

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

DEPARTMENT ORDER

IN THE MATTER OF

ALC DEVELOPMENT CORPORATION  
Scarborough, Cumberland County  
DUNSTAN CROSSING  
L-22728-L2-A-N (approval)  
L-22728-L6-B-N

) SITE LOCATION OF DEVELOPMENT ACT  
) NATURAL RESOURCES PROTECTION ACT  
) STREAM ALTERATION  
) WATER QUALITY CERTIFICATION  
) 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 ALC DEVELOPMENT CORPORATION with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. Summary: The applicant proposes to utilize approximately 90 acres of a 150 acre parcel of land for 264 housing units that will vary in size and composition to accommodate a mixture of household types, age groups and income levels. The proposed project also includes a community center, two commercial lots, open space/parks, lawns, pedestrian malls, roads and alleyways, and is divided into four phases. It is shown on a set of plans the first of which is entitled "Dunstan Crossing," prepared by Sebago Technics, and dated July 14, 2006, with a last revision date on any of the sheets of September 21, 2006. The project site is located between Broadturn Road and U.S. Route One in the Town of Scarborough.

The applicant is seeking approval under the Natural Resources Protection Act (NRPA) for two stream crossings and associated wetland fill. The remaining wetland on the project site will remain undisturbed. The applicant also submitted a NRPA Permit By Rule notification form (#41731) in accordance with Department Rules Chapter 305(2) for activities within 75 feet of a stream.

B. Current Use of Site: The site of the proposed project is currently an undeveloped wooded site with an abandoned gravel pit located near Route One. There are no structures on the property.

2. FINANCIAL CAPACITY:

The total cost of Phase 1 is estimated to be \$3,050,000. The applicant submitted a letter from TD Banknorth, dated October 14, 2005, indicating a strong interest in providing the construction financing for the project. Prior to starting construction on each of the four phases, the applicant must submit final cost estimates and 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 final financial information for all four phases is submitted to the BLWQ for review and approval prior to the start of construction.

3. TECHNICAL ABILITY:

The applicant provided a list of projects successfully constructed by the applicant. The applicant also retained the services of Sebago Technics, Inc., 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:

Noise from the residential areas and recreation fields is exempt from the Department's Site Location of Development Rules regulating noise, Chapter 375(10). The applicant indicated that noise from the commercial lots and community center will have a minor sound impact as defined in Chapter 375(10). Construction noise that is generated between the hours of 7 a.m. and 7 p.m. or during daylight hours, whichever is longer, is exempt from regulation pursuant to 38 M.R.S.A. § 484(3)(A).

The Department finds that the applicant has made adequate provision for the control of excessive environmental noise from the proposed project for the regulated sources of noise.

5. SCENIC CHARACTER:

The proposed project site is bordered by the Maine Turnpike on the northeast, residential neighborhoods off Broadturn Road and Route One and some commercial development along Route One where the commercial lots will be located. Common open space areas

and wetlands will provide buffering adjacent to the residential areas and along Broadturn Road.

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 it found no records of any essential or significant wildlife habitats, or other wildlife habitats of special concern associated with this site. A MDIFW fisheries biologist stated that Phillips Brook crosses a portion of the project site and requested that a 100 foot wide buffer be maintained adjacent to the brook. In most locations, the applicant is proposing to comply with MDIFW's buffer recommendation. Proposed buffers are further discussed in Finding 8.

The Department finds that the applicant has made adequate provision for the protection of wildlife and fisheries.

7. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The Maine Historic Preservation Commission reviewed the proposed project and the Phase I archaeological investigation, and stated that the proposed project 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 and, as discussed in Finding 6, MDIFW did not identify any unusual wildlife habitats located on the project site.

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 submitted a buffer plan, last revised September 21, 2006. A minimum buffer of 75 feet will be maintained adjacent to Phillips Brook and adjacent to the channelized areas of the unnamed stream that crosses the project site except for some minor grading associated with the stormwater management system. The unnamed stream is channelized between the Maine Turnpike and a large wetland on-site. The channel disappears in the wetland and then forms again for several hundred feet before

disappearing in another large on-site wetland area. The channel re-forms at the end of the second wetland area and flows off-site into Phillips Brook. The applicant is also maintaining a 25 foot wide undisturbed buffer adjacent to most of the on-site wetlands.

