

371-A-2

2004-0028

washington Ave.

Ballpark Dr. Subdivision

Margaret Haverly

on Spreadsheet

add to project on G: Drive

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

July 20, 2004

Orlando E. Delogu, Chair  
Lee Lowry III, Vice Chair  
John Anton  
Kevin Beal  
Michael Patterson  
David Silk  
Janice E. Tevanian

Mrs. Mary Haverty  
67 Haverty's Way  
Portland, ME 04013

RE: Proposed Ballpark Drive Subdivision  
ID #2004-0028, CBL #371 A002001

Dear Mrs. Haverty:

On September 21, 2004 the Portland Planning Board voted unanimously (6-0, Patterson absent) to approve the Ballpark Drive Subdivision in the vicinity of Washington Avenue and Riverside Street, with the following conditions:

- i. The applicant shall submit revised project plans to satisfy the final concerns of the City's consulting civil engineer as expressed in a September 17, 2004 memo from Jim Seymour, P.E.
- ii. The applicant shall remove from the plans the 10 foot wide trail easement shown across lot 17 and replace it on the plans with a 20-foot wide trail easement which shall link the Ballpark Drive right of way with the Grace Baptist Church property across lot 18 so as to facilitate an eventual through connection to Lambert Street in coordination with Portland Trails and subject to review and approval by the Planning Authority.
- iii. The 75 foot no-disturbance stream buffer across the backs of lots 1-9 shall be field located by a surveyor and physically marked where it intersects property lines. The marker design specification shall be subject to final review and approval by the planning authority.
- iv. The proposed street tree installation plan shall be subject to final review and approval by the City Arborist and the Planning Authority.
- v. The proposed improvements to the Washington Avenue / Riverside Street and Washington Avenue / Ballpark Drive intersections shall be subject to final review and approval by the City's traffic division.
- vi. The applicant shall finalize current drafts of all proposed easements and deed restrictions related to drainage and maintenance, utilities, trails, stream buffer, and circulation in accordance with review comments made by Corporation Counsel. Upon final approval,

the applicant shall present evidence that said easements and restrictions have been recorded with the Cumberland County registry of deeds before release of the plat.

vii. The applicant shall (1) make a \$31,000 contribution to the City of Portland for the replacement of the 36 inch drainage culvert which crosses the abutting Murphy property, (2) secure a 30 foot wide drainage easement and maintenance easement across said property to be held by the City of Portland, and (3) improve the pipe inlet on said Murphy property as described in a September 17, 2004 memo from Jim Seymour, P.E. and to the satisfaction of the City Engineer.

viii. Lot 18 as shown on sheet 1 of the plan set dated September 3, 2004 shall be conserved in perpetuity by deed restriction, conveyance to an approved land trust, or by other legal mechanism subject to final review and approval by Corporation Counsel.

ix. The applicant shall submit revised plans with a 50 foot wide panhandle added to lot 18 so as to provide that lot with its required 50 feet of street frontage onto Ballpark Drive.

x. A note on the subdivision plat shall be added to state the following: "Unless and until the street is accepted by the City of Portland, the Developer shall be and remain responsible, beginning upon the issuance of the first certificate of occupancy, for the following: private curbside trash collection, street lighting and street maintenance services including snowplowing, salting and sanding. The costs of such services shall not be transferable by the Developer. Prior to the release of the subdivision plat the Developer shall provide to the City a performance guarantee covering the costs of these services, which guarantee shall be released upon the acceptance of the street by the City. The posting of such guarantee shall not relieve the Developer of her obligation to provide the services. In addition, this note shall be placed within the deeds of each lot sold in the subdivision and shall not merely be referenced."

The approval is based on the submitted plans and the findings related to subdivision review standards as contained in Planning Board #36-04, which is 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 CADD.DXF files with the final plans.

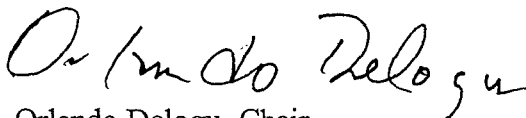
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public works prior to the recording of the subdivision plat. The subdivision approval is valid for three (3) years.

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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 Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
6. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
7. 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 Ethan Boxer-Macomber, City Planner at 756-8083 or [ebm@portlandmaine.gov](mailto:ebm@portlandmaine.gov).

Sincerely,



Orlando Delogu, Chair  
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Sarah Hopkins, Development Review Services Manager  
Ethan Boxer-Macomber, Planner

Jay Reynolds, Development Review Coordinator

Marge Schmuckal, Zoning Administrator

Inspections Division

Michael Bobinsky, Public Works Director

Traffic Division

~~Eric Labelle, City Engineer~~

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Jeff Tarling, City Arborist

Penny Littell, Associate Corporation Counsel

Lt. Gaylen McDougall, Fire Prevention

Assessor's Office

Approval Letter File

PT  
Easement

TRAIL EASEMENT

THIS TRAIL EASEMENT is made as of the 24<sup>th</sup> day of January, 2005 by and between BALLPARK DRIVE DEVELOPMENT, LLC, a Maine limited liability company with a place of business in Portland, Maine and a mailing address of 67 Havertys Way, Portland, Maine 04103 (hereinafter referred to as "Grantor"), and PORTLAND TRAILS, a Maine non-profit corporation with a place of business in Portland, Maine and a mailing address of One India Street, Portland, Maine 04101 (hereinafter referred to as "Grantee").

WITNESSETH

WHEREAS, Grantor is the owner of Lot 18 shown on a plan entitled "Plan of Division of Land, The Haverty Estate Property, Ballpark Drive Subdivision" by URS Corporation, Portland, Maine, dated November 22, 2004, recorded in the Cumberland County Registry of Deeds in Plan Book 204, Page 855 (hereinafter referred to as the "Plan"), being a portion of the premises described in a deed from Mary Margaret I. Haverty to Grantor dated December 8, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22100, Page 73; and

WHEREAS, in connection with obtaining the Portland Planning Board's approval of Ballpark Drive Subdivision, Grantor agreed to grant Grantee or other qualified holder a trail easement over a portion of Lot 18 as more particularly described herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties hereto agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee a non-exclusive easement for the purpose of constructing, maintaining, repairing, using and replacing an unpaved foot path or walking trail (hereinafter referred to as the "Trail") within that portion of Lot 18 labeled "G" on the Plan (hereinafter referred to as the "Easement Area"), together with stonewalls and/or fences delineating such foot path or walking trail, footbridges and directional signs, for use by the general public, subject to the conditions and limitations set forth herein.

2. Location; Approval of Design. The Trail shall be no more than ten (10) feet in width and, together with the improvements associated therewith, shall be located no closer than twenty (20) feet from the boundary line of Lot 9 shown on the Plan. The design of the Trail and all improvements associated therewith shall be subject to the prior review and approval of Grantor for compliance with this Easement, which approval shall not be unreasonably withheld. Provided, however, and notwithstanding anything to the contrary contained herein, Grantor reserves the right to relocate all or any portions of the Trail and associated improvements provided that all costs and expenses associated with such relocation shall be borne by Grantor. In no event, however, shall the Trail be relocated closer than twenty (20) feet from Lot 9 shown on the Plan and fifty (50) feet from the remainder of the northwest boundary line of Lot 18.

3. Approvals. Grantee shall obtain any and all necessary federal, State or local permits and approvals required in connection with the construction of the Trail at its sole cost and expense.

4. Use. The Trail shall be used solely for passive recreational uses during daylight hours limited to pedestrian and non-motorized bicycle traffic and shall exclude any and all motorized/mechanized wheeled/track recreational vehicles of any kind. Wheelchairs or other similar non-recreational vehicles shall be permitted.

(a) Grantor reserves all other rights not inconsistent or incompatible with the rights granted herein.

(b) Grantor further reserves the right to extend Ballpark Drive and associated improvements therewith through Lot 18 in a general southeasterly direction to Lot 17 thereby eliminating any portion of the Trail and associated improvements located within that portion of the Easement Area. In such event, Grantor shall be responsible for all reasonable costs and expenses incurred by Grantee associated with the creation of a new Trail head, relocation of any Trail signs and any Trail related improvements resulting from said extension of Ballpark Drive and associated improvements. The portion of Lot 18 through which Ballpark Drive may be extended is described as follows:

Commencing at a monument located at the southeasterly corner of Ballpark Drive and thence running along the following courses and distances:

S 59° 36' 14" E a distance of 88 feet to an iron pipe;

N 30° 23' 46" E a distance of 50 feet to a point;

N 59° 36' 14" W a distance of 88 feet to a monument at the northeasterly corner of Ballpark Drive;

S 30° 23' 46" W a distance of 50 feet to the point of beginning.

(c) Grantee shall have no other rights in and to the Easement Area except as set forth herein.

5. Signs. Grantee hereby agrees to install and maintain at its sole cost and expense at least two signs, one at each end of the Trail. The signs will indicate that public access is limited to the Trail. The signs will request that users of the Trail respect abutters' privacy by staying within the Trail.

6. Duration. This Easement shall terminate and be of no further force and effect in the event that it shall pass from Grantee to any third party by grant, operation of law or otherwise without the prior written consent of Grantor, its successors or assigns. In the event of the termination of this Easement, Grantee shall restore the Trail to its prior natural state and shall remove all improvements associated therewith at its sole cost and expense. Notwithstanding the

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foregoing, this Easement shall not terminate in the event of an unconsented to assignment thereof by Grantee to the City of Portland.

7. Indemnification. Grantee agrees to indemnify and hold harmless Grantor, its successors and assigns, from and against any loss, claim, damage, liability, expense or damage (including reasonable attorney fees) resulting from the exercise of rights granted in this Easement. Liability under this paragraph shall not apply personally to any director, officer, trustee, member or employee of Grantee or to any assets of Grantee and shall apply solely to Grantee's rights to insurance proceeds for and against any of the foregoing. Grantee agrees to provide insurance coverage for construction, maintenance, repair, use and replacement of the Trail and associated improvements, which insurance shall name Grantor as an additional insured. This indemnification and hold harmless agreement shall survive any termination of this Easement but shall apply solely to loss, claim, damage, liability, expense or damage arising out of acts or omissions occurring prior to the termination of this License.

8. Assignment. Grantee may not assign this Easement without the prior written consent of Grantor, which consent may be withheld in Grantor's sole and exclusive discretion, and any unconsented to assignment shall result in the automatic termination hereof. Notwithstanding the foregoing, however, Grantee shall have the right to assign this Easement to the City of Portland without the prior consent of Grantor provided Grantee provides Grantor with prior notice of such assignment.

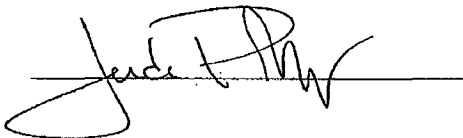
9. Governing Law. This Easement shall be governed by the laws of the State of Maine. This Easement is intended to be a trail easement as defined under 33 M.R.S.A. §1581, et seq. Grantor, by its delivery of this Easement, and Grantee, by its acceptance hereof, acknowledge and agree that this Easement is being granted to Grantee without charge for the purpose of recreational activities by the general public pursuant to and in accordance with 14 M.R.S.A. §159-A and that Grantor shall have the benefit of the terms and provisions thereof.

10. Amendment. No amendment to this Easement shall be effective unless it is in writing and signed by both parties and duly recorded in the Cumberland County Registry of Deeds.

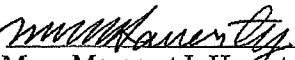
11. Declaration of Restrictions. The Easement Area is subject to the terms and provisions of a certain Declaration of Covenants and Restrictions by Grantor of even date relating to Lot 18 and recorded herewith.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officers, thereunto duly authorized, as of the date first set forth above.

WITNESS:



BALLPARK DRIVE DEVELOPMENT,  
LLC

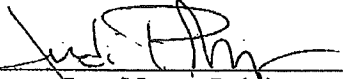
By:   
Mary Margaret I. Haverly, its Chief  
Executive Officer and Manager

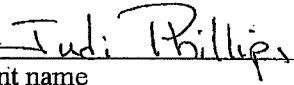
STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

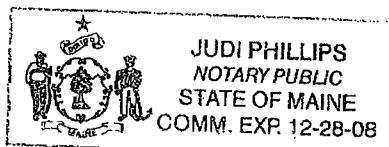
January 24, 2005

Then personally appeared the above-named Mary Margaret I. Haverty, Chief Executive Officer and Manager of Ballpark Drive Development, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,

  
\_\_\_\_\_  
Attorney at Law/Notary Public

  
\_\_\_\_\_  
Print name



WITNESS:

PORTLAND TRAILS

Julie A. Gervais

By: Jeffrey B. Sommer  
Its President

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

FEBRUARY  
January 1, 2005

Then personally appeared the above-named JEFFREY B. SOMMER,  
PRESIDENT of Portland Trails, and acknowledged the foregoing instrument to be  
his/~~her~~ free act and deed in his/~~her~~ said capacity and the free act and deed of said corporation.

Before me,

Julie A. Gervais  
Attorney at Law/Notary Public

**JULIE A. GERVAIS**  
Notary Public, Maine  
My Commission Expires January 25, 2008

Received  
Recorded Register of Deeds  
Feb 01, 2005 01:45:13P  
Cumberland County  
John B O'Brien

## Lester Drive & Washington Avenue Residents

July 21, 2004

Ethan Boxer-Macomber, Planner  
Division of Planning  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: Addendum to Rebuttal Filed on May 19, 2004 with the Planning Office

Dear Chairperson Delogu and Members of the Planning Board:

Below listed are items that are addendum information, along with appendices, to our Rebuttal submitted on May 19, 2004 in respect to the proposed Haverty subdivision. We ask you, respectfully, to take time to review all the material we have provided.

Children and adults who are residents of the City of Portland participated in the opposition to the proposed Haverty development as presented in its current form; their ages range from ages 10 to 77. Attached you will find a sampling of those opposed to development on a wetland and/or those who support the rebuttal that we submitted in May; there are approximately 70+ signatures. These signatures are those of adults only; most of the signatures are of those who reside within Portland and are outraged by this proposal. Some of the signatures are from those who work within Portland but live immediately outside of our City.

We believe that the project should be scaled down at the very least or not approved in its current form as the Haverty plans are incomplete. It is our utmost belief that the Planning Board take the opportunity to visit the proposed project site. With a visit to the area, the Planning Board will have a better idea of the impact this particular project will have on the wetland, the brook, and abutters.

We are counting on the Planning Board to make a fair and impartial decision in respect to this project.

Sincerely,



*Pamela M. Burnside, Lester Drive & Washington Avenue Residents, and many concerned Residents of Portland, Maine.*

CC. Maine Department of Conservation, Maine Department of Inland Fisheries and Wildlife, Maine Audubon Society

*This document in its entirety is copyrighted; this information is privileged and intended for the Portland Planning Board and Mr. Ethan Boxer-Macomber only. Requests for photocopying or dissemination of this document or any other information emailed or mailed to Pamela M. Burnside or LDR is prohibited, unless approved in writing by Pamela M. Burnside.*

**A. OUTSTANDING LEGAL ISSUES WITH RESPECT TO THE FOLLOWING:**

- ✓ REPLACEMENT AND/OR IMPROVEMENT OF A CULVERT ON PRIVATE PROPERTY ESSENTIAL TO THE HAVERTY PROPOSED DEVELOPMENT (See items 1 and 2)
- ✓ LOT 17, NEWLY ADDED TO THE HAVERTY PROPOSED DEVELOPMENT (See items 3 and 4)

**1. Ownership of Property; Lot 17 is currently a legal issue being debated before the Maine courts.**

The ownership of the property abutting the Mr. Edmund Murphy's (1969 Washington Avenue) and, slated for development under the latest Haverty site plans as Lot 17, is currently being argued before the Maine legal system. Mr. Edmund Murphy has paid taxes on the specific parcel for the past 30 years; this fact was confirmed through Ethan Boxer-Macomber who spoke with the City's Tax Offices. We believe that this legal issue is must be clarified by the Maine Courts prior to approval of the proposed Haverty development.

**2. The City of Portland Has Requested an Easement on Private Property, Not Owned By Margaret Haverty or the City of Portland, Maine, to Replace and/Or Make Improvements to the Entrance of the Washington Avenue Culvert.**

On July 13, 2004, Ethan Boxer-Macomber, a Planner with the City of Portland, and Jim Seamore, an independent engineer from Sebago Technics hired by the City of Portland, visited Mr. Edmund Murphy (1969 Washington Avenue) in an attempt to persuade Mr. Murphy to provide the City of Portland with an easement to replace and/or make improvements to an existing culvert. The recommendation to replace and/or make improvements to this particular culvert came from URS, the Haverty hired engineering firm.

The purpose to replace and/or make improvements to this culvert according to URS is to allow the water from the brook to flow

unobstructed through the culvert and to "further increase the culvert capacity...up to 4 times the current obstructed flow capacity", despite the fact that the culvert does in fact meet the "25-year storm event". Further URS recommends that with an easement to the property the City will be able to clean out the culvert more frequently.

Though debris exists at the entrance of the culvert, cleaning out the culvert will not rid the culvert of debris, as debris is a common occurrence in any brook. Further it is unlikely that the City or a third party will engage in cleaning out the culvert any more than 1X per year. Regardless of the quantity of debris flowing through the brook, it is important to note that the brook does flow year-round or 365 days a year. This brook is not intermittent; and abutters to the brook and the Haverty property on Lester Drive will make sworn statements that the brook has been perennial for years.

See URS' Conclusions and Recommendations on Page 2 of their report dated 05/28/04.

3. The City of Portland and its independent engineer has assured a resident of the City of Portland that Lot 17 will not be approved for development by the Planning Board.

In the July 13, 2004 visit to Mr. Edmund Murphy, Ethan Boxer-Macomber and Jim Seamore informed Mr. Murphy of the following:

- ✚ That, as stated in item # 2, the City required an easement to replace and/or make improvements to the entrance to the Washington Avenue culvert which is located on Mr. Murphy's property
- ✚ That an additional lot had been added to the Haverty site plan
- ✚ That the additional lot was assigned the number Lot #17 whose location is, interestingly enough, the exact parcel of the land Mr. Murphy has been paying taxes on for the past 30 years and believes he owns

- That Mr. Seamore knows 2 or more Planning Board members who would most likely not approve Lot 17 for development due to its proximity to a wetland marker

What is interesting is that Lot 17 did not exist on any site plan prior to June of 2004. Furthermore, as soon as the City realized that the Havertys would not be able to funnel runoff from their proposed development unless an easement was obtained from Mr. Murphy so that the culvert could be replaced and/or make improvements, the City ran full speed to Mr. Murphy to discuss life.

All of this certainly sounds like an act of persuasion; in fact, it does not sound legal regardless of who initiated it. The fact that people within the City or those hired as subcontractors for the City believe that they have the power to influence the Planning Board is just not good. As taxpayers of the City of Portland, we hope that this behavior is not tolerated and that only the Planning Board can and does make critical decisions effecting land use within our fine City.

4. No Permit(s) for Removal or Refurbishment of a Structure within a Wetland has been filed for and/or obtained by the Maine Department of Environmental Protection by the City of Portland, Maine.

It is unclear as to exactly how the City of Portland and/or the URS Corporation plan to physically replace and/or make improvements to the culvert, as well as maintain it year after year. With or without the easement onto Mr. Murphy's property, the City should specify the equipment that will be used to replace and/or make improvements to the culvert, including how water flow will be diverted, soil disturbances that will be made, rocks and vegetation that will be moved, and any erosion that will occur. This activity clearly falls under the Permit by Rule process via the Maine Department of Environmental Protection.



## B. OUTSTANDING ENVIRONMENTAL and POTENTIAL LEGAL ISSUES

- ✓ THERE IS NO LEGALLY CONCLUSIVE SCIENTIFIC DATA TO SUGGEST OR INDICATE THAT THE BROOK IS INTERMITTENT OR PERENNIAL (See Item 1).
- ✓ THE DEP HAS ISSUED A PERMIT BY RULE UNDER THE NRPA WITHOUT REVIEW OF PRACTICAL ALTERNATIVES AND IMPACT TO SOIL DISTURBANCES (See Item 2).
- ✓ THE HAVERTYS AND THE CITY OF PORTLAND, MAINE HAVE DONE MINIMAL TO DERIVE UNBIASED, INDEPENDENT ENVIRONMENTAL IMPACT INFORMATION (See Item 3).

### 1. Brook Classification: no scientific data exists to legally and conclusively determine that the brook is intermittent or perennial.

There is no conclusive data to support a classification of any kind for this particular brook. URS, however, continues to classify the brook as intermittent despite the fact that it has not made any effort to monitor the brook whatsoever. Thomas Plante, an engineer for URS, states in an email to Ethan Boxer that "there has been no documentation found to indicate that this is not an intermittent brook"; nor has anyone found data that the brook is perennial with the exception of the abutters to the brook, who will state that the brook flows 365 days per year. But URS has not made any effort to contact any of these abutters to find out their perception. As Mr. Rob Bryan of the Maine Audubon states that "given this stream's (brook's) size it certainly could be perennial. However it would not be possible to determine this without monitoring..."

The only monitoring that has been done is by me, Pamela M. Burnside. Over the past 4 months, I have cataloged approximately 350 photos using a digital camera that shows water flowing throughout the brook; in the past month I have measured the brook depth at low and high points. Not one day has gone by where there was evidence of the brook being dry; and, though I have been working with the Maine Audubon Society to gather data

on the brook, it would be a better solution for all parties concerned if the City of Portland hired an independent and unbiased hydrologist for a period not to exceed 12 months for the purpose of monitoring this particular brook. The idea of monitoring is supported by the Maine Audubon Society who helped write the laws that concern activities within a Protected Natural Resource such as the Haverly Wetland. The laws applying to Activities Adjacent to Protected Natural Resources as well as a letter dated June 3, 2004 from Rob Bryan, a wetland ecologist from the Maine Audubon Society, to Pam Burnside are included in the appendices.

Monitoring the brook would involve setting up specific points where hydrology instrumentation would automatically capture depth and flow measurements at 2 specific times throughout a day, sending that data to a meter which is then read and interpreted by the hydrologist.

Without monitoring the brook for an extended period of time, there is no scientific method to make a legal claim as to whether the brook is intermittent or perennial. Should monitoring of the brook not occur, the brook may suffer irreparable harm. The closer the houses are to the brook the more pollution the brook will suffer which is the exact reason why the setbacks on each building lot should be 100 feet, as supported in a letter to Woodlot Alternatives by the Maine Department of Inland Fisheries and Wildlife. If the house lots are set too close to the brook, the brook may suffer from unnecessary erosion, pollution, silt and runoff as a result of a residential development that has been given approval too quickly. Moreover, any harm to the brook is likely to change the face of the brook, its channel and thus the wetland.

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2. URS filed for a Department of Environmental Protection NRPA Permit by Rule (PBR) so that the Haverty's can develop Lots 5, 6 and 7; however, it is our assumption that the Maine DEP issued these permits without thorough review of practical alternatives and limit of soil disturbances. The Maine Audubon Society supports this statement.

When the DEP issued the NRPA PBR it seemingly violated its own rules and regulations that require the person or his agent to provide a "practical alternative to location of the activity within the 75 foot setback". In a DEP publication, entitled DEP Issue Profile dated July 2002, the applicant must demonstrate the following:

- ✚ That there is no practicable alternative to locating the project within a 75 foot setback from the affected natural resource
- ✚ That the area of impact must be avoided, minimized and/or compensated

The Haverty engineers failed to show the following to both the Maine Department of Environmental Protection and the City of Portland, Maine:

- ✚ how the area of impact could be avoided; there were no financial analysis' provided to demonstrate an alternative to building houses on these lots and/or how their project would be compromised
- ✚ how they plan to prevent and control erosion of soil or fill material from the entering the brook
- ✚ the limit of soil disturbance
- ✚ what measures they would take to prevent sedimentation from occurring in the brook
- ✚ what vegetation will be affected and/or compromised

Asking the City to "relocate their easements on this property", as URS has requested and was denied, is simply not a plan. Nor is it a plan to require

lot owners to apply for additional NRPA PBR permits. Clearly Lots 5, 6 and 7 are unbuildable due to the proximity of the wetland. Rob Bryan of the Maine Audubon Society writes in his June 3, 2004 letter to Pam Burnside "If the DEP were reviewing the overall project, it is doubtful they would (or should) approve lots 5-7". With the Maine Audubon backing this notion, we believe it would be best if the Havertys dropped these particular lots from their development plans; this is a wetland and it should be everyone's goal to preserve it.

3. An environmental impact study has not been conducted by an independent firm to indicate how the face of the wetland will be impacted by this particular subdivision.

As mentioned in prior paragraphs, the only study that has been conducted in respect to this particular wetland is the one wetland delineation study completed by Woodlot Alternatives, an environmental consulting firm hired by the Havertys. Woodlot Alternatives highlights a mere 2 visits to the Haverty property; and it is this data on which the Haverty engineers have based their reporting to the City of Portland. The first visit by Woodlot Alternatives was in December when the ground was frozen and vegetation scarce; the second visit was in May of 2004 when vegetation was abundant and the brook was flowing.

What stands out in the wetland delineation is how Ms. Worden, the Project Manager for Woodlot Alternatives, changes her words to reflect the brook classification that will most likely assist the Havertys in their bid to obtain a building permit from the Planning Board. In the first report she states that "The stream ...is depicted as an unclassified drainage" which "flows northwest to the Presumpscot River". In the second report Ms. Worden writes "The stream which is depicted as an unclassified intermittent drainage...flows northwest to the Presumpscot River". We are curious as to why Ms. Worden's first report did not depict the brook as intermittent; clearly that would have been an important fact. The fact is that the USDA has never written that this particular brook is intermittent because it has never been monitored and no one really knows. What Woodlot Alternatives and URS clearly understand is that building lot

setbacks rely on the stream/brook classification. Clearly Ms. Worden changed her wording in order to satisfy her client, URS and ultimately the Havertys.

A true environmental impact study might include part of or all of the following, which was derived from NASA in conjunction with the State of Florida:

- Purpose of the Action
- Review Process and Standards
- Permitting of Proposed Action
- Historic Preservation
- Flora and Fauna
- Wetlands, Stormwater, and Floodplains
- Air Quality
- Risk Management Plan
- Hazardous Substances Disclosures
- Description of the Alternatives
- Baseline Conditions
- Other Planned Land Uses
- Surrounding Land Use
- Atmospheric Environment
- Climate
- Geology and Soils
- Hydrology and Water Quality
- Surface Water and Floodplain
- Surface Water Quality
- Groundwater Sources
- Groundwater Quality
- Aquifer Systems
- Wetland Resources
- Aquatic Resources
- Endangered and Threatened Species
- Ambient Noise
- Construction-Related Impacts
- Operation-Related Impacts.
- Cumulative Impacts
- Impacts and Mitigation Measures
- Cumulative Impacts

And the list goes on.

What we do know about one environmental impact is that the brook will be affected by the predicted "additional runoff volume (approximately .6 acre feet for a 25-year storm)" as stated by URS. This runoff will come directly down the wetland slope from the proposed Haverty subdivision and will be in the form of acid rain and/or polluted water which will seep into the ground and eventually make its way into the brook. The existing entrance to the Washington Avenue culvert should be able to handle excess water, but the culvert issue is currently being mitigated.

As minimal research has been done, no one really knows what the environmental impacts may be, as the Haverty engineers and the City of Portland have done minimal to review this particular issue. What we do know is that the Maine Audubon Society has stated that "the site of the proposed development is located in one of the last remaining open space areas in the northern part of Portland, and thus is an important habitat for wildlife within the city". What we also know is that it is premature for the Planning Board to sign off on this particular project.

Therefore, it is our conclusion that a thorough environmental impact study, not a mere wetland delineation report, should be completed and available to the Planning Board and the public prior to approval of any or a portion of the proposed Haverty subdivision. This should be completed at the time the data from the monitoring of the brook is available.

C. OUTSTANDING POLITICAL ISSUES THAT ARE AFFECTING THE OUTCOME OF THE PROPOSED SUBDIVISION:

✓ THE CITY HAS A VESTED INTEREST IN THIS DEVELOPMENT GOING FORWARD

1. The City has a vested interest in this development for the purpose of recurring revenue, for the usage of the Haverty ball field for school athletics and for development of another Portland Trails project.

✚ The Havertys will yield between \$6 to 8 million for the 16-unit residential housing project. The City will then in turn yield needed tax revenues \$26/\$1000 of house. This will yield approximately \$10,000 per house on a \$400,000 assessment. Therefore the City will yield an additional \$170,000 in annual property tax.

✚ It is a fact that the Mayor, Nathan Smith, and the Planning Department met on April 7, 2004 to discuss the status of the ball field in relation to the proposed development; the outcome was to send a "delegate" to meet with Mrs. Haverty so that the City could express its overall interest in maintaining the ball field for school events and activities.

✚ Further, should the development be approved by the City then the Havertys have will most likely work with Portland Trails, which was run by Nathan Smith, to implement a trail system through the remaining Haverty wetland. There was no discussion of a trail system prior to the proposed Haverty development.



D. OUTSTANDING SITE ISSUES THAT HAVE NOT BEEN ADDRESSED BY THE PLANNING BOARD NOR THE HAVERTYS:

- ✓ JOHN HAVERTY Sr. HAD SPECIFIC THOUGHTS ABOUT THE USAGE OF THE LAND (See Item 1)
- ✓ THE BUILDING LOTS WERE TO BE MOVED AS CLOSE TO BALL PARK DRIVE AS POSSIBLE AND THEY HAVE NOT (See Item 2)
- ✓ AN ADDITIONAL BUILDING LOT (LOT #17) WAS ADDED TO RECENT SITE PLANS (See Item 3)
- ✓ THERE HAS BEEN NO DISCUSSION OF REMOVAL OF TRASH AND HAZARDOUS WASTE WHICH IS SCATTERED ON THE PARCEL; THIS WAS A TOPIC PRESENTED AT THE 1<sup>ST</sup> PLANNING BOARD MEETING (See Item 4)
- ✓ MANY TOWNS WORK WITH CLUSTER HOUSING WHEN A NATURAL RESOURCE MUST BE PROTECTED SUCH AS A WETLAND; IN FACT, MOST TOWNS WILL NOT ALLOW DEVELOPMENT OF ANY KIND ON A WETLAND. (See Item 5)

1. Discussions with elders and adults who knew John Haverty Sr. have led to the assumption John Haverty Sr. did not want his relatives, including his wife, to use the Haverty property for residential subdivision purposes. We have asked the Planning Offices to review his will including the deed to the property and they have indicated it is not "their job". In the first Planning Board Meeting Mr. Robert Giampetruzzi requested this information. To date no one from any City office has provided such information to the many residents of Portland and the Lester Drive and Washington Avenue community who vehemently want to know why this topic is being avoided and why the information is not being produced.
2. The building lots were to be moved as close to Ball Park Drive as possible and according to the most recent site plan they have not. It

was Chairman Orlando Delogu who requested this and many residents of Portland and the Lester Drive and Washington Avenue community want to know why the Havertys have failed to produce and provide this site change.

3. After the 1<sup>st</sup> Planning Board meeting many residents of Portland and the Lester Drive and Washington Avenue community believed that the houses were to be scaled back, with elevations all pointed toward the street. An additional lot was added and we believe it is both unnecessary and harmful to the wetland.
4. In the 1<sup>st</sup> Planning Board meeting we conveyed our disdain for the hazardous waste that lies on the Haverty parcel. This was conveyed through a series of letters written by residents of the City of Portland and/or the Lester Drive and Washington Avenue community. To date there has been no specification entailing how the Havertys plan to remove such hazardous waste. We would like to know when this information will be available, and why it has not been produced as of this date.
5. Cluster housing should be used on this parcel, as it was at the Woodlands in Falmouth. All neighboring towns have enacted plans whereby the 1960's approach to building houses in a row, as the Havertys have shown in their current site plan, has been eliminated. Cluster housing is both feasible and is a better method to save space and maintain our natural resources. We would like to know why the Havertys are opposed to this development method, if at all and why their site plans cannot be modified to accommodate the latest building methodologies.

# DRAFT

July 20, 2004

Mrs. Mary Haverty  
67 Haverty's Way  
Portland, ME 04013

RE: Proposed Ballpark Drive Subdivision  
ID #2004-0028, CBL #371 A002001

Dear Mrs. Haverty:

On September 21, 2004 the Portland Planning Board voted unanimously (6-0, Patterson absent) to approve the Ballpark Drive Subdivision in the vicinity of Washington Avenue and Riverside Street, with the following conditions:

- i. The applicant shall submit revised project plans to satisfy the final concerns of the City's consulting civil engineer as expressed in a September 17, 2004 memo from Jim Seymour, P.E.
- ii. The applicant shall remove from the plans the 10 foot wide trail easement shown across lot 17 and replace it on the plans with a 20-foot wide trail easement which shall link the Ballpark Drive right of way with the Grace Baptist Church property across lot 18 so as to facilitate an eventual through connection to Lambert Street in coordination with Portland Trails and subject to review and approval by the Planning Authority.
- iii. The 75 foot no-disturbance stream buffer across the backs of lots 1-9 shall be field located by a surveyor and physically marked where it intersects property lines. The marker design specification shall be subject to final review and approval by the planning authority.
- iv. The proposed street tree installation plan shall be subject to final review and approval by the City Arborist and the Planning Authority.
- v. The proposed improvements to the Washington Avenue / Riverside Street and Washington Avenue / Ballpark Drive intersections shall be subject to final review and approval by the City's traffic division.
- vi. The applicant shall finalize current drafts of all proposed easements and deed restrictions related to drainage and maintenance, utilities, trails, stream buffer, and circulation in accordance with review comments made by Corporation Counsel. Upon final approval,

## DRAFT

the applicant shall present evidence that said easements and restrictions have been recorded with the Cumberland County registry of deeds before release of the plat.

- vii. The applicant shall (1) make a \$31,000 contribution to the City of Portland for the replacement of the 36 inch drainage culvert which crosses the abutting Murphy property, (2) secure a 30 foot wide drainage easement and maintenance easement across said property to be held by the City of Portland, and (3) improve the pipe inlet on said Murphy property as described in a September 17, 2004 memo from Jim Seymour, P.E. and to the satisfaction of the City Engineer.
- viii. Lot 18 as shown on sheet 1 of the plan set dated September 3, 2004 shall be conserved in perpetuity by deed restriction, conveyance to an approved land trust, or by other legal mechanism subject to final review and approval by Corporation Counsel.
- ix. The applicant shall submit revised plans with a 50 foot wide panhandle added to lot 18 so as to provide that lot with its required 50 feet of street frontage onto Ballpark Drive.
- x. A note on the subdivision plat shall be added to state the following: "Unless and until the street is accepted by the City of Portland, the Developer shall be and remain responsible, beginning upon the issuance of the first certificate of occupancy, for the following: private curbside trash collection, street lighting and street maintenance services including snowplowing, salting and sanding. The costs of such services shall not be transferable by the Developer. Prior to the release of the subdivision plat the Developer shall provide to the City a performance guarantee covering the costs of these services, which guarantee shall be released upon the acceptance of the street by the City. The posting of such guarantee shall not relieve the Developer of her obligation to provide the services. In addition, this note shall be placed within the deeds of each lot sold in the subdivision and shall not merely be referenced."

The approval is based on the submitted plans and the findings related to subdivision review standards as contained in Planning Board #36-04, which is 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 CADD.DXF files with the final plans.

## DRAFT

2. A performance guarantee covering the site improvements 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 Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
6. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
7. 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 Ethan Boxer-Macomber, City Planner at 756-8083 or [ebm@portlandmaine.gov](mailto:ebm@portlandmaine.gov).

Sincerely,

Orlando Delogu, Chair  
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Sarah Hopkins, Development Review Services Manager  
Ethan Boxer-Macomber, Planner

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Jay Reynolds, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Inspections Division  
Michael Bobinsky, Public Works Director  
Traffic Division  
Eric Labelle, City Engineer  
Jeff Tarling, City Arborist  
Penny Littell, Associate Corporation Counsel  
Lt. Gaylen McDougall, Fire Prevention  
Assessor's Office  
Approval Letter File

**PLANNING BOARD REPORT #36-04**

**BALLPARK DRIVE SUBDIVISION  
IN THE VICINITY OF WASHINGTON AVENUE AND RIVERSIDE STREET**

**SUBDIVISION REVIEW**

**MARGARET HAVERTY, APPLICANT**

**SEPTEMBER 21, 2004 PUBLIC HEARING**

Submitted to:  
Portland Planning Board  
Portland, Maine

Submitted by:  
Ethan Boxer-Macomber, Planner

September 14, 2004

The proposed Ballpark Drive Subdivision came before the Planning Board at workshops on May 25 and July 27, 2004. At the second workshop the Planning Board directed staff to schedule the application for a public hearing, which has been set for September 21, 2004.

## I. PROJECT SUMMARY

<b>Applicant:</b>	Margaret Haverty 67 Haverty's Way Portland, ME 04103
<b>Site Location:</b>	Vicinity of Washington Avenue, North of Riverside Street
<b>CBL#:</b>	371 A002001
<b>Zoning:</b>	R-2
<b>Development Proposal:</b>	18 Lot Subdivision: 16 Single-Family Residential, 1 Conservation Lot, and 1 Private Baseball Field Lot
<b>Land Area:</b>	Total Parcel 22.75-Acres Proposed Subdivision 8.89-Acres Proposed Conservation Land 5.00-Acres Remaining Land (Private Ballfield) 8.66-Aces

## I. Background and Description

The subject 22.75-Acres site has been under ownership by the Haverty family since the early 1960s. Around the same time that the Havertys acquired the property, the City of Portland took a 50-foot wide easement across the property for the installation and future maintenance of a forcemain sewer line.

In the late 1960s, the Havertys cleared and leveled a large area at the parcel's interior and constructed a baseball field, which is accessed from Washington Avenue, along the forcemain easement. The field has been privately owned and maintained by the Haverty family since then, as is the case today. The family makes the field available, at no cost, to various community athletic groups and programs.

In April 2000, the Havertys subdivided an area of land area from the subject 22.75-Acre parcel in order to develop a 6-Lot residential family compound. A private cul-de-sac accessed from Lambert Street was established and named Havertys Way. The Havertys Way subdivision occurred within 5 years of the subject application, however it is exempt from inclusion in the subdivision review under



14-508 (b) since the lots were gifted to persons related by blood or marriage.

*Area Proposed for Development (Lots 1-16)*

The proposed Ballpark Drive subdivision is sited along the forcemain easement / baseball field access road. Aside from the roadway, which is currently surfaced in compacted gravel, this 8.89-Acre portion of the subdivision site slated for development is, at present, completely unimproved and wooded. The site plan for that area features 16 single-family house lots double loaded on the street and ranging from .23 to 1.05-Acres in size. The proposed net density for the development portion of the subdivision (Lots 1-16) site is 1.80 units per acre. The applicant proposes to build the Ballpark Drive right-of-way to City standards and dedicate it for acceptance by the City. The applicant has not finally determined exactly how the proposed lots would be marketed and developed.

A brook and its associated wetland banks run roughly parallel with the roadway to its north. The applicant has applied to the DEP and received (1) a Tier 1 wetland fill permit and (2) a permit-by-rule approval for proposed disturbance within 75 feet of the brook. At the urging of staff and the Planning board, the applicant has also designed the site plan so as to avoid any disturbance within 75 feet of the brook, a more stringent standard than was required by the DEP. The 75 foot no-disturbance area will be recorded on the plat, physically marked on the ground, and recorded in the deeds of all affected lots.

The above-mentioned brook flows over the site and then off-site onto a private residential property where it is channeled into a 36 inch corrugated metal pipe (CMP) culvert. That culvert then runs the drainage under Washington Avenue. The culvert, is located on private, off-site property, is not built to city standards, and is ill prepared to handle major storm events. The City of Portland does not currently hold a drainage easement over the culvert. The applicant proposes to secure a drainage easement over the culvert and to place approximately \$31,000 in escrow for the City's future maintenance and/or replacement of the drainage course.

The project's point of access from Washington Avenue is in close proximity to the intersection of Washington Avenue and Riverside Street, which was identified as a high crash site by the applicant's traffic study. Area residents have also raised concerns regarding pedestrian safety in that area. Whereas the proposed project would exacerbate these existing problems, the applicant proposes improvements to the intersection including additional stop signs, sidewalk, curb, ramps, and crosswalks.

*Conservation Land (Lot 18)*

With the 8.89-acre portion of the 22.75-acre site subdivided for development, 13.86 acres remain. Of that land, a 5.05-acre parcel (Lot 18) is proposed as deeded conservation land or to be conveyed to a conservation trust. The conservation parcel is unimproved and supports a +/- 600 linear feet of brook, a small detention pond, and extensive wetlands.

*Baseball Field (Lot 17)*

The remaining 8.81 acres (Lot 17) is the site of the baseball field and parking area to be retained by

the applicant and accessed on a private gravel road from the Ballpark Drive hammerhead. Improvements to the parking area such as guardrail and wheelstops are proposed so as to ensure more orderly parking patterns thereby decreasing the likely hood of parking spillover onto Ballpark Drive.

#### *Trail Easement*

In collaboration with Portland Trails and the City of Portland, the applicant is currently working to design and establish a public recreation trail easement crossing the entire 22.7-Acre mother parcel. That easement would create opportunities for an eventual trail connection between Washington Avenue and Auburn and/or Lambert Street(s) in conformance with Comprehensive Plan Policies. Staff finds that significant design and planning questions remain with regard to the trail easement. Staff will recommend that the Planning Board address these issues through conditions of approval.

## **II. Public Outreach And Response**

Upon receipt of the subject application staff mailed notice all property owners within 500 feet of the subject site. In response to that noticing, several residents of the area submitted letters to staff. Those letters were forwarded to the planning board with the May 25, 2004 and July 27, 2004 staff memos (Attachments Y and Z).

The applicant has held a required neighborhood meeting and presented staff with appropriate documentation (Attachment C.).

Property owners within 500 feet of the site were again noticed in advance of the September 21, 2004 public hearing before the Planning Board.

## **III. Subdivision Review: General Requirements**

Section 14-497 of the Land Use Code outlines general requirements that shall apply to all subdivisions. The following is review of the proposed project's compliance with this section.

### **1. Water and Air Pollution**

The brook and associated wetlands, which traverse the site to the north of the access road, are part of a stormwater drainage system with eventual outfalls into the Presumpscot River. Any substantial disturbances to the brook or its banks could pose a threat to water quality in that system. The Maine DEP and City staff have reviewed the project's potential impacts on this system.

#### *Maine DEP Tier 1 Review*

The applicant has conducted two wetland delineation studies of the subject site, one in December of 2003 and another in June of 2004 (Attachment F). Based on those studies, the applicant determined that approximately 5,974 square feet of wetland would need to be filled to accommodate the site plan. The fill locations are largely localized along the proposed roadway (see "wetland fill" markers on

attachment W2). Under the Natural Resources Protection Act (NRPA), this quantity of fill is subject to Tier 1 review by the Maine DEP. The Maine DEP has reviewed and approved the applicant's Tier 1 fill permit (Attachment G).

*DEP Permit By Rule*

The DEP separately requires that any disturbance activity within 75 feet of the brook be subject to review under a Permit By Rule process. In the applicant's permit by rule application, the majority of the lots were proposed to have deed restrictions prohibiting disturbance within the buffer. However, the application did demonstrate potential disturbance within this buffer in the case of lots 5, 6 and 7 where building envelopes may have encroached into the 75-foot buffer zone by as many as 40 feet.

The applicant has presented the DEP with a Permit By Rule Notification Form for disturbance on lots 5, 6 and 7 and received approval based on no response within 14 days as confirmed by staff. (Attachment I).

*75 Foot No-Disturbance Stream Buffer*

Staff from the Planning Division, working closely with the consulting review engineer, the City Engineer, and Public Works Staff, has carefully considered the importance of stream and wetland protection in the review of the subject application. The public record has been thoroughly reviewed and field visits conducted. Staff has found substantial evidence that the brook and its associated wetland banks are of significant importance to regional drainage, flood control, and environmental quality.

Although the Maine DEP has approved significant soil disturbance within 75 feet of the brook, staff finds this unacceptable. Existing conditions to the north of the brook provide a solid basis for understanding how this particular watercourse / wetland system is impacted by residential development. Several of the properties on the south side of Lester Drive have homes and/or accessory structures sited within 75 feet of the brook. More still have substantial soil disturbance (i.e. back yards) between 0 and 50 feet of the brook. Although these homes were constructed in the 1960s, there is evidence of continued problems with erosion and flooding in cases where homes are sited within 75 feet of the brook. Lester Drive properties with homes sited outside of the 75 foot buffer do not appear to have been similarly effected by the brook nor do they seem to have adversely affected the brook..

The City's Technical and Design Standards give the City the authority to require more restrictive stream protection buffers than what the Maine DEP may allow. At the prompting of staff and the Planning board, the applicant now proposes a site plan, which completely restricts disturbance within 75 feet of the brook. Furthermore, the no-disturbance zone is to be protected by deed restrictions and with physical delineation markers on the ground. Achieving the buffer required the applicant to shift the Ballpark Drive roadway to the north. The applicant also intends to notice owners of property whose yards currently encroach into the Haverty land that these encroachments must end (Attachment S).

## **2. Water**

The applicant has received a letter from the Portland Water District citing adequate water capacity for the project (Attachment B).

## **3. Soil Erosion**

As described above, soil erosion along the brook is of particular concern. However, staff finds that the project will not have an adverse effect on the stability of soils on the site based on (1) the recommended 75 foot no disturbance buffer and (2) the City's required site plan review over individual lot development in the future and (3) the proposed erosion control measures in conformance with Best Management Practices.

## **4. Traffic**

Staff finds that the proposed project will not have adverse effects on traffic circulation and may, in fact, help alleviate existing traffic hazards at the Washington Avenue / Riverside Street intersection.

Under the City's Technical and Design Standards a 16-Lot residential subdivision does not warrant a formal traffic study and may be reviewed by the City traffic engineer based on a simple site plan. However, in the case of the subject application, numerous responses were received from area residents citing substantial traffic issues at the project's proposed point of entry and in the general vicinity of the project. This anecdotal information led the City's traffic engineer to request that the applicant conduct a traffic study to identify problem areas, and present corrective measures.

The applicant has presented a formal traffic study, conducted by Casey and Godfrey Engineers (Attachment M). The study found that the nearby intersection of Washington Avenue and Riverside Street was a high crash site per Department of Transportation Guidelines. The study concluded that the intersection be modified to a three-way stop intersection. Responding to the traffic engineer's request that pedestrian movements also be considered, the study recommends a combination of sidewalks and crosswalks to carry pedestrians from the proposed subdivision to Riverside Street. With respect to vehicles entering and exiting the proposed subdivision, it was demonstrated that adequate site lines can easily be attained with some clearing of vegetation along the right of way, particularly once a three way stop is installed at Riverside.

The applicant's proposed traffic plan is shown in attachment W10. This plan has been reviewed and approved by the City's consulting traffic engineer subject to minor conditions contained in the proposed motion below.

## **5. Sanitary Sewer/Soils**

The applicant proposes that the proposed project tie in to existing sanitary sewer lines in Washington Avenue. The applicant has received confirmation of adequate sewer capacity from the Department of

Public Works (Attachment C).

## 6. Stormwater

The vast majority of water shed from the site is directed to the brook at the base of the slope. Water shed from the north side of the access road drains naturally through the wetland and into the brook. This approach is effective in part because the 75 foot disturbance buffer described above preserves the wetland and its water slowing and retaining qualities. Water shed from most of the south side of the access road (Lots 10-14) is collected on Ballpark Drive and channeled into an 18-inch stormwater line, which then runs under the property line between lots 2 and 3 before outfalling into the brook. Water shed from lots 15 and 16, as well as the first +/-300 feet of roadway, drains toward Washington Avenue and is channeled into an existing stormwater system under Washington Avenue.

### 36-Inch Culvert under Washington Avenue

The City Engineer, Eric Labelle, has reviewed the project plans and conducted a site visit to inspect a 36-inch drainage culvert on the abutting Murphy property. That culvert receives the brook flows that traverse the subject site and channels them under Washington Avenue. Mr. Labelle raised substantive concerns about the culvert whereas (1) it is not designed to City standards and is presently under performing, (2) the culvert is, in part, constructed of corrugated metal pipe (CMP), which will likely require full replacement in the foreseeable future, and (3) the City of Portland does not currently hold a maintenance easement over the culvert.

The proposed subdivision relies on the culvert for the majority of its drainage. The applicant therefore now proposes (1) to secure a 30-foot stormdrain maintenance easement across the full northern edge of the Murphy property, to be dedicated to the City of Portland and (2) to place \$31,000 in escrow with the City for costs associated with the re-engineering, repair, maintenance, and/or replacement of the CMP culvert now or in the future (Attachment T). The Murphy easement will be exchanged with the applicant for a disputed .20 acres area of land to the north of the Murphy property (See Attachment W1).

The City engineer and consulting civil engineer have reviewed and approved this proposal with the condition that the applicant take measures to protect the pipe inlet from debris and sediment (Attachment X). This matter is addressed by condition #1 in the proposed motion below.

## 7. Scenic Beauty

Due to the physical characteristics of the site (i.e. slope, wetlands, and minimal street frontage) the proposed project will be well buffered visually from abutting properties and the public right of way. The proposed building envelopes, as limited by zoning and the 75 foot wetland buffer, would result in no house constructed and less than 160 feet away from any existing house on Lester Drive. A substantial percentage of the site will be preserved and its aesthetic qualities retained.

## 8. Comprehensive Plan

Staff finds the project, as proposed may be consistent with the goals and policies of the Comprehensive Plan as it designed to City standards and provides new housing opportunities while respecting the natural environment.

The project's compliance with certain Comprehensive Plan policies may still be in question with regard to trail dedications. Please see section 13 "Recreation Trail Dedication" below for an explanation and description of a possible condition of approval.

## 9. Wetland

See section III. (1) above, "Water and Air Pollution".

## 10. Groundwater

The proposed project, as proposed and with recommended wetland buffers in place, is not expected to have any adverse effect on the quality or availability of groundwater.

## 11. Floodplain

Current FEMA Flood Boundary and Floodway Maps and Flood Insurance Rate Maps indicate that the proposed project is not located in or near a flood-prone area.

## 12. Conformity with Code

The City's zoning administrator has found the project in compliance with the standards of the R3 zoning code.

## 13. Recreation Trail Dedication

The City of Portland's Comprehensive Plan contains several policies, which support the establishment of trail easements across the subject site:

**Housing:** "Facilitate public access along shore areas and open space resources for properties undergoing development review through regulatory measures, private trust agreements, and pedestrian easements".

**Capital Improvement:** "Promote the interconnection of neighborhood streets and pathways, so that there are multiple paths of travel to get to destinations within and between neighborhoods by foot and bicycle, as well as auto"

**Open Space:** "Encourage private/public partnerships that enhance open space initiatives such as the establishment of trails by Portland Trails..."

The applicant proposes a 10 foot wide trail easement across an existing trail on lot 17 (Attachment

W1). Staff is working with Portland Trails and the applicant to finalize the trail easements to assure compliance with these important Comprehensive Plan policies. As of the date of this report there were still issues to be resolved on this matter. Staff will present a comprehensive report on the matter as well as suggested conditions of approval related to trails at the Public Hearing.

#### **14. Conservation Land (Lot 18)**

Section 14-498 (i) (1) of the subdivision ordinance states that:

*In all subdivisions open space may be provided for parks, recreational and other public areas. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under section 14-497(a), general requirements, the Planning Board may require provision of land for park or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this section, subject to the approval of the Planning Board.*

Responding to this section, the applicant proposes to subdivide a 5.005 Acre Lot 18 (Attachment W1) and either (A) place the land in a permanent conservation easement or (B) deed said land to a conservation land trust.

The conservation of this land promises to better protect the brook and associated wetlands and to preserve wildlife habitat.

#### **15. Tree Save Plan**

In addition to the preservation of all trees within the recommended 75 foot disturbance buffer, staff has requested that the applicant work with the City Arborist to field locate existing trees of significance and develop a tree save plan for the subdivision. Final review and approval of the tree save plan as well as the placement of required street trees should be made subject to the final review and approval of the City Arborist.

#### **16. Parking**

The proposed project provides adequate area on individual house lots for the provision of on-site parking in conformance with the parking ordinance.

The 13.61-Acre remainder parcel is the site of an existing baseball field. Concerned with the potential for excessive overflow event parking onto Ballpark Drive, staff requested and received a parking area concept for the field from the applicant. The applicant responded with a parking lot improve plan as shown in Attachment W6.

#### **IV. Conclusion and Recommendation**

Staff finds that the proposed subdivision, with conditions contained in this report, is consistent with the policies of the Comprehensive Plan, the Subdivision Ordinance, and the Zoning Ordinance. Staff strongly recommends that the Planning Board the motion the follows.

#### **II. MOTION 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 #36-04 relevant to standards for subdivision regulations, and other findings as follows:

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

Potential Conditions of Approval:

- i. Compliance with final concerns in Seymour Letter (Attachment X)
- ii. Specifics on Trail Easements, final review by Corporation Counsel
- iii. Wetland Delineation Markers – final review by civil engineer
- iv. Tree save and street tree – final review by arborist
- v. Easements drainage, maintenance, utility - Corporation Counsel
- vi. Traffic Improvements – final conditions memo from traffic engineer
- vii. Culvert- precise terms of the escrowed funds, easement, improvements
- viii. Conservation Lot- easement, trust – final by Corporation Counsel

\*\*\*NOTE\*\*\* The above list only references staff's recommendations for conditions of approval. Staff's recommended motion will be amended and a complete list of potential conditions will be provided and presented to the Planning Board at the Public Hearing.

#### **V. Attachments**

- A. Application
- B. June 1, 2004 Letter of Water Capacity
- C. July 23, 2004 Letter of Sewer Capacity
- D. Origin of Proposed Subdivision Name
- E. Neighborhood Meeting Certification
- F. December 31, 2003 Wetland Delineation and 6-04-04 Spring Follow-Up
- G. June 4, 2004 DEP Wetland Fill NRPA Application
- H. June 30, DEP Tier I Approval
- I. June 4, 2004 Permit By Rule Application



- J. June 3, 2004 Maine Audubon Letter
- K. May 27, 2004 Washington Ave Drainage Evaluation
- L. May 28, 2004 Murphy Culvert Evaluation
- M. June 15, 2004 URS Traffic Study
- N. July 12, 2004 Traffic Memo
- O. July 16, 2004 Seymour Civil Engineering Memo
- P. July 20, 2004 Boxer-Macomber Letter
- Q. September 3, 2004 Plante Letter
- R. September, 7, 2004 Environmental Site Assessment
- S. Draft Notification of Encroachment Letter
- T. August 20, 2004 Murphy Culvert Replacement Estimate and 9-03-04 Plan
- U. August 17, 2004 75 Foot Stream Buffer Justification
- V. September 16, 2004 Burnside Email
- W. Full Plan Set
- X. September 17, 2004 Seymour Memo

# City of Portland Site Plan Application

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

<b>Address of Proposed Development:</b> Off Washington Avenue at Haverly Field		<b>Zone:</b> R-2
<b>Total Square Footage of Proposed Structure:</b> 16 subdivided residential lots and road covering 9.09 acres	<b>Square Footage of Lot:</b> See plans	
<b>Tax Assessor's Chart, Block &amp; Lot:</b>  Chart# 371    Block# A    Lot# 2 384        A        11 385A       B        1	<b>Property owner's mailing address:</b>  Margaret Haverly 67 Haverly's Way Portland, Maine 04103	<b>Telephone #:</b>  797-4308
<b>Consultant/Agent, mailing address, phone # &amp; contact person:</b>  URS Corporation 477 Congress St., 9th Floor Portland, Maine 04101  Thomas R. Plante, P.E.	<b>Applicant's name, mailing address, telephone #/Fax#/Pager#:</b>  Matt Flaherty 49 Haverly's Way Portland, Maine 04103  797-6870	<b>Project name:</b>  Ballpark Drive

**Proposed Development (check all that apply)**

- New Building     Building Addition     Change of Use     Residential     Office     Retail
- Manufacturing     Warehouse/Distribution     Parking lot
- Subdivision (\$500.00) + amount of lots 16 (\$25.00 per lot) \$ 900
- Site Location of Development (\$3,000.00)  
 (except for residential projects which shall be \$200.00 per lot \_\_\_\_\_)
- Traffic Movement (\$1,000.00)     Stormwater 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 -

AI

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

Matthew Flaherty  
49 Haverty's Way  
Portland, Maine 04103  
  
797-6870

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

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

**Amendment to Plans:** Amendment applications should include 6 separate packets of the above (a, b, & c)  
**ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM**

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

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: <i>Matthew Flaherty</i>	Date: <i>8-20-04</i>
---	----------------------

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

(A2)



February 20, 2004

Planning Division  
City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Site Plan Application  
Proposed Ballpark Drive Subdivision**

Planning Division:

Enclosed please find an application for Subdivision Approval for a proposed residential subdivision on the Margaret Haverty parcel off Washington Avenue. The location of the proposed subdivision is along the existing access road to the Haverty Field baseball field. Sixteen single-family residential lots are proposed to be accessed via a proposed minor residential street to be named Ballpark Drive. This submittal includes the lot and road layout for Planning Board Workshop review, prior to submitting the full roadway and utilities design package. The items included in this submittal are as follows:

- Site Plan Application
- Application fee of \$900 for 16 lots.
- Site soils information
- Road name origin statement
- Property Plan
- Subdivision Plan

Please call Matt Flaherty (797-6870) or myself if you have any questions regarding this submittal and to provide us with the Planning Board Workshop Review date.

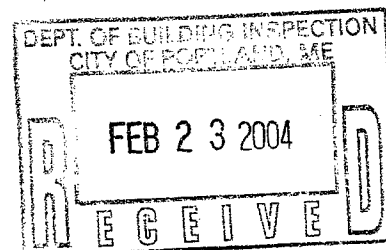
Sincerely,

URS Corporation, Inc.

Thomas R. Plante, P.E.  
Project Manager

cc: Matt Flaherty  
Margaret Haverty

\\DAMES\_PME\DATA\project\53359\001\PlanningBoard01.doc



URS Corporation  
477 Congress Street Annex  
Portland, ME 04101  
Tel: 207.879.7686  
Fax: 207.879.7685

A3



# Portland Water District

225 Douglass St. • P.O. Box 3553 • Portland, ME 04104-3553

(207) 774-5961

FAX (207) 761-8307

[www.pwd.org](http://www.pwd.org)

June 1, 2004

Mr. Thomas R. Plante, P.E.  
URS Corporation  
477 Congress Street, 9<sup>th</sup> Floor  
Portland, Maine 04101

Re: Ballpark Drive Subdivision, Portland

Dear Sir:

The Portland Water District has an 8" water main in Washington Avenue, Portland, near the proposed site. A test on a nearby hydrant produced the following results: static pressure 78 psi; pito pressure 40 psi; with a flow of 1061 gpm. With these results in mind, the District feels we have sufficient capacity available to serve this proposed project and meet all normal fire protection and domestic water service demands.

With certification by the developer that all required permits have been received, we look forward to serving this project.

Sincerely,

PORTLAND WATER DISTRICT

David W. Coffin, PLS  
Engineering Supervisor

23 July 2004

Mr. Thomas R. Plante, P.E.,  
URS Corporation,  
477 Congress Street, 9<sup>th</sup> Floor,  
Portland, Maine 04101

**RE: The Capacity to Handle Anticipated Wastewater Flows, from 1939± Washington Avenue,  
Site of the Proposed "Ballpark Drive" Subdivision.**

Dear Mr. Plante:

The existing eight-inch diameter asbestos concrete sanitary sewer pipe, located in Washington Avenue has adequate capacity to **transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to **treat** the anticipated wastewater flows of **6,030 GPD**, from the proposed subdivision.

