 31, 1998, whose mailing address is P.O. Box 10127, Portland, Maine, 04104, the real property in Portland, County of Cumberland, State of Maine, described as follows:

See attached Exhibit A.

Witness my hand and seal this 27th day of December 2001.

*John F. Marsh*  
Signed, Sealed and Delivered  
in presence of

THE ESTATE OF WALTER J. JOYCE  
BY: *John F. Marsh*  
JOHN F. MARSH,  
PERSONAL REPRESENTATIVE

STATE OF MAINE  
CUMBERLAND, ss.

Then personally appeared the above named JOHN F. MARSH in his said capacity and acknowledged the foregoing instrument to be his free act and deed.

Before me,

*Charles R. Bean*  
Notary Public/Attorney at Law  
Printed Name  
Charles R. Bean

Charles R. Bean, P.A.  
Attorney at Law  
P.O. Box 2287

MAINE REAL ESTATE TAX PAID

3f

9K170678043

EXHIBIT A

Two certain lots or parcels of land situated on the westerly side of Barclay Avenue in Portland, County of Cumberland and State of Maine, being lots numbered 216 and 217 as shown on a Plan of Harris Farms made by E. C. Jordan and Company, C.E., dated June 5, 1919 and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19, together with the fees of land in said Barclay Avenue in front of and adjoining said lots 216 and 217, and extending from the street line to the middle of said avenue. Subject to the rights of other lot owners and the public to the use thereof as a street.

Meaning and intending to convey a portion of the premises conveyed to Walter J. Joyce by virtue of being an heir of law of Joseph Joyce, deceased, and by virtue of a deed from John J. Joyce, et al dated July 31, 1959 and recorded in the Cumberland County Registry of Deeds in Book 2501, Page 85.

RECEIVED  
RECORDED REGISTRY OF DEEDS

2001 DEC 11 PM 1:02

CUMBERLAND COUNTY

Charles R. Bean, P.A.  
Attorney at Law  
P.O. Box 2287  
South Portland, Maine 04086



**Know all Men, by these Presents, That**  
I, Newton W. Harris, of Portland, in the County of Cumberland and State of Maine,

paid by  
in consideration of one dollar and other valuable considerations,  
Joseph and Annie Joyce of Portland, in said County and State,  
do hereby give, grant, bargain, sell and convey, unto the said

Joseph and Annie Joyce their heirs and assigns forever, two certain lots or parcels  
of land situated in Portland, one on the westerly side of Hampton Street, and the  
other on the westerly side of Barclay Avenue, being lots numbered one hundred  
ninety-eight, one hundred ninety nine, two hundred sixteen and two hundred seventeen  
(198, 199, 216, 217) as shown on plan of Harris Farms, made by E. G. Jordan & Co., C.E.,  
dated June 5, 1919, and recorded in Cumberland County Registry of Deeds, Plan Book  
14, Page 19; containing thirteen thousand one hundred square feet (13,100 sq. ft.)  
more or less, according to said plan. Together with the fees of land in said  
Hampton Street and Barclay Avenue in front of and adjoining said lots 198, 199, 216  
and 217, and extending from the street line to the middle of said street and avenue  
subject to the rights of other lot owners and the public to the use thereof as a  
street.

do have and in hold the aforementioned and bargained premises, with all the privileges and appurtenance thereof, to  
the said Joseph and Annie Joyce, their heirs and assigns, to them and their use and behoof forever. And I  
said Joseph and Annie Joyce, their heirs and assigns, that I am  
lawfully seized in fee of the premises; that they are free of all  
incumbrances;  
that I have good right to sell and convey the same to the said  
grantees, shall and will warrant and defend the same to the said  
grantees, their heirs and assigns forever; and that  
I do hereby give, grant, bargain, sell and convey, unto the said  
grantees, their heirs and assigns forever, against the lawful claims and demands of all persons,  
my right by descent and all other rights in the above described premises  
and conveying

my hand and seal this ninth day of March in the year of our Lord  
one thousand nine hundred and twenty-two.  
in presence of  
Abba Harris  
Newton W. Harris Seal

State of Maine, Cumberland, ss.  
Newton W. Harris  
his free act and deed.  
Then Personally appeared  
1922. March 9,

Before me, Abba Harris, Notary Public in and for the State of Maine, and recorded according to the original.  
Authorized to Administer Oaths and take acknowledgments, at 10 o'clock 10 m. A. M., and recorded according to the original.  
Received March 23, 1922

U.S.I.R.  
50 cts.  
N.W.H.  
Mar. 9/22

34

0090898 BK17008P032

STATUTORY WARRANTY DEED

ADELAIDE M. CURRAN, of Portland in the County of Cumberland and State of Maine;

For Consideration Paid, GRANT with WARRANTY COVENANTS TO:

MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability Company with a principal place of business in Portland, in the County of Cumberland and State of Maine, whose mailing address of P.O. Box 10127, Portland, Maine 04104

Certain lots or parcels of land situated in the City of Portland, County of Cumberland and State of Maine and being more particularly described in Exhibit A

annexed hereto and made a part hereof;

For grantor's source of title reference is made to two deeds from the City of Portland to grantor herein and Timothy J. Curran as joint tenants, both deeds dated May 26, 1959 and recorded in the Cumberland County Registry of Deeds in Book 2566, Page 318 and in Book 2566, Page 320; and by virtue of a deed from John Curran to grantor herein and the said Timothy J. Curran as joint tenants, dated August 2, 1957 and recorded as said Registry of Deeds in Book 2368, Page 93. The said Timothy J. Curran having died on May 1, 1974, leaving the grantor herein as surviving joint tenant.

This conveyance is made SUBJECT to the current real estate taxes to the City of Portland subject to proration at the closing, which Grantee herein by its acceptance of this deed hereby assumes and agrees to pay.

WITNESS my hand on this 20 day of Nov., 2001.

Adelaide M. Curran, by Joseph P. Curran, Her Attorney-in-Fact

STATE OF MAINE CUMBERLAND, SS.

Nov. 20, 2001

Joseph P. Curran, attorney-in-fact on behalf of ADELAIDE M. CURRAN Then personally appeared the above-named <sup>HIS</sup> and acknowledged the foregoing instrument to be his act and deed in said capa

Before me,

Joseph M. L... Notary Public

SEAL

MAINE REAL ESTATE TAX PAID

BK 17008P6033

EXHIBIT A

A certain lot or parcel of land situated in the city of Portland, Cumberland County, Maine, on the easterly side of Hampton Street a being lots No. 212 and 213 as shown on plan of Harris Farms made by E. C. Jordan & Co., C.E., dated June 5, 1919, and recorded in the Cumberland County Registry of Deeds, Plan Book 14, Page 19, to which plan reference may be made for a more particular description. Said lots are each 30 feet in width and 100 feet in depth according to said plan. Together with the fee of land in said Hampton Street 1 front of and adjoining said lots and extending from the street 119 to the middle of said street.

Also certain lots of parcels of land situated in said Portland on easterly side of Barclay Avenue, being lots No. 218 and 219 as shown on plan of Harris Farms, made E.C. Jordan & Co., C.E., dated June 1919, and recorded in the Cumberland County Registry of Deeds, Plan Book 14, Page 19, to which plan, reference may be made for a more particular description. Together with the fee in front of and adjoining said lots 218 and 219, and extending from the street 119 to the middle of said Avenue.

Also certain lots or parcels of land situated in said Portland between Hampton Street and Barclay Avenue being lots No. 210, 211, 220 and 221, as shown on plan of Harris Farms made by E.C. Jordan & Co., C.E., dated June 5, 1919, and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19.

Together with the fee of land in said Hampton Street and Barclay Avenue in front of and adjoining said lots No. 210, 211, 220 and 221 and extending from the street line to the middle of said street an Avenue.

This conveyance is subject to the rights of others in and to that portion of the subject premises lying within the apparent right of way for Barclay Avenue and Hampton Street as set forth in deeds to Adelaide M. Curran, et al, dated August 1957, recorded in Book 2368, Page 93 and dated May 26, 1959, recorded in Book 25 Pages 318 and 320.

Seller's Initials

Buyer's Initials

RECEIVED  
DEPT. OF DEEDS

ATTACHMENT 2

CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION

Department of Public Works,  
55 Portland Street,  
Portland, Maine 04101-2991

Date: \_\_\_\_\_



Mr. Frank J. Brancely,  
Senior Engineering Technician,  
Phone #: (207) 874-8832,  
Fax #: (207) 874-8852,  
E-mail: [ffb@portlandmaine.gov](mailto:ffb@portlandmaine.gov)

1. Please, Submit Utility, Site, and Locus Plans.

Site Address: \_\_\_\_\_

35 Barclay Avenue

Chart Block Lot Number: 339-D-9

(Regarding addressing, please contact Jessica Hanscom, either at 874-8818, or at [JGH@portlandmaine.gov](mailto:JGH@portlandmaine.gov))

Proposed Use: Single family building

Previous Use: Vacant land

Existing Sanitary Flows: 0 gpm

Existing Process Flows: 0 gpm

Description and location of City sewer, at \_\_\_\_\_

proposed building sewer lateral connection: \_\_\_\_\_

The existing sewer and storm are stubbed to \_\_\_\_\_

the building lot. There is no new connection \_\_\_\_\_

to the existing sewer line. \_\_\_\_\_

Clearly, indicate the proposed connection, on the submitted plans.

2. Please, Submit Domestic Wastewater Design Flow Calculations.

Estimated Domestic Wastewater Flow Generated: \_\_\_\_\_

GPD

Peaking Factor/ Peak Times: \_\_\_\_\_

Specify the source of design guidelines: (i.e., "Handbook of Subsurface Wastewater Disposal in Maine," "Plumbers and Pipe Fitters Calculation Manual," "Portland Water District Records," Other \_\_\_\_\_)

Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet.

3. Please, Submit Contact Information.

Owner/Developer Name: Diversified Properties Inc

Owner/Developer Address: Box 10127, Portland, Maine 04104

Phone: 773-4988

Fax: 773-6875

E-mail: [jmw1@maine.rr.com](mailto:jmw1@maine.rr.com)

Engineering Consultant Name: Gorrill Palmer Engineers

Engineering Consultant Address: Box 1237, Gray, Maine 04039

Phone: 657-6910

Fax: 657-6912

E-mail: [dreyolds@gorrillpalmer.com](mailto:dreyolds@gorrillpalmer.com)

City Planner's Name: Shukria Wiar

Phone: \_\_\_\_\_

Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review.

**4. Please, Submit Industrial Process Wastewater Flow Calculations**

GPD

Estimated Industrial Process Wastewater Flows Generated: na

Do you currently hold Federal or State discharge permits? Yes  No

Is the process wastewater termed categorical under CFR 40? na Yes  No

OSHA Standard Industrial Code (SIC): na

(<http://www.osha.gov/oshstats/sicser.htm>)

Peaking Factor/Peak Process Times: na

Note: On the submitted plans, please show the locations, where the building's sanitary, and process water sewer laterals, exit the facility, where they enter the city's sewer, the location of any control

manholes, wet wells, or other access points, and the locations of any filters, strainers, or grease traps.

Notes, Comments, or Calculations:

This lot is located on the newly constructed Barclay Avenue. The sewer and storm services were brought to this lot at the time of street construction.

Barclay - Public Works 3m

James Wolf

From: "James Wolf" <jmw1@maine.rr.com>  
To: "Eric Labelle" <EJL@portlandmaine.gov>  
Cc: <Todd@portlandmaine.gov>  
Sent: Wednesday, October 13, 2004 2:03 PM  
Subject: Re: Barclay

Eric

No problem. Although we disagree we the interpretation of staff this is not the time to address the issue. We will be placing curb in front of the lot either later today or tomorrow. Thank you for your help while Todd is away.

Jim

----- Original Message -----  
From: "Eric Labelle" <EJL@portlandmaine.gov>  
To: <jmw1@maine.rr.com>  
Cc: <Todd@portlandmaine.gov>  
Sent: Wednesday, October 13, 2004 11:46 AM  
Subject: Re: Barclay

Jim,

I talked with Staff today. Since the lot is not part of the subdivision there can not be a curb cut.

Eric

Eric J. Labelle, P.E.  
City Engineer  
55 Portland Street  
Portland, ME 04101  
(207)874-8850 Office  
(207)874-8852 Fax

>>> "James Wolf" <jmw1@maine.rr.com> 10/13/2004 10:53:07 AM >>>  
Dave met with Grover and marked the location. Thank you. Should we go over the other issues?

----- Original Message -----  
From: "Eric Labelle" <EJL@portlandmaine.gov>  
To: <jmw1@maine.rr.com>  
Sent: Wednesday, October 13, 2004 8:08 AM  
Subject: Re: Barclay

Yes, as we discussed yesterday, have Ben contact Dave Peterson at our office. 874-8846. He has the report from the last tape made.

Eric

>>> "James Wolf" <jmwl@maine.rr.com> 10/12/2004 8:24:50 AM >>>  
Eric

We need some direction regarding the underdrain repair. Is there someone covering for Todd that we can meet with today.

Thank you.

Jim

James Wolf  
Diversified Properties, Inc.  
P.O. Box 10127  
Portland, Maine 04104  
1-207-773-4988  
Fax 1-207-773-6875

10/26/04



James Wolf

**From:** "Jim Pandiscio" <pandiscio@pwd.org>  
**To:** "James Wolf" <jmw1@maine.rr.com>  
**Sent:** Tuesday, September 23, 2003 1:07 PM  
**Attach:** P-MainEst-BarclayAve-DiversifiedProperties-JimWolf.xls  
**Subject:** RE: Barclay Avenue

Copy of final inspection report attached. Final inspection done by Jeff McGill and Jim Pandiscio of the Portland Water District.  
New water main and services have been activated.  
Jim Pandiscio/MEANS Coordinator

-----Original Message-----  
**From:** James Wolf [mailto:jmw1@maine.rr.com]  
**Sent:** Tuesday, September 23, 2003 7:11 AM  
**To:** Jim Pandiscio  
**Subject:** Barclay Avenue

Good Morning

I need to provide the City documentation that the water main has been installed properly and passed its tests. Would you please provide this information. Thank you.

Jim

James Wolf  
Diversified Properties, Inc.  
P.O. Box 10127  
Portland, Maine 04104  
1-207-773-4988  
Fax 1-207-773-6875

9/23/03

Date: 4/2/02

Project: Barclay Ave

FC: 6719

Division: Portland

Contractor: A H Grover

Water Main & Service Assets:

Type:	Asset #	Location:	Size:	Description:
1 Reducer	RD2701665	Barclay Ave	8X4	150' south of Harris Ave
2 BO	BO2701623	Barclay Ave	2	275' south of Harris Ave
3 Main	RD27016650-BO2701623	Barclay Ave	4"	reducer to new 2" blow off
4				
5				
6 Service	SV27104497	Lot 1 Barclay Ave	1"	
7 Service	SV27104498	Lot 2 Barclay Ave	1"	
8 Service	SV27104499	Lot 3 Barclay Ave	1"	
9 Service	SV27104500	Lot 4 Barclay Ave	1"	
10 Service	SV27104501	Lot 5 Barclay Ave	1"	
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Portland Water District  
 Preliminary Estimate Worksheet  
 3/20/02 Div 27

Project: Barclay Ave. Agree# FC#

For: Diversified Properties  
 PO Box 10127  
 Portland, Me. 04104

Description: Install 120' more or less of 4" DI water main in Barclay Ave.  
 starting at current end of 8" water main and going south east.

#	unit	amount
120	Trench, install & backfill per foot @	1267.20
120	Pipe per foot @	877.20
1	8"X4" Reducer(s) @	69.72
1	Blow off(s) complete @(Ford or Mueller)	247.29
1	4" Solid Sleeve(s)	111.26
2	Labor & equipment per day @	2800.00
40	Gravel per cu. yd(s) @	7.00
0.5	Misc. bracing & hardware @	150.00
3	4" Field Loc Gaskets@	36.36
1	Air valve(s) @	140.00
1	Contingency: 10%	597.68
1	Main application fee @	100.00
0	Public fire protection per foot @	2.50
5	Service application(s) fee @	60.00
5	1" Service(s) installed M/SL @	500.00
5	5/8" Meter(s) installed @	139.00
5	By PWD-Total	10,169.43
5	5/8" Service application fee(s) @	125.00
4	Inspection per day @	300.00
1	Main connection(s) @	424.00
1	Planning & engineering @	300.00
0	Public fire protection per foot @	2.50
1	Main application fee @	100.00
5	5/8" Meter installation(s) @	139.00
1	Main application fee @	100.00
	Total	2,844.00

Project by contractor:

#	unit	amount
0	Public fire protection per foot @	2.50
1	Planning & engineering @	300.00
1	Main connection(s) @	424.00
4	Inspection per day @	300.00
5	Service application fee(s) @	125.00
5	5/8" Meter installation(s) @	139.00
1	Main application fee @	100.00
	Total	2,844.00

39

Portland Water Section 32

May 16, 2002

Jim Wolf  
Diversified Properties  
PO Box 10127  
Portland, Me. 04104

Re: Barclay Ave.-Portland

Jim:

This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed sub-division at Barclay Ave. in Portland. Checking District records, I find there is an 8" water main installed part way down Barclay Ave. with an existing hydrant.

The current data from the nearest hydrant indicates there should be adequate capacity of water to serve the needs of your proposed project.

Hydrant Location: Barclay Ave. @Harris Ave.  
Hydrant # 1802  
Static pressure = 67 PSI  
Flow = 1087 GPM  
Last Tested = 8/06/92

Sincerely,  
Portland Water District

Jim Pandiscio  
Means Coordinator

Attachment 4

March 16, 2007

Jim Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

**RE: Site Plan Review:**  
**35 Barclay Avenue**  
**Three (3) Lots Subdivision**  
**Application # 2007-0018; CBL 339 D009001**

Dear Mr. Wolf,

I refer to the Site Plan Review Application for a proposed three-lot subdivision that is located in the vicinity of 35 Barclay Avenue, as submitted on January 25, 2007.

Below are the preliminary review comments from various City departments and additional comments are pending. As I receive those comments, I will forward them to you. Following are additional items that need to be submitted or addressed for review:

1. The applicant shall provide a narrative with a chronology of the lot divisions to date.
2. The subdivision ordinance contains review standards and required improvements in your narrative. The Planning Office recommends that you address how your application meets the subdivision regulations and standards.
3. Identify the current zoning information for the subdivision and identify the lot sizes for the original parcel and the proposed lots.

4a

4. The Planning Department requests that the plans show all three parcels on each plan sheet, as the proposal is being reviewed as a three-lot subdivision, and ensure that there is consistency of information between the plans.

5. The following plan set needs to be submitted:

- a. Existing conditions of the site (show the one lot that will be divided)
- b. Proposed site plan with landscaping (show the two tree requirement on each lot)
- c. Utility plan
- d. Grading and Stormwater Drainage plans
- e. Details/Civil details

6. Remove the building envelope on the proposed.

7. The subdivision ordinance includes required improvements (Section 14-499), such as two street trees per lot and curbs and sidewalks. The plan should address those requirements and if you are seeking a waiver from the sidewalk and curb standards (criteria for curb and sidewalk criteria attached) this request must be in writing.

8. Please submit water and sewer capacity letters.

9. Are these lots in a flood-prone area?

Zoning Department comments:

The given subdivision plan does not reflect basic zoning information. This 3-lot subdivision is located within an R-3 zone. The only lot size given is the newly created front lot of 7,488 sq. feet. There is nothing to reflect the size of the remaining developed lot. All three-lot sizes should be given. The new lot meets the R-3 Zone requirements as depicted. The older lots meet the R-3 Zone requirements as depicted. Also the plan reviewed did not have the plans numbered to clearly show the lots involved.

As a note, Hampton Street is not being shown on the plans. Applicant should show all abutting property owners and streets on a subdivision plan.

Department of Public Works comments:

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

Fire Department comments:

Please show the nearest fire hydrant.

Please submit the information at your earliest convenience. If you have any questions please do not hesitate to call me on (207) 756-8083 or at [shukriaw@portlandmaine.gov](mailto:shukriaw@portlandmaine.gov).

Sincerely,

Shukria Wiar  
Planner

cc Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Manager  
Penny Littel, Corporate Counsel  
Michael Farmer, Public Works  
Captain Greg Cass, Fire Prevention  
Marge Schmuckal, Zoning Administrator

Attachment 5a

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MEMORANDUM

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To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2007-0018

Date: 3/15/2007

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The given site plan does not reflect basic zoning information. This 3-lot subdivision is located within an R-3 zone. The only lot size given is the newly created front lot of 7,488 sq. feet. There is nothing to reflect the size of the remaining developed lot. All three lot sizes should be given. The new lot meets the R-3 Zone requirements as depicted. The older lots meet the R-3 Zone requirements as depicted. Also the plan I reviewed did not have the plans numbered to clearly show the lots involved.

I am also noting that Hampton Street is not being shown on the plans. I was thought it was required to show all abutting streets on a subdivision plan.

Marge Schmuckal



Attachment 5b

**From:** Michael Farmer  
**To:** Wiar, Shukria  
**Date:** 3/6/2007 5:03:55 PM  
**Subject:** 35 Barclay Street

I would like to submit an additional comment regarding this project on behalf of the Public Works Department.

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

Please forward this comment to the developer.

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

Attachment 5c

**From:** Michael Farmer  
**To:** Fraser, Jean  
**Date:** 4/4/2007 4:46:36 PM  
**Subject:** Re: Fwd: Barclay Avenue

Jean:

I will defer to Dan Goyette of Woodard and Curran with respect to reviewing the drainage system for this plan.

There seems to be some question regarding whether or not a street opening permit would be required for the proposed new driveway. If there is curbing along the street where the proposed new driveway will be built, curbing will have to be removed, two new granite curb tipdown pieces will have to be installed (one on each side of the driveway), and the driveway apron would have to be built to conform to City standards. Installing the new curb tipdown pieces would require excavating in the street. Thus, the requirements of the street opening ordinance would apply. If the street is considered a moratorium street, then the specific provisions of the street opening ordinance that govern moratorium streets would apply. Leaving existing curbing in place and driving over the curb to enter and exit a new driveway would not be considered a viable alternative to building a driveway apron in accordance with City design standards.

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

## MEMORANDUM

TO: Jean Fraser

FROM: Dan Goyette

DATE: April 5, 2007

RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Overall Grading Plan for Barclay Avenue, dated February 7, 2007, Gorrill-Palmer Consulting Engineers, Inc.

- Response to Comments, received April 4, 2007 dated March 19, 2007 to Shukria Wiar prepared by James Wolf.

### Comments

- Public Works will not support the waiver request from the Moratorium Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allow the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.

- A grading plan has been provided. It appears from the grading plan that stormwater from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for stormwater should be provided to insure that no additional drainage easements will be required.

DRG  
203943.

Attachment 6

Alton Palmer

From: Anthony Lombardo [AWL@cl.portland.me.us]  
 Sent: Thursday, August 21, 2003 9:12 AM  
 To: Alton Palmer  
 Cc: E.JL@cl.portland.me.us; Doug Reynolds; jmw1@maine.rr.com  
 Subject: Re: Barclay Avenue Service Stubs

Al,  
 Public Works does not object to this modification. In fact, it avoids potential street opening issues and costs that might have resulted if this third lot is created within the next five years.

>>> "Alton Palmer" <Apalmer@gorri11palmer.com> 08/21 9:12 AM >>>  
 Hi Tony,

This email is intended to confirm our conversation this morning relative to the service stubs for Barclay Avenue. As we discussed, the current plan includes two lots on the right hand side of the road. The possibility exists that if a property owner elected to proceed with a formal subdivision application, then a third lot may be constructed at some time in the future. Our office would propose to install service stubs within the roadway for future use by this lot, which would prevent having to open the road at a later date. The services would be installed at approximately Station 12+00, and be terminated 5' inside of the right-of-way. The record drawings will reflect the addition of these services as a field change. We anticipate the services will be installed on Friday, August 22nd.

Please contact this office with any questions.

Thanks,

Al Palmer

Gorri11-Palmer Consulting Engineers, Inc.

15 Shaker Road

PO Box 1237

Gray, ME 04039

(207) 657-6910

(207) 657-6912 fax

The information transmitted is intended only for the person or entity to which it is

*Handwritten signature*



Planning and Development Department

Lee D. Urban, Director

Planning Division

Alexander Jaegerman, Director

April 24, 2007

Jim Wolf

Diversified Properties, Inc.

PO Box 10127

Portland, ME 04104

RE: Site Plan Review:

35 Barclay Avenue

Three (3) Lots Subdivision

Application # 2007-0018; CBL 339 D009001

Dear Mr. Wolf,

I am writing to follow up on the Planning Board Workshop held on April 10th, 2007 and clarify the current status of the Subdivision Review and issues that need to be addressed prior to the project being considered at a Planning Board Hearing.

1. Please submit an "Existing Conditions" Plan as previously requested so that the Planning Board can distinguish between existing and proposed aspects of the project. Please include existing trees, grading, wetlands, pavements, structures, hydrants, utilities, catch basins and easements for all three lots.

2. Please submit a revised Subdivision Recording Plat that shows the outline of the Subdivision as well as the three lots within it. The Plat should address the items listed in the City Ordinance Section 14-496 (copy attached) and:

- a. Show what you intend to construct for access for this lot and clarify (annotate) the extent of works in the street in relation to the Street Moratorium.
- b. Show Hampton Street on all plans and its status.
- c. Show the locations of proposed street trees in locations within 8-10 feet of the frontage property line and clarified in the legend. Show separately any existing trees to be preserved.
- d. Show a sidewalk on the frontage of all three lots on Barclay Avenue, annotated to indicate that a waiver has been requested for the sidewalk (see 4 below).
- e. Please ensure that all plans have legends and are consistent in their references to lots, boundaries, easements etc

Planning file copy

Attachment 1

7a

3. Please submit a revised Overall Grading Plan which addresses the Ordinance 14-496 (a) 15 and accurately shows the existing (as built) grading contours on Lots 1 and 2, the existing contours for Lot 3, and the proposed contours for all three lots. The Planning Board requested that this should show your proposals to address drainage issues on all three lots, and address the concerns raised by Ms. Bedard regarding #39 Barclay Avenue (Lot 1/Parcel C). Also please show or describe how the drainage (as proposed) from these three lots will not impact the abutting properties.
4. Any previous waiver regarding the sidewalks was considered within a 14-403 application and not within a Subdivision Review. Please submit a formal written waiver request from the Subdivision requirement that is set out in the Ordinance (copy attached for information).
5. The City will not approve a driveway off of the turnaround. The one you mentioned at Ruby Lane was temporary.

6. Please address the comments included in the Workshop Memorandum from the Engineering Reviewer (Dan Goyette, dated April 5, 2007; copy attached) and his further comments on the revised grading plans, which are:


"They still have not addressed the stormwater easements. I would be curious to know if the Bedard issues have been addressed. The grading plan indicates that a ditch line exists on the Bedard property and a new ditch line will be created on the new lot that discharge to the public works turnaround. Would it make sense to have them regrade the existing lot and the new one to have one single ditch line and an easement giving rights to the ditch line to both properties."

7. Please submit the sewer capacity letter.

Please submit the information and revised proposals at your earliest convenience and note that a Hearing will not be scheduled until these are received and staff have had an opportunity to complete a final review.

If you have any questions please do not hesitate to call me on (207) 874 8728 or at [if@portlandmaine.gov](mailto:if@portlandmaine.gov).

Sincerely,

  
Jean Fraser  
Planner

Attachments: Ordinance 14-496 Subdivision Plat Requirements; 14-497 General Subdivision Requirements; 14-498 re sidewalks and curbs; 14-506(b) Modifications (criteria for waiver from 14-498); comments from Reviewer Dan Goyette dated April 5, 2007

cc. Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Manager  
Penny Littel, Corporate Counsel  
Michael Farmer, Public Works  
Captain Greg Cass, Fire Prevention  
Marge Schmuckal, Zoning Administrator



**MEMORANDUM**

TO: Jean Fraser

FROM: Dan Goyette

DATE: April 5, 2007

RE: Barclay Avenue Subdivision

Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

Documents Reviewed

- Overall Grading Plan for Barclay Avenue, dated February 7, 2007, Gorrill-Palmer Consulting Engineers, Inc.
- Response to Comments, received April 4, 2007 dated March 19, 2007 to Shukria Wiar prepared by James Wolf.

Comments

- Public Works will not support the waiver request from the Moratorium Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allow the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.
- A grading plan has been provided. It appears from the grading plan that stormwater from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for stormwater should be provided to insure that no additional drainage easements will be required.

DRG  
203943.

23 May 2007

Mr. James M. Wolf,  
Diversified Properties,  
P. O. Box 10127,  
Portland, Maine 04104

**RE: The Capacity to Handle Wastewater Flows, from a Proposed  
Single Family Dwelling, at 35 Barclay Avenue.**

Dear Mr. Wolf:

The existing eight-inch diameter sewer pipe located in Barclay Avenue has adequate capacity to **transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to **treat** the total anticipated wastewater flows of **270 GPD**, from the proposed house.

**Anticipated Wastewater Flows from the Proposed Single Family Dwelling:**  
1 Proposed Three-Bedroom House @ 270 GPD/Three-Bedroom House = 270 GPD  
Total Proposed Increase in Wastewater Flows for this Project = 270 GPD

The City combined sewer overflow (C.S.O.) abatement consent agreement (with the U.S.E.P.A., and with the Maine D.E.P.) requires C.S.O. abatement, as well as storm water mitigation, in order to offset any increase in sanitary flows, from all projects. If the City can be of further assistance, please call 874-8832.

Sincerely,

**CITY OF PORTLAND**

Frank J Brancey, B.A., M.A.  
Senior Engineering Technician

FJB

cc: Alexander Q. Jaegerman, Director, Planning Division, Department of Planning, and Urban Development, City of Portland  
Shukria Wiar, Planner, Department of Planning, and Urban Development, City of Portland  
Jean Fraser, Planner, Department of Planning, and Urban Development, City of Portland  
Michael Farmer, P.E., Project Engineer, City of Portland  
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland  
Stephen K. Harris, Assistant Engineer, City of Portland  
Jane Ward, Administrative Assistant, City of Portland  
Desk file





Gorrill-Palmer Consulting Engineers, Inc.

PO Box 1237  
15 Shaker Rd.  
Gray, ME 04039

Traffic and Civil Engineering Services

207-657-6910

FAX: 207-657-6912

E-Mail: mail@gorillpalmer.com

May 25, 2007

Ms. Jean Fraser  
Portland Planning Department  
Portland City Hall  
389 Congress Street  
Portland, ME 04101-2503

Re: Barclay Avenue  
Three Lot Subdivision,  
Vicinity 35 Barclay Avenue

Dear Jean,

This letter provides a response to miscellaneous comment reviews from Staff. For ease of review, each comment has been repeated below followed by our response.

**Comments in memorandum form Jean Fraser dated 04-24-07**

*Comment 1 - Please submit an "Existing Conditions" Plan as previously requested so that the Planning Board can distinguish between existing and proposed aspects of the project. Please include existing trees, grading, wetlands, pavements, structures, hydrants, utilities, catch basins and easements for all three lots.*

Response 1 - Subsequent to the Planning Board meeting, the applicant had the project surveyor obtain additional topographic information to provide existing conditions. A combination of the updated Subdivision plan and the attached Existing Conditions plan provide the information requested above.

*Comments 2 - Please submit a revised Subdivision Recording Plat that shows the outline of the Subdivision as well as the three lots within it. The Plat should address the items listed in the City Ordinance Section 14-496 (copy attached) and:*

Response 2 - An updated Subdivision Plan is attached with this package.

*Comment 2a - Show what you intend to construct for access for this lot and clarify (annotate) the extent of works in the street in relation to the Street Moratorium.*

Response 2a - It is the applicant's opinion that showing the exact location of the proposed access point to Lot 3, on the Subdivision plan, would:  
1. Restrict potential buyers options for constructing a house on the lot.

Ms. Jean Fraser  
May 25, 2007  
Page 2 of 5

2. Result in a Subdivision Plat Amendment if the location were altered in the field during lot construction.

A note has been added to the Subdivision Plan, which indicates that the contractor will be responsible for all permits associated with cutting into the roadway for access to the lot, relative to the Street Moratorium and an as-built drawing of the curb cut location is required prior to issuance of a certificate of occupancy.

*Comment 2b - Show Hampton Street on all plans and its status.*

Response 2b - Hampton Street is shown on the plans. It has been labeled as "Not constructed, Not accepted."

*Comment 2c - Show the locations of proposed street trees in locations within 8-10 feet of the frontage property line and clarified in the legend. Show separately any existing trees to be preserved.*

Response 2c - The proposed street trees are shown on the Subdivision Plan. Based on the current conditions and location of the existing trees on Lot 3, it is not anticipated that any trees will be maintained within the frontage of the property. However, it is anticipated that a number of trees in the rear setback of Lot 3, as well as along the common property line with Lot 1 will remain.

*Comment 2d - Show a sidewalk on the frontage of all three lots on Barclay Avenue, annotated to indicate that a waiver has been requested for the sidewalk.*

Response 2d - As the applicant has previously requested a waiver of the sidewalk requirements, sidewalks are not being shown on the plan.

*Comment 2e - Please ensure that all plans have legends and are consistent in their references to lots, boundaries, easements etc.*

Response 2e - All plans have been revised to include legends and lot labels.

*Comment 3 - Please submit a revised Overall Grading Plan which addresses the Ordinance 14-496 (a) 15 and accurately shows the existing (as built) grading contours on Lots 1 and 2, and existing contours for Lot 3, and the proposed contours for all three lots. The Planning Board requested that this should show your proposals to address drainage issues on all three lots, and address the concerns raised by Ms. Bedard regarding #39 Barclay Avenue (Lot 1/Parcel C) Also please show or describe how the drainage (as proposed) from these three lots will not impact the abutting properties.*

Superseded by  
June 5, 07 memo

Response 3 – As mentioned above, an Existing Conditions plan is contained in this package. The applicant has spoken with Ms. Bedard and is of the understanding that upon further review of the conditions on each of the lots, her concerns have been addressed. Also based upon a conversation with Dan Goyette, the drainage on the lots will not adversely impact the other lots.

*Comment 4 – Any previous waiver regarding the sidewalks was considered within 14-403 applications and not within a Subdivision Review. Please submit a formal written waiver request from the subdivisions requirement that is set out in the Ordinance.*

Response 4 – This letter should be considered a formal written waiver request regarding sidewalks based on the following:

- A. There is not reasonable expectation for pedestrian usage coming from, going to and traversing the site. Barclay Avenue is a dead-end street, and it is not anticipated that significant pedestrian use will be required.
- B. An alternative walking route exists, by way of the sidewalk on the opposite side of Barclay Avenue.
- C. Strict adherence to the sidewalk requirement would cause a loss of significant amount of driveway and lawn area on the corner of Barclay and Harris Avenue, as well as the front lawn of Ms. Bedard.

*Comment 5 – The City will not approve a driveway off the turnaround. The one you mentioned at Ruby Lane was temporary.*

Response 5 – The turnaround is not proposed as access to Lot 3.

*Comment 6 – Please address the comments included in the Workshop Memorandum from the Engineering Reviewer (Dan Goyette, dated April 5, 2007; copy attached) and his further comments on the revised grading plans which are:*

*“They still have not addressed the storm easements. I would be curious to know if the Bedard issues have been addressed. The grading plan indicates that a ditch line exists on the Bedard property and a new ditch line will be created on the new lot that discharges to the public works turnaround. Would it make sense to have them regrade the existing lot and the new on to have on single ditch line and an easement giving rights to the ditch line to both properties.”*

Response 6 – As mentioned above, the applicant has discussed the project with Ms. Bedard, and it is the applicant's understanding that the drainage issues have been addressed. Also, as mentioned above, additional topography has been obtained, along the common property line with Ms. Bedard, and it has been determined that a common ditchline along this property line was constructed as part of the development of Ms. Bedard's home, therefore the proposed grading plans have been revised to drain to the

9c

existing ditch. It is not anticipated that any significant additional flow will be added to the ditch.

*Comment 7 - Please submit the sewer capacity letter.*

Response 7 - The sewer capacity letter from the City is included with this package.

**Comments in memorandum from Dan Goyette dated 04-05-07**

*Comment 1 - Public Works will not support the waiver request from the Moratorium Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allot the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.*

Response 1 - At this time, a waiver of the Street Moratorium permit is not being requested. Note 10 has been added to the subdivision plan, which states that any disturbance to Barclay Avenue prior to October 2008 is subject to the 5 year Moratorium fee.

*Comment 2 - A grading plan has been provided. It appears from the grading plan that storm water from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for storm water should be provided to insure that no additional drainage easements will be required.*

Response 2 - As mentioned previously, an updated grading plan is included with this package, which show the current drainage patterns of the subdivision flowing to the existing City field inlet, as well as the proposed drainage patterns, which flow to the same structure.

P6

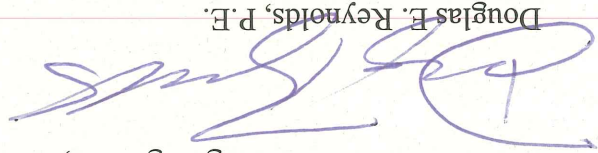
Ms. Jean Fraser  
May 25, 2007  
Page 5 of 5

**Closure**

Gorrill-Palmer Consulting Engineers, Inc. looks forward to your review of these comments and revised plans. Please contact this office with any additional question.

Sincerely,

Gorrill-Palmer Consulting Engineers, Inc.



Douglas E. Reynolds, P.E.

Senior Engineer

Cc: Jim Wolf

Dan Goyette, Woodard & Curran

DER/der/JN374/Barclay Avenue C&R (2)

Attachment 10a

COMMITMENT & INTEGRITY  
DRIVE RESULTS

41 Hutchins Drive  
Portland, Maine 04102  
T 800.426.4262  
T 207.774.2112  
F 207.774.6635  
www.woodardcurran.com

## MEMORANDUM

TO: Jean Fraser

FROM: Dan Goyette

DATE: May 29, 2007

RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Site Plan for Barclay Avenue, sheets 1 and 2, Standard Boundary Survey, dated May 25, 2007, Gorrill-Palmer Consulting Engineers, Inc.
- Response to Comments, dated March 25, 2007 to Jean Fraser prepared by Douglas Reynolds, P.E. Gorrill-Palmer Consulting Engineers.

### Comments

- The grading scheme presented on Sheet 1, particularly the ditch between Lots 1 and 3, would appear to direct stormwater runoff to the hammerhead on Barclay Avenue. After conducting a site visit on May 29, 2007, it became apparent that although the ditch does exist, approximately 20 feet from the edge of pavement a high spot exists that prohibits runoff from the rear of Lot 1 and potentially Lot 3 from entering the ditch line and flowing out to the street. The ditch line should be regraded during the development of Lot 3 to insure that the stormwater will enter the ditch and flow out to the street. A note should be added to the plans to indicate that the ditch line should be graded in the field to flow to the street.

DRG  
203943.

Attachment 10b

**From:** "Jim Wolf" <jmw1@maine.rr.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 5/29/2007 2:16:16 PM  
**Subject:** FW: Barclay Ave sub div.

Jean  
The note below is being added to the plan. We will do our best to get you the copies requested no later than tomorrow.  
Regarding Ms. Bedard, we have offered to meet with her and are waiting for her to contact Gorrill Palmer.

-----Original Message-----  
**From:** Doug Reynolds [mailto:DReynolds@gorrillpalmer.com]  
**Sent:** Tuesday, May 29, 2007 1:09 PM  
**To:** Jim Wolf  
**Subject:** FW: Barclay Ave sub div.

How's this?

The ditch along the common boundary between Lot 1 and 3 shall be modified to allow drainage entering the ditch to flow toward the street without ponding. Contractor shall coordinate with homeowner of Lot 1 for modifications to this ditch.

-----Original Message-----  
**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, May 29, 2007 12:13 PM  
**To:** jmw1@maine.rr.com  
**Cc:** Doug Reynolds  
**Subject:** RE: Barclay Ave sub div.

Jim,

Attached please find Dan Goyette's comment.

Please send (to me) 3 copies of the revised Grading Plan (to scale) and 1 11X17 copy asap- Dan will not review it again and I will check that the note has been added.

I will probably also be in touch with Ms Bedard but if you can meet her on site and explain that would help. As mentioned previously, a narrative explaining the drainage (existing, impact of proposal and steps being taken to address issues raised) would also be helpful to include in the packet.

Jean

<>> "Jim Wolf" <jmw1@maine.rr.com> 5/29/2007 10:26:31 AM <>>  
Any comments would be greatly appreciated so they can be discussed.

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

Attachment 10c.

**From:** Michael Farmer  
**To:** Fraser, Jean  
**Date:** 6/4/2007 9:44:16 AM  
**Subject:** Re: Barclay Ave sub div - Street Moratorium

Our records indicate that the moratorium period would end on October 22, 2009. However, I think Penny and someone else at last week's meeting decided that Jim Wolf would be required to construct the driveway apron before selling the lot, which may make the note you referred to superfluous. In any case, if the note stays on th plan, it should be changed to reflect the correct moratorium ending date.

Michael Farmer, Project Engineer  
 Dept. of Public Works  
 55 Portland Street  
 Portland, ME 04101  
 phone: 207-874-8845  
 fax: 207-874-8852

>>> Jean Fraser 06/01 5:18 PM >>>  
 Mike,

On the subdivision Plat the applicant has stated:

"Any disturbance of Barclay Avenue prior to October 2008 that requires a street opening permit shall be subject to a five year street moratorium permit".

I don't know where he got that date as I thought the citys acceptance of this street was later than 2003.

I am sure you know where this info is kept- could you ask someone to verify at what point they do not need to pay the Moratorium Street Opening fee for Barclay Avenue - just to be sure the right date is on the plat.

Thanks (Hearing June 12th so needed asap)  
 Jean



Attachment 10d

**From:** Michael Farmer  
**To:** Fraser, Jean  
**Date:** 6/8/2007 1:42:41 PM  
**Subject:** Re: \$cost re Barclay Street opening fee

Jean:

My estimate for the street opening fee is \$13,900.00.

I have the following comments regarding the request for a sidewalk waiver. The Planning Authority has the authority to approve a sidewalk pursuant to Sec. 14-506(b). There is a sidewalk on the opposite side of the street from the new lot, which would meet condition 3 in the Code. The applicant has to meet at least one more of the conditions listed in the Code to justify the waiver. If the sidewalk waiver issue was previously reviewed and resolved as part of the Barclay Ave. dedication and acceptance process, I think it would make sense to follow the decisions reached at that time. If the sidewalk waiver issue was not resolved previously, then the Planning Authority can consider the current sidewalk waiver request on its own merits. If the Planning Authority is inclined to require a sidewalk on the southwest side of Barclay Ave, I think a sidewalk should be built the full length of the street.

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

>>> Jean Fraser 06/08 9:51 AM >>>  
Mike,

Penny has just agreed that the following condition should be suggested for the approval of this project in the Hearing report.

Can you give me the figure to go in here, as requested at Dev Rev on Wed.

Needed by noon please (along with comment in support of the sidewalk waiver).

Thanks  
Jean

**CONDITION:**

!!! The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation, which includes the street opening fee of \$\_\_\_\_\_ (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required)."

# MEMO

Post Office Box 10127  
Portland, Maine 04104  
207-773-4988  
Fax 207-773-6875

**Diversified  
Properties**

Attachment 11

**To:** Jean Fraser  
**From:** Jim Wolf  
**Fax:**  
**Pages:**  
**Phone:** June 5, 2007  
**Re:** Revised Plans Barclay Avenue  
**CC:**

Urgent  For Review  Please Comment  Please Reply  Please Recycle

● **Comments:**

Per your request enclosed please find an 11 by 17 of both the plat and grading plan as well as 5 copies of the scaled plat. Please note that to the plat we have added the note regarding drainage between lots 1 and 3 and have added the curb cut location.

**From:** Jean Fraser  
**To:** Wolf, James  
**Date:** 10/5/2007 10:11:53 AM  
**Subject:** Re: Barclay

Hello Jim,

Dan has confirmed that the Grading and Drainage Plan sent to him by Doug yesterday is OK. So that meets condition ii.

Please submit the Subdivision Recording Plat with the following changes (this list summarizes what was sent to you previously by Penny Littell and me):

1. Retitled to "Subdivision Recording Plat"
2. Remove "old" Note 13 as on the version submitted 9.19.07
3. Add four new notes :
  - a. New note re Easement with Lot 1 (new Note 13) as per language sent by e-mail
  - b. New note re Performance Guarantee as per language sent by e-mail
  - c. New note incorporating Condition vii quoted in its entirety and relate to the area on the plat
  - d. New note re accessory unit on Lot #2 as per language sent by e-mail

Please send to me by pdf asap so I can get it into the report at lunchtime.

If any questions please telephone me asap.

Thanks  
Jean (Fraser)  
Planner  
874 8728

>>> "James Wolf" <jmw1@maine.rr.com> 10/5/2007 9:19:18 AM >>>  
Dan/Doug

Please confirm for me that the site plan we have submitted for lot 3 on Barclay is now acceptable. Thank you both for your help.

Jim

**CC:** Barhydt, Barbara; dgoyette@woodardcurran.com; Littell, Penny; Reynolds, Doug

**From:** "Dan Goyette" <DGoyette@woodardcurran.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 10/5/2007 8:14:57 AM  
**Subject:** Barclay Avenue

Jean,

I received a copy of the proposed grading for Barclay Ave that included spot grades and the relocation of the tree. It looked good to me.

Daniel Goyette, PE

41 Hutchins Drive

Portland, Maine 04102

Phone: 800-426-4262

Fax: 207-871-0724

Email: dgoyette@woodardcurran.com

relates to grading  
 between lots #3 + #2  
 (next to Redford)

**From:** "Doug Reynolds" <DReynolds@gorillpalmer.com>  
**To:** <dgoette@woodardcurren.com>  
**Date:** 10/4/2007 2:21:33 PM  
**Subject:** 374 Barclay Avenue

Dan,

Attached is a revised grading plan with additional spot grades along the  
 Lot 2 side of the lot.

We have also relocated the tree out of the swale

Please give a call if you require any additional information.

Doug Reynolds

Gorill-Palmer Consulting Engineers, Inc.

