

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK(A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

Order 33-14/15 **Order Amending Traffic Schedule Re: Danforth Street – Sponsored**
(Tab 12) **by Councilor Kevin J. Donoghue.**

Councilor Kevin Donoghue is requesting modifications of on-street parking to benefit Danforth Street and area businesses. The change would result in changing approximately four spaces from non time-restricted parking to two-hour parking spaces on Danforth Street west of Maple Street. The request was initiated by Dory Waxman, owner of a Danforth Street business.

The affected portion of Danforth Street has a number of small businesses that rely upon on-street parking for their clients and customers.

Currently, vehicles can park on this portion of the street without any time constraint, minimizing turnover and making ease of access to these businesses challenging. For residents with residential parking permits, they can continue to parking in this area without impact.

This item must be read on two separate days. It was given a first reading at today's 5:30 p.m. City Council meeting.

ORDERS:

**Order 34-14/15
(Tab 13)**

Order Referring Review of Congress Square Redesign to the Congress Square Redesign Study Group – Sponsored by Councilors Nicholas M. Mavodones, Jr., Jill C. Duson, Co-sponsored by Mayor Michael F. Brennan, Councilors Edward J. Suslovic, John R. Coyne, David A. Marshall, Kevin J. Donoghue.

This order expands the membership of the Congress Square Redesign Study Group, which was appointed in City Council Order 60-08/09, to include Councilor Jon Hinck and a representative of the Friends of Congress Square for a total membership of seventeen.

The order also requests that the Study Group will continue to advise and guide the City Council with regard to the assessment of the best use and design of Congress Square including the High, Congress, and Free Streets intersection and review and evaluate the following two (2) redesign options for Congress Square:

1. Existing foot print of Congress Square Plaza without an event center.
2. Event center with a public park over the event center.

The Study Group is also asked to consult with and seek advice from the Land Bank Commission, Parks Commission and other appropriate organizations regarding the Congress Square redesign options above.

Finally, on or before November 17, 2014, the Study Group must provide the City Council with a written report evaluating the two (2) Congress Square redesign options.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

**Order 35-1/15
(Tab 14)**

Order Authorizing Amendment to City Code Sec. 14-49 (Zoning Map Amendment) Re: First Amendment to Conditional Rezoning For 802-828 Ocean Avenue – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

The Ridge Development LLC is requesting the City Council's consideration and adoption of proposed amendments to a conditional zoning agreement for the property at 802-828 Ocean Avenue (formerly known as Graves Hill). The proposed amendments seek to adjust the boundary line between the R-5A and ROS zone while retaining the same amount of area in each zone, reduce the number of units from 98 to 96 in two mid-rise buildings, reduce the maximum building height from 100 feet to 75 feet, revise the parking numbers for a total of 204 spaces, and eliminate certain building amenities. Casco Heights is proposed with a mix of one, two and three-bedroom market rate units with top floor penthouses. Trail easements and other amenities are proposed as part of the project.

The Planning Board held a public hearing on the application on June 10th and tabled the item for further deliberation on July 8, 2014. The Planning Board did not find the proposed amendments to be consistent with the Comprehensive Plan nor the underlying R-5A zone.

The Board does not recommend adoption of the proposed First Amendment to the Conditional Rezoning Agreement for 802 Ocean Avenue, as revised by the staff and Planning Board, to the City Council.

The 2004 Conditional Zone Agreement allowed for a planned residential development of 98 residential condominium units in two mid-rise buildings with a maximum height of 100 feet. The agreement includes a condition that the site would be developed in general accordance with the site plan and architectural renderings prepared by the specific design professionals.

The new owners have a revised concept for the site and a new design team. The revised plans modify the line between R-5A and ROS, while retaining the same quantity of land in each designation. The residential buildings are shorter in height with expanded building footprints and fewer amenities than in the initial proposal. Thus amendments to the conditional rezoning agreement are needed to accommodate the revised plans.

The applicant is seeking to build a project with 96 units of market rate housing on 10 acres of the site and conserve 8 acres of open space with easements for 3,207 feet of public trails.

The design intent is to minimize the impacts on the environmentally sensitive area, preserve natural site amenities, provide trail access to the public, minimize blasting, and provide buffers from existing residential areas. In general the proposed amendments substitute the developer name to Ridge Development LLC, reduce the number of units to 96 from 98, adjust the zone line between R-5a and ROS while retaining essentially the same quantity of land area in each zone, revise the parking ratio for a total of 204 space, and eliminate amenities, such as a cross-country ski locker room, a community room and a management office. The landscaped buffer between the development and the adjoining Ocean Ridge Condominiums is included in the agreement.

A significant amount of public comment was submitted with concerns regarding the proposed amendments and impacts. Based upon those comments, the Planning Board proposed additional conditions to the amended agreement to address the following: 1) requirement for a blasting plan to be part of the Planning Board review with an independent third-party seismologist conducting an evaluation fir review and monitoring during construction, and an increase in the liability insurance binder from \$2m to \$4m; 2) establishes an expiration term for the agreement and a reversion clause to the original conditional agreement; and 3) seeks the greatest separation of access drive from Ridge Road as practicable.

While the Planning Board is recommending against adoption of this proposed amendment to the conditional zone agreement, if the City Council were to approve it despite their negative recommendation, the Board's revised conditional zone agreement is the version that should be considered. Their version addresses the concerns noted above for all three issues, and the applicant is generally agreeable to them, except the additional insurance amount.

The applicant has provided two narratives in their submission that addresses compliance with the Comprehensive Plan and an analysis of compliance with the R-5a zone, refer to the Applicant's Submissions, included in the agenda backup. The applicant has cited goals and policies in regarding housing and economic development, trail connections, appreciation of coastal heritage, need for higher residential density, housing options for all income levels, open space and recreation, environmental protection and urban design.

The R-5a zoning analysis provides the history, purpose, zoning comparison, and provisions of the conditional agreement. The future Land Use Plan in the Comprehensive Plan shows the R-5A as a growth area and the ROS area is designated as rural or conservation zone.

In addition to the applicant's submission, the Planning Board cited the policies contained in Housing: Sustaining Portland's Future which address neighborhood compatibility. Policy #3 states, "Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity." The accompanying objectives seek to maintain and enhance the livability of the neighborhoods; encourage innovative housing designed to be compatible with the scale, character and traditional development patterns; encourage new housing in proximity to neighborhood assets, such as open space, schools, community services, and public transportation; and maintain the integrity and economic value of Portland's neighborhoods.

At the June 10th public hearing, neighboring residents raised a number of concerns regarding the scale and compatibility of the project with the existing neighborhood. The Planning Board's discussion noted that the layout had improved since the workshop, but questions were raised pertaining to the scale and massing of the buildings given that the neighborhood had further developed since the original agreement was adopted in 2004. The Planning Board expressed concern regarding the mass of the buildings in both height and width and questioned the project's consistency with the comprehensive plan in terms of compatibility with the neighborhood. The item was tabled for further discussion to July 8, 2014.

The Planning Board considered three motions regarding the proposed recommendation. The first motion was a finding that the proposed amendments are consistent with the Comprehensive Plan, which was supported by Chair O'Brien and Mr. Dundon and not supported by the four Board members (Boepple, Dean, Hall and Soley, with Morrisette, recused).

The second motion was a finding that the proposed amendments are consistent with the underlying R-5A zone and again, the Chair voted affirmatively and the other five members voted against the motion with Morrisette recused. The third motion was to recommend the proposed First Amendment of the Conditional Rezoning Agreement for 802 Ocean Avenue, which was unanimously opposed by all six members with Morrisette recused.

Diane Doyle, as the representative for the applicant, has requested that the proposed amendments be brought forward to the City Council for consideration as is the right of the applicant.

Ms. Doyle argues that the objectives for the development as stated in the 2004 agreement and contained in the current agreement, remain valid under the revised proposal and seeks to pursue this development.

This item must be read on two separate days. This is its first reading.

IN COUNCIL REGULAR MEETING JULY 21, 2014 VOL. 130 PAGE 6

Order 19-14/15 Amendment to Traffic Schedule Re: Congress Street – Sponsored by the Transportation, Sustainability & Energy Committee, Councilor David A. Marshall, Chair.

Motion was made by Councilor Marshall and seconded by Councilor Suslovic for passage. Passage 6-0.

LICENSES:

Order 20-14/15 Order Granting Municipal Officers' Approval of A & W Foods LLC d/b/a Ebb & Flow at 100 Commercial St. Application for a Class I FSE License with Entertainment with Dance and Outdoor Dining on Public Property – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Mavodones and seconded by Councilor Suslovic for passage. Passage 6-0.

Order 21-14/15 Order Granting Municipal Officers' Approval of Golden Lotus, LLC Golden Lotus, LLC d/b/a Golden Lotus at 511 Commercial St. Application for a Class I FSE License – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Mavodones and seconded by Councilor Suslovic for passage. Passage 6-0.

Order 22-14/15 Order Granting Municipal Officers' Approval of Harold T. Andrews Application to Add Outdoor Dining on Private Property – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Mavodones and seconded by Councilor Suslovic for passage. Passage 8-0.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

Resolve 1-14/15 Resolution Regarding the City Council Intention to Fund Capisic Pond Improvement Project – Sponsored by Mark H. Rees, City Manager.

Motion was made by Councilor Mavodones and seconded by Councilor Suslovic for passage. Passage 9-0.

IN COUNCIL REGULAR MEETING JULY 21, 2014 VOL. 130 PAGE 7

UNFINISHED BUSINESS:

Order 12-14/15 Order Authorizing General Obligation Bonds to Finance a Portion of the City's Proposed 2015 Capital Improvement Program in an Amount not to Exceed \$15,911,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on July 7, 2014.

Motion was made by Councilor Mavodones and seconded by Councilor Susloivc for passage. Passage 9-0.

Order 13-14/15 Order Appropriating \$15,911,000 of Bond Proceeds for the City's 2015 Capital Improvement Program – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on July 7, 2014.

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 9-0.

Order 14-14/15 Order Reappropriating Surplus Project Funds from Unallotted Sewer Capital Improvement Program Account - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on July 7, 2014.

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 9-0.

Order 11-14/15 Order Approving Two-Party Agreement Between the City of Portland and the Maine Department of Transportation Re: New Signal Equipment for Cumberland Avenue at Preble Street and Elm Street Intersections – Sponsored by Mark H. Rees, City Manager. This item was given first reading on July 7, 2014.
(Tab 14)

Motion was made by Councilor Marshall and seconded by Councilor Duson for passage. Passage 9-0.

Order 15-14/15 Order Endorsing Projects for Federal and State Funds Through Portland Area Comprehensive Transportation System – Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall Chair. This item was given first reading on July 7, 2014.

Motion was made by Councilor Marshall and seconded by Councilor Suslovic for passage. Passage 9-0.

IN COUNCIL REGULAR MEETING JULY 21, 2014 VOL. 130 PAGE 8

Order 23-14/15 Order Granting Easement to Portland Water District – Sponsored by Danielle West-Chuhta, Corporation Counsel.

Motion was made by Councilor Suslovic and seconded by Councilor Marshall for passage. Passage 9-0.

Order 24-14/15 Order Accepting Transfer of Former Reed School from Portland Public Schools to the City of Portland – Sponsored by Danielle West-Chuhta, Corporation Counsel.

Motion was made by Councilor Coyne and seconded by Councilor Dusen for passage. Passage 9-0.

Order 25-14/15 Order Approving the Collective Bargaining Agreement with Police Superior Officers Benevolent Association (PSOBA) – Sponsored by Mark H. Rees, City Manager.

This is its first reading.

Motion was made by Councilor Donoghue and seconded by Councilor Suslovic to adjourn. Passage 9-0, 8:15 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Order 33-14/15
Tab 12 8-4-14*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

TRAFFIC SCHEDULE AMENDMENT

Ordered, that the City of Portland's Traffic Schedule be and hereby is amended as follows:

By deleting under Danforth Street:

South Side – from a point 20 feet westerly of Maple to a point 105 feet westerly of Maple – Unregulated Parking

By adding under Danforth Street:

South Side – from a point 20 feet westerly of Maple to a point 105 feet westerly of Maple – Schedule XVIII – 2 Hour Parking

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: July 23, 2014

DISTRIBUTION: Mark Rees, City Manager
Michael Brennan, Mayor
Danielle West-Chuhta, Corporation Counsel
Sonia Bean, Executive Assistant
Nancy English, Administrative Assistant
John Peverada, Parking Manager
Eric Labelle, PE, Assistant Director of Public Services/Operations Mgr.
Katherine Earley, PE, Engineering Services Manager
Jeremiah Bartlett, PE, PTOE, Transportation Systems Engineer

SUBJECT: Order – Amendment to Traffic Schedule

SPONSOR: District 1 Councilor Kevin Donoghue

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading N/A **Final Action** August 4, 2014

Can action be taken at a later date: X Yes No (If no why not?)

PRESENTATION: None

I. SUMMARY OF ISSUE

Kevin Donoghue, District 1 City Councilor, is requesting modifications of on-street parking to benefit Danforth Street and area businesses. The change would result in changing approximately four spaces from non time-restricted parking to two hour parking spaces on Danforth Street west of Maple Street. The request was initiated by Dory Waxman, owner of a Danforth Street business.

II. REASON FOR SUBMISSION

The affected portion of Danforth Street has a number of small businesses that rely upon on-street parking for their clients and customers. Currently, vehicles can park on this portion of the street without any time constraint, minimizing turnover and making ease of access to these businesses challenging. For residents with residential parking permits, they can continue to parking in this area without impact.

III. INTENDED RESULT

It is the intent that the conversion to two-hour parking will encourage vehicle turnover and help businesses along Danforth Street and other nearby streets.

IV. COUNCIL GOAL ADDRESSED

This proposed change addresses both the Council goals of economic development and improving City services.

V. FINANCIAL IMPACT

The cost of staff and equipment mobilization, signs and posts is estimated to be approximately \$750.

VI. STAFF ANALYSIS & RECOMMENDATION

The Department of Public Services and the Parking Control Division have reviewed this change and concur with this action.

VII. LIST ATTACHMENTS

- Exhibit A: Council Order
- Exhibit B: Map
- Exhibit C: Statement of Outreach from Dory Waxman

Prepared by:

Signature

Date

Exhibit B



From: Sonia Bean
To: Jeremiah Bartlett
Subject: Re: Supporting Document for Danforth Street Parking Item

>>> Jeremiah Bartlett 7/24/2014 8:42 AM >>>

>>> Dory Anna Richards Waxman mermaidst@gmail.com > 7/23/2014 2:45 PM >> (<mailto:mermaidst@gmail.com>)

As the proprietor of Old Port Wool and Textile Co located at 52 Danforth Street I have asked the City Council to consider and consent to regualting a 2 hour parking limit in front of my retail location which is on the corner of Danforth and Maple Streets.

As I thought through this request I reached out to my neighbors in business to see if they agreed with this proposal. They all have and are listed below by business name and owner name.

We all very much look forward to seeing the flow of cars and pedestrians increasing and look forward to our businesses growing more at our little corner of The Port.

Thanks very much and best always,

Dory Waxman - Old Port Wool and Textile Co

Global Content Partners - Rory Strunk - 54 Danforth Street

J B Brown - Willow Williams 30 Danforth Street (landlord advised)

Zen Chinese Bistro - Kemal - 45 Danforth Street

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 34-14/15
Tab 13 8-4-14

**ORDER REFERRING REVIEW OF CONGRESS SQUARE REDESIGN TO THE
CONGRESS SQUARE REDESIGN STUDY GROUP**

ORDERED, that the membership of the Congress Square Redesign Study Group (as appointed in City Council Order 60-08/09 attached hereto as Attachment A) is hereby expanded to include Councilor Jon Hinck and a representative of the Friends of Congress Square for a total membership of seventeen (17); and

BE IT FURTHER ORDERED, that the Study Group continue to advise and guide the City Council with regard to the assessment of the best use and design of Congress Square including the High, Congress and Free Streets intersection; and

BE IT FURTHER ORDERED, that the Study Group specifically review and evaluate the following two (2) redesign options for Congress Square:

- (1) Existing footprint of Congress Square Plaza without an event center; and
- (2) Event Center with a Public Park over the event center; and

BE IT FURTHER ORDERED, that the Study Group consult with and seek advice from the Land Bank Commission, Parks Commission and other appropriate organizations regarding the aforementioned Congress Square redesign options; and

BE IT FURTHER ORDERED, that on or before November 17, 2014, the Study Group provide the City Council with a written report evaluating the two (2) aforementioned Congress Square redesign options including within said report an assessment of the necessary improvements and cost estimates for each option.

Order 60-08/09

Amended & Passed 9/3/08 8-0 (Skolnik absent)

EDWARD J. SUSLOVIC (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JAMES I. COHEN (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER APPOINTING CONGRESS SQUARE REDESIGN STUDY GROUP

ORDERED, that a Congress Square Redesign Study Group is hereby appointed with representatives to advise and guide the design and engineering process for the assessment of the best use and design of Congress Square Park;

BE IT FURTHER ORDERED, that the Committee shall be co-chaired by Councilors Kevin Donoghue and David Marshall;

BE IT FURTHER ORDERED, that the following organizations shall nominate members to the Committee to be appointed by the Mayor:

West End Neighborhood Association
Parkside Neighborhood Association
Bayside Neighborhood Association
Portland Arts and Cultural Alliance
Greater Portland Landmarks
Friends of the Parks Commission
Public Art Committee
Downtown Portland Corporation
Eastland Park Hotel
Portland Museum of Art
Portland Convention and Visitors Bureau
Two at-large members shall also be appointed by the mayor

for a total membership of 15.

BE IT FURTHER ORDERED, that the Study Group shall develop re-use and redesign principles for Congress Square Park and criteria to evaluate various alternatives and make a recommendation to the City Council for improvements, with associated cost estimates.

order 35-14/15
Tab 14 1 8-4-14

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

JOHN R. COYNE (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: FIRST AMENDMENT TO CONDITIONAL REZONING
FOR 802-828 OCEAN AVENUE**

ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below; and

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective upon sale to Ridge Development LLC.

**FIRST AMENDMENT CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY RIDGE DEVELOPMENT, LLC**

This Agreement made this _____ day of _____, 2004 by ~~GRAVES HILL LAND COMPANY RIDGE DEVELOPMENT, LLC~~, a Maine limited liability company with an office in Saco, Maine (hereinafter "GRAVES HILL RIDGE DEVELOPMENT").

WITNESSETH:

WHEREAS, GRAVES HILL RIDGE DEVELOPMENT owns or has an option on a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, GRAVES HILL RIDGE DEVELOPMENT proposes to construct upon a portion of the Property a maximum of ~~98~~ 96 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, GRAVES HILL RIDGE DEVELOPMENT has requested the rezoning of ~~10.167~~ 10.18 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous

approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of ~~8.155~~ 8.14 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS) ; and

WHEREAS, the **CITY OF PORTLAND** (hereinafter "**CITY**"), by and through its City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, has concluded that the rezoning of the Property as aforesaid and subject to certain conditions outlined below, is consistent with the City's Comprehensive Plan and with existing and permitted uses in the underlying zone; and

WHEREAS, the **CITY**, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

it is necessary and appropriate to impose with ~~GRAVES HILL'S~~ **RIDGE DEVELOPMENT'S** agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

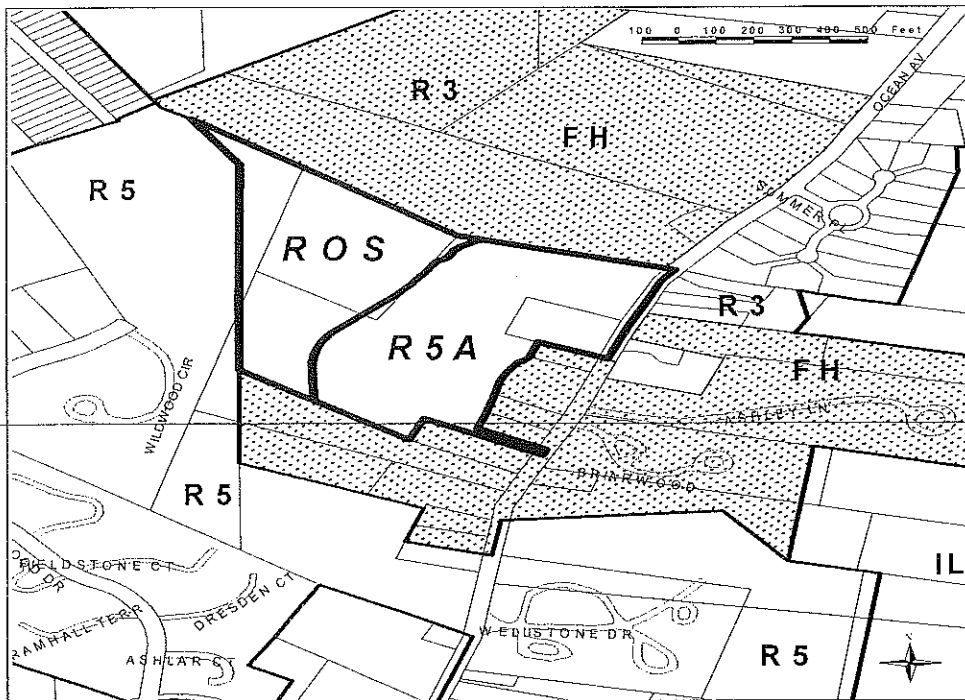
WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 200_, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind ~~GRAVES HILL~~ **RIDGE DEVELOPMENT**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Council's approval of said rezoning sale of the property to Ridge Development LLC or within one hundred and eighty (180) days of the City Council's approval of said rezoning, whichever is later, then the rezoning shall become null and void and the zoning of the Property (together with all conditions) shall revert to the pre-existing R-3 zone that contained in the original Conditional Rezoning Agreement for 802-

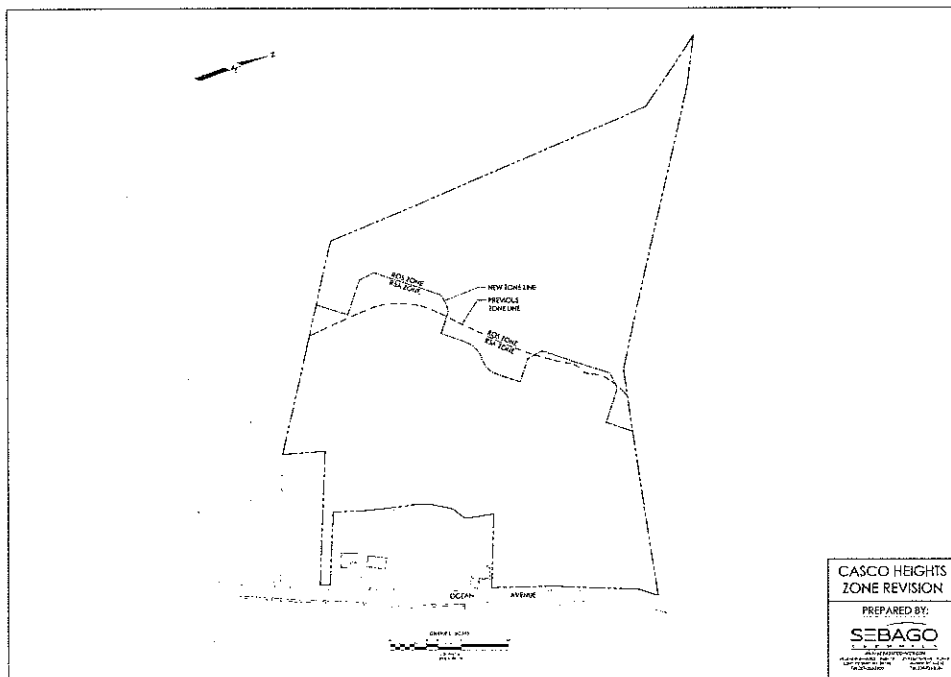
828 Ocean Avenue approved on _____ and recorded in the Cumberland County Registry of Deeds at Book _____, Page _____.



**Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Overlay to R5A and ROS**

July 2004

Map prepared by the City of Portland's Department of Planning & Development and the GIS Workgroup



Proposed Amended Rezoning for 802 Ocean Avenue for the line adjustment between

Recreation and Open Space (ROS) and Residential R-5a (of the C-34 Conditional Rezone Agreement) May 2014

2. ~~GRAVES HILL RIDGE DEVELOPMENT~~ is authorized to establish and maintain the following uses on the **R-5A** portion of the property:

- a. Up to ~~98~~ 96 residential units located in two buildings, each building containing up to ~~49~~ 48 units, which may be sold as condominium units, resulting in a maximum total of ninety-eight~~six~~ (~~98~~ 96) residential units within the Property; and
- ~~b. a community room in each building available for use by the residents of the PRUD; and~~
- ~~c. a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services a fitness and special events room in each building available for use by the residents of the PRUD; and~~
- ~~d. a cross-country ski center/locker room in each building available for use by the residents of the PRUD; and~~
- ~~e. b. parking in an amount of not less than 2 spaces per residential unit one (1) space per one bedroom unit and two (2) spaces per two and three bedroom units, plus at least 28 additional surface visitor parking spaces; and~~
- ~~f. c. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site. A future recreation area is also permitted, subject to Site Plan Review and approval by the Planning Board.~~

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the **R-5A** portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-nine~~eight~~ (~~49~~ 48) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-nine~~eight~~ (~~49~~ 48) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time

of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. ~~GRAVES HILL RIDGE DEVELOPMENT~~ is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the R-OS portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, future recreation area, or similar improvements as necessary to facilitate access.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. ~~GRAVES HILL RIDGE DEVELOPMENT~~ shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize ~~GRAVES HILL RIDGE DEVELOPMENT~~, its successors and assigns, Graves Hill Ridge Development Condominium Owners' Association, and **Portland Trails** to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, ~~GRAVES HILL RIDGE DEVELOPMENT~~ may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in

connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** has made the required conveyance, by easement and/or in fee, to Portland Trails and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by ~~Richardson and Associates (last revised August 16, 2004)~~ Sebago Technics (last revised May 2014) and the Proposed Building Design site sections, building sections and floor plans submitted by ~~Scott Simons Architects (last revised July 8, 2004)~~ Archetype PA (last revised May 2014) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The Ridge Development entrance on Ocean Avenue as shown on the site plan shall achieve separation from Ridge Road to the maximum extent practicable be at the location shown on said Site Plans subject to site plan review by the Planning Board and the City hereby grants consideration of such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **RIDGE DEVELOPMENT**, with the approval of the Planning Board, ~~the the final Planning Board approved location of the entrance may be moved up to 20 feet southerly of the location shown from the location on the attached site plan without any further amendment to this Contract Zone Agreement.~~ So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

~~GRAVES HILL~~ **RIDGE DEVELOPMENT** shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue side of the building adjacent to Ocean Ridge Condominiums, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed

trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. The blasting plan required by Chapter 14, Article VIII of the Portland City Code and Section 3 of the City of Portland Technical Manual for issuance of a blasting permit shall be included in the applications for Site Plan and Subdivision Review and shall require final review and approval by the Planning Board based upon the recommendation of a third-party, independent, seismologist approved and hired by the Planning Authority at the Applicant's expense (hereinafter "Third-Party Seismologist").

10. The notification of neighbors required by Section 14-592 of the Portland City Code shall be accomplished by certified mail rather than regular mail.

11. During blasting operations, ground vibration monitoring shall be conducted by the an independent Third-Party Seismologist at the Applicant's expense or blasting consultant. RIDGE DEVELOPMENT's selection of the independent seismologist or blasting consultant is subject to the review and approval of the City of Portland Planning Authority.

12. Notwithstanding Section 3.7.13 of the City of Portland Technical Manual, the blasting contractor shall be required to carry liability insurance (XCU) coverage in an amount no less than \$4,000,000.00.

13. In addition to the requirements outlined in Paragraphs 9-11 above, RIDGE DEVELOPMENT expressly agrees that, with respect to its development of the Property, it will comply with all other provisions relating to the regulation of blasting and explosives contained in Chapter 14 of the Portland City Code and the City of Portland Technical Manual.

149. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **GRAVES HILL RIDGE DEVELOPMENT** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

1015. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: ~~49~~ 48

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: ~~100~~ 75 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site plan

Parking: ~~Minimum of 2 spaces per unit plus 28 visitor spaces, half in Phase I and half in Phase II.~~ 204 spaces, half in Phase I and half in Phase II.

Minimum recreation open space area: Outdoor passive recreation in the form of pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

16+. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and ~~GRAVES HILL~~ **RIDGE DEVELOPMENT** need not submit any parking needs projections.

