

386A-B-29001

34-34 Garsoe Dr, Portland, ME

Amendment to plan - Auburn pines su

Jordan Charles Mx

34 Garsoe Dr, Portland, ME 04103

Att 1.1

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

Planning Copy

2006-0188

Application I. D. Number

9/29/2003

Application Date

Amendment to Plan - Auburn Pines Su

Project Name/Description

34 - 34 Garsoe Dr, Portland, Maine

Address of Proposed Site

386A B029001

Assessor's Reference: Chart-Block-Lot

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

R2

Zoning

Check Review Required:

Site Plan  Subdivision  # of lots

Flood Hazard  Shoreland  Historic Preservation

Zoning Conditional Use (ZBA/PB)  Zoning Variance  DEP Local Certification

Other \_\_\_\_\_

Fees Paid: Site Pla \$500.00 Subdivision

Engineer Review

Date 9/29/2006

Planning Approval Status:

Reviewer

Approved

Approved w/Conditions

Denied

See Attached

Approval Date \_\_\_\_\_ Approval Expiration \_\_\_\_\_ Extension to \_\_\_\_\_ Additional Sheets  Attached

OK to Issue Building Permit

signature

date

Performance Guarantee  Required\*  Not Required

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

Performance Guarantee Accepted

Inspection Fee Paid

Building Permit Issue

Performance Guarantee Reduced

Temporary Certificate of Occupancy

Final Inspection

Certificate Of Occupancy

Performance Guarantee Released

Defect Guarantee Submitted

Defect Guarantee Released

date

submitted date

signature

amount

expiration date

date

signature

date

signature

date

Conditions (See Attached)

date

remaining balance

signature

date

amount

expiration date

date

amount

LOT SPLIT OF AUBURN PINES, LOT 29  
VICINITY OF  
AUBURN STREET AND 34 GARSOE DRIVE  
AMENDMENT TO AN APPROVED SUBDIVISION  
PHILIP AND CHARLENE JORDAN, APPLICANT

Submitted to:  
Portland Planning Board  
Portland, Maine

Submitted by:  
Bill Needelman, Senior Planner

Submitted on:  
October 6, 2006  
In support of the October 10, 2006  
Public Hearing

**I. INTRODUCTION**

The Philip and Charlene Jordan request a public hearing to review an application to divide lot 29 of the Auburn Pines Subdivision into two lots: 29A and 29B. As a previously approved subdivision, the creation of additional lots requires review by the Planning Board.

Currently, Lot 29 is improved with a single family home and the street infrastructure for Auburn Pines is complete. Sidewalks and curb exist along Garsoe Drive. There are no curb or sidewalk requirements by Planning Board action in August of 2000. (PBR #38-00)

The Zoning Administrator has reviewed and approved the lots for conformance with the requirements of the R-2 zone. Furthermore, the applicant has updated the wetlands survey of the lots and provided evidence that the newly created lot, 29B, has usable land for construction of a single family dwelling.

The provided recording plat shows two new street trees on Lot 29b.

Lot 29A is shown having a private utility easement benefiting Lot 29B to allow connection to the existing utilities in Garsoe Drive without extending the existing sanitary sewer. Legal and Public Works Staff have reviewed this and find it acceptable. Public Works, however, requests a condition of approval that the lateral sewer connection be detailed to show a junction with the existing line outside of the manhole, as per City requirements.

**II. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #58-06 relevant to Subdivision regulations, and other findings, the Planning Board finds as follows:

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

Subject to the following (potential) Conditions of Approval:

- i. That the applicant provide a revised sewer connection detail for review and approval of the Public Works engineering staff.

- Attachments:**
1. Application and narrative
  2. Property deed
  3. Wetlands Report
  4. Corporation Council Memo
  5. Zoning Memo
  6. Lot split plan and recording plat

AH 1.2

**MITCHELL & ASSOCIATES**  
LANDSCAPE ARCHITECTS

September 27, 2006

Mr. William Needelman, Senior Planner  
Department of Planning & Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Auburn Pines Subdivision Amendment  
Lot #29**

Dear Bill:

On behalf of Philip and Charlene Jordan, I am writing to request an amendment to Auburn Pines Subdivision, located at 34 Garsoe Drive, Portland. Auburn Pines was approved by the Portland Planning Board on July 13, 1999.


Specifically, the owners of lot #29, Mr. & Mrs. Jordan, request the approval to divide their lot into two lots, lot 29A and lot 29B. This division is being proposed so that Mr. & Mrs. Jordan can convey the second lot to their daughter.

The lot division has been configured to conform with all zoning requirements of the R2 Residential district as well as creating a buildable window for a single family home. An updated wetland delineation was performed by Dale Brewer of Statewide Surveys, Inc. on August 19, 2006. Refer to the attached wetland report.

Please find enclosed six (6) copies of the following information:

1. Site Plan Application
2. Copy of Deed
3. Wetland Report
4. Amended Subdivision Plan

Should you have any questions or need further information, please do not hesitate to call. Thank you for your consideration to this matter.

Sincerely,  
  
John D. Mitchell  
Mitchell & Associates

Enclosure

cc: Philip and Charlene Jordan

THE STAPLES SCHOOL  
70 CENTER STREET  
PORTLAND, MAINE 04101

Telephone (207) 774-4427  
Fax (207) 874-2460  
Website www.mitchellassociates.biz

Att 1.3

# City of Portland Site Plan Application

If 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.

Address of Proposed Development: <b>34 GARSOE DRIVE</b>		Zone: <b>R2</b>
Total Square Footage of Proposed Structure: <b>N.A.</b>		Square Footage of Lot: <b>45,726 S.F.</b>

Tax Assessor's Chart, Block & Lot: <b>Chart# 386 A Block# B Lot# 29</b>	Property owner's mailing address: <b>PHILIP &amp; CHARLENE JORDAN 34 GARSOE DRIVE PORTLAND, ME 04103</b>	Telephone #: <b>632-3175</b>
---	--	------------------------------

Consultant/Agent, mailing address, phone # & contact person: <b>JOHN D. MITCHELL MITCHELL &amp; ASSOCIATES 70 CENTER STREET PORTLAND, ME 04101 TEL. 774-4427</b>	Applicant's name, mailing address, telephone #/fax#/Pager#: <b>PHILIP &amp; CHARLENE JORDAN 34 GARSOE DRIVE PORTLAND, ME 04103 TEL. 632-3175</b>	Project name: <b>AUBURN PINES SUBDIVISION AMENDMENT</b>
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Fee For Service Deposit (all applications) \_\_\_\_\_ (\$200.00)

Proposed Development (check all that apply) \_\_\_\_\_

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

- Please see next page -

Att 1.9

Minor Site Plan Review	Less than 10,000 sq. ft. (\$400.00)
	After-the-fact Review (\$1,000.00 + applicable application fee)
Plan Amendments	<input type="checkbox"/> Planning Staff Review (\$250.00) <input checked="" type="checkbox"/> Planning Board Review (\$500.00)
Who billing will be sent to: (Company, Contact Person, Address, Phone #)	PHILIP & CHARLENE JORDAN 34 GARAGE DRIVE PORTLAND, ME 04103 TEL. 632-3175

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

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

Amendment to Plans: Amendment applications should include 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 which is available on our web site: [portlandmaine.gov](http://portlandmaine.gov)

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

Signature of applicant: <i>Charles Jordan</i>	Date: 9-27-06
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This application is for site review ONLY, a building Permit application and associated fees will be required prior to construction.



AH 2.1

Doc#: 298 BK:18642 Pg: 122

# WARRANTY DEED

## Joint Tenancy

### Maine Statutory Short Form

**KNOW ALL PERSONS BY THESE PRESENTS, That**

Susan W. Vines

of Portland, County of Cumberland, State of Maine,

for consideration paid, grant to Charlene M. Jordan and Philip D. Jordan

of Westbrook, County of Cumberland, State of Maine,

whose mailing address is PO Box 682, Westbrook, Maine 04098

with warranty covenants, as joint tenants the land in Portland, County of Cumberland, and State of

Maine, described on the attached EXHIBIT A.

### WITNESS

our/my hand(s) and seal(s) this 31st day of December, 2002.

Signed, Sealed and Delivered in presence of:

*[Signature]*

Susan W. Vines

*[Signature]*

STATE OF MAINE

COUNTY OF Cumberland

December 31, 2002

instrument to be his/her/their free act and deed.

Then personally appeared the above named Susan W. Vines and acknowledged the foregoing

Before me,

*[Signature]*

Notary Public

Printed Name:

JAMES M. AMENDOLARA  
My Commission Expires: ATTORNEY AT LAW

MAINE REAL ESTATE TAX PAID

Att 2.2

Doc#: 298 BK:18642 Pg: 123

File No: 7820 ()

EXHIBIT 'A'

A certain lot or parcel of land with any improvements thereon, in the City of Portland, County of Cumberland and State of Maine, and being Lot 29 as depicted on the Auburn Pine Subdivision Plan recorded in the Cumberland County Registry of Deeds in Plan Book 199, Page 393.  
The property described herein is conveyed subject to the general notes and conditions set forth on said plan together with the Declaration of Restrictions and Covenants for Auburn Pines as set forth in an instrument dated August 16, 1999 and recorded in the Cumberland County Registry of Deeds in Book 14981, Page 172. Also conveying an easement for access and installation and maintenance of utilities over and within the streets and way shown on said Plan.

Received  
Recorded Register of Deeds  
Jan 02:2003 11:24:49A  
Cumberland County  
John B. O'Brien

AH 3.1

Mr. John Mitchell

September 5, 2006

Page 1

STATEWIDE SURVEYS, INC.  
LAND SURVEYORS & SOIL SCIENTISTS  
35 Eastman Road Cape Elizabeth, ME, 04107  
Phone/Fax: 207 767 4200

06027W

Mr. John Mitchell  
Mitchell & Associates  
70 Center Street  
Portland, ME  
04107

Subject: Jordan Wetlands Survey  
Garsoe Drive  
Portland, ME

John,

As requested, we have completed the wetland delineation at the Jordan property in Portland, Maine. The property is shown as Lot #29 on the "Auburn Pines" Subdivision Plan provided by your office. The ± 45,726 ft<sup>2</sup> (1.05 acre) lot has frontage on Auburn Street and Garsoe Drive and currently has a home located in the northerly portion of the lot. We established the perimeter in the field using the "Auburn Pines" survey plan prepared by Pinkham & Greer. We also used other supporting reference data including: the USDA Soil Survey of Cumberland County, and the National Wetlands Inventory Map (NWI). We have prepared the following summary based on a field visit on August 19<sup>th</sup> and the reference materials used. We understand this information will be used for future planning for the property.

GPS equipment was used to map the project limits, wetland flagging and natural features in the field. These features are shown on the wetlands plan previously submitted to your office. Two wetlands were delineated at the site and designated as Wetland "A" (6,344 ft<sup>2</sup>) and Wetland "B" (689 ft<sup>2</sup>). The wetlands were further marked with sequentially numbered blue flags along the wetland/upland boundary to the project limits. The wetland boundaries have also been registered to the "Auburn Pines" subdivision plan. It should be noted that the wetland flagging was located with GPS equipment and could vary from actual survey locations.

The lot generally drains southerly toward the ditch along Auburn Street. The open areas of the site are "smooth" and appear to have been graded previously. There are scattered wheel ruts evident, possibly from timber harvesting or the grading efforts. The wetlands were previously delineated by

AH 3.2

Mr. John Mitchell  
September 5, 2006  
Page 2

others as wetlands were shown on the "Auburn Pines" Subdivision Plan. We did not recover the previous wetland flagging in the field and re-delineated the jurisdictional wetlands at the site during our site visit. The previous wetland survey was likely completed prior to the construction involved with the "Auburn Pines" project.

The surrounding uplands have a limited variety of species including white oak (*Quercus alba*), red oak (*Quercus rubra*), white pine (*Pinus strobus*) and paper birch (*Betula papyrifera*) trees and saplings. These upland areas were mapped with the Elmwood series underlying the site by the SCS.

### 1.0 Wetland Characteristics

Three parameters are needed for jurisdictional wetlands, specifically the presence of hydric soils, the prevalence of hydrophytes, and indicators of wetland hydrology. Wetland "A" and Wetland "B" have been classified from field survey and further described below. Our observations of the natural wetlands characteristics are consistent with accepted wetland parameters found in the 1987 Corps of Engineers Wetlands Delineation Manual (ACOE) and addressed in the following:

- The wetland soils were poorly drained and "hydric" as defined in *Field Indicators for Identifying Hydric Soils in New England*, however intermixed very poorly or somewhat poorly drained soils may also exist. The USDA Soil Conservation Service formerly mapped the soils in the *Soil Survey of Cumberland County* as the poorly drained, Scantic silt loam (Sn). Our observations also found poorly drained soils resembling the Scantic Series.
- These freshwater (palustrine) wetlands have forested (PHO-I) areas in addition to intermixed scrub-shrubs (PSS) and open emergent areas (PEM). The wetlands typically have scattered red maple (*Acer rubrum*), gray birch (*Betula populifolia*) and american elm (*Ulmus americana*) trees and saplings with scattered speckled alder (*Alnus incana*), northern arrow-wood (*Viburnum dentatum*), broadleaf meadowweet (*Spiraea latifolia*) and winterberry (*Ilex verticillata*) shrubs with sensitive fern (*Onoclea sensibilis*), flat-topped aster (*Aster umbellatus*), rattlesnake grass (*Glyceria canadensis*), pointed broom sedge (*Carex scoparia*), goldenrods (*Solidago spp.*) and sphagnum mosses in the herbaceous layer.
- Wetland hydrology was evident with saturated conditions in the mapped wetland depressions of the "pit and mound" topography. The *USGS Quadrangle Sheet* of the area does not indicate any perennial watercourses on the property.

### 2.0 Considerations and Recommendations

Wetlands at the site are regulated at the state and federal level in addition to the adopted local ordinances of the City of Portland. Wetlands have limitations regarding land use to ensure protection to the natural resource. We understand permits will be required to discharge fill exceeding 4,300 ft<sup>2</sup> into wetlands not classified as "Wetlands of Special Significance". However, the ordinances should be reviewed and followed prior to any new proposed use affecting the wetland areas. We recommend contacting the Code Enforcement Officer (CEO) to determine the application procedure

once the project has been designed. Further review of these ordinances will determine allowable practices and may identify any potential limitations in addition to protecting natural resources. It is unknown if the current land-use required any environmental permits or the dates they may have been obtained. Of note, further wetland alterations on this lot may be considered along with any previous impacts required for the "Auburn Pines" project, possibly resulting in a higher level of permitting with the regulatory agencies.

Wetlands are also regulated by the MDEP under the provisions of the Natural Resources Protection Act (NRP A-38 M.R.S.A. §480 A-Y) and the associated Wetland Protection Rules (Chapter 310). Our understanding of current regulations would allow for filling wetlands not identified as "Wetlands of Special Significance" to the threshold limit of 4,300 ft<sup>2</sup> total impact. We believe these wetlands are "not" of special significance according to the regulations.

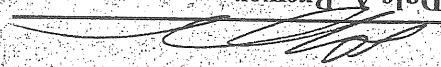
Wetlands at the site are also regulated by the Army Corps of Engineers (ACOE) under the provisions of Section 404 of the Clean Water Act. The ACOE will review the project should permitting be required in conjunction with the proposed project. Impacts to wetlands resulting from the placement of fill are addressed by the ACOE with a Programmatic General Permit for the State of Maine. Additional information may also be required as it is determined on a case-by-case basis. Please review the Department of the Army Programmatic General Permit for the State of Maine, and the Natural Resources Protection Act (NRP A) for additional regulations and permitting information.

We did not observe or identify any rare, threatened or endangered species (RTE) at the site. Our field survey was completed during the timeframe to make vernal pool determinations, however all areas were "dry" and not representative of significant vernal pool habitat. Further, the area appears to be manmade or at least altered in and adjacent to the road ditch.

We recommend implementing Best Management Practices (BMPs) prior to any site work and compliance with all environmental regulations. In the event you need further assistance, I would be happy to assist you with wetland permitting applications that may be required for future development plans. We trust this wetland report will aid in the project design and wish the best for your project.

Sincerely,


STATEWIDE SURVEYS, INC.

  
Dale A. Brewer  
President  
SWS/2006/WetlandsSurveys/06027W

A.H. 9

**City of Portland**

**Memo**

To: Bill Needleman   
From: Penny Littlell

Date: September 20, 2006

Re: Auburn Pines Subdivision

Bill:

I have reviewed the inquiry from John Mitchell on behalf of his clients, the Jordans, on whether the division of a lot in the Auburn Pines Subdivision requires subdivision review. I apologize that it has taken me so long to respond.