15 Shaker Road

PO Box 1237

Gray, ME 04039

(207) 657-6910

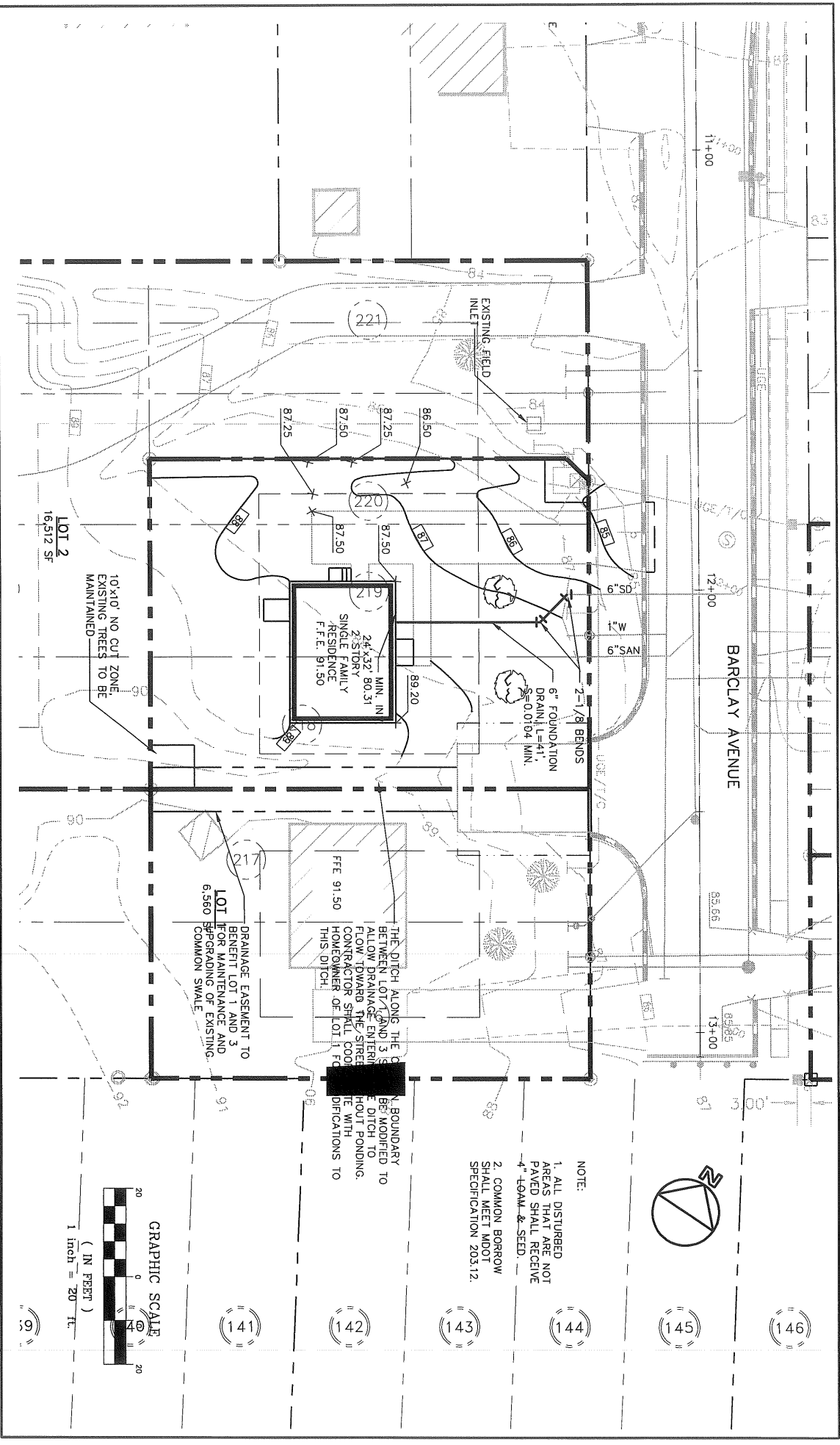
(207) 657-6912 (Fax)

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 taking of any action in reliance upon, this information by persons or  
 entities other than the intended recipient is prohibited. If you  
 received this in error, please contact the sender and delete the material from

any

computer.

CC: "Jim Wolf" <jmw1@maine.rr.com>, <JF@portlandmaine.gov>



NOTE:  
 1. ALL DISTURBED AREAS THAT ARE NOT PAVED SHALL RECEIVE 4" LGAM & SEED.  
 2. COMMON BORROW SHALL MEET MDOT SPECIFICATION 203.12.



Rev.	Date	Revision
1	10/24/22	ORIG SWI SWMS

Designer	DRB	Date	JULY 2022
Drawn	DRB	Job No.	314
Checked	AMT	Scale	1" = 20'
1/8" 10'S UNK-374-013 GRADING			

**GP** Gorrill-Palmer Consulting Engineers, Inc.  
 Traffic and Civil Engineering Services

P.O. Box 1237  
 15 Shaw Road  
 2025 Portland, ME 04106  
 FAX: 207-697-8910  
 E-Mail: mshannon@gorrillpalmer.com

Project Name: **Lot 3 Grading & Drainage Plan**  
 Project: **BARCLAY AVENUE, PORTLAND**

**From:** Jean Fraser  
**To:** Wolf, Jim  
**Date:** 10/4/2007 12:02:03 PM  
**Subject:** RE: Barclay Plat amendments

Jim,

Further to this morning's conversation and my e-mails last week re the Plat and the drainage proposals near Lot #2, here is the suggested [draft](#) wording [to replace note 13](#) on the Plat:

"The developer shall be responsible for installing a drainage swale/depression between lots 1 and 3 which runs the entire length of that property boundary ( east-west ) and outlets onto the existing turnaround. Said swale shall be no greater than a 3:1 slope on either side of the swale. This area shall be loamed and seeded by the developer and said grass catch shall be ensured by the developer by the posting of a \$500.00 escrow account with the City to be released in 2008 upon the City's satisfaction that the grass is healthy. The developer shall obtain from the owner of lot 1 a surface drainage easement to the extent the swale/depressed area is located on lot 1 and the executed easement shall be recorded simultaneously with the subdivision plat."

Please contact Penny Littell if you have any questions re this wording.

Also you need to change the title of the Plat to : "Subdivision Recording Plat" as it now says "Standard Boundary survey" (otherwise Planning Board will not be able to sign).

The above is in addition to the comments/requested notes and changes that Penny Littell and I sent last week. I do not think there will be any other requested changes.

I have just spoken with Dan Goyette who confirmed that he had not heard from any engineer nor received any of the further information that he requested (he requested you submit a profile of the drainage swale and/or additional spot heights for the area between the proposed house and the boundary with lot 2 to the north (ie where the 87 foot contour forms a tight loop) to show that this grading is achievable. Also the tree located in the base of that ditch needs to be relocated).

Time is running out - that easement will need to be addressed on the Plat if the grading is not satisfactory. Hopefully you can get that signed off by Dan today (he is in the office all day and is aware of the urgency).

**Please note that we need a correct amended Plat by 11am tomorrow (Fri) so it can be attached to the Report and go the Planning Board tomorrow afternoon.**

Jean

<>> "Jim Wolf" <jmw1@maine.rr.com> 10/1/2007 4:31:06 PM >>>  
Doug has corrected me. He left a voice mail for Dan earlier today.

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Monday, October 01, 2007 4:19 PM  
**To:** jmw1@maine.rr.com  
**Cc:** DReynolds@gorillpalmer.com; Barbara Barhydt; Penny Littell  
**Subject:** RE: Barclay

Please copy me on any correspondence with Dan.

thanks

Jean



<<< "Jim Wolf" <jmw1@maine.rr.com> 10/1/2007 4:09:46 PM >>>  
Jean

Doug Reynolds has emailed Dan to go over the changes to the site plan.

With regard to the plat as soon as we receive all additions we will  
make the  
changes.

Jim

-----Original Message-----  
From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Monday, October 01, 2007 3:26 PM  
To: jmw1@maine.rr.com  
Cc: DReynolds@gortillpalmer.com; Barbara Barhydt; Penny Littell  
Subject: RE: Barclay

Jim,

We are still on schedule to go to the Planning Board on Oct 9th to  
deal  
with adding in the accessory unit at 31 Barclay Ave. However, the  
Plat  
still needs a number of additions/corrections and I summarize below  
where things stand on that:

1. Penny Littell provided two notes for you to add to the Plat in her  
e-mail of 9.20.2007

2. I sent you (e-mail of 9.26.2007) Dan Goyettes' comments re the  
grading (that would render an easement re Lot 2 unnecessary) and we  
need  
the information requested in order for Dan Goyette to approve those  
plans (as per condition iv)

3. Please include the entire exact wording of condition vii (the 10 by  
10 area for the tree) on the Plat

4. We are seeking further advice from Penny Littell in respect of  
Conditions iii iv ( and maybe viii) as they require the  
easements/reviised grading to be reviewed and approved prior to  
registration of the Plat. Penny is in court today and we will need to  
get back to you on this one issue. What is the position re the  
easement  
with Lot #3 (Ms Bedard)?

Jean (Fraser)  
Planner  
874 8728

Sounds great. I would ask that someone confirm these are the only changes required and I will than have these notes added.

Thank you for working with me.

Jim

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

From: Penny Littell [mailto:PL@portlandmaine.gov]  
Sent: Thursday, September 20, 2007 7:32 AM

To: Jim Wolf; Barbara Barhydt; Jean Fraser

Subject: Barclay

Jim. I discussed Barclay with staff and expressed your position that you don't know what you want to do with that middle lot at this point in

time. You may simply want to hold it until the two year street moratorium has expired in which case you do not want to escrow/LOC the required \$12,000 for such work. The City is amenable to postponing the guarantee if the following two notes are added to the plan:

1. No transfer of Lot # \_\_\_\_\_ shall be accomplished nor shall any building permit for this Lot be issued unless and until the City has received from the developer a performance guarantee covering the cost of the curb cut servicing the Lot in an amount required by City Code.

2. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the fourth division as defined under the State of Maine Statute 30-A, MRSA on October 9, 2007.

This amended plat would then be presented to the PB at a public hearing on October 9. You would not have to attend that hearing (unless you ant to) as it is designed to approve the accessory unit in that back lot and really has nothing to do with you.

CC: Barhydt, Barbara; DReynolds@gorriillpalmer.com; Littell, Penny

**From:** Jean Fraser  
**To:** Wolf, Jim  
**Date:** 10/1/2007 4:19:12 PM  
**Subject:** RE: Barclay

Please copy me on any correspondence with Dan.  
 thanks  
 Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 10/1/2007 4:09:46 PM >>>

Doug Reynolds has emailed Dan to go over the changes to the site plan.

With regard to the plat as soon as we receive all additions we will make the changes.

Jim

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Monday, October 01, 2007 3:26 PM  
**To:** jmw1@maine.rr.com  
**Cc:** DReynolds@ggorillpalmer.com; Barbara Barhydt; Penny Littell  
**Subject:** RE: Barclay

Jim,

We are still on schedule to go to the Planning Board on Oct 9th to deal with adding in the accessory unit at 31 Barclay Ave. However, the Plat still needs a number of additions/corrections and I summarize below where things stand on that:

1. Penny Littell provided two notes for you to add to the Plat in her e-mail of 9.20.2007

2. I sent you (e-mail of 9.26.2007) Dan Goyettes' comments re the grading (that would render an easement re Lot 2 unnecessary) and we need the information requested in order for Dan Goyette to approve those plans (as per condition iv)

3. Please include the entire exact wording of condition vii (the 10 by 10 area for the tree) on the Plat

4. We are seeking further advice from Penny Littell in respect of Conditions iii iv ( and maybe viii) as they require the easements/revise grading to be reviewed and approved prior to registration of the Plat. Penny is in court today and we will need to get back to you on this one issue. What is the position re the easement with Lot #3 (Ms Bedard)?

Jean (Fraser)  
 Planner  
 874 8728

>>> "James Wolf" <jmw1@maine.rr.com> 9/26/2007 2:51:45 PM >>>  
Jean

Thank you for the update.

Gorill Palmer is contacting Dan directly to finalize the site plan.  
If they have any questions or comments for you I will pass them on.  
By not recording the plat is the construction of the forth unit being  
delay?  
If so please tell me what we can do to help move things along.

Jim

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Wednesday, September 26, 2007 2:30 PM  
To: jmw1@maine.rr.com  
Cc: Barbara Barhydt; Penny Littell  
Subject: RE: Barclay

Hello Jim,

Just to confirm that we are still reviewing the Plat with a view to  
identifying whether there are other changes in addition to those  
provided by Penny Littell in her e-mail of 9.20.2007 (re the fourth  
unit).

However, we have received engineering peer review comments on the Lot  
3  
Grading and Drainage plan (Plan 3) as received on 9.19.2007 and  
further

information is required before these can be approved as per condition  
iv. (in the event one or both of the easements referenced in  
conditions  
ii and iii are not secured, the applicant shall submit, for review and  
approval prior to the registration of the Subdivision Plat, revised  
grading plans that ensure all storm water remains on Lot 3).

Please submit a profile of the drainage swale and/or additional spot  
heights for the area between the proposed house and the boundary with  
lot 2 to the north (ie where the 87 foot contour forms a tight loop)  
to  
show that this grading is achievable. Also the tree located in the  
base  
of that ditch needs to be relocated.

thank you  
Jean (Fraser)  
874 8728

>>> "Jim Wolf" <jmw1@maine.rr.com> 9/20/2007 9:30:45 AM >>>  
Penny

Sounds great. I would ask that someone confirm these are the only changes required and I will than have these notes added.

Thank you for working with me.

Jim

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

From: Penny Littell [mailto:PL@portlandmaine.gov]  
Sent: Thursday, September 20, 2007 7:32 AM  
To: Jim Wolf; Barbara Barhydt; Jean Fraser  
Subject: Barclay

Jim. I discussed Barclay with staff and expressed your position that you don't know what you want to do with that middle lot at this point in time. You may simply want to hold it until the two year street moratorium has expired in which case you do not want to escrow/LOC the required \$12,000 for such work. The City is amenable to postponing the guarantee if the following two notes are added to the plan:

1. No transfer of Lot #\_\_\_ shall be accomplished nor shall any building permit for this Lot be issued unless and until the City has received from the developer a performance guarantee covering the cost of the curb cut servicing the Lot in an amount required by City Code.

2. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the fourth division as defined under the State of Maine Statute 30-A, MRSA on October 9, 2007.

This amended plat would then be presented to the PB at a public hearing on October 9. You would not have to attend that hearing (unless you want to) as it is designed to approve the accessory unit in that back lot and really has nothing to do with you.

CC: Barhydt, Barbara; DReynolds@gortillpalmer.com; Littell, Penny

**From:** Jean Fraser  
**To:** Goyette, Dan  
**Date:** 9/26/2007 2:31:56 PM  
**Subject:** Fwd: RE: Barclay

FYI

Re the other 2 points you raised....(location of house on lot 1 outside of the setback lines and whether we can require gutters) are still unanswered and may come up at next weeks Dev Review depending on how they respond to this...

Jean

>>> Jean Fraser 9/26/2007 2:29:45 PM >>>  
Hello Jim,

Just to confirm that we are still reviewing the Plat with a view to identifying whether there are other changes in addition to those provided by Penny Littell in her e-mail of 9.20.2007 (re the fourth unit).

However, we have received engineering peer review comments on the Lot 3 Grading and Drainage plan (Plan 3) as received on 9.19.2007 and further information is required before these can be approved as per condition iv. (In the event of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3).

Please submit a profile of the drainage swale and/or additional spot heights for the area between the proposed house and the boundary with lot 2 to the north (ie where the 87 foot contour forms a tight loop) to show that this grading is achievable. Also the tree located in the base of that ditch needs to be relocated.

thank you  
Jean (Fraser)  
874 8728

>>> "Jim Wolf" <jimw1@maine.rr.com> 9/20/2007 9:30:45 AM >>>  
Penny

Sounds great. I would ask that someone confirm these are the only changes required and I will than have these notes added.

Thank you for working with me.

Jim

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**Sent:** Thursday, September 20, 2007 7:32 AM  
**To:** Jim Wolf; Barbara Barhydt; Jean Fraser  
**Subject:** Barclay

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This amended plat would then be presented to the PB at a public hearing on October 9. You would not have to attend that hearing (unless you want to) as it is designed to approve the accessory unit in that back lot and really has nothing to do with you.

Barclay the Subdiv  
note for file

Discussion of what needs to go on the  
Plat in addition to the 2 notes re 4th unit  
(attached).

Several items:

Tree area

Encroachment # 1

More info re drainage (spot heights)

Leak condition

"Penning took plans + was going to think about it"

9.26.07 - emailed myself re Plat + drainage info regd  
I

copied DG/PL/BRS.

+ other papers received by Jan in tel. comments.



**From:** Jean Fraser  
**To:** Barhydt, Barbara; Littell, Penny  
**Date:** 9/26/2007 2:38:19 PM  
**Subject:** Barclay

Dan has commented on the grading plans submitted with the subdivision plat (re Condition iv of **attached approval letter**) and you will see I have asked Jim Wolf for the info Dan requested.

Dan also raised 2 other points'

On the grading plan Mis Bedards house is shown nearer to the boundary between lots 1 and 3 than the setback box (dashed lines on **attached plan**) show - does that matter?

Dan also asked whether we could require the house built on Lot 3 to have gutters so that the run off could be directed to the drains rather than all flow overland? Can we? (Dan isn't sure that what they have shown is feasible)

Probably for next week's Dev Rev...

Jean

**From:** "James Wolf" <jmw1@maine.rr.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 9/26/2007 2:52:11 PM  
**Subject:** RE: Barclay

Jean

Thank you for the update.

Gorill Palmer is contacting Dan directly to finalize the site plan. If they have any questions or comments for you I will pass them on.

By not recording the plat is the construction of the forth unit being delay? If so please tell me what we can do to help move things along.

Jim

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Wednesday, September 26, 2007 2:30 PM  
**To:** jmw1@maine.rr.com  
**Cc:** Barbara Barhydt; Penny Littell  
**Subject:** RE: Barclay

Hello Jim,

Just to confirm that we are still reviewing the Plat with a view to identifying whether there are other changes in addition to those provided by Penny Littell in her e-mail of 9.20.2007 (re the fourth unit).

However, we have received engineering peer review comments on the Lot 3 Grading and Drainage plan (Plan 3) as received on 9.19.2007 and further information is required before these can be approved as per condition iv. (In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3).

Please submit a profile of the drainage swale and/or additional spot heights for the area between the proposed house and the boundary with lot 2 to the north (ie where the 87 foot contour forms a tight loop) to show that this grading is achievable. Also the tree located in the base of that ditch needs to be relocated.

thank you  
Jean (Fraser)  
874 8728

<<> "Jim Wolf" <jmw1@maine.rr.com> 9/20/2007 9:30:45 AM >>>  
Penny

Sounds great. I would ask that someone confirm these are the only changes

required and I will than have these notes added.

Thank you for working with me.

Jim

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

From: Penny Littell [mailto:PL@portlandmaine.gov]  
Sent: Thursday, September 20, 2007 7:32 AM  
To: Jim Wolf; Barbara Barhydt; Jean Fraser  
Subject: Barclay

Jim. I discussed Barclay with staff and expressed your position that you don't know what you want to do with that middle lot at this point in time. You may simply want to hold it until the two year street moratorium has expired in which case you do not want to escrow/LOC the required \$12,000 for such work. The City is amenable to postponing the

guarantee if the following two notes are added to the plan:

1. No transfer of Lot # \_\_\_ shall be accomplished nor shall any building permit for this Lot be issued unless and until the City has received from the developer a performance guarantee covering the cost of the curb cut servicing the Lot in an amount required by City Code.

2. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the fourth division as defined under the State of Maine Statute 30-A, MRSA on October 9, 2007.

This amended plat would then be presented to the PB at a public hearing on October 9. You would not have to attend that hearing (unless you ant (o) as it is designed to approve the accessory unit in that back lot and really has nothing to do with you.

CC: "Barbara Barhydt" <BAB@portlandmaine.gov>, "Penny Littell" <PL@portlandmaine.gov>, "Doug Reynolds" <DReynolds@gorriillpalmer.com>

BARCLAY AVENUE THREE LOT SUBDIVISION  
VICINITY 35 BARCLAY AVENUE  
SUBDIVISION REVIEW  
DIVERSIFIED PROPERTIES INC, APPLICANT

Submitted to:

Portland Planning Board  
Portland, Maine

Submitted by:

Jean Fraser, Planner

June 12, 2007

## I. INTRODUCTION

Diversified Properties Inc has requested an after the fact Subdivision Review and approval for a three (3) lot subdivision on Barclay Avenue within the R-3 residential zone. Two of the three lots have been developed as single family homes and are now sold to other parties. The Subdivision review was triggered by the applicant's Site Plan and Building Permit applications to construct a house on the third lot in their ownership.

The original overall parcel lies between Barclay Avenue and Hampton Street and comprises some 30,561 sq ft. All three of the lots are accessed from Barclay Avenue, which was constructed by the applicant (with utilities, turnaround and associated easement to the City of Portland) and accepted by the City in 2005.

There is a difference of view between the applicant and the City as to whether this proposal constitutes a subdivision. The history of the lots and their ownership was discussed during the Workshop.

The key issue raised at the Workshop was that the overall drainage for all three lots should be made consistent and address the concerns raised by the owner of Lot 1 (Ms Bedard).

A total of 190 notices were sent to area residents and interested citizens. A notice also appeared in the *Portland Press Herald*. One abutter, Ms Bedard (owner of Lot 1), has made telephone representations to the Planning office. The applicant does not need to hold a neighborhood meeting as this is required only for sub divisions where the number of lots is 5 or more.

## II. DETERMINATION OF THIS AS A SUBDIVISION

The applicant has submitted the 2001 Standard Boundary Survey (Attachment 12) relating to the lot in question and the surrounding lots. This Survey has been updated and used for the draft Subdivision Recording Plat (Attachment 13), where Lot 1 is Parcel C of the 2001 Boundary Survey; Lot 2 is Parcel A of the 2001 Boundary Survey; and Lot 3 is Parcel B of the 2001 Boundary survey and undeveloped.

The applicant was requested to provide a narrative outlining the chronology of the lot division and this was received 4.5.2007 and is enclosed as the first letter within Attachment 3. The submitted chronology uses the lot numbering as in Attachment 13 rather than the letter references of the 2001 Boundary Survey. Some of the deeds supporting the chronology are included in Attachments 1 and 3.

The City's Associate Corporation Counsel has compiled the following summary of the chronology from the City viewpoint:

- 2001 - Diversified sought PW approval to build the street
- 2002 - City inquired into plans for the area / had not received site plan or subdivision application
- 2002- City determined checkerboarding of lot ownership undertaken to circumvent the intent of obtaining subdivision approval. Checkerboarding of lot ownership involved three corporations (Maggie Lane Development LLC; Bono Inc.; and Diversified Properties Inc) with James Wolf involved to some extent in all of them: James Wolf is an individual residing in the town of Falmouth, Maine. He is one of two shareholders in Maggie Lane Development LLC.

James Wolf is the sole shareholder of Bono Inc. and he is one of two shareholders of Diversified Properties, Inc.  
Lloyd Wolf is the father of James Wolf. Lloyd Wolf is the second of two shareholders in Maggie Lane Development LLC and is the second of two shareholders of Diversified Properties Inc.

It was communicated to Jimmy Wolf that he could only develop two lots along Barclay Street and that if he wished to develop a third, then that would trigger subdivision review. At the time, Mr. Wolf represented to the City he would wait the five year period. However, it was discovered that in 2003 Mr. Wolf sold the one lot (Parcel C) to Dwight Brackett, of C.G.B. Properties LLC, an entity which frequently buys lots for development from Jim Wolf or one of his companies.  
Mr. Wolf was advised that subdivision approval needed to be obtained or the City would file an 80K Land Use action for violating the Subdivision Law. Rather than proceed to court, Mr. Wolf has voluntarily submitting to subdivision review.”

Attachment 6 comprises a 2003 e-mail exchange between the agent acting for the applicant (Gortli-Palmer) and Public Works, as copied to the applicant, which also refers to the need for subdivision approval if the third lot were to be developed.

The Right Title and Interest Documents are included in Attachment 1 and 3 and have been reviewed and found acceptable. Evidence of the City's Acceptance of the Street is included in Attachment 2.

### III. ZONING

The Zoning Administrator has determined (Attachment 5b.) that the three lots meet zoning requirements although the submitted information is not shown clearly on the Draft Subdivision Recording Plat (Attachment 12) or the Permit Plans. The letter of 4.5.2007 and revised Subdivision Recording Plat arrived too late for any further comments to be incorporated in this Memo.

### IV. SUMMARY OF FINDINGS

Zoning: R-3  
Number of Lots: 3  
Lot Sizes: Developed: Lot 1: 6,561 sq ft; Lot 2: 16,512 sq ft Undeveloped: Lot 3: 7,488 sq ft  
Parcel Size: 30,561 sq ft  
Proposal: Three single family home lots; two already constructed and sold to third parties  
Easements: The property is burdened with 2 easements: one small one (10 feet square) to CMP; another 30 feet square to the City of Portland for the turnaround serving Barclay Avenue.

### V. PROPOSED DEVELOPMENT

An "Existing conditions" Plan was submitted (Attachment 15) and shows how the undeveloped lot slopes away from Barclay Avenue. The proposals for this lot are described by the applicant in letters dated 1.25.2007 (Attachment 1), 2.8.2007 (Attachment 2), 4.5.2007 (Attachment 3) and 5.25.2007 (Attachment 9); they are illustrated in the Plan Set (Attachments 12, 13, 14 & 15).

Barclay Avenue was constructed by the applicant to City Standards in 2001 and accepted in 2005; it includes a turnaround plus a curb cut for each of the other 2 lots.

The undeveloped lot has utility stubs (and an associated easement to CMAP) in place, as agreed with City Public Works at the time (Attachment 6). At that time a curb cut for a third driveway was not allowed because this was not part of an approved subdivision (Attachment 3 includes relevant e-mails with Public Works).

The applicant has revised the proposals since the Workshop so that:

- Information is more consistent and complete
- Drainage issues have been addressed
- The Subdivision Plat includes the proposed curb cut and references to the Moratorium Street, though the question of what would be covered by the Performance Guarantee is still an issue

#### VI. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision ordinances. Staff comments are highlighted in this report.

#### VII. SUBDIVISION REVIEW

1. Water and Air Pollution  
There is no water or air pollution anticipated to result from this proposal.

2/3. Water  
The applicant has submitted a 2002 letter (dating from when the street was constructed) (Attachment 3, last document) confirming that the proposed development (all three lots) would not cause an unreasonable burden on the existing water supply.

4. Soil Erosion  
An Overall Grading Plan was submitted and did not raise any issues relating to soil erosion.

5. Traffic

The proposed subdivision includes two existing driveways from Barclay Avenue and these meet city standards in terms of width and distance from other driveways. The Overall Grading Plan (Attachment 14) shows an acceptable driveway, apron and curb cut to Barclay Avenue, though only the curb cut is shown on the Subdivision Plat (Attachment 13).

Creation of the new driveway for the undeveloped lot does not create unsafe traffic conditions but the curb cut would attract a reopening fee as Barclay Avenue is a moratorium street until October 2009 (see Public Works comments in Attachment 5b&c and 10 e).

The applicant has requested a waiver from the 5 year street moratorium opening fee in Attachment 3, page 4), citing the previous denial and high cost. The City considers that

this situation was created by the applicant's failure to seek approval to this Subdivision at the time the street was constructed and does not support a waiver - see comments from the Engineering Reviewer in Attachment 5d.

The applicant has added a note to the subdivision Plat which states: "Any disturbance of Barclay Avenue prior to October 22, 2009 that requires a street opening permit shall be subject to a five year street moratorium permit" (Attachment 13). Public works have confirmed that a curb cut would require a street opening permit and fee if it takes place before October 22, 2009 as any curb cut would also require an apron and additional work in the highway (Attachment 5b&c and 10c).

The cost of the curb cut and apron and the associated street opening fee (\$13,900.00) (Attachment 10d) would need to be included in the Performance Guarantee and in order to have this clear for the record a suggested condition is included and a note to this effect should be added to the Subdivision Plat.

A sidewalk has been constructed on the other side of the Barclay Avenue and the applicant has stated in the letter of 4.5.2007 (Attachment 3, page 3 Item 7) that a waiver was given for a sidewalk along the frontage when the street was formally accepted in 2005. The applicant has requested a waiver from the subdivision requirement to provide a sidewalk along the frontage of the three lots on the west side of Barclay Avenue, making reference to three criteria (quote from Attachment 9):

1. There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site. Barclay Avenue is a dead-end street, and it is not anticipated that significant pedestrian use will be required.
2. An alternative-walking route exists, by way of a sidewalk on the opposite side of Barclay Avenue.
3. Strict adherence to the sidewalk requirement would result in the loss of significant amount of driveway and lawn area on the corner of Barclay and Harris Avenue, as well as the front lawn of Ms. Bedard.

Public Works support the waiver (Attachment 10d); staff consider all three criteria apply. The existing Fire Hydrant was requested to be shown on the plan and this has been added to the Existing Conditions Plan (Attachment 15).

#### Sanitary Sewer/Soils

The applicant has indicated that "existing utilities" for the third lot were constructed as part of the construction of Barclay Street as shown on the Overall Grading plan (Attachment 14). Public Works agreed to the inclusion of utility stubs within the construction of the street (Attachments 3 and 6).

The sanitary sewer capacity letter was submitted (Attachment 8).

#### Stormwater

The Overall Grading Plan (Attachment 14) has been revised substantially to reflect the existing conditions. The previous comments from the Engineering Reviewer (4.5.08) were that "It appears from the grading plan that stormwater from the proposed lot will



discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required." (Attachment 5d).

The letter from Gorrill-Palmer of 5.25.2007 (Attachment 9, last para) addresses this point and implies it is a City field inlet whereas the "as built" road drawings seen by staff state it is a private field inlet. In addition, the "Easements of Record" shown on the Boundary Survey and Subdivision Plat are not consistent and do not refer to any drainage easement. A suggested condition of approval seeks confirmation and an additional easement if appropriate.

The Engineering Reviewer was requested to review the revised Overall Grading Plans and confirm that the issues raised by the abutter Ms Bedard (Lot 1 at 39 Barclay Avenue) were addressed. He commented (Attachment 7b):

"The grading scheme presented on Sheet 1, particularly the ditch between Lots 1 and 3, would appear to direct stormwater runoff to the hammerhead on Barclay Avenue. After conducting a site visit on May 29, 2007, it became apparent that although the ditch does exist, approximately 20 feet from the edge of pavement a high spot exists that prohibits runoff from the rear of Lot 1 and potentially Lot 3 from entering the ditch line and flowing out to the street. The ditch line should be regraded during the development of Lot 3 to insure that the stormwater will enter the ditch and flow out to the street. A note should be added to the plans to indicate that the ditch line should be graded in the field to flow to the street."

In response to that comment the applicant agreed to add a note to the plan (Attachment 10b) and both the Subdivision Plat (Attachment 13) and the Overall Grading Plan (Attachment 14) include this note. The applicant arranged to meet with Ms Bedard on site on June 8<sup>th</sup>, 2007 to clarify the proposals. If any regrading is required on Ms Bedard's property (which appears likely) then a drainage easement is required. A suggested condition is included in this report.

8. Solid Waste Disposal

The proposals do not create an unreasonable burden on the ability of the City to dispose of solid waste.

9. Scenic Beauty

The lot does not contain any significant trees. The required two street trees per lot have already been planted for lots 1 and 3. The proposals include two street trees for the undeveloped lot. These are shown on the Subdivision Plat (Attachment 13) along with a note (#10) confirming their provision.

10. Comprehensive Plan

The proposals are consistent with the City's Comprehensive Plan.

11. Financial Capability

The applicant has submitted a letter from Bank North dated 1.22.2007 and is included in Attachment 1.

12. Groundwater

The proposals do not adversely affect the quality or quantity of groundwater.

13./14 Flood Hazard/Shoreland/Wetlands

The site is not in a flood-prone area nor near shoreland and the applicant has confirmed in the 2.8.2007 letter (Attachment 2) that there are no wetlands on the site.

VIII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report # 25-07 relevant to standards for subdivision, evidence presented at the public hearing, and other findings as follows:

Sidewalk Waiver

1. The planning board finds that two of the following criteria do not apply, (namely \_\_\_\_\_ and \_\_\_\_\_) and therefore waives/does not waive the requirement for a sidewalk along the west side of Barclay Avenue:

(A) There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.

B) There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.

(C) A safe alternative-walking route is reasonably available, for example, by way of a sidewalk on the other side of the street.

D) The reconstruction of the street is specifically identified in the first or second year of the current capital improvement program.

E) The street has been constructed or reconstructed without sidewalks within the last 24 months.

F) Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

Subdivision

2. That the plan is in conformance with the subdivision standards of the land use code.

Potential Conditions of Approval:

i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to the drainage easements, Performance Guarantee and relevant conditions; and

ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and

*see Attachment #1*

*5-0  
KB + 50  
about*

- iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for the ditch area between Lots 1 and 3; and
- iv. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation, to include the street opening fee of \$13,900.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required).

Attachments

Planning Board Workshop of April 10, 2007 (excluding plans)

- 1. Application with cover letter, right, title and interest documents, permit documents, easement documents and letter of financial capability from Banknorth
- 2. Applicants second letter of February 8, 2007
- 3. Applicants third letter dated April 4, 2007 and document attachments
  - a. Letter outlining chronology of lot divisions to date; statement that a waiver was given re frontage sidewalk; zoning information; request for Waiver from 5 year street moratorium opening fee re curbing
  - Lot 1 Deeds
  - 2004 E-mail exchanges with PW
  - 2003 correspondence with Portland Water District
  - Capacity letter Portland Water District (2002)
- 4. Staff letter of March 16, 2007
- 5. Staff comments:
  - a. Zoning Administrator comments of March 15, 2007
  - b. PW comments (Mike Farmer) of March 6, 2007
  - c. PW comments (Mike Farmer) of April 4, 2007
  - d. Engineering Review comments (Dan Goyette of Woodard & Curran) of April 5, 2007
- 6. E-mail exchange of 2003 re subdivision status/service stubs for the third lot

Since the Planning Board Workshop

- 7. Staff letter dated April 24, 2007
- 8. Wastewater Capacity letter dated May 23, 2007
- 9. Gorrill-Palmer letter dated May 25, 2007
- 10. Staff Comments
  - a. DRC comments May 29, 2007
  - b. Staff e-mail dated May 29, 2007
  - c. Public Works dated June 4, 2007
  - d. Public Works dated June 8, 2007 re sidewalk waiver and street opening fee
- 11. Diversified Properties Memo dated June 5, 2007

Plan Set

- 12. 2001 Standard Boundary Survey
- 13. Subdivision Recording Plat) (Based on 2007 Standard Boundary Survey)
- 14. Overall Grading Plan (Plan 1 revised 5.30.07)
- 15. Existing Conditions Plan (Plan 2 revised 5. 25.07)

Attachment 1

Diversified Properties, Inc.

P.O. Box 10127, Portland, ME 04104  
Tel 207-773-4988 • Fax 207-773-6875

January 25, 2007

Barbara Barhydt  
Planning Department  
Portland City Hall  
389 Congress Street  
Portland, ME 04101

RE: Barlay Avenue Land Division

Dear Barbara:

Enclosed please find an application and supporting information for an after the fact land division on Barlay Avenue. Diversified Properties, Inc. has retained Gorrill Palmer Consulting Engineers and Titcomb Associates to prepare plans for review and approval by the City Planning Department and Planning Board. The land division took place in 2003. The applicant and corporation counsel differ in opinion if a subdivision has occurred. In order to bring closure to the issue Diversified and corporation counsel agreed to bring this issue to the Board. (Parcel B shown on the attached plan). Prior to its division Parcel A & B were under the common ownership of Maggie Lane Development. At the time Bono Inc. Profit Sharing Trust owned Parcel C.

Total Land Area/Site Description

The site is located on Barlay Avenue and consists of a 7,488 square foot vacant piece of land. See Parcel B on Plan.

Zoning

The project site is zoned R-3 (residential Zone).

Proposed Use/Status of Pending Application

On August 14, 2006 an application was made to construct one 24' x 32' cape style single family home on the lot. This application is waiting for approval from the Board for any lot division issues.

Access

Access to the lot is via Barclay Avenue. Barclay Avenue was formerly accepted by the City of Portland in 2005.

Utilities

In 2003, water, sewer and storm drain services were installed to the lot as part of Barclay Avenue's road construction. Power, cable and phone are located on the corner of the site.

Existing/Proposed Easements

The site is encumbered by a CMP easement and a turnaround easement. No other easements are proposed.

Solid Waste Disposal

The City of Portland provides curb side pick up on Barclay Avenue.

Drainage/Topography Issues

No problematic drainage issues exist. The lot is relatively flat and drainage is shown on the proposed building permit application.

Applicant

Information has been provided, which indicates that the applicant is a corporation in good standing with the State of Maine.

Wetlands

There are no wetlands on the site. Survey information has been completed by Titcomb Associates of Falmouth, Maine.

Barbara Barhydt  
January 25, 2007  
Page 3

Performance Guarantee/Time Period For Completion

Being a division of land only is being proposed with no infracture required; we question the need for a performance guarantee. If a performance guarantee is required one will be provided. We anticipate the project being completed upon the recording of the signed subdivision plan. See letter from TD Banknorth.

I look forward to working with staff to complete this land division.

Very Truly Yours,



James M. Wolf

Diversified Properties

[jmwl@maine.tr.com](mailto:jmwl@maine.tr.com)

Enclosures

City of Portland Site Plan Application



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

Address of Proposed Development: <u>35 Barclay Avenue</u> Zone: <u>R-3</u>	
Existing Building Size: <u>sq. ft.</u>	Proposed Building Size: <u>sq. ft.</u>
Existing Acreage of Site: <u>7,488 sq. ft.</u>	Proposed Acreage of Site: <u>7,488 sq. ft.</u>
Tax Assessor's Chart, Block & Lot: <u>Chart# 339</u> <u>Block# D</u> <u>Lot# 9</u>	Property owner's mailing address: <u>Diversified Properties, Inc.</u> <u>P.O. Box 10127</u> <u>Portland Maine 04104</u>
Consultant/Agent, mailing address, phone # & contact person: <u>James Wolf</u> <u>Same information as applicant</u>	Applicant's name, mailing address, telephone #/Fax#/Pager#: <u>Diversified Properties, Inc.</u> <u>773-4988</u> <u>773-6875 Fax</u>
Project name: <u>Barclay Avenue</u> <u>Lot Division</u>	Telephone #: <u>773-4988</u>

Fee For Service Deposit (all applications) V (\$200.00)

Proposed Development (check all that apply) Change of Use Residential Office Retail  
New Building Building Addition Warehouse/Distribution Parking lot  
Manufacturing Subdivision (\$500.00) + amount of lots 1 (\$25.00 per lot) \$ \_\_\_\_\_ + major site plan fee if applicable  
 Site Location of Development (\$3,000.00)  
 (except for residential projects which shall be \$200.00 per lot \_\_\_\_\_)  
Traffic Movement (\$1,000.00) Storm water Quality (\$250.00)  
Section 14-403 Review (\$400.00 + \$25.00 per lot) \_\_\_\_\_  
Other \_\_\_\_\_

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

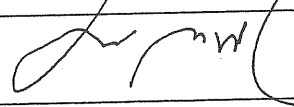
Under 50,000 sq. ft. (\$500.00)  
50,000 - 100,000 sq. ft. (\$1,000.00)  
Parking Lots over 100 spaces (\$1,000.00)  
100,000 - 200,000 sq. ft. (\$2,000.00)  
200,000 - 300,000 sq. ft. (\$3,000.00)  
Over 300,000 sq. ft. (\$5,000.00)  
After-the-fact Review (\$1,000.00 + applicable application fee)

Minor Site Plan Review

Less than 10,000 sq. ft. (\$400.00)  
After-the-fact Review (\$1,000.00 + applicable application fee)  
Plan Amendments  
Planning Staff Review (\$250.00)  
Planning Board Review (\$500.00)

~ Please see next page ~

This application is for site review ONLY; a building Permit application and associated fees will be required prior to construction.

Signature of applicant: 	Date: 1-24-07
---	---------------

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

Section 14-522 of the Zoning Ordinance outlines the process which is available on our web site: [portlandmaine.gov](http://portlandmaine.gov)

Amendment to Plans: Amendment applications should include 9 separate packets of the above (a, b, & c)  
ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans checklist
- d. 1 set of 11 x 17 plans

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

Who billing will be sent to: (Company, Contact Person, Address, Phone #)	Pat Walker c/o Diversified Properties, Inc. P.O. Box 10127 Portland, ME. 04104 773-4988 ext. 5
--	--

1d



WARRANTY DEED

MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability company with a principal place of business in Portland, in the County of Cumberland and State of Maine  
For Consideration Paid, GRANT with WARRANTY COVENANTS TO:  
DIVERSIFIED PROPERTIES, INC., a Maine corporation with a principal place of business in Portland, County of Cumberland and State of Maine

A certain lot or parcel of land situated on the westerly side of Barclay Avenue in the City of Portland, County of Cumberland and State of Maine, and being Parcel B described on a plan entitled "Standard Boundary Survey made for Diversified Properties" dated May 15, 2001 prepared by Titcomb Associates and recorded at the Cumberland County Registry of Deeds in Plan Book 203, Page 325, containing 7,488 square feet/.17 acres.

Being a portion of the premises conveyed to the Grantor herein by deed of Adelaide M. Curran dated November 20, 2001 and recorded at the Cumberland County Registry of Deeds in Book 17008, Page 32.

Together with and subject to the rights in common with others in and to Barclay Avenue. EXCEPTING AND RESERVING to the Grantor, its successors and assigns, all right, title and interest in and to the fee interest in "Barclay Avenue", so-called, as shown on the plan. The purpose of this reservation is to preserve the Grantor's right in and to such ways pursuant to 23 M.R.S.A. §3031 (4) and 33 M.R.S.A. §460 et seq. together with the right to convey said fee interest to the City of Portland.

The conveyance is subject to a thirty (30) foot by fifteen (15) foot turnaround easement situated on the northerly corner of the lot herein conveyed described in an easement deed from the Grantor herein to the City of Portland to be recorded at said Registry of Deeds. This conveyance is mad SUBJECT to the current real estate taxes to the City of Portland subject to proration at the closing, which Grantee herein by its acceptance of this deed hereby assumes and agrees to pay.

MAINE REAL ESTATE TAX PAID

1e

bk 3

30

**James Wolf**

**From:** "Jim Pandiscio" <pandiscio@pwd.org>  
**To:** "James Wolf" <jmw1@maine.rr.com>  
**Sent:** Tuesday, September 23, 2003 1:07 PM  
**Attach:** P-MainEst-BarclayAve-DiversifiedProperties-JimWolf.xls  
**Subject:** RE: Barclay Avenue

Copy of final inspection report attached. Final inspection done by Jeff McGill and Jim Pandiscio of the Portland Water District.  
 New water main and services have been activated.  
 Jim Pandiscio/MEANS Coordinator

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

**From:** James Wolf [mailto:jmw1@maine.rr.com]  
**Sent:** Tuesday, September 23, 2003 7:11 AM  
**To:** Jim Pandiscio

**Subject:** Barclay Avenue

Good Morning

I need to provide the City documentation that the water main has been installed properly and passed its tests. Would you please provide this information. Thank you.

Jim

James Wolf  
 Diversified Properties, Inc.  
 P. O. Box 10127  
 Portland, Maine 04104  
 1-207-773-4988  
 Fax 1-207-773-6875

Date: 4/2/02

Project: Barclay Ave FC: 6719

Division: Portland

Contractor: A H Grover

Water Main & Service Assets:

Type:	Asset #	Location:	Size:	Description:
1 Reducer	RD2701665	Barclay Ave	8X4	150' south of Harris Ave
2 BO	BO2701623	Barclay Ave	2	275' south of Harris Ave
3 Main	RD27016650-BO2701623	Barclay Ave	4"	reducer to new 2" blow off
4				
5				
6 Service	SV27104497	Lot 1 Barclay Ave	1"	
7 Service	SV27104498	Lot 2 Barclay Ave	1"	
8 Service	SV27104499	Lot 3 Barclay Ave	1"	
9 Service	SV27104500	Lot 4 Barclay Ave	1"	
10 Service	SV27104501	Lot 5 Barclay Ave	1"	
11				
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39

Portland Water District  
Preliminary Estimate Worksheet

3/20/02

Div 27

Project: Barclay Ave.

Agree#

Portland, Me. 04103

FC#

For: Diversified Properties

PO Box 10127

Portland, Me. 04104

Description: Install 120' more or less of 4" DI water main in Barclay Ave. starting at current end of 8" water main and going south east.

#	unit	amount
120	Trench, install & backfill per foot @	10.56
120	Pipe per foot @	7.31
1	8"X4" Reducer(s) @	69.72
1	2" Blow off(s) complete @ (Ford or Mueller)	247.29
1	4" Solid Sleeve(s)	111.26
2	Labor & equipment per day @	1400.00
40	Gravel per cu. yd(s) @	7.00
0.5	Misc. bracing & hardware @	150.00
3	4" Field Loc Gaskets @	36.36
1	Air valve(s) @	140.00
sub-total \$ 5,976.75		
Contingency: 10%		
1	Main application fee @	100.00
sub-total \$ 6,674.43		
0	Public fire protection per foot @	2.50
5	Service application(s) fee @	60.00
5	1" Service(s) installed M/SL @	500.00
5	5/8" Meter(s) installed @	139.00
By PWD-Total \$ 10,169.43		
cost per foot = 55.62025		
+ LEDGE		

Project by contractor:

#	unit	amount
0	Public fire protection per foot @	2.50
1	1 Planning & engineering @	300.00
1	1 Main connection(s) @	424.00
4	4 Inspection per day @	300.00
5	5 Service application fee(s) @	125.00
5	5/8" Meter installation(s) @	139.00
1	1 Main application fee @	100.00
Total \$ 2,844.00		

Portland Water Section 3r

May 16, 2002

Jim Wolf

Diversified Properties

PO Box 10127

Portland, Me. 04104

Re: Barclay Ave.-Portland

Jim:

This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed sub-division at Barclay Ave. in Portland. Checking District records, I find there is an 8" water main installed part way down Barclay Ave. with an existing hydrant.

The current data from the nearest hydrant indicates there should be adequate capacity of water to serve the needs of your proposed project.

Hydrant Location: Barclay Ave. @Harris Ave.  
Hydrant # 1802

Static pressure = 67 PSI

Flow = 1087 GPM

Last Tested = 8/06/92

Sincerely,  
Portland Water District

Jim Pandiscio  
Means Coordinator

Attachment 4

March 16, 2007

Jim Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

**RE: Site Plan Review:**  
**35 Barclay Avenue**  
**Three (3) Lots Subdivision**  
**Application # 2007-0018; CBL 339 D009001**

Dear Mr. Wolf,

I refer to the Site Plan Review Application for a proposed three-lot subdivision that is located in the vicinity of 35 Barclay Avenue, as submitted on January 25, 2007.

Below are the preliminary review comments from various City departments and additional comments are pending. As I receive those comments, I will forward them to you. Following are additional items that need to be submitted or addressed for review:

1. The applicant shall provide a narrative with a chronology of the lot divisions to date.
2. The subdivision ordinance contains review standards and required improvements in your narrative. The Planning Office recommends that you address how your application meets the subdivision regulations and standards.
3. Identify the current zoning information for the subdivision and identify the lot sizes for the original parcel and the proposed lots.

4a

4. The Planning Department requests that the plans show all three parcels on each plan sheet, as the proposal is being reviewed as a three-lot subdivision, and ensure that there is consistency of information between the plans.

5. The following plan set needs to be submitted:

- a. Existing conditions of the site (show the one lot that will be divided)
- b. Proposed site plan with landscaping (show the two tree requirement on each lot)
- c. Utility plan
- d. Grading and Stormwater Drainage plans
- e. Details/Civil details

6. Remove the building envelope on the proposed.

7. The subdivision ordinance includes required improvements (Section 14-499), such as two street trees per lot and curbs and sidewalks. The plan should address those requirements and if you are seeking a waiver from the sidewalk and curb standards (criteria for curb and sidewalk criteria attached) this request must be in writing.

8. Please submit water and sewer capacity letters.

9. Are these lots in a flood-prone area?

Zoning Department comments:

The given subdivision plan does not reflect basic zoning information. This 3-lot subdivision is located within an R-3 zone. The only lot size given is the newly created front lot of 7,488 sq. feet. There is nothing to reflect the size of the remaining developed lot. All three-lot sizes should be given. The new lot meets the R-3 Zone requirements as depicted. The older lots meet the R-3 Zone requirements as depicted. Also the plan reviewed did not have the plans numbered to clearly show the lots involved.