~~12~~17. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit ~~GRAVES HILL~~ **RIDGE DEVELOPMENT**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

4318. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

4419. In the event ~~GRAVES HILL~~ RIDGE DEVELOPMENT or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of ~~GRAVES HILL'S~~ RIDGE DEVELOPMENT'S breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that ~~GRAVES HILL~~ RIDGE DEVELOPMENT has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

4520. ~~GRAVES HILL~~ RIDGE DEVELOPMENT shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

4621. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS: ~~GRAVES HILL LAND COMPANY~~ RIDGE DEVELOPMENT, LLC

By: _____
 Diane Doyle Patrick Tinsman
 Its Manager

STATE OF MAINE
 CUMBERLAND, SS.

_____, 200_

Then personally appeared the above-named ~~Diane Doyle~~ Patrick Tinsman, Manager of ~~GRAVES HILL LAND COMPANY~~ RIDGE DEVELOPMENT, LLC as aforesaid, and acknowledged the foregoing instrument to be her- his free act and deed in her- his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

MEMORANDUM
City Council Agenda Item

TO: Mayor Brennan and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: July 24, 2014

DISTRIBUTION: (Mark Rees, City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta ,
Nancy English, Jennifer Thompson)

SUBJECT: First Amendment to Conditional Rezoning Agreement for 802 Ocean Avenue

SPONSOR: **Portland Planning Board**, Stuart O'Brien, Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading August 4, 2014 **Final Action** September 3, 2014

Can action be taken at a later date: Yes **X** No (If no why not?) Applicant seeks Council in hopes of bringing the project forward for development review. Public Notices will be sent for the public hearing

PRESENTATION: (List the presenter(s), type and length of presentation)

- Stuart O'Brien, Planning Board Chair, oral presentation on Planning Board recommendation, 5 minutes.
- Diane Doyle, Property Owner and Representative for Applicant, oral presentation regarding the proposal, 5 minutes.

I. SUMMARY OF ISSUE (Agenda Description)

The Ridge Development LLC is requesting the City Council's consideration and adoption of proposed amendments to a conditional zoning agreement for the property at 802-828 Ocean Avenue (formerly known as Graves Hill). The proposed amendments seek to adjust the boundary line between the R-5A and ROS zone while retaining the same amount of area in each zone, reduce the number of units from 98 to 96 in two mid-rise buildings, reduce the maximum building height from 100 feet to 75 feet, revise the parking numbers for a total of 204 spaces, and eliminate certain building amenities. Casco Heights is proposed with a mix of one, two and three-bedroom market rate units with top floor penthouses. Trail easements and other amenities are proposed as part of the project.

The Planning Board held a public hearing on the application on June 10th and tabled the item for further deliberation on July 8, 2014. The Planning Board did not find the proposed amendments to be consistent with the Comprehensive Plan nor the underlying R-5A zone. The Board does not recommend adoption of the proposed First Amendment to the Conditional Rezoning Agreement for 802 Ocean Avenue, as revised by the staff and Planning Board, to the City Council.

Diane Doyle, property owner and representative for Ridge Development, has requested that the proposed First Amendment to the agreement be forwarded to the City Council for consideration, as is the right of the applicant. She respectfully requests the opportunity to present the design concept and articulate the consistency of the proposal with the comprehensive plan at the public hearing.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The 2004 Conditional Zone Agreement allowed for a planned residential development of 98 residential condominium units in two mid-rise buildings with a maximum height of 100 feet. The agreement includes a condition that the site would be developed in general accordance with the site plan and architectural renderings prepared by the specific design professionals. The new owners have a revised concept for the site and a new design team. The revised plans modify the line between R-5A and ROS, while retaining the same quantity of land in each designation. The residential buildings are shorter in height with expanded building footprints and fewer amenities than in the initial proposal. Thus amendments to the conditional rezoning agreement are needed to accommodate the revised plans.

III. INTENDED RESULT

The applicant is seeking to build a project with 96 units of market rate housing on 10 acres of the site and conserve 8 acres of open space with easements for 3,207 feet of public trails. The design intent is to minimize the impacts on the environmentally sensitive area, preserve natural site amenities, provide trail access to the public, minimize blasting, and provide buffers from existing residential areas. In general the proposed amendments substitute the developer name to Ridge Development LLC, reduce the number of units to 96 from 98, adjust the zone line between R-5a and ROS while retaining essentially the same quantity of land area in each zone, revise the parking ratio for a total of 204 spaces, and eliminate amenities, such as a cross-country ski locker room, a community room and a management office. The landscaped buffer between the development and the adjoining Ocean Ridge Condominiums is included in the agreement.

A significant amount of public comment was submitted with concerns regarding the proposed amendments and impacts. Based upon those comments, the Planning Board proposed additional conditions to the amended agreement to address the following: 1) requirement for a blasting plan to be part of the Planning Board review with an independent third-party seismologist conducting an evaluation for review and monitoring during construction, and an increase in the liability insurance binder from \$2m to \$4m; 2) establishes an expiration term for the agreement and a reversion clause to the original conditional agreement; and 3) seeks the greatest separation of access drive from Ridge Road as practicable. While the Planning Board is recommending against adoption of this proposed amendment to the conditional zone agreement, if the City Council were to approve it despite their negative recommendation, the Board's revised conditional zone agreement is the version that should be considered. Their version addresses the concerns noted above for all three issues, and the applicant is generally agreeable to them, except the additional insurance amount.

IV. COUNCIL GOAL ADDRESSED

Promote Housing Availability: Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

Advance Environmental Program: Advance an environmental program that safeguards our natural resources, promotes a healthy lifestyle and supports a sustainable economy.

V. FINANCIAL IMPACT

The project is a market rate development, which will support the City's tax base and provide public trails. There are no direct costs to the city.

VI. STAFF ANALYSIS

The applicant has provided two narratives in their submission that address compliance with the Comprehensive Plan and an analysis of compliance with the R-5a zone, refer to the Applicant's Submissions, Attachments F and G. The applicant has cited goals and policies in regarding housing and economic development, trail connections, appreciation of coastal heritage, need for higher residential density, housing options for all income levels, open space and recreation, environmental protection and

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urban design. The R-5a zoning analysis provides the history, purpose, zoning comparison, and provisions of the conditional agreement. The future Land Use Plan in the Comprehensive Plan shows the the R-5A as a growth area and the ROS area is designated as rural or conservation zone.

In addition to the applicant's submission, the Planning Board cited the policies contained in Housing: Sustaining Portland's Future which address neighborhood compatibility. Policy #3 states, "Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity." The accompanying objectives seek to maintain and enhance the livability of the neighborhoods; encourage innovative housing designed to be compatible with the scale, character and traditional development patterns; encourage new housing in proximity to neighborhood assets, such as open space, schools, community services, and public transportation; and maintain the integrity and economic value of Portland's neighborhoods.

VII. PLANNING BOARD RECOMMENDATION

At the June 10th public hearing, neighboring residents raised a number of concerns regarding the scale and compatibility of the project with the existing neighborhood. The Planning Board's discussion noted that the layout had improved since the workshop, but questions were raised pertaining to the scale and massing of the buildings given that the neighborhood had further developed since the original agreement was adopted in 2004. The Planning Board expressed concern regarding the mass of the buildings in both height and width and questioned the project's consistency with the comprehensive plan in terms of compatibility with the neighborhood. The item was tabled for further discussion to July 8, 2014.

The Planning Board considered three motions regarding the proposed recommendation. The first motion was a finding that the proposed amendments are consistent with the Comprehensive Plan, which was supported by Chair O'Brien and Mr. Dundon and not supported by the four Board members (Boepple, Dean, Hall and Soley, with Morrisette, recused). The second motion was a finding that the proposed amendments are consistent with the underlying R-5A zone and again, the Chair voted affirmatively and the other five members voted against the motion with Morrisette recused. The third motion was to recommend the proposed First Amendment of the Conditional Rezoning Agreement for 802 Ocean Avenue, which was unanimously opposed by all six members with Morrisette recused.

Diane Doyle, as the representative for the applicant, has requested that the proposed amendments be brought forward to the City Council for consideration as is the right of the applicant. Ms. Doyle argues that the objectives for the development as stated in the 2004 agreement and contained in the current agreement, remain valid under the revised proposal and seeks to pursue this development.

VIII. LIST ATTACHMENTS

1. Planning Board report to City Council, dated July 23, 2014
2. Applicant's Submission and Plans
3. Public Comment Packet

Prepared by:

Signature

Date

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

Amended Conditional Rezoning Agreement for 802-828 Ocean Avenue
Casco Heights Condominiums, formerly Graves Hill
802 Ocean Avenue
First Amendment to Conditional Rezoning Agreement for 802 Ocean Avenue
Project No.: 2014-036
Ridge Development LLC, Applicant

Submitted to: Portland City Council: From: Portland Planning Board Second Reading: September 3, 2014	Prepared by: Barbara Barhydt, Development Review Services Manager Date: July 25, 2014 CBL: 411 A007, 416 lots 6, 7, and 21
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I. INTRODUCTION

The Ridge Development LLC is requesting the City Council's consideration and adoption of proposed amendments to a conditional zoning agreement for the property at 802-828 Ocean Avenue (formerly known as Graves Hill). The proposed amendments seek to adjust the boundary line between the R-5A and ROS zone while retaining the same amount of area in each zone, reduce the number of units from 98 to 96 in two mid-rise buildings, reduce the maximum building height from 100 feet to 75 feet, revise the parking numbers for a total of 204 spaces, and eliminate certain building amenities. Casco Heights is proposed with a mix of one, two and three-bedroom market rate units with top floor penthouses. Trail easements and other amenities are proposed as part of the project.

The Planning Board held a workshop on May 6, 2014 and a site walk on June 3, 2014. A public hearing on this application was held on June 10, 2014. The Planning Board voted 3-2, (Hall and Dean opposed, Morrisette and Soley absent) to table this item for further deliberations, which was held on July 8, 2014. The Planning Board considered three motions regarding the proposed recommendation at the July 8th meeting. The first motion was a finding that the proposed amendments are consistent with the Comprehensive Plan, which was supported by Chair O'Brien and not supported by the five Board members (Boepple, Dean, Dundon, Hall and Soley, with Morrisette, recused). The second motion was a finding that the proposed amendments are consistent with the underlying R-5A zone. The Chair and Mr. Dundon voted affirmatively and the other four members (Boepple, Dean, Hall and Soley) voted against the motion with Morrisette recused. The third motion was to recommend the proposed First Amendment of the Conditional Rezoning Agreement for 802 Ocean Avenue, which was unanimously opposed by all six members with Morrisette recused.

Applicant: Ridge Development LLC, Pat Tinsman

Property Owner: Diane Doyle, Property owner, developer of Graves Hill, and hired by applicant to advise on this proposal

Consultant: Will Conway, Sebago Technics

II. REQUIRED REVIEWS

<i>Review</i>	<i>Applicable Statute</i>
Conditional Zoning Agreement	MSRA Section 4352(8) City of Portland Code of Ordinances, <i>Chapter 14, Division 1.5</i>

III. PUBLIC COMMENT

Notices were sent to 414 residents and the interested citizen list for the Planning Board hearings and will be sent for the City Council's public hearing at the second reading. Notices will also appear in the Portland Press Herald, on the City's web page and posted in the City Clerk's office.

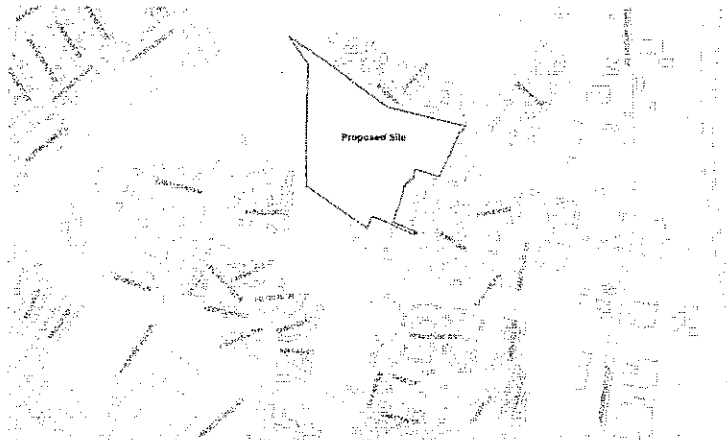
The applicant held the required neighborhood meeting on April 21, 2014 and the material from that meeting is included under the public comment packet as PC-1. All of the public comment received to date is included in the public comment packet.

IV. PROJECT DATA

Existing Zoning	R-5A (10.167 acres) and ROS (8.155 acres) with Conditional Zoning Agreement
Proposed Zoning (revised since workshop)	R-5A (10.18 acres) and ROS (8.14 acres) with Conditional Zoning Agreement. The zone line adjustment is shown in a map below in the project description.
Existing Use	Vacant wooded site
Proposed Use	96 condominium units in two mid-rise buildings in a Planned Residential Development (PRUD)
Parcel Size	18.32 acres
Impervious Surface Area	2.78 acres
Total Ground Floor Area	46,698 sq. ft.
Total Building Floor Area	215,438 sq. ft.
Bedroom Mix	
One Bedroom	16
Two Bedroom	32
Three Bedroom	48
Vehicle Parking -Proposed	
Total Parking spaces	204- 1 space for 16 one bedroom units and 2 spaces for 80 two/three bedroom units with 28 visitor parking spaces
Handicapped Spaces	5
Bicycle Parking- Proposed	
Total # of Spaces	38

V. BACKGROUND AND CONDITIONAL ZONE AGREEMENT FROM 2004

The roughly 18 acre parcel at 802 Ocean Avenue is a wooded site that has one of the highest elevations in Portland with views of Casco Bay. There is a 135 foot CMP easement along the rear property line. The parcel abuts single family homes along Ocean Avenue. The Ocean Ridge Condominium project is located to the north of the site along Ocean Avenue. The rear boundary abuts the condominiums located in the Alden's Walk project on Wildwood Circle. There are single family homes and condominium projects along the easterly side of Ocean Avenue in vicinity of the site.

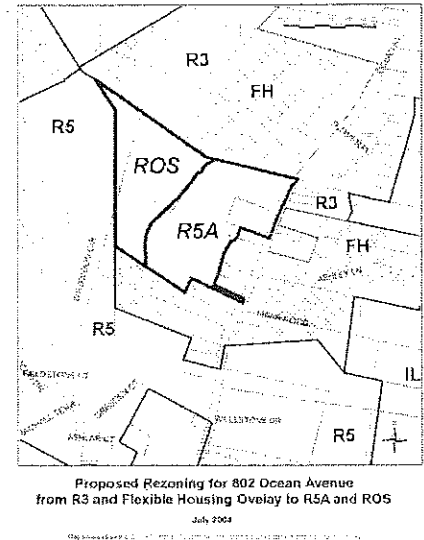


Vicinity Map (from Portland GIS data)

The conditional rezoning agreement adopted by the City Council in 2004 changed the underlying zoning of Residential R-3 to Residential R-5a for 10.167 acres adjoining Ocean Avenue and to ROS for approximately 8 acres at the site, which the applicant is seeking to amend. A copy of the original agreement as passed is included Attachment 2, with the accompanying plans. The 2004 map amendment showing the two zones is inserted here.

The whereas statements in the agreement include a general purpose statement as follows:

...to construct upon a portion of the Property while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system.



The 2004 Graves Hill project included 98 units in two buildings with a maximum height of 100 feet tapering down to 70 feet at each end. The amenities included a community room, small office, fitness rooms and a cross-country-ski locker room. Required parking was set at 2 per unit with 28 spaces for visitors and the uses allowed in the R-5a would be allowed for the Graves Hill planned residential development (PRUD). The portion of the site (approximately 8 acres) included in the Recreation and Open Space (ROS) zone was to remain undeveloped and open to the public through easements with Portland Trails. The developer proposed a buffer area between the abutting residential neighbors that reside on Ocean Avenue and a no cut area along the ROS zone to further protect the buffer area for the residents at Alden's Walk.

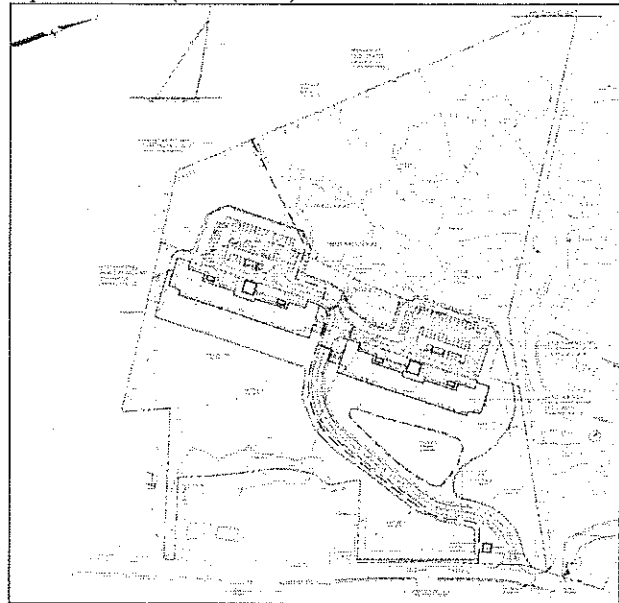
VI. PROPOSED DEVELOPMENT

Ridge Development LLC is seeking to amend the 2004 conditional zone agreement for 802 Ocean Avenue in order to enable them to revise the development concept. Their proposal includes the following components:

- a. 96 units (down from 98) in two buildings with 48 units in each.
- b. The bedroom mix of 16 one-bedroom units, 32 two-bedroom units, and 48 three-bedroom units.
- c. A maximum building height of 75 feet, rather than the adopted 100 feet.
- d. The building footprints have expanded in width to roughly 330 feet.
- e. The building on the northeast side of the site (abutting Ocean Ridge Condominiums) are shown at 65 feet from the property line and a landscaped buffer is proposed. The second phase building is 36 feet at the closest point from the property line on the westerly side of the site.
- f. Structured parking is provided on the base level of each building and there are two surface parking lots to the rear of the buildings. The total number of parking spaces proposed and included as an amendment in the agreement is 204 spaces. This is based upon a ratio of 1 space for each one bedroom unit, and 2 spaces for the two and three bedroom units and 28 visitor parking spaces.
- g. The layouts of the surface lots are modified, so that blasting of the second highest point in Portland is not required.
- h. The plan includes a sidewalk along the entrance road, which connects with the proposed trails within the ROS zone. A sidewalk is proposed along the opposite side of Ocean Avenue with a crosswalk leading to the site, as recommended by Public Services.
- i. A detention basin on the northerly side of the site is proposed to manage storm water.
- j. The amenities of a small office, fitness and special events room, a cross country ski center/locker room are eliminated in this proposal.
- k. The project is proposed to retain two phases of development as presented in the 2004.

- I. The adjustment to the zone line between ROS and R-5a is shown below and with this modification the amount of land in each zone is almost the same as the current land area. The proposed modification from the approved agreement is as follows:
 - i. Current: R-5A (10.167 acres) and Proposed R-5A (10.18 acres)
 - ii. Current ROS (8.155 acres) and Proposed ROS (7.14 acres)

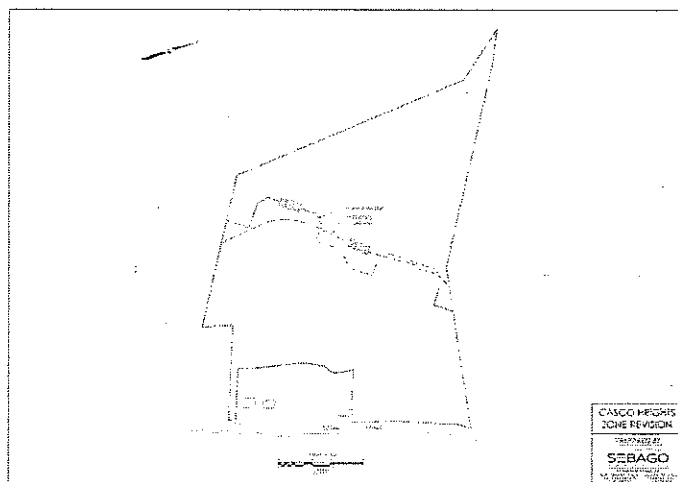
Overall Site Plan



Building Elevations



Proposed Zoning Map Amendment –
Adjustment of Line between ROS and
R-5a



VII. AMENDED CONDITIONAL REZONING AGREEMENT

Attachment 1 to this report is the revised First Amendment to the Conditional Rezoning Agreement updated by Jennifer Thompson for July 8th. The applicant's requested agreement, as revised by the applicant, is presented in Applicant's submission, Attachment J. While the Planning Board is recommending against adoption of this proposed First Amendment to the Conditional Zone Agreement, if the City Council were to approve it despite their negative recommendation, the Board's revised conditional zone agreement is the version that should be considered. The revised version of the amended agreement addresses the concerns raised by the public and the planning during the review and the applicant is generally agreeable to them, except the requirement for additional liability insurance for the blasting contractor. The proposed agreement incorporating staff recommendations is summarized below.

A. WHEREAS STATEMENTS (refer to Attachment 1 for complete list of whereas statements):

1. **Developer Name:** All references to the Graves Hill Land Company, LLC are replaced with the Ridge Development LLC.
2. **Purchase Option:** The first whereas is modified to reflect that Ridge Development has an option to purchase the property.
3. **Number of Residential Units:** The maximum number of proposed residential units is changed from 98 to 96 (at the workshop the maximum figure was 94).
4. **Zone Map Adjustments:** In the third whereas statement, the land area within the R-5a zone is increased slightly from 10.167 to 10.18 acres and the land area within the ROS zone is reduced from 8.155 to 8.14 acres.
5. **Consistency with Land Use Code and Comprehensive Plan:** In the fourth paragraph, the wording has been revised to include reference to the comprehensive plan and the underlying zone. The changes are as follows:

WHEREAS, the CITY OF PORTLAND (hereinafter "CITY"), by and through its City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, has also concluded that the rezoning of the Property as aforesaid and subject to certain conditions outlined below, is consistent with the City's Comprehensive Plan and with existing and permitted uses in the underlying zone; and

6. **Design:** The fifth whereas statement refers to the design. The staff and applicant have not proposed any revisions to this statement other than the substitution of the developer name. It is as follows:

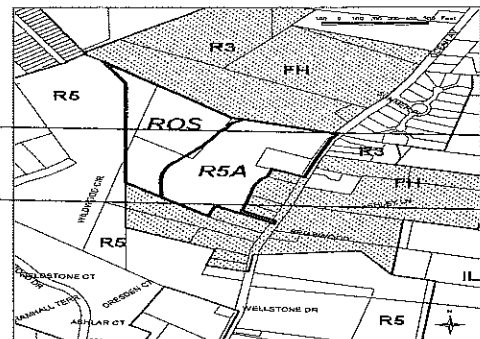
WHEREAS, the CITY, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

1. The Zoning Map Amendment (paragraph 1):

The revised condition is as follows:

DELETE THIS MAP



SUBSTITUTE MAP SHOWING REVISED
ZONE LINE

- Number of residential units permitted is up to 96 rather than up to 98;
- Community room in each building is deleted;
- A small office in each building is deleted.
- A fitness and special events room in each building available for use by the residents is deleted.
- A cross country ski center/locker room in each building available for the residents is deleted.

- f. The two spaces per unit plus 28 spaces for visitor parking is now proposed as 2 spaces per the two and three bedroom units and 1 space per 1 bedroom unit, plus at least 28 visitor parking spaces.
 - g. In addition to the trail system, a future recreation area is proposed that is subject to site plan review and approval by the Planning Board.
3. **Use and Phasing of R-5A portion of site (paragraph 3.):** The proposal retains the phasing as depicted in the adopted agreement. The site will be developed in two phases. The paragraph specifies that each phase will be limited to 48 units and it retains the language that all hlasting required for the entire site development would be done in Phase I. The first phase includes the access road, building on the northerly side of the site near Ocean Ridge, the surface parking, all trails and the stormwater pond below Phase 1 (as shown on the revised overall site plan, Plan 1, dated 5-20-14).
4. **Separate Performance Guarantees for each Phase (Paragraph 4):** Unchanged.
5. **Use of ROS portion of the site (paragraph 5):** The proposal retains the language for the uses as follows and adds the concept of a future recreation area (shown on site layout):

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walks, future recreation area, or similar improvements as necessary to facilitate access.

The section retains the language for the ROS which states, "... the property shall be left in its natural state, and natural features, mature trees and natural surface drainage ways, shall be preserved to the greatest possible extent consistent with the uses of the property."

6. **Recreation Trail Easement to Portland Trails (paragraph 6):** The requirements to grant trail easements to Portland Trails for not less than 3,207 linear feet of trails to allow for passive recreational use by the general public are retained. The full condition remains unchanged from the adopted agreement except for owner name changes. If Portland Trails does not accept the easements or conveyance, then the applicant may grant the trail easements to the City of Portland.
7. **Property developed in substantial accordance with Preliminary Site Plans (paragraph 7):** The site plans developed by Sebago Technics and the building elevations prepared by Archetype are substituted for the plans prepared by Scott Simons Architects.

The revised plan shifts the drainage detention area from behind the homes on Ocean Avenue to a location on the easterly side of the proposed roadway. The revised plan shows tree save areas where the detention basin had been located and it shifts the building in Phase 1 from 32 to 65 feet from the Ocean Ridge property line. The proposal revises the buffer requirement (Plan 19 is the buffer plan, which will be attached to agreement) as follows:

RIDGE DEVELOPMENT shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue side of the building adjacent to Ocean Ridge Condominiums, with precise specifications subject to final site plan review.

Based upon Mr. Errico's review of the proposed accessway, public comments, and its proximity to Ridge Road this paragraph includes a revision to allow the Planning Board to review the final location for the access road. It states the separation between the access Road and Ridge Road will be to the maximum extent practicable. The proposed language is as follows:

The Ridge Development entrance on Ocean Avenue as shown on the site plan shall achieve separation from Ridge Road to the maximum extent practicable be at the location shown on said Site Plan subject to site plan review by the Planning Board and the City hereby grants consideration of such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of RIDGE DEVELOPMENT, with the approval of the Planning Board, the the final Planning Board approved location of the entrance may be moved up to 20 feet southerly of the location shown- from the location on the attached site plan without any further amendment to this Contract Zone Agreement.

8. Planning Board Review of each Phase (paragraph 8): Unchanged

9. Staff Recommendations for conditions of approval regarding a blasting plan, adds new conditions 9-13: The Planning Board recommends that conditions be included in the agreement to address concerns raised by the Board and the public. Portland regulates blasting through the Regulation of Explosive Ordinance and technical manual regulations. The proposed conditions build upon those regulations and would require a blasting plan be submitted for review by a third party seismologist, as part of the site plan and subdivision review. The amendments call for a certified mailing, increase in insurance coverage from \$2 million to \$4 million, and the independent third-party seismologist would also monitor the blasting during construction. The proposed conditions are as follows:

9. The blasting plan required by Chapter 14, Article VIII of the Portland City Code and Section 3 of the City of Portland Technical Manual for issuance of a blasting permit shall be included in the applications for Site Plan and Subdivision Review and shall require final review and approval by the Planning Board based upon the recommendation of a third-party, independent, seismologist approved and hired by the Planning Authority at the Applicant's expense (hereinafter "Third-Party Seismologist").

10. The notification of neighbors required by Section 14-592 of the Portland City Code shall be accomplished by certified mail rather than regular mail.

11. During blasting operations, ground vibration monitoring shall be conducted by the an independent Third-Party Sseismologist at the Applicant's expense or blasting consultant. RIDGE DEVELOPMENT's selection of the independent seismologist or blasting consultant is subject to the review and approval of the City of Portland Planning Authority.

12. Notwithstanding Section 3.7.13 of the City of Portland Technical Manual, the blasting contractor shall be required to carry liability insurance (XCU) coverage in an amount no less than \$4,000,000.00.

13. In addition to the requirements outlined in Paragraphs 9-11 above, RIDGE DEVELOPMENT expressly agrees that, with respect to its development of the Property, it will comply with all other provisions relating to the regulation of blasting and explosives contained in Chapter 14 of the Portland City Code and the City of Portland Technical Manual.