Prior to the start of construction, the location of stream and wetland buffers on individual lots must be permanently marked on the ground and the deed for each lot that contains any portion of the designated buffer 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 on the lot.

Provided the buffers are marked and protected with deed restrictions as outlined above, the Department finds that the applicant has made adequate provision for buffer strips.

9. SURFACE WATER QUALITY:

The topography varies throughout the project site and consists of flat to moderate slopes. The site generally drains west to east. Two streams drain the on-site wetlands. The first stream, which is unnamed, originates on the western side of the Maine Turnpike and runs in an easterly direction. The second stream, Phillips Brook, also begins to the west of the Turnpike and runs in an easterly direction before turning north. The streams join together off-site. No discharges to surface waters are proposed other than stormwater.

The proposed project includes 32.23 acres of impervious area and is located within the watershed of Phillips Brook, an urban impaired stream and the Scarborough Estuary, a most-at-risk coastal wetland. Because of the project's location, stormwater runoff from the project site must be treated to meet the 80% total suspended solids and basic stabilization standards outlined in Chapter 500 (effective December 31, 1997) of the Department's Rules. The applicant proposes to remove 82.36 per cent of TSS from the project's stormwater runoff.

As discussed in Finding 11, the applicant's proposed stormwater management system was reviewed by, and revised in response to, comments from the Division of Watershed Management (DWM) of the BLWQ. Specific aspects of the system, including measures to protect water quality, are further discussed in Finding 11.

Based on the stormwater management 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 stormwater quality standards contained in Department Rules, Chapter 500 and to ensure that the project will not have an unreasonable adverse impact on surface water quality.

10. SOILS:

The applicant submitted a Class C Medium Intensity Soil Survey map for the project site.

The Department finds that, based on the soil survey map, the soils on the project site present no limitations to the proposed project that cannot be overcome through standard engineering practices.

11. STORMWATER MANAGEMENT:

The applicant is proposing to utilize a stormwater management system consisting of six wet ponds, a subsurface stormwater collection system and a 10 foot diameter HIL Downstream Defender unit. This system is 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.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. In its comments, DWM stated that the proposed system complies with Department standards for stormwater management. DWM recommended that as-built drawings be submitted for the six wet ponds and that no substitution is made for the HIL Downstream Defender unit without prior approval from the Bureau of Land and Water Quality. The HIL Downstream Defender unit will be installed at the location shown on sheet 42 of the set of plans referenced in Finding 1.

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 stormwater quantity standards for: (1) peak flow from the site and peak flow of the receiving waters; (2) grading or other construction activity; (3) channel limits and runoff areas; (4) detention basins; (5) maintenance; (6) easements and covenants; and (7) discharge to freshwater or coastal wetlands.

12. MAINTENANCE OF COMMON FACILITIES:

The Dunstan Crossing Master Association will be established and will become responsible for the maintenance of all common facilities including the alleyways and stormwater management system. This maintenance will include, but not be limited to, any necessary erosion and sedimentation control measures, and the long-term maintenance of the stormwater management system as outlined in Section 13 of the application. The Master Declaration of Covenants, Conditions and Restrictions (last revised September 29, 2006) for the association was reviewed and found to meet Department standards. Prior to the formation of the association and its assumption of maintenance responsibility, the applicant will be responsible for all such maintenance.

The applicant intends to ask the town to accept the roads, except for the alleyways, as public roads. 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 by the Town to the BLWQ that documents the Town's agreement to maintain both in accordance with the terms of this Order. Prior to occupancy of any building in Phase 1, the applicant must submit a copy of an executed long-term maintenance contract (minimum of 5 years and renewable) for the on-going maintenance of the water quality units to the Bureau of Land and Water Quality.