**Anticipated Wastewater Flows from the Proposed Development:**

16 Proposed Four Bedroom Houses @ 360 GPD/House	= 5,760 GPD
1 Proposed Three Bedroom House @ 270 GPD/House	= 270 GPD
<b>Total Proposed Increase in Wastewater Flows for this Project</b>	<b>= 6,030 GPD</b>

The City combined sewer overflow (C.S.O.) abatement consent agreement, with the U.S.E.P.A. and 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 I can be of further assistance, please call me at 874-8832.

Sincerely,  
**CITY OF PORTLAND**

Frank J Brancely, B.A., and M.A.  
Senior Engineering Technician

FJB

cc: Alexander Q. Jaegerman, Director, Department of Planning, and Urban Development, City of Portland  
Ethan Boxer-Macomber, Planner, Department of Planning, and Urban Development, City of Portland  
Eric Labelle, P.E., City 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

①

**ORIGIN OF PROPOSED STREET NAME  
BALLPARK DRIVE SUBDIVISION  
LAND OF MARGARET HAVERTY OFF WASHINGTON AVENUE**

In the early 1960's the late John E. Haverty, former owner of Haverty Buick, Inc. decided to fulfill a promise he made as a kid enjoying the sport of baseball. "If I ever make it in life, I will build a real baseball field."

After Mr. Haverty built his field of dreams, he made it available to City of Portland Parks and Recreation, neighborhood kids, Cheverus High School, and other groups needing a field for practices and games.

The road proposed will be build on top of the original primary access to the Haverty baseball field. Thus, the name for the new road, Ballpark Drive.



## Neighborhood Meeting Certification

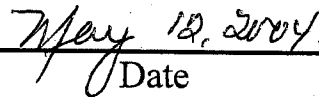
I, Margaret I. Haverty, applicant, hereby certify that a neighborhood meeting was held on May 6, 2004. At the Lyman Moore Library, Portland.

I also certify that on April 27, 2004, invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development.

Due to printing error the invitation stated Tuesday, May 6 instead of Thursday for day of meeting. To avoid confusion, I published a correction in the Portland Press on May 1, 3, & 4. Also, left message in telephone answering machine for correct meeting day. On Tuesday, May 4, David Haverty and I were at Lyman Moore entrance lobby prepared to conduct a neighborhood meeting for neighbors who might not have seen or gotten word of correction. No neighbor showed up on Tuesday, May 4, 2004.

Signed,



  
Date

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes
4. Copy of correction published in Portland Press



Ballpark Drive Development  
67 Haverty's Way  
Portland, ME 04103

April 23, 2004

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our proposal for 16 house lots located off Washington Avenue.

Meeting Location: Lyman Moore Library  
Meeting Date: Tuesday May 6, 2004  
Meeting Time: 6:00 p.m. to 8:00 p.m.

If you have any questions, please call 878-5864

Sincerely,

The Haverty Family

POSTCARD NOTICE

E2

**BALLPARK DRIVE DEVELOPMENT**  
 Neighborhood Meeting  
 Attendance Sheet

Name	Signature	Address
KAREN McPARTLAN	<i>Karen McPartlan</i>	59 Continental Dr
HOWARD C. HANNING	<i>Howard C Hanning</i>	6 CRESFIELD TERRACE PTD 04103
JEANNETTE ROSSI	<i>Jeannette Rossi</i>	50 Deering Run Dr.
Ann M. Hamilton	<i>Ann M Hamilton</i>	529 Summit St 04103
RICK ROMANO	<i>Rick Romano</i>	1731 WASHINGTON AVE
Barry & Ginny Hamilton	<i>Ginny &amp; Hamilton Barry W. Hamilton</i>	1909 WASHINGTON AVE, Part. Me.
Robert + Janet Miliker	<i>Janet Miliker</i>	1851 Washington Ave

Ballpark Drive Development Neighborhood Meeting  
Lyman Moore Library  
May 6, 2004  
6:00 p.m. to 8:00 p.m.

Attendance: 9 Neighbors (list of attendance attached)  
Tom Plante from URS, engineer retained by  
Developer  
Matt Flaherty  
David Haverty  
Maureen Haverty  
Margaret Haverty

Meeting started at 6:00 with 5 neighbors present. At 6:25 2 more neighbors came in, and at 6:30 another 2 arrived.

Introduction/Description of Plans:

Meeting started with introductions. Showing of plans. Tom Plante explained the extent of the development; location; the baseball field in relation to the proposed development; set up of street; underground utilities; explained the intermittent brook; no disturbance in the buffer zone/greenspace in the deeds; position of lots and building envelopes; and the detention pond.

Questions/Answers:

1. Time frame for the beginning and finish of development.  
When do you start building the road and home construction?  
Matt Flaherty said that we are still in workshop and can't really Give a time frame.
2. Purpose of neighborhood meeting.  
Ann Hamilton asked what do you wish to accomplish in this Meeting?

Matt Flaherty—to get the neighbors feedback on proposed Development and answer questions about the development.

3. Concern about the traffic on Washington Ave. Ext. and Bottom of Summit St. (between Washington Ave. Ext. and Lambert St.)

Ann Hamilton—does not have anything against the development. Would like to know how come this development can have a dead end street when the City won't allow bottom of Summit St. to become dead end or one way street. She resents that 16 more cars will be adding traffic to her street, Lambert St. making her street a shortcut to Lambert St., vise versa to Washington Ave. Ext. It is already unsafe for children in this neighborhood

Ann Hamilton-- Why can't we make the entrance to the development be from Lambert St. to avoid 16 more cars cutting through Summit St.?

Matt Flaherty—the proposed site for the development is landlocked. Can't continue Haverty's way because it is a dead end St. and because of the pond at the end of St.

Rick Romano/Barry Hamilton---Was a traffic study done? Concern about the "blind" entrance to the development. Last year neighbors notice a patch of ice (very dangerous) at the bend on Washington Ave. Ext. close to the entrance of proposed Ballpark Dr. road.

Tom Plante—yes, a traffic study was done, but limited to The scope of the development. And adequacy of distance/clearance/clearance at entrance to the development have been addressed.

Rick Romano, Barry & Ginny Hamilton, and Ann Hamilton. Would like a wider scope of traffic study be done and their complaints about the worsening traffic on Washington Ave. Extension and bottom of Summit St. be brought to the table in conversation with the City.

Rick Romano and Ann Hamilton would like to give their support of this development only if the Havertys will support their pleas with City to improve traffic safety on Washington Ave. Ext. and making bottom of Summit St. a one way or dead end St.

Matt Flaherty—agrees to bring the concern of traffic—overall traffic to the City.

Karen McPharland and Janet Milliken voiced that the traffic is not the Havertys' problem. It is not fair to blame them for the traffic problems on these streets.

Rick Romano wants to see a “greenway” between Auburn St. to Washington Ave. Ext. Spoke to Portland Trails. Wants a commitment for traffic study & “greenway”. Wants the Havertys to work with the neighborhood to propose to end the Riverside St. at Overhead Door and redirect traffic onto Davis Rd., by Verizon, to Auburn St. Also raised concern about the need for crosswalks along Washington Ave. Ext. for safety of children walking to and from Lyseth and Moore schools.

Matt Flaherty—we are waiting for call from Portland Trails to talk about possibility of having “greenway”/trail through the development connecting Auburn St. and Washington Ave. Ext.

Margaret Haverty ---we are taking minutes of this meeting and all your concerns will be brought forward to the attention of City. Suggested that neighbors should attend upcoming workshop to voice their concerns.

4. What is going to happen to the baseball field? How will traffic to baseball field affect the development?

Matt Flaherty—the baseball field will still be open to the neighbors. Traffic from the field will be the same as it has always been all the years that the field has been in existence. People who will buy lot in the development will be notified in writing that the road is same access to the present baseball field and to expect traffic due to practices and games. That the Havertys have plans to upgrade the field and opening more space for parking to lessen parking on Washington Ave. Ext.

Ann Hamilton—it is great to have the baseball field. Great addition to the neighborhood.

Rick Romano—thank you to the Havertys for keeping the field open to neighborhood. My kids played there.

Meeting ended at 7:49 p.m. With some neighbors lingering, looking at the plans again, till 8:00 p.m.

# Diamond Earrings

Cross Jewelers  
Upstairs Downtown Portland

## CORRECTION NOTICE

### BALLPARK DRIVE DEVELOPMENT

Neighborhood Meeting

Date: **Thursday May 6**

Time: **6:00 PM TO 8:00 PM**

Location: **Lyman Moore Library**

If you have questions,  
please call 878-5864

## SPECIALS FOR MAY 4-10

# PREBLE FISH

40/50 Count  
Raw Shrimp  
Peeled & Deveined **\$5.99** lb.

Fresh  
Steamers **\$1.69** lb.  
5 lb. Minimum

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Two nights staying, two breakfasts, two wine evenings and two of you...  
rooms start at:

**\$175.00**      **\$150.00**

Two nights staying, two breakfasts, two wine evenings and two of you...  
rooms start at:



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U.S. FANCY <b>MACINTOSH APPLES</b> <b>99¢</b> 3 lb. bag	RIPE <b>YELLOW BANANAS</b> <b>39¢</b> lb.	U.S. NO. 1 <b>MAINE POTATOES</b> <b>99¢</b> 10 lbs.

## 2001 Jeep

5 Speed, So



02 FORD ESCORT  
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Automatic, Air Conditioning, AM/FM  
Cassette, Rear Defrost U002990



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00 TOYOTA AVALON  
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Cass/CD, Leather, Tilt U003004



01 DODGE RAM SPORT VAN  
**\$17,888**

Quad Cab, Auto, Air Conditioning,  
PW, PL, CD/Cassette P140988D



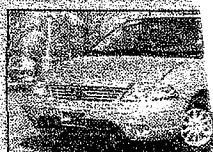
02 CHRYSLER TOWN & COUNTRY  
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**\$15,888**

Automatic, Front/Rear AC,  
Cruise, Tilt, CD/Cass U0

## SPORT UTILITY V



SEND VIA EMAIL

December 31, 2003

Thomas R. Plante, P.E.  
URS Corporation  
477 Congress Street Annex, Suite 3A  
Portland, Maine 04101

**Subject: Wetland Delineation, Haverty Subdivision, Washington Avenue, Portland, Maine**

Dear Tom:

At your request, Woodlot Alternatives, Inc. (Woodlot) conducted a wetland delineation of a 23(+/-)-acre property located on Washington Avenue in Portland, Maine. The delineation, which was completed on December 3, 2003, was limited to a stream and associated wetlands on the property. The delineation was completed in preparation to subdivide the property for residential development. At the time of the delineation, the ground was not yet frozen and there was no snow cover. It should be noted, however, that in order to satisfy the requirements of both the US Army Corps of Engineers (Corps) and Maine Department of Environmental Protection (MDEP) wetland boundaries should be verified in the spring when growing season conditions exist. Wetland boundaries were determined using the technical criteria established by the Corps and the MDEP. Wetland boundaries were marked with pink numbered flagging. Woodlot used a Trimble® Pro-XR Global Positioning System (GPS) receiver to locate these boundary flags and a map was generated showing the location of the delineated wetlands. An electronic copy of this file was sent to your office for use in developing a site plan for this project. Copies of the original field notes, data forms, and site photographs are available upon request.

#### Site Description

The project area is located east of Washington Avenue and south of Lester Drive in the City of Portland. The undeveloped portions of the property consist primarily of wooded uplands and a wetland system associated with a small stream. A gravel road that provides access to a baseball field located southeast of the project area represents the only development. Areas adjacent to the road have been disturbed by road construction activities (e.g., piles of rock, gravel, and debris).

Topography on the site is primarily flat to gently sloping with steeper slopes occurring to the north along the stream. Quaking aspen (*Populus tremuloides*), black cherry (*Prunus serotina*), ash (*Fraxinus cf americana*) and eastern white pine (*Pinus strobus*) dominate the canopy of the wooded uplands. The shrub layer, which is very dense throughout much of the area, is dominated by a honeysuckle (*Lonicera cf morrowwi*), and multiflora rose (*Rosa multiflora*). Because of the non-growing season conditions, very little vegetation within the herbaceous layer could be identified. According to the USDA Soil Survey for



Cumberland County (1974), upland soils in this area are mapped as Elmwood fine sandy loam, Hinckley gravelly sandy loam, Belgrade very fine sandy loam, Au Gres loamy sand, and cut and fill land. The Elmwood and Belgrade series are moderately well drained soils, the Hinckley is excessively drained, and the Au Gres somewhat poorly drained. The cut and fill land, associated with the road, consists of excavated soil material brought in from off site or has been redistributed from other on-site locations.

## Wetland Descriptions

### Wetland 1

Wetland 1 consists of floodplain wetlands along a stream and several drainages that discharge to the floodplain from the south. The stream, which is depicted as an unclassified drainage in the USDA Soil Survey for Cumberland County (1974), flows northwest to the Presumscot River. To the southeast of the project area, the stream has been dammed and possibly excavated to form a small pond. A hydrologic connection has been maintained between the pond and the stream via a culvert at the impoundment. The channel within the project area is 2 to 3 feet wide and has a sand and silt substrate. At the time of the delineation, water was flowing within the channel although a thin layer of ice was present in several locations. This channel would meet the definition of a stream as established under the Maine Natural Resource Protection Act (NRPA). The channel has defined banks, a mineral bed, and likely supports some aquatic insects.

Because of steep topography along much of the stream, the floodplain wetlands are very narrow. The floodplain does widen in a few locations, particularly to the east, but narrows again with steeper topography. Scattered trees within the floodplain include American elm (*Ulmus americana*), red maple (*Acer rubrum*), an ash (*Fraxinus cf pennsylvanica*), and black cherry. Black cherry typically grows in upland habitats, but those growing in the floodplain are shallowly rooted which is an adaptation to wetland conditions. The shrub layer, which ranges from sparse to very dense includes arrowwood (*Viburnum dentatum*), multiflora rose, speckled alder (*Alnus incana*), red osier dogwood (*Cornus sericea*), and long-beaked willow (*Salix bebbiana*). Sensitive fern (*Onoclea sensibilis*), evergreen wood fern (*Dryopteris cf intermedia*), rough-stemmed goldenrod (*Solidago rugosa*), American willow-herb (*Epilobium ciliatum*), mad-dog skullcap (*Scutellaria lateriflora*), wool-grass (*Scirpus cyperinus*), bluejoint (*Calamagrostis canadensis*), and sedges (*Carex* spp.) are also present.

South of the stream several wetland drainages and a few groundwater seeps discharge to the floodplain. Many of these drainages are narrow and confined within well defined topographic channels. Two of the drainages widen into shallow wetland basins. One of these wider basins occurs near the western boundary of the project area. Shallowly rooted quaking aspens dominate the canopy of this forested wetland community. Other trees present in the overstory include American elm, red maple, gray birch (*Betula populifolia*), and an ash. A honeysuckle, quaking aspen, an ash, and multiflora rose occur in the sparse shrub layer. Sensitive fern and drooping woodreed (*Cinna latifolia*) are present in the herbaceous layer. This wetland receives discharge from a culvert under the gravel access road as well as runoff from the surrounding uplands. The second of these wider drainages bisects the center of the project area and extends south beyond the limits of this investigation. This drainage has been altered by the construction of the gravel access road and may have been excavated to provide drainage for surrounding development. For much of its length, this drainage is narrow, but widens into an area of forested wetland. Red maple and an ash occur in the overstory of the forested wetland community. A honeysuckle, multiflora rose, meadowsweet (*Spiraea alba* var. *latifolia*), and Virginia rose (*Rosa cf virginiana*) are present in the shrub layer. Herbaceous vegetation includes sensitive fern, rough-stemmed goldenrod, and an avens (*Geum* sp.).

At the time of the delineation, evidence of wetland hydrology included saturation in the upper 12 inches of soil, free water within 14 inches of the surface, and wetland drainage patterns. Soils within this wetland are primarily poorly drained silt loams over very fine sandy loams with other areas of poorly drained fine and coarse sands.

### State and Federal Regulations

The MDEP and the ACOE regulate the wetlands identified within the project area. In general, projects that are not located within a wetland, or projects that alter less than 4,300 square feet of wetland (not impacting a *Wetlands of Special Significance*) are exempt from the Maine Natural Resources Protection Act (NRPA) Tier permitting requirements. Typically, projects with cumulative impacts to wetlands between 4,300 and 15,000 square feet are eligible for review under the Tier 1 process. The Tier 2 review process applies to alterations that affect between 15,000 and 43,560 square feet (1 acre). Cumulative project impacts that exceed 1 acre and impacts to *Wetlands of Special Significance* typically require a Tier 3 review.

*Wetlands of Special Significance* within the project area include those portions of Wetlands 1 located within 25 feet of the stream and/or occurring within the 100-year floodplain of this stream. Full identification of *Wetlands of Special Significance* involves contacting natural resource agencies such as the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Natural Areas Program to determine if there are any known rare species or features at the site. Correspondence from MNAP indicates that there are no known rare botanical features documented within the project area. According to the regional fishery biologist at MDIFW, it is suspected that this stream does not support any fisheries resources. However, MDIFW does request that a 100-foot undisturbed buffer be maintained along any stream and stream associated wetlands. Note that this is only a request, which will be taken into consideration by MDEP staff when reviewing NRPA permit applications. This request may or may not be made a condition of NRPA permits issued by MDEP. Correspondence regarding other potential wildlife resources within the project area is still outstanding, and will be forwarded to you when it is received.

### Local Regulations

The wetland identified within the project area is not depicted on the Shoreland Zoning Map for the City of Portland (City), but may otherwise meet the definition of freshwater wetland as adopted by the City. Woodlot recommends that you contact the Code Enforcement Officer for the City when you begin designing the subdivision to determine if any part of this property is located within the Shoreland Zone.

Please contact our office if you have questions related to the information presented in this report, or if we can be of further assistance.

Sincerely,  
Woodlot Alternatives, Inc.

*Karol Worden* KW

Karol Worden  
Project Manager

Enclosure      Figure 1, Wetland Delineation Map

103192.01



June 4, 2004

Thomas R. Plante, P.E.  
URS Corporation  
477 Congress Street Annex, Suite 3A  
Portland, Maine 04101

**Subject: Wetland Delineation of Haverty Subdivision; Washington Avenue, Portland, Maine**

Dear Tom:

At your request, Woodlot Alternatives, Inc. (Woodlot) conducted a wetland delineation of a (+/-) 23-acre property located on Washington Avenue in Portland, Maine. The initial delineation that was completed on December 3, 2003. On May 20, 2004, a growing season site visit was made to verify wetland boundaries identified during the winter delineation. Wetland boundaries were determined using the technical criteria established by the U.S. Army Corps of Engineers (ACOE) and the Maine Department of Environmental Protection (MDEP). Wetland boundaries were marked with pink, numbered flagging. Woodlot used a Trimble® Pro-XR Global Positioning System (GPS) receiver to locate these boundary flags, and a map was generated showing the location of the delineated wetlands. An electronic copy of the map and GPS data was sent to URS Corporation for use in developing a site plan for the proposed subdivision. Copies of the original field notes and data forms are available upon request. Representative wetland photographs are enclosed with this report.

#### Site Description

The project area is located east of Washington Avenue and south of Lester Drive in Portland, Maine. The undeveloped portions of the property consist primarily of wooded uplands and a wetland system that is associated with a small stream. A gravel road that provides access to a baseball field located southeast of the project area represents the only development. Areas adjacent to the road have been disturbed by road construction activities (e.g., piles of rock, gravel, and debris).

Topography on the site is primarily flat to gently sloping with steeper slopes occurring to the north along the stream. Quaking aspen (*Populus tremuloides*), black cherry (*Prunus serotina*), ash (*Fraxinus cf americana*), Norway maple (*Acer platanoides*), sugar maple (*Acer saccharum*), and eastern white pine (*Pinus strobus*) are present in the canopy of the wooded uplands. The shrub layer, which is very dense throughout much of the area, is dominated by Morrow's honeysuckle (*Lonicera morrowii*), multiflora rose (*Rosa multiflora*), and choke cherry (*Prunus virginiana*). Sensitive fern (*Onoclea sensibilis*), Morrow's honeysuckle, wild strawberry (*Fragaria virginiana*), false Solomon's seal (*Maianthemum*

*racemosum*), and Norway maple seedlings are present within the herbaceous layer. According to the USDA Soil Survey for Cumberland County (1974), upland soils in this area are mapped as Elmwood fine sandy loam, Hinckley gravely sandy loam, Belgrade very fine sandy loam, Au Gres loamy sand, and cut and fill land. The Elmwood and Belgrade series are moderately well drained soils, the Hinckley is excessively drained, and the Au Gres somewhat poorly drained. The cut and fill land that is associated with the road consists of excavated soil material. This material is either brought in from off-site or has been redistributed from other on-site locations.

## Wetland Descriptions

### Wetland 1

Wetland 1 consists of floodplain wetlands along a stream and several drainages that discharge to the floodplain from the south. The stream, which is depicted as an unclassified intermittent drainage in the USDA Soil Survey for Cumberland County (1974), flows northwest to the Presumpscoot River. To the southeast of the project area, the stream has been dammed to form a small pond. A hydrologic connection has been maintained between the pond and the stream via a culvert at the impoundment. The channel within the project area is 2–3 feet wide and has a sand and silt substrate (Photos 1 and 2). At the time of both site visits, water was flowing within the channel. The channel has defined banks, a mineral bed, and likely supports some aquatic insects. It meets the definition of a stream or brook as established by the Maine Natural Resource Protection Act (NRPA).

Because of steep topography along much of the stream, the floodplain wetlands are very narrow. The floodplain widens in a few locations, particularly to the east, but narrows again with steeper topography (Photo 3). Scattered trees within the floodplain include American elm (*Ulmus americana*), red maple (*Acer rubrum*), an ash (*Fraxinus cf. pennsylvanica*), and black cherry. Black cherry typically grows in upland habitats. However, those growing in the floodplain are shallowly rooted, which indicates an adaptation to wetland conditions. The shrub layer ranges from sparse to very dense and includes arrowwood (*Viburnum dentatum*), multiflora rose, speckled alder (*Alnus incana*), red osier dogwood (*Cornus sericea*), and long-beaked willow (*Salix bebbiana*). Sensitive fern, evergreen wood fern (*Dryopteris cf. intermedia*), rough-stemmed goldenrod (*Solidago rugosa*), American willow-herb (*Epilobium ciliatum*), mad-dog skullcap (*Scutellaria lateriflora*), wool-grass (*Scirpus cyperinus*), bluejoint (*Calamagrostis canadensis*), jewelweed (*Impatiens capensis*), and sedges (*Carex* spp.) are also present.

Several wetland drainages and a few groundwater seeps discharge to the floodplain south of the stream. Many of these drainages are narrow and confined within well-defined topographic channels. Two of the drainages widen into shallow wetland basins. One of these wider basins occurs near the western boundary of the project area (Photo 4). Shallowly rooted quaking aspens dominate the canopy of this forested wetland community. Other trees present in the overstory include American elm, red maple, gray birch (*Betula populifolia*), and an ash. Morrow's honeysuckle, quaking aspen, an ash, and multiflora rose occur in the sparse shrub layer. Sensitive fern and drooping woodreed (*Cinna latifolia*) are present in the herbaceous layer. This wetland receives discharge from a culvert under the gravel access road, as well as runoff from the surrounding uplands. The second of these wider drainages bisects the center of the project area and extends south beyond the limits of this investigation (Photos 5 and 6). This drainage has been altered by the construction of the gravel access road and may have been excavated to provide drainage for surrounding development. For much of its length, this drainage is narrow but widens into an area of forested wetland. Red maple and an ash occur in the overstory of the forested wetland community. Morrow's honeysuckle, multiflora rose, meadowsweet (*Spiraea alba* var. *latifolia*), and

Virginia rose (*Rosa cf virginiana*) are present in the shrub layer. Herbaceous vegetation includes sensitive fern, rough-stemmed goldenrod, and an avens (*Geum* sp.).

At the time of the delineation, evidence of wetland hydrology included saturation in the upper 12-inches of soil, free water within 14-inches of the surface, and wetland drainage patterns. Soils within this wetland are primarily poorly drained silt loams over very fine sandy loams, with other areas of poorly drained fine and coarse sands also present.

### Wetland 2

Wetland 2 is a small isolated basin located immediately adjacent to the gravel access road (Photo 7). The hydrology, soils, and vegetation within this wetland have been altered by nearby residential development and road construction. The wetland receives runoff from uplands to the south and drainage from the gravel access road. Flow from this wetland enters a roadside ditch along the eastern side of Washington Avenue. The few scattered trees within this wetland include red maple, gray birch, and a dead American elm. The shrub layer is dominated by red osier dogwood and includes a small amount of winterberry (*Ilex verticillata*). Sensitive fern and jewelweed are present in the herbaceous layer.

At the time of the delineation, evidence of wetland hydrology included saturation in the upper 12-inches of soil and water stained leaves. Soils within this wetland are poorly drained silt loams over very fine sandy loams.

### **State and Federal Regulations**

The MDEP and the ACOE regulate the wetlands identified within the project area. In general, projects that are not located within a wetland, or projects that alter less than 4,300 square feet of wetland and do not impact a *Wetlands of Special Significance* are exempt from the NRPA Tier permitting requirements. Typically, projects with cumulative impacts to wetlands between 4,300 and 15,000 square feet are eligible for review under the Tier 1 process. The Tier 2 review process applies to alterations that affect between 15,000 and 43,560 square feet (i.e., 1-acre). Cumulative project impacts that exceed 1-acre and impacts to *Wetlands of Special Significance* typically require a Tier 3 review.

*Wetlands of Special Significance* within the project area include those portions of Wetlands 1 occurring within 25 feet of the stream and/or occurring within the 100-year floodplain of this stream. Full identification of *Wetlands of Special Significance* involves contacting natural resource agencies such as the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Natural Areas Program (MNAP) to determine if there are any known rare species or features at the site. Correspondence from MNAP indicates that there are no known rare botanical features documented within the project area. According the regional fishery biologist at MDIFW, it is suspected that this stream does not support any fisheries resources. The MDIFW regional wildlife biologist has indicated that there are no essential, significant, or other wildlife habitats of concern within the project area.

### Local Regulations

The wetland identified within the project area is not depicted on the Shoreland Zoning Map for the City of Portland (City), but it may otherwise meet the definition of a freshwater wetland as adopted by the City. Woodlot recommends contacting the Code Enforcement Officer for the City when designing the subdivision to determine if any part of this property is located within the Shoreland Zone.

Please contact our office if you have questions related to the information presented in this report, or if we can be of further assistance.

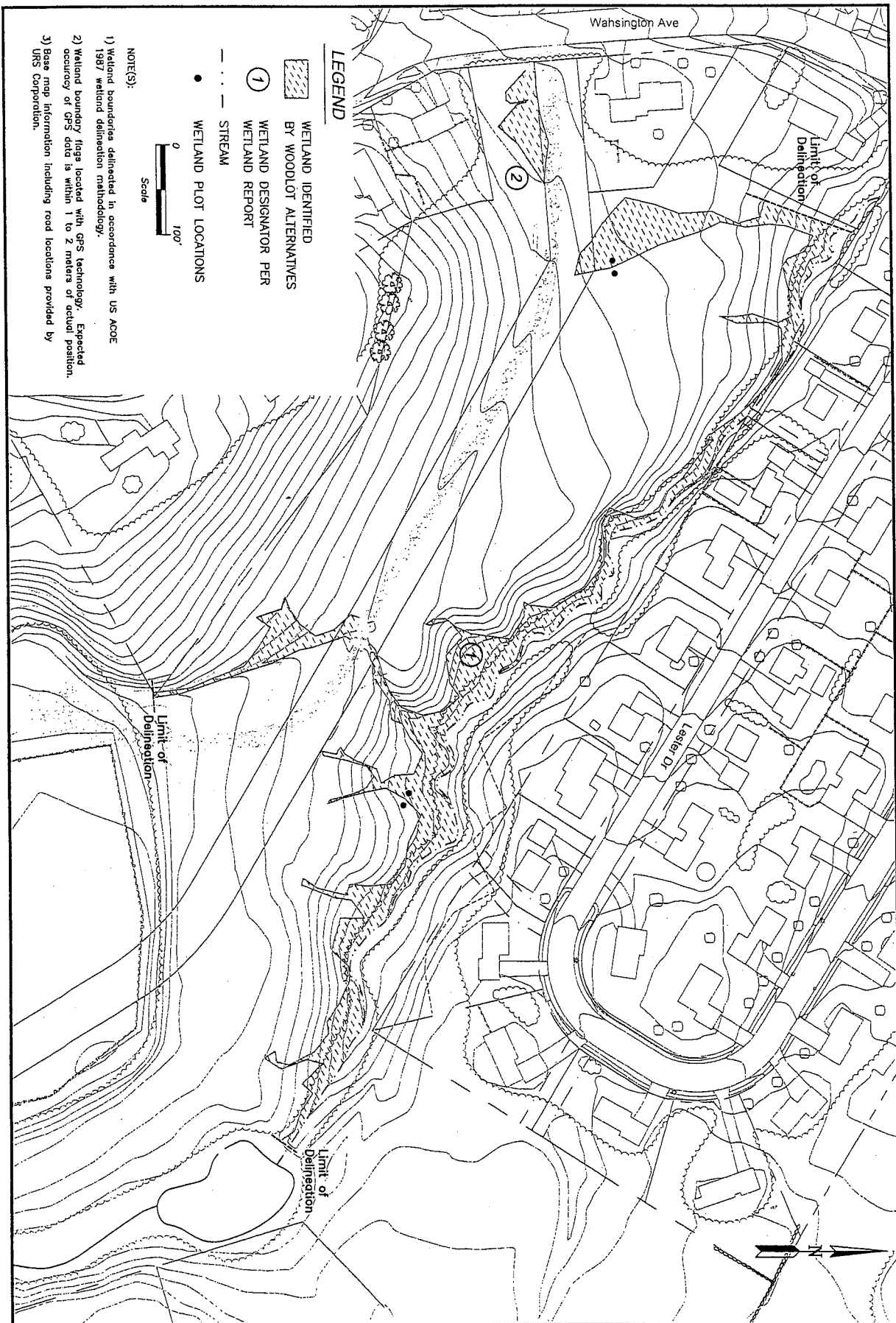
Sincerely,  
Woodlot Alternatives, Inc.



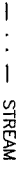

*Karol Worden*

Karol Worden  
Project Manager


Enclosure      Figure 1, Wetland Delineation Map  
                    Wetland Photographs

103192.01



- LEGEND**
-  WETLAND IDENTIFIED BY WOODLOT ALTERNATIVES
  -  WETLAND DESIGNATOR PER WETLAND REPORT
  -  STREAM
  -  WETLAND PLOT LOCATIONS
- NOTES(S):**
- 1) Wetland boundaries delineated in accordance with US ACOE 1987 wetland delineation methodology.
  - 2) Wetland boundary flags located with GPS technology. Expected accuracy of GPS data is within 1 to 2 meters of actual position.
  - 3) Base map information including road locations provided by URS Corporation.



PREPARED BY:  <b>WOODLOT</b> ALTERNATIVES, INC. ENVIRONMENTAL CONSULTANTS haverly_wetmap.dwg	PROJECT: The Haverly Estate	SHEET TITLE: Wetland Delineation Map	1 Add Additional Wetlands 05/25/2004
	ADDRESS: Washington Ave. Extension Portland, ME	SCALE: 1" = 100'	DATE: December 2003

78

# APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN **BLACK INK ONLY**

→ SEE DETACHABLE INSTRUCTIONS

1. Name of Applicant: Margaret Haverty		4. Name of Agent (if applicable): Thomas R. Plante, P.E., URS Corporation	
2. Applicant's Mailing Address: 67 Havertys Way, Portland, Maine 04103		5. Agent's Mailing Address: 477 Congress Street, Ninth Floor, Portland, Maine, 04101	
3. Applicant's Daytime Phone #: 207-797-4308		6. Agent's Daytime Phone #: 207-879-7686	
7. Location of Project (Nearest Road, Street, Rt.#): Haverty Field, Off Washington Ave, just north of int. w/Riverside St.	8. Town: Portland	9. County: Cumberland	
10. Type of Resource: Check all that apply: <input type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input type="checkbox"/> Coastal Wetland <input checked="" type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain	11. Name of Resource: Unnamed wetland		12. Amount of Impact (Sq.Ft.): Fill: <b>5,974</b> square feet Dredging/Veg Removal/Other:
	3. Type of Wetland: Check all that apply: <input checked="" type="checkbox"/> Forested <input checked="" type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input type="checkbox"/> Other		
4. Brief Project Description: Fill upland drainage gullies and previously altered wetland areas to allow for subdivision road construction and house lot development.			
5. Size of Lot or Parcel: <input type="checkbox"/> square feet, or <input checked="" type="checkbox"/> acres 23			
6. Title, Right or Interest: <input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement			
7. Deed Reference Numbers: Book#: 14636 Page: 179		18. Map and Lot Numbers: Map #: 371, 384, 385A; Lot #: A-2, A-11, B-1	
9. DEP Staff Previously Contacted: Bill Bolluck		20. Part of a larger project: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
1. Resubmission of Application? <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		After-the-Fact: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2. Written Notice of Violation? <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No		23. Previous Wetland Alteration: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
4. Detailed Directions to the Project Site: Gravel drive entrance to Haverty Field, along east side of Washington Ave., just north of the intersection with Riverside Street.			
5. TIER 1		TIER 2/3 AND INDIVIDUAL PERMITS	
Fee Topographic Map Plan or Drawing (8 1/2" x 11") Photos of Area Statement of Avoidance & Minimization Statement/Copy of cover letter to Maine Historic Preservation Commission		<input type="checkbox"/> Fee <input type="checkbox"/> Topographic Map <input type="checkbox"/> Photos of Area <input type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input type="checkbox"/> Copy of Public Notice <input type="checkbox"/> Professional Certification/Delineation <input type="checkbox"/> Erosion Control Plan <input type="checkbox"/> Alternatives Analysis, if required <input type="checkbox"/> Description of Avoidance/Minimization <input type="checkbox"/> Compensation Plan (if required) <input type="checkbox"/> Description of Previously Mined Peatland (if required) <input type="checkbox"/> Statement/Copy of cover letter to Maine <input type="checkbox"/> Historic Preservation Commission <input type="checkbox"/> Construction Plan, if required	
6. FEES Amount Enclosed: AIS Code TB: \$75			

OR DEP USE	L-	ATS#	Total FEES	CK#	Date Rec'd
OR CORPS USE	App#:	Office Code:	Date Rec'd:	Date Completed:	(51)



**SIGNATURE PAGE**

By signing below the applicant (or authorized agent), certifies that he or she has:

Completed all of the public notice requirements listed on the next page of this application. *N/A for Tier I*

Read and understood the following:

**PRIVACY ACT STATEMENT**

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application can not be processed nor can a permit be issued.

**CORPS SIGNATORY REQUIREMENT**

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

**DEP SIGNATORY REQUIREMENT**

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

"I hereby authorize the person named below to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application."

*[Signature]*  
SIGNATURE OF APPLICANT, *if agent involved*

6/4/04  
DATE

"Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in the application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant."

*[Signature]*  
SIGNATURE OF AGENT/APPLICANT

6/4/04  
DATE

**NOTE: Any changes in project plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the project changes.**

## SUPPLEMENTAL APPLICATION FORM INFORMATION

### Block 12 – Amount of Impact

The total impact for the proposed work is 5,974 square feet of wetland fill. This is in addition to wetland fill of 2,693 square feet that was conducted as part of a 2000 subdivision of a portion of the original 32-acre Haverty parcel. The proposed impact areas are shown on the attached plans.

### Block 13 – Type of Wetland

The wetlands to be impacted are forested and scrub shrub wetlands as described in the attached wetland delineation report prepared by Woodlot Alternatives, Inc. This report includes photographs of the wetland areas. The largest wetland area to be filled, shown as wetland area 1 on the attached subdivision plan, is a highly disturbed area created in part due to poor surface drainage caused by the historic placement of soil piles from road construction.

### Block 14 – Description of Project

The proposed wetland fill for the Ballpark Drive subdivision is necessary for the road construction and development of several of the lots. The roadway has been located to minimize wetland impacts and generally follows an existing gravel road to a private baseball field. At the request of the City of Portland, the roadway follows the path of an existing 50-foot wide sewer forcemain easement. Wetland fill associated with the road is necessary to accommodate the required road cross-section, which includes sidewalks and an esplanade on both sides of the road.

Wetland filling is also proposed for lots 6, 7, 8, and 16. Filling on lots 6, 7, and 8 will be to allow for lot grading over drainage gullies in the developable areas. With the exception of the culvert crossing at road station 8+23, these upland drainage gullies are typically dry except for storm runoff. Much of the overland flow that currently reaches these gullies will be intercepted by the proposed road drainage system and underdrains, so these gullies will be unnecessary. The currently culverted flow across the gravel road will be culverted for the proposed road with a longer culvert to extend beyond the limits of the 50-foot wide road section fill.

Minor wetland fill on lot 1 will be necessary for a driveway to this lot and underground utilities from Ballpark Drive.

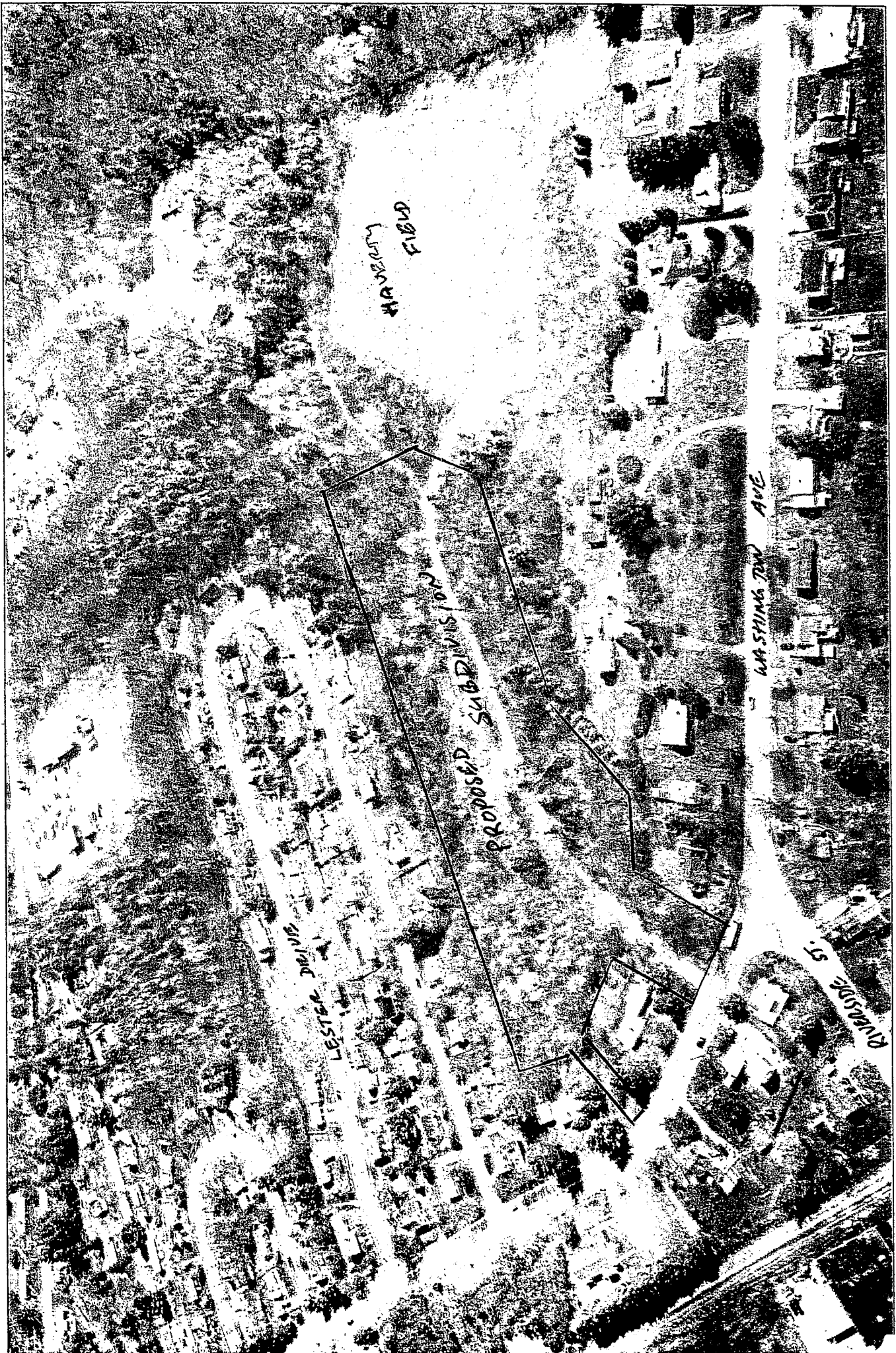
The wetland filling for Lot 16 is proposed to make this area a buildable house lot. This wetland area appears to have been created by the construction of the existing gravel road and soil piles that restrict the overland flow of runoff. The public street that will be constructed adjacent to this wetland (Ballpark Drive) will contain underdrains per City standards. These underdrains will tend to lower the groundwater table in the vicinity of the road and would likely dry up this wetland. As this wetland is currently highly disturbed and will be altered by adjacent roadway construction, filling this low-value, low functioning wetland for lot development is not considered a significant impact.

**Blocks 20 & 23 – Larger Project/Previous Alteration**

The original land area owned by Margaret Haverty included approximately 32 contiguous acres. In 2000, prior to the planning of the current subdivision, a 10-acre parcel was subdivided into 6 lots. Wetland fill totaling 2,693 square feet was required for the construction of the road, Havertys Way. A copy of the subdivision plan for Haverty's way showing the wetland fill that was conducted for that project is attached.

**Maine Historic Preservation**

The cover letter transmitting a copy of the application package to the Maine Historic Preservation Commission (MHPC) is attached. Return correspondence will be submitted upon receipt.



HARDY FIELD

LESTER DRIVE

PROPOSED SUBDIVISION

WASHINGTON AVE

RIVERSIDE ST

Block 14



STATE OF MAINE  
 17 State House Station  
 Augusta, ME 04333

IN THE MATTER OF

MARGARET HAVERTY  
 Portland, Cumberland County  
 BALLPARK DRIVE, HAVERTY SUBDIVISION  
 L-21887-TB-A-N (approval)

) NATURAL RESOURCE PROTECTION ACT  
 ) FRESHWATER WETLAND ALTERATION  
 ) WATER QUALITY CERTIFICATION  
 ) FINDINGS OF FACT AND ORDER

Project Description: The applicant proposes to fill an additional 5,974 square feet of forested and scrub shrub wetland to construct a 17-lot subdivision on a 23 acre parcel on the east side of Washington Avenue in the City of Portland. The proposed subdivision and access road is shown on a plan entitled "Property Plan, The Haverty Estate Property, Ballpark Drive", drawn by URS Corporation and dated October 8, 2003 with the latest revision date on any of the sheets being June 2, 2004. Total wetland alteration for the Haverty Estate Property will be approximately 8,667 square feet, including 2,693 square feet of impact which already occurred for the initial project. Concurrent with this application, the applicant submitted a Permit-By-Rule notification form (PBR #35126) for activity adjacent to a protected natural resource, in accordance with Chapter 305, Section 2 of the NRPA.

Permit for:	<input checked="" type="checkbox"/> Tier 1	<input type="checkbox"/> Tier 2
DEP Decision:	<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Denied (see attached letter)
CORPS Action:	<input checked="" type="checkbox"/> The Corps has been notified of your application. The following are subject to Federal screening: (1) projects with previously authorized or unauthorized work, in combination with a Tier 1 permit for a single and complete project, which total more than 15,000 square feet of altered area; (2) projects with multiple state permits and/or state exemptions which apply to a single and complete project that total more than 15,000 square feet of altered area; and (3) projects that may impact a vernal pool, as determined by the State of Maine or the Corps. If your activity is listed above, <i>Corps approval is required for your project.</i> For information regarding the status of your application contact the Corps' Maine Project Office at 623-8367.	

Special Conditions: Further wetland alteration shall be subject to Department approval prior to construction.

Standard Conditions:

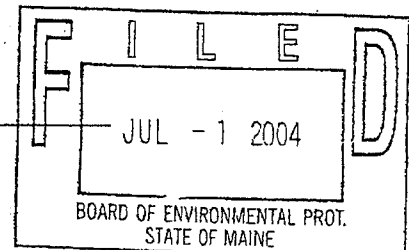
- 1) If construction or operation of the activity is not begun within two (2) years from the date signed, this permit shall lapse and the applicant shall reapply to the Department for a new permit. This permit is transferable only with prior approval from the Department. If the activity is associated with a larger project, starting any aspect of that project constitutes start of construction.
- 2) The project shall be completed according to the plans in the application. Any change in the project plans must be reviewed and approved by the Department.
- 3) Properly installed erosion control measures shall be installed prior to beginning the project, and all disturbed soil should be stabilized immediately upon project completion.
- 4) A copy of this approval will be sent to the City of Portland. Department approval of your activity does not supersede or substitute the need for any necessary local approvals.

Please note the attached sheet for guidance on appeal procedures.

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

  
 \_\_\_\_\_  
 DAWN R. GALLAGHER, COMMISSIONER

6/30/04  
 \_\_\_\_\_  
 DATE



Date of initial application June 4, 2004  
 Date application accepted for processing June 8, 2004  
 Date filed with Board of Environmental Protection

(HI)

NATURAL RESOURCE PROTECTION ACT (NRPA)  
STANDARD CONDITIONS

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

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

Revised (4/92)

DEPLW0428

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

PLEASE TYPE OR PRINT IN BLACK INK ONLY

Name of Applicant: (owner)		Margaret Haverty			Applicant Mailing Address:		67 Haverty's Way				
Town/City:		Portland			State:		Maine				
Zip Code:		04103		Daytime Telephone No: (include area code)		207-797-4308		Project Location:		Off Washington Ave, at Haverty Field	
County:		Cumberland		Map #:	371	Lot #:	A-2	Name of Wetland or Waterbody:		Unnamed intermittent brook	
					384		A-11				
					385A		B-1				
Name of Agent:		Thomas R. Plante, P.E., URS Corporation				Agents Telephone No: (include area code)		207-879-7686			
Detailed Directions to Site:		Gravel drive entrance to Haverty Field, along east side of Washington Ave., just north of the intersection with Riverside Street.									
					UTM Northing: (if known)		UTM Easting: (if known)				
Description of Project:		Construction of new residential homes on lots 6 and 7 of the proposed subdivision with a portion of the house and/or lot grading within the 75' buffer setback, but no disturbance within 25 feet of the brook. Note that minor wetland fill for the project as a whole will be permitted through a separated DEP/ACOE Tier I application.									
							Part of a larger project?		Yes	No	

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


I am filing notice of my intent to carry out work which meets the requirements for Permit By Rule (PBR) under DEP Rules, Chapter 305. The work described above qualifies under the PBR Sections checked below. I and my agents, if any, have read and will comply with all of the standards in the Sections checked below.

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

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

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

- X **Attach** a check for \$55 (non-refundable) made payable to: "Treasurer, State of Maine".
- X **Attach** a U.S.G.S. topo map or Maine Atlas & Gazetteer map with the project site clearly marked.
- X **Attach** all specific requirements outlined in the PBR Sections checked above.
- X **Attach** 1 copy of this Notification Form (form only) to the original.

Signature of Applicant:		Date:	6/4/04
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*Keep a copy as a record of permit.* Send the form with attachments via certified mail to the Maine Dept. of Environmental Protection at the appropriate regional office listed below. The DEP will send a copy to the Town Office as evidence of the DEP's receipt of notification. No further authorization by DEP will be issued after receipt of notice. Permits are valid for two years. **Work carried out in violation of any standard is subject to enforcement action.**

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

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

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

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

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

(1)



June 4, 2004

Maine Department of Environmental Protection  
312 Canco Road  
Portland, Maine 04103

Re: NRPA PBR Notification  
Ballpark Drive Subdivision  
Portland, Maine

Dear Sir/Madam:

On behalf of Margaret Haverty (property owner), URS Corporation has prepared this notification package for soil disturbance adjacent to a protected natural resource. The following materials are attached:

- PBR Notification Form
- Application Fee
- USGS Topo Map
- Property Plan
- Subdivision Plan
- Site plan of lots subject to PBR permitting
- Site Photographs

The project has been discussed previously with Bill Bolluck of the DEP. The subject lots, Lots 6 and 7, are configured to minimize the clearing required within the 75-foot buffer for house construction and retaining wall construction for site grading. Upland dry drainage channels that are considered wetland areas and are proposed to be filled will be the subject of a separate Tier I wetlands application for the entire subdivision project. This application is specific to Lots 6 and 7 where disturbance within the 75-foot brook buffer is necessary to grade the lots and construct the houses. No disturbance is proposed within 25 feet of the brook.

The houses will be constructed as close to the road as possible, however, the City of Portland zoning ordinance requires a minimum 25-foot frontage setback from the road right-of-way. The roadway is being constructed along an existing 50-foot wide sewer forcemain easement that runs through the property and is the road location preferred by the City. Moving the road to the south to keep Lot 6 and 7 building envelopes entirely out of the 75-foot buffer would require additional wetland fill on the south side of the road, and would require the City to vacate portions of their existing easement and establish new easements on the proposed lots. City Corporation Counsel has discouraged the relocation of easements and has indicated a preference for the road to follow the easement.





Maine DEP  
June 4, 2004  
Page 2 of 2

Please call if you have any questions or require further information.

Sincerely,  
URS CORPORATION

A handwritten signature in black ink, appearing to read "Thomas R. Plante".

Thomas R. Plante, P.E.  
Project Manager

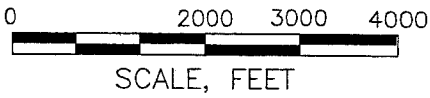
cc: Matt Flaherty  
Ethan Boxer-Macomber -Portland Planning Division


P:\project\53359\Wetlands\DEP NRPA PBR Transmittal.doc



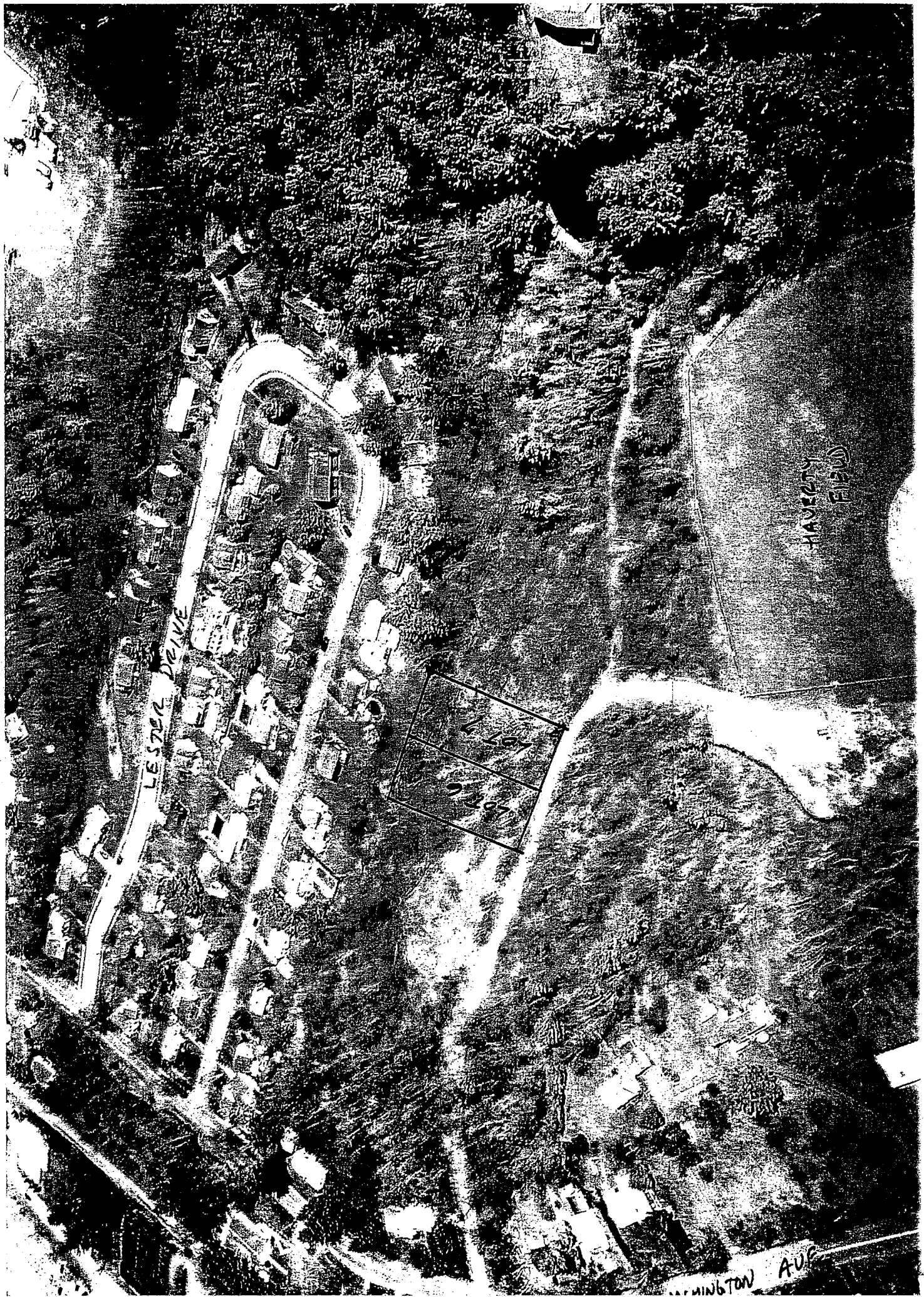
Z:\project\53358\design\on\_revisions\map\me\_2004\DC15.dwg, 6/3/2004 3:27:29 PM

**SOURCE:**  
 USGS 7.5 MINUTE SERIES  
 TOPOGRAPHICAL MAP OF THE  
 WESTBROOK QUADRANGLE, DATED  
 1978.



CLIENT:		MARGARET HAVERTY	
PROJECT:		BALLPARK DRIVE PORTLAND, MAINE	
 <small>URS Corporation          477 Congress Street, 9th Floor          Portland, ME 04101          Tel: 207.878.7686          Fax: 207.878.7686          www.urscorp.com</small>			
TITLE:		PROJECT NO:	
SITE LOCUS MAP		39459287	
DESIGN:	TRP	SCALE:	AS SHOWN
APPROVED:	TRP	DATE:	JUNE 2004
DRAWN:	MLS	FILE NO:	LOCUS
			FIGURE NO: 1

14



LESTER DRIVE

HARVESTY FIELD

1467  
1468

WILMINGTON AVE

15



# PHOTOGRAPHIC LOG

**Client Name:**

Margaret Haverty

**Site Location:**

Proposed Ballpark Drive Subdivision

**Project No.**

39459287

**Photo No.**

**Date:**

05/04

**Direction Photo Taken:**

west

**Description:**

Area of subject house lots on right side of road.



**Photo No.**

**Date:**

05/04

**Direction Photo Taken:**

west

**Description:**

Area of subject house lots on right side of road.





# PHOTOGRAPHIC LOG

**Client Name:**

Margaret Haverty

**Site Location:**

Proposed Ballpark Drive Subdivision

**Project No.**

39459287

**Photo No.**

**Date:**

**Direction Photo Taken:**

north

**Description:**

Area of proposed lots 6 and 7.



**Photo No.**

**Date:**

05/04

**Direction Photo Taken:**

north

**Description:**

Drainage channel between proposed lots 6 and 7.



3 June 2004

Ms. Pam Burnside  
64 Lester Drive  
Portland, ME 04103

RE: Ballpark Drive subdivision, Portland

Dear Ms. Burnside:

Thank you for showing me the site of the proposed subdivision off Washington Avenue in Portland. This project is of interest to Maine Audubon because we have been active in developing rules for protecting streams and wetlands and in promoting development policies that conserve open space.

The enclosed aerial photo (Map #1) shows that the site of the proposed development is located in one of the last remaining open space areas in the northern part of Portland, and thus is an important habitat for wildlife within the city. Wildlife may also pass through the area from the Presumpscot River to the north and to other patches of open space to the south.

Although the stream has been mapped as an intermittent stream, its size and your previous observations suggest that it may in fact be perennial. The stream channel averages 4-6 feet wide (bank to bank) and approximately 18 inches deep. On May 18th the flowing water averaged 2-3 feet wide and 4-6 inches deep, and deeper in the pools. The aerial photographs show there are at least 2 ponds and a forested area upstream that feed the brook. One pond that we visited immediately east of the proposed subdivision, is created by a dam in the brook. It appears that the dam has recently been repaired or enlarged.

Maps indicating that a stream is intermittent or perennial are frequently inaccurate. Based on my experience, given this stream's size it certainly could be perennial. However, it would not be possible to determine this without monitoring through the summer and into fall. Given the uncertain status of the stream, if the City elects not to have the stream monitored for one season it should request a wide buffer rather than the 25-foot minimum allowed for intermittent streams. By stating "...if is truly intermittent" the MDIFW letter to Woodlot Alternatives dated December 10, 2003 also suggests that that the intermittent/perennial determination is not clear. Regardless of the stream's status, the MDIFW letter goes on to say that "our regional buffer policy requests a 100-foot undisturbed buffer along both sides of any stream or stream associated wetlands. Buffers should be measured from the upland-wetland edge of any stream associated wetlands...."


The Natural Resources Protection Act (NRPA) regulates activities within 75 ft. of the stream. Cutting up to 40% of the vegetation within the 75 ft. zone is allowed as long as a "well distributed stand of vegetation" remains. Development, including clearing for yards, would not be allowed unless there is "no practicable alternative." In talking with DEP staff, they note that in most new developments that they review it is possible to find a "practicable alternative." However, because the City of Portland has a full planning department, the DEP will not review the overall project. The only review they will do is if a landowner who purchases a lot wants to build or clear vegetation between 25 feet and 75 feet of the stream (see note 17 on the April 19, 2004 development plan). Clearly, the owners of lots 5, 6, or 7 will have "no practicable alternative" once the plan is approved and the lots are purchased. If the DEP were reviewing the overall project, it is doubtful they would approve lots 5-7 and might require assurances that landowners would not later apply for permits to clear in the 25-75 foot zone on lots 3, 4, 8, and 9, where the building footprint is within 10 feet or so of the 75-foot setback line. In all likelihood the DEP will never see a Permit by Rule application for those lots but the clearing may occur anyway.

Because the DEP will likely only review NRPA Permit by Rule notifications from individual landowners, the City of Portland permit process is the appropriate venue for ensuring that there are adequate buffers for water quality and wildlife. Considering the site's value to wildlife, I believe that a cluster approach to development leaving a wide, natural stream buffer would best be the best way to protect wildlife habitat and water quality while helping to meet the city's growing housing needs.

While a cluster development would minimize wildlife impacts on the site, the City of Portland should also begin developing plans to protect wildlife habitat connectivity throughout the city. The long-term value of this and other areas will be enhanced if wildlife travel corridors are maintained.

Please call if you have any questions.

Sincerely,



Robert R. Bryan  
Forest and Wetland Ecologist

Washington Avenue Storm Drainage Evaluation  
Proposed Ballpark Drive Subdivision

**Objective:**

Comments by the public have identified historic drainage issues along Washington Avenue in the general vicinity of the proposed Ballpark Drive, including overflow of roadside ditches onto Washington Avenue and resultant winter icing problems. The City of Portland Planning Division has requested that the applicant evaluate the nature of these drainage issues and determine what, if anything, needs to be done to address the issues.

**Subject Area**

The area of interest is the east side of Washington Ave from Deering Run Drive to the 3-foot culvert crossing Washington Ave at Lester Drive, as shown on Exhibit 1. From Deering Run Drive to Riverside Street, storm drainage flows in an open roadside ditch, crossing several driveways with 12-inch CMP culverts (see photo 1). At the gravel drive entrance to Haverty Field, the ditch transitions to a closed drainage system with a 12-inch PVC pipe running through three gutter line catch basins (see photos 2 through 8). This closed drain system connects to the 3-foot culvert crossing Washington Ave near Lester Drive, which then discharges to a steep open gully on the west side of Washington Ave (see Exhibit 1). The outlet of the 3-foot culvert is shown in photo 9. The connection of the gutter line drain system to the 3-foot culvert was verified by the performance of a dye test at catch basin 3 by URS on May 21, 2004.