10. Change in Ownership (paragraph 14 in staff version or 9 in applicant's): Unchanged

11. Dimensional Requirements for modified R-5a zone (paragraph 15):

- a. Maximum number of units per building is reduced from 49 to 48

- b. Maximum number of units per building is 2 (unchanged from adopted agreement)
- c. Maximum building height is reduced from 100 feet to 75 feet
- d. The parking is revised to provide a total of 204 spaces with have in Phase I and half in Phase II. The total number of space proposed in the original agreement was 224 spaces.
- e. Minimum recreation open space area: (unchanged from adopted agreement)

12. Standard Conditions of Conditional Zone Agreements (paragraphs 16-21 in staff version or 12 through 16 in applicant's): Unchanged

VII. REGULATORY CONSIDERATIONS AND COMPREHENSIVE PLAN

A. Conditional Rezoning

Consideration of the request for conditional rezoning is guided by both state statute and the city's land use ordinance. The state statute (Title 30-A Section 4352(8)) requires that all conditional or contract zoning must:

- *Be consistent with the growth management program adopted under this chapter;*
- *Establish rezoned areas that are consistent with the existing and permitted uses within the original zones; and*
- *Only include conditions and restrictions that relate to the physical development or operation of the property.*

The city's ordinance (Section 14-60) further states:

Pursuant to 30-A M.R.S.A. Section 4503(9), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the city council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan.

The applicant has provided two narratives in their submission that addresses compliance with the Comprehensive Plan and an analysis of compliance with the R-5a zone, refer to the Applicant's Submissions, Attachments F and G. The applicant has cited goals and policies in Attachment F regarding housing and economic development, trail connections, appreciation of coastal heritage, need for higher residential density, housing options for all income levels, open space and recreation, environmental protection and urban design. The R-5a zoning analysis (Attachment G) provides the history, purpose, zoning comparison, and provisions of the conditional agreement. It should be noted that on the future Land Use Plan in Portland's Comprehensive Plan, the conditional rezone agreement for the R-5A is shown as a growth area and the ROS area is designated as rural or conservation zone.

B. Comprehensive Plan

In addition to the comprehensive plan policies as stated in the Applicant's Submission Attachments F and G, Portland's Comprehensive Plan includes the following policies regarding neighborhood compatibility:

Housing: Sustaining Portland's Future

Policy #3: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respect neighborhood integrity.

Objective 3.b. Support Portland's livable neighborhoods by encouraging a mix of needed uses and services within walking distance of most residents.

Actions:

3.b.1. Promote a mix of housing types, small retail and service businesses, community services, and open space/recreation opportunities of appropriate size, scale and type within each neighborhood through City policies and programs such as zoning for mixed use neighborhood centers, housing pilot projects, Land Band Commission efforts and parks planning.

Objective 3.c. Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.

Actions:

3.c.1. Evaluate and update, as needed, the current zoning and subdivision codes to encourage new residential development that

- Offers diverse and quality living options;
- Provides traditional neighborhood elements;
- Promotes a walkable city;
- Is compatible with Portland's existing neighborhoods.

Objective 3.d. Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.

Objective 3. e. Ensure the integrity and economic value of Portland's neighborhoods

Action

3.e. 7. The City will preserve publicly owned neighborhood amenities, such as trails, athletic fields, and parks.

C. Planning Board Analysis:

According to the Planning Board report to the City Council in 2004, "[T]he focus was to design buildings that would minimize the impact on the site, preserving the natural landscape for the public to enjoy through a trail system."

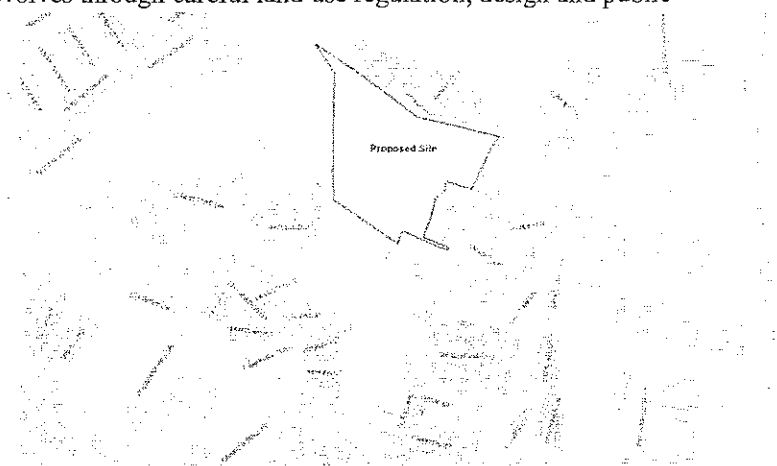
At the June 10th public hearing on the amended agreement, neighboring residents raised a number of concerns regarding the scale and compatibility of the project with the existing neighborhood. The Planning Board's discussion noted that the layout had improved since the workshop, but questions were raised pertaining to the scale and massing of the buildings given that the neighborhood had further developed since the original agreement was adopted in 2004. Specifically, the Board expressed concern regarding the mass of the buildings in both height and width and questioned the project's consistency with the comprehensive plan in terms of compatibility with the neighborhood.

As stated in the Applicant's submission, one of Portland's housing goals is to "ensure that an adequate supply of housing is available to meet the needs, preference and financial capabilities of all Portland households, now and in the future." The policies call for a mix of housing types that offers options for owners and renters across all income levels. It also encourages higher density housing, particularly located near services, such as schools, businesses, institutions, employers, and public transportation. While the site is not on a public

transportation route, it is near the downtown and off-peninsula business areas and employment centers in both East and North Deering. The proposed buildings offer an alternative housing type (mid-rise buildings) for the neighborhood and the density is within the limits of the R-5a zone. The developer's concept for the two larger buildings versus multiple smaller structures is intended to preserve a significant portion of the site for passive recreation and preservation of open space.

The Comprehensive Plan includes policies that seek to maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulation, design and public participation that respects

neighborhood integrity. The roughly 18 acre parcel at 802 Ocean Avenue is a wooded site that has one of the highest elevations in Portland with views of Casco Bay. There is a 135 foot CMP easement along the rear property line. The parcel abuts single family homes along Ocean Avenue. The Ocean Ridge Condominium project is located to the north of the site along Ocean Avenue. The rear boundary abuts the condominiums located in the Alden's Walk project on Wildwood Circle. There are single



family homes and condominium projects along the easterly side of Ocean Avenue in vicinity of the site. The 2014 plan lowers the height of the two structures (maximum of 75 feet) and creates a wider structure with a width of approximately 330 feet. While, the proposal increases the width of the buffer along Ocean Ridge, provides increased landscaping, reduces impervious surface area, and seeks to minimize blasting, the Planning Board cited the massive buildings as being out of context with the development patterns in the area and noted that the area had been further developed since the 2004 conditional rezoning agreement was adopted.

Preserving a portion of the site in the ROS zone for trails was an integral component of the site plan. The line between the ROS zone and the R-5A zone is modified in the 2014 proposal, but the quantity of land in each zone is essentially the same. As presented in the applicant's analysis of the comprehensive plan (Attachment F) there are policies from Green Spaces, Blue Edges, that support trails and open space focal points within walking distance of neighborhoods. The plan as revised preserves the high point and is consistent with the comprehensive plan recommendation to "develop High Point Parks, open space spaces located on the higher elevations of the city...." The Comprehensive plan also includes policies for trail connections, which in this proposal includes at least 3,207 linear feet of trails for public use. Lastly, the City's housing policies support locating and designing housing to reduce impacts on environmentally sensitive areas. The applicant has indicated that they are trying to minimize tree clearance, reduce blasting from the 2004 proposal, and minimize the amount of impervious surface area on the site. It should be noted that the site is on the highest priority list for acquisition by the Land Bank Commission (list includes 15 sites).

VIII. PLANNING BOARD RECOMMENDATION

The Planning Board considered three motions regarding the proposed recommendation. The first motion was a finding that the proposed amendments are consistent with the Comprehensive Plan, which was supported by Chair O'Brien and not supported by the five Board members (Boepple, Dean, Dundon, Hall and Soley, with Morrisette, recused). The second motion was a finding that the proposed amendments are consistent with the underlying R-5A zone. The Chair and Mr. Dundon voted affirmatively and the other four members (Boepple, Dean, Hall and Soley) voted against the motion with Morrisette recused. The third motion was to recommend the proposed First Amendment of the Conditional Rezoning Agreement for 802 Ocean Avenue, which was unanimously opposed (6-0, Morrisette recused).

Diane Doyle, as the representative for the applicant, has requested that the proposed amendments be brought forward to the City Council for consideration as is the right of the applicant. Ms. Doyle argues that the objectives for the development as stated in the 2004 agreement and contained in the current agreement, remain valid under the revised proposal and seeks to pursue this development.

X. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

IA. Proposed First Amendment to Conditional Rezoning Agreement - Staff Recommendation – redlined version

2A. Adopted Agreement 2005 with attachments

ATTACHMENT 2 APPLICANT'S SUBMITTALS AND PLANS

- A. Table of Contents
- B. Cover Letter
- C. Application
- D. Redlined Rezoning Agreement
- E. Proposed Amended Rezoning Agreement
- F. Conformance with Comprehensive Plan
- G. Conformance with R-5a zoning
- H. Right Title and Interest
- I. May 20, 2014 Cover letter
- J. Redlined revised agreement, May 20th
- Plan 1 Overall Site Plan
- Plan 2 Illustrative Site Plan- accessway
- Plan 3 Illustrative Site Plan- building and parking
- Plan 4 Boundary Survey 1
- Plan 5 Boundary Survey 2
- Plan 6 Zoning Map Adjustment
- Plan 7 Casco Heights Building Elevations
- Plan 8 Casco Heights Rendering
- Plan 9 Casco Heights Flagging for Site Walk
- Plan 10 Fall Equinox 9 a.m.
- Plan 11 Fall Equinox 12 p.m.
- Plan 12 Fall Equinox 3 p.m.
- Plan 13 Winter Solstice 9 a.m.
- Plan 14 Winter Solstice 12 p.m.
- Plan 15 Winter Solstice 3 p.m.
- Plan 16 Summer Solstice 9 a.m.
- Plan 17 Summer Solstice 12 p.m.
- Plan 18 Summer Solstice 3 p.m.
- Plan 19 Buffer Plan

ATTACHMENT 3 PUBLIC COMMENT

- PC-1 Applicant's Neighborhood Meeting Packet, meeting held on April 21, 2014
- PC-2 Mark Lourie, April 21 and 23, 2014
- PC-3 Roberta Loring, April 29, 2014
- PC-4 Dagmar Decker, May 3, 2014
- PC-5 Anthony Miller MD, May 3, 2014
- PC-6 Vincenzo Marotta, May 4, 2014
- PC-7 Jeff Degan, May 4, 2014
- PC-8 Antoinette Mancusi, May 4, 2014
- PC-9 Jon Camire, May 4, 2014
- PC-10 Pam Anzelc, May 5, 2014
- PC-11 Jade Arn, May 5, 2014
- PC-12 Helen Daniels, May 5, 2014

PC-13 Thomas and Shelia Buckland, May 6, 2014
 PC-14 Sabrina Nickerson and Randy Judkins, May 5, 2014
 PC-15 Jean Mattimore, May 5, 2014
 PC-16 Gene DiBenedetto, May 5, 2014
 PC-17 Judith Richard, May 6, 2014
 PC 18 Glenna Irvine, May 6, 2014
 PC-19 Jeanette Haskell, Wellstoen Condominium Association, May 6, 2014
 PC-20 Frank Pandolfo, May 7, 2014
 PC-21 Linda Belanger, May 7, 2014
 PC-22 Chuck Grossman, May 6, 2014
 PC-23 Leslie Rodgers, May 7, 2014
 PC-24 Gene Ibenedetto, June 4, 2014
 PC-25 Richard Kessler
 PC-26 Lesli Rodgers 6-30-14
 PC27 Robin Schulte 6-30-14
 PC28 Helen Daniels 5-5-14
 PC29 Pamela Anzelc 6-29-14
 PC30 Carol Hayden 6-28-14
 PC31 Terence Goodwin 6-27-14
 PC32 Vincenzo Marotta 7-1-14, 6-8-14 and 5-4-14
 PC33 Wayne Goodman 6-8-14
 PC34 Matt Smith 6-8-14
 PC35 Antoinette Mancusi 6-8-14
 PC36 Vincenzo Marotta 6-8-14 and 5-4-14
 PC37 Frank Pandolfo 6-8-14
 PC38 Judith Richard 6-8-14
 PC39 Barbara Miller 6-9-14
 PC40 Karen McCallum 6-9-14
 PC41 Robin Schulte 6-9-14
 PC42 Richard Kessler 6-9-14
 PC43 Glenn Turner 6-9-14
 PC44 Jean Mattimore 6-9-14
 PC45 Terence Goodwin 6-9-14
 PC46 Chuck Grossman 6-9-14
 PC47 Craig Williams 6-9-14
 PC48 James Harnar 6-9-14
 PC49 Stacey Hong 6-9-14
 PC50 Asherah Cinnamon 6-9-14
 PC51 Jim Fairbanks 6-9-14
 PC52 Carol Veilleux 6-9-14
 PC53, Jim Harnar 7-3-14
 PC54 Tom Buckland 7-4-14
 PC55 Antoinette Mancusi 7-5-14
 PC56 Jean Mattimore 7-3-14
 PC57 Glen Turner 7-3-14
 PC 58 Craig Williams 7-7-14
 PC59 Paulette Tidd 7-7-14
 PC60 Jim Fairbanks 7-7-14
 PC61 Sabrina Nickerson 7-8-14
 PC62 Carol Veilleux 7-7-14
 PC63 Carol Veilleux and Donald Kale
 PC64 George Campbell 7-8-14
 PC65 Terrence Goodwin 7-1-14

**ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: FIRST AMENDMENT TO CONDITIONAL REZONING
FOR 802-828 OCEAN AVENUE**

ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below; and

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective upon sale to Ridge Development LLC.

**FIRST AMENDMENT CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY RIDGE DEVELOPMENT, LLC**

This Agreement made this _____ day of _____, 2004 by ~~GRAVES HILL LAND COMPANY~~ RIDGE DEVELOPMENT, LLC, a Maine limited liability company with an office in Saco, Maine (hereinafter "GRAVES HILL RIDGE DEVELOPMENT").

WITNESSETH:

WHEREAS, ~~GRAVES HILL RIDGE DEVELOPMENT~~ owns or has an option on a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, ~~GRAVES HILL RIDGE DEVELOPMENT~~ proposes to construct upon a portion of the Property a maximum of ~~98.96~~ condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, ~~GRAVES HILL RIDGE DEVELOPMENT~~ has requested the rezoning of ~~10.167~~ 10.18 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of ~~8.155~~ 8.14 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS) ; and

WHEREAS, the CITY OF PORTLAND (hereinafter "**CITY**"), by and through its City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "**Code**") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, has concluded that the rezoning of the Property as aforesaid and subject to certain conditions outlined below, is consistent with the City's Comprehensive Plan and with existing and permitted uses in the underlying zone; and

WHEREAS, the CITY, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

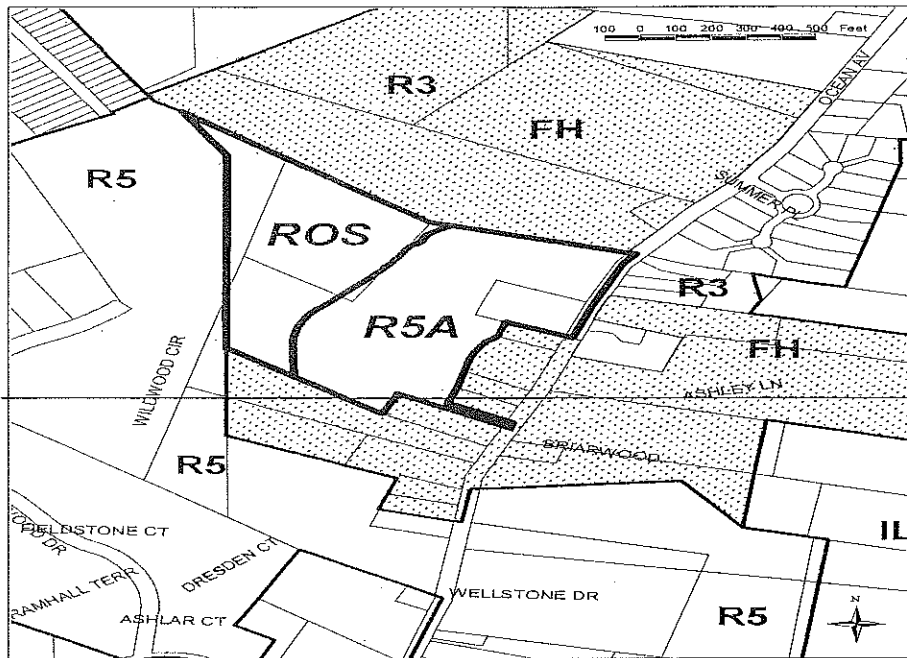
it is necessary and appropriate to impose with ~~GRAVES HILL's~~ RIDGE DEVELOPMENT's agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the CITY'S comprehensive land use plan; and

WHEREAS, the City Council of the CITY authorized the execution of this Agreement on _____, 200_, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, ~~GRAVES HILL~~ RIDGE DEVELOPMENT has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind ~~GRAVES HILL~~ RIDGE DEVELOPMENT, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, ~~GRAVES HILL~~ RIDGE DEVELOPMENT contracts to be bound by the following terms and conditions:

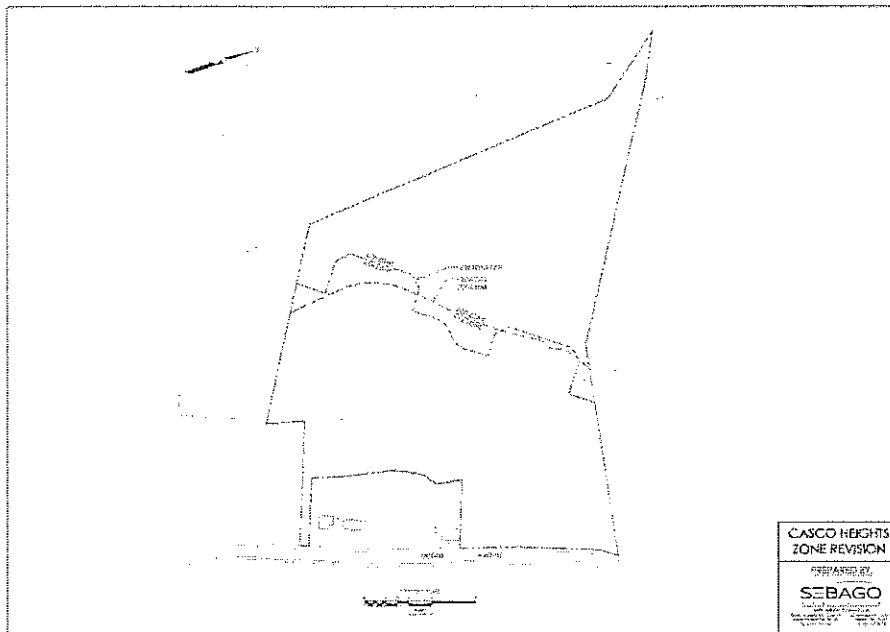
1. The CITY hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning sale of the property to Ridge Development LLC or within one hundred and eighty (180) days of the City Council's approval of said rezoning, whichever is later, then the rezoning shall become null and void and the zoning of the Property (together with all conditions) shall revert to the pre-existing R-3 zone that contained in the original Conditional Rezoning Agreement for 802-828 Ocean Avenue approved on _____ and recorded in the Cumberland County Registry of Deeds at Book _____, Page _____.



**Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Overlay to R5A and ROS**

July 2004

Map prepared by the City of Portland's Department of Planning & Development and the GIS Workgroup



Proposed Amended Rezoning for 802 Ocean Avenue for the line adjustment between
Recreation and Open Space (ROS) and Residential R-5a (of the C-34 Conditional Rezone Agreement)
May 2014

2. ~~GRAVES HILL~~ RIDGE DEVELOPMENT is authorized to establish and maintain the following uses on the R-5A portion of the property:

- a. Up to ~~98-96~~ residential units located in two buildings, each building containing up to 49 ~~48~~ units, which may be sold as condominium units, resulting in a maximum total of ninety-eight~~six~~ (~~98-96~~) residential units within the Property; and
- b. ~~a community room in each building available for use by the residents of the PRUD; and~~
- c. ~~a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services a fitness and special events room in each building available for use by the residents of the PRUD; and~~
- d. ~~a cross country ski center/locker room in each building available for use by the residents of the PRUD; and~~
- e. ~~b. parking in an amount of not less than 2 spaces per residential unit one (1) space per one bedroom unit and two (2) spaces per two and three bedroom units, plus at least 28 additional surface visitor parking spaces; and~~
- f. ~~c. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site. A future recreation area is also permitted, subject to Site Plan Review and approval by the Planning Board.~~

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the R-5A portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to ~~forty-nine~~eight (49 ~~48~~) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to ~~forty-nine~~eight (49 ~~48~~) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. ~~GRAVES HILL~~ RIDGE DEVELOPMENT is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the R-OS portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, future recreation area, or similar improvements as necessary to facilitate access.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. ~~GRAVES HILL~~ RIDGE DEVELOPMENT shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize ~~GRAVES HILL~~ RIDGE DEVELOPMENT, its successors and assigns, Graves Hill Ridge Development Condominium Owners' Association, and **Portland Trails** to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, ~~GRAVES HILL~~ RIDGE DEVELOPMENT may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as ~~GRAVES HILL~~ RIDGE DEVELOPMENT has made the required conveyance, by easement and/or in fee, to **Portland Trails** and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, **Portland Trails** declines to accept said trail easements and/or conveyances upon the terms offered, ~~GRAVES HILL~~ RIDGE DEVELOPMENT may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than **Portland Trails**) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by ~~Richardson and Associates (last revised August 16, 2004)~~ Sebago Technics (last revised May 2014) and the Proposed Building Design site sections, building sections and floor plans submitted by ~~Scott Simons Architects (last revised July 8, 2004)~~ Archetype PA (last revised May 2014) and the preliminary elevation from ~~Mackworth Island (undated, submitted August 17, 2004), attached hereto.~~ The Ridge Development entrance on Ocean Avenue as shown on the site plan shall achieve separation from Ridge Road to the maximum extent practicable ~~be at the location shown on said Site Plans~~ subject to site plan review by the Planning Board and the City hereby grants consideration of such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **RIDGE DEVELOPMENT**, with the approval of the Planning Board, the the final Planning Board approved location of the entrance may be moved up to 20 feet southerly of the location shown ~~from the location on the attached site plan~~ without any further amendment to this Contract Zone Agreement. So long as

the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. ~~GRAVES HILL- RIDGE DEVELOPMENT~~ shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, ~~GRAVES HILL- RIDGE DEVELOPMENT~~ shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the CITY for the CITY to apply toward installing granite curbs and sidewalk in the vicinity of the PROPERTY.

~~GRAVES HILL- RIDGE DEVELOPMENT~~ shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue side of the building adjacent to Ocean Ridge Condominiums, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by ~~GRAVES HILL- RIDGE DEVELOPMENT~~ or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while ~~GRAVES HILL- RIDGE DEVELOPMENT~~ shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. The blasting plan required by Chapter 14, Article VIII of the Portland City Code and Section 3 of the City of Portland Technical Manual for issuance of a blasting permit shall be included in the applications for Site Plan and Subdivision Review and shall require final review and approval by the Planning Board based upon the recommendation of a third-party, independent, seismologist approved and hired by the Planning Authority at the Applicant's expense (hereinafter "Third-Party Seismologist").

10. The notification of neighbors required by Section 14-592 of the Portland City Code shall be accomplished by certified mail rather than regular mail.

11. During blasting operations, ground vibration monitoring shall be conducted by the an independent Third-Party Seismologist at the Applicant's expense or blasting consultant. RIDGE DEVELOPMENT's selection of the independent seismologist or blasting consultant is subject to the review and approval of the City of Portland Planning Authority.

12. Notwithstanding Section 3.7.13 of the City of Portland Technical Manual, the blasting contractor shall be required to carry liability insurance (XCU) coverage in an amount no less than \$4,000,000.00.

13. In addition to the requirements outlined in Paragraphs 9-11 above, RIDGE DEVELOPMENT expressly agrees that, with respect to its development of the Property, it will comply with all other provisions relating to the regulation of blasting and explosives contained in Chapter 14 of the Portland City Code and the City of Portland Technical Manual.

149. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by ~~GRAVES HILL- RIDGE DEVELOPMENT~~ or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which ~~GRAVES HILL- RIDGE DEVELOPMENT~~ and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, ~~GRAVES HILL- RIDGE DEVELOPMENT~~ or any successor in interest may convey the R-

OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

~~40~~15. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: ~~49~~ 48

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: ~~100~~ 75 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site plan

Parking: Minimum of 2 spaces per unit plus 28 visitor spaces, half in Phase I and half in Phase II. ~~204 spaces, half in Phase I and half in Phase II.~~

Minimum recreation open space area: Outdoor passive recreation in the form of pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **GRAVES HILL RIDGE DEVELOPMENT** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

~~16~~1. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and **GRAVES HILL RIDGE DEVELOPMENT** need not submit any parking needs projections.

~~42~~17. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **GRAVES HILL RIDGE DEVELOPMENT**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

4318. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

4419. In the event ~~GRAVES HILL~~ RIDGE DEVELOPMENT or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of ~~GRAVES HILL'S~~ RIDGE DEVELOPMENT 'S breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that ~~GRAVES HILL~~ RIDGE DEVELOPMENT has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

4520. ~~GRAVES HILL~~ RIDGE DEVELOPMENT shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

4621. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS: ~~GRAVES HILL LAND COMPANY~~ RIDGE DEVELOPMENT, LLC

By: _____
Diane Doyle Patrick Tinsman
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

_____, 200_

Then personally appeared the above-named ~~Diane Doyle~~ Patrick Tinsman, Manager of ~~GRAVES HILL LAND COMPANY~~ RIDGE DEVELOPMENT, LLC as aforesaid, and acknowledged the foregoing instrument to be ~~her~~ his free act and deed in ~~her~~ his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

Order 67 - 04/05

Given first reading 9/20/04

Postponed on 10/4/04

Public Hearing and Passage 10/18/04 7-1 (Smith abstaining, O'Donnell opposed)

NATHAN H. SMITH (MAYOR)(3)
WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
CHERYL A. LEEMAN (4)
JAMES I. COHEN (5)

CITY OF PORTLAND
IN THE CITY COUNCIL

PETER E. O'DONNELL (A/L)
JAMES F. CLOUTIER (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: CONDITIONAL REZONING FOR 802-828 OCEAN AVENUE**

ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below;

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective thirty (30) days following this rezoning.

**CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY, LLC**

This Agreement made this _____ day of _____, 2004 by **GRAVES HILL LAND COMPANY, LLC**, a Maine limited liability company with an office in Saco, Maine (hereinafter "**GRAVES HILL**").

WITNESSETH:

WHEREAS, GRAVES HILL owns a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, GRAVES HILL proposes to construct upon a portion of the Property a maximum of 98 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate

with a larger trail system; and

WHEREAS, GRAVES HILL has requested the rezoning of 10.167 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 8.155 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS); and

WHEREAS, the Planning Board of the **CITY OF PORTLAND** (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "**Code**") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the **CITY**, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

it is necessary and appropriate to impose with **GRAVES HILL**'s agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY**'S comprehensive land use plan; and

WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 200__, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1; and

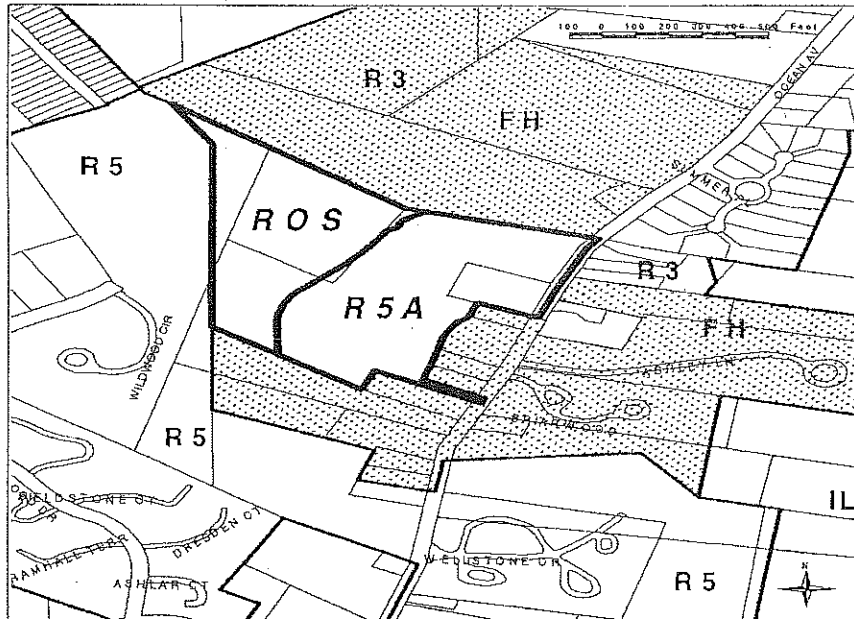
WHEREAS, GRAVES HILL has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **GRAVES HILL**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **GRAVES HILL** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert

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to the pre-existing R-3 zone.



Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Overlay to R5A and ROS

July 2004

Map prepared by the City of Portland's Department of Planning & Development and the US Workgroup

2. **GRAVES HILL** is authorized to establish and maintain the following uses on the **R-5A** portion of the property:

- a. Up to 98 residential units located in two buildings, each building containing up to 49 units, which may be sold as condominium units, resulting in a maximum total of ninety-eight (98) residential units within the Property; and
- b. a community room in each building available for use by the residents of the PRUD; and
- c. a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services for 802 Ocean Avenue, if determined necessary by the condominium owners' association; and
- d. a fitness and special events room in each building available for use by the residents of the PRUD; and
- e. a cross country ski center/locker room in each building available for use by the

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residents of the PRUD; and

- f. parking in an amount of not less than 2 spaces per residential unit, plus at least 28 additional surface visitor parking spaces; and
- g. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the R-5A portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-nine (49) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-nine (49) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **GRAVES HILL** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the R-OS portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **GRAVES HILL** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The

easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **GRAVES HILL**, its successors and assigns, Graves Hill Condominium Owners' Association, and Portland Trails to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, **GRAVES HILL** may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as **GRAVES HILL** has made the required conveyance, by easement and/or in fee, to Portland Trails and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, **GRAVES HILL** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Richardson and Associates (last revised August 16, 2004) and the Proposed Building Design site sections, building sections and floor plans submitted by Scott Simons Architects (last revised July 8, 2004) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The Graves Hill entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **GRAVES HILL**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this

Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **GRAVES HILL** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **GRAVES HILL** shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

GRAVES HILL shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **GRAVES HILL** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **GRAVES HILL** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **GRAVES HILL** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which **GRAVES HILL** and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, **GRAVES HILL** or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 49

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 100 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site

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plan

Parking: Minimum of 2 spaces per unit plus 28 visitor spaces, half in Phase I and half in Phase II

Minimum recreation open space area: Outdoor passive recreation in the form of pedestrian trails of not less than 3,207 linear feet shall be provided on the Property,

generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **GRAVES HILL** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and **GRAVES HILL** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **GRAVES HILL**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

o:/Penny/Contract/Rezoning/Graves Hill to Council 9.15.04

14. In the event **GRAVES HILL** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **GRAVES HILL'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **GRAVES HILL** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **GRAVES HILL** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS:

GRAVES HILL LAND COMPANY, LLC

By: _____
Diane Doyle
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

_____, 200__

Then personally appeared the above-named Diane Doyle, Manager of **GRAVES HILL LAND COMPANY, LLC** as aforesaid, and acknowledged the foregoing instrument to be her

free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

EDWIN P. CHESTER
BARBARA A. VESTAL
STEVEN M. CAREY

107 Congress Street
Portland, Maine 04101
Telephone (207) 772-7426
Fax (207) 761-5822
E-mail: nchester@maine.rr.com
vestal@maine.rr.com
smcarey@maine.rr.com

NOV 12 2004

November 12, 2004

HAND DELIVERED

Penny Littel, Esq.
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Conditional Zone Agreement, Graves Hill Land Company, LLC

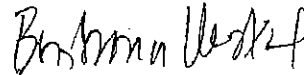
Dear Penny:

Enclosed is a copy of the Conditional Zone Agreement which was executed by Graves Hill Land Company, LLC on November 8, 2004, together with the Council Order (Attachment 1) and reduced, black/white copies of Exhibits 1-4 which were attached to the Agreement when it was submitted to the City Council for public hearing on October 18, 2004. The original Conditional Zone Agreement (including Attachment and Exhibits) was recorded on November 10, 2004 at 2:02 p.m. in Cumberland County Registry of Deeds Book 21999, Page 113.

As agreed, also enclosed for your records are the full size, 11" x 17" and/or color pages which were submitted to the Council as Exhibits 1-4.

Please contact me if anything further is required at this time. Thank you for your assistance throughout this phase of the process.

Very truly yours,



Barbara A. Vestal

BAV/om
Enclosures
dc: Diane Doyle, Graves Hill Land Company, LLC

Official Receipt for Recording in:

Cumberland County Registry of Deeds
142 Federal Street
PORTLAND, MAINE 04101

Issued To:
CHESTER & VESTAL
107 CONGRESS STREET
PORTLAND ME 04101-

Recording Fees

Document Description	Number	Vol#	Page	Recording Amount
MORTGAGE	88949	21999	113	\$61.00
1-GRAVES HILL LAND CO LLC				
02:02:30p				\$61.00

Collected Amounts

Payment Type	Check Number	Amount
CHECK	144	\$61.00
		\$61.00

Total Received :	\$61.00
Less Total Recordings:	\$61.00
Change Due :	\$.00

Thank You
JOHN B OBRIEN - Register of Deeds
By - Monica Bouchie

Receipt# Date Time
0185173 11/10/2004 02:02p

**CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY, LLC**

This Agreement made this 8th day of November, 2004 by **GRAVES HILL LAND COMPANY, LLC**, a Maine limited liability company with an office in Saco, Maine (hereinafter "**GRAVES HILL**").

WITNESSETH:

WHEREAS, GRAVES HILL owns a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, GRAVES HILL proposes to construct upon a portion of the Property a maximum of 98 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, GRAVES HILL has requested the rezoning of 10.167 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 8.155 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS) ; and

WHEREAS, the Planning Board of the CITY OF PORTLAND (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the CITY, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

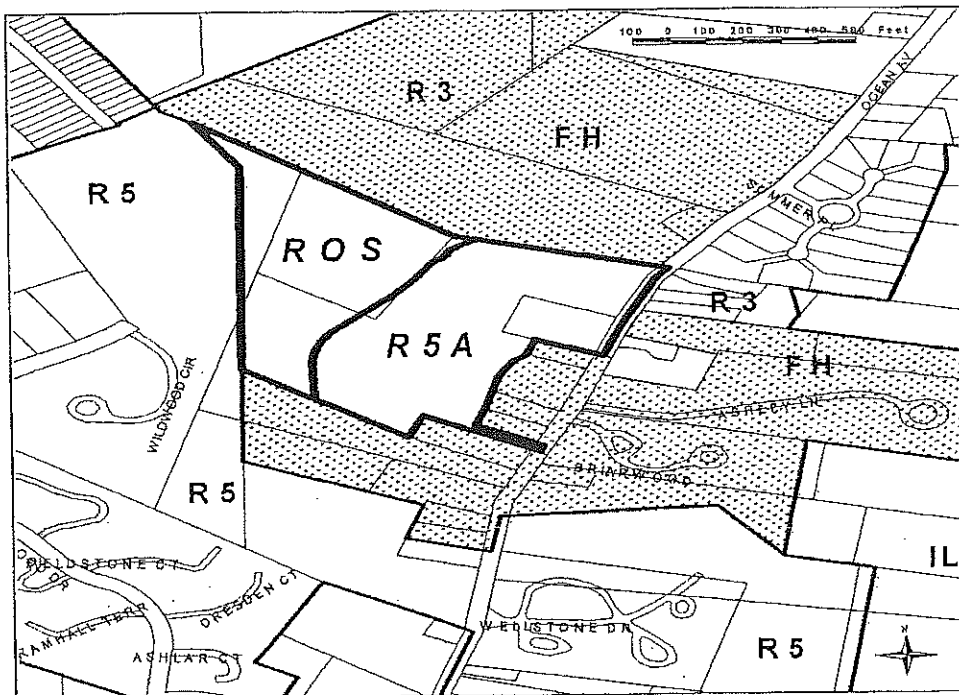
it is necessary and appropriate to impose with **GRAVES HILL**'s agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on October 18, 2004, by City Council Order No.67 -- 04/05, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, **GRAVES HILL** has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **GRAVES HILL**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **GRAVES HILL** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-3 zone.



**Proposed Rezoning for 802 Ocean Avenue
from R-3 and Flexible Housing Overlay to R-5A and R-OS**

July 2004

Map prepared by the City of Portland's Department of Planning & Development and the GIS Workgroup

2. **GRAVES HILL** is authorized to establish and maintain the following uses on the R-5A portion of the property:

- a. Up to 98 residential units located in two buildings, each building containing up to 49 units, which may be sold as condominium units, resulting in a maximum total of ninety-eight (98) residential units within the Property; and
- b. a community room in each building available for use by the residents of the PRUD; and
- c. a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services for 802 Ocean Avenue, if determined necessary by the condominium owners' association; and
- d. a fitness and special events room in each building available for use by the residents of the PRUD; and
- e. a cross country ski center/locker room in each building available for use by the residents of the PRUD; and
- f. parking in an amount of not less than 2 spaces per residential unit, plus at least 28 additional surface visitor parking spaces; and
- g. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the R-5A portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-nine (49) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-nine (49) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by

blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **GRAVES HILL** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the **R-OS** portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access.

The **R-OS** portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **GRAVES HILL** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the **R-5A** portion of the Property and ten feet in width for trails on the **R-OS** portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **GRAVES HILL**, its successors and assigns, Graves Hill Condominium Owners' Association, and **Portland Trails** to enforce those restrictions. In the alternative, instead of granting a trail easement on the **R-OS** portion of the Property, **GRAVES HILL** may opt to convey the **R-OS** portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the **R-OS** portion of the site so long as **GRAVES HILL** has made the required conveyance, by easement and/or in fee, to **Portland Trails** and funds sufficient to complete construction the trails on the **R-OS** portion of the site

have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, **GRAVES HILL** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Richardson and Associates (last revised August 16, 2004) and the Proposed Building Design site sections, building sections and floor plans submitted by Scott Simons Architects (last revised July 8, 2004) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The Graves Hill entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **GRAVES HILL**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **GRAVES HILL** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **GRAVES HILL** shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

GRAVES HILL shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **GRAVES HILL** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **GRAVES HILL** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **GRAVES HILL** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which **GRAVES HILL** and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual

condominium units. Similarly, **GRAVES HILL** or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 49

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 100 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location of the site plan

Parking: Minimum of 2 spaces per unit plus 28 visitor spaces, half in Phase I and half in Phase II

Minimum recreation open space area: Outdoor passive recreation in the form of pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. An public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **GRAVES HILL** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any por-

tion of the Property for visitors projected to use the R-OS portion of the Property and **GRAVES HILL** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **GRAVES HILL**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event **GRAVES HILL** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **GRAVES HILL'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **GRAVES HILL** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **GRAVES HILL** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS:

Brianne V. Vester

GRAVES HILL LAND COMPANY, LLC

By: [Signature]
Diane Doyle
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

November 8, 2004

Then personally appeared the above-named Diane Doyle, Manager of GRAVES HILL LAND COMPANY, LLC as aforesaid, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,

Barbara A. Vezby

~~Notary Public~~/Attorney-at-Law

Printed name: Barbara A. Vezby

My Commission Expires: _____

ATTACHMENT 1

Order 67 – 04/05

Given first reading 9/20/04

Postponed on 10/4/04

Public Hearing and Passage 10/18/04 7-1 (Smith abstaining, O'Donnell opposed)

NATHAN H. SMITH (MAYOR)(3)
WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
CHERYL A. LEEMAN (4)
JAMES I. COHEN (5)

CITY OF PORTLAND
IN THE CITY COUNCIL

PETER E. O'DONNELL (A/L)
JAMES F. CLOUTIER (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: CONDITIONAL REZONING FOR 802-828 OCEAN AVENUE**

ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below;

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective thirty (30) days following this rezoning.

**CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY, LLC**

This Agreement made this _____ day of _____, 2004 by **GRAVES HILL LAND COMPANY, LLC**, a Maine limited liability company with an office in Saco, Maine (hereinafter "GRAVES HILL").

WITNESSETH:

WHEREAS, **GRAVES HILL** owns a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, **GRAVES HILL** proposes to construct upon a portion of the Property a maximum of 98 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, **GRAVES HILL** has requested the rezoning of 10.167 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 8.155 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS) ; and

WHEREAS, the Planning Board of the **CITY OF PORTLAND** (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the **CITY**, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

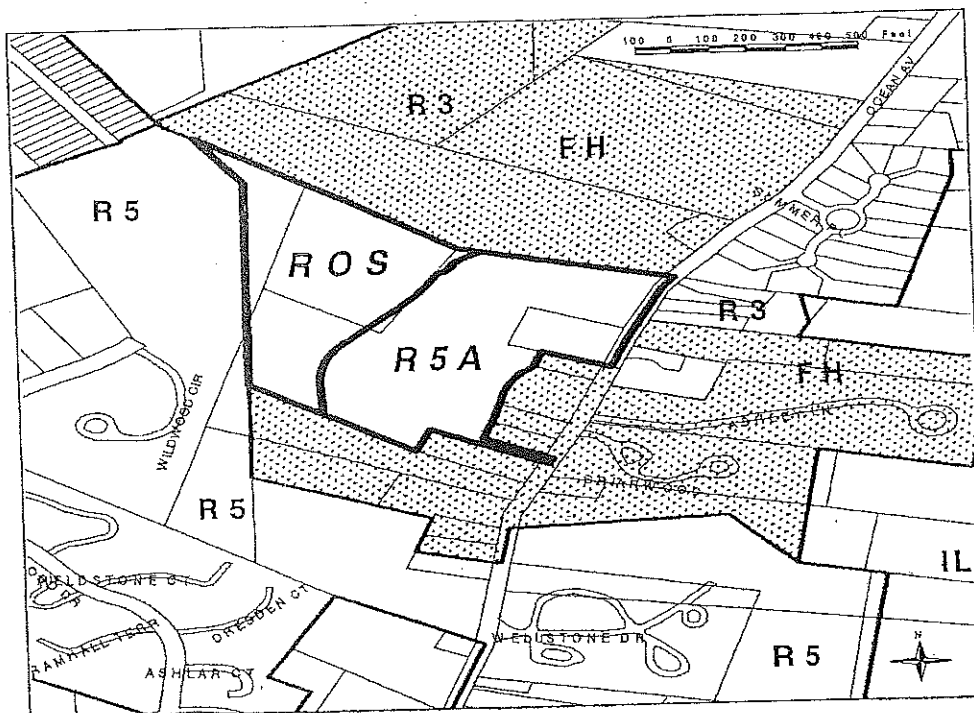
it is necessary and appropriate to impose with **GRAVES HILL**'s agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY**'S comprehensive land use plan; and

WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 200__, by City Council Order No. _____, a true copy of which is attached hereto as Attachment I; and

WHEREAS, **GRAVES HILL** has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **GRAVES HILL**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **GRAVES HILL** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-3 zone.



**Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Overlay to R5A and ROS**

July 2004

Map prepared by the City of Portland's Department of Planning & Development and the GIS Workgroup

2. **GRAVES HILL** is authorized to establish and maintain the following uses on the **R-5A** portion of the property:

- a. Up to 98 residential units located in two buildings, each building containing up to 49 units, which may be sold as condominium units, resulting in a maximum total of ninety-eight (98) residential units within the Property; and
- b. a community room in each building available for use by the residents of the PRUD; and
- c. a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services for 802 Ocean Avenue, if determined necessary by the condominium owners' association; and
- d. a fitness and special events room in each building available for use by the residents of the PRUD; and
- e. a cross country ski center/locker room in each building available for use by the residents of the PRUD; and

- f. parking in an amount of not less than 2 spaces per residential unit, plus at least 28 additional surface visitor parking spaces; and
- g. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the R-5A portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-nine (49) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-nine (49) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **GRAVES HILL** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the R-OS portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **GRAVES HILL** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking

dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **GRAVES HILL**, its successors and assigns, Graves Hill Condominium Owners' Association, and Portland Trails to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, **GRAVES HILL** may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as **GRAVES HILL** has made the required conveyance, by easement and/or in fee, to Portland Trails and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, **GRAVES HILL** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Richardson and Associates (last revised August 16, 2004) and the Proposed Building Design site sections, building sections and floor plans submitted by Scott Simons Architects (last revised July 8, 2004) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The Graves Hill entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **GRAVES HILL**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **GRAVES HILL** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **GRAVES HILL** shall instead contribute funds

equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

GRAVES HILL shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **GRAVES HILL** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **GRAVES HILL** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **GRAVES HILL** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which **GRAVES HILL** and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, **GRAVES HILL** or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying **R-5A** zone with respect to PRUDs except as follows:

Maximum number of units per building: 49

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 100 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site plan

Parking: Minimum of 2 spaces per unit plus 28 visitor spaces, half in Phase I and half in Phase II

Minimum recreation open space area: Outdoor passive recreation in the form of

pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **GRAVES HILL** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and **GRAVES HILL** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **GRAVES HILL**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event **GRAVES HILL** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **GRAVES HILL'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **GRAVES HILL** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the

request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **GRAVES HILL** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS:

GRAVES HILL LAND COMPANY, LLC

By: _____
Diane Doyle
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

_____, 200__

Then personally appeared the above-named Diane Doyle, Manager of **GRAVES HILL LAND COMPANY, LLC** as aforesaid, and acknowledged the foregoing instrument to be her

free act and deed in her said capacity and the free act and deed of said limited liability company.

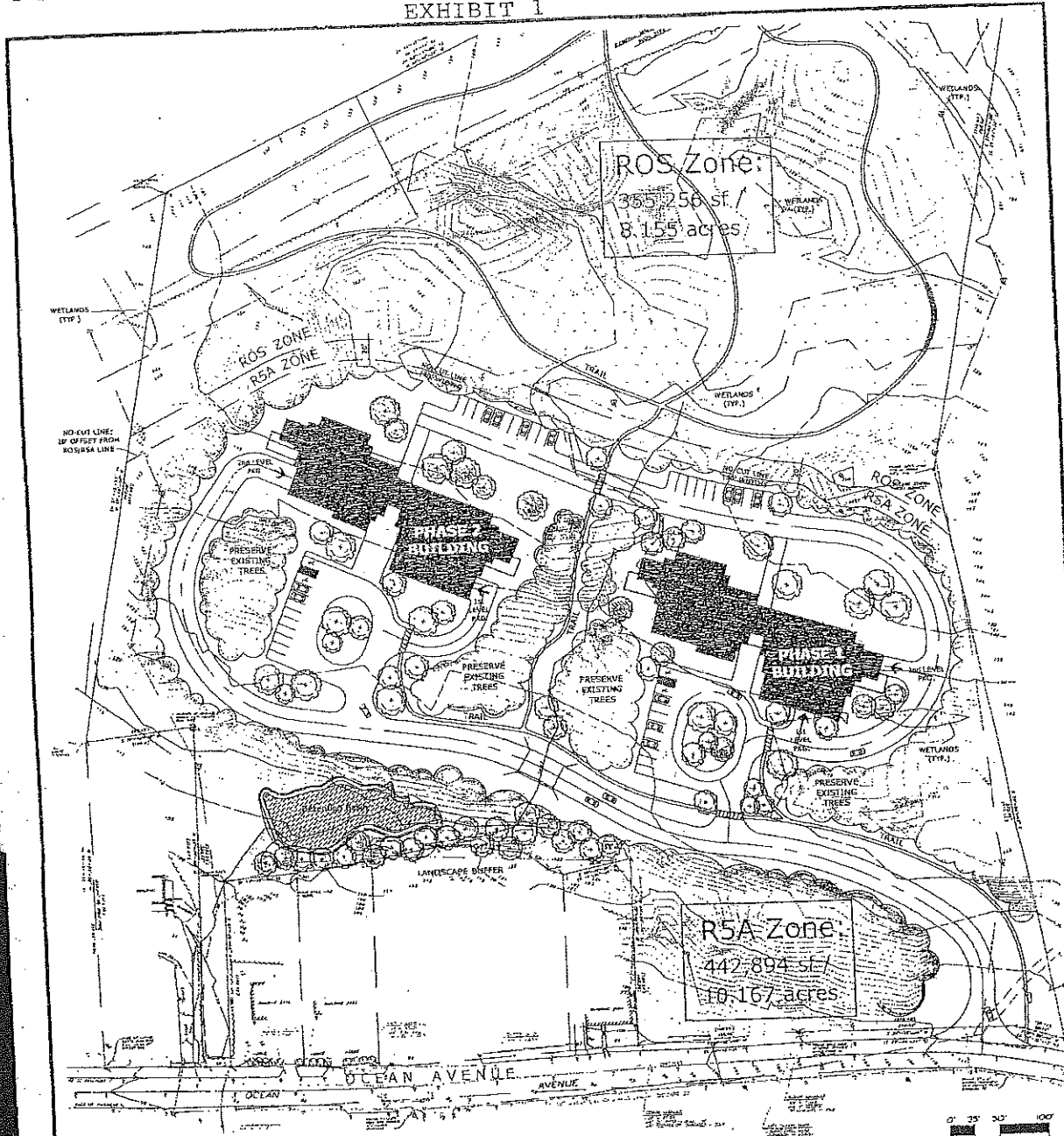
Before me,

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

EXHIBIT 1



NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING BASE INFORMATION EXCEPT WETLANDS BOUNDARIES PROVIDED BY DOW & COULOMBE SURVEYORS.
2. UTILITY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS BOUNDARIES SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

SITE STATISTICS:

Site Size: Gross area: 798,150 sq. ft. / 18.323 acres
 Zone ROS: 355,256 sq. ft. / 8.155 acres
 Zone RSA: 442,894 sq. ft. / 10.167 acres
 Net Land Area: 438,622 sq. ft. / 10.078 acres
 Frontage: 445 ft.
 Impervious Surface Ratio: 0.16

Number of Units:
 Phase 1: 40
 Phase 2: 28
 Gross Density: 5.3 Units/Acre
 Net Density: 9.8 Units/Acre

Roadway Ownership: Private
 Linear Feet of Roadway: 2,656 L.F.
 Roadway Width: 24 feet

Total Number of Parking Spaces: 224 spaces
 Phase 1: 112 spaces
 Phase 2: 112 spaces

Parking Spaces within Parking Structure:
 Phase 1: 90 spaces
 Phase 2: 92 spaces

Surface Parking Spaces:
 Phase 1: 22 spaces
 Phase 2: 22 spaces

Projected Wetlands Disturbance: 2,230 sq. ft.
 Projected Site Disturbance: 3.4 Acres

Trail:
 Zone ROS: 2,855 ft.
 Zone RSA: 1,170 ft.
 Total Trail: 4,025 ft.

Preliminary Site Plan: Zone Identification
GRAVES HILL
 Portland, Maine

MARCH 23, 2004
 REVISED MAY 18, 2004
 REVISED JUNE 1, 2004
 REVISED JUNE 14, 2004
 REVISED JULY 8, 2004
 REVISED AUGUST 16, 2004

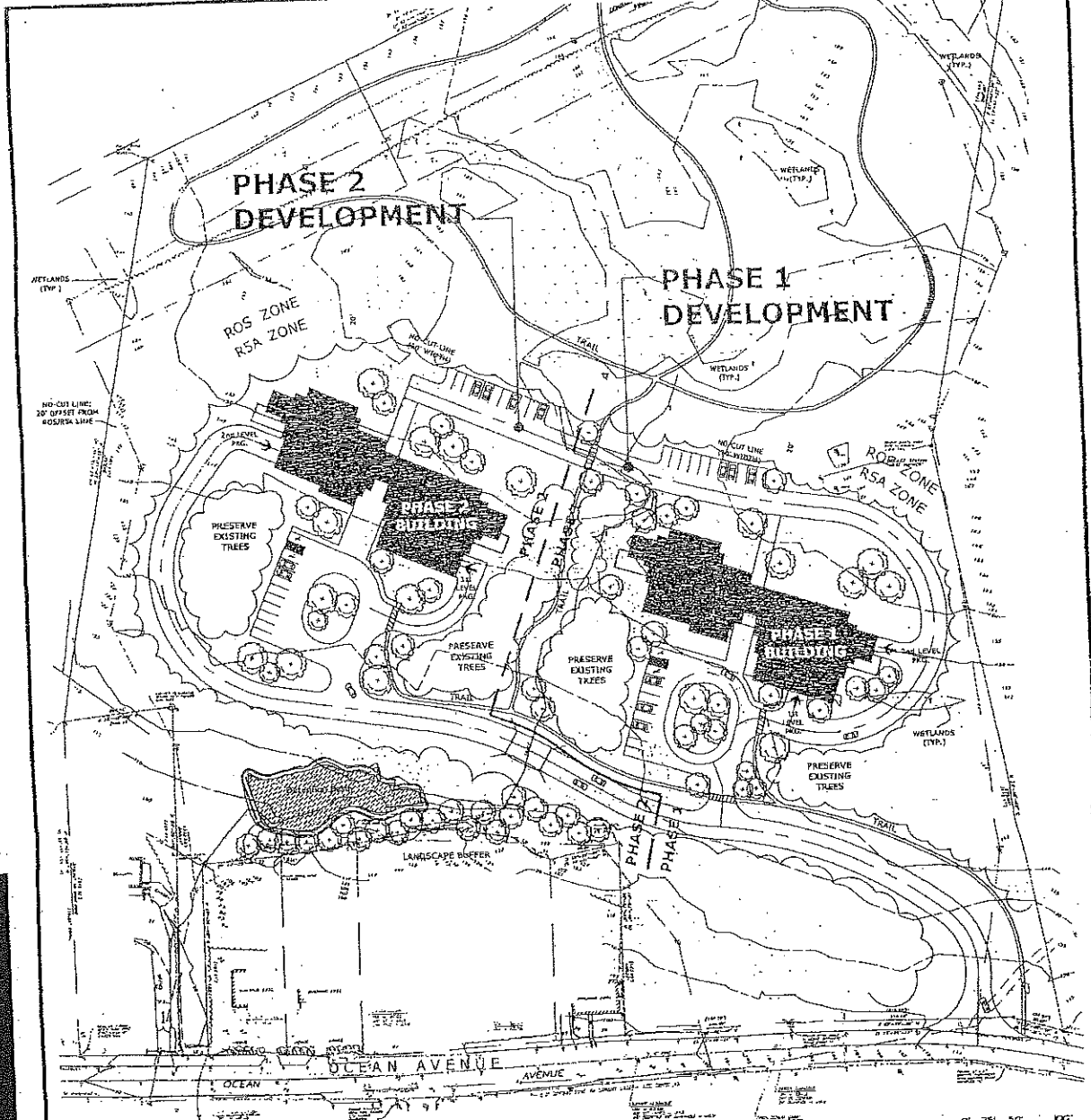
Developer: GRAVES HILL LAND COMPANY
 150 Main Street
 South Portland, ME 04106
 Tel: 207.284.1181

Architect: Scott Simons Architects
 75 Main Street
 Portland, Maine 04101
 Tel: 207.772.6436

Landscape Architect: Richardson & Associates
 Landscape Architects
 P.O. Box 426
 175 Main Street
 South Portland, Maine 04106
 Tel: 207.286.7251

Civil Engineer: BH2M
 Consulting Engineers
 28 Grove Street
 Portland, Maine
 Tel: 207.476.7711

EXHIBIT 2



NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING BASE INFORMATION EXCEPT WETLANDS BOUNDARIES PROVIDED BY DOW & COULMBE SURVEYORS.
2. UTILITY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS BOUNDARIES SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

SITE STATISTICS:

Site Size: Gross area: 798,150 s.f. / 18.323 acres
 Zone ROS: 355,256 s.f. / 8.155 acres
 Zone RSA: 442,894 s.f. / 10.167 acres
 Net Land Area: 634,622 s.f. / 14.578 acres
 Frontage: 445 ft
 Impervious Surface Ratio: 0.15

Number of Units:
 Phase 1: 49
 Phase 2: 49
 Gross Density: 5.3 Units/Acre
 Net Density: 9.8 Units/Acre

Roadway Ownership: Private
 Linear Feet of Roadway: 2,656 L.F.
 Roadway Width: 24 feet

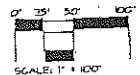
Total Number of Parking Spaces: 224 spaces
 Phase 1: 112 spaces
 Phase 2: 112 spaces

Parking Spaces within Parking Structure:
 Phase 1: 20 spaces
 Phase 2: 20 spaces

Surface Parking Spaces:
 Phase 1: 22 spaces
 Phase 2: 22 spaces

Projected Wetlands Disturbance: 2,230 s.f.
 Projected Site Disturbance: 3,645 Acres