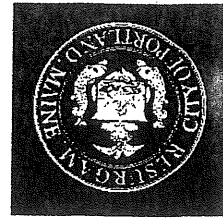
The Jordan's lot is part of a 1999 approved subdivision plat. The City's subdivision ordinance at 14-496 entitled "Plat Requirements" requires that any amendment to a plat to be approved by the Planning Board. Unfortunately, the proposed division does not fit the requirement for staff approval noted in 14-496(c).

The requirement that an amendment to a subdivision plat be approved by the "municipal reviewing authority" (which in Portland is the Planning Board) is also contemplated by the language of 30-A M.R.S.A. § 4407 (See attached).

After consulting with Sarah Hopkins, and assuming the lot owner is able, this amendment can be accommodated on the October 10, 2006 Planning Board Meeting.

# PORTLAND MAINE

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



September 27, 2006

John D. Mitchell

70 Center Street

Portland, ME 04101

RE: 34 Garsoe Drive - 386-B-029 - R-2 Zone - Charlene & Phillip Jordan

Dear John,

I am in receipt of your request to determine whether the proposed lot split for the property at 34 Garsoe Drive would meet the current Land Use Zoning requirements.

Based upon an unstamped survey by Statewide Surveys, Inc. dated August 23, 2006, job number 06027W, and labeled "Wetland Sketch", I have determined that both lots would meet the underlying R-2 zoning requirements.

Please note that this letter is not intended for commencement of any building construction. This determination is not intended to substitute for any review or procedures that are required under the Planning Division.

Separate applications and permits with all the appropriate attachments shall be required prior to the time of construction. A copy of this letter shall be included with that documentation at that time.

If you have any questions regarding this matter, please do not hesitate to contact me at 874-8695/

Very truly yours,

*Marge Schmuckal*  
Marge Schmuckal  
Zoning Administrator

Cc: file

AH.5

LOT SPLIT OF AUBURN PINES, LOT 29  
VICINITY OF  
AUBURN STREET AND 34 GARSOE DRIVE  
AMENDMENT TO AN APPROVED SUBDIVISION  
PHILIP AND CHARLENE JORDAN, APPLICANT

Submitted to:  
Portland Planning Board  
Portland, Maine

Submitted by:  
Bill Needelman, Senior Planner

Submitted on:  
November 22, 2006  
In support of the November 28, 2006  
Public Hearing



**I. INTRODUCTION**

Phillip and Charlene Jordan request a public hearing to review an application to divide lot 29 of the Auburn Pines Subdivision into two lots: 29A and 29B. As a previously approved subdivision, the creation of additional lots requires review by the Planning Board.

This item was originally heard at the October 10, 2006 public hearing where the Planning Board tabled the item to allow a more thorough exploration of discrepancies between the original subdivision wetlands delineation and the delineation presented for the lot split. The wetlands issues are fully covered in the wetlands section of the report below.

Currently, Lot 29 is improved with a single family home and the street infrastructure for Auburn Pines is complete. Sidewalks and curb exist along Garsoe Drive. There are no curb or sidewalk along Auburn Street, but Lot 29 was specifically waived from curb and sidewalk requirements by Planning Board action in August of 2000. (PBR #38-00)

The Zoning Administrator has reviewed and approved the lots for conformance with the requirements of the R-2 zone. Furthermore, the applicant has updated the wetlands survey of the lots and provided evidence that the newly created lot, 29B, has usable land for construction of a single family dwelling.

The provided recording plat shows two new street trees on Lot 29b.

Lot 29A is shown having a private utility easement benefiting Lot 29B to allow connection to the existing utilities in Garsoe Drive without extending the existing sanitary sewer. Legal and Public Works Staff have reviewed this and find it acceptable. Public Works, however, requests a condition of approval that the lateral sewer connection be detailed to show a junction with the existing line outside of the manhole, as per City requirements.

**II. STAFF REVIEW**

**Zoning:**

The Zoning Administrator has reviewed and approved the lots for conformance with the requirements of the R-2 zone.

**Sec. 14-497. General requirements.**

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

(1) Will not result in undue water or air pollution. In making this determination it shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; the conformity to the applicable state and local health and water resources regulations;

No water or air pollution is anticipated from the split of lot 29.

(2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;

(3) Will not cause unreasonable burden on an existing water supply;

Sufficient public water is available in Garsoe Drive.

(4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

No wetlands are to be filled with the project and erosion control specifics will be addressed at the time of building permit and minor site plan for the single family home.

(5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highway or public roads existing or proposed;

The addition of one additional home on Garsoe Drive is not anticipated to cause traffic issues for Garsoe Drive or Auburn Street. The driveway center line, as shown, is +/-82 feet from the Auburn Street right of way line. The driveway location is shown as "subject to proposed house design and layout" on the lot split plan. At the time of single-family permitting, the driveway design may need to shift away from Auburn Street to be consistent with the Technical Supplement. Given above referenced note on the plan, a condition of approval is not needed.

(6) Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized;

Sanitary waste and storm water runoff from the lot split will not over burden the city system in the area. Single family homes are not ordinarily required to obtain utility capacity letters, but if the Board so desires, a condition of approval can be added to the motions.

(7) Will not cause an unreasonable burden on the ability of the city to dispose of solid waste and sewage if municipal services are to be utilized;

Collection and disposal of solid waste is not an issue of concern.

(8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or by the city, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. For subdivisions within historic districts designated pursuant to article IX of this chapter, the planning board shall apply the standards of section 14-651(c) of article IX. The planning board may request that the historic preservation committee prepare an evaluation of the proposed subdivision based upon the standards of section 14-651(c);

Scenic, environmental, and historic resources will not be unduly impacted by this proposal.

(9) Is in conformance with the land development plan or its successor;

As with the original Auburn Pines Subdivision approval, the lot split is consistent with the Comprehensive Plan.

(10) The subdivider has adequate financial and technical capacity to meet the standards of this section;

The technical and financial capacity to complete the project is no greater than is needed for any other single family application. Work in the city right of way, for utilities and the curb cut, will need to be performed by a licensed and bonded contractor as will be regulated at the time of application for a street opening permit.

(11) Whenever situated, in whole or in part, within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter 1, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;

The impacted wetlands are not subject to shoreland zone provisions.

(12) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;

Ground water impacts are not anticipated to be different than other house lots in the Auburn Pines Subdivision. Please see the wetlands discussion below.

As previously stated, no wetlands are proposed to be filled with the current proposal. The proposed building envelope is shown buffered from the wetland edge by 25 feet. While "building envelopes" are not strictly regulatory (as opposed to zoning setbacks), the Board may want to consider conditioning approval on utilizing the building envelope as shown and restricting any tree

Reviewing Engineer, Dan Goyette, has reviewed Attachment 7 and found no objection to the methods or opinions of Mr. Brewer. In short, the current wetlands delineation appears to be the best indication available for the location of wetlands on the subject lot at this time.

Regarding points 1 and 2 above, Planning Staff's site visit to the site did not reveal any indication that the area had been intentionally drained or disturbed beyond the expectation of the original subdivision approval.

In summary, Mr. Brewer states that the original wetland markers for the Auburn Pines delineation are not evident, so a precise comparison is not possible. By scaling from the original plan, Mr. Brewer was able to estimate the differences and characterizes the potential causes of differences between the delineations as a combination of any of the following: 1) changed conditions between pre and post development at Auburn Pines; 2) installation of a drainage ditch at Auburn Street; 3) mapping errors; and, 4) variation in interpretation transitional soils.

The site wetlands have been delineated by Dale Brewer, Statewide Surveys, Inc. As noted at the previous public hearing, the Auburn Pines subdivision plan showed more wetlands on the parent lot than were delineated for the subject lot split. The Planning Board asked that the applicant explore the reasons for the differences. Mr. Brewer has provided an explanatory letter (Attachment 7).

*All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands. Any mapping of wetlands may be done with the help of the local soil and water conservation district; and*

(14)

NA.

*Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation;*

(13)

cutting or disturbance in the delineated wetlands. A condition of approval is suggested in the motions.

If the reductions in mapped area of wetlands remain a concern to the Planning Board, the Board may require that the applicant receives a letter of non-jurisdiction (or approval) for wetlands alterations from the Maine DEP prior to conducting any construction activity.

(15) Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 M.R.S.A. Section 480-B, subsection 9.

NA

## II. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #58-06A relevant to Subdivision regulations, and other findings, the Planning Board finds as follows:

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

Subject to the following (suggested) Conditions of Approval:

i. That the applicant provide a revised sewer connection detail for review and approval of the Public Works engineering staff.

ii. That any primary structure (home and/or garage) constructed on the Lot 29b is required to utilize the building envelope as shown on the subdivision amendment plan, and no tree cutting or disturbance is allowed in the delineated wetlands as shown. A revised amendment plan shall be prepared for Planning Board signature showing the wetland areas as a "no tree cutting, not to disturb" area.

Additional potential condition of approval:

iii. That the applicant receives a letter of non-jurisdiction (or approval) for wetlands alterations from the Maine DEP prior to conducting any construction activity.

- Attachments:**
1. Application and narrative
  2. Property deed
  3. Wetlands Report
  4. Corporation Council Memo
  5. Zoning Memo
  6. Updated project narrative, November 3, 2006
  7. Wetlands Delineation letter, October 31, 2006
  8. Auburn Pines, Declaration of Restrictions and Covenants
  9. Auburn Pines, Original Conditions of Approval
  10. Auburn Pines, Lots 29 and 30, Curb and Sidewalk Waiver Approval letter
  11. Auburn Pines, Originally Approved Subdivision Plan
  12. Lot split plan and recording plat

Att 1.1

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

2006-0188

Application I. D. Number

9/29/2003

Application Date

Amendment to Plan - Auburn Pines Su

Project Name/Description

34 - 34 Garsoe Dr, Portland, Maine

Address of Proposed Site

386A B029001

Assessor's Reference: Chart-Block-Lot

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

Other (specify)

R2

Zoning

Check Review Required:

Site Plan  Subdivision  # of lots

14-403 Streets Review

DEP Local Certification

Other

Flood Hazard  Shoreland  Zoning Conditional Use (ZBA/PB)

Fees Paid: Site Pla \$500.00 Subdivision

Engineer Review

Date 9/29/2006

Planning Approval Status:

Reviewer

Approved  Approved w/Conditions  Denied  See Attached

Approval Date \_\_\_\_\_ Approval Expiration \_\_\_\_\_ Extension to \_\_\_\_\_ Additional Sheets  Attached

OK to Issue Building Permit

Performance Guarantee  Required\*  Not Required

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

Performance Guarantee Accepted

\_\_\_\_\_ date \_\_\_\_\_ amount \_\_\_\_\_ expiration date

Inspection Fee Paid

\_\_\_\_\_ date \_\_\_\_\_ amount \_\_\_\_\_ expiration date

Building Permit Issue

\_\_\_\_\_ date \_\_\_\_\_ amount \_\_\_\_\_ expiration date

Performance Guarantee Reduced

\_\_\_\_\_ date \_\_\_\_\_ remaining balance \_\_\_\_\_ signature \_\_\_\_\_

Temporary Certificate of Occupancy

\_\_\_\_\_ date \_\_\_\_\_ signature \_\_\_\_\_ expiration date

Final Inspection

\_\_\_\_\_ date \_\_\_\_\_ signature \_\_\_\_\_ expiration date

Certificate Of Occupancy

\_\_\_\_\_ date \_\_\_\_\_ signature \_\_\_\_\_ expiration date

Performance Guarantee Released

\_\_\_\_\_ date \_\_\_\_\_ signature \_\_\_\_\_ expiration date

Defect Guarantee Submitted

\_\_\_\_\_ date \_\_\_\_\_ signature \_\_\_\_\_ expiration date

Defect Guarantee Released

AH 1.2

**MITCHELL & ASSOCIATES**  
LANDSCAPE ARCHITECTS

September 27, 2006

Mr. William Needleman, Senior Planner  
Department of Planning & Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Auburn Pines Subdivision Amendment  
Lot #29**

Dear Bill:

On behalf of Phillip and Charlene Jordan, I am writing to request an amendment to Auburn Pines Subdivision, located at 34 Garsoe Drive, Portland, Auburn Pines was approved by the Portland Planning Board on July 13, 1999.


Specifically, the owners of lot #29, Mr. & Mrs. Jordan, request the approval to divide their lot into two lots, lot 29A and lot 29B. This division is being proposed so that Mr. & Mrs. Jordan can convey the second lot to their daughter.

The lot division has been configured to conform with all zoning requirements of the R2 Residential district as well as creating a buildable window for a single family home. An updated wetland delineation was performed by Dale Brewer of Statewide Surveys, Inc. on August 19, 2006. Refer to the attached wetland report.

Please find enclosed six (6) copies of the following information:

1. Site Plan Application
2. Copy of Deed
3. Wetland Report
4. Amended Subdivision Plan

Should you have any questions or need further information, please do not hesitate to call. Thank you for your consideration to this matter.

Sincerely,  
  
John D. Mitchell  
Mitchell & Associates

Enclosure

cc: Phillip and Charlene Jordan

THE STAPLES SCHOOL  
70 CENTER STREET  
PORTLAND, MAINE 04101

Telephone (207) 774-4427  
Fax (207) 874-2460  
Website www.mitchellassociates.biz



Att 1.3

# City of Portland Site Plan Application

If 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.

Address of Proposed Development: <b>34 GARSDRIVE</b>		Zone: <b>R2</b>
Total Square Footage of Proposed Structure: <b>N.A.</b>		Square Footage of Lot: <b>45,726 S.F.</b>
Tax Assessor's Chart, Block & Lot: <b>Chart# 386 A Block# B Lot# 29</b>		Property owner's mailing address: <b>PHILIP &amp; CHARLENE JORDAN 34 GARSDRIVE PORTLAND, ME 04103</b>
Consultant/Agent, mailing address, phone # & contact person: <b>JOHN D. MITCHELL MITCHELL &amp; ASSOCIATES 70 CENTER STREET PORTLAND, ME 04101 TEL. 774-4427</b>		Applicant's name, mailing address, telephone #/Fax#/Pager#: <b>PHILIP &amp; CHARLENE JORDAN 34 GARSDRIVE PORTLAND, ME 04103 TEL. 632-3175</b>
Project name: <b>AUBURN PINES SUBDIVISION AMENDMENT</b>		Telephone #: <b>632-3175</b>
<p>Fee For Service Deposit (all applications) _____ (\$200.00)</p> <p>Proposed Development (check all that apply)</p> <p> <input type="checkbox"/> New Building    <input type="checkbox"/> Building Addition    <input type="checkbox"/> Change of Use    <input type="checkbox"/> Residential    <input type="checkbox"/> Office    <input type="checkbox"/> Retail  <input type="checkbox"/> Manufacturing    <input type="checkbox"/> Warehouse/Distribution    <input type="checkbox"/> Parking lot  <input type="checkbox"/> Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) + major site plan fee if applicable  <input type="checkbox"/> Site Location of Development (\$3,000.00)  <input type="checkbox"/> (except for residential projects which shall be \$200.00 per lot _____)  <input type="checkbox"/> Traffic Movement (\$1,000.00)    <input type="checkbox"/> Stormwater Quality (\$250.00)  <input type="checkbox"/> Section 14-403 Review (\$400.00 + \$25.00 per lot)  <input type="checkbox"/> Other _____  <input type="checkbox"/> Major Development (more than 10,000 sq. ft.)  <input type="checkbox"/> Under 50,000 sq. ft. (\$500.00)  <input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000.00)  <input type="checkbox"/> Parking Lots over 100 spaces (\$1,000.00)  <input type="checkbox"/> 100,000 - 200,000 sq. ft. (\$2,000.00)  <input type="checkbox"/> 200,000 - 300,000 sq. ft. (\$3,000.00)  <input type="checkbox"/> Over 300,000 sq. ft. (\$5,000.00)  <input type="checkbox"/> After-the-fact Review (\$1,000.00 + applicable application fee)         </p>		

- Please see next page -

Att 1.4

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)	<input checked="" type="checkbox"/>
Who billing will be sent to: (Company, Contact Person, Address, Phone #)		
PHILIP & CHARLENE JORDAN 34 GARSOE DRIVE PORTLAND, ME 04103 TEL. 632-3175		

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

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

Amendment to Plans: Amendment applications should include 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 which is available on our web site: [portlandmaine.gov](http://portlandmaine.gov)

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

Signature of applicant: <i>Charles Gaska</i>	Date: <i>9-27-06</i>
--	----------------------

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

MAINE REAL ESTATE TAX PAID

AH 2.1

WARRANTY DEED  
Joint Tenancy  
Maine Statutory Short Form

KNOW ALL PERSONS BY THESE PRESENTS, That

Susan W. Vines

of Portland, County of Cumberland, State of Maine,

for consideration paid, grant to Charlene M. Jordan and Phillip D. Jordan

of Westbrook, County of Cumberland, State of Maine,

whose mailing address is PO Box 682, Westbrook, Maine 04098

with warranty covenants, as joint tenants the land in Portland, County of Cumberland, and State of

Maine, described on the attached EXHIBIT A.

