



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

DEPARTMENT ORDER

IN THE MATTER OF

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PARK NORTH DEVELOPMENT, L.L.C.) SITE LOCATION OF DEVELOPMENT ACT
Saco, York County) NATURAL RESOURCES PROTECTION ACT
PARK NORTH) FRESHWATER WETLAND FILL
L-23647-39-A-N) WATER QUALITY CERTIFICATION
L-23647-TE-C-N (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 481 *et seq.* and 480-A *et seq.*, and Section 401 of the Federal Water Pollution Control Act, the Department of Environmental Protection has considered the application of PARK NORTH DEVELOPMENT, L.L.C. with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: The applicant submitted a Site Location of Development permit application and a Tier 2 Wetland Alteration application to the Department on March 28, 2007. The Tier 2 application was withdrawn by the applicant on April 12, 2007 and was subsequently revised and resubmitted on June 1, 2007 as #L-23647-TE-C-N. The project site is located on the southeast side of US Route One in the Town of Saco.

The City of Saco received approval under Department Order #L-23722-L6-C-M, dated September 17, 2007, to construct a utility crossing within a right-of-way across the applicant's parcel. The crossing impacted both freshwater wetlands and crossed an unnamed tributary of Cascade Brook. The project will provide sewer and water to the area of Saco in which the proposed project is located.

B. Summary: The applicant proposes to construct a mixed-use subdivision on approximately 255 acres. The proposed project consists of 200 residential units in the form of an apartment complex, townhouses and condominiums on two lots, and 19 commercial and light industrial lots. The applicant is seeking approval for the entire project, which will be constructed in four phases. The proposed project shown on a set of plans, the first of which is entitled "Park North," prepared by Sebago Technics, and dated November 5, 2007, with a last revision date of January 11, 2008.

The applicant is also seeking approval under the Natural Resources Protection Act (NRPA) to fill 23,800 square feet of forested freshwater wetlands for the construction of

access roads, two stormwater underdrained filters and a driveway for Lot 16. The applicant proposes to construct the proposed access road within the City of Saco's right-of-way, utilizing the previously approved stream crossing.

C. Current Use of Site: The site of the proposed project is currently undeveloped fields and woodland. Cascade Brook crosses the southern corner of the property and several of its tributaries bisect the parcel in a west to east direction. Most of the streams and wetlands on site are associated with deep gullies. There are no structures on the property.

2. FINANCIAL CAPACITY:

The total cost of the project is estimated to be \$4,650,000. The applicant proposes to construct the project in four Phases. The cost of Phase 1 is estimated to be \$2,000,000. Phase 2 will cost approximately \$400,000; Phase 3 will cost approximately \$500,000; and Phase 4 will cost approximately \$1,750,000. The applicant submitted a letter from TD Banknorth, dated March 1, 2007, indicating that it intends to provide financing for this project.

Prior to the start of construction of each phase, the applicant must submit evidence that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State or evidence of any other form of financial assurance determined by Department Rules, Chapter 373(1), to be adequate to the Bureau of Land and Water Quality (BLWQ) for review and approval.

The Department finds that the applicant has demonstrated adequate financial capacity to comply with Department standards provided that prior to the start of construction of each phase, the applicant submits evidence of final financial capacity for that phase to the Bureau of Land and Water Quality for review and approval.

3. TECHNICAL ABILITY:

The applicant provided resume information for key persons involved with the project and a list of projects successfully constructed by the applicant. The applicant also retained the services of Sebago Technics, a professional engineering firm, to assist in the design and engineering of the project.

The Department finds that the applicant has demonstrated adequate technical ability to comply with Department standards.

4. NOISE:

The applicant proposes to meet the City of Saco's Noise Ordinance entitled "Article 8 'Good Neighbor' Performance Standards." The City of Saco's ordinance establishes

limits that are not higher than 5dBA above the limits established in Chapter 375, Section 10, and it limits various types of noises generated by the development.

The Department finds that the local noise ordinance is applicable to the proposed development.

5. SCENIC CHARACTER:

The property has frontage on U.S. Route One in the north end of Saco. The property continues in a southerly direction behind several businesses including a Drive-In movie theater and an automotive salvage yard. The applicant proposes to develop the frontage with a Business/Industrial Park or Commercial development. Residential development will be limited to the interior of the property and will not be visible from U.S. Route One.

