

DM ROMA

CONSULTING ENGINEERS

May 1, 2019

Renee Carter, Code Enforcement Officer
Town of Naples
PO Box 1757
Naples, Maine 04055

**Re: Additional Information
Brandy Crossing Subdivision
Front Nine Homes, LLC - Applicant**

Dear Ms. Carter:

Enclosed are plans depicting a proposed 30,000 gallon buried cistern to provide fire protection for the above referenced subdivision. We have included a gravel pull-off area adjacent to the hydrant connection and preliminary details for the tanks and appurtenances. We would request that these plans be reviewed by the Fire Chief with the understanding that we would provide complete shop drawings prior to ordering the materials and installing the system to ensure that all features are acceptable to the Town and compatible with apparatus.

Also attached is a copy of the MDEP Site Location Permit Amendment Order for the project, which also includes NRPA Permit-By-Rule approval for the two dock facilities and access trails.

If you have any questions, comments or require any further information, please don't hesitate to contact us.

Sincerely,

DM ROMA CONSULTING ENGINEERS

Dustin Roma

Dustin M. Roma, P.E.
President

Cc: Paul Hollis, Front Nine Homes, LLC
Enc.



DEPARTMENT ORDER

IN THE MATTER OF

FRONT NINE HOMES LLC) SITE LOCATION OF DEVELOPMENT ACT
Naples, Cumberland County)
BRANDY POND CROSSING SUBDIVISION)
L-18686-L3-H-A (approval)) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. §§ 481–489-E and Chapters 375 and 500 of Department rules, the Department of Environmental Protection has considered the application of FRONT NINE HOMES LLC with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order #L-18686-26-A-N/L-18686-L6-A-N, dated February 6, 1995, the Department approved a nine-hole golf course called Naples Golf and Country Club and the addition of six residential lots for a total of nine lots on a 75-acre parcel on the west side of Route 11/114 in the Town of Naples. Previous development on land owned by the applicant at that time included a clubhouse, a maintenance building, and a nine-hole golf course on a 70-acre parcel on the other (east) side of Route 11/114 and along the shore of Brandy Pond (also known as the Bay of Naples) plus three residential lots that had been in existence since 1922. In Department Order #L-18686-26-B-M, dated September 22, 2000, the Department approved the creation of a new lot by combining and re-subdividing Lots 8 and 9 into Lots 8, 9 and 10 on the west side of Route 11/114. In Department Order #L-18686-L3-C-M, dated February 25, 2004, the Department approved the creation of a residential lot on the east side of Route 11/114. In Department Order #L-18686-L3-D-A, dated December 26, 2007, the Department approved residential Lots 5, 6, 7 and 8 on the eastern side of Route 11/114 which included extending 430 feet of road at the end of Morgan Road to provide access to the lots and to a 0.25-acre lakeside common area. Subsequent Department Orders approved several additional amendments to the project.

B. Summary: The applicant proposes to subdivide a 36.0-acre portion of the original 70-acre parcel of land on the east side of Route 11/114 into 21 lots. Of the proposed lots, seventeen are single-family residential lots (lot numbers 12-25 and 27-29) ranging in size from 1.40 to 1.95 acres, and four are open space lots (open space lots 1-4) ranging in size from 1.05 to 2.30 acres. Lot 26 is land retained by the previous owner; no development on Lot 26 was included or reviewed as part of this project. The project includes the realignment, reconstruction, and an extension of Fairway Drive; an access road, a six-foot wide cleared footpath, and two temporary docks on Open Space 4; and a six-foot-wide cleared path and temporary dock on Open Space 3. The proposed cleared footpaths consist of clearing of bushes and understory vegetation only and the surface of the path is

limited to the existing duff layer or woodchips. The proposed project includes 10.0 acres of developed area, of which 2.6 acres is new impervious area. The project is shown on a set of 13 plans and the subdivision plan, which is titled "Subdivision Plan, Brandy Pond Crossing, Naples, Maine," prepared by DM Roma Consulting Engineer, and dated July 31, 2018, with a last revision date of April 16, 2019. The project site is located on the east side of Sebago Road (Route 11/114), on the west side of Brandy Pond, in the Town of Naples.

The Department accepted a Natural Resources Protection Act (NRPA) Permit by Rule Notification Form (PBR #67486) on March 27, 2019, for activities adjacent to a natural resource, associated with the proposed project that will be constructed in accordance with Chapter 305 Section 2 of Permit by Rule Standards.

C. Current Use of Site: Most of the site of the proposed project is currently developed as a golf course with some forested areas. There are golf cart paths, a narrow road and other structures associated with the golf course on the property. There is a small stream that runs through the middle of the site.

2. FINANCIAL CAPACITY:

The total cost of the project is estimated to be approximately \$365,000. The applicant did not submit any form of evidence of financial capacity. Prior to the start of any construction, the applicant must submit evidence that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State or evidence of any other form of financial assurance determined by Department Rules, Chapter 373(1), to be adequate to the Bureau of Land Resources for review and approval with a condition compliance application.

The Department finds that prior to the start of construction, the applicant must demonstrate adequate financial capacity to comply with Department standards. The applicant must submit evidence that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State, or evidence of any other form of financial assurance determined by Department Rules, Chapter 373(1), to be adequate to the Bureau of Land Resources with a condition compliance application for review and approval.

3. TECHNICAL ABILITY:

The applicant has retained the services of DM Roma Consulting Engineers to provide civil engineering and permitting assistance, Sawyer Engineering and Surveying to provide land surveying and soil evaluation services, Summit Geoengineering Services to provide hydrogeologic assessment services, and Longview Partners for soil analysis services for the project.