**Analysis**

An evaluation of the ditch, culvert and closed pipe system has been conducted to determine potential problem areas within the system. Stormwater peak runoff rates for the 2, 10, and 25-year storm events were determined. For the open roadside ditch, results are as follows (see Exhibit 2):

- 2-YR 24-HR = 0.45 cfs
- 10-YR 24-HR = 3.9 cfs
- 25-YR 24-HR = 6.1 cfs

The capacity of the 12-inch CMP culvert located at the lower end of the drainage basin is shown on Exhibit 3. This open ditch and driveway culvert system can handle up to approximately a 10-YR storm event (4.5 inches over 24 hours) before overtopping to the road. The primary problem with this system is that the driveway culvert at the driveway directly across from the Riverside Street intersection has both ends crushed and significant debris buildup on the inlet side (see photos 10, 11, and 12), causing stormwater to overflow onto the intersection, as shown on Exhibit 4.

The capacity of the closed drainage system has also been analyzed. At the 12-inch PVC inlet to the closed system, both the Washington Ave drainage basin and the Haverty sub-basin 3



contribute flow to the ditch. As shown in Exhibit 5 and Exhibit 6, the inlet to the closed drain system has a capacity for a 10-year storm event, prior to overflowing to the road. However, contrary to the upper channel that overflows across Washington Ave, the inlet to the closed system would overflow to the road gutter line along the curb to the next catch basin. The drainage overflow would not cross Washington Ave. Presently, this channel transition to the closed drain system is heavily clogged with debris, as shown on photos 2 and 3.

Exhibit 7 illustrates the capacity of the 12-inch PVC closed drain system along the gutter line of Washington Ave. The shallower section, from catch basin CB-1 to CB-2, has a capacity of approximately 6.7 cfs, slightly greater than that required for a 10-year storm event.

Referring back to Exhibit 5, the post-development peak runoff rate from the proposed Ballpark drive, subbasin 3A, will be only slightly greater than the existing flow and does not significantly impact the capacity of the drain system.

### ***Conclusions and Recommendations***

From the analysis presented, the roadside ditch, driveway culverts, and the closed gutter line drainage system along the east side of Washington Ave in the vicinity of Riverside Street have adequate capacity for a 10-year storm event as designed, and is considered adequate. Runoff in excess of a 10-year event, at the point which the open system transitions to a closed system at the location of the proposed Ballpark Drive subdivision, will overflow to the street gutter line and then on to the next catch basin.

Current limitations of this drain system include buildup of debris within the open channel and the first catch basin, and a crushed driveway culvert. The crushed driveway culvert causes ditch overflow to Washington Ave and across to the Riverside Street intersection. Solutions to these problems include the following:

1. More frequent ditch cleaning by the City Public Works Department to keep the culvert entrances and the catch basins clean; and
2. Replacement of the damaged driveway culvert with a new culvert. The culvert length should be extended 5 feet beyond the driveway edge on both sides to minimize the possibility of future damage to the culvert ends. This culvert size could also be increase to a 15-inch, to further reduce the frequency of overflow and force the overflow at significant storm events to occur at the proposed Ballpark Drive entrance, where it will be directed to the street gutter along the curb line and to a catch basin.

**Client Name:**

Margaret Haverty

**Site Location:**

Proposed Ballpark Drive Subdivision

**Project No.**

39459287

**Photo No.**

1

**Date:**

4/04

**Direction Photo Taken:**

south

**Description:**

Roadside ditch and driveway culverts along east side of Washington Ave near Riverside St. intersection.



**Photo No.**

2

**Date:**

5/04


**Direction Photo Taken:**


north

**Description:**

Washington Ave ditch at entrance to closed pipe system at Haverty Field drive.



<b>Client Name:</b> Margaret Haverty		<b>Site Location:</b> Proposed Ballpark Drive Subdivision	<b>Project No.:</b> 39459287
<b>Photo No.:</b> 9	<b>Date:</b> 5/04		
<b>Direction Photo Taken:</b>			
<b>Description:</b> Discharge end of 3-foot culvert crossing Washington Ave.			

<b>Photo No.:</b> 10	<b>Date:</b> 5/04		
<b>Direction Photo Taken:</b>			
<b>Description:</b>			

**Client Name:**

Margaret Haverty

**Site Location:**

Proposed Ballpark Drive Subdivision

**Project No.**

39459287

**Photo No.**  
11

**Date:**  
5/04

**Direction Photo Taken:**

**Description:**

Inlet end of damaged culvert



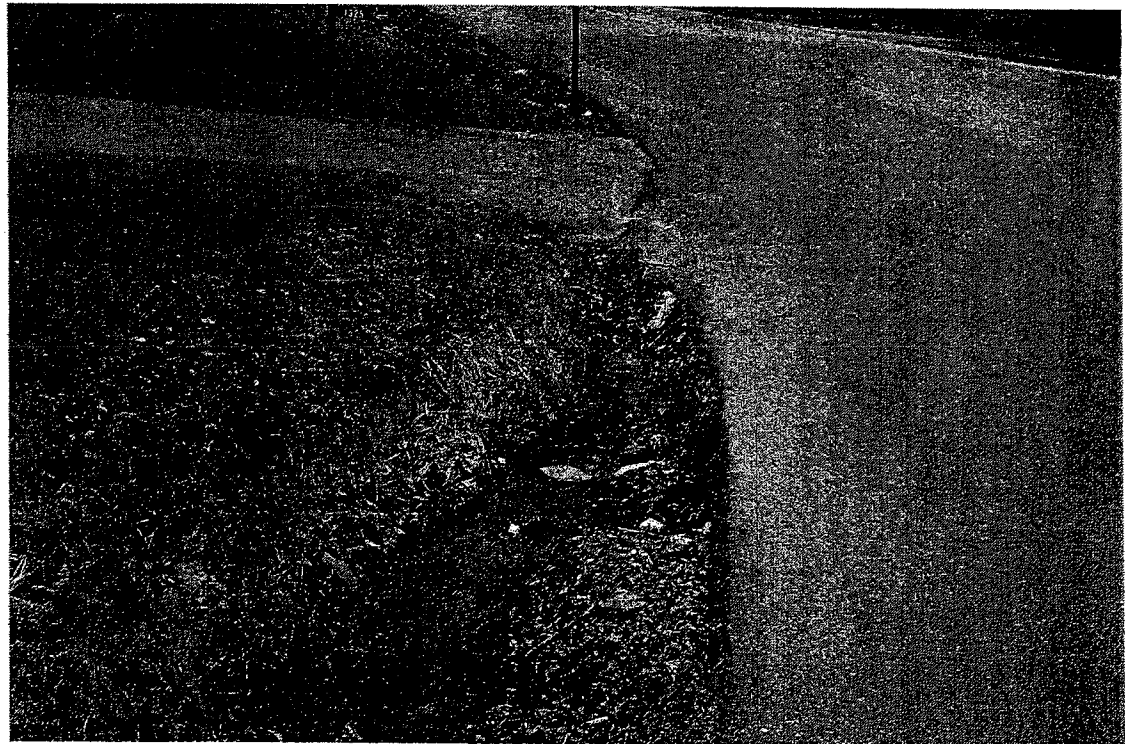
**Photo No.**  
12


**Date:**  
5/04

**Direction Photo Taken:**

**Description:**

Outlet end of damaged culvert





**Intermittent Brook and 36" Culvert Evaluation**  
**Proposed Ballpark Drive Subdivision**

*Objectives*

1. Comments by the public have identified historic drainage/flooding issues associated with the intermittent brook at its discharge point to a 36-inch culvert crossing Washington Avenue. This culvert is also the design point for the proposed Ballpark Drive Subdivision. This evaluation will address existing conditions and recommended improvements for this design point.
2. Address how post-development stormwater runoff will be addressed for the proposed subdivision.

*Watershed Hydrology*

The watershed that contributes to the 36-inch Washington Avenue culvert encompasses approximately 91 acres, the majority of which is wooded with residential development on the fringes. Approximately 21% of this watershed is wooded wetland area and contains two constructed ponds with controlled outlets. The overall watershed conditions are illustrated in the aerial photographs provided in the drainage calculations, Exhibit 1. The proposed Ballpark Drive Subdivision encompasses approximately 18 acres at the bottom of the watershed, immediately adjacent to the design point.

The drainage calculations submitted to the City of Portland in support of the development in April 2004, analyzed the proposed area of development only, focusing on maintaining post-development peak discharge rates at or below pre-development conditions, consistent with the City's *Technical and Design Standards*. This required the use of a detention pond. Comments received from the Planning Board, the public, and the City's outside review engineer raised concerns over the location, construction, and maintenance of this detention pond.

The drainage calculations provided in Exhibit 1 take a broader view of the watershed contributing to the design point to assess conditions at the culvert entrance. The results of this basin-wide analysis show that, since the proposed development area is located immediately adjacent to the design point, the peak flow from the subdivision area, both pre and post-development, occurs approximately one hour before the peak flow from the watershed. This results in the proposed development runoff having no negative impact on the watershed peak flow at the culvert design point (see the results summary in Exhibit 1).

Based on this analysis, a detention pond for the subdivision is not needed to attenuate peak flows. Piped or channelized runoff from the subdivision will be routed through riprap lined outlet plunge pools to eliminate scouring and trap sediment. Additionally, all street catch basins will contain sumps and be located off the main trunk line to trap sediments. The design plans will be revised to illustrate these features.

## *Washington Ave Culvert Capacity*

The location of the design point culvert for the watershed is illustrated on Exhibit 2. The 25-year storm peak discharge rate to this culvert is approximately 60 cfs. This flow is a conservatively high estimate since it does not account for the large percentage of pond and wetland area spread throughout the watershed area. These pond and wetland areas can retain a considerable amount of surface runoff in temporary storage. To bracket the probable range of peak flow for the 25-year storm event, the peak flow has been reduced by a design adjustment factor,  $F_p$  of 0.73. The adjusted peak flow is 43.4 cfs (see Exhibit 3). The culvert capacity, assuming an unobstructed entrance condition and inlet flow control ranges from 43 cfs to 60 cfs, accounting for pond and wetland areas, with headwater depth below the level that would cause yard flooding. Therefore, the culvert in an unobstructed condition has the capacity for a 25-year storm event (see Exhibit 4).

Actual flow conditions at the culvert entrance are obstructed, as shown on the photographs in Exhibit 5. Steel bars have been placed at the culvert entrance, presumably to keep debris from entering the culvert. These bars have trapped twigs and leaves and have resulted in a buildup of sediment at the culvert entrance, blocking the lower half of the culvert. As shown on Exhibit 6, this obstruction at the culvert entrance effectively reduces the capacity of this culvert to 40% capacity.

## *Conclusions and Recommendations*

The characteristics of the watershed are such that the proposed development does not increase the peak flow to the culvert at the watershed outlet. Therefore, a detention pond to reduce peak flow from the development is not warranted. While there will be additional runoff volume (approximately 0.6 acre feet for a 25-year storm), this additional volume does not affect the capacity of downstream structures as it enters the drainage system almost an hour before the watershed peak. Additionally, downstream of the Washington Ave culvert, there is a steep and wide drainage gully bracketed by the railroad and Washington Ave that provides significant storage capacity (see Exhibit 7).

The entrance to Washington Ave culvert is significantly obstructed due to a lack of maintenance. This culvert entrance is located on private property not owned by Margaret Haverty. The City has reported that it does not currently have an easement to maintain this culvert. An improved entrance configuration for this culvert would significantly improve the flow capacity of this culvert. By cleaning out the entrance area to allow unobstructed flow to the culvert entrance, the flow capacity would more than double (comparison of Exhibits 4 and 6). Going one step further and providing a tapered inlet section, would further increase the culvert capacity to approximately 90 cfs, 1.5 to 2 times the capacity of a plain pipe end, and up to 4 times the current obstructed flow capacity. The proposed inlet improvement is shown on Exhibit 9. Access to private property will be required to construct the recommended improvements.

EXHIBIT 3 2/2

**TABLE 7-11** Pond and/or swamp adjustment factors  $(F_p)^a$

(a) Adjustment factors where ponding and swampy areas occur near the design point

Percentage of Ponding and Swampy Area	Storm Frequency (yr)					
	2	5	10	25	50	100
0.2	0.92	0.94	0.95	0.96	0.97	0.98
0.5	0.86	0.87	0.88	0.90	0.92	0.93
1.0	0.80	0.81	0.83	0.85	0.87	0.89
2.0	0.74	0.75	0.76	0.79	0.82	0.86
2.5	0.69	0.70	0.72	0.75	0.78	0.82
3.0	0.66	0.67	0.68	0.72	0.76	0.79
4.0	0.62	0.64	0.65	0.69	0.73	0.76
5.0 or greater	0.59	0.61	0.63	0.67	0.71	0.75

(b) Adjustment factors where ponding and swampy areas are spread throughout the watershed or occur in central parts of the watershed

Percentage of Ponding and Swampy Area	Storm Frequency (yr)					
	2	5	10	25	50	100
0.2	0.94	0.95	0.96	0.97	0.98	0.99
0.5	0.88	0.89	0.90	0.91	0.92	0.94
1.0	0.83	0.84	0.86	0.87	0.88	0.90
2.0	0.78	0.79	0.81	0.83	0.85	0.87
2.5	0.73	0.74	0.76	0.78	0.81	0.84
3.0	0.70	0.72	0.73	0.76	0.78	0.82
4.0	0.67	0.68	0.69	0.75	0.76	0.80
5.0 or greater	0.65	0.66	0.68	0.73	0.75	0.78

(c) Adjustment factors where ponding and swampy areas are located only in upper reaches of the watershed

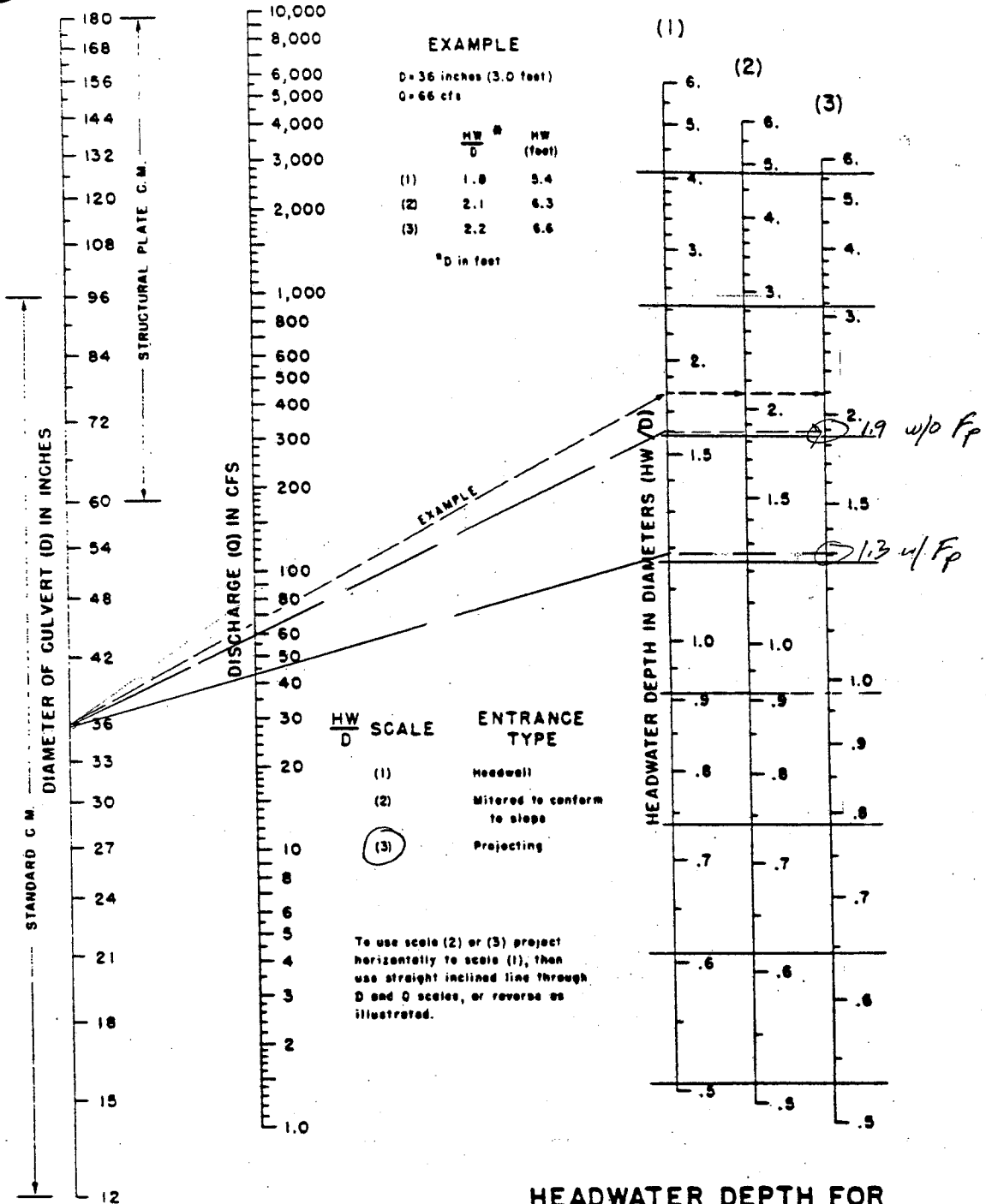
Percentage of Ponding and Swampy Area	Storm Frequency (yr)					
	2	5	10	50	50	100
0.2	0.96	0.97	0.98	0.98	0.99	0.99
0.5	0.93	0.94	0.94	0.95	0.96	0.97
1.0	0.90	0.91	0.92	0.93	0.94	0.95
2.0	0.87	0.88	0.88	0.90	0.91	0.93
2.5	0.85	0.85	0.86	0.88	0.89	0.91
3.0	0.84	0.84	0.85	0.86	0.88	0.90
4.0	0.82	0.82	0.83	0.85	0.87	0.89
5.0 or greater	0.80	0.81	0.82	0.84	0.86	0.88

<sup>a</sup> Do not use these adjustments for a detention basin.

From "HYDROLOGIC ANALYSIS AND DESIGN", RICHARD MCCURTEN, 1989

36" C.M.P. CULVERT CROSSING WASHINGTON AVE  
UNOBSTRUCTED FLOW

○ CHART 2



HEADWATER DEPTH FOR  
C. M. PIPE CULVERTS  
WITH INLET CONTROL

BUREAU OF PUBLIC ROADS JAN. 1963

FOR 60 CFS,  $HW/D = 1.9$ ,  $HW = 5.7'$

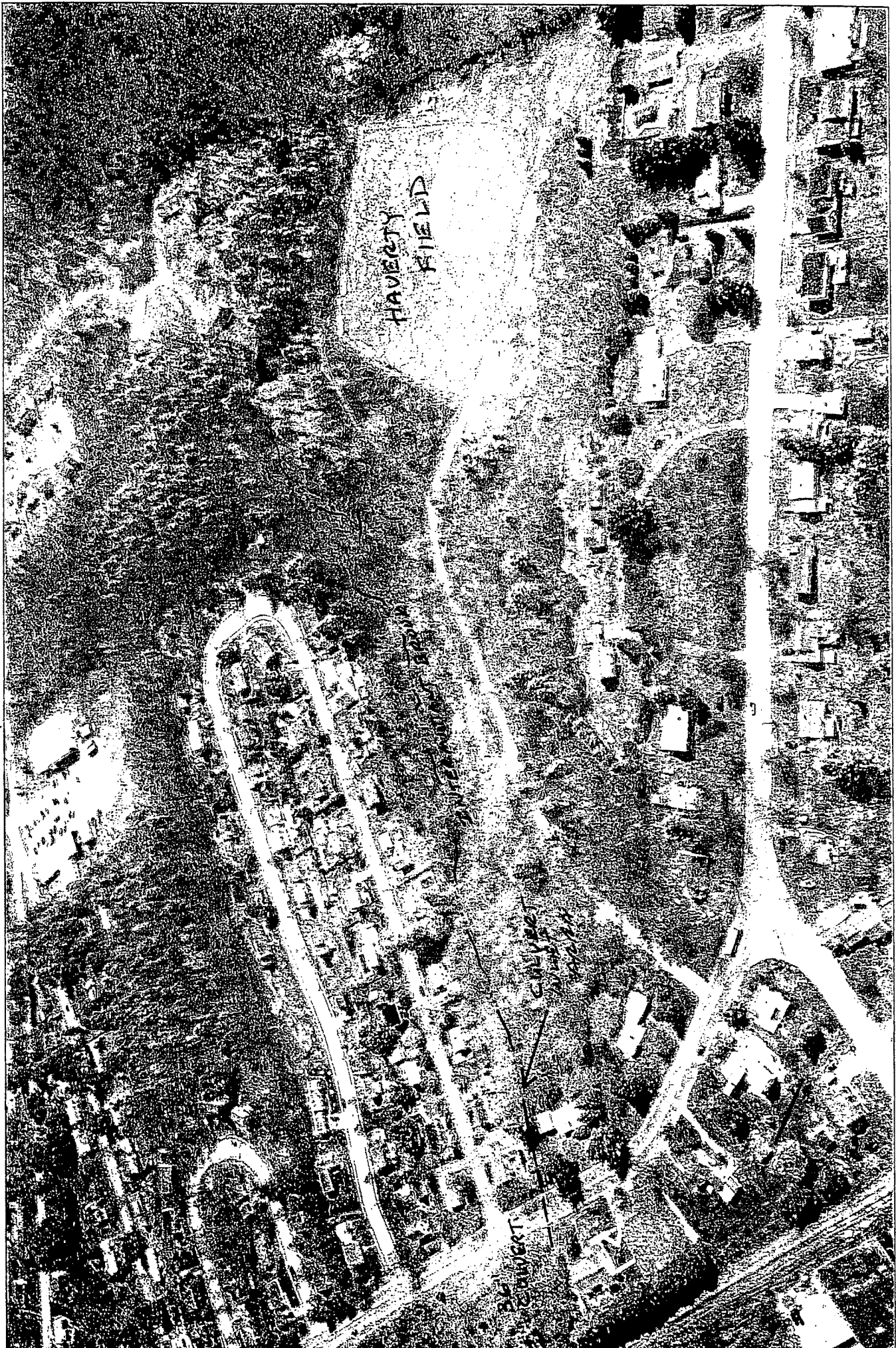
FOR 43 CFS (SWAMP ADJUSTED),  $HW/D = 1.3$ ,  $HW = 3.9'$

AVAILABLE HW  $\approx 6.5'$  ABOVE PIPE INVERT

$\therefore$  CAPACITY  $\approx 25-40$  STORM EVENT

EXHIBIT 4





HAVECTY  
FIELD

BOWEN  
CAMP

EXHIBIT Z

EXISTING HYDROLOGY

All	Basin Model			Reach Routing	Meteorological Model	Control Model		Results												
	Basin Model Name	Loss Rate Curve No.	Transform (Direct Runoff)			Baseflow	Precipitation	Start Time	End Time	Subbasin-1 Peak Discharge (cfs)	Subbasin-2 Peak Discharge (cfs)	Subbasin-3 Peak Discharge (cfs)	Subbasin-4 Peak Discharge (cfs)	Reach 1 (cfs)	Reach 2 (cfs)	Reach 3 (cfs)	Junction 1	Upstream Haverly	Sink (cfs)	sink 1 Vol (ac-ft)
10/27/24	overall prop scs	SCS Curve No.	SCS LAG	None	Kinematic Wave Routing	SCS Type III	1/1/2004 0:00:00 AM	1/2/2004 0:00:00 AM	1.34	0.02	0.23	1.22	0.02	0.25	0.03	9.04	8.34	9.57	31.06	
10/27/24	overall prop scs	SCS Curve No.	SCS LAG	None	Kinematic Wave Routing	SCS Type III	1/1/2003 12:00:00 PM	1/4/2003 12:00:00 PM	5.32	0.65	1.73	4.38	0.65	1.72	40.30	39.65	37.04	42.39	11.80	
10/27/24	overall prop scs	SCS Curve No.	SCS LAG	None	Kinematic Wave Routing	SCS Type III	1/1/2003 12:00:00 PM	1/4/2003 12:00:00 PM	7.59	1.37	2.72	5.12	1.37	2.70	56.97	57.80	53.35	61.99	16.55	

PROPOSED HYDROLOGY

All	Basin Model			Reach Routing	Meteorological Model	Control Model		Results																	
	Basin Model Name	Loss Rate Curve No.	Transform (Direct Runoff)			Baseflow	Precipitation	Start Time	End Time	Subbasin-1A Peak Discharge (cfs)	Subbasin-1B Peak Discharge (cfs)	Subbasin-2 Peak Discharge (cfs)	Subbasin-3A Peak Discharge (cfs)	Subbasin-3B Peak Discharge (cfs)	Subbasin-4 Peak Discharge (cfs)	Junction 1	Junction 2	Reach 1 (cfs)	Reach 2 (cfs)	Reach 3 (cfs)	Reach 4 (cfs)	Reach 5 (cfs)	Upstream Haverly	Sink (cfs)	sink 1 Vol (ac-ft)
10/27/24	overall prop scs	SCS Curve No.	SCS LAG	None	Kinematic Wave Routing	SCS Type III	1/1/2004 0:00:00 AM	1/2/2004 0:00:00 AM	1.38	2.23	0.07	0.65	0.20	1.22	9.04	1.52	0.01	1.50	9.03	0.64	1.52	8.34	9.80	33.00	
10/27/24	overall prop scs	SCS Curve No.	SCS LAG	None	Kinematic Wave Routing	SCS Type III	1/1/2003 12:00:00 PM	1/4/2003 12:00:00 PM	2.69	3.97	0.55	1.70	1.63	4.38	30.69	4.70	0.55	4.25	40.82	1.70	4.25	37.04	42.41	15.1	
10/27/24	overall prop scs	SCS Curve No.	SCS LAG	None	Kinematic Wave Routing	SCS Type III	1/1/2003 12:00:00 PM	1/4/2003 12:00:00 PM	3.30	11.10	1.21	2.24	2.54	6.12	57.80	9.91	1.21	5.77	58.75	2.23	5.81	53.35	61.74	15.28	

SINK - REACH 4 (PROPOSED) = Flow to Culvert Entrance  
for 25-yr storm => 6174 - 2.23 = 5951 (say 60 cfs)

Using a pond & swamp adjustment factor of 0.73, peak discharge reduced to 43.4 cfs



EXHIBIT

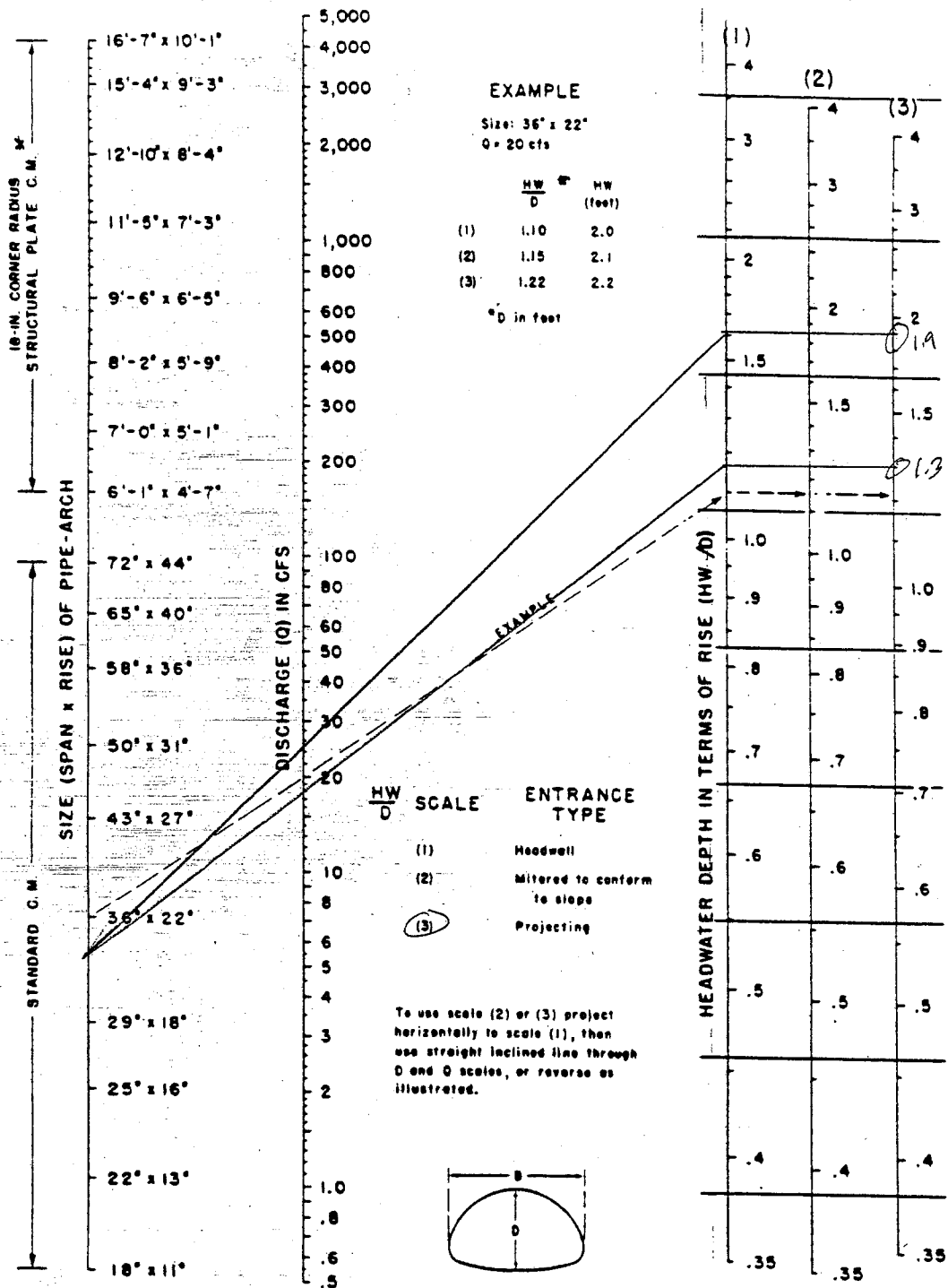


EXHIBIT 5  
2/2

Approximate capacity of 1/2-blocked entrance of 36" CMP  
 For same headwater condition as fully open pipe



CHART 34



Handwritten notes on the chart:  
 1.9 w/o Fp  
 0.13 w/Fp

\*ADDITIONAL SIZES NOT DIMENSIONED ARE LISTED IN FABRICATOR'S CATALOG

BUREAU OF PUBLIC ROADS JAN. 1963

HEADWATER DEPTH FOR C. M. PIPE-ARCH CULVERTS WITH INLET CONTROL

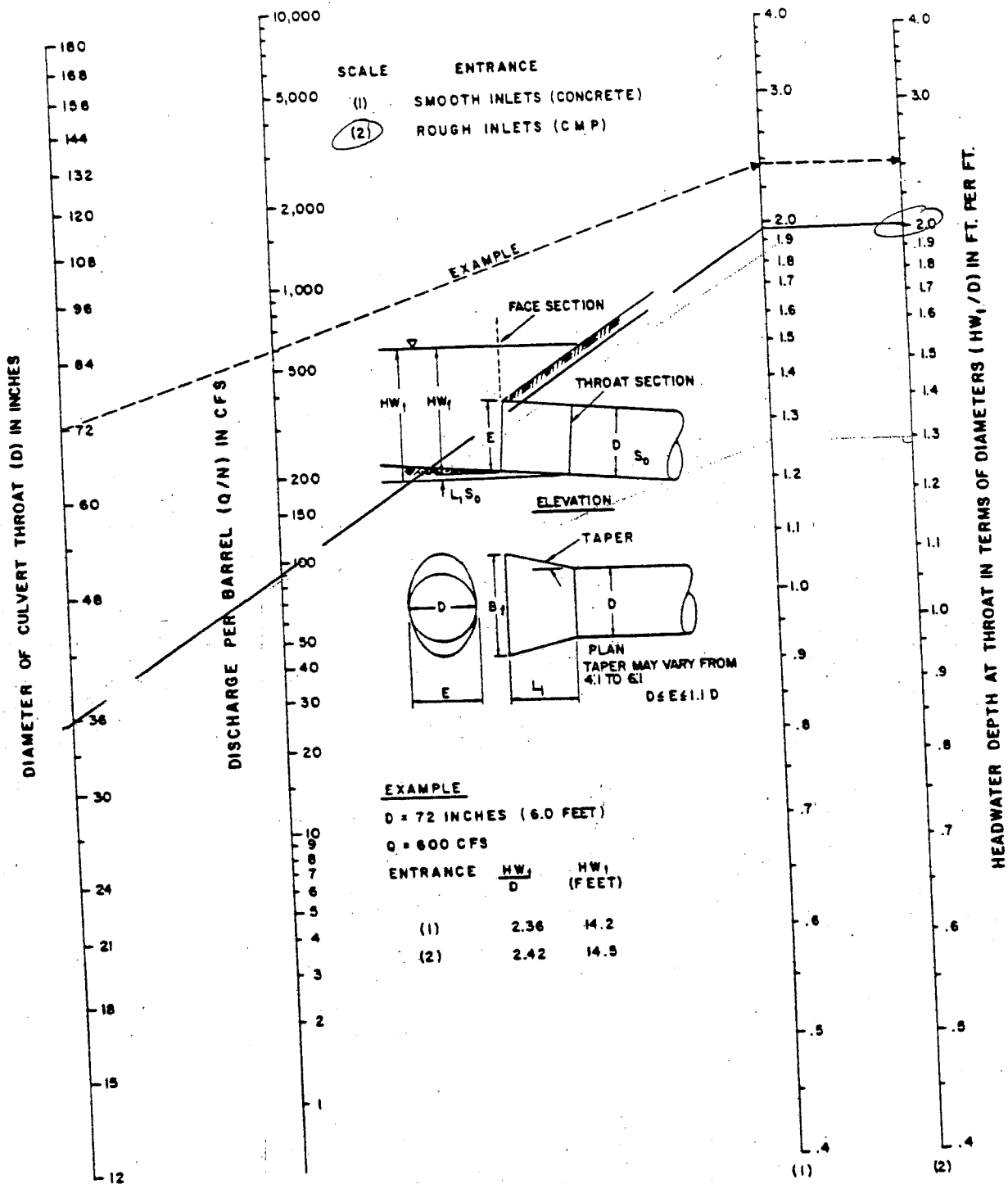
CAPACITY OF OBSTRUCTED 36" 214 CMP CULVERT IS 18-25 cfs, WHICH IS LESS THAN ONE-HALF OF FULLY OPEN CAPACITY.

EXHIBIT 6



# CHART 55

(1) (2)



**EXAMPLE**

D = 72 INCHES (6.0 FEET)

Q = 600 CFS

ENTRANCE	$\frac{HW_1}{D}$	HW <sub>1</sub> (FEET)
(1)	2.36	14.2
(2)	2.42	14.5

**THROAT CONTROL FOR SIDE-TAPERED INLETS TO PIPE CULVERT (CIRCULAR SECTION ONLY)**

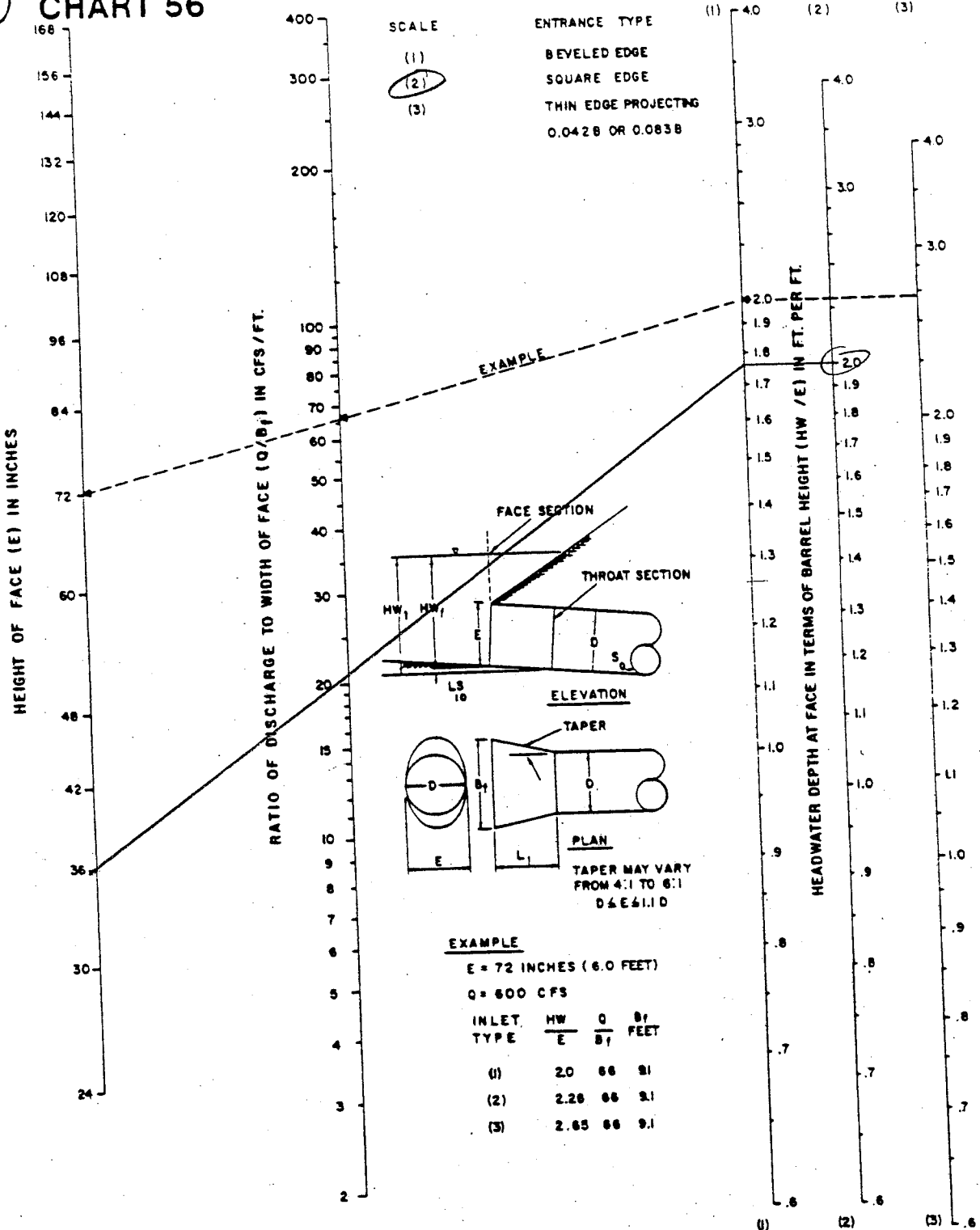
CAPACITY 2,900 CFS

L11

⇒ 1.5 to 2 times capacity of projecting end pipe w/o inlet  
 ⇒ 3.5 to 5 times existing conditions capacity

EXHIBIT 8

# CHART 56



**EXAMPLE**

E = 72 INCHES (6.0 FEET)

Q = 600 CFS

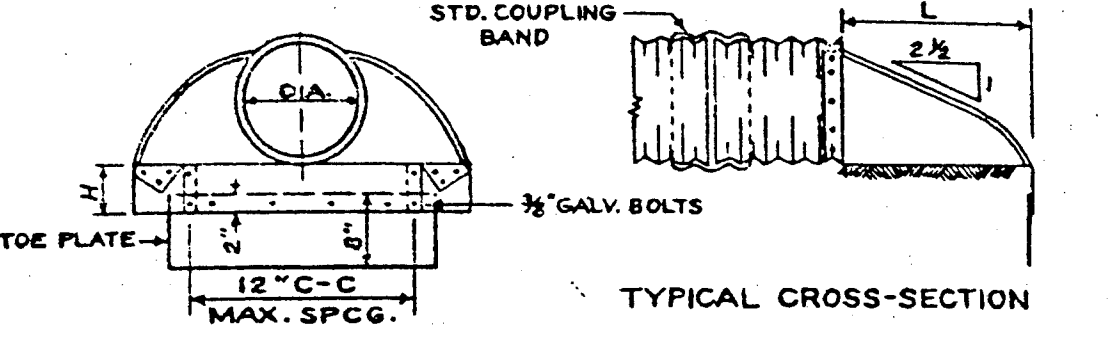
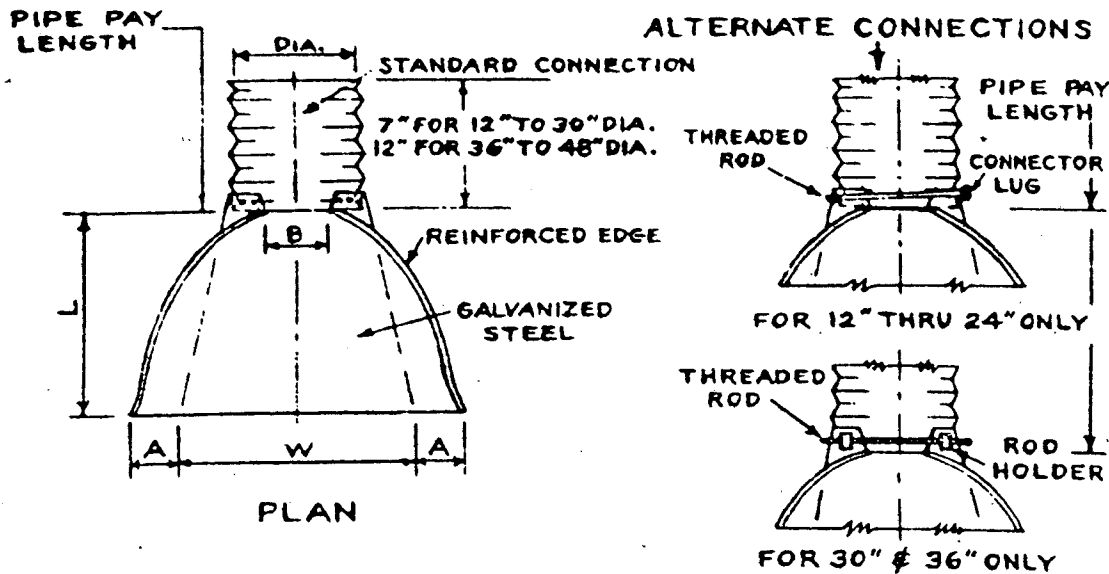
INLET TYPE	HW / E	Q / B <sub>f</sub>	B <sub>f</sub> FEET
(1)	2.0	66	9.1
(2)	2.26	66	9.1
(3)	2.65	66	9.1

FACE CONTROL FOR SIDE-TAPERED INLETS TO PIPE CULVERTS (NON-RECTANGULAR SECTIONS ONLY)

$Q/B_f = 21$   
 $Q = 21 \times 6' = 126 \text{ cfs}$



ALTERNATE CONNECTIONS

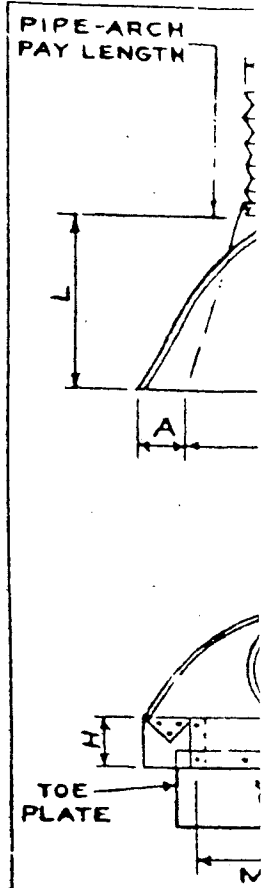


**ELEVATION**

END SECTION FOR 12" TO 30" DIA. PIPE IN ONE PIECE, FOR 36" TO 48" DIA. PIPE TO BE MADE FROM TWO SHEETS JOINED BY RIVETING OR BOLTING ON CENTER LINE.

CONNECTOR SECTION, CORNER PLATE AND TOE PLATE TO BE SAME GAGE AS END SECTION, AND EACH TO BE GALVANIZED.

PIPE DIAM.	GAGE	DIMENSIONS				
		A 1" TOL	B MAX.	H 1" TOL	L 1/4" TOL	W 2" TOL
12"	16	6"	6"	6"	21"	24"
15"	16	7	8	6	26	30
18"	16	8	10	6	31	36
21"	16	9	12	6	36	42
24"	16	10	13	6	41	48
30"	14	12	16	8	51	60
36"	14	14	19	9	60	72
42"	12	16	22	11	69	84
48"	12	18	27	12	78	90



END SECTION 11" TO 27" TO BE M  
31" TO 40" TO BE  
SHEETS JOINED I  
BOLTING ON CEN  
44" TO BE MADE  
SHEETS WITH 12  
CENTER PANEL  
OF PIPE PERIPHI  
RIVETING OR BO  
DISTANCES FROM  
CONNECTOR SECT  
AND TOE PLATE  
AS END SECTION  
GALVANIZED.

APPROVED *D. S. Pearson*  
DESIGN ENGINEER

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS  
**END SECTION FOR  
CORRUGATED STEEL PIPE**

REV. DATE  
1-29-65  
8-18-65  
E. 1-69  
STANDARD  
PLATE  
E. S.  
FOR  
C. S. P.

APPROVED *D. S. Pearson*  
DESIGN ENGINEER

PLATE 1 OF STD. NO. 11

*E. H. O.*

SPECIFICATIONS REFERENCE: SECTION 603

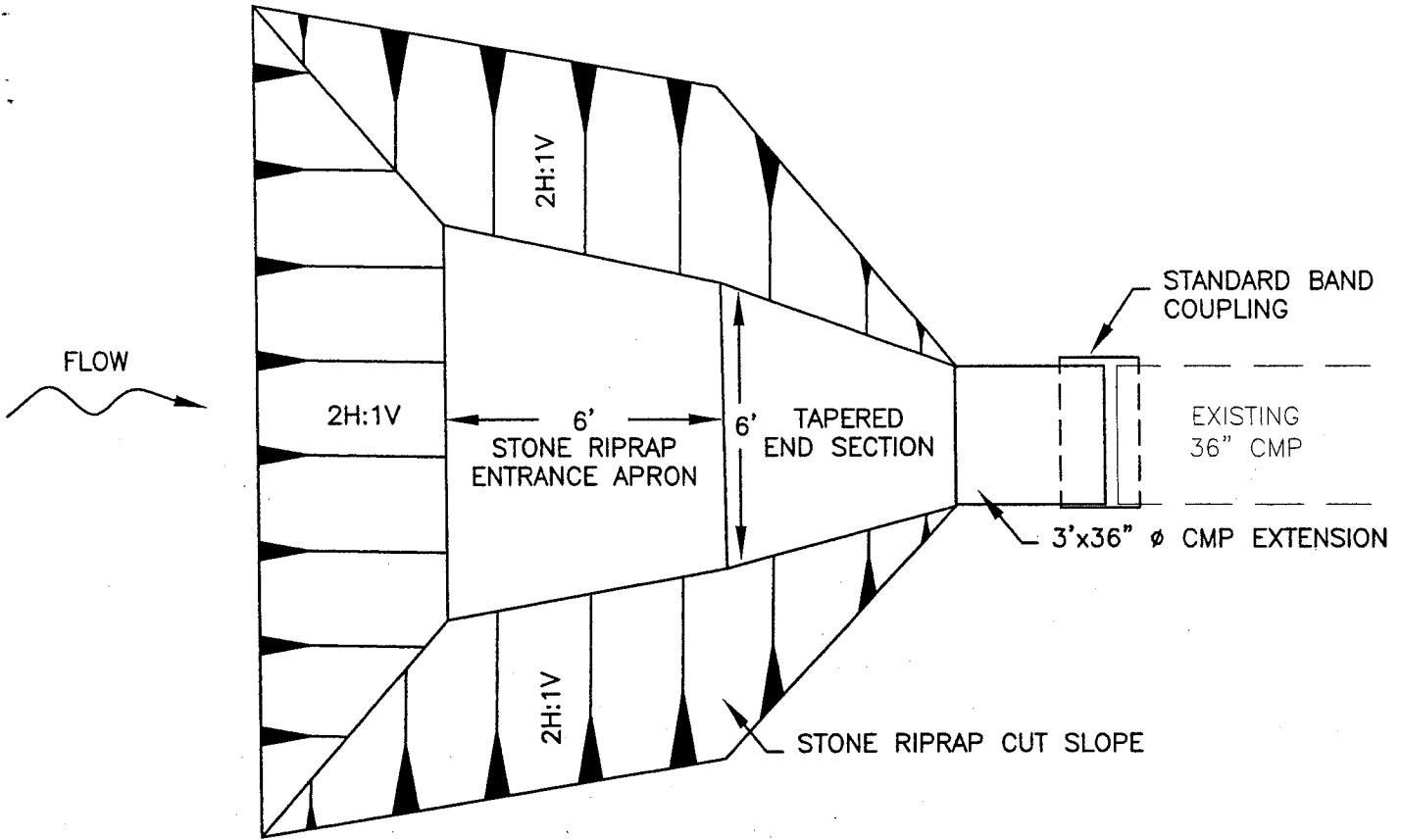
EXHIBIT 8  
3/3



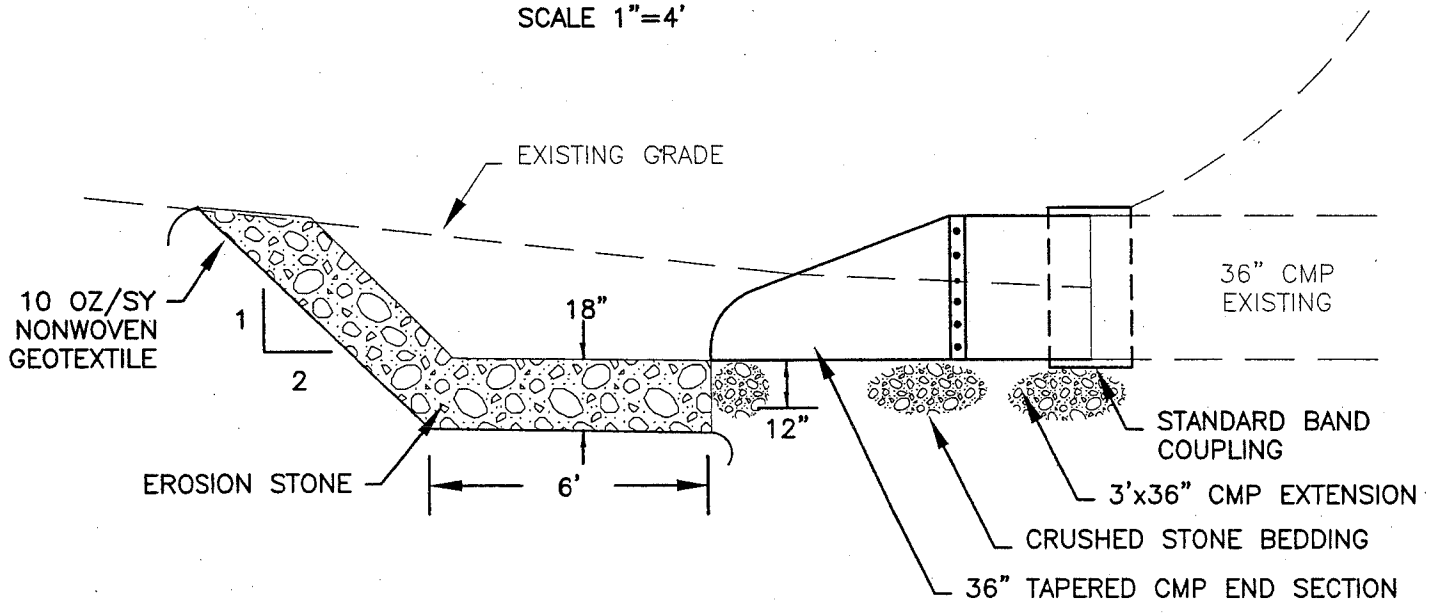
SEE TABLE ON  
PLATE 2 OF 2  
FOR SLOPE

DIAM.	WEIGHT PER SECTION
12"	53
15"	74
18"	99

L13



**36" CMP TAPERED INLET  
INSTALLATION - PLAN VIEW**  
SCALE 1"=4'



**36" CMP TAPERED INLET SECTION DETAIL**  
SCALE 1"=4'

NOTES: EROSION STONE SHALL HAVE A D<sub>50</sub> OF 8 INCHES AND A MAXIMUM STONE SIZE OF 12 INCHES.

L14



URS Corporation  
477 Congress Street, 9th Floor  
Portland, ME 04101-3453  
Tel: 207.879.7686  
Fax: 207.879.7686  
www.urscorp.com

SCALE: AS SHOWN  
DATE: JUNE 2004  
FILE NO: P4032  
DESIGN: TRP  
APPROVED: TRP  
DRAWN: MLS

CLIENT: MARGARET HAVERTY  
PROJECT: BALLPARK DRIVE  
PORTLAND, MAINE  
PROJECT NO: 30459287.06020

TITLE: PROPOSED CULVERT  
ENTRANCE IMPROVEMENTS

DRAWING NO.: 1



June 15, 2004

Mr. Ethan Boxer-Macomber  
Planning Division, City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Additional Traffic Issues Comment Response  
Proposed Ballpark Drive Subdivision ID# 2004-0028**

Dear Mr. Boxer-Macomber:

On behalf of Margaret Haverty and Matt Flaherty, URS Corporation is transmitting herewith the following to address additional traffic comments identified by the City of Portland:

1. Casey & Godfrey Engineers Summary Memorandum dated June 15, 2004;
2. Sight distance photos and plan (previously submitted via e-mail);
3. Washington Ave/Riverside Street intersection photos; and
4. Proposed pedestrian improvements plan.

To address pedestrian concerns, the site developer is proposing to construct a sidewalk and curbing along the east side of Washington Ave from the Ballpark Drive entrance south to the first driveway across from the Riverside Street intersection. This will enable the City to construct cross walks to the island and then to the south side of Riverside Street where there is an existing sidewalk that would require extension to accommodate the cross walk. This sidewalk, combined with future crosswalks, will accommodate pedestrian traffic between the proposed subdivision and Riverside Street as well as contribute towards potential future pedestrian improvements in the general area to address existing pedestrian concerns of local residents. The all-way stop proposed by Casey & Godfrey will address traffic safety issues at the Washington Ave/Riverside Street intersection as well as allow for safer pedestrian crossings. The site developer proposes that the necessary signage and painted stop bars be installed by the City.

Please call if you have any questions regarding this submittal.

Sincerely,  
URS Corporation, Inc.

Thomas R. Plante, P.E.  
Project Manager

Attachments

cc: Matt Flaherty (w/attachments)  
Margaret Haverty (w/attachments)

P:\PROJECT\Haverty\_53359\39459587\_001\Planning Division\Planning Ethan04.doc

URS Corporation  
477 Congress Street, 9th Floor  
Portland, ME 04101  
Tel: 207.879.7686  
Fax: 207.879.7685

(M)



## SUMMARY MEMORANDUM

Consulting  
Engineers

263 Water Street  
Gardiner, ME 04345  
(207) 582-4526  
FAX: (207) 582-8526  
E-mail: cge@ime.net

TO: Mr. Thomas Plante  
URS Corporation  
477 Congress Street, Suite 3A  
Portland, ME 04101

DATE: June 15, 2004

RE: Proposed Haverty Subdivision

This memorandum is written in response to city traffic review comments, prepared by Thomas Errico of Wilbur Smith Associates, and forwarded via email by Ethan Boxer-Macomber, Planner, on May 10, 2004. In addition, a letter prepared by the Lester Drive and Washington Avenue Residents, dated May 19, 2004 was reviewed in regard to traffic issues.

Comments number 2 and 3 of the May 10 Wilbur Smith review are addressed as follows:

2. Comment. Crash data indicates that the nearby intersection of Washington Avenue and Riverside Street is a High Crash Location per MDOT criteria. The applicant should identify strategies that will mitigate the crash patterns identified. While the proposed project will add very little traffic to this intersection, I am concerned about safety in the immediate area of the project access drive.

*Response. This HCL was identified in our traffic study. The standard procedure for analysis and evaluation of a HCL is to prepare a collision diagram to determine if there are any accident patterns or trends, that may indicate a possible correctable safety deficiency. As noted in our study, the collision diagram indicates that there is a pattern of accidents occurring between northbound left-turns onto Riverside and southbound Washington Street vehicles. The field review that we conducted did not identify any deficiencies that would be contributing to this pattern, such as inadequate sight distance for the left turn movement.*

*Two alternatives that could improve safety of the intersection would be to reconfigure the triangular Riverside Street island to a cigar shaped island (to separate entering and exiting traffic) or to implement all-way stop control.*

*A turning movement count was conducted at the intersection on Wednesday June 9, 2004 during the PM peak hour, to determine base volumes. The peak hour was found to occur between 3:30 and 4:40 PM. The count was increased to reflect peak summer volumes using MDOT urban factors. A review of the volumes indicates that Riverside Street has the greater approach volumes. As a result, an all-way stop control analysis was performed. The analysis (which is attached) indicates that the intersection will operate at LOS "C" overall under all-way*

*stop. A review of the intersection indicates that there is a heavily loaded utility pole in the existing triangular island that would be difficult to locate in a cigar shaped island. Given these findings, it is recommended that the intersection be modified to implement all-way stop control to address the existing accident problem. This approach has been found to very effective in reducing accidents at HCL intersections in Maine.*

3. Comment. During my field investigation, pedestrian activity along Washington Avenue was noticeable. The applicant should provide information on how pedestrians will be accommodated from the site and across Washington Street.

*Response. It is understood that the applicant is willing to construct a sidewalk that will extend from the subdivision along the easterly side of Washington Street to Riverside Street. A crosswalk could be provided in the future to safely guide the pedestrians to the existing triangular island and then another across Riverside Street when the existing sidewalk on Riverside Street is extended to the crosswalk location.*

General responses to address the Lester Drive and Washington Avenue Residents letter are listed below:

The speed measurements were taken off-peak as is standard practice to obtain information on speeding and unconstrained flow. During peak hours the traffic flow is much heavier and hence constrained, with less ability to exceed the speed limit. While there may be some issues with speeding, the sample data we collected did not indicate a particular problem. Enforcement is the solution to address any speed issues, which it appears that the city is doing.

Traffic volumes were not originally collected since this project would not be expected to have any significant impact off-site on capacity or operations, given the limited number of trips generated by the subdivision. Additional data was obtained, however, including PM peak hour volumes to evaluate possible improvement options for the intersection of Washington Avenue and Riverside Street.

The residents requested a traffic signal at the intersection of Riverside and Washington Avenue. Based upon a review of the PM peak hour volumes, a traffic signal is not warranted under Warrant 3 – Peak Hour Warrant of the Manual on Uniform Traffic Control Devices (MUTCD), which is usually the easiest of the warrants to meet. Without a warrant, a traffic signal should not be installed, especially with consideration of the LOS “C” that can be obtained under all-way stop control. Based upon this review, a traffic signal is neither warranted or desirable at this intersection.

Other suggestions for improvements or studies that lie beyond the site drive or the intersection of Washington/Riverside, such as speed issues on Summit Street, are beyond the study or impact area for this project. These project or studies, if deemed important or necessary to correct existing deficiencies/problems, should be undertaken by the city as separate studies.

If you have any questions regarding these findings or recommendations, please do not hesitate to call me.