As a note, Hampton Street is not being shown on the plans. Applicant should show all abutting property owners and streets on a subdivision plan.

Department of Public Works comments:

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

Fire Department comments:

Please show the nearest fire hydrant.

Please submit the information at your earliest convenience. If you have any questions please do not hesitate to call me on (207) 756-8083 or at [shukriaw@portlandmaine.gov](mailto:shukriaw@portlandmaine.gov).

Sincerely,

Shukria Wiar  
Planner

cc Alexander Jaegerman, Planning Division Director  
Barbara Barthyd, Development Review Manager  
Penny Littell, Corporate Counsel  
Michael Farmer, Public Works  
Captain Greg Cass, Fire Prevention  
Marge Schmuuckal, Zoning Administrator



Attachment 5a

**MEMORANDUM**

**To:** FILE

**From:** Marge Schmuckal

Dept: Zoning

**Subject:** Application ID: 2007-0018

**Date:** 3/15/2007

The given site plan does not reflect basic zoning information. This 3-lot subdivision is located within an R-3 zone. The only lot size given is the newly created front lot of 7,488 sq. feet. There is nothing to reflect the size of the remaining developed lot. All three lot sizes should be given. The new lot meets the R-3 Zone requirements as depicted. The older lots meet the R-3 Zone requirements as depicted. Also the plan I reviewed did not have the plans numbered to clearly show the lots involved.

I am also noting that Hampton Street is not being shown on the plans. I was thought it was required to show all abutting streets on a subdivision plan.

Marge Schmuckal

Attachment 5b

**From:** Michael Farmer  
**To:** Wiar, Shukria  
**Date:** 3/6/2007 5:03:55 PM  
**Subject:** 35 Barclay Street

I would like to submit an additional comment regarding this project on behalf of the Public Works Department.

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

Please forward this comment to the developer.

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

Attachment 5c

From: Michael Farmer  
To: Fraser, Jean  
Date: 4/4/2007 4:46:36 PM  
Subject: Re: Fwd: Barclay Avenue

Jean:

I will defer to Dan Goyette of Woodard and Curran with respect to reviewing the drainage system for this plan.

There seems to be some question regarding whether or not a street opening permit would be required for the proposed new driveway. If there is curbing along the street where the proposed new driveway will be built, curbing will have to be removed, two new granite curb tipdown pieces will have to be installed (one on each side of the driveway), and the driveway apron would have to be built to conform to City standards. Installing the new curb tipdown pieces would require excavating in the street. Thus, the requirements of the street opening ordinance would apply. If the street is considered a moratorium street, then the specific provisions of the street opening ordinance that govern moratorium streets would apply. Leaving existing curbing in place and driving over the curb to enter and exit a new driveway would not be considered a viable alternative to building a driveway apron in accordance with City design standards.

Michael Farmer, Project Engineer  
Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

## MEMORANDUM

TO: Jean Fraser  
FROM: Dan Goyette  
DATE: April 5, 2007  
RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Overall Grading Plan for Barclay Avenue, dated February 7, 2007, Gorrill-Palmer Consulting Engineers, Inc.
- Response to Comments, received April 4, 2007 dated March 19, 2007 to Shukria Wiar prepared by James Wolf.

### Comments

- Public Works will not support the waiver request from the Moratorium Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allow the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.
- A grading plan has been provided. It appears from the grading plan that stormwater from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for stormwater should be provided to insure that no additional drainage easements will be required.

DRG  
203943.

Attachment 6

Alton Palmer

From: Anthony Lombardo [AWL@ci.portland.me.us]  
Sent: Thursday, August 21, 2003 9:12 AM  
To: Alton Palmer  
Cc: Ejl@ci.portland.me.us; Doug Reynolds; jmw1@maine.rr.com  
Subject: Re: Barclay Avenue Service Stubs

Al,  
Public works does not object to this modification. In fact, it avoids potential street opening issues and costs that might have resulted if this third lot is created within the next five years.

>>> "Alton Palmer" <Apalmer@gorri11palmer.com> 08/21 9:12 AM >>>  
Hi Tony,

This email is intended to confirm our conversation this morning relative to the service stubs for Barclay Avenue. As we discussed, the current plan includes two lots on the right hand side of the road. The possibility exists that if a property owner elected to proceed with a formal subdivision application, then a third lot may be constructed at some time in the future. Our office would propose to install service stubs within the roadway for future use by this lot, which would prevent having to open the road at a later date. The services would be installed at approximately Station 12+00, and be terminated 5' inside of the right-of-way. The record drawings will reflect the addition of these services as a field change. We anticipate the services will be installed on Friday, August 22nd.

Please contact this office with any questions.

Thanks,

Al Palmer

Gorri11-Palmer Consulting Engineers, Inc.

15 Shaker Road

PO Box 1237

Gray, ME 04039

(207) 657-6910

(207) 657-6912 fax

The information transmitted is intended only for the person or entity to which it is

Attachment 7

Planning file copy

# PORTLAND MAINE



Strengthening a Remarkable City, Building a Community for Life [www.portlandmaine.gov](http://www.portlandmaine.gov)

Planning and Development Department  
Lee D. Urban, Director

Planning Division  
Alexander Jaegerman, Director

April 24, 2007

Jim Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

RE: Site Plan Review:  
35 Barclay Avenue  
Three (3) Lots Subdivision  
Application # 2007-0018; CBL 339 D009001

Dear Mr. Wolf,

I am writing to follow up on the Planning Board Workshop held on April 10th, 2007 and clarify the current status of the Subdivision Review and issues that need to be addressed prior to the project being considered at a Planning Board Hearing.

1. Please submit an "Existing Conditions" Plan as previously requested so that the Planning Board can distinguish between existing and proposed aspects of the project. Please include existing trees, grading, wetlands, pavements, structures, hydrants, utilities, catch basins and easements for all three lots.

2. Please submit a revised Subdivision Recording Plat that shows the outline of the Subdivision as well as the three lots within it. The Plat should address the items listed in the City Ordinance Section 14-496 (copy attached) and:

- a. Show what you intend to construct for access for this lot and clarify (annotate) the extent of works in the street in relation to the Street Moratorium.
- b. Show Hampton Street on all plans and its status
- c. Show the locations of proposed street trees in locations within 8-10 feet of the frontage property line and clarified in the legend. Show separately any existing trees to be preserved.
- d. Show a sidewalk on the frontage of all three lots on Barclay Avenue, annotated to indicate that a waiver has been requested for the sidewalk (see 4 below).
- e. Please ensure that all plans have legends and are consistent in their references to lots, boundaries, easements etc

7a

3. Please submit a revised Overall Grading Plan which addresses the Ordinance 14-496 (a) 15 and accurately shows the existing (as built) grading contours on Lots 1 and 2, the existing contours for Lot 3, and the proposed contours for all three lots. The Planning Board requested that this should show your proposals to address drainage issues on all three lots, and address the concerns raised by Ms. Bedard regarding #39 Barclay Avenue (Lot 1/Parcel C). Also please show or describe how the drainage (as proposed) from these three lots will not impact the abutting properties.
4. Any previous waiver regarding the sidewalks was considered within a 14-403 application and not within a Subdivision Review. Please submit a formal written waiver request from the Subdivision requirement that is set out in the Ordinance (copy attached for information).
5. The City will not approve a driveway off of the turnaround. The one you mentioned at Ruby Lane was temporary.

6. Please address the comments included in the Workshop Memorandum from the Engineering Reviewer (Dan Goyette, dated April 5, 2007; copy attached) and his further comments on the revised grading plans, which are:

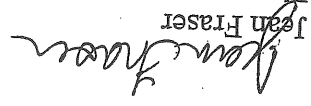
"They still have not addressed the stormwater easements. I would be curious to know if the Bedard issues have been addressed. The grading plan indicates that a ditch line exists on the Bedard property and a new ditch line will be created on the new lot that discharge to the public works turnaround. Would it make sense to have them regrade the existing lot and the new one to have one single ditch line and an easement giving rights to the ditch line to both properties."

7. Please submit the sewer capacity letter.

Please submit the information and revised proposals at your earliest convenience and note that a Hearing will not be scheduled until these are received and staff have had an opportunity to complete a final review.

If you have any questions please do not hesitate to call me on (207) 874 8728 or at [if@portlandmaine.gov](mailto:if@portlandmaine.gov).

Sincerely,

  
Jean Fraser  
Planner

Attachments: Ordinance 14-496 Subdivision Plat Requirements; 14-497 General Subdivision Requirements; 14-498 re sidewalks and curbs; 14-506(b) Modifications (criteria for waiver from 14-498); comments from Reviewer Dan Goyette dated April 5, 2007

- cc. Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Manager  
Penny Littel, Corporate Counsel  
Michael Farmer, Public Works  
Captain Greg Cass, Fire Prevention  
Marge Schmuckal, Zoning Administrator

**MEMORANDUM**

**TO:** Jean Fraser  
**FROM:** Dan Goyette  
**DATE:** April 5, 2007  
**RE:** Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

**Documents Reviewed**

- Overall Grading Plan for Barclay Avenue, dated February 7, 2007, Gorrill-Palmer Consulting Engineers, Inc.
- Response to Comments, received April 4, 2007 dated March 19, 2007 to Shukria Wiar prepared by James Wolf.

**Comments**

- Public Works will not support the waiver request from the Moratorium Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allow the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.
- A grading plan has been provided. It appears from the grading plan that stormwater from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for stormwater should be provided to insure that no additional drainage easements will be required.

DRG  
203943.



23 May 2007

Mr. James M. Wolf,  
Diversified Properties,  
P. O. Box 10127,  
Portland, Maine 04104

**RE: The Capacity to Handle Wastewater Flows, from a Proposed  
Single Family Dwelling, at 35 Barclay Avenue.**

Dear Mr. Wolf:

The existing eight-inch diameter sewer pipe located in Barclay Avenue has adequate capacity to **transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to **treat** the total anticipated wastewater flows of **270 GPD**, from the proposed house.

**Anticipated Wastewater Flows from the Proposed Single Family Dwelling:**  
1 Proposed Three-Bedroom House @ 270 GPD/Three-Bedroom House = 270 GPD  
Total Proposed Increase in Wastewater Flows for this Project = 270 GPD

The City combined sewer overflow (C.S.O.) abatement consent agreement (with the U.S.E.P.A., and with the Maine D.E.P.) requires C.S.O. abatement, as well as storm water mitigation, in order to offset any increase in sanitary flows, from all projects. If the City can be of further assistance, please call 874-8832.

Sincerely,  
**CITY OF PORTLAND**

Frank J Branceley, B.A., M.A.  
Senior Engineering Technician

FJB

cc: Alexander Q. Jaegerman, Director, Planning Division, Department of Planning, and Urban Development, City of Portland  
Shuktra Wiar, Planner, Department of Planning, and Urban Development, City of Portland  
Jean Fraser, Planner, Department of Planning, and Urban Development, City of Portland  
Michael Farmer, P.E., Project Engineer, City of Portland  
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland  
Stephen K. Harris, Assistant Engineer, City of Portland  
Jane Ward, Administrative Assistant, City of Portland  
Desk file

PO Box 1237  
15 Shaker Rd.  
Gray, ME 04039

Gorrill-Palmer Consulting Engineers, Inc.



Traffic and Civil Engineering Services

207-657-6910  
FAX: 207-657-6912  
E-Mail: mail@gorrillpalmer.com

May 25, 2007

Ms. Jean Fraser  
Portland Planning Department  
Portland City Hall  
389 Congress Street  
Portland, ME 04101-2503

Re: Barclay Avenue  
Three Lot Subdivision,  
Vicinity 35 Barclay Avenue

Dear Jean,

This letter provides a response to miscellaneous comment reviews from Staff. For ease of review, each comment has been repeated below followed by our response.

Comments in memorandum form Jean Fraser dated 04-24-07

Comment 1 - Please submit an "Existing Conditions" Plan as previously requested so that the Planning Board can distinguish between existing and proposed aspects of the project. Please include existing trees, grading, wetlands, pavements, structures, hydrants, utilities, catch basins and easements for all three lots.

Response 1 - Subsequent to the Planning Board meeting, the applicant had the project surveyor obtain additional topographic information to provide existing conditions. A combination of the updated Subdivision plan and the attached Existing Conditions plan provide the information requested above.

Comments 2 - Please submit a revised Subdivision Recording Plat that shows the outline of the Subdivision as well as the three lots within it. The Plat should address the items listed in the City Ordinance Section 14-496 (copy attached) and:

Response 2 - An updated Subdivision Plan is attached with this package.

Comment 2a - Show what you intend to construct for access for this lot and clarify (annotate) the extent of works in the street in relation to the Street Moratorium.

Response 2a - It is the applicant's opinion that showing the exact location of the proposed access point to Lot 3, on the Subdivision plan, would:

- 1. Restrict potential buyers options for constructing a house on the lot.

2. Result in a Subdivision Plat Amendment if the location were altered in the field during lot construction.

A note has been added to the Subdivision Plan, which indicates that the contractor will be responsible for all permits associated with cutting into the roadway for access to the lot, relative to the Street Moratorium and an as-built drawing of the curb cut location is required prior to issuance of a certificate of occupancy.

*Comment 2b - Show Hampton Street on all plans and its status.*

Response 2b - Hampton Street is shown on the plans. It has been labeled as "Not constructed, Not accepted."

*Comment 2c - Show the locations of proposed street trees in locations within 8-10 feet of the frontage property line and clarified in the legend. Show separately any existing trees to be preserved.*

Response 2c - The proposed street trees are shown on the Subdivision Plan. Based on the current conditions and location of the existing trees on Lot 3, it is not anticipated that any trees will be maintained within the frontage of the property. However, it is anticipated that a number of trees in the rear setback of Lot 3, as well as along the common property line with Lot 1 will remain.

*Comment 2d - Show a sidewalk on the frontage of all three lots on Barclay Avenue, annotated to indicate that a waiver has been requested for the sidewalk.*

Response 2d - As the applicant has previously requested a waiver of the sidewalk requirements, sidewalks are not being shown on the plan.

*Comment 2e - Please ensure that all plans have legends and are consistent in their references to lots, boundaries, easements etc.*

Response 2e - All plans have been revised to include legends and lot labels.

*Comment 3 - Please submit a revised Overall Grading Plan which addresses the Ordinance 14-496 (a) 15 and accurately shows the existing (as built) grading contours on Lots 1 and 2, and existing contours for Lot 3, and the proposed contours for all three lots. The Planning Board requested that this should show your proposals to address drainage issues on all three lots, and address the concerns raised by Ms. Bedard regarding #39 Barclay Avenue (Lot 1/Parcel C) Also please show or describe how the drainage (as proposed) from these three lots will not impact the abutting properties.*

Separately by  
June 5, 07 memo

Response 3 – As mentioned above, an Existing Conditions plan is contained in this package. The applicant has spoken with Ms. Bedard and is of the understanding that upon further review of the conditions on each of the lots, her concerns have been addressed. Also based upon a conversation with Dan Goyette, the drainage on the lots will not adversely impact the other lots.

Comment 4 – Any previous waiver regarding the sidewalks was considered within 14-403 applications and not within a Subdivision Review. Please submit a formal written waiver request from the subdivisions requirement that is set out in the Ordinance.

Response 4 – This letter should be considered a formal written waiver request regarding sidewalks based on the following:

- A. There is not reasonable expectation for pedestrian usage coming from, going to and traversing the site. Barclay Avenue is a dead-end street, and it is not anticipated that significant pedestrian use will be required.
- B. An alternative walking route exists, by way of the sidewalk on the opposite side of Barclay Avenue.
- C. Strict adherence to the sidewalk requirement would cause a loss of significant amount of driveway and lawn area on the corner of Barclay and Harris Avenue, as well as the front lawn of Ms. Bedard.

Comment 5 – The City will not approve a driveway off the turnaround. The one you mentioned at Ruby Lane was temporary.

Response 5 – The turnaround is not proposed as access to Lot 3.

Comment 6 – Please address the comments included in the Workshop Memorandum from the Engineering Reviewer (Dan Goyette, dated April 5, 2007; copy attached) and his further comments on the revised grading plans which are:

“They still have not addressed the storm easements. I would be curious to know if the Bedard issues have been addressed. The grading plan indicates that a ditch line exists on the Bedard property and a new ditch line will be created on the new lot that discharges to the public works turnaround. Would it make sense to have them regrade the existing lot and the new on to have on single ditch line and an easement giving rights to the ditch line to both properties.”

Response 6 – As mentioned above, the applicant has discussed the project with Ms. Bedard, and it is the applicant's understanding that the drainage issues have been addressed. Also, as mentioned above, additional topography has been obtained, along the common property line with Ms. Bedard, and it has been determined that a common ditchline along this property line was constructed as part of the development of Ms. Bedard's home, therefore the proposed grading plans have been revised to drain to the

existing ditch. It is not anticipated that any significant additional flow will be added to the ditch.

*Comment 7 - Please submit the sewer capacity letter.*

Response 7 - The sewer capacity letter from the City is included with this package.

**Comments in memorandum from Dan Goyette dated 04-05-07**

*Comment 1 - Public Works will not support the waiver request from the Moratorium*

*Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allot the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.*

Response 1 - At this time, a waiver of the Street Moratorium permit is not being

requested. Note 10 has been added to the subdivision plan, which states that any disturbance to Barclay Avenue prior to October 2008 is subject to the 5 year Moratorium fee.

*Comment 2 - A grading plan has been provided. It appears from the grading plan that storm water from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for storm water should be provided to insure that no additional drainage easements will be required.*

Response 2 - As mentioned previously, an updated grading plan is included with this package, which show the current drainage patterns of the subdivision flowing to the existing City field inlet, as well as the proposed drainage patterns, which flow to the same structure.

Pb

Ms. Jean Fraser

May 25, 2007

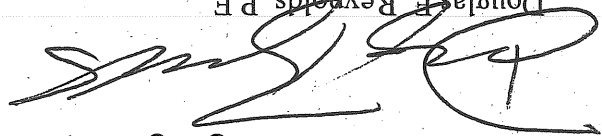
Page 5 of 5

Closure

Gorrill-Palmer Consulting Engineers, Inc. looks forward to your review of these comments and revised plans. Please contact this office with any additional question.

Sincerely,

Gorrill-Palmer Consulting Engineers, Inc.



Douglas E. Reynolds, P.E.

Senior Engineer

Cc: Jim Wolf

Dan Goyette, Woodard & Curran

DER/der/JN374/Barclay Avenue C&R (2)

Attachment 10a

COMMITMENT & INTEGRITY  
DRIVE RESULTS

41 Hutchins Drive  
Portland, Maine 04102  
T 800.426.4262  
T 207.774.2112  
www.woodardcurran.com  
F 207.774.6635

## MEMORANDUM

TO: Jean Fraser  
FROM: Dan Goyette  
DATE: May 29, 2007  
RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Site Plan for Barclay Avenue, sheets 1 and 2, Standard Boundary Survey, dated May 25, 2007, Gortill-Palmer Consulting Engineers, Inc.

- Response to Comments, dated March 25, 2007 to Jean Fraser prepared by Douglas Reynolds, P.E. Gortill-Palmer Consulting Engineers.

### Comments

- The grading scheme presented on Sheet 1, particularly the ditch between Lots 1 and 3, would appear to direct stormwater runoff to the hammerhead on Barclay Avenue. After conducting a site visit on May 29, 2007, it became apparent that although the ditch does exist, approximately 20 feet from the edge of pavement a high spot exists that prohibits runoff from the rear of Lot 1 and potentially Lot 3 from entering the ditch line and flowing out to the street. The ditch line should be regraded during the development of Lot 3 to insure that the stormwater will enter the ditch and flow out to the street. A note should be added to the plans to indicate that the ditch line should be graded in the field to flow to the street.

DRG  
203943.

Attachment 10b

**From:** "Jim Wolf" <jmw1@maine.rr.com>  
**To:** "'Jean Fraser'" <JF@portlandmaine.gov>  
**Date:** 5/29/2007 2:16:16 PM  
**Subject:** FW: Barclay Ave sub div.

Jean  
The note below is being added to the plan. We will do our best to get you the copies requested no later than tomorrow.

Regarding Ms. Bedard, we have offered to meet with her and are waiting for her to contact Gorrill Palmer.

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

**From:** Doug Reynolds [mailto:DReynolds@gorrillpalmer.com]  
**Sent:** Tuesday, May 29, 2007 1:09 PM  
**To:** Jim Wolf  
**Subject:** FW: Barclay Ave sub div.

How's this?

The ditch along the common boundary between Lot 1 and 3 shall be modified to allow drainage entering the ditch to flow toward the street without ponding. Contractor shall coordinate with homeowner of Lot 1 for modifications to this ditch.

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, May 29, 2007 12:13 PM  
**To:** jmw1@maine.rr.com  
**Cc:** Doug Reynolds  
**Subject:** RE: Barclay Ave sub div.

Jim,

Attached please find Dan Goyette's comment:

Please send (to me) 3 copies of the revised Grading Plan (to scale) and 1 11X17 copy asap - Dan will not review it again and I will check that the note has been added.

I will probably also be in touch with Ms Bedard but if you can meet her on site and explain that would help. As mentioned previously, a narrative explaining the drainage (existing, impact of proposal and steps being taken to address issues raised) would also be helpful to include in the packet.

Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 5/29/2007 10:26:31 AM >>>  
Any comments would be greatly appreciated so they can be discussed.

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



**From:** Michael Farmer  
**To:** Fraser, Jean  
**Date:** 6/4/2007 9:44:16 AM  
**Subject:** Re: Barclay Ave sub div- Street Moratorium

Our records indicate that the moratorium period would end on October 22, 2009. However, I think Penny and someone else at last week's meeting decided that Jim Wolf would be required to construct the driveway apron before selling the lot, which may make the note you referred to superfluous. In any case, if the note stays on th plan, it should be changed to reflect the correct moratorium ending date.

Michael Farmer, Project Engineer  
 Dept. of Public Works  
 55 Portland Street  
 Portland, ME 04101  
 phone: 207-874-8845  
 fax: 207-874-8852

>>> Jean Fraser 06/01 5:18 PM >>>  
 Mike,

On the subDivision Plat the applicant has stated:

"Any disturbance of Barclay Avenue prior to October 2008 that requires a street opening permit shall be subject to a five year street moratorium permit".

I don't know where he got that date as I thought the citys acceptance of this street was later than 2003.

I am sure you know where this info is kept- could you ask someone to verify at what point they do not need to pay the Moratorium Street Opening fee for Barclay Avenue - just to be sure the right date is on the plat.

Thanks (Hearing June 12th so needed asap)  
 Jean

Attachment 10c.

Attachment 10d

**From:** Michael Farmer  
**To:** Fraser, Jean  
**Date:** 6/8/2007 1:42:41 PM  
**Subject:** Re: \$cost re Barclay Street opening fee

Jean:

My estimate for the street opening fee is \$13,900.00.

I have the following comments regarding the request for a sidewalk waiver. The Planning Authority has the authority to approve a sidewalk pursuant to Sec. 14-506(b). There is a sidewalk on the opposite side of the street from the new lot, which would meet condition 3 in the Code. The applicant has to meet at least one more of the conditions listed in the Code to justify the waiver. If the sidewalk waiver issue was previously reviewed and resolved as part of the Barclay Ave. dedication and acceptance process, I think it would make sense to follow the decisions reached at that time. If the sidewalk waiver issue was not resolved previously, then the Planning Authority can consider the current sidewalk waiver request on its own merits. If the Planning Authority is inclined to require a sidewalk on the southwest side of Barclay Ave, I think a sidewalk should be built the full length of the street.

Michael Farmer, Project Engineer

Dept. of Public Works  
55 Portland Street  
Portland, ME 04101  
phone: 207-874-8845  
fax: 207-874-8852

>>> Jean Fraser 06/08 9:51 AM >>>  
Mike,

Penny has just agreed that the following condition should be suggested for the approval of this project in the Hearing report:

Can you give me the figure to go in here, as requested at Dev Rev on Wed.

Needed by noon please (along with comment in support of the sidewalk waiver).

Thanks  
Jean

CONDITION:

!!!!. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation, which includes the street opening fee of \$\_\_\_\_\_ (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required)."

Attachment 11

Post Office Box 10127  
Portland, Maine 04104  
207-773-4988  
Fax 207-773-6875

**Diversified  
Properties**

# MEMO

To: Jean Fraser

From: Jim Wolf

Fax:

Pages:

Phone:

Date: June 5, 2007

Re:

Revised Plans Barclay Avenue

CC:

Urgent  For Review  Please Comment  Please Reply  Please Recycle

● Comments:

Per your request enclosed please find an 11 by 17 of both the plat and grading plan as well as 5 copies of the scaled plat. Please note that to the plat we have added the note regarding drainage between lots 1 and 3 and have added the curb cut location.

15

IN WITNESS WHEREOF, the said MAGGIE LANE DEVELOPMENT, LLC has caused this instrument to be signed and sealed by James M. Wolf, its authorized member thereunto duly authorized this 11<sup>th</sup> day of December, 2003.

MAGGIE LANE DEVELOPMENT, LLC

By:

Its Authorized Member

*James M. Wolf*

STATE OF MAINE  
CUMBERLAND, SS.

Dec. 11, 2003

Then personally appeared the above-named JAMES M. WOLF, Authorized Member of MAGGIE LANE DEVELOPMENT, LLC as aforesaid and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Limited Liability Company.

Before me,

*Joyce M. Yates*  
Notary Public

JOYCE M. YATES

NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010

SEAL

Received  
Recorded Register of Deeds  
Dec 17, 2003 09:43:31A  
Cumberland County  
John B. O'Brien



**CITY OF PORTLAND, MAINE**  
Department of Building Inspections

8.14 2006

Received from Diversified Prop.

Location of Work 35 Barclay

Cost of Construction \$ 11000 Build

Permit Fee \$ 1475

Building (11)  Plumbing (15)  Electrical (12)  Site Plan (U2)

Other \_\_\_\_\_

CBL: 339-D-9

Check #: 7382-

Total Collected \$ 1475

**THIS IS NOT A PERMIT**

No work is to be started until PERMIT CARD is actually posted upon the premises. Acceptance of fee is no guarantee that permit will be granted. PRESERVE THIS RECEIPT. In case permit cannot be granted the amount of the fee will be refunded upon return of the receipt less \$10.00 or 10% whichever is greater.

WHITE - Applicant's Copy  
YELLOW - Office Copy  
PINK - Permit Copy

# All Purpose Building Permit Application

If you or the property owner owns real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: BARRETT AVE, PORTLAND BRACK 339/D/9

Total Square Footage of Proposed Structure: \_\_\_\_\_  
Total Square Footage of Lot: 7488 S.F.

Tax Assessor's Chart, Block & Lot: 748  
Chart# D Block# 9 Lot# 9

Owner: DIVERSIFIED PROPERT Telephone: 207-773-4988  
Applicant name, address & telephone: DIVERSIFIED PROPERTIES  
PO. BOX 10137, PORTLAND, ME TEL. 207-773-4988

Current use: VACANT LAND

If the location is currently vacant, what was prior use: 35 Barclay Ave

Approximately how long has it been vacant: ALWAYS

Proposed use: \_\_\_\_\_  
Project description: \_\_\_\_\_

Contractor's name, address & telephone: \_\_\_\_\_  
Who should we contact when the permit is ready: TIM WOLF  
Mailing address: DIVERSIFIED PROPERTIES INC.  
PO. BOX 10137  
PORTLAND, ME 04107  
We will contact you by phone when the permit is ready. You must come in and pick up the permit and review the requirements before starting any work with a Plan Reviewer. A stop work order will be issued and a \$100.00 fee if any work starts before the permit is picked up. PHONE: 207-773-4988

IF THE REQUIRED INFORMATION IS NOT INCLUDED IN THE SUBMISSIONS THE PERMIT WILL BE AUTOMATICALLY DENIED AT THE DISCRETION OF THE BUILDING/PLANNING DEPARTMENT, WE MAY REQUIRE ADDITIONAL INFORMATION IN ORDER TO APPROVE THIS PERMIT.

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

Signature of applicant: \_\_\_\_\_  
Date: 8-9-05

This is NOT a permit, you may not commence ANY work until the permit is issued. If you are in a Historic District you may be subject to additional permitting and fees with the Planning Department on the 4th floor of City Hall

Order 220-04/05  
Passed 9-04-25-05  
JILL C. DUSON (MAYOR)(A/L)  
PETER O'DONNELL (A/L)  
JAMES F. CLOUTIER (A/L)  
NICHOLAS M. MAVODONES (A/L)

**CITY OF PORTLAND**  
IN THE CITY COUNCIL

WILLIAM R. GORHAM (1)  
KAREN A. GERAGHTY (2)  
DONNA I. CARR (3)  
CHERYL A. LEBMAN (4)  
JAMES I. COHEN (5)

**ORDER ACCEPTING BARCLAY AVE  
AS A CITY WAY**

**ORDERED,** that pursuant to 23 M.R.S.A. §3025, the City hereby accepts Barclay Ave (see Exhibit A) as a city way and further accepts the Deeds for said road and the fee title conveyed therein according to the Deeds and descriptions attached to this Order as Exhibit A.

A TRUE COPY  
*Linda C. Cohen*  
Linda C. Cohen, CMC, City Clerk  
Portland, Maine  
DATE 4/26/05

SEAL



**SPACE AND BULK REQUIREMENTS - R-3 ZONE**

MINIMUM LOT SIZE: 6,500 S.F.

MINIMUM FRONTAGE: 50 FT.

MINIMUM SETBACKS:

FRONT YARD 25 FT.

REAR YARD 25 FT.

SIDE YARD\*

1 STORY 8 FT.

1 1/2 STORY 8 FT.

2 STORY 14 FT.

2 1/2 STORY 16 FT.

MINIMUM LOT WIDTH: 65 FT.

OTHER USES:

\* THE WIDTH OF ONE (1) SIDE YARD MAY BE REDUCED ONE (1) FOOT FOR EVERY FOOT THAT THE OTHER SIDE YARD IS CORRESPONDINGLY INCREASED, BUT NO SIDE YARD SHALL BE LESS THAN EIGHT (8) FEET IN WIDTH.  
 THE SIDE YARDS SHOWN ON THE FOLLOWING FIGURES ARE BASED UPON A 2 STORY STRUCTURE AND MAY BE INCREASED OR DECREASED DEPENDING UPON THE NUMBER OF STORIES.

Design:	JML	Date:	1/07
Draft:	CMF	Job No.:	374
Checked:	AMP	Scale:	NTS
File Name: 374-SP.DWG			

**GP**  
 Gortli-Palmer Consulting Engineers, Inc.  
 Traffic and Civil Engineering Services

PO Box 1237, 26 Main Street  
 Gray, ME 04039  
 207-657-6910

Drawing Name: **Space & Bulk Requirements**  
 Project: **BARCLAY AVENUE, PORTLAND**

Figure No. **1**

11



15



TD Banknorth, N.A.  
One Portland Square  
P.O. Box 9540  
Portland, ME 04112-9540  
T: 207 761-8500  
Toll Free: 800 462-3666  
TDBanknorth.com

January 22, 2007

City of Portland  
Planning Department  
389 Congress Street, 4<sup>th</sup> Floor  
Portland, Maine 04101

RE: Diversified Properties, Inc. - Barclay Avenue lot division

To Whom It May Concern:

James Wolf, owner of Diversified Properties, Inc. is a long standing customer of the Bank. In our opinion, Diversified Properties, Inc. has the financial capacity to complete the proposed lot division at Barclay Avenue in Portland, Maine.  
Should you have any further questions, I can be reached at 756-6842

Sincerely,

Kimberly Donnelly  
Vice President, Commercial Lending

# MAINE

Department of the Secretary of State  
Bureau of Corporations, Elections and Commissions



Corporate Name Search

## Information Summary

[Subscriber activity report](#)

This record contains information from the CEC database and is accurate as of: Tue Jan 23 2007 11:03:31. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
DIVERSIFIED PROPERTIES, INC.	19921430 D	BUSINESS CORPORATION	GOOD STANDING
		Expiration Date	Jurisdiction
		02/21/1992	MAINE
Other Names		(A=Assumed ; F=Former)	

NONE

Clerk/Registered Agent

TERRY N. SNOW  
294 MAIN ST., PO BOX 275  
CUMBERLAND, ME 04021

Obtain a Certified Copy of this record for an additional \$5.00 fee

[Back to previous screen](#) | [New Search](#)

Click on a link to obtain additional information.

Attachment 2

**Diversified Properties, Inc.**

P.O. Box 10127, Portland, ME 04104  
Tel 207-773-4988 • Fax 207-773-6875

February 8, 2007

Barbara Barhydt  
Planning Department  
City of Portland  
389 Congress Street  
Portland, ME 04101

RE: (Barclay Avenue Lot Division), (35 Barclay Avenue), (Application ID # 2007-0018).

Dear Barbara:

Thank you for your letter dated February 1, 2007. The following is a response to your concerns.

1. Recording plat meeting the requirements of the subdivision Ordinance.  
Answer: A plat has been included with this submission.

2. Location of easements and copies of easements.  
Answer: A Central Maine Power and turnaround easement are shown on the plat with copies of each included with this submission.

3. Evidence of utilities  
Answer: The record drawing of the Barclay Avenue road construction has been included with this submission. Evidence of existing utilities is shown on the plan.

4. Topography for all lots.  
Answer: Included with this submission is an overall grading/drainage plan for those lots abutting the parcel to be divided.

5. Storm water drainage plan  
Answer: See #4.

6. Wetland delineation and or other significant environmental features.  
Answer: No wetlands are located on the site. See note on plat and in original submission summary.

2a

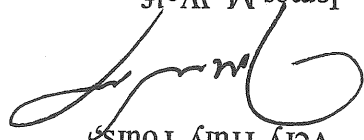
Barbara Barhydt  
February 8, 2007  
Page 2

7. Street improvements, including curb cuts, sidewalks and other details.  
Answer: *One curb cut is proposed. The proposed location of the curb cut is shown on the building permit application previously submitted. The street will not be opened to complete this work.*

8. Landscaping and tree specifications  
Answer: *A note on the plat states two street trees to city specifications will be planted. Two street trees are shown on the building permit application.*

9. Evidence of financial capability  
Answer: *A letter from TD Banknorth is included. Please note this letter was part of our initial submission.*

Thank you for the opportunity for this submission and I look forward to hearing from you.

Very Truly Yours,  


James M. Wolf  
Diversified Properties  
jmw1@maape.com

Enclosures

26

**Banknorth**



TD Banknorth, N.A.  
One Portland Square  
P.O. Box 9540  
Portland, ME 04112-9540  
T: 207 761-8500  
Toll Free: 800 462-3666  
TDBanknorth.com

January 22, 2007

City of Portland  
Planning Department  
389 Congress Street, 4<sup>th</sup> Floor  
Portland, Maine 04101

RE: Diversified Properties, Inc. – Barclay Avenue lot division

To Whom It May Concern:

James Wolf, owner of Diversified Properties, Inc. is a long standing customer of the Bank. In our opinion, Diversified Properties, Inc. has the financial capacity to complete the proposed lot division at Barclay Avenue in Portland, Maine.

Should you have any further questions, I can be reached at 756-6842

Sincerely,

Kimberly Donnelly  
Vice President, Commercial Lending

00282411

Corporation Easement Deed

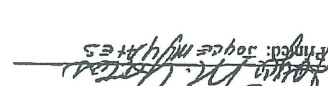
AK 17509P6092

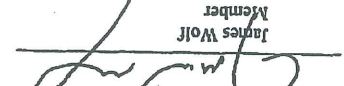
Underground Line Easement

Magle Lane Development LLC, a Maine corporation with a mailing address of P.O. Box 10127, Portland, ME, 04104 (Grantor(s)), for consideration given, grants to CENTRAL MAINE POWER COMPANY, a Maine Corporation with an office at 83 Edison Drive, Augusta, Maine 04336, and VERIZON NEW ENGLAND, INC, A New York corporation with a mailing address of 125 High Street, Boston, Massachusetts, 02110, and their respective successors and assigns (collectively "Grantees"), with warranty covenants, the right and easement to erect, bury, maintain, rebuild, respect, patrol, operate, and remove and do all other actions involving electric and communication distribution equipment and facilities, consisting of wires, cables, foglitcher with all necessary fixtures and appurtenances under the surface of the land of the Grantor(s) in the City/Town of Portland, Cumberland County, Maine. The said equipment and facilities are attached to a line commencing at Pole(s)/Pad(s) 1, Barclay Ave., Portland and extending to include Pole(s)/Pad(s) 2 to serve Grantor(s) and others. This easement affects land or rights conveyed to the Grantor(s) in a deed from Adelaide M. Curran, dated November 28, 2001, and recorded in the Cumberland County Registry of Deeds in Book 17008 Page 32. The rights granted herein include the right to keep the surface of ground above its underground cables and other electrical equipment free from structures, improvements and growth which, in the judgment of the Grantees, may interfere with the proper operation or maintenance of said underground cables; and the right to enter upon the land of the Grantor(s) for any and all of the foregoing purposes.

WITNESS the hand(s) and seal(s) of Grantor(s) duly authorized representatives on MAR 28 2002

Signed, Sealed and Delivered in the presence of:

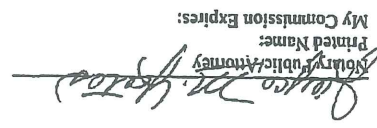
Witness(es)  
  
 Printed Name: Joyce M. Yates

Magle Lane Development LLC  
  
 James Wolf  
 Member

State of MAINE  
 County of CUMBERLAND

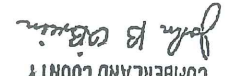
The above-named JAMES M. WILHE and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the day of MARCH 2002 and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Magle Lane Development LLC.

WR# 0104111013  
 Acct# 441-1678674-001  
 WO# 041-09942

  
 Printed Name: Joyce M. Yates  
 My Commission Expires:

JOYCE M. YATES  
 NOTARY PUBLIC, MAINE  
 MY COMMISSION EXPIRES SEPTEMBER 19, 2003  
 SEAL

RECEIVED  
 RECORDED REGISTRY OF DEEDS  
 2002 APR - 8 AM 8: 32

CUMBERLAND COUNTY  
  
 John B. Coburn

CM.P

2c

2d

KNOW ALL MEN BY THESE PRESENTS

THAT DIVERSIFIED PROPERTIES, INC., a Maine corporation with a principal place of business in the City of Portland, County of Cumberland and State of Maine, and MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability Company with a principal place of business in the City of Portland, County of Cumberland and State of Maine, in consideration of One Dollar and other valuable considerations paid by the CITY OF PORTLAND, a municipal corporation organized and existing under the laws of the State of Maine, the receipt whereof it does remise, release, bargain, sell and convey, and forever quitclaim unto the said City of Portland, for highway purposes only, all its right, title and interest in

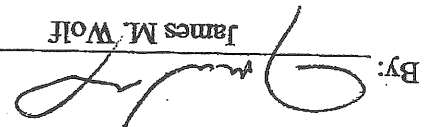
The following described real property situated in the City of Portland, County of Cumberland and State of Maine, being property described in Exhibits A and B annexed hereto and made a part hereof.

Meaning and intending to describe all of Barclay Avenue and portions of Lots 217 and 218 as shown on a Plan of Harris Farms dated June 5, 1919 and recorded at the Cumberland County Registry of Deeds in Plan Book 14, Page 19.

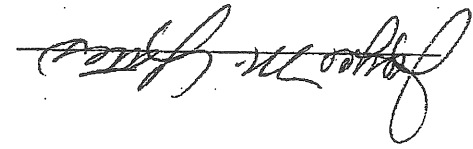
To have and to hold the same, together with all privileges and appurtenances thereunto belonging, to said City of Portland, its successors and assigns forever.

IN WITNESS WHEREOF, the said DIVERSIFIED PROPERTIES, INC. has caused this instrument to be signed in its corporation name and sealed with its corporate seal by James M. Wolf, its President therunto duly authorized this 18 day of JUNE, 2002.

DIVERSIFIED PROPERTIES, INC.

By:  James M. Wolf

Its President



Sheet

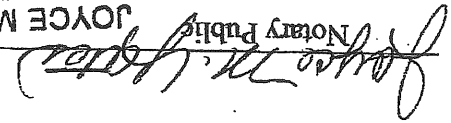
2c

STATE OF MAINE  
CUMBERLAND, SS

JUNE 18, 2002

Then personally appeared the above-named James M. Wolf, President of  
DIVERSIFIED PROPERTIES, INC., as aforesaid and acknowledged the foregoing  
instrument to be his free act and deed in his said capacity and the free act and deed of  
said corporation.

Before me,

  
Notary Public  
JOYCE M. YATES

NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010

IN WITNESS WHEREOF, the said MAGGIE LANE DEVELOPMENT, LLC has

caused this instrument to be signed and sealed by James M. Wolf, its Member, therunto  
duly authorized this 18 day of JUNE, 2002

MAGGIE LANE DEVELOPMENT, LLC

By:

James M. Wolf

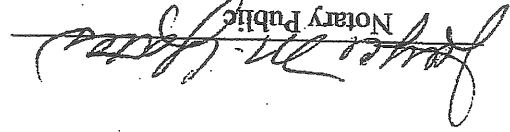
Its Member

STATE OF MAINE  
CUMBERLAND, SS

JUNE 18, 2002

Then personally appeared the above-named James M. Wolf, Member of  
MAGGIE LANE DEVELOPMENT, LLC as aforesaid and acknowledged the foregoing  
instrument to be his free act and deed in his said capacity and the free act and deed of  
said Limited Liability Company.

Before me,

  
Notary Public

JOYCE M. YATES

NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010



Quitclaim Deed from  
Diversified Properties, Inc.  
to the City of Portland

Deed Description of Barclay Avenue  
Portland, Maine

A certain lot or parcel of land lying on the southeasterly side of Harris Avenue, in the City of  
Portland, County of Cumberland, State of Maine, bounded and described as follows:

Beginning on the southeasterly sideline of said Harris Avenue and the westerly corner of Lot 225  
as shown on a Plan of Harris Farms dated June 5, 1919 and recorded in the Cumberland County  
Registry of Deeds in Plan Book 14, Page 19. Thence:

1) S 29° 16' 00" E by said Lot 225 and Lots 228 through 233 as shown on said plan a distance of  
Two Hundred Eighty-Five and 75/100 (285.75) feet to a 5/8" rebar with cap set at the southerly  
corner of said Lot 233 and the northwesterly line of land now or formerly of Patricia  
McDonough et al as described in a deed recorded in the Cumberland County Registry of Deeds  
in Book 3720, Page 141.

2) S 60° 48' 52" W by said McDonough and the northwesterly line of land now or formerly of  
Mark A. Duest and Sandra A. Lowe as described in a deed recorded in the Cumberland County  
Registry of Deeds in Book 7820, Page 88 a distance of Fifty and 00/100 (50.00) feet to a 5/8"  
rebar set at the easterly corner of Lot 216 as shown on said plan.

3) N 29° 16' 00" W by said Lot 216, Lots 217 through 221 and Lot 224 a distance of Two  
Hundred Eighty-Five and 68/100 (285.68) feet to the northerly corner of Lot 224 and the  
southeasterly sideline of said Harris Avenue.

4) N 60° 44' 00" E by said Harris Avenue a distance of Fifty and 00/100 (50.00) feet to the point  
of beginning.

The above described parcel contains 14,286 square feet.

Bearings are referenced to Magnetic North 1919.

Reference is herein made to a Standard Boundary Survey made for Diversified Properties by  
Ticom Associates May 5, 2001.

EXHIBIT A

Doc#: 25862 BK:22566 Pg: 244

27

Quitclaim Deed from  
Diversified Properties, Inc.  
to the City of Portland

Doc#: 25862 BK: 22566 Pg: 245

EXHIBIT B

Deed Description of Proposed Turnaround Easement  
Barclay Avenue  
Portland, Maine

A certain easement lying on the southwesterly side of Barclay Avenue, in the City of Portland, County of Cumberland, State of Maine, bounded and described as follows:

Beginning on the southwesterly sideline of said Barclay Avenue and the northerly corner of Lot 217 as shown on a Plan of Harris Farms dated June 5, 1919 and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19. Thence:

1) S 29° 16' 00" E by said Barclay Avenue a distance of Fifteen and 00/100 (15.00) feet to a point.

2) S 60° 44' 00" W a distance of Thirty and 00/100 (30.00) feet to a point.

3) N 29° 16' 00" W a distance of Thirty and 00/100 (30.00) feet to a point.

4) N 60° 44' 00" E a distance of Thirty and 00/100 (30.00) feet to a point on the southwesterly sideline of said Barclay Avenue.

5) S 29° 16' 00" E by said Barclay Avenue a distance of Fifteen and 00/100 (15.00) feet to the point of beginning.

The above described parcel contains 900 square feet and lies over portions of Lot 217 and Lot 218 as shown on said plan.

Bearings are referenced to Magnetic North 1919.

Reference is herein made to a Standard Boundary Survey made for Diversified Properties by Ticombe Associates dated May 5, 2001.

Turnaround

29

**Diversified Properties, Inc.**

P.O. Box 10127, Portland, ME 04104  
Tel 207-773-4988 • Fax 207-773-6875

**RECEIVED**

APR - 5 2007

City of Portland  
Planning Division

Shukria Wiar  
Planner  
City of Portland  
389 Congress Street  
Portland, Maine 04101

RE: Site Plan Review: 35 Barclay Avenue  
Application #2007-0018;CBL 339 D009001

Dear Ms. Wiar:

In response to your letter dated March 16, 2007 I offer the following:

1

The applicant shall provide a narrative with a chronology of the lot divisions to date.

The land being discussed was originally shown on a plan entitled Plan of Harris Farms dated June 5, 1919 and recorded in Book 14, Page 19.

Lot 1 on our plan consists of lots 216 and 217 on the Harris Farm Plan. These lots were purchased by Joseph and Annie Joyce in 1928 and remained in the Joyce family until December 7, 2001 when they were purchased by the Bono, Inc. Profit Sharing Trust. Neither the Joyce family nor Bono Inc. ever owned any abutting land. In 2003, the City of Portland considered this lot a grandfathered building lot and issued a building permit despite the fact it lacked proper lot width. The lot was sold to C.G.B. Properties in 2003 who built a home selling to the current owner, Kami Bedard.

Lots 2 and 3 on our plan consist of lots 210-213 and 218-221. These lots were purchased by Timothy and Adelaide Curran as follows:

- A. lots 212, 213, 218 and 219 were purchased from John Curran in August 1957. John Curran acquired lots 212 and 213 in 1919; lots 213 and 219 were acquired in 1926.
- B. Lots 210, 211, 220 and 221 were acquired by Portland tax title in 1927 and sold to the Currans in 1959.

The property remained in the Curran family until November 20, 2001 when it was purchased by Maggie Lane Development. In November 2003 Maggie Lane Development sold parcel 2 to C.G.B. Properties who built a home selling to the current owner, Stacy Brindle and her former husband. In 2003 lot 3 was transferred to Diversified Properties, Inc., the lot's current owner. For a nonconforming lot such as lot 1 on our plan to enjoy grandfathered state, the Portland ordinance requires it to be "held under separate and distinct ownership from the adjacent lots." In the past we have shown lot 1 to be a grandfathered lot as illustrated by Portland granting a building permit on this lot.

It is the developers' contention that one lot division only has been made thus creating lots 2 and 3 shown on our plan. The creation of lot 1 on the plan was completed in 1919 by the original divider. It is this difference of opinion that brings us to the Planning Board. Please see attachment I for supporting material.