13. EROSION AND SEDIMENTATION CONTROL:

The applicant submitted an Erosion and Sedimentation Control Plan as Section 14 of the application. This plan and plan sheets containing erosion control details were reviewed by, and revised in response to the comments of DWM. Dewatering areas for the wet ponds were identified on the set of plans referenced in Finding 1. The applicant must ensure that no silt-laden water is discharged into the wetlands or streams during the dewatering process or from using the wet ponds as sediment ponds during construction. 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 in accordance with the Special Condition for Third Party Inspection Program, which is attached to this Order.

Provided a third party inspector is retained prior to the start of construction, the Department finds that the applicant has made adequate provision to control erosion and sedimentation.

14. 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.

15. WATER SUPPLY:

When completed, the proposed project is anticipated to use 100,000 gallons of water per day. Water will be supplied by the Portland Water District. The applicant submitted a letter from the District, dated April 28, 2003, indicating that it will work with the applicant to upgrade its system and 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.

16. WASTEWATER DISPOSAL:

When completed, the proposed project is anticipated to discharge 100,000 gallons of wastewater per day to the Scarborough Sanitary District's wastewater treatment facility. The applicant submitted a letter from the Scarborough Sanitary District stating that it will accept these flows. This project was reviewed by the Division of Water Quality Management of the Bureau of Land and Water Quality (DWQM), which commented that the Scarborough Sanitary District has the capacity to treat these flows and is operating in compliance with the water quality laws of the State of Maine. Two on-site pump stations are proposed. Prior to using the pump stations, a pump station maintenance plan and the identity of the party responsible for the maintenance must be submitted to the DWQM for review.

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 provided a pump station maintenance plan is submitted to DWQM as outlined above.

17. SOLID WASTE:

When completed, the proposed project is anticipated to generate 528 cubic yards of general solid waste per year. All general solid wastes from the proposed project will be disposed of at the Eco Maine Facility in Portland, which is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

The proposed project will generate approximately 16,000 cubic yards of stumps and grubblings. Stumps and grubblings will be ground on site and used as mulch to stabilize back slopes and for erosion control, in compliance with Solid Waste Management Regulations of the State of Maine.

The proposed project will generate approximately 1,320 cubic yards of construction debris. Construction debris will be disposed of at a recycling facility or taken to the Riverside Street waste facility in Portland, which is 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.

18. FLOODING:

The proposed project is not located within the 100-year floodway of any river or stream.

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

19. WETLAND IMPACTS:

The applicant proposes to alter 130 linear feet of Phillips Brook and 124 linear feet of the unnamed stream to place two road culverts. Approximately 980 square feet of forested wetland will be filled for the road crossings.

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 stream 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 dated December 19, 2005. The proposed development is located within the Dunstan Village Residential Zoning District and Town Ordinances require access to be continuously connected between Broadturn Road and U.S. Route 1. Because of the alignment of the unnamed stream and Phillips Brook, it is not possible to avoid crossing them and still provide continuous road access.
- b. **Minimal Alteration.** The amount of stream channel to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The road is aligned to cross the streams at a perpendicular angle and in locations with minimal wetland impacts. Utilities will be installed underground, within the roadway disturbance area. The roads are 24 feet wide with an eight foot wide esplanade and a five foot wide sidewalk in accordance with Town Ordinances. The crossings will have 1:1 sideslopes to further minimize impacts.
- c. **Compensation.** Compensation was not required for this project in accordance with Chapter 310(5)(C)(7).

The Department finds that the applicant has avoided and minimized stream and 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.
- 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 final financial information for each of the four phases is submitted for review and approval prior to the start of construction.
- 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 the stream and wetland buffers are protected as outlined 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.

- 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 as-built drawings are submitted for the six wet ponds after each pond is completed and permanently stabilized, that no substitution is made for the HIL Downstream Defender Unit without prior approval from the BLWQ, that the Town agrees to maintain the road and stormwater system in accordance with the terms of this Order prior to transferring responsibility for them to the Town, that a long-term maintenance contract for the HIL Downstream Defender unit is executed and a copy submitted to the BLWQ and that a third party inspector is retained as described in Findings 11 and 12.
- 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 provided a pump station maintenance plan is submitted to the DWQM.
- 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 ALC DEVELOPMENT CORPORATION to construct a mixed residential subdivision, 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 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.