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

4. NOISE:

Noise from the routine operation of residential developments are exempt from regulation per Department Rules, Chapter 375 Section 10(C)(5)(e). The applicant proposes to limit construction to the hours between at 7:00 a.m. and 7:00 p.m. Noise from the construction of developments between the hours of 7:00 a.m. to 7:00 p.m. or during daylight hours, whichever is longer, is not regulated pursuant to 38 M.R.S. § 484(3)(A).

The Department finds that no regulated sources of noise have been identified.

5. SCENIC CHARACTER:

The proposed project is located on a parcel that was developed as a golf course. The land area to the north of the project is partially wooded and partially developed with a mini golf business and cabins along the lake frontage. East of the project is Brandy Pond. The land south of the proposed project has been subdivided into residential lots but remains mostly forested. Sebago Road is on the west side of the parcel and the land across Sebago Road is partially developed with a golf course and single-family homes, and partially forested. The proposed Fairway Drive will connect to Sebago Road in the same location as an existing access road. The project includes three house lots with frontage on Sebago Road in areas that are currently developed as a golf course. The remaining proposed house lots are located in areas that are currently either all developed or partially developed. Because the majority of the proposed development is located in areas that are already developed, the proposed project will not have any significant change in scenic character.

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 and 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. MDIFW recommended that a 100-foot undisturbed vegetated buffer be maintained along Brandy Pond measured from the mean high water line or the edge of any associated wetlands. No new development is proposed within 100 feet of Brandy Pond with the exception of two six-foot wide paths leading to the pond, three temporary docks, and two dock storage platforms that are greater than 75-feet from the pond.

MDIFW stated that maintaining and enhancing buffers along streams that support cold water fisheries is critical to the protection of water temperatures, water quality, natural inputs of coarse woody debris, and various forms of aquatic life necessary to support

conditions required by many fish species as well as providing habitat for terrestrial species. MDIFW recommended that any necessary in stream work occur between July 15 and October 1. There is a stream that is located on proposed Open Space-2. The applicant proposes a 100-foot stream buffer on the south and west sides of this stream that extends into Lot 17, and proposes a 75-foot stream buffer on the north side of the stream that extends into Lots 15 and 28 as shown on plan 3 of 13 (SB-1) of the plan set referenced in Finding 1. Portions of these proposed stream buffers are existing developed areas that are currently part of the golf course. The applicant proposes to preserve any existing forested areas within these stream buffers and proposes to require that any existing lawn areas within these proposed stream buffer areas revert to meadow. These proposed meadow areas must not be mowed more than twice a year; these areas are not required to be mowed and can be allowed to revert to a natural forested condition. The same deed restrictions used for the stormwater management buffers, which can be found in Appendix A of the Inspection, Maintenance, and Housekeeping Plan for Brandy Pond Subdivision (Revised Through April 9, 2019), apply to these stream buffers. Prior to the start of construction, the stream buffers shall be permanently marked on Lots 15 and 17.

The Department finds that the applicant has made adequate provision for the protection of wildlife and fisheries provided that prior to the start of construction on Lots 15 and 17, the applicant must submit recorded copies of the stream buffers and the stream buffers shall be permanently marked.

7. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The Maine Historic Preservation Commission (MHPC) reviewed the proposed project. The structures or sites of historic or architectural significance portion of the review brought up questions regarding the historic design of the existing golf course that dates to 1922. In a letter dated April 25, 2019 the MHPC concluded there will be no historic properties (architectural) affected by the proposed undertaking as defined by Section 106 of the National Historic Preservation Act. The MHPC has requested a Phase 1 Archeological Survey of the portion of the site that is adjacent to Brandy Pond based on its Predictive Models for Maine Prehistoric Sites. The applicant has contracted for the Phase 1 Study. The applicant has agreed to complete the Phase 1 survey and to work with Dr. Arthur Spiess, the Senior Archaeologist with MHPC, to preserve any archaeological finds. Prior to the start of construction, the applicant must complete the archeological survey of the site; this must include submitting the final report of the survey to the MHPC and to the Department, plus any follow up execution of easements, agreements and/or revisions of the project to protect any of the archeologic finds, if any. All this information must be submitted to the Department with a condition compliance application along with a final approval letter from MHPC prior to the start of construction.

The Maine Natural Areas Program database does not contain any records documenting the existence of rare or unique botanical features on the project site.

The 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 provided that prior to the start of any construction of the project, the applicant must complete an archeological survey and the associated reports, easements, agreements, and any necessary revisions of the project, and submit all this information to the Department with a condition compliance application along with a final approval letter from MHPC.

8. SOILS:

The applicant submitted a Class A High-Intensity soil survey map and report based on the soils found at the project site. This report was prepared by a certified soils scientist and site evaluator from Longview Partners and reviewed by staff from the Division of Environmental Assessment (DEA) of the Bureau of Water Quality (BWQ). Based on the soils found at the site, no blasting is anticipated.

The Department finds that, based on the soils report, and DEA's review, the soils on the project site present no limitations to the proposed project that cannot be overcome through standard engineering practices.

9. STORMWATER MANAGEMENT:

The proposed project includes approximately 3.99 acres of developed area of which 3.10 acres is impervious area. It lies within the watershed of Brandy Pond (identified as Bay of Naples in Chapter 502) which has been identified as a lake most at risk from new development. The applicant submitted a stormwater management plan based on the Basic, Phosphorus, and Flooding Standards contained in Chapter 500 Stormwater Management rules (06-096 C.M.R. Chapter 500, effective August 12, 2015). The proposed stormwater management system consists of stormwater runoff treatment in eight underdrained soil filter basins which are all required to have an impermeable liner, and mitigation credits as described below.

A. Basic Standards:

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

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.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. This plan was reviewed by, and revised in response to the comments of, BLR. A homeowners' association will be established that will be responsible for the maintenance of all common facilities including the stormwater management system. The Declaration of Covenants and Restrictions for the association was reviewed and found to meet Department requirements. Prior to the formation of the homeowners' association, the applicant will be responsible for all such maintenance.