Based on the project's location and design, the Department finds that the proposed project will not have an unreasonable adverse effect on the scenic character of the surrounding area.

6. WILDLIFE AND FISHERIES:

The Maine Department of Inland Fisheries & Wildlife (MDIFW) reviewed the proposed project. In its comments, MDIFW stated that there is a mapped Significant Inland Wading Bird and Waterfowl Habitat associated with Cascade Brook and one of its tributaries on the project site. The applicant redesigned the project to minimize potential impacts to the significant wildlife habitat by eliminating all disturbance within 250 feet of the open water component. Portions of the significant wildlife habitat will be covered by deed restrictions and will be transferred to the City of Saco. The land to be transferred and protected is shown on a plan prepared by Sebago Technics, entitled "Compensation Plan" and dated January 3, 2008.

MDIFW also commented that Cascade Brook supports wild brook trout and that while they do not have specific data, they suspect that the unnamed tributaries to Cascade Brook also support wild brook trout, at least on a seasonal basis. MDIFW recommended that the applicant provide a 100-foot undisturbed buffer on both sides of Cascade Brook and any unnamed tributaries on the project site. The applicant designed the project with 100-foot undisturbed buffers along Cascade Brook and the unnamed tributary that runs through the center of the parcel. Two other streams on the eastern side of the property were identified by Department staff during the review process and have 75-foot undisturbed buffers. These stream systems are smaller and intermittent in nature. While on site, Department staff discussed with the applicant the need to repair an existing eroding area associated with a road adjacent to these two stream systems. Department staff agreed that permanently repairing the ongoing erosion problem will compensate for the reduced width of the 75-foot wide undisturbed buffers. The applicant submitted a plan prepared by Sebago Technics, entitled "Trail Erosion Repair Plan," dated January 3,

2008 and last revised January 11, 2008, that details how the plan will repair the ongoing erosion problem on this site. The applicant must complete the repair work by October 15, 2008.

The Department finds that the applicant has made adequate provision for the protection of wildlife and fisheries provided that the erosion problem adjacent to two unnamed streams is repaired according to plans prior to October 15, 2008.

7. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The Maine Historic Preservation Commission reviewed the proposed project and stated that it will have no effect upon any structure or site of historic, architectural, or archaeological significance as defined by the National Historic Preservation Act of 1966.

The Maine Natural Areas Program database does not contain any records documenting the existence of rare or unique botanical features on the project site. The project site contains wildlife and fisheries habitats as discussed in Finding 6.

The Department finds that the proposed development will not have an adverse effect on the preservation of any historic sites or unusual natural areas either on or near the development site.

8. BUFFER STRIPS:

The applicant proposes to establish deed restrictions for the 100-foot wide and 75-foot wide undisturbed buffers adjacent to the streams, the significant wildlife habitat, a 4.37-acre wetland compensation area, and the land to be conveyed to the City of Saco. Prior to the start of construction, the location of freshwater wetlands on lots, stream buffers, significant wildlife habitat, and the wetland compensation area must be permanently marked on the ground. The deed for each lot that contains any portion of the designated buffer or compensation area must contain deed restrictions relative to the buffer and have attached to it a plot plan for the lot, drawn to scale, that specifies the location of the buffer/compensation area on the lot. Prior to the start of construction on individual lots, the applicant must submit a copy of the recorded deed restriction including the plot plans to the BLWQ.

The Department finds that the applicant has made adequate provision for buffer strips.

9. SOILS:

The applicant submitted a soil survey map and report, prepared by a certified soils scientist, and a geotechnical report, prepared by a registered engineer, based on the soils found at the project site. These reports were reviewed by staff from the Division of Environmental Assessment (DEA) of the BLWQ. DEA stated that in the southern

portion of the site, the subsurface soil information indicates that the water table and the upper limit of the soft clay become shallower from west to east. DEA further stated that a similar condition most likely exists in the northern portion of the site, and further stated that, while the applicant submitted insufficient subsurface data to document this condition, it is unlikely to interfere with roadway construction. However, DEA recommended that a third party geotechnical engineer oversee the construction of the stormwater management system where the applicant is more likely to expose the water table and soft clay.

