HANNAFORD BROS. CO.  
South Portland, Maine  
SHOPPING CENTER  
#59-9148-0520  
L - 9148 - 23 - A - X

Pursuant to the provisions of Title 38, M.R.S.A., Section 483, the Board of Environmental Protection has considered the application of HANNAFORD BROS. INC. with its supportive data, staff summary, agency review comments, and other related materials on file and finds the following facts:

1. The applicant proposes development of a shopping center complex consisting of 84,000 square feet of building space to accommodate a Shop 'N Save and Welby Drugstore combination and smaller retail stores. A 5.6 acre parking lot will accommodate 459 cars.

The proposed site is located on the corner of Phillbrook Avenue and Gorham Road directly behind the Maine Mall.

The main entrance will be located on Phillbrook Avenue with two restricted entrances on Gorham Road. Signal lights presently control traffic at the Gorham Road, Phillbrook Avenue intersection.

A 1982 financial report from the Hannaford Bros. Co. was submitted in support of the applicants financial capability to develop the 3.2 million dollar project.

The applicant has acquired the services of the E. C. Jordan Co. for engineering consulting, and other engineering companies for traffic studies, storm water, and soil testing services.

Specific engineering structures are planned to control surface water run-off, however, no provisions have been provided to control water quality.

Solid waste consisting of trash and garbage will be hauled to the community disposal site. Dry corrugated material from the supermarket will be baled for recycling.

The existing site consists of an old stripped lot partially covered with low brush. The proposed landscaping plan will provide for new plantings of trees and shrubs around the project site, as well as landscaped barriers within the parking lot.

Stormwater collected will be detained in a detention basin constructed on the site, which will be used also as a sedimentation basin during construction.

Soil types in the project area consist of fine sands over clay. Soil borings were taken to depth of 60+ feet when stone or ledge were encountered. No sand/gravel aquifers are mapped for this area.
HANNAFORD BROS. CO.
South Portland, Maine
SHOPPING CENTER
#59-9148-05220

2 SITE LOCATION ORDER
)
)
) FINDINGS OF FACT AND ORDER

BASED on the above findings of fact, the Board concludes that the proposed shopping center will satisfy the requirements of Title 38, M.R.S.A., Section 484, for the issuance of a site location permit in that:

A. The applicant has provided adequate evidence of financial capacity and technical ability to meet air and water pollution control standards.

B. The applicant has made adequate provision for solid waste disposal, the control of offensive odors, and the securing and maintenance of sufficient and healthful water supplies.

C. The applicant has made adequate provisions for traffic movement of all types out of or into the development area provided traffic volumes generated by this development are controlled by the newly installed traffic lights at the intersection of Philbrook Avenue and Gorham Road.

D. 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 or natural resources in the municipality or in neighboring municipalities provided phosphorous contaminated runoff water is treated before discharge into Jackson Brook.

E. The proposed development will be built on soil types which are suitable to the nature of the undertaking.

F. The proposed development will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur.

THEREFORE, the Board APPROVES WITH THE ATTACHED CONDITIONS the application of HANNAFORD BROS. CO. to develop a shopping center in South Portland, Maine, in accordance with the following conditions:

1. The Standard Conditions of Approval, a copy attached.

2. Revised plans to control phosphorous loading of Jackson Brook shall be submitted for review and approval by the Commissioner before construction begins, or not later than March 1, 1984.

3. The applicant shall reevaluate the intersection of Philbrook Avenue and Gorham Road to determine whether the traffic light controls additional traffic at scheduled time of opening in the summer of 1985.
HANNAFORD BROS. CO.
South Portland, Maine
SHOPPING CENTER
#59-9148-05220

3 SITE LOCATION ORDER
)
)
) FINDINGS OF FACT AND ORDER

The additional traffic study shall be conducted one month before opening and one month after opening of this facility with the results submitted to the Department for review and approval by the Commissioner.

In the event of a negative finding, the applicant shall be required to install new signals with 3 phase capabilities.

Timing of the installation of the traffic light shall be determined by the Department prior to Commissioner approval.


BOARD OF ENVIRONMENTAL PROTECTION

Henry E. Warren, Chairman

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES....
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17
AUGUSTA, MAINE 04333

STAFF ORDER

IN THE MATTER OF

HANNAFORD BROS. CO.
South Portland, Maine
SHOPPING CENTER
#59-0148-05220

L-9148-23-B-X

After reviewing the project file which includes the application with its supportive data, agency review comments, staff summary and other related materials on file with regard to the above noted project, under provisions of Title 38, M.R.S.A., Sec. 483, the Department finds the following facts:

1. The applicant has submitted evidence concerning compliance with Condition #2 of the Order of the Board of Environmental Protection dated January 13, 1984. The nature of the evidence is:

   A. Revised plans which provide for a method to control phosphorous loading of all surface water runoff.

2. Condition #2 reads as follows:

   2. Revised plans to control phosphorous loading of Jackson Brook shall be submitted for review and approval by the Commissioner before construction begins, or not later than March 1, 1984.