WITNESS our/my hand(s) and seal(s) this 31st day of December, 2002.

Signed, Sealed and Delivered in presence of:

*[Signature]*

Susan W. Vines  
*[Signature]*

STATE OF MAINE

COUNTY OF Cumberland

December 31, 2002

Then personally appeared the above named Susan W. Vines and acknowledged the foregoing

instrument to be his/her/their free act and deed.

Before me,

*[Signature]*

Notary Public

Printed Name: JAMES M. AMENDIARA

My Commission Expires: ATTORNEY AT LAW

Att 2.2

Doc#: 298 BK:18642 Pg: 123

File No: 7820 ()

EXHIBIT 'A'

A certain lot or parcel of land with any improvements thereon, in the City of Portland, County of Cumberland and State of Maine, and being Lot 29 as depicted on the Auburn Pine Subdivision Plan recorded in the Cumberland County Registry of Deeds in Plan Book 199, Page 393.

The property described herein is conveyed subject to the general notes and conditions set forth on said plan together with the Declaration of Restrictions and Covenants for Auburn Pines as set forth in an instrument dated August 16, 1999 and recorded in the Cumberland County Registry of Deeds in Book 14981, Page 172. Also conveying an easement for access and installation and maintenance of utilities over and within the streets and way shown on said Plan.

Received  
Recorded Register of Deeds  
Jan 03, 2003 11:26:49A  
Cumberland County  
John B. O'Brien

The lot generally drains southward toward the ditch along Auburn Street. The open areas of the site are "smooth" and appear to have been graded previously. There are scattered wheel ruts evident, possibly from timber harvesting or the grading efforts. The wetlands were previously delineated by GPS equipment and could vary from actual survey locations.

These features are shown on the wetlands plan previously submitted to your office. Two wetlands were delineated at the site and designated as Wetland "A" (6,344 ft<sup>2</sup>) and Wetland "B" (689 ft<sup>2</sup>). The wetlands were further marked with sequentially numbered blue flags along the wetland/upland boundary to the project limits. The wetland boundaries have also been registered to the "Auburn Pines" subdivision plan. It should be noted that the wetland flagging was located with GPS equipment was used to map the project limits, wetland flagging and natural features in the field. GPS equipment was used to map the project limits, wetland flagging and natural features in the field. These features are shown on the wetlands plan previously submitted to your office. Two wetlands were delineated at the site and designated as Wetland "A" (6,344 ft<sup>2</sup>) and Wetland "B" (689 ft<sup>2</sup>). The wetlands were further marked with sequentially numbered blue flags along the wetland/upland boundary to the project limits. The wetland boundaries have also been registered to the "Auburn Pines" subdivision plan. It should be noted that the wetland flagging was located with GPS equipment and could vary from actual survey locations.

As requested, we have completed the wetland delineation at the Jordan property in Portland, Maine. The property is shown as Lot #29 on the "Auburn Pines" Subdivision Plan provided by your office. The ± 45,726 ft<sup>2</sup> (1.05 acre) lot has frontage on Auburn Street and Garsoe Drive and currently has a home located in the northerly portion of the lot. We established the perimeter in the field using the "Auburn Pines" survey plan prepared by Pinkham & Greer. We also used other supporting reference data including the USDA Soil Survey of Cumberland County, and the National Wetlands Inventory Map (NWI). We have prepared the following summary based on a field visit on August 19<sup>th</sup> and the reference materials used. We understand this information will be used for future planning for the property.

John,

Subject: Jordan Wetlands Survey  
Garsoe Drive  
Portland, ME

Mr. John Mitchell  
Mitchell & Associates  
70 Center Street  
Portland, ME  
04107

06027W

STATEWIDE SURVEYS, INC.  
LAND SURVEYORS & SOIL SCIENTISTS  
35 Eastman Road Cape Elizabeth, ME 04107  
Phone/Fax: 207 767 4200

Mr. John Mitchell  
September 5, 2006  
Page 1

AH 3.1

AH3.2

Mr. John Mitchell  
September 5, 2006

Page 2

others as wetlands were shown on the "Auburn Pines" Subdivision Plan. We did not recover the previous wetland flagging in the field and re-delineated the jurisdictional wetlands at the site during our site visit. The previous wetland survey was likely completed prior to the construction involved with the "Auburn Pines" project.

The surrounding uplands have a limited variety of species including white oak (*Quercus alba*), red oak (*Quercus rubra*), white pine (*Pinus strobus*) and paper birch (*Betula papyrifera*) trees and saplings. These upland areas were mapped with the Elmwood series underlying the site by the SCS.

## 1.0 Wetland Characteristics

Three parameters are needed for jurisdictional wetlands, specifically the presence of hydric soils, the prevalence of hydrophytes, and indicators of wetland hydrology. Wetland "A" and Wetland "B" have been classified from field survey and further described below. Our observations of the natural wetlands characteristics are consistent with accepted wetland parameters found in the 1987 Corps of Engineers Wetlands Delineation Manual (ACOE) and addressed in the following:

- The wetland soils were poorly drained and "hydric" as defined in *Field Indicators for Identifying Hydric Soils in New England*, however intermixed very poorly or somewhat poorly drained soils may also exist. The USDA Soil Conservation Service formerly mapped the soils in the *Soil Survey of Cumberland County* as the poorly drained, Scanitic silt loam (Sn). Our observations also found poorly drained soils resembling the Scanitic Series.
- These freshwater (palustrine) wetlands have forested (PHO-I) areas in addition to intermixed scrub-shrubs (PSS) and open emergent areas (PEM). The wetlands typically have scattered red maple (*Acer rubrum*), gray birch (*Betula populifolia*) and american elm (*Ulmus americana*) trees and saplings with scattered speckled alder (*Alnus incana*), northern arrow-wood (*Viburnum dentatum*), broadleaf meadowswet (*Spiraea latifolia*) and winterberry (*Ilex verticillata*) shrubs with sensitive fern (*Onoclea sensibilis*), flat-topped aster (*Aster umbellatus*), rattlesnake grass (*Glyceria canadensis*), pointed broom sedge (*Carex scoparia*), goldenrods (*Solidago* spp.) and sphagnum mosses in the herbaceous layer.

## 2.0 Considerations and Recommendations

Wetlands at the site are regulated at the state and federal level in addition to the adopted local ordinances of the City of Portland. Wetlands have limitations regarding land use to ensure protection to the natural resource. We understand permits will be required to discharge fill exceeding 4,300 ft<sup>2</sup> into wetlands not classified as "Wetlands of Special Significance". However, the ordinances should be reviewed and followed prior to any new proposed use affecting the wetland areas. We recommend contacting the Code Enforcement Officer (CEO) to determine the application procedure

Mr. John Mitchell  
September 5, 2006  
Page 3

AH.3.3

once the project has been designed. Further review of these ordinances will determine allowable practices and may identify any potential limitations in addition to protecting natural resources. It is unknown if the current land-use required any environmental permits or the dates they may have been obtained. Of note, further wetland alterations on this lot may be considered along with any previous impacts required for the "Auburn Pines" project, possibly resulting in a higher level of permitting with the regulatory agencies.

Wetlands are also regulated by the MDEP under the provisions of the Natural Resources Protection Act (NRPA - 38 M.R.S.A. §480 A-Y) and the associated Wetland Protection Rules (Chapter 310). Our understanding of current regulations would allow for filling wetlands not identified as "Wetlands of Special Significance" to the threshold limit of 4,300 ft<sup>2</sup> total impact. We believe these wetlands are "not" of special significance according to the regulations.

Wetlands at the site are also regulated by the Army Corps of Engineers (ACOE) under the provisions of Section 404 of the Clean Water Act. The ACOE will review the project should permitting be required in conjunction with the proposed project. Impacts to wetlands resulting from the placement of fill are addressed by the ACOE with a Programmatic General Permit for the State of Maine. Additional information may also be required as it is determined on a case-by-case basis. Please review the Department of the Army Programmatic General Permit for the State of Maine, and the Natural Resources Protection Act (NRPA) for additional regulatory information and permitting information.

We did not observe or identify any rare, threatened or endangered species (RTE) at the site. Our field survey was completed during the timeframe to make vernal pool determinations, however all areas were "dry" and not representative of significant vernal pool habitat. Further, the area appears to be manmade or at least altered in and adjacent to the road ditch.

We recommend implementing Best Management Practices (BMPs) prior to any site work and compliance with all environmental regulations. In the event you need further assistance, I would be happy to assist you with wetland permitting applications that may be required for future development plans. We trust this wetland report will aid in the project design and wish the best for your project.

Sincerely,

STATEWIDE SURVEYS, INC.



Dale A. Brewer

President

SWS/2006/Wetlands/surveys/06027W

A.H. 9

**Memo**

To: Bill Needleman  
From: Penny Littell  
Date: September 20, 2006

Re: Auburn Pines Subdivision

Bill:

I have reviewed the inquiry from John Mitchell on behalf of his clients, the Jordan's, on whether the division of a lot in the Auburn Pines Subdivision requires subdivision review. I apologize that it has taken me so long to respond.

The Jordan's lot is part of a 1999 approved subdivision plat. The City's subdivision ordinance at 14-496 entitled "Plat Requirements" requires that any amendment to a plat to be approved by the Planning Board. Unfortunately, the proposed division does not fit the requirement for staff approval noted in 14-496(c).

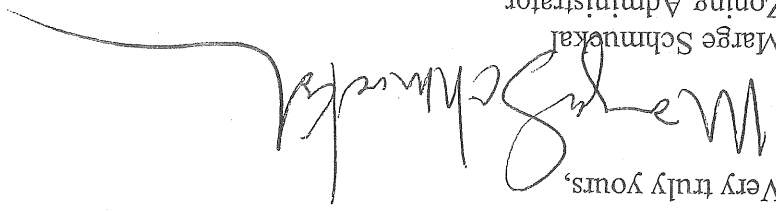
The requirement that an amendment to a subdivision plat be approved by the "municipal reviewing authority" (which in Portland is the Planning Board) is also contemplated by the language of 30-A M.R.S.A. § 4407 (See attached).

After consulting with Sarah Hopkins, and assuming the lot owner is able, this amendment can be accommodated on the October 10, 2006 Planning Board Meeting.



Cc: file

Marge Schmuckal  
Zoning Administrator



Very truly yours,

874-8695/

If you have any questions regarding this matter, please do not hesitate to contact me at

documentation at that time.

Separate applications and permits with all the appropriate attachments shall be required prior to the time of construction. A copy of this letter shall be included with that

Please note that this letter is not intended for commencement of any building construction. This determination is not intended to substitute for any review or procedures that are required under the Planning Division.

Based upon an unstamped survey by Statewide Surveys, Inc. dated August 23, 2006, job number 06027W, and labeled "Wetland Sketch", I have determined that both lots would meet the underlying R-2 zoning requirements.

I am in receipt of your request to determine whether the proposed lot split for the property at 34 Garsoe Drive would meet the current Land Use Zoning requirements.

Dear John,

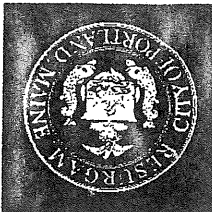
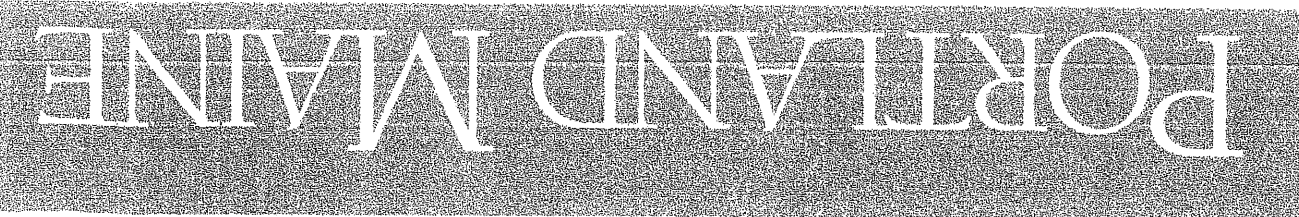
RE: 34 Garsoe Drive - 386-B-029 - R-2 Zone - Charlene & Philip Jordan

John D. Mitchell  
70 Center Street  
Portland, ME 04101

September 27, 2006

*Lee Urban-Director of Planning and Development  
Marge Schmuckal, Zoning Administrator*

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



AH. 5

Att. 6

**MITCHELL & ASSOCIATES**  
**LANDSCAPE ARCHITECTS**

November 3, 2006

Mr. William Needleman, Senior Planner  
Department of Planning & Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Auburn Pines Subdivision Amendment  
Lot #29**

Dear Bill:

The following correspondence has been prepared in response to comments raised by the Planning Board during the public hearing on October 10, 2006. The board raised two questions, one concerning the wetland delineation and the second being restrictive conditions associated with the subdivision. We have prepared the following responses:

**Planning Board Comments**

**1. Why is there a difference between the wetland line as shown on the application and that, which was shown on the approved subdivision plan?**

As requested we had our wetland specialist review their data with that of the wetland specialist that completed the original delineation. We have included a copy of a response letter prepared by our wetland specialist. To summarize, several conditions can occur where a difference in the delineation may exist. These include GPS positioning methods, post development improvements that could alter the hydrology and variations in field interpretations of hydric soil and wetland vegetation.

**2. What conditions of approval or deed restrictions exist that would affect the further division of the property.**

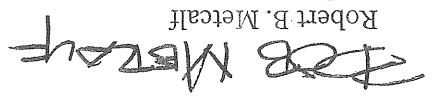
There are no conditions of approval on the approved subdivision that would preclude the further division of the lot. There is a Declaration of Restrictions and Covenants for Auburn Pines that we have included in our submission. There are no restrictions contained in the covenants that preclude further division of a parcel/lot.

Please find enclosed six (6) copies of the following information:

1. Wetland Response letter prepared by Statewide Surveys, Inc.
2. Copy of Declarations of Restrictions and Covenants for Auburn Pines

Should you have any questions or need further information, please do not hesitate to call. Thank you for your consideration to this matter.

Sincerely,  
Mitchell & Associates

  
Robert B. Metcalf

Enclosure

cc: Philip and Charlene Jordan

THE STAPLES SCHOOL  
70 CENTER STREET  
PORTLAND, MAINE 04101

Telephone (207) 774-4427  
Fax (207) 874-2460  
Website www.mitchellassociates.biz

As you know, a predominance of hydrophytes in combination with hydric soils and the presence of wetland hydrology are required for jurisdictional wetlands defined in the 1987 Corps Manual for Wetland Delineations. Data Plots are used to analyze the

and/or the transitional landscape with both wetland and upland characteristics variations of the field interpretations influenced by hydric soils and wetland vegetation, from the drainage ditch along Auburn Street (20' drainage easement granted to the City of Portland), GPS positioning and/or the registry of the GPS data to the survey plat, post-development conditions for the "Auburn Pines" subdivision, the potential affects delineations could be due to a combination of the following: the pre-development verses and taping or pacing them in the field. We have concluded, the variation between the representation we estimated the previous delineation line by scaling distances off the plan original delineation was again not recovered in the field. Therefore, without a visual search we were not able to compare the variation between the two delineations as the wetland line as previously delineated and located on August 19, 2006. After a diligent Relative to the concerns raised, we revisited the site on October 18 and 19 to review the

the former delineation effort and "flagged" our line along the upland/wetland boundary. wetlands as requested by your office. At this time, we did not recover any evidence of approved subdivision plat. This past August we went to the site and delineated the original wetlands survey was completed in 1999 after obtaining a full version of the Associates, Inc and the wetland delineation by our company. We now understand the line as originally approved on the "Auburn Pines" Subdivision Plat by Albert Frick office. We understand questions were raised regarding the variation between the wetland Planning Board regarding the wetland delineation survey previously submitted to you As requested, we have prepared this letter resulting from concerns raised by the Portland

Bob,

Subject: Jordan Property Wetlands Survey  
Garsoe Drive & Auburn Street  
Portland, ME

Mr. Robert Metcalf  
Mitchell & Associates  
70 Center Street  
Portland, ME  
04101

October 31, 2006

STATEWIDE SURVEYS, INC.  
SOIL SCIENTISTS & LAND SURVEYORS  
35 Eastman Road, Cape Elizabeth, ME 04107  
Phone/Fax: 207-767-0821

Att. 2/1

Att. 7.2

landscape, thus providing a scientific basis to make wetland determinations. Data Plots categorize the vegetation from a central point with the trees and saplings found within a thirty-foot (30') radius, shrubs within a 15-foot (15') radius and the herbaceous vegetation is observed within one square meter from the central point. Species occurring within each stratum are identified and compared to the index rating for probability of occurring in wetland environments. Most of the wetland areas delineated were in the open "fielded" portion of the lot. During our August visit, we observed a Data Plot in this area adjacent to the wooded edge.