The Department finds that, based on this reports, and DEA's review, the soils on the project site present no limitations to the proposed project that cannot be overcome through standard engineering practices provided that a third party geotechnical engineer is retained by the applicant to oversee the construction of all of the stormwater management facilities as further discussed in Finding 10A.

10. STORMWATER MANAGEMENT:

The proposed project includes approximately 52.04 acres of impervious area and 140.73 acres of developed area. It lies within the watershed of the Scarborough River. The applicant submitted a stormwater management plan based on the basic, general, and flooding standards contained in Department Rules, Chapter 500. The proposed stormwater management system consists of seven under-drained filters, one wet pond, and an underdrained filter system within the main road median. Because the project will be constructed in phases, the pond and underdrained filters may be constructed at different times. The timing of construction of the structures will occur as described in the Cover Sheet/Phasing Plan prepared by Sebago Technics and dated January 11, 2008.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan (Section 14 of the application) that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMPS, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in response to the comments of the Division of Watershed Management (DWM) of the BLWQ.

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

Given the size and nature of the project site, the applicant must retain the services of a third party inspector to oversee construction of site in general and a third party geotechnical engineer to oversee the construction of the stormwater management

facilities in accordance with the Special Condition for Third Party Inspection Program, which is attached to this Order.

Prior to the start of construction, the applicant must conduct a pre-construction meeting to discuss the construction schedule and the erosion and sediment control plan with the appropriate parties. This meeting must be attended by the applicant's representative, Department staff, the design engineer, the contractor, and the third-party inspector.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short-term and long-term maintenance requirements. This plan was reviewed by, and revised in response to the comments of DWM. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. The applicant will be responsible for the maintenance of all common facilities including the stormwater management system, except that a Condominium Association (the Cascade Falls Condominium Association) will be responsible for the maintenance of all the common facilities including the roads and stormwater management system within Lots 20 and 21, and the owner of Lot 13 will be responsible for the stormwater management system located on Lot 13. The Declaration of Covenants and Restrictions for the association (revised January 9, 2008) was reviewed and found to meet Department requirements. Prior to the formation of the association, the applicant will be responsible for all such maintenance.

The City of Saco intends to accept the road and a portion of the stormwater management system located within the road right-of-way upon project completion. The applicant may not transfer responsibility for maintenance of the road and for the portion of the stormwater management system that is located in the road right-of-way to the town, until a letter has been submitted from the Town to the BLWQ documenting the Town's agreement to maintain both in accordance with the terms of this Order.

Storm sewer grit and sediment materials removed from stormwater control structures during maintenance activities must be disposed of in compliance with the Department's Solid Waste Management Rules.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on DWM's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500(4)(A).

B. General Standard: The applicant's stormwater management plan includes general treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This mitigation is

being achieved by using Best Management Practices (BMP). The access road meets the definition of "a linear portion of a project" in Chapter 500 and the applicant is proposing to control runoff volume from no less than 75% of the impervious area and no less than 50% of the developed area. 95% of the impervious area runoff and no less than 80% of the developed area runoff will be treated from the proposed lots.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. After a final review, DWM commented that the proposed stormwater management system is designed in accordance with the Chapter 500 General Standard, and recommended that the construction of the wet pond and underdrained filters be inspected by the design engineer, or other qualified professional. A report of the inspections must be submitted to the BLWQ and must include information regarding groundwater encountered during construction and documentation that proper dewatering measures were utilized. Inspections must consist of weekly visits to the site by the engineer to inspect the subgrade preparation of each pond or basin, embankment construction, pipe bedding placement, underdrain pipe installation, gravel filter placement in the wet pond, soil filter placement in the undrained filters, and overflow spillway installation from initial ground disturbance to final stabilization. Within 30 days from completion of each structure, the applicant must notify the BLWQ in writing that the structure was installed and the engineer's written certification that it was installed in accordance with the approved plans.

DWM further recommended that prior to the start of each phase, the applicant submits to the BLWQ for review and approval specific plans for stormwater management for that phase. The plan must include a narrative, drawings, and calculations as evidence that the stormwater management system for that phase will continue to meet the Department's stormwater management standards.