Based upon the above Findings, the Department concludes that HANNAFORD BROS. CO. has complied with condition #2 of the Order dated January 13, 1984.

DONE AND DATED AT AUGUSTA, MAINE, THIS 24th DAY OF JANUARY, 1984.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY Henry E. Warren, Commissioner
DEPARTMENT ORDER

IN THE MATTER OF

SHOPPING CENTER PROPERTIES, INC.  )  SITE LOCATION ORDER
South Portland, Maine  )  TRANSFER
SHOPPING CENTER  )
#L-009148-23-C-M & D-M  )  FINDINGS OF FACT AND ORDER

After reviewing the project file and related materials submitted with regard to the above noted application, under provisions of Title 38 M.R.S.A., Section 483, the Department finds the following facts:

1. The application involves the transfer of Board Order #L-009148-23 from MB-SHOP, INC. to SHOPPING CENTER PROPERTIES, INC.

2. The applicant has submitted the following evidence in support of his request:

   A. Transfer application dated April 30, 1985, and signed by Arthur A. Aleshire, property manager.

3. The applicant has submitted a 1984 Annual Report showing evidence of financial and technical capacity.

4. The applicant is also requesting approval of out parcel "A" containing about 1.3 acres to be located on the corner of Philbrick Avenue and Gorham Road. Access to lot "A" shall be limited to the original approved shopping center entrances.

THEREFORE, the Department APPROVES the transfer of Board Order #L-009148-23 and also approves out parcel "A" of 1.30 acres, subject to the following terms and conditions:

1. The Standard Conditions of Approval, a copy attached.


3. Out parcel "A" shall be conveyed only with deed covenant or lease term prohibiting development of any kind without prior approval of the Department of Environmental Protection.

DONE AND DATED AT AUGUSTA, MAINE, THIS 14TH DAY OF MAY, 1985.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: ________________
HENRY E. WARREN, Commissioner

PLEASE NOTE ATTACHED SHEET FOR APPEALS PROCEDURES....
Pursuant to the provisions of Title 38, M.R.S.A., Section 483, the Board of Environmental Protection has considered the application of HANNAFORD BROS. CO. with its supportive data, staff summary, agency review comments, and other related materials on file and finds the following facts:

1. This applicant received Board approval January 13, 1984, to develop a shopping center in South Portland.

The project included 84,000 square feet of building space to accommodate a Shop & Save/Welby Drug Store combination and other smaller retail stores. The 5.6 acre parking lot will accommodate 459 cars.

The applicant is requesting Board approval to make changes to the parking lot layout, building location and an addition to the building.

The proposed changes will be a redesigned parking lot to provide space for 59 additional cars.

The building complex will be moved 15 feet closer to the Gorham Road to provide space for 53 cars at the rear of the building. The new design will also provide for the addition of one more lane of parking in front of the stores.

The proposed addition to the structure will add 10,695 square feet to be used by the smaller stores and the grocery store.

The total area of building and pavement will be 8.39 acres; an increase of .14 acres.

During the initial review of this shopping center, the Board concluded that the applicant had made adequate provisions relevant to financial capacity, solid waste disposal, traffic movement, soil types and ground water aquifers.

With the exception of traffic movement, these facts remain the same for the proposed building expansion and redesign of the parking lot.

Traffic improvements include a change to the signal light at the intersection of the Gorham Road and Phillbrook Avenue. The change is an additional phase to allow left turning of traffic from the Gorham Road by the use of a separate green arrow.

BASED on the above findings of fact, the Board makes the following conclusions,

A. The applicant has provided adequate evidence of financial capacity and technical ability to meet air and water pollution control standards.
B. The applicant has made adequate provision for solid waste disposal, the control of offensive odors, and the securing and maintenance of sufficient and healthful water supplies.

C. The applicant has made adequate provision for traffic movement of all types out of or into the development area.

D. 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 or natural resources in the municipality or in neighboring municipalities.

E. The proposed development will be built on soil types which are suitable to the nature of the undertaking.

F. The proposed development will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur.

THEREFORE, the Board APPROVES WITH THE ATTACHED CONDITIONS the application of HANNAFORD BROS. CO. to make an addition to the proposed building, construct a redesigned parking lot and move the building location, in South Portland, Maine, in accordance with the following conditions:

1. The Standard Conditions of Approval, a copy attached.

2. Special condition #3 relevant to additional traffic studies as required by the January 13, 1984 Board Order shall remain in effect.

Special condition #3 reads as follows:

The applicant shall reevaluate the intersection of Philbrook Avenue and Gorham Road to determine whether the traffic light controls additional traffic at scheduled time of opening in the summer of 1985.

The additional traffic study shall be conducted one month before opening and one month after opening of this facility with the results submitted to the Department for review and approval by the Commissioner.

In the event of negative finding, the applicant shall be required to install new signals with 3 phase capabilities.

Timing of the installation of the traffic light shall be determined by the Department prior to Commissioner approval.