Generally, the area with the greatest variation between delineations is gently sloping with intermixed softwood and hardwood trees, and saplings with an under-story of shrubs and herbaceous vegetation. Many of these species typically are found in upland or non-wetland environments. These species included: american beech (*Fagus grandifolia*), white pine (*Pinus strobus*), paper birch (*Betula papyrifera*), northern red oak (*Quercus rubra*), white oak (*Quercus alba*) trees, saplings and shrubs with bunchberry (*Cornus canadensis*), low-bush blueberry (*Vaccinium angustifolium*), bracken fern (*Pteridium aquilinum*) and partridgeberry (*Mitchella repens*) in the herbaceous layer. Of note, also present were species generally found in wetland environments, such as the: red maple (*Acer rubrum*), gray birch (*Betula populifolia*), northern arrowwood (*Viburnum dentatum*), winterberry (*Ilex verticillata*), sphagnum mosses (*Sphagnum spp.*) trees, saplings, shrubs and herbaceous vegetation. Therefore, dependent upon the location of observation and the interpretation of the vegetation, the transitional area can either have a predominance of hydrophytes or non-hydrophytes.

We also observed some borings and dug observation holes to examine the underlying soils in these areas. We observed soils "resembling" the somewhat poorly and poorly drained Swanton, the somewhat poorly drained Colonel and the poorly drained Scantic soils. These soils are intermixed and typical of transitional areas. We also observed a boring with a sandy loam cap over the native soil. Additionally, we documented remnant concrete, scattered fieldstones and vegetation debris in or near the area of variation between wetland delineations. Further, a number of stumps remain in or nearby this location. The mostly softwood stumps appear to have been recently harvested within the past ten years.

We trust the above summary explains how there could be a variation between delineations. Please inform us at your earliest convenience should you have any questions, comments or suggestions regarding the Jordan wetland delineation.

Respectfully,

STATEWIDE SURVEYS, INC

Dale A. Brewer

Att 8.1

BK14981FC172

0059472

Exhibit A

DECLARATIONS OF RESTRICTIONS AND COVENANTS

AUBURN PINES

WHEREAS, Neptune Properties, LLC (hereinafter referred to as "Declarant") owns certain lands on Auburn Street in the City of Portland, County of Cumberland, State of Maine which was conveyed to it by deed of Provos, Inc., which deed is recorded in the Cumberland County Registry of Deeds in Book 14817, Page 100 and which the Declarant proposes to develop, improve and sell in accordance with the Plan of Auburn Pines recorded in said Registry of Deeds in Plan Book 199, Page 393, and

WHEREAS, it is desired that certain agreements, covenants and restrictions be imposed upon said lands for the protection of the Declarant and his grantees, their heirs, personal representatives, administrators, successors and assigns; and

NOW THEREFORE, in consideration of the premises, Declarant hereby declares his said lands, conveyed to him as noted above, are and shall be held and conveyed subject to the agreements, restrictions and covenants hereinafter set forth which shall insure to the benefit of and be binding upon the Declarant, his successors and assigns, but which the Declarant shall be under no obligation to enforce:

1. Residential Use. All lots or parcels of land conveyed shall be used solely for single-family residential purposes and the usual and natural uses in connection therewith. No lot or parcel of land within this subdivision shall be further subdivided without approval of the Portland Planning Board.

2. Structures. No structure or building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling of not less than 1,500 square feet, if constructed entirely on one level, otherwise not less than 2,000 square feet, of heated living space (exclusive of garages, porches, cellars and associated living space) together with auxiliary structures, such as private garages, storage buildings, barns, cabanas, pergolas, fences, or in-ground swimming pools and the like, provided that such auxiliary structures shall be consistent with the residential nature of the lot. No above-ground pools shall be permitted. Each lot shall have no less than a two car garage attached to the residential structure, and shall have a separate garage door for each car. Each residence shall contain a paved driveway.

3. Architectural Review. The initial dwelling and associated building to be constructed on any lot or parcel of land must have the written approval of the Declarant, his successors or assigns, before construction is commenced, as to location of the dwelling, the type and style of architecture, and the type and quality of the building materials used. No dwelling or other building erected on any lot shall be covered with tar paper, asphalt siding, or corrugated metal siding but shall be covered with a natural wood, stone, or brick siding. No vinyl siding

- 9. **Professional Use.** In addition to residential use, the following uses shall also be permitted: professional use in accordance with local ordinances and which does not create traffic substantially greater than that of normal residential use.
- 8. **Vehicles/Trailers.** No house trailers, business or commercial vehicles(s) or similar vehicles shall be brought upon any lot except one business vehicle normally used by a lot owner in his/her business. No unregistered vehicles may be kept upon any lot unless such vehicle is stored in a garage or other enclosed structure. No tractor trailers may be kept on any lot. The prohibitions contained herein shall not be construed to prevent the use of trailers, vehicles or temporary structures during the period of actual construction.
- 7. **Antennae/Satellite Dishes.** No radio towers or satellite dish-type antennae shall be placed and maintained on said lots except in a manner which shields the placement of same from view of abutting lots or parcels and roads.
- 6. **Animals.** No livestock, animals or poultry other than household pets shall be kept, maintained or owned on any of the lots. No boarding, breeding, or dog kennels may be kept or maintained on any of the lots.
- 5. **Wood.** Cut wood shall be stacked neatly behind or on the side of the residence.
- 4. **Compliance with Ordinance.** No building shall ever be erected on any lot hereby conveyed in violation of municipal standards. All sanitary plumbing and sewage disposal shall conform with the minimum requirements of the local governing authorities and the State of Maine. Trash, garbage and other wastes shall be kept in sanitary covered containers which shall not be visible from the street or from any other lot, except for limited periods coincident with trash collection.

allowed. Doors and windows on the front and sides of residential structures facing any road shall have trim other than flat stock or shutters with flat stock. All windows of residential and attached structures shall have window grills or windows with separate window panes. No chain link fences allowed on any lot. "Any fencing shall be constructed of wood. The lot owner shall submit to Declarant, prior to commencing construction, a site plan showing all buildings, walks, driveways, and patios, a landscaping plan, floor plans, and elevations showing all facades of each proposed building. Declarant shall approve such plans if Declarant determines, in his sole discretion, that construction in accordance with such plans will not be detrimental to the Auburn Pines development. Upon completion, pursuant to the plans agreed upon by Declarant, all dwellings shall be deemed to have complied with this paragraph. This requirement shall be without force or effect after Declarant has sold all lots. The Grantor shall be provided with a complete set of all such architectural and site plans, which copy of plans shall be and remain property of the grantor. All such buildings on and improvements to any Lot must be constructed in accordance with all such approved architectural and site plans. A review fee of \$100 will be charged and must be submitted with complete set of plans and proposed site plan.

- 10. **Chimneys and Foundations.** Any fireplace or chimney located on the exterior of the house shall be of brick, stone, or wood construction. No chnderblock or metal chimneys shall be allowed on the exterior of the house. Each building and structure on the premises shall be supported by a solid masonry foundation or slab.
- 11. **Nuisances.** No owner of a lot shall do or permit to be done any act upon the lot which may be, or is, or may become a nuisance as defined by state or local law ordinances or regulations.
- 12. **Signs.** No sign of any nature or description shall be displayed or placed upon any part of the premises except for a "For Sale" sign referring only to a lot or residence, or a sign erected by Declarant to identify the subdivision, or a sign erected by a lot owner to identify their name or home occupation which does not exceed one square foot in size.
- 13. **Time for Construction.** When the construction of the buildings on a lot is once begun, work hereon must be prosecuted diligently and must be completed within one (1) year from the date that construction (including excavation) begins. All disturbed areas not built upon or landscaped, shall be loamed and seeded at the close of construction but, in any event, must be completed within nine (9) months of occupancy.
- 14. **Separate Provisions.** Each and every provision contained herein shall be considered to be independent and separate, and in the event that any one or more shall for any reason be held to be invalid and unenforceable, all the remainder hereof shall, nevertheless, remain in full force and effect.
- 15. **Clear-cutting of lots** is prohibited and at least two trees shall be planted or conserved on the front of every lot as required by the City of Portland specifications will respect to the Subdivision as set forth on the Recording Plan which require that such trees be a minimum of 2-1/2 - 3 inches in caliper diameter, meet the Portland City arborist arboricultural specifications and standards of practice and meet the standards set forth by the American Association of Nurserymen (2-60,1-1980) A.N.S.I.
- 16. The Grantor shall be under no obligation for the enforcement of the foregoing restrictions and covenants, but each and every lot owner shall have the right, at its option, to enforce the foregoing restrictions and covenants.

RECEIVED  
RECORDED REGISTRY OF DEEDS  
1999 AUG 16 PM 3: 15  
CUMBERLAND COUNTY  
*John B. Carwin*

*M. J. Foley*  
Notary Public / Attorney at Law

Before me,

Then personally appeared the above named Michael Scarks and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Neptune Properties, LLC.

State of Maine  
County of Cumberland, s.s.  
August 16, 1999

By: *M. J. Foley*  
Michael Scarks, President

*M. J. Foley*

Signed, Sealed and Delivered  
in presence of  
NEPTUNE PROPERTIES, LLC

IN WITNESS WHEREOF, Neptune Properties, LLC, has hereunto set its hand and seal  
this 16<sup>th</sup> day of the month of August, 1999.

BK 14981 PG 1751

Att 84



Att. 9.1

Conditions Section:		Add New Condition	Add New Condition	Delete Condition	Close
<input type="checkbox"/>	- that the location of fire hydrants and a street name for the connector road be reviewed and approved by the Fire Department				
<input type="checkbox"/>	- a note be added to the subdivision plan which states "A minimum of two trees per lots shall be conserved or planted in the front yard of each lot meeting the City of Portland's Arboreal specification and standards of practice and landscape design guidelines."				
<input type="checkbox"/>	- that the plan be reviewed and approved by Public Works in regards to the cul-de-sac dimensions and street monument locations				
<input type="checkbox"/>	- that the applicant submit a vegetation plan for the cul-de-sac island for review and approval of the City Arborist				
<input type="checkbox"/>	- that the applicant address the issues in the Development Review Coordinator's memo dated July 9, 1999 regarding drainage maintenance agreement, foundation drains, groundwater evaluation and catch basin #1.				
<input type="checkbox"/>	- that the applicant install granite curb along Auburn Street, from connector road to Lot 31.				

Conditions Section:

Add New Condition From Default List

Add New Condition

Delete Condition

Close

Applicant must show hydrant within 80' path of travel.

Att. 10.2

Att. 10.1

August 9, 2000

Mr. Lou Wood  
Neptune Properties, Inc.  
120 Exchange Street  
Portland, ME 04101

Re: Auburn Pines Sidewalk and Granite Curb Waiver

Dear Mr. Wood:

On August 8, 2000 the Portland Planning Board voted unanimously (4-0, Cole, Hagge, Rodriguez) to approve your request for waiver of granite curb along the frontage of Lots 29 and 30. The Board did not grant your request for waiver of sidewalk along the frontage of Lots 29 and 30, with the exception of the area in front of the existing pine trees to the end of Lot 30.

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #38-00, which is attached.

If there are any questions, please contact the Planning Staff.

Sincerely,

Jaimy Caron, Chair  
Portland Planning Board

Att. 10.3

Joseph E. Gray, Jr., Director of Planning and Urban Development  
 Alexander Jaegerman, Chief Planner  
 Kandice Talbot, Planner  
 P. Samuel Hoffses, Building Inspector  
 Marge Schmuckal, Zoning Administrator  
 Tony Lombardo, Project Engineer  
 Development Review Coordinator  
 William Bray, Director of Public Works  
 Nancy Knauber, Associate Engineer  
 Jeff Tarling, City Arborist  
 Penny Littell, Associate Corporation Counsel  
 Lt. Gaylen McDougall, Fire Prevention  
 Inspection Department  
 Lee Urban, Director of Economic Development  
 Don Hall, Appraiser, Assessor's Office  
 Susan Doughty, Assessor's Office  
 Approval Letter File

OH, BILL.

PLANNING BOARD REPORT #58-06

- Need base wetlands study from original approval.
- Use wetlands filled

- background material / conditions of approval.
- Table Oct 24, 2006. 7:30pm. 5-0 *Town*

LOT SPLIT OF AUBURN PINES, LOT 29

VICINITY OF

AUBURN STREET AND 34 GARSOE DRIVE

AMENDMENT TO AN APPROVED SUBDIVISION

PHILIP AND CHARLENE JORDAN, APPLICANT

10.18.00 wet  
 suggested cond.

- Must fill with average stone
- 10' cut or grade in wetlands

Report  
 Approve  
 Bill

Submitted to:

Portland Planning Board

Portland, Maine

Submitted by:

Bill Needelman, Senior Planner

Submitted on:

October 6, 2006

In support of the October 10, 2006

Public Hearing

**I. INTRODUCTION**

The Philip and Charlene Jordan request a public hearing to review an application to divide lot 29 of the Auburn Pines Subdivision into two lots: 29A and 29B. As a previously approved subdivision, the creation of additional lots requires review by the Planning Board.

Currently, Lot 29 is improved with a single family home and the street infrastructure for Auburn Pines is complete. Sidewalks and curb exist along Garsoe Drive. There are no curb or sidewalk along Auburn Street, but Lot 29 was specifically waived from curb and sidewalk requirements by Planning Board action in August of 2000. (PBR #38-00)

The Zoning Administrator has reviewed and approved the lots for conformance with the requirements of the R-2 zone. Furthermore, the applicant has updated the wetlands survey of the lots and provided evidence that the newly created lot, 29B, has usable land for construction of a single family dwelling.

The provided recording plat shows two new street trees on Lot 29b.

Lot 29A is shown having a private utility easement benefiting Lot 29B to allow connection to the existing utilities in Garsoe Drive without extending the existing sanitary sewer. Legal and Public Works Staff have reviewed this and find it acceptable. Public Works, however, requests a condition of approval that the lateral sewer connection be detailed to show a junction with the existing line outside of the manhole, as per City requirements.

**II. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #58-06 relevant to Subdivision regulations, and other findings, the Planning Board finds as follows:

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

Subject to the following (potential) Conditions of Approval:

- i. That the applicant provide a revised sewer connection detail for review and approval of the Public Works engineering staff.

- Attachments:
1. Application and narrative
  2. Property deed
  3. Wetlands Report
  4. Corporation Council Memo
  5. Zoning Memo
  6. Lot split plan and recording plat

Att 1.1

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

2006-0188

Planning Copy

Application I. D. Number

9/29/2003

Application Date

Amendment to Plan - Auburn Pines Su

Project Name/Description

34 - 34 Garsoe Dr, Portland, Maine

Address of Proposed Site

386A B029001

Assessor's Reference: Chart-Block-Lot

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

Proposed Building square Feet or # of Units

Acraege of Site

Zoning

R2

Check Review Required:

Site Plan  Subdivision # of lots  PAD Review  14-403 Streets Review

Flood Hazard  Shoreland  Historic Preservation  DEP Local Certification

Zoning Conditional Use (ZBA/PB)  Zoning Variance  Other

Fees Paid: Site Pla \$500.00 Subdivision Date 9/29/2006

Planning Approval Status:

Approved  Approved w/Conditions See Attached  Denied

Approval Date  OK to Issue Building Permit  Extension to Additional Sheets Attached

Performance Guarantee  Required\*  Not Required

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

Performance Guarantee Accepted  Inspection Fee Paid  Building Permit Issue

Performance Guarantee Reduced  Temporary Certificate of Occupancy  Final Inspection

Certificate Of Occupancy  Performance Guarantee Released  Defect Guarantee Submitted

Defect Guarantee Released  Defect Guarantee Submitted  Performance Guarantee Released

signature date submitted date signature date

signature date submitted date signature date

signature date submitted date signature date



AH 1.2

**MITCHELL & ASSOCIATES**  
LANDSCAPE ARCHITECTS

September 27, 2006

Mr. William Needelman, Senior Planner  
Department of Planning & Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Auburn Pines Subdivision Amendment  
Lot # 29**

Dear Bill:

On behalf of Philip and Charlene Jordan, I am writing to request an amendment to Auburn Pines Subdivision, located at 34 Garsoe Drive, Portland. Auburn Pines was approved by the Portland Planning Board on July 13, 1999.