5. 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.
6. 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 the third-party inspector.
7. Prior to starting construction on each of the four phases, the applicant shall submit final cost estimates and 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 BLWQ for review and approval.
8. Prior to the start of construction of each phase that contains lots with stream and wetland buffers, the location of the stream and wetland buffers on the individual lots shall be permanently marked on the ground. The deed for each lot that contains any portion of the designated buffer shall 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 on the lot.
9. Within 30 days after each pond is completed and permanently stabilized, the applicant shall submit as-built drawings of the six wet ponds, completed by the design engineer, to the BLWQ.
10. The applicant shall install the HIL Downstream Defender unit as outlined in Finding 11.
11. Prior to occupancy of any building in Phase 1, the applicant shall submit a copy of an executed long-term maintenance contract (minimum of 5 years and renewable) for the on-going maintenance of the water quality units to the Bureau of Land and Water Quality.
12. The applicant shall 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 by the Town to the BLWQ that documents the Town's agreement to maintain both in accordance with the terms of this Order.

- 13. Prior to the start of construction, the applicant shall retain the services of a third party inspector, approved by the BLWQ, in accordance with the Special Condition for Third Party Inspection Program, which is attached to this Order. The third party inspector shall be retained until all the phases are completed and the entire project site is permanently stabilized.
- 14. The applicant shall insure that no silt-laden water is discharged into the wetlands or streams during the wet pond dewatering process or from using the wet ponds as sediment ponds during construction.
- 15. Prior to using the two on-site pump stations, a pump station maintenance plan and the identity of the party responsible for the maintenance shall be submitted to the DWQM for review.

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 10<sup>th</sup> DAY OF October, 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: *David P. Littell*  
DAVID P. LITTELL, COMMISSIONER

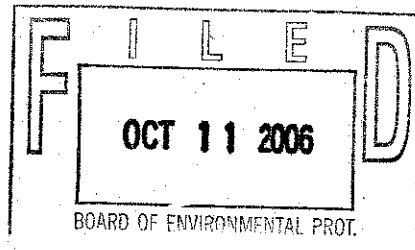
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ATTEST: *Lorraine C. Kelley*  
Lorraine C. Kelley  
Bureau of Land & Water Quality

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application November 9, 2005

Date of application acceptance November 29, 2005

Date filed with Board of Environmental Protection  
LK/ATS#56519&56520/L22728AN&BN



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 0429



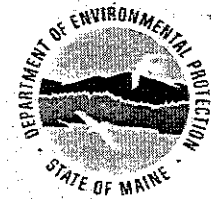
## NATURAL RESOURCE PROTECTION ACT (NRPA) STANDARD CONDITIONS

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.

Revised (4/92)  
DEP LW0428

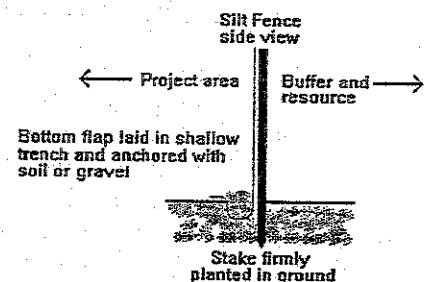
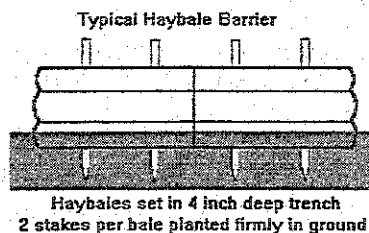
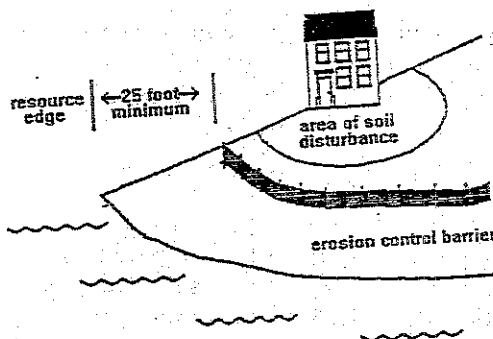
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added to original document  
DEC 23 10:00 AM '92  
Maine DEP  
10/18/92



## 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

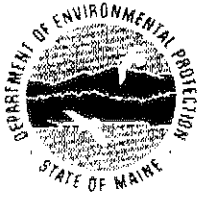
1. Use lots of hay or straw mulch on disturbed soil. The idea behind mulch is to prevent rain from striking the soil directly. It is the force of raindrops striking the soil that causes a lot of erosion. More than 90% of erosion is prevented by keeping the soil covered.
2. Inspect your erosion control 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.