DONE AND DATED AT AUGUSTA, MAINE, THIS 8TH DAY OF AUGUST, 1984.

BOARD OF ENVIRONMENTAL PROTECTION

BY: [Signature]
SAMUEL M. ZAITLIN, Chairman

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES....
After reviewing the project file and related materials submitted with regard to the above noted application, under provisions of Title 38 M.R.S.A., Section 483, the Department finds the following facts:

1. The application involves the transfer of Board Order #L-009148-23-B-M from Hannaford Bros. Co. to M-B SHOP, INC.

2. The applicant has submitted the following evidence in support of his request:
   a) Application for transfer signed by Charles Crockett, Secretary
   b) 1983 financial report and
   c) statement from Hannaford Bros. Co. that Hannaford Bros. Co. will financially support M-B SHOP, INC. in completing this project.

3. The applicant has adequate financial and technical capacity to meet air and water pollution control standards.

THEREFORE, the Department APPROVES the transfer of Board Order #L-009148-23-B-M from Hannaford Bros. Co. to M-B SHOP, INC. subject to the following conditions:

1. The Standard Conditions of Approval, a copy attached.

DONE AND DATED AT AUGUSTA, MAINE, THIS 16th DAY OF NOVEMBER 1984.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: ________________________________
   Henry E. Warren, Commissioner

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES....
STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

DEPARTMENT ORDER
IN THE MATTER OF

SHOPPING CENTER PROPERTIES, INC.
South Portland, Cumberland County
SHOP 'N SAVE PLAZA EXPANSION
L-9148-23/L6-E-A (approval)

) SITE LOCATION OF DEVELOPMENT
) NATURAL RESOURCE PROTECTION
) WATER QUALITY CERTIFICATION
) FINDINGS OF FACT AND ORDER

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

1. PROJECT DESCRIPTION:

A. History of Project: In Board Order #59-9148-05220, dated January 13, 1984, the Board approved the development of an 84,000 square foot grocery/retail center with an associated 5.6 acre parking lot. Department Order #L-9148-23-C-M, dated May 14, 1985, approved the construction of a bank building on an outparcel. The Department approved one minor modification to the project and two transfers of the permit in related orders.

B. Summary: The applicant proposes to expand the existing retail center by constructing a 23,500 square foot attached retail addition and a 5,330 square foot free standing restaurant. This proposal is shown on a set of 21 plans the first of which is entitled "Site Development Plans for Shopping Center Properties, Inc.," drawn by DeLuca - Hoffman Associates, Inc. and dated October 1994, with the latest revision date on any of the sheets being January 18, 1995. The project site is a 12.85 acre parcel located at the corner of Philbrook Avenue and Gorham Road in the city of South Portland.

Construction of the project may occur at a single time or in phases. If a phased approach is taken, the first would be the construction of the free-standing restaurant, and the second would be the stormwater management system construction and the attached retail expansion. If construction occurs at a single time, the stormwater management system would be constructed first, followed by the free-standing restaurant and retail expansion.

The applicant requests a Natural Resource Protection Act permit because the construction of the proposed stormwater management facility will necessitate the relocation of an approximately 80 foot long stream remnant located between existing stormwater management structures that serve the adjacent Maine Mall parcel. This proposed activity is further outlined in Finding 7 below.

C. Current Use of Site: There is an existing 96,085 square foot shopping center and a 515-space parking lot on the project site. The
outparcel includes a bank building and 16-space parking lot.

2. **FINANCIAL CAPACITY:**

The total cost of the project is estimated to be $2,311,890. The applicant has submitted the Hannaford Brothers 1993 Annual Report which indicates that the company's assets are well in excess of this amount. The applicant is a wholly-owned subsidiary of Hannaford Bros. Co.

3. **TECHNICAL ABILITY:**

The applicant is a wholly-owned subsidiary of Hannaford Bros. Co., which has constructed, owned, and operated numerous retail/grocery stores throughout New England. The applicant has also retained the services of DeLuca-Hoffman Associates, Inc., a professional engineering firm, to assist in the design and engineering of the project.

4. **SOLID WASTE:**

When completed the proposed project is anticipated to generate 4,116 cubic yards of commercial solid waste per year. All commercial solid wastes from the proposed project will be disposed of at Regional Waste Systems, Inc. (RWS) in Portland. RWS is currently in substantial compliance with the Solid Waste Management Regulations of the State of Maine.

The proposed project will generate approximately 360 cubic yards of stumps and grubblings. All stumps and grubblings generated will either be chipped and disposed of on site, with the remainder to be worked into the soil, in compliance with the Solid Waste Management Regulations of the State of Maine, or disposed of at the R.J. Grondin Quarry in Scarborough, both of which are acceptable methods of disposal.

The proposed project will generate approximately 294 cubic yards of construction and demolition debris. All construction and demolition debris generated will be disposed of at Turnkey Landfill in Rochester, New Hampshire. If the debris is separated, concrete will be transported to the R.J. Grondin Quarry and metals will be transported to the Gagnon Junkyard, both in Scarborough. Both are acceptable methods of disposal.