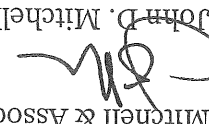
Specifically, the owners of lot #29, Mr. & Mrs. Jordan, request the approval to divide their lot into two lots, lot 29A and lot 29B. This division is being proposed so that Mr. & Mrs. Jordan can convey the second lot to their daughter.

The lot division has been configured to conform with all zoning requirements of the R2 Residential district as well as creating a buildable window for a single family home. An updated wetland delineation was performed by Dale Brewer of Statewide Surveys, Inc. on August 19, 2006. Refer to the attached wetland report.

Please find enclosed six (6) copies of the following information:

1. Site Plan Application
2. Copy of Deed
3. Wetland Report
4. Amended Subdivision Plan

Should you have any questions or need further information, please do not hesitate to call. Thank you for your consideration to this matter.

Sincerely,  
  
John D. Mitchell  
Mitchell & Associates

Enclosure

cc: Philip and Charlene Jordan

THE STAPLES SCHOOL  
70 CENTER STREET  
PORTLAND, MAINE 04101

Telephone (207) 774-4427  
Fax (207) 874-2460  
Website www.mitchellassociates.biz

Att 1.3

# City of Portland Site Plan Application

If 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.

Address of Proposed Development: <b>34 GARSOE DRIVE</b>		Zone: <b>R2</b>
Total Square Footage of Proposed Structure: <b>N.A.</b>		Square Footage of Lot: <b>45,726 S.F.</b>

Tax Assessor's Chart, Block & Lot: <b>Chart# 386 A Block# B Lot# 29</b>	Property owner's mailing address: <b>PHILIP &amp; CHARLENE JORDAN 34 GARSOE DRIVE PORTLAND, ME 04103</b>	Telephone #: <b>632-3175</b>
---	--	------------------------------

Consultant/Agent, mailing address, phone # & contact person: <b>JOHN D. MITCHELL MITCHELL &amp; ASSOCIATES 70 CENTER STREET PORTLAND, ME 04101 TEL. 774-4427</b>	Applicant's name, mailing address, telephone #/fax#/Pager#: <b>PHILIP &amp; CHARLENE JORDAN 34 GARSOE DRIVE PORTLAND, ME 04103 TEL. 632-3175</b>	Project name: <b>AUBURN PINES SUBDIVISION AMENDMENT</b>
--	--	---

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

Proposed Development (check all that apply)  New Building  Building Addition  Change of Use  Residential  Office  Retail  Manufacturing  Warehouse/Distribution  Parking lot  Subdivision (\$500.00) + amount of lots (\$25.00 per lot) + major site plan fee if applicable  Site Location of Development (\$3,000.00)  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)

- Please see next page -

Att 1.9

Minor Site Plan Review	Less than 10,000 sq. ft. (\$400.00)
	After-the-fact Review (\$1,000.00 + applicable application fee)
Plan Amendments	<input type="checkbox"/> Planning Staff Review (\$250.00) <input checked="" type="checkbox"/> Planning Board Review (\$500.00)
Who billing will be sent to: (Company, Contact Person, Address, Phone #)	PHILIP & CHARLENE JORDAN 34 GARAGE DRIVE PORTLAND, ME 04103 TEL. 632-3175

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

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

Amendment to Plans: Amendment applications should include 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 which is available on our web site: [portlandmaine.gov](http://portlandmaine.gov)

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

Signature of applicant:	<i>Charles Jordan</i>
Date:	9-27-06

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

AH 2.1

Doc#: 298 BK:18642 Pg: 122

# WARRANTY DEED

## Joint Tenancy

### Maine Statutory Short Form

**KNOW ALL PERSONS BY THESE PRESENTS, That**

Susan W. Vines

of Portland, County of Cumberland, State of Maine,

for consideration paid, grant to Charlene M. Jordan and Phillip D. Jordan

of Westbrook, County of Cumberland, State of Maine,

whose mailing address is PO Box 682, Westbrook, Maine 04098

with warranty covenants, as joint tenants the land in Portland, County of Cumberland, and State of

Maine, described on the attached EXHIBIT A.

**WITNESS** our/my hand(s) and seal(s) this 31st day of December, 2002.

Signed, Sealed and Delivered in  
presence of:

*[Signature]*

Susan W. Vines

*[Signature]*

STATE OF MAINE

COUNTY OF Cumberland

December 31, 2002

instrument to be his/her/their free act and deed.

Then personally appeared the above named Susan W. Vines and acknowledged the foregoing

Before me,

*[Signature]*

Notary Public

Printed Name: JAMES M. AMENDOLARA

My Commission Expires: ATTORNEY AT LAW

MAINE REAL ESTATE TAX PAID

Att 2.2

Doc#: 298 BK:18642 Pg: 123

File No: 7820 ()

EXHIBIT 'A'

A certain lot or parcel of land with any improvements thereon, in the City of Portland, County of Cumberland and State of Maine, and being Lot 29 as depicted on the Auburn Pine Subdivision Plan recorded in the Cumberland County Registry of Deeds in Plan Book 199, Page 393.

The property described herein is conveyed subject to the general notes and conditions set forth on said plan together with the Declaration of Restrictions and Covenants for Auburn Pines as set forth in an instrument dated August 16, 1999 and recorded in the Cumberland County Registry of Deeds in Book 14981, Page 172. Also conveying an easement for access and installation and maintenance of utilities over and within the streets and way shown on said Plan.

Received  
Recorded Register of Deeds  
Jan 02, 2003 11:24:49A  
Cumberland County  
John B. O'Brien

Att 3.1

Mr. John Mitchell  
September 5, 2006

Page 1

STATEWIDE SURVEYS, INC.  
LAND SURVEYORS & SOIL SCIENTISTS  
35 Eastman Road Cape Elizabeth, ME, 04107  
Phone/Fax: 207 767 4200

060277W

Mr. John Mitchell  
Mitchell & Associates  
70 Center Street  
Portland, ME  
04107

Subject: Jordan Wetlands Survey  
Garsoe Drive  
Portland, ME

John,

As requested, we have completed the wetland delineation at the Jordan property in Portland, Maine. The property is shown as Lot #29 on the "Auburn Pines" Subdivision Plan provided by your office. The ± 45,726 ft<sup>2</sup> (1.05 acre) lot has Frontage on Auburn Street and Garsoe Drive and currently has a home located in the northerly portion of the lot. We established the perimeter in the field using the "Auburn Pines" survey plan prepared by Pinkham & Greer. We also used other supporting reference data including: the USDA Soil Survey of Cumberland County, and the National Wetlands Inventory Map (NWI). We have prepared the following summary based on a field visit on August 19<sup>th</sup> and the reference materials used. We understand this information will be used for future planning for the property.

GPS equipment was used to map the project limits, wetland flagging and natural features in the field. These features are shown on the wetlands plan previously submitted to your office. Two wetlands were delineated at the site and designated as Wetland "A" (6,344 ft<sup>2</sup>) and Wetland "B" (689 ft<sup>2</sup>). The wetlands were further marked with sequentially numbered blue flags along the wetland/upland boundary to the project limits. The wetland boundaries have also been registered to the "Auburn Pines" subdivision plan. It should be noted that the wetland flagging was located with GPS equipment and could vary from actual survey locations.

The lot generally drains southerly toward the ditch along Auburn Street. The open areas of the site are "smooth" and appear to have been graded previously. There are scattered wheel ruts evident, possibly from timber harvesting or the grading efforts. The wetlands were previously delineated by

ATT 3.2

Mr. John Mitchell

September 5, 2006

Page 2

others as wetlands were shown on the "Auburn Pines" Subdivision Plan. We did not recover the previous wetland flagging in the field and re-delineated the jurisdictional wetlands at the site during our site visit. The previous wetland survey was likely completed prior to the construction involved with the "Auburn Pines" project.

The surrounding uplands have a limited variety of species including white oak (*Quercus alba*), red oak (*Quercus rubra*), white pine (*Pinus strobus*) and paper birch (*Betula papyrifera*) trees and saplings. These upland areas were mapped with the Elmwood series underlying the site by the SCS.

## 1.0 Wetland Characteristics

Three parameters are needed for jurisdictional wetlands, specifically the presence of hydric soils, the prevalence of hydrophytes, and indicators of wetland hydrology. Wetland "A" and Wetland "B" have been classified from field survey and further described below. Our observations of the natural wetlands characteristics are consistent with accepted wetland parameters found in the 1987 Corps of Engineers Wetlands Delineation Manual (ACOE) and addressed in the following:

- The wetland soils were poorly drained and "hydric" as defined in *Field Indicators for Identifying Hydric Soils in New England*, however intermixed very poorly or somewhat poorly drained soils may also exist. The USDA Soil Conservation Service formerly mapped the soils in the *Soil Survey of Cumberland County* as the poorly drained, Scantic silt loam (Sn). Our observations also found poorly drained soils resembling the Scantic Series. These freshwater (palustrine) wetlands have forested (PHO-I) areas in addition to intermixed scrub-shrubs (PSS) and open emergent areas (PEM). The wetlands typically have scattered red maple (*Acer rubrum*), gray birch (*Betula populifolia*) and american elm (*Ulmus americana*) trees and saplings with scattered speckled alder (*Alnus incana*), northern arrow-wood (*Viburnum dentatum*), broadleaf meadowswart (*Spiraea latifolia*) and winterberry (*Ilex verticillata*) shrubs with sensitive fern (*Onoclea sensibilis*), flat-topped aster (*Aster umbellatus*), rattlesnake grass (*Glyceria canadensis*), pointed broom sedge (*Carex scoparia*), goldenrods (*Solidago spp.*) and sphagnum mosses in the herbaceous layer.
- Wetland hydrology was evident with saturated conditions in the mapped wetland depressions of the "pit and mound" topography. The *USGS Quadrangle Sheet* of the area does not indicate any perennial watercourses on the property.

## 2.0 Considerations and Recommendations

Wetlands at the site are regulated at the state and federal level in addition to the adopted local ordinances of the City of Portland. Wetlands have limitations regarding land use to ensure protection to the natural resource. We understand permits will be required to discharge fill exceeding 4,300 ft<sup>2</sup> into wetlands not classified as "Wetlands of Special Significance". However, the ordinances should be reviewed and followed prior to any new proposed use affecting the wetland areas. We recommend contacting the Code Enforcement Officer (CEO) to determine the application procedure

AH.3.3

once the project has been designed. Further review of these ordinances will determine allowable practices and may identify any potential limitations in addition to protecting natural resources. It is unknown if the current land-use required any environmental permits or the dates they may have been obtained. Of note, further wetland alterations on this lot may be considered along with any previous impacts required for the "Auburn Pines" project, possibly resulting in a higher level of permitting with the regulatory agencies.

Wetlands are also regulated by the MDEP under the provisions of the Natural Resources Protection Act (NRP A-38 M.R.S.A. §480 A-Y) and the associated Wetland Protection Rules (Chapter 310). Our understanding of current regulations would allow for filling wetlands not identified as "Wetlands of Special Significance" to the threshold limit of 4,300 ft<sup>2</sup> total impact. We believe these wetlands are "not" of special significance according to the regulations.

Wetlands at the site are also regulated by the Army Corps of Engineers (ACOE) under the provisions of Section 404 of the Clean Water Act. The ACOE will review the project should permitting be required in conjunction with the proposed project. Impacts to wetlands resulting from the placement of fill are addressed by the ACOE with a Programmatic General Permit for the State of Maine. Additional information may also be required as it is determined on a case-by-case basis. Please review the Department of the Army Programmatic General Permit for the State of Maine, and the Natural Resources Protection Act (NRP A) for additional regulations and permitting information.

We did not observe or identify any rare, threatened or endangered species (RTE) at the site. Our field survey was completed during the timeframe to make vernal pool determinations, however all areas were "dry" and not representative of significant vernal pool habitat. Further, the area appears to be manmade or at least altered in and adjacent to the road ditch.

We recommend implementing Best Management Practices (BMPs) prior to any site work and compliance with all environmental regulations. In the event you need further assistance, I would be happy to assist you with wetland permitting applications that may be required for future development plans. We trust this wetland report will aid in the project design and wish the best for your project.

Sincerely,

STATEWIDE SURVEYS, INC.

  
Dale A. Brewer  
President  
SWS/2006/WetlandsSurveys/06027W



A.H.S

**Memo**

To: Bill Needlemar  
From: Penny Littell

Date: September 20, 2006

Re: Auburn Pines Subdivision

Bill:

I have reviewed the inquiry from John Mitchell on behalf of his clients, the Jordan's, on whether the division of a lot in the Auburn Pines Subdivision requires subdivision review. I apologize that it has taken me so long to respond.

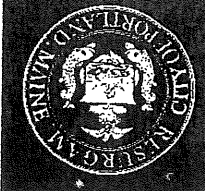
The Jordan's lot is part of a 1999 approved subdivision plat. The City's subdivision ordinance at 14-496 entitled "Plat Requirements" requires that any amendment to a plat to be approved by the Planning Board. Unfortunately, the proposed division does not fit the requirement for staff approval noted in 14-496(c).

The requirement that an amendment to a subdivision plat be approved by the "municipal reviewing authority" (which in Portland is the Planning Board) is also contemplated by the language of 30-A M.R.S.A. § 4407 (See attached).

After consulting with Sarah Hopkins, and assuming the lot owner is able, this amendment can be accommodated on the October 10, 2006 Planning Board Meeting.

# PORTLAND MAINE

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



*Lee Urban-Director of Planning and Development  
Marge Schmuckal, Zoning Administrator*

September 27, 2006

John D. Mitchell

70 Center Street  
Portland, ME 04101

RE: 34 Garsoe Drive - 386-B-029 - R-2 Zone - Charlene & Phillip Jordan

Dear John,

I am in receipt of your request to determine whether the proposed lot split for the property at 34 Garsoe Drive would meet the current Land Use Zoning requirements.

Based upon an unstamped survey by Statewide Surveys, Inc. dated August 23, 2006, job number 06027W, and labeled "Wetland Sketch", I have determined that both lots would meet the underlying R-2 zoning requirements.

Please note that this letter is not intended for commencement of any building construction. This determination is not intended to substitute for any review or procedures that are required under the Planning Division.

Separate applications and permits with all the appropriate attachments shall be required prior to the time of construction. A copy of this letter shall be included with that documentation at that time.

If you have any questions regarding this matter, please do not hesitate to contact me at 874-8695/

Very truly yours,

*Marge Schmuckal*  
Marge Schmuckal  
Zoning Administrator

Cc: file

AH. 5

LOT SPLIT OF AUBURN PINES, LOT 29  
VICINITY OF  
AUBURN STREET AND 34 GARSOE DRIVE  
AMENDMENT TO AN APPROVED SUBDIVISION  
PHILIP AND CHARLENE JORDAN, APPLICANT

Submitted to:  
Portland Planning Board  
Portland, Maine

Submitted by:  
Bill Needelman, Senior Planner

Submitted on:  
October 6, 2006  
In support of the October 10, 2006  
Public Hearing

I. INTRODUCTION

The Philip and Charlene Jordan request a public hearing to review an application to divide lot 29 of the Auburn Pines Subdivision into two lots: 29A and 29B. As a previously approved subdivision, the creation of additional lots requires review by the Planning Board.

*an amendment to the subdivision*

Currently, Lot 29 is improved with a single family home and the street infrastructure for Auburn Pines is complete. Sidewalks and curb exist along Garsoe Drive. There are no curb or sidewalk requirements by Planning Board specifically waived from curb and sidewalk requirements by Planning Board action in August of 2000. (PBR #38-00)

The Zoning Administrator has reviewed and approved the lots for conformance with the requirements of the R-2 zone. Furthermore, the applicant has updated the wetlands survey of the lots and provided evidence that the newly created lot, 29B, has usable land for construction of a single family dwelling.

The provided recording plat shows two new street trees on Lot 29b.