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

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

B. Phosphorus Standards:

Because the proposed project is located in the watershed of Brandy Pond, the project is required to meet the Phosphorus Standard outlined in Chapter 500(4)(D). The applicant's phosphorus control plan was developed using methodology developed by the Department in the "Maine Stormwater Management Design Manual Phosphorus Control Manual Volume II". For this project, the Project Phosphorus Budget (PPB) is 1.37 pounds of phosphorus per year. The applicant proposes to remove phosphorus from the project's stormwater runoff by utilizing eight grassed underdrained soil filters, by eliminating pre-existing sources of phosphorus (lawn areas), and treating runoff from a pre-existing source (Sebago Road) as shown on the set of plans referenced in Finding 1. The projected phosphorus export for the site based on the applicant's model is 1.26 pounds of phosphorus per year. The proposed stormwater treatment reduces the export of phosphorus in the stormwater runoff to below the maximum permitted phosphorus export for the site.

The applicant used source elimination mitigation credits as part of the phosphorus control plan which includes restoring 7.42 acres of pre-1980 lawn and landscaped surfaces of the existing golf course into meadow, and providing treatment for stormwater runoff from 1.42 acres of paved road and 0.69 acres of landscaped associated with Sebago Road that was in existence prior to 1980. The lawn and landscaped areas that are eliminated sources are the areas labeled "stormwater management meadow buffer deed restricted area" on Lots 13-15, 17-21, 24, 25, and Open Spaces 1-3 as shown on the subdivision plan (SB-1(sheet 3 of 13)) and the Watershed Map-Post Developed Condition Plan (SW-2(Sheet 2 of 2)). All these areas are to be deed restricted and protected as stormwater management meadow buffers as further described below. These areas, if they are currently lawn or landscaped areas, are required be turned into meadow with or without mowing; if these areas are mowed then the mowing is limited to no more than two cuttings per year and the height of cut grass must be to a height of not less than six

inches, or alternately, these areas may also be allowed to revert to forested areas with a natural duff layer. If the limited disturbance stormwater buffer deed restricted area is currently wooded, then the area is required to remain a natural forested area. The eliminated pre-existing sources of phosphorus which are currently lawn areas on the residential lots and open space lots are required to be protected from alteration through the execution of deed restrictions. The applicant submitted draft deed restriction that meets Department standards.

Prior to the start of construction, the location of stormwater management meadow buffer deed restricted areas on the residential lots and the open space lots must be permanently marked on the ground. The deed for each residential and open space lot that contains any portion of the limited disturbance stormwater buffer deed restricted areas must contain deed restrictions relative to the buffer and have attached to it a plot plan for the lot, drawn to scale and with dimensions, that specifies the location of the buffer on the lot. The applicant shall execute and record all required deed restrictions, including the appropriate stormwater management meadow buffer deed restrictions, within 60 days of the date of this Order unless the deed restriction is to be placed on a residential lot. In that situation, the applicant shall execute and record the required deed restriction prior to the start of construction on the lot. The applicant shall submit a copy of the recorded deed restriction, including the plot plan, to the BLR within 60 days of its recording.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to comments from, BLR. After a final review, BLR commented that the proposed stormwater management system is designed in accordance with the Phosphorus Standards contained in Chapter 500(4)(D).

Based on the stormwater system's design and BLR's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Phosphorus Standards contained in Chapter 500(4)(D).

C. Flooding Standard:

The applicant is proposing to utilize a stormwater management system based on estimates of pre- and post-development stormwater runoff flows obtained by using Hydrocad, a stormwater modeling software that utilizes the methodologies outlined in Technical Releases #55 and #20 from the 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 for study point 1 (SP1 or POI 1) and the peak flow of the receiving water will not be increased as a result of stormwater runoff from the development site.

The applicant is not proposing formal stormwater detention for the 24-hour storms of 2-, 10-, and 25-year frequency for study point 2 (SP2 or POI 2). Instead, since the project site is located adjacent to Brandy Pond, the applicant requested a waiver from the Flooding Standard pursuant to Department Rules, Chapter 500(4)(F)(3)(b). This waiver request is approved for SP2.

BLR commented that the proposed system is designed in accordance with the Flooding Standard contained in Chapter 500(4)(F).

Based on the system's design and BLR's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Flooding Standard contained in Chapter 500(4)(F) for peak flow from the project site, and channel limits and runoff areas.

The Department further finds that the proposed project will meet the Chapter 500 standards for easements and covenants and management of stormwater discharges.

10. GROUNDWATER:

Most of the project site is located over a mapped sand and gravel aquifer with expected well yields of ten to fifty gallons per minute. Each of the proposed residential lots will withdraw groundwater for domestic use and have individual subsurface wastewater disposal systems. A geologist from the Division of Environmental Assessment (DEA) reviewed the project to confirm that there will not be an impact to groundwater.

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

11. WATER SUPPLY:

When completed, the proposed project is anticipated to use approximately 6,120 gallons of water per day based on 360 gallons per day per residential lot. Water for the development will be supplied by individual wells. The applicant submitted an assessment of groundwater supplies that are available on the project site and an analysis of potential impacts to on-site wells resulting from on-site subsurface wastewater disposal. These assessments were prepared by a certified geologist and were reviewed by, and revised in response to comments from, the DEA. The wells for each residential lot are required to be constructed outside of the 100-foot well exclusion areas shown on the Plan of Wastewater Disposal Systems (W-1, sheet 4 of 13).

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

12. WASTEWATER DISPOSAL:

Wastewater will be disposed of by individual subsurface wastewater disposal system on each residential lot. The applicant submitted a soil survey map and report discussed in Finding 8 and an analysis of potential impacts to off-site groundwater quality resulting from on-site wastewater disposal prepared by a certified geologist. Each individual system must be designed to meet the requirements of the Maine State Plumbing Code and each subsurface wastewater disposal system must be located in the disposal field area

shown on the Plan of Wastewater Disposal Systems (W-1, sheet 4 of 13). This information was reviewed by, and revised in response to comments from, DEA.