2. The subdivision ordinance contains review standards and required improvements in your narrative. The Planning Office recommends that you address how your application meets the subdivision regulations and standards. Lot 3, the parcel in question, is currently a vacant parcel of land. During the construction of Barclay Avenue the parcel was improved with water, sewer and storm services. The abutting parcels shown as lots 1 and 2 are developed residential lots.

3. Identify the current zoning information for the subdivision and identify the lot sizes for the original parcel and the proposed lots. The location of the site is in zoning district R-3. Residential homes are a permitted use within this zone; space and bulk requirements for this zone are provided on the recording plan. The original and current lot sizes for parcels 1 thru 3 are:

	Original	Current
1.	6,560 sf.	6,560 sf unchanged
2.	portion of 24,000 sf.	16,512 sf.
3.	portion of 24,000 sf.	7,488 sf.

4. The Planning Department requests that the plans show all three parcels on each plan sheet, as the proposal is being reviewed as a three-lot subdivision, and ensure that there is consistency of information between the plans.

*The lots have been identified on the plans as 1 thru 3.*

5. The following plan set needs to be submitted:

- a. Existing conditions of the site (show the one lot that will be divided)
- b. Proposed site plan with landscaping (show the two tree requirement on each lot)
- c. Utility plan
- d. Grading and Stormwater Drainage plans
- e. Details/Civil details.

*Enclosed with this package is a revised recording plan. Added to the plan are lot numbering, lot sizes, FEMA Flood information and an additional note regarding street trees for lot 3 as well as lots 1 and 2. Also enclosed is a revised grading plan. This plan showing existing and proposed grading including the existing field drain on lot 2 that will receive the grading from lots 2 and 3. No utility plan is enclosed as no new utilities are proposed. No detail plan is enclosed as no work with the exception of two street trees on parcel 3 is proposed. Whether a curb cut for lot 3 is necessary or will be utilized is still uncertain.*

6. Remove the building envelope on the proposed.

*The building envelope has been removed from the plan.*

7. The subdivision ordinance includes required improvements (Section 14-499), such as two street trees per lot and curbs and sidewalks. The plan should address those requirements and if you are seeking a waiver from the sidewalk and curb standards (criteria for curb and sidewalk criteria attached) this request must be in writing.

*Barclay Avenue was constructed to City standards including granite curb and sidewalks on one side of the street in 2003/2004 and formally accepted in 2005. When constructed, the City waived sidewalks in front of these lots. This waiver took place because:*

- A. *There was not reasonable expectation for pedestrian usage coming from, going to and traversing the site.*
- B. *An alternative walking route existed by way of a sidewalk on the other side of the street.*
- C. *Strict adherence to the sidewalk requirement would have caused loss of a significant amount of driveway and lawn area to the existing home on the corner of Barclay and Harris Avenues.*

Department of Public Works comments:

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

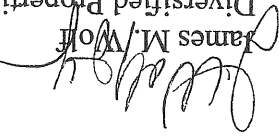
If a waiver to the 5-year moratorium fee cannot be obtained as previously requested the developer will either 1. pay the fee, 2. wait for the expiration of the 5-year period or 3. redesign said building permit and access via the built turnaround.

Fire Department comments:

Please show the nearest fire hydrant.

*The existing hydrant is shown on the subdivision plan at the corner of Barclay and Harris Avenue.*

Very Truly Yours,

  
James M. Wolff  
Diversified Properties  
jmw1@maine.rr.com  
Enclosures

3e

ATTACHMENT 1

0095119 BK17067PG042

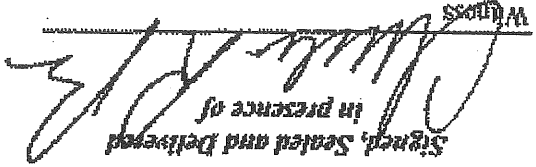
DEED OF SALE BY PERSONAL REPRESENTATIVE

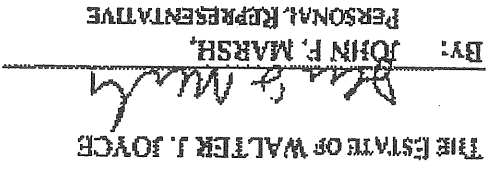
(Intestate)  
Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, THAT I, JOHN F. MARSH of Old Orchard Beach, Maine, duly appointed and acting Successor Personal Representative of the ESTATE OF WALTER J. JOYCE, deceased (Intestate), as shown by the probate records of the County of Cumberland, Maine, Docket No. 1986-801, by the power conferred by the Probate Code, and every other power, having provided ten (10) day notice to interested parties, for consideration paid, grant to JAMES WOLF, Trustee of Bova, Inc. Profit Sharing Trust, with December 31, 1998, whose mailing address is P.O. Box 10127, Portland, Maine, 04104, the real property in Portland, County of Cumberland, State of Maine, described as follows:

See attached Exhibit A.

Witness my hand and seal this 27th day of December, 2001.

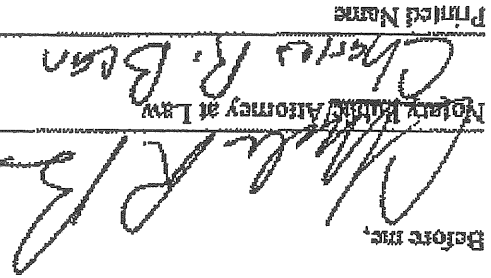
Signed, Sealed and Delivered  
in presence of  
  
Witness

THE ESTATE OF WALTER J. JOYCE  
  
BY: JOHN F. MARSH,  
PERSONAL REPRESENTATIVE

MAINE REAL ESTATE TAX PAID

STATE OF MAINE  
CUMBERLAND, ss.

Then personally appeared the above named JOHN F. MARSH in his said capacity and acknowledged the foregoing instrument to be his free act and deed.

Before me,  
  
Notary Public/Attorney at Law  
Printed Name  
Charles R. Bean

Charles R. Bean, P.A.  
Attorney at Law  
P.O. Box 2287

9K17067P043

EXHIBIT A

Two certain lots or parcels of land situated on the westerly side of Barclay Avenue in Portland, County of Cumberland and State of Maine, being lots numbered 216 and 217 as shown on a Plan of Harris Farms made by E. C. Jordan and Company, C.E., dated June 5, 1919 and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19, together with the fees of land in said Barclay Avenue in front of and adjoining said lots 216 and 217, and extending from the street line to the middle of said avenue. Subject to the rights of other lot owners and the public to the use thereof as a street.

Meaning and intending to convey a portion of the premises conveyed to Walter J. Joyce by virtue of being an heir of Joseph Joyce, deceased, and by virtue of a deed from John J. Joyce, et al dated July 31, 1959 and recorded in the Cumberland County Registry of Deeds in Book 2501, Page 85.

RECEIVED  
 RECORDED REGISTRY OF DEEDS  
 2001 DEC 11 PM 1: 02  
 CUMBERLAND COUNTY

Stanley R. Bean, P.A.  
 Attorney at Law  
 P.O. Box 2287  
 South Portland, Maine 04086



**Know all Men, by these Presents, That**

I, Newton W. Harris, of Portland, in the County of Cumberland and State of Maine,

in consideration of one dollar and other valuable considerations, paid by Joseph and Annie Joyce of Portland, in said County and State,

I do hereby acknowledge, do hereby give, grant, bargain, sell and convey, unto the said Joseph and Annie Joyce their heirs and assigns forever, two certain lots or parcels

of land situated in Portland, one on the westerly side of Hampton Street, and the other on the westerly side of Barclay Avenue, being lots numbered one hundred and ninety-eight, one hundred ninety nine, two hundred sixteen and two hundred seventeen

(198,199,216,217) shown on plan of Harris Farms, made by E. C. Jordan & Co., C.E., dated June 5, 1919, and recorded in Cumberland County Registry of Deeds, Plan Book 14, Page 19; containing thirteen thousand one hundred square feet (13,100 sq. ft.)

more or less, according to said plan. Together with the fees of land in said Hampton Street and Barclay Avenue in front of and adjoining said lots 198, 199, 216 and 217, and extending from the street line to the middle of said street and avenue

subject to the rights of other lot owners and the public to the use thereof as a street.

On June 10, 1922, the above granted and bargained premises, with all the privileges and appurtenance thereof, to the said Joseph and Annie Joyce, their heirs and assigns, to them and their use and behoof forever. And I do covenant with the

said Grantees, that I am lawfully seized in fee of the premises; that they are free of all

incumbrances; that I have good right to sell and convey the same to the said Grantees

to hold as aforesaid; and that I and my heirs, shall and will warrant and defend the same to the said

Grantees, their heirs and assigns forever, against the lawful claims and demands of all persons. In witness whereof, I the said Newton W. Harris relinquishing and conveying

my right by descent and all other rights in the above described premises have hereunto set

my hand and seal this ninth day of March in the year of our Lord one thousand nine hundred and twenty-two.

Abba Harris  
in presence of  
Signed, Sealed and Delivered  
Newton W. Harris Seal

State of Maine, CUMBERLAND, ss. March 9, 1922. Then Personally appeared

the above named Newton W. Harris his free act and deed. and acknowledged the above instrument to be

Before me, Abba Harris, Notary Public in and for the State of Maine, and recorded according to the original. Authorized to Administer Oaths and take acknowledgments of Deeds, at 10 o'clock P.M., A.M., and recorded according to the original.

U.S.I.R.  
50 cts.  
N.W.H.  
Mar. 9/22

458  
39

BR 17008PE032

0096868

STATUTORY WARRANTY DEED

ADELAIDE M. CURRAN, of Portland in the County of Cumberland and State of Maine,

For Consideration Paid, GRANT with WARRANTY COVENANTS TO:

MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability Company with a principal place of business in Portland, in the County of Cumberland and State of Maine, whose mailing address of P.O. Box 10127, Portland, Maine 04104

Certain lots or parcels of land situated in the City of Portland, County of Cumberland and State of Maine and being more particularly described in Exhibit A

annexed hereto and made a part hereof:

For grantor's source of title reference is made to two deeds from the City of Portland granted herein and Timothy J. Curran as joint tenants, both deeds dated May 26, 1959 and recorded at the Cumberland County Registry of Deeds in Book 2566, Page 318 and in Book 2566, Page 320; and by virtue of a deed from John Curran to grantor herein and the said Timothy J. Curran as joint tenants, dated August 2, 1957 and recorded at said Registry of Deeds in Book 2368, Page 93. The said Timothy J. Curran having died on May 1, 1974, leaving the grantor herein as surviving joint tenant.

This conveyance is made SUBJECT to the current real estate taxes to the City of Portland subject to proration at the closing, which Grantee herein by its acceptance of this deed hereby assumes and agrees to pay.

WITNESS my hand on this 27 day of Nov. 2001.

Adelaide M. Curran, By Joseph B. Curran, Her Attorney-in-Fact

Adelaide M. Curran

STATE OF MAINE

CUMBERLAND, SS.

Nov. 26, 2001

Joseph B. Curran, attorney-in-fact on behalf of ADELAIDE M. CURRAN Then personally appeared the above-named ADELAIDE M. CURRAN and acknowledged the foregoing instrument to be her act and deed in said caps

Before me,

Joseph M. Laska Notary Public

SEAL

MAINE REAL ESTATE TAX PAID

BK 170086033

EXHIBIT A

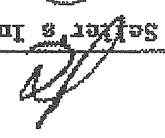
A certain lot or parcel of land situated in the city of Portland, Cumberland County, Maine, on the easterly side of Hampton Street being Lots No. 212 and 213 as shown on Plan of Harris Farms made by E. C. Jordan & Co., C.E., dated June 5, 1919, and recorded in the Cumberland County Registry of Deeds, Plan Book 14, Page 19, to which plan reference may be made for a more particular description. Said lots are each 30 feet in width and 100 feet in depth according to said plan. Together with the fee of land in said Hampton Street in front of and adjoining said lots and extending from the street line to the middle of said street.


Also certain lots of parcels of land situated in said Portland on easterly side of Barclay Avenue, being Lots No. 218 and 219 as shown on Plan of Harris Farms, made E.C. Jordan & Co., C.E., dated June 5, 1919, and recorded in the Cumberland County Registry of Deeds, Plan Book 14, Page 19, to which plan, reference may be made for a more particular description. Together with the fee in front of and adjoining said Lots 218 and 219, and extending from the street line to the middle of said Avenue.

Also certain lots or parcels of land situated in said Portland between Hampton Street and Barclay Avenue being Lots No. 210, 211, 220 and 221, as shown on Plan of Harris Farms made by E.C. Jordan & Co., C.E., dated June 5, 1919, and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19.

Together with the fee of land in said Hampton Street and Barclay Avenue in front of and adjoining said Lots No. 210, 211, 220 and 221 and extending from the street line to the middle of said Street in Avenue.

This conveyance is subject to the rights of others in and to that portion of the subject premises lying within the apparent right of way for Barclay Avenue and Hampton Street as set forth in deeds to Adelaide M. Curran, et al, dated August 1957, recorded in Book 2368, Page 93 and dated May 26, 1959, recorded in Book 25 Pages 318 and 320.

Seller's Initials 

Buyer's Initials 

RECEIVED  
 DEPARTMENT OF DEEDS

**CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION**

Department of Public Works,  
55 Portland Street,  
Portland, Maine 04101-2991

Date: \_\_\_\_\_



Mr. Frank J. Brancey,  
Senior Engineering Technician,  
Phone #: (207) 874-8832,  
Fax #: (207) 874-8852,  
E-mail: fjb@portlandmaine.gov

ATTACHMENT 3

3!

**1. Please, Submit Utility, Site, and Locus Plans.**

Site Address: 35 Barclay Avenue

(Regarding addressing, please contact Jessica Hanscom, either at 874-8818, or at JGH@portlandmaine.gov)

Proposed Use: Single family building

Previous Use: Vacant land

Existing Sanitary Flows: 0 gpm

Existing Process Flows: 0 gpm

Description and location of City sewer, at

proposed building sewer lateral connection:

The existing sewer and storm are stubbed to

the building lot. There is no new connection

to the existing sewer line.

Clearly, indicate the proposed connection, on the submitted plans.

**2. Please, Submit Domestic Wastewater Design Flow Calculations.**

Estimated Domestic Wastewater Flow Generated: GPD

Peaking Factor/ Peak Times:

Specify the source of design guidelines: (i.e., "Handbook of Subsurface Wastewater Disposal in Maine," "Plumbers and Pipe Fitters Calculation Manual," Portland Water District Records, Other (specify))

Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet.

**3. Please, Submit Contact Information.**

Owner/Developer Name: Diversified Properties Inc

Owner/Developer Address: Box 10127, Portland, Maine 04104

Phone: 773-4988

Fax: 773-6875

E-mail: jmw1@maine.rr.com

Engineering Consultant Name: Gortill Palmer Engineers

Engineering Consultant Address: Box 1237, Gray, Maine 04039

Phone: 657-6910

Fax: 657-6912

E-mail: dreynolds@gortillpalmer.

City Planner's Name: Shukria Wiar

Phone: \_\_\_\_\_

3k

Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review.

Board Review.

**4. Please, Submit Industrial Process Wastewater Flow Calculations**

Estimated Industrial Process Wastewater Flows Generated: na

Do you currently hold Federal or State discharge permits? Yes  No

Is the process wastewater termed categorical under CFR 40? na Yes  No

OSHA Standard Industrial Code (SIC): na (<http://www.osha.gov/oshsists/sicser.html>)

Peaking Factor/Peak Process Times: na

Note: On the submitted plans, please show the locations, where the building's sanitary, and process water sewer laterals, exit the facility, where they enter the city's sewer, the location of any control manholes, wet wells, or other access points, and the locations of any filters, strainers, or grease traps.

Notes, Comments, or Calculations:

This lot is located on the newly constructed Barclay Avenue. The sewer and storm services were brought to this lot at the time of street construction.

Barclay - Public Works

3M

From: "James Wolf" <jmw1@maine.rr.com>  
To: "Eric Labelle" <EJL@portlandmaine.gov>  
Cc: <Todd@portlandmaine.gov>  
Sent: Wednesday, October 13, 2004 2:03 PM  
Subject: Re: Barclay

Eric

No problem. Although we disagree we the interpretation of staff this is not the time to address the issue. We will be placing curb in front of the lot either later today or tomorrow. Thank you for your help while Todd is away.

Jim

----- Original Message -----  
From: "Eric Labelle" <EJL@portlandmaine.gov>  
To: <jmw1@maine.rr.com>  
Cc: <Todd@portlandmaine.gov>  
Sent: Wednesday, October 13, 2004 11:46 AM  
Subject: Re: Barclay

Jim,

I talked with Staff today. Since the lot is not part of the subdivision there can not be a curb cut.

Eric

Eric J. Labelle, P.E.  
City Engineer  
55 Portland Street  
Portland, ME 04101  
(207)874-8850 Office  
(207)874-8852 Fax

>>> "James Wolf" <jmw1@maine.rr.com> 10/13/2004 10:53:07 AM >>>  
Dave met with Grover and marked the location. Thank you. Should we go over the other issues?

----- Original Message -----  
From: "Eric Labelle" <EJL@portlandmaine.gov>  
To: <jmw1@maine.rr.com>  
Sent: Wednesday, October 13, 2004 8:08 AM  
Subject: Re: Barclay

Yes, as we discussed yesterday, have Ben contact Dave Peterson at our office. 874-8846. He has the report from the last tape made.

Eric

>>>"James Wolf"<jmw1@maine.rr.com> 10/12/2004 8:24:50 AM >>>

Eric

We need some direction regarding the underdrain repair. Is there someone covering for Todd that we can meet with today.

Thank you.

Jim

James Wolf  
Diversified Properties, Inc.  
P.O. Box 10127  
Portland, Maine 04104  
1-207-773-4988  
Fax 1-207-773-6875



**From:** Penny Littell  
**To:** "Jim Wolf" <jmw1@maine.rr.com>; Barbara Barhydt; Jean Fraser  
**Date:** 9/20/2007 7:31:52 AM  
**Subject:** Barclay

Jim. I discussed Barclay with staff and expressed your position that you don't know what you want to do with that middle lot at this point in time. You may simply want to hold it until the two year street moratorium has expired in which case you do not want to escrow/LOC the required \$12,000 for such work. The City is amenable to postponing the guarantee if the following two notes are added to the plan:

1. No transfer of Lot #\_\_\_ shall be accomplished nor shall any building permit for this Lot be issued unless and until the City has received from the developer a performance guarantee covering the cost of the curb cut servicing the Lot in an amount required by City Code.

2. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the fourth division as defined under the State of Maine Statute 30-A, MRSA on October 9, 2007.

This amended plat would then be presented to the PB at a public hearing on October 9. You would not have to attend that hearing (unless you ant to) as it is designed to approve the accessory unit in that back lot and really has nothing to do with you.

SPACE AND BULK REQUIREMENTS - R-3 ZONE

MINIMUM LOT SIZE:	6,500 S.F.
MINIMUM FRONTAGE:	50 FT.
MINIMUM SETBACKS:	
FRONT YARD	25 FT.
REAR YARD	25 FT.
SIDE YARD*	
1 STORY	8 FT.
1 1/2 STORY	8 FT.
2 STORY	14 FT.
2 1/2 STORY	16 FT.
MINIMUM LOT WIDTH:	75 FT.

\* THE WIDTH OF ONE (1) SIDE YARD MAY BE REDUCED ONE (1) FOOT FOR EVERY FOOT THAT THE OTHER SIDE YARD IS CORRESPONDINGLY INCREASED, BUT NO SIDE YARD SHALL BE LESS THAN EIGHT (8) FEET IN WIDTH.  
 THE SIDE YARDS SHOWN ON THE FOLLOWING FIGURES ARE BASED UPON A 2 STORY STRUCTURE AND MAY BE INCREASED OR DECREASED DEPENDING UPON THE NUMBER OF STORIES.

Design:	DER	Date:	JULY 2002
Draft:	SCB	Job No.:	374
Checked:	AMP	Scale:	NTS
File Name: 374-SP.DWG			

**GP**  
 Gorrell-Palmer Consulting Engineers, Inc.  
 Traffic and Civil Engineering Services

PO Box 1237, 15 Shaker Road  
 Gray, ME 04039  
 207-657-6910

Drawing Name: **Space & Bulk Requirements**  
 Project: **BARCLAY AVENUE, PORTLAND**

Figure No. **1**

City of Portland  
Department of Planning and Development  
Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258



FAX

To:

Jim Wolff

Company:

Fax #:

207-773 6875

Date:

Tues Sept 18, 2007

From:

Kau Frazer on behalf of Barbara Barhydt

You should receive \_\_\_\_\_ page(s) including this cover sheet.

4

Comments:

Jim -

Please note that the subdivision plat needs to be revised and submitted in accordance with condition 21 and that the other conditions need to be addressed + referenced on the plat - in addition to the 4<sup>th</sup> unit etc as discussed with Barbara + Penny. Attached: Approval letter dated June 26, 2007 re Boundary Ave Three lot subdivision

From: Jean Fraser  
To: Wolf, Jim  
Date: 9/18/2007 4:04:54 PM  
Subject: Re: Barclay Avenue Subdivision

Jim,

I have not received this plan and it would need to be reviewed by Penny Littlell- I believe it needs the conditions to be noted on it also.

Also I think there are two easements:

Did you speak to someone when you delivered this plan? Which office was it delivered to? I can try and find it....

I am sorry if it went astray here but I did not see it.

Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 9/18/2007 4:01:58 PM >>>  
Jean

Thank you for your fax with the approval letter for Barclay. Please note that at the end of July we delivered a mylar plan showing the 10 by 10 no cut zone 10 foot drainage easement with lot 1 and removed the drainage easement with lot 2. It was our understanding the plan would be signed by the board and held until we delivered a revised site plan, the executed easement for the 10 foot drainage easement and the funds for the street opening permit and site plan performance guarantee.

If you are unable to locate the plan please contact me and I will see that a new one is delivered.

Thank you.

Jim

Dev Rev 9.19.07.

PL + Dev Rev. agreed that

1) revised plat needs to go to Pl. Bd (act 9) to include 4th unit at 31

2) JV to meet all conditions before them except ~~the~~ conditions the 812,000 will be modified so can be paid once building commences on lot 3. JF

James M. Wolf  
Diversified Properties, Inc.  
Post Office Box 10127  
Portland, Maine 04104

1-207-773-4988

1-207-773-6875 fax

CC: Barhydt, Barbara; Littell, Penny

NOTE for FILE 8.31.07

lot 3 (undeveloped) between lots 1+2 which are developed - City considered this a sub-division although Mr. Wally disagreed

Complicated by Planning Review & explicit words that the 3 lots need to work together & drainage & that development on this third lot should not have any adverse impacts on lots 1+2 (owner of lot #1 made strong comment)

Also complicated by fact that Mr. Wally quit Barclay Ave and it is now a "meritum" street which means there are substantial fees (\$10-12000) for any street opening (needed for installing driveway) - so legal advised that memo needed to be tied into consent

Despite the applicants wish to move quickly to a hearing and last minute commitments to neighbor (lot #1 Mrs. Redard) nothing has been submitted since possible that hearing (time 12) to Planning (case info gone to zoning) are legal? S/F appl. submitted but on hold

Give them as to whether the existing lots are legal? S/F appl. submitted but on hold

see MF e-mails

October 9, 2007

Jean Fraser, Planner

Submitted by:

Portland Planning Board  
Portland, Maine

Submitted to:

DIVERSIFIED PROPERTIES INC, APPLICANT

VICINITY 35 BARCLAY AVENUE

BARCLAY AVENUE - AMENDMENT TO THREE LOT SUBDIVISION

PLANNING BOARD REPORT #44-07

tabled  
at 10-9-07  
PB Hearing

## I. INTRODUCTION

Diversified Properties Inc received an after-the-fact approval for a three lot subdivision on June 12, 2007. Diversified Properties owns Lot #3 and the other two lots (#1 and #2) have been developed as single family homes and sold to other parties.

The associated Subdivision Plat has not been registered as the applicant needed to resolve drainage easements that were conditions of the subdivision approval.

Since the subdivision approval the owner of Lot #2 sought and received conditional use approval for an accessory unit (for use by a relative) on the second floor of a garage addition to the existing single family home. The garage addition is exempted from site plan review. This accessory unit constitutes a fourth division of the overall lot and the owner of Lot #2 had sought to amend the registered Subdivision Plat to add in the new unit. However, there is no registered Subdivision Plat to amend.

After discussions with staff and Diversified Properties, the most efficient course of action appeared to be to amend the approved three lot subdivision prior to its registration. Although adding the fourth unit does not create any drainage or other issues that affect other lots in the subdivision, the amendment is complicated by the fact that the approved subdivision was subject to several conditions that needed to be met prior to registration of the Plat to ensure the undeveloped Lot #3 integrated satisfactorily with the two developed lots.

This report outlines an approach that proposes four new notes to be added to the Plat. This approach allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #1 may progress with the accessory unit, while also meeting the objectives of the original conditions that addressed the concerns of the abutter on Lot #1 (Ms Bedard).

This Hearing has been noticed to a total of 189 area residents and interested citizens. A notice also appeared in the *Portland Press Herald*. The abutter on Lot #1, Ms Bedard, is aware of the proposal and has discussed related issues with staff.

## II. CONTEXT

The original overall parcel lies between Barclay Avenue and Hampton Street and comprises some 30,561 sq ft (see Boundary Survey in Attachment 2). All three of the lots are accessed from Barclay Avenue, which was constructed by the applicant (with utilities, turnaround and associated easement to the City of Portland) and accepted by the City in 2005.

Lots #1 and #2 are single family homes that were completed in 2004 and owned by two other parties (Ms Bedard and Ms Brindle respectively). Lot #3 is owned by the applicant and is undeveloped (see Existing Conditions Plan in Attachment 3).

The three lot subdivision application was considered and approved by the Planning Board on June 12, 2007 and the approval letter is attached (Attachment 1). The approval sets out eight conditions of approval, including two added by the Planning Board, which generally ensures that the development of the third lot integrates with the other two lots and would not result in adverse impacts on the existing lots. Ms Bedard (owner of Lot #1) made representations at the Planning Board Hearing and the Board added conditions vii and viii to address her concerns.

Ms Brindle, owner of Lot #2, has received Zoning Board approval and building permits for the fourth unit within the new addition to her single family home. It was after she received Zoning



### III. FOURTH UNIT

Board Approval and the building permit had been issued for the garage, that City staff identified the need for an amended plat for the recently approved three lot subdivision on Barclay Avenue. At that time, the Planning Staff had not received a revised Subdivision Plat and conditions had not yet been met. Progress on finalizing and registering the three-lot Subdivision Plat was slowed by the process of securing easements and the applicants wish to delay payment of the Performance Guarantee until nearer the time of development of Lot #3.

In July 2007 the owner of Lot #2 (Stacy Brindle, 31 Barclay Avenue) applied through her contractor for a building permit for the building of a 23 foot by 28 foot addition to her existing single family dwelling. The addition comprises a two car garage on the first floor and a secondary dwelling unit on the second floor for a relative.

The Zoning Administrator advised that a permit could not be issued because the proposal required a Conditional Use Appeal through the Zoning Board of Appeals. The application was granted by the Zoning Board of appeals on September 6<sup>th</sup>, 2007 and a building permit was issued.

The proposed addition is exempted from site plan review and its footprint was included in the approved drainage and grading plans submitted in support of the three lot Subdivision Plat.

### IV. PROPOSED AMENDMENTS TO THE SUBDIVISION PLAT

Staff suggest that the approved three lot Plat could be amended in order to allow Ms Brindle to progress her accessory unit. Four new notes have been suggested for inclusion on the Plat to:

- Incorporate the fourth unit;
- Address the question of the Performance Guarantee;
- Confirm tree protection for Lot #1; and
- Address the question of the drainage easement between Lot#1 and Lot #3.

The following new note on the amended Subdivision Recording Plat (Attachment 4) was suggested by the City's Associate Corporation Counsel to reflect the addition of the fourth unit:

*Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the fourth division as defined under the State of Maine Statute 30-A, MRS 9, 2007.*

The remainder of the suggested Plat amendments address the conditions of approval for the three lot Subdivision, as summarized in the table below:

**How amendments address original conditions**

<b><i>Conditions of June 12, 2007 approval to three lot subdivision</i></b>	<b><i>How addressed in final Subdivision Recording Plat (Attachment 4)</i></b>
i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantees and relevant conditions; and	Final Subdivision Recording Plat submitted and in <u>Attachment 4</u>
ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and	Applicant does not require this easement as they have revised the drainage along that boundary so that all drainage from Lot #3 remains on that property (see Cond. iv).
iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and	New Note on amended Plat: The developer shall be responsible for installing a drainage swale/depression between lots 1 and 3 which runs the entire length of that property boundary [from the no cut zone easterly to Barclay Avenue) and outlets onto the existing turnaround. Said swale shall be no greater than a 3:1 slope on either side of the swale. This area shall be loamed and seeded by the developer and said grass catch shall be ensured by the developer by the posting of a \$500.00 escrow account with the City to be released in 2008 upon the City's satisfaction that the grass is healthy. Prior to the sale of lot 3, the developer shall obtain from the owner of lot 1 a surface drainage easement to the extent the swale/depressed area is located on lot 1. If, by October 1, 2008, the aforementioned executed easement cannot be recorded, then the developer shall provide to the City Engineer an amended grading and stormwater plan showing the relocation of the drainage swale/depression entirely within the bounds of lot 3. Such amended plan must be approved by the City Engineer and must be installed prior to the sale of lot 3.
iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and	The applicant has not secured an easement re Lot #2 (see above) but submitted the revised grading plan that ensures the water remains on Lot #3 and these have been approved by the Engineering Reviewer.
v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and	Included in new note on the Plat as below re conditions vi.
vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and	New Note on amended Plat: No transfer of Lot #3 shall be accomplished nor shall any building permit for this Lot be issued unless and until the City has received from the developer a performance guarantee covering the cost of the curb cut servicing the Lot in an amount required by City Code.
vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and	New Note on amended Plat: includes this condition in its entirety.
viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRC shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.	The new note that relates to Condition iii addresses this condition.

**V. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report # 44-07 relevant to standards for subdivision, evidence presented at the public hearing, and other findings as follows:

1. That the Planning Board approves the amended Subdivision Recording Plat; and
2. That the Planning Board confirms that amended Plat and notes included therein address all of the previous conditions (as approved on June 12, 2007).

Attachments

1. Barclay Avenue Three Lot Subdivision Approval letter
2. 2001 Standard Boundary Survey
3. Existing Conditions Plan
4. Amended Subdivision Recording Plat (to be available at the Planning Board Hearing)

Attachment 1

(3 pages)

**CITY OF PORTLAND, MAINE  
PLANNING BOARD**

Michael J. Patterson, Chair  
Janice E. Tevastian, Vice Chair  
Kevin Beal  
Bill Hall  
Lee Lowry III  
Shalom Odokara  
David Silk

June 26<sup>th</sup>, 2007

James Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

Re: **Barclay Avenue Three Lot Subdivision  
Vicinity 35 Barclay Avenue  
Application #2007-0018  
CBL#: 339 D009001**

Dear Mr. Wolf,

On June 12, 2007 the Portland Planning Board voted to approve the following motions regarding the proposal to create a three-lot subdivision in the vicinity of 35 Barclay Avenue.

Sidewalk Waiver

1. The Planning Board voted 5-0 (Beal and Odokara absent) that two criteria do apply, namely A) and C), and therefore waives the requirement for a sidewalk along the west side of Barclay Avenue:

A) There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site; and

C) A safe alternative-walking route is reasonably available, for example, by way of a sidewalk on the other side of the street.

Subdivision

2. The Planning Board voted 5-0 (Beal and Odokara absent) that the plan is in conformance with the subdivision standards of the land use code with the following Conditions of Approval:

i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantees and relevant conditions; and

ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and

iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and

iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and

v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and

vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and

vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and

viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRG shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.

The approval is based on plans and materials submitted by the applicant and on information relevant to standards for subdivision, evidence presented at the public hearing, and other findings as contained in Planning Board Report # 25-07 and Addendum #1 to that Report, which are attached.

Please note the following provisions and requirements for all subdivision approvals:

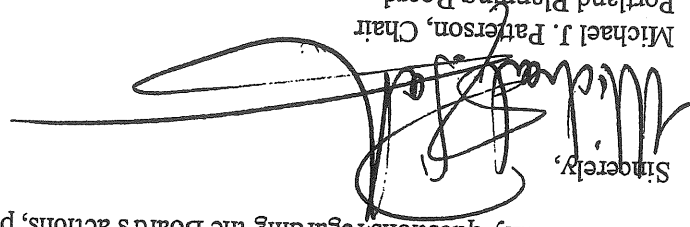
1. Mylar copies of the construction drawing for the subdivision must be submitted to the Public Works Department prior to the release of the plat. Where submissions are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements (and for any items/amounts specified in the conditions) as well as an inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public Works prior to the recording of the subdivision plat. The subdivision approval is valid for three (3) years.
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

4. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

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

6. The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Department at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions regarding the Board's actions, please contact Jean Fraser at 874-8728.

Sincerely,  
  
Michael J. Patterson, Chair  
Portland Planning Board

Attached: Planning Board Report #25-07 and Addendum #1 to that Report

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Phillip DiPietro, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Jeanie Bourke, Inspections Division  
Michael Bobinsky, Public Works Director  
Katherine Earley, Public Works  
Bill Clark, Public works  
Jim Carmody, Transportation Manager  
Michael Farmer, Public Works  
Leslie Kaynor, Public Works  
Jeff Tarling, City Arborist  
Captain Greg Cass, Fire Prevention  
Assessor's Office  
Approval Letter File

**From:** Jean Fraser  
**To:** Littell, Penny  
**Date:** 10/9/2007 11:58:30 AM  
**Subject:** Fwd: RE: Barclay

Please note that his second para is not correct.

He submitted an "original" plan showing the drainage all on Lot #3 on the side towards Lot #2 on 9.19.07; he was informed that this was NOT satisfactory on 9.26.2007; he submitted a revised grading plan that related only to the grading along the boundary with Lot #2 on 10.4.2007; he was informed that the revised grading plan WAS satisfactory in respect of the grading along Lot #2 on 10.5.2007 (all documented in e-mails). This grading plan only relates to condition ii and Lot #2.

Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 10/9/2007 9:59:13 AM >>>

Below are the notes we wish to add to the plan. We have tweaked 1 and 2 to allow for the sale of the lot and a party waiting to build until the 5 year street moratorium expires. In addition, we have changed 2 to allow for the swale if built within the boundary of lot 3 to be constructed when the home is built.

Finally, please note that Dan was given a plan originally keeping the drainage completely within lot 3 which was deemed satisfactory.

If the notes below meet with city approval we will do our best to get a plan together although the surveyor is out of the office.

Jim

1. No street opening permit shall be issued for lot 3 unless and until the City has received from the developer a performance guarantee covering the cost of the curb cut servicing Lot 3 in an amount required by City Code.

2. The developer shall be responsible for installing a drainage swale/depression between lots 1 and 3 which runs the entire length of that property boundary from the no cut zone southerly to Barclay Avenue) and outlets onto the existing turnaround. Said swale shall be no greater than a 3:1 slope on either side of the swale. This area shall be loamed and seeded by the developer and said grass catch shall be ensured by the developer by the posting of a \$500.00 escrow account with the City to be released in 2008 upon the City's satisfaction that the grass is healthy. Prior to the sale of lot 3, the developer shall obtain from the owner of lot 1 a surface drainage easement to the extent the swale/depressed area is located on lot 1. If, by October 1, 2008, the aforementioned executed easement cannot be recorded, then the developer shall provide to the City Engineer an amended grading and stormwater plan showing the relocation of the drainage swale/depression entirely within the bounds of lot 3. Such amended plan must be approved by the City Engineer and must be installed prior to the issuance of a certificate of occupancy for lot 3.

3. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the forth division as defined under the State of Maine Statute 30-A, MRSA on October 9, 2007.

4. The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot , and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.

CC: Barhydt, Barbara



**From:** Jean Fraser  
**To:** Wolf, James  
**Date:** 10/9/2007 3:18:27 PM  
**Subject:** RE: Barclay

The only plans that I have looked at are those submitted to the Planning Board for consideration on June 12th which states (both on the grading plan and on the draft plat) that "the ditch along the common boundary between lot 1 and lot 3 shall be modified to allow drainage entering the ditch to flow toward the street without ponding. Contractor shall coordinate with homeowner of Lot 1 for modifications to this ditch."

That modification requires a drainage easement.

The above is the basis of the conditional approval to the subdivision.

At the June 12 planning board the issue was ensuring that the drainage did not pond on Lot 1 and the Board sought an integration of drainage design between the 2 lots. Our engineer would need to comment on whether containing the drainage from Lot #3 would solve that issue.

Jean

>>> "James Wolf" <jmw1@maine.rr.com> 10/9/2007 2:02:44 PM >>>  
Jean

If you go back and look at the original site plan we showed the drainage at lots 1 and 3 on our lot only. This original plan shows we can contain our drainage. There was not a common swale as the original design for lot 1 that was submitted for a building permit did not have a common swale. The swale was created by the former DRC in the field unknown to myself, the lot 3 owner. I mentioned this plan in my previous email to remind staff that containing drainage is not an issue.

Also, may I have a copy of the comments sent by Kami Bedard.

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, October 09, 2007 1:37 PM  
**To:** jmw1@maine.rr.com  
**Cc:** Barbara Barhydt; Penny Little  
**Subject:** RE: Barclay

Jim,

For clarification- the City has accepted the revised drainage (sent by Doug Reynolds on 10.4.07) only in respect of water flowing onto lot #2 - as it now keeps the drainage within Lot #3 and therefore does not require the easement with Lot #2.

Neither of these latest drainage plans changed the grading along the boundary with Lot #1 (ie it is exactly as shown to the Planning Board at the June 2007 Hearing) as that swale is across the boundary. It is that boundary that is referred to in the new wording of the note.

Jean

<<>> "Jim Wolf" <jmw1@maine.rr.com> 10/9/2007 9:59:13 AM >>>  
Penny

Below are the notes we wish to add to the plan. We have tweaked 1 and 2 to allow for the sale of the lot and a party waiting to build until the 5 year street moratorium expires. In addition, we have changed 2 to allow for the swale if built within the boundary of lot 3 to be constructed when the home is built.

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3. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue

received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the forth division as defined under the State of Maine Statute 30-A, MRSA on October 9, 2007.

4. The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot , and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.

**CC:** Barhydt, Barbara; Littell, Penny

Jean

<<< "Jim Wolf" <jimw1@maine.rr.com> 10/9/2007 9:59:13 AM >>>  
Penny

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Finally, please note that Dan was given a plan originally keeping the drainage completely within lot 3 which was deemed satisfactory.

If the notes below meet with city approval we will do our best to get a plan together although the surveyor is out of the office.

Jim

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4. The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot , and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.

**CC:** Barhydt, Barbara; Littell, Penny

*for hearing item 5c*

**From:** "Kami Bedard" <kbedard@PierceAtwood.com>  
**To:** <JF@portlandmaine.gov>  
**Date:** 10/9/2007 12:17:10 PM  
**Subject:** Comments for Barclay Ave. - 10/9/2007

For the 10/9 Planning Board Meeting:

Please accept this email as my response to the Planning Board Report #44-07 that I recently received dated October 9, 2007. I have a prior commitment and so will be unable to attend tonight's meeting.

I noticed that in section 1, paragraph 5, there is a reference to Lot #1 that should be Lot #2. It states: "This approach allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #1 may progress..."

This reference should be to Ms. Brindle's lot -- Lot #2. Further, I would like to add that I have decided against signing the proposed drainage easement. I was considering signing the easement when with my attorney, I have decided that it is not in my best interest to do so for a variety of reasons. Therefore, I would like to request that condition viii be further amended to reflect this change.

While I have not had a chance to speak with the City Engineer directly about this, I would like to find out if the engineer is of the opinion that the developer can appropriately create a drainage area entirely on Lot #3 without creating any adverse conditions to my Lot (#1). I would like there to be a condition in the plan that the developer be responsible for any adverse condition that is created once the drainage area is created and I would also like there to be a post development review of the installation to be done so that the developer can remedy any possible problems or defects revealed by that review.

In the table provided within the report, section iii, the reference to the "New Note on Amended Plat" seems inappropriately worded and I would recommend that it be altered. As it reads now, it says that the developer shall be responsible for installing the swale and it then states that he has until October 2008 to obtain the easement from me. I would suggest that the wording be changed to say that the developer should 1st obtain an easement from me (or resubmit plans) and then he shall perform the work. Or, as an alternative, since I do not intend to sign the easement, it could read more like section iv. -- that is - once the developer has resubmitted the revised grading plan that ensures that the water remains on Lot #3.

Thank you.  
Kami

---

Kami L. Bedard  
Manager of Library Services  
Pierce Atwood Law Library  
Pierce Atwood LLP  
One Monument Square  
Portland, ME 04101  
207-791-1142 direct  
207-791-1350 fax  
mailto:kbedard@pierceanwood.com  
http://www.pierceanwood.com

This email was sent from the law firm Pierce Atwood LLP. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it, please delete it and notify us as soon as possible. Thank you.

**CC:** "Kami Bedard" <kbedard@PierceAtwood.com>

**From:** Barbara Barhydt  
**To:** Fraser, Jean  
**Date:** 10/17/2007 12:32:17 PM  
**Subject:** Fwd: Barclay Plat

>>> "Jim Wolf" <jmw1@maine.rr.com> Tuesday, October 16, 2007 9:58 AM >>>

Penny

I believe the following gives us both what we are looking for. Please advise. If acceptable I should be able to get you a plat for Thursday afternoon.

1. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the forth division as defined under the State of Maine Statute 30-A, MRSA on October 23, 2007.

2. The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.

3. No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.

In addition, the plat shall show a drainage easement over lot 3 benefiting lot 1. (This should satisfy staff's concern that lot 1 has the right to drain on lot 3).

Finally, prior to recording the plat I will deliver to staff a performance guarantee in the amount of 2,200 as required by the approval.



**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

Michael J. Patterson, Chair  
Janice E. Tevastian, Vice Chair  
Kevin Beal  
Bill Hall  
Lee Lowry III  
Shalom Odokara  
David Silk

June 26<sup>th</sup>, 2007

James Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

Re: **Barclay Avenue Three Lot Subdivision**

**Vicinity 35 Barclay Avenue**  
**Application #2007-0018**  
**CBL#: 339 D009001**

Dear Mr. Wolf,

On June 12, 2007 the Portland Planning Board voted to approve the following motions regarding the proposal to create a three-lot subdivision in the vicinity of 35 Barclay Avenue.

Sidewalk Waiver

1. The Planning Board voted 5-0 (Beal and Odokara absent) that two criteria do apply, namely A) and C), and therefore waives the requirement for a sidewalk along the west side of Barclay Avenue:

A) There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site; and

C) A safe alternative-walking route is reasonably available, for example, by way of a sidewalk on the other side of the street.

Subdivision

2. The Planning Board voted 5-0 (Beal and Odokara absent) that the plan is in conformance with the subdivision standards of the land use code with the following Conditions of Approval:

i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantee and relevant conditions; and

ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and

iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and

iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and

v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and

vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and

vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and

viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRC shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.

The approval is based on plans and materials submitted by the applicant and on information relevant to standards for subdivision, evidence presented at the public hearing, and other findings as contained in Planning Board Report # 25-07 and Addendum #1 to that Report, which are attached.

Please note the following provisions and requirements for all subdivision approvals:

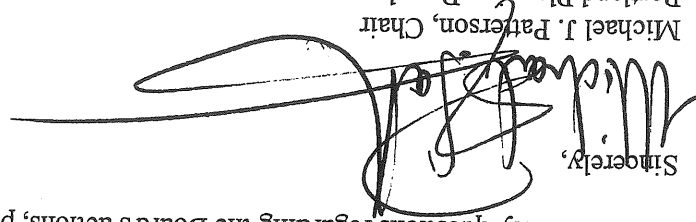
1. Mylar copies of the construction drawing for the subdivision must be submitted to the Public Works Department prior to the release of the plat. Where submissions are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements (and for any items/amounts specified in the conditions) as well as an inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public Works prior to the recording of the subdivision plat. The subdivision approval is valid for three (3) years.
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

4. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

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

6. The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Department at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions regarding the Board's actions, please contact Jean Fraser at 874-8728.

Sincerely,  
  
Michael J. Patterson, Chair  
Portland Planning Board

Attached: Planning Board Report #25-07 and Addendum #1 to that Report

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPietro, Development Review Coordinator  
Marge Schmuuckal, Zoning Administrator  
Jeanie Bourke, Inspections Division  
Michael Bobinsky, Public Works Director  
Katherine Barley, Public Works  
Bill Clark, Public works  
Jim Carmody, Transportation Manager  
Michael Farmer, Public Works  
Leslie Kaynor, Public Works  
Jeff Tarling, City Arborist  
Captain Greg Cass, Fire Prevention  
Assessor's Office  
Approval Letter File

**From:** "Kami Bedard" <kbedard@PierceAtwood.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 10/9/2007 12:17:13 PM  
**Subject:** RE: Barclay Ave sub division

Thanks Jean - I just sent my revised note along.

Kami L. Bedard

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, October 09, 2007 11:49 AM  
**To:** Kami Bedard  
**Subject:** RE: Barclay Ave sub division

Hello Kami,

You should have received a written notice of the hearing prior to my e-mail; my e-mail was just to double check.

Any change to the wording would be made by the Board at the Hearing tonight.

I will arrange for your e-mail to be circulated to all the Board members and attending staff at the Hearing so that they can decide whether or not to revise the wording.

You still have time to write a substitute or further e-mail (to be circulated to the Board) if you wish to clarify or explain the issues from your viewpoint. Let me know if that is the case.

Jean (Fraser)  
Planner  
874 8728

>>> "Kami Bedard" <kbedard@PierceAtwood.com> 10/5/2007 4:40:28 PM >>>  
Jean:

Unfortunately because of late notice, I am unable to attend on Tuesday 10/9 as I have a prior commitment.

I would only suggest that in the chart - under item iii -- the language appears to be backwards.

It should state that the developer should obtain an easement from me and then construct the drainage/wale ditch. The way it reads now is backwards - saying that first he performs the work and then has until Oct. 2008 to obtain an easement from me.  
I hope that this change can be incorporated for Tuesday's meeting in

some fashion. Please confirm.

Thank you,  
Kami

Kami L. Bedard  
Manager of Library Services  
Pierce Atwood Law Library  
Pierce Atwood LLP  
207-791-1142 direct

-----Original Message-----  
From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Friday, October 05, 2007 3:03 PM  
To: Kami Bedard  
Subject: Barclay Ave sub division

Ms Bedard,

I am aware that you have been in discussion/communication with Jim Wolf, Dan Goyette and Penny Littell although I do not know the content of those discussions.

I am writing to ensure that you know the Planning Board Hearing on the amendment to the Plat will take place on Tuesday evening Oct 9th (currently scheduled for 8:30pm but the meeting starts at 7:30pm - it could move forward - I suggest you telephone the planning office 874 8719 to see if there has been any change to the order/timing).

I attach a copy of the cover report (you probably have the attachments) that explains the amendments. Hard copies will be available at the meeting.

City Hall is closed on Monday but if you have any questions please call/e-mail me on Tuesday.