Trail:
 Zone ROS: 2,855 ft
 Zone RSA: 1,170 ft
 Total Trail: 4,025 ft



Preliminary Site Plan: Phasing Identification
GRAVES HILL
 Portland, Maine

MARCH 25, 2004
 REVISED MAY 14, 2004
 REVISED JUNE 1, 2004
 REVISED JUNE 14, 2004
 REVISED JULY 6, 2004
 REVISED AUGUST 16, 2004

Developer: GRAVES HILL LAND COMPANY
 110 Main Street
 Scarborough, Maine 04111
 Tel: 207.388.1161

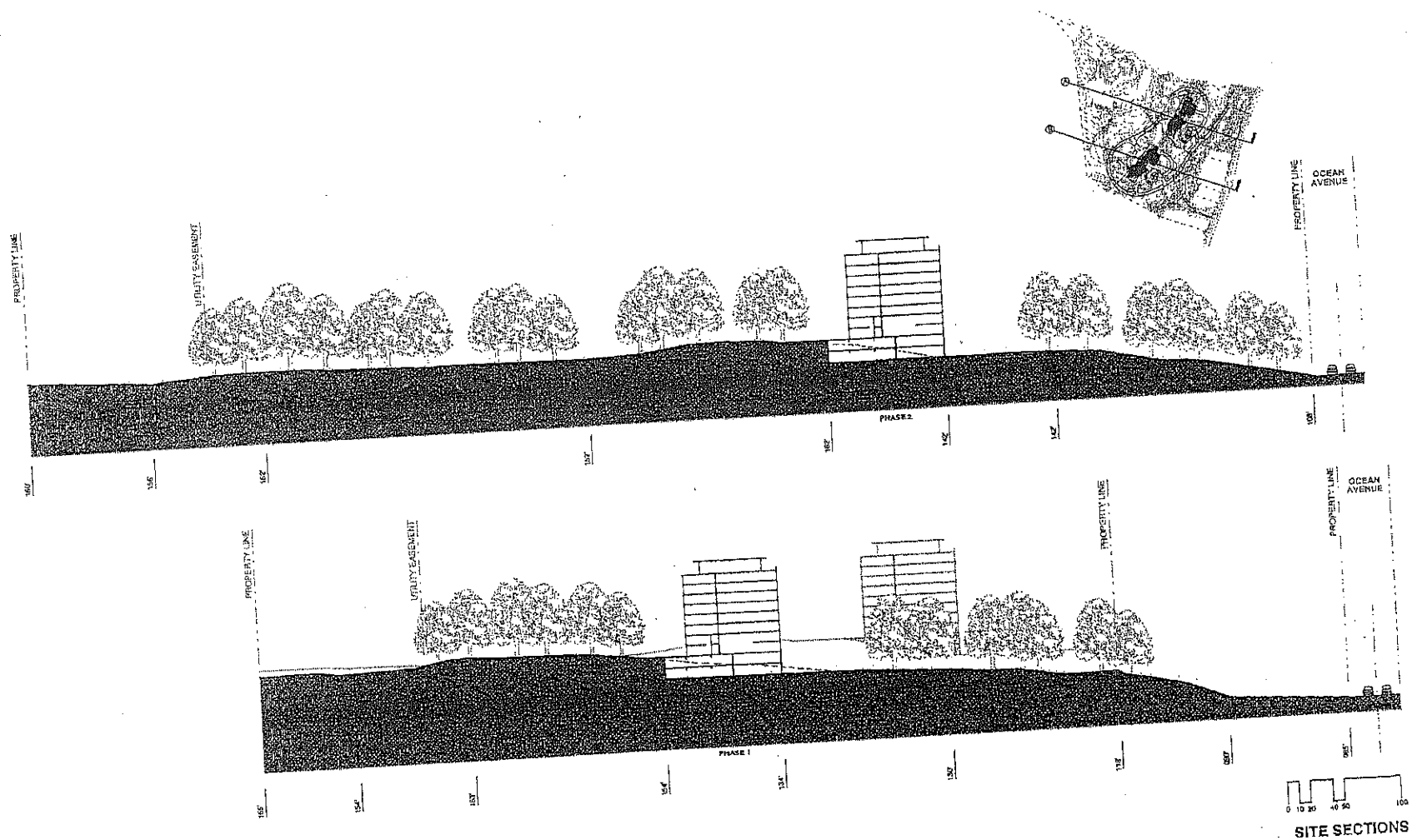
Architect: Scott Simons Architects
 25 Park Street
 Portland, Maine 04101
 Tel: 207.773.1058

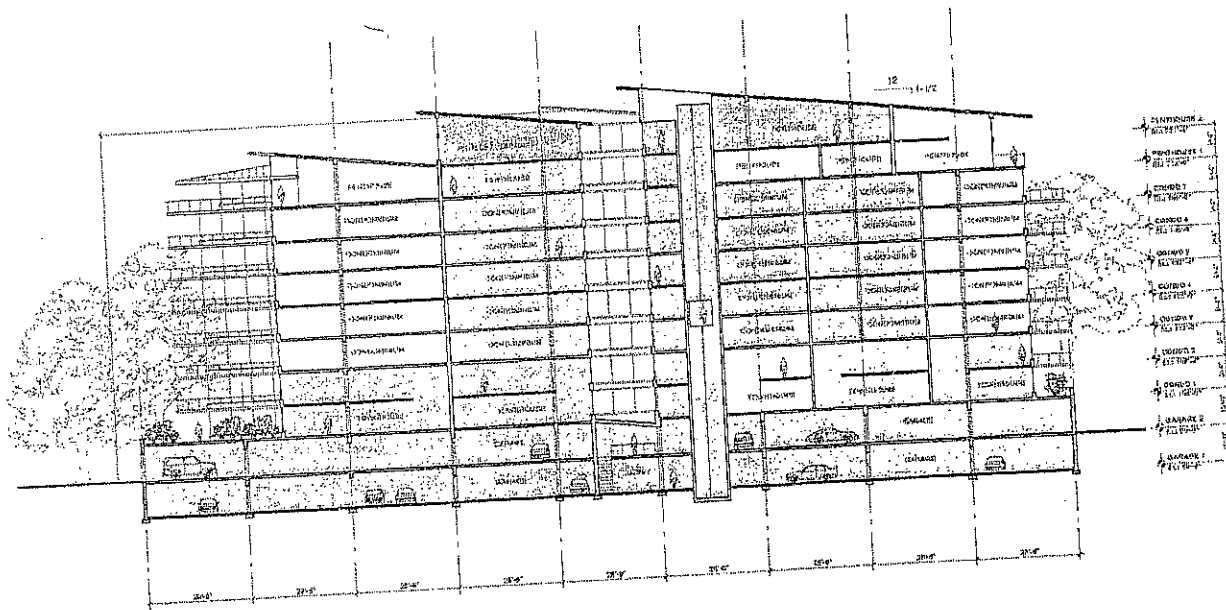
Landscape Architect: Richardson & Associates
 Landscape Architects
 PO Box 426
 118 Main Street
 Saco, Maine 04072
 Tel: 207.388.9271

Civil Engineer: BHM
 Consulting Engineers
 21 State Street
 Saco, Maine
 Tel: 207.639.3711

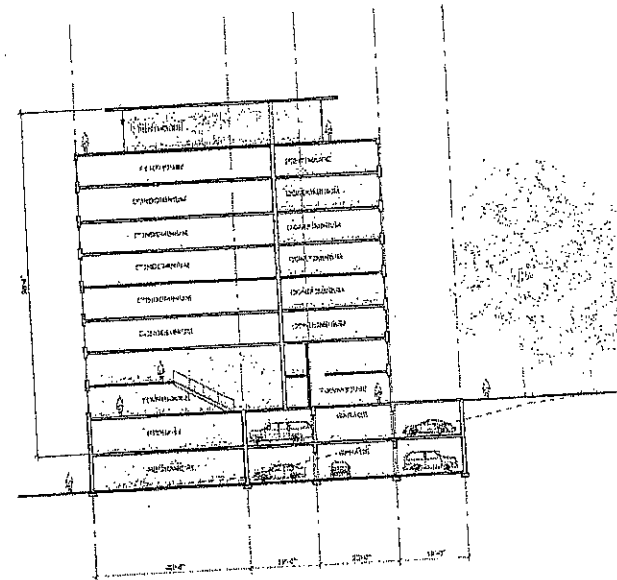
EXHIBIT 3

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME





S-N BUILDING SECTION

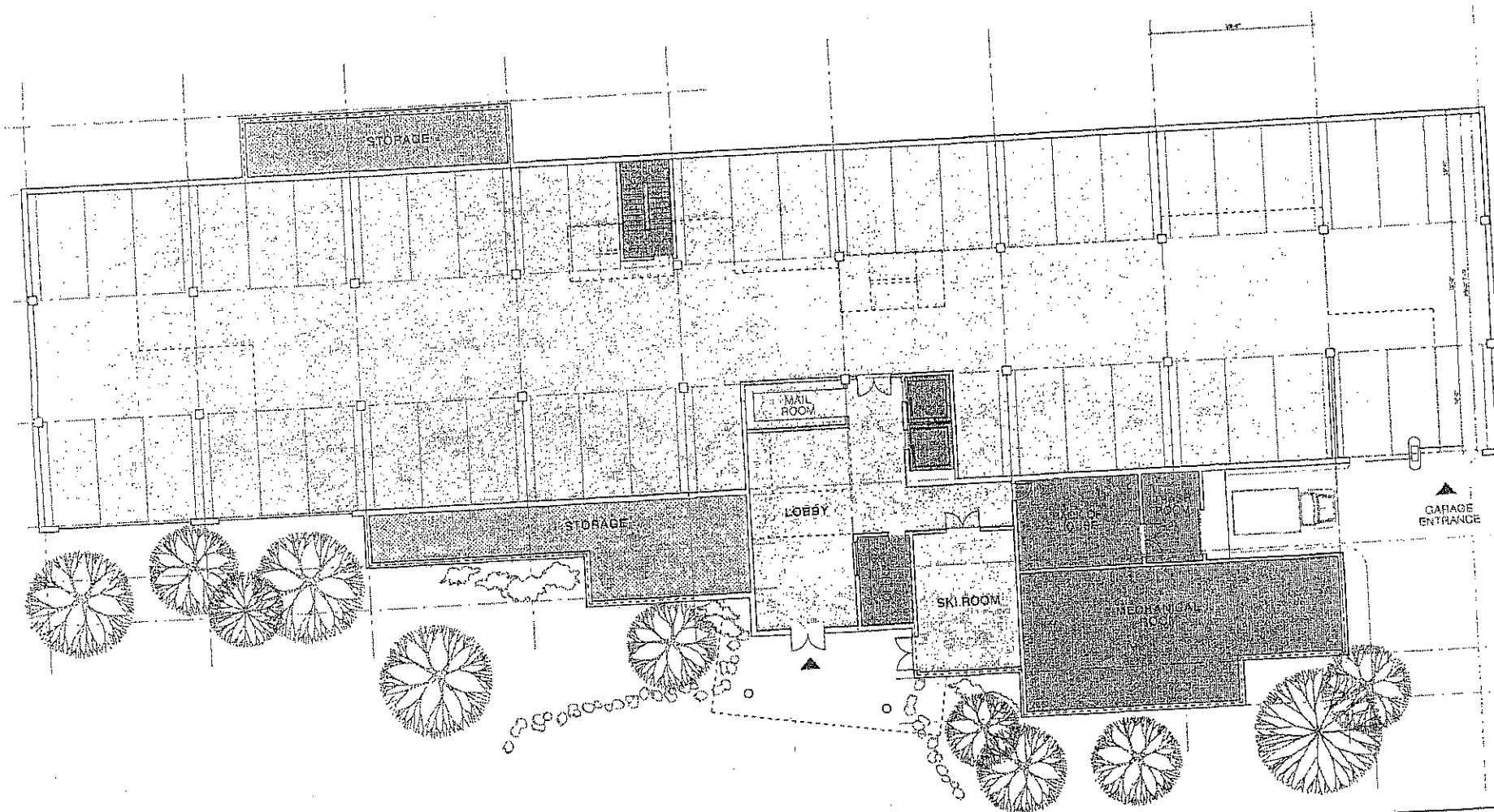


E-W BUILDING SECTION

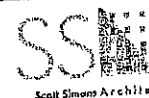
BUILDING SECTIONS

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

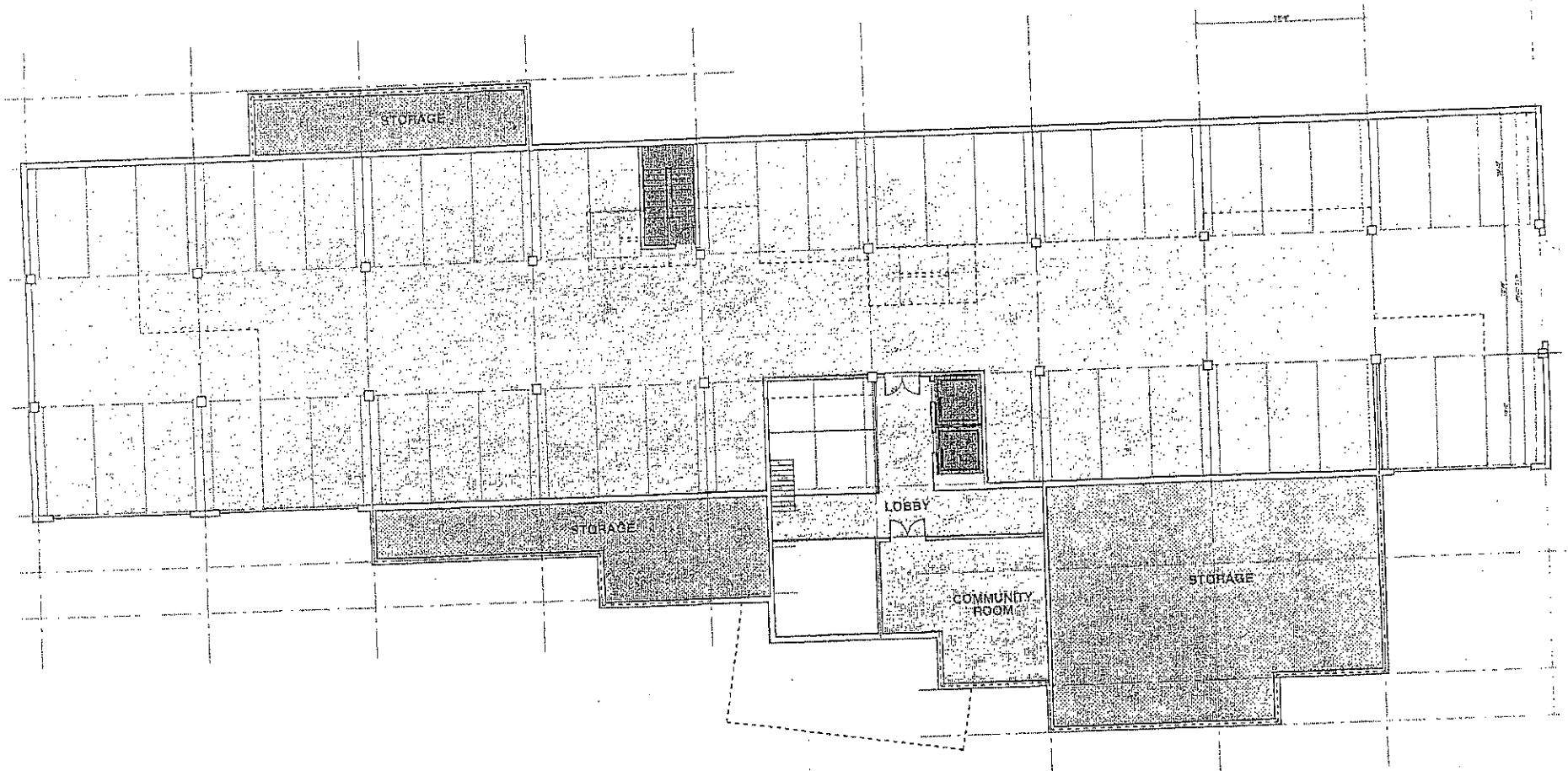
SSM
Scott Simons Architects



GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

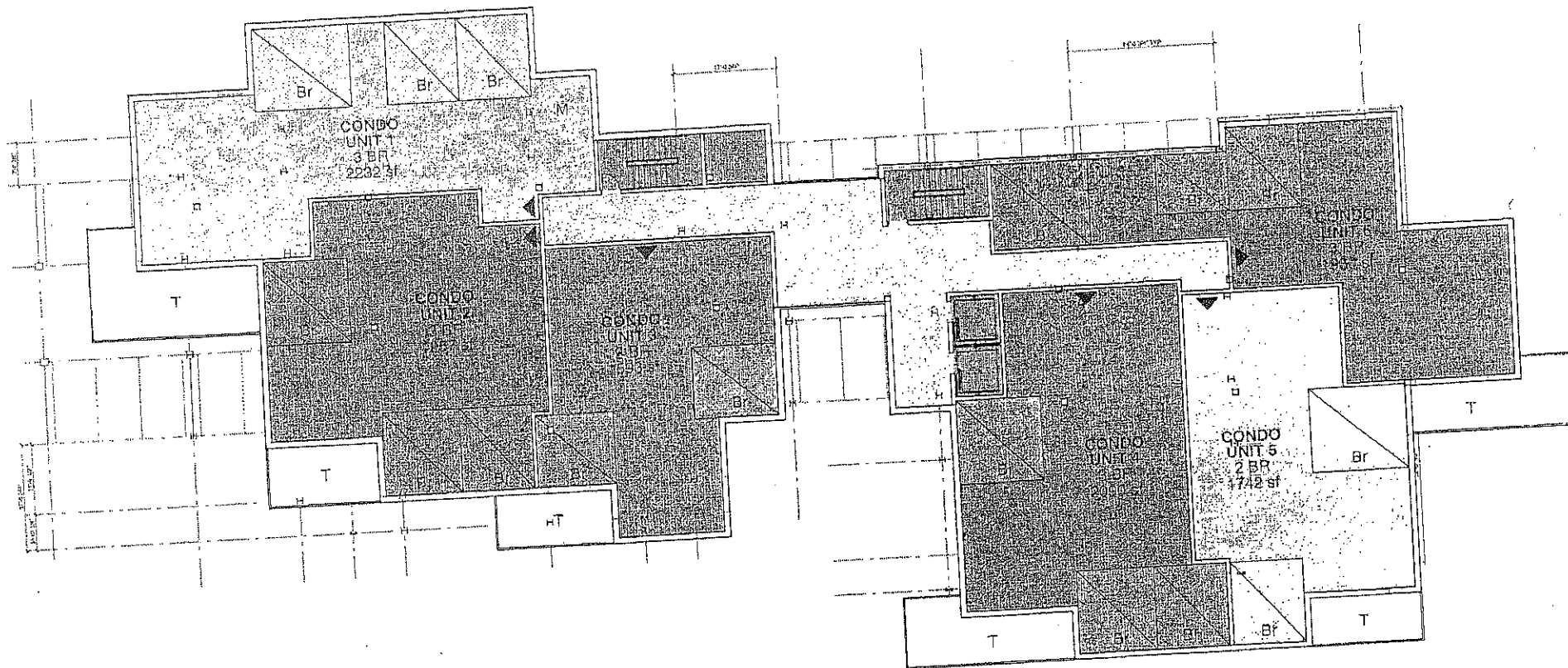


FLOOR 01: LOBBY & GARAGE



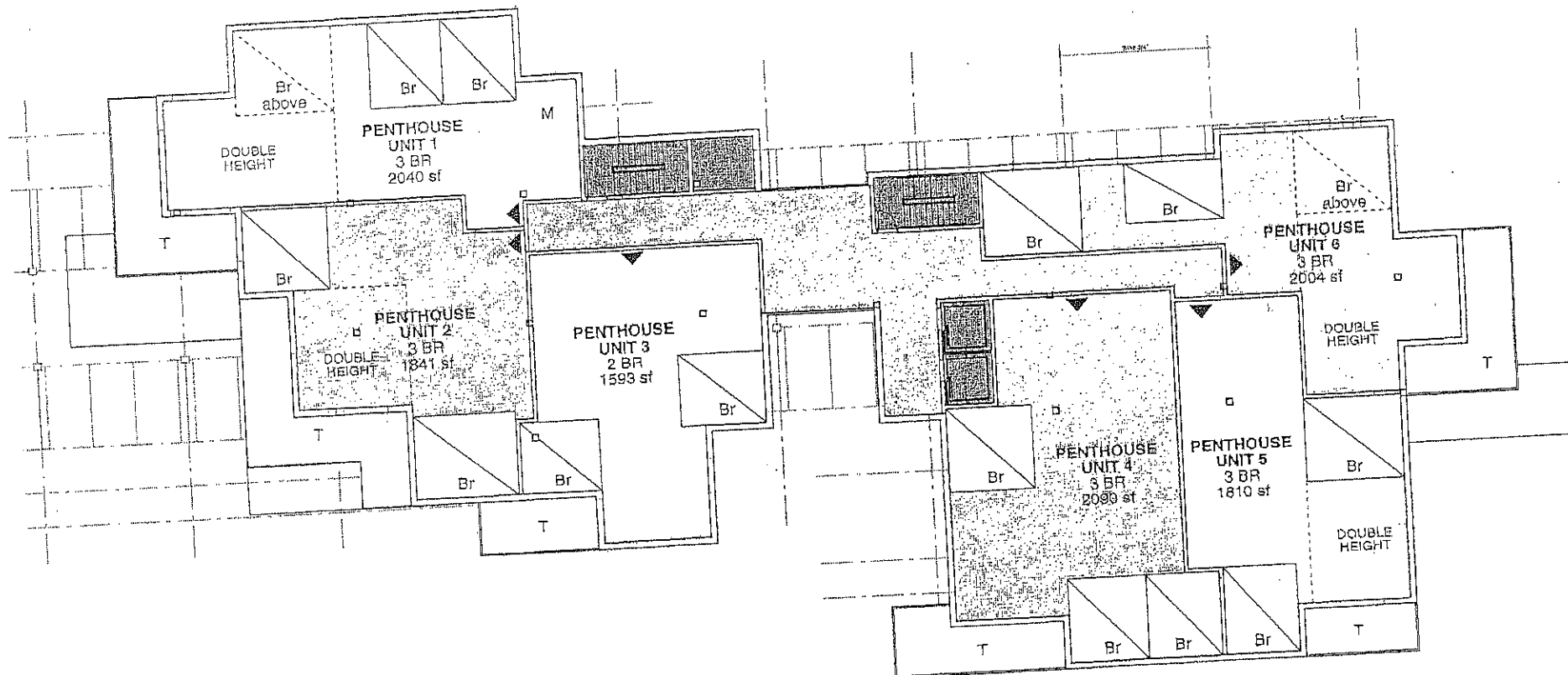
FLOOR 02: COMMUNITY ROOM & GARAGE

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME



FLOOR 03-09: TYPICAL CONDOMINIUM
14,510 SF TOTAL

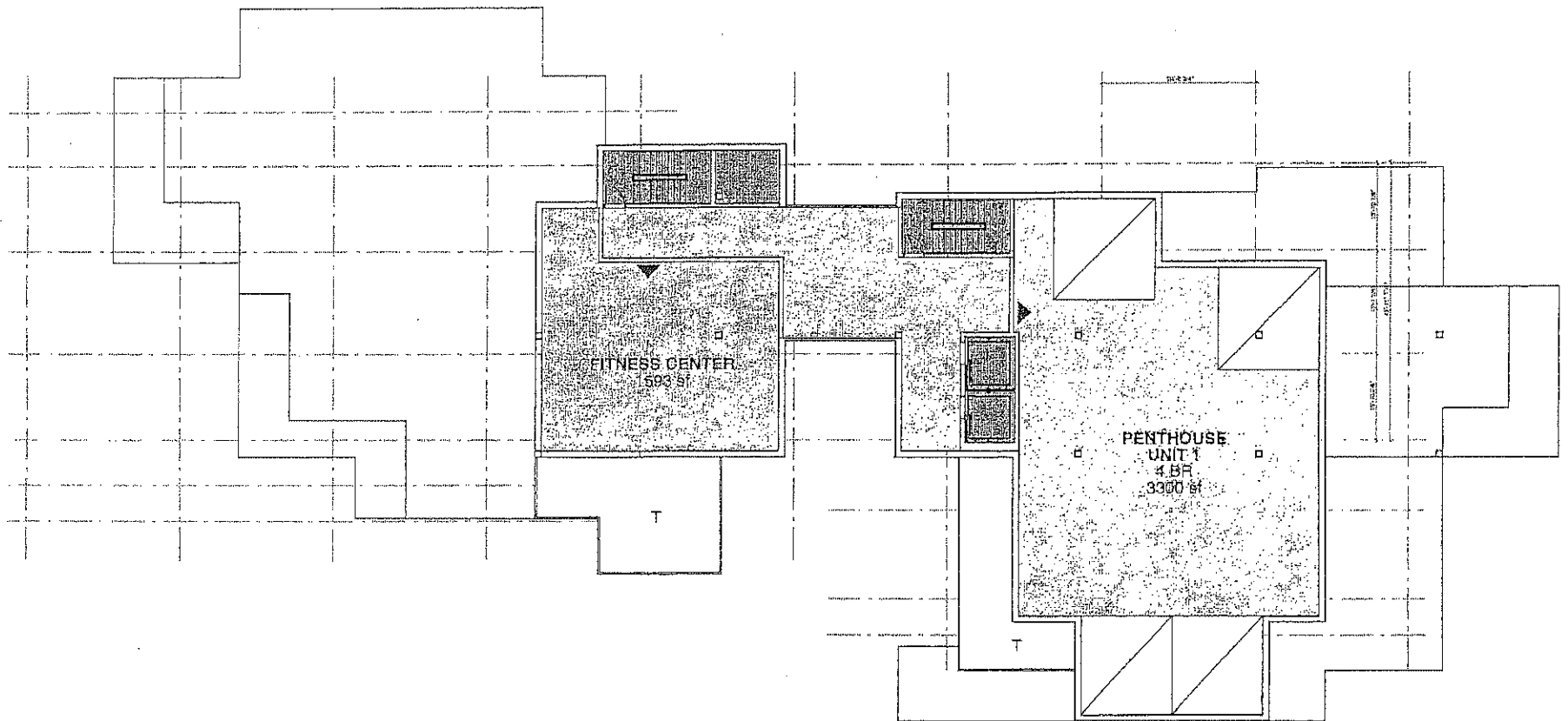
GRAVES HILL
OCEAN AVENUE
PORTLAND, ME



FLOOR 10: PENTHOUSE
13,405 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

SSA
Scott Simons Architects



FLOOR 11: PENTHOUSE
6,653 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

EXHIBIT 4

Submitted to
PORTLAND PLANNING BOARD
AUGUST 17, 2004

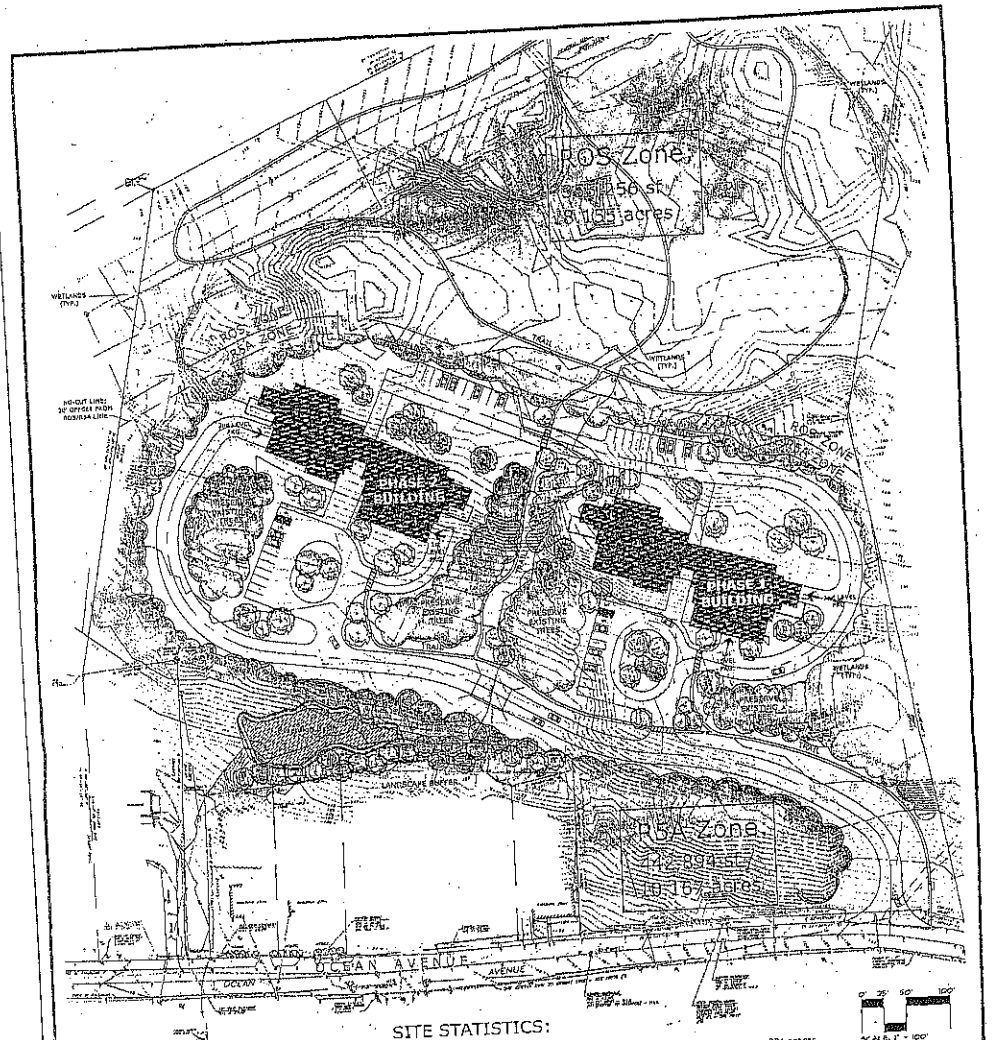
GRAVES HILL LAND COMPANY, LLC
Diana Doyle 207.284.1151