5. **WATER SUPPLY:**

When completed the proposed project is anticipated to use 6,165 gallons per day of water. Water will be supplied by the Portland Water District. The applicant has submitted a letter from the district dated September 22, 1994, indicating that they will be capable of servicing this project.

6. **TRAFFIC:**

The proposed project is accessed via Philbrook Avenue. Philbrook Avenue is a paved, 4 lane road with a 58 foot wide travel surface and bituminous curbed shoulders. The existing main entrance way off Philbrook Avenue consists of a 30 foot wide entrance with 2 lanes and a 30 foot wide exit with 2 lanes. An existing 30 foot wide secondary access road on Gorham
Road allows right turns into and out of the development. There is also a 70 foot wide truck access from Gorham Road. Gorham Road in this area is a 70 foot wide, 4 lane road with a 6 foot wide granite curbed island. No modifications to the existing entrance points are proposed.

The applicant has submitted a report analyzing traffic to be generated by the proposed project and recommending certain road improvements to accommodate this traffic. The report was prepared on the assumption that the project will involve an addition of 29,200 square feet of retail/restaurant space or equivalent to be completed by the year 1996. This report has been reviewed by the Maine Department of Transportation (MDOT).

MDOT review comments indicate that site distances at intersections are adequate. For potential on-site impacts, MDOT has expressed concern regarding the end-island design the applicant proposes to construct in the expanded parking area. The applicant proposes to construct end-islands which conform with the existing end-islands, which are 5 feet in width. Typical engineering design for end-islands specifies a minimum end-island width of 8 feet. MDOT has commented that the proposed end-island design will result in inadequate sight distance.

The applicant has submitted information concerning the history of vehicular accidents in the parking lot of the existing shopping center. There have been no accidents at the project site attributable to substandard end-islands or inadequate sight distance associated with them. In response to a request from MDOT, the applicant has provided turning radii on the outside corners of the 7 proposed end-islands to facilitate easier turning movements.

MDOT has also commented that "We concur with the Consultant's recommendation that signs be posted within the parking lot to direct traffic exiting the site and heading eastbound on Gorham Road be directed to the right-turn in, right-turn out driveway located on Gorham Road."

No adverse impacts to off-site traffic are anticipated.

7. **NATURAL DRAINAGE WAYS**:

The project site is currently developed with the exception of a 4 acre area along Philbrook Avenue. This area includes a drainage channel and a stormwater detention pond which accepts flow from the on site drainage system and approximately 36 acres of the Maine Mall site. A 60 inch culvert under Philbrook Avenue directs Mall runoff into the drainage channel and then into the detention pond. Flow from the pond discharges to a stream which ultimately flows into Clarks Pond.

The drainage channel is a remnant of a stream that was piped beneath the Maine Mall parking lot during construction of the Mall. Currently the channel consists of approximately 120 feet of riprapped channel, possibly altered from its original course, 80 feet of stream, and finally 240 feet of riprapped channel to an outlet control structure. The 80 foot long section of waterway has been classified as a stream because of its defined channel. It is considered to be a low value stream whose
function is primarily to facilitate the movement and storage of stormwater runoff from the Maine Mall parking lot. Because the majority of the stream's volume is comprised of parking lot runoff, the flow in this channel is laden with sediment and floatable material, including oils and greases.

The applicant proposes to relocate the existing drainage channel. A sedimentation basin will be constructed at the existing 60 inch culvert. A new parabolic riprap low flow channel, 5 feet wide, with 5 foot wide sod-stabilized sideslopes will convey stormwater flow approximately 500 feet to a new outlet structure equipped with an oil/water separator. This channel will serve as the stormwater management facility for the site. Discharge from this structure will enter the stream channel that flows offsite.

A portion of the stormwater management facility adjacent to Philbrook Avenue will be located on land belonging to Maine Associates. The applicant has submitted a letter from Maine Associates stating that they have signed an easement agreement with the applicant for the purposes of grading, drainage and landscaping.

8. **STORMWATER RUNOFF:**

The applicant has submitted a stormwater management plan for the site based on estimates of the pre-development and post-development runoff flows for the 2, 10, and 25 year storms using the methodology outlined in "Urban Hydrology for Small Watersheds", Technical Release #55, U.S.D.A., Soil Conservation Service.

The stormwater management plan calls for the relocation of the existing drainage channel/detention pond and the construction of a new detention basin as shown on the plans which will control the peak flow rates to at or below pre-development levels before it leaves the site. The final plan has been reviewed by the Cumberland County Soil and Water Conservation District (CCSWCD) which has commented that, based on the information presented, the plan meets the standards set forth by the Department.