Sincerely,

*Diane W. Morabito*

Diane W. Morabito, P.E. PTOE

M4

Casey & Gourey Engineers

263 Water Street

Gardiner, ME 04345

(207) 582-4526

Riverside & Washington

Portland, Maine

Counter: SAK

Weather: Clear, Sunny

File Name : riversidewash

Site Code : 00007788

Start Date : 06/09/2004

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

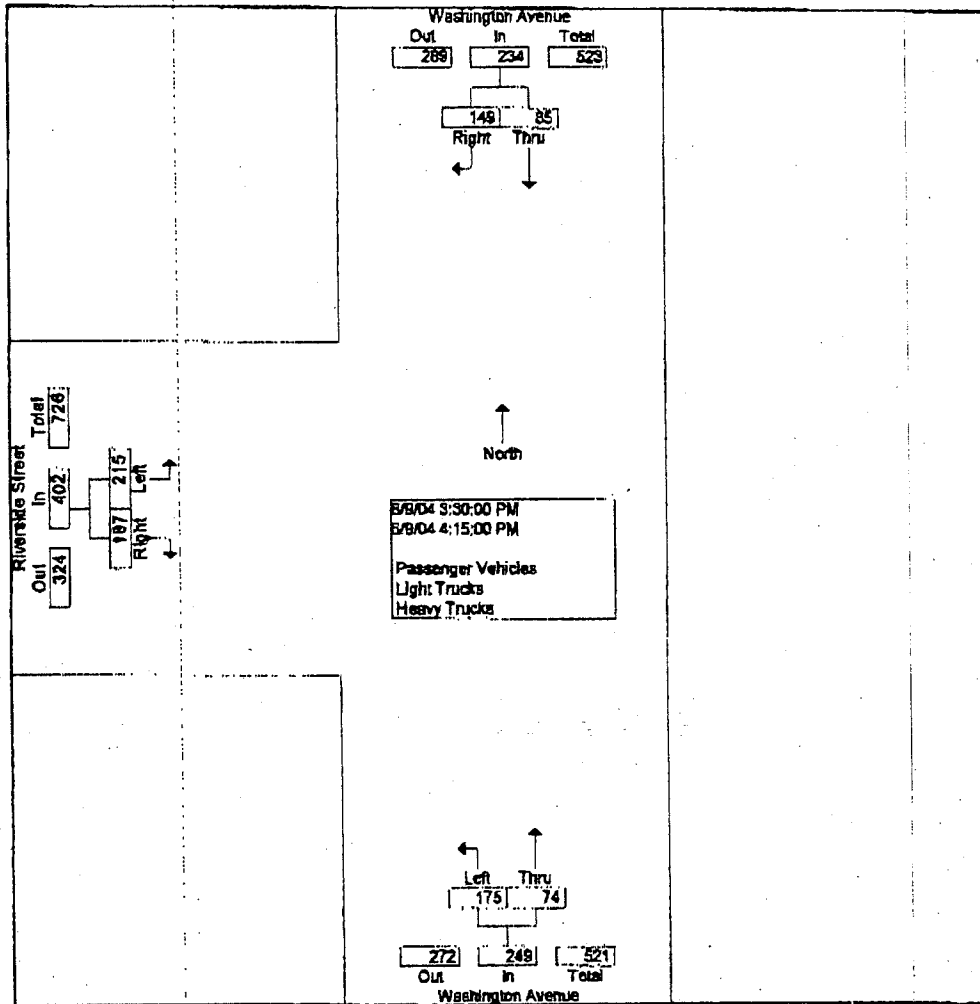
Start Time	Washington Avenue Southbound				Washington Avenue Northbound				Riverside Street Eastbound				Exclu. Total	Inclu. Total	Int. Total
	Right	Thru	Peds	App. Total	Thru	Left	Peds	App. Total	Right	Left	Peds	App. Total			
Factor	1.0	1.0	1.0		1.0	1.0	1.0		1.0	1.0	1.0				
15:00	30	18	0	48	12	26	0	38	36	40	0	76	0	162	162
15:15	25	21	0	46	12	32	0	44	33	43	0	76	0	166	166
15:30	35	24	0	59	22	53	0	75	60	58	0	118	0	252	252
15:45	42	19	0	61	24	45	0	69	39	49	0	88	0	218	218
Total	132	82	0	214	70	156	0	226	168	190	0	358	0	798	798
16:00	30	11	0	41	15	40	0	55	39	46	0	85	0	181	181
16:15	42	31	0	73	13	37	0	50	49	62	0	111	0	234	234
16:30	33	25	0	58	13	36	0	49	68	60	0	128	0	235	235
16:45	35	27	0	62	17	36	0	53	47	52	0	99	0	214	214
Total	140	94	0	234	58	149	0	207	203	220	0	423	0	864	864
17:00	29	19	0	48	15	42	0	57	48	39	0	87	0	192	192
17:15	38	25	0	63	18	40	0	58	49	38	0	87	0	208	208
17:30	40	20	0	60	13	34	0	47	46	35	0	81	0	188	188
Grand Total	379	240	0	619	174	421	0	595	514	522	0	1036	0	2250	2250
Approch %	61.2	38.8			29.2	70.8			49.6	50.4					
Total %	16.8	10.7		27.5	7.7	18.7		26.4	22.8	23.2		46.0	0.0	100.0	

Start Time	Washington Avenue Southbound			Washington Avenue Northbound			Riverside Street Eastbound			Int. Total
	Right	Thru	App. Total	Thru	Left	App. Total	Right	Left	App. Total	
Peak Hour From 15:00 to 17:30 - Peak 1 of 1										
Intersection	15:30									
Volume	149	85	234	74	175	249	187	215	402	885
Percent	63.7	36.3		29.7	70.3		46.5	53.5		
Volume	149	85	234	74	175	249	187	215	402	885
Volume	35	24	59	22	53	75	60	58	118	252
Peak Factor										0.878
High Int.	16:15			15:30			15:30			
Volume	42	31	73	22	53	75	60	58	118	
Peak Factor			0.801			0.830			0.852	

M5

Casey & Gouley Engineers  
263 Water Street  
Gardiner, ME 04345  
(207) 582-4526

File Name : riversidewash  
Site Code : 00007788  
Start Date : 06/09/2004  
Page No : 2





# ALL-WAY STOP CONTROL ANALYSIS

## General Information

Analyst	SAK
Agency/Co.	CGE
Date Performed	6/10/04
Analysis Time Period	3:30 - 4:30

## Site Information

Intersection	Riverside & Washington
Jurisdiction	Portland, ME
Analysis Year	2004

Project ID Existing Year 2004 Riverside St & Washington Ave. All Way St

East/West Street: Riverside Street

North/South Street: Washington Avenue

## Volume Adjustments and Site Characteristics

Approach	Eastbound						Westbound					
	L		T		R		L		T		R	
Volume	225		0		196		0		0		0	
% Thru Left Lane	50						50					

Approach	Northbound						Southbound					
	L		T		R		L		T		R	
Volume	183		77		0		0		89		156	
% Thru Left Lane	50						50					

	Eastbound		Westbound		Northbound		Southbound	
	L1	L2	L1	L2	L1	L2	L1	L2
Configuration	LR				LT		TR	
PHF	0.85				0.83		0.80	
Flow Rate	494				312		305	
% Heavy Vehicles	6				5		10	
No. Lanes	1		0		1		1	
Geometry Group	1		1		1		1	
Duration, T					0.25		1	

## Saturation Headway Adjustment Worksheet

Prop. Left-Turns	0.5				0.7		0.0
Prop. Right-Turns	0.5				0.0		0.6
Prop. Heavy Vehicle	0.1				0.0		0.1
h <sub>L</sub> T-adj	0.2	0.2			0.2	0.2	0.2
h <sub>RT</sub> -adj	-0.6	-0.6			-0.6	-0.6	-0.6
h <sub>HV</sub> -adj	1.7	1.7			1.7	1.7	1.7
h <sub>adj</sub> , computed	5.65				5.65		5.65

## Departure Headway and Service Time

h <sub>d</sub> , initial value	3.20				3.20		3.20	
k, initial	0.44				0.28		0.27	
h <sub>d</sub> , final value	5.65				5.65		5.65	
k, final value	0.77				0.54		0.49	
Move-up time, m	2.0				2.0		2.0	
Service Time	3.6		3.6		3.6		3.6	

## Capacity and Level of Service

	Eastbound		Westbound		Northbound		Southbound	
	L1	L2	L1	L2	L1	L2	L1	L2
Capacity	621				548		555	
Delay	25.34				16.31		14.41	
LOS	D				C		B	
Approach Delay	25.34				16.31		14.41	
LOS	D				C		B	
Intersection Delay	19.80							
Intersection LOS	C							

ICS2000™

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Version 4.1c

M7

**From:** "Tom Errico" <terrico@wilbursmith.com>  
**To:** "Ethan Boxer-Macomber" <EBM@portlandmaine.gov>  
**Date:** 7/12/04 3:08:40 PM  
**Subject:** Ballpark Drive Subdivision

Ethan--

I have reviewed the material contained in the June 15, 2004 submittal prepared by URS and offer the following comments.

1.. I concur with the recommendation to create an all-way stop controlled intersection at the Washington Avenue/Riverside Street intersection. I would suggest that appropriate advance warning signs be provided and the existing stop signs be supplemented with the "all-way" plate.

2.. The proposed crosswalks at the intersection of Washington Avenue and Riverside Street should include pedestrian ADA ramps at all locations.

3.. A sidewalk should be constructed on Riverside Street from the terminus of the crosswalk to the existing sidewalk. The crosswalk should also be shifted such that it is parallel to Washington Avenue, so that the stop line is located as close to Washington Avenue as possible, where motorists would most likely expect to stop.

4.. I find the information provided relative to sight distance to be acceptable and have no further comments.

5.. I would like to note that the City is currently in the process of addressing some existing traffic problems in the area that are not related to this project, nor are expect to be significantly exacerbated by this project. These include the study of traffic calming needs on Summit Street and on Washington Avenue from Riverside Street to Sanborn Street. Additionally, through comments received, the City will initiate a study that will assess truck traffic in the area in identifying necessary actions for improved safety and operations.

If you have any questions or need additional information, please contact me.

Thomas A. Errico, P.E.  
Senior Transportation Engineer  
Wilbur Smith Associates  
59 Middle Street  
Portland, Maine 04101  
(207) 871-1785  
(207) 871-5825 fax

**CC:** "Katherine Earley" <KAS@ci.portland.me.us>



04P028

**TO:** Ethan Macomber Boxer – Planner  
**FROM:** Jim Seymour – Development Review Coordinator, Sebago Technics, Inc.  
**RE:** Ballpark Subdivision – Haverty Estate Property  
**DATE:** ~~February 24, 2003~~ JULY 16, 2004 EBM

Sebago Technics has reviewed a preliminary subdivision plan submittal for Ballpark Subdivision from URS Corporation dated April 2004. It is noted that this applicant has met with staff previously to discuss verbally with staff several issues regarding drainage and utility locations. After reviewing this, we have the following concerns:

**1. Stormwater Management**

- A. Based on the presence of an apparent stream and density of development we feel it will be difficult to detain stormwater. Based on discussions with the engineer, it was determined that given the area of the watershed and the downstream infrastructure, that peak flow from the project site will precede the larger peak flow from the watershed. From that discussion, and based on data submitted it appears that the stormwater standard for quantity can be met without detention. Furthermore it was discussed that the elimination of a pond, will better serve the environment with less soil disturbance, adjacent to the stream.

The necessary component, to facilitate this design was to maintain free flow from the existing 36-inch culvert inlet to the Washington Ave culvert crossing. To accommodate this design the applicant would first need to obtain a drainage easement from the abutting property owner (Murphy) since no rights currently exist to maintain or access the culvert by Haverty. Second they would need to either extend the culvert to reach their property and/or design the culvert with and appropriately size inlet plunge pool.

The current condition of the culvert is very good, but it is subject to much debris and sediment from the stream and adjacent runoff. To maintain clear flow the drainage area will need a drainage easement to provide access for routine cleaning and clearing of debris. A well-designed inlet will eliminate the need for a high frequency of maintenance. To date the current design needs more of a sump or plunge pool design and/or an additional pipe extension has to be shown, though discussions with the City and the abutters has occurred but no legal rights or final design resolution has been agreed.

- B. The Plan and Profile sheet indicates that the proposed catch basins on the right side of the street will be positioned over the existing 16 inch force main. Further more it appears that several light poles will be installed near this existing main as

will the general curb line for the proposed street. Ideally there should be four feet separation between the basins, light bases and 2-3 feet separation from a catch basin structure. This allows for easy access without conflicting future utilities in the case of repairs and emergencies. Unfortunately it appears that the street alignment or ROW alignment should be shifted to avoid such conflicts. Test pits shall be dug at this preliminary stage to determine the exact location if the designer feels the location on the drawings is only approximate. This is not an issue that we feel comfortable resolving after approvals or in the field during construction.

- C. DMH 1 appears to require a larger diameter given the pipe sizes and elevations entering the structure. A five or six foot diameter structure will likely be needed and shall be called for on the plans.
- D. No outlet plunge pool is shown at the outlet end from the DMH-1 pipe. An apron or preferably riprap level spreader should be designed to meet the typical DEP BMP standards for weir length and flow rate.
- E. We see several minor issues with the calculations themselves such as:
  - a. Rainfall data shall use DEP published intensities for Cumberland Co. 2yr=3.0in, 10yr=4.7in, 25yr=5.5in/24hr.
  - b. The maximum sheet flow typically allowed is 150 ft length not 300 ft. This will affect the overall runoff rate at the culvert.
  - c. The area used for Sub-watershed # 1 should not include the sliver of land retained by the owner but should include a portion of the Murphy lot that drains towards the culvert inlet.
  - d. The spillway calculations appear to indicate that the head over the crest is almost 0.4 ft. Typical DEP design parameters require that the flow rate to weir length ratio shall be 0.25cfs/ft, and this design exceeds that rate. The new design eliminates the pond but the same issue should be addressed with the pipe outlet.
- F. The applicants engineer shall determine if the downstream receiving pipes from the Washington Ave/ Riverside street intersection and the proposed entrance exceed the pipe capacity available. Typical design parameters should be that in a 10yr storm the pipe should not be operating above full pipe capacity. The calculations appear to determine that the pipes are already above capacity at this threshold. It appears that a separate outfall could be installed and directs some entrance water along the wetland, which runs parallel with the Boswell and Murphy lots if capacity is an issue. The entrance elevation is 99.0 the elevation in the land retained is as low as 90.0.
- G. All drainage courses either natural or man-made that either cross or originate from the proposed road to the stream shall be marked with a 30-foot wide drainage easement.

**2. Road Access/Circulation**

- A. The access hammerhead turnaround is actually an easement and not a part of the Public Right-of-Way. The future driveway to access off the hammerhead to access the ball field is typically not granted. However, given the seasonal use of the field and proposed gate, an exception can be made.
- B. Who will be responsible for the road care and maintenance prior to City acceptance? Please see the planner for typical notes to be added regarding services required by the developer until said time that the road be publicly accepted.
- C. A wider turning radius needs to be installed on the field access for ball field users, fire trucks and ambulances.
- D. Due to the slopes on the ball field access drive some cuts and ditches will be needed to drain runoff. How will the drainage be directed? How will the entrance be constructed to assure mud tracking and dust, will not get tracked into the City's street?
- E. Due to the heavy vegetation it may be worthwhile to clear around the proposed entrance to assure a higher visibility for cars exiting onto Washington Ave and for Cars traveling north on Washington Ave.
- F. The terminus of Ballpark Drive shall be clearly barricaded, fenced, or guard railed to prevent parking or access into the property at the road end.

**3. Grading/Erosion Control**

- A. Due to the presence of the stream and topography the grading on each lot shall be submitted and approved prior to final approval. Concerns to the degree of clearing and home placement are well founded. Although the MeDEP can issue permits for soil disturbance from 75 feet set back of the stream down to 25 feet, the City Standard designs and Specifications recommends a 100 foot setback from any disturbance. We feel that all homes should not be closer than 75 feet and that in necessary cases that the disturbance be no closer than 50 feet. It should be noted that the applicant has acquired Permit -By rules for soil disturbance under the 75-foot setback. We believe that this is evidence that the stream is substantial enough to preserve some buffers and a varying 75 to 50 foot buffer is adequate and in certain cases exceeds what existing homes on Lester Drive have.
- B. We recommend that a secondary protection of erosion control be used such as a berm of wood chip mix with the silt fence be used along the buffer edge. Also given the sensitivity and typical confusion of where to measure the buffer, we recommend that the buffers be monumented with and iron pin and cap to reference the buffer on each lot.
- C. The uphill side (Lots-16-11) shall protect the road cut during construction from runoff or provide temporary ditches to divert flows during rain events, or higher groundwater flows.

- D. Foundation drain connections will need to be shown on the drawings for each lot. They can tie into the storm drain system or daylight if possible to the stream area.

4. **Utility Installation/Location**

- A. Will sewage be required to be pumped from the houses on lots 1 and 2? It appears that based on existing grades depending how the lot is designed this may be necessary.
- B. Electrical layout will be needed for transformer pads, services and street lighting. Pad locations will need to be shown, due to the tight configuration of housing units. Without esplanades will electric conduits be buried in the opposite shoulder from the sidewalk or outside the sidewalk? If outside the sidewalk a narrow shelf may be needed if there is an associated steep embankment. This could be difficult as if guardrails will be required over such areas.
- C. Sewer capacity letters and water availability letters will be required for the subdivision.
- D. Adequate spacing and trench access will be required for the existing force main traversing the property. The current design has catch basins, curbing, lighting, and underdrain too close to the force main.
- E. What erosion controls will be used on the new ball field driveway?

5. **General**

- A. As development of the site proceeds with more definition of grading so should the particulars in the erosion control plan, especially in sensitive ravine stream/wetland areas?
- B. Offsite road construction details and work within Rights of Way for upgraded and improved pedestrian crossings and drainage are needed.
- C. Landscaping requirements state that each lot will need 2 street trees per the Subdivision Ordinance. A landscaping plan will be needed for review showing species, size, and location.
- D. As part of the subdivision plan, one drawing shall reflect the owner's complete parcel and past and present divisions, to be noted as the recording plat The plat shall require the seal of a State of Maine licensed land surveyor.
- E. The typical cross section of the proposed Ballpark Drive is required to be on the recording plat as well.

6. Details

The following details are needed or require revisions:

- A. Culvert/storm drain outlets, plunge pool and level lipped spreader.
- B. Pavement match detail at Washington Ave intersection.
- C. A Private Driveway detail for the ball field.
- D. Core drilling notes to tie into existing storm Drains and/or catch basins. -
- E. Landscaping details
- F. Lighting Details

Based on the limited plans I hope I have provided adequate comments for discussion. I understand that the applicant will be providing more engineered drawings and information as the general layout becomes agreed upon. I am available only early next week if you have further questions or wish to discuss in more detail.

Please contact me at our office.

JS:js

Department of Planning & Development  
Lee D. Urban, Director



CITY OF PORTLAND

Division Directors  
Mark B. Adelson  
Housing & Neighborhood Services

Alexander Q. Jaegerman, AICP  
Planning

John N. Lufkin  
Economic Development

July 20, 2004

Mrs. Mary Haverty  
67 Haverty's Way  
Portland, ME 04013

RE: Proposed Ballpark Drive Subdivision  
ID #2004-0028, CBL #371 A002001

Dear Mrs. Haverty:

The Planning Division continues to review your application for the Ballpark Drive Subdivision submitted to the city on February 20, 2004. Responding to staff's March 12, 2004 incompleteness letter, you submitted a revised plan set dated April 19, 2004. On April 27, the Planning Board gave the project an initial review, listened to public comment, and provided feedback at a public workshop. On May 6, 2004 you held a required neighborhood meeting and subsequently provided staff with appropriate documentation of that meeting. Through May and June, at staff's request, you have provided additional supporting information, studies, and plans related to traffic, drainage, lot configuration, parking, and wetland protection.

A second workshop before the Planning Board has been scheduled for July 27, 2004 at 3:30 PM. This letter is to summarize the Planning Division's responses to the project based on all submittals received to date.

1. **Stream and Wetland Protection**

The City's Technical And Design Standards address development in and adjacent to wetlands. Section XI(3)C(a) states:

*The development should be designed to avoid disturbance in wetlands and the developer must establish undisturbed buffer strips from the wetland boundary. For developments located adjacent to perennial streams, a minimum one hundred (100) foot buffer strip on either side of the stream should be maintained. For intermittent streams, the buffer strip may be reduced to twenty-five (25) feet.*

At the time the standard was adopted by the City of Portland, it mirrored DEP standards for stream protection. Since then, the DEP's stream buffer standard has been reduced from 100 to 75 feet. However, the City may still require up to a 100 foot no disturbance buffer where appropriate.

Staff from the Planning Division, working closely with the consulting review engineer, the City Engineer, and Public Works Staff, has carefully considered this standard in the review of your application. The public record has been thoroughly reviewed and field visits conducted. Staff has found substantial evidence that the brook and its associated wetland banks are of significant importance to regional drainage and flood control. Furthermore, numerous anecdotal accounts from long-time area residents that the brook runs year round have been supported by staff's field observations though the early summer to present. Based on these findings, staff recommends that the brook be buffered sufficiently to ensure appropriate protection.

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The existing conditions to the north of the brook provide a solid basis for understanding how this particular watercourse / wetland system is impacted by residential development. Several of the properties on the south side of Lester Drive have homes and/or accessory structures sited within 75 feet of the brook. More still have substantial soil disturbance (i.e. back yards) between 0 and 50 feet of the brook. Although these homes were constructed in the 1960s, there is evidence of continued problems with erosion and flooding due to their close proximity to the brook.

After analyzing these findings within the context of the subject site and its specific topography and features, staff recommends that the project adhere to the following standards with regard to the required disturbance buffer along the brook:

- A. A seventy-five (75) foot no disturbance buffer should be established along the south side of the brook. This buffer should prohibit, by deed restriction, not only development, but also soil disturbance in general. This buffer should also apply to all land area North of the brook.
- B. With modifications to the site plan, it may be appropriate to slightly reduce the disturbance buffer for the area currently identified as Lots 5, 6, and 7. This reduction should apply to soil disturbance only and not structures. These three (3) lots may need to be reduced to two (2) with side yards instead of back yards and the road may need to shift to the south in order to achieve adequate building envelopes. In any event, this road shift may be required for other reasons as described in the July 16, 2004 memo from the City's consulting civil engineer (attached).
- C. To help ensure its long-term maintenance, the disturbance buffer should be delineated in the field and identified with wetland buffer markers wherever it crosses a property line.
- D. An appropriate drainage easement along the brook should be granted to the City of Portland.

## 2. Circulation and Parking

At staff's request, you have provided a study of, and recommended improvements to, traffic and pedestrian circulation in the vicinity of the proposed intersection of Ballpark Drive and Washington Avenue. Planning staff and the City's consulting traffic engineer have reviewed this information and conducted independent field studies. Based on this review, staff has developed the following recommendations:

- A. All proposed improvements such as the clearing of sight lines, and installation of sidewalks, curbing, crosswalks, and all-way stop controlled intersection, as presented in your June 15, 2004 submissions, are appropriate except in the following cases where they should be modified or supplemented:
  - i. The proposed Riverside crosswalk should be shifted parallel with Washington Avenue so that the Riverside stop line is as close to Washington as possible.
  - ii. The proposed Riverside crosswalk terminates at a point with no sidewalk. A sidewalk should be constructed to link the crosswalk with the existing sidewalk to the east along Riverside.
  - iii. The proposed crosswalks should feature ADA ramps at all ends.
  - iv. Appropriate advance warning signs should be provided at the approach to the proposed new stop signs on Washington Avenue.
  - v. An "All-Way" plate should be added to the existing stop sign on Riverside.

- B. The approval of the subdivision should be conditioned on the completion of these improvements with the subdivider responsible for associate costs.

You have submitted a conceptual layout plan for the baseball field parking area. The area appears to be large enough to accommodate the estimated +/- 30 cars that arrive at an average game. However, the area is unimproved and parking patterns are undefined. It is unlikely that motorists will instinctively park in the layout presented. Left to their own devices, motorists are likely to make less organized, less efficient use of the space potentially resulting in disorderly circulation, blocked access, soil erosion, and unnecessary parking spillover onto Ballpark Drive. Staff therefore, recommends the following:

- C. The parking area should be delineated and contained with a wooden guard rail fence and wheel stops should be laid to direct motorists into appropriate parking patterns.

### 3. Engineering

The City's consulting civil engineer, Jim Seymour of Sebago Technics, has reviewed all project submissions received to date. Mr. Seymour's comments are summarized in a July 16, 2004 memo, which you will find attached.

- A. Having carefully reviewed Mr. Seymour's July 16, 2004 memo, staff recommends that the project plans be revised and additional submittals be presented as necessary to satisfactorily address all concerns contained within.

### 4. 36-Inch Culvert

The City Engineer, Eric Labelle, has reviewed the project plans and conducted a site visit to inspect the 36-inch drainage culvert on the abutting Murphy property. That culvert receives the brook flows traverse the subject site and channels them under Washington Avenue. Mr. Labelle raised substantive concerns about the culvert whereas (1) it is not designed to City standards and is presently under performing, (2) the culvert is, in part, constructed of corrugated metal pipe (CMP), which will likely require full replacement in the foreseeable future, and (3) the City of Portland does not currently hold a maintenance easement over the culvert.

The proposed subdivision relies on the culvert for the majority of its drainage. Staff therefore recommends that:

- A. The applicant should secure a 30-foot stormdrain maintenance easement across the full northern edge of the Murphy property, to be dedicated to the City of Portland.
- B. The applicant should also be responsible for costs associated with the re-engineering, repair, maintenance, and/or replacement of the CMP culvert now or in the future.

Staff met with Mr. Murphy on July 13, 2004 to discuss the matter of the City's need to hold an easement over the culvert and the eventual improvements that will have to be made. Mr. Murphy was open to discussing the matter with you and your design team.

## 5. Site Plan

The proposed site plan is orderly and generally well planned. The proposed density allows the plan to work while avoiding unreasonable negative impacts on the existing neighborhood. With regard to the site plan, please note the following recommendations:

- A. Lots 5, 6, and 7 should be reconfigured so as to work within the physical bounds of the city street and disturbance buffer as well as the dimensional requirements of the zoning code.
- B. The triangular forms of Lots 10 & 11 are out of character with the neighborhood context and result in quirky yard areas. However, it is apparent that the lots were laid this way out of respect for an existing drainage swale and associated wetland. Even though such a configuration might be discouraged under different circumstances, staff finds that it may be most appropriate in this case. Nevertheless, if an appropriate engineering solution can be found, you may still consider squaring off these lots.
- C. Due to the odd configuration of the site, the proposed Lot 17 is highly irregular in shape. Lot 17 dramatically deviates from the rhythm and pattern of the existing neighborhood and the subdivision of which it is a part. Moreover, large areas of wetland are present on Lot 17. Based on these factors, staff has reservations about recommending approval of lot 17. Please consider these concerns as you continue to develop the site plan. A final recommendation will be made once the conceptual lot-by-lot layout of homes, driveways, and yards has been presented, including finish floor elevations, fill areas, and drainage patterns.
- D. The follow-up wetland study conducted by Woodlot Alternatives in June, 2004 revealed "Wetland 2", which was not mapped or directly referenced in their December, 2003 study. Wetland 2 appears to cover a large percentage of Lot 16. Whereas even prior to this new information Lot 16 seemed questionably narrow, Wetland 2 brings its feasibility into question. As with Lot 17, Please consider this concern as you continue to develop the site plan. A final recommendation will be made once the conceptual lot-by-lot layout of homes, driveways, and yards has been presented, including finish floor elevations, fill areas, and drainage patterns.
- E. As per the subdivision ordinance, the site plan should include a Tree Save Plan. In collaboration with the City Arborist, all trees of significance outside of the disturbance buffer should be field located and shown on the project plans. As each parcel's site plan is developed, trees to be preserved should be identified and so labeled on the plan. Significant trees planned for removal should also be noted on the plan.

## 6. Trail Easement

In order to comply with open space and circulation policies contained in the City's subdivision ordinance and comprehensive plan, you have indicated a willingness to grant an easement for the establishment of permanent public recreation trail across the 22.7-Acre site. Staff understands that you have entered into discussions with Portland Trails and at least one abutting property owner on the matter of establishing a trail easement. Regarding these trail easements, staff recommends that:

- A. Whereas the proposed trail easement would roughly follow an existing City of Portland forcemain easement, the new trail easement should also be held by the City of Portland.
- B. While the precise trail route has yet to be determined, the route should be designed so as to best facilitate an eventual cross-connection between Washington Avenue and Auburn Street and/or Lambert Street.

As always, if you have any questions, please do not hesitate to contact me at 756-8083 or at [ebm@portlandmaine.gov](mailto:ebm@portlandmaine.gov).

Sincerely,

Ethan Boxer-Macomber  
Planner

Attachment: July 16, 2004 Jim Seymour Engineering Comments Memo

CC: Alex Jaegerman, Planning Division Director  
Eric Labelle, City Engineer  
Sarah Hopkins, Development Review Services Manager



September 3, 2004

Mr. Ethan Boxer-Macomber  
Planning Division, City of Portland  
389 Congress Street  
Portland, Maine 04101

**Re: Response to City Comments/Design Revisions  
Proposed Ballpark Drive Subdivision  
ID# 2004-0028**

Dear Mr. Boxer-Macomber:

URS Corporation (URS) has received comments from the City of Portland (City) dated July 20, 2004 as well as comments dated July 16, 2004 from Jim Seymour of Sebago Technics, on behalf of the City. In addition, the Planning Board raised several issues at the Workshop held on July 27, 2004. The purpose of this letter is to provide the City with a response to these comments, on behalf of the applicant Margaret Haverty, as to the disposition of each comment. In general, based on a meeting with the City on Monday, July 26, 2004 and feedback from the Planning Board Workshop held on July 27, 2004, the applicant has agreed to make the necessary changes to address the City's remaining comments. The primary design change has been the relocation of the road and right-of-way 10 feet to the south which increases the stream buffer and puts the existing sewer force main in the middle of the proposed road. The City's comments are shown in italic and bold font, followed by a response to each comment. The revised design plans and supporting documentation are transmitted with this letter.

The current owner of the property is Margaret Haverty. Ms. Haverty plans to convey the entire parcel being subdivided to a newly formed limited liability company, Ballpark Drive Development, LLC, of which the sole member is Margaret Haverty. This conveyance will occur after subdivision approval.

### **Stream and Wetland Protection**

*The City's Technical and Design Standards address development in and adjacent to wetlands. Section XI(3)C(a) states:*

*The development should be designed to avoid disturbance in wetlands and the developer must establish undisturbed buffer strips from the wetland boundary. For developments located adjacent to perennial streams, a minimum one hundred (100) foot buffer strip on either side of the stream should be maintained. For intermittent streams, the buffer strip may be reduced to twenty-five (25) feet.*

*At the time the standard was adopted by the City of Portland, it mirrored DEP standards for stream protection. Since then, the DEP's stream buffer standard has been reduced from 100 to*

URS Corporation  
477 Congress Street, 9th Floor  
Portland, ME 04101  
Tel: 207.879.7686  
Fax: 207.879.7685

(21)

Mr. Ethan Boxer-Macomber  
September 3, 2004  
Page 2 of 15

*75 feet. However, the City may still require up to a 100 foot no disturbance buffer where appropriate.*

*Staff from the Planning Division, working closely with the consulting review engineer, the City Engineer, and Public Works Staff, has carefully considered this standard in the review of your application. The public record has been thoroughly reviewed and field visits conducted. Staff has found substantial evidence that the brook and its associated wetland banks are of significant importance to regional drainage and flood control. Furthermore, numerous anecdotal accounts from long-time area residents that the brook runs year round have been supported by staff's field observations though the early summer to present. Based on these findings, staff recommends that the brook be buffered sufficiently to ensure appropriate protection.*

*The existing conditions to the north of the brook provide a solid basis for understanding how this particular watercourse / wetland system is impacted by residential development. Several of the properties on the south side of Lester Drive have homes and/or accessory structures sited within 75 feet of the brook. More still have substantial soil disturbance (i.e. back yards) between 0 and 50 feet of the brook. Although these homes were constructed in the 1960s, there is evidence of continued problems with erosion and flooding due to their close proximity to the brook.*

*After analyzing these findings within the context of the subject site and its specific topography and features, staff recommends that the project adhere to the following standards with regard to the required disturbance buffer along the brook:*

- A. A seventy-five (75) foot no disturbance buffer should be established along the south side of the brook. This buffer should prohibit, by deed restriction, not only development, but also soil disturbance in general. This buffer should also apply to all land area north of the brook.*
- B. With modifications to the site plan, it may be appropriate to slightly reduce the disturbance buffer for the area currently identified as Lots 5, 6, and 7. This reduction should apply to soil disturbance only and not structures. These three (3) lots may need to be reduced to two (2) with side yards instead of back yards and the road may need to shift to the south in order to achieve adequate building envelopes. In any event, this road shift may be required for other reasons as described in the July 16, 2004 memo from the City's consulting civil engineer (attached).*
- C. To help ensure its long-term maintenance, the disturbance buffer should be delineated in the field and identified with wetland buffer markers wherever it crosses a property line.*

***D. An appropriate drainage easement along the brook should be granted to the City of Portland.***

Response: URS and the applicant have further reviewed this issue and believe that a 75-foot buffer for buildings is appropriate for this site and compliant with all City regulations. A more detailed discussion on this topic is provided in the *75-Foot Stream Buffer Justification* narrative in Appendix A. Additionally, the road has been moved to the south by 10 feet to achieve this buffer in all lots. Only one lot, Lot 6, will require a slight encroachment (less than 400 square feet) for a retaining wall to allow for a reasonably level building site, to delineate the landscaped yard limits, and the limit potential future encroachment by landscaping activity in the buffer zone.

These comments have been addressed in the revised design plan set.

**Circulation and Parking**

*At staff's request, you have provided a study of, and recommended improvements to, traffic and pedestrian circulation in the vicinity of the proposed intersection of Ballpark Drive and Washington Avenue. Planning staff and the City's consulting traffic engineer have reviewed this information and conducted independent field studies. Based on this review, staff has developed the following recommendations:*

- A. *All proposed improvements such as the clearing of sight lines, and installation of sidewalks, curbing, crosswalks, and all-way stop controlled intersection, as presented in your June 15, 2004 submissions, are appropriate accept in the following cases where they should be modified or supplemented:*
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  - ii. *The proposed Riverside crosswalk terminates at a point with no sidewalk. A sidewalk should be constructed to link the crosswalk with the existing sidewalk to the east along Riverside.*
  - iii. *The proposed crosswalks should feature ADA ramps at all ends.*
  - iv. *Appropriate advance warning signs should be provided at the approach to the proposed new stop signs on Washington Avenue.*
  - v. *An "All-Way" plate should be added to the existing stop sign on Riverside.*
  
- B. *The approval of the subdivision should be conditioned on the completion of these improvements with the subdivider responsible for associate costs.*

Mr. Ethan Boxer-Macomber  
September 3, 2004  
Page 4 of 15

Response: See Sheet 10 of the design plans for the Pedestrian Improvements Plan addressing these comments.

*You have submitted a conceptual layout plan for the baseball field parking area. The area appears to be large enough to accommodate the estimated +/- 30 cars that arrive at an average game. However, the area is unimproved and parking patterns are undefined. It is unlikely that motorists will instinctively park in the layout presented. Left to their own devices, motorists are likely to make less organized, less efficient use of the space potentially resulting in disorderly circulation, blocked access, soil erosion, and unnecessary parking spillover onto Ballpark Drive. Staff therefore, recommends the following:*

- C. The parking area should be delineated and contained with a wooden guard rail fence and wheel stops should be laid to direct motorists into appropriate parking patterns.*

Response: The Haverty's are planning to regrade and improve the gravel surface of the ballfield parking area and install appropriate guardrail and boulders to better delineate the parking limits. These improvements are shown on the design plans. Wheel stops are generally not appropriate for gravel parking areas, especially with the use of guard rails and boulders to delineate the limits of the parking area. Should parking become a problem with the proposed improvements, the applicant will consider the use of "Head in Parking Only" signs, used telephone poles, or other appropriate means to further delineate a more orderly parking arrangement.

## Engineering

*The City's consulting civil engineer, Jim Seymour of Sebago Technics, has reviewed all project submissions received to date. Mr. Seymour's comments are summarized in a July 16, 2004 memo, which you will find attached.*

- A. Having carefully reviewed Mr. Seymour's July 16, 2004 memo, staff recommends that the project plans be revised and additional submittals be presented as necessary to satisfactorily address all concerns contained within.*

Response: Jim Seymour's comments are addressed later in this letter.

## 36-Inch Culvert

*The City Engineer, Eric Labelle, has reviewed the project plans and conducted a site visit to inspect the 36-inch drainage culvert on the abutting Murphy property. That culvert receives the brook flows traverse the subject site and channels them under Washington Avenue. Mr.*





Mr. Ethan Boxer-Macomber  
September 3, 2004  
Page 5 of 15

*Labelle raised substantive concerns about the culvert whereas (1) it is not designed to City standards and is presently under performing, (2) the culvert is, in part, constructed of corrugated metal pipe (CMP), which will likely require full replacement in the foreseeable future, and (3) the City of Portland does not currently hold a maintenance easement over the culvert.*

*The proposed subdivision relies on the culvert for the majority of its drainage. Staff therefore recommends that:*

- A. The applicant should secure a 30-foot storm drain maintenance easement across the full northern edge of the Murphy property, to be dedicated to the City of Portland.*
- B. The applicant should also be responsible for costs associated with the re-engineering, repair, maintenance, and/or replacement of the CMP culvert now or in the future.*

*Staff met with Mr. Murphy on July 13, 2004 to discuss the matter of the City's need to hold an easement over the culvert and the eventual improvements that will have to be made. Mr. Murphy was open to discussing the matter with you and your design team.*

Response: The applicant has reached an agreement with Mr. Murphy to convey a piece of land to Mr. Murphy in exchange for Mr. Murphy granting a drainage easement to the City and to Margaret Haverty for the culvert to Washington Ave. This agreement will be executed upon the City's approval of the subdivision plan.

URS has inspected the 36-inch culvert by video inspection, as requested by the City. A copy of the video has been provided to the City and it shows the culvert to be in excellent shape, including the corrugated metal portion. The City has required that the applicant design and pay for the future replacement of the corrugated metal portion of this culvert, to upgrade it to City Standards. Appendix B contains a design plan and cost estimate for this culvert upgrade. The applicant's intent is to provide the City a check to cover the costs of this future replacement, prior to City acceptance of the road. The design includes an inlet sediment trap as requested by the City. The design focused on minimizing the impact to the brook and wetlands, rather than providing a large riprap sediment trap that would cover much of the easement width. As such, the construction by the City should be exempt from NRPA since it is maintenance or replacement of an existing utility. It also avoids extending the pipe which would require extensive brook and wetland fill, requiring DEP permitting. Given the City's and neighborhood concerns over impacts to the brook and water quality by the subdivision, extensive construction was avoided. This should also be more acceptable to the property owner, Mr. Murphy.

Mr. Ethan Boxer-Macomber  
September 3, 2004  
Page 6 of 15

## Site Plan

*The proposed site plan is orderly and generally well planned. The proposed density allows the plan to work while avoiding unreasonable negative impacts on the existing neighborhood. With regard to the site plan, please note the following recommendations:*

- A. Lots 5, 6, and 7 should be reconfigured so as to work within the physical bounds of the city street and disturbance buffer as well as the dimensional requirements of the zoning code.*
- B. The triangular forms of Lots 10 & 11 are out of character with the neighborhood context and result in quirky yard areas. However, it is apparent that the lots were laid this way out of respect for an existing drainage swale and associated wetland. Even though such a configuration might be discouraged under different circumstances, staff finds that it may be most appropriate in this case. Nevertheless, if an appropriate engineering solution can be found, you may still consider squaring off these lots.*

Response: The road has been moved south and the lot lines reconfigured to keep all building footprints out of the 75-foot buffer.

- C. Due to the odd configuration of the site, the proposed Lot 17 is highly irregular in shape. Lot 17 dramatically deviates from the rhythm and pattern of the existing neighborhood and the subdivision of which it is a part. Moreover, large areas of wetland are present on Lot 17. Based on these factors, staff has reservations about recommending approval of lot 17. Please consider these concerns as you continue to develop the site plan. A final recommendation will be made once the conceptual lot-by-lot layout of homes, driveways, and yards has been presented, including finish floor elevations, fill areas, and drainage patterns.*

Response: The Lot 17 shown on prior plans has been eliminated and a portion of this land is planned to be conveyed to Murphy in exchange for a drainage easement. The remainder has been added to the proposed Lot 1.

- D. The follow-up wetland study conducted by Woodlot Alternatives in June, 2004 revealed "Wetland 2", which was not mapped or directly referenced in their December, 2003 study. Wetland 2 appears to cover a large percentage of Lot 16. Whereas even prior to this new information Lot 16 seemed questionably narrow, Wetland 2 brings its feasibility into question. As with Lot 17, please consider this concern as you continue to develop the site plan. A final recommendation will be made once the conceptual lot-by-lot layout of homes, driveways, and yards has*

Mr. Ethan Boxer-Macomber  
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*been presented, including finish floor elevations, fill areas, and drainage patterns.*

Response: The wetland on Lot 16 was apparently created by the installation of the gravel road when the force main was installed by the City and obstructions in the drainage paths by old soil piles. The wetland delineation noted that this wetland was significantly disturbed in its current state and has little functional value. This wetland will likely be drained as a result of road underdrain construction. The Maine DEP has approved an application to fill this wetland as part of the subdivision construction.

- E. As per the subdivision ordinance, the site plan should include a Tree Save Plan. In collaboration with the City Arborist, all trees of significance outside of the disturbance buffer should be field located and shown on the project plans. As each parcel's site plan is developed, trees to be preserved should be identified and so labeled on the plan. Significant trees planned for removal should also be noted on the plan.*

Response: Outside of the 75-foot buffer, much of the tree growth is fairly recent (40 years old or less). This is apparent of the force main design plan that shows the property as open fields in 1964. The design plans include a requirement that the City arborist be consulted during the preparation of individual lot site plans.

### Trail Easement

*In order to comply with open space and circulation policies contained in the City's subdivision ordinance and comprehensive plan, you have indicated a willingness to grant an easement for the establishment of permanent public recreation trail across the 22.7-Acre site. Staff understands that you have entered into discussions with Portland Trails and at least one abutting property owner on the matter of establishing a trail easement. Regarding these trail easements, staff recommends that:*

- A. Whereas the proposed trail easement would roughly follow an existing City of Portland force main easement, the new trail easement should also be held by the City of Portland.*
- B. While the precise trail route has yet to be determined, the route should be designed so as to best facilitate an eventual cross-connection between Washington Avenue and Auburn Street and/or Lambert Street.*

Response: Discussions with the City and Portland Trails are ongoing. A 10-foot wide trail easement following an existing trail to the north of the ballfield will be established. This

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easement will connect the proposed Ballpark Drive with the force main easement as it leaves the Haverty property. This may facilitate potential future trail access to Auburn Street across abutter property, should the City obtain appropriate easement rights.

Additionally, the applicant plans to dedicate 5 acres as open space/conservation land around the brook and wetlands such that it is never developed, either through a conservation easement or conveyance to a qualified land trust.

### Sebago Technics Review Comments

#### I. Stormwater Management

- A. *Based on the presence of an apparent stream and density of development we feel it will be difficult to detain stormwater. Based on discussions with the engineer, it was determined that given the area of the watershed and the downstream infrastructure, that peak flow from the project site will precede the larger peak flow from the watershed. From that discussion, and based on data submitted, it appears that the stormwater standard for quantity can be met without detention. Furthermore it was discussed that the elimination of a pond, will better serve the environment with less soil disturbance, adjacent to the stream.*

*The necessary component, to facilitate this design was to maintain free flow from the existing 36-inch culvert inlet to the Washington Ave culvert crossing. To accommodate this design the applicant would first need to obtain a drainage easement from the abutting property owner (Murphy) since no rights currently exist to maintain or access the culvert by Haverty. Second they would need to either extend the culvert to reach their property and/or design the culvert with and appropriately size inlet plunge pool.*

*The current condition of the culvert is very good, but it is subject to much debris and sediment from the stream and adjacent runoff. To maintain clear flow the drainage area will need a drainage easement to provide access for routine cleaning and clearing of debris. A well-designed inlet will eliminate the need for a high frequency of maintenance. To date the current design needs more of a sump or plunge pool design and/or an additional pipe extension has to be shown, though discussions with the City and the abutters has occurred but no legal rights or final design resolution has been agreed.*

Response: See Appendix B. Design complies with this requirement.

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- B.** *The Plan and Profile sheet indicates that the proposed catch basins on the right side of the street will be positioned over the existing 16 inch force main. Further more it appears that several light poles will be installed near this existing main as will the general curb line for the proposed street. Ideally there should be four feet separation between the basins, light bases and 2-3 feet separation from a catch basin structure. This allows for easy access without conflicting future utilities in the case of repairs and emergencies. Unfortunately it appears that the street alignment or ROW alignment should be shifted to avoid such conflicts. Test pits shall be dug at this preliminary stage to determine the exact location if the designer feels the location on the drawings is only approximate. This is not an issue that we feel comfortable resolving after approvals or in the field during construction.*

Response: Test pits have been excavated and the force main located by survey. The road has also been shifted south to keep the force main within the paved road limits per the City's request. The exception is along Lot 16 to allow for an acceptable lot configuration, as discussed with the City.

- C.** *DMH 1 appears to require a larger diameter given the pipe sizes and elevations entering the structure. A five or six foot diameter structure will likely be needed and shall be called for on the plans.*

Response: See revised plans for drainage revisions.

- D.** *No outlet plunge pool is shown at the outlet end from the DMH-1 pipe. An apron or preferably riprap level spreader should be designed to meet the typical DEP BMP standards for weir length and flow rate.*

Response: An outlet plunge pool and riprap lined channel to a natural channel has been designed. A level spreader was not designed as the soil types and the forest litter cover in the discharge area were not acceptable conditions for sheet flow discharge to the stream buffer. For a 4 cfs discharge to a wooded buffer with scattered vegetation and leaf litter, 100 feet of level spreader is recommended for each 1 cfs of flow to a maximum of 300 feet. This type of stormwater management practice is not appropriate for this site.

- E.** *We see several minor issues with the calculations themselves such as:*

- a.** *Rainfall data shall use DEP published intensities for Cumberland Co.  
2yr=3.0in, 10yr=4.7in, 25yr=5.5in/24hr.*

Response: Comment addressed. See Appendix C for drainage calculations.

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- b. The maximum sheet flow typically allowed is 150 ft length not 300 ft. This will affect the overall runoff rate at the culvert.*

Response: Comment addressed.

- c. The area used for Sub-watershed # 1 should not include the sliver of land retained by the owner but should include a portion of the Murphy lot that drains towards the culvert inlet.*

Response: Comment addressed.

- d. The spillway calculations appear to indicate that the head over the crest is almost 0.4 ft. Typical DEP design parameters require that the flow rate to weir length ratio shall be 0.25cfs/ft, and this design exceeds that rate. The new design eliminates the pond but the same issue should be addressed with the pipe outlet.*

Response: Comment addressed. Drainage design revised.

- F. The applicants engineer shall determine if the downstream receiving pipes from the Washington Ave/Riverside street intersection and the proposed entrance exceed the pipe capacity available. Typical design parameters should be that in a 10-yr storm the pipe should not be operating above full pipe capacity. The calculations appear to determine that the pipes are already above capacity at this threshold. It appears that a separate outfall could be installed and directs some entrance water along the wetland, which runs parallel with the Boswell and Murphy lots if capacity is an issue. The entrance elevation is 99.0 the elevation in the land retained is as low as 90.0.*

Response: Comment addressed. As shown in the design calculations (Appendix C), the Washington Ave drainage can sufficiently accommodate a 10-year storm event, except for a capacity limiting driveway culvert just south of Lot 16. A new culvert is proposed at this driveway to eliminate this capacity problem. This, however, allows more flow through the lower portion of the Washington Ave system, where there is a slope limited section that would overtop the catch basin during a 10-year storm event. There is a second catch basin along the same gutter approximately 50 feet north which discharges separately to the brook west of Washington Ave that will accept this overflow and avoid ponding of Washington Ave. Additionally, the subdivision roadway drainage design has reduced the flow from the site to the Washington Ave drain as compared to existing conditions for the 10 and 25 year storm events by routing as much flow as possible to the brook and the 36-inch culvert.

Mr. Ethan Boxer-Macomber  
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- G. *All drainage courses either natural or man-made that either cross or originate from the proposed road to the stream shall be marked with a 30-foot wide drainage easement.*

Response: Comment addressed in design plans.

## 2. Road Access/Circulation

- A. *The access hammerhead turnaround is actually an easement and not a part of the Public Right-of-Way. The future driveway to access off the hammerhead to access the ball field is typically not granted. However, given the seasonal use of the field and proposed gate, an exception can be made.*
- B. *Who will be responsible for the road care and maintenance prior to City acceptance? Please see the planner for typical notes to be added regarding services required by the developer until said time that the road be publicly accepted.*

Response: Note added to plans.

- C. *A wider turning radius needs to be installed on the field access for ball field users, fire trucks and ambulances.*

Response: A 30-foot radius for the edge of traveled way has been used for the turnaround.

- D. *Due to the slopes on the ball field access drive some cuts and ditches will be needed to drain runoff. How will the drainage be directed? How will the entrance be constructed to assure mud tracking and dust, will not get tracked into the City's street?*

Response: Ditch lines and culverts are shown on sheet 3. The turnaround will be paved to the limit of the turnaround easement and a crushed stone surface treatment will extend or 50 feet beyond the pavement to minimize dirt and mud tracking.

- E. *Due to the heavy vegetation it may be worthwhile to clear around the proposed entrance to assure a higher visibility for cars exiting onto Washington Ave and for Cars traveling north on Washington Ave.*

Response: The right-of-way along lot 16 will be cleared. With the addition of an all-way stop at the Washington Ave/Riverside Street intersection, sight distance becomes less critical.

- F. The terminus of Ballpark Drive shall be clearly barricaded, fenced, or guard railed to prevent parking or access into the property at the road end.*

Response: Shown on plans.

3. Grading/Erosion Control

- A. Due to the presence of the stream and topography the grading on each lot shall be submitted and approved prior to final approval. Concerns to the degree of clearing and home placement are well founded. Although the MeDEP can issue permits for soil disturbance from 75 feet set back of the stream down to 25 feet, the City Standard designs and Specifications recommends a 100 foot setback from any disturbance. We feel that all homes should not be closer than 75 feet and that in necessary cases that the disturbance be no closer than 50 feet. It should be noted that the applicant has acquired Permit -By rules for soil disturbance under the 75- foot setback. We believe that this is evidence that the stream is substantial enough to preserve some buffers and a varying 75 to 50 foot buffer is adequate and in certain cases exceeds what existing homes on Lester Drive have.*

Response: All houses will be greater than 75-feet from the brook. A retaining wall for Lot 6 will extend 15 feet into the 75-foot buffer with a buffer impact of 450 square feet. The DEP has approved this impact through a Permit-By-Rule.

- B. We recommend that a secondary protection of erosion control be used such as a berm of wood chip mix with the silt fence be used along the buffer edge. Also given the sensitivity and typical confusion of where to measure the buffer, we recommend that the buffers be monumented with and iron pin and cap to reference the buffer on each lot.*

Response: Shown on plans.

- C The uphill side (Lots-16-11) shall protect the road cut during construction from runoff or provide temporary ditches to divert flows during rain events, or higher groundwater flows.*

Response: The road has been elevated to provide sufficient cover for the force main and to allow the storm drains to pass over the force main. This results in a fill slope on the south side of the road during construction. Drainage inlets at lot 10/11 and lot 16 will allow for diversion of runoff during construction.



- D. *Foundation drain connections will need to be shown on the drawings for each lot. They can tie into the storm drain system or daylight if possible to the stream area.***

Response: On the south side of the road, foundation drains will tie into the roadway underdrain (which ties into the storm drain), or directly into the storm drain. Foundation drain laterals will be provided to the ROW limits for lots on the south side of the road. On the north side, foundation drains will daylight to the wooded stream buffer slope, outside the wetland limits. These lots will need to file a Permit-By-Rule Notification with the DEP for foundation drain installation within the buffer. The PBR rules specifically allow this activity.

**4. Utility Installation/Location**

- A. *Will sewage be required to be pumped from the houses on lots 1 and 2? It appears that based on existing grades depending how the lot is designed this may be necessary.***

Response: Minimum top of foundation elevations are shown for all lots based on the ability to outlet foundation drains and connect to the sanitary sewer by gravity.

- B. *Electrical layout will be needed for transformer pads, services and street lighting. Pad locations will need to be shown, due to the tight configuration of housing units. Without esplanades will electric conduits be buried in the opposite shoulder from the sidewalk or outside the sidewalk? If outside the sidewalk a narrow shelf may be needed if there is an associated steep embankment. This could be difficult as if guardrails will be required over such areas.***

Response: Shown on plans.

- C. *Sewer capacity letters and water availability letters will be required for the subdivision.***

Response: Letters have been received and provided to the City.

- D. *Adequate spacing and trench access will be required for the existing force main traversing the property. The current design has catch basins, curbing, lighting, and underdrain too close to the force main.***

Mr. Ethan Boxer-Macomber  
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Response: Per the City's request, the road has been shifted to the south which puts the existing force main in the middle of the road, with water, sewer, and drains to either side.

*E. What erosion controls will be used on the new ball field driveway?*

Response: Shown on plans.

5. General

- A. As development of the site proceeds with more definition of grading so should the particulars in the erosion control plan, especially in sensitive ravine stream/wetland areas?*
- B. Offsite road construction details and work within Rights of Way for upgraded and improved pedestrian crossings and drainage are needed.*
- C. Landscaping requirements state that each lot will need 2 street trees per the Subdivision Ordinance. A landscaping plan will be needed for review showing species, size, and location.*
- D. As part of the subdivision plan, one drawing shall reflect the owner's complete parcel and past and present divisions, to be noted as the recording plat The plat shall require the seal of a State of Maine licensed land surveyor.*
- E. The typical cross section of the proposed Ballpark Drive is required to be on the recording plat as well.*

Response: Shown on plans.

6. Details

*The following details are needed or require revisions:*

- A. Culvert/storm drain outlets, plunge pool and level lipped spreader.*
- B. Pavement match detail at Washington Ave intersection.*
- C. A Private Driveway detail for the ball field.*
- D. Core drilling notes to tie into existing storm Drains and/or catch basins.*
- E. Landscaping details*
- F. Lighting Details*

Response: Shown on plans.



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September 3, 2004  
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### *Easements*

Response: Draft easements will be submitted for City review prior to the Public Hearing.

### *Encroachments*

Response: The City has expressed concern over the encroachments of landscaping onto the Haverty Property by Lester Drive properties on the north side of the Brook. A draft letter to Lester Drive abutters is provided in Appendix D. This letter will be sent following Planning Board approval of the project to address the encroachment issues.

### *Solid Waste Areas*

Response: At the request of the City, URS has performed an environmental assessment of the solid waste disposal areas. No evidence of the presence or the release of hazardous materials was found. Solid waste will be removed and disposed of properly prior to lot sale. See Appendix E for a summary report.

### *Permits*

Response: Outstanding environmental permits that will be obtained include the following:

- Prior to construction, the applicant will file a Notice of Intent for coverage under the MEDEP Construction Stormwater General Permit. The Erosion and Sedimentation Control Plan is included in the design plans.
- Following subdivision approval, the applicant will amend the permit with the DEP for wetlands fill based on minor fill area revisions. The total area of wetland fill has increased by 43 square feet due to the road location shift to maximize stream buffer width.

We trust that the revisions to the design address City and neighborhood concerns based on numerous meetings and discussions with the City. Please call if you have any questions.

Sincerely,  
**URS Corporation**

Thomas R. Plante, P.E.  
Project Manager



September 7, 2004

Mr. Ethan Boxer-Macomber  
Planning Division, City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Limited Environmental Site Assessment  
Margaret Haverty Property, Off Washington Avenue**

Dear Mr. Boxer-Macomber:

This letter presents the findings of an environmental assessment conducted by URS Corporation (URS) on the subject site during the period between August 23 through August 26, 2004. This assessment was performed on behalf of the property owner, Margaret Haverty, in areas of observed discarded debris. As described in this letter, no evidence of a Recognized Environmental Condition as described in the American Society of Testing and Materials (ASTM E1527-97) guidelines for conducting Phase 1 Environmental Site Assessment was found, and it is URS' opinion that the discarded debris can be managed as solid waste for removal and disposal purposes.

Discarded material has been observed in several areas on the proposed Ballpark Drive residential development site. The disposal areas appear to be related to random unauthorized dumping during the period of time that the property was an open field and/or partially wooded and was accessible to dumping activities. Based on URS' initial observations of the age of the discarded materials and the fact that the property is currently fully wooded, it appears dumping ceased approximately 10 to 20 years ago. Types of discarded material that were found on site include metal containers of various sizes, scrap metal and plastic, aluminum cans, glass bottles and roof shingles. Area residents have recently raised concerns to the City of Portland (City) regarding the potential for the presence of oil or hazardous materials, based on observations of metal containers. The City has requested that this environmental assessment be performed to determine if there is evidence of the presence of or release of oil or hazardous materials in the limited disposal areas.

### **Objectives**

The objectives of this investigation were as follows:

- Locate, identify and inventory the waste materials;
- Assess the contents, if any, of the containers;
- Determine the most appropriate type of laboratory analysis;
- Identify suitable soil and surface water sampling locations; and
- Collect samples for laboratory analysis to determine the presence or absence of oil or hazardous materials.

URS Corporation  
477 Congress Street, 9th Floor  
Portland, ME 04101  
Tel: 207.879.7686  
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(R1)

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September 3, 2004  
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evidence of a release was observed below the drums or in the area of the drums. As with other observed containers it appears these drums were empty when discarded. Other items observed in Area 2 included metal and plastic debris and is shown in Photos 4 through 9.

Area 3 (Photos 12 through 15) contained additional scrap metal, an approximately one-cubic yard pile of discarded asphalt roof shingles, various beverage cans and bottles, a metal bucket containing residual solidified tar-like material (apparently roof or driveway sealer), and an empty, metal one gallon container that appears to have previously contained paint-thinner/mineral spirits. No PID results above background were detected in Area 3.

Area 4 (Photos 16 through 20) contained three open, empty metal drums with "Quaker State Oil" labels. The property owner has stated that these larger drums were used as trash containers at the ballfield in years past. No stressed vegetation, PID results above background, unusual odor or visual evidence of a release was observed below the drums or in the area of the drums. As with other observed containers it appears these drums were empty when discarded.

Based on the initial investigation, evidence was not observed that would indicate a release of oil or hazardous materials at the locations evaluated, and the material appears suitable for solid waste disposal. However, Task 2 (soil and groundwater sampling and laboratory analysis) was conducted as an added measure to confirm the findings of Task 1.

## **Task 2 - Soil and Surface Water Sampling**

Soil and surface water sampling was performed August 26, 2004 to further evaluate potential impacts associated with the identified solid waste disposal areas. Soil sample locations were selected based on the type of waste identified in each area. Sample methodology and results are further described below.

### *Methodology*

The waste identified in Areas 1 and 4 was limited to open top empty metal drums with no field indication of a release of oil or hazardous materials. Areas 2 and 3 contained several metal drums, and based on the nature and extent of discarded materials identified additional evaluation was considered justified.

Four shallow soil samples (0-2 feet below ground surface) were collected from selected representative locations and laboratory analyzed by USEPA Method 8260B and 8270C for the presence of VOCs and semi-volatile organic compounds (SVOCs), respectively.

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The laboratory analytical report prepared by Alpha Analytical Laboratories is attached. Additionally, soil samples collected from these four locations and at six additional locations throughout. Laboratory analysis of samples for VOCs and SVOCs was chosen because most containers found, although empty, originally contained oil-based, tar based or solvent based products (one likely former paint-thinner can). VOCs and SVOCs are present in these types of products, and if detected in soil or water samples could indicate impacts associated with the observed containers.