Based on the stormwater system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, General Standards.

C. Flooding Standard:

The applicant is proposing to utilize a stormwater management system based on estimates of pre- and post-development stormwater runoff flows obtained by using Hydrocad, a stormwater modeling software that utilizes the methodologies outlined in Technical Releases #55 and #20, U.S.D.A., Soil Conservation Service and detains stormwater from 24-hour storms of 2-, 10-, and 25-year frequency. The post-development peak flow from the site will not exceed the pre-development peak flow from the site and the peak flow of the receiving waters will not be increased as a result of stormwater runoff from the development site.

DWM commented that the proposed system is designed in accordance with the Chapter 500 Flooding Standard.

Based on the system's design and DWM's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Chapter 500, Flooding Standard for peak flow from the project site, and channel limits and runoff areas.

The Department further finds that the proposed project will meet the Chapter 500 standards for management of stormwater discharges and discharge to freshwater or coastal wetlands.

11. GROUNDWATER:

The project site is not located over a mapped sand and gravel aquifer. The proposed project does not propose any withdrawal from, or discharge to, the groundwater.

The Department finds that the proposed project will not have an unreasonable adverse effect on ground water quality.

12. WATER SUPPLY:

When completed, the proposed project is anticipated to use 105,400 gallons of water per day. Water will be supplied by the Biddeford and Saco Water Company. The applicant submitted a letter from the Water Company, dated January 10, 2007, indicating that it will be capable of servicing this project.

The Department finds that the applicant has made adequate provision for securing and maintaining a sufficient and healthful water supply.

13. WASTEWATER DISPOSAL:

When completed, the proposed project is anticipated to discharge 105,400 gallons of wastewater per day to the City of Saco's wastewater treatment facility, which is part of the Department of Public Works. The applicant and the City of Saco agreed to extend the sewer lines to serve this project. The applicant submitted a letter from the City of Saco's Department of Public Works stating that it will accept these flows. This project was reviewed by the Division of Water Quality Management (DWQM) of the BLWQ, which commented that the City of Saco's wastewater treatment facility has the capacity to treat these flows and is operating in compliance with the water quality laws of the State of Maine.

Based on DWQM's comments, the Department finds that the applicant has made adequate provision for wastewater disposal at a facility that has the capacity to ensure satisfactory treatment.

14. SOLID WASTE:

When completed, the proposed project is anticipated to generate 690 cubic yards of residential solid waste and 3,000 cubic yards of commercial solid waste per year. All general solid wastes from the proposed project will be disposed of at Maine Energy, which is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

The proposed project will generate approximately 33,200 cubic yards of stumps and grubblings. All stumps and grubblings generated will be disposed of on site, either chipped or burned, with the remainder to be worked into the soil, in compliance with Solid Waste Management Regulations of the State of Maine.

The proposed project will generate approximately 4,000 cubic yards of construction debris and demolition debris. All construction and demolition debris generated will be disposed of at Commercial Recycling Services, Riverside Recycling facility, Plan-it Recycling or the City of Saco's construction debris disposal transfer station, all of which are currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

Based on the above information, the Department finds that the applicant has made adequate provision for solid waste disposal.

15. FLOODING:

A small portion of the property, along Cascade Brook and an unnamed tributary, is located within an A Flood Zone according to the Federal Emergency Management Agency's Flood Insurance Rate Map. The floodplain is located either within the Significant Wildlife habitat area which will be protected with a deed restriction or on land that will be deed restricted and conveyed to the City of Saco as described in Finding 8.

The Department finds that the proposed project is unlikely to cause or increase flooding or cause an unreasonable flood hazard to any structure.

16. WETLAND IMPACTS:

The applicant proposes to alter 23,800 square feet of forested freshwater wetland to construct the access road, two under-drained filters and a driveway on Lot 16.

The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require the applicant to meet the following standards:

A. Avoidance. No activity may be permitted if there is a practicable alternative to the project that would be less damaging to the environment. Each application for a Tier Two Wetland Alteration permit must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. The applicant submitted an alternative analysis for the proposed project completed by Sebago Technics and included in the NRPA application. The proposed project is located on land zoned as a Business Park District and an approved Contract Zone. The property is 255 acres in size. The applicant considered several alternatives for the development of this parcel. The applicant proposes the alternative that impacts the least amount of freshwater wetlands and avoids impacting streams on the parcel.