Jean (Fraser)  
Planner  
874 8728

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

**APPAL AGENDA**

The Board of Appeals will hold a public hearing on Thursday, September 6, 2007 at 6:30 p.m. on the second floor, Room 209, City Hall, 389 Congress Street, Portland, Maine to hear the following appeals:

To: City Clerk

From: Marge Schmuckal, Zoning Administrator

Date: September 7, 2007

RE: Action taken by the Zoning Board of Appeals on September 6, 2007

The meeting was called to order at 6:30pm.

Roll call as follows:

Members Present: David Dore, Philip Saucier, Peter Thornton, Kate Knox and Jill Hunter.

Members Absent: Peter Coyne and Gordon Smith.

**1. Old Business:**

**A. Practical Difficulty Variance Appeal:**

101 Central Avenue, Peaks Island, Christopher and Michele Alves, owners, Tax Map # 087 Block P Lot #010 and 011, in the IR2 Island Residential Zone. The appellant is seeking a Practical Difficulty Variance Appeal under section 14- 145.11(d) of the City of Portland Zoning Ordinance. Appellant is requesting a six foot (6') by eighteen foot (18') expansion. The appellant is already over the maximum lot coverage by 30.5 square feet. Representing the Appeal are the owners. Continued from the meeting of August 16, 2007. **Board voted 4-1 and granted the Practical Difficulty Variance Appeal.**

**B. Interpretation Appeal:**

69 George Street, Janet Kantz, owner, Tax Map #157 Block A Lot 004 in the R3 Residential Zone. The Appellants are seeking an Interpretation Appeal concerning the construction of a new house located at 69 George Street in regards to sections 14-47, the definitions of front and side setbacks; 14-86, the purpose statement of the R-3 zone; 14-87 (a) 5 - single family, single component manufactured housing placement on the lot; and 14-90 (f) the minimum lot width requirement of 65 feet. Representing the appeal is the applicant / abutter, Dale and Priscilla Doucette located at 79 George Street. Continued from the meeting of August 16, 2007, to discuss retaining wall setbacks. **Board voted 5-0 to continue the Interpretation Appeal to the next meeting of September 20, 2007, due to a lack of quorum.**

**2. New Business:**

**A. Conditional Use Appeal:**

31 Barclay Avenue, Stacy Ayres, owner Tax Map #339 Block D Lots #007, 013, 014, 015, and 016 in the R3 Residential Zone. The Appellant is seeking a Conditional Use Appeal under section 14-88. (a) 2 of the City of Portland Zoning Ordinance. Appellant is requesting a change of use from a single family home to a single family home with a secondary dwelling unit; the unit will be on the second floor of the proposed 23' x 28' garage addition. Representing the Appeal is the owner. **Board voted 5-0 and granted the Conditional Use Appeal.**

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

R-3 Residential Zone Additional Dwelling Unit:

Conditional Use Appeal

**DECISION**

Date of public hearing:  
9/16/07

Name and address of applicant:  
Stacy M. ~~Barclay~~ AYES, 31 Barclay Avenue, Portland, ME 04103

Location of property under appeal:  
31 Barclay Avenue, Portland, ME 04103

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

Stacy AYES, 31 Barclay Ave, Portland ME 04103  
Mike Clarke walk, 79 Whitney Ave, Portland ME 04102

Exhibits admitted (e.g. renderings, reports, etc.):

Findings of Fact and Conclusions of Law:

A. Conditional Use Standards pursuant to Portland City Code §14-88(a)(2):

1. The accessory unit shall be no more than thirty (30) percent of the gross floor area of principal building and shall have a minimum floor area four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit.

Satisfied X50 Not Satisfied \_\_\_\_\_

Reason: Accessory unit will be 532 ft<sup>2</sup> and use 30%.

floor.

2. There shall be no open outside stairways or fire escapes above the ground

Satisfied X50 Not Satisfied \_\_\_\_\_

Reason: No fire escapes

3. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling.

Satisfied X50 Not Satisfied \_\_\_\_\_

Reason: will be compatible with existing house facade style, etc.

4. A minimum lot size of six thousand five hundred (6,500) square feet of land area shall be required.

Satisfied X50 Not Satisfied \_\_\_\_\_

Reason: (currently) have at least 16,600 ft<sup>2</sup> according to findings and for map.



5. No dwelling unit shall be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic.

Satisfied X5-0 Not Satisfied       

Reason: No charge to people dwelling unit.

6. Parking shall be provided as required by division 20 of this article: 1 off-street parking space per new unit (14-332(a)(2)).

Satisfied X5-0 Not Satisfied       

Reason: There are currently 4 spaces.

7. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.

Satisfied X5-0 Not Satisfied       

Reason: Owner will occupy principle unit.

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes        No X5-0

Reason: No, will be used as a residential in-law apartment.

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

Yes        No X5-0

Reason: No impact.

1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building; and

Please note that, pursuant to Portland City Code 14-88(a)(2)(i), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

Option 3: The Board finds that not all of the standards (1 through 7) described in section A above have been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Option 2: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied, and that while not all of the conditions (1 through 3) described in section B above are present, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:  
Option 1: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application.

Conclusion: (check one)

5-0

Yes

No  5-0

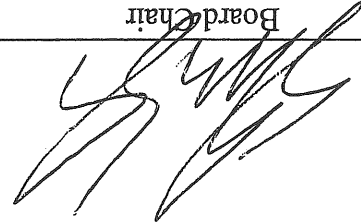
Reason: No, it is a residential neighborhood. No as a 1-lm apartment.

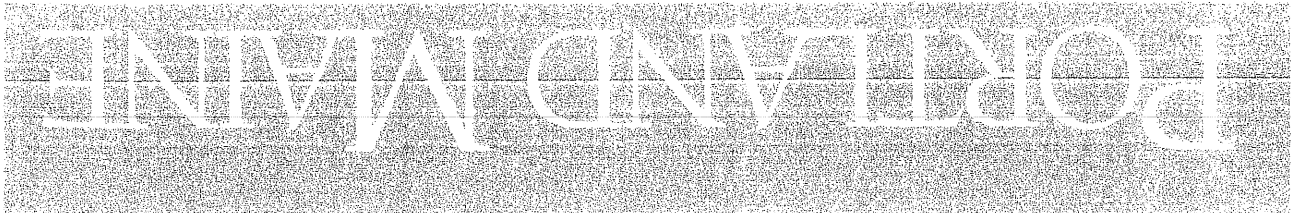
3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

O:\OFFICE\FORMS\R-3 residential zone conditional use appeal.doc

2. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

Dated: 9/6/07

  
\_\_\_\_\_  
Board Chair



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

Lee Urban-Director of Planning and Development  
Marge Schmuckal, Zoning Administrator

July 24, 2007

Stacy M. Brindle

31 Barclay Avenue  
Portland, ME 04103

RE: 31 Barclay Avenue- 339-D-7, 13, 14, 15, 16 - R-3 Zone - permit #07-0886

Dear Ms. Brindle,

*New*

I am in receipt of your application to build an addition to your single family dwelling for a 24'x28' first floor garage with a secondary dwelling unit on the second floor. Your permit can not be issued at this time. Section 14-88.(a)2 requires an approved conditional use appeal from the Zoning Board of Appeals for an accessory dwelling unit. Your permit will be on hold until such time the Zoning Board of Appeals approves your use.

I have enclosed the necessary paperwork that you will need to apply for this conditional use appeal. Please note that the submitted plot plan is not correct for this lot. We will require an updated, corrected site plan with your conditional use appeal and permit application.

If you have any questions, please do not hesitate to contact me at 874-8695.

Very truly yours,

Marge Schmuckal  
Zoning Administrator

Cc: Mike Charleworth, 79 Whitney Ave., Portland, ME 04102

PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)

Lee Urban-Director of Planning and Development  
Marge Schmuckal, Zoning Administrator

July 24, 2007

Stacy M. Brindle  
31 Barclay Avenue  
Portland, ME 04103

RE: 31 Barclay Avenue- 339-D-7, 13, 14, 15, 16 - R-3 Zone - permit #07-0886

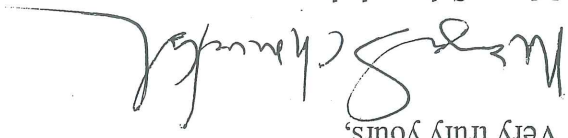
Dear Ms. Brindle,

I am in receipt of your application to build an addition to your single family dwelling for a 24'x28' first floor garage with a secondary dwelling unit on the second floor. Your permit can not be issued at this time. Section 14-88.(a)2 requires an approved conditional use appeal from the Zoning Board of Appeals for an accessory dwelling unit. Your permit will be on hold until such time the Zoning Board of Appeals approves your use.

I have enclosed the necessary paperwork that you will need to apply for this conditional use appeal. Please note that the submitted plot plan is not correct for this lot. We will require an updated, corrected site plan with your conditional use appeal and permit application.

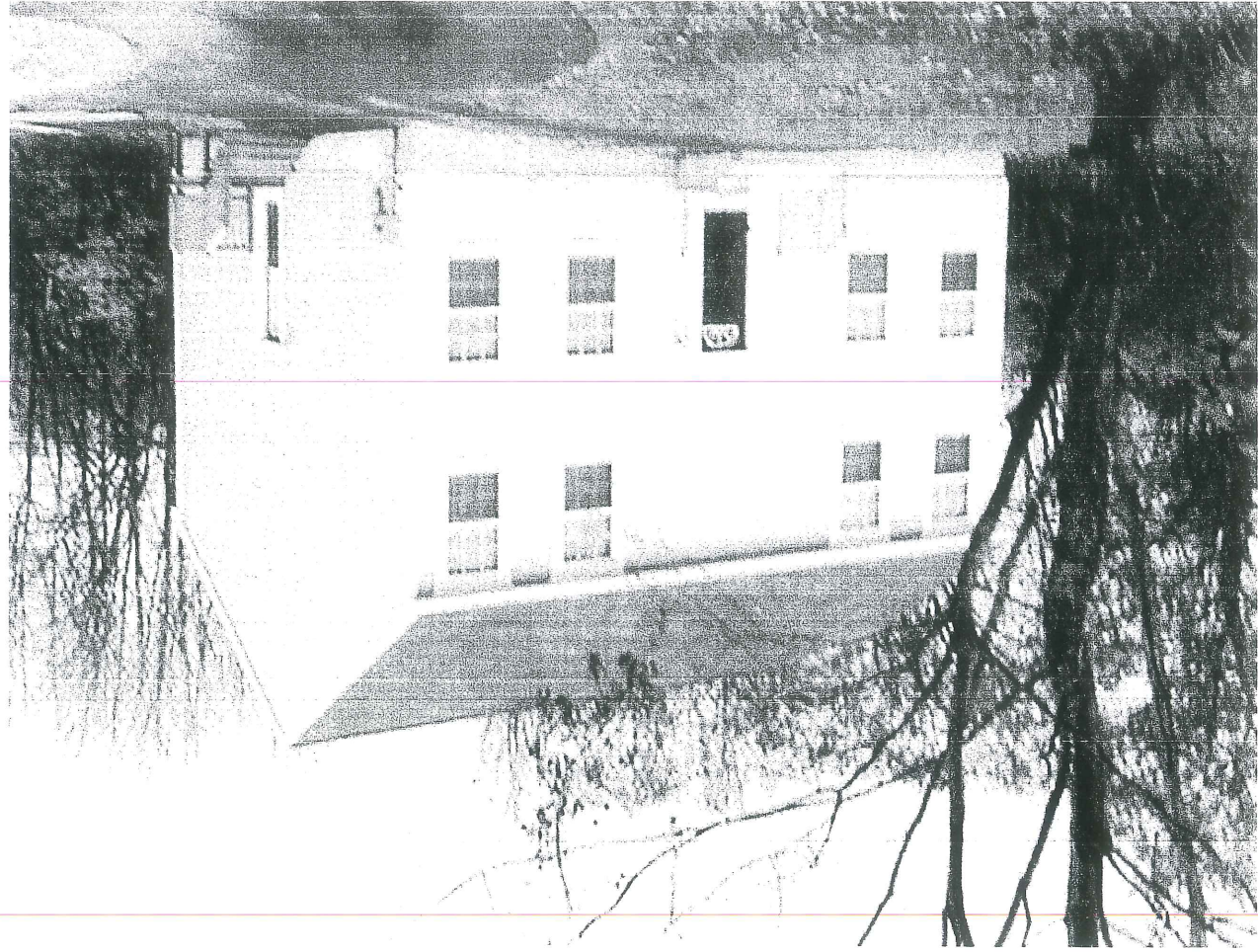
If you have any questions, please do not hesitate to contact me at 874-8695.

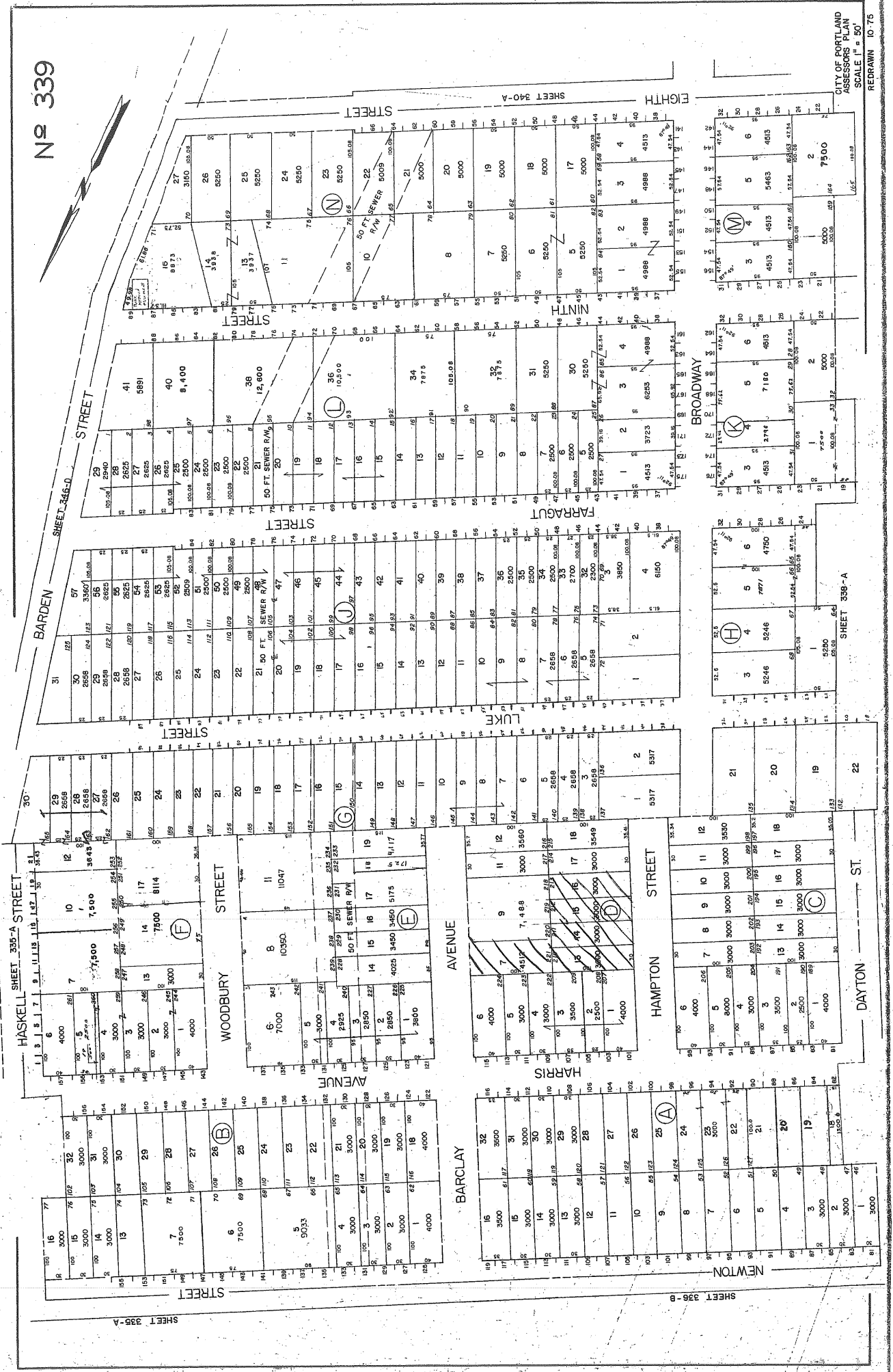
Very truly yours,



Marge Schmuckal  
Zoning Administrator

Cc: Mike Charleworth, 79 Whitney Ave., Portland, ME 04102





appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration or construction of a detached single-family dwelling to accommodate one (1) additional dwelling unit for the benefit of homeowners or tenants, provided that:

a. The accessory unit shall be no more than thirty (30) percent of the gross floor area of principal building and shall have a minimum floor area of four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit;

b. There shall be no open outside stairways or fire escapes above the ground floor.

c. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling.

d. A minimum lot size of six thousand five hundred (6,500) square feet of land area shall be required.

e. No dwelling unit shall be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic.

f. Parking shall be provided as required by division 20 of this article.

South  
7/24/07



g. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building;

ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets; and

iii. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.

(b) Commercial:

1. Reserved.

(c) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474(a) of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle, and secondary school;

2. a. Long-term and extended care facilities;

b. Intermediate care facility for thirteen (13) or more persons;

3. Church or other place of worship;

4. Private club or fraternal organization;

August 20, 2007

City of Portland Planning & Development  
389 Congress St. Rm 315  
Portland, ME 04101

To Whom It May Concern:

This letter is to request a review of my recent submission to construct an attached 2 car garage with living area above. My request for a building permit was denied and referred for an appeal due to the fact that I wish to include an "in-law" apartment in the living space. My intention for this is to provide a residence for my relative to live independently. The standards will bet as follows:

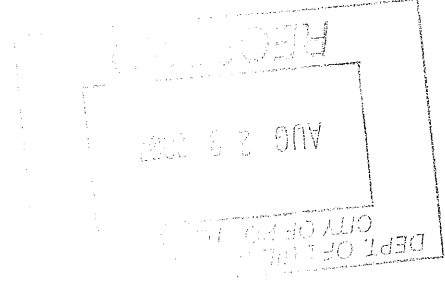
- There will be no unique or distinctive characteristics associated with this use.
- There will be no adverse impact on health, safety, or welfare of the surrounding residents.
- There will be no difference of impact from which would normally occur in the zone (strictly residential use).

My builder is aware and has met all necessary requirements and measurements for this structure as indicated in Section 14-88 items A-G in the Code of Ordinance:

- A. The unit will not be more than 30% of the gross floor area and will have a minimum of 400sq ft. Primary residence is 1768sq ft and living space above the garage will be ~~230~~ <sup>1768</sup> sq ft. Which totals ~~230~~ <sup>1768</sup> sq ft. *230% of floor area MDC*
- B. There will be no open stairways or fire escapes
- C. The addition is designed to be compatible with the architectural style and will maintain a single-family appearance.
- D. The requirement of 6,500 square feet of land area is met
- E. No dwelling unit is reduced in size to less than 1000 square feet of floor area.
- F. Parking will be provided, 4 slots available and meets setback and other zone requirements.
- G. (i. Addressed in item C)  
(ii. Addressed in item F)  
iii. The principal unit is occupied by myself, Stacy Ayres, owner of the residence. No rental/tenant occupancy will occur. The additional living space is intended for a relative only.

Thank you for your consideration,

Stacy M. Ayres



August 8, 2007

City of Portland Planning & Development  
389 Congress St. Rm 315  
Portland, ME 04101

To Whom It May Concern,

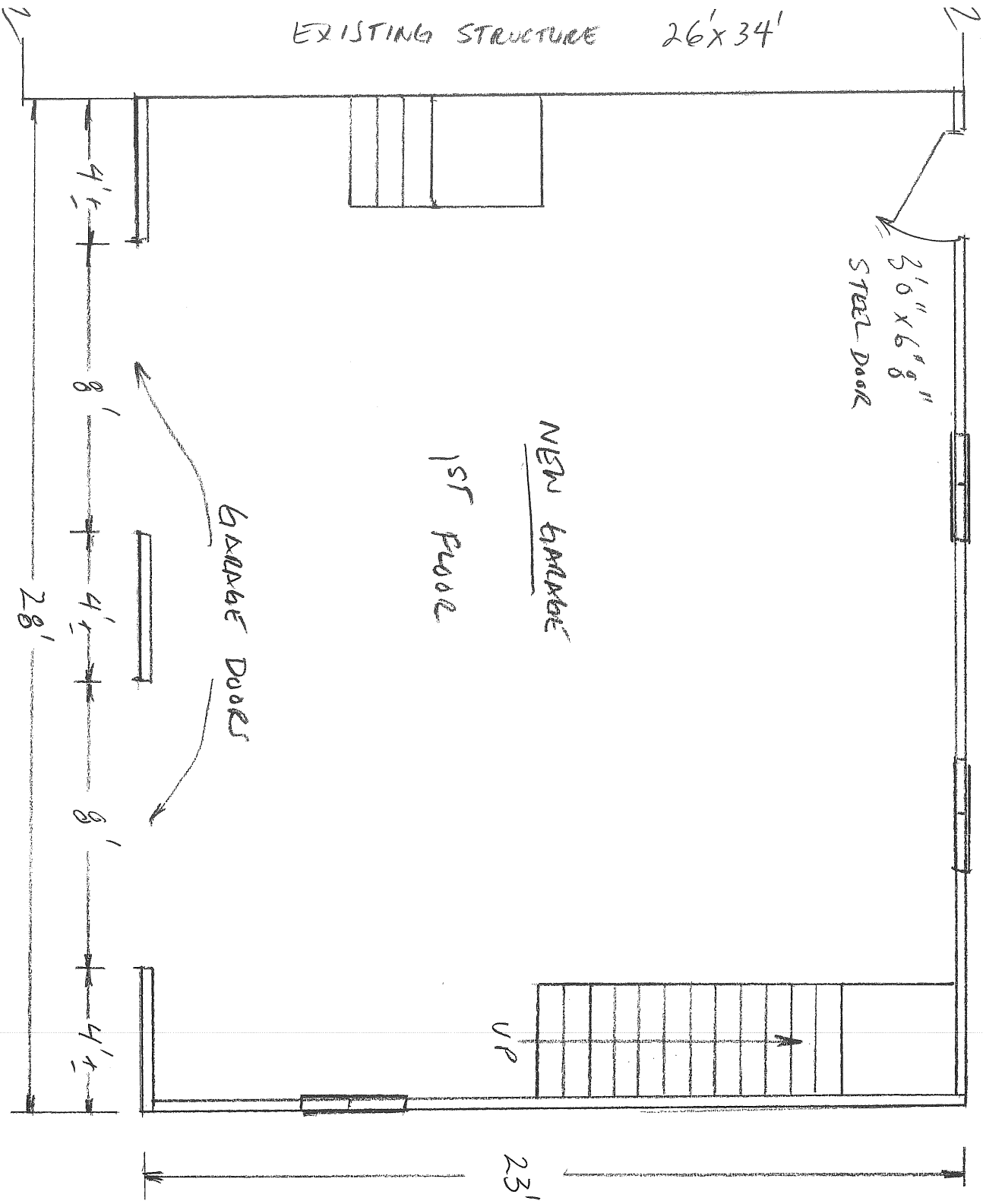
This letter is to request a review of my recent submission to construct an attached 2 car garage with living area above. My request for a building permit was denied and referred for an appeal due to the fact that I am building an "In-Law" apartment for my mother to reside in. I will not be renting/leasing this space to anyone. My request is just to build a space for my relative to reside independently. I do wish to include a bathroom and small efficiency kitchenette in the living area (as floor plan will show). My builder is aware and has met all the necessary requirements and measurements for this structure as indicated in Section 14-88 items A-G in the Code of Ordinance. I have attached all necessary paperwork for your review.

Thank you for your consideration,

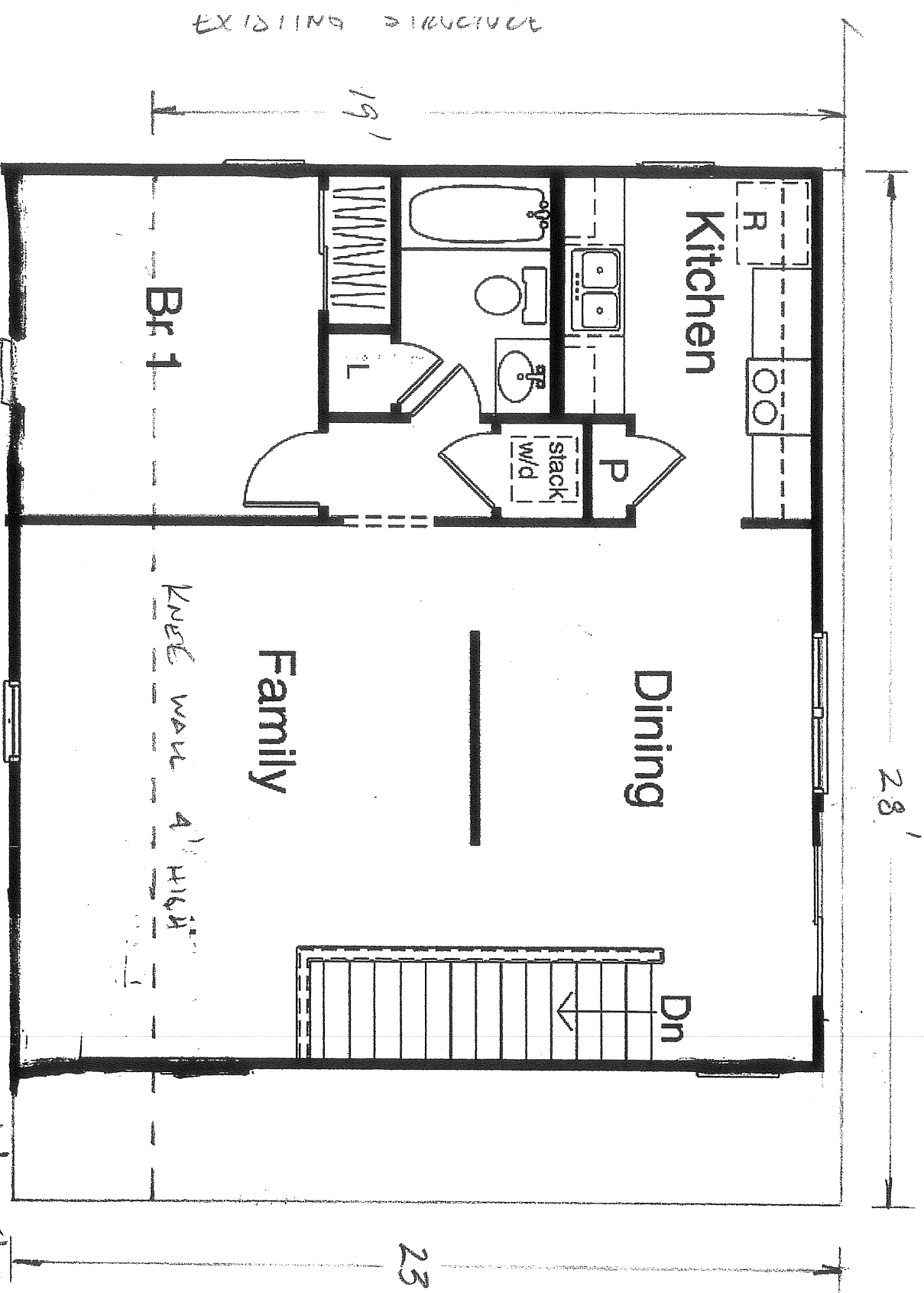


Stacy M. Ayres

EXISTING STRUCTURE 26'x34'



1/4" = 1'



# Second Floor Plan

672 Square Feet

**From:** Barbara Barhydt  
**To:** Littell, Penny  
**Date:** Monday, September 17, 2007 7:47:31 AM  
**Subject:** Barclay - Accessory Unit

Hi Penny:

I am meeting with the contractor on this one. He was not a happy camper when I told him it had to go as an amended subdivision plan. I would like to make it as simple as possible for him. Does this note make sense to add as the amendment?

In title block - State Amended Subdivision Plat for Hampton Street and Barclay Avenue

Add this note:

13: Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007. Thus the subdivision is amended for four divisions as defined under the State of Maine Statute 30-A, M.R.S.A.

Add new signature block for Planning Board members

Thanks for your help.

Barbara

BARCLAY AVENUE - AMENDMENT TO THREE LOT SUBDIVISION *new 4 lots*

VICINITY 35 BARCLAY AVENUE

DIVERSIFIED PROPERTIES INC, APPLICANT

Submitted to:

Portland Planning Board  
Portland, Maine

October 23, 2007

*ref. 31, 35, 39 Barclay Ave  
↓  
grd unit  
over garage*

*with  
board's  
approval  
add'd*

## I. INTRODUCTION

Diversified Properties Inc received an after-the-fact approval for a three lot subdivision on June 12, 2007. Diversified Properties owns Lot #3 and the other two lots (#1 and #2) have been developed as single family homes and sold to other parties.

The associated Subdivision Plat has not been registered as the applicant needed to resolve drainage easements that were conditions of the subdivision approval.

Since the subdivision approval the owner of Lot #2 sought and received conditional use approval for an accessory unit (for use by a relative) on the second floor of a garage addition to the existing single family home. The garage addition is exempted from site plan review. This accessory unit constitutes a fourth division of the overall lot and the owner of Lot #2 had sought to amend the registered Subdivision Plat to add in the new unit. However, there is no registered Subdivision Plat to amend.

After discussions with staff and Diversified Properties, the most efficient course of action appeared to be to amend the approved three lot subdivision prior to its registration. Although adding the fourth unit does not create any drainage or other issues that affect other lots in the subdivision, the amendment is complicated by the fact that the approved subdivision was subject to several conditions that needed to be met prior to registration of the Plat to ensure the undeveloped Lot #3 integrated satisfactorily with the two developed lots.

Planning Board Report #44-07 was tabled at the Planning Board meeting of October 9, 2007 as it was learned just before the Board meeting that the easement with Lot #1 would not be possible (Attachment 2) and that the Board would need to reconsider the conditions of the original approval (Attachment 1).

This Report outlines an approach that allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #2 may progress with the accessory unit, while also adding 3 new notes and a revised easement to meet the objectives of several original conditions that addressed the concerns of the abutter on Lot #1 (Ms Bedard).

This Hearing has been noticed to a total of 189 area residents and interested citizens. A notice also appeared in the *Portland Press Herald*.

## II. CONTEXT

The original overall parcel lies between Barclay Avenue and Hampton Street and comprises some 30,561 sq ft (see Boundary Survey in Attachment 5). All three of the lots are accessed from Barclay Avenue, which was constructed by the applicant (with utilities, turnaround and associated easement to the City of Portland) and accepted by the City in 2005.

Lots #1 and #2 are single family homes that were completed in 2004 and owned by two other parties (Ms Bedard and Ms Brindle respectively). Lot #3 is owned by the applicant and is undeveloped (see Existing Conditions Plan in Attachment 6).

The three lot subdivision application was considered and approved by the Planning Board on June 12, 2007 and the approval letter is attached (Attachment 1). The approval sets out eight conditions of approval, including two added by the Planning Board, which generally ensure that the development of the third lot integrates with the other two lots and would not result in adverse



impacts on the existing lots. Ms Bedard (owner of Lot #1) made representations at the Planning Board Hearing and the Board added conditions vii and viii to address her concerns.

Ms Brindle, owner of Lot #2, has received Zoning Board approval and building permits for the fourth unit within the new addition to her single family home. It was after she received Zoning Board Approval and the building permit had been issued for the garage, that City staff identified the need for an amended plat for the recently approved three lot subdivision on Barclay Avenue. At that time, the Planning Staff had not received a revised Subdivision Plat from Diversified Properties and conditions of approval had not yet been met. Progress on finalizing and registering the three-lot Subdivision Plat was slowed by the process of securing easements and the applicants wish to delay payment of the street opening permit/performance guarantee until nearer the time of development of Lot #3.

### III. FOURTH UNIT

In July 2007 the owner of Lot #2 (Stacy Brindle, 31 Barclay Avenue) applied through her contractor for a building permit for the building of a 23 foot by 28 foot addition to her existing single family dwelling. The addition comprises a two car garage on the first floor and a secondary dwelling unit on the second floor for a relative.

The Zoning Administrator advised that a permit could not be issued because the proposal required a Conditional Use Appeal through the Zoning Board of Appeals. The application was granted by the Zoning Board of Appeals on September 6<sup>th</sup>, 2007 and a building permit was issued.

The proposed footprint for the garage addition was included in the approved drainage and grading plans submitted in support of the three lot Subdivision Plat.

### IV. PROPOSED AMENDMENTS TO THE SUBDIVISION PLAT

The revised plat meets the Planning Board conditions of approval (Attachment 1), except for conditions vi (street opening fee) and viii (joint drainage swale). These are discussed below. Staff suggests that the approved three lot Plat could be amended in order to allow Ms Brindle to proceed with her accessory unit. Three new notes and a revised easement have been suggested for inclusion on the Plat to:

- Incorporate the fourth unit;
- Address the question of the Performance Guarantee and street opening fees;
- Confirm tree protection for Lot #1; and
- Address the question of integration of the drainage design between Lot#1 and Lot #3.

### *New and Revised Notes on the Revised Plat*

#### A. New Note on Plat for Fourth Unit (Attachment 7)

The following new note (note #13) on the amended Subdivision Recording Plat (Attachment 7) was suggested by the City's Associate Corporation Counsel to reflect the addition of the fourth unit:

*Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended O:\LANDDEVELOPMENT\Barclay3 & Subdiv\Amendment to Plat to add fourth unit Fall 2007\Planning Board\BR46-07 Barclay Ave subdiv amend 10-23-07.doc*

*subdivision for the fourth division as defined under the State of Maine Statute 30-A, MRS4 on October 23, 2007.*

B. Revised note #14 Regarding No-Cut Area on the Final Subdivision Recording Plat (Attachment 7)

The Planning Board placed a condition of approval on the original plan that required the applicant to create a 10 foot by 10 foot area in the southerly corner of lot #3 to restrict cutting and to limit plantings that impact the tree on the adjoining property. The revised plat shows the no cut area on Lot #3 as directed in the Board's original condition of approval. The amended plat note contains the restrictions imposed by the Planning Board in June and states the following:

*The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.*

C. Revised note #15 Regarding Street Opening Fees on the Final Subdivision Recording Plat (Attachment 7)

The Planning Board placed a condition on the original approval which stated, " The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat." In order to facilitate the recording of the plat for this subdivision, Penny Littlell, Associate Corporation Counsel, and Barbara Barhydt, Development Review Services Manager, have suggested that Diversified Properties submit a performance guarantee for the installation of the curb cut and that all street opening fees be paid at the time of development. (The developer may wish to hold the lot through October 22, 2009, in which case no moratorium fee would be required.) Diversified Properties has agreed to pay a performance guarantee covering of \$2,200 to cover the construction costs of the curb cut. The City staff recommends that Note #15 be revised as follows:

*No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.*

D. New Easement to address Planning Board Condition viii. (Attachment 7)

The Draft Recording Plat considered by the Planning Board in June 2007 included a note relating to the drainage swale between Lots #1 and #3:

"The ditch along the common boundary between Lot 1 and 3 shall be modified to allow drainage entering the ditch to flow toward the street without ponding. Contractor shall coordinate with homeowner of Lot 1 for modifications to this ditch." At the Planning Board Hearing there was considerable discussion regarding the integration of the two lots to achieve adequate drainage and the Board requested a more extensive easement for these modifications (that included installation, maintenance and use) of the swale and added a new condition (Condition 2 viii) to ensure it operated as intended.

The owner of Lot 1 has obtained legal advice and determined that this easement, as presented to her by the applicant, is not in her interest (Attachment 2). As per condition 2iv the applicant has redesigned the drainage to ensure that the drainage from Lot #3 does not leave lot #3. The revised grading plan (Attachment 8) has been submitted to and approved by the Engineering Reviewer (Dan Goyette), who also commented on the original subdivision proposals and has spoken with Ms Bedard (Attachment 4).

Staff considers that Condition 2viii is no longer relevant. However, to achieve the intent of the condition, staff recommends that the drainage swale created within Lot #3 should operate as a joint drainage swale as it would have if the Subdivision has been approved before development of individual lots. Therefore staff has requested that Lot #3 give an easement to Lot #1 that permits Lot 1 to utilize the drainage swale for drainage purposes. The applicant has submitted a revised plat showing a five foot drainage easement on lot #3 to benefit lot #1 for maintenance and upgrading of existing swale. This allows Ms. Bedard to direct drainage into this swale and make improvements, if necessary. The staff recommends the following as condition of approval of the amended subdivision plat:

*At the time of development of Lot #3, the proposed drainage swale on Lot #3 shall be constructed as shown on the plan titled Lot #3 Grading and Drainage Plan, Barclay Avenue Portland, prepared by Gorrill-Palmer Consulting Engineers, Inc. and last revised 10/04/07.*

The table found on the following page (page 6) lists the original conditions (as in the Approval letter in Attachment 1) in the first column and in the second column indicates how these have been addressed by actions already taken and the amendments proposed and outlined in this Report.

**How amendments address original conditions**

<b><i>Conditions of June 12, 2007 approval to three lot subdivision</i></b>	<b><i>How addressed in final Subdivision Recording Plat (Attachment 4)</i></b>
i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantee and relevant conditions; and	Final Subdivision Recording Plat submitted and in <u>Attachment 7</u>
ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and	Applicant does not require this easement as they have revised the drainage along that boundary so that all drainage from Lot #3 remains on that property (see Cond. iv).
iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and	The owner of Lot #1 does not wish to grant an easement for a common drainage swale- see <u>Attachment 2</u> .
iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and	The applicant has not secured an easement re Lots #1 and #2 and has submitted a revised grading plan that ensures the water remains on Lot #3 and this grading plan has been approved by the Engineering Reviewer.
v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and	The applicant has stated in an e-mail ( <u>Attachment 3</u> ) "that prior to recording the plat I will deliver to staff a performance guarantee in the amount of \$2,200 as required by the approval."
vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and	<u>New Note on amended Plat: No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.</u>
vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and	<u>New Note on amended Recording Plat: The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.</u>
viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRC shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.	<u>New easement shown on amended Recording Plat: The final plat shows a drainage easement over Lot #3 benefiting Lot #1. This was requested by staff to ensure Lot #1 could, if necessary, drain over Lot #3 so that Lot #1 is not adversely affected by the inability to coordinate drainage for this after-the-fact Subdivision approval.</u>

V. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report # 46-07 relevant to standards for subdivision, evidence presented at the public hearing, and other findings, the Planning Board [approves/does not approve] the amended subdivision plat subject to the following condition of approval:

1. At the time of development of Lot #3, the proposed drainage swale on Lot #3 Plan, Barclay Avenue Portland, prepared by Gorrill-Palmer Consulting Engineers, Inc. and last revised 10/04/07.

6-0  
Lowry  
absent

2. ~~Business easement in a farm satrs factory to Corporation. Corncor's office shall be granted from Lots 3 to Lot 1 such easement shall be delivered within 30 days of this recording of the plat.~~

Attachments

1. Barclay Avenue Three Lot Subdivision Approval letter of June 12, 2007
2. E-mail from Ms Bedard (owner, Lot #1) of 10.9.2007 confirming that she would not sign the proposed drainage easement
3. E-mail from applicant Jim Wolf of 10.16.2007 confirming payment of Performance Guarantee
4. Memorandum, Dan Goyette, Consulting Engineer, October 12, 2007
5. 2001 Standard Boundary Survey
6. Existing Conditions Plan
7. Amended Final Subdivision Recording Plat
8. Lot 3 Grading & Drainage Plan, Barclay Avenue, revision date 10/04/07

*Sorry from  
I am not thinking  
I can't take  
I can't take*

Michael J. Patterson, Chair  
Janice E. Tevastian, Vice Chair  
Kevin Beal  
Bill Hall  
Lee Lowry III  
Shalom Odokara  
David Silk

**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

Attachment 1  
(3 pages)

June 26<sup>th</sup>, 2007

James Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

Re: **Barclay Avenue Three Lot Subdivision**  
**Vicinity 35 Barclay Avenue**  
**Application #2007-0018**  
**CBL#: 339 D009001**

Dear Mr. Wolf,

On June 12, 2007 the Portland Planning Board voted to approve the following motions regarding the proposal to create a three-lot subdivision in the vicinity of 35 Barclay Avenue.

Sidewalk Waiver

1. The Planning Board voted 5-0 (Beal and Odokara absent) that two criteria do apply, namely A) and C), and therefore waives the requirement for a sidewalk along the west side of Barclay Avenue:

- A) There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site; and
- C) A safe alternative-walking route is reasonably available, for example, by way of a sidewalk on the other side of the street.

Subdivision

2. The Planning Board voted 5-0 (Beal and Odokara absent) that the plan is in conformance with the subdivision standards of the land use code with the following Conditions of Approval:

i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantee and relevant conditions; and

ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and

iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and

iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and

v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and

vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and

vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and

viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRC shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.

The approval is based on plans and materials submitted by the applicant and on information relevant to standards for subdivision, evidence presented at the public hearing, and other findings as contained in Planning Board Report # 25-07 and Addendum #1 to that Report, which are attached.

Please note the following provisions and requirements for all subdivision approvals:

1. Mylar copies of the construction drawing for the subdivision must be submitted to the Public Works Department prior to the release of the plat. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.

2. A performance guarantee covering the site improvements (and for any items/amounts specified in the conditions) as well as an inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public Works prior to the recording of the subdivision plat. The subdivision approval is valid for three (3) years.

3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

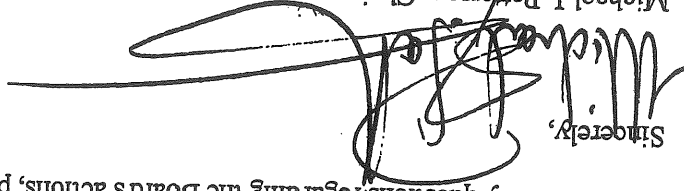
4. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

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

6. The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Department at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions regarding the Board's actions, please contact Jean Fraser at 874-8728.

Sincerely,



Michael J. Patterson, Chair  
Portland Planning Board

Attached: Planning Board Report #25-07 and Addendum #1 to that Report

cc: Lee D. Urban, Planning and Development Department Director

Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager

Jean Fraser, Planner

Philip DiPietro, Development Review Coordinator

Marge Schmuckal, Zoning Administrator

Jeanie Bourke, Inspections Division

Michael Bobinsky, Public Works Director

Katherine Farley, Public Works

Bill Clark, Public works

Jim Carmody, Transportation Manager

Michael Farmer, Public Works

Leslie Kaynor, Public Works

Jeff Tarling, City Arborist

Captain Greg Cass, Fire Prevention

Assessor's Office

Approval Letter File



**From:** "Kami Bedard" <kbedard@PierceAtwood.com>  
**To:** <jf@portlandmaine.gov>  
**Date:** 10/9/2007 12:17:10 PM  
**Subject:** Comments for Barclay Ave. - 10/9/2007

For the 10/9 Planning Board Meeting:

Please accept this email as my response to the Planning Board Report #44-07 that I recently received dated October 9, 2007. I have a prior commitment and so will be unable to attend tonight's meeting.

I noticed that in section I, paragraph 5, there is a reference to Lot #1 that should be Lot #2. It states: "This approach allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #1 may progress..."

This reference should be to Ms. Brindle's lot -- Lot #2. Further, I would like to add that I have decided against signing the proposed drainage easement. I was considering signing the easement when the concept was first discussed back in June, but, after discussing this with my attorney, I have decided that it is not in my best interest to do so for a variety of reasons. Therefore, I would like to request that condition will be further amended to reflect this change.

While I have not had a chance to speak with the City Engineer directly about this, I would like to find out if the engineer is of the opinion that the developer can appropriately create a drainage area entirely on Lot #3 without creating any adverse conditions to my Lot (Lot #1). I would like there to be a condition in the plan that the developer be responsible for any adverse condition that is created once the drainage area is created and I would also like there to be a post development review of the installation to be done so that the developer can remedy any possible problems or defects revealed by that review.

In the table provided within the report, section III, the reference to the "New Note on Amended Plat" seems inappropriately worded and I would recommend that it be altered. As it reads now, it says that the developer shall be responsible for installing the swale and it then states that he has until October 2008 to obtain the easement from me. I would suggest that the wording be changed to say that the developer should 1st obtain an easement from me (or resubmit plans) and then he shall perform the work. Or, as an alternative, since I do not intend to sign the easement, it could read more like section IV, -- that is - once the developer has resubmitted the revised grading plan that ensures that the water remains on Lot #3.

Thank you:

Kami

Attachment 2  
 (2 pages)

Kami L. Bedard  
Manager of Library Services  
Pierce Atwood Law Library  
Pierce Atwood LLP  
One Monument Square  
Portland, ME 04101  
207-791-1142 direct  
207-791-1350 fax  
mailto:kbedard@pierceanwood.com  
<http://www.pierceanwood.com>

This email was sent from the law firm Pierce Atwood LLP. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it, please delete it and notify us as soon as possible. Thank you.

CC: "Kami Bedard" <kbedard@PierceAtwood.com>

Attachment 3

From: Barbara Barhydt  
To: Fraser, Jean  
Date: 10/17/2007 12:32:17 PM  
Subject: Fwd: Barclay Plat

from ↑

<<<"Jim Wolf"<jmw1@maine.rr.com> Tuesday, October 16, 2007 9:58 AM >>>

Penny

I believe the following gives us both what we are looking for. Please advise. If acceptable I should be able to get you a plat for Thursday afternoon.

1. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the forth division as defined under the State of Maine Statute 30-A, MRSA on October 23, 2007.

2. The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.

3. No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.

In addition, the plat shall show a drainage easement over lot 3 benefiting lot 1. (This should satisfy staff's concern that lot 1 has the right to drain on lot 3).

Finally, prior to recording the plat I will deliver to staff a performance guarantee in the amount of 2,200 as required by the approval.