Sample locations within Areas 2 and 3 were selected for laboratory analysis based on their proximity to potential items of concern (i.e., drum or container). Sample S-1 was collected from 0-2 feet below ground surface adjacent to the "Rusty Jones" drum (Area 2); Sample S-2 was taken near the Area 2 embankment, immediately downgradient from the majority of Area 2 waste material, including partial buried scrap metal debris; Sample S-3 was collected adjacent to and immediately downgradient from the Area 3 embankment; and Sample 4 was collected at the location of the sealer bucket and the empty one gallon metal container (possible former paint-thinner can).

Two surface water samples were collected from the un-named brook that runs adjacent to Areas 2 and 3. The purpose of the surface water sampling was to identify background water quality of the brook and to assess whether the limited disposal areas have caused surface water impacts. Surface water sample locations included one location upstream of the subject property to establish background conditions (SW-1), and one location on the subject property adjacent to and downgradient from Areas 2 and 3 (see Figure 1).

## *Results*

Native soil was identified at all sample locations and soil samples did not contain visible waste material. No visible staining of the soils, unusual odor or stressed vegetation was observed in the disposal areas and results of soil and groundwater sampling did not identify concentrations of VOCs or SVOCs above method detection limits with the exception of acetone generated by the analytical sampling/preservation methodology and trace concentrations of 1,2,4-Trimethylbenzene (9.6 parts per billion [ppb]) identified at the location of S-4, collected immediately adjacent to what appears to be a former paint thinner can and open bucket of solidified tar-like material. As discussed in the Laboratory Narrative provided with the attached laboratory analytical report, acetone identified in the four soil samples analyzed was likely caused by a chemical reaction between tannins and naturally occurring organic material present in soils and the sodium bisulphate preservative used with this analytical method. The presence of 1,2,4-Trimethylbenzene is consistent with a possible minor release of residual thinner or tar from the targeted containers. Neither the State of Maine (Remedial Action Guidelines For Contaminated Soils) or the United States Environmental Protection Agency (USEPA) have established a residential soil criteria for 1,2,4-Trimethylbenzene. The National



Mr. Ethan Boxer-Macomber  
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Institute of Occupational Safety and Health has established a worker exposure level of 25 parts per million for this compound, several orders of magnitude higher (i.e., 10,000 times higher) than the concentration identified at the location of S-4. Sample results are further summarized in Table 1 below.

No VOCs or SVOCs were detected in SW-1 or SW-2 indicating that the stream is unaffected by the site.

**Table 1**  
**Summary of Soil and Groundwater Results**

Sample	PID Reading (ppm)	VOCs (ppb)	SVOCs (ppb)
SW-1	NA	ND	ND
SW-2	NA	ND	ND
S-1	0.0	ND	ND
S-2	0.0	ND	ND
S-3	0.0	ND	ND
S-4	0.0	9.6 (1,2,4-Trimethylbenzene)	ND
5	0.0	NA	NA
6	0.0	NA	NA
7	0.0	NA	NA
8	0.0	NA	NA
9	0.0	NA	NA
10	0.0	NA	NA

**Notes:**

Low concentrations of acetone identified in soil samples S-1 through S-4 were likely caused by a chemical reaction between naturally occurring materials and the preservative used per the analytical method and have therefore not been included in the summary table.

PID- Photoionization Detector; Instrument calibrated

With 100 ppm Isobutylene standard.

PPM- Parts per million

PPB- Parts per billion

NA- Not analyzed

ND- Not detected above laboratory method detection limit

VOCs- Volatile Organic Compounds by USEPA 8260B

SVOCs- Semi Volatile Organic Compounds by USEPA 8270C

**Conclusions and Recommendations**

It appears that the discarded debris observed in Areas 1 through 4 is surficial in extent and does not represent a recognized environmental condition as defined by ASTM. The discarded material can be removed from the site and disposed at a proper solid waste disposal facility.

As materials are removed, they will be monitored by a qualified environmental scientist or engineer to assess if hazardous materials are present which could not be observed

R5



Mr. Ethan Boxer-Macomber  
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during the environmental assessment. In the highly unlikely event that any hazardous materials are found, they will be managed in accordance with state and local regulations.

Some small equipment may be needed to remove the materials, some of which are located within the 75-foot brook buffer. Clearing will be limited to that area necessary to remove the waste and will be within allowable limits of City Shoreland Regulations and the Natural Resources Protection Act.

Please feel free to call if you have any questions.

Sincerely,  
URS CORPORATION

A handwritten signature in black ink, appearing to read 'Thomas R. Plante'.

Thomas R. Plante, P.E.  
Project Manager

Attachments

cc: Margaret Haverty

P:\Project\Haverty\_53359\Disposal Areas\Report.doc

R6



**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
1

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Drum at Area 1



**Photo No.**  
2

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Drum containing small amount of water and oil-like residue in Area 2





# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
3

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Inside of above drum



**Photo No.**  
4

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Empty drum in Area 2





# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
5

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Embankment in Area 2



**Photo No.**  
6

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Empty drum in Area 2





# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
7

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Embankment and debris;  
Area 2



**Photo No.**  
8

**Date:**  
8/23/04

**Direction Photo Taken:**

Drum, embankment; Area 2

**Description:**



R11



# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
9

**Date:**  
4/04

**Direction Photo Taken:**

**Description:**

Area 2 and 3, taken from Area 2.



**Photo No.**  
10

**Date:**  
4/04

**Direction Photo Taken:**

**Description:**

Area 2 embankment



R12



# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
11

**Date:**  
4/04

**Direction Photo Taken:**

**Description:**

Waste material between Areas 2 and 3.



**Photo No.**  
12

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Bucket with hardened sealer, Area 3





# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.** 13      **Date:** 8/16/04

**Direction Photo Taken:**

**Description:**

Roof shingles, Area 3



**Photo No.** 14      **Date:** 8/23/04

**Direction Photo Taken:**

**Description:**

Embankment. Area 3.



R14



# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
15

**Date:**  
8/16/04

**Direction Photo Taken:**

**Description:**

Cans and bottles, Area 3



**Photo No.**  
16

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Drums in Area 4



R15



**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
17

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Inside of Area 4 drum.



**Photo No.**  
18

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Inside of drum at Area 4.



**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
19

**Date:**  
8/23/04

**Direction Photo Taken:**

**Description:**

Drum in Area 4



**Photo No.**  
20

**Date:**

**Direction Photo Taken:**

**Description:**

Ground surface that was under drum in Area 4.



**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

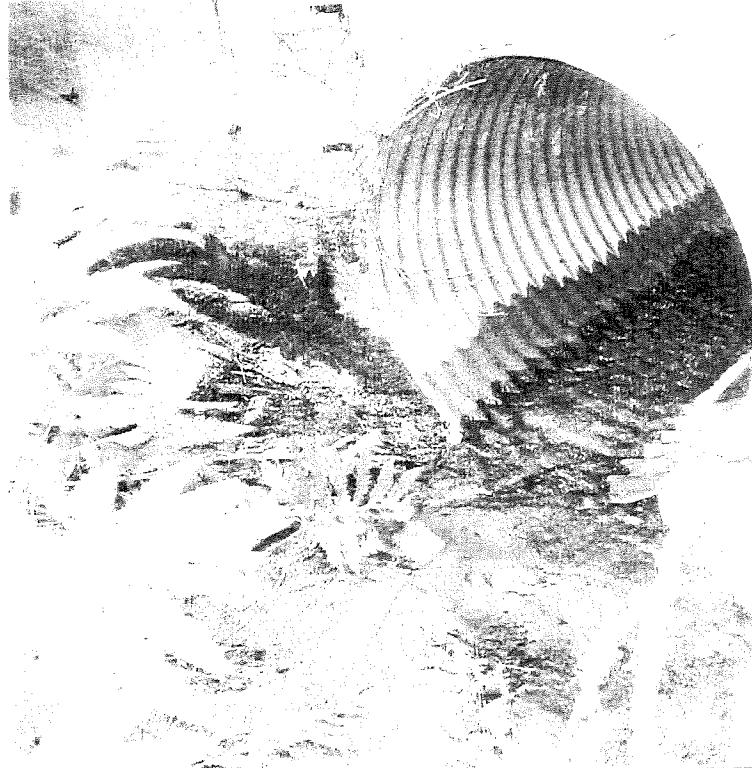
**Photo No.**  
21

**Date:**

**Direction Photo Taken:**

**Description:**

Site of upstream surface water sample (SW-1)



**Photo No.**  
22

**Date:**

**Direction Photo Taken:**

**Description:**

Site of soil sample S-1





# PHOTOGRAPHIC LOG

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

**Photo No.**  
23

**Date:**

**Direction Photo Taken:**



**Description:**

Site of soil sample S-2.

**Photo No.**  
24

**Date:**

**Direction Photo Taken:**



**Description:**

Site of soil sample S-3.

**Client Name:**  
Margaret Haverty

**Site Location:**  
Portland, Maine

**Project No.**  
39459287

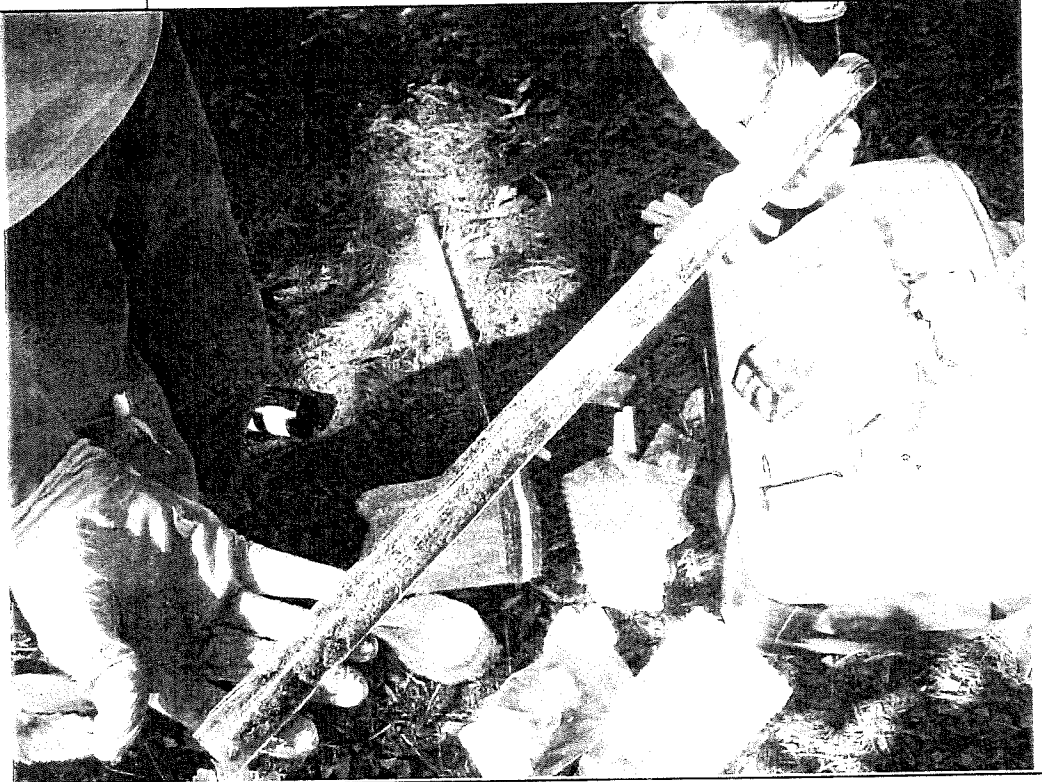
**Photo No.**  
25

**Date:**

**Direction Photo Taken:**

**Description:**

Example of soil sample.



**Photo No.**  
26

**Date:**

**Direction Photo Taken:**

**Description:**

Site of soil sample S-3



August 13, 2004

XXXXXXXXXX  
XX Lester Drive  
Portland, Maine 04103

**RE: Notification of Potential Encroachment Activity  
Ballpark Drive Subdivision**

**DRAFT**

Dear Abutter:

As you are aware, Margaret Haverty has applied to the City of Portland for subdivision approval of a sixteen lot residential subdivision of land directly south of the Lester Drive neighborhood. URS Corporation (URS) has been retained by Mrs. Haverty to prepare the engineering design documents for the subdivision. As required by the City of Portland, a permanent deed-restricted buffer zone around the brook which runs through Mrs. Haverty's property will be established for the protection of the brook, its floodplain, and associated wildlife habitat. No development activities will be allowed within this buffer zone. On the northern side of this brook within the area being subdivided into residential lots, this buffer zone will include all land owned by Margaret Haverty up to the southern property boundary of the Lester Drive lots. This area is depicted on the attached figure.

Following subdivision plan approval, lot corners for the approved lots will be surveyed and demarcated by iron pins, which will include the location of existing back lot lines of Lester Drive properties that directly abut the Haverty property. From boundary survey work performed by Sebago Technics in 1999, it appears that several of the Lester Drive properties have encroached on the Haverty land with clearing, lawns, or other landscaping. Survey work to be performed to lay out the new lots will verify which Lester Drive lots are encroaching on the Haverty land. The City of Portland has requested that, this letter be sent to notify abutters that all encroachment activities, including but not limited to lawn mowing, yard waste disposal, clearing, structures, etc. within the brook buffer zone on the Haverty property must cease to provide protection for water quality and wildlife. This required buffer only applies to the Haverty property and does not affect adjacent propertys.

If you have any questions regarding this letter, you may contact any of the following: Thomas Plante, P.E., URS Corporation, 879-7686; Matt Flaherty 797-6870; or Ethan Boxer-Macomber, City of Portland Planning Division, 756-8083.

Sincerely,

URS Corporation, Inc.

Thomas R. Plante, P.E.  
Project Manager

(S)

PREPARED BY: SP DATE: 8/20/2004  
 CHECKED BY: TRP DATE: 8/29/2004

PROJECT NO.:  
 SHEET NO.:  
 DATE: X

**ESTIMATED PROBABLE CONSTRUCTION COSTS**  
 Haverly- Ballpark Drive  
 Portland, ME  
 N/A  
 N/A  
 N/A

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	UNIT COST	COST	REFERENCE BASIS	FOOTNOTES
1	Mobilization	CY	1.00	\$ 500.00	\$ 500	Means & DOT WAUP	
2	Tree Removal (8'-12" diameter)	EA	10.00	\$ 258.00	\$ 2,580	Means & DOT WAUP	
3	Stump Removal (8'-12" diam.)	EA	10.00	\$ 85.50	\$ 855	Means & DOT WAUP	
4	Tree and Stump Disposal	LS	1.00	\$ 500.00	\$ 500	Means & DOT WAUP	
5	Bypass Pumping brook at low flow	Week	2.00	\$ 700.00	\$ 1,400	Means & DOT WAUP	3
5	Excavation for pipe removal	CY	160.00	\$ 8.00	\$ 1,280	Means & DOT WAUP	1
6	Pipe Removal	LF	90.00	\$ 15.00	\$ 1,350	Means & DOT WAUP	
7	Trench prep for new pipe	CY	75.00	\$ 8.00	\$ 600	Means & DOT WAUP	
8	Crushed Stone pipe bedding and backfill	CY	90.00	\$ 25.00	\$ 2,250	Means & DOT WAUP	2
9	36" Class III RCP	LF	90.00	\$ 90.00	\$ 8,100	Means & DOT WAUP	
10	6' Dia. 4' high precast MH base	EA	1.00	\$ 1,500.00	\$ 1,500	Means & DOT WAUP	
11	Precast Concrete Manhole (5' diam, 8' deep)	EA	1.00	\$ 2,000.00	\$ 2,000	Means & DOT WAUP	
12	Shaped Manhole Invert	LS	1.00	\$ 300.00	\$ 300	Means & DOT WAUP	
13	Manhole frame and cover	EA	1.00	\$ 600.00	\$ 600	Means & DOT WAUP	
14	Backfill/compact excavated soils to grade	CY	60.00	\$ 4.00	\$ 240	Means & DOT WAUP	
15	Leam & Seed	SY	333.00	\$ 10.00	\$ 3,330	Means & DOT WAUP	
4	Stone Rip rap	CY	12.00	\$ 50.00	\$ 600	Means & DOT WAUP	
5	Geotextile	SY	25.00	\$ 4.00	\$ 100	Means & DOT WAUP	

<b>CONSTRUCTION SUBTOTAL</b>						\$ 28,085
<b>GENERAL CONDITIONS @ 5%</b>						1,404
<b>CONTINGENCY @ 5%</b>						\$ 1,404
<b>CONSTRUCTION TOTAL</b>						\$ 30,893

Use \$31,000

Footnotes:

- 1 Trench excavation - 7' deep by 7' wide by 100', less 3' pipe diameter
- 2 7' wide by 5' deep by 90' long, less 3' pipe diameter.
- 3 Rent 3-inch trash pump for two weeks at \$250/wk, operate at \$85/day



**75-FOOT STREAM BUFFER JUSTIFICATION**  
**BALLPARK DRIVE SUBDIVISION**

*Site Conditions*

- Stream is a first order or headwater stream above the point where two perennial streams converge;
- Stream is not identified or shown on the USGS topographic map, nor is it shown on the FEMA floodplain map, indicating that it is a relatively minor stream;
- This site is subject to the 75-foot stream protection buffer as defined in the Shoreland Regulations Section 14-447 and 14-448;
- Total drainage area contributing to the stream is 92 acres;
- Two man made detention ponds exist along the stream - one at its headwater and one at its mid point;
- USDA Soil Conservation Service mapping from 1974 classifies this stream as "intermittent, unclassified". Intermittent is generally defined as streams that dry up during periods of long drought.
- Wetlands classification for this watershed, provided by the NRCS office in Scarborough is: PFOE, indicating a forested, seasonally flooded/saturated wetland;
- Maine Department of Inland Fisheries and Wildlife (MDIFW) identified no fisheries on this stream;
- MDIFW identified no Essential, Significant or other wildlife habitats of concern on this site, nor did it find any documentation of State or Federally listed Endangered or Threatened species at this site. The MDIFW letter went on to state that given the existing level of development at this site, it is unlikely the project will significantly compromise wildlife habitat;
- The Maine Department of Conservation identified no rare or unique botanical features.





## ***Regulations/Policy***

- City of Portland Technical Design Standards and Guidelines (March 2000), Section XI Standards for Development in and Adjacent to Wetlands – For developments located adjacent to perennial streams, a minimum one hundred (100) foot buffer strip on either side of the stream should be maintained. For intermittent streams, the buffer may be reduced to 25 feet. These City standards were originally adopted to be consistent with MEDEP standards, which have since changed. These standards currently conflict with the MEDEP Natural Resources Protection Act (NRPA) 75-foot buffer regulations and the City's own Shoreland Regulations for stream protection.
- City of Portland Shoreland Regulations Division 26, Sections 14-447 and 14-448 require a 75-foot stream buffer, applicable to all zones in the City.
- The Maine Department of Inland Fisheries and Wildlife (MDIFW) maintains a regional buffer policy that requests 100-foot undisturbed buffers along both sides of any stream or stream associated wetlands. The MEDEP typically considers this policy only on large developments with a high potential for water quality impacts, since it is in direct conflict with NRPA rules and municipal Shoreland Regulations. The MEDEP, when reviewing the Permit-By-Rule application for the previously proposed lots 5 and 6 development within the 75-foot buffer, did not consider the MDIFW buffer policy to be appropriate for this site.
- As of September 1, 2002, the Maine Department of Environmental Protection (MEDEP) amended the Natural Resources Protection Act (NRPA), reducing the minimum stream setback from 100 feet to 75 feet to be consistent with municipal Shoreland Zoning Regulations and Land Use Regulation Commission (LURC) standards. The MEDEP does not differentiate between intermittent and perennial streams.

## ***Evaluation***

The site of the proposed subdivision is constrained not only by the stream and its wetlands, but also by the location of an existing sewer forcemain easement across the property that dictates the available location for a road. The developer is proposing a 75-foot buffer between the brook and building locations. The 75-foot buffer will be deed restricted against development, with cutting or clearing limited to that allowed by the NRPA, which is consistent with the City's Shoreland Zoning Sec. 14-449(c). The proposed buffer will extend to the northern limits of the Haverty property, which will provide a buffer on the northern side (Lester Drive side) of the brook ranging from 0 feet to 105 feet, limited by existing developed lots on Lester Drive.

The available documentation on this stream indicates that its associated wetlands are seasonally flooded/saturated and that during prolonged dry periods, the flow may stop altogether. The MDIFW letter from the regional fisheries biologist stated that he was familiar with the area and believed there was an intermittent stream in the vicinity of the project. The photograph below illustrates the minor flow volume discharging from this brook across Washington Ave, within several days of a spring rain event.

Given the minor nature of this stream, the lack of fish habitat, the lack of rare or exemplary botanical features, the lack of wildlife habitats of concern, the level of existing development immediately adjacent to this stream to the north (Lester Drive development), and the MDIFW statement that this project will not significantly compromise wildlife habitat, a 75-foot buffer is believed to provide adequate protection to the brook and its associated habitats. This buffer is consistent with MEDEP NRPA requirements for development adjacent to protected natural

resources, and is consistent with the City's Shoreland Regulation requirements. The 75-foot buffer protects the entire brook, its flood plain and all stream associated wetlands within the area being developed.



As part of the design planning for this project, the Planning Board requested that any encroachment of buildings or retaining walls within the 75-foot buffer be approved by the MEDEP prior to City approval. Although the lots have since been revised, the Haverty's did receive MEDEP Permit-By-Rule approval for two of the lots to have a yard and retaining wall and a corner of one house within the 75-foot buffer. The MEDEP was in agreement with the proposed use of retaining walls on these lots to limit the yard grading to the minimum necessary. Through MEDEP's review of the application and a site visit, the MEDEP was agreeable that minor encroachments within the 75-foot buffer would not adversely impact the brook, and that the MDIFW's regional buffer policy was overly conservative for this particular site.

Increasing the buffer width to 100-feet, as some neighbors have suggested, while providing additional protection on the southern side of the brook, will not alter the buffer available on the northern side of the brook. Several of the Lester Drive lots have encroached to the banks of the brook with landscaping, lawns, and swimming pools. This current land use immediately adjacent to the stream with little to no buffer, and the disposal of yard waste adjacent to the brook by Lester Drive residents clearly has the greatest potential for adverse impacts to the brook and wildlife habitat. The proposed lots sizes adjacent to the brook range in size from 0.4 to 1 acre. These lots are four to ten times the size of the adjacent Lester Drive lots (10,000 square feet) that are immediately adjacent to the brook. These proposed lots are therefore one quarter to one-tenth the maximum allowable lot density for R-2 zoning, which will further reduce the potential impacts to the brook, as compared to the Lester Drive development.

A 100-foot buffer will also severely limit the number of lots that can be developed between the brook and the proposed road. With a 75-foot buffer, 9 lots varying in size from 0.4 to 1 acre can be developed. The overall buffer area within these nine residential lots to be preserved by deed restriction along this brook is 3 acres. A 100-foot buffer would reduce the number of northern lots to 5, with a corresponding increase in deeded buffer area of 0.6 acres. Given the City street construction requirements of sidewalks and an esplanade on both sides of the road, a loss of 4 or more lots significantly reduces the viability of the subdivision, especially with lots on the south side of the road being less than half the size of the northern lots, without significantly increasing the level of protection to the brook. As part of this development, the owner also plans to preserve an additional 5 acres of wooded land around the pond and the brook immediately upstream of the residential lots as open space and walking trails. This 5-acre reservation is contingent upon the City's approval of the 75-foot buffer, as a greater buffer reduces the number of buildable lots and the viability of the subdivision.

In summary, the proposed subdivision includes 16 residential lots and a public road covering a total of nine acres, constituting a lot density less than one half of the maximum allowable in an R-2 zone. Three of these nine acres will be deed restricted stream buffer, leaving 6 acres of land actually being developed. With the 6 acres of developed land, 8 acres of land (3 acres deeded buffer within the residential lots plus 5 acres additional conservation land around the brook upstream of the residential lots) will be permanently protected from future development. This results in 30 percent more land being preserved than is being developed, providing a significant level of protection to the stream and valuable forested open space in the City.

**From:** "LDR" <ldr@maine.rr.com>  
**To:** "Ethan Boxer-Macomber" <EBM@portlandmaine.gov>  
**Date:** 9/16/04 6:47:54 PM  
**Subject:** Proposed Ball Park Drive Subdivision

Hi Ethan:

These are the remaining questions we have regarding Ball Park Drive. Is it possible to get these addressed prior to Tuesday? We would appreciate it.

Thanks, Pam

Outstanding Issues:

1. Portland Trails Plan
  - a) Is there a plan available for review?
  - b) Where will the entrance and exits to the trail(s) be located?
  - c) What parking will be available?
  - d) Is there a time limit on the deed given to Portland Trails (meaning can the Havertys assume the property after a specific time period and then build another residential project within that acreage)?
2. When will organic or inorganic material be removed?
  - a) Debris is located behind or near to properties of Poulos, Norberts, Cooks, Egberts and Bensons which we believe is within the Haverty property.
  - b) Why is it necessary to bring in equipment when it appears that it can be done manually?
  - c) There was no specific note regarding the computer debris. Was this not taken into account in the Environmental Report and, if not, why?
3. What can be done to limit construction hours (i.e. sick people on our Street)?
4. The proposed Stop Sign does not seem like a good solution, especially in winter and spring conditions. We predict more accidents will occur.
  - a) What can be done to upgrade this solution to a traffic light?
  - b) Is there a way to divert traffic (meaning trucks) via Davis Farm Road instead of Washington Avenue?
5. Will the Havertys be reimbursing the City for culvert and road work improvements which were completed early in September? This was work proposed for the entrance to the proposed Ball Park Drive.
6. Has there been a decision on the materials to be used for the proposed "retaining walls"?
7. Have all houses been repositioned so that they face Ball Park Drive?
  - a) Do all the houses have similar elevations as well?
8. Why does the new site plan show 30 foot drainage easements?
  - a) What are these for?

**CC:** "James Cohen" <jcohen@verrilldana.com>





04P028

**TO:** Ethan Macomber Boxer – Planner  
**FROM:** Jim Seymour – Development Review Coordinator, Sebago Technics, Inc.  
**RE:** Ballpark Subdivision – Haverty Estate Property  
**DATE:** September 17, 2003

---

Sebago Technics has reviewed a preliminary subdivision plan submittal for Ballpark Subdivision from URS Corporation dated April 2004. It is noted that this applicant has met with staff previously to discuss verbally with staff several issues regarding drainage and utility locations. After reviewing this, we have the following concerns:

1. **Stormwater Management**

- A. Based on the presence of an apparent stream and density of development we feel it will be difficult to detain stormwater. Based on discussions with the engineer, it was determined that given the area of the watershed and the downstream infrastructure, that peak flow from the project site will precede the larger peak flow from the watershed. From that discussion, and based on data submitted it appears that the stormwater standard for quantity can be met without detention. Furthermore it was discussed that the elimination of a pond, will better serve the environment with less soil disturbance, adjacent to the stream.

The necessary component, to facilitate this design was to maintain free flow from the existing 36-inch culvert inlet to the Washington Ave culvert crossing. To accommodate this design the applicant would first need to obtain a drainage easement from the abutting property owner (Murphy) since no rights currently exist to maintain or access the culvert by Haverty. Second they would need to either extend the culvert to reach their property and/or design the culvert with and appropriately size inlet plunge pool.

The current condition of the culvert is very good, but it is subject to much debris and sediment from the stream and adjacent runoff. To maintain clear flow the drainage area will need a drainage easement to provide access for routine cleaning and clearing of debris. A well-designed inlet will eliminate the need for a high frequency of maintenance. To date the current design needs more of a sump or plunge pool design and/or an additional pipe extension has to be shown, though discussions with the City and the abutters has occurred but no legal rights or final design resolution has been agreed.

Upon review with the City Public Works and with Planning Staff it was felt that the applicant should be required to at a minimum provide the inlet plunge pools

to the end of the 36-inch pipe. The coordination of the work may require further discussions with the City, if the Permitting to commence work within the stream has to be originated through the City. Regardless of permitting, the pipe inlet has to be protected from debris and sediment with construction of a basic riprap pool.

- B. The Plan and Profile sheet indicates that the proposed catch basins on the right side of the street will be positioned over the existing 16 inch force main. Further more it appears that several light poles will be installed near this existing main as will the general curb line for the proposed street. Ideally there should be four feet separation between the basins, light bases and 2-3 feet separation from a catch basin structure. This allows for easy access without conflicting future utilities in the case of repairs and emergencies. Unfortunately it appears that the street alignment or ROW alignment should be shifted to avoid such conflicts. Test pits shall be dug at this preliminary stage to determine the exact location if the designer feels the location on the drawings is only approximate. This is not an issue that we feel comfortable resolving after approvals or in the field during construction.

The plan and profile sheet though appears to be complete is extremely difficult to read and follow due to the large amount of data compiled on the plan section. We recommend that the plans be separated to simplify the data. We recommend that the plans be broken into a Utilities Plan and Drainage and Grading Plan, or whatever cleans the drawing up to be able to read easily. The road shift appears reasonable and works better with the location of the existing sewer force main.

- C. DMH 1 appears to require a larger diameter given the pipe sizes and elevations entering the structure. A five or six foot diameter structure will likely be needed and shall be called for on the plans. Revision is acceptable.
- D. No outlet plunge pool is shown at the outlet end from the DMH-1 pipe. An apron or preferably riprap level spreader should be designed to meet the typical DEP BMP standards for weir length and flow rate. Revision is acceptable
- E. We see several minor issues with the calculations themselves such as:
- a. Rainfall data shall use DEP published intensities for Cumberland Co. 2yr=3.0in, 10yr=4.7in, 25yr=5.5in/24hr. Revision is acceptable
  - b. The maximum sheet flow typically allowed is 150 ft length not 300 ft. This will affect the overall runoff rate at the culvert. Revision is acceptable
  - c. The area used for Sub-watershed # 1 should not include the sliver of land retained by the owner but should include a portion of the Murphy lot that drains towards the culvert inlet. Revision is acceptable
  - d. The spillway calculations appear to indicate that the head over the crest is almost 0.4 ft. Typical DEP design parameters require that the flow rate to weir length ratio shall be 0.25cfs/ft, and this design exceeds that rate. The new design

eliminates the pond but the same issue should be addressed with the pipe outlet. Due to site constraints the riprap apron revision is acceptable.

F. The applicants engineer shall determine if the downstream receiving pipes from the Washington Ave/ Riverside street intersection and the proposed entrance exceed the pipe capacity available. Typical design parameters should be that in a 10yr storm the pipe should not be operating above full pipe capacity. The calculations appear to determine that the pipes are already above capacity at this threshold. It appears that a separate outfall could be installed and directs some entrance water along the wetland, which runs parallel with the Boswell and Murphy lots if capacity is an issue. The entrance elevation is 99.0 the elevation in the land retained is as low as 90.0. Revision is acceptable

G. All drainage courses either natural or man-made that either cross or originate from the proposed road to the stream shall be marked with a 30-foot wide drainage easement. Revision is acceptable

## 2. Road Access/Circulation

- A. The access hammerhead turnaround is actually an easement and not a part of the Public Right-of-Way. The future driveway to access off the hammerhead to access the ball field is typically not granted. However, given the seasonal use of the field and proposed gate, an exception can be made. Revision is acceptable
- B. Who will be responsible for the road care and maintenance prior to City acceptance? Please see the planner for typical notes to be added regarding services required by the developer until said time that the road be publicly accepted. General Note 12 addresses the concern.
- C. A wider turning radius needs to be installed on the field access for ball field users, fire trucks and ambulances. Revision is acceptable
- D. Due to the slopes on the ball field access drive some cuts and ditches will be needed to drain runoff. How will the drainage be directed? How will the entrance be constructed to assure mud tracking and dust, will not get tracked into the City's street?
- E. Due to the heavy vegetation it may be worthwhile to clear around the proposed entrance to assure a higher visibility for cars exiting onto Washington Ave and for Cars traveling north on Washington Ave. Revision is acceptable
- F. The terminus of Ballpark Drive shall be clearly barricaded, fenced, or guard railed to prevent parking or access into the property at the road end. A bar gate was added but no detail has been given, and needs to be reviewed. Typical road termini are built with Guardrail with reflector tape.

G. Note 21 needs revisions and appears confusing. The force main easement will remain in effect forever and needs no revision. It can be incorporated into the right of Way then the force main easement outside of Ballpark Drive will remain in tact. The 15-

foot easement needs to incorporate drainage for the field inlet within the easement as well. Other areas incorporating inlets shall require drainage easements also.

### 3. **Grading/Erosion Control**

- A. Due to the presence of the stream and topography the grading on each lot shall be submitted and approved prior to final approval. Concerns to the degree of clearing and home placement are well founded. Although the MeDEP can issue permits for soil disturbance from 75 feet set back of the stream down to 25 feet, the City Standard designs and Specifications recommends a 100 foot setback from any disturbance. We feel that all homes should not be closer than 75 feet and that in necessary cases that the disturbance be no closer than 50 feet. It should be noted that the applicant has acquired Permit -By rules for soil disturbance under the 75-foot setback. We believe that this is evidence that the stream is substantial enough to preserve some buffers and a varying 75 to 50 foot buffer is adequate and in certain cases exceeds what existing homes on Lester Drive have. The setback from the stream as provided is reasonable, we suggest the straight lines be set between monuments, for easy field layout. The grading plan for Lots 6 & 7 needs to be shown at a legible scale and be specific to the planned layout of the building and grading features. Furthermore the general lot plan is a good idea, but without, site-specific elevations, it will be difficult to determine where the common sideline swale will be. We recommend that common easements be provided between lots, ten feet in width, or site-specific plans for each lot be provided. Circumstances have occurred where one lot development on these types of small lots can interrupt, and cause major grading issues to all abutters in the future, without careful planning. If the swales on the sidelines are constructed, during the building permit process attention shall be given to the amount of flows generated from the uphill side (Lots 10-16). No concentrated flows shall be allowed to discharge over the sidewalk. The engineer may want to carefully look at the need for common field inlets to collect both offsite and lot derived runoff prior to entering the ROW.
- B. We recommend that a secondary protection of erosion control be used such as a berm of wood chip mix with the silt fence be used along the buffer edge. Also given the sensitivity and typical confusion of where to measure the buffer, we recommend that the buffers be monumented with and iron pin and cap to reference the buffer on each lot. The lots have been pinned for the buffer, but no secondary erosion controls have been shown, to protect the existing stream.
- C. The uphill side (Lots-16-11) shall protect the road cut during construction from runoff or provide temporary ditches to divert flows during rain events, or higher groundwater flows. No provisions to address this have been given.
- D. Foundation drain connections will need to be shown on the drawings for each lot. They can tie into the storm drain system or daylight if possible to the stream area. With exceptions to Lots 9,10, and 16 the foundation drain are acceptable. The drains in the remaining lot shall tie into the drains within the street and not the inlet of a culvert or catch basin. Connections shall be where possible tied into the downstream side of a catch basin feeder or directly into the storm drain main.



The lots on the streamside may direct discharge as long as the pipe end is stabilized with riprap.

#### 4. Utility Installation/Location

- A. Will sewage be required to be pumped from the houses on lots 1 and 2? It appears that based on existing grades depending how the lot is designed this may be necessary. The applicant has shown this is not necessary.
- B. Electrical layout will be needed for transformer pads, services and street lighting. Pad locations will need to be shown, due to the tight configuration of housing units. Without esplanades will electric conduits be buried in the opposite shoulder from the sidewalk or outside the sidewalk? If outside the sidewalk a narrow shelf may be needed if there is an associated steep embankment. This could be difficult as if guardrails will be required over such areas. Revision is acceptable
- C. Sewer capacity letters and water availability letters will be required for the subdivision. Revision is acceptable
- D. Adequate spacing and trench access will be required for the existing force main traversing the property. The current design has catch basins, curbing, lighting, and underdrain too close to the force main. Revision is acceptable
- E. What erosion controls will be used on the new ball field driveway? Some silt fence is needed along lower elevations.
- F. Sewer alignment in Washington Ave. shall be such that sewer is under paving and matches into the existing 8 inch sewer instead of cutting across behind the catch basin. The manhole shall align close to 90 degrees with the existing sewer main.
- G. The storm drain alignments for field inlets shall connect to the nearest manhole not the basin. The culvert at Sta 2+10 and Sta 7+80 are examples that should tie to the structure and align more efficiently.

#### 5. General

- A. As development of the site proceeds with more definition of grading so should the particulars in the erosion control plan, especially in sensitive ravine stream/wetland areas? Revision is acceptable
- B. Offsite road construction details and work within Rights of Way for upgraded and improved pedestrian crossings and drainage are needed. Revision to be reviewed by traffic engineer.
- C. Landscaping requirements state that each lot will need 2 street trees per the Subdivision Ordinance. A landscaping plan will be needed for review showing species, size, and location. Landscaping to be reviewed by City Arborist.

- D. As part of the subdivision plan, one drawing shall reflect the owner's complete parcel and past and present divisions, to be noted as the recording plat. The plat shall require the seal of a State of Maine licensed land surveyor. Revision is acceptable
- E. The typical cross section of the proposed Ballpark Drive is required to be on the recording plat as well. Revision is acceptable

6. **Details**

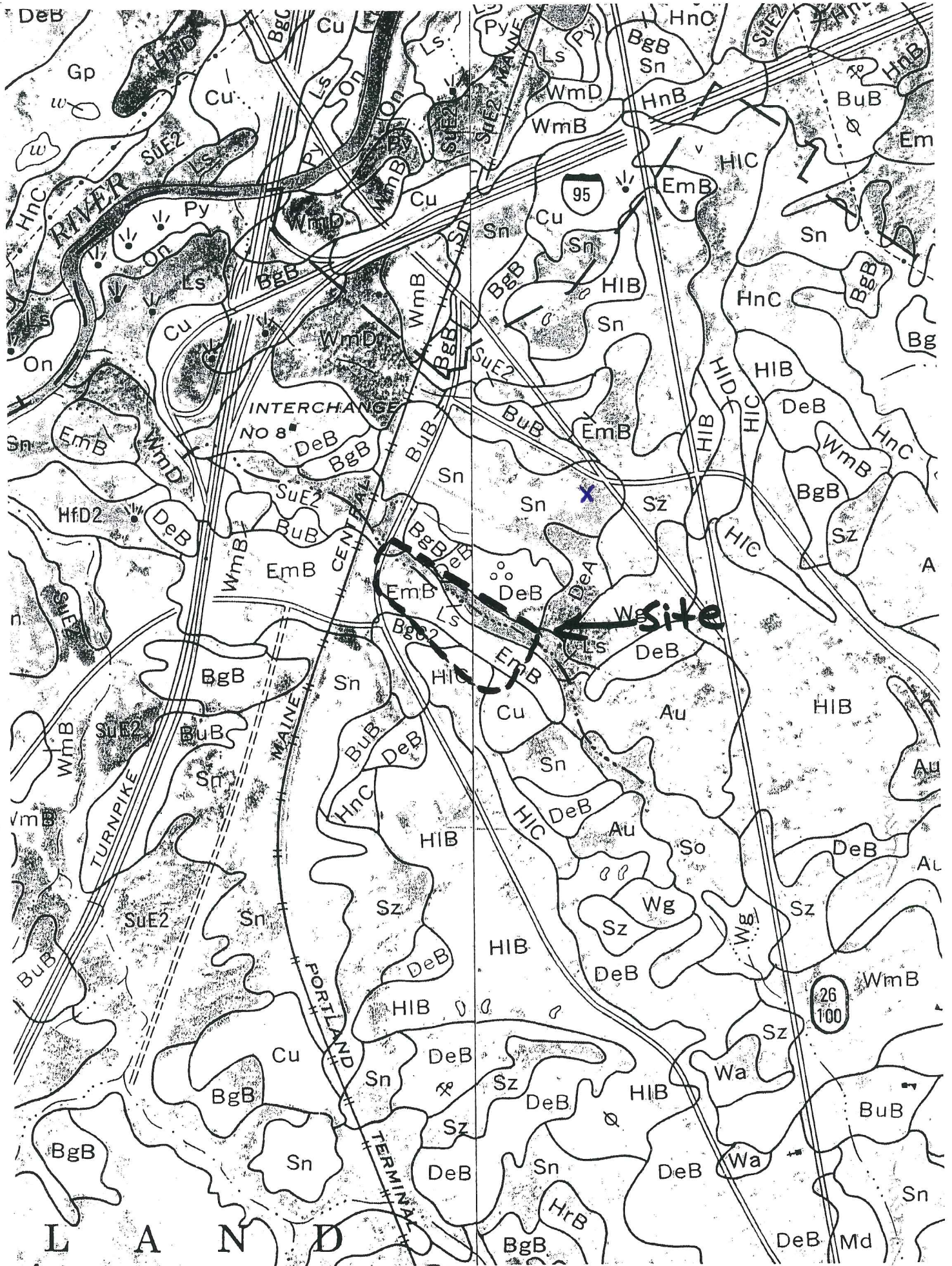
The following details are needed or require revisions:

- A. Culvert/storm drain outlet, plunge pool and level lipped spreader. Revision acceptable
- B. Pavement match detail at Washington Ave intersection. Revision is acceptable
- C. A Private Driveway detail for the ball field. Revision is acceptable
- D. Core drilling notes to tie into existing storm Drains and/or catch basins. Needs more detail.
- E. Landscaping details. Not included.
- F. Lighting Details. Not Included.

Based on the plans received I hope I have provided adequate comments for discussion. I feel that the majority of information is correct but is jammed into too many plans. I feel that these plans need more work, but most is technical and can be done as a condition. Final determination will be left with the Board and Staff. I am available next week if you have further questions or wish to discuss in more detail.

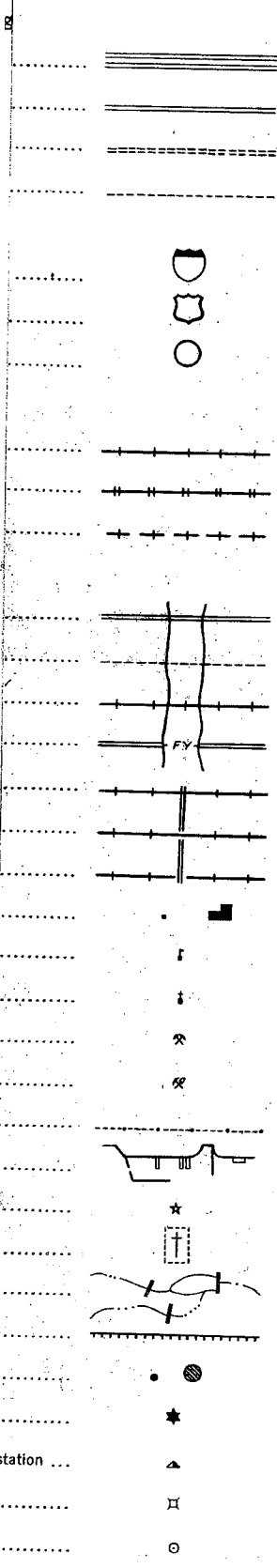
Please contact me at our office.

JRS:jrs



### CONVENTIONAL SIGNS

#### ROADS AND STRUCTURES



#### BOUNDARIES

- National or state .....
- County .....
- Minor civil division .....
- Reservation .....
- Limit of soil survey .....
- Small park, cemetery, airport ...
- Land survey division corners ...

#### DRAINAGE

- Streams, double-line
  - Perennial .....
  - Intermittent .....
- Streams, single-line
  - Perennial .....
  - Intermittent .....
  - Crossable with tillage implements .....
  - Not crossable with tillage implements .....
  - Unclassified .....
- Canals and ditches .....
- Lakes and ponds
  - Perennial .....
  - Intermittent .....
- Spring .....
- Marsh or swamp .....
- Wet spot .....
- Drainage end or alluvial fan ...

#### SOIL SURVEY DATA

- Soil boundary and symbol .....
- Gravel .....
- Stoniness
  - Stony .....
  - Very stony .....
- Rock outcrops .....
- Chert fragments .....
- Clay spot .....
- Sand spot .....
- Top soil removed .....
- Made land .....
- Severely eroded spot .....
- Blowout, wind erosion .....
- Gully .....

#### RELIEF

- Escarpments
  - Bedrock .....
  - Other .....
- Short steep slope .....
- Prominent peak .....
- Depressions
 

	Large	Small
Crossable with tillage implements		
Not crossable with tillage implements		
Contains water most of the time		

*HAVERTY SITE*

station ...

# SOIL SURVEY

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## Cumberland County, Maine

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UNITED STATES DEPARTMENT OF AGRICULTURE  
Soil Conservation Service  
In cooperation with  
MAINE AGRICULTURAL EXPERIMENT STATION

Issued August 1974

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US Army Corps  
of Engineers

## Frequently Asked Questions

Return to  
Nationwide  
Permits  
Reissued  
Jan 2002

### What is the difference between intermittent and perennial streams and why is it important?

**Answer:** Perennial streams flow 365 days a year in a normal year. Intermittent streams have short or lengthy periods of time when there is no flow in a normal year. Both are important ecologically, however, because many intermittent streams have lengthy periods of no flow, impacts to more than 300 linear-feet of an intermittent stream may still be minimal in some cases.

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USGS 6 km NE of Westbrook, Maine, United States 01 Jul 1978

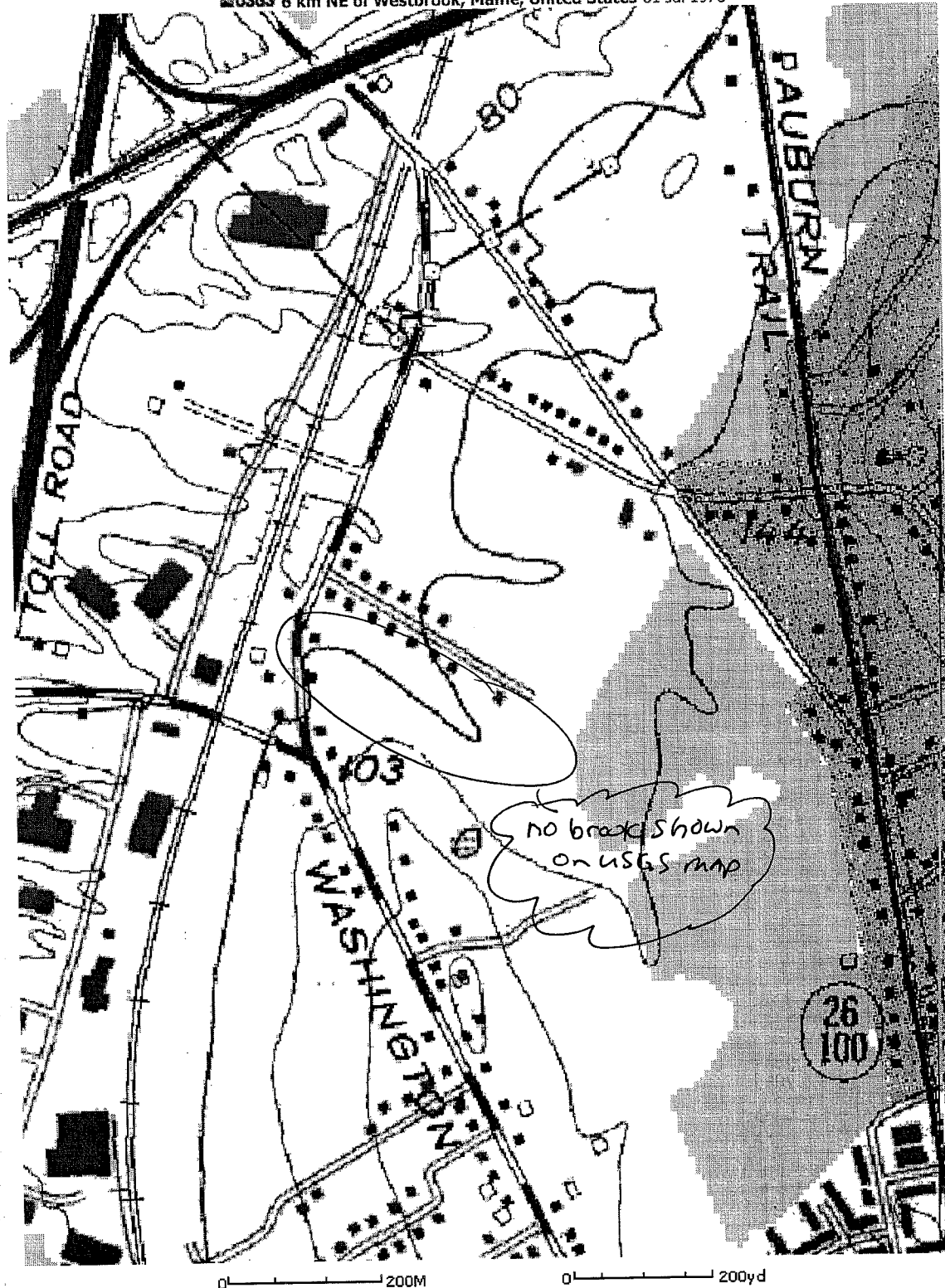


Image courtesy of the U.S. Geological Survey  
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USGS symbols -  
not shown on  
site USGS map

**RIVERS, LAKES, AND CANALS**

Intermittent stream	
Intermittent river	
Disappearing stream	
Perennial stream	
Perennial river	
Small falls; small rapids	
Large falls; large rapids	
Masonry dam	
Dam with lock	
Dam carrying road	
Perennial lake; Intermittent lake or pond	
Dry lake	
Narrow wash	
Wide wash	
Canal, flume, or aqueduct with lock	
Elevated aqueduct, flume, or conduit	
Aqueduct tunnel	
Well or spring; spring or seep	

**SUBMERGED AREAS AND BOGS**

Marsh or swamp	
Submerged marsh or swamp	
Wooded marsh or swamp	
Submerged wooded marsh or swamp	
Rice field	
Land subject to inundation	



## Lester Drive & Washington Avenue Residents

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April 20, 2004

Ethan Macomber-Boxer, Planner  
Division of Planning  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: Proposed Haverty Subdivision

Dear Chairperson Delogu and Members of the Planning Board:

We are very concerned about the rate of development this City has seen over the past 20 or so years. The receipt of the Planning Board post card notifying us, as abutters that the Havertys plan to subdivide precious wetland is of **no surprise**. Our City used to be beautiful, a place where you could walk down the street, breathe fresh air, and not worry about the integrity of the water, soil or air, never mind the displacement of wildlife at random. Portland caters to developers and land owners; it will develop a parcel of land at any cost. The Havertys proposed subdivision highlights those exact issues. Therefore we ask you the following questions:

1. Why were the Havertys allowed to begin cutting trees down along Washington Avenue, "Ball Park Drive" and the adjacent area to the Ball Field when the proper approval process had not been completed?
2. Knowing such disregard for the City approval process, what is to prevent the Havertys from erecting more houses on the same 9 acres or adjacent parcel without City approval?
3. How do we know that the Havertys will not do what the development off of Auburn Street did where they pre-sold houses with the intent to stick additional houses in between the existing ones? Will they commit to the 9 houses only?

4. We have heard through reliable channels that Mrs. Haverty is "poor" and has "no source of income"; we, of course, do not believe any of this. She and her nephew stand to gain \$2 million for this development. How much revenue does the City anticipate from this project?
5. What is the length of the permit (beginning to end)? What is the anticipated length of time for the project to be complete? Will the permit be issued with the grounds that, for example, all houses must be built by the end of 2004?
6. Is the area behind the Albert Murphy's, Poulos', and Michael Esposito's in the long range plan scheduled for development? If so, when will we be notified regarding this?
7. The environmental concerns are overwhelming for our community with specific regard to wildlife, flora & fauna, and water species. How will you be able to protect the various species with a project of such proportion?
8. Recently the Presumpscot was cleaned up. We would think the City would be vested in maintaining all Presumpscot tributaries and brooks. With this particular brook descending from the Presumpscot, is the City vested in keeping the brook on the proposed parcel and its brook clean of pollution? If so, what is the City's plan to do so? If not, why?
9. There is quite a bit of flooding from the brook during periods of rain. We would like to know in detail how the City and the Havertys plan to deal with not only the flooding, but the wastewater, sewage and runoff generated by the new development. What measures will be in place to monitor the brook and its cleanliness during and after the construction?
10. It is our understanding through the DEP that a house cannot be built on a lot nearby a brook unless there is a 75 ft. set back in place from the edge of the brook. Has anyone from the City or the DEP been on the Haverty property to physically measure the set back to ensure that this set back currently exists for all the houses adjacent to the brook on Lester Drive? Additionally, who will be responsible for monitoring the building process to ensure that this will rule will be adhered to?

11. What types of permits are in place for the entire lot and for each individual lot? Do the permits vary in lots 5 through 9 due to DEP concerns regarding slope degree? What are the specific slope degrees on these lots?
12. Will the owners of the new Ball Park Drive lots be able to cross the brook and/or install a structure to cross the brook (onto the side of Lester Drive)? Will those owners singularly be required to obtain a permit from the City and the DEP to their stream crossing laws?
13. Has there been a wetland and stream crossing survey completed by the City and the DEP?
14. How will erosion be handled as the houses adjacent to the proposed subdivision on Lester Drive are on a lower slope/plane? This is especially true of those properties on Lester Drive toward Washington Avenue (i.e. the Cook's to the Egbert's property onward to Washington Avenue).
15. The total project fill is currently estimated at 4248 sq. ft. according to the Plan of Division of Land dated 03/01/04. With a mere 52 sq. ft. of fill remaining to enforce the DEP provision of "Minor Altercations in Freshwater Wetlands", how can the City assure abutters that the Haverty development will not exceed the 4300 sq. ft. of fill? Where is the fill to be placed on the Haverty proposed subdivision? Will the City or the DEP monitor this process to ensure that the "Wetland Fill Summary" is not exceeded?
16. Do the Havertys plan on hiring environmental subcontractors to remove trash, old drums, rusted parts etc. on its land? Has an environmental impact study in regard to pollution been explored as a result of this issue?
17. How will traffic be handled with respect to events held at the Ball Field? We are highly concerned about the possibility of a person or animal being hit by a vehicle. Have the Havertys submitted a traffic study? If so, we would like a copy. If not, when can we expect to see it?
18. Does the City have a contract with the Haverty Family to utilize the Ball Field for school sports events? What is the basis of this contract and how long is it in effect?

19. Lastly, is there any chance the City would consider a lesser number of houses due to environmental impact? This, after all, is a legal wetland, where a long list of animals, birds and plant life cohabitate in a very volatile ecosystem.

We, like many tax payers, would like to see the City, including the Planning Board, support a moratorium on development outside of the peninsula or commit to a steady plan of slowing the rate of development in our neighborhoods. No one wants to see houses on the Presumpscot or any of the other waterways that are in danger of being developed. In other cities throughout the U.S.A. where growth has been allowed with no breaking point, those cities eventually become the ones where no one wants to live, either due to excessive population, lack of open space, lack of places to walk, pollution and the list goes on. Some cities now bargain with others for water rights. If you think that this type of growth will not happen in Portland, our City will be sadly mistaken. The time to act is now, not after the wetlands and waterways have the houses on them.

Perhaps this is excessive to the Board. Perhaps, you, as a member, may be thinking about that land owner who needs the cash, or the commitments you have made. It takes a group of people with a great amount of class and graciousness to "just say no", as President Regan's wife, Nancy Regan, once said. Those people could be you. Take a look back at our city over the past 20 years. Now consider our City with a Starbucks, Wal\*Mart, Staples, McDonald's and every other chain on our street corners.

Our City, the City Council and the City Planning Board appears, from the eyes of a taxpayer, to be stead-fast on paper-pushing and the meeting its annual revenue budget because it does not know how to contain costs nor audit itself to lower costs. We marvel at Inc. Magazine's thinking that this is a medium size city and a good place to live. Maine is very quickly becoming its own Massachusetts; in fact, we do not understand why Maine ever became a State unto our own when the Cities of this State are clearly trying to replicate the living of Massachusetts. If any one has lived in "Massachusetts", as we call it, one would know that the State of Maine and, particularly, the City of Portland is driving itself past the speed limit South on 95 to hold hands with the cities of Haverhill, Billerica, Danvers, Chelsea, Medford

and so forth. If our State, along with the driving element, the City of Portland, is not quick to act, we will be married to "Massachusetts" sooner than we want.

With this in mind we ask you again to consider either placing the Haverty project on hold or scaling down the number of houses to be built on prime wetland. Respectfully, we also ask you to remember that when the construction equipment arrive on the Havertys property to start the project, and everyone is shaking hands about what a great job they did and how thankful they are that this project got through the Planning Board, the architects, engineers, construction companies and their subcontractors, along with Matt Flaherty & Margaret Haverty will be laughing and smiling in glee about all the money they will be taking to the bank.

That \$2 million that the Havertys will deposit is literally a drop in the bucket. The wildlife that will be displaced, the wetland, soil and water that will suffer irreprehensible damage and even death surely exceed a \$2 million dollar deposit any day of the week. Any thank you notes the City and its Planning Board receives should be sent to the recycle bin, because those notes are an indicator of the many more to come. We on Lester Drive & Washington Avenue, however, will be holding you, the Planning Board, the City Councilors, the Mayor and the City of Portland, Maine accountable for turning back time, and, essentially, ruining the very land our State had set out to protect and differentiate from that "Massachusetts".

Sincerely,

Pam Burnside

Sue Baker

Pamela M. Burnside & Sue A. Baker

64 Lester Drive

Portland, Maine 04103

## Lester Drive & Washington Avenue Residents

May 19, 2004

Ethan Boxer-Macomber, Planner  
Division of Planning  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: Proposed Haverty Subdivision - Rebuttal

Dear Chairperson Delogu and Members of the Planning Board:

Residents within the City and particularly those in the neighborhoods of Lester Drive and Washington Avenue want to thank each of you for taking a serious review of the issues concerning the development of residential housing on the Havertys parcel of wetland. Many of us have been highly concerned that no one within the City was concerned with the potential effects of this project, nor the high rate of development in District 5. The first workshop concerning this project proved otherwise; it certainly was a delight to see the City taking a proactive stance on many of the issues at stake.

In light of that workshop, there are many concerns that specifically relate to the report filed by the Havertys. These are as follows:

Why the  
Traffic  
Study  
Should Be  
Broadened

1. **The traffic report conducted by Casey & Godfrey Engineers should be broadened in scope.** The study was conducted on a Thursday "during an off-peak period (1:00 to 2:45 p.m.), in which the least amount of data was collected. Casey & Godfrey's report indicating that "these results do not indicate excessive speeding on Washington Avenue in the area" is clearly **not** true. Lately we have witnessed police cars ticketing speeding cars at two (2) points on Washington Avenue; if speeding was not an issue, it is highly unlikely that the City would place their resources in this area. Likewise, the study failed to represent an extensive sampling of all conditions on this thoroughfare.

The entire Washington Avenue area is a corridor for pedestrians, runners, cyclists, rollerbladers and other athletes; some of these people include children while others are adults who work at companies within the Riverside Industrial area, adults who are stay-at-home parents, adults who are elders or handicapped individuals within this neighborhood.

To collect a cohesive and comprehensive set of traffic data patterns, the study should have included conditions related to all traffic on this road, rather than a simplistic spot study. For example, these conditions should reflect the times that people go to and from work, the City bus schedule that includes pick up and drop off points any where in the circumference of the proposed subdivision, as well as Verizon's work shifts and any other companies with large numbers of employees in the area.

Additionally, the study makes no provision for traffic flow generated by the school systems, the events that occur at the Haverty Ball Field, and Portside Day Care. There have already been near accidents of children being hit, as witnessed by a number of residents from Washington Avenue and Lester Drive. Portside Day Care, for example, opens at 7:00 a.m. and closes at 6:00 p.m. Most parents drop their children, under the ages of 6, off at Portside at 8:00 a.m.

The school age kids are picked up by school buses between 8:00 a.m. and 8:15 a.m. and are then driven to Riverton and Lyseth schools. After school the buses return to this area at approximately 3:00 p.m. Some of these children are then sent to Portside where their parents pick them up from 4:30 p.m. to 6:00 p.m.