B. Minimal Alteration. The amount of freshwater wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The applicant proposes to minimize wetland impacts by reducing the side slopes at all wetland crossings to 2:1. As discussed in Finding 8, the location of stream buffers and wetlands on individual lots must be permanently marked on the ground and the deed for each lot that contains any portion of a buffer and/or a wetland must have attached to it a plot plan for the lot, drawn to scale, that specifies the location of the buffer and wetland on the lot.

C. Compensation. Compensation is required to achieve the goal of no net loss of wetland functions and values. The applicant conducted a Functions and Values Assessment of the wetlands on site. The assessment indicated that wildlife habitat is the primary wetland function and value on this site. Therefore, the applicant proposes to deed restrict the stream buffers and Significant Wildlife Habitat. The applicant also proposes to deed restrict 5.88 acres along Cascade Brook and 6.35 acres along an unnamed tributary and convey those portions of the parcel to the City of Saco. The applicant also proposes to deed restrict 4.37 acres of developable upland habitat along the northwestern property boundary. The compensation area is shown on a plan entitled, "Compensation Plan" and dated January 3, 2008. The applicant proposes to protect the proposed compensation areas with deed restrictions. Wetland compensation areas will be permanently marked on the ground and protected with deed restrictions as described in Finding 8.

The Department finds that the applicant has avoided and minimized freshwater wetland impacts to the greatest extent practicable, and that the proposed project represents the least environmentally damaging alternative that meets the overall purpose of the project.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 480-A et seq. and Section 401 of the Federal Water Pollution Control Act:

- A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.
- B. The proposed activity will not cause unreasonable erosion of soil or sediment.
- C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.
- D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life provided that the erosion problem adjacent to two unnamed streams is repaired as described in Finding 6, and the stream buffers and significant wildlife habitat areas are preserved as described in Finding 16C.
- E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.
- F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.
- G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.
- H. The proposed activity is not on or adjacent to a sand dune.
- I. The proposed activity is not on an outstanding river segment as noted in 38 M.R.S.A. Section 480-P.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S.A. Sections 481 et seq.:

- A. The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards provided that prior to the start of construction of each Phase, the applicant submits evidence that it has the ability to finance that Phase as described in Finding 2.
- B. The applicant has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities provided that the location of freshwater wetlands, stream buffers, significant wildlife habitat and the wetland compensation area are permanently marked on the ground and deed restricted as described in Finding 8.

- C. The proposed development will be built on soil types which are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil provided that the applicant hire a third party geotechnical engineer to oversee the construction of the stormwater management facilities.
- D. The proposed development meets the standards for storm water management in Section 420-D and the standard for erosion and sedimentation control in Section 420-C provided that the applicant conduct a pre-construction meeting and hire a third party inspector to oversee site construction as described in Finding 10A, and the stormwater structures are inspected, certifications are submitted, and plans for each phase are submitted, all as described in Finding 10B.
- E. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.
- F. The applicant has made adequate provision of utilities, including water supplies, sewerage facilities, solid waste disposal and roadways required for the development and the development will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services.
- G. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

THEREFORE, the Department APPROVES the application of PARK NORTH DEVELOPMENT LLC to construct the Park North project as described in Finding 1, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

1. The Standard Conditions of Approval, a copy attached.
2. In addition to any specific erosion control measures described in this or previous orders, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant or other responsible party shall, within three months of the expiration of each five-year interval from the date of this Order, submit a report certifying that the items listed in Department Rules, Chapter 500, Appendix B(4) have been completed in accordance with the approved plans.