Attachment 4

COMMITMENT & INTEGRITY  
DRIVE RESULTS

41 Hutchins Drive  
Portland, Maine 04102  
T 800.426.4262  
T 207.774.2112  
F 207.774.6635  
www.woodardcurran.com

**MEMORANDUM**

TO: Jean Fraser

FROM: Dan Goyette

DATE: October 12, 2007

RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

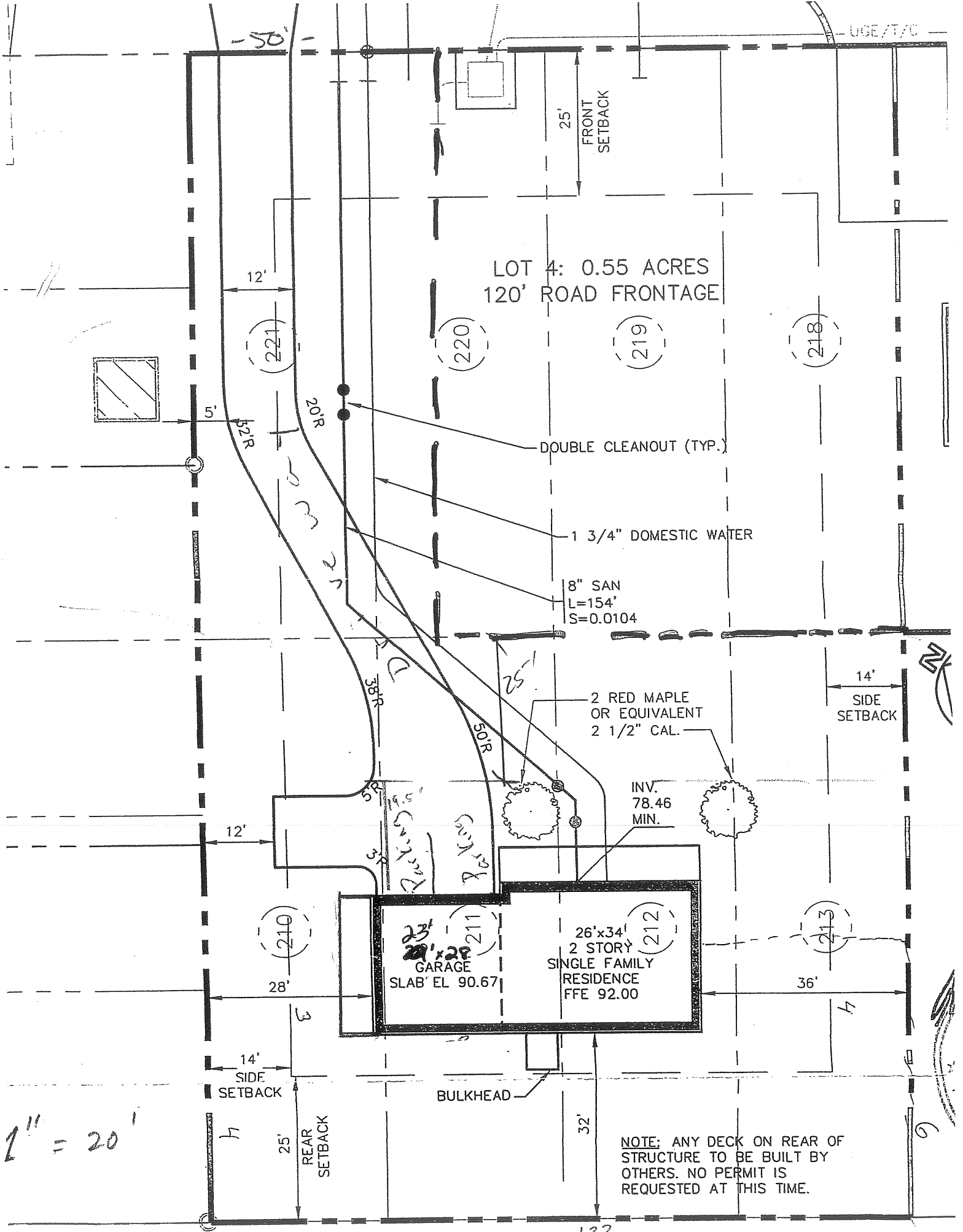
Documents Reviewed

- Lot 3 Grading and Drainage Plan for Barclay Avenue, sheet 3, dated October 4, 2007, Gortill-Palmer Consulting Engineers, Inc.

Comments

- The plans indicate a new ditch line to be located on the Lot 1 side of Lot 3. The ditch as shown is entirely located on Lot 3. It is designed to convey water onto the turnaround for Barclay Avenue. As proposed it appears that the ditch would convey the stormwater that enters the ditch line to the turnaround and prohibit runoff from Lot 3 from being conveyed onto Lot 1.

DRG  
203943.21



LOT 4: 0.55 ACRES  
120' ROAD FRONTAGE

DOUBLE CLEANOUT (TYP.)

1 3/4" DOMESTIC WATER

8" SAN  
L=154'  
S=0.0104

2 RED MAPLE  
OR EQUIVALENT  
2 1/2" CAL.

INV.  
78.46  
MIN.

23' x 28'  
GARAGE  
SLAB' EL 90.67

26' x 34'  
2 STORY  
SINGLE FAMILY  
RESIDENCE  
FFE 92.00

NOTE: ANY DECK ON REAR OF  
STRUCTURE TO BE BUILT BY  
OTHERS. NO PERMIT IS  
REQUESTED AT THIS TIME.

1" = 20'

BARCLAY AVENUE - AMENDMENT TO THREE LOT SUBDIVISION  
VICINITY 35 BARCLAY AVENUE  
DIVERSIFIED PROPERTIES INC, APPLICANT

Submitted to:

Portland Planning Board  
Portland, Maine

October 23, 2007

## I. INTRODUCTION

Diversified Properties Inc received an after-the-fact approval for a three lot subdivision on June 12, 2007. Diversified Properties owns Lot #3 and the other two lots (#1 and #2) have been developed as single family homes and sold to other parties.

The associated Subdivision Plat has not been registered as the applicant needed to resolve drainage easements that were conditions of the subdivision approval.

Since the subdivision approval the owner of Lot #2 sought and received conditional use approval for an accessory unit (for use by a relative) on the second floor of a garage addition to the existing single family home. The garage addition is exempted from site plan review. This accessory unit constitutes a fourth division of the overall lot and the owner of Lot #2 had sought to amend the registered Subdivision Plat to add in the new unit. However, there is no registered Subdivision Plat to amend.

After discussions with staff and Diversified Properties, the most efficient course of action appeared to be to amend the approved three lot subdivision prior to its registration. Although adding the fourth unit does not create any drainage or other issues that affect other lots in the subdivision, the amendment is complicated by the fact that the approved subdivision was subject to several conditions that needed to be met prior to registration of the Plat to ensure the undeveloped Lot #3 integrated satisfactorily with the two developed lots.

Planning Board Report #44-07 was tabled at the Planning Board meeting of October 9, 2007 as it was learned just before the Board meeting that the easement with Lot #1 would not be possible (Attachment 2) and that the Board would need to reconsider the conditions of the original approval (Attachment 1).

This Report outlines an approach that allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #2 may progress with the accessory unit, while also adding 3 new notes and a revised easement to meet the objectives of several original conditions that addressed the concerns of the abutter on Lot #1 (Ms Bedard).

This Hearing has been noticed to a total of 189 area residents and interested citizens. A notice also appeared in the *Portland Press Herald*.

## II. CONTEXT

The original overall parcel lies between Barclay Avenue and Hampton Street and comprises some 30,561 sq ft (see Boundary Survey in Attachment 5). All three of the lots are accessed from Barclay Avenue, which was constructed by the applicant (with utilities, turnaround and associated easement to the City of Portland) and accepted by the City in 2005.

Lots #1 and #2 are single family homes that were completed in 2004 and owned by two other parties (Ms Bedard and Ms Brindle respectively). Lot #3 is owned by the applicant and is undeveloped (see Existing Conditions Plan in Attachment 6).

The three lot subdivision application was considered and approved by the Planning Board on June 12, 2007 and the approval letter is attached (Attachment 1). The approval sets out eight conditions of approval, including two added by the Planning Board, which generally ensure that the development of the third lot integrates with the other two lots and would not result in adverse

impacts on the existing lots. Ms Bedard (owner of Lot #1) made representations at the Planning Board Hearing and the Board added conditions vii and viii to address her concerns.

Ms Brindle, owner of Lot #2, has received Zoning Board approval and building permits for the fourth unit within the new addition to her single family home. It was after she received Zoning Board Approval and the building permit had been issued for the garage, that City staff identified the need for an amended plat for the recently approved three lot subdivision on Barclay Avenue. At that time, the Planning Staff had not received a revised Subdivision Plat from Diversified Properties and conditions of approval had not yet been met. Progress on finalizing and registering the three-lot Subdivision Plat was slowed by the process of securing easements and the applicants wish to delay payment of the street opening permit/performance guarantee until nearer the time of development of Lot #3.

### III. FOURTH UNIT

In July 2007 the owner of Lot #2 (Stacy Brindle, 31 Barclay Avenue) applied through her contractor for a building permit for the building of a 23 foot by 28 foot addition to her existing single family dwelling. The addition comprises a two car garage on the first floor and a secondary dwelling unit on the second floor for a relative.

The Zoning Administrator advised that a permit could not be issued because the proposal required a Conditional Use Appeal through the Zoning Board of Appeals. The application was granted by the Zoning Board of Appeals on September 6<sup>th</sup>, 2007 and a building permit was issued.

The proposed footprint for the garage addition was included in the approved drainage and grading plans submitted in support of the three lot Subdivision Plat.

### IV. PROPOSED AMENDMENTS TO THE SUBDIVISION PLAT

The revised plat meets the Planning Board conditions of approval (Attachment 1), except for conditions vi (street opening fee) and viii (joint drainage swale) . These are discussed below. Staff suggests that the approved three lot Plat could be amended in order to allow Ms Brindle to proceed with her accessory unit. Three new notes and a revised easement have been suggested for inclusion on the Plat to:

- Incorporate the fourth unit;
- Address the question of the Performance Guarantee and street opening fees;
- Confirm tree protection for Lot #1; and
- Address the question of integration of the drainage design between Lot#1 and Lot #3.

#### *New and Revised Notes on the Revised Plat*

##### A. New Note on Plat for Fourth Unit (Attachment 7)

The following new note (note #13) on the amended Subdivision Recording Plat (Attachment 7) was suggested by the City's Associate Corporation Counsel to reflect the addition of the fourth unit:

*Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended O:\PLAN\DEVELOPMENT\Barclay35 & Subdiv\Amendment to Plat to add fourth unit Fall 2007\Planning Board\BR46-07 Barclay Ave subdv amend 10-23-07.doc*



B. Revised note #14 Regarding No-Cut Area on the Final Subdivision Recording Plat  
(Attachment 7)

The Planning Board placed a condition of approval on the original plan that required the applicant to create a 10 foot area in the southerly corner of lot #3 to restrict cutting and to limit plantings that impact the tree on the adjoining property. The revised plat shows the no cut area on Lot #3 as directed in the Board's original condition of approval. The amended plat note contains the restrictions imposed by the Planning Board in June and states the following:

*The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.*

C. Revised note #15 Regarding Street Opening Fees on the Final Subdivision Recording Plat  
(Attachment 7)

The Planning Board placed a condition on the original approval which stated, "The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat." In order to facilitate the recording of the plat for this subdivision, Penny Littell, Associate Corporation Counsel, and Barbara Barhydt, Development Review Services Manager, have suggested that Diversified Properties submit a performance guarantee for the installation of the curb cut and that all street opening fees be paid at the time of development. (The developer may wish to hold the lot through October 22, 2009, in which case no moratorium fee would be required.) Diversified Properties has agreed to pay a performance guarantee covering of \$2,200 to cover the construction costs of the curb cut. The City staff recommends that Note #15 be revised as follows:

*No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.*

D. New Easement to address Planning Board Condition viii. (Attachment 7)

The Draft Recording Plat considered by the Planning Board in June 2007 included a note relating to the drainage swale between Lots #1 and #3:

"The ditch along the common boundary between Lot 1 and 3 shall be modified to allow drainage entering the ditch to flow toward the street without ponding. Contractor shall coordinate with homeowner of Lot 1 for modifications to this ditch." At the Planning Board Hearing there was considerable discussion regarding the integration of the two lots to achieve adequate drainage and the Board requested a more extensive easement for these modifications (that included installation, maintenance and use) of the swale and added a new condition (Condition 2 viii) to ensure it operated as intended.

The owner of Lot 1 has obtained legal advice and determined that this easement, as presented to her by the applicant, is not in her interest (Attachment 2). As per condition 2iv the applicant has redesigned the drainage to ensure that the drainage from Lot #3 does not leave lot #3. The revised grading plan (Attachment 8) has been submitted to and approved by the Engineering Reviewer (Dan Goyette), who also commented on the original subdivision proposals and has spoken with Ms Bedard (Attachment 4).

Staff considers that Condition 2viii is no longer relevant. However, to achieve the intent of the condition, staff recommends that the drainage swale created within Lot #3 should operate as a joint drainage swale as it would have if the Subdivision has been approved before development of individual lots. Therefore staff has requested that Lot #3 give an easement to Lot #1 that permits Lot 1 to utilize the drainage swale for drainage purposes. The applicant has submitted a revised plat showing a five foot drainage easement on lot #3 to benefit lot #1 for maintenance and upgrading of existing swale. This allows Ms. Bedard to direct drainage into this swale and make improvements, if necessary. The staff recommends the following as condition of approval of the amended subdivision plat:

*At the time of development of Lot #3, the proposed drainage swale on Lot #3 shall be constructed as shown on the plan titled Lot #3 Grading and Drainage Plan, Barclay Avenue Portland, prepared by Gorvill-Palmer Consulting Engineers, Inc. and last revised 10/04/07.*

The table found on the following page (page 6) lists the original conditions (as in the Approval letter in Attachment 1) in the first column and in the second column indicates how these have been addressed by actions already taken and the amendments proposed and outlined in this Report.

**How amendments address original conditions**

<b><i>Conditions of June 12, 2007 approval to three lot subdivision</i></b>	<b><i>How addressed in final Subdivision Recording Plat (Attachment 4)</i></b>
i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantee and relevant conditions; and	Final Subdivision Recording Plat submitted and in <u>Attachment 7</u>
ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and	Applicant does not require this easement as they have revised the drainage along that boundary so that all drainage from Lot #3 remains on that property (see Cond. iv).
iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and	The owner of Lot #1 does not wish to grant an easement for a common drainage swale- see <u>Attachment 2</u> .
iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and	The applicant has not secured an easement re Lots #1 and #2 and has submitted a revised grading plan that ensures the water remains on Lot #3 and this grading plan has been approved by the Engineering Reviewer.
v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and	The applicant has stated in an e-mail (Attachment 3) "that prior to recording the plat I will deliver to staff a performance guarantee in the amount of \$2,200 as required by the approval."
vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and	New Note on amended Plat: <i>No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.</i>
vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and	<u>New Note on amended Recording Plat: The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.</u>
viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRC shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.	<u>New easement shown on amended Recording Plat: The final plat shows a drainage easement over Lot #3 benefiting Lot #1. This was requested by staff to ensure Lot #1 could, if necessary, drain over Lot #3 so that Lot #1 is not adversely affected by the inability to coordinate drainage for this after-the-fact Subdivision approval.</u>

V. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report # 46-07 relevant to standards for subdivision, evidence presented at the public hearing, and other findings, the Planning Board [approves/does not approve] the amended subdivision plat subject to the following condition of approval:

1. At the time of development of Lot #3, the proposed drainage swale on Lot #3 Plan, Barclay Avenue Portland, prepared by Gorrill-Palmer Consulting Engineers, Inc. and last revised 10/04/07.

Attachments

1. Barclay Avenue Three Lot Subdivision Approval letter of June 12, 2007
2. E-mail from Ms Bedard (owner, Lot #1) of 10.9.2007 confirming that she would not sign the proposed drainage easement
3. E-mail from applicant Jim Wolf of 10.16.2007 confirming payment of Performance Guarantee
4. Memorandum, Dan Goyette, Consulting Engineer, October 12, 2007
5. 2001 Standard Boundary Survey
6. Existing Conditions Plan
7. Amended Final Subdivision Recording Plat
8. Lot 3 Grading & Drainage Plan, Barclay Avenue, revision date 10/04/07

*Condition  
of approval*

Michael J. Patterson, Chair  
Janice E. Tevastian, Vice Chair  
Kevin Beal  
Bill Hall  
Lee Lowry III  
Shalom Odokara  
David Silk

**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

Attachment 1  
(3 pages)

June 26<sup>th</sup>, 2007

James Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

Re: **Barclay Avenue Three Lot Subdivision**  
**Vicinity 35 Barclay Avenue**  
**Application #2007-0018**  
**CBL#: 339 D009001**

Dear Mr. Wolf,

On June 12, 2007 the Portland Planning Board voted to approve the following motions regarding the proposal to create a three-lot subdivision in the vicinity of 35 Barclay Avenue.

Sidewalk Waiver

1. The Planning Board voted 5-0 (Beal and Odokara absent) that two criteria do apply, namely A) and C), and therefore waives the requirement for a sidewalk along the west side of Barclay Avenue:

- A) There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site; and
- C) A safe alternative-walking route is reasonably available, for example, by way of a sidewalk on the other side of the street.

Subdivision

2. The Planning Board voted 5-0 (Beal and Odokara absent) that the plan is in conformance with the subdivision standards of the land use code with the following Conditions of Approval:

i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantee and relevant conditions; and

ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and

iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and

iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and

v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and

vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and

vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and

viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRC shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.

The approval is based on plans and materials submitted by the applicant and on information relevant to standards for subdivision, evidence presented at the public hearing, and other findings as contained in Planning Board Report # 25-07 and Addendum #1 to that Report, which are attached.

Please note the following provisions and requirements for all subdivision approvals:

1. Mylar copies of the construction drawing for the subdivision must be submitted to the Public Works Department prior to the release of the plat. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.

2. A performance guarantee covering the site improvements (and for any items/amounts specified in the conditions) as well as an inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public works prior to the recording of the subdivision plat. The subdivision approval is valid for three (3) years.

3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

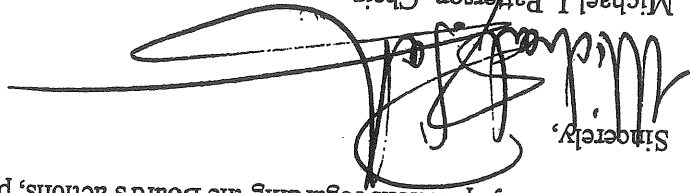
4. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

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

6. The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Department at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions regarding the Board's actions, please contact Jean Fraser at 874-8728.

Sincerely,



Michael J. Patterson, Chair  
Portland Planning Board

Attached: Planning Board Report #25-07 and Addendum #1 to that Report

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPietro, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Jeanie Bourke, Inspections Division  
Michael Bobinsky, Public Works Director  
Katherine Barley, Public Works  
Bill Clark, Public works  
Jim Carmody, Transportation Manager  
Michael Farmer, Public Works  
Leslie Kaynor, Public Works  
Jeff Tarling, City Arborist  
Captain Greg Cass, Fire Prevention  
Assessor's Office  
Approval Letter File

**From:** "Kami Bedard" <kbedard@PierceAtwood.com>  
**To:** <JF@portlandmaine.gov>  
**Date:** 10/9/2007 12:17:10 PM  
**Subject:** Comments for Barclay Ave. - 10/9/2007

For the 10/9 Planning Board Meeting:

Please accept this email as my response to the Planning Board Report #44-07 that I recently received dated October 9, 2007. I have a prior commitment and so will be unable to attend tonight's meeting.

I noticed that in section 1, paragraph 5, there is a reference to Lot #1 that should be Lot #2.

It states: "This approach allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #1 may progress..."

This reference should be to Ms. Brindie's lot -- Lot #2.

Further, I would like to add that I have decided against signing the proposed drainage easement. I was considering signing the easement when with my attorney, I have decided that it is not in my best interest to do so for a variety of reasons. Therefore, I would like to request that condition will be further amended to reflect this change.

While I have not had a chance to speak with the City Engineer directly about this, I would like to find out if the engineer is of the opinion that the developer can appropriately create a drainage area entirely on Lot #3 without creating any adverse conditions to my Lot (Lot #1). I would like there to be a condition in the plan that the developer be responsible for any adverse condition that is created once the drainage area is created and I would also like there to be a post development review of the installation to be done so that the developer can remedy any possible problems or defects revealed by that review.

In the table provided within the report, section III, the reference to the "New Note on Amended Plat" seems inappropriately worded and I would recommend that it be altered.

As it reads now, it says that the developer shall be responsible for installing the swale and it then states that he has until October 2008 to obtain the easement from me.

I would suggest that the wording be changed to say that the developer should 1st obtain an easement from me (or resubmit plans) and then he shall perform the work.

Or, as an alternative, since I do not intend to sign the easement, it could read more like section IV. -- that is - once the developer has resubmitted the revised grading plan that ensures that the water remains on Lot #3.

Thank you.

Kami

Attachment 2  
 (2 pages)



Kami L. Bedard

Manager of Library Services

Pierce Atwood Law Library

Pierce Atwood LLP

One Monument Square

Portland, ME 04101

207-791-1142 direct

207-791-1350 fax

mailto:kbedard@pierceatwood.com

http://www.pierceatwood.com

This email was sent from the law firm Pierce Atwood LLP. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it, please delete it and notify us as soon as possible. Thank you.

CC:

"Kami Bedard" <kbedard@PierceAtwood.com>

Attachment 3

**From:** Barbara Barhydt  
**To:** Fraser, Jean  
**Date:** 10/17/2007 12:32:17 PM  
**Subject:** Fwd: Barclay Plat

from ↑

<<< "Jim Wolf" <jmw1@maine.rr.com> Tuesday, October 16, 2007 9:58 AM >>>

Penny

I believe the following gives us both what we are looking for. Please advise. If acceptable I should be able to get you a plat for Thursday afternoon.

1. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the forth division as defined under the State of Maine Statute 30-A, MRSA on October 23, 2007.

2. The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.

3. No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.

In addition, the plat shall show a drainage easement over lot 3 benefiting lot 1. (This should satisfy staff's concern that lot 1 has the right to drain on lot 3).

Finally, prior to recording the plat I will deliver to staff a performance guarantee in the amount of 2,200 as required by the approval.

Attachment 4

COMMITMENT & INTEGRITY  
DRIVE RESULTS

41 Hutchins Drive  
Portland, Maine 04102  
T 800.426.4262  
T 207.774.2112  
F 207.774.6635  
www.woodardcurran.com

### MEMORANDUM

TO: Jean Fraser

FROM: Dan Goyette

DATE: October 12, 2007

RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

#### Documents Reviewed

- Lot 3 Grading and Drainage Plan for Barclay Avenue, sheet 3, dated October 4, 2007, Gorrill-Palmer Consulting Engineers, Inc.

#### Comments

- The plans indicate a new ditch line to be located on the Lot 1 side of Lot 3. The ditch as shown is entirely located on Lot 3. It is designed to convey water onto the turnaround for Barclay Avenue. As proposed it appears that the ditch would convey the stormwater that enters the ditch line to the turnaround and prohibit runoff from Lot 3 from being conveyed onto Lot 1.

DRG  
203943.21

BARCLAY AVENUE - AMENDMENT TO THREE LOT SUBDIVISION  
VICINITY 35 BARCLAY AVENUE  
DIVERSIFIED PROPERTIES INC, APPLICANT

Submitted to:

Portland Planning Board  
Portland, Maine

October 23, 2007

## I. INTRODUCTION

Diversified Properties Inc received an after-the-fact approval for a three lot subdivision on June 12, 2007. Diversified Properties owns Lot #3 and the other two lots (#1 and #2) have been developed as single family homes and sold to other parties.

The associated Subdivision Plat has not been registered as the applicant needed to resolve drainage easements that were conditions of the subdivision approval.

Since the subdivision approval the owner of Lot #2 sought and received conditional use approval for an accessory unit (for use by a relative) on the second floor of a garage addition to the existing single family home. The garage addition is exempted from site plan review. This accessory unit constitutes a fourth division of the overall lot and the owner of Lot #2 had sought to amend the registered Subdivision Plat to add in the new unit. However, there is no registered Subdivision Plat to amend.

After discussions with staff and Diversified Properties, the most efficient course of action appeared to be to amend the approved three lot subdivision prior to its registration. Although adding the fourth unit does not create any drainage or other issues that affect other lots in the subdivision, the amendment is complicated by the fact that the approved subdivision was subject to several conditions that needed to be met prior to registration of the Plat to ensure the undeveloped Lot #3 integrated satisfactorily with the two developed lots.

Planning Board Report #44-07 was tabled at the Planning Board meeting of October 9, 2007 as it was learned just before the Board meeting that the easement with Lot #1 would not be possible (Attachment 2) and that the Board would need to reconsider the conditions of the original approval (Attachment 1).

This Report outlines an approach that allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #2 may progress with the accessory unit, while also adding 3 new notes and a revised easement to meet the objectives of several original conditions that addressed the concerns of the abutter on Lot #1 (Ms Bedard).

This Hearing has been noticed to a total of 189 area residents and interested citizens. A notice also appeared in the *Portland Press Herald*.

## II. CONTEXT

The original overall parcel lies between Barclay Avenue and Hampton Street and comprises some 30,561 sq ft (see Boundary Survey in Attachment 4). All three of the lots are accessed from Barclay Avenue, which was constructed by the applicant (with utilities, turnaround and associated easement to the City of Portland) and accepted by the City in 2005.

Lots #1 and #2 are single family homes that were completed in 2004 and owned by two other parties (Ms Bedard and Ms Brindle respectively). Lot #3 is owned by the applicant and is undeveloped (see Existing Conditions Plan in Attachment 5).

The three lot subdivision application was considered and approved by the Planning Board on June 12, 2007 and the approval letter is attached (Attachment 1). The approval sets out eight conditions of approval, including two added by the Planning Board, which generally ensure that the development of the third lot integrates with the other two lots and would not result in adverse

impacts on the existing lots. Ms Bedard (owner of Lot #1) made representations at the Planning Board Hearing and the Board added conditions vii and viii to address her concerns.

Ms Brindle, owner of Lot #2, has received Zoning Board approval and building permits for the fourth unit within the new addition to her single family home. It was after she received Zoning Board Approval and the building permit had been issued for the garage, that City staff identified the need for an amended plat for the recently approved three lot subdivision on Barclay Avenue. At that time, the Planning Staff had not received a revised Subdivision Plat from Diversified Properties and conditions of approval had not yet been met. Progress on finalizing and registering the three-lot Subdivision Plat was slowed by the process of securing easements and the applicants wish to delay payment of the street opening permit/performance guarantee until nearer the time of development of Lot #3.

### III. FOURTH UNIT

In July 2007 the owner of Lot #2 (Stacy Brindle, 31 Barclay Avenue) applied through her contractor for a building permit for the building of a 23 foot by 28 foot addition to her existing single family dwelling. The addition comprises a two car garage on the first floor and a secondary dwelling unit on the second floor for a relative.

The Zoning Administrator advised that a permit could not be issued because the proposal required a Conditional Use Appeal through the Zoning Board of Appeals. The application was granted by the Zoning Board of appeals on September 6<sup>th</sup>, 2007 and a building permit was issued.

The proposed footprint for the garage addition was included in the approved drainage and grading plans submitted in support of the three lot Subdivision Plat.

### IV. PROPOSED AMENDMENTS TO THE SUBDIVISION PLAT

The revised plat meets the Planning Board conditions of approval (Attachment 1), except for conditions vi (street opening fee) and viii (joint drainage swale). These are discussed below. Staff suggests that the approved three lot Plat could be amended in order to allow Ms Brindle to proceed with her accessory unit. Three new notes and a revised easement have been suggested for inclusion on the Plat to:

- Incorporate the fourth unit;
- Address the question of the Performance Guarantee and street opening fees;
- Confirm tree protection for Lot #1; and
- Address the question of integration of the drainage design between Lot#1 and Lot #3.

### New and Revised Notes on the Revised Plat

#### A. New Note on Plat for Fourth Unit (Attachment 6)

The following new note (note #13) on the amended Subdivision Recording Plat (Attachment 6) was suggested by the City's Associate Corporation Counsel to reflect the addition of the fourth unit:

Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended

*subdivision for the fourth division as defined under the State of Maine Statute 30-A, MRS 23, 2007.*

B. Revised note #14 Regarding No-Cut Area on the Final Subdivision Recording Plat (Attachment 6)

The Planning Board placed a condition of approval on the original plan that required the applicant to create a 10 foot by 10 foot area in the southerly corner of lot #3 to restrict cutting and to limit plantings that impact the tree on the adjoining property. The revised plat shows the no cut area on Lot #3 as directed in the Board's original condition of approval. The amended plat note contains the restrictions imposed by the Planning Board in June and states the following:

*The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.*

C. Revised note #15 Regarding Street Opening Fees on the Final Subdivision Recording Plat (Attachment 6)

The Planning Board placed a condition on the original approval which stated, " The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat." In order to facilitate the recording of the plat for this subdivision, Penny Littlell, Associate Corporation Counsel, and Barbara Barhydt, Development Review Services Manager, have suggested that Diversified Properties submit a performance guarantee for the installation of the curb cut and that all street opening fees be paid at the time of development. (The developer may wish to hold the lot through October 22, 2009, in which case no moratorium fee would be required.) Diversified Properties has agreed to pay a performance guarantee covering of \$2,200 to cover the construction costs of the curb cut. The City staff recommends that Note #15 be revised as follows:

*No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.*

D. New Easement to address Planning Board Condition viii. (Attachment 6)

The Draft Recording Plat considered by the Planning Board in June 2007 included a note relating to the drainage swale between Lots #1 and #3:

"The ditch along the common boundary between Lot 1 and 3 shall be modified to allow drainage entering the ditch to flow toward the street without ponding. Contractor shall coordinate with homeowner of Lot 1 for modifications to this ditch."

At the Planning Board Hearing there was considerable discussion regarding the integration of the two lots to achieve adequate drainage and the Board requested a more extensive easement for these modifications (that included installation, maintenance and

use) of the swale and added a new condition (Condition 2 viii) to ensure it operated as intended.

The owner of Lot 1 has obtained legal advice and determined that this easement, as presented to her by the applicant, is not in her interest (Attachment 2). As per condition 2iv the applicant has redesigned the drainage to ensure that the drainage from Lot #3 does not leave lot #3. The revised grading plan has been submitted to and approved by the Engineering Reviewer (Dan Goyette), who also commented on the original subdivision proposals and has spoken with Ms Bedard (Attachment XXX).

Staff considers that Condition 2viii is no longer relevant. However, to achieve the intent of the condition, staff recommends that the drainage swale created within Lot #3 should operate as a joint drainage swale as it would have if the Subdivision has been approved before development of individual lots. Therefore staff has requested that Lot #3 give an easement to Lot #1 that permits Lot 1 to utilize the drainage swale for drainage purposes. The applicant has submitted a revised plat showing a five foot drainage easement on lot #3 to benefit lot #1 for maintenance and upgrading of existing swale. This allows Ms. Bedard to direct drainage into this swale and make improvements, if necessary. The staff recommends the following as condition of approval of the amended subdivision plat:

*At the time of development of Lot #3, the proposed drainage swale on Lot #3 shall be constructed as shown on the plan titled Lot #3 Grading and Drainage Plan, Barclay Avenue Portland, prepared by Gorwill-Palmer Consulting Engineers, Inc. and last revised 10/04/07.*

The table found on the following page (page 6) lists the original conditions (as in the Approval letter in Attachment 1) in the first column and in the second column indicates how these have been addressed by actions already taken and the amendments proposed and outlined in this Report.



**V. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report # 46-07 relevant to standards for subdivision, evidence presented at the public hearing, and other findings, the Planning Board [approves/does not approve] the amended subdivision plat subject to the following condition of approval:

1. At the time of development of Lot #3, the proposed drainage swale on Lot #3 shall be constructed as shown on the plan titled Lot #3 Grading and Drainage Plan, Barclay Avenue Portland, prepared by Gorrill-Palmer Consulting Engineers, Inc. and last revised 10/04/07.

Attachments

1. Barclay Avenue Three Lot Subdivision Approval letter of June 12, 2007
2. E-mail from Ms Bedard (owner, Lot #1) of 10.9.2007 confirming that she would not sign the proposed drainage easement
3. E-mail from applicant Jim Wolf of 10.16.2007 confirming payment of Performance Guarantee
4. Memorandum, Dan Goyette, Consulting Engineer, October 12, 2007
5. 2001 Standard Boundary Survey
6. Existing Conditions Plan
7. Amended Final Subdivision Recording Plat
8. Lot 3 Grading & Drainage Plan, Barclay Avenue, revision date 10/04/07

**CITY OF PORTLAND, MAINE  
PLANNING BOARD**

Michael J. Patterson, Chair  
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Bill Hall  
Lee Lowry III  
Shalom Odokara  
David Silk

June 26<sup>th</sup>, 2007

James Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

Re: **Barclay Avenue Three Lot Subdivision**  
**Vicinity 35 Barclay Avenue**  
**Application #2007-0018**  
**CBL#: 339 D009001**

Dear Mr. Wolf,

On June 12, 2007 the Portland Planning Board voted to approve the following motions regarding the proposal to create a three-lot subdivision in the vicinity of 35 Barclay Avenue.

Sidewalk Waiver

1. The Planning Board voted 5-0 (Beal and Odokara absent) that two criteria do apply, namely A) and C), and therefore waives the requirement for a sidewalk along the west side of Barclay Avenue:

A) There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site; and

C) A safe alternative-walking route is reasonably available, for example, by way of a sidewalk on the other side of the street.

Subdivision

2. The Planning Board voted 5-0 (Beal and Odokara absent) that the plan is in conformance with the subdivision standards of the land use code with the following Conditions of Approval:

i. The Subdivision Plat will be finalized to the satisfaction of the Corporation Counsel and shall include reference to all easements, Performance Guarantee and relevant conditions; and

ii. The applicant shall present evidence of a satisfactory drainage easement in respect of Lot 2 (field inlet) for final review and approval by Corporation Counsel, and provide additional easement(s) for review and approval if determined appropriate; and

iii. The applicant shall secure, submit for review and approval by Corporation Counsel, and show on the Subdivision Plat, an executed easement for installation, maintenance and use of the surface water drainage swale or ditch area between Lots 1 and 3; and

iv. In the event one or both of the easements referenced in conditions ii and iii are not secured, the applicant shall submit, for review and approval prior to the registration of the Subdivision Plat, revised grading plans that ensure all storm water remains on Lot 3; and

v. The applicant shall include in the amount of his Performance Guarantee the costs associated with the curb cut and associated driveway apron installation within the ROW, estimated to be \$2,200.00; and

vi. The applicant shall pay the street opening fee of \$12,300.00 (reflecting the fact that Barclay Avenue is a moratorium street and additional works will be required) prior to the registration of the Subdivision Plat; and

vii. That the applicant shall create a 10 foot by 10 foot area in the most southerly corner of Lot 3 that shall be restricted from any plantings that interfere with the tree on Lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs; and

viii. The developer shall be responsible for designing the common drainage swale along the Lot 1/Lot 3 boundary line area and for installation of the swale. The plans shall be provided to Ms Bedard for her review, but approval by the City and DRC shall be determinative. A post development review of the installation and function of the swale shall be done by the applicant or developer of Lot 3, and the applicant shall remedy any problems or defects revealed by the review.

The approval is based on plans and materials submitted by the applicant and on information relevant to standards for subdivision, evidence presented at the public hearing, and other findings as contained in Planning Board Report # 25-07 and Addendum #1 to that Report, which are attached.

Please note the following provisions and requirements for all subdivision approvals:

1. Mylar copies of the construction drawing for the subdivision must be submitted to the Public Works Department prior to the release of the plat. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.

2. A performance guarantee covering the site improvements (and for any items/amounts specified in the conditions) as well as an inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public Works prior to the recording of the subdivision plat. The subdivision approval is valid for three (3) years.

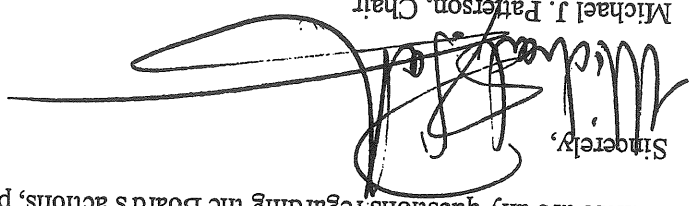
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

4. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

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

6. The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Department at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions regarding the Board's actions, please contact Jean Fraser at 874-8728.

Sincerely,  
  
Michael J. Patterson, Chair  
Portland Planning Board

Attached: Planning Board Report #25-07 and Addendum #1 to that Report

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Barbara Barydt, Development Review Services Manager  
Jean Fraser, Planner  
Phillip DiPietro, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Jeanie Bourke, Inspections Division  
Michael Bobinsky, Public Works Director  
Katherine Earley, Public Works  
Bill Clark, Public works  
Jim Carmody, Transportation Manager  
Michael Farmer, Public Works  
Leslie Kaynor, Public Works  
Jeff Tarling, City Arborist  
Captain Greg Cass, Fire Prevention  
Assessor's Office  
Approval Letter File

Attachment 2  
(2 pages)

**From:** "Kami Bedard" <kbedard@PierceAtwood.com>  
**To:** <JF@portlandmaine.gov>  
**Date:** 10/9/2007 12:17:10 PM  
**Subject:** Comments for Barclay Ave. - 10/9/2007

For the 10/9 Planning Board Meeting:

Please accept this email as my response to the Planning Board Report #44-07 that I recently received dated October 9, 2007. I have a prior commitment and so will be unable to attend tonight's meeting.

I noticed that in section 1, paragraph 5, there is a reference to Lot #1 that should be Lot #2. It states: "This approach allows the Plat to be amended and registered to record the additional unit so that the owner of Lot #1 may progress...":

This reference should be to Ms. Brindle's lot -- Lot #2.

Further, I would like to add that I have decided against signing the proposed drainage easement. I was considering signing the easement when the concept was first discussed back in June, but, after discussing this with my attorney, I have decided that it is not in my best interest to do so for a variety of reasons. Therefore, I would like to request that condition will be further amended to reflect this change.

While I have not had a chance to speak with the City Engineer directly about this, I would like to find out if the engineer is of the opinion that the developer can appropriately create a drainage area entirely on Lot #3 without creating any adverse conditions to my Lot (Lot #1). I would like there to be a condition in the plan that the developer be responsible for any adverse condition that is created once the drainage area is created and I would also like there to be a post development review of the installation to be done so that the developer can remedy any possible problems or defects revealed by that review.

In the table provided within the report, section III, the reference to the "New Note on Amended Plat" seems inappropriately worded and I would recommend that it be altered. As it reads now, it says that the developer shall be responsible for installing the swale and it then states that he has until October 2008 to obtain the easement from me. I would suggest that the wording be changed to say that the developer should 1st obtain an easement from me (or resubmit plans) and then he shall perform the work. Or, as an alternative, since I do not intend to sign the easement, it could read more like section IV -- that is - once the developer has resubmitted the revised grading plan that ensures that the water remains on Lot #3.

Thank you.

Kami

Kami L. Bedard

Manager of Library Services

Pierce Atwood Law Library

Pierce Atwood LLP

One Monument Square

Portland, ME 04101

207-791-142 direct

207-791-1350 fax

mailto:kbedard@pierceanwood.com

http://www.pierceanwood.com

This email was sent from the law firm Pierce Atwood LLP. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it, please delete it and notify us as soon as possible. Thank you.

CC:

"Kami Bedard" <kbedard@PierceAtwood.com>

Attachment 3

From: Barbara Barhydt  
To: Fraser, Jean  
Date: 10/17/2007 12:32:17 PM  
Subject: Fwd: Barclay Plat

from ↑

<<< "Jim Wolf" <jmw1@maine.rr.com> Tuesday, October 16, 2007 9:58 AM >>>

Penny

I believe the following gives us both what we are looking for. Please advise. If acceptable I should be able to get you a plat for Thursday afternoon.

1. Lot 2 in the three lot subdivision for Hampton Street and Barclay Avenue received conditional use approval from the Portland Zoning Board of Appeals for an accessory unit in the single family home at 31 Barclay Avenue on September 7, 2007 and the Planning Board reviewed and approved the amended subdivision for the forth division as defined under the State of Maine Statute 30-A, MRSA on October 23, 2007.

2. The 10 by 10 not cut zone on lot 3 shall be restricted from any plantings that interfere with the tree on lot 1, and that no trimming or removal of branches of the tree on Lot 1 which encroach on Lot 3 shall be undertaken except in the event of disease, damage or safety resulting from the overhanging limbs.

3. No street opening permit shall be issued for lot 3 unless and until the City has received from the developer the cost of the curb cut servicing Lot 3 in an amount required by City code.

In addition, the plat shall show a drainage easement over lot 3 benefiting lot 1. (This should satisfy staff's concern that lot 1 has the right to drain on lot 3).

Finally, prior to recording the plat I will deliver to staff a performance guarantee in the amount of 2,200 as required by the approval.

Attachment 4

**COMMITMENT & INTEGRITY**  
DRIVE RESULTS  
41 Hutchins Drive  
Portland, Maine 04102  
T 800.426.4262  
T 207.774.2112  
F 207.774.6635  
www.woodardcurran.com

## MEMORANDUM

TO: Jean Fraser  
FROM: Dan Goyette  
DATE: October 12, 2007  
RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Lot 3 Grading and Drainage Plan for Barclay Avenue, sheet 3, dated October 4, 2007, Gorrill-Palmer Consulting Engineers, Inc.

### Comments

- The plans indicate a new ditch line to be located on the Lot 1 side of Lot 3. The ditch as shown is entirely located on Lot 3. It is designed to convey water onto the turnaround for Barclay Avenue. As proposed it appears that the ditch would convey the stormwater that enters the ditch line to the turnaround and prohibit runoff from Lot 3 from being conveyed onto Lot 1.

DRG  
203943.21





To: All Development Reviewers (as circled)

Greg Cass  
Jim Carmody  
Mike Farmer  
Dan Goyette  
Jeff Tarling  
Marge-Schmuckal  
Penny Littell

From: Jean Fraser

Date: June 6th, 2007

Additional information submitted for the following project:

Application ID #: 2007-0018

Project Name: Barclay Ave. 3-Lot subdivision

Project Address: (Vicinity of 35 Barclay Ave., which is the undeveloped lot)

Comments needed by: TOMORROW June 7<sup>th</sup>;  
although he has done at least part of what we asked ie shown the curb cut and drainage note on the PLAT

THIS IS FOR A HEARING on June 12<sup>th</sup> and report needs to be done June 7<sup>th</sup>.

Thanks  
Jean

Dev Leo - agreed to add  
condition re g. Pg to include  
the curb cut + cost of street  
opening, ~~use~~ as agreed with  
PW to be \$ ———.

*file copy*



**To:** All Development Reviewers (as circled)

Greg Cass  
✓ Jim Carmody  
✓ Mike Farmer  
✓ Dan Goyette  
✓ Jeff Tarling  
Marge Schmuckal  
✓ Penny Littell

**From:**

Jean Fraser

**Date:**

June 6th, 2007

Additional information submitted for the following project:

**Application ID #:**

2007-0018

**Project Name:**

Barclay Ave. 3-Lot subdivision

**Project Address:**

(Vicinity of 35 Barclay Ave., which is the undeveloped lot)

**Comments needed by:**

TOMORROW June 7<sup>th</sup>;

although he has done at least part of what we asked ie shown the curb cut and drainage note on the PLAT

THIS IS FOR A HEARING on June 12<sup>th</sup> and report needs to be done June 7<sup>th</sup>.

Thanks  
Jean

Post Office Box 10127  
Portland, Maine 04104  
207-773-4988  
Fax 207-773-6875

**Diversified  
Properties**

# MEMO

**To:** Jean Fraser  
**From:** Jim Wolf

**Fax:**  
**Pages:**

**Phone:**  
**Date:** June 5, 2007

**Re:** Revised Plans Barclay Avenue  
**CC:**

Urgent  For Review  Please Comment  Please Reply  Please Recycle

**● Comments:**

Per your request enclosed please find an '11 by 17 of both the plat and grading plan as well as 5 copies of the scaled plat. Please note that to the plat we have added the note regarding drainage between lots 1 and 3 and have added the curb cut location.

From: "Jim Wolf" <jmw1@maine.rr.com>  
To: "Jean Fraser" <JF@portlandmaine.gov>  
Date: 6/1/2007 2:35:21 PM  
Subject: RE: Barclay

The easement was part of the original road construction and shown on the drawings, etc. In our original submission for this lot we showed no real information on the abutting lots ( 1 and 2). The revised submission includes all information including the location of buildings, easements, drainage contours, the existing street trees, etc.

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Friday, June 01, 2007 12:17 PM  
To: jmw1@maine.rr.com  
Subject: RE: Barclay

I am confused- I thought you needed an easement over the abutters land in order to drain to it...

>>> "Jim Wolf" <jmw1@maine.rr.com> 6/1/2007 12:08:33 PM >>>  
We can get you the revised plat and 11 by 17's the first of the week.  
Note  
there is an easement for the city's existing inlet as shown. This is a city structure and shown on the city as built drawing (I can supply a copy if you'd like).

With regard to the curb location being shown on the plat we do not agree that it should be, however, if this is the desire of staff we shall add it to the plat.

I believe we are now all on the same page.

Thank you

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Friday, June 01, 2007 11:39 AM  
To: jmw1@maine.rr.com  
Cc: DReynolds@gorripalmer.com  
Subject: Re: Barclay

Jim,

Barbara Barhydt is away for 2 weeks and Penny Littell is tied up with a court case at the moment. I will need to get back to you next week but I think staff consider this decision is consistent with other projects.

Re the 11X17 plans you have sent, these should be exactly the same as

the scaled plans and include the engineers stamp etc.

The Subdivision Plat should also include the note re drainage that has been put on the grading plan. So could you resubmit the 1X17s (the plat and the grading plan) and give me two sets of matching scaled plans.

Also, I think there was an issue re the need for a drainage easement to the existing field inlet....

Thanks  
Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 5/31/2007 11:56:38 AM >>>  
Jean

Do you see it productive for our team and staff to meet to see if we can get on the same page regarding the curb cut on the plan? We have a problem understanding why this has been requested and how it benefits anyone. I look forward to hearing from you.

Jim

James Wolf

Diversified Properties, Inc.

Post Office Box 10127

Portland, Maine 04104

1-207-773-4988

1-207-773-6875 fax

**From:** "Jim Wolf" <jmw1@maine.rr.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 6/1/2007 12:05:36 PM  
**Subject:** RE: Barclay

*not correct re this*

We can get you the revised plat and 11 by 17's the first of the week. Note there is an easement for the city's existing inlet as shown. This is a city structure and shown on the city as built drawing (I can supply a copy if you'd like).

With regard to the curb location being shown on the plat we do not agree that it should be, however, if this is the desire of staff we shall add it to the plat.

I believe we are now all on the same page.

Thank you

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Friday, June 01, 2007 11:39 AM  
**To:** jmw1@maine.rr.com  
**Cc:** DReynolds@gorillpalmer.com  
**Subject:** Re: Barclay

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Thanks  
 Jean

<>> "Jim Wolf" <jmw1@maine.rr.com> 5/31/2007 11:56:38 AM >>>

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can get

on the same page regarding the curb cut on the plan? We have a

problem

understanding why this has been requested and how it benefits anyone.

I  
look forward to hearing from you.

Jim

James Wolf

Diversified Properties, Inc.

Post Office Box 10127

Portland, Maine 04104

1-207-773-4988

1-207-773-6875 fax

CC: ""Doug Reynolds"" <DReynolds@gorillpalmer.com>

**From:** Jean Fraser  
**To:** Wolf, Jim  
**Date:** 6/1/2007 11:38:35 AM  
**Subject:** Re: Barclay

Jim,

Barbara Barhydt is away for 2 weeks and Penny Littlell is tied up with a court case at the moment. I will need to get back to you next week but I think staff consider this decision is consistent with other projects. Re the 11X17 plans you have sent, these should be exactly the same as the scaled plans and include the engineers stamp etc.

The Subdivision Plat should also include the note re drainage that has been put on the grading plan. So could you resubmit the 11X17s (the plat and the grading plan) and give me two sets of matching scaled plans.

Also, I think there was an issue re the need for a drainage easement to the existing field inlet....

Thanks  
Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 5/31/2007 11:56:38 AM >>>  
Jean

Do you see it productive for our team and staff to meet to see if we can get on the same page regarding the curb cut on the plan? We have a problem understanding why this has been requested and how it benefits anyone. I look forward to hearing from you.

Jim

James Wolf  
Diversified Properties, Inc.  
Post Office Box 10127  
Portland, Maine 04104  
1-207-773-4988  
1-207-773-6875 fax



CC: Reynolds, Doug

**From:** Jean Fraser  
**To:** kbedard@pierceatwood.com  
**Date:** 6/1/2007 11:12:17 AM  
**Subject:** Barclay Avenue

Ms Bedard,

Just to update you and ensure you are in the picture.

I have received revised proposals and our Engineering Reviewer has agreed them. He is away at the moment but has visited the site.