Proposed  
Traffic  
Survey  
Hours

By including these facts within the study, the information will not only be comprehensive but represent the true picture. **It is our recommendation therefore that a new study be completed with respect to the following hours:**

- ✓ 7:00 a.m. to 9:00 a.m.
- ✓ 11:00 a.m. to 1:00 p.m.
- ✓ 3:00 p.m. to 7:00 p.m.
- ✓ 9:00 p.m. to 10:00 p.m.

The report should include separate information in respect to the quantity and speed of trucks (based on a certain weight category), some of which include very

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The report should include separate information in respect to the quantity and speed of trucks (based on a certain weight category), some of which include very

Traffic  
Diversion  
Suggestions

large tractor trailers. As this is primarily a residential area, trucks not only add to the current issues, but also endanger the lives and safety of all residents in the immediate area, including the proposed subdivision.

**As a neighborhood and concerned residents of Portland, we propose the following:**

- ✓ All trucks, over a certain weight, should be rerouted to Davis Farm Road to access the industrial areas or back onto Blackstrap to Washington Avenue Extension to Auburn Street en-route to the highway. Obviously a provision would need to be added for City vehicles and local trucks requiring access to the neighborhoods.
- ✓ A traffic light at Riverside and Washington Avenue should be installed.
- ✓ Crosswalks should be installed at the following locations: Riverside and Washington Avenue #1 & #2; Davis Farm Road and Riverside #3; Portside Day Care #4; the 2<sup>nd</sup> entrance of Lester Drive going toward Summit Street #4 (because that is the drop off for the school buses); the intersection of Summit Street and Washington Avenue Extension #5 & #6.
- ✓ Street lights should be established at areas where there is low visibility; many residents have almost been hit during their walking routines following the evening dinner hour.
- ✓ Crosswalks should have highly visible paint so that drivers can see the area clearly.
- ✓ Three (3) handicapped signs should be placed within the area to protect the elders and those who are handicapped (by law). Likely areas are Summit, the intersection of Riverside and Washington, and, the intersection of Summit and Washington Avenue Extension.
- ✓ A continuation of the sidewalk should be built to accommodate the pedestrian traffic so that we are not fighting for road space along with all the athletes and vehicles. This should start from the crosswalk in place prior to Portside Day Care on Washington Avenue, going up the hill on Washington Avenue toward Dole Street, and connect to the existing sidewalk in the area of 1872 Washington Avenue.
- ✓ With the increase of more vehicles in this area, a review of speed issues on the neighboring Summit Street including traffic slowing methods should be examined again.

**(See Attachment for detail on the above)**

44

Traffic  
Diversion  
Suggestions

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**(See Attachment for detail on the above)**

Effects of  
Traffic  
from  
Haverty  
Ball Field  
Events

Further, the report should also include impact based on events occurring at the Haverty ball field; for instance, this data should include the quantity of vehicles coming and going into the area, in addition to the vehicles coming and going into the proposed development. Further, **the report should provide a model** so that the items proposed above are included in the overall traffic patterns, and indicate the effect on traffic flow in the area.

A cohesive traffic study will, by all means, allow the City, the Havertys and the residents in the area to have an accurate picture of traffic flow. Moreover, the City and the Planning Board will be able to make informed and comprehensive decisions based on all the information rather than one or two elements. Surely, without the inclusion of the above stated issues, there will be an accident of drastic proportion; it's just a matter of when as indicated by Casey & Godfrey's report, when it noted that "the intersection of Washington Avenue and Riverside Street is a high crash location".

(See your workshop packet from 04/20/04 with attachment B1-B4, Traffic Impact Study)

Why the  
Brook  
Should Be  
Reclassified

2. The brook should be reclassified to reflect that it runs year-round (perennial) and not "intermittently". URS, the engineering general contractor hired by the Haverty family, noted in their documentation that "the brook does not run continuously throughout the year". The residents abutting the brook claim this is untrue, stating that the brook does, in fact, run all year long and has done so for many years.

A forest and wetland ecologist for The Maine Audubon Society, Mr. Rob Bryan, recently reviewed the site plans and the wetland; it was his conclusion that "the brook may in fact be perennial", largely based on ecological evidence. This supporting statement validates the MDIFW statement that the "regional buffer policy requests 100 foot undisturbed buffers along both sides of the stream or stream associated wetlands". Further, in the Planning Board packet presented on April 20<sup>th</sup> 2004, the attachment D1 entitled "Standards for Development in and Adjacent to Wetlands", Standards #3, C,a, clearly states the following:

"For developments located adjacent to perennial streams a minimum 100 foot buffer strip on either side of the stream should be maintained...The undisturbed buffer must be placed in deed restrictions".

Y5

It should also be noted to the Board that a culvert and fill were added 2 or 3 years ago to the wetland in an attempt to funnel water from the pond into the brook. At the time this was completed, it is highly doubtful that any environmental or city official reviewed the manner in which it was done, or that any person from the Havertys completed appropriate documentation of such activity. We believe that the fill should be subject to Maine DEP review, as the amount of fill that has been added to the land is significant, regardless of this particular project.

The following conditions are true:

Flood  
Conditions

- ✓ At various times of the year, flooding results with evidence pointing to the location behind proposed Lot # 1 and Lot # 2.
- ✓ It is visually noticeable that the land adjacent to the brook in back of both the DiBases', Egberts' and Rogers' homes on Lester Drive that the brook is slowly eroding their properties as a direct result of continual flooding.
- ✓ Typically the water rises approximately one (1) to 2 (two) feet above the normal water flow during the rainy seasons.
- ✓ During flooding season in the fall of the late 1990's (we believe it was 1998) the water from the brook rose so high that it took out trees that were part of the property behind Mr. & Mrs. James Rogers (53 Lester Drive).
- ✓ During the spring and fall, most residents on Lester Drive have witnessed the water gushing out up to 2 to 3 feet onto Washington Avenue. In the winter months, the water settles at the bottom of Lester Drive creating a pool of ice, which is a hazard to drivers attempting to stop at the intersection of Lester Drive and Washington Avenue.

The above conditions should be reviewed closely. **It is our recommendation that past and present Stormwater Reports be reviewed by the Cumberland County Soil and Water Conservation District and Portland's Public Works Department.**

Should a reclassification of the brook not be considered via the jurisdiction of the City, then it will be brought to the attention of the Maine State Legislature and other concerned parties, such as the USGS. These conditions should be heavily weighed when the Planning Board considers setbacks and methods to remove runoff and waste water.

(See Addendum forthcoming with remarks from the Maine Audubon Society; the Planning Board's workshop packet 04/20/04 with attachment C1-2, Wetland Delineation Report, Item # 3 and Section XI Attachment D1 on Standards for Development in and Adjacent to Wetlands)

Why the  
Wetland  
Fill Process  
Should be  
Carefully  
Monitored

3. A detailed report noting how the City plans to monitor wetland fill quantities being dumped into the proposed project should be provided; the neighborhood is highly concerned that the fill will exceed DEP guidelines and therefore negating DEP classifications for this particular proposed project. URS noted that "the cumulative wetland fill for this project...will be less than a total of 4300 square feet". Currently the wetland fill for the project is estimated at 3848 sq. ft.

It should be noted to the Planning Board that there are several areas on the wetland in which fill has been dumped throughout the years with or without permission from the City. As a result we believe that the fill process should not only be monitored, but that any fill previously dumped should be subject to Maine DEP review. There are significant issues with this particular project due to the proximity of the wetland and brook.

Therefore, we believe it warrants a City Inspector on site who is able to document the quantity of fill going into the proposed subdivision. Should any variances exist in the total quantity of fill being dumped onto the wetland, the proper governing authorities should be immediately notified, including our neighborhoods.

(See the Planning Board's workshop packet 04/20/04 with Attachment C1-2, Wetland Delineation Report, Item # 5)

Why a New  
Field  
Survey  
Should Be  
Conducted  
NOW

4. A comprehensive field survey of the wetland on the Haverty property should be conducted now while growing conditions are at their optimum. The study should include conditions of the wetland, brook and vernal ponds. Though Woodlot Alternatives wrote its report to URS noting the topography, including the conditions of the wetland, brook, and flora and fauna within the area, the time of year chosen to conduct the study was in extremely poor taste, as it was commissioned in the month of December. Why any reputable environmental consulting firm would conduct a study and then issue a report in December is beyond common sense.

47

To their credit, however, Woodlot Alternatives did state further in its document that "in order to satisfy the requirements of both the US Army Corp of Engineers and Maine Department of Environmental Protection wetland boundaries should be verified in the spring when growing season conditions exist".

Per a letter dated 05/03/04 to Lester Drive and Washington Avenue Residents from Ms. Toni Pied at the State of Maine Natural Areas Program, "there are no rare botanical features documented specifically within the project area. **This lack of data may indicate minimal survey efforts** rather than confirm the absence of rare botanical features". Ms. Pied goes on to state that "**comprehensive field surveys do not exist** for all natural areas in Maine, and in the absence of a specific field investigation, the Maine Natural Areas Program cannot provide a definitive statement on the presence or absence of unusual natural features at this site". (See Attachment from State of Maine Department of Conservation)

Woodlot Alternatives also noted in its report that "MDIFW does request that a **100-foot undisturbed buffer be maintained along any stream and stream associated wetlands**". This criterion should be adhered to despite the fact that it is "only a request". We believe this wetland is critical to the environmental safety of the wildlife habitat on this particular parcel, not to mention the environmental safety of our neighborhoods.

Per an email dated 04/29/2004 from Mr. Scott Lindsay, Assistant Regional Wildlife Biologist for the MDIFW, Scott states that "**There is no question that the current rate of conversion of open land into residential or commercial subdivisions will continue to have a negative impact on wildlife populations and contribute to an increasing number of conflicts between people and wildlife as available habitat declines.**" With high populations of tree frogs and "valuable wildlife", along with an "extensive" list of various bird species and other wildlife in this particular corridor, at the very least the 100 foot buffer should be maintained.

We agree with Chairman Delogu's position that the placement of the proposed homes should be positioned as close to Ball Park Drive as possible so that the trees and vegetation are preserved on the wetland; **however, this is not the optimum solution. The optimum solution is to build cluster housing limited to the side of Ball Park Drive where Lots # 10 through 15 exist and/or further back past the ball field.** The entire site plan(s) should be reconfigured to reflect this change. By doing this, the Planning Board and the Havertys will allow the wetland to flourish and maintain its current status. This tactic will also match

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the Havertys potential earnings as described by Matthew Flaherty via a telephone call to Pamela M. Burnside on 04/08/2004. Without the cluster housing as indicated in the location above, the only optimal solution is to reduce the quantity of homes to be built which we are certain the Havertys find unacceptable.

(See the Planning Board's workshop packet 04/20/04 with attachment C3-C5, Wetland Delineation Report; and attached Email from MDIFW).

Why the Building & Site Plans Should Be Re-configured

5. Specific lots (#1 through #9) in which the Havertys propose to build houses should not be disturbed or slated for development of any kind. This particular area of the Haverty parcel has the greatest wetland resources, the oldest tree growth, largest species of wildlife, amphibious life, including flora and fauna. The building plan should be reconfigured to eliminate those houses from the overall plan in order to minimize the overall effects to the wetland. Further, there should be a legal binder in place that prohibits future development of homes or any other structures in this area, including the parcel behind Mr. & Mrs. Michael Esposito, Mr. & Mrs. Richard Young, and Mr. & Mrs. Albert Murphy and any future development projects for the entire 23 acre parcel. Once any of these areas are disturbed the precious wetland resources will be gone forever.

Because Maine has a horrendous record of keeping wetlands clean throughout the construction phases of subdivisions and the like, there is concern that these preservation facts may not alter this proposed building project. A report from the National Resources Defense Council states from statistical data provided via municipalities and the State of Maine that "bacteria from municipal point sources, combined sewer overflows, and urban runoff are responsible for impairment in estuarine waters. Ninety-nine percent of assessed river miles support both aquatic life and swimming. Oxygen-depleting substances and bacteria from agriculture and urban runoff are the most significant problems in rivers and streams". Many of these problems are due to the lack of "nutrients, siltation, oxygen-depleting substances, and flow alterations from agriculture, urban runoff", including "hydrologic modifications".

(See Attachment from NRDC entitled Testing the Waters 2003: Maine)

Air  
Pollution,  
Cancer,  
Asthma,  
&  
Maine

Further it is a well-known fact that Maine suffers from high levels of air pollution, arsenic in our water supply, as well as extremely high asthma and cancer rates. According to the Center for Disease Control (CDC) in their 2003 Maine Cancer Burden Data Facts Sheet, "Maine ranks 11th highest overall in cancer mortality rates among the 50 states and Washington, D.C.". Although these high rates can be attributed to many factors, it is clearly evident that environmental factors including the decline of established wetlands do in fact play a critical role. It is a fact that **several adults and children, within the proximity of the proposed development, already have various types of cancer, precancerous conditions or suffer from severe asthma conditions.** Once the proposed area is disturbed, it is very likely that the conditions some of these adults and children alike suffer from will be further exacerbated, requiring medical treatment of unknown proportion.

**Therefore we propose the following:**

- ✓ Lots # 1 through # 9 should be legally zoned as unbuildable.
- ✓ Lots # 1 through # 9 should be included as part of the conservation and preservation parcel on which the City, the Planning Board and the Havertys are currently working.

(See Attachment from CDC web site Maine Cancer Burden; Attachment from the American Lung Association State of the Air: 2004; Attachment from the American Lung Association, State of the Air: 2004 Table 4a: Counties with the Worst Ozone Air Each State)

Why  
Detention  
Ponds are  
not a good  
idea

6. The areas in which URS plans to build detention ponds suffer from intense flooding several times a year. Per a Maine DEP publication "ponds are used when large amounts of water need detention to either meet the quality treatment requirements or for volume retention under the flooding standards". (Maine DEP; Storm Water Management BMPS Synopsis March 1, 2004) This statement proves that large amounts of water from the subdivision, whether in the form of runoff or wastewater, will be funneled, along with the natural water from the wetland, into the three (3) detention ponds (according to the site plans submitted to the Planning Board Workshop of 04/20/2004). The Havertys are attempting to build in an area where multiple issues exist; further no structures should even be considered for development in front of Portland's Planning Board. Clearly, the

Y10

Planning Board has an opportunity in front of itself to **limit or even prevent structures from being built on the wet slope adjacent to the houses on Lester Drive.**

The issues are as follows, though not limited to:

Soil  
Types &  
Hazards

- ✓ The water, whether it originates from runoff, snow, ice or other sources as a direct result of the development, that runs down the slope will be funneled into the various detention ponds, may possibly create a reverse effect with dry soil conditions on the slope. This could be a possible fire hazard.
- ✓ Woodlot Alternatives noted in their report to URS dated 12/31/2003 that the soils "within this wetland are primarily poorly drained silt loams over very fine and course sands." It is exactly these types of soils that allow this particular wetland to flourish. With the proposed development and building, once the rainy seasons begin, the land will be stripped of its current status as "wetland"; various soil types, rain, runoff and other particles including pollution are likely to end in the detention ponds. If flooding occurs it is more than likely that these particles will overflow into the brook.

Flooding  
& the  
Brook

- ✓ The specific lots on which the detention ponds are to be located are too close to the brook. The water from the brook overflows at various times of the year (**See Item # 2 in this rebuttal dated 05/19/04**). Per a source at the Maine DEP, the detention ponds "will not be able to handle" large amounts of rain and/or runoff. This is particularly true should flooding occur. This particular brook (though claimed by the State to be intermittent) does experience frequent periods of flooding. It is critical to remember the flooding that occurred throughout 1998 when home owners on Lester Drive lost some of their property to the brook. During times of large amounts of rainfall, it is highly likely that the detention ponds "will overflow".
- ✓ According to Woodlot Alternatives, this particular brook "flows northwest to the Presumpscot River". It is highly doubtful that the City of Portland wants contribute polluted water to the Presumpscot River, which is "the largest freshwater input to Casco Bay" with "a watershed of over 648 square miles". (**See Attachment from Friends of the Presumpscot River: Presumpscot River Facts**)

Species  
Critical  
to the  
Habitat

- ✓ The birds, tree frogs and other wildlife that densely inhabit the wetland will either move on to other areas that provide the rich and quiet habitat to which they are accustomed or they will die. Should either circumstance occur the wetland will suffer a depletion of populations so very critical to their survival.
- ✓ Though the design of a detention pond is known to absorb the water within a 48 hour period, there is no assurance that the pond will not be a breeding ground for mosquitoes infected with West Nile virus. The ponds contain fairly stagnant water. Though this may not be realistic, it is a possible concern.

Buffers  
&  
Detention  
Ponds

- ✓ In order to build the detention pond, a bulldozer and other heavy equipment will have to drive through a property easement between Lots 2 and 3, followed by bulldozing a large plot of land some 25 feet from the edge of the brook. In all likelihood, in order to create the road, the forest and vegetation in its natural state will be clear cut, thus **negating MDIFW suggested 100 foot "undisturbed" buffers.**
- ✓ The detention area itself is likely to be a grassy swale; an area dug out and seeded with grass. Grass is not natural to this particular wetland. Further, because detention ponds are wet, they are likely to attract unwanted and large populations of flies, mosquitoes, bugs and insects.
- ✓ The placement of the detention ponds will likely **devalue the houses abutting the brook on Lester Drive.** Moreover, it is very likely that the selling period will be extenuated due to the view of the detention ponds, rather than a running brook.

Maintenance  
&  
Safety  
Issues

- ✓ According to the Maine DEP, the detention ponds require maintenance and cleaning of the catch basins. There has been no mention to date if these will be maintained by the City's Public Works Department or if a third party will maintain a contractual responsibility for this. If there is maintenance, we would like detail regarding who will conduct this and when, along with how the detention ponds will be accessed, and the effects on existing vegetation and wildlife.
- ✓ There have been three (3) detention ponds proposed. Given the information from the first workshop, there has been no information provided on any easements to create these detention ponds on Lots 6 and 7. If there will be further easements, as a neighborhood, we would like to see where those points will be and when they will be created.
- ✓ Finally, the City should be aware that there are many children in the neighborhood who enjoy all aspects of natural water sources, wildlife species and the brook itself. We would like to know what safety measures

will be erected to keep the children out of the detention ponds. Further we would like to know the esthetics of such safety measures (i.e. fencing).

Erosion of  
the  
Wetland

7. The soils on the slope of the wetland will likely erode throughout the various construction phases. Further, there is high concern that the City of Portland and the various contractors who will be involved with this particular project do not have adequate nor qualified measures in place to prevent the erosion and, thus, preserve the wetland. For instance, soil in the form of loam should **not** be added to the wetland as referenced by URS in their engineering drawings submitted to the Planning Board on 04/20/04. This is an incorrect soil type for this particular wetland. Putting grass and loam in an area that does not produce such creates an unstable ecosystem; these measures should be avoided at all costs.

**We propose the following:**

- ✓ A geotechnical study should be done independently of any Haverty report provided to the Planning Board.
- ✓ Due to the heavy erosion in this particular wetland, it would be in the best interests of all parties to have the Maine DEP review such findings.
- ✓ If soil must be placed on the wetland, and we are adamantly opposed to that, then the soil types to be added should be compatible with the wetland. No grass of any kind should be allowed, nor plants that are not native to the wetland.

Tree Plan  
&  
Hazardous  
Waste  
Plan

8. The neighborhood is adamantly opposed to clear cutting; further there have been no provisions in the site plans or other revealing methods to remove hazardous waste from the parcel slated for development. We believe there are specific measures the Planning Board can enact in order to preserve and minimize the cutting of trees & vegetation and clean up the parcel prior to development of any kind.

**We therefore propose the following:**

- ✓ A tree plan should be created so that neighborhoods adjacent to the development can see the setbacks and the overall loss of vegetation. This plan should include all tree growth and vegetation to remain, as well as, all new vegetation and trees to be added. Any new species of vegetation and trees to be added must be the within the same family of species that resides within the wetland currently. For instance this might include

Y13

alders and hawthorns. Some of these trees are old growth and are a critical component for the continuity of existing vegetation, amphibious life and wildlife within this ecosystem.

- ✓ A clean up plan should be created and placed into the plan prior to development of any structures. The clean up should include the entire but approximately 10 acres. The clean up should be subject to the 100 foot set backs with no easements and/or right-of-ways to be built in order to remove such waste. Removal of waste should and can be done through manpower alone. Any existing waste such as trash, hazardous waste, including old drums that contain or once contained fuels of any kind, furniture and all other debris should be disposed.
- ✓ Soil and water from the brook as well as key points throughout the proposed development should be tested by a qualified and independent ecologist. The testing should attempt to rule out pollution or environmental threats of any kind (current and future).

9. It would appear to most that the likelihood of selling houses in a wooded mosquito-laden parcel of land adjacent to a ball field is unimaginable and very possibly unlikely. It appears to be an odd plan at best as the following factors limit the Havertys capability of selling:

- ✓ The homes to be sold are single family dwellings that start in the range of approximately \$400,000 and up.
- ✓ The traffic going in and out of the ball field is extensive; it leaves a stench of pollution from vehicle exhaust not to mention gum, gum wrappers, sofa cans, beer cans, glass and other forms of trash.
- ✓ Vehicles going in and out of the Haverty Ball Field are subject to not only a busy street but also a "dangerous intersection" (Riverside and Washington Avenue).
- ✓ Parking will be limited to the North side of Ball Park Drive and/or an area on the Haverty property adjacent to the ball field itself.
- ✓ Numerous events take place throughout a three (3) to five (5) month time frame at which even the residents of Lester Drive and Washington Avenue hear kids and adults cheering their children on; it is a noisy area at best.
- ✓ Should the houses sell or be pre-sold we believe there will be high turnover due to the conditions of the area, namely traffic, noise from the ball field, and a high population of bugs and insects. If a high turnover rate occurs on Ball Park Drive, it will negatively impact the Ball Park Drive neighborhood, as well as, Lester Drive neighborhood and Washington Avenue

neighborhoods within proximity to Ball Park Drive. The high turnover rate will likely add to the devaluation of homes in both neighborhoods.

Proposed  
Boswell  
Purchase

With these factors, it is our recommendation that a real estate and/or market study be conducted to determine the likelihood of the above factors. Further, the Boswell contract is subject to the approval of the entire Haverty subdivision plan by the Planning Board.

- ✓ Is it a fact that the Boswell's plan to build 2 homes?
- ✓ Do the Havertys and the Planning Board have any proof that the Boswell's have the proper financing to make such a purchase given the enormity of cash required to purchase two lots and two homes?

Conclusion

In conclusion, there is a lot at stake with the development of a wetland. This is not a simple case of residents not wanting another residential development in their backyards; nor is it about residents believing that the woods and brook abutting their properties are their land by default as some parties would like to believe. This is about the smaller wetlands subject to development of any kind for any cost. It appears that the Maine DEP has no issue with handing out Permits by Rule; the smaller wetlands fall through the cracks of the Maine DEP and City of Portland because of specific antiquated rules and regulations introduced by the DEP. The Permit By Rule process allows general contractors or engineers to simply fill out a form, send it into the DEP offices, and, through one of our sources, the permit is "automatically granted" with no review process and questions asked.

**We are appalled at the "site permit hand out" process regardless of what agency or department is involved.** Further we are appalled at the City and the Planning Department's attempt to accommodate developers and any revenue schemes it can get its hands on; after all that is the department's job. Developers clearly know how to maneuver around the legal system. They also have perfected the way to create a project that falls just shy of applicable DEP rules and regulation. These tactics do not benefit the City of Portland, especially as more and more buildings and housing developments are stamped for approval. The majority of Mainers are not interested in our fine City being the next Boston; if we wanted that we would all move South and forget the waiting period for Portland to catch up to the rest of the nation.

**It is so critical at this juncture that the Planning Board takes a solid stance and not support building of any kind on wetlands.** No one really knows the ultimate sacrifices that come from building on wetlands. What we do know is

Y15



that the wetland, vernal ponds, wildlife, amphibious life and others, including adults and children, will suffer long-term effects as a result of the Planning Board's sign off in favor of another residential development on wetland.

Many good things can be accomplished on a parcel of wetland such as the Havertys. Some of these have been alluded to in previous work submitted to the Planning Board via the Havertys such as nature trails, conservation and preservation. If the Planning Board elects the option to permit the building process then by all means keep in mind that discussion of future preservation of wetlands will be postponed or negated altogether. Further, once the Planning Board approves this project, it will open the doors to an inundation of requests to build on wetland. Once that process starts, it is highly unlikely that there will be an end; the City and the Planning Board will have no recourse to stop it as they were the ones who initiated it.

We are counting on the Planning Board to use its intellect and common sense, as well as its vast resources to see why this is not a good plan for our City.

Sincerely,

*Pamela M. Burnside, Lester Drive & Washington Avenue Residents, and many concerned Residents of Portland, Maine.*

CC. Maine Department of Conservation, Maine Department of Inland Fisheries and Wildlife, Maine Audubon Society

Note: See corresponding attachments

*This document in its entirety is copyrighted; this information is privileged and intended for the Portland Planning Board and Mr. Ethan Boxer-Macomber only. Requests for photocopying or dissemination of this document or any other information emailed or mailed to Pamela M. Burnside or LDR is prohibited, unless approved in writing by Pamela M. Burnside.*

9/8/09

NOTE for FUE

Rec'd a phone call from Mary Hawerty who had rec'd our letter of 9.4.09.

She confirmed that repair work on the pond had been completed - they had removed the bricks + debris.

She asked me to inform Mr Jaegerman (which I did) and happy to have inspectors visit / take photos.

Sept - Phil visited + reported OK.  
Pam Burnside did not follow up re this  
(I emailed her on 9-14-13 -  
see attached)

**From:** Jean Fraser  
**To:** Burnside, Pam  
**Date:** 9/14/2009 1:36:18 PM  
**Subject:** Ball Park Drive/NRPA/Lot #18

Hello Pam

Sorry for the delay in getting back to you; this is where things have got to:

I understand that some improvement/repair work (re NRPA) has been done on Lot #18 and inspections will take place this month.

I have spoken at length with John MacLaine at the MDEP regarding NRPA and the issues you have identified re the stream, and I can only suggest that you speak further with him. I understand from my colleagues that the City does not enforce directly re NRPA but does use its Site Plan/Subdivision regulatory powers wherever possible to facilitate that NRPA is met. In this case there is no Site Plan issue except as may be included in individual deeds to those lots or on the Subdivision Plat- which I will check. I don't think the City would have sent a letter to residents on this but will also double check re that.

Re safety, Portland Trails have confirmed that the trails that will be public trails on Lot #18 will not include the one by the pond and are along the boundary to the west and link to the Church property. I don't believe that the designation of Lot 18 for conservation conveys any rights of public access except re the trail easement when PT create that trail; so I don't think there are any obligations re safety on the various other paths on the lot.

The City's Public Services are currently investigating/acting re the Washinton Ave culvert; I will get an update on Wednesday.

I think that is all for now,  
Jean

Jean Fraser, Planner  
City of Portland  
874 8728

*Pam Burnside sent photos -  
all on O'Drue under  
Wash Ave - Ball Plk Drue*

**From:** "Burnside" <burnside@maine.rr.com>  
**To:** "'Jean Fraser'" <JF@portlandmaine.gov>  
**Date:** 8/28/2009 11:12:00 AM  
**Subject:** RE: Haverty Culvert Breach

Hi Jean;

Thank you very much for the update. I appreciate it very much as do a number of neighbors here as well (I have forwarded your information to them as well)

1. Regarding the culvert at the pond, we are very pleased to hear that the MDEP NRPA standards will be upheld and that the MDEP will oversee that operation. All of us look forward to the culvert being restored. Please advise as to the timetable on this.
2. With respect to the dumping of extraneous materials near the stream, the NRPA standards are quite clear. Soils are not to be disturbed - the 75 foot setbacks are not to be challenged. (i.e. no encroachment) I can respect that the vegetation may be "decomposing", but the rules should be upheld and no dumping should be permitted by anyone within the said setbacks. Dumping being lawn cuttings which contain oil & gas, leaves, tires, trash etc. Additionally trees are not to be cut. The entire wetland, stream and Lot 18 area falls under NRPA wetland standards including PBR's.

I believe the City sent one letter to Lester Drive folks shortly following the project approval regarding this - my question is when will the letter of the law/rule be upheld? Further when the MDEP guys visited here a few years back they specifically stated to me that it was a clear violation of the MDEP (NRPA or wetland with a stream/river) rules. Now if you want me to find the specific rule, I can do that.....

3. You are quite correct regarding "Lot 19"; it is non-existent. Since I had a stroke, my typing is not so good, but I do try.

4. Regarding risk to wildlife I can agree with that. My concern is the culvert (at the pond) - it is a safety hazard to anyone trying to cross that area. I would think it should be posted until the area is completely corrected. For instance, kids go biking & walking through that area all the time - if someone did not know of the problem with the culvert s/he may end up with a head injury or other due to falling (see for yourself). I would think the Haverty's/City of Portland would want this, but what do I know.

Thanks again for the communication and the updates. We do appreciate it. I hope you have a great vacation; it looks like you picked a great week for it - go enjoy!

Pam Burnside & other Lester Drive neighbors

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Tuesday, August 25, 2009 5:17 PM  
To: burnside@maine.rr.com  
Subject: Re: Haverty Culvert Breach

Hello Pam

This is the update:

1. MDEP NRPA and Solid Waste Inspectors have visited the site to investigate all of the issues you raised and to determine how to deal with the culvert within the framework of NRPA.
2. Re the culvert, MDEP would prefer that the culvert remain as it is but have a stone-lined emergency spillway constructed around it plus removal of the bricks etc in the pond. In view of the fact this was storm damage, they intend to give Mrs Haverty a reasonable time to make the repairs. The contact at MDEP is John MacLaine at 822 6351.
3. Re the dumping and items you mentioned in/near the stream, I understand that the few items along the stream do not trigger the Solid Waste Regulations (ie the metal was already decomposed; vegetation still flourishing; no oil) and therefore they are unable to take any formal action.
4. You mention Lot #19 and we can't find a Lot #19.
5. The City has sent representatives to look at the site generally and do not consider that the value of this area to wildlife etc is at risk nor is there any health or safety problem. However, I have drafted a letter to Mrs Haverty in the context of the Conservation Easement for Lot #18; this letter has not gone out as I was waiting to hear from MDEP and our attorney is on vacation and needs to clear the letter.
6. I am on vacation next week but will follow up this e-mail on Thursday before I go; others here are involved and I will give you a contact for while I am away.

Regards,  
Jean

>>> "Burnside" <burnside@maine.rr.com> 8/24/2009 1:47:40 PM >>>

Hi Jean:

I am writing to request an update on the Haverty Culvert. We have had a significant amount of rain over the past week and the culvert is obviously not fixed. Is there a plan in place resolve this issue? If so could you elaborate and provide a timetable.

Additionally I am concerned about the lack of City & MDEP enforcement of NRPA rules. Over the weekend I walked by the Haverty pond and culvert areas only to find that the bridge/culvert area is being used to light fires and

fireworks. As I mentioned in previous emails a large section of Lot 19 is also being used for ATV trails, dumping of trash, leaves and grass clippings as well as oil drums and tires.

As you are aware, the entire area is heavily forested and also home to many wildlife species, not to mention amphibious creatures. I am highly disappointed; this particular project could have been a real testament to City and MDEP initiative to preserve what little remains of Portland's open spaces.

Please let me know what the City will do in regard to both items. I will forward this note to the MDEP but would like an email address of the point person for this project. I thank you for your attention to this particular project. I do appreciate your hard work, as many other neighbors in our area do as well.

Sincerely,  
Pam Burnside

**From:** Jean Fraser  
**To:** Barhydt, Barbara; DiPierro, Philip; West -Chuhta, Danielle  
**Date:** 8/27/2009 2:55:46 PM  
**Subject:** Fwd: Haverty Culvert Breach and NRPA issues

To all:

Please find attached a draft letter to Mrs Haverty, owner of Lot #18, regarding the culvert breach. I have spoken at length to MDEP and they feel "enforcement" is not warranted at this stage because its storm damage but they are expecting her to repair it and install a bypass spillway and remove bricks etc (see my attached note of that converstaion too). I agreed with MDEP we would send a gentle letter at this time.

Re the draft, it relates to the conservation easement which the city is supposed to "enforce"..... but which is very thin on requirements for the owner and I cannot find a para to reference. **Danielle- are you IOK with this????**

The other question (**more for PHil and Barbara**) is whether we should be taking any further action on the reported "encroachment" re the stream- when I looked onthe site plan file she was making the same comments then....but John Maclaine walked the stream this week and didn't feel there was anything serious from their viewpoint; its certainly not "filling" and in a discussion with Phil we thought the reported issues seemed outside the City's area of concern. We would like to ensure that this view is consistent iwth action taken ealsewhere by the City and clarify whether there is any further action we should take.

A small file with the latest coreespondence and research is on my desk and the Site Plan/Subdivision review file is filed in the Planning file room under "Ball Park subdivision" (In "O" drive its under Washington Ave)

Feel free to send out this letter if its OK... (copy it to John Maclaine at MDEP)  
Jean

**Latest:**

>>> "Burnside" <burnside@maine.rr.com> 8/24/2009 1:47:40 PM >>>

Hi Jean:

I am writing to request an update on the Haverty Culvert. We have had a significant amount of rain over the past week and the culvert is obviously not fixed. Is there a plan in place resolve this issue? If so could you elaborate and provide a timetable.

Additionally I am concerned about the lack of City & MDEP enforcement of NRPA rules. Over the weekend I walked by the Haverty pond and culvert areas only to find that the bridge/culvert area is being used to light fires and fireworks. As I mentioned in previous emails a large section of Lot 19 is also being used for ATV trails, dumping of trash, leaves and grass clippings as well as oil drums and tires.

As you are aware, the entire area is heavily forested and also home to many wildlife species, not to mention amphibious creatures. I am highly disappointed; this particular project could have been a real testament to City and MDEP initiative to preserve what little remains of Portland's open spaces.

Please let me know what the City will do in regard to both items. I will forward this note to the MDEP but would like an email address of the point person for this project. I thank you for your attention to this particular project. I do appreciate your hard work, as many other neighbors in our area do as well.

Sincerely,  
Pam Burnside

**This is from Pam on 7.30.09:**

Just so you know, there are 2 major issues concerning the NRPA area; first the pond and culvert breach which I photo'ed. Second, the culvert on Washington Ave. Ext. and Lester Drive where the wall of water came spewing out onto Washington about 4 to 6 weeks ago (actually occurred at the property line of 1969 Washington and the first house on Lester - formerly Paul White's property). I believe that the culvert at the pond breached with all the rain and when it did it sent a rush of water down the stream to the culvert at the Washington/Lester. The Washington/Lester culvert was backed up years ago and only operating at 1/2 capacity. The Murphy's at 1969 Washington hired a firm to cut trees and perhaps also clean out the culvert shortly after the incident - I do not know if this was done on their property or on the Haverty property or part of Lot 1 of Ball Park Drive.

Other issues concerning the Ball Park Drive Development and the NRPA areas;

1. The pond contains trash along with bricks, asphalt, concrete and plastic tubing for construction. The pond is home to a large assortment of aquatic life as well as birds and other wildlife.
2. A fort in back of Lester Drive bordering the river exists and contains large trees that were cut. Also the fort contains a very old & rusted oil drum, trash and old tires.
3. Lester Drive Neighbors (abutting the stream to Lot 18 all the way down to the Washington/Lester culvert) continue to dump trash, leaves and grass clippings in the back of their properties. Most have ignored the encroachment letters that were issued by the City/MDEP years ago.
4. Lot 1 on Ball Park Drive is being utilized as a dumping ground for property signs, trash, leaves and grass clippings.
5. An ATV trail is still being utilized on Lot 18 near the Baptist Church property.



**From:** Jean Fraser  
**To:** DiPierro, Philip; john.maclaine@maine.gov  
**Date:** 8/25/2009 5:18:26 PM  
**Subject:** Fwd: Re: Haverty Culvert Breach

John.maclaine@  
maine.gov  
822 6351

For information....

>>> Jean Fraser 8/25/2009 5:16:38 PM >>>  
Hello Pam

This is the update:

1. MDEP NRPA and Solid Waste Inspectors have visited the site to investigate all of the issues you raised and to determine how to deal with the culvert within the framework of NRPA.
2. Re the culvert, MDEP would prefer that the culvert remain as it is but have a stone-lined emergency spillway constructed around it plus removal of the bricks etc in the pond. In view of the fact this was storm damage, they intend to give Mrs Haverty a reasonable time to make the repairs. The contact at MDEP is John MacLaine at 822 6351.
3. Re the dumping and items you mentioned in/near the stream, I understand that the few items along the stream do not trigger the Solid Waste Regulations (ie the metal was already decomposed; vegetation still flourishing; no oil) and therefore they are unable to take any formal action.
4. You mention Lot #19 and we can't find a Lot #19.
5. The City has sent representatives to look at the site generally and do not consider that the value of this area to wildlife etc is at risk nor is there any health or safety problem. However, I have drafted a letter to Mrs Haverty in the context of the Conservation Easement for Lot #18; this letter has not gone out as I was waiting to hear from MDEP and our attorney is on vacation and needs to clear the letter.
6. I am on vacation next week but will follow up this e-mail on Thursday before I go; others here are involved and I will give you a contact for while I am away.

Regards,  
Jean

>>> "Burnside" <[burnside@maine.rr.com](mailto:burnside@maine.rr.com)> 8/24/2009 1:47:40 PM >>>

Hi Jean:

I am writing to request an update on the Haverty Culvert. We have had a significant amount of rain over the past week and the culvert is obviously not fixed. Is there a plan in place resolve this issue? If so could you elaborate and provide a timetable.

Additionally I am concerned about the lack of City & MDEP enforcement of NRPA rules. Over the weekend I walked by the Haverty pond and culvert areas only to find that the bridge/culvert area is being used to light fires and fireworks. As I mentioned in previous emails a large section of Lot 19 is also being used for ATV trails, dumping of trash, leaves and grass clippings as well as oil drums and tires.

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Please let me know what the City will do in regard to both items. I will forward this note to the MDEP but would like an email address of the point person for this project. I thank you for your attention to this particular project. I do appreciate your hard work, as many other neighbors in our area do as well.

Sincerely,  
Pam Burnside

**CC:** Barhydt, Barbara

## **NOTE FOR FILE**

08.25.09

Telephone call from John MacLaine, MDEP (822 6351) regarding the various issues raised by Pam Burnside over the last several weeks re the pond culvert "failure" and dumping in the stream.

John and a colleague from the MDEP Solid Waste section visited the site today and walked around Lot #18 and along the stream.

John reports:

1. Re the culvert, MDEP would prefer that the culvert remain as it is but have a stone-lined (eg rip rap) emergency spillway constructed around it plus remove the bricks etc in the pond. In view of the fact this was storm damage, they intend to give Mrs Haverty a reasonable time to make the repairs on an informal basis and follow up with "enforcement" if this does not take place (they spoke to her in person).
2. John will let us know what timetable he agrees with Mrs Haverty and is aware that the City will be sending a letter in the context of the Conservation Easement. He advised me to give Pam Burnside his telephone number so that if she would like further clarification she can call him.
3. Re the dumping, they did not find anything as extensive as Ms Burnside reported: the oil drum was already decomposed; vegetation still flourishing through some leaf and grass cuttings; no oil. Therefore it was very minor and did not trigger Solid Waste regulations and they have no basis for taking action.

NOTE:

Portland Trails have also visited the site and reported to me that they have no "interest" in this culvert although they will write to Mrs Haverty encouraging her to repair the path over it.

Phil DiPierro has also visited the site and considers that it is not something we would pursue based on what he saw.



*Strengthening a Remarkable City, Building a Community for Life*

[www.portlandmaine.gov](http://www.portlandmaine.gov)

**Planning & Urban Development Department**  
Penny St. Louis Littell, Director

**Planning Division**  
Alexander Jaegerman, Director

September 4, 2009

Mrs. Mary Haverty  
Ball Park Drive Development LLC  
67 Haverty's Way  
Portland, ME 04013

RE: Proposed Ballpark Drive Subdivision: Conservation Easement for Lot #18  
ID #2004-0028, CBL #371 A002001

Dear Mrs. Haverty:

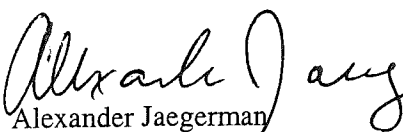
The Planning Division has been informed of some issues regarding the condition of the pond/pond culvert on Lot #18 that may impact and lead to (or have caused) erosion in the area and which may impact wildlife and conservation.

We have discussed these issues with John MacLaine at the Maine Department of Environmental Protection (MDEP). Based on our conversation with him, it is our understanding that you will be stabilizing the culvert's emergency spillway with rip rap and removing bricks and debris in the pond from storm damage in the near future. We encourage these stabilization measures and an early restoration of the culvert area and nearby path, along with removal of dumped items in and around the pond. The Declaration of Covenants and Restrictions that was created as part of subdivision review is attached for your reference and it contains the specific provisions for maintaining Lot #18.

Abutters have also expressed concerns that ATVs are using this site. Again we refer you to the Declaration of Covenants and Restricts (1 a. ii) which indicates the trail in question is to be a footpath/walking trail within Lot # 18. You may want to work with Portland Trails on methods to maintain and encourage pedestrian use of the trail.

Please advise us on your timetable for making the improvements. Thank you for your attention to this matter and if you have any questions, please contact Jean Fraser at 874-8728.

Sincerely,

  
Alexander Jaegerman  
Planning Division Director

Cc: Penny St. Louis Littell, Director, Department of Planning and Urban Development  
Barbara Barhydt, Development Review Services Manager  
Danielle West-Chuhta, Associate Corporation Counsel  
Jean Fraser, Planner  
Nan Cummings, Director, Portland Trails  
John MacLaine, Maine Department of Environmental Protection

DECLARATION OF COVENANTS AND RESTRICTIONS

13th THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made as of the day of January, 2005 by BALLPARK DRIVE DEVELOPMENT, LLC, a Maine limited liability company with a place of business in Portland, Maine and a mailing address of 67 Havertys Way, Portland, Maine 04103 (hereinafter referred to as "Ballpark").

WITNESSETH:

WHEREAS, Ballpark is the owner of Lot 18 shown on a plan entitled "Plan of Division of Land, The Haverty Estate Property, Ballpark Drive Subdivision" by URS Corporation, Portland, Maine, dated November 22, 2004, recorded in the Cumberland County Registry of Deeds in Plan Book 204, Page 855 (hereinafter referred to as the "Plan"), being a portion of the premises described in a deed from Mary Margaret I. Haverty to Ballpark dated December 8, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22100, Page 73; and

WHEREAS, as a condition of the Portland Planning Board's approval of Ballpark Drive Subdivision, Ballpark was required to impose certain covenants and restrictions limiting development on Lot 18 as more particularly described herein, which covenants and restrictions may be enforced by, among others, the City of Portland and the owners of Lots 1 through 17 shown on the Plan and on a related plan recorded with the Plan entitled "Residential Lot Subdivision Plat Ballpark Drive Subdivision" dated November 22, 2004, and recorded in said Registry of Deeds in Plan Book 204, Page 856 (hereinafter referred to as the "Subdivision Plan") (the Plan and the Subdivision Plan being hereinafter collectively referred to as the "Project Plans").

NOW, THEREFORE, Ballpark hereby declares that Lot 18 shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the covenants and restrictions set forth herein (hereinafter referred to as the "Covenants and Restrictions"). The Covenants and Restrictions shall run with Lot 18 and shall be binding on all parties having any right, title and interest in and to Lot 18, or any portion thereof, and their heirs, personal representatives, successors and assigns. Any present or future owner or occupant of Lot 18 or any portion thereof, by the acceptance of a deed of conveyance of all or part of Lot 18 or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted Lot 18 subject to the Covenants and Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Covenants and Restrictions hereinafter set forth.

1. Covenants and Restrictions.

a. No structures or improvements or any kind, whether temporary or permanent, shall be constructed on Lot 18, except for such structures or improvements as hereinafter provided.

Notwithstanding the foregoing, Ballpark, its successors and assigns, shall have the following rights with respect to Lot 18:

(i) The right to construct stone walls and/or fences along all or any portion of the perimeter of Lot 18;

(ii) The right to construct foot paths and walking trails on Lot 18, together with stone walls and/or fences delineating such foot paths and walking trails, footbridges and directional signs and, in that regard, reference is made to a Trail Easement from Ballpark to Portland Trails of even date and recorded herewith to which this Declaration is made subject;

(iii) The right to maintain, repair and replace the existing pond and associated dam on Lot 18, including the right to construct improvements associated therewith for recreational related purposes;

(iv) The right to extend Ballpark Drive and associated improvements therewith through Lot 18 in a general southeasterly direction to Lot 17 over that portion of Lot 18 described as follows:

Commencing at a monument located at the southeasterly corner of Ballpark Drive and thence running along the following courses and distances:

S 59° 36' 14" E a distance of 88 feet to an iron pipe;

N 30° 23' 46" E a distance of 50 feet to a point;

N 59° 36' 14" W a distance of 88 feet to a monument at the northeasterly corner of Ballpark Drive; and

S 30° 23' 46" W a distance of 50 feet to the point of beginning;

and

(v) The right to maintain, repair, replace, rebuild, relocate or alter the structures and improvements described in Items (i) through (iv) above on Lot 18.

b. The cutting of standing timber shall not generally be permitted within Lot 18 provided, however, that the following activities shall be permitted but not required:

(i) Clearing and restoring of forest cover damaged or disturbed by the forces of nature;

(ii) Gathering, using or removing brush and deadwood;

(iii) Pruning, selective thinning or cutting of trees in accordance with good forestry and landscaping practices;

(iv) Minor landscaping and grounds maintenance relating to the structures and improvements described in Items a(i) through a(iv) above; and

(v) Clearing for construction and maintenance of the structures and improvements described in Items a(i) through a(iv) above.

2. Enforcement. The Covenants and Restrictions imposed upon Lot 18 by this Declaration of Covenants and Restrictions shall be enforceable by the City of Portland and the owners of Lots 1 through 17 shown on the Plans by appropriate action, injunction or other proceeding to prevent, correct or abate any failure to comply therewith and, in addition shall be enforceable as aforesaid by the owners of Lots 3, 4, 5 and 6 shown on a plan entitled "Plan of Division of Land of the Haverty Estate Property" for Margaret Haverty by Sebago Technics, Inc., dated February 8, 2000, most recently revised April 19, 2000, and recorded in said Registry of Deeds in Plan Book 200, Page 187 (the "Haverty Plan"), the owners of Lots 3, 4, 5 and 6 shown on the Haverty Plan as of the date of this Declaration being the following:

a. Lot 3 shown on the Haverty Plan is, as of the date of this Declaration, owned by Todd J. Friberg and Patricia C. Friberg by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 88;

b. Lot 4 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Mary Margaret I. Haverty as developer of said land division;

c. Lot 5 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Matthew J. Flaherty and Karen H. Flaherty by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 94; and

d. Lot 6 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Simon C. Ramsay and Rita H. Ramsay by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 100.

3. Binding Effect. The Covenants and Restrictions shall be binding on any present or future owner of Lot 18. If Lot 18 is at any time owned by more than one owner, each owner shall be bound by the Covenants and Restrictions.

4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of Lot 18, the City of Portland, the owners of Lots 1 through 17 shown on the Plans, and the owners of Lots 3, 4, 5 and 6 shown on the Haverty Plan.

5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a covenant running with the land as a burden and upon the title to Lot 18.

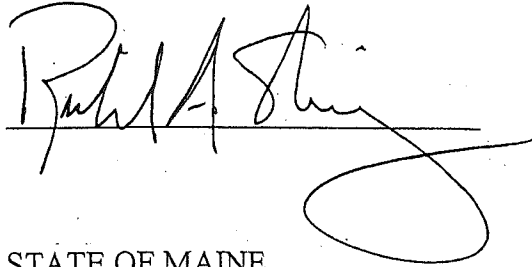
6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity of enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

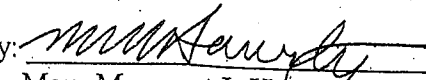
7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

IN WITNESS WHEREOF, BALLPARK DRIVE DEVELOPMENT, LLC has caused this Declaration to be executed by Mary Margaret I. Haverty, its Chief Executive Officer and Manager, thereunto duly authorized, as of the date first set forth above.

WITNESS:

BALLPARK DRIVE DEVELOPMENT,  
LLC



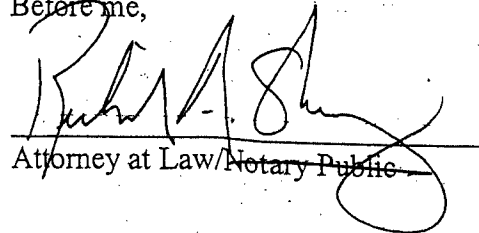
By:   
Mary Margaret I. Haverty, its Chief  
Executive Officer and Manager

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

January 13, 2005

Then personally appeared the above-named Mary Margaret I. Haverty, Chief Executive Officer and Manager of Ballpark Drive Development, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,



Attorney at Law/Notary Public

RICHARD A. SHIMAY  
Print name

Received  
Recorded Register of Deeds  
Jan 27, 2005 12:38:06P  
Cumberland County  
John B O'Brien



**From:** Jean Fraser  
**To:** Cumming, Nan  
**Date:** 8/10/2009 11:00:04 AM  
**Subject:** Fwd: Re Lot #18 Ball Park subdivision (Haverty)

I pressed "send" without adding the address of the owner if you need it:

"Ball Park Drive Development LLC  
Mary I Haverty CEO  
67 Havertys Way  
Portland ME 04103"

>>> Jean Fraser 8/10/2009 10:56:37 AM >>>  
Nan,

Thanks for your message regarding PT and this site and the recent issues that have been raised; thank you for looking into it as I do not have a plans showing how the PT easement sits on this site.

The Conservation Easement for this site is rather weak, referring to rights without much mention of obligations- so while the City will write to the owner (address below) to request that repairs take place etc it would probabaly help "encourage" the owner if other letters arrived making similar requests.

Similarly, MDEP (John McLaine) are aware that there is dumping etc in the stream but my impression is that it is not a high priority to them and they also may need "encouragement" to act.

Jean

**CC:** Jewell, Thomas

**From:** Jean Fraser  
**To:** Burnside  
**Date:** 8/5/2009 1:57:21 PM  
**Subject:** RE: Lot #18 Ball Park Subdivision

*Spoke to Nan Cummings,  
 Portland Trails (775-2411) who  
 confirmed no connection between  
 their trail easement + this failure*

Hello Pam

Just an update re the key issues where Planning may have a role.

Re the pond on Lot #18: I understand that some of what looks like dumping is actually the dam material that has washed out and the owner will need to repair that and the culvert. The owner will be pursued re this and any other matters directly related to Lot #18 easement requirements (some of those in your list in this e-mail).

*spoke to Pam, who  
 reported a "fort" on lot 18  
 w/ trees, oil drums, tar +  
 rubbish in  
 stream  
 also  
 lots 8 + 9*

Re dumping/fill/trash that impacts stream/pond: I understand the MDEP will be taking some action re that. Portland Trails are reviewing their potential action (if any).

Re the culvert at Washington Ave. Ext. and Lester Drive: I think you and I discussed this when Morning Star Lane was under review and it is a DPS issue. I will bring it to their attention but a letter to Mike Bobinsky might also be appropriate.

Jean

>>> "Burnside" <burnside@maine.rr.com> 7/30/2009 12:18:37 PM >>>  
 Hi Jean:

Glad to hear from you. A gentleman by the name of Bob Greene from the MDEP called me to tell me the MDEP had figured out who was in charge of the current issue - Margaret Haverty is the CEO of an LLC designated for any issues relating to the pond & culvert/Lot 18.

Just so you know, there are 2 major issues concerning the NRPA area; first the pond and culvert breach which I photo'ed. Second, the culvert on Washington Ave. Ext. and Lester Drive where the wall of water came spewing out onto Washington about 4 to 6 weeks ago (actually occurred at the property line of 1969 Washington and the first house on Lester - formerly Paul White's property). I believe that the culvert at the pond breached with all the rain and when it did it sent a rush of water down the stream to the culvert at the Washington/Lester. The Washington/Lester culvert was backed up years ago and only operating at 1/2 capacity. The Murphy's at 1969 Washington hired a firm to cut trees and perhaps also clean out the culvert shortly after the incident - I do not know if this was done on their property or on the Haverty property or part of Lot 1 of Ball Park Drive.

Other issues concerning the Ball Park Drive Development and the NRPA areas;

1. The pond contains trash along with bricks, asphalt, concrete and plastic tubing for construction. The pond is home to a large assortment of aquatic life as well as birds and other wildlife.
2. A fort in back of Lester Drive bordering the river exists and contains large trees that were cut. Also the fort contains a very old & rusted oil drum, trash and old tires.
3. Lester Drive Neighbors (abutting the stream to Lot 18 all the way down to the Washington/Lester culvert) continue to dump trash, leaves and grass clippings in the back of their properties. Most have ignored the encroachment letters that were issued by the City/MDEP years ago.

4. Lot 1 on Ball Park Drive is being utilized as a dumping ground for property signs, trash, leaves and grass clippings.
5. An ATV trail is still being utilized on Lot 18 near the Baptist Church property.

I will call you soon to follow up. Thanks for taking this issue seriously; we have a lot of interesting wildlife out here that Maine Audubon and other wildlife folks appreciate.

Best,  
Pam Burnside

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

From: Jean Fraser [<mailto:JF@portlandmaine.gov>]  
Sent: Wednesday, July 29, 2009 3:32 PM  
To: [burnside@maine.rr.com](mailto:burnside@maine.rr.com)  
Subject: Lot #18 Ball Park Subdivision

Pam,

Jeanie Bourke has asked for help in investigating the several issues that you brought to her attention over the last few days.

The Planning Division Inspector has been to the site and we (Planning) have been reviewing the documents (including those from you and on the Subdivision file) and will take action over the next few days. Jeanie forwarded the photos you sent and thanks.

I just wanted to let you know that the point of contact has moved from Jeanie Bourke to me and that we are working on this; I will get back to you in a few days.

Good to hear from you; you were unwell when we last spoke.

Jean

Jean Fraser, Planner  
City of Portland  
874 8728

**From:** "Burnside" <burnside@maine.rr.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 7/30/2009 12:25:56 PM  
**Subject:** RE: Lot #18 Ball Park Subdivision

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Pam Burnside

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Sent: Wednesday, July 29, 2009 3:32 PM  
To: burnside@maine.rr.com  
Subject: Lot #18 Ball Park Subdivision

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Good to hear from you; you were unwell when we last spoke.

Jean

Jean Fraser, Planner  
City of Portland  
874 8728

**CC:** "Eric Hynes" <ehynes@maineaudubon.org>

**From:** Jean Fraser  
**To:** Bourke, Jeanie  
**Date:** 7/29/2009 2:51:20 PM  
**Subject:** Pam Burnside/Ball Park Lot #18 issues

Jeanie,

FYI- we will follow up if any action required.

1. Phil had a look on site yesterday and it appears the path is still passable.
2. We have looked at the easements and it does not appear as though there is a requirement for the owner or Portland Trails to maintain the infrastructure on that site- but I am looking again at the site plan to be sure.
3. Portland Trail have rights to an "easement area" on that Lot but I do not have a plan of their "easement area"; Portland Trails is visiting the site on Friday to let me know what their potential involvement might be.
4. This is not City land nor a City culvert and the problem which need enforcing by the city. The wetland fill issue is
5. Phil and I will follow up with all parties; I will e-mail Pa

Jean

**CC:** Barhydt, Barbara; DiPierro, Philip

*John Mc  
822 6351*

---

*ck if permit*

*Bob Green wrote*  
*Ther 1 - old dam*  
*using const. debris -*  
*rains washed out part*  
*state of disrepair*  
*main problem*  
*green john*  
*McLaine*  
*2 days*

**From:** Jean Fraser  
**To:** burnside@maine.rr.com  
**Date:** 7/29/2009 3:31:45 PM  
**Subject:** Lot #18 Ball Park Subdivision

Pam,

Jeanie Bourke has asked for help in investigating the several issues that you brought to her attention over the last few days.

The Planning Division Inspector has been to the site and we (Planning) have been reviewing the documents (including those from you and on the Subdivision file) and will take action over the next few days. Jeanie forwarded the photos you sent and thanks.

I just wanted to let you know that the point of contact has moved from Jeanie Bourke to me and that we are working on this; I will get back to you in a few days.

Good to hear from you; you were unwell when we last spoke.

Jean

Jean Fraser, Planner  
City of Portland  
874 8728

**From:** Jean Fraser  
**To:** Maclaine, John  
**Date:** 8/24/2009 4:31:07 PM  
**Subject:** RE: Haverty Culvert Breach

Thank you...

I attach some other pictures from Pam- these are from 2004 before the development took place and she has sent them (since I last forwarded you her e-mails) to compare with what has happened recently re the Lot #18 culvert.

I believe she is referring to the dumping of trash, oil drums and tires in or near the identified stream (at rear of those other lots) and hence her concern about enforcing NRPA.

Jean

>>> "Maclaine, John" <John.Maclaine@maine.gov> 8/24/2009 2:51:02 PM >>>

Jean,

At the current time, the only other way I can try to resolve this is to send out letters to Ballpark Drive Development, LLC as listed in the easement language and hope that someone responds. Without any sort of specific info and contact for the LLC. I have tried to find phone numbers for Mrs Haverty with no luck. I will most likely be sending something out this week after it is reviewed by my supervisor. As far as trash dumping etc. they will have to get in touch with someone from solid waste at DEP as the dumping of trash is a different jurisdiction from the breach of the dam. I will continue to try and resolve this.

Hope that helps some,

John Maclaine  
Field Services and Enforcement  
Department of Environmental Protection  
Bureau of Land and Water Quality  
Division of Land Resource Regulation  
-----Original Message-----

From: Jean Fraser [mailto:[JF@portlandmaine.gov](mailto:JF@portlandmaine.gov)]  
Sent: Monday, August 24, 2009 2:12 PM  
To: Maclaine, John  
Subject: Fwd: Haverty Culvert Breach

John

I have not replied to this and would appreciate your thoughts before I do.

The City is writing to Mrs Havarty re the Lot #18 issues.

Jean

>>> "Burnside" <[burnside@maine.rr.com](mailto:burnside@maine.rr.com)> 8/24/2009 1:47:40 PM >>>

Hi Jean:

I am writing to request an update on the Haverty Culvert. We have had a significant amount of rain over the past week and the culvert is obviously



not fixed. Is there a plan in place resolve this issue? If so could you elaborate and provide a timetable.

Additionally I am concerned about the lack of City & MDEP enforcement of NRPA rules. Over the weekend I walked by the Haverty pond and culvert areas only to find that the bridge/culvert area is being used to light fires and fireworks. As I mentioned in previous emails a large section of Lot 19 is also being used for ATV trails, dumping of trash, leaves and grass clippings as well as oil drums and tires. As you are aware, the entire area is heavily forested and also home to many wildlife species, not to mention amphibious creatures. I am highly disappointed; this particular project could have been a real testament to City and MDEP initiative to preserve what little remains of Portland's open spaces. Please let me know what the City will do in regard to both items. I will forward this note to the MDEP but would like an email address of the point person for this project. I thank you for your attention to this particular project. I do appreciate your hard work, as many other neighbors in our area do as well.

Sincerely,  
Pam Burnside

**From:** Jean Fraser  
**To:** Marybeth.Richardson@maine.gov  
**Date:** 7/29/2009 4:15:58 PM  
**Subject:** Re: Fwd: Haverty Pond/Culvert Breach

Marybeth,

I understand that Pam Burnside has been in touch with your office regarding the failing culvert and some dumping of bricks etc in the pond area/wetland on this "conservation " lot at the end of Ball Park Drive (off Washington Ave near Lester Drive).

In response to her e-mails and photos (see some of the photos attached) we sent an Inspector and his report is below.