Based on DEA's comments, the Department finds that the proposed wastewater disposal systems will be built on suitable soil types and that Maine's Drinking Water Standard for nitrates will be met at the project's property lines.

13. SOLID WASTE:

When completed, the proposed project is anticipated to generate 17 cubic yards of municipal solid waste per year. The residents will take their own waste to the Casco and Naples transfer station. This waste is then taken to the Ecomaine incinerator in Portland, which is currently in substantial compliance with the Maine Solid Waste Management Rules.

The stumps and grubblings generated will be ground on site and used as erosion control material, this method of disposal follows the Maine Solid Waste Management Rules.

The proposed project will generate approximately 15 cubic yards of construction debris. The construction debris generated will be taken to Pine Tree Waste in Westbrook; from there it is transported to Juniper Ridge Landfill in Old Town for disposal. This method of disposal is currently in substantial compliance with the Maine Solid Waste Management Rules.

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

14. FLOODING:

The areas proposed to be developed are not located within the 100-year flood plain 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.

15. ALL OTHER:

All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-18686-26-A-N/L-18686-L6-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. §§ 481-489-E:

- A. The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards provided

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

- B. The applicant has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities provided that prior to the start of any construction of the project the applicant must complete an archeological survey and the associated reports, easements, agreements, and any necessary revisions of the project, and submit all this information to the Department with a condition compliance application along with a final approval letter from MHPC.
- 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 stormwater management in 38 M.R.S. § 420-D and the standard for erosion and sedimentation control in 38 M.R.S. § 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 and solid waste disposal required for the development and the development will not have an unreasonable adverse effect on the existing or proposed utilities 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 FRONT NINE HOMES LLC to subdivide and develop a parcel of land as described herein, 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 deed restrictions in all conveyances of the subdivision lots that make 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 that are 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. The applicant shall execute and record all required deed restrictions, including the appropriate buffer deed restrictions, within 60 days of the date of this Order unless the deed restriction is to be placed on a subdivision lot. In that situation, the applicant shall execute and record the required deed restriction prior to the start of construction on the lot. The applicant shall submit a copy of the recorded deed restrictions, including the plot plan, to the BLR within 60 days of its recording.
7. Prior to the start of construction, the location of the stormwater management meadow buffer deed restricted areas on the residential lots and open space lots shall be permanently marked on the ground.
8. Prior to the start of construction, the applicant shall submit evidence that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State, or evidence of any other form of financial assurance determined by Department Rules, Chapter 373(1), to be adequate to the Bureau of Land Resources with a condition compliance application for review and approval.
9. Prior to the start of any construction of the project, the applicant shall complete an archeological survey and the associated reports, easements, agreements, and any necessary revisions of the project, and shall submit all this information to the Department with a condition compliance application along with a final approval letter from MHPC for review and approval.

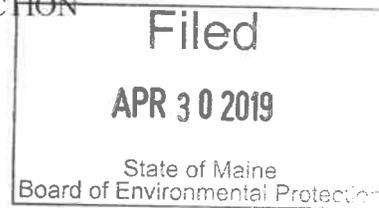
- 10. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-18686-26-A-N/L-18686-L6-A-N, and subsequent Orders, and are incorporated herein.

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 IN AUGUSTA, MAINE, THIS 29TH DAY OF APRIL, 2019.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: *Mohi Byer*
For: Gerald D. Reid, Commissioner



PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

CGW/L18686HA/ATS#83678

Department of Environmental Protection
SITE LOCATION OF DEVELOPMENT (SITE)
STANDARD CONDITIONS

- A. Approval of Variations from Plans.** The granting of 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 these plans, proposals, and supporting documents is subject to review and approval prior to implementation. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited without prior approval of the Board, and the applicant shall include deed restrictions to that effect.
- 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. Compliance with All Terms and Conditions of Approval.** The applicant shall submit all reports and information requested by the Board or the Department demonstrating that the applicant has complied or will comply with all preconstruction terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- D. Advertising.** 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.
- E. Transfer of Development.** 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.
- F. Time frame for approvals.** If the construction or operation of the activity is not begun within four 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. A reapplication for approval may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- G. Approval Included in Contract Bids.** A copy of this approval must be included in or attached to all contract bid specifications for the development.
- H. Approval Shown to Contractors.** 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 December 27, 2011

STORMWATER 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

Standard conditions of approval. Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions pursuant to Chapter 500 Stormwater Management Law.

- (1) Approval of variations from plans. The granting of 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 permittee. Any variation from these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S. §420-D(8) and is subject to penalties under 38 M.R.S. §349.
- (2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- (3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
- (4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department 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 may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.
- (5) Time frame for approvals. If the construction or operation of the activity is not begun within four years, this approval shall lapse and the applicant shall reapply to the department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- (6) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the conditions by the permittee, and the permittee and each contractor and subcontractor has certified, on a form provided by the department, that the approval and conditions have been received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.