Lot 29A is shown having a private utility easement benefiting Lot 29B to allow connection to the existing utilities in Garsoe Drive without extending the existing sanitary sewer. Legal and Public Works Staff have reviewed this and find it acceptable. Public Works, however, requests a condition of approval that the lateral sewer connection be detailed to show a junction with the existing line outside of the manhole, as per City requirements.

II.

MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #58-06 relevant to Subdivision regulations, and other findings, the Planning Board finds as follows:

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

Subject to the following (potential) Conditions of Approval:

- i. That the applicant provide a revised sewer connection detail for review and approval of the Public Works engineering staff.

- Attachments:**
1. Application and narrative
  2. Property deed
  3. Wetlands Report
  4. Corporation Council Memo
  5. Zoning Memo
  6. Lot split plan and recording plat

477.1

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

Planning Copy

2006-0188

Application I. D. Number

9/29/2003

Application Date

Amendment to Plan - Auburn Pines Su

Project Name/Description

34 - 34 Garsoe Dr, Portland, Maine

Address of Proposed Site

386A B029001

Assessor's Reference: Chart-Block-Lot

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

Proposed Building square Feet or # of Units \_\_\_\_\_

Average of Site \_\_\_\_\_

Zoning R2

Check Review Required:

Site Plan  Subdivision # of lots \_\_\_\_\_

Flood Hazard  Shoreland  Historic Preservation  PAD Review  14-403 Streets Review

Zoning Conditional Use (ZBA/PB)  Zoning Variance  DEP Local Certification  Other \_\_\_\_\_

Fees Paid: Site Pla \$500.00 Subdivision \_\_\_\_\_ Engineer Review Date 9/29/2006

Planning Approval Status:

Reviewer \_\_\_\_\_

Approved  Approved w/Conditions See Attached  Denied

Approval Date \_\_\_\_\_ Approval Expiration \_\_\_\_\_ Extension to \_\_\_\_\_ Additional Sheets Attached

OK to Issue Building Permit

Performance Guarantee  Required\*  Not Required

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

Performance Guarantee Accepted

Inspection Fee Paid

Building Permit Issue

Performance Guarantee Reduced

Temporary Certificate of Occupancy

Final Inspection

Certificate Of Occupancy

Performance Guarantee Released

Defect Guarantee Submitted

Defect Guarantee Released

date \_\_\_\_\_

amount \_\_\_\_\_

expiration date \_\_\_\_\_

date \_\_\_\_\_

amount \_\_\_\_\_

expiration date \_\_\_\_\_

date \_\_\_\_\_

remaining balance  Conditions (See Attached)

signature \_\_\_\_\_

expiration date \_\_\_\_\_

date \_\_\_\_\_

signature \_\_\_\_\_

date \_\_\_\_\_

date \_\_\_\_\_

signature \_\_\_\_\_

date \_\_\_\_\_

signature \_\_\_\_\_

expiration date \_\_\_\_\_

AH 1.2

**MITCHELL & ASSOCIATES**  
LANDSCAPE ARCHITECTS

September 27, 2006

Mr. William Needelman, Senior Planner  
Department of Planning & Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

**RE: Auburn Pines Subdivision Amendment  
Lot # 29**

Dear Bill:

On behalf of Philip and Charlene Jordan, I am writing to request an amendment to Auburn Pines Subdivision, located at 34 Garsoe Drive, Portland. Auburn Pines was approved by the Portland Planning Board on July 13, 1999.


Specifically, the owners of lot #29, Mr. & Mrs. Jordan, request the approval to divide their lot into two lots, lot 29A and lot 29B. This division is being proposed so that Mr. & Mrs. Jordan can convey the second lot to their daughter.

The lot division has been configured to conform with all zoning requirements of the R2 Residential district as well as creating a buildable window for a single family home. An updated wetland delineation was performed by Dale Brewer of Statewide Surveys, Inc. on August 19, 2006. Refer to the attached wetland report.

Please find enclosed six (6) copies of the following information:

1. Site Plan Application
2. Copy of Deed
3. Wetland Report
4. Amended Subdivision Plan

Should you have any questions or need further information, please do not hesitate to call. Thank you for your consideration to this matter.

Sincerely,  
  
John D. Mitchell  
Mitchell & Associates

Enclosure

cc: Philip and Charlene Jordan

THE STAPLES SCHOOL  
70 CENTER STREET  
PORTLAND, MAINE 04101

Telephone (207) 774-4427  
Fax (207) 874-2460  
Website www.mitchellassociates.biz

Att 1.3

# City of Portland Site Plan Application

If 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.

Address of Proposed Development: **34 GARSOE DRIVE** Zone: **R2**

Total Square Footage of Proposed Structure: **N.A.**  
 Square Footage of Lot: **45,726 S.F.**

Tax Assessor's Chart, Block & Lot: Chart# **386 A** Block# **B** Lot# **29**  
 Property owner's mailing address: **PHILIP & CHARLENE JORDAN**  
**34 GARSOE DRIVE**  
**PORTLAND, ME 04103**  
 Telephone #: **632-3175**

Consultant/Agent, mailing address, phone # & contact person: **JOHN D. MITCHELL**  
**MITCHELL & ASSOCIATES**  
**70 CENTER STREET**  
**PORTLAND, ME 04101**  
**TEL. 774-4427**  
 Applicant's name, mailing address, telephone #/fax#/Pager#: **PHILIP & CHARLENE JORDAN**  
**34 GARSOE DRIVE**  
**PORTLAND, ME 04103**  
**TEL. 632-3175**  
 Project name: **AUBURN PINES**  
**SUBDIVISION**  
**AMENDMENT**

Fee For Service Deposit (all applications) (\$200.00)
Proposed Development (check all that apply) New Building _____ Building Addition _____ Change of Use _____ Residential _____ Office _____ Retail _____ Manufacturing _____ Warehouse/Distribution _____ Parking lot _____ Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) \$ _____ + major site plan fee if applicable Site Location of Development (\$3,000.00) (except for residential projects which shall be \$200.00 per lot _____) Traffic Movement (\$1,000.00) _____ 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) _____

- Please see next page -



Att 1.9

<p>Minor Site Plan Review</p> <p>Less than 10,000 sq. ft. (\$400.00)</p> <p>After-the-fact Review (\$1,000.00 + applicable application fee)</p>	<p>Plan Amendments</p> <p><input checked="" type="checkbox"/> Planning Staff Review (\$250.00)</p> <p><input checked="" type="checkbox"/> Planning Board Review (\$500.00)</p>	<p>Who billing will be sent to: (Company, Contact Person, Address, Phone #)</p> <p>PHILIP &amp; CHARLENE JORDAN</p> <p>34 GARSOE DRIVE</p> <p>PORTLAND, ME 04103</p> <p>TEL. 632-3175</p>
---	--	---

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

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

Amendment to Plans: Amendment applications should include 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 which is available on our web site: [portlandmaine.gov](http://portlandmaine.gov)

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

Signature of applicant: <i>Charles Jordan</i>	Date: 9-27-06
---	---------------

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

AH 2.1

**WARRANTY DEED**

**Joint Tenancy**

**Maine Statutory Short Form**

**KNOW ALL PERSONS BY THESE PRESENTS, That**

Susan W. Vines

of Portland, County of Cumberland, State of Maine,

for consideration paid, grant to Charlene M. Jordan and Philip D. Jordan

of Westbrook, County of Cumberland, State of Maine,

whose mailing address is PO Box 682, Westbrook, Maine 04098

with warranty covenants, as joint tenants the land in Portland, County of Cumberland, and State of

Maine, described on the attached EXHIBIT A.

**WITNESS** our/my hand(s) and seal(s) this 31st day of December, 2002.

Signed, Sealed and Delivered in presence of:

*[Signature]*

Susan W. Vines

*[Signature]*

STATE OF MAINE

COUNTY OF Cumberland

December 31, 2002

Then personally appeared the above named Susan W. Vines and acknowledged the foregoing

instrument to be his/her/their free act and deed.

Before me,

*[Signature]*

Notary Public

Printed Name: JAMES M. AMENDOLARA

My Commission Expires: ATTORNEY AT LAW

MAINE REAL ESTATE TAX PAID

Att 2.2

Doc#: 298 BK:18642 Pg: 123

File No: 7820 ()

EXHIBIT 'A'

A certain lot or parcel of land with any improvements thereon, in the City of Portland, County of Cumberland and State of Maine, and being Lot 29 as depicted on the Auburn Pine Subdivision Plan recorded in the Cumberland County Registry of Deeds in Plan Book 199, Page 393.

The property described herein is conveyed subject to the general notes and conditions set forth on said plan together with the Declaration of Restrictions and Covenants for Auburn Pines as set forth in an instrument dated August 16, 1999 and recorded in the Cumberland County Registry of Deeds in Book 14981, Page 172. Also conveying an easement for access and installation and maintenance of utilities over and within the streets and way shown on said Plan.

Received  
Recorded Register of Deeds  
Jan 02, 2003 11:24:49A  
Cumberland County  
John B. O'Brien

Sana -  
get these as well

Att 3.1

Mr. John Mitchell  
September 5, 2006

Page 1

STATEWIDE SURVEYS, INC.  
LAND SURVEYORS & SOIL SCIENTISTS  
35 Eastman Road Cape Elizabeth, ME, 04107  
Phone/Fax: 207 767 4200

06027W

Mr. John Mitchell

Mitchell & Associates

70 Center Street

Portland, ME

04107

Subject: Jordan Wetlands Survey  
Garsoe Drive  
Portland, ME

John,

As requested, we have completed the wetland delineation at the Jordan property in Portland, Maine. The property is shown as Lot #29 on the "Auburn Pines" Subdivision Plan provided by your office. The + 45.726 ft<sup>2</sup> (1.05 acre) lot has frontage on Auburn Street and Garsoe Drive and currently has a home located in the northerly portion of the lot. We established the perimeter in the field using the "Auburn Pines" survey plan prepared by Pinkham & Greer. We also used other supporting reference data including: the USDA Soil Survey of Cumberland County, and the National Wetlands Inventory Map (NWI). We have prepared the following summary based on a field visit on August 19<sup>th</sup> and the reference materials used. We understand this information will be used for future planning for the property.

GPS equipment was used to map the project limits, wetland flagging and natural features in the field. These features are shown on the wetlands plan previously submitted to your office. Two wetlands were delineated at the site and designated as Wetland "A" (6,344 ft<sup>2</sup>) and Wetland "B" (689 ft<sup>2</sup>). The wetlands were further marked with sequentially numbered blue flags along the wetland/upland boundary to the project limits. The wetland boundaries have also been registered to the "Auburn Pines" subdivision plan. It should be noted that the wetland flagging was located with GPS equipment and could vary from actual survey locations.

The lot generally drains southerly toward the ditch along Auburn Street. The open areas of the site are "smooth" and appear to have been graded previously. There are scattered wheel ruts evident, possibly from timber harvesting or the grading efforts. The wetlands were previously delineated by

AH 3.2

Mr. John Mitchell  
September 5, 2006

Page 2

others as wetlands were shown on the "Auburn Pines" Subdivision Plan. We did not recover the previous wetland flagging in the field and re-delineated the jurisdictional wetlands at the site during our site visit. The previous wetland survey was likely completed prior to the construction involved with the "Auburn Pines" project.

The surrounding uplands have a limited variety of species including white oak (*Quercus alba*), red oak (*Quercus rubra*), white pine (*Pinus strobus*) and paper birch (*Betula papyrifera*) trees and saplings. These upland areas were mapped with the Elmwood series underlying the site by the SCS.

## 1.0 Wetland Characteristics

Three parameters are needed for jurisdictional wetlands, specifically the presence of hydric soils, the prevalence of hydrophytes, and indicators of wetland hydrology. Wetland "A" and Wetland "B" have been classified from field survey and further described below. Our observations of the natural wetlands characteristics are consistent with accepted wetland parameters found in the 1987 Corps of Engineers Wetlands Delineation Manual (ACOE) and addressed in the following:

- The wetland soils were poorly drained and "hydric" as defined in *Field Indicators for Identifying Hydric Soils in New England*, however intermixed very poorly or somewhat poorly drained soils may also exist. The USDA Soil Conservation Service formerly mapped the soils in the *Soil Survey of Cumberland County* as the poorly drained, Scantic silt loam (Sn). Our observations also found poorly drained soils resembling the Scantic Series.
- These freshwater (palustrine) wetlands have forested (PHO-1) areas in addition to intermixed scrub-shrubs (PSS) and open emergent areas (PEM). The wetlands typically have scattered red maple (*Acer rubrum*), gray birch (*Betula populifolia*) and american elm (*Ulmus americana*) trees and saplings with scattered speckled alder (*Alnus incana*), northern arrow-wood (*Viburnum dentatum*), broadleaf meadowswart (*Spiraea latifolia*) and winterberry (*Ilex verticillata*) shrubs with sensitive fern (*Onoclea sensibilis*), flat-topped aster (*Aster umbellatus*), rattlesnake grass (*Glyceria canadensis*), pointed broom sedge (*Carex scoparia*), goldenrods (*Solidago spp.*) and sphagnum mosses in the herbaceous layer.
- Wetland hydrology was evident with saturated conditions in the mapped wetland depressions of the "pit and mound" topography. The *USGS Quadrangle Sheet* of the area does not indicate any perennial watercourses on the property.

## 2.0 Considerations and Recommendations

Wetlands at the site are regulated at the state and federal level in addition to the adopted local ordinances of the City of Portland. Wetlands have limitations regarding land use to ensure protection to the natural resource. We understand permits will be required to discharge fill exceeding 4,300 ft<sup>2</sup> into wetlands not classified as "Wetlands of Special Significance". However, the ordinances should be reviewed and followed prior to any new proposed use affecting the wetland areas. We recommend contacting the Code Enforcement Officer (CEO) to determine the application procedure

AH.3.3

Mr. John Mitchell

September 5, 2006

Page 3

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We recommend implementing Best Management Practices (BMPs) prior to any site work and compliance with all environmental regulations. In the event you need further assistance, I would be happy to assist you with wetland permitting applications that may be required for future development plans. We trust this wetland report will aid in the project design and wish the best for your project.

Sincerely,


STATEWIDE SURVEYS, INC.

  
Dale A. Brewer  
President  
SWS/2006/WetlandsSurveys/06027W

A.H. 9

**City of Portland**

# Memo

To: Bill Needleman 

From: Penny Littell

Date: September 20, 2006

Re: Auburn Pines Subdivision

Bill:

I have reviewed the inquiry from John Mitchell on behalf of his clients, the Jordan's, on whether the division of a lot in the Auburn Pines Subdivision requires subdivision review. I apologize that it has taken me so long to respond.

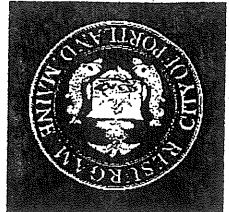
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The requirement that an amendment to a subdivision plat be approved by the "municipal reviewing authority" (which in Portland is the Planning Board) is also contemplated by the language of 30-A M.R.S.A. § 4407 (See attached).

After consulting with Sarah Hopkins, and assuming the lot owner is able, this amendment can be accommodated on the October 10, 2006 Planning Board Meeting.

# PORTLAND MAINE

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



Lee Urban-Director of Planning and Development  
Marge Schmuckal, Zoning Administrator

September 27, 2006

John D. Mitchell

70 Center Street  
Portland, ME 04101

RE: 34 Garsoe Drive - 386-B-029 - R-2 Zone - Charlene & Phillip Jordan

Dear John,

I am in receipt of your request to determine whether the proposed lot split for the property at 34 Garsoe Drive would meet the current Land Use Zoning requirements.

Based upon an unstamped survey by Statewide Surveys, Inc. dated August 23, 2006, job number 06027W, and labeled "Wetland Sketch", I have determined that both lots would meet the underlying R-2 zoning requirements.

Please note that this letter is not intended for commencement of any building construction. This determination is not intended to substitute for any review or procedures that are required under the Planning Division.

Separate applications and permits with all the appropriate attachments shall be required prior to the time of construction. A copy of this letter shall be included with that documentation at that time.