9. **EROSION AND SEDIMENTATION CONTROL:**

The applicant has submitted an Erosion and Sedimentation Control Plan as Section 14 of the application. This plan and plan sheets containing erosion control details have been reviewed by, and revised in response to the comments of, the CCSWCD which has found the revised plans to be in accordance with Departmental standards for erosion and sediment control. CCSWCD has further commented on the need for strict adherence to the construction sequence by the contractor as outlined in Section 14.6 of the application and on Sheet 11 of the set of site plans referenced in Finding 1.

Because the construction of the stormwater detention facility includes the re-location of an existing system that currently accepts runoff from a large off-site watershed (approximately 33 acres of impervious area), proper timing and sequencing is critical and needs to be coordinated with
an extended dry weather pattern. The design engineer will need to be present on site to insure that the temporary re-routing of the existing drainage system and the construction of the new detention facility occurs during an extended dry-weather period (at least 5 days of little or no rain). In addition, the applicant will need to provide a third-party inspector to insure that temporary and permanent erosion and sedimentation controls are properly installed and correctly functioning, and that additional erosion control measures are installed if needed. The third-party inspector will need to inspect the site weekly and after each rainfall event during construction until permanent erosion control measures have been properly installed and the site is stabilized. Written reports will need to be submitted to the Bureau of Land and Water Quality within one week of each inspection. The third-party inspector will need to be approved by the Department.

Prior to the commencement of clearing or construction, the applicant will need to schedule an onsite pre-construction meeting with the contractor, Department staff, a representative of CCSWCD and possibly the local Code Enforcement Officer.

Marine clays excavated during construction will need to be disposed of off site if not suitable for use on site. This material may not be disposed of within 100 feet of a protected natural resource. Any off site disposal area of these clays will need to be stabilized in accordance with the standards in the Maine Erosion and Sediment Control Handbook: Best Management Practices. Prior to disposal of the clays off site, the applicant will need to submit information regarding the disposal area location and the proposed method for stabilization to the Bureau of Land and Water Quality.

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 the construction contractor.

10. SURFACE WATER QUALITY:

The proposed project is not within the watershed of a lake or great pond. On site and offsite stormwater will be collected and detained as outlined in Finding 7. It is anticipated that the proposed sedimentation basin, the bar racks at pipe inlets to remove gross floatables, and the oil/water separator will result in improved water quality in the stormwater flows that ultimately leave the site. This proposal includes the installation of a parabolic low-flow channel. The channel will have sod stabilized sideslopes and a vegetated overbank area which includes the planting of willows and redosier dogwoods. Vegetated areas may provide additional stormwater treatment. It is anticipated that the overbank area as proposed will provide a canopy for the channel which will eventually help to lower water temperatures and provide improved aquatic habitat, while reducing downstream impacts.

11. GROUNDWATER QUALITY:

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

12. **BUFFER STRIPS:**

The proposed retail building expansion is within the stream buffer in the area where it leaves the site. The expansion is within an area that is currently paved in the buffer. The relocation of the stormwater management facility will provide for the same buffer width that currently exists on the site; a minimum of 30 feet and an average of 35 feet. The buffer area, once created, will remain undisturbed.

13. **HISTORIC SITES AND UNUSUAL NATURAL AREAS:**

The project site has been reviewed by the Maine Historic Preservation Commission which has found 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.

There is no record of any known rare or unusual features on the property. This is based on a review of the Maine Natural Heritage Program data base. However, a population of the rare plant Gentianopsis crinita (fringed gentian) has been recorded approximately 2 miles south/southeast of the site. The applicant has submitted a letter from Eco- Analysts, Inc., dated November 17, 1994, which states that this species was not observed on the site.

14. **SOILS:**

The applicant has submitted a medium intensity soil survey of the project site and a geotechnical report including summary of soils limitations prepared by a registered professional engineer. This summary indicates that the soils on the site present no limitations to the proposed project which cannot be overcome through standard engineering practices.

15. **WASTEWATER DISPOSAL:**

When completed the proposed expansion is anticipated to generate 6,195 gallons per day (gpd) to the City of South Portland's wastewater treatment facility. The applicant has agreed with the City of South Portland to extend the existing sewer lines to serve this project. The applicant has submitted a letter from the City of South Portland, dated September 23, 1994, indicating that it will accept these flows. This project has been reviewed by the Division of Water Resource Regulation of the Bureau of Land and Water Quality which has indicated that the City of South Portland's wastewater treatment facility has the capacity to treat these flows and is operating in substantial compliance with the water quality laws of the State of Maine.

16. **ALL OTHER:**

All other findings of fact, conclusions, and conditions remain as approved in Board Order #59-9148-05220, and all amendments and modifications thereto.
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. Section 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, aquatic habitat, travel corridors, 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 provided the stormwater facility construction sequence is strictly followed as outlined in Finding 9.

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 within a sand dune system.

I. The activity is not on an outstanding river segment as noted in Title 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. Section 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 traffic movement of all types into, out of or within the development area provided signs are posted to direct exiting traffic to the Gorham Road driveway as outlined in Finding 6. Any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development.

C. 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 South Portland or in neighboring
municipalities.

D. 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 the stormwater management facility construction sequence is strictly followed as outlined in Finding 9.