- (7) Maintenance. The components of the stormwater management system must be adequately maintained to ensure that the system operates as designed, and as approved by the Department. If maintenance responsibility is to be transferred from the permittee to another entity, a transfer request must be filed with the Department which includes the name and contact information for the person or entity responsible for this maintenance. The form must be signed by the responsible person or agent of the responsible entity.
- (8) Recertification requirement. Within three months of the expiration of each five-year interval from the date of issuance of the permit, the permittee shall certify the following to the department.
- (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
 - (b) All aspects of the stormwater control system are operating as approved, have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the system, or portions of the system, as necessary.
 - (c) The stormwater maintenance plan for the site is being implemented as approved by the Department, and the maintenance log is being maintained.
 - (d) All proprietary systems have been maintained according to the manufacturer's recommendations. Where required by the Department, the permittee shall execute a 5-year maintenance contract with a qualified professional for the coming 5-year interval. The maintenance contract must include provisions for routine inspections, cleaning and general maintenance.
 - (e) The Department may waive some or all of these recertification requirements on a case-by-case basis for permittees subject to the Department's Multi-Sector General Permit ("MSGP") and/or Maine Pollutant Discharge Elimination System ("MEPDES") programs where it is demonstrated that these programs are providing stormwater control that is at least as effective as required pursuant to this Chapter.
- (9) Transfer of property subject to the license. If any portion of the property subject to the license containing areas of flow or areas that are flooded are transferred to a new property owner, restrictive covenants protecting these areas must be included in any deeds or leases, and recorded at the appropriate county registry of deeds. Also, in all transfers of such areas and areas containing parts of the stormwater management system, deed restrictions must be included making the property transfer subject to all applicable terms and conditions of the permit. These terms and conditions must be incorporated by specific and prominent reference to the permit in the deed. All transfers must include in the restrictions the requirement that any subsequent transfer must specifically include the same restrictions unless their removal or modification is approved by the Department. These restrictions must be written to be enforceable by the Department, and must reference the permit number.
- (10) Severability. The invalidity or unenforceability of any provision, or part thereof, of this permit shall not affect the remainder of the provision or any other provisions. This permit shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S. §§ 341-D(4) & 346; the *Maine Administrative Procedure Act*, 5 M.R.S. § 11001; and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 C.M.R. Ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time the appeal is submitted:

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

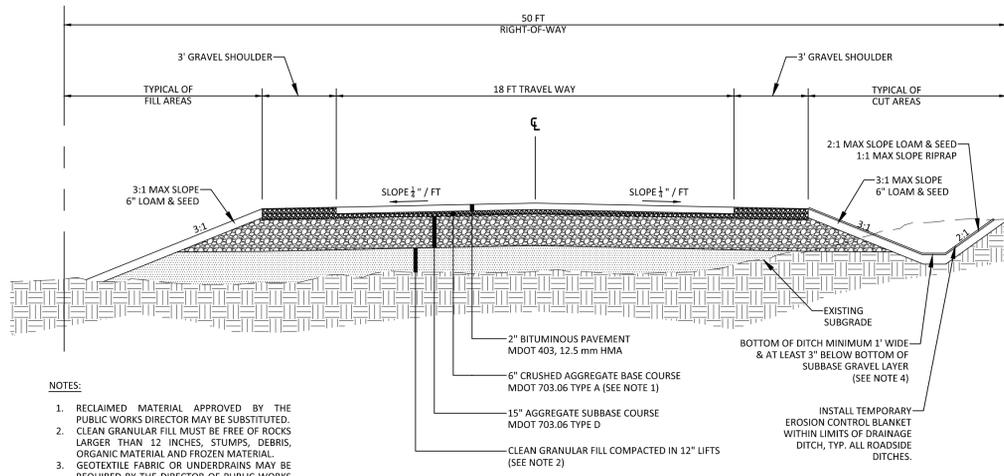
Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. Ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

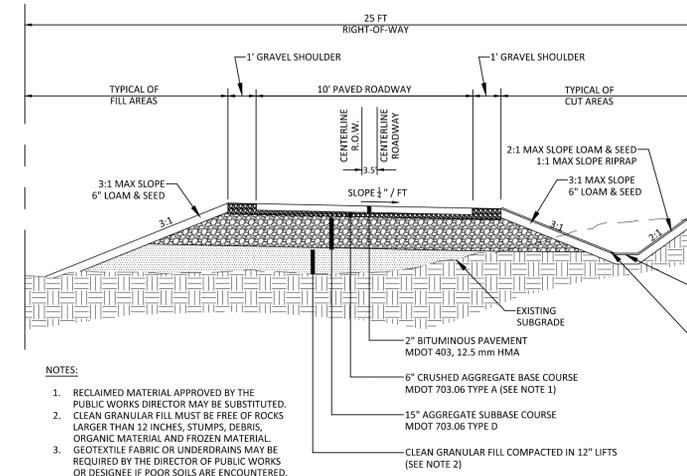
If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452, or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.



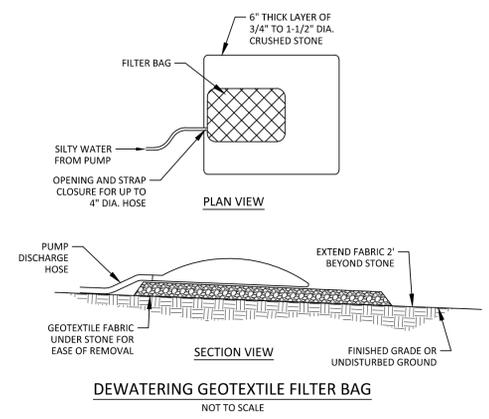
- NOTES:
1. RECLAIMED MATERIAL APPROVED BY THE PUBLIC WORKS DIRECTOR MAY BE SUBSTITUTED.
 2. CLEAN GRANULAR FILL MUST BE FREE OF ROCKS LARGER THAN 12 INCHES, STUMPS, DEBRIS, ORGANIC MATERIAL AND FROZEN MATERIAL.
 3. GEOTEXTILE FABRIC OR UNDERDRAINS MAY BE REQUIRED BY THE DIRECTOR OF PUBLIC WORKS OR DESIGNEE IF POOR SOILS ARE ENCOUNTERED.
 4. THE PROPOSED GRADING AND DRAINAGE SWALE ASSOCIATED WITH PROPOSED FAIRWAY DRIVE IS INTENDED TO DIRECT STORMWATER TO PROPOSED DRAINAGE FACILITIES. AS SUCH, CONTRACTOR SHALL INSTALL CULVERTS AT PROPOSED AND EXISTING DRIVEWAY CROSSINGS AS NECESSARY AND PROVIDE PAVED CONNECTIONS FROM NEW FAIRWAY DRIVE TO ANY EXISTING DRIVEWAY.