If you have any questions regarding this matter, please do not hesitate to contact me at 874-8695/

Very truly yours,

*Marge Schmuckal*  
Marge Schmuckal  
Zoning Administrator

Cc: file

AH. 5





JOHN ELIAS BALDACCI

GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0016

September 18, 2006

DAVID A. COLE  
COMMISSIONER

Susan Davis, Executive Director  
Maine Narrow Gauge Railroad  
58 Fore Street  
Portland, Maine 04401

Subject: Maine Narrow Gauge Railroad – Ocean Gateway Project

Dear Ms. Davis:

Pursuant to our September 1<sup>st</sup> meeting with Governor Baldacci, I did discuss your request to extend the tracks of the MNGRR from its interim terminus to your existing kiosk at the Franklin Arterial and Commercial Street intersection with the City of Portland and with our Project Manager. My first contact was with the City of Portland to quickly determine whether they were able to accommodate the track extension at this time over that portion of track that sits in their right of way. In consultation with Larry Mead, Assistant City Manager, the City is very supportive of the MNGRR and your operation along the Eastern Promenade waterfront, but they are unable to endorse the return of the MNGRR to the Franklin Street kiosk until they have completed the process associated with the land use and zoning changes and have had an opportunity to review and evaluate potential uses in this area. I have attached a letter from Mr. Mead more fully explaining their position.

In discussions with our Project Manager, he has assured me that the contractor is working diligently to complete the work associated with the extension of Commercial Street and the return of your rail to the Hancock Street intersection in time for your holiday season business. All materials have been ordered and deliveries are expected to allow the work to be completed by the end of November. He has looked into the feasibility of further extending the connection from Hancock St. to Franklin Arterial. Unfortunately, he could not commit to any further extension beyond Hancock St. prior to Christmas (even if the City were in a position to grant such access over their ROW) due to the lateness of the season and the need to order 100% of the ties necessary to support this work. Apparently, we had hoped to salvage some of the ties but most had deteriorated far beyond what had been originally anticipated.

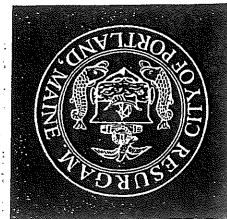
Given the facts stated above, it seems unlikely that any service beyond the Hancock Street intersection is likely this season and with the City's position, none could be restored to the Franklin Arterial kiosk. However, once the City's position is clear and a final terminus for the Narrow Gauge can be identified, we can work together on a request for additional project funding to support your request. Susan, I would be happy to further discuss these findings with you and hope that the extension to the Ocean Gateway Terminal entrance at Hancock Street along with all the accompanying improvements to the road system will help.

Sincerely,

David A. Cole  
Commissioner

PRINTED ON RECYCLED PAPER

THE MAINE DEPARTMENT OF TRANSPORTATION IS AN AFFIRMATIVE ACTION - EQUAL OPPORTUNITY EMPLOYER



Executive Department  
Larry S. Mead, Assistant City Manager  
Thomas A. Fortier, Island/Neighborhood  
Administrator

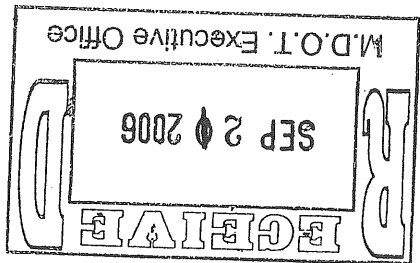
September 19, 2006

David Cole, Commissioner  
Maine Department of Transportation  
16 State House Station  
Augusta, Maine 04333-0016  
Dear Commissioner Cole:

As a follow up to our telephone conversation of yesterday afternoon, I am writing to make clear the City of Portland's position regarding the desire of the Maine Narrow Gauge Railroad to extend their service beyond the proposed Hancock Street extension to Franklin Street Arterial. This extension would traverse City land between India Street and Franklin Street.

The City has for many years been very supportive of MNGRR and its operations along the Eastern Prom waterfront area, including the provision of a license to operate between India Street and Franklin Street. The Ocean Gateway project construction displaced MNGRR from this location. The development of the new marine passenger terminal has led to the logical next step of considering the future use of the adjacent area, including the Maine State Pier.

The City Council last night approved a change to the land use policy and zoning of the area in and around the Maine State Pier, including the land and street frontage between Hancock Street and Franklin Street. As a result of this action, the City will now solicit proposals for the development of the area. In that context it is prudent that the City not foreclose opportunities for potential uses by making commitments regarding land use, including MNGRR, until this process is completed.



David Cole, Commissioner  
Maine Department of Transportation  
September 19, 2006  
Page 2

I am in no way closing the door on the potential for a renewed presence by MNGRR extending to Franklin Street. However, this is not a commitment that the City can agree to at this time. The process that is now unfolding will allow the City Council to consider the range of potential development uses for the eastern waterfront and select the best fit for Portland and how the site should be configured, including the location of narrow gauge rail service.

Sincerely,



Larry S. Mead  
Assistant City Manager

Cc: James I. Cohen, Mayor  
Joseph E. Gray, City Manager  
Lee Urban, Director of Planning and Development  
Jeffrey Monroe, Director of Ports and Transportation

November 3, 2006

Mr. William Needelman, Senior Planner  
Department of Planning & Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

RE: Auburn Pines Subdivision Amendment  
Lot #29

Dear Bill:

The following correspondence has been prepared in response to comments raised by the Planning Board during the public hearing on October 10, 2006. The board raised two questions, one concerning the wetland delineation and the second being restrictive conditions associated with the subdivision. We have prepared the following responses:

**Planning Board Comments**

1. Why is there a difference between the wetland line as shown on the application and that, which was shown on the approved subdivision plan?

As requested we had our wetland specialist review their data with that of the wetland specialist that completed the original delineation. We have included a copy of a response letter prepared by our wetland specialist. To summarize, several conditions can occur where a difference in the delineation may exist. These include GPS positioning methods, post development improvements that could alter the hydrology and variations in field interpretations of hydric soil and wetland vegetation.

2. What conditions of approval or deed restrictions exist that would affect the further division of the property.

There are no conditions of approval on the approved subdivision that would preclude the further division of the lot. There is a Declaration of Restrictions and Covenants for Auburn Pines that we have included in our submission. There are no restrictions contained in the covenants that preclude further division of a parcel/lot.

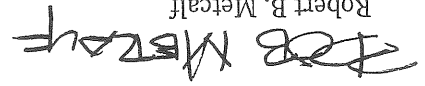
Please find enclosed six (6) copies of the following information:

1. Wetland Response letter prepared by Statewide Surveys, Inc.
2. Copy of Declarations of Restrictions and Covenants for Auburn Pines

Should you have any questions or need further information, please do not hesitate to call. Thank you for your consideration to this matter.

Sincerely,

Mitchell & Associates



Robert B. Metcalf

Enclosure

cc: Philip and Charlene Jordan

THE STAPLES SCHOOL

70 CENTER STREET

PORTLAND, MAINE 04101

Telephone

(207) 774-4427

Fax

(207) 874-2460

Website www.mitchellassociates.biz

STATEWIDE SURVEYS, INC.  
SOIL SCIENTISTS & LAND SURVEYORS  
35 Eastman Road, Cape Elizabeth, ME 04107  
Phone/Fax: 207-767-0821

October 20, 2006

Mr. Robert Metcalf  
Mitchell & Associates  
70 Center Street  
Portland, ME  
04107

Subject: Jordan Property Wetlands Survey  
Garsoe Drive & Auburn Street  
Portland, ME

Bob,

As requested, we have prepared this letter resulting from concerns raised by the Portland Planning Board regarding the wetland delineation survey previously submitted to your office. We understand questions were raised regarding the variation between the wetland line as originally approved on the "Auburn Pines" Subdivision Plat by Albert Frick Associates, Inc and the wetland delineation by our company. We now understand the original wetlands survey was completed in 1999 after obtaining a full version of the approved subdivision plat. This past August we went to the site and delineated the wetlands as requested by your office. At this time, we did not recover any evidence of the former delineation effort and "flagged" our line along the upland/wetland boundary.

Relative to the concerns raised, we revisited the site on October 18 and 19 to review the wetland line as previously delineated and located on August 19, 2006. After a diligent search we were not able to compare the variation between the two delineations as the original delineation was again not recovered in the field. Therefore, without a visual representation we estimated the previous delineation line by scaling distances off the plan and taping or pacing them in the field. We concluded the variation between the delineations could be due to a combination of the following: the pre-development verses post development conditions for the "Auburn Pines" subdivision, the potential affects from the construction of the drainage ditch along Auburn Street within the 20' drainage easement granted to the City of Portland, GPS positioning and/or the registry of the GPS data to the survey plat, variations in field interpretations influenced by hydric soils and wetland vegetation (hydrophytes), or the transitional landscape with wetland and upland characteristics.

As you know, a predominance of hydrophytes in combination with hydric soils and the presence of wetland hydrology are required for jurisdictional wetlands defined in the 1987 Corps Manual for Wetland Delineations. Data Plots are used to analyze the landscape, thus providing a scientific basis to make wetland determinations. Data Plots categorize the vegetation from a central point with the trees and saplings found within a thirty-foot (30') radius, shrubs within a 15-foot (15') radius and the herbaceous vegetation is observed within one square meter from the central point. Species occurring within each stratum are identified and compared to the index rating for probability of occurring in wetland environments. Most of the wetland areas delineated were in the open "fielded" portion of the lot. During our August visit, we observed a Data Plot in this area adjacent to the wooded edge.

Generally, the area with the greatest variation between delineations is gently sloping with intermixed softwood and hardwood trees, and saplings with an under-story of shrubs and herbaceous vegetation. Many of these species typically are found in upland or non-wetland environments. These species included: american beech (*Fagus grandifolia*), white pine (*Pinus strobus*), paper birch (*Betula papyrifera*), northern red oak (*Quercus rubra*), white oak (*Quercus alba*) trees, saplings and shrubs with bunchberry (*Cornus canadensis*), low-bush blueberry (*Vaccinium angustifolium*), bracken fern (*Pteridium aquilinum*) and partidgeberry (*Mitchella repens*) in the herbaceous layer. Of note, also present were species generally found in wetland environments, such as the: red maple (*Acer rubrum*), gray birch (*Betula populifolia*), northern arrowwood (*Viburnum dentatum*), winterberry (*Ilex verticillata*), sphagnum mosses (*Sphagnum* spp.) trees, saplings, shrubs and herbaceous strata. Therefore, dependent upon the location of observation and the interpretation of the vegetation the transitional area can either have a predominance of hydrophytes or non-hydrophytes.

We also observed some borings and dug observation holes to examine the underlying soils in these areas. We observed soils "resembling" the somewhat poorly and poorly drained Swanton, the somewhat poorly drained Colonel and the poorly drained Scanitic soils. These soils are intermixed and typical of transitional areas. We also observed a boring with a sandy loam cap over the native soil. Additionally, we documented remnant concrete, scattered fieldstones and vegetation debris in or near the area of variation between wetland delineations. Further, a number of stumps remain in or nearby this location. The mostly softwood stumps appear to have been harvested within the past ten years.

We understand where questions arose from the variation between the two lines presented in 1999 and 2006 on this parcel. However, the area is transitional and subject to differing interpretations during two differing times and circumstances. After reviewing our data and revisiting the site, we believe our wetland delineation does not have upland inclusions and meets the accepted standard for wetland delineation, however we also understand the project had been formally permitted using the previous wetland area by Albert Frick Associates, Inc. With these circumstances, there appears to be the following options available: use the original wetland calculations for the lot to be consistent with the original permit, use our line accepted post development or agree on a new line with or

without regulatory assistance.

We trust the above summary explains how there is a variation between delineations. Please inform us at your earliest convenience should you have any questions, comments or suggestions regarding the Jordan wetland delineation.

Respectfully,

STATEWIDE SURVEYS, INC.

Dale A. Brewer  
*President*

SWS/2006/WetlandsSurveys/06027.1W

Exhibit A

DECLARATIONS OF RESTRICTIONS AND COVENANTS

AUBURN PINES

WHEREAS, Neptune Properties, LLC (hereinafter referred to as "Declarant") owns certain lands on Auburn Street in the City of Portland, County of Cumberland, State of Maine which was conveyed to it by deed of Provoost, Inc., which deed is recorded in the Cumberland County Registry of Deeds in Book 14817, Page 100 and which the Declarant proposes to develop, improve and sell in accordance with the Plan of Auburn Pines recorded in said Registry of Deeds in Plan Book 199, Page 393, and

WHEREAS, it is desired that certain agreements, covenants and restrictions be imposed upon said lands for the protection of the Declarant and his grantees, their heirs, personal representatives, administrators, successors and assigns; and

NOW THEREFORE, in consideration of the premises, Declarant hereby declares his said lands, conveyed to him as noted above, are and shall be held and conveyed subject to the agreements, restrictions and covenants hereinafter set forth which shall insure to the benefit of and be binding upon the Declarant, his successors and assigns, but which the Declarant shall be under no obligation to enforce:

1. Residential Use. All lots or parcels of land conveyed shall be used solely for single-family residential purposes and the usual and natural uses in connection therewith. No lot or parcel of land within this subdivision shall be further subdivided without approval of the Portland Planning Board.

2. Structures. No structure or building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling of not less than 1,500 square feet, if constructed entirely on one level, otherwise not less than 2,000 square feet, of heated living space (exclusive of garages, porches, cellars and associated living space) together with auxiliary structures, such as private garages, storage buildings, barns, cabanas, pergolas, fences, or in-ground swimming pools and the like, provided that such auxiliary structures shall be consistent with the residential nature of the lot. No above-ground pools shall be permitted. Each lot shall have no less than a two car garage attached to the residential structure. The two car garage must be built at the same time as the residential structure, and shall have a separate garage door for each car. Each residence shall contain a paved driveway.

3. Architectural Review. The initial dwelling and associated building to be constructed on any lot or parcel of land must have the written approval of the Declarant, his successors or assigns, before construction is commenced, as to location of the dwelling, the type and style of architecture, and the type and quality of the building materials used. No dwelling or other building erected on any lot shall be covered with tar paper, asphalt siding, or corrugated metal siding but shall be covered with a natural wood, stone, or brick siding. No vinyl siding



9. Professional Use. In addition to residential use, the following uses shall also be permitted: professional use in accordance with local ordinances and which does not create traffic substantially greater than that of normal residential use.
  8. Vehicles/Trailers. No house trailers, business or commercial vehicles (s) or similar vehicles shall be brought upon any lot except one business vehicle normally used by a lot owner in his/her business. No unregistered vehicles may be kept upon any lot unless such vehicle is stored in a garage or other enclosed structure. No tractor trailers may be kept on any lot. The prohibitions contained herein shall not be construed to prevent the use of trailers, vehicles or temporary structures during the period of actual construction.
  7. Antenna/Satellite Dishes. No radio towers or satellite dish-type antennae shall be placed and maintained on said lots except in a manner which shields the placement of same from view of abutting lots or parcels and roads.
  6. Animals. No livestock, animals or poultry other than household pets shall be kept, maintained or owned on any of the lots. No boarding, breeding, or dog kennels may be kept or maintained on any of the lots.
  5. Wood. Cut wood shall be stacked neatly behind or on the side of the residence.
  4. Compliance with Ordinance. No building shall ever be erected on any lot hereby conveyed in violation of municipal standards. All sanitary plumbing and sewage disposal shall conform with the minimum requirements of the local governing authorities and the State of Maine. Trash, garbage and other wastes shall be kept in sanitary covered containers which shall not be visible from the street or from any other lot, except for limited periods coincident with trash collection.
- allowed. Doors and windows on the front and sides of residential structures facing any road shall have trim other than flat stock or shutters with flat stock. All windows of residential and attached structures shall have window grills or windows with separate window panes. No chain link fences allowed on any lot. Any fencing shall be constructed of wood. The lot owner shall submit to Declarant, prior to commencing construction, a site plan showing all buildings, walks, driveways, and patios, a landscaping plan, floor plans, and elevations showing all facades of each proposed building. Declarant shall approve such plans if Declarant determines, in his sole discretion, that construction in accordance with such plans will not be detrimental to the Auburn Pines development. Upon completion, pursuant to the plans agreed upon by Declarant, all dwellings shall be deemed to have complied with this paragraph. This requirement shall be without force or effect after Declarant has sold all lots. The Grantor shall be provided with a complete set of all such architectural and site plans, which copy of plans shall be and remain property of the grantor. All such buildings on and improvements to any Lot must be constructed in accordance with all such approved architectural and site plans. A review fee of \$100 will be charged and must be submitted with complete set of plans and proposed site plan.

10. **Chimneys and Foundations.** Any fireplace or chimney located on the exterior of the house shall be of brick, stone, or wood construction. No cinderblock or metal chimneys shall be allowed on the exterior of the house. Each building and structure on the premises shall be supported by a solid masonry foundation or slab.

11. **Nuisances.** No owner of a lot shall do or permit to be done any act upon the lot which may be, or is, or may become a nuisance as defined by state or local law ordinances or regulations.