This is not City land (it belongs to the party that developed the subdivision) and the culvert is not a City culvert. I am undertaking further research (I was not the planner who dealt with this in 2005 when it was approved): we have copies of the conservation easement and an easement to Portland Trails (both attached) but neither address the protection of the stream/pond (which is an intermittent stream and led to requirements for large setbacks for the subdivision houses).

So (unless other docs come to light) MDEP regulations (if applicable) are likely to be the main basis for taking any action.

I would appreciate your view of this situation and whether the MDEP feel it warrants MDEP action (as I am not sure if and what City action is warranted).

Thank you.

Jean

Jean Fraser, Planner  
City of Portland  
874 8728

>>> Philip DiPierro 7/29/2009 2:41:58 PM >>>

Hi Jean, I looked at the trail and pond area yesterday and can confirm that the pond embankment has been breached in the area of the culvert. No water is going through the culvert, it is all going around the culvert. As a result a small gully has been created and noticeable erosion is taking place.

Also, there appears to be several bricks and small chunks of concrete scattered throughout the area. I don't know if the bricks were used as part of the fill for creating the embankment or if they were dumped there as a result of building construction in the area.

Lastly, the foot bridge appears to be in need of maintenance. The bridge looks like it has been there for a long time, is rotted, and should probably be rebuilt or replaced.

Hope this helps.

Phil

>>> Jean Fraser 7/28/2009 2:45:52 PM >>>

Jeanie,

I am not sure who will coordinate as I am not sure what is the appropriate action given that there are a lot of people who may need to be involved.... it appears to be an enforcement of an easement but I am not even sure who is responsible for the culvert.

Will let you know after tomorrow's meeting.

Jean

>> Jeanie Bourke 7/28/2009 1:16:36 PM >>>

Thank you Jean....will you be in contact with Pam Burnside, she would like to be kept apprised of any action by the city?

>>> Jean Fraser 07/28 1:07 PM >>>

Jeanie,

We have put this on the Wed Dev Rev meeting agenda (tomorrow).

I am checking to see whether Portland Trails may also be involved.

Jean

>>> Jeanie Bourke 7/27/2009 2:36:49 PM >>>

FYI

>>> "Burnside" <[burnside@maine.rr.com](mailto:burnside@maine.rr.com)> 07/27 1:00 PM >>>

Hi Jeannie:

Here are some photos so you can see the breach in the culvert. I took photos of other areas of concern, but this is a good place to get started.

Pam Burnside  
(207) 415-1799

**CC:** DiPierro , Philip

Lot #18  
Cons. Ease

371 A 048  
384 A 011

DECLARATION OF COVENANTS AND RESTRICTIONS

13th THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made as of the day of January, 2005 by BALLPARK DRIVE DEVELOPMENT, LLC, a Maine limited liability company with a place of business in Portland, Maine and a mailing address of 67 Havertys Way, Portland, Maine 04103 (hereinafter referred to as "Ballpark").

WITNESSETH:

WHEREAS, Ballpark is the owner of Lot 18 shown on a plan entitled "Plan of Division of Land, The Haverty Estate Property, Ballpark Drive Subdivision" by URS Corporation, Portland, Maine, dated November 22, 2004, recorded in the Cumberland County Registry of Deeds in Plan Book 204, Page 855 (hereinafter referred to as the "Plan"), being a portion of the premises described in a deed from Mary Margaret I. Haverty to Ballpark dated December 8, 2004 and recorded in the Cumberland County Registry of Deeds in Book 22100, Page 73; and

WHEREAS, as a condition of the Portland Planning Board's approval of Ballpark Drive Subdivision, Ballpark was required to impose certain covenants and restrictions limiting development on Lot 18 as more particularly described herein, which covenants and restrictions may be enforced by, among others, the City of Portland and the owners of Lots 1 through 17 shown on the Plan and on a related plan recorded with the Plan entitled "Residential Lot Subdivision Plat Ballpark Drive Subdivision" dated November 22, 2004, and recorded in said Registry of Deeds in Plan Book 204, Page 856 (hereinafter referred to as the "Subdivision Plan") (the Plan and the Subdivision Plan being hereinafter collectively referred to as the "Project Plans").

NOW, THEREFORE, Ballpark hereby declares that Lot 18 shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the covenants and restrictions set forth herein (hereinafter referred to as the "Covenants and Restrictions"). The Covenants and Restrictions shall run with Lot 18 and shall be binding on all parties having any right, title and interest in and to Lot 18, or any portion thereof, and their heirs, personal representatives, successors and assigns. Any present or future owner or occupant of Lot 18 or any portion thereof, by the acceptance of a deed of conveyance of all or part of Lot 18 or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted Lot 18 subject to the Covenants and Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Covenants and Restrictions hereinafter set forth.

1. Covenants and Restrictions.

a. No structures or improvements or any kind, whether temporary or permanent, shall be constructed on Lot 18, except for such structures or improvements as hereinafter provided.

(iii) Pruning, selective thinning or cutting of trees in accordance with good forestry and landscaping practices;

(iv) Minor landscaping and grounds maintenance relating to the structures and improvements described in Items a(i) through a(iv) above; and

(v) Clearing for construction and maintenance of the structures and improvements described in Items a(i) through a(iv) above.

2. Enforcement. The Covenants and Restrictions imposed upon Lot 18 by this Declaration of Covenants and Restrictions shall be enforceable by the City of Portland and the owners of Lots 1 through 17 shown on the Plans by appropriate action, injunction or other proceeding to prevent, correct or abate any failure to comply therewith and, in addition shall be enforceable as aforesaid by the owners of Lots 3, 4, 5 and 6 shown on a plan entitled "Plan of Division of Land of the Haverty Estate Property" for Margaret Haverty by Sebago Technics, Inc., dated February 8, 2000, most recently revised April 19, 2000, and recorded in said Registry of Deeds in Plan Book 200, Page 187 (the "Haverty Plan"), the owners of Lots 3, 4, 5 and 6 shown on the Haverty Plan as of the date of this Declaration being the following:

a. Lot 3 shown on the Haverty Plan is, as of the date of this Declaration, owned by Todd J. Friberg and Patricia C. Friberg by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 88;

b. Lot 4 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Mary Margaret I. Haverty as developer of said land division;

c. Lot 5 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Matthew J. Flaherty and Karen H. Flaherty by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 94; and

d. Lot 6 as shown on the Haverty Plan is, as of the date of this Declaration, owned by Simon C. Ramsay and Rita H. Ramsay by virtue of a deed from Mary Margaret I. Haverty dated September 13, 2000 and recorded in said Registry of Deeds in Book 15730, Page 100.

3. Binding Effect. The Covenants and Restrictions shall be binding on any present or future owner of Lot 18. If Lot 18 is at any time owned by more than one owner, each owner shall be bound by the Covenants and Restrictions.

4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of Lot 18, the City of Portland, the owners of Lots 1 through 17 shown on the Plans, and the owners of Lots 3, 4, 5 and 6 shown on the Haverty Plan.

5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a covenant running with the land as a burden and upon the title to Lot 18.

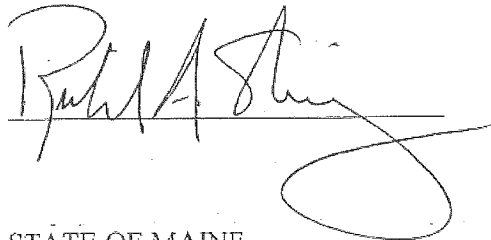
6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity of enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.


7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

IN WITNESS WHEREOF, BALLPARK DRIVE DEVELOPMENT, LLC has caused this Declaration to be executed by Mary Margaret I. Haverty, its Chief Executive Officer and Manager, thereunto duly authorized, as of the date first set forth above.

WITNESS:

BALLPARK DRIVE DEVELOPMENT,  
LLC



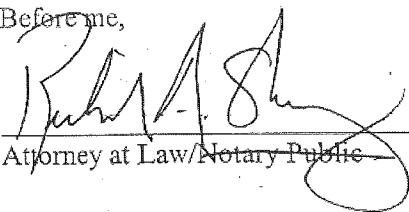
By:   
Mary Margaret I. Haverty, its Chief  
Executive Officer and Manager

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

January 13, 2005

Then personally appeared the above-named Mary Margaret I. Haverty, Chief Executive Officer and Manager of Ballpark Drive Development, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

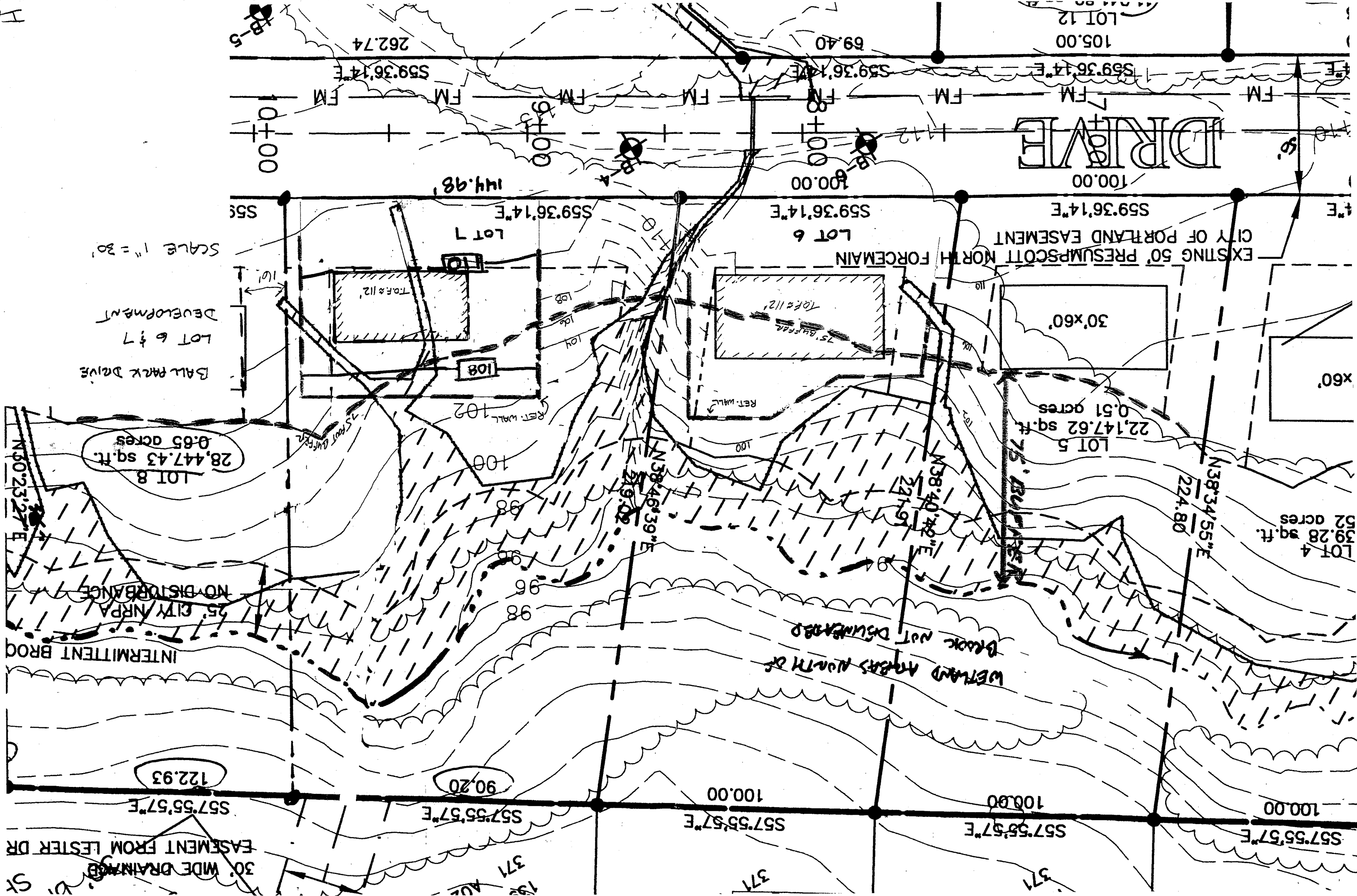
Before me,

  
Attorney at Law/Notary Public

RICHARD A. SHINAY  
Print name

Received  
Recorded Register of Deeds  
Jan 27, 2005 12:38:06P  
Cumberland County  
John B O'Brien

16



SCALE 1" = 30'  
 DEVELOPMENT  
 LOT 6 & 7  
 BALL PARK DRIVE

30' WIDE DRAINAGE  
 EASEMENT FROM LESTER DR

WETLAND AREAS NORTH OF  
 BROOK NOT DISBURSED

DRIVE

EXISTING 50' PRESUMPTSCOTT NORTH FORCEMAIN  
 CITY OF PORTLAND EASEMENT

LOT 8  
 28,447.43 sq. ft.  
 0.65 acres

LOT 4  
 39.28 sq. ft.  
 52 acres

LOT 5  
 22,147.62 sq. ft.  
 0.51 acres

90.20

122.93

S57.55'57"E  
 100.00  
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N38°46'39"E  
 279.02

N38°40'49"E  
 241.91

N38°34'55"E  
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 371

371

371

371

10+00

9+00

8+00

7+00

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144.98'

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102

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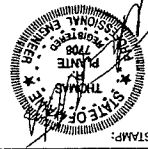
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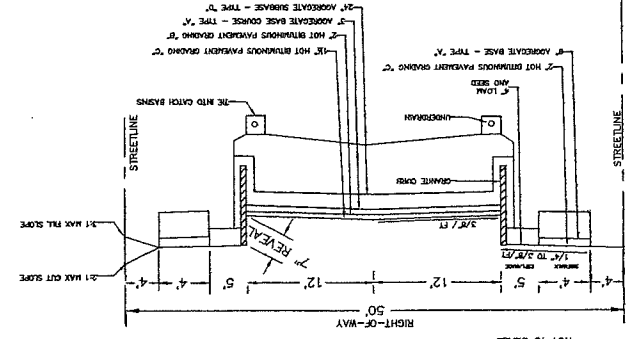
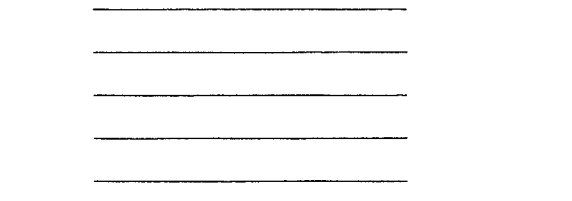
DATE: SEPTEMBER 3, 2004	SCALE: 1" = 50'
PROJECT NO.: 53359 / 39459287	PROJECT NAME: BALLPARK DRIVE SUBDIVISION
CLIENT/LAND OWNER: MARGARET HAVERLY 67 HAVERTY WAY PORTLAND, MAINE 04103	PROJECT LOCATION: WASHINGTON AVE. PORTLAND, MAINE 477 Congress Street, 9th Floor Portland, ME 04101-3453 www.urscorp.com Tel: 207.879.7686 Fax: 207.879.7685
RESIDENTIAL LOT SUBDIVISION PLAN	
DRAWING NO.: SHEET 2 OF 10	SHEET TITLE: BALLPARK DRIVE SUBDIVISION

REV	DATE	DESCRIPTION	CONSTRUCTION
3	9/03/04	REVISED ROAD AND LOT LAYOUT PER PLANNING WORKSHOP	ISSUED FOR:
2	6/02/04	REVISED WETLANDS DELINEATION AND REVISED LOT LINES FOR LOTS 7-15 AND 17	PRELIMINARY
1	4/19/04	ADDED SETBACKS AND BUILDING FOOTPRINTS, REVISED WETLAND DELINEATION, AND ROAD HORIZONTAL GEOMETRY	APPROVAL
	2/23/04	SUBMITTED FOR PLANNING BOARD WORKSHOP & CITY REVIEW	CHECKED: PLANTE



**URS**

EXISTING	PROPOSED	DESCRIPTION
---	---	HAVERLY PROPERTY
---	---	WETLANDS
---	---	EDGE PAVEMENT
---	---	EXCAVATION
---	---	5/8" IRON REBAR
---	---	CHAIN LINK FENCE
---	---	MONUMENT
---	---	8" WIDE FENCE
---	---	STOCKADE FENCE
---	---	BRICK WALL
---	---	GRAVEL CURB
---	---	EDGE PAVEMENT
---	---	STORM DRAIN
---	---	W/ 18" ASPHALT
---	---	UNDERGROUND ELECTRICAL
---	---	SEWER
---	---	STEAM BURFER
---	---	SEWER FOREMAN
---	---	UNDERGROUND ELEC. & TEL.
---	---	CONCRETE
---	---	DITCH/SWALE
---	---	CLEARING



**GENERAL NOTES**

1. THE RECORD OWNER OF THE PROPERTY IS MARY MARGARET HAVERLY AS RECORDED AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN BOOK 1483 PAGE 28.
2. LOT 18 IS LOCATED ON THE CITY OF PORTLAND'S TAX MAP 271 BLOCK A LOT 2, MAP 3854 BLOCK B.
3. REFERENCE IS HEREBY MADE TO THE STAMPADED BOUNDARY SURVEY OF THE HAVERLY ESTATE PROPERTY, WASHINGTON AVE. EXTENSION, PORTLAND, ME FOR MAP NUMBER 100-44, DATED DECEMBER 22, 1899 AND RECEIPT OF DEEDS, BOOK 203 PAGE 558.
4. ONLY A PORTION OF THE HAVERLY PARCEL IS PROPOSED TO BE DIVIDED INTO RESIDENTIAL LOTS, AS SHOWN ON THIS PLAN. THE REMAINING LAND IS TO BE RETAINED BY THE OWNER (SEE SHEET 1).
5. PROPERTY TO BE DIVIDED INTO RESIDENTIAL LOTS IS LOCATED IN THE CITY OF PORTLAND'S R-2 RESIDENTIAL ZONE.
6. THE CITY OF PORTLAND HAS REVIEWED THIS PLAN AND HAS GRANTED A PERMIT TO CONSTRUCT FOR THE PROPOSED SUBDIVISION. THE CITY OF PORTLAND HAS REVIEWED THIS PLAN AND HAS GRANTED A PERMIT TO CONSTRUCT FOR THE PROPOSED SUBDIVISION. THE CITY OF PORTLAND HAS REVIEWED THIS PLAN AND HAS GRANTED A PERMIT TO CONSTRUCT FOR THE PROPOSED SUBDIVISION.
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**WETLAND FILL SUMMARY**

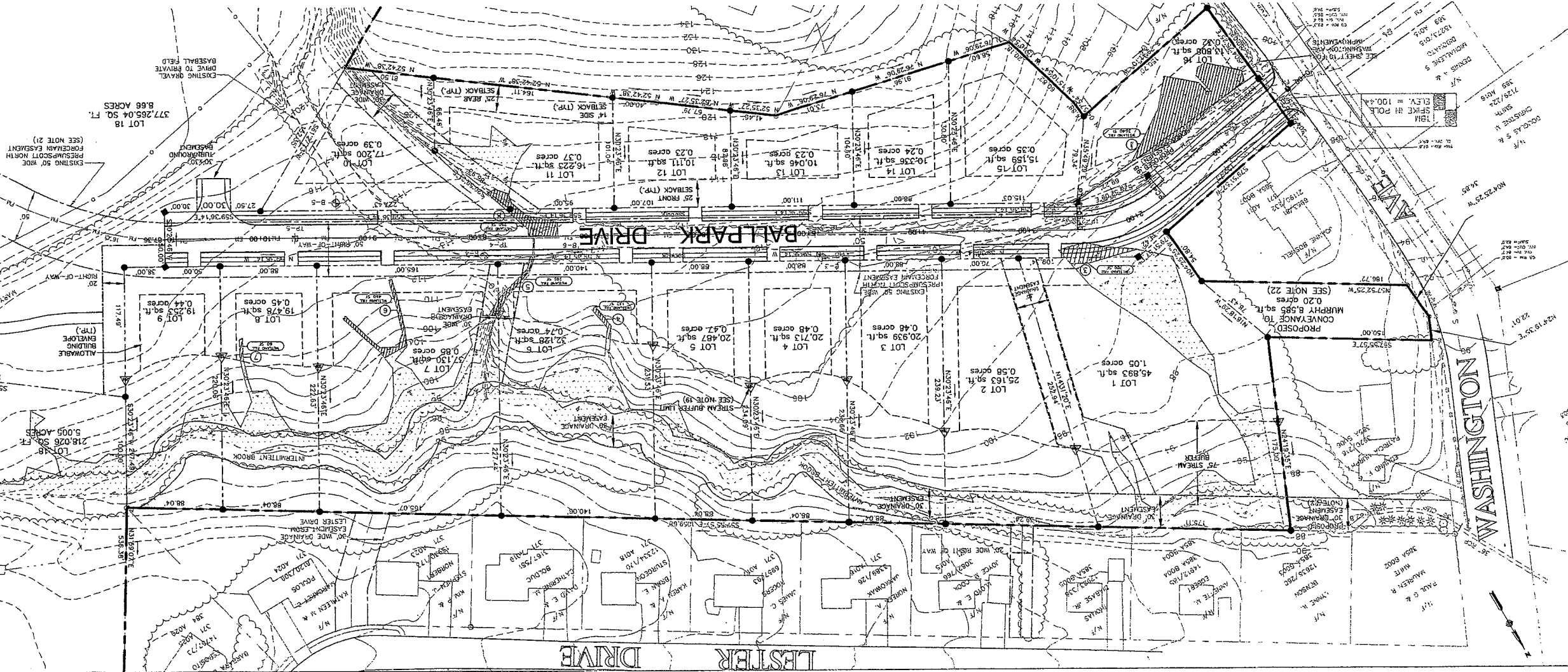
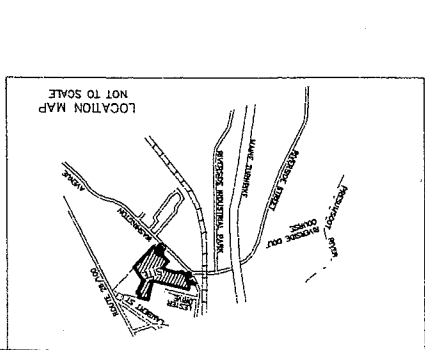
HAVERLY WAY (PRIOR) 2000	2,693 SQFT
BALLPARK DRIVE	6,017 SQFT
<b>TOTAL CUMULATIVE PROJECT FILL</b>	<b>8,710 SQFT</b>

**HORIZONTAL CENTERLINE GEOMETRY**

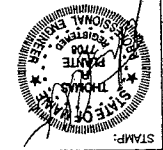
PI = 0+00	PC = +1+67.98	PT = 2+56.40	DELTA = 125°
LENGTH = 167.98'	RADIUS = 407.31'	DELTA = 125°	

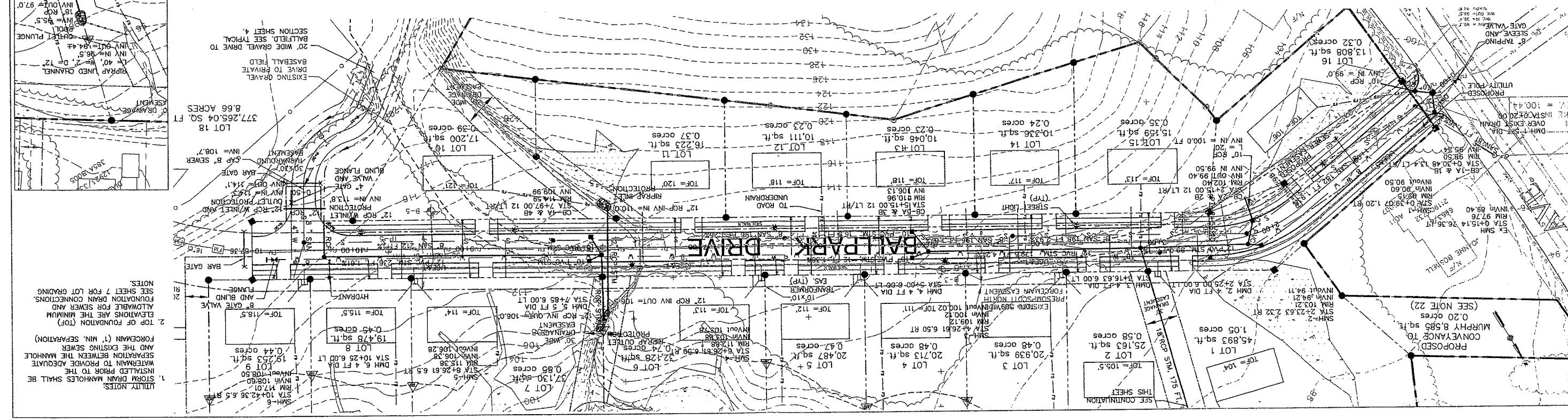
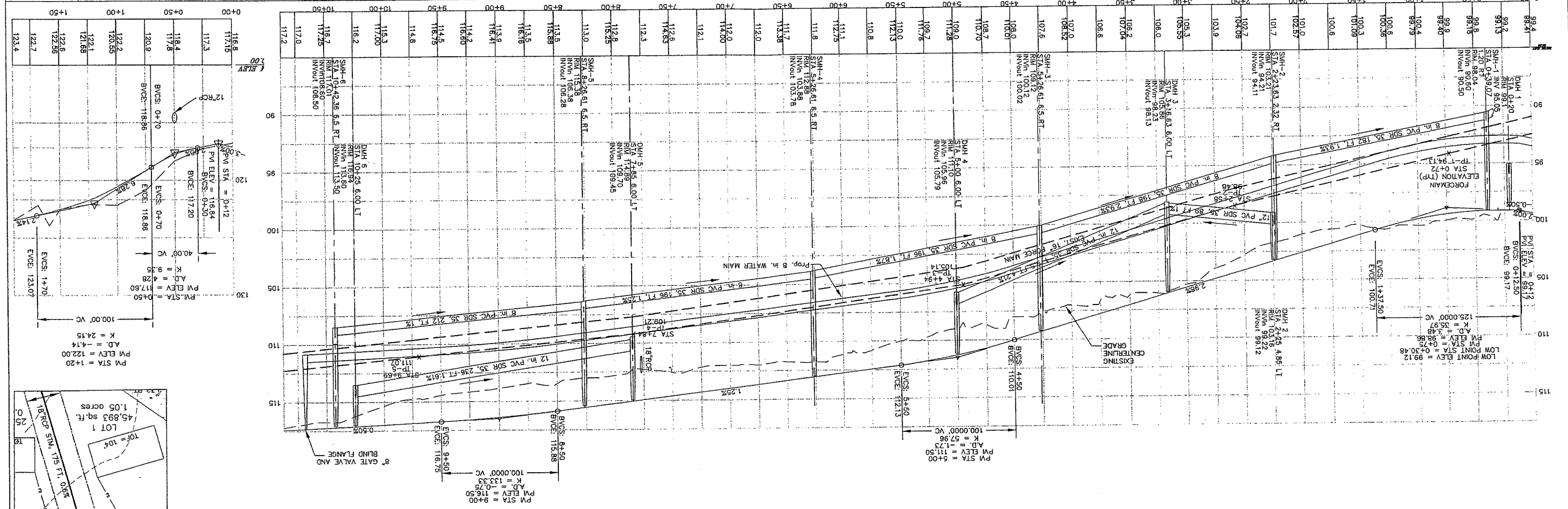
**AREA SUMMARY**

TOTAL LAND AREA	991,105.76 SQFT	22.75 AC
RESIDENTIAL LOTS 1-16	334,087.50 SQFT	7.66 AC
BALLPARK DRIVE R.O.W.	52,618.50 SQFT	1.21 AC
LOT 17 PRIVATE BALLFIELD	377,265.04 SQFT	8.66 AC
LOT 18 CONSERVATION LAND	218,026.50 SQFT	5.00 AC





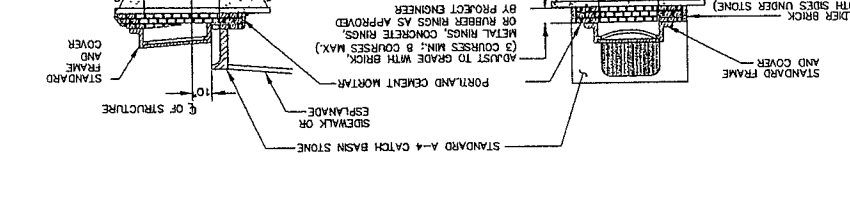
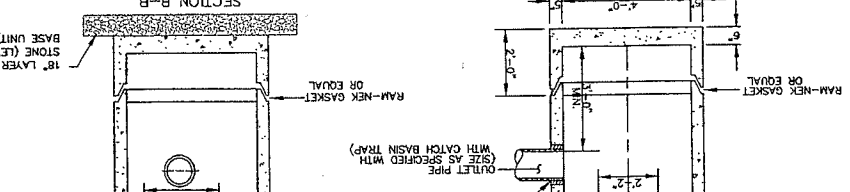
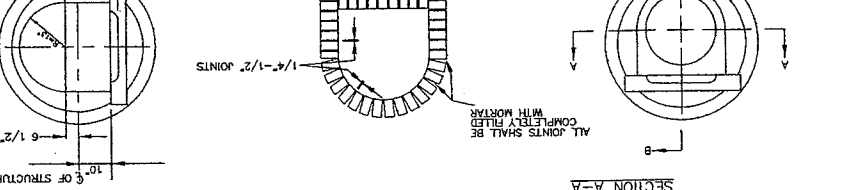
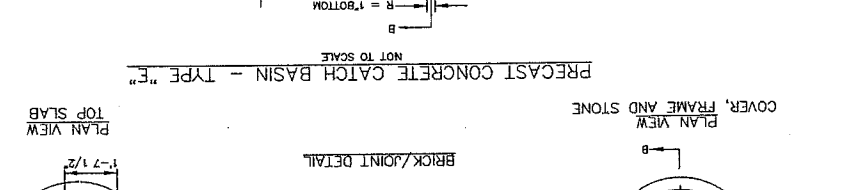
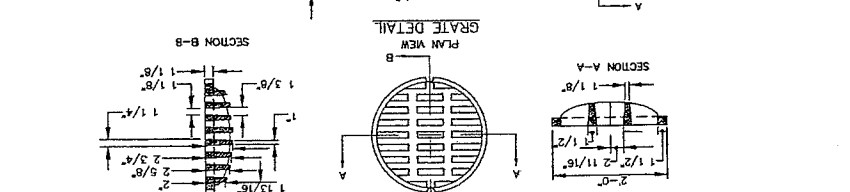
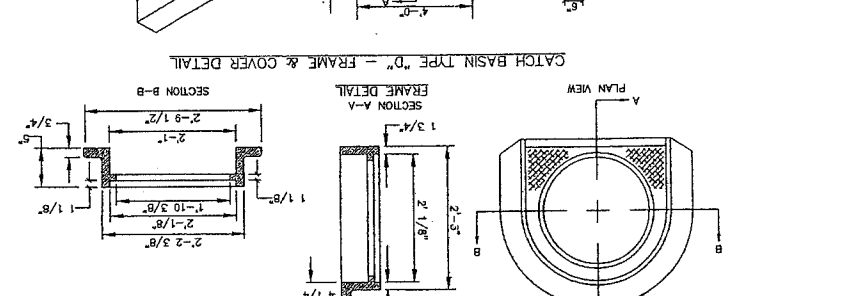
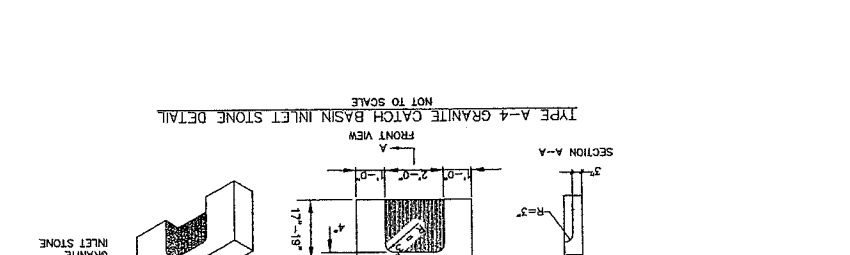
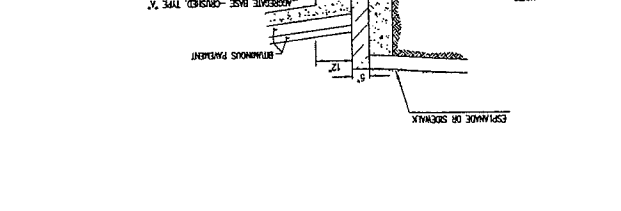
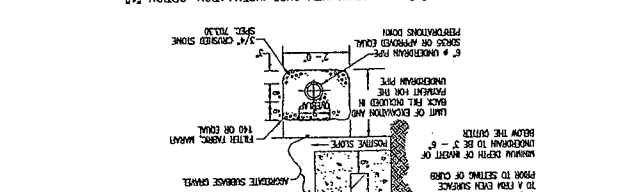
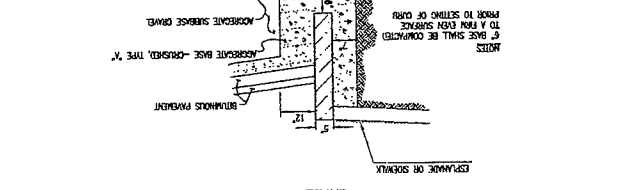
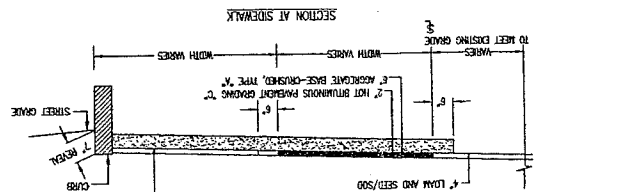
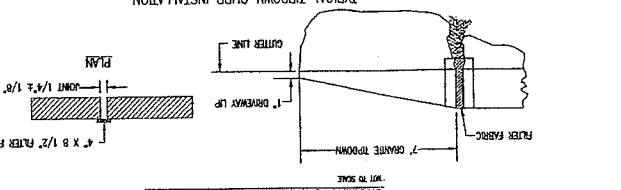
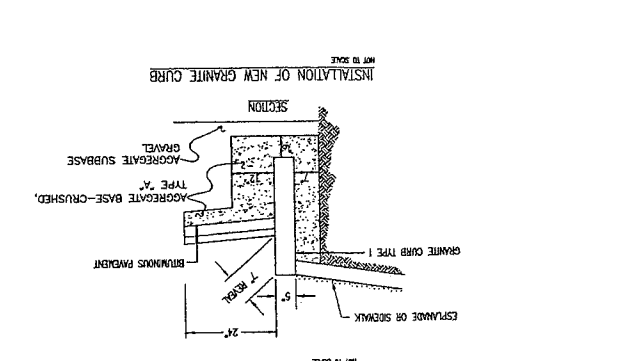
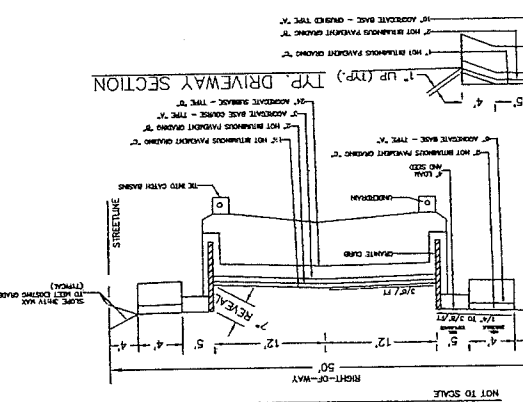
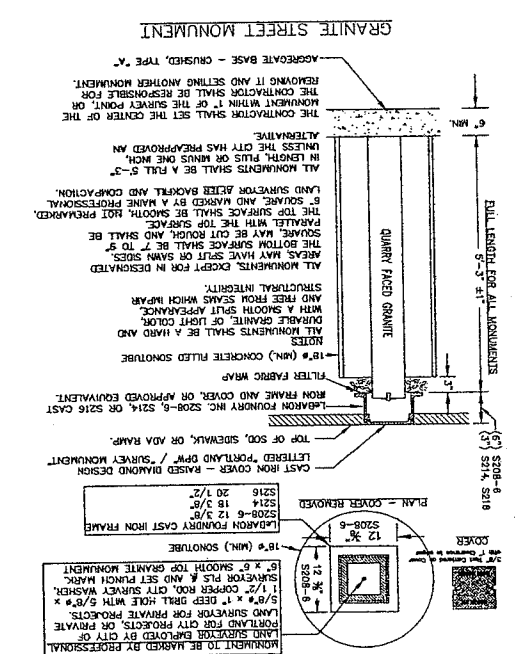
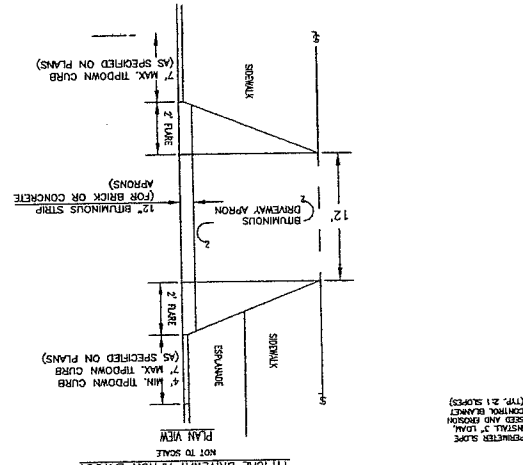
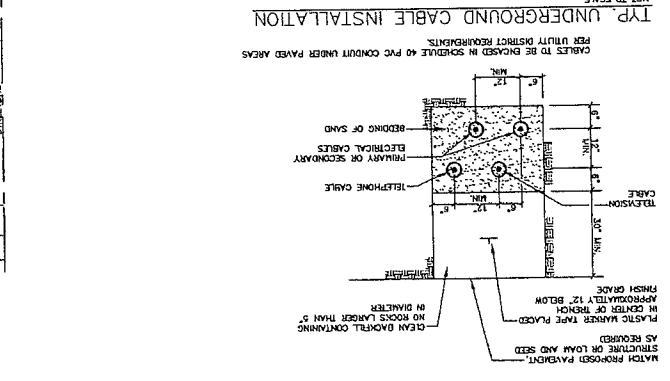
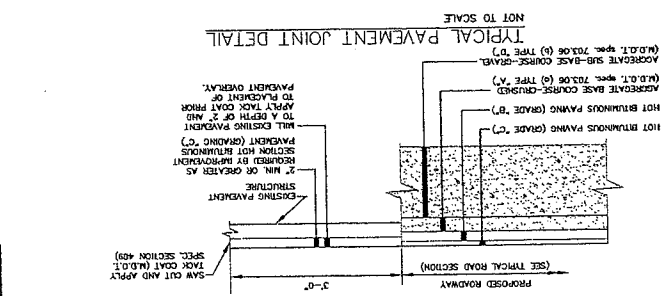
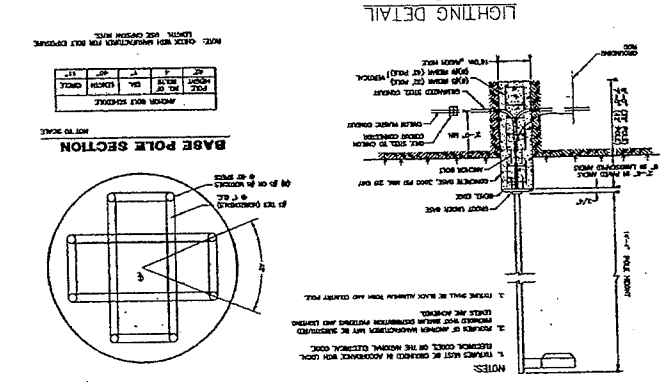
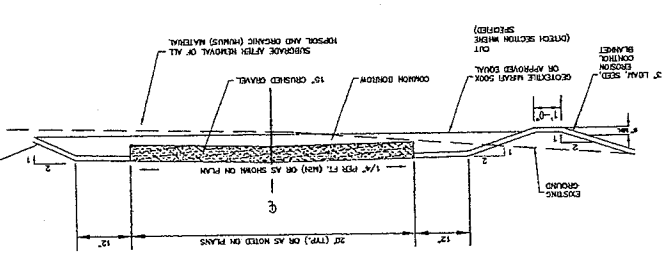
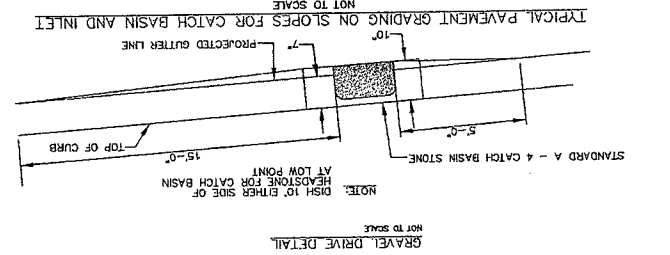
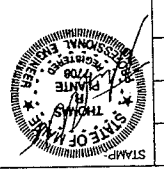
DRAWING NO.: <b>3</b>	DATE: SEPTEMBER 3, 2004		PROJECT NO.: 53359/39459287	CLIENT: MARGARET HAVERTY 67 HAVERTY WAY PORTLAND, MAINE 04103	PROJECT LOCATION: WASHINGTON AVE, PORTLAND, MAINE	URSCORPORATION 477 Congress Street, 9th Floor Portland, ME 04101-3453 Tel: 207.879.7686 Fax: 207.879.7685 www.urscorp.com	STAMP: 	ISSUED FOR: PRELIMINARY	DESIGN: 4/16/04	DRAWN: 7/13/04	CHECKED: 7/13/04	CONSTRUCTION
	ISSUED FOR: REVISED DRAINAGE AND LOT LINES PER CITY COMMENTS	DESIGN: 9/03/04						DRAWN: 7/13/04	CHECKED: 7/13/04	CONSTRUCTION		
	ISSUED FOR: ROAD SHIFTED SOUTH 10', UTILITY LAYOUT REVISED PER CITY COMMENTS	DESIGN: 4/16/04						DRAWN: 7/13/04	CHECKED: 7/13/04	CONSTRUCTION		



- UTILITY NOTES:
1. STORM DRAIN MANHOLES SHALL BE INSTALLED PRIOR TO THE WATERMAIN TO PROVIDE ADEQUATE WATERMAIN TO PROVIDE ADEQUATE SEPARATION BETWEEN THE WATERMAIN AND THE EXISTING SEWER FORCING MAIN (1" MIN. SEPARATION).
  2. TOP OF FOUNDATION (TOP) ELEVATIONS ARE THE MINIMUM ALLOWABLE FOR SEWER AND FOUNDATION DRAIN CONNECTIONS. SEE SHEET 7 FOR LOT GRADING NOTES.

W4

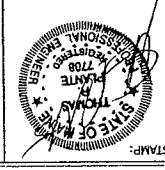
SHEET 4 OF 10 DRAWING NO.	CONSTRUCTION DETAILS ROADWAY & DRAINAGE	PROJECT NO.: 53358/29459287	SCALE: AS SHOWN	DATE: SEPTEMBER 3, 2004		
		CLIENT: MARGARET HAVERLY WASHINGTON AVE, PORTLAND, MAINE	PROJECT LOCATION: BALKPARK DRIVE SUBDIVISION	PROJECT NAME: BALKPARK DRIVE SUBDIVISION		
		CONTACT: URS Corporation 477 Congress Street, 9th Floor Portland, ME 04101-3453 Tel: 207.879.7686 Fax: 207.879.7685 www.urscorp.com				
REV	DATE	DESCRIPTION	CONSTRUCTION	APPROVAL	CHECKED: TRP	DATE: 4/19/04
1	4/19/04	ISSUED FOR PLANNING BOARD WORKSHOP & CITY REVIEW				
2	7/13/04	ADDED GRAVEL DRIVE AND TRENCH DRAIN DETAILS	PRELIMINARY		DRW: SCP	
3	9/03/04	ADDED LIGHTING DETAILS PER CITY COMMENTS AND PLANNING WORKSHOP JULY 27, 2004	ISSUED FOR:		DESIGN: TRP	



PROJECT NO.: 53358/29459287  
 CLIENT: MARGARET HAVERLY  
 WASHINGTON AVE, PORTLAND, MAINE  
 CONTACT: URS Corporation  
 477 Congress Street, 9th Floor  
 Portland, ME 04101-3453  
 Tel: 207.879.7686  
 Fax: 207.879.7685  
 www.urscorp.com

REV	DATE	DESCRIPTION
1	4/19/04	ISSUED FOR PLANNING BOARD WORKSHOP & CITY REVIEW
2	7/13/04	ADDED THRUST BLOCK DETAILS
3	9/03/04	ADDED DETAIL CLARIFICATIONS PER CITY COMMENTS

CONSTRUCTION	DATE	DESIGN	CHECKED
APPROVAL	4/19/04	TRP	TRP
PRELIMINARY		SCP	
ISSUED FOR:		TRP	



**URS**

URS Corporation  
 477 Congress Street, 9th Floor  
 Portland, ME 04101-3453  
 Tel: 207.879.7685  
 Fax: 207.879.7685  
 www.urscorp.com

PROJECT NO.: 53359/39459287  
 CLIENT: MARGARET HAVERTY  
 67 HAVERTY WAY  
 PORTLAND, MAINE 04103  
 PROJECT LOCATION: WASHINGTON AVE, PORTLAND, MAINE  
 PROJECT NAME: BALLPARK DRIVE SUBDIVISION  
 SHEET TITLE: CONSTRUCTION DETAILS  
 SCALE: AS SHOWN  
 DATE: SEPTEMBER 3, 2004

DRAWING NO.: 5  
 SHEET 5 OF 10

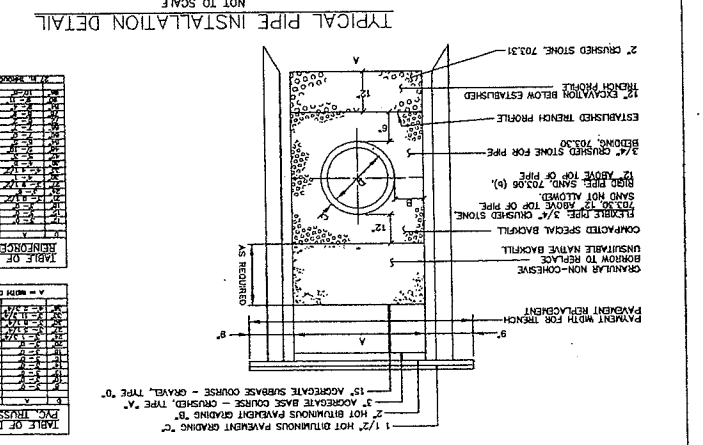
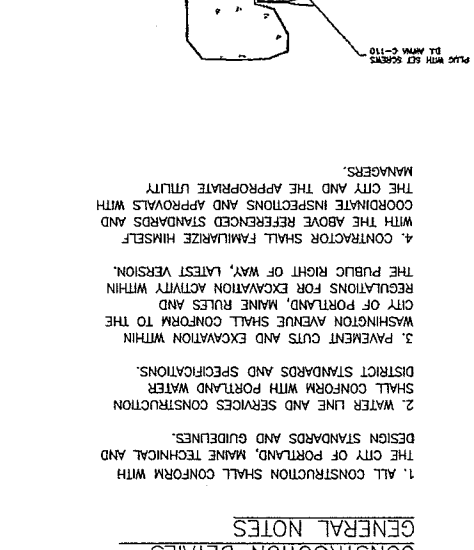
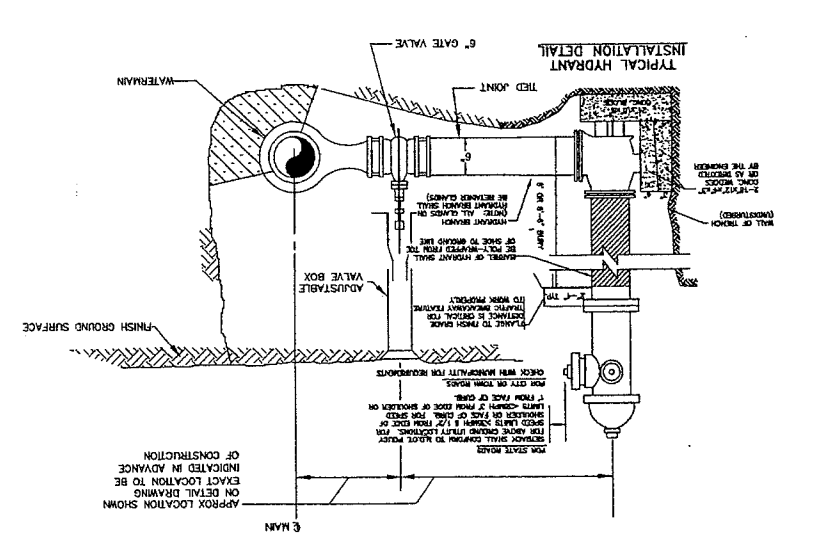
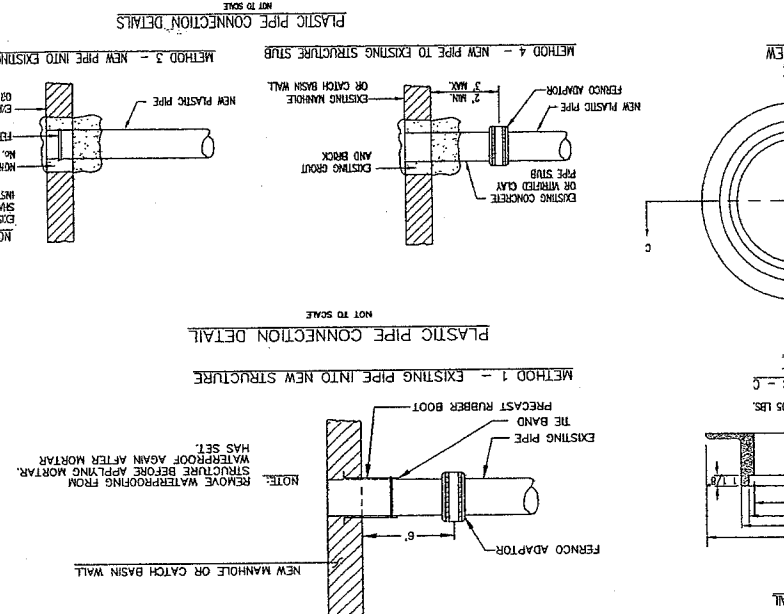
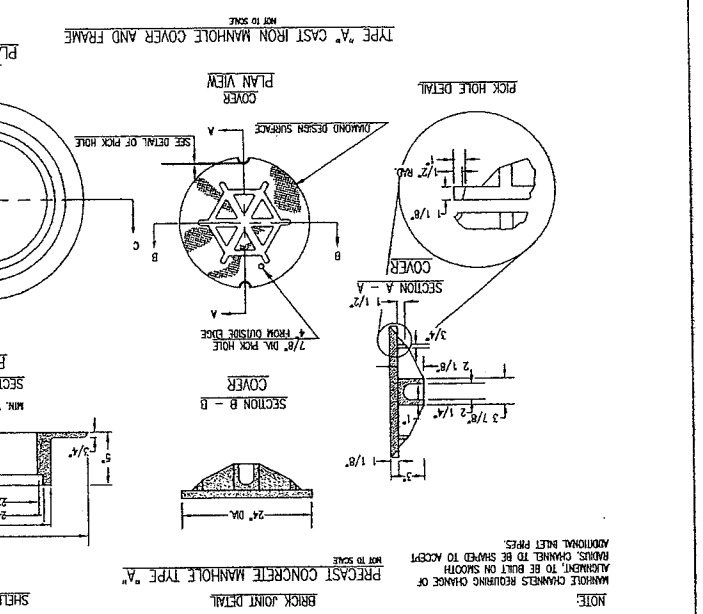
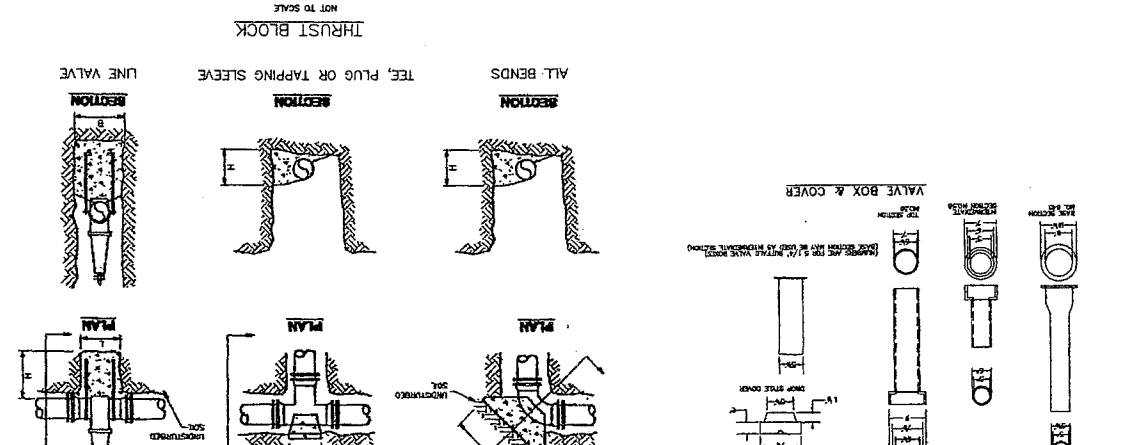
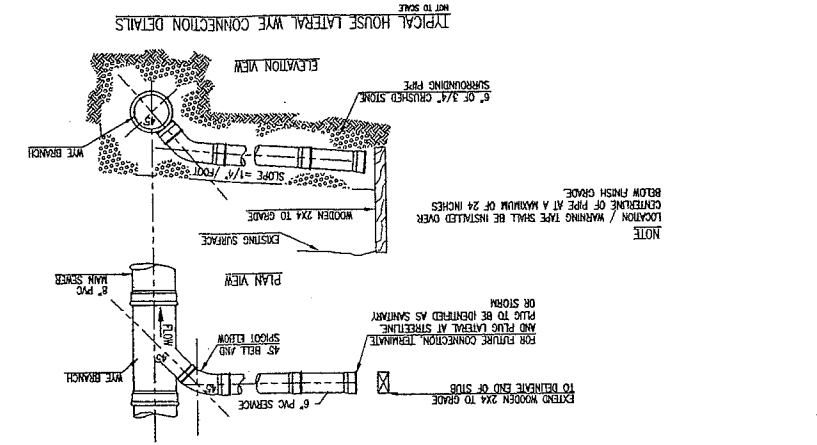


TABLE OF DIMENSIONS

ITEM	DESCRIPTION	MINIMUM	MAXIMUM
1	PIPE	12"	12"
2	CONCRETE	4"	4"
3	GRAVEL	6"	6"
4	SOIL	12"	12"
5	FINISH GRADE	12"	12"



**GENERAL NOTES - CONSTRUCTION DETAILS -**

1. ALL CONSTRUCTION SHALL CONFORM WITH DESIGN STANDARDS AND GUIDELINES.
2. WATER LINE AND SERVICES CONSTRUCTION SHALL CONFORM WITH PORTLAND WATER DISTRICT STANDARDS AND SPECIFICATIONS.
3. PAYMENT CUTS AND EXCAVATION WITHIN WASHINGTON AVENUE SHALL CONFORM TO THE CITY OF PORTLAND, MAINE RULES AND REGULATIONS FOR EXCAVATION ACTIVITY WITHIN THE PUBLIC RIGHT OF WAY, LATEST VERSION.
4. CONTRACTOR SHALL FAMILIARIZE HIMSELF WITH THE ABOVE REFERENCED STANDARDS AND COORDINATE INSPECTIONS AND APPROVALS WITH THE CITY AND THE APPROPRIATE UTILITY MANAGERS.

MINIMUM COVER REQUIREMENTS

PIPE SIZE	ALL LINE VALVES	ALL LINE VALVES AT 200 PSF	BRICKS, TEE'S AND LINE VALVES AT 200 PSF
1/2"	12"	12"	12"
3/4"	12"	12"	12"
1"	12"	12"	12"
1 1/4"	12"	12"	12"
1 1/2"	12"	12"	12"
2"	12"	12"	12"
2 1/2"	12"	12"	12"
3"	12"	12"	12"
3 1/2"	12"	12"	12"
4"	12"	12"	12"
4 1/2"	12"	12"	12"
5"	12"	12"	12"
6"	12"	12"	12"
8"	12"	12"	12"
10"	12"	12"	12"
12"	12"	12"	12"
15"	12"	12"	12"
18"	12"	12"	12"
24"	12"	12"	12"
30"	12"	12"	12"
36"	12"	12"	12"
42"	12"	12"	12"
48"	12"	12"	12"
54"	12"	12"	12"
60"	12"	12"	12"

BASES FOR GRATE COVERS OF 200 PSF AND 5 TON COVERS IN EXCAVATION SHALL BE AT LEAST 12\"/>

PLACEMENT, USE FOR HORIZONTAL OR DOWNWARD THRUST ONLY. MINIMUM COVER SHALL BE 12\"/>

NOT TO SCALE

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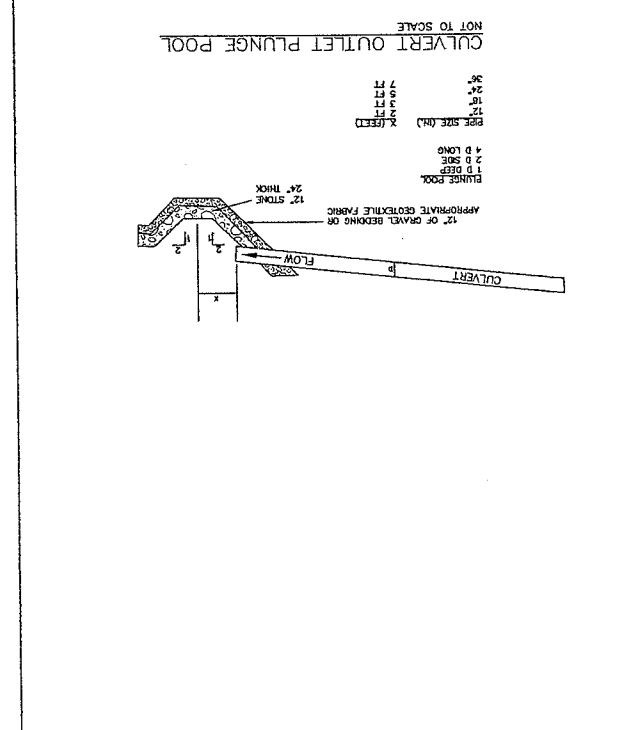
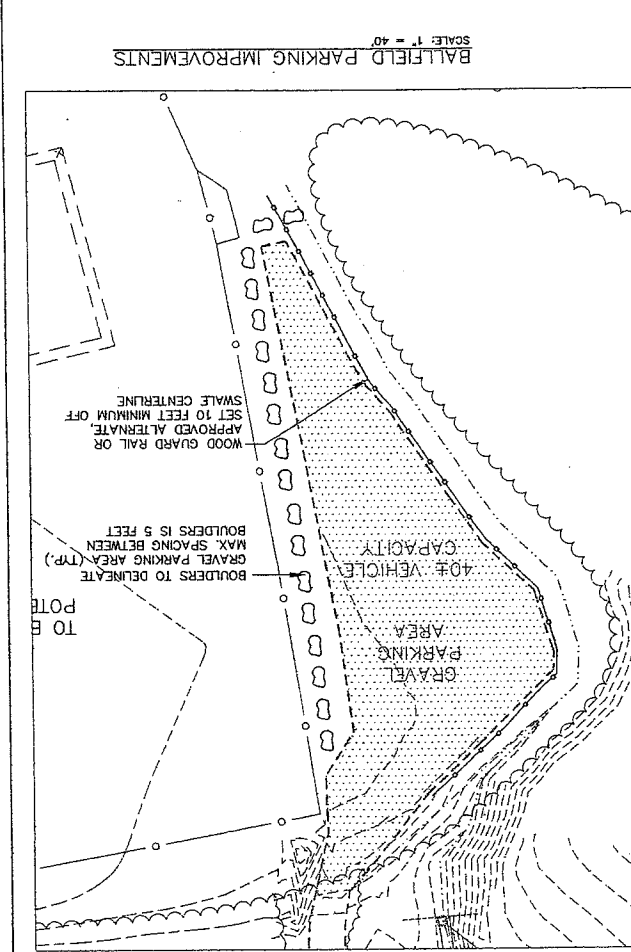
W5

REV	DATE	DESCRIPTION	CONSTRUCTION
1	4/19/04	ISSUED FOR PLANNING BOARD WORKSHOP & CITY REVIEW	APPROVAL
2	7/13/04	ADDED EROSION CONTROL DETAILS AND MODIFIED ESC PLAN	PRELIMINARY
3	9/03/04	ADDRESSED CITY COMMENTS ON STORMWATER EROSION CONTROLS	ISSUED FOR:



**URS**  
CORPORATION  
477 Congress Street, 9th Floor  
Portland, ME 04101-3453  
Tel: 207.879.7866  
Fax: 207.879.7865  
www.urscorp.com

PROJECT NAME: <b>BALLPARK DRIVE SUBDIVISION</b>	PROJECT NO.:	SCALE:	AS SHOWN	DATE:	SEPTEMBER 3, 2004
PROJECT LOCATION: WASHINGTON AVE, PORTLAND, MAINE	CLIENT: MARGARET HAVERLY 67 HARBORWAY PORTLAND, MAINE 04103				
SHEET TITLE: <b>EROSION AND SEDIMENTATION CONTROL DETAILS</b>	DRAWING NO.:	SHEET 6 OF 10			



**EROSION AND SEDIMENTATION CONTROL PLAN**

1. CONSTRUCTION GENERAL PERMIT  
NEEDS TO COMPLY WITH THE MAINE DEP GENERAL PERMIT FOR CONSTRUCTION WITHIN A CONSTRUCTION WITH PERMIT FOR THE OWNER IN CONJUNCTION WITH THE CONSTRUCTION (OPERATORS).