TYPICAL ROADWAY SECTION (FAIRWAY DRIVE)
NOT TO SCALE

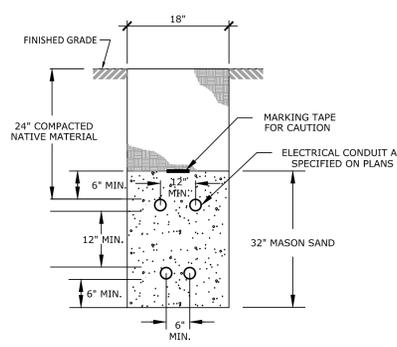


- NOTES:
1. RECLAIMED MATERIAL APPROVED BY THE PUBLIC WORKS DIRECTOR MAY BE SUBSTITUTED.
 2. CLEAN GRANULAR FILL MUST BE FREE OF ROCKS LARGER THAN 12 INCHES, STUMPS, DEBRIS, ORGANIC MATERIAL AND FROZEN MATERIAL.
 3. GEOTEXTILE FABRIC OR UNDERDRAINS MAY BE REQUIRED BY THE DIRECTOR OF PUBLIC WORKS OR DESIGNEE IF POOR SOILS ARE ENCOUNTERED.

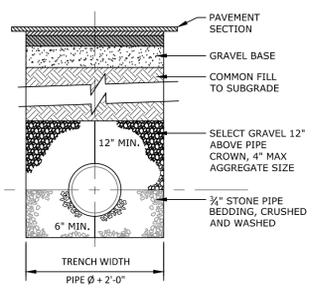
TYPICAL ROADWAY SECTION (SECONDARY ACCESS ROAD)
NOT TO SCALE



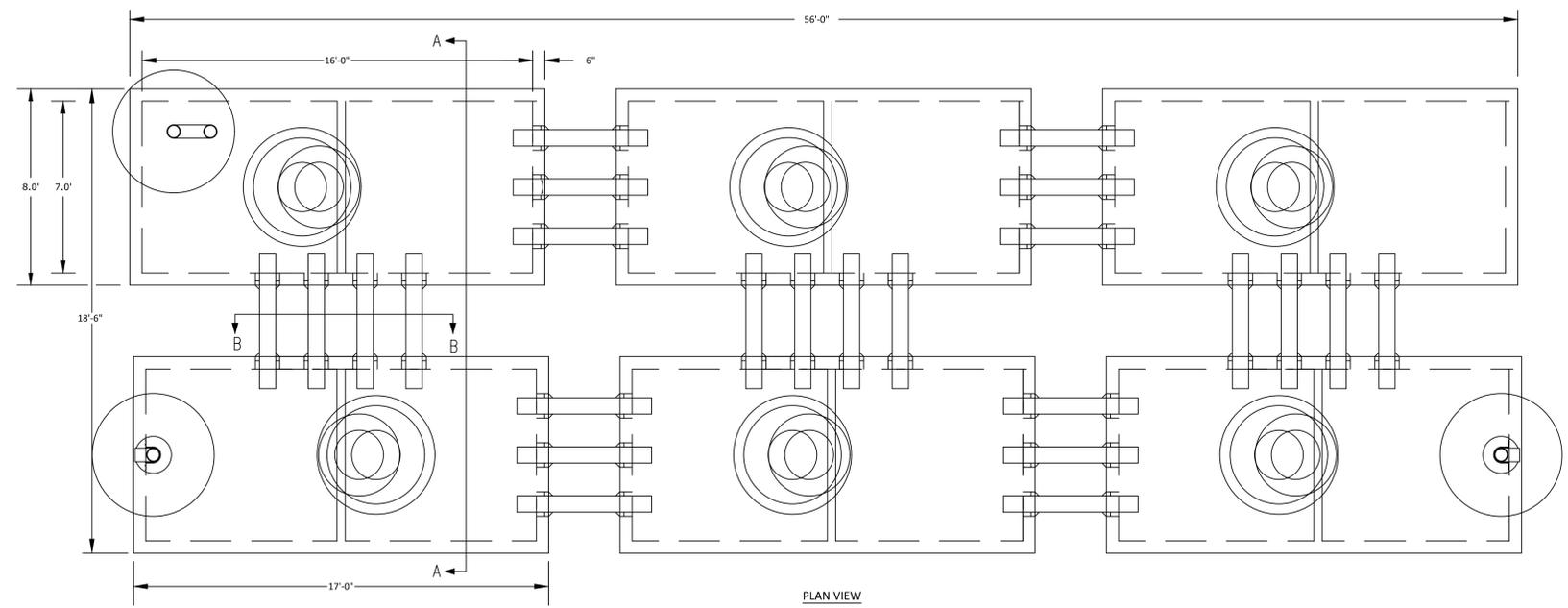
DEWATERING GEOTEXTILE FILTER BAG
NOT TO SCALE



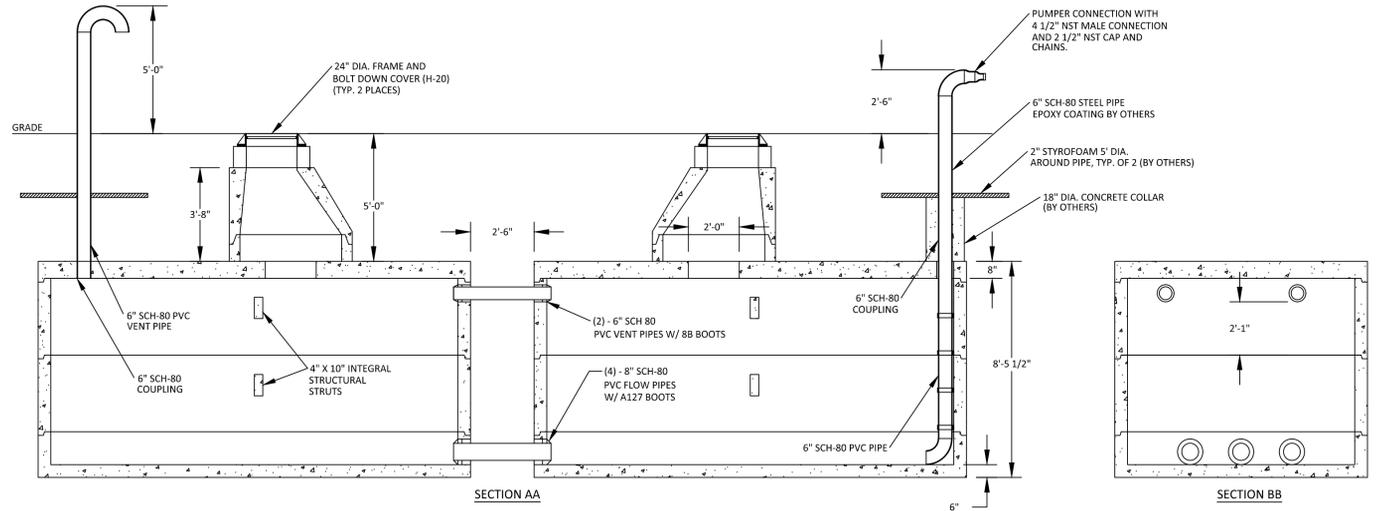
TRENCH DETAIL - ELECTRICAL CONDUIT
NOT TO SCALE



TYPICAL TRENCH SECTION
NOT TO SCALE



PLAN VIEW



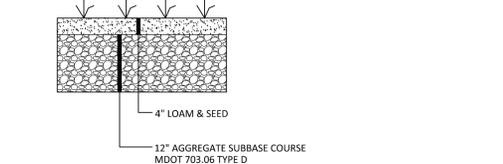
SECTION AA

SECTION BB

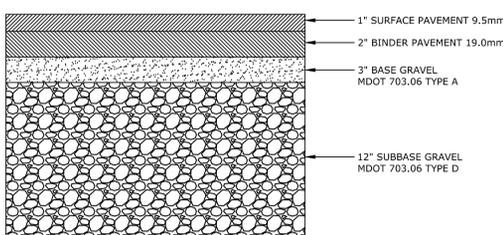
- TANK NOTES:
1. CONCRETE TO BE 5,000 PSI AT 28 DAYS.
 2. SHIPLAP JOINTS ARE SEALED WITH A 2x1-1/4\"/>