DEP 1599

Received  
Recorded Register of Deeds  
Oct 31, 2006 02:53:04P  
Cumberland County  
John B. O'Brien



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

DEPARTMENT ORDER

IN THE MATTER OF

RAYNAN PROPERTIES  
Scarborough, Cumberland County  
ROADWAY MODIFICATIONS  
L-22728-L2-G-M (approval)

) SITE LOCATION OF DEVELOPMENT ACT  
)  
) MINOR REVISION  
) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 481 et seq., the Department of Environmental Protection has considered the application of RAYNAN PROPERTIES with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History: In Department Order #L-22728-L2-A-N, dated October 10, 2006, the Department approved the development of approximately 90 acres of a 150-acre parcel of land for 264 housing units that will vary in size and composition to accommodate a mixture of household types, age groups and income levels. The project also includes a community center, two commercial lots, open space/parks, lawns, pedestrian malls, roads and alleyways, and is divided into four phases. In Department Order #L-22728-L2-E-T, dated January 31, 2007, the Department approved the transfer of Department Order #L-22728-L2-A-N from ALC Development Corporation to Raynan Properties. The development is located between Broadturn Road and U.S. Route One in the Town of Scarborough.

B. Summary: The applicant proposes to modify several roadways within the Dunstan Crossing subdivision project to resolve technical issues related to utility conflicts and Town of Scarborough standards of construction. The revisions include changes to the vertical alignment of the following roadways: Moulton Drive, Leary Drive, Waterhouse Drive, McConnell Drive, Alley 1, Alley 2, Alley 4 and Alley 5. On these roads, minor changes (i.e. rim elevations and invert elevations) to the sanitary sewer and stormwater drainage collection system were incorporated. The proposed grading on adjoining lots within the subdivision was adjusted accordingly. The revisions are shown on a set of plans entitled, "Dunstan Crossing," prepared by Sebago Technics, Inc. and dated June 13, 2005, with a last revision date on any of the sheets of January 2, 2007.

C. Current Use of Site: Currently, access roads associated with Phase I of the project are under construction. No buildings have been constructed. The remainder of the property is undeveloped and forested with an abandoned gravel pit located near Route One.

P:  
T Shawn Frank  
C Sebago Technics  
P 207-856-2206  
F from ME DEP land Bureau

L-22728-L2-G-M (approval)

2 of 3

2. FINDING:

The proposed project is a minor change and will not significantly affect any issues identified during previous Department reviews of the project site.

Based on its review of the application, the Department finds the requested minor revision to be in accordance with all relevant Departmental standards. All other findings of fact, conclusions and conditions remain as approved in Department Order #L-22728-L2-A-N, and subsequent orders.

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.
- 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.
- 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.
- 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.
- 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 RAYNAN PROPERTIES to modify several roadways in the Dunstan Crossing subdivision as described in Finding 1, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

L-22728-L2-G-M (approval)

3 of 3

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. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-22728-L2-A-N, and subsequent orders, and are incorporated herein.

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 12<sup>TH</sup> DAY OF February, 2007.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: 

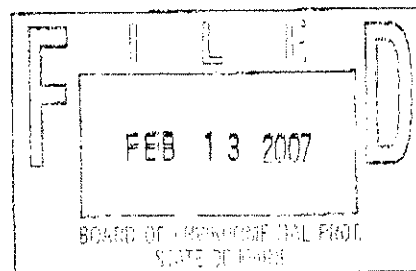
DAVID P. LITTELL, COMMISSIONER

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES...