12. **Signs.** No sign of any nature or description shall be displayed or placed upon any part of the premises except for a "For Sale" sign referring only to a lot or residence, or a sign erected by Declarant to identify the subdivision, or a sign erected by a lot owner to identify their name or home occupation which does not exceed one square foot in size.

13. **Time for Construction.** When the construction of the buildings on a lot is once begun, work hereon must be prosecuted diligently and must be completed within one (1) year from the date that construction (including excavation) begins. All disturbed areas not built upon or landscaped, shall be loamed and seeded at the close of construction but, in any event, must be completed within nine (9) months of occupancy.

14. **Separate Provisions.** Each and every provision contained herein shall be considered to be independent and separate, and in the event that any one or more shall for any reason be held to be invalid and unenforceable, all the remainder hereof shall, nevertheless, remain in full force and effect.

15. **Clear-cutting of lots is prohibited and at least two trees shall be planted or conserved on the front of every lot as required by the City of Portland specifications with respect to the Subdivision as set forth on the Recording Plan which require that such trees be a minimum of 2-1/2 - 3 inches in caliper diameter, meet the Portland City arboreal arboricultural specifications and standards of practice and meet the standards set forth by the American Association of Nurserymen (2-60.1-1980) A.N.S.I.**

16. **The Grantor shall be under no obligation for the enforcement of the foregoing restrictions and covenants, but each and every lot owner shall have the right, at its option, to enforce the foregoing restrictions and covenants.**

BK 14981 PG 1751

IN WITNESS WHEREOF, Neptune Properties, LLC, has hereunto set its hand and seal  
this 16<sup>th</sup> day of the month of August, 1999.

NEPTUNE PROPERTIES, LLC

Signed, Sealed and Delivered  
in presence of

By: *M. Scarfs*  
Michael Scarfs, President

*M. Scarfs*

State of Maine  
County of Cumberland, ss.

August 16, 1999

Then personally appeared the above named Michael Scarfs and acknowledged the  
foregoing instrument to be his free act and deed and the free act and deed of Neptune  
Properties, LLC.

Before me,

*M. J. Foley*  
Notary Public/Attorney at Law  
Martin J. Foley

RECEIVED  
RECORDED REGISTRY OF DEEDS  
1999 AUG 16 PM 3: 15  
CUMBERLAND COUNTY  
John B. Brown

MODE = MEMORY TRANSMISSION START=SEP-20 11:22 END=SEP-20 11:40

FILE NO.=612

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
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-CITY OF PORTLAND -

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

City of Portland  
 Department of Planning and Development  
 Planning Division  
 389 Congress Street, 4<sup>th</sup> Floor  
 Portland ME 04101  
 (207)874-8721 or (207)874-8719  
 Fax: (207)756-8258



FAX

To: John Mitchell

Company: Mitchell Assoc.

Fax #: 874-2460

Date: 9-20-06

From: Bill Keedelman

You should receive 4 page(s) including this cover sheet.

Comments:

John,

Please see the attached memo from Penny Mitchell, Corp. Counsel. We will need an opinion to ~~approve~~ amend the original subdivision.

B.11

*30-A M.R.S. § 4407*

Maine Revised Statutes Annotated by LexisNexis(R)

\*\*\* THIS DOCUMENT REFLECTS EMERGENCY LEGISLATION IN EFFECT \*\*\*  
\*\*\* THROUGH 2006 CH. 552, ENACTED APRIL 6, 2006 \*\*\*  
\*\*\* AUGUST 3, 2006 ANNOTATION SERVICE \*\*\*

TITLE 30-A. MUNICIPALITIES AND COUNTIES  
PART 2. MUNICIPALITIES  
SUBPART 6-A. PLANNING AND LAND USE REGULATION  
CHAPTER 187. PLANNING AND LAND USE REGULATION  
SUBCHAPTER IV. SUBDIVISIONS

◆ **GO TO MAINE REVISED STATUTES ARCHIVE DIRECTORY**

30-A M.R.S. § 4407 (2005)

§ 4407. Revisions to existing plat or plan

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404.

1. RECORDING. If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:

A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan;

B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and

C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

City of Portland  
Department of Planning and Development  
Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258

FAX



To: John Mitchell

Company: Mitchell Assoc.

Fax #: 874-2460

Date: 9-20-00

From: Bill Keedelman

You should receive 4 page(s) including this cover sheet.

Comments:

John,

Please see the attached memo from Penny Littel, Corp. Counsel. We will need an application to amend ~~amend~~ amend the original subdivision.

B.11

11

Project: AUBURN PINES-JORDAN RESIDENCE-PORTLAND, ME

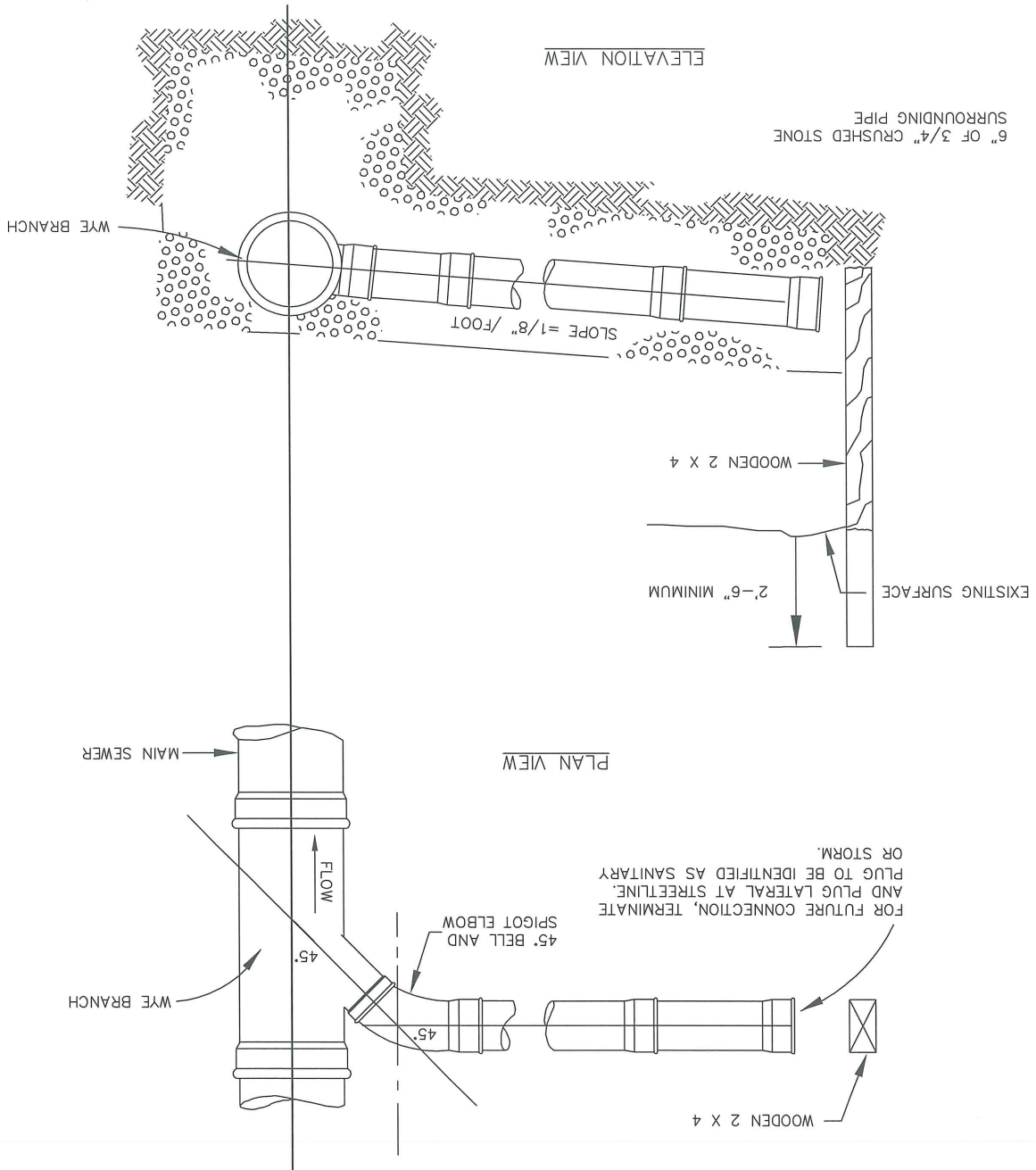
Date: 2/1/07 Scale: NTS

Title: LOT SPLIT OF AUBURN PINES, LOT 29  
SANITARY SEWER CONNECTION

Mitchell & Associates  
Landscape Architects  
70 Center Street  
Portland, Maine 04101  
(207) 774-4427

CITY OF PORTLAND  
 APPROVED SITE PLAN  
 Subject to Dept. Conditions  
 Date of Approval: 3-7-07

TYPICAL HOUSE LATERAL WYE CONNECTION DETAIL



NOTE: LOCATION/WARNING TAPE SHALL BE INSTALLED OVER  
CENTERLINE OF PIPE AT A MAXIMUM OF 24 INCHES  
BELOW FINISH GRADE.

FOR FUTURE CONNECTION, TERMINATE  
AND PLUG LATERAL AT STREETLINE.  
OR STORM.  
PLUG TO BE IDENTIFIED AS SANITARY



**CITY OF PORTLAND, MAINE  
PLANNING BOARD**

Kevin Beal, Chair  
Michael Patterson, Vice Chair  
John Anton  
Lee Lowry III  
Shalom Odokara  
David Silk  
Janice E. Tevastian

November 29, 2006

Mr. Philip Jordan and Ms. Charlene Jordan  
34 Garsoe Drive  
Portland, Maine 04103

RE: Amendment to the Auburns Pines Subdivision

CBL: 386A-B-029

Dear Mr. and Ms. Jordan:

On November 28, 2006, the Portland Planning Board voted 5 to 0 (Beal and Lowry absent) to approve a division of Lot 29 of the Auburn Pines subdivision. The lot split resulted in one additional lot in the Auburn Pines subdivision and was reviewed as an amendment to the original plan. In approving the amendment, the Board voted on the following motion:

1. That the plan was in conformance with the Subdivision Review Ordinance of the City of Portland and subject to the following conditions:

- i. That the applicant provide a revised sewer connection detail for review and approval of the Public Works engineering staff.
- ii. That any primary structure (home and/or garage) constructed on Lot 29b is required to utilize the building envelope as shown on the subdivision amendment plan, and no tree cutting or disturbance is allowed in the delineated wetlands as shown. A revised amendment plan shall be prepared for Planning Board signature showing the wetland areas as a "no tree cutting, no fill, no yard waste, not to disturb" area. The recording plat and the "no tree cutting, no fill, no yard waste, not to disturb" restriction is to be referenced in the deed transferring the new lot and a minimum of three permanent survey markers are to be shown on the plat and installed on-site showing the limits of the delineated wetlands.

The approval is based on the submitted plan and the findings related to subdivision review standards as contained in Planning Board #58-06A, which is attached.

Please note the following provisions and requirements for all subdivision approvals:

**From:** "Oertel, Jonathan" <joertel@firstam.com>  
**To:** <aqj@portlandmaine.gov>  
**Date:** 5/17/2007 10:35:25 AM  
**Subject:** 34 Garsoe Drive

Hi Alex, I received your message, thanks for getting back to me. I guess we're all set, I was just concerned that the amended plan was not signed by the Planning Board, rather by Lee Urban, and that there could still be some zoning violations. For your reference, the revised plan was recorded in Plan Book 207, Page 122. Thanks again for your help, Jonathan

Jonathan Oertel

Atlantic Title Company

(207) 321-5768

**From:** Lee Urban  
**To:** Alex Jaegerman  
**Date:** 5/17/2007 8:05:15 AM  
**Subject:** Re: 34 Garsoe Lot Split

Thanks.

<<>> Alex Jaegerman 5/16/2007 5:41:15 PM <>>

A Jonathan from Atlantic Title called to ask if the plat signed by Lee Urban was sufficient if the conditions of approval for the lot split of 34 Garsoe Drive required a Planning Board signed plat. I see from the file that the Planning Board signed recording plat was recorded Book 207, page 55, 01/30/2007. Another plat was signed by Lee Urban on 02/26/2007 with note: "Revising the dimensions of the northerly boundary line to correct a mathematical error and adjusting the lot square footage to compensate for error." There is no book and page shown for the second plat.

I left Jonathan a voice mail stating that the condition of a recording plat is met by the combination of the two plats.

Jonathan number is 321-5678

Alex.

**From:** "Charlene M. Jordan, Broker" <charlene@jcbrokers.com>  
**To:** <wbn@portlandmaine.gov>, "Steve Guerette" <stevetres@hotmail.com>, "Phil Jordan" <Philj@DGMACHINE.com>, <dphillips@firstram.com>, <dughnes@livingstonhughes.com>  
**Date:** 5/24/2007 3:31:41 PM  
**Subject:** PORTLAND - 34 GARSOE DRIVE TITLE ISSUE

Bill:

I received a call from Marge Smuckie today who stated that the setback was not a zoning violation and that it was an issue that you could resolve having to do with the original building envelope that Planning Approved during the initial permit process of this subdivision.

As such, you are in possession of all the proper documentation to make a determination as to the expansion of the building envelope to encompass the 3' we are lacking from the rear setback which, I am assuming takes into account the original wetlands that were identified. In looking at the redelineation of the current wetlands, it appears we have enough space. In order for the buyers to receive title insurance, the surveyor is requesting a letter from the City. As I have stated before, timing is of the essence.

The following is the message I received from Atlantic Title along with the attachment for your review from the Surveyor. Could you please give me a call on my cell at 650-9518 to go over this. Thanks again, Charlene Jordan

From Atlantic Title:

Hi Charlene the plot plan shows the deck and porch extend over the setback, violating town zoning - our title insurance company is willing to give affirmative coverage to the buyers and their lender - if the buyer is willing to go forward - I've sent a copy of this to the buyers broker and loan officer

File No.: 1325060

Buyer: Norman Belair Pamela Belair

Seller: Charlene M. Jordan and Phillip D. Jordan

Property Address: 34 Garsoe Drive, Portland, ME 04103

Dawna Phillips

Atlantic Title Company

Phone: 207-321-5774

Fax: 207-774-5935

Respectfully e-mailed,

Charlene M. Jordan, Broker

P.O. Box 953

Westbrook, ME 04098

Tel: 207-650-9518

E-Mail: <mailto:charlene@jcbrokers.com> charlene@jcbrokers.com

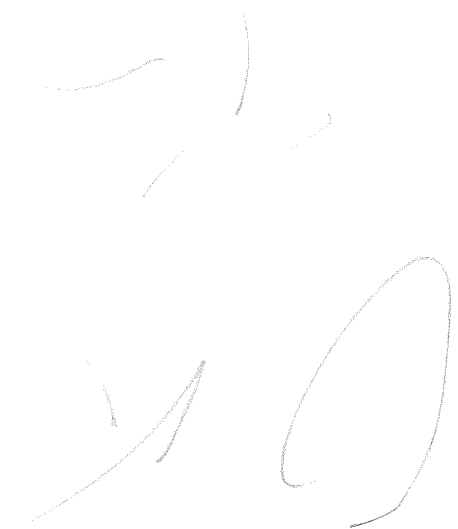
Website: www.jcbrokers.com

The recipient of this e-mail may use the return e-mail address to notify the sender that the recipient does not want to receive any future solicited or unsolicited e-mails at the targeted e-mail address or any other e-mail address so provided by recipient.

Charlene M. Jordan, Broker  
P.O. Box 953  
Westbrook, ME 04098

Dear Ms Jordan:

The building envelope line was drawn based upon the wetland configuration determined with 7-13-99 Planning Board approval of the Auburn Pines Subdivision. The amended plan was reviewed with the redelineated wetland boundaries, which are shown on the November 28, 2006 Planning Board approved amendment. The revised plan does not include a building envelope requirement for Lot 29A. The amended plan is the controlling document, thus the rear deck additions do not violate the building envelope for this lot.



Charlene M. Jordan, Broker  
P.O. Box 953  
Westbrook, ME 04098

Dear Ms Jordan:

The building envelope line was drawn based upon the wetland configuration determined with 7-13-99 Planning Board approval of the Auburn Pines Subdivision. The amended plan was reviewed with the redelineated wetland boundaries, which are shown on the November 28, 2006 Planning Board approved amendment. The revised plan does not include a building envelope requirement for Lot 29A. The amended plan is the controlling document, thus the rear deck additions do not violate the building envelope for this lot.

Handwritten signature or initials in pencil, consisting of a large loop on the left and several strokes on the right.