SCOTT SIMONS ARCHITECTS
Scott Simons 207.772.4654

RICHARDSON & ASSOCIATES
Teresa Richardson 207.124.9771

EMCM
Lee Barry 207.899.5771

EXHIBIT 1
PRELIMINARY SITE PLAN: ZONE IDENTIFICATION



SITE STATISTICS:

Site Size: Gross Area: 750,150 S.F. / 17.273 ACRES
 Zone ROS: 255,256 S.F. / 5.855 ACRES
 Zone RSA: 494,894 S.F. / 11.417 ACRES
 Net Land Area: 434,542 S.F. / 9.978 ACRES
 Frontage: 445.14'
 Impervious Surface Ratio: 0.16

Number of Units:
 Phase 1: 45
 Phase 2: 58
 Gross Density: 2.3 Units/Acre
 Net Density: 9.8 Units/Acre

Roadway Ownership: Private
 Linear Feet of Roadway: 2,658 L.F.
 Roadway Width: 24 Feet

Total Number of Parking Spaces: 226 SPACES
 Phase 1: 112 SPACES
 Phase 2: 114 SPACES

Parking Spaces within Parking Structures:
 Phase 1: 90 SPACES
 Phase 2: 22 SPACES

Surface Parking Spaces:
 Phase 1: 24 SPACES
 Phase 2: 22 SPACES

Projected Wetlands Disturbance: 2,230 S.F.
 Projected Site Disturbance: 2.4 ACRES

THHs:
 Zone ROS: 2,855 H
 Zone RSA: 1,170 H
 Total THHs: 4,025 H

NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING DATA INFORMATION EXCEPT WETLANDS BOUNDARIES PROVIDED BY DOW & COULOMBE SURVEYORS.
2. UTILITY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS BOUNDARIES SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

Preliminary Site Plan: Zone Identification
GRAVES HILL
 Portland, Maine

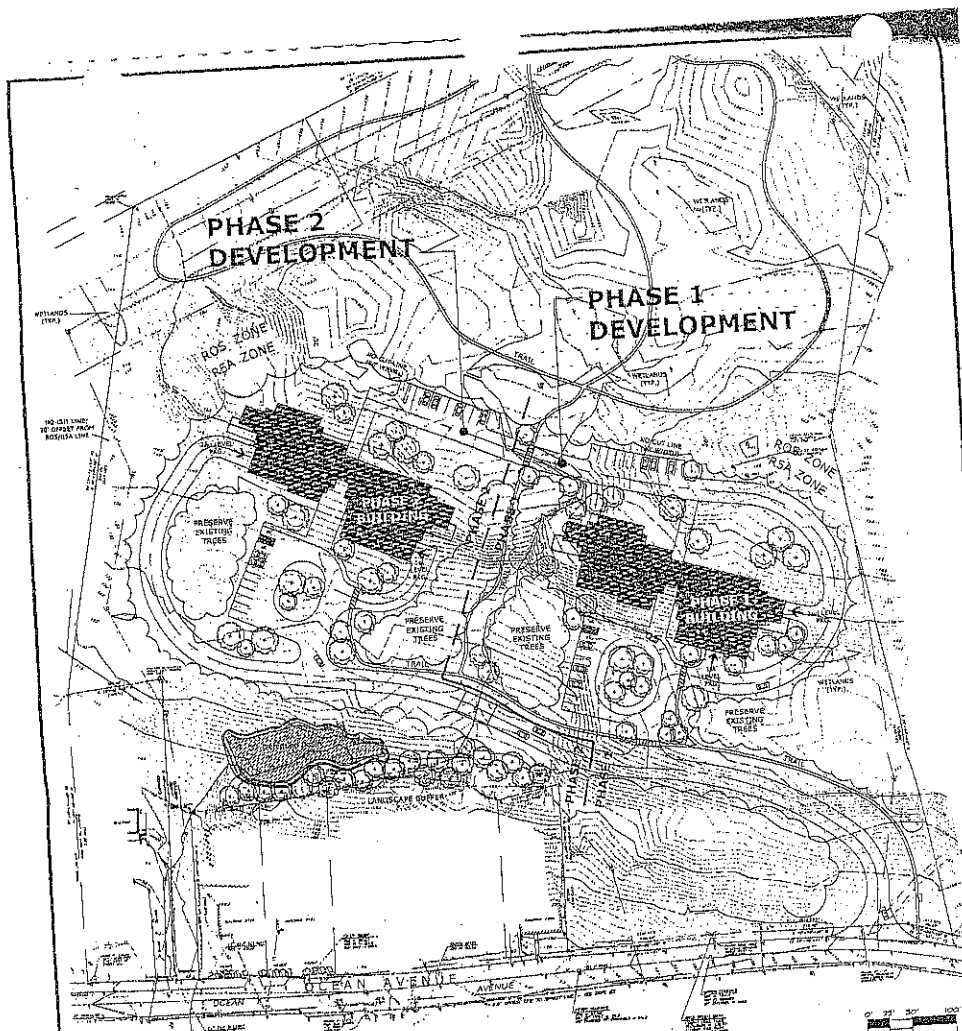
MARCH 25, 2004
 REVISED MAY 14, 2004
 REVISED JUNE 1, 2004
 REVISED JUNE 1, 2004
 REVISED JUNE 1, 2004
 REVISED AUGUST 19, 2004

Developer: GRAVES HILL LAND COMPANY
 110 Main Street
 Glen, Maine
 Tel: 207.266.1435

Architect: Scott Simons Architects
 25 Main Street
 Portland, Maine 04103
 Tel: 207.772.4456

Landscape Architect: Richardson & Associates
 Landscape Architects
 40 Oak Hill
 125 Main Street
 Glen, Maine 04103
 Tel: 207.246.3021

Civil Engineer: BH2M
 Consulting Engineers
 80 Main Street
 Portland, Maine
 Tel: 207.635.7771



NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING BASE INFORMATION EXCEPT WETLANDS BOUNDARIES PROVIDED BY DOW & COLADONNE SURVEYORS.
2. UTILITY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING.
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS BOUNDARIES SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

SITE STATISTICS:

Site Size: Gross Area: 276,155 s.f. / 10,223 Acres.
 Zone RDS: 335,755 s.f. / 11.52 acres
 Zone RSA: 443,894 s.f. / 10.167 acres
 Net Land Area: 424,622 s.f. / 9.978 acres
 Frontage: 453 ft.
 Impervious Surface Ratio: 0.16

Number of Units:
 Phase 1: 20
 Phase 2: 25
 Gross Density: 5.3 Units/Acre
 Net Density: 9.8 Units/Acre

Roadway Ownership: Private
 Linear Feet of Roadway: 2,659 L.F.
 Roadway Width: 24 Feet

Total Number of Parking Spaces: 224 Spaces
 Phase 1: 112 Spaces
 Phase 2: 112 Spaces

Parking Spaces within Parking Structures:
 Phase 1: 28 Spaces
 Phase 2: 28 Spaces

Surface Parking Spaces:
 Phase 1: 22 Spaces
 Phase 2: 22 Spaces

Projected Wetlands Disturbance: 2,279 s.f.
 Projected Site Disturbance: 2,659 ACRES

Trail:
 Zone RDS: 2,155 ft.
 Zone RSA: 1,170 ft.
 Total Trail: 3,325 ft.

Preliminary Site Plan: Phasing Identification

GRAVES HILL
 Portland, Maine

MARCH 20, 2004
 REVISED MAY 14, 2004
 REVISED JUNE 14, 2004
 REVISED JUNE 14, 2004
 REVISED JULY 8, 2004
 REVISED AUGUST 10, 2004

Developer: GRAVES HILL LAND COMPANY
 140 Main Street
 Bangor, ME 04401
 Tel: 207.344.1191

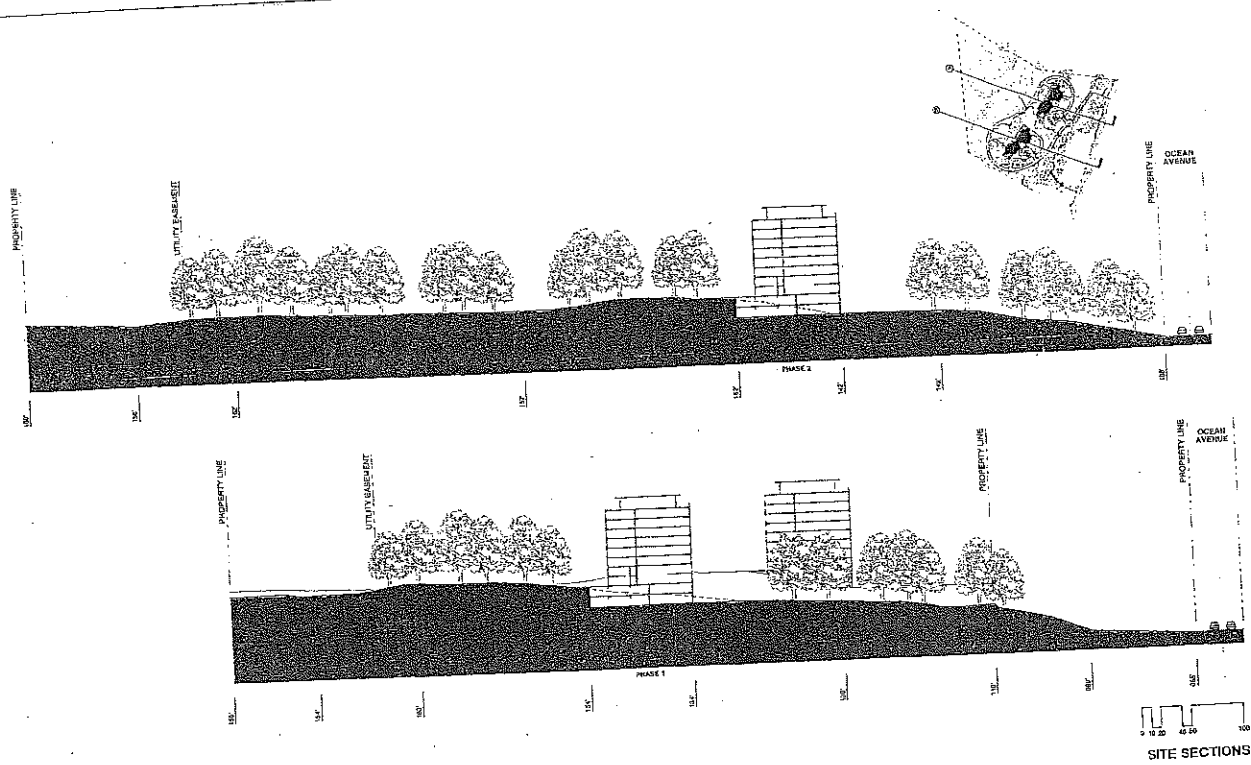
Architect: Scott Simons Architects
 71 York Street
 Portland, ME 04101
 Tel: 207.775.1004

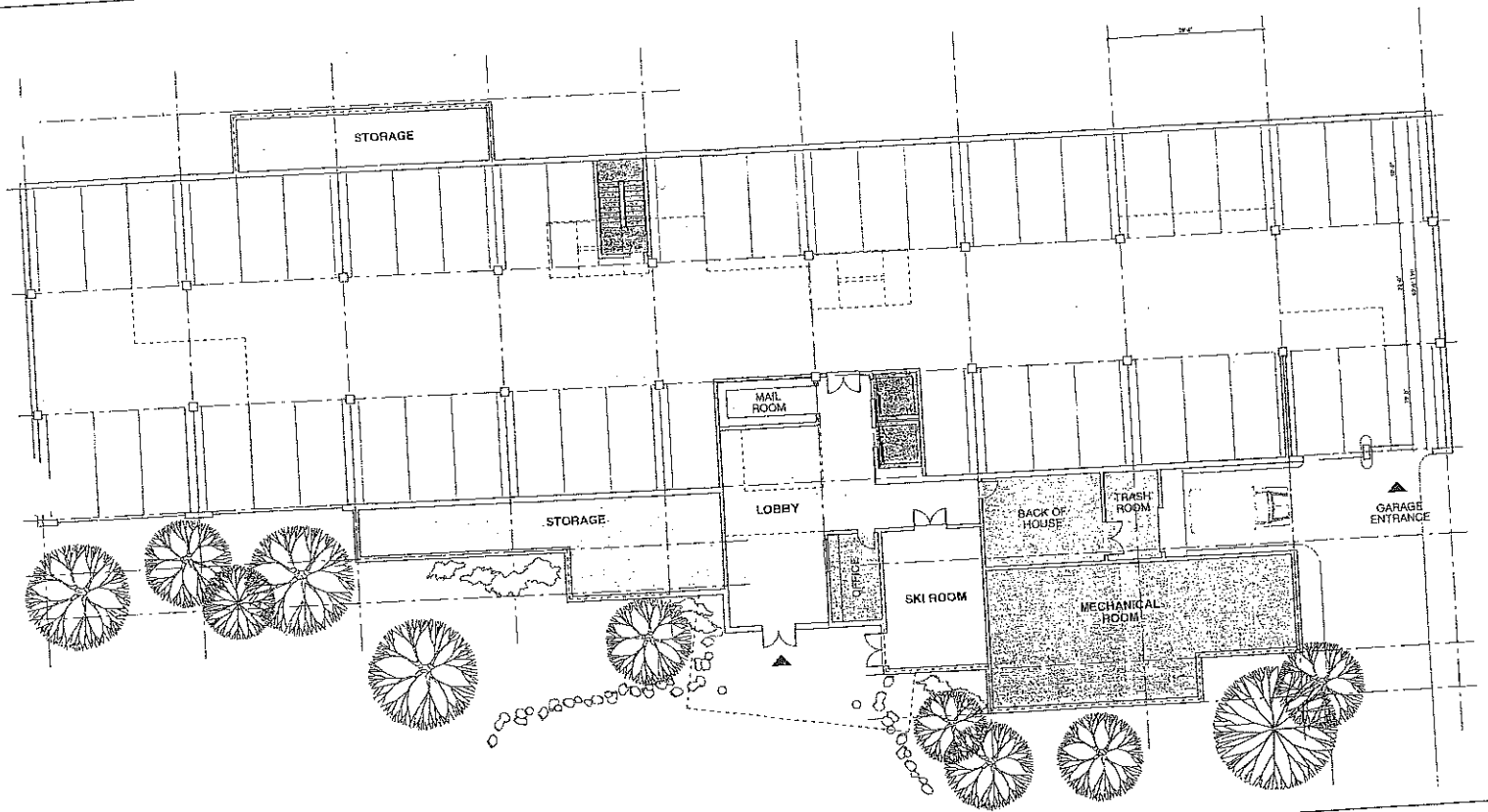
Landscape Architect: Richardson & Associates
 1 Lyndwood Avenue
 PO Box 478
 174 Main Street
 Bangor, ME 04401
 Tel: 207.388.3391

Civil Engineer: BH2M
 Consulting Engineers
 28 State Street
 Bangor, ME 04401
 Tel: 207.331.8771

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

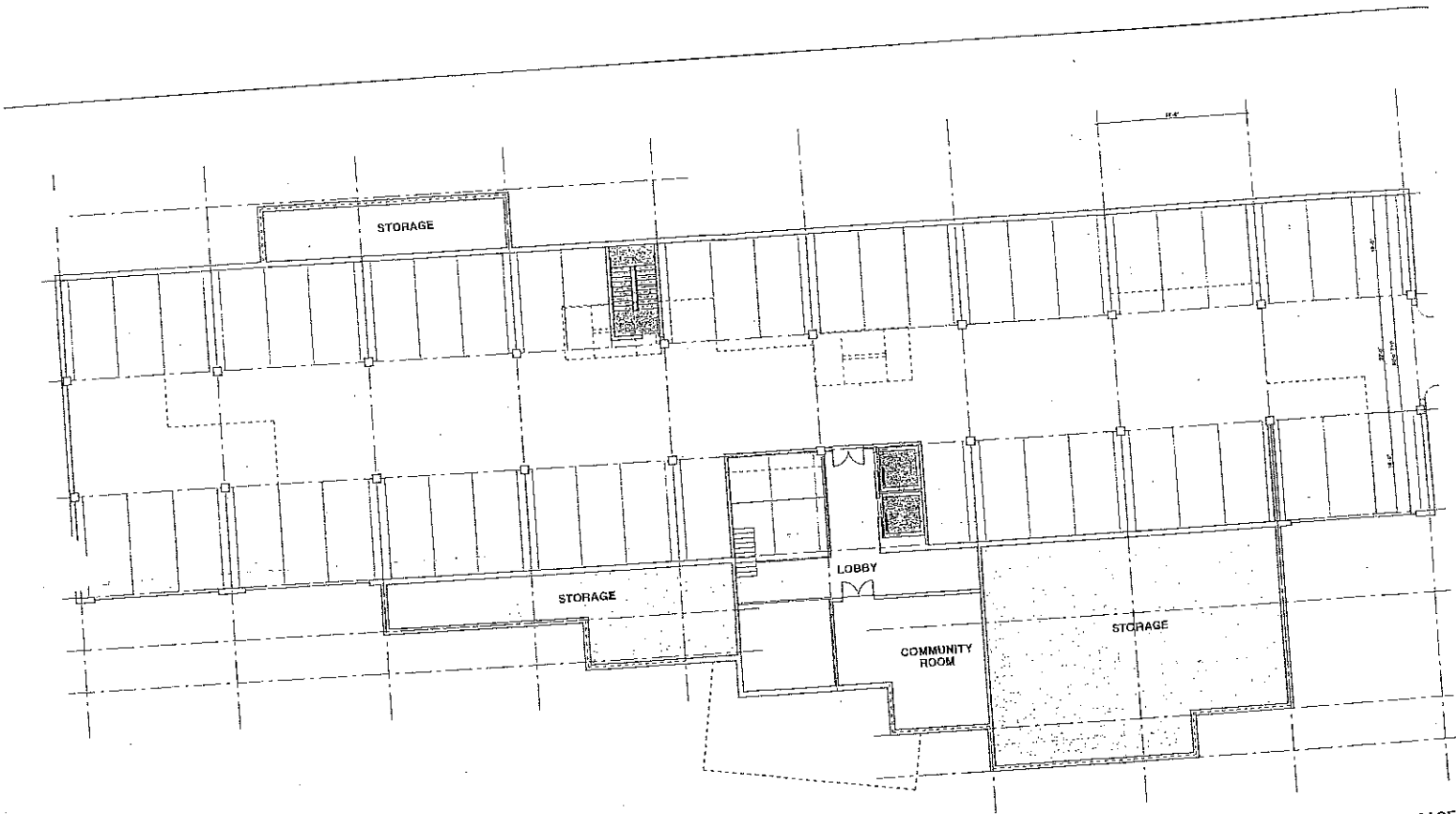
SSA
Scott Sloane Architects





GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

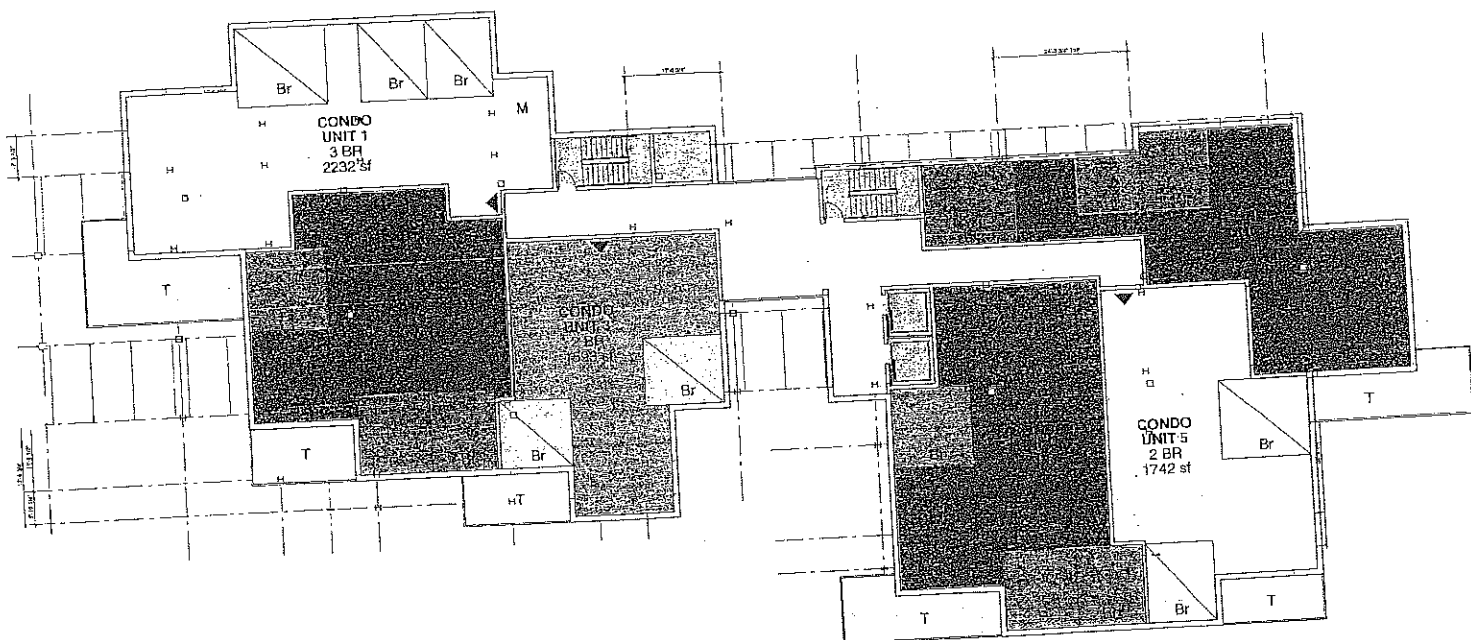
SS&A
Scott Simpson Architects



FLOOR 02: COMMUNITY ROOM & GARAGE

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

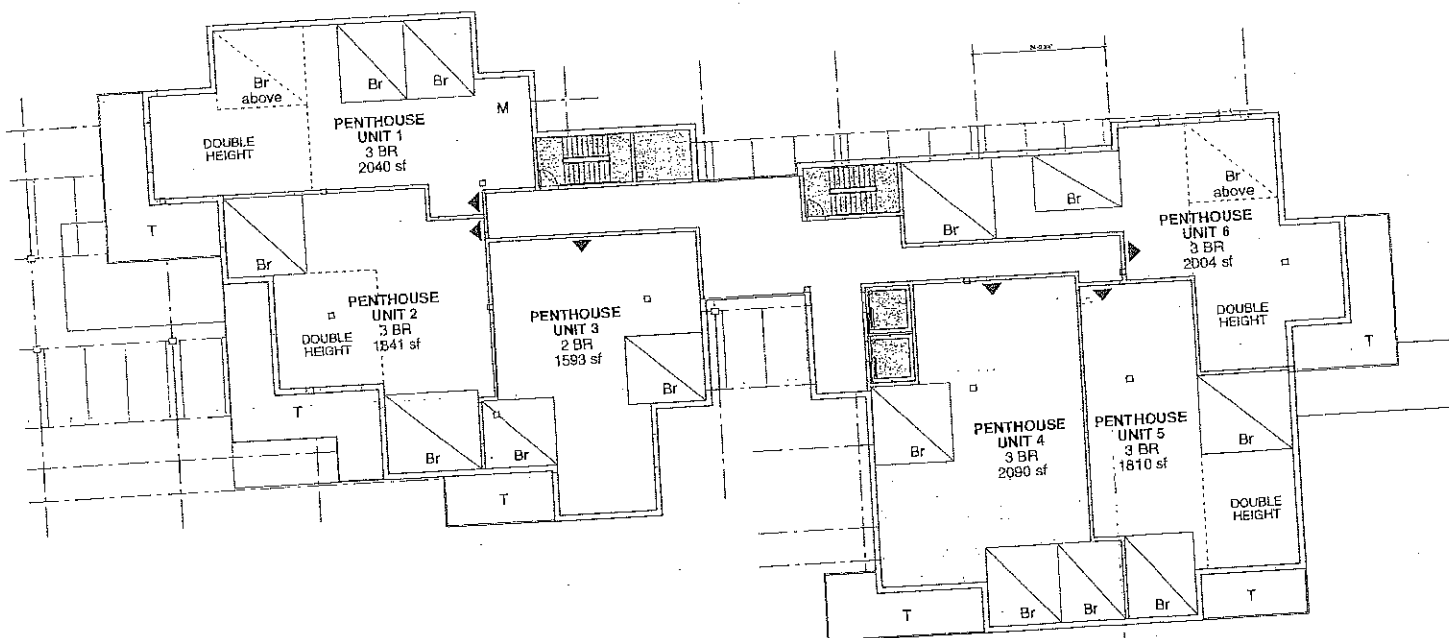
SSA
Scott Simons Architects



FLOOR 03-09: TYPICAL CONDOMINIUM
14,510 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