Date of initial receipt of application: January 9, 2007

Date of application acceptance January 17, 2007

Date filed with Board of Environmental Protection  
CP/ATS#64168/L22728GM





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

DEPARTMENT ORDER

IN THE MATTER OF

CHAMBERLAIN CONSTRUCTION, INC.	) SITE LOCATION OF DEVELOPMENT ACT
Scarborough, Cumberland County	)
DUNSTAN CROSSING TRANSFER	) TRANSFER
L-22728-L2-K-T (approval)	) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S.A. Sections 481 et seq. and Department Rules (Chapter 2, April 1, 2003) Concerning the Processing of Applications, the Department of Environmental Protection has considered the application of CHAMBERLAIN CONSTRUCTION, INC. with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. In Department Order #L-22728-L2-A-N, dated October 10, 2006, the Department approved the development of approximately 90 acres of a 150-acre parcel of land for 264 housing units that will vary in size and composition to accommodate a mixture of household types, age groups and income levels. The project, known as Dunstan Crossing, also includes a community center, two commercial lots, open space/parks, lawns, pedestrian malls, roads and alleyways, and is divided into four phases. The development is located between Broadturn Road and U.S. Route One in the Town of Scarborough.
2. The applicant is applying to transfer Department Order #L-22728-L2-A-N, currently held by Raynan Properties.
3. The applicant submitted the following information in support of this transfer request:
  - A. Transfer application dated July 12, 2007 and signed by Mr. Elliott Chamberlain for both the applicant and the current permittee. Mr. Chamberlain is the president of Chamberlain Construction, Inc. and a principal of Raynan Properties. The applicant submitted a warranty deed, dated January 24, 2007, as evidence of the transfer of Phase I of Dunstan Crossing from Raynan Properties to Chamberlain Construction, Inc. The applicant also submitted a purchase option agreement, dated January 24, 2007, for Phases II, III, and IV.
  - B. Financial Capacity: The applicant submitted a loan commitment letter from Rivergreen Bank, dated December 21, 2006, for infrastructure costs associated with Phase I.
  - C. Technical Ability: Chamberlain Construction, Inc. will have the same developer, Mr. Elliott Chamberlain, as Raynan Properties.
  - D. A Certificate of Good Standing issued by the Maine Secretary of State for Chamberlain Construction, Inc., dated July 16, 2007.

8/23/2007L-22728-L2-K-T

2 of 2

BASED on the above findings of fact, the Department CONCLUDES that Chamberlain Construction, Inc. has provided adequate evidence of financial capacity and technical ability to comply with all conditions of Department Order #L-22728-L2-A-N, and to satisfy all applicable statutory and regulatory criteria.

THEREFORE, the Department APPROVES the above noted application of CHAMBERLAIN CONSTRUCTION, INC., to transfer Department Order #L-22728-L2-A-N, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards:

1. The Standard Conditions of Approval, a copy attached.
2. 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.
3. Prior to construction of Phases II, III, and IV, either Raynan Properties or Chamberlain Construction, Inc. shall certify in writing to the Department that the transaction contemplated by the Purchase Agreement for Phases II, III and IV has occurred.
4. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-22728-L2-A-N, and subsequent orders, and are incorporated herein.

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 29<sup>TH</sup> DAY OF AUGUST, 2007.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

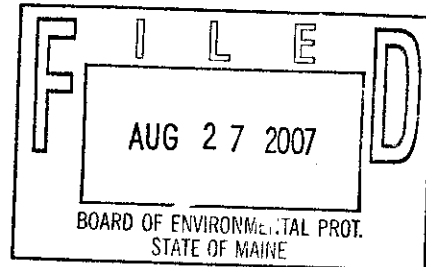
By: [Signature]  
DAVID P. LITTELL, COMMISSIONER

A TRUE COPY  
ATTEST: [Signature]  
Lorraine C. Kelley  
Bureau of Land & Water Quality

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES...

Date of initial receipt of application July 20, 2007  
Date of application acceptance July 26, 2007

Date filed with Board of Environmental Protection  
CP/ATS #66118/L22728KT



**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 0429

Received  
Recorded Register of Deeds  
Sep 11, 2007 03:02:42P  
Cumberland County  
Pamela E. Lovley