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 South Portland or the 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 Shopping Center Properties, Inc. to construct a 23,500 square foot in-line addition and a 5,330 square foot free-standing restaurant at the existing Shop N Save Plaza in South Portland, Maine, 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 Finding 9 of this order, 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. The segment of the stormwater facility construction sequence that includes the temporary re-routing of the existing stormwater flows shall be performed during a period of extended dry weather (at least 5 days of little or no precipitation).

4. The applicant shall arrange for its design engineer to be present onsite during construction of the proposed stormwater management facility to ensure that the construction sequence of the stormwater management facility is strictly adhered to by the contractor as outlined in Section 14.6 of the application and Sheet 11 of the set of plans referenced in Finding 1. The design engineer shall inspect the site weekly and after each rainfall event and shall submit written reports to the Bureau of Land and Water Quality within one week of each inspection.

5. The applicant shall provide a third-party inspector approved by the Bureau of Land and Water Quality to inspect the site as necessary to ensure that temporary and permanent soil erosion and sedimentation controls are properly installed and functioning.
6. The applicant shall schedule a pre-construction meeting with the Bureau of Land and Water Quality, the contractor, and a representative of CCSWCD prior to clearing or construction.

7. Prior to occupancy, the applicant shall install signs within the parking lot to direct exiting traffic heading eastbound on Gorham Road to the right-turn in, right-turn out driveway located on Gorham Road.


DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: ________________________________
    DEBORAH N. GARRETT, ACTING COMMISSIONER

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

Date Of Initial Receipt of Application 10/12/94
Date Of Application Acceptance 10/19/94

Date filed with Board of Environmental Protection
MR/L9148EA
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
Pursuant to the provisions of Title 38 M.R.S.A. Section 481 et seq., the Department of Environmental Protection has considered the application of SHOPPING CENTER PROPERTIES, INC. with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. In Board Order #59-9148-05220, dated January 13, 1984, the Board approved the development of an 84,000 square foot grocery-retail center on a 12.85 acre parcel of land on the corner of Philbrook Avenue and Gorham Road in the city of South Portland. In Department Order #L-9148-23-C-M, dated May 14, 1985, the Department approved the construction of a bank building on the site. In subsequent orders, the Department approved a minor modification and two transfers of the permit. Department Order #L-9148-23/L6-E-A, dated February 13, 1995, approved the in-line expansion of the retail center by 23,500 square feet and the construction of a free-standing 5,330 square foot restaurant.

2. The applicant proposes to increase the building footprint of the free-standing restaurant to 7,102 square feet.

3. The applicant has submitted information related to the expected increase in traffic generated by the proposed project. This information indicates that the expected increase in traffic will be minimal.

4. The proposed project will require an additional 3,040 gallons per day of water and will discharge an additional 2,385 gallons per day of wastewater. The applicant has submitted a letter from the Portland Water District, dated October 12, 1995, indicating that they can provide a sufficient and healthful quantity of water for the project. The applicant has also submitted a letter from the City of South Portland, dated October 12, 1995, indicating that the City's sewage treatment facility has the capacity to accept these flows. The Bureau of Land and Water Quality's Division of Water Resource Regulation has commented that the City of South Portland's sewage treatment facility is operating in substantial compliance with the water quality laws of the State of Maine.

5. As part of the proposed change, the applicant has decreased the amount of parking originally approved for the site. The increase in the restaurant's building footprint will result in a net increase in impervious area of 100 square feet. The applicant has submitted stormwater and erosion control information based on this change. This information indicates that the stormwater management plan and erosion control plan originally approved for the project remain unchanged and will not be affected by this modification. The Cumberland County Soil
and Water Conservation District has reviewed this information and has concurred with this conclusion.

6. Based on its review of the application the Department finds the requested modification to be in accordance with all relevant Departmental standards. All other findings of fact, conclusions and conditions remain as approved in Board Order #59-9148-05220, and subsequent orders.

BASED on the above findings of fact, and subject to the Conditions listed below, the Department makes the following conclusions in relation to the proposed modification pursuant to 38 M.R.S.A. Section 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 traffic movement of all types into, out of or within the development area and any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development.

C. 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 South Portland or in neighboring municipalities.

D. 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.

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 South Portland 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 SHOPPING CENTER PROPERTIES, INC. to increase the building footprint of the restaurant at Shop 'N Save Plaza, 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. All other Findings of Fact, Conclusions, and Conditions remain as approved in Board Order #59-9148-05220, and subsequent orders, and are incorporated herein.


DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: [Signature]

EDWARD O. SULLIVAN, COMMISSIONER

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application 10/31/95
Date application accepted for processing 11/3/95

Date filed with Board of Environmental Protection
MR/L9148FM
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 PHILBROOK AVENUE ASSOCIATES, L. L. C. with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. In Board Order #59-9148-05220, dated January 13, 1984, the Board approved the development of a shopping center consisting of 84,000 square feet of retail space and a 459-car parking lot. The center was to be occupied by a Hannaford grocery store and several smaller retail stores. Department Order #L-9148-23-C-M, dated May 14, 1985, approved the construction of a bank building on an outparcel. In Department Order #L-9148-23/L6-E-A, dated February 13, 1995, the Department approved an in-line expansion of the retail center and the construction of a free standing restaurant. The development is located on the corner of Philbrook Avenue and Gorham Road in the City of South Portland.