5. The applicant shall include in all conveyances of subdivision lots deed restrictions making the conveyance subject to all terms and conditions of this Department permit and any applicable municipal approval. These terms and conditions may be incorporated by specific and prominent reference to the permit in the deed. All conveyances required by this approval to contain restrictions shall include in the restrictions the requirement that any subsequent conveyance shall specifically include the same restrictions.
6. The applicant shall give a copy of this permit, including the standard conditions, and a copy of the approved subdivision plan to each lot buyer at least 14 days prior to the date of closing on the sale or lease of the lot. The applicant also shall maintain a file containing signed and dated statements by lot buyers or lessees acknowledging that they have received and read their copy of this permit and the subdivision plan prior to the closing on their lot. The file shall also contain a copy of the signed and dated deed or lease containing the restrictive covenants required under this approval. The applicant shall make this file available for inspection upon request by the Department.
7. The applicant shall retain the services of a third party inspector to oversee sight construction and a third party geotechnical engineer to oversee the construction of stormwater management facilities, in accordance with the Special Condition for Third Party Inspection Program, which is attached to this Order.
8. Prior the start of construction, the applicant shall conduct a pre-construction meeting. This meeting shall be attended by the applicant's representative, Department staff, the design engineer, the contractor, and both of the third-party inspectors.
9. Prior to the start of construction, the location of freshwater wetlands, stream buffers, significant wildlife habitat, and the wetland compensation area on individual lots shall be permanently marked on the ground.
10. The applicant shall execute and record all required deed restrictions, including the appropriate buffer deed restrictions described in Finding 8, within 60 days of the date of this Order unless the deed restriction is to be placed on a subdivision lot. In that situation, the applicant shall execute and record the required deed restriction prior to the start of construction on the lot. The applicant shall submit a copy of the recorded deed restriction, including the plot plan, to the BLWQ within 60 days of its recording.
11. Prior to the start of construction of each of the four Phases, the applicant shall submit evidence of final financial capacity for that Phase to the Bureau of Land and Water Quality for review and approval.
12. The existing erosion problem adjacent to two unnamed streams shall be repaired according to the "Trail Erosion Repair Plan" prior to October 15, 2008.

13. The applicant shall retain its design engineer or other qualified professional to oversee the construction of the wet pond and underdrained filters, and upon completion, submit to the BLWQ the engineer's written certification that the structures were installed in accordance with the approved plans.
14. The applicant shall convey the 5.88-acre parcel along Cascade Brook and the 6.35-acre parcel along the unnamed tributary to the City of Saco with deed restrictions protecting those areas from development.
15. Prior to the start of each phase, the applicant shall submit to the BLWQ for review and approval specific plans for stormwater management for that phase. The plan shall include a narrative, drawings, and calculations as evidence that the stormwater management system for that phase will continue to meet the Department's stormwater management standards.

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

DONE AND DATED AT AUGUSTA, MAINE, THIS 25th DAY OF January, 2008.

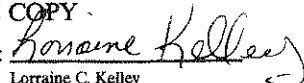
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By:


DAVID P. LITTELL, COMMISSIONER

A TRUE COPY -

ATTEST:


Lorraine C. Kelley
Bureau of Land & Water Quality

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

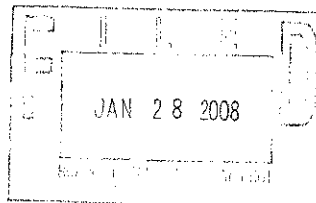
Date of initial receipt of application: March 28, 2007

Date of application acceptance: April 12, 2007

Date of initial receipt of application: June 01, 2007

Date of application acceptance: June 15, 2007

Date filed with Board of Environmental Protection
DEH/ATS#65044&65384/L23647ANCN



SITE LOCATION OF DEVELOPMENT (SITE)
STANDARD CONDITIONS

STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL
IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL.