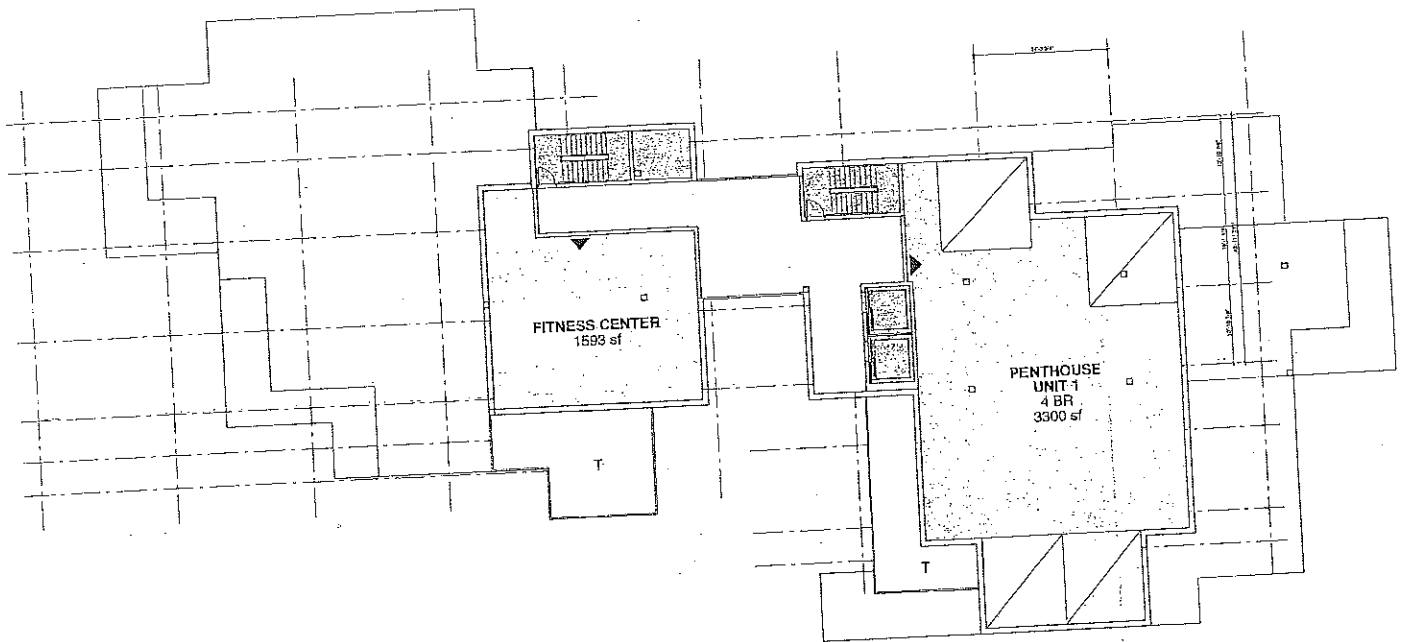
SSA
Scott Stevens Architects



FLOOR 10: PENTHOUSE
13,405 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

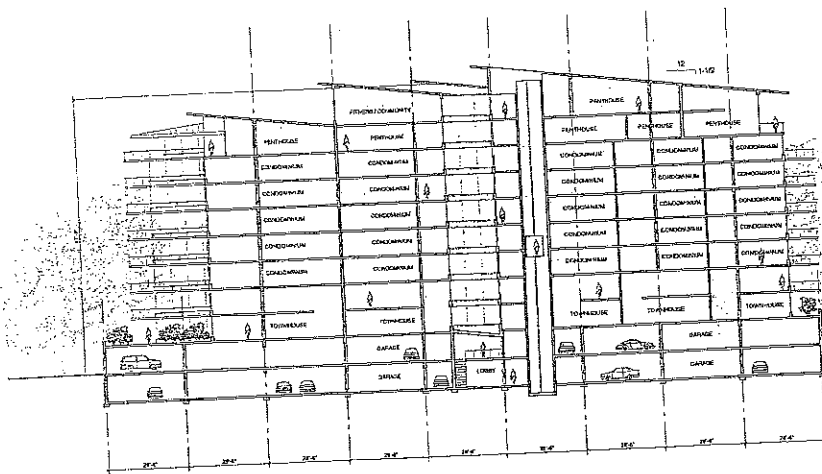
SSA
Scott Simons Architects



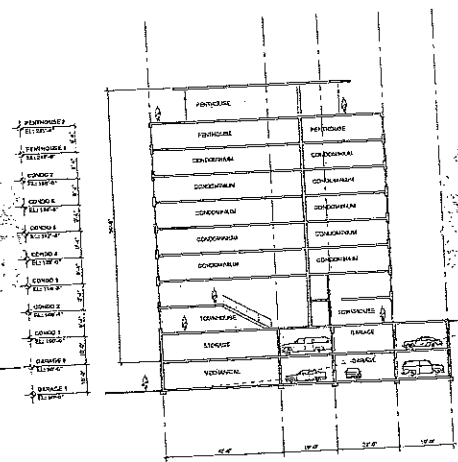
FLOOR 11: PENTHOUSE
6,853 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

SSA
Scott Simons Architects



S-N BUILDING SECTION



E-W BUILDING SECTION

BUILDING SECTIONS

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

April 4, 2014

TABLE OF CONTENTS:

Tab 1 – Cover Letter

Tab 2- Application Form / Project Data

Tab 3 – Redlined Edits to Existing Conditional Rezoning Agreement

Tab 4 – Proposed Amended Conditional Rezoning Agreement

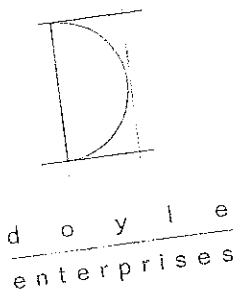
Tab 5 – Conformance With Comprehensive Plan

Tab 6 – Conformance With R5A Zoning District

Tab 7- Right, Title or Interest

Tab 8 – Preliminary Site Plans

Tab 9 – Preliminary Architectural Design



CASCO HEIGHTS

April 2014

Dear Members,

On October 18, 2004 the Portland City Council approved the Contract Zone Agreement to Graves Hill, LLC, which allowed the 18 acre vacant property, overlooking Casco Bay, located at 802 Ocean Avenue to be rezoned from R-3 to 8 acres of R-OS and 10 acres of R-5A. Working with Portland Trails, the open space was to be developed into a trail system that would connect with the Ocean Avenue Recreation Area. (At that time it was The Ocean Avenue Landfill.) The R-5A portion would allow two 100 foot buildings containing a total of 98 units. The 2004 project was called Graves Hill and was designed as large luxury condominiums. The Contract Zone Agreement specified that there would be two parking spaces per unit along with 28 visitor spaces and that each building would contain a community room, an office, a fitness and special events room and a cross country ski room.

The project got bogged down in stormwater issues and the final planning board approval was not received until 2006. Then 2007 came along and due to the instability of the economy, the project was not built. I own the property and was the developer for the Graves Hill project. I have entered into an agreement to sell the property to Ridge Development, LLC. They have hired me to advise them and present the new plan.

The new project will be called Casco Ridge and the buildings are an improvement over the approved 2006 project. The approved 100 foot height limit was controversial, Casco Heights will be no taller than 75 feet. Graves Hill was entirely large luxury units. Casco Heights is a mix of one, two and three bedroom, market rate condominiums along with top floor penthouses.

Although the Graves Hill buildings may have been controversial, the preservation of open space and the careful consideration of the land to be developed, was always supported by the boards and neighbors. That concept has not changed. Eight Acres will still be rezoned as R-OS and Portland Trails will participate in the development of a trail system that will run from Ocean Avenue through the R5-A zone to the R-OS and then connect to the Ocean Avenue Recreation Area.

We are asking that the Planning Board recommend to the Portland City Council the following changes to the 2004 approved Conditional Rezoning Amendment:

1. The name shall be changed from Graves Hill Land Company, LLC to Ridge Development, LLC
2. The maximum number of total allowed units shall be reduced from 98 to 94
3. The R-5A zone shall be changed from 10.17 acres to 10.4 acres and the R-OS shall be changed from 8.15 acres to 7.92 acres
4. The requirement for each building to contain a community room, office, fitness room, special events room and cross country ski center shall be removed
5. The amount of required parking shall be changed from two spaces per unit to two spaces for multi bedroom units and one space per single bedroom unit. The 28 visitor spaces remain unchanged.

Thank you for your consideration. We look forward to working with you on the new project.

Sincerely,

Diane Doyle

PROJECT ADDRESS: 802 - 828 ocean avenueCHART/BLOCK/LOT: 411-A-T and 416-A-67, 21

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

Amendment to existing conditional rezoning agreement

CONTACT INFORMATION:

Applicant - must be owner, Lessee or Buyer Name: <u>Patrick Tinsman</u> Business Name, if applicable: <u>Ridge Development LLC</u> Address: <u>P.O. Box 535</u> City/State: <u>Buxton ME</u> Zip Code: <u>04093</u>	Applicant's Contact for electronic plans Name: <u>William Conway</u> e-mail Address: <u>Sebago Technical</u> work #
Owner - (if different from Applicant) Name: <u>Diane Doyle</u> Address: <u>110 Main Street; Suite 1214</u> City/State: <u>Saco, ME</u> Zip Code: <u>04072</u>	Applicant Contact Information Work # Home# Cell # <u>239 - 5000</u> Fax# e-mail: <u>ptinsman@maine.rr.com</u>
Agent/ Representative Name: <u>William Conway</u> Address: <u>75 John Roberts Road</u> City/State: <u>So Portland ME</u> Zip Code: <u>04106</u>	Owner Contact Information Work # <u>286 - 1151</u> Home# Cell # <u>229 - 3530</u> Fax# <u>282 - 7970</u> e-mail: <u>djoyleco@gmail.com</u>
Billing Information Name: <u>Same as Applicant</u> Address: City/State: Zip Code:	Agent/Representative Contact Information Work # <u>200 - 2055</u> Cell # <u>205 - 5271</u> e-mail: <u>wconway@sebagotechnics.com</u>
Engineer Name: <u>Shawn Frank</u> Address: City/State: Zip Code:	Billing Information Work # <u>Same as Applicant</u> Fax# Cell # e-mail: Engineer Contact Information Work # <u>200 - 2062</u> Fax# Cell # e-mail: <u>sfrank@sebagotechnics.com</u>

Surveyor Name: <u>Dow and Colombe</u> Address: <u>Mike Colombe</u> City/State: <u>Saco ME</u> Zip Code: _____		Surveyor Contact Information Work # <u>284 ~ 4521</u> Cell # _____ Fax# _____ e-mail: <u>dowcol @ gwi.net</u>	
Architect Name: <u>Bill Hopkins</u> Address: <u>Archetype PA</u> City/State: <u>Portland ME</u> Zip Code: _____		Architect Contact Information Work # <u>772 6022</u> Cell # _____ Fax# _____ e-mail: <u>hopkins @ archetype pa . com</u>	
Attorney Name: <u>N/A</u> Address: _____ City/State: _____ Zip Code: _____		Attorney Contact Information Work # _____ Fax# _____ Cell # _____ e-mail: _____	

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

See Attached

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

Undeveloped

Current Zoning Designation(s):

R5A / ROS Conditional Zone

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See Attached

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

See Attached

APPLICATION FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

	Fees Paid (office use)	
Zoning Map Amendment ____ \$2,000.00 (from ____ zone to ____ zone)	_____	The City invoices separately for the following: • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.
Zoning Text Amendment ____ \$2,000.00 (to Section 14-____) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example) and language to be added is depicted as underline (example))	_____	
Combination Zoning Text Amendment and Zoning Map Amendment ____ \$3,000.00	_____	
☒ Conditional or Contract Zone ____ \$3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	_____	

Signature of Applicant:



Date:

4-2-14

Further Information

In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

PROJECT DATA

The following information is required where applicable, in order to complete the application.

Total Area of Site	18.32 Ac	sq. ft.
Proposed Total Disturbed Area of the Site	5.86 Ac	sq. ft.
If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland		
Impervious Surface Area	0	sq. ft.
Impervious Area (Total Existing)	2.78 Ac	sq. ft.
Impervious Area (Total Proposed)		
Building Ground Floor Area and Total Floor Area		
Building Footprint (Total Existing)	0	sq. ft.
Building Footprint (Total Proposed)	46,698	sq. ft.
Building Floor Area (Total Existing)	0	sq. ft.
Building Floor Area (Total Proposed)	25,438	sq. ft.
Zoning	R5A / R05	
Existing	R5A / R05	
Proposed, if applicable	UNDEVELOPED RESIDENTIAL	
Land Use		
Existing		
Proposed	0	
Residential, if applicable	94	
# of Residential Units (Total Existing)	1	
# of Residential Units (Total Proposed)	0	
# of Lots (Total Proposed)		
# of Affordable Housing Units (Total Proposed)		
Proposed Bedroom Mix		
# of Efficiency Units (Total Proposed)	0	
# of One-Bedroom Units (Total Proposed)	12	
# of Two-Bedroom Units (Total Proposed)	34	
# of Three-Bedroom Units (Total Proposed)	48	
Parking Spaces		
# of Parking Spaces (Total Existing)	0	
# of Parking Spaces (Total Proposed)	204	
# of Handicapped Spaces (Total Proposed)	5	
Bicycle Parking Spaces		
# of Bicycle Spaces (Total Existing)	0	
# of Bicycle Spaces (Total Proposed)	38	
Estimated Cost of Project		

Att. D

~~Order 67-04/05~~
~~Given first reading 9/20/04~~
~~Postponed on 10/4/04~~
~~Public Hearing and Passage 10/18/04 7-1 (Smith abstaining, O'Donnell opposed)~~

NATHAN H. SMITH (MAYOR) (3)
WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
CHERYL A. LEEMAN (4)
JAMES I. COHEN (5)

CITY OF PORTLAND
IN THE CITY COUNCIL

PETER E. O'DONNELL (A/L)
JAMES F. CLOUTIER (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

amended

ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: CONDITIONAL REZONING FOR 802-828 OCEAN AVENUE

ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below;

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective thirty (30) days following this rezoning.

Ridge
Development LLC
wherever Graves
Hill referred to

CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY, LLC

This Agreement made this _____ day of _____, 2004 by **GRAVES HILL LAND COMPANY, LLC**, a Maine limited liability company with an office in ~~Free~~, Maine (hereinafter "**GRAVES HILL**").

or has an option

WITNESSETH:

WHEREAS, GRAVES HILL owns a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

94

WHEREAS, GRAVES HILL proposes to construct upon a portion of the Property a maximum of 98 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate

with a larger trail system; and

WHEREAS, ~~GRAVES HILL~~ has requested the rezoning of ~~10.167~~ ^{10.40} acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of ~~8.155~~ ^{7.92} acres of the Property from R-3 to Recreation and Open Space Zone (R-OS); and

WHEREAS, the Planning Board of the **CITY OF PORTLAND** (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the **CITY**, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

it is necessary and appropriate to impose with ~~GRAVES HILL~~'s agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

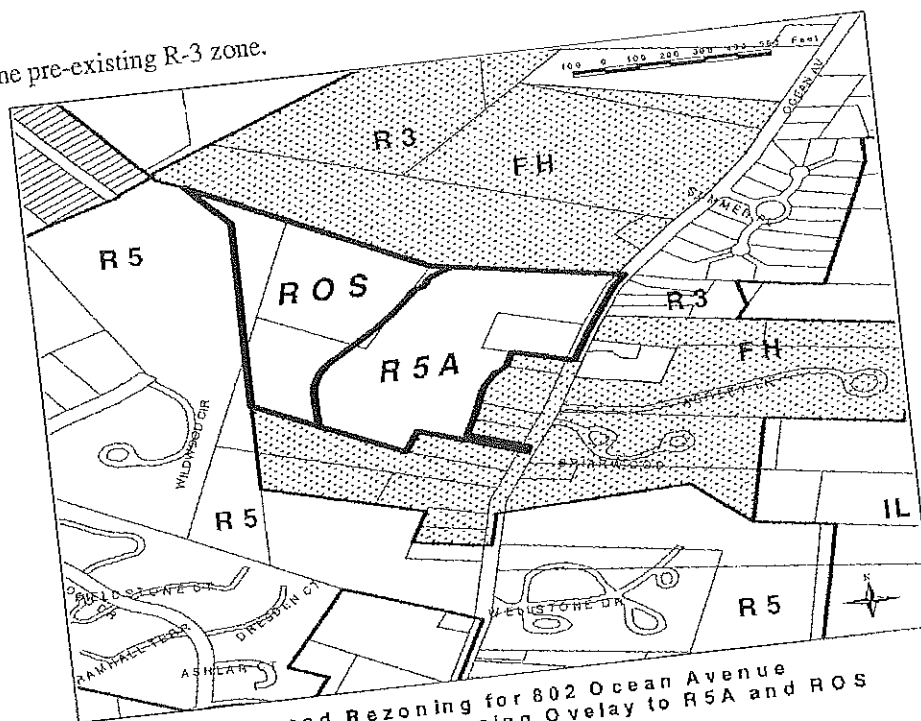
WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 200_, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, GRAVES HILL has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind ~~GRAVES HILL~~, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, ~~GRAVES HILL~~ contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert

to the pre-existing R-3 zone.



Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Overlay to R5A and ROS
July 2004

Map prepared by the City of Portland's Department of Planning & Development and the U16-W subgroup

2. **GRAVES HILL** is authorized to establish and maintain the following uses on the R-5A portion of the property: 94

- a. Up to 98 residential units located in two buildings, each building containing up to 49 units, which may be sold as condominium units within the Property; and maximum total of ninety eight (98) residential units within the Property; and ninety four (94)

47 b. ~~a community room in each building available for use by the residents of the PRUD; and~~

c. ~~a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services for 802 Ocean Avenue, if determined necessary by the condominium owners' association; and~~

d. ~~a fitness and special events room in each building available for use by the residents of the PRUD; and~~

e. ~~a cross country ski center/locker room in each building available for use by the~~

o:/Penny/Contract/Rezoning/Graves Hill to Council 9.15.04

1 space per 1BR
unit + 2 spaces per
2BR, 3BR units

A future recreation
area is also
permitted, subject
to Site Plan Review
and approval by
the Planning Board

residents of the PRUD; and

f. parking in an amount of not less than 2 spaces per residential unit; plus at least 28 additional surface visitor parking spaces; and

g. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

forty seven (47)

3. The use of the **R-5A** portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to ~~forty-nine (49)~~ dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to ~~forty-nine (49)~~ dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

forty seven (47)

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. ~~GRAVES HILL~~ is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the **R-OS** portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access.

future recreation
area

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. ~~GRAVES HILL~~ shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The

easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **GRAVES HILL**, its successors and assigns, **Graves Hill Condominium Owners' Association**, and **Portland Trails** to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, **GRAVES HILL** may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as **GRAVES HILL** has made the required conveyance, by easement and/or in fee, to **Portland Trails** and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, **Portland Trails** declines to accept said trail easements and/or conveyances upon the terms offered, **GRAVES HILL** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than **Portland Trails**) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

Sebago Technics,
Date TBD

Archetype PA, date
TBD

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Richardson and Associates (last revised August 16, 2004) and the Proposed Building Design site sections, building sections and floor plans submitted by Scott Simons Architects (last revised July 8, 2004) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The **Graves Hill** entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **GRAVES HILL**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this

Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. ~~GRAVES HILL~~ shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, ~~GRAVES HILL~~ shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the CITY for the CITY to apply toward installing granite curbs and sidewalk in the vicinity of the PROPERTY.

~~GRAVES HILL~~ shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by ~~GRAVES HILL~~ or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while ~~GRAVES HILL~~ shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by ~~GRAVES HILL~~ or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which ~~GRAVES HILL~~ and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, ~~GRAVES HILL~~ or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned R-5A, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 49 ← 47

Maximum number of buildings containing residential dwelling units: 2 ← 75

Maximum building height: 100 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site

204 spaces

plan

Minimum of 2 spaces per unit plus 28 visitor

Parking:
spaces, half in Phase I and half in Phase II

Minimum recreation open space area:
in the form of

Outdoor passive recreation

pedestrian trails of not less than 3,207 linear

feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, ~~GRAVES HILL~~ may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and ~~GRAVES HILL~~ need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit ~~GRAVES HILL~~, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event ~~GRAVES HILL~~ or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of ~~GRAVES HILL'S~~ breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that ~~GRAVES HILL~~ has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. ~~GRAVES HILL~~ shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

Ridge Development LLC

~~GRAVES HILL LAND COMPANY, LLC~~

WITNESS:

By: ~~Diane Doyle~~
Its Manager

Patrick Tinsman

Patrick Tinsman,
Manager of Ridge
Development LLC

STATE OF MAINE
CUMBERLAND, SS.

Then personally appeared the above-named ~~Diane Doyle, Manager of GRAVES HILL LAND COMPANY, LLC~~ as aforesaid, and acknowledged the foregoing instrument to be her

free act and deed in her said capacity and the free act and deed of said limited liability company.
Before me,

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

← Remaining Pages
Invalid

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

EDWIN P. CHESTER
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Portland, Maine 04101
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NOV 12 2004

November 12, 2004

HAND DELIVERED

Penny Littel, Esq.
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Conditional Zone Agreement, Graves Hill Land Company, LLC

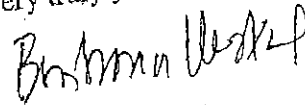
Dear Penny:

Enclosed is a copy of the Conditional Zone Agreement which was executed by Graves Hill Land Company, LLC on November 8, 2004, together with the Council Order (Attachment 1) and reduced, black/white copies of Exhibits 1-4 which were attached to the Agreement when it was submitted to the City Council for public hearing on October 18, 2004. The original Conditional Zone Agreement (including Attachment and Exhibits) was recorded on November 10, 2004 at 2:02 p.m. in Cumberland County Registry of Deeds Book 21999, Page 113.

As agreed, also enclosed for your records are the full size, 11" x 17" and/or color pages which were submitted to the Council as Exhibits 1-4.

Please contact me if anything further is required at this time. Thank you for your assistance throughout this phase of the process.

Very truly yours,



Barbara A. Vestal

BAV/om
Enclosures
dc: Diane Doyle, Graves Hill Land Company, LLC

Official Receipt for Recording in:
Cumberland County Registry Of Deeds
142 Federal Street
PORTLAND, MAINE 04101

Issued To: CHESTER & VESTAL
107 CONGRESS STREET
PORTLAND ME 04101-

Recording Fees			
Document Description	Number	Volm Page	Recording Amount
MORTGAGE	88949	21999 113	\$61.00
1-GRAVES HILL LAND CO LLC			
02:02:30p			\$61.00

Collected Amounts		
Payment Type	Check Number	Amount
CHECK	144	\$61.00

Total Received :	\$61.00
Less Total Recordings:	\$61.00
Change Due :	\$0.00

Thank You
JOHN B O'BRIEN - Register of Deeds
By - Monica Bouchie

Receipt# Date Time
0185173 11/10/2004 02:02p

**CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY, LLC**

This Agreement made this 8th day of November, 2004 by **GRAVES HILL LAND COMPANY, LLC**, a Maine limited liability company with an office in Saco, Maine (hereinafter "GRAVES HILL").

WITNESSETH:

WHEREAS, GRAVES HILL owns a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, GRAVES HILL proposes to construct upon a portion of the Property a maximum of 98 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, GRAVES HILL has requested the rezoning of 10.167 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 8.155 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS); and

WHEREAS, the Planning Board of the CITY OF PORTLAND (hereinafter "CITY"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the CITY, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

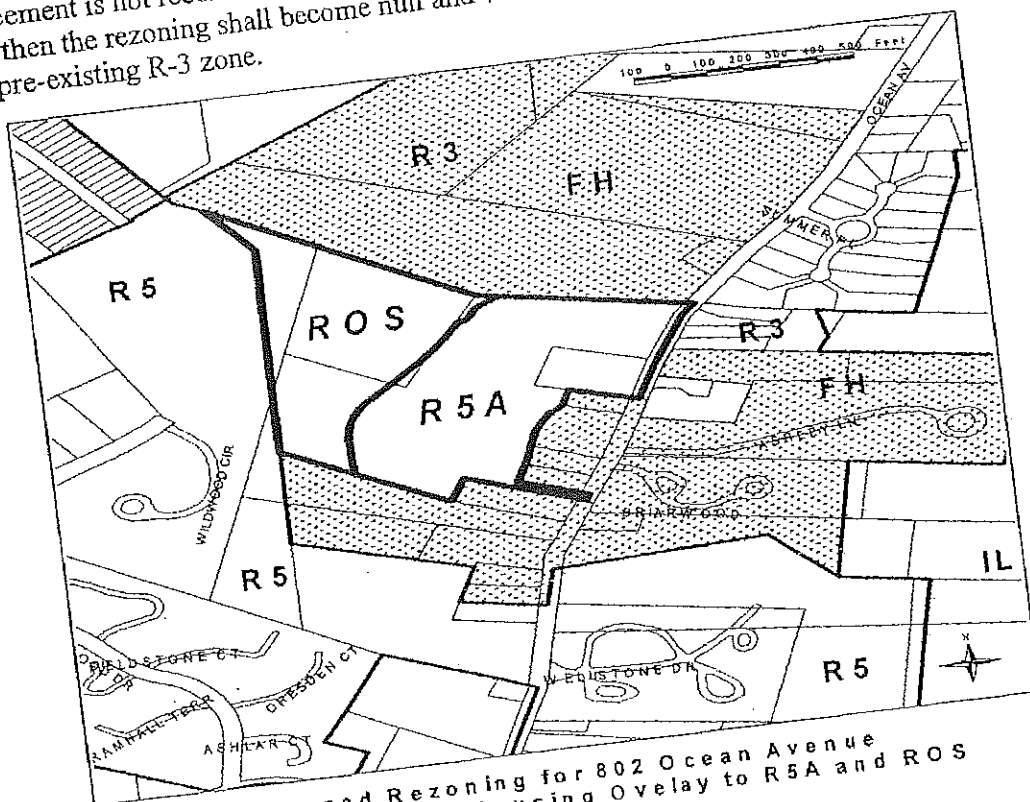
it is necessary and appropriate to impose with **GRAVES HILL's** agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on October 18, 2004, by City Council Order No.67 -- 04/05, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, **GRAVES HILL** has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **GRAVES HILL**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **GRAVES HILL** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-3 zone.



Proposed Rezoning for 802 Ocean Avenue
from R-3 and Flexible Housing Overlay to R-5A and R-OS
July 2004

Map prepared by the City of Portland's Department of Planning & Development and the GIS Workgroup

2. **GRAVES HILL** is authorized to establish and maintain the following uses on the R-5A portion of the property:

- a. Up to 98 residential units located in two buildings, each building containing up to 49 units, which may be sold as condominium units, resulting in a maximum total of ninety-eight (98) residential units within the Property; and
- b. a community room in each building available for use by the residents of the PRUD; and
- c. a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services for 802 Ocean Avenue, if determined necessary by the condominium owners' association; and
- d. a fitness and special events room in each building available for use by the residents of the PRUD; and
- e. a cross country ski center/locker room in each building available for use by the residents of the PRUD; and
- f. parking in an amount of not less than 2 spaces per residential unit, plus at least 28 additional surface visitor parking spaces; and
- g. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the **R-5A** portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-nine (49) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-nine (49) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by

blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **GRAVES HILL** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the **R-OS** portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access.

The **R-OS** portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **GRAVES HILL** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the **R-5A** portion of the Property not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitting, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking, dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **GRAVES HILL**, its successors and assigns, **Graves Hill Condominium Owners' Association**, and **Portland Trails** to enforce those restrictions. In the alternative, instead of granting a trail easement on the **R-OS** portion of the Property, **GRAVES HILL** may opt to convey the **R-OS** portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the **R-OS** portion of the site so long as **GRAVES HILL** has made the required conveyance, by easement and/or in fee, to **Portland Trails** and funds sufficient to complete construction the trails on the **R-OS** portion of the site

have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, **GRAVES HILL** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Richardson and Associates (last revised August 16, 2004) and the Proposed Building Design site sections, building sections and floor plans submitted by Scott Simons Architects (last revised July 8, 2004) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The Graves Hill entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **GRAVES HILL**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **GRAVES HILL** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **GRAVES HILL** shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

GRAVES HILL shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **GRAVES HILL** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **GRAVES HILL** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **GRAVES HILL** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which **GRAVES HILL** and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual

condominium units. Similarly, **GRAVES HILL** or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 49

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 100 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location of the site plan

Minimum of 2 spaces per unit plus 28 visitor

Parking: spaces, half in Phase I and half in Phase II

Minimum recreation open space area:

Outdoor passive recreation in the form of pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. An public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **GRAVES HILL** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreation open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any por-

tion of the Property for visitors projected to use the R-OS portion of the Property and **GRAVES HILL** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **GRAVES HILL**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event **GRAVES HILL** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **GRAVES HILL'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **GRAVES HILL** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **GRAVES HILL** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS:

Brianne V. Voth

GRAVES HILL LAND COMPANY, LLC

By: [Signature]
Diane Doyle
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

November 8, 2004

Then personally appeared the above-named Diane Doyle, Manager of GRAVES HILL LAND COMPANY, LLC as aforesaid, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said limited liability company.

Before me,

Barbara A. Vezina

Notary Public/Attorney-at-Law

Printed name: Barbara A. Vezina

My Commission Expires: _____

ATTACHMENT 1

Order 67 - 04/05

Given first reading 9/20/04

Postponed on 10/4/04

Public Hearing and Passage 10/18/04 7-1 (Smith abstaining, O'Donnell opposed)

NATHAN H. SMITH (MAYOR)(3)
WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
CHERYL A. LEEMAN (4)
JAMES I. COHEN (5)

CITY OF PORTLAND
IN THE CITY COUNCIL

PETER E. O'DONNELL (A/L)
JAMES F. CLOUTIER (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)**

RE: CONDITIONAL REZONING FOR 802-828 OCEAN AVENUE

ORDERED, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below;

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective thirty (30) days following this rezoning.

**CONDITIONAL ZONE AGREEMENT
GRAVES HILL LAND COMPANY, LLC**

This Agreement made this _____ day of _____, 2004 by **GRAVES HILL LAND COMPANY, LLC**, a Maine limited liability company with an office in Saco, Maine (hereinafter "GRAVES HILL").