2. The applicant is applying to transfer Board Order #59-9148-05220, currently held by Hannaford Bros. Co. The applicant is applying to transfer only the part of the permit as it relates to the portion of the retail center not occupied by the Hannaford grocery store. The transfer of the property occurred in December of 2003.

3. The applicant submitted the following information in support of this transfer request:


B. Financial Capacity: The applicant intends to build out the remainder of the project approved in Department Order #L-9148-23-E-A. The cost to complete the project is estimated to be approximately $1.8 million. The applicant submitted a letter from Citizens Bank, dated July 1, 2004, which states that, in combination with debt from the bank, the applicant has sufficient funds on hand to complete the project.
C. Technical Ability: The applicant is an affiliate of S. R. Weiner Associates, Inc., which owns and operates a number of retail centers in Maine.


BASED on the above findings of fact, the Department CONCLUDES that Philbrook Avenue Associates, L. L. C. has provided adequate evidence of financial capacity and technical ability to comply with all conditions of Board Order #59-9148-05220 and subsequent orders as they relate to the portion of the project not occupied by Hannaford Bros. Co., and to satisfy all applicable statutory and regulatory criteria.

THEREFORE, the Department APPROVES the above noted application of PHILBROOK AVENUE ASSOCIATES, L. L. C. to transfer of Board Order #59-9148-05220 and subsequent orders, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards:

1. The Standard Conditions of Approval, a copy attached.
2. All other Findings of Fact, Conclusions and Conditions remain as approved in Board Order #59-9148-05220, 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.


DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: DAWN R. GALLAGHER, COMMISSIONER

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

Date of initial receipt of application   July 28, 2004
Date of application acceptance         August 2, 2004
Date filed with Board of Environmental Protection 
MR/ATS52917/L9148GT
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 PHILBROOK AVENUE ASSOCIATES, 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:** In Board Order #59-9148-05220, dated January 13, 1984, the Board approved the development of a shopping center consisting of 84,000 square feet of retail space and a 459-car parking lot. The center was to be occupied by a Hannaford grocery store and several smaller retail stores. Department Order #L-9148-23-C-M, dated May 14, 1985, approved the construction of a bank building on an outparcel. In Department Order #L-9148-23/L6-E-A, dated February 13, 1995, the Department approved an in-line expansion of the retail center and the construction of a free-standing restaurant. The free-standing restaurant was constructed in 1996, but the in-line expansion was never built. Therefore, the Natural Resources Protection Act (N.R.P.A.) permit for the wetland and drainage channel alteration activity has expired because this part of the project was not constructed within two years from the date of Department Order #L-9148-23/L6-E-A. Department Order #L-9148-23-G-T, dated August 6, 2004, approved the transfer of a portion of the retail center to the applicant. The development is located on the corner of Philbrook Avenue and Gorham Road in the City of South Portland.

   B. **Summary:** The applicant proposes to complete the expansion of the project originally proposed in Department Order #L-9148-23/L6-E-A. The proposed retail center expansion consists of the construction of a 23,500-square foot addition adjacent to the existing TJ Maxx retail space and the construction of additional parking area. The proposed expansion is shown on a set of 21 plans, the first of which is entitled “Building Expansion, Shop ‘N’ Save Plaza – Cover Sheet,” prepared by DeLuca-Hoffman Associates, dated April 2004, and last revised September 29, 2004.
Expanding the existing retail space will result in the alteration of approximately 17,424 square feet of scrub shrub and forested wetland. Part of the wetland consists of a drainage channel that flows along the southwestern boundary of the site between the existing retail center and Philbrook Avenue. This drainage channel is a remnant of a stream that was piped beneath the Maine Mall parking lot during construction of the Mall. Currently the channel consists of approximately 120 feet of riprapped channel, possibly altered from its original course, 80 feet of a more natural channel, and then 240 feet of riprapped channel to an outlet control structure.

C. Current Use of Site: Currently, the site contains a retail store complex and a free-standing restaurant.

2. STORMWATER:

The proposed project is located within the watershed of Long Creek, which has been identified by the Department as an urban impaired stream. To ensure that the runoff from the proposed project will not further degrade water quality in Long Creek, the applicant proposes to incorporate water quality best management practices (BMP’s) into its stormwater management system. These BMP’s will consist of a shallow sediment sump in the detention area, a Downstream Defender water quality treatment unit, and filter inserts in both proposed and existing catch basins. The Division of Watershed Management (DWM) of the Bureau of Land and Water Quality (BLWQ) reviewed the proposed project and commented that the treatment measures will achieve the required total suspended solids (TSS) removal of 80 percent.