2. THE DEP OUTLINES A SET OF PROVISIONS REGARDING THE OWNER AND CONTRACTOR TO COMPLY WITH THE RECOMMENDATIONS OF THE MAINE DEP. THESE RECOMMENDATIONS ARE LISTED IN THE ATTACHED CONSTRUCTION CONTROL PLAN AND SHALL NOT BE DELETED OR MODIFIED WITHOUT THE WRITTEN APPROVAL OF THE MAINE DEP. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING A CURRENT GENERAL PERMIT FROM THE MAINE DEP.

3. THE MAINE DEP GENERAL PERMIT FOR CONSTRUCTION WITHIN A CONSTRUCTION WITH PERMIT FOR THE OWNER IN CONJUNCTION WITH THE CONSTRUCTION (OPERATORS) IS A CONDITION THAT MUST BE MAINTAINED AT ALL TIMES DURING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING A CURRENT GENERAL PERMIT FROM THE MAINE DEP.

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING A CURRENT GENERAL PERMIT FROM THE MAINE DEP. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING A CURRENT GENERAL PERMIT FROM THE MAINE DEP.

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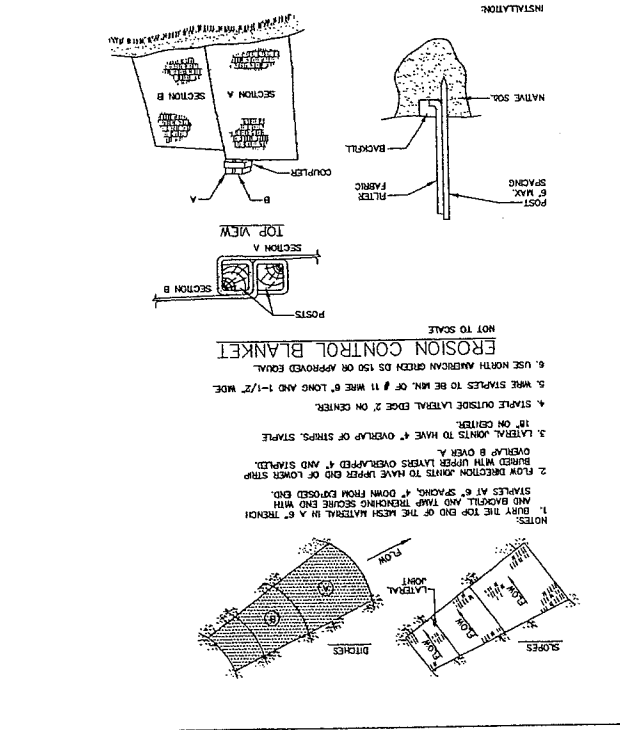
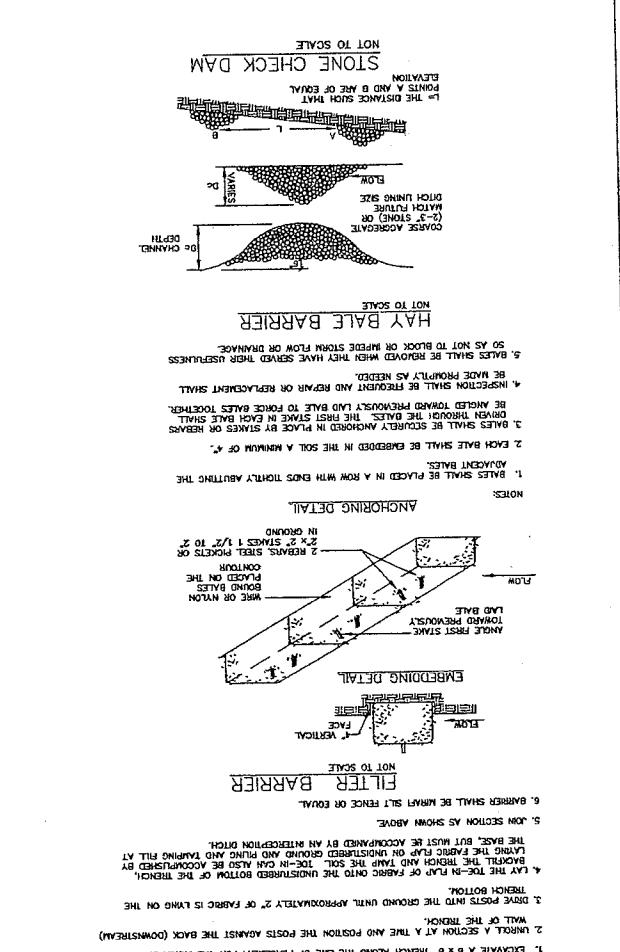
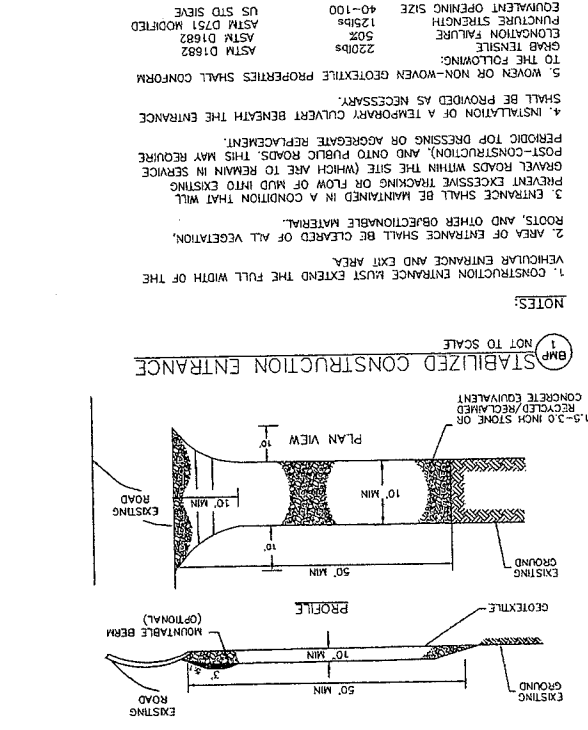
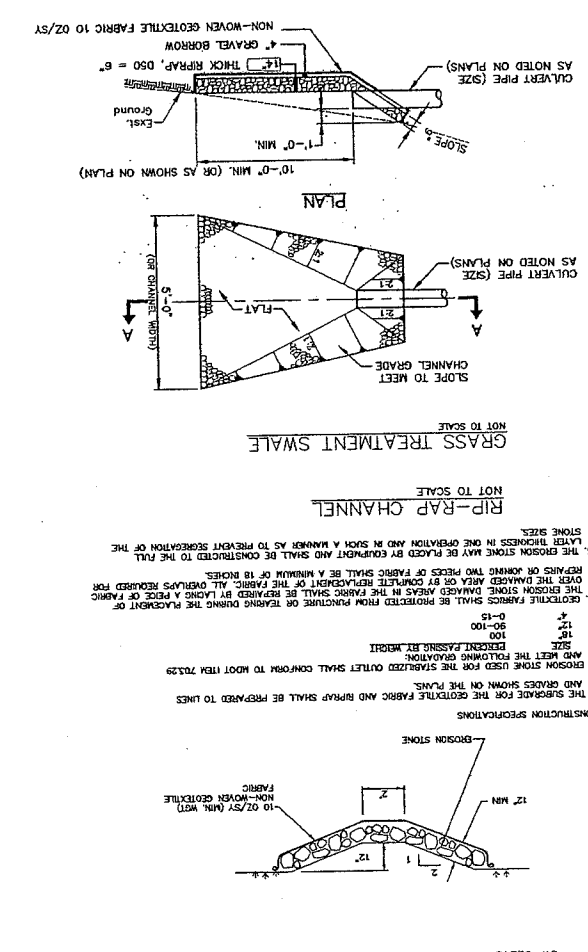
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20. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING A CURRENT GENERAL PERMIT FROM THE MAINE DEP. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AND MAINTAINING A CURRENT GENERAL PERMIT FROM THE MAINE DEP.

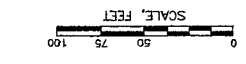


W7

REV	DATE	DESCRIPTION	CONSTRUCTION	APPROVAL	7/13/04	SUBMITTED FOR PLANNING BOARD WORKSHOP
1	9/03/04	REVISED PER CITY COMMENTS AND PLANNING WORKSHOP	PRELIMINARY	DRAWN: MLS	7/13/04	CHECKED: TRP
		ISSUED FOR:	DATE:	DESIGN: TRP		

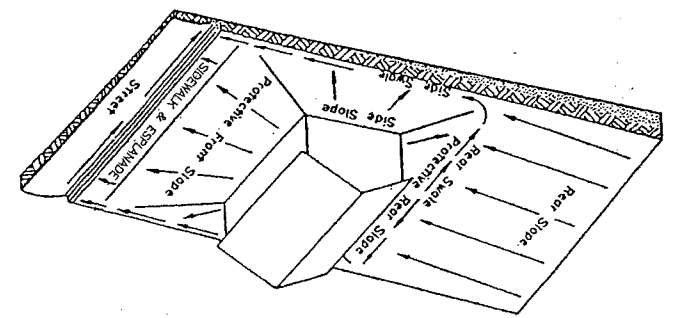
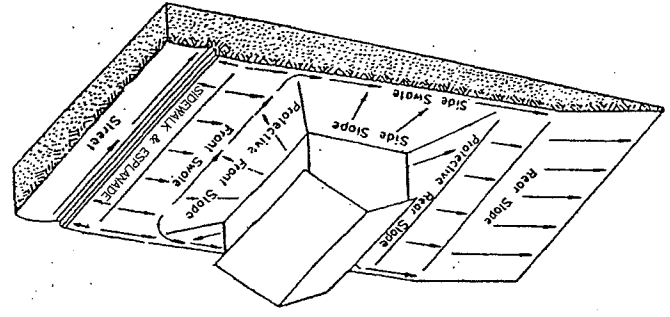
PROJECT NO.:	53359 / 39459287	SCALE:	1" = 50'
CLIENT:	MARGARET HAVERLY 67 HAVERTY WAY PORTLAND, MAINE 04103	DATE:	SEPTEMBER 3, 2004
PROJECT LOCATION:	WASHINGTON AVE, PORTLAND, MAINE	DRAWING NO.:	7
PROJECT NAME:	BALLPARK DRIVE SUBDIVISION	SHEET TITLE:	TEMPORARY EROSION CONTROLS & LOT GRADING AND LANDSCAPING
URS Corporation 477 Congress Street, 9th Floor Portland, ME 04101-3453 www.urscorp.com Tel: 207.879.7685 Fax: 207.879.7685			



**LEGEND**

EXISTING	PROPOSED	DESCRIPTION
		WETLANDS
		EDGE WETLAND
		BUILDING
		CHAIN LINK FENCE
		BARBED WIRE FENCE
		STONE WALL
		MEASURED D.C. CALL
		TAX MAP BLOCK LOT
		WETLAND FILL
		STREAM BUFFER
		MONUMENT
		SEWER FORCMAIN
		EDGE OF VEGETATION
		CLEARING
		DITCH/SWALE
		ELEVATION CONTOUR

TYPICAL LOT GRADING - LOTS 1-9  
TYPICAL LOT GRADING - LOTS 10-16



LOT GRADING - TYPE A  
(ALL DRAINAGE TO STREET GUTTER)

LOT GRADING - TYPE C  
(ALL DRAINAGE TO REAR OF LOT)

NOT TO SCALE

1. THERE SHALL BE NO CLEARING OR SOIL REMOVAL WITHIN 75 FEET OF THE INTERMITTENT BROOK, EXCEPT FOR LIMITED VEGETATION REMOVAL ACTIVITIES SPECIFICALLY EXEMPTED UNDER THE PERMIT BY RULE STANDARDS (MPA CHAPTER 305), AND THE CITY'S SHORELAND REGULATIONS.

2. TOP OF FOUNDATION (T.O.F.) ELEVATIONS ARE THE MINIMUM ALLOWABLE FOR INDIVIDUAL LOT SITE PLAN APPLICATIONS REQUIRED FOR INDIVIDUAL LOT DEVELOPMENT, AND REQUIRE CITY APPROVAL.

3. LOT GRADING TYPES AND DETAILS BASED ON MAINE DEP BEST MANAGEMENT PRACTICES. FOR LOTS ON THE SOUTH SIDE OF BALLPARK DRIVE, OVERLAND SHEET FLOW DURING STORM EVENTS WILL FLOW TO THE STREET GUTTER LINE. FOR LOTS ON THE NORTH SIDE OF BALLPARK DRIVE, OVERLAND SHEET FLOW DURING STORM EVENTS WILL FLOW TO THE STREET GUTTER LINE. FOR LOTS ON THE SOUTH SIDE OF BALLPARK DRIVE, OVERLAND SHEET FLOW DURING STORM EVENTS WILL FLOW TO THE STREET GUTTER LINE. FOR LOTS ON THE NORTH SIDE OF BALLPARK DRIVE, OVERLAND SHEET FLOW DURING STORM EVENTS WILL FLOW TO THE STREET GUTTER LINE.

4. SIDE LINE SWALES SHOWN ON THE TYPICAL LOT GRADING DETAILS ARE INTENDED TO BE SHALLOW DEPRESSIONS IN LOT GRADING ALLOWING FOR SHALLOW CONCENTRATED FLOWS DURING HEAVY STORM EVENTS. THEY ARE NOT INTENDED TO BE DEPRESSIONS FOR THE STORAGE OF WATER.

5. A MINIMUM OF TWO TREES PER LOT (INCLUDING OF STREET ESPLANADE TREES) SHALL BE CONSERVED OR PLANTED IN THE FRONT YARD OF EACH LOT MEETING THE CITY'S AGRICULTURAL STANDARDS AND STANDARDS LOT OWNERS SHALL CONSULT WITH THE CITY ARBORIST FOR TREE SAVED PLANNING DURING SITE APPLICATION PREPARATION.

6. CLEARING LIMITS SHOWN ARE APPROXIMATE AND ARE BASED ON MINIMUM CITY AND DEP REQUIRED SETBACKS AND ANTICIPATED LOT DEVELOPMENT SCHEMES. ACTUAL LOT CLEARING MAY VARY AS LONG AS BUFFER LIMITS ARE MAINTAINED, SUBJECT TO SITE PLAN APPROVAL.

7. THIS PLAN IS INTENDED TO SHOW LOT GRADING SURFACE DRAINAGE CONCEPTS ONLY AS A GENERAL GUIDE TO THE DEVELOPMENT OF THE LOTS. EACH INDIVIDUAL LOT OWNER SHALL BE RESPONSIBLE FOR INDIVIDUAL LOT SURVEY AND SITE PLAN DEVELOPMENT AS NECESSARY AND REQUIRED BY THE CITY.

8. IT IS THE INTENT OF THIS PROJECT TO MINIMIZE THE AMOUNT OF TREE CLEARING INDIVIDUAL LOTS.

9. IT IS THE INTENT OF THIS PROJECT TO CONSTRUCT THE ROADWAY, UTILITIES, AND DEVELOP INDIVIDUAL LOTS.

TEMPORARY EROSION CONTROLS

1. THE LOCATIONS SHOWN FOR TEMPORARY EROSION CONTROLS ARE INTENDED TO ILLUSTRATE THE TYPES OF PROTECTIONS TO BE INSTALLED TO PREVENT SEDIMENTATION OF WETLANDS, DITCHES, AND WATERWAYS. LOCATIONS MAY VARY DURING CONSTRUCTION ACTIVITIES BASED ON THE LIMITS OF CLEARING FOR THE ROAD CONSTRUCTION AND FOR THE OVERALL SUBDIVISION DEVELOPMENT.

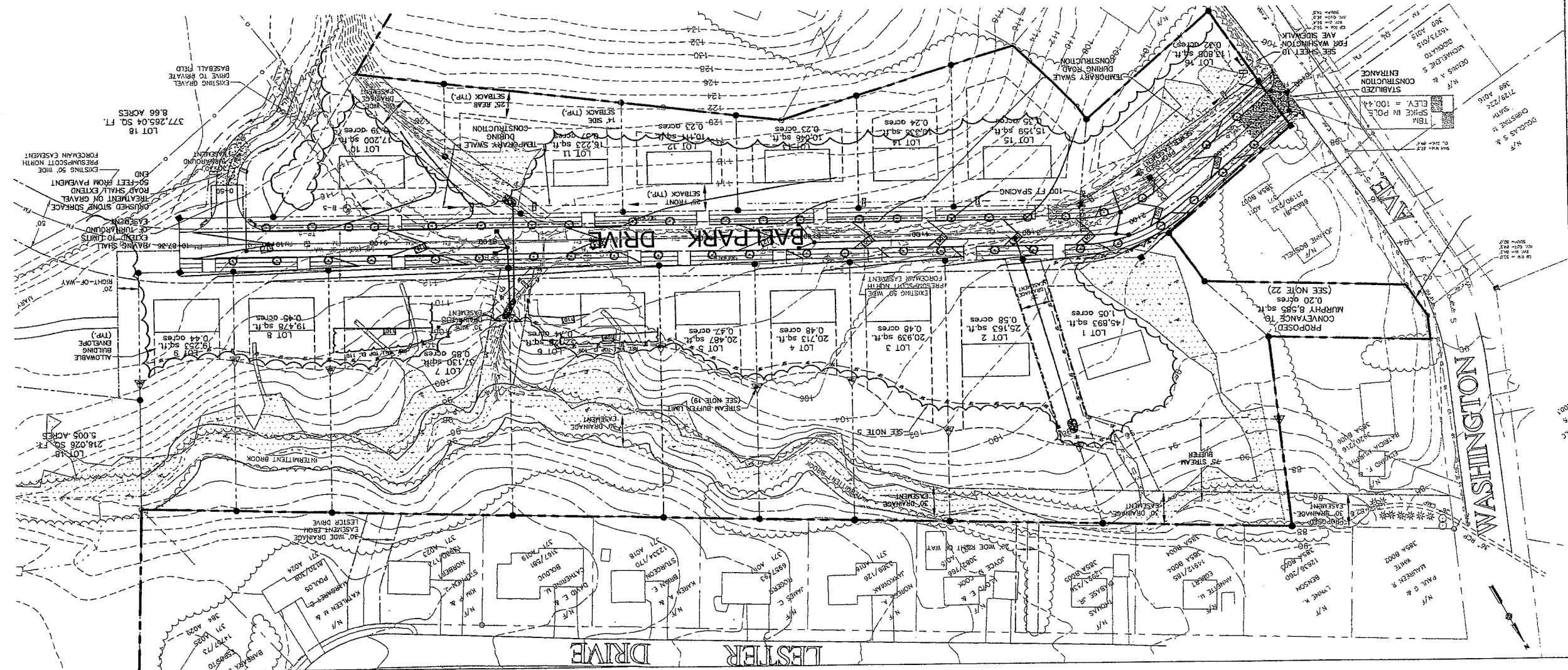
2. ADDITIONAL SILT FENCE OR OTHER EROSION CONTROLS WILL BE INSTALLED AS NECESSARY AS INDIVIDUAL LOTS ARE DEVELOPED. NOMINAL LOT BUFFERS WILL BE REQUIRED TO PREVENT SEDIMENTATION FROM CONSTRUCTION. THE CONTRACTOR SHALL PROTECT ALL CATCH BASINS FROM SEDIMENTATION RESULTING FROM CONSTRUCTION. CONSIDERED APPROPRIATE.

3. THE CONTRACTOR SHALL PROTECT ALL CATCH BASINS FROM SEDIMENTATION RESULTING FROM CONSTRUCTION. CONSIDERED APPROPRIATE.

4. SEE SHEET B FOR ADDITIONAL SEDIMENTATION AND EROSION CONTROL NOTES AND DETAILS.

5. SILT FENCE ALONG THE STREAM GUTTER IN LOTS 1-9 SHALL BE SUPPLEMENTED WITH A SECONDARY SEDIMENT FILTER SUCH AS WOODCHIP/BARK MULCH FILTER BERMS OR CORR FIBER SEDIMENT LOSS.

6. ESPLANADE TREES SHALL BE SPACED EVERY 30' TO 40'. LOCATION, SIZE, AND SPECIES SHALL BE APPROVED BY THE CITY ARBORIST AND SHALL MEET CITY ARBOCULTURAL SPECIFICATIONS.



Vertical text on the right edge of the drawing, likely a project or drawing number.

REV	DATE	DESCRIPTION
		CONSTRUCTION
	9/03/04	APPROVAL
		PRELIMINARY
		ISSUED FOR:
DESIGN:	TRP	
DRAWN:	MIS	
CHECKED:	TRP	



**URS**  
 URS Corporation  
 477 Congress Street, 9th Floor  
 Portland, ME 04101-3453  
 Tel: 207.879.7686  
 Fax: 207.879.7685  
 www.urscorp.com

PROJECT NAME:	BALLPARK DRIVE SUBDIVISION
PROJECT LOCATION:	WASHINGTON AVE, PORTLAND, MAINE
CUSTOMER:	MARGARET HAVERTY 67 HAVERTIS WAY PORTLAND, MAINE 04103
PROJECT NO.:	53359 / 39459287
SCALE:	NTS
DATE:	SEPTEMBER 3, 2004
SHEET TITLE:	SOIL BORING LOGS
DRAWING NO.:	8
SHEET NO. OF 10	

DEPTH (ft)	PERCENT INTERVAL BLOW COUNT	SAMPLE DESCRIPTION	UNTERED SOIL SCREENING NOTES	FIELD
0		0-6" Organics (leaves and roots) observed.		Measured
1				
2				
3	3-5	3-4.5 Brown SAND, medium to fine sand, occasional root, occasional mottling (moist) (dry)		
4				
5				
6				
7				
8	8-10	8-10 Gray to Brown SILTY SAND, medium to fine sand with silt trace clay (moist) (dry)		
9				
10		10 feet: Bottom of Exploration		

<b>URS</b> 477 Congress Street, Suite 3A, Portland, Maine 04101 Tel: (207) 879-7686 Fax: (207) 879-7685 Checked By: David Andrews		Boring Location: Ground Surface Elevation Datum: na est: 100 ft Date Started: 12/20/2003 Date Completed: 12/20/2003	Boring No.: B-1 Sheet: 1 of 1 Project: Haverty Subdivision Location: Portland, Maine
--	--	---	---

DEPTH (ft)	PERCENT INTERVAL BLOW COUNT	SAMPLE DESCRIPTION	UNTERED SOIL SCREENING NOTES	FIELD
0		0-6" Organics (leaves and roots) observed.		Measured
1				
2				
3	3-5	3-5 Brown SILTY CLAY, trace sand, (moist) (dry)		
4				
5				
6				
7				
8	8-10	8-10 Brown GRAVELLY SAND, coarse to fine sand with fine gravel (moist) (dry)		
9				
10		10 feet: Bottom of Exploration		



<b>URS</b> 477 Congress Street, Suite 3A, Portland, Maine 04101 Tel: (207) 879-7686 Fax: (207) 879-7685 Checked By: David Andrews		Boring Location: Ground Surface Elevation Datum: na est: 115 ft Date Started: 12/20/2003 Date Completed: 12/20/2003	Boring No.: B-5 Sheet: 1 of 1 Project: Haverty Subdivision Location: Portland, Maine
--	--	---	---

DEPTH (ft)	PERCENT INTERVAL BLOW COUNT	SAMPLE DESCRIPTION	UNTERED SOIL SCREENING NOTES	FIELD
0		0-6" Organics (leaves and roots) observed.		Measured
1				
2				
3	3-5	3-5 Brown to light brown SILTY SAND, medium to fine sand, trace to white silt, frequent mottling, (moist) (medium dense)		
4				
5				
6				
7				
8	8-10	8-10 Gray SILTY CLAY, trace to some silt, medium plasticity (moist) (soft)		
9				
10				
11				
12				
13	13-15	13-14.5 Olive gray SILTY SANDY CLAY, some silt and coarse to fine sand (moist) (dry)		
14				
15	15-17	14.5-15 Olive gray SILTY SAND, coarse to fine sand with silt, trace clay (moist) (dry)		
16				
17		17 feet: Bottom of Exploration		

<b>URS</b> 477 Congress Street, Suite 3A, Portland, Maine 04101 Tel: (207) 879-7686 Fax: (207) 879-7685 Checked By: David Andrews		Boring Location: Ground Surface Elevation Datum: na est: 112 ft Date Started: 12/20/2003 Date Completed: 12/20/2003	Boring No.: B-6 Sheet: 1 of 1 Project: Haverty Subdivision Location: Portland, Maine
--	--	---	---

Notes:  
 in or " = inches  
 ft = feet  
 bgs = below ground surface  
 GS = ground surface  
 ID = inside diameter

W9

9	DRAWING NO.: SHEET 9 OF 10	TEST PIT LOGS	DATE: SEPTEMBER 3, 2004	SCALE: NTS	PROJECT NO.: 345287 / 39459287
			PROJECT NAME: BALLPARK DRIVE SUBDIVISION	PROJECT LOCATION: WASHINGTON AVE, PORTLAND, MAINE	CLIENT: MARGARET HAVERTY 67 HAVERTY WAY PORTLAND, MAINE 04103
			URS Corporation 477 Congress Street, 9th Floor Portland, ME 04101-3453 Tel: 207.879.7885 Fax: 207.879.7885 www.urscorp.com		
			 		
			ISSUED FOR: PRELIMINARY	DESIGN: TRP	DATE: 9/03/04
			APPROVAL: CHECKED: TRP	DRAWN: MLS	DATE: 9/03/04

TEST PIT FIELD LOG TP-4

Project: Ballpark Drive Subdivision  
 Location: Portland, ME  
 Project Number: 3945287  
 Date: 8/20/04  
 Checked By: T. Plante

Contractor: Las Wilson & Sons  
 Groundwater Dept: 112.15

URS Engineer/Geologist: K. McDonalds, Perkins  
 Equipment Make & Model: not observed  
 Time Started: 12:30 PM  
 Time Completed: 12:40 PM

Capacity: 100 yd. Reach: 16ft  
 Weather: Sunny, 80's

REMARKS: Purpose of test pit was to locate an existing 18" cast iron sewer force main.  
 0-3.5' Silty sand and sand, occasional gravel  
 3.5 feet: Cast iron pipe observed, bottom of excavation

DEPTH (ft)	STRATUM DESCRIPTION	FIELD EXCAV. EFFORT	SCREENING EFFORT	REMARK NO.
0.0				
1.0				
2.0				
3.0				
4.0				
5.0				
6.0				
7.0				
8.0				
9.0				
10.0				
11.0				
12.0				
13.0				
14.0				
15.0				

TEST PIT FIELD LOG TP-5

Project: Ballpark Drive Subdivision  
 Location: Portland, ME  
 Project Number: 3945287  
 Date: 8/20/04  
 Checked By: T. Plante

Contractor: Las Wilson & Sons  
 Groundwater Dept: 114.65

URS Engineer/Geologist: K. McDonalds, Perkins  
 Equipment Make & Model: Rubber tire excavator  
 Time Started: 12:45 PM  
 Time Completed: 1:00 PM

Capacity: 100 yd. Reach: 16ft  
 Weather: Sunny, 80's

REMARKS: Purpose of test pit was to locate an existing 18" cast iron sewer force main.  
 0-3.5' Silty sand and sand, occasional gravel  
 3.5 feet: Cast iron pipe observed, bottom of excavation

DEPTH (ft)	STRATUM DESCRIPTION	FIELD EXCAV. EFFORT	SCREENING EFFORT	REMARK NO.
0.0				
1.0				
2.0				
3.0				
4.0				
5.0				
6.0				
7.0				
8.0				
9.0				
10.0				
11.0				
12.0				
13.0				
14.0				
15.0				

TEST PIT FIELD LOG TP-1

Project: Ballpark Drive Subdivision  
 Location: Portland, ME  
 Project Number: 3945287  
 Date: 8/20/04  
 Checked By: T. Plante

Contractor: Las Wilson & Sons  
 Groundwater Dept: 101.60

URS Engineer/Geologist: K. McDonalds, Perkins  
 Equipment Make & Model: Rubber tire backhoe  
 Time Started: 7:45 AM  
 Time Completed: 10:15 AM

Capacity: 100 yd. Reach: 16ft  
 Weather: Sunny, 80's

REMARKS: Purpose of test pit was to locate an existing 18" cast iron sewer force main.  
 0-2' Road base - M-F gravel with C-M sand  
 2'-4' Fill: C-F gravel, C-F sand and silty clay, MOIST  
 4'-6' Gray to olive-gray SILT, trace sand and occasional cobble MOIST  
 6' Brown sandy, water bubbling into hole  
 7.5 feet: 18" cast iron pipe observed, bottom of excavation

DEPTH (ft)	STRATUM DESCRIPTION	FIELD EXCAV. EFFORT	SCREENING EFFORT	REMARK NO.
0.0				
1.0				
2.0				
3.0				
4.0				
5.0				
6.0				
7.0				
8.0				
9.0				
10.0				
11.0				
12.0				
13.0				
14.0				
15.0				

TEST PIT FIELD LOG TP-2

Project: Ballpark Drive Subdivision  
 Location: Portland, ME  
 Project Number: 3945287  
 Date: 8/20/04  
 Checked By: T. Plante

Contractor: Las Wilson & Sons  
 Groundwater Dept: 103.50

URS Engineer/Geologist: K. McDonalds, Perkins  
 Equipment Make & Model: Rubber tire backhoe  
 Time Started: 10:25 AM  
 Time Completed: 11:15 AM

Capacity: 100 yd. Reach: 16ft  
 Weather: Sunny, 80's

REMARKS: Purpose of test pit was to locate an existing 18" cast iron sewer force main.  
 0-2' C-F sand with C-F gravel, trace silty occasional cobbles fill, moist  
 2'-5' cast iron pipe observed, bottom of excavation

DEPTH (ft)	STRATUM DESCRIPTION	FIELD EXCAV. EFFORT	SCREENING EFFORT	REMARK NO.
0.0				
1.0				
2.0				
3.0				
4.0				
5.0				
6.0				
7.0				
8.0				
9.0				
10.0				
11.0				
12.0				
13.0				
14.0				
15.0				

TEST PIT FIELD LOG TP-3

Project: Ballpark Drive Subdivision  
 Location: Portland, ME  
 Project Number: 3945287  
 Date: 8/20/04  
 Checked By: T. Plante

Contractor: Las Wilson & Sons  
 Groundwater Dept: 100.57

URS Engineer/Geologist: K. McDonalds, Perkins  
 Equipment Make & Model: Rubber tire excavator  
 Time Started: 11:20 AM  
 Time Completed: 11:40 AM

Capacity: 100 yd. Reach: 16ft  
 Weather: Sunny, 80's

REMARKS: Purpose of test pit was to locate an existing 18" cast iron sewer force main.  
 0-2.5' Silty sand and sand, occasional gravel  
 3.5 feet: Cast iron pipe observed, bottom of excavation

DEPTH (ft)	STRATUM DESCRIPTION	FIELD EXCAV. EFFORT	SCREENING EFFORT	REMARK NO.
0.0				
1.0				
2.0				
3.0				
4.0				
5.0				
6.0				
7.0				
8.0				
9.0				
10.0				
11.0				
12.0				
13.0				
14.0				
15.0				

TEST PIT FIELD LOG TP-4

Project: Ballpark Drive Subdivision  
 Location: Portland, ME  
 Project Number: 3945287  
 Date: 8/20/04  
 Checked By: T. Plante

Contractor: Las Wilson & Sons  
 Groundwater Dept: 100.57



URS Engineer/Geologist: K. McDonalds, Perkins  
 Equipment Make & Model: Rubber tire excavator  
 Time Started: 11:20 AM  
 Time Completed: 11:40 AM

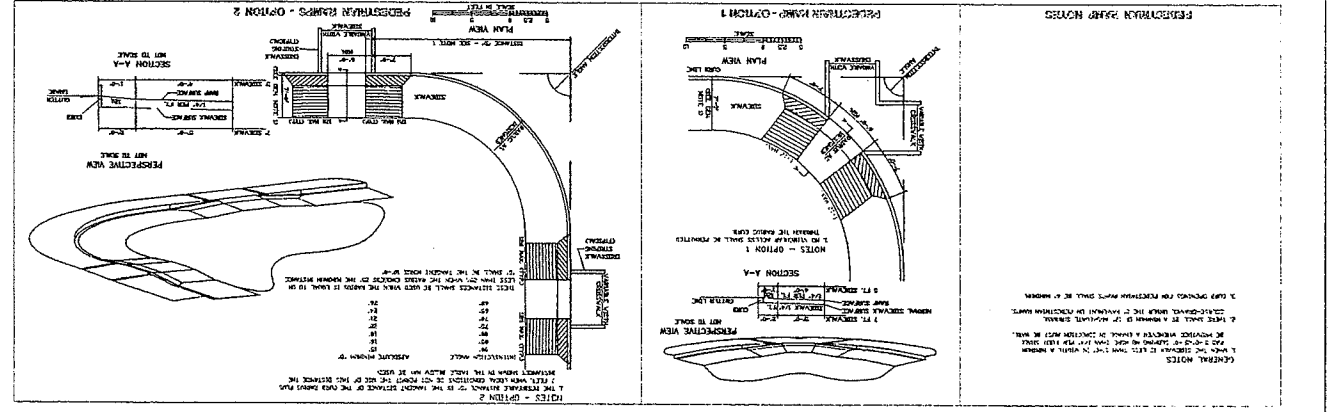
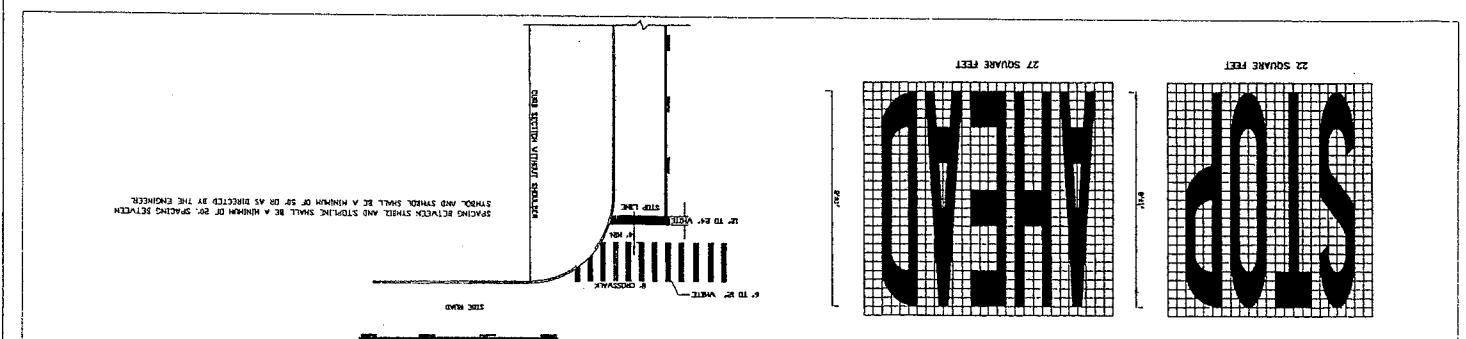
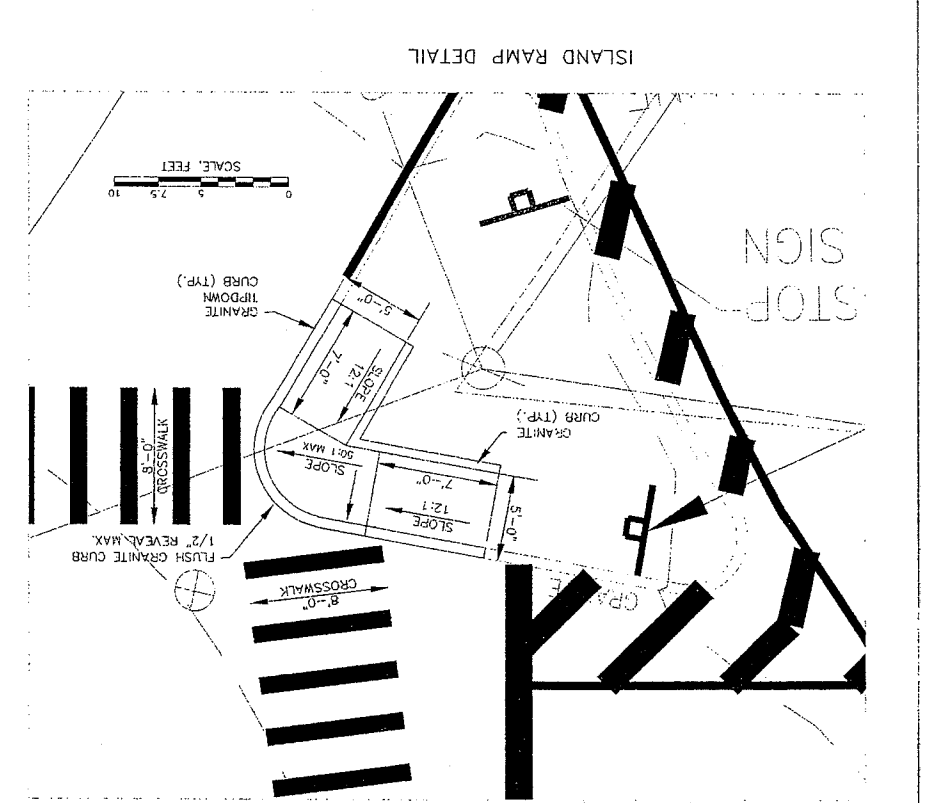
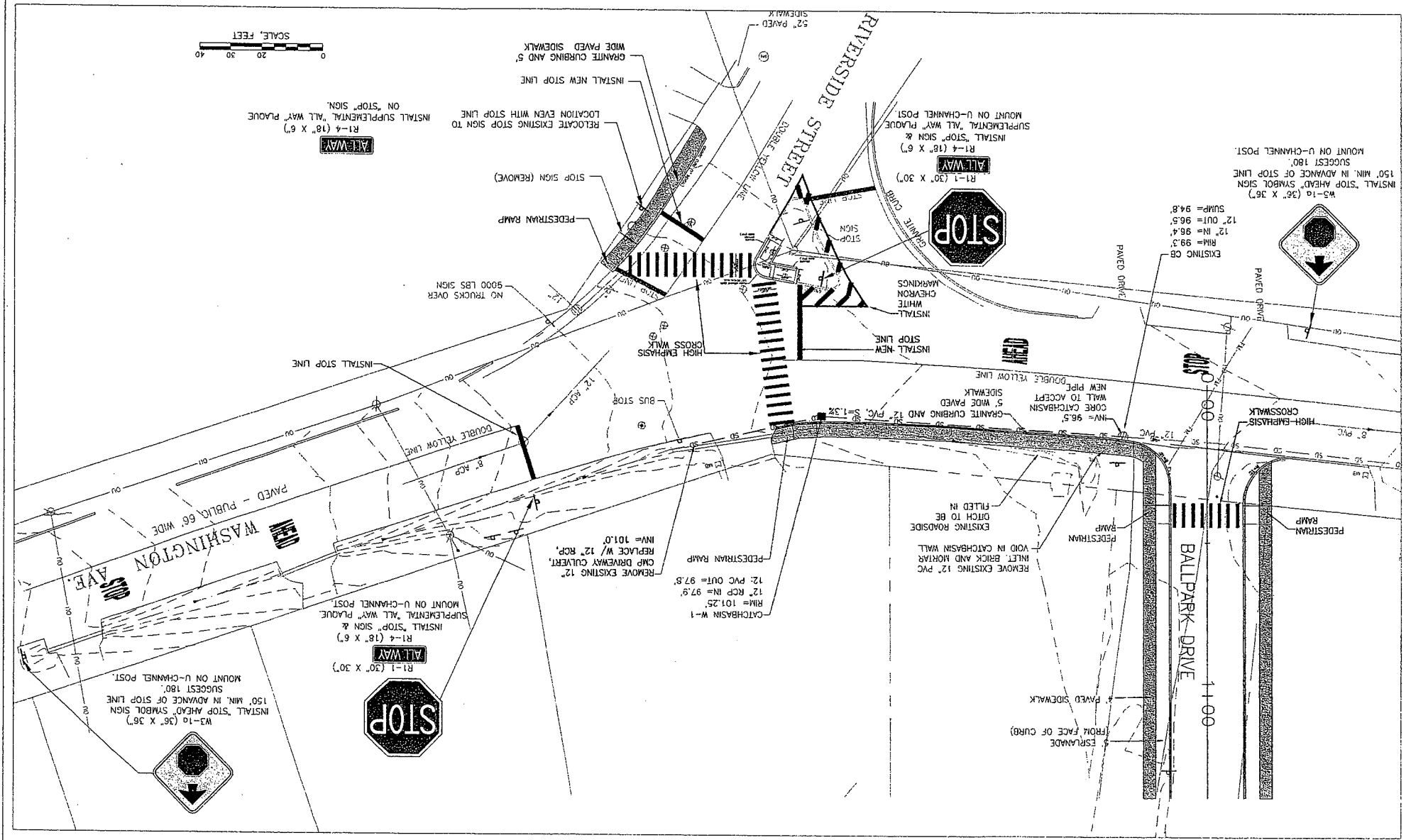
Capacity: 100 yd. Reach: 16ft  
 Weather: Sunny, 80's

REMARKS: Purpose of test pit was to locate an existing 18" cast iron sewer force main.  
 0-2.5' Silty sand and sand, occasional gravel  
 3.5 feet: Cast iron pipe observed, bottom of excavation

DEPTH (ft)	STRATUM DESCRIPTION	FIELD EXCAV. EFFORT	SCREENING EFFORT	REMARK NO.
0.0				
1.0				
2.0				
3.0				
4.0				
5.0				
6.0				
7.0				
8.0				
9.0				
10.0				
11.0				
12.0				
13.0				
14.0				
15.0				

W10

SHEET 10 OF 10 DRAWING NO:	DATE: SEPTEMBER 3, 2004	SCALE: AS SHOWN	PROJECT NO.: 53359 / 39459287	 URS Corporation 477 Congress Street, 9th Floor Portland, ME 04101-3433 Tel: 207.879.7666 Fax: 207.879.7685 www.urscorp.com		ISSUED FOR: PRELIMINARY	DATE: 9/03/04	DESIGN:
	DATE: 9/03/04	SCALE: AS SHOWN	PROJECT NO.: 53359 / 39459287			ISSUED FOR: APPROVAL	DATE: 9/03/04	CHECKED:
	DATE: 9/03/04	SCALE: AS SHOWN	PROJECT NO.: 53359 / 39459287			ISSUED FOR: CONSTRUCTION	DATE: 9/03/04	CHECKED:
	DATE: 9/03/04	SCALE: AS SHOWN	PROJECT NO.: 53359 / 39459287			ISSUED FOR: CONSTRUCTION	DATE: 9/03/04	CHECKED:
DESCRIPTION	BALLPARK DRIVE SUBDIVISION		CLIENT: MARGARET HAVERLY 67 HAVERTS WAY PORTLAND, MAINE 04103				DATE	REV
DESCRIPTION	BALLPARK DRIVE SUBDIVISION		PROJECT LOCATION: WASHINGTON AVE., PORTLAND, MAINE	PROJECT NAME: BALLPARK DRIVE SUBDIVISION				
DESCRIPTION	BALLPARK DRIVE SUBDIVISION			PEDESTRIAN IMPROVEMENTS				





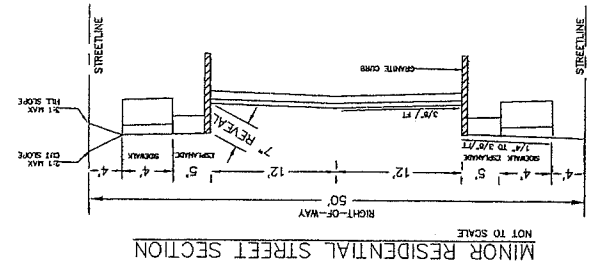
W1

PROJECT NAME: BALLPARK DRIVE SUBDIVISION  
 PROJECT LOCATION: WASHINGTON AVE, PORTLAND, MAINE  
 CLIENT/LAND OWNER: MARGARET HAVERTY  
 87 HAVERTY WAY  
 PORTLAND, MAINE 04103  
 PROJECT NO.: 53359 / 39459287  
 SCALE: 1" = 100'  
 DATE: SEPTEMBER 3, 2004  
 SHEET TITLE: PLAN OF DIVISION OF LAND  
 THE HAVERTY ESTATE SUBDIVISION  
 BALLPARK DRIVE SUBDIVISION  
 SHEET NO.: 1 OF 10

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 Portland, ME 04101-3453  
 Tel: 207.879.7686  
 Fax: 207.879.7685  
 www.urscorp.com



REV	DATE	DESCRIPTION
3	9/03/04	REVISED LOT AND ROAD LAYOUT PER CITY COMMENTS AND PLANNING WORKSHOP JULY 27, 2004.
2	6/02/04	WETLANDS UPDATE, AND BALFIELD PARKING AREA CORRECTIONS TO NOTES, LEGENDS, PLAN FORMAT, AND BOSWELL PURCHASE.
1	4/19/04	CORRECTIONS TO NOTES, LEGENDS, PLAN FORMAT, AND BOSWELL PURCHASE.
	2/23/04	SUBMITTED FOR PLANNING BOARD WORKSHOP & CITY REVIEW



LEGEND

EXISTING	PROPOSED	DESCRIPTION
---	---	PROPERTY/ROW
---	---	HAVERTY PROPERTY
---	---	EDGE WETLANDS
---	---	SETBACK
---	---	EASEMENT
---	---	STRAK
---	---	5/8" IRON REBAR
---	---	IRON PIPE/POD
---	---	CENTERLINE W/STATION
---	---	GRANITE CURB
---	---	EDGE PAVEMENT
---	---	EDGE GRAVEL
---	---	STONE DRAIN
---	---	WATER
---	---	UNDERGROUND ELECTRICAL
---	---	SEWER
---	---	OVERHEAD ELEC. & TEL.
---	---	ONE
---	---	UNDERGROUND ELEC. & TEL.
---	---	TELEPHONE
---	---	EDGE OF VEGETATION/
---	---	CLEANING

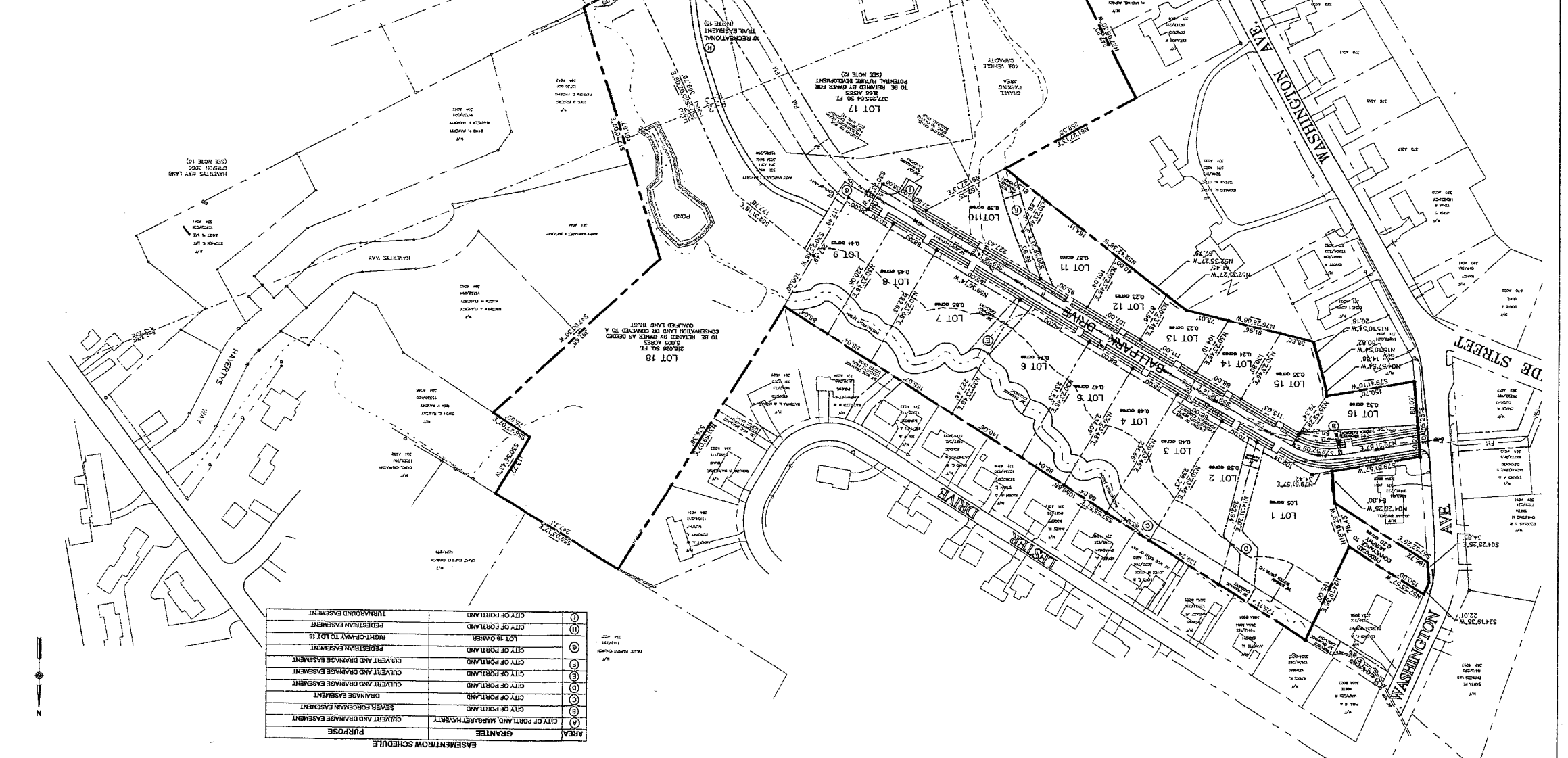


DATE: \_\_\_\_\_  
 CHAIRPERSON: \_\_\_\_\_  
 APPROVAL - CITY OF PORTLAND PLANNING BOARD

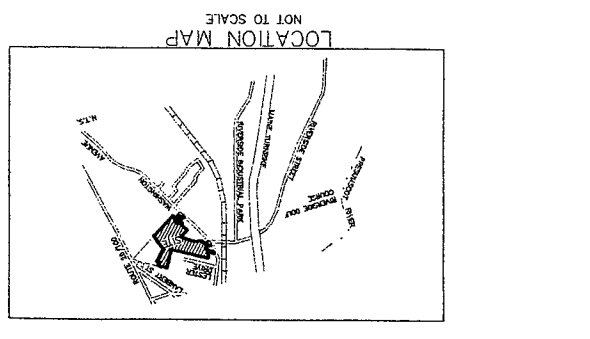
STATE OF MAINE  
 COUNTY SS REGISTRY OF DEEDS  
 RECEIVED AT \_\_\_\_\_ M. \_\_\_\_\_ P.  
 PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
 ATTEST \_\_\_\_\_  
 REGISTER

GENERAL NOTES

- THE RECORD OWNER OF THE PROPERTY IS MARY MARGARET L. HAVERTY AS RECORDED AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS IN BOOK 14636 PAGE 179.
- THE PROPERTY IS DEPICTED ON THE CITY OF PORTLAND'S TAX MAP 371 BLOCK 4 LOT 2. MAP 384 BLOCK 1 LOT 11 AND MAP 385A BLOCK 8 LOT 1.
- PLAN REFERENCES:  
 (A) STANDARD BOUNDARY SURVEY OF THE HAVERTY ESTATE PROPERTY FOR MARGARET HAVERTY BOUNDARY SURVEY, 1999 BY SEADCO TECHNICAL, INC. AND RECORDED AT THE CUMBERLAND COUNTY SS REGISTRY OF DEEDS IN PLAN BOOK 2023 PAGE 598 ON OCTOBER 6, 2003.  
 (B) PLAN OF DIVISION OF LAND OF THE HAVERTY ESTATE PROPERTY FOR MARGARET HAVERTY BOUNDARY SURVEY, 2000 BY SEADCO TECHNICAL, INC. AND RECORDED AT THE CUMBERLAND COUNTY SS REGISTRY OF DEEDS IN PLAN BOOK 2002 PAGE 787 ON APRIL 21, 2000.  
 (C) PLAN OF PROPERTY IN PORTLAND MADE FOR RIGHT OF WAY LOCATION PRESERVATION NORTH PUBLIC WORKS, 1999 BY H. & E.C. CORNELL.  
 (D) AERIAL MAPPING PLAN SHEET 2917-3200 FOR CITY OF PORTLAND, MAINE DEPARTMENT OF PUBLIC WORKS, 1999 BY H. & E.C. CORNELL.  
 (E) PLAN RECEIVED FROM PORTLAND WATER DEPT.  
 (F) PLAN RECEIVED FROM NORTHERN UTILITIES, INC. DATED OCT 1974.  
 (G) TAX MAPS CITY OF PORTLAND.
- STREET REFERENCES:  
 WASHINGTON AVENUE IS A 66 FOOT WIDE ROADWAY AS SHOWN ON THE CITY OF PORTLAND'S ENGINEERING DEPT. BLUE SHEETS 20, 20, & 20, AND WAS FORMERLY THE ORIGINAL COUNTY ROAD RUNNING FROM PORTLAND TO GRAY.
- SUBJECT TO:  
 (A) AN EASEMENT FROM THE PURPOSES OF CONSTRUCTING A SEWER FORCE MAIN AS DEPICTED HEREON AND SHOWN ON PLAN REFERENCED IN NOTE 3C AND RECORDED IN BOOK 2764 PAGE 362.  
 (B) THE 20' WIDE RIGHT OF WAY AND 30' WIDE DRIVEWAY EASEMENTS WITHIN LESTER BRONX SUBDIVISION AND CONVEYANCE TO OR FROM THE LOCALS PROPERTY CHAIN OF TITLE.  
 (C) OWNERSHIP WAS FOUND TO DRAIN ONTO THE PROPERTY WAS CONVEYED NOR THE RIGHT OF WHAT GRANTED TO THE LOCALS PROPERTY.
- SEMI-AT THE SOUTHWEST CORNER OF JACKSON AND WASHINGTON STREETS AS PROVIDED BY THE CITY OF PORTLAND'S DEPARTMENT OF PUBLIC WORKS, ELEVATION 144.44'.  
 (B) HORIZONTAL COORDINATES AND BEARINGS ARE BASED ON AERIAL TARGETS C104 AND C104 CITY OF PORTLAND'S DEPARTMENT OF PUBLIC WORKS.  
 (C) BUILDING SHOWN HEREON WERE DETERMINED BY WOODLOT ALTERNATIVE BROOK WERE NOT DELETED. WETLANDS SHOWN HEREON WERE DETERMINED BY WOODLOT ALTERNATIVE BROOK WERE NOT DELETED.  
 (D) FACES AS SHOWN ON PLAN REFERENCED IN NOTE 3A, WERE OBTAINED FROM AERIAL PHOTOGRAPHS EXPANDED FROM SUBDIVISION REVISION PUSUANT TO 30-A MESA SECTION 4104(D).
- LOT 17, THE EXISTING BALFIELD, WILL BE RETAINED BY THE OWNER, PURCHASERS OR BALFIELD SHALL ONLY BE SPECIFIC PERMISSION OF THE OWNER.  
 (A) THE EXISTING 50-FOOT FOREBAY EASEMENT WILL BE ABANDONED BY THE CITY ALONG WITH PROVIDE THE CITY ACCESS TO THE FOREBAY ALONG THE LENGTH OF THE ROAD.  
 (B) THE CITY SHALL HAVE NO IMPAIRED RIGHTS BY BEED, USE OF THE ROAD.  
 (C) THE CITY SHALL ONLY BE SPECIFIC PERMISSION OF THE OWNER.
- LOT 17, THE EXISTING BALFIELD, WILL BE RETAINED BY THE OWNER, PURCHASERS OR BALFIELD SHALL ONLY BE SPECIFIC PERMISSION OF THE OWNER.  
 (A) THE EXISTING 50-FOOT FOREBAY EASEMENT WILL BE ABANDONED BY THE CITY ALONG WITH PROVIDE THE CITY ACCESS TO THE FOREBAY ALONG THE LENGTH OF THE ROAD.  
 (B) THE CITY SHALL HAVE NO IMPAIRED RIGHTS BY BEED, USE OF THE ROAD.  
 (C) THE CITY SHALL ONLY BE SPECIFIC PERMISSION OF THE OWNER.
- THE 75-FOOT UNDISTURBED BUFFER ON THE SOUTHERN SIDE OF THE INTERMENT BROOK TO THE NORTHERN PROPERTY BOUNDARIES OF LOTS 1-9 WILL BE PRESERVED BY DEED RESTRICTION ON INDIVIDUAL LOTS.
- 10' WIDE EASEMENT TO THE CITY OF PORTLAND FOR THE DEVELOPMENT OF A PROGRAMM EASEMENT FOLLOWS AN EXISTING TRAIL CLEARED AND MAINTAINED BY THE CITY FOR FOREBAY ACCESS.
- REMANUAGED LOCATIONS DETERMINED BY CENTRAL MAINE POWER CO.
- EASEMENT LOCATIONS FOR PRIVATE UTILITIES WILL BE DETERMINED BASED ON




Surveyor's Statement  
 I, the undersigned, being duly sworn, depose and say that the above and foregoing Boundary Survey by Chain Method, the lines and lot lines and road computations have been checked and are correct to the best of my knowledge and belief.



REV	DATE	DESCRIPTION

ISSUED FOR:	DATE:	DESIGN:	TRP
PRELIMINARY		DRAWN:	MLS
APPROVAL		CHECKED:	TRP
CONSTRUCTION			

STAMP:



URS Corporation  
477 Congress Street, 9th Floor  
Portland, ME 04101-3453  
Tel: 207.879.7686  
Fax: 207.879.7685  
www.urscorp.com

PROJECT NAME:	BALLPARK DRIVE SUBDIVISION
PROJECT LOCATION:	WASHINGTON AVE, PORTLAND, MAINE
CLIENT:	MARGARET HAVERLY 87 HAVERLY WAY PORTLAND, MAINE 04103
PROJECT NO.:	53359 / 39459287

SHEET TITLE:	SOLID WASTE AREA EVALUATION
DRAWING NO.:	1
SHEET 1 OF 1	
SCALE:	AS SHOWN
DATE:	SEPTEMBER 3, 2004



R7