WITNESSETH:

WHEREAS, GRAVES HILL owns a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, GRAVES HILL proposes to construct upon a portion of the Property a maximum of 98 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, GRAVES HILL has requested the rezoning of 10.167 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 8.155 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS); and

WHEREAS, the Planning Board of the **CITY OF PORTLAND** (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the **CITY**, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

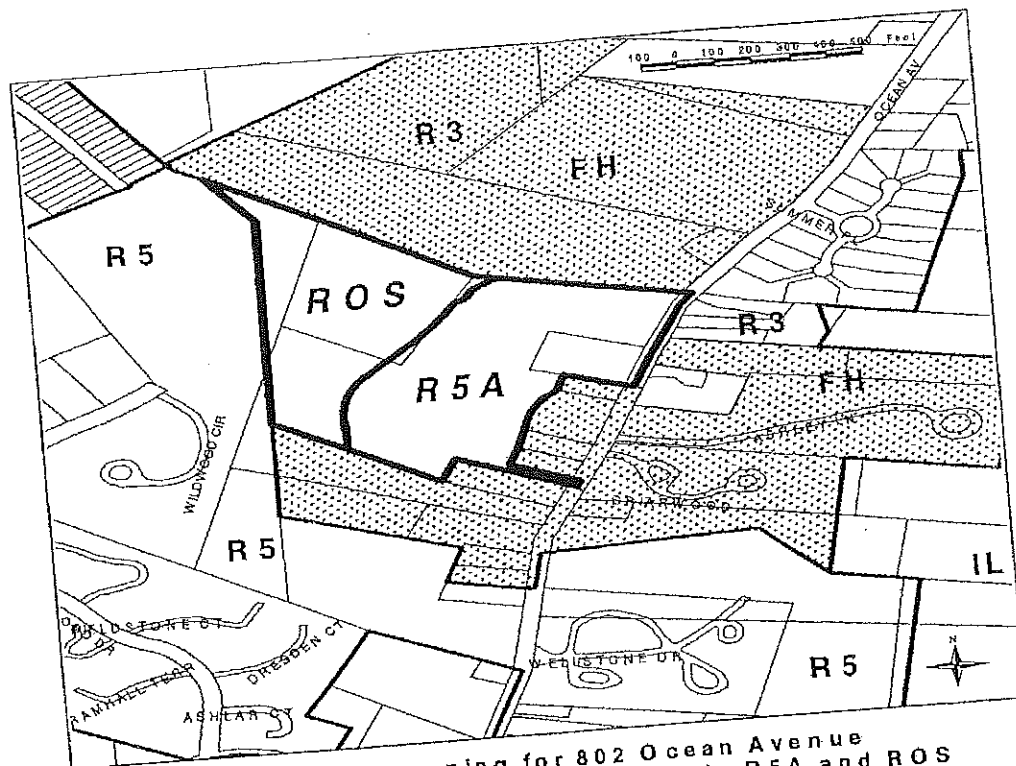
it is necessary and appropriate to impose with **GRAVES HILL's** agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 200__, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, GRAVES HILL has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **GRAVES HILL**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **GRAVES HILL** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Counsel's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-3 zone.



Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Overlay to R5A and ROS
July 2004

Map prepared by the City of Portland's Department of Planning & Development and the GIS Workgroup

2. **GRAVES HILL** is authorized to establish and maintain the following uses on the **R-5A** portion of the property:

- a. Up to 98 residential units located in two buildings, each building containing up to 49 units, which may be sold as condominium units, resulting in a maximum total of ninety-eight (98) residential units within the Property; and
- b. a community room in each building available for use by the residents of the PRUD; and
- c. a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and concierge services for 802 Ocean Avenue, if determined necessary by the condominium owners' association; and
- d. a fitness and special events room in each building available for use by the residents of the PRUD; and
- e. a cross country ski center/locker room in each building available for use by the residents of the PRUD; and

f. parking in an amount of not less than 2 spaces per residential unit, plus at least 28 additional surface visitor parking spaces; and

g. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the **R-5A** portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-nine (49) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-nine (49) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **GRAVES HILL** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the **R-OS** portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **GRAVES HILL** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking

dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **GRAVES HILL**, its successors and assigns, Graves Hill Condominium Owners' Association, and Portland Trails to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, **GRAVES HILL** may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I. If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as **GRAVES HILL** has made the required conveyance, by easement and/or in fee, to **Portland Trails** and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, **Portland Trails** declines to accept said trail easements and/or conveyances upon the terms offered, **GRAVES HILL** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than **Portland Trails**) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Richardson and Associates (last revised August 16, 2004) and the Proposed Building Design site sections, building sections and floor plans submitted by Scott Simons Architects (last revised July 8, 2004) and the preliminary elevation from Mackworth Island (undated, submitted August 17, 2004), attached hereto. The Graves Hill entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **GRAVES HILL**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **GRAVES HILL** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **GRAVES HILL** shall instead contribute funds

equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

GRAVES HILL shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **GRAVES HILL** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **GRAVES HILL** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **GRAVES HILL** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which **GRAVES HILL** and/or Diane Doyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, **GRAVES HILL** or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 49

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 100 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site plan

Parking: Minimum of 2 spaces per unit plus 28 visitor spaces, half in Phase I and half in Phase II

Minimum recreation open space area: Outdoor passive recreation in the form of

pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **GRAVES HILL** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and **GRAVES HILL** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **GRAVES HILL**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized representatives.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event **GRAVES HILL** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **GRAVES HILL'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **GRAVES HILL** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the

request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **GRAVES HILL** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS:

GRAVES HILL LAND COMPANY, LLC

By: _____
Diane Doyle
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

_____, 200_

Then personally appeared the above-named Diane Doyle, Manager of **GRAVES HILL LAND COMPANY, LLC** as aforesaid, and acknowledged the foregoing instrument to be her

free act and deed in her said capacity and the free act and deed of said limited liability company.

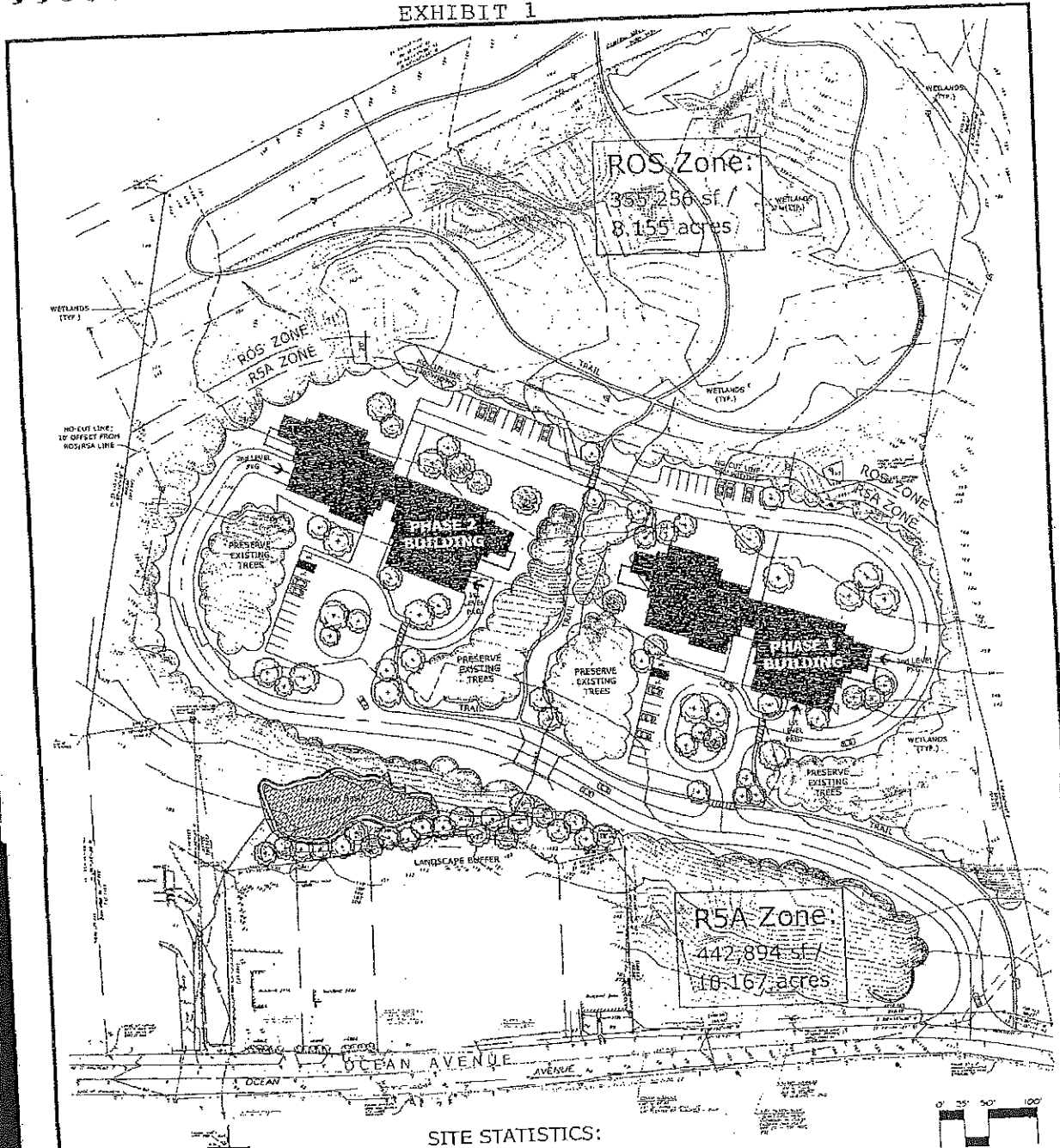
Before me,

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

EXHIBIT 1



NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING BASE INFORMATION EXCEPT WETLANDS BOUNDARIES PROVIDED BY DOW & COULOMBE SURVEYORS.
2. UTILITY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING.
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS BOUNDARIES SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

SITE STATISTICS:

Site Size: Gross area: 798,150 s.f. / 18.323 acres
 Zone ROS: 355,256 s.f. / 8.155 acres
 Zone RSA: 442,894 s.f. / 10.167 acres
 Net Land Area: 436,622 s.f. / 9.978 acres
 Frontage: 645 L.F.
 Impervious Surface Ratio: 0.16
 Number of Units:
 Phase 1: 49
 Phase 2: 49
 Gross Density: 5.3 Units/Acre
 Net Density: 9.8 Units/Acre
 Roadway Ownership: Private
 Linear Feet of Roadway: 2,656 L.F.
 Roadway Width: 24 feet

Total Number of Parking Spaces: 224 spaces
 Phase 1: 112 spaces
 Phase 2: 112 spaces
 Parking Spaces within Parking Structure:
 Phase 1: 80 spaces
 Phase 2: 80 spaces
 Surface Parking Spaces:
 Phase 1: 22 spaces
 Phase 2: 22 spaces
 Projected Wetlands Disturbance: 2,230 s.f.
 Projected Site Disturbance: 3.0 Acres
 Trail:
 Zone ROS: 2,855 L.F.
 Zone RSA: 1,170 L.F.
 Total Trail: 4,025 L.F.



Preliminary Site Plan: Zone Identification
GRAVES HILL
 Portland, Maine

MARCH 23, 2004
 REVISED MAY 18, 2004
 REVISED JUNE 1, 2004
 REVISED JUNE 14, 2004
 REVISED JULY 9, 2004
 REVISED AUGUST 15, 2004

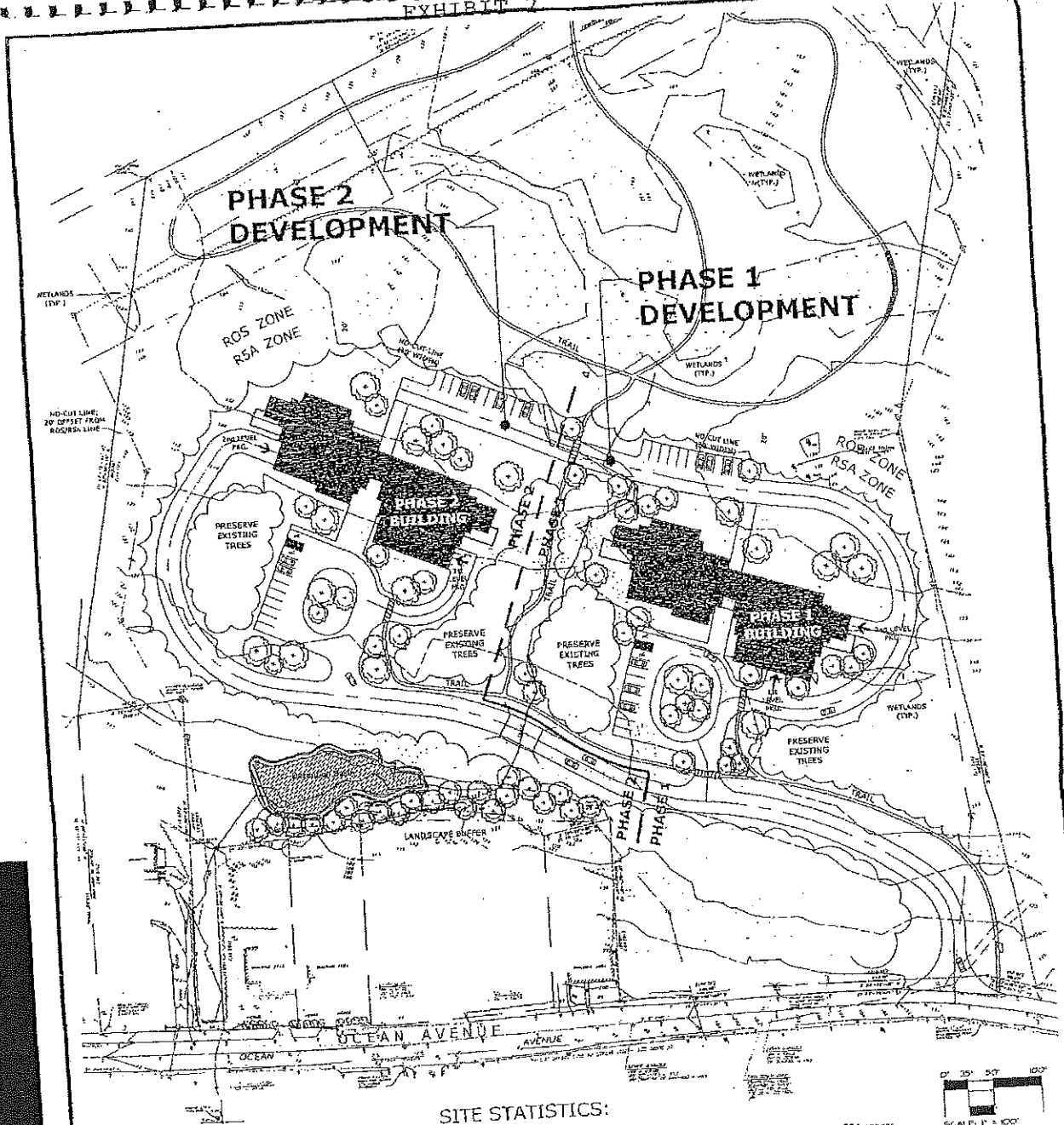
Developer: GRAVES HILL LAND COMPANY
 150 Main Street
 South Portland, ME 04106
 Tel: 207-286-1191

Architect: Scott Simons Architects
 25 York Street
 Portland, Maine 04103
 Tel: 207-772-6638

Landscape Architect: Richardson & Associates
 Landscape Architects
 10 New 126
 178 Van Street
 South Portland, Maine 04106
 Tel: 207-286-9251

Civil Engineer: BH2M
 Consulting Engineers
 15 Green Street
 Portland, Maine 04101
 Tel: 207-878-1231

EXHIBIT 2



NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING BASE INFORMATION EXCEPT WETLANDS BOUNDARIES PROVIDED BY DOW & COULMBE SURVEYORS.
2. UTILITY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS BOUNDARIES SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

SITE STATISTICS:

Site Size: Gross Area: 798,150 s.f. / 18.323 acres
 Zone ROS: 355,256 s.f. / 8.155 acres
 Zone RSA: 442,894 s.f. / 10.167 acres
 Net Land Area: 424,672 s.f. / 9.676 acres
 Frontage: 445 ft.
 Impervious Surface Ratio: 0.15

Number of Units:
 Phase 1: 45
 Phase 2: 45
 Gross Density: 5.2 Units/Acre
 Net Density: 9.8 Units/Acre

Roadway Ownership: Private
 Unear Feet of Roadway: 2,656 L.F.
 Roadway Width: 24 feet

Total Number of Parking Spaces: 224 spaces
 Phase 1: 132 spaces
 Phase 2: 132 spaces

Parking Spaces within Parking Structure:
 Phase 1: 50 spaces
 Phase 2: 50 spaces

Surface Parking Spaces:
 Phase 1: 22 spaces
 Phase 2: 22 spaces

Projected Wetlands Disturbance: 2,239 s.f.
 Projected Site Disturbance: 1,645 Acres

Trail:
 Zone ROS: 2,855 s.f.
 Zone RSA: 1,170 s.f.
 Total Trail: 4,025 s.f.

Preliminary Site Plan: Phasing Identification
GRAVES HILL
 Portland, Maine

MARCH 25, 2004
 REVISED MAY 14, 2004
 REVISED JUNE 1, 2004
 REVISED JUNE 14, 2004
 REVISED JULY 6, 2004
 REVISED AUGUST 16, 2004

Developer: GRAVES HILL LAND COMPANY
 110 Main Street
 Stony Brook, CT 06435
 Tel: 203.396.1351

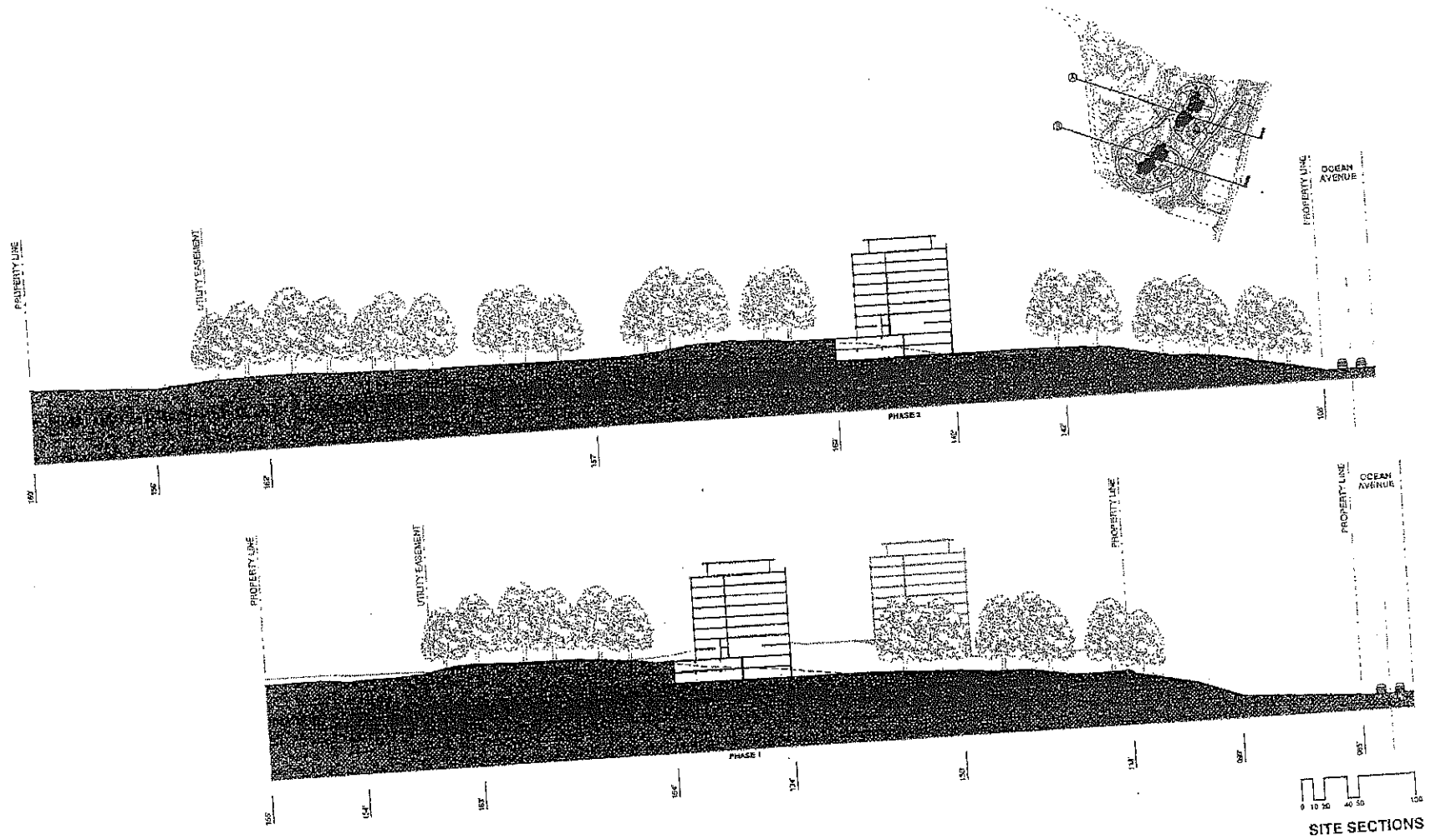
Architect: Scott Simons Architects
 21 York Street
 Portland, Maine 04104
 Tel: 207.774.4578

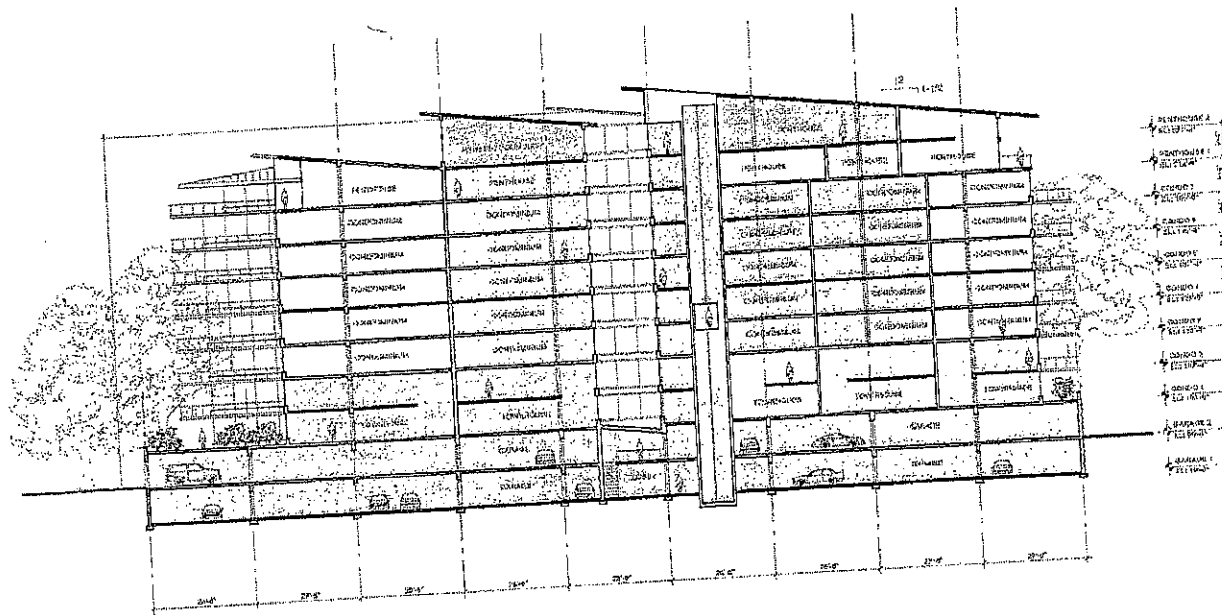
Landscape Architect: Richardson & Associates
 LANDSCAPE ARCHITECTS
 PO Box 435
 174 Main Street
 Cape, Maine 04022
 Tel: 207.886.0292

Civil Engineer: BM2M
 Consulting Engineers
 28 State Street
 Portland, Maine
 Tel: 207.858.1771

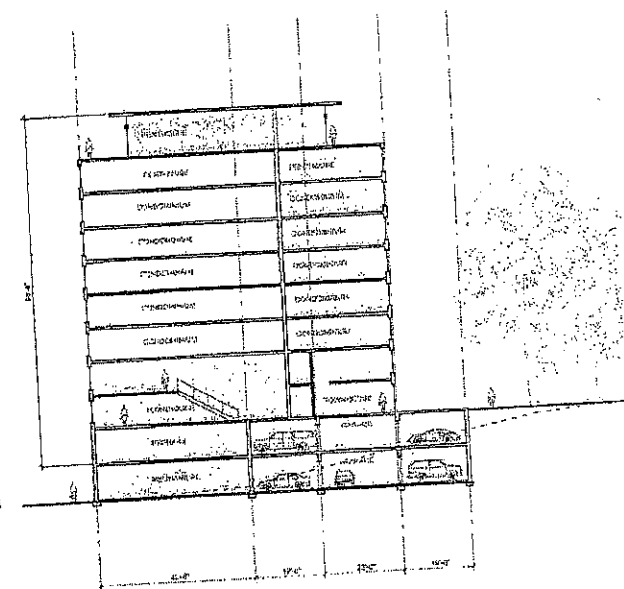
EXHIBIT 3

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME





S-N BUILDING SECTION

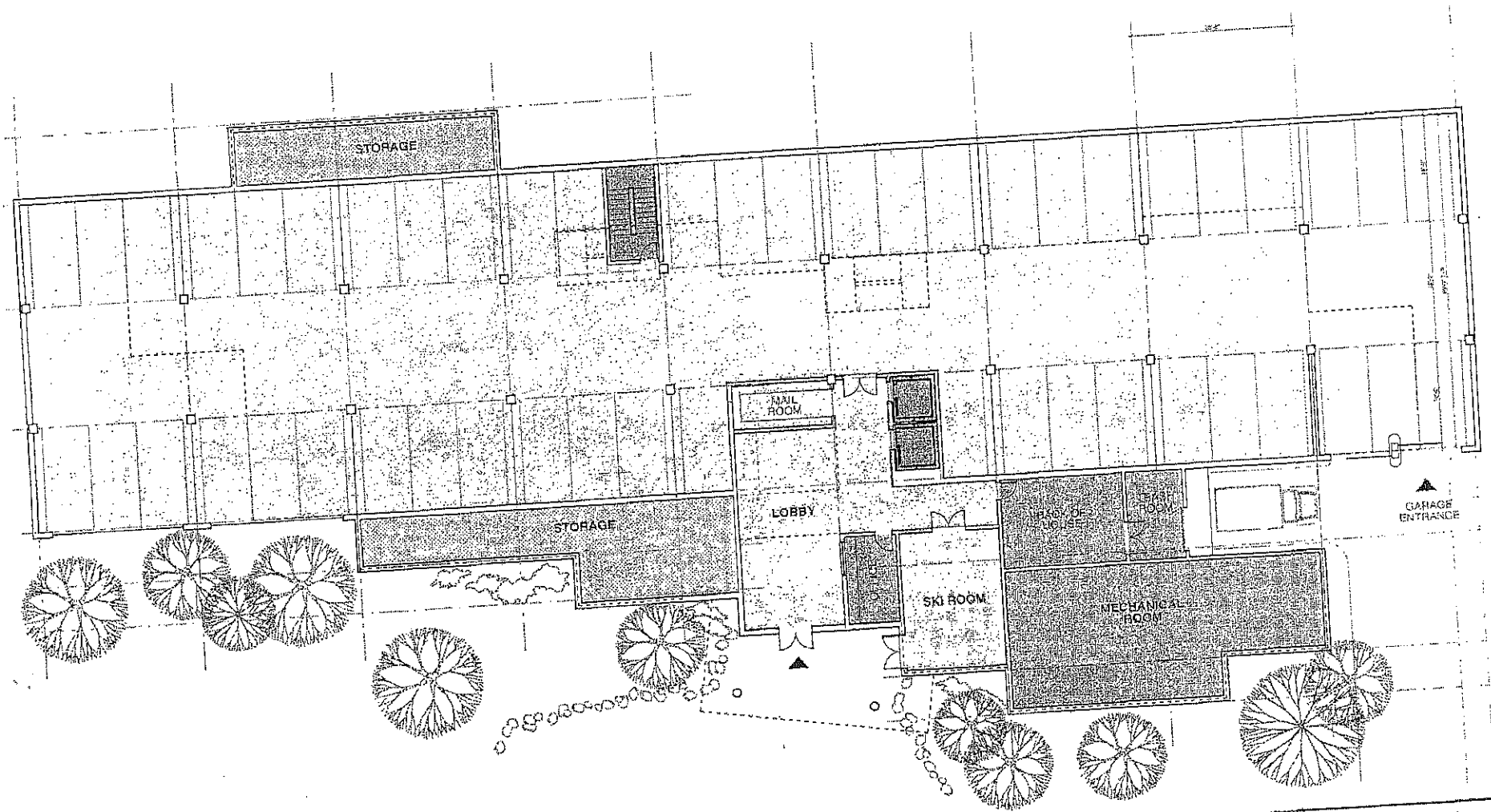


E-W BUILDING SECTION

BUILDING SECTIONS

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