The applicant submitted a document entitled “Draft – Stormwater Drainage System Maintenance Agreement,” which includes provisions for maintenance of the stormwater management system and references to the maintenance specifications for the water quality unit. Prior to occupancy of the retail expansion, the applicant must submit an executed copy of the maintenance contract to the BLWQ for review.

As required by Department Order #L-9148-23/L6-E-A, the applicant must coordinate the construction of the relocated detention area with a period of forecasted dry weather, and must retain the services of a third-party inspector in accordance with the Special Condition for Third-Party Inspectors appended to this Order. Also, as required by Department Order #L-9148-23/L6-E-A, the applicant must arrange for and conduct a pre-construction meeting to be attended by the applicant or applicant’s representative, the design engineer, the contractor, the third-party inspector, and Department staff.

3. WETLANDS AND WATERBODIES PROTECTION RULES:
The Department's Wetlands and Waterbodies Protection Rules, Chapter 310, require that the applicant 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. The applicant submitted an alternatives analysis for the proposed project which states that there is a heavy demand for retail space in the South Portland area, particularly near the Maine Mall. For business reasons, the retail expansion approved in Department Order #L-9148-23/L6-E-A was never completed despite heavy interest by retailers.

b. Minimal Alteration. The amount of wetland to be altered must be kept to the minimum amount necessary for meeting the overall purpose of the project. The configuration of the parcel and limited availability of suitable land adjacent to the proposed site renders the proposed impacts to the wetlands and drainage channel unavoidable. Because of the location of the wetlands and drainage channel, reducing the size or scope of the in-line expansion would not result in less impact to the resource.

c. Compensation. A portion of the wetland to be altered has a natural defined channel. It has few functions and values because of the alterations made to it in conjunction with the construction of the Maine Mall and the surrounding intensely-developed retail uses. The channel receives drainage from approximately 36 acres of existing impervious area on the Maine Mall site. The main function of the channel is to facilitate the movement and storage of stormwater runoff from the Mall's parking lot. Large amounts of sediment from the large expanse of parking have accumulated in the channel. Compensatory mitigation for the proposed wetland alteration is not required because of the amount of wetland to be altered and because of its relatively low value.

Department staff, including a biologist and hydrogeologist, visited the site of the proposed project and made recommendations in an attempt to improve the design of the re-located drainage channel. In response, the applicant revised the configuration of the channel to include a low-flow section to intercept first-flush runoff. This section will be planted with wetland species to facilitate nutrient uptake. The landscape plan includes more buffer plantings, dormant live-stake plantings and bioengineering surface stabilization.

The Department finds that the applicant has avoided and minimized 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.
4. **ALL OTHER:**

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

Based on its review of the application, the Department finds the requested modification to be in accordance with all relevant Departmental standards. All other findings of fact, conclusions and conditions remain as approved in Board Order #59-9148-05220, 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 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.

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 provided an executed maintenance contract is submitted as described in Finding 2.

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 PHILBROOK AVENUE ASSOCIATES, L. L. C. to expand an existing retail center and alter a stream remnant and wetlands in South Portland, 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. Prior to occupancy of the retail expansion, the applicant shall submit an executed copy of the maintenance contract to the BLWQ for review.
4. All other Findings of Fact, Conclusions and Conditions remain as approved in Board Order #59-9148-05220, 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 26\textsuperscript{th} DAY OF \underline{October}, 2004.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \underline{DAWN R. GALLAGHER, COMMISSIONER}

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

Date of initial receipt of application  July 28, 2004
Date of application acceptance  August 2, 2004

Date filed with Board of Environmental Protection
MR/ATS52919/52918/L9148IM/L9148HN

F I L E D

OCT 27 2004

BOARD OF ENVIRONMENTAL PROT.
STATE OF MAINE
NATURAL RESOURCE PROTECTION ACT (NRPA)  
STANDARD CONDITIONS

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

A. Approval of Variations From Plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.

B. Compliance With All Applicable Laws. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.

C. Erosion Control. The applicant shall take all necessary measures to ensure that his activities or those of his agents do not result in measurable erosion of soils on the site during the construction and operation of the project covered by this Approval.

D. Compliance With Conditions. Should the project be found, at any time, not to be in compliance with any of the Conditions of this Approval, or should the applicant construct or operate this development in any way other than specified in the Application or Supporting Documents, as modified by the Conditions of this Approval, then the terms of this Approval shall be considered to have been violated.

E. Initiation of Activity Within Two Years. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply to the Board for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the applicant will be able to begin the activity within two years from the granting of a new permit, if so granted. Reapplications for permits may include information submitted in the initial application by reference.

F. Reexamination After Five Years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.

G. No Construction Equipment Below High Water. No construction equipment used in the undertaking of an approved activity is allowed below the mean high water line unless otherwise specified by this permit.

H. Permit Included In Contract Bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.

I. Permit Shown To Contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

Revised (4/92)

DEP LW0428
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.
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