1. This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents is subject to the review and approval of the Board prior to implementation. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited, without prior approval by the Board of Environmental Protection, and the applicant shall include deed restrictions to this effect.
2. The applicant shall secure and comply with all applicable Federal, State and local licenses, permits, authorizations, conditions, agreements, and orders, prior to or during construction and operation as appropriate.
3. The applicant shall submit all reports and information requested by the Board or Department demonstrating that the applicant has complied or will comply with all conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
4. Advertising relating to matters included in this application shall refer to this approval only if it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
5. Unless otherwise provided in this approval, the applicant shall not sell, lease, assign or otherwise transfer the development or any portion thereof without prior written approval of the Board where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval shall be granted only if the applicant or transferee demonstrates to the Board that the transferee has the technical capacity and financial ability to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant.
6. If the construction or operation of the activity is not begun within two years, this approval shall lapse and the applicant shall reapply to the Board for a new approval. The applicant may not begin construction or operation of the development until a new approval is granted. Reapplications for approval shall state the reasons why the development was not begun within two years from the granting of the initial approval and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplications for approval may include information submitted in the initial application by reference.
7. If the approved development is not completed within five years from the date of the granting of approval, the Board may reexamine its approval and impose additional terms or conditions or prescribe other necessary corrective action to respond to significant changes in circumstances which may have occurred during the five-year period.
8. A copy of this approval must be included in or attached to all contract bid specifications for the development.
9. Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the developer a copy of this approval.

(2/81)/Revised November 1, 1979

DEPLW 148



NATURAL RESOURCE PROTECTION ACT (NRPA) STANDARD CONDITIONS

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

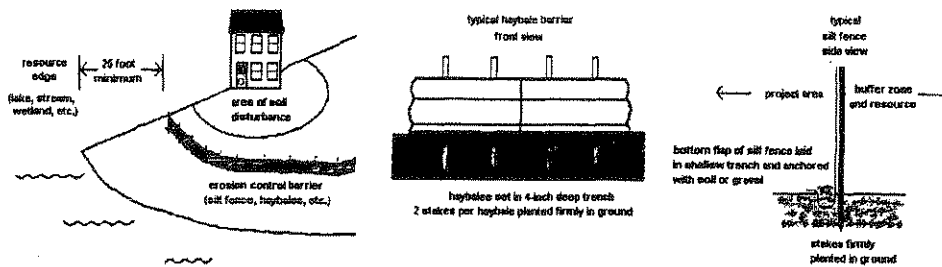
- A. **Approval of Variations From Plans.** The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject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



Erosion Control

Before Construction

1. If you have hired a contractor, make sure you have discussed your permit with them. Talk about what measures they plan to take to control erosion. Everybody involved should understand what the resource is and where it is located. Most people could identify the edge of a lake or a river. The edges of wetlands, however, are often not obvious. Your contractor may be the person actually pushing dirt around but you are both responsible for complying with the permit.
2. Call around and find sources for your erosion controls. You will probably need silt fence, hay bales and grass seed or conservation mix. Some good places to check are feed stores, hardware stores, landscapers and contractor supply houses. It is not always easy to find hay or straw during late winter and early spring. It may also be more expensive during those times of year. Plan ahead. Purchase a supply early and keep it under a tarp.
3. Before any soil is disturbed, make sure an erosion control barrier has been installed. The barrier can be either a silt fence, a row of staked hay bales, or both. Use the drawings below as a guide for correct installation and placement. The barrier should be placed as close as possible to the activity.
4. If a contractor is installing the barrier, double check it as a precaution. Erosion control barriers should be installed "on the contour", meaning at the same level along the land slope, whenever possible. This keeps stormwater from flowing to the lowest point of the barrier where it builds up and overflows or destroys it.



During Construction

1. Use lots of hay or straw mulch on disturbed soil. The idea behind mulch is to prevent rain from striking the soil directly. It is the force of raindrops striking the soil that causes a lot of erosion. More than 90% of erosion is prevented by keeping the soil covered.
2. Inspect your erosion control barriers frequently. This is especially important after a rainfall. If there is muddy water leaving the project site, then your erosion controls are not working as intended. In that situation, stop work and figure out what can be done to prevent more soil from getting past the barrier.

After Construction

1. After the project is complete, replant the area. All ground covers are not equal. For instance, a mix of creeping red fescue and Kentucky bluegrass is a good choice for lawns and other high maintenance areas. The same mix would not be a good choice for stabilizing a road shoulder or a cut bank that you don't intend to mow.
2. If you finish your project after September 15, then do not spread grass seed. There is a very good chance that the seed will germinate and be killed by a frost before it has a chance to become established. Instead, mulch the site with a thick layer of hay or straw. In the spring, rake off the mulch and seed the area. Don't forget to mulch again to hold in moisture and prevent the seed from washing away.
3. Keep your erosion control barrier up and maintained until the area is permanently stabilized.