I have not been able to track down any approved drainage plan for the single family application relating to your lot, but it was inspected and signed off after construction.

The Planning Board Hearing is June 12th (evening- 7:00 or 7:30- I will confirm next week) and if you wish to make any further written representations I need those by the end of June 6th so they can be included in the Report to the Planning Board. If you submit something after that it will be circulated to the Board the night of the Hearing. You may speak at the Hearing too.

As we just discussed, I will leave the revised submitted proposals and the Engineering Review comments at Reception (4th floor city hall) for you to collect.

Jean (Fraser)  
Planner

6.1.07  
 If spoke to KB (KB called) and  
 amplified our advice.

**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 subsols 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 1, 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.

**From:** "Jim Wolf" <jmw1@maine.rr.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 5/29/2007 2:16:16 PM  
**Subject:** FW: Barclay Ave sub div.

Jean  
The note below is being added to the plan. We will do our best to get you the copies requested no later than tomorrow.

Regarding Ms. Bedard, we have offered to meet with her and are waiting for her to contact Gorrill Palmer.

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

**From:** Doug Reynolds [mailto:DReynolds@gorrillpalmer.com]  
**Sent:** Tuesday, May 29, 2007 1:09 PM  
**To:** Jim Wolf  
**Subject:** FW: Barclay Ave sub div.

How's this?

The ditch along the common boundary between Lot 1 and 3 shall be modified to allow drainage entering the ditch to flow toward the street without ponding. Contractor shall coordinate with homeowner of Lot 1 for modifications to this ditch.

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

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, May 29, 2007 12:13 PM  
**To:** jmw1@maine.rr.com  
**Cc:** Doug Reynolds  
**Subject:** RE: Barclay Ave sub div.

Jim,

Attached please find Dan Goyette's comment.

Please send (to me) 3 copies of the revised Grading Plan (to scale) and 1 11X17 copy asap- Dan will not review it again and I will check that the note has been added.

I will probably also be in touch with Ms Bedard but if you can meet her on site and explain that would help. As mentioned previously, a narrative explaining the drainage (existing, impact of proposal and steps being taken to address issues raised) would also be helpful to include in the packet.

Jean

<<>> "Jim Wolf" <jmw1@maine.rr.com> 5/29/2007 10:26:31 AM >>>  
Any comments would be greatly appreciated so they can be discussed.

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

**MEMORANDUM**

**TO:** Jean Fraser  
**FROM:** Dan Goyette  
**DATE:** May 29, 2007  
**RE:** Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

**Documents Reviewed**

- Site Plan for Barclay Avenue, sheets 1 and 2, Standard Boundary Survey, dated May 25, 2007, Gorrill-Palmer Consulting Engineers, Inc.
- Response to Comments, dated March 25, 2007 to Jean Fraser prepared by Douglas Reynolds, P.E. Gorrill-Palmer Consulting Engineers.

**Comments**

- The grading scheme presented on Sheet 1, particularly the ditch between Lots 1 and 3, would appear to direct stormwater runoff to the hammerhead on Barclay Avenue. After conducting a site visit on May 29, 2007, it became apparent that although the ditch does exist, approximately 20 feet from the edge of pavement a high spot exists that prohibits runoff from the rear of Lot 1 and potentially Lot 3 from entering the ditch line and flowing out to the street. The ditch line should be regraded during the development of Lot 3 to insure that the stormwater will enter the ditch and flow out to the street. A note should be added to the plans to indicate that the ditch line should be graded in the field to flow to the street.

1) show  
 across  
 2) post  
 over  
 must show PG  
 After the fact  
 no real credit option  
 PG far  
 Mar fee  
 (agreed  
 see below)

DRG  
 203943

## MEMORANDUM

TO: Jean Fraser  
FROM: Dan Goyette  
DATE: May 29, 2007  
RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Site Plan for Barclay Avenue, sheets 1 and 2, Standard Boundary Survey, dated May 25, 2007, Gorrill-Palmer Consulting Engineers, Inc.
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### Comments

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DRG  
203943.

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Tuesday, May 29, 2007 10:06 AM  
To: jmw1@maine.rr.com  
Subject: RE: Barclay Ave sub div.

Dan has reviewed the plans and has some concerns- I am trying to get clarification and will e-mail you as soon as I have something to send you and Doug.

Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 5/29/2007 10:05:01 AM >>>  
Do you know if Dan was able to review prior to his vacation? Also, please contact me if you wish to review the plans together or discuss any of the changes.  
Jim

-----Original Message-----  
From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Tuesday, May 29, 2007 9:59 AM  
To: jmw1@maine.rr.com  
Subject: RE: Barclay Ave sub div.

Yes thanks

>>> "Jim Wolf" <jmw1@maine.rr.com> 5/29/2007 8:33:49 AM >>>

Good Morning Jean

On Friday we forwarded nine sets of our final plan. Did you receive the package?

Jim  
-----Original Message-----  
From: Jim Wolf [mailto:jmw1@maine.rr.com]  
Sent: Friday, May 25, 2007 12:08 PM  
To: 'Jean Fraser'  
Cc: 'Barbara Barhydt'; 'DReynolds@gorillpalmer.com'  
Subject: RE: Barclay Ave sub div.

Jean

Nine sets of our revised plans and response letter including a set of 11 by 17 drawings are in route. In addition, a complete set of plans is being delivered to Dan. Please send confirmation when the package arrives as well as forward Dan's comments upon receipt.  
Again, we'd be happy to meet you at the site if you change your mind.



Have a nice long weekend.

Jim

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

From: Jim Wolf [mailto:jmw1@maine.rr.com]

Sent: Thursday, May 24, 2007 1:26 PM

To: Jean Fraser

Subject: RE: Barclay Ave sub div.

We will get Dan the plans and are 100 percent confident no issue will

be

found. The drainage as built now is perfect with the only problem at

the

Bedard lot being a shed she placed that impedes some drainage in her

backyard.

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]

Sent: Thursday, May 24, 2007 1:17 PM

To: jmw1@maine.rr.com

Subject: RE: Barclay Ave sub div.

It will be for Dan Goyette to confirm that no problem has been created

or will be created in relation to Mrs Bedard's property and to confirm

that the subdivision as a whole is designed so that all drainage is

managed to avoid impinging on other property and also works

internally.

Hence my concern to get his comments urgently and we will go from

there.

Whether I see or not will have no influence on the Planning Board

Report or deliberations - I am concerned that the issue has been

fully

investigated and addressed and that Dan Goyette is able to confirm

that

is the case.

What would also help is for Doug to do a narrative explaining the

existing conditions, what is proposed and the impacts on the 3 lots of

the subdivision and on abutters.

Thanks

Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 5/24/2007 12:42:07 PM >>>

Jean

We will be sure to email Dan a copy of the plans, etc.

If you have time I'd like to meet you at the site so you can fully understand that no problem exists at the Bedard property. The plans

will show this, however, you seem very concerned and a site visit could be helpful for when we are in front of the board.

As for Ms. Bedard we have spoken with her several times and asked her to contact Doug Reynolds to schedule an appointment at her property.

Jim

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Thursday, May 24, 2007 9:33 AM  
To: jmw1@maine.rr.com  
Cc: DReynolds@gorripalmer.com; Alex Jaegerman; Barbara Barhydt  
Subject: RE: Barclay Ave sub div.

Please get these to me asap Friday (tomorrow) as Dan Goyette is away for a week from next Tuesday and he needs to review these before he goes away. If you can pdf the submission direct to him that would help (let me know and send to me too- I would also like hard copies as per usual).

If you have not already met with Kami Bedard I suggest you get the plans in and we'll follow up with her next week. We will need to compare her approved site plan with both the existing conditions and your proposals and then add in a "practicality" factor for what is going to make sense for her.

thanks

Jean

>>> "Jim Wolf" <jmw1@maine.rr.com> 5/23/2007 10:48:45 AM >>>

I apologize for not getting to you sooner, however, both Doug and I were away from our email yesterday afternoon.

Our package is ready to submit, however, we have been waiting to hear from the abutter to meet her on site. We will submit regardless and the package should be with you by Friday.

Jim

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Tuesday, May 22, 2007 2:53 PM  
To: jmw1@maine.rr.com  
Cc: wolf5750@comcast.net; DReynolds@gorripalmer.com  
Subject: Barclay Ave sub div.

Jim

1. Do you still need me to chase Frank Branchely re sewer capacity?
2. It would be useful to have the revised plans today so they can be circulated tomorrow (10am) and give adequate time for the review, since we will probably need time to ensure Ms Bedard is OK etc.

Thanks

Jean

**From:** Jean Fraser  
**To:** Wolf, Jim  
**Date:** 5/24/2007 1:16:31 PM  
**Subject:** RE: Barclay Ave sub div.

It will be for Dan Goyette to confirm that no problem has been created or will be created in relation to Ms Bedard's property and to confirm that the subdivision as a whole is designed so that all drainage is managed to avoid impinging on other property and also works internally.  
Hence my concern to get his comments urgently and we will go from there.

Whether I see or not will have no influence on the Planning Board Report or deliberations - I am concerned that the issue has been fully investigated and addressed and that Dan Goyette is able to confirm that is the case.

What would also help is for Doug to do a narrative explaining the existing conditions, what is proposed and the impacts on the 3 lots of the subdivision and on abutters.

Thanks  
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Cc: DReynolds@gorriplimer.com; Alex Jaegerman; Barbara Barhydt  
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Sent: Tuesday, May 22, 2007 2:53 PM

To: [jmw1@maine.rr.com](mailto:jmw1@maine.rr.com)

Cc: [wolff5750@comcast.net](mailto:wolff5750@comcast.net); [DReynolds@gorrillpalmer.com](mailto:DReynolds@gorrillpalmer.com)

Subject: Barclay Ave sub div.

Jim

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2. It would be useful to have the revised plans today so they can be

circulated tomorrow (10am) and give adequate time for the review,

since

we will probably need time to ensure Ms Bedard is OK etc.

Thanks

Jean



*Can not meet*

To: All Development Reviewers (as circled)

Greg Cass

Jim Carmody

Mike Farmer

Dan Goyette

Jeff Tarling

Marge Schmuackal

Penny Littell (see Response 2 and 2a please)

*in hand*

*past 5:25*

*"*

From: Jean Fraser

Date: May 25, 2007

Additional information submitted for the following project:

Application ID #: 2007-0018

Project Name: Barclay Ave. 3-Lot subdivision

Project Address: (Vicinity of 35 Barclay Ave., which is the undeveloped lot)

Comments needed by: 1. Preliminary comments needed for Dev Rev May 30<sup>th</sup> in case outstanding issues need to be addressed

2. Final comments needed by 5<sup>th</sup> June for discussion at Dev Rev on 6<sup>th</sup> June

THIS IS FOR A HEARING on June 12<sup>th</sup> and report needs to be done June 7<sup>th</sup>.

I have 2 other Planning Board items so early comments appreciated.

Thanks  
Jean

*Dan need  
for pm +  
did over long  
holiday w/e*

*being out direct - get email  
confirmation*

23 May 2007

Mr. James M. Wolf,  
Diversified Properties,  
P. O. Box 10127,  
Portland, Maine 04104

**RE: The Capacity to Handle Wastewater Flows, from a Proposed  
Single Family Dwelling, at 35 Barclay Avenue.**

Dear Mr. Wolf:

The existing eight-inch diameter sewer pipe located in Barclay Avenue has adequate capacity to **transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to **treat** the total anticipated wastewater flows of **270 GPD**, from the proposed house.

<b>Anticipated Wastewater Flows from the Proposed Single Family Dwelling:</b> 1 Proposed Three-Bedroom House @ 270 GPD/Three-Bedroom House = 270 GPD Total Proposed Increase in Wastewater Flows for this Project = 270 GPD
---

The City combined sewer overflow (C.S.O.) abatement consent agreement (with the U.S.E.P.A., and with the Maine D.E.P.) requires C.S.O. abatement, as well as storm water mitigation, in order to offset any increase in sanitary flows, from all projects. If the City can be of further assistance, please call 874-8832.

Sincerely,  
**CITY OF PORTLAND**

Frank J Branceley, B.A., M.A.  
Senior Engineering Technician

FJB

cc: Alexander Q. Jaegerman, Director, Planning Division, Department of Planning, and Urban Development, City of Portland  
Shukria Wiar, Planner, Department of Planning, and Urban Development, City of Portland  
Jean Fraser, Planner, Department of Planning, and Urban Development, City of Portland  
Michael Farmer, P.E., Project Engineer, City of Portland  
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland  
Stephen K. Harris, Assistant Engineer, City of Portland  
Jane Ward, Administrative Assistant, City of Portland  
Desk file

**From:** Jean Fraser  
**To:** jmw1@maine.rr.com  
**Date:** 5/11/2007 11:36:32 AM  
**Subject:** Barclay Ave.

Hello Jim,

1. My understanding of the current situation is that you will revise the drainage proposals to address Ms Bedard's concerns and any other drainage issues (which may mean taking up Dan Goyette's suggestion but it is for you and your engineer to determine the best solution which addresses the issues for all three lots).

2. Any revisions need to be with us next week so that we have time to review them (and if we still have concerns that leaves time for further discussion). Dan Goyette is an independent peer reviewer who will be writing a memo for the Planning Board stating whether or not he feels the proposals address the overall subdivision drainage issues including those raised by Ms Bedard (and so far he does not feel the proposals do that) ie whether they meet the City standards

3. You do not need to have Ms Bedard's formal agreement to the revisions and I think she will be satisfied if our reviewer determines the proposals are OK; however, it would be helpful if you/Doug had a discussion on site with her to explain the options and the implications for her.

4. The subdivision drainage also needs to address any drainage onto the subdivision from other properties as they were there already. If there is a problem between Ms Bedard's lot (or between any of the lots and any other abutters) and the adjacent property that is something the subdivision proposals should address also (ie the existing drainage pattern for all three lots needs to be redirected/managed; flows from the adjacent property would have been there from the beginning). You may need to arrange a drainage easement with an abutter to correct the situation.

Let me know if there are any other questions.

Jean (Fraser)  
Planner  
874 8728

**CC:** Reynolds, Doug; Wolf, James





Planning Division

Jean Fraser, Planner

Re: Barday Ave 35+ SubD

Tel. call from

Karin Barday, abt 39 Barday

(791 1142; cell 653 2750)

1 She had received call from Jim Wolf  
suggesting change in subd; not sure  
needs to respond or no idea if this is OK.  
wants city advice.

2 If clarified Dan G. had suggested to  
look at that idea\* but up to sub +  
being reviewed (no Eng, of G-P) to  
make plans to address issues raised by  
her and Planning Board. Suggest she  
get an understanding of what they are  
suggering. (\* copied her to staff letter of 4-24)

3 Confirmed that need to submit  
revision soon so Dan G. can  
review (he will take account "her") -  
concerns but can't "repeal" her review  
she has option of accepting his review  
if getting in dependent advice of the  
says OK. If to check whether single  
family review with

4 \* 389 Congress Street, 4th floor • Portland, ME • (207) 874-8728 • Fx 756-8258  
Email: jfraser@portlandmaine.gov  
completed + what shown for drainage  
at

**From:** Jean Fraser  
**To:** Reynolds, Doug; Wolf, James  
**Date:** 4/25/2007 1:14:30 PM  
**Subject:** Re: Barclay Ave

Jim and Doug,

I trust by now you have received my letter and attachments (hard copies are in the mail).

I confirm that the provisional date for the Hearing (as confirmed with Barbara Barhydt) is June 12th.

Please submit the revised plans and any further information by **May 21st**.

Thank you

Jean

>>> James Wolf <wolfj5750@comcast.net> 4/24/2007 2:31:05 PM >>>

Jean

Thank you.

If I understand correctly we have the following issues:

1. Show a curb cut on the recording plat consistent with the site plan and also have a note regarding the 5 year moratorium.

2. Show the book/page of the storm easement to the existing basin.

3. Review the drainage on the Bedard side of the lot.

We will do our best to give you a schedule prior to your deadline in the morning.

Could you please email your letter as well.

Thank you for your continued help and cooperation.

-----  
From: "Jean Fraser" <JF@portlandmaine.gov>

> Jim and Doug,

> Here are Dan Goyette's further comments:

> "They still have not addressed the stormwater easements. I would be  
> curious to know if the Bedard issues have been addressed. The grading  
> plan indicates that a ditch line exists on the Bedard property and a  
> new

> ditch line will be created on the new lot that discharge to the pw  
> turnaround. Would it make sense to have them regrade the existing lot  
> and the new one to have one single ditch line and an easement giving  
> rights to the ditch line to both properties. Other than the original  
> comments on the driveway, that is all I have to say."

> We normally need two-three weeks to review revised plans prior to the  
> earliest Hearing date- so the date for a hearing will depend on how

> quickly you can get a final set of (consistent) plans to us that address  
> all the issues.

> I will fax you the letter I have been waiting to send.

City of Portland  
Department of Planning and Development  
Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258



FAX

To: Jim Wolf  
Company: Diversified Properties  
Fax #: 773 6875  
Date: April 24, 2007  
From: Fran From  
You should receive 17 page(s) including this cover sheet.

Comments:

Letter as provided.  
I have also faxed the cover letter +  
Diversified memo to Doug Reynolds  
through perhaps Doug should see the  
Plat Requirements (?)  
Jim

\*\*\*\*\* JOURNAL - COMM. \*\*\*\*\*  
DATE APR-24-2007 TIME 15:32 \*\*\*\*\*

START=APR-24 15:30  
END=APR-24 15:32

MODE = MEMORY TRANSMISSION  
FILE NO.=130  
STN NO. COMM. ABBR NO. STATION NAME/TEL NO. PAGES DURATION  
001 OK 8 96576912 004/004 00:01:30

-CITY OF PORTLAND  
2077568258-\*\*\*\*\*  
\*\*\*\*\*-PLANNING DEPT. -\*\*\*\*\*

City of Portland  
Department of Planning and Development  
Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258



FAX

To: Doug Reynolds  
Company: Genell Palmer  
Fax #: 657-6912  
Date: April 24, 2007  
From: Tou Kaeel  
You should receive 4 page(s) including this cover sheet.

Comments:

for info: the ordinance extracts are excluded from this but the draft not should address 14-496 (its on the web) *Jan*

START=APR-24 15:33 END=APR-24 15:40

MODE = MEMORY TRANSMISSION

FILE NO.=131

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
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-CITY OF PORTLAND

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

City of Portland  
 Department of Planning and Development  
 Planning Division  
 389 Congress Street, 4<sup>th</sup> Floor  
 Portland ME 04101  
 (207)874-8721 or (207)874-8719  
 Fax: (207)756-8258



FAX

To: Jim Wolf

Company: Diversified Properties

Fax #: 773 6875

Date: April 24, 2007

From: Tom Frano

You should receive 17 page(s) including this cover sheet.

Comments:

Letter as provided.

I have also faxed the cover letter +  
 300 copies memo to Doug Reynolds  
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Jan

City of Portland  
Department of Planning and Development  
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Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258



FAX

To: Doug Reynolds  
Company: Gerrit Palmer  
Fax #: 657-6912  
Date: April 24, 2007  
From: Tom Haas  
You should receive 4 page(s) including this cover sheet.

Comments:

for info:  
the ordinance excerpts are  
excluded from this but  
the draft plat should  
address 14-496 (its on the web)  
Jan

**From:** "Dan Goyette" <DGoyette@woodardcurran.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 4/24/2007 10:41:15 AM  
**Subject:** RE: Barclay Avenue

Jean,

They still have not addressed the stormwater easements. I would be curious to know if the Bedard issues have been addressed. The grading plan indicates that a ditch line exists on the Bedard property and a new ditch line will be created on the new lot that discharges to the pw turnaround. Would it make sense to have them regrade the existing lot and the new one to have one single ditch line and an easement giving rights to the ditch line to both properties. Other than the original comments on the driveway, that is all I have to say.

Dan

-----Original Message-----  
**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, April 24, 2007 9:51 AM  
**To:** Dan Goyette  
**Subject:** Fwd: Barclay Avenue

Dan,

You received the revised plans by PDF on April 5th I think (and a hard copy soon after?) and Gorriil Palmer (Jim Wolf) need to know whether their revisions addressed your comments?

Also I followed up re the neighbor Kami Bedard and issues re grading.

thanks

Jean

(It will be on Dev Rev tomorrow)

>>> James Wolf <wolf5750@comcast.net> 4/24/2007 8:48:37 AM >>>  
 Good Morning Jean

We'd like to get ready for public hearing. With the exception of the driveway comment have you received anything else from Dan or other departments. As you know it has been a couple of weeks since our last submission..

Jim

--

James M Wolf

**From:** Jean Fraser  
**To:** Goyette, Dan  
**Date:** 4/11/2007 3:51:12 PM  
**Subject:** Barclay Ave Sub Div.

More detail re what I mentioned this morning re potential issues re drainage:

I will send a letter to the applicant copied to Doug Reynolds seeking an existing conditions plan and clarifying what the Board requested etc.

However, you may get a call from the abutter who shares the turnaround (39 Barclay Ave, lot 1 Parcel C)- she is Kami Bedard, she works at Pierce Atwood Attorneys and is following this closely- her concern is that the actual construction of the her home (including grading) may not have been done to the approved plan (which I am trying to find) and this has left her with problems.

I guess even if it had been done to plan, Jay would not have been able (in the absence of an overall grading/drainage plan for the 3 lots) to be sure that the proposed plans would be OK.

So she is anxious that you are aware of her drainage problems which (based on her conversation with me) seem to be that on the side of her house adjacent to the undeveloped Lot (B/3) its wet and at the back corner of her lot theres ponding.

Please bear this in mind...  
Thanks  
Jean



file copy in  
Hearing Bd on ground copy

Plot B5  
4/12/07 12:50

April 12, 2007

Jim Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

RE: Site Plan Review:  
35 Barclay Avenue  
Three (3) Lots Subdivision  
Application # 2007-0018; CBL 339 D009001

Dear Mr. Wolf,

I am writing to follow up on the Planning Board Workshop held on April 10th, 2007 and clarify the current status of the Subdivision Review and issues that need to be addressed prior to the project being considered at a Planning Board Hearing.

1. Please submit an "Existing Conditions" Plan as previously requested so that the Planning Board can distinguish between existing and proposed aspects of the project. Please include existing trees, grading, wetlands, pavements, structures, hydrants, utilities, catch basins and easements for all three lots.

2. Please submit a revised Subdivision Recording Plat that shows the outline of the Subdivision as well as the three lots within it. The Plat should address the items listed in the City Ordinance Section 14-496 (copy attached) and:

- a. Omit the curb cut onto Barclay Avenue for Lot 3 (B) as this will not be approved as part of the Subdivision. (see 6 below)
- b. Show Hampton Street on all plans and its status.
- c. Show the locations of proposed street trees in locations within 8-10 feet of the frontage property line and clarified in the legend. Show separately any existing trees to be preserved.
- d. Show a sidewalk on the frontage of all three lots on Barclay Avenue, annotated to indicate that a waiver has been requested for the sidewalk (see 4 below).
- e. Please ensure that all plans have legends and are consistent in their references to lots, boundaries, easements etc

3. Please submit a revised Overall Grading Plan which addresses the Ordinance 14-496 (a) 15 and accurately shows the existing (as built) grading contours on Lots 1 and 2 and the proposed contours for all three lots. The Planning Board requested that this should show your proposals to address drainage issues on all three lots, and address the concerns raised by Ms. Bedard regarding #39 Barclay Avenue (Lot 1/Parcel C).

Also please show or describe how the drainage (as proposed) from these three lots will not impact the abutting properties.

4. Any previous waiver regarding the sidewalks was considered within a 14-403 application and not within a Subdivision Review. Please submit a formal written waiver request from the Subdivision requirement that is set out in the Ordinance (copy attached for information).

5. The City will not approve a driveway off of the turnaround. The one you mentioned at Ruby Lane was temporary.

6. The curb cut and associated driveway proposed for Lot 3 (Parcel B) should be removed from all the Subdivision proposal plans as they will not be approved for a Moratorium Street (see comments from Public Works, item 5b and 5c of the Workshop Memo).

7. Please note that a Single Family House Site Plan Review application will need to be submitted once the Subdivision is approved and recorded. That Review will consider in detail whether the proposed drainage is consistent with the overall subdivision drainage plan, and consider the details of the driveway, house location and size etc. The question of any additional curb cut can be resolved at that stage. These details do not need to be finalized for the Subdivision Review although we need information to determine that it is feasible to build a house on the site and meet the zoning, parking and access requirements.

8. Please address the comments included in the Workshop Memorandum from the Engineering Reviewer (Dan Goyette, dated April 5, 2007; copy attached). There may be some additional detailed comments after a review of the plans submitted April 5<sup>th</sup>, 2008 is completed and I will forward these when received.

9. Please submit the sewer capacity letter.

Please submit the information and revised proposals at your earliest convenience and note that a Hearing will not be scheduled until these are received. The Hearing will normally be held at least 3 weeks after all the requested information and revisions are received in order to allow time for a final review.

If you have any questions please do not hesitate to call me on (207) 874 8728 or at [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov).

Sincerely,

Jean Fraser  
Planner

cc Alexander Jaegerman, Planning Division Director

Barbara Barhydt, Development Review Manager

Penny Little, Corporate Counsel

Michael Farmer, Public Works

Captain Greg Cass, Fire Prevention

Marge Schmuckal, Zoning Administrator

**From:** Jean Fraser  
**To:** Farmer, Michael; Goyette, Dan  
**Date:** 4/12/2007 12:02:55 PM  
**Subject:** Barclay Ave Subdivision review needed

At Dev Rev yesterday I should have asked you to formally review the attached plans. Mr Wolf submitted scaled plans on April 5th and if you want those I will send.  
I am sending Mr Wolf a letter which covers most of the issues and in the letter I have told him that you are reviewing these and I will forward any further comments when received.  
Doug Reynolds will be in touch with you too I guess as he was requested by the Board to do a lot more.

thanks  
Jean

>>> James Wolf <wolff5750@comcast.net> 4/6/2007 12:03:32 PM >>>

Jean

Attached please find a copy of the revised plat and engineering plan. As I do not have Mike Farmer's or Woodward and Curran's email addresses I'd appreciate it if these could be forwarded. I look forward to receiving your package and working with you.

Jim

April 10 1952

Barclay the

- Clarification of why publication - but confirmed pursuing sub.
- 5 yr. mar - not arguing

- Grand question
- 1st - recent submission address
- outstanding issues.

- Public domain

- Brand - 5yr. moratorium ? can he wait
- say for record - have drainage rooms at back of lot pretty regular
- definite concerns re drainage
- leakage in basement as also found.

Mr. Wolf - confirmed that properties sold + not built by him

Lee Henry - no legend

asked whether ix or proposed  
on 2 lots  
lot 3

? not trying to remedy problem A+C  
clear agreement to field visit

LL - asking DR whether can make an overall scheme that addresses Ms Reda's concerns

DR - concerns on M13 for ex. maybe not exactly as built.

- not looking to exacerbate

LL - asked them to look at making consent not improving things for let 1

DR - power to hearing will look at to ensure doesn't "hinder"

K. Red - can needs to ensure / req. that all lets OK even if changed in existing lets

Full - allows R3+4 concerns

Janice T - read out "next steps" asked us if OK to address (yes)

? 2nd workshop? Hearing

forming consensus curb cut needs to be taken off plan

Memorandum  
Department of Planning and Development  
Planning Division



To: Chair Patterson and Members of the Portland Planning Board

From: Barbara Barhydt and Jean Fraser on behalf of Shukria Wiar

Date: Prepared on: April 6<sup>th</sup>, 2007  
Prepared for: April 10<sup>th</sup>, 2007 Planning Board Workshop

Re: Barclay Avenue Three Lot Subdivision, vicinity 35 Barclay Avenue

**INTRODUCTION**

Diversified Properties Inc has requested an after the fact Subdivision Review and approval for a three (3) lot subdivision on Barclay Avenue within the R-3 residential zone. Two of the three lots have been developed as single family homes and are now sold to other parties. The Subdivision review was triggered by the applicant's Building Permit application to construct a house on the third lot in their ownership.

The applicant has already constructed the street (Barclay Avenue) with utilities, turnaround and associated easement to the City of Portland which was accepted in 2005. The legal issues relating to the Subdivision are outlined below; the applicant contends (Attachment 1 and 3) that development of this third lot does not comprise a Subdivision while the City's Corporation Counsel advises that it does comprise a Subdivision.

The original overall parcel lies between Barclay Avenue and Hampton Street and comprises some 30,561 sq ft. All three of the lots are accessed from Barclay Avenue.

**SUMMARY OF FINDINGS**

R-3

Zoning:

Number of Lots: 3

Developed: Lot 1: 6,561 sq ft; Lot 2: 16,512 sq ft  
Undeveloped: Lot 3: 7,488 sq ft

Lot Sizes:

30,561 sq ft

Parcel Size:

Three single family home lots; two already constructed and sold to third parties

Proposal:

The property is burdened with 2 easements: one small one (10 feet square) to CMP; another 30 feet square to the City of Portland for the turnaround serving Barclay Avenue.

Easements:

**DETERMINATION OF THIS AS A SUBDIVISION**

The applicant has submitted the 2001 Standard Boundary Survey (Attachment 7) relating to the lot in question and the surrounding lots. This Survey has been updated and used for the draft Subdivision Recording Plat (Attachment 8 as reviewed; Attachment 14 as revised but not reviewed). In Attachment 14 the lots have been numbered: Lot 1 is Parcel C of the 2001 Boundary Survey; Lot 2 is Parcel A of the 2001 Boundary Survey; and Lot 3 is Parcel B of the 2001 Boundary survey.

The applicant was requested to provide a narrative outlining the chronology of the lot division and this was received 4.5.2007 and is enclosed as the first letter within Attachment 3. The submitted chronology uses the lot numbering as in Attachment 14 rather than the letter references of the 2001 Boundary Survey. Some of the deeds supporting the chronology are included in Attachments 1 and 3.

The City's Associate Corporation Counsel has compiled the following summary of the chronology from the City viewpoint:

“ 2001 - Diversified sought PW approval to build the street  
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subdivision application  
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circumvent the intent of obtaining subdivision approval.

Checkerboarding of lot ownership involved three corporations (Maggie Lane Development LLC; Bono Inc.; and Diversified Properties Inc) with James Wolf involved to some extent in all of them: James Wolf is an individual residing in the town of Falmouth, Maine. He is one of two shareholders in Maggie Lane Development LLC. James Wolf is the sole shareholder of Bono Inc. and he is one of two shareholders of Diversified Properties, Inc.

Lloyd Wolf is the father of James Wolf. Lloyd Wolf is the second of two shareholders in Maggie Lane Development LLC and is the second of two shareholders of Diversified Properties Inc.

It was communicated to Jimmy Wolf that he could only develop two lots along Barclay Street and that if he wished to develop a third, then that would trigger subdivision review. At the time, Mr. Wolf represented to the City he would wait the five year period. However, it was discovered that in 2003 Mr. Wolf sold the one lot (Parcel C) to Dwight Brackett, of C.G.B. Properties LLC, an entity which frequently buys lots for development from Jim Wolf or one of his companies. Mr. Wolf was advised that subdivision approval needed to be obtained or the City would file an 80K Land Use action for violating the Subdivision Law. Rather than proceed to court, Mr. Wolf has voluntarily submitting to subdivision review.”

Attachment 6 comprises a 2003 e-mail exchange between the agent acting for the applicant (Gorill Palmer) and Public Works, as copied to the applicant, which also refers to the need for subdivision approval if the third lot were to be developed.

The Right Title and Interest Documents are included in Attachment 1 and 3 and have been reviewed and found acceptable. Evidence of the City's Acceptance of the Street is included in Attachment 1 and copies of the two easements (CMP and City of Portland) are included in Attachment 2).

### PROPOSED DEVELOPMENT

An "Existing conditions" Plan has not been submitted but the undeveloped lot slopes up from Barclay Avenue and is highly wooded. The proposals for this lot are described by the applicant in letters dated 1.25.2007 (Attachment 1), 2.8.2007 (Attachment 2) and 4.5.2007 (Attachment 3) and are illustrated in the attached plan set.

A Building Permit application for the undeveloped Lot 3 (Parcel B on Attachment 7) was submitted in August 2006 to develop a 24 foot by 32 foot cape style house, with a wide driveway onto Barclay Avenue, along with the planting of two street trees. The details of this proposal are shown in the Building Permit plans "Site and Utility Plan" and "Grading and Drainage Plan" (Attachments 10 and 11).

Barclay Avenue was constructed by the applicant to City Standards in 2001 (Record Drawing entitled "Road Layout and Utility Plan" in Attachment 12) and accepted in 2005; it includes a turnaround plus a curb cut for each of the other 2 lots.

The undeveloped lot has utility stubs (and an associated easement to CMP) in place, as agreed with City Public Works at the time (Attachment 6). At that time a curb cut for a third driveway was not allowed because this was not part of an approved subdivision (Attachment 3 includes relevant e-mails with Public Works).

It should be noted that the submitted and reviewed plans (Attachments 8-12) are "piecemeal", each showing different parts of the site, and some lacking the boundaries of the subdivision and proposed lots. Staff requested revisions (letter of 3.16.2007 in Attachment 4) to show consistent information as it relates to all three lots and additional plans to show existing conditions of the undeveloped lot; the proposed tree preservation and landscaping for the three lots; utilities and final grading for all three lots, storm water drainage and associated details for the subdivision (as per Ordinance Section 14-496). On April 5, 2007 the applicant submitted a revised Overall Grading Plan (Attachment 13) and a revised Subdivision Recording Plan (Attachment 14) in response to the Staff letter. There has not been time to comprehensively review these submissions but they appear to address some of the Staff concerns.

### ZONING

The Zoning Administrator has determined (Attachment 5b.) that the three lots meet zoning requirements although the submitted information is not shown clearly on the Draft Subdivision Recording Plat (Attachment 8) or the Permit Plans. The letter of 4.5.2007 and revised Subdivision Recording Plat arrived too late for any further comments to be incorporated in this Memo.



## SUBDIVISION REVIEW ISSUES

### *Water, Air Pollution and Soil Erosion*

The applicant has submitted a 2002 letter (dating from when the street was constructed) (Attachment 3, last document) confirming that the proposed development (all three lots) would not cause an unreasonable burden on the existing water supply.

### *Traffic*

The proposed subdivision includes three access driveways (2 already constructed) from Barclay Avenue and all the driveways meet city standards in terms of width and distance from other driveways. Creation of the new driveway for the undeveloped lot does not create unsafe traffic conditions but would require a curb cut and hence attracts a reopening fee as Barclay Avenue is a moratorium street (see Public Works comments in Attachment 5b&c which also are included in the staff letter of 3.16.2007 Attachment 4).

The applicant has requested a waiver from the 5 year street moratorium opening fee in Attachment 3, page 4), citing the previous denial and high cost. The City considers that this situation was created by the applicant's failure to seek approval to this Subdivision at the time the street was constructed and does not support a waiver - see comments from the Engineering Reviewer in Attachment 5d.

### *Sanitary Sewer/Soils*

The applicant has indicated that "existing utilities" for the third lot were constructed as part of the construction of Barclay Street as shown in the Record Drawing (Attachment 11) and the grading plans. Public Works agreed to the inclusion of utility stubs within the construction of the street (Attachments 3, 6 and 12).

Confirmation of sanitary sewer capacity is awaited.

### *Storm water*

Overall Grading Plans have been submitted (Gorill Palmer plan dated 2.07 and in Attachment 9 and the Engineering Reviewer commented:

"It appears from the grading plan that stormwater from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for stormwater should be provided to insure that no additional drainage easements will be required." (Attachment 5d)

On April 5, 2007 a revised Overall Grading Plan stamped 3.29.2007 was submitted which adds some information (reference to a field drain) and removes other information (spot elevations); it does not appear to include enough information to evaluate the impact on drainage patterns.

The owner of the adjacent property (Bedard) has telephoned staff and raised some concerns regarding drainage and is expected to comment at the Workshop.

#### *Solid Waste Disposal*

The proposals do not create an unreasonable burden on the ability of the City to dispose of solid waste.

#### *Scenic Beauty*

An Existing Conditions plan has not been submitted but the central part of the undeveloped lot does not appear to include any significant trees.

The proposals include two street trees for the undeveloped lot but these are set too far back into the lot. The recently submitted Subdivision Recording Plat (Attachment 14) appears to clarify the proposals regarding street trees but needs further discussion.

#### *Financial Capability*

The applicant has submitted a letter from Bank North dated 1.22.2007 and is included in Attachment 1.

#### *Flood Hazard/Shoreland/Wetlands*

The applicant has confirmed in the 2.8.2007 letter (Attachment 2) that there are no wetlands on the site.

#### *Fire Safety*

The existing Fire Hydrant was requested to be shown on the plan and this has been added to the revised Overall Grading plan (Attachment 13).

#### *City Infrastructure*

A sidewalk was included on the other side of the road as shown in the Record Drawing for the street (Attachment 12) and the applicant has stated in the letter of 4.5.2007 (Attachment 3, page 3 Item 7) that a waiver was given for a sidewalk along the frontage when the street was formally accepted in 2005. The city accepted the street in April 2005 (copy of the order is in Attachment 1)

#### *Subdivision Recording Plat*

The revised Plat (Attachment 8) is deficient and the revised Plat (Attachment 14) has not been reviewed.

## NEXT STEPS

The applicant does not need to hold a neighborhood meeting as this is required only for sub divisions where the number of lots is 5 or more.

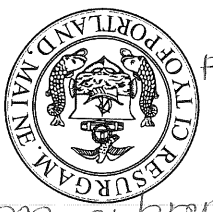
1. Address any additional information requested by the Planning Board and in previous staff letters.
2. Clarify and/or provide the additional information as requested in this memorandum
3. Address technical issues raised in this Planning Board memorandum and the comments received from Marge Schmuckal, Dan Goyette, and Michael Farmer.

## Attachments

1. Application with cover letter, right, title and interest documents, permit documents, easement documents and letter of financial capability from Banknorth
2. Applicants second letter of February 8, 2007
3. Applicants third letter dated April 4, 2007 and document attachments (not received in time to be fully reviewed for this Memo)
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14. Revised Subdivision Recording Plat (as received April 5, 2007 included for information and NOT REVIEWED)

① after the fact review will require single family house SP  
 ② There needs to be an overall drainage plan also factory to engineers  
 ③ driveway requires curb cut which means driveway requires  
 ④ Understate members given for



Memorandum  
 Department of Planning and Development  
 Planning Division

**To:** Chair Patterson and Members of the Portland Planning Board  
*Chair Patterson*  
**From:** Barbara Barhydt and Jean Fraser on behalf of Shukria Wiar  
*not needed*  
**Date:** Prepared on: April 6<sup>th</sup>, 2007  
 Prepared for: April 10<sup>th</sup>, 2007 Planning Board Workshop  
 ⑤ Ms. Redard  
*owner house on lot 1 when*  
**Re:** Barlay Avenue Three Lot Subdivision, vicinity 35 Barlay Avenue

**INTRODUCTION**

Diversified Properties Inc has requested an after the fact Subdivision Review and approval for a three (3) lot subdivision on Barlay Avenue within the R-3 residential zone. Two of the three lots have been developed as single family homes and are now sold to other parties. The Subdivision review was triggered by the applicant's Building Permit application to construct a house on the third lot in their ownership.

The applicant has already constructed the street (Barlay Avenue) with utilities, turnaround and associated easement to the City of Portland which was accepted in 2005. The legal issues relating to the Subdivision are outlined below; the applicant contends (Attachment 1 and 3) that development of this third lot does not comprise a Subdivision while the City's Corporation Counsel advises that it does comprise a Subdivision.

The original overall parcel lies between Barlay Avenue and Hampton Street and comprises some 30,561 sq ft. All three of the lots are accessed from Barlay Avenue.

**SUMMARY OF FINDINGS**

**Zoning:** R-3  
**Number of Lots:** 3  
**Lot Sizes:** Developed: Lot 1: 6,561 sq ft; Lot 2: 16,512 sq ft  
 Undeveloped: Lot 3: 7,488 sq ft  
**Parcel Size:** 30,561 sq ft  
**Proposal:** Three single family home lots; two already constructed and sold to third parties  
**Easements:** The property is burdened with 2 easements: one small one (10 feet square) to CMP; another 30 feet square to the City of Portland for the turnaround serving Barlay Avenue.

## DETERMINATION OF THIS AS A SUBDIVISION

The applicant has submitted the 2001 Standard Boundary Survey (Attachment 7) relating to the lot in question and the surrounding lots. This Survey has been updated and used for the draft Subdivision Recording Plat (Attachment 8 as reviewed; Attachment 14 as revised but not reviewed). In Attachment 14 the lots have been numbered: Lot 1 is Parcel C of the 2001 Boundary Survey; Lot 2 is Parcel A of the 2001 Boundary Survey; and Lot 3 is Parcel B of the 2001 Boundary survey.

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*Plot  
does not show  
sub-div  
boundaries*

## SUBDIVISION REVIEW ISSUES

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#### *Subdivision Recording Plat*

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**NEXT STEPS**

The applicant does not need to hold a neighborhood meeting as this is required only for sub divisions where the number of lots is 5 or more.

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2. Clarify and/or provide the additional information as requested in this memorandum and in previous staff letters.
3. Address technical issues raised in this Planning Board memorandum and the comments received from Marge Schmuckal, Dan Goyette, and Michael Farmer.

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Plans

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## MEMORANDUM

TO: Jean Fraser  
FROM: Dan Goyette  
DATE: April 5, 2007  
RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Overall Grading Plan for Barclay Avenue, dated February 7, 2007, Gorrill-Palmer Consulting Engineers, Inc.
- Response to Comments, received April 4, 2007 dated March 19, 2007 to Shukria Wiar prepared by James Wolf.

### Comments

- Public Works will not support the waiver request from the Moratorium Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allow the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.
- A grading plan has been provided. It appears from the grading plan that stormwater from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for stormwater should be provided to insure that no additional drainage easements will be required.

DRG  
203943.

**Diversified Properties, Inc.**

P.O. Box 10127, Portland, ME 04104  
Tel 207-773-4988 • Fax 207-773-6875

**RECEIVED**

APR - 5 2007

City of Portland  
Planning Division

April 4, 2007

Shukria Wiar

Planner

City of Portland

389 Congress Street

Portland, Maine 04101

RE: Site Plan Review: 35 Barclay Avenue  
Application #2007-0018;CBL 339 D009001

Dear Ms. Wiar:

In response to your letter dated March 16, 2007 I offer the following:

1 The applicant shall provide a narrative with a chronology of the lot divisions to date.

The land being discussed was originally shown on a plan entitled Plan of Harris Farms dated June 5, 1919 and recorded in Book 14, Page 19.

Lot 1 on our plan consists of lots 216 and 217 on the Harris Farm Plan. These lots were purchased by Joseph and Annie Joyce in 1928 and remained in the Joyce family until December 7, 2001 when they were purchased by the Bono, Inc. Profit Sharing Trust. Neither the Joyce family nor Bono Inc. ever owned any abutting land. In 2003, the City of Portland considered this lot a grandfathered building lot and issued a building permit despite the fact it lacked proper lot width. The lot was sold to C.G.B. Properties in 2003 who built a home selling to the current owner, Kami Bedard.

Lots 2 and 3 on our plan consist of lots 210-213 and 218-221. These lots were purchased by Timothy and Adelaide Curran as follows:

- A. lots 212, 213, 218 and 219 were purchased from John Curran in August 1957. John Curran acquired lots 212 and 213 in 1919; lots 213 and 219 were acquired in 1926.
- B. Lots 210, 211, 220 and 221 were acquired by Portland tax title in 1927 and sold to the Currans in 1959.

The property remained in the Curran family until November 20, 2001 when it was purchased by Maggie Lane Development. In November 2003 Maggie Lane Development sold parcel 2 to C.G.B. Properties who built a home selling to the current owner, Stacy Brindle and her former husband. In 2003 lot 3 was transferred to Diversified Properties, Inc., the lot's current owner.

For a nonconforming lot such as lot 1 on our plan to enjoy grandfathered state, the Portland ordinance requires it to be "held under separate and distinct ownership from the adjacent lots." In the past we have shown lot 1 to be a grandfathered lot as illustrated by Portland granting a building permit on this lot.

It is the developers' contention that one lot division only has been made thus creating lots 2 and 3 shown on our plan. The creation of lot 1 on the plan was completed in 1919 by the original divider. It is this difference of opinion that brings us to the Planning Board. Please see attachment 1 for supporting material.

2. The subdivision ordinance contains review standards and required improvements in your narrative. The Planning Office recommends that you address how your application meets the subdivision regulations and standards.

Lot 3, the parcel in question, is currently a vacant parcel of land. During the construction of Barclay Avenue the parcel was improved with water, sewer and storm services. The abutting parcels shown as lots 1 and 2 are developed residential lots.

3. Identify the current zoning information for the subdivision and identify the lot sizes for the original parcel and the proposed lots.

The location of the site is in zoning district R-3. Residential homes are a permitted use within this zone; space and bulk requirements for this zone are provided on the recording plan. The original and current lot sizes for parcels 1 thru 3 are:

	Original	Current
1.	6,560 sf.	6,560 s.f unchanged
2.	portion of 24,000 sf.	16,512 sf.
3.	portion of 24,000 sf.	7,488 sf.

4. The Planning Department requests that the plans show all three parcels on each plan sheet, as the proposal is being reviewed as a three-lot subdivision, and ensure that there is consistency of information between the plans.

*The lots have been identified on the plans as 1 thru 3.*

5. The following plan set needs to be submitted:

- a. Existing conditions of the site (show the one lot that will be divided) each lot)
- b. Proposed site plan with landscaping (show the two tree requirement on each lot)
- c. Utility plan
- d. Grading and Stormwater Drainage plans
- e. Details/Civil details.

*Enclosed with this package is a revised recording plan. Added to the plan are lot numbering, lot sizes, FEMA Flood information and an additional note regarding street trees for lot 3 as well as lots 1 and 2. Also enclosed is a revised grading plan. This plan showing existing and proposed grading including the existing field drain on lot 2 that will receive the grading from lots 2 and 3. No utility plan is enclosed as no new utilities are proposed. No detail plan is enclosed as no work with the exception of two street trees on parcel 3 is proposed. Whether a curb cut for lot 3 is necessary or will be utilized is still uncertain.*

6. Remove the building envelope on the proposed.

*The building envelope has been removed from the plan.*

7. The subdivision ordinance includes required improvements (Section 14-499), such as two street trees per lot and curbs and sidewalks. The plan should address those requirements and if you are seeking a waiver from the sidewalk and curb standards (criteria for curb and sidewalk criteria attached) this request must be in writing.

*Barclay Avenue was constructed to City standards including granite curb and sidewalks on one side of the street in 2003/2004 and formally accepted in 2005. When constructed, the City waived sidewalks in front of these lots. This waiver took place because:*

- A. *There was not reasonable expectation for pedestrian usage coming from, going to and traversing the site.*
- B. *An alternative walking route existed by way of a sidewalk on the other side of the street.*
- C. *Strict adherence to the sidewalk requirement would have caused loss of a significant amount of driveway and lawn area to the existing home on the corner of Barclay and Harris Avenues.*

With regard to curbing the applicant requests a waiver from 5 year street

mortatorium opening fee. This waiver is requested because

A. While the road was under construction the applicant requested and was denied permission to install a curb cut.

B. The cost of the permit would be in excess of Ten Thousand dollars

(\$10,000.00) and was preventable when the applicant requested

permission from Portland and was denied. The only other cost associated

with the project is the installation of two street trees and the curb cut

itself.