 - 3. TANKS TO BE 10,000 GALLON FIRE TANK AS MANUFACTURED BY PRECAST CONCRETE PRODUCTS OF MAINE, INC. OR APPROVED EQUAL.

NOT TO SCALE

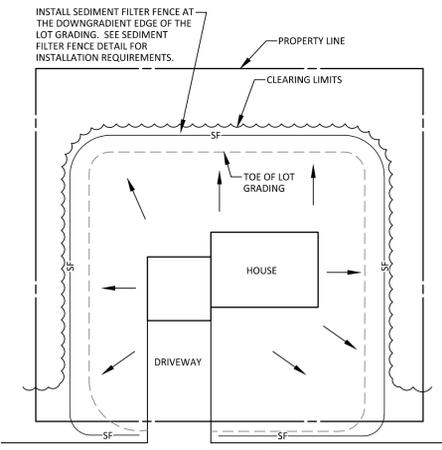
- NOTES:
1. ALL CONDUITS SHALL BE 4\"/>
 - 2. INSTALLATION SHOULD NOT ALLOW THE INTER-TWINGING OF CABLES.
 - 3. BEDDING AND BACKFILL SHALL BE FREE OF ROOTS, STUMPS AND OTHER DEBRIS.
 - 4. COMMUNICATION CABLE AND POWER CABLE SHALL HAVE NO LESS THAN 12 INCHES OF RADIAL SEPARATION.



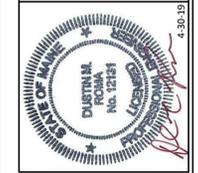
TYPICAL DRIVE-ABLE ROAD TURNOUT
NOT TO SCALE



TYPICAL PAVED DRIVEWAY SECTION
NOT TO SCALE



TYPICAL HOUSE LOT EROSION CONTROL DETAIL
NOT TO SCALE



DM ROMA
CONSULTING ENGINEERS
P.O. BOX 1116
WINDHAM, ME 04062
(207) 310-0506

REV	DATE	BY	DESCRIPTION
C	12-10-18	DMR	ISSUED FOR PERMIT REVIEW
D	2-4-19	DMR	REVISED PER MDEP REVIEW
E	3-19-19	DMR	REVISED PER MDEP REVIEW
F	4-9-19	DMR	REVISED PER MDEP REVIEW
G	4-16-19	DMR	ISSUED FOR TOWN APPROVAL
H	4-29-19	DMR	REVISED PER CCSWCD REVIEW
I	4-30-19	DMR	REVISED FOR REVIEW

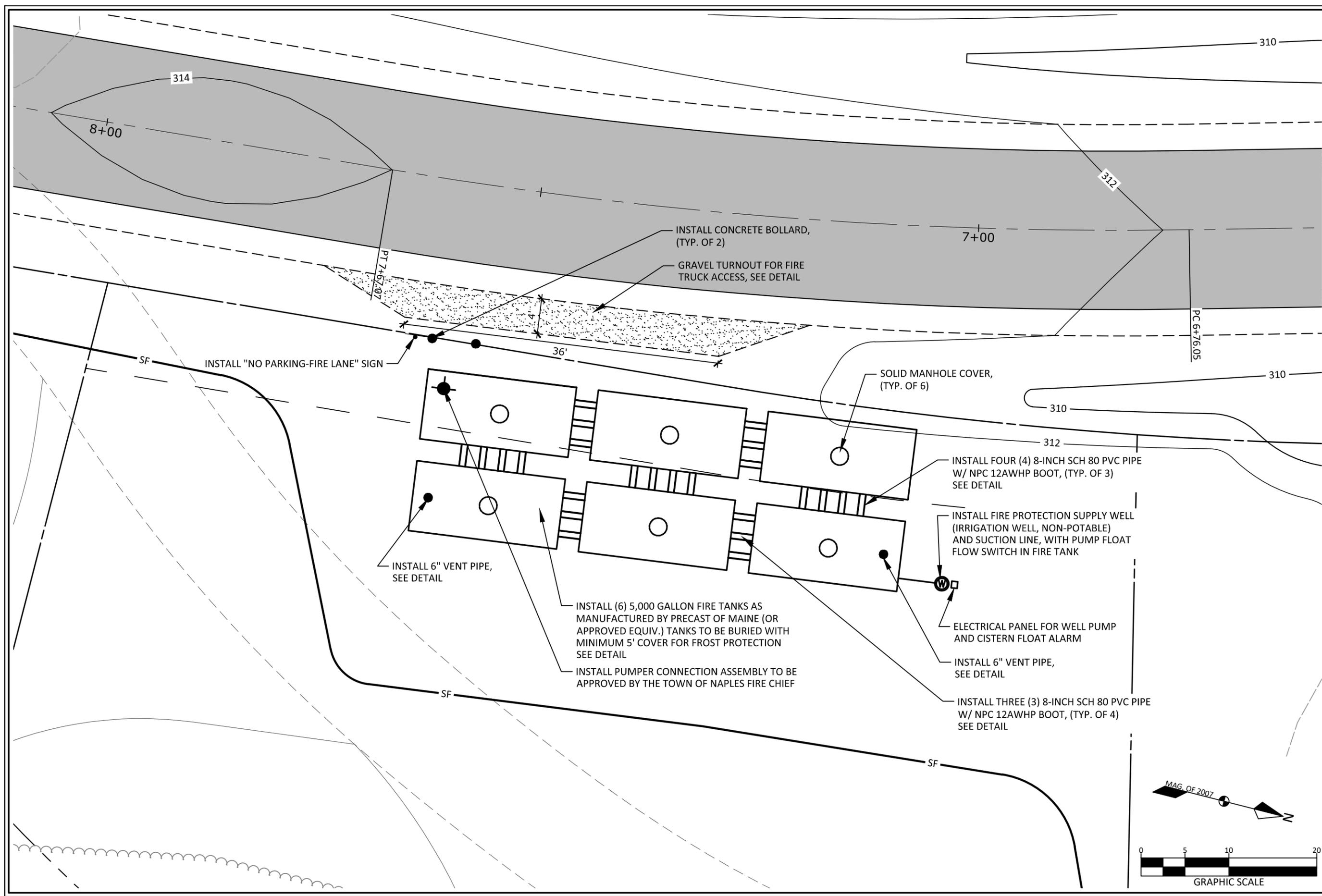
DETAILS
BRANDY CROSSING SUBDIVISION
NAPLES, MAINE
FOR:
FRONT NINE HOMES, LLC
28 WEBER ROAD
SUNBROOK, VT 05274

18001
JOB NUMBER:
AS NOTED
SCALE:
4-30-2019
DATE:
SHEET 13 OF 13
D-2

REV	DATE	BY	DESCRIPTION
A	4-30-19	DMR	ISSUED FOR REVIEW

EXHIBIT - FIRE PROTECTION CISTERN
 BRANDY CROSSING SUBDIVISION
 NAPLES, MAINE
 FOR: FRONT NINE HOMES, LLC
 28 WEAVER ROAD
 SEABROOK, NH 03874

1" = 10'
 SCALE:
 4-30-2019
 DATE:
 SHEET 1 OF 1
 EX-1



INSTALL CONCRETE BOLLARD,
 (TYP. OF 2)
 GRAVEL TURNOUT FOR FIRE
 TRUCK ACCESS, SEE DETAIL

INSTALL "NO PARKING-FIRE LANE" SIGN

SOLID MANHOLE COVER,
 (TYP. OF 6)

INSTALL FOUR (4) 8-INCH SCH 80 PVC PIPE
 W/ NPC 12AWHP BOOT, (TYP. OF 3)
 SEE DETAIL

INSTALL FIRE PROTECTION SUPPLY WELL
 (IRRIGATION WELL, NON-POTABLE)
 AND SUCTION LINE, WITH PUMP FLOAT
 FLOW SWITCH IN FIRE TANK

ELECTRICAL PANEL FOR WELL PUMP
 AND CISTERN FLOAT ALARM

INSTALL 6" VENT PIPE,
 SEE DETAIL

INSTALL THREE (3) 8-INCH SCH 80 PVC PIPE
 W/ NPC 12AWHP BOOT, (TYP. OF 4)
 SEE DETAIL

INSTALL 6" VENT PIPE,
 SEE DETAIL

INSTALL (6) 5,000 GALLON FIRE TANKS AS
 MANUFACTURED BY PRECAST OF MAINE (OR
 APPROVED EQUIV.) TANKS TO BE BURIED WITH
 MINIMUM 5' COVER FOR FROST PROTECTION
 SEE DETAIL

INSTALL PUMPER CONNECTION ASSEMBLY TO BE
 APPROVED BY THE TOWN OF NAPLES FIRE CHIEF