C. The curb cut can be completed without having to open the street if the detail curb installation is waived.

8. Please submit water and sewer capacity letters.

Enclosed with this package please find confirmation from the Portland Water

District that an acceptable service exists. In addition, enclosed is an

application for a waste water capacity letter. Please note that all services are

stubbed to the property. See attachment 2.

9. Are these lots in a flood-prone area?

A note has been added to the subdivision plan stating that lots 1 thru 3 do not lie in a special flood hazard zone.

Zoning Department comments:

The given subdivision plan does not reflect basic zoning information. This 3-lot

subdivision is located within an R-3 Zone. The only lot size given is the newly created

front lot of 7,488 sq. feet. There is nothing to reflect the size of the remaining developed

lot. All three-lot sizes should be given. The new lot meets the R-3 Zone requirements as

depicted. The older lots meet the R-3 Zone requirements as depicted. Also the plan

reviewed did not have the plans numbered to clearly show the lots involved.

As a note, Hampton Street is not being shown on the plans. Applicant should show all

abutting property owners and streets on a subdivision plan.

The subdivision plan has been revised to show the lot sizes of all parcels as well as establish numbering.

Department of Public Works comments:

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

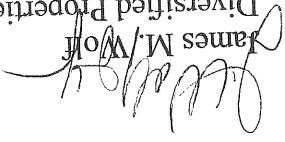
If a waiver to the 5-year moratorium fee cannot be obtained as previously requested the developer will either 1. pay the fee, 2. wait for the expiration of the 5-year period or 3. redesign said building permit and access via the built turnaround.

Fire Department comments:

Please show the nearest fire hydrant.

The existing hydrant is shown on the subdivision plan at the corner of Barclay and Harris Avenue.

Very Truly Yours,

  
James M. Wolf  
Diversified Properties  
jmw1@maine.tr.com  
Enclosures

ATTACHMENT 1

0095116 BK17067PG042

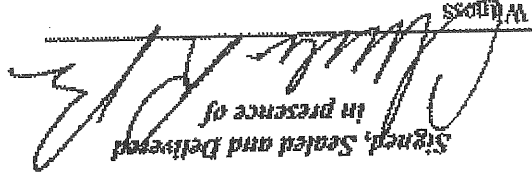
DEED OF SALE BY PERSONAL REPRESENTATIVE

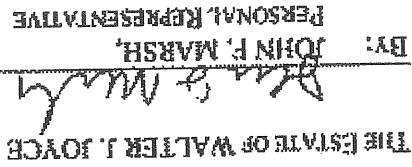
(Intestate)  
Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, THAT I, JOHN F. MARSH of Old Orchard Beach, Maine, duly appointed and acting Successor Personal Representative of the ESTATE OF WALTER J. JOYCE, deceased (intestate), as shown by the probate records of the County of Cumberland, Maine, Docket No. 1986-801, by the power conferred by the Probate Code, and every other power, having provided ten (10) day notice to interested parties, for consideration paid, grant to JAMES WOLF, Trustee of Bone, Inc. Profit Sharing Trust, w/d/d December 31, 1998, whose mailing address is P.O. Box 10127, Portland, Maine, 04104, the real property in Portland, County of Cumberland, State of Maine, described as follows:

See attached Exhibit A.

Witness my hand and seal this 27th day of December 2001.

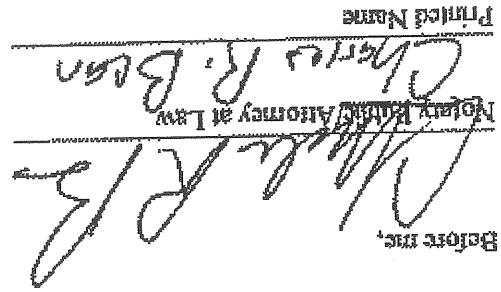
Signed, Sealed and Delivered  
in presence of  


THE ESTATE OF WALTER J. JOYCE  
BY:   
JOHN F. MARSH,  
PERSONAL REPRESENTATIVE

STATE OF MAINE  
CUMBERLAND, ss.

Then personally appeared the above named JOHN F. MARSH in his said capacity and acknowledged the foregoing instrument to be his free act and deed.

Before me,

  
Charles R. Bean  
Notary Public/Attorney at Law  
Printed Name

Charles R. Bean, P.A.  
Attorney at Law  
P.O. Box 2267

MAINE REAL ESTATE TAX PAID



9K170676043

EXHIBIT A

Two certain lots or parcels of land situated on the westerly side of Barclay Avenue in Portland, County of Cumberland and State of Maine, being lots numbered 216 and 217 as shown on a Plan of Harris Farms made by E. C. Jordan and Company, C.E., dated June 5, 1919 and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19, together with the fees of land in said Barclay Avenue in front of and adjoining said lots 216 and 217, and extending from the street line to the middle of said avenue. Subject to the rights of other lot owners and the public to the use hereof as a street.

Meaning and intending to convey a portion of the premises conveyed to Walter J. Joyce by virtue of being an heir of law of Joseph Joyce, deceased, and by virtue of a deed from John J. Joyce, et al dated July 31, 1959 and recorded in the Cumberland County Registry of Deeds in Book 2501, Page 85.

RECEIVED  
 RECORDED REGISTRY OF DEEDS  
 2001 DEC 11 PM 1: 02  
 CUMBERLAND COUNTY

Charles R. Bean, P.A.  
 Attorney at Law  
 P.O. Box 2257  
 South Portland, Maine 04106

**Know all Men, by these Presents, That**  
I, Newton W. Harris, of Portland, in the County of Cumberland and State of Maine,

in consideration of one dollar and other valuable considerations, paid by Joseph and Annie Joyce of Portland, in said County and State, do hereby acknowledge, do hereby give, grant, bargain, sell and convey, unto the said Joseph and Annie Joyce their heirs and assigns forever, two certain lots or parcels of land situated in Portland, one on the westerly side of Hampton Street, and the other on the westerly side of Barclay Avenue, being lots numbered one hundred ninety-eight, one hundred ninety-nine, two hundred sixteen and two hundred seventeen (198, 199, 216, 217) as shown on plan of Harris Farms, made by E. C. Jordan & Co., C.E., dated June 5, 1919, and recorded in Cumberland County Registry of Deeds, Plan Book 14, Page 19; containing thirteen thousand one hundred square feet (13,100 sq-ft.) more or less, according to said plan. Together with the fees of land in said Hampton Street and Barclay Avenue in front of and adjoining said lots 198, 199, 216 and 217, and extending from the street line to the middle of said street and avenue subject to the rights of other lot owners and the public to the use thereof as a street.

On June 5, 1919, I sold the aforementioned and bargained premises, with all the privileges and appurtenance thereof, to the said Joseph and Annie Joyce, their heirs and assigns, their said grantees, their heirs and assigns, that I am lawfully seized in fee of the premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said grantees and my heirs, shall and will warrant and defend the same to the said grantees my right by descent and all other rights in the above described premises have hereto set in the year of our Lord my hand and seal this ninth day of March one thousand nine hundred and twenty-two.

Signed, Sealed and Delivered in presence of  
Abba Harris  
Newton W. Harris Seal

State of Maine, Cumberland, ss.  
Newton W. Harris  
his  
Then personally appeared  
March 9, 1922.

Before me, Abba Harris, Notary Public for the State of Maine, and recorded according to the original. Authorized to Administer Oaths and take acknowledgments of Deeds, at 10 o'clock P.M. on March 25, 1922.

U.S.I.R.  
50 cts.  
N.W.H.  
Mar. 9/22

BR 17008Pg032

0090898

STATUTORY WARRANTY DEED

ADELAIDE M. CURRAN, of Portland in the County of Cumberland and State of Maine,

For Consideration Paid, GRANT with WARRANTY COVENANTS TO:

MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability Company with a principal place of business in Portland, in the County of Cumberland and State of Maine, whose mailing address of P.O. Box 10127, Portland, Maine 04104

Certain lots or parcels of land situated in the City of Portland, County of Cumberland and State of Maine and being more particularly described in Exhibit A

annexed hereto and made a part hereof:

For grantor's source of title reference is made to two deeds from the City of Portland to grantor herein and Timothy J. Curran as joint tenants, both deeds dated May 26, 1959 and recorded in the Cumberland County Registry of Deeds in Book 2566, Page 318 and in Book 2566, Page 320; and by virtue of a deed from John Curran to grantor herein and the said Timothy J. Curran as joint tenants, dated August 2, 1957 and recorded at said Registry of Deeds in Book 2368, Page 93. The said Timothy J. Curran having died on May 1, 1974, leaving the grantor herein as surviving joint tenant.

This conveyance is made SUBJECT to the current real estate taxes to the City of Portland subject to proration at the closing, which Grantee herein by its acceptance of this deed hereby assumes and agrees to pay.

WITNESS my hand on this 20 day of Nov., 2001.

Adelaide M. Curran, By Joseph P. Curran, Her Attorney-in-Face

Adelaide M. Curran, Her Attorney-in-Face

STATE OF MAINE

CUMBERLAND, SS.

NOV. 20, 2001

Joseph P. Curran, attorney-in-face on behalf of ADELAIDE M. CURRAN Then personally appeared the above-named ADELAIDE M. CURRAN and acknowledged the foregoing instrument to be her act and deed in said caps

Before me,

Joseph M. Lopez  
Notary Public

SEAL

BK 170086033

EXHIBIT A

A certain lot or parcel of land situated in the city of Portland, Cumberland County, Maine, on the easterly side of Hampton Street being lots No. 212 and 213 as shown on Plan of Harris Farms made by E. C. Jordan & Co., C.E., dated June 5, 1919, and recorded in the Cumberland County Registry of Deeds, Plan Book 14, Page 19, to which Plan reference may be made for a more particular description. Said lots are each 30 feet in width and 100 feet in depth according to said plan. Together with the fee of land in said Hampton Street in front of and adjoining said lots and extending from the street in to the middle of said street.

Also certain lots of parcels of land situated in said Portland on easterly side of Barclay Avenue, being lots No. 218 and 219 as shown on Plan of Harris Farms, made E.C. Jordan & Co., C.E., dated June 1919, and recorded in the Cumberland County Registry of Deeds, Plan Book 14, Page 19, to which Plan, reference may be made for a more particular description. Together with the fee in front of and adjoining said lots 218 and 219, and extending from the street in to the middle of said Avenue.

Also certain lots or parcels of land situated in said Portland between Hampton Street and Barclay Avenue being lots No. 210, 211, 220 and 221, as shown on Plan of Harris Farms made by E.C. Jordan & Co., C.E., dated June 5, 1919, and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19.

Together with the fee of land in said Hampton Street and Barclay Avenue in front of and adjoining said lots No. 210, 211, 220 and 221 and extending from the street line to the middle of said Street in Avenue.

This conveyance is subject to the rights of others in and to that portion of the subject premises lying within the apparent right of way for Barclay Avenue and Hampton Street as set forth in deeds to Adelaide M. Curtan, et al, dated August 1957, recorded in Book 2368, Page 93 and dated May 26, 1959, recorded in Book 25 Pages 318 and 320.

Seller's Initials

Buyer's Initials

RECEIVED  
CUMBERLAND REGISTRY OF DEEDS

ATTACHMENT 2

CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION

Mr. Frank J. Brancey,  
Senior Engineering Technician,  
Phone #: (207) 874-8832,  
Fax #: (207) 874-8852,  
E-mail: fjb@portlandmaine.gov



Department of Public Works,  
55 Portland Street,  
Portland, Maine 04101-2991

Date: \_\_\_\_\_

1. Please, Submit Utility, Site, and Locus Plans.

Site Address: 35 Barclay Avenue

Chart Block Lot Number: 339-D-9

*(Regarding addressing, please contact Jessica Hanscom, either at 874-8818, or at JGH@portlandmaine.gov)*

Proposed Use: Single family building

Previous Use: Vacant land

Existing Sanitary Flows: 0 gpm

Existing Process Flows: 0 gpm

Description and location of City sewer, at

proposed building sewer lateral connection:

The existing sewer and storm are stubbed to

the building lot. There is no new connection

to the existing sewer line.

*Clearly, indicate the proposed connection, on the submitted plans.*

2. Please, Submit Domestic Wastewater Design Flow Calculations.

GPD

Estimated Domestic Wastewater Flow Generated: \_\_\_\_\_

Peaking Factor/ Peak Times: \_\_\_\_\_

Specify the source of design guidelines: (i.e., "Handbook of Subsurface Wastewater Disposal in Maine," "Plumbers and Pipe Fitters Calculation Manual," "Portland Water District Records," "Other (specify)" \_\_\_\_\_

Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet.

3. Please, Submit Contact Information.

Owner/Developer Name: Diversified Properties Inc

Owner/Developer Address: Box 10127, Portland, Maine 04104

Phone: 773-4988

Fax: 773-6875

E-mail: jmw1@maine.ir.com

Engineering Consultant Name: Gortill Palmer Engineers

Engineering Consultant Address: Box 1237, Gray, Maine 04039

Phone: 657-6910

Fax: 657-6912

E-mail: dreynolds@gortillpalmer.

City Planner's Name: Shukria Wiar

Phone: \_\_\_\_\_

Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review.

**4. Please, Submit Industrial Process Wastewater Flow Calculations** GPD

Estimated Industrial Process Wastewater Flows Generated: na Yes      No x

Do you currently hold Federal or State discharge permits? Yes      No     

Is the process wastewater termed categorical under CFR 40? na Yes      No     

OSHA Standard Industrial Code (SIC): na (<http://www.osha.gov/oshsstats/sicser.htm>)

Peaking Factor/Peak Process Times: na

Note: On the submitted plans, please show the locations, where the building's sanitary, and process water sewer laterals, exit the facility, where they enter the city's sewer, the location of any control manholes, wet wells, or other access points, and the locations of any filters, strainers, or grease traps.

Notes, Comments, or Calculations:

---

This lot is located on the newly constructed Barclay Avenue. The sewer and storm services were brought to this lot at the time of street construction.

**James Wolf**

**From:** "Jim Pandiscio" <pandiscio@pwd.org>  
**To:** "James Wolf" <jmw1@maine.rr.com>  
**Sent:** Tuesday, September 23, 2003 1:07 PM  
**Attach:** P-MainEst-BarclayAve-DiversifiedProperties-JimWolf.xls  
**Subject:** RE: Barclay Avenue

Copy of final inspection report attached. Final inspection done by Jeff McGill and Jim Pandiscio of the Portland Water District.  
New water main and services have been activated.  
Jim Pandiscio/MEANS Coordinator

-----Original Message-----  
**From:** James Wolf [mailto:jmw1@maine.rr.com]  
**Sent:** Tuesday, September 23, 2003 7:11 AM  
**To:** Jim Pandiscio  
**Subject:** Barclay Avenue

Good Morning

I need to provide the City documentation that the water main has been installed properly and passed its tests. Would you please provide this information. Thank you.

Jim

James Wolf  
Diversified Properties, Inc.  
P.O. Box 10127  
Portland, Maine 04104  
1-207-773-4988  
Fax 1-207-773-6875

9/23/03



Date: 4/2/02

Project: Barclay Ave FC: 6719

Division: Portland

Contractor: A H Grover

**Water Main & Service Assets:**

Type:	Asset #	Location:	Size:	Description:
1 Reducer	RD2701665	Barclay Ave	8X4	150' south of Harris Ave
2 BO	BO2701623	Barclay Ave	2	275' south of Harris Ave
3 Main	RD27016650-BO2701623	Barclay Ave	4"	reducer to new 2" blow off
4				
5				
6 Service	SV27104497	Lot 1 Barclay Ave	1"	
7 Service	SV27104498	Lot 2 Barclay Ave	1"	
8 Service	SV27104499	Lot 3 Barclay Ave	1"	
9 Service	SV27104500	Lot 4 Barclay Ave	1"	
10 Service	SV27104501	Lot 5 Barclay Ave	1"	
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Portland Water District  
Preliminary Estimate Worksheet

3/20/02

Div 27

Agree#

FC#

**Project:** Barclay Ave.  
Portland, Me. 04103  
**For:** Diversified Properties  
PO Box 10127  
Portland, Me. 04104

*Description:* Install 120' more or less of 4" DI water main in Barclay Ave. starting at current end of 8" water main and going south east.

#	unit	amount		sub-total \$
120	Trench, install & backfill per foot @	10.56		1267.20
120	Pipe per foot @	7.31		877.20
1	Reducer(s) @	69.72		69.72
1	Blow off(s) complete @(Ford or Mueller)	247.29		247.29
1	Solid Sleeve(s)	111.26		111.26
2	Labor & equipment per day @	1400.00		2800.00
40	Gravel per cu. yd(s) @	7.00		280.00
0.5	Misc. bracing & hardware @	150.00		75.00
3	Field Loc Gaskets@	36.36		109.08
1	Air valve(s) @	140.00		140.00
			sub-total \$	5,976.75
			Contingency: 10%	597.68
1	Main application fee @	100.00		100.00
			sub-total \$	6,674.43
0	Public fire protection per foot @	2.50		0.00
5	Service application(s) fee @	60.00		300.00
5	Service(s) installed M/SL @	500.00		2500.00
5	Meter(s) installed @	139.00		695.00
			By PWD-Total	\$ 10,169.43
			+ LEDGE	
			55.62025	
			cost per foot =	

**Project by contractor:**

#				
0	Public fire protection per foot @	2.50		0.00
1	Planning & engineering @	300.00		300.00
1	Main connection(s) @	424.00		424.00
4	Inspection per day @	300.00		1200.00
5	Service application fee(s) @	25.00		125.00
5	Meter installation(s) @	139.00		695.00
1	Main application fee @	100.00		100.00
			Total	\$ 2,844.00

Barclay - Public Works

James Wolf

From: "James Wolf" <jmw1@maine.rr.com>  
To: "Eric Labelle" <EJL@portlandmaine.gov>  
Cc: <Todd@portlandmaine.gov>  
Sent: Wednesday, October 13, 2004 2:03 PM  
Subject: Re: Barclay

Eric

No problem. Although we disagree we the interpretation of staff this is not the time to address the issue. We will be placing curb in front of the lot either later today or tomorrow. Thank you for your help while Todd is away.

Jim

----- Original Message -----  
From: "Eric Labelle" <EJL@portlandmaine.gov>  
To: <jmw1@maine.rr.com>  
Cc: <Todd@portlandmaine.gov>  
Sent: Wednesday, October 13, 2004 11:46 AM  
Subject: Re: Barclay

Jim,

I talked with Staff today. Since the lot is not part of the subdivision there can not be a curb cut.

Eric

Eric J. Labelle, P.E.  
City Engineer  
55 Portland Street  
Portland, ME 04101  
(207)874-8850 Office  
(207)874-8852 Fax

>>> "James Wolf" <jmw1@maine.rr.com> 10/13/2004 10:53:07 AM >>>  
Dave met with Grover and marked the location. Thank you. Should we go over the other issues?

----- Original Message -----  
From: "Eric Labelle" <EJL@portlandmaine.gov>

To: <jmw1@maine.rr.com>  
Sent: Wednesday, October 13, 2004 8:08 AM

Subject: Re: Barclay

Yes, as we discussed yesterday, have Ben contact Dave Peterson at our office. 874-8846. He has the report from the last tape made.  
Eric

10/26/04

>>> "James Wolf" <jimw1@maine.rr.com> 10/12/2004 8:24:50 AM >>>  
Eric

We need some direction regarding the underdrain repair. Is there someone covering for Todd that we can meet with today.

Thank you.

Jim

James Wolf  
Diversified Properties, Inc.  
P.O. Box 10127  
Portland, Maine 04104  
1-207-773-4988  
Fax 1-207-773-6875

10/26/04

**James Wolf**

**From:** "Jim Pandiscio" <pandiscio@pwd.org>  
**To:** "James Wolf" <jmw1@maine.rr.com>  
**Sent:** Tuesday, September 23, 2003 1:07 PM  
**Attach:** P-MainEst-BarclayAve-DiversifiedProperties-jimWolf.xls  
**Subject:** RE: Barclay Avenue

Copy of final inspection report attached. Final inspection done by Jeff McGill and Jim Pandiscio of the Portland Water District.  
New water main and services have been activated.  
Jim Pandiscio/MEANS Coordinator

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

**From:** James Wolf [mailto:jmw1@maine.rr.com]  
**Sent:** Tuesday, September 23, 2003 7:11 AM  
**To:** Jim Pandiscio  
**Subject:** Barclay Avenue

Good Morning  
I need to provide the City documentation that the water main has been installed properly and passed its tests. Would you please provide this information. Thank you.

Jim

James Wolf  
Diversified Properties, Inc.  
P.O. Box 10127  
Portland, Maine 04104  
1-207-773-4988  
Fax 1-207-773-6875

Date: 4/2/02

Project: Barclay Ave

FC: 6719

Division: Portland

Contractor: A H Grover

**Water Main & Service Assets:**

Type:	Asset #	Location:	Size:	Description:
1 Reducer	RD2701665	Barclay Ave	8X4	150' south of Harts Ave
2 BO	BO2701623	Barclay Ave	2	275' south of Harts Ave
3 Main	RD27016650-BO2701623	Barclay Ave	4"	reducer to new 2" blow off
4				
5				
6 Service	SV27104497	Lot 1 Barclay Ave	1"	
7 Service	SV27104498	Lot 2 Barclay Ave	1"	
8 Service	SV27104499	Lot 3 Barclay Ave	1"	
9 Service	SV27104500	Lot 4 Barclay Ave	1"	
10 Service	SV27104501	Lot 5 Barclay Ave	1"	
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Portland Water District  
Preliminary Estimate Worksheet

3/20/02

Div 27

Agree#

FC#

**Project:** Barclay Ave.  
Portland, Me. 04103

**For:** Diversified Properties  
PO Box 10127  
Portland, Me. 04104

*Description:* Install 120' more or less of 4" DI water main in Barclay Ave.  
starting at current end of 8" water main and going south east.

#	unit	amount
120	Trench, install & backfill per foot @	10.56
120	Pipe per foot @	7.31
1	8"X4" Reducers @	69.72
1	2" Blow off(s) complete @ (Ford or Mueller)	247.29
1	4" Solid Sleeve(s)	111.26
2	Labor & equipment per day @	1400.00
40	Gravel per cu. yd(s) @	7.00
0.5	Misc. bracing & hardware @	150.00
3	4" Field Loc Gaskets @	36.36
1	Air valve(s) @	140.00
sub-total \$ 5,976.75		
Contingency: 10%		
1	Main application fee @	100.00
sub-total \$ 6,674.43		
0	Public fire protection per foot @	2.50
5	Service application(s) fee @	60.00
5	1" Service(s) installed M/SL @	500.00
5	5/8" Meter(s) installed @	139.00
By PWD-Total \$ 10,169.43		
=====		
+ LEDGE		
=====		
cost per foot = 55.62025		

**Project by contractor:**

#	unit	amount
0	Public fire protection per foot @	2.50
1	1 Planning & engineering @	300.00
1	1 Main connection(s) @	424.00
4	4 Inspection per day @	300.00
5	5 Service application fee(s) @	125.00
5	5/8" Meter installation(s) @	139.00
1	1 Main application fee @	100.00
Total \$ 2,844.00		

Portland Water Section

May 16, 2002

Jim Wolf  
Diversified Properties  
PO Box 10127  
Portland, Me. 04104

Re: Barclay Ave.-Portland

Jim:

This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed sub-division at Barclay Ave. in Portland. Checking District records, I find there is an 8" water main installed part way down Barclay Ave. with an existing hydrant. The current data from the nearest hydrant indicates there should be adequate capacity of water to serve the needs of your proposed project.

Hydrant Location: Barclay Ave. @Harris Ave.  
Hydrant # 1802  
Static pressure = 67 PSI  
Flow = 1087 GPM  
Last Tested = 8/06/92

Sincerely,  
Portland Water District

Jim Pandiscio  
Means Coordinator





City of Portland  
Department of Planning and Development  
Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258



FAX

To:

James Wolf

Company:

Diversified Properties Inc.

Fax #:

773 6875

Date:

April 5, 2007

From:

Kaufman (on behalf of Barbara Barlett  
and Shukria Umar

You should receive \_\_\_\_\_

page(s) including this cover sheet.

Comments:

Please see copies of urgent emails attached.  
Kau Hwei  
flourner  
874-8728

## MEMORANDUM

TO: Jean Fraser  
FROM: Dan Goyette  
DATE: April 5, 2007  
RE: Barclay Avenue Subdivision



Woodard & Curran has performed a review of the subdivision application for the Barclay Avenue Subdivision Project.

### Documents Reviewed

- Overall Grading Plan for Barclay Avenue, dated February 7, 2007, Gorrill-Palmer Consulting Engineers, Inc.

- Response to Comments, received April 4, 2007 dated March 19, 2007 to Shukria Wiar prepared by James Wolf.

### Comments

- Public Works will not support the waiver request from the Moratorium Street Standards. The applicant states at the time of the street construction that they requested to install a driveway entrance and were refused and therefore the burden is a result of Public Works refusal to allow the entrance at the time of construction. If the applicant was aware that they wanted to add this additional driveway and lot at the time of construction, they should have gone through a subdivision review at the time of the original project.

- A grading plan has been provided. It appears from the grading plan that stormwater from the proposed lot will discharge onto the adjacent lot and flow to an existing field inlet. A drainage easement will be required. In addition, a plan indicating existing and proposed flow patterns for stormwater should be provided to insure that no additional drainage easements will be required.

DRG  
203943.

**From:** Jean Fraser  
**To:** jmw@maine.rr.com  
**Date:** 4/3/2007 4:31:58 PM  
**Subject:** Barclay Avenue sub division

Dear Mr Wolf,

I am helping Shukria Wiar prepare the Planning Board Workshop Memo on this project as she is unexpectedly out of the office this week. The Planning Board Workshop is scheduled for Tuesday, April 10th -probably the first item (3:30pm)

I have reviewed the file and note that we do not have 11X17 copies of all the plans- which we need tomorrow as these will be copied and attached to the Memo so the Board can review them. (you will note these are requested to be included in the original submitted application- see the second page of the Site Plan Application).

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2. Standard Boundary Survey dated 1.30.2007 which also appears to be a draft Subdivision Plat (need an 11X17 copy of this)
3. Overall Grading Plan by GP dated 02.07 (need an 11X17 copy of this)
4. Record Drawing of Barclay Ave as built (dated 2001)(need an 11X17 copy of this)
5. "Site and Utility Plan" for 35 Barclay Ave (I believe this was submitted with the permit or site plan application and we have this at 11X17 already)
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Please send electronically by pdf or bring in paper copies of the 11X17 copies of plans 1-4 above by the end of tomorrow (Wed) so these can be included in the Memo.

Please call or e-mail to confirm you have received this note so that we know the plans are on the way. Also please contact me if you have any queries as to how this project is being reviewed/ being taken forward.

Thank you

Jean Fraser  
Planner  
874 8728

**CC:** Barhydt, Barbara; Wiar, Shukria

also faxed April 3, 2007.

**From:** Jean Fraser  
**To:** jmw1@maine.rr.com  
**Date:** 4/3/2007 4:31:58 PM  
**Subject:** Barclay Avenue sub division

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Jean Fraser  
Planner  
874 8728

**CC:**

Barhydt, Barbara; Wiar, Shukria

*Once sending this  
to post letter to  
Barbara + indicated  
more coming*

*Theresa emailed +  
faxed to Jim Wolf 4.3.07*

**From:** Jean Fraser  
**To:** Goyette, Dan  
**Date:** 4/3/2007 4:02:04 PM  
**Subject:** Barcaly Ave. sub division

Dan,

I am trying to write up the Workshop Memo (for 4.10 PB) on behalf of Shukria for this 3-lot (after the fact) subdivision. Two of the lots already have been developed and the third is proposed to be developed.

Shukria wrote to the applicant on March 16, 2007 requesting a utility plan and a grading and stormwater drainage plan. Prior to that letter the applicant had submitted an "Overall Grading Plan" from Gorrill Palmer dated 02/07 which shows a fair amount of detail but more info (eg spot heights and refs to foundation drains) for the third (undeveloped) lot.

I am trying to figure out whether you had looked at that plan in late Feb/early March and found it wanting (hence the request for more plans) or whether you have yet to review this. We can find nothing on Shukria's e-mail system nor in "O" drive nor on the file that gives any indication of you ever having offered comments.

HELPIII

thanks  
Jean

**CC:** Barhydt, Barbara

MODE = MEMORY TRANSMISSION START=APR-03 16:29 END=APR-03 16:46

FILE NO.=065

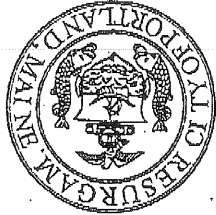
STN NO. COMM. ABBR NO. STATION NAME/TEL NO. PAGES DURATION

001 BUSY 3 7736875 000/002 00:00:00

-CITY OF PORTLAND

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

City of Portland  
Department of Planning and Development  
Planning Division  
388 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207) 874-8721 or (207) 874-8719  
Fax: (207) 756-8258



FAX

To: James Wolf

Company: Diversified Properties Inc.

Fax #: 207-773-6875

Date: April 3, 2007 (Tue)

From: Jean Fraser on behalf of Shukra Utar

You should receive 2 page(s) including this cover sheet.

Comments:

I tried to sent you the attached e-mail but it was pronounced "undeliverable" - so will try this.

Could you let me know if this reaches you please. Thanks Jean Fraser

JF@portlandmaine.gov  
207-874-8728

**From:** Jean Fraser  
**To:** jmwf@maine.rr.com  
**Date:** 4/3/2007 4:31:58 PM  
**Subject:** Barclay Avenue sub division

Dear Mr Wolf,

I am helping Shukria Wiara prepare the Planning Board Workshop Memo on this project as she is unexpectedly out of the office this week. The Planning Board Workshop is scheduled for Tuesday, April 10th -probably the first item (3:30pm)

I have reviewed the file and note that we do not have 11X17 copies of all the plans- which we need tomorrow as these will be copied and attached to the Memo so the Board can review them. (you will note these are requested to be included in the original submitted application- see the second page of the Site Plan Application).

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Thank you

Jean Fraser  
Planner  
874 8728

**CC:** Barhydt, Barbara; Wiara, Shukria



City of Portland  
Department of Planning and Development  
Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258



FAX

To: James Wolf

Company: Diversified Properties Inc.

Fax #: 207-773-6875

Date: April 3, 2007 (Tue)

From: Seawater on behalf of Shukra Ujar

You should receive 2 page(s) including this cover sheet.

Comments: I tried to sent you the attached e-mail but it was not deliverable -

James Wolf  
Diversified Properties Inc.  
Jan 25 07  
fax 207 773 6875  
Dear  
JF  
207

please

Attachment 3

replaced by  
top page removed  
4.5.07

used  
by email  
4.5.07

March 19, 2007  
Shukria Wiar

Shukria Wiar  
Planner  
City of Portland  
389 Congress Street  
Portland, Maine 04101

RE: Site Plan Review: 35 Barclay Avenue  
Application #2007-0018;CBL 339 D009001

Dear Ms. Wiar:

In response to your letter dated March 16, 2007 I offer the following:

1 The applicant shall provide a narrative with a chronology of the lot divisions to date.

The land being discussed was originally shown on a plan entitled Plan of Harris Farms dated June 5, 1919 and recorded in Book 14, Page 19.

Lot 1 on our plan consists of lots 216 and 217 on the Harris Farm Plan. These lots were purchased by Joseph and Annie Joyce in 1928 and remained in the Joyce family until December 7, 2001 when they were purchased by the Bono, Inc. Profit Sharing Trust. Neither the Joyce family nor Bono Inc. ever owned any abutting land. In 2003, the City of Portland considered this lot a grandfathered building lot and issued a building permit despite the fact it lacked proper lot width. The lot was sold to C.G.B. Properties in 2003 who built a home selling to the current owner, Kami Bedard.

Lots 2 and 3 on our plan consist of lots 210-213 and 218-221. These lots were purchased by Timothy and Adelaide Curran as follows:

A. Lots 212, 213, 218 and 219 were purchased from John Curran in August 1957. John Curran acquired lots 212 and 213 in 1919, lots 213 and 219 were acquired in 1926.  
B. Lots 210, 211, 220 and 221 were acquired by Portland tax title in 1927 and sold to the Currans in 1959.

The property remained in the Curran family until November 20, 2001 when it was purchased by Maggie Lane Development. In November 2003 Maggie Lane Development sold parcel 2 to C.G.B. Properties who built a home selling to the current owner, Stacy Brindle and her former husband. In 2003 lot 3 was transferred to Diversified Properties, Inc., the lot's current owner. For a nonconforming lot such as lot 1 on our plan to enjoy grandfathered state, the Portland ordinance requires it to be "held under separate and distinct ownership from the adjacent lots." In the past we have shown lot 1 to be a grandfathered lot as illustrated by Portland granting a building permit on this lot.

It is the developers' contention that one lot division only has been made thus creating lots 2 and 3 shown on our plan. The creation of lot 1 on the plan was completed in 1919 by the original divider. It is this difference of opinion that brings us to the Planning Board. Please see attachment 1 for supporting material.

2. The subdivision ordinance contains review standards and required improvements in your narrative. The Planning Office recommends that you address how your application meets the subdivision regulations and standards. Lot 3, the parcel in question, is currently a vacant parcel of land. During the construction of Barclay Avenue the parcel was improved with water, sewer and storm services. The abutting parcels shown as lots 1 and 2 are developed residential lots.

3. Identify the current zoning information for the subdivision and identify the lot sizes for the original parcel and the proposed lots. The location of the site is in zoning district R-3. Residential homes are a permitted use within this zone; space and bulk requirements for this zone are provided on the recording plan. The original and current lot sizes for parcels 1 thru 3 are:

Original	Current
1. 6,560 sf.	6,560 s.f. unchanged
2. portion of 24,000 sf.	16,512 sf.
3. portion of 24,000 sf.	7,488 sf.

4. The Planning Department requests that the plans show all three parcels on each plan sheet, as the proposal is being reviewed as a three-lot subdivision, and ensure that there is consistency of information between the plans. The lots have been identified on the plans as 1 thru 3.

5. The following plan set needs to be submitted:

- a. Existing conditions of the site (show the one lot that will be divided each lot)
- b. Proposed site plan with landscaping (show the two tree requirement on each lot)
- c. Utility plan
- d. Grading and Stormwater Drainage plans
- e. Details/Civil details.

Enclosed with this package is a revised recording plan. Added to the plan are lot numbering, lot sizes, FEMA Flood information and an additional note regarding street trees for lot 3 as well as lots 1 and 2. Also enclosed is a revised grading plan. This plan showing existing and proposed grading including the existing field drain on lot 2 that will receive the grading from lots 2 and 3. No utility plan is enclosed as no new utilities are proposed. No detail plan is enclosed as no work with the exception of two street trees on parcel 3 is proposed. Whether a curb cut for lot 3 is necessary or will be utilized is still uncertain.

6. Remove the building envelope on the proposed.

The building envelope has been removed from the plan.

7. The subdivision ordinance includes required improvements (Section 14-499), such as two street trees per lot and curbs and sidewalks. The plan should address those requirements and if you are seeking a waiver from the sidewalk and curb standards (criteria for curb and sidewalk criteria attached) this request must be in writing.

Barclay Avenue was constructed to City standards including granite curb and sidewalks on one side of the street in 2003/2004 and formally accepted in 2005. When constructed, the City waived sidewalks in front of these lots. This waiver took place because:

- A. There was not reasonable expectation for pedestrian usage coming from, going to and traversing the site.
- B. An alternative walking route existed by way of a sidewalk on the other side of the street.
- C. Strict adherence to the sidewalk requirement would have caused loss of a significant amount of driveway and lawn area to the existing home on the corner of Barclay and Harris Avenues.

With regard to curbing the applicant requests a waiver from 5 year street

- A. While the road was under construction the applicant requested and was denied permission to install a curb cut.
- B. The cost of the permit would be in excess of 10,000 dollars and was preventable when the applicant requested permission from Portland and

3c

C. was denied. The only other cost associated with the project is the installation of two street trees and the curb cut itself. The curb cut can be completed without having to open the street if the detail curb installation is waived.

8. Please submit water and sewer capacity letters.

Enclosed with this package please find confirmation from the Portland Water District that an acceptable service exists. In addition, enclosed is an application for a waste water capacity letter. Please note that all services are stubbed to the property.

9. Are these lots in a flood-prone area?

A note has been added to the subdivision plan stating that lot 1 thru 3 do not lie in a special flood hazard zone.

Zoning Department comments:

The given subdivision plan does not reflect basic zoning information. This 3-lot subdivision is located within an R-3 Zone. The only lot size given is the newly created front lot of 7,488 sq. feet. There is nothing to reflect the size of the remaining developed lot. All three-lot sizes should be given. The new lot meets the R-3 Zone requirements as depicted. The older lots meet the R-3 Zone requirements as depicted. Also the plan reviewed did not have the plans numbered to clearly show the lots involved.

As a note, Hampton Street is not being shown on the plans. Applicant should show all abutting property owners and streets on a subdivision plan.

The subdivision plan has been revised to show the lot sizes of all parcels as well as establish numbering.

Department of Public Works comments:

The new lot is located on a section of Barclay Street that was recently paved. Therefore, Barclay Street is classified as a 5-year Moratorium Street. This means that the street opening fee for constructing the curb cut for the new driveway will be based on repaving the full width of Barclay Street for a distance that extends 20 feet beyond the construction area in both directions along Barclay Street. As such, the street opening fee may appear expensive to the developer. In any case, we want the project developer to understand the implications of the 5-year Moratorium Street classification with respect to the street opening fee that the City will charge for the proposed project.

If a waiver to the 5-year moratorium fee cannot be obtained as previously requested the developer will either 1. pay the fee, 2. wait for the expiration of the 5-year period or 3. redesign said building permit and access via the built turnaround that exists on the lot.

Fire Department comments:

Please show the nearest fire hydrant.

*The existing hydrant is shown on the subdivision plan at the corner of Barclay and Harris Avenue.*

Very Truly Yours,

James M. Wolf  
Diversified Properties  
jmwl@maine.rtr.com  
Enclosures

Barbery -

- what plans to Board
- only have 11x17

Review of plan  
 Incinerators etc.  
 Plat

need agreement bdy.  
 then zoning or proposed JFC.

- questions

width of cutcut

drainage  
 site plan and subdiv. at just one

- original lot ~~300 x 185 = 37,000~~

Parcel A	14,512 sq ft	(.36 acres)
Parcel B	7,488	(.17 acres)
Parcel C	6,561	(.15 acres)
	<u>30,561</u>	(.68 acres)

2184  
 43740  
 44,250

= 29743.2

SUBDIVISION REVIEW

Shows it put house on lot (172116) not meeting zoning.  
 - Show building setbacks for the lots.  
 - Show all three lots that have been subdivided on the Site Plan.  
 - Since long history, applicant will need to provide a narrative as to how subdivided & how he is meeting our standards.  
 - Existing lot sq. ft and proposed  
 - Need to show zoning information on site plan  
 - Need following plan set: existing site plan, landscaping utility plan

1. Water  
 - Curb cut to outside  
 - separation bed: driveway  
 - storm drainage  
 - Need to submit capacity letter from Forward Water District  
 - Do we need more details about the tie in? - Ask Mike.

2/3. Water  
 - Sidewalk exist.  
 - Need to submit capacity letter from Forward Water District  
 - Do we need more details about the tie in? - Ask Mike.

4. Soil Erosion  
 - Building setback  
 - Jenny - right title  
 - Interest -  
 - Review  
 - Each house (3 in total) has its own driveway.  
 - Access to the lots is via Barclay Avenue. Barclay Ave. was formerly accepted by the city of Portland in 2005. Is this correct?  
 - Will we need to supply a parking spaces per unit/house.

5. Traffic  
 - Need to submit capacity letter from DPW  
 - Only drainage shown on plan is roof drainage for the 2-story single family - where does this drain into? Need to show roof drainage for the remaining homes.  
 - Stormwater  
 - No information submitted - nothing being proposed but roof drainage.

6. Sanitary Sewer/Soils  
 - Will be on public... will not have a burden on the facilities.

7. Scenic Beauty

8. Solid Waste Disposal

9. Comprehensive Plan



11. Financial Capability Applicant has submitted a letter from Banknorth.

12. Groundwater

13. Flood Hazard/Shoreland Is it not in a flood-prone area

14. Wetlands - no wetlands on site.

Easement  
① ~~30x30' easement~~ to be conveyed to the City of Portland.  
② Utility easement for CMF.

City of Portland  
Department of Planning and Development

Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258

FAX

To:

Jim Wolf

Company:

Diversified Properties, Inc.

Fax #:

773-6875

Date:

March 16, 2007

From:

Shukria Wiar

You should receive \_\_\_\_\_ page(s) including this cover sheet.

6

Comments:

Please see attached.



March 16, 2007

Jim Wolf  
Diversified Properties, Inc.  
PO Box 10127  
Portland, ME 04104

**RE: Site Plan Review:**  
**35 Barclay Avenue**  
**Three (3) Lots Subdivision**  
**Application # 2007-0018; CBL 339 D009001**

Dear Mr. Wolf,

I refer to the Site Plan Review Application for a proposed three-lot subdivision that is located in the vicinity of 35 Barclay Avenue, as submitted on January 25, 2007.

Below are the preliminary review comments from various City departments and additional comments are pending. As I receive those comments, I will forward them to you. Following are additional items that need to be submitted or addressed for review:

1. The applicant shall provide a narrative with a chronology of the lot divisions to date.
2. The subdivision ordinance contains review standards and required improvements in your narrative. The Planning Office recommends that you address how your application meets the subdivision regulations and standards.
3. Identify the current zoning information for the subdivision and identify the lot sizes for the original parcel and the proposed lots.

4. The Planning Department requests that the plans show all three parcels on each plan sheet, as the proposal is being reviewed as a three-lot subdivision, and ensure that there is consistency of information between the plans.

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Fire Department comments:

Please show the nearest fire hydrant.

Please submit the information at your earliest convenience. If you have any questions please do not hesitate to call me on (207) 756-8083 or at [shukriaw@portlandmaine.gov](mailto:shukriaw@portlandmaine.gov).

Sincerely,

Shukria Wiar  
Planner

cc

Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Manager  
Penny Little, Corporate Counsel  
Michael Farmer, Public Works  
Captain Greg Cass, Fire Prevention  
Marge Schmuckal, Zoning Administrator

w/ 2/8/07 letter

in hearing

report enginrad (copy)

KNOW ALL MEN BY THESE PRESENTS

THAT DIVERSIFIED PROPERTIES, INC., a Maine corporation with a principal place of business in the City of Portland, County of Cumberland and State of Maine, and MAGGIE LANE DEVELOPMENT, LLC, a Maine Limited Liability Company with a principal place of business in the City of Portland, County of Cumberland and State of Maine, in consideration of One Dollar and other valuable considerations paid by the CITY OF PORTLAND, a municipal corporation organized and existing under the laws of the State of Maine, the receipt whereof it does remise, release, bargain, sell and convey, and forever quitclaim unto the said City of Portland, for highway purposes only, all its right, title and interest in

The following described real property situated in the City of Portland, County of Cumberland and State of Maine, being property described in Exhibits A and B annexed hereto and made a part hereof.

Meaning and intending to describe all of Barclay Avenue and portions of Lots 217 and 218 as shown on a Plan of Harris Farms dated June 5, 1919 and recorded at the Cumberland County Registry of Deeds in Plan Book 14, Page 19.

To have and to hold the same, together with all privileges and appurtenances thereunto belonging, to said City of Portland, its successors and assigns forever.

IN WITNESS WHEREOF, the said DIVERSIFIED PROPERTIES, INC. has caused this instrument to be signed in its corporate name and sealed with its corporate seal by James M. Wolf, its President therunto duly authorized this 18 day of JUNE, 2002

DIVERSIFIED PROPERTIES, INC.

By:

James M. Wolf

Its President

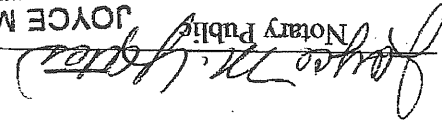


STATE OF MAINE  
CUMBERLAND, SS

JUNE 18, 2002

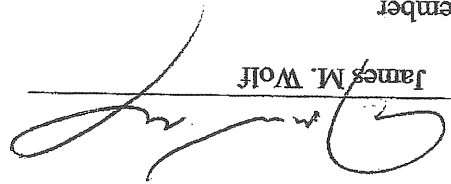
Then personally appeared the above-named James M. Wolf, President of  
DIVERSIFIED PROPERTIES, INC., as aforesaid and acknowledged the foregoing  
instrument to be his free act and deed in his said capacity and the free act and deed of  
said corporation.

Before me,

  
Notary Public  
JOYCE M. YATES  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010

IN WITNESS WHEREOF, the said MAGGIE LANE DEVELOPMENT, LLC has  
caused this instrument to be signed and sealed by James M. Wolf, its Member, therunto  
duly authorized this 18 day of JUNE, 2002

MAGGIE LANE DEVELOPMENT, LLC

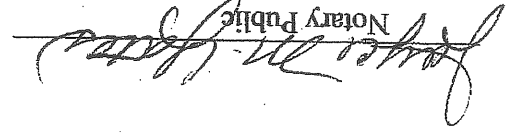
By:   
James M. Wolf  
Its Member

STATE OF MAINE  
CUMBERLAND, SS

JUNE 18, 2002

Then personally appeared the above-named James M. Wolf, Member of  
MAGGIE LANE DEVELOPMENT, LLC as aforesaid and acknowledged the foregoing  
instrument to be his free act and deed in his said capacity and the free act and deed of  
said Limited Liability Company.

Before me,

  
Notary Public  
JOYCE M. YATES  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES SEPTEMBER 16, 2010

Quitclaim Deed from  
Diversified Properties, Inc.  
to the City of Portland

Deed Description of Barclay Avenue  
Portland, Maine

A certain lot or parcel of land lying on the southeasterly side of Harris Avenue, in the City of Portland, County of Cumberland, State of Maine, bounded and described as follows:

Beginning on the southeasterly sideline of said Harris Avenue and the westerly corner of Lot 225 as shown on a Plan of Harris Farms dated June 5, 1919 and recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 19. Thence:

1) S 29° 16' 00" E by said Lot 225 and Lots 228 through 233 as shown on said plan a distance of Two Hundred Eighty-Five and 75/100 (285.75) feet to a 5/8" rebar with cap set at the southerly corner of said Lot 233 and the northwesterly line of land now or formerly of Patricia McDonough et al as described in a deed recorded in the Cumberland County Registry of Deeds in Book 3720, Page 141.

2) S 60° 48' 52" W by said McDonough and the northwesterly line of land now or formerly of Mark A. Duest and Sandra A. Lowe as described in a deed recorded in the Cumberland County Registry of Deeds in Book 7820, Page 88 a distance of Fifty and 00/100 (50.00) feet to a 5/8" rebar set at the easterly corner of Lot 216 as shown on said plan.

3) N 29° 16' 00" W by said Lot 216, Lots 217 through 221 and Lot 224 a distance of Two Hundred Eighty-Five and 68/100 (285.68) feet to the northerly corner of Lot 224 and the southeasterly sideline of said Harris Avenue.

4) N 60° 44' 00" E by said Harris Avenue a distance of Fifty and 00/100 (50.00) feet to the point of beginning.

The above described parcel contains 14,286 square feet.

Bearings are referenced to Magnetic North 1919.

Reference is herein made to a Standard Boundary Survey made for Diversified Properties by Titcomb Associates May 5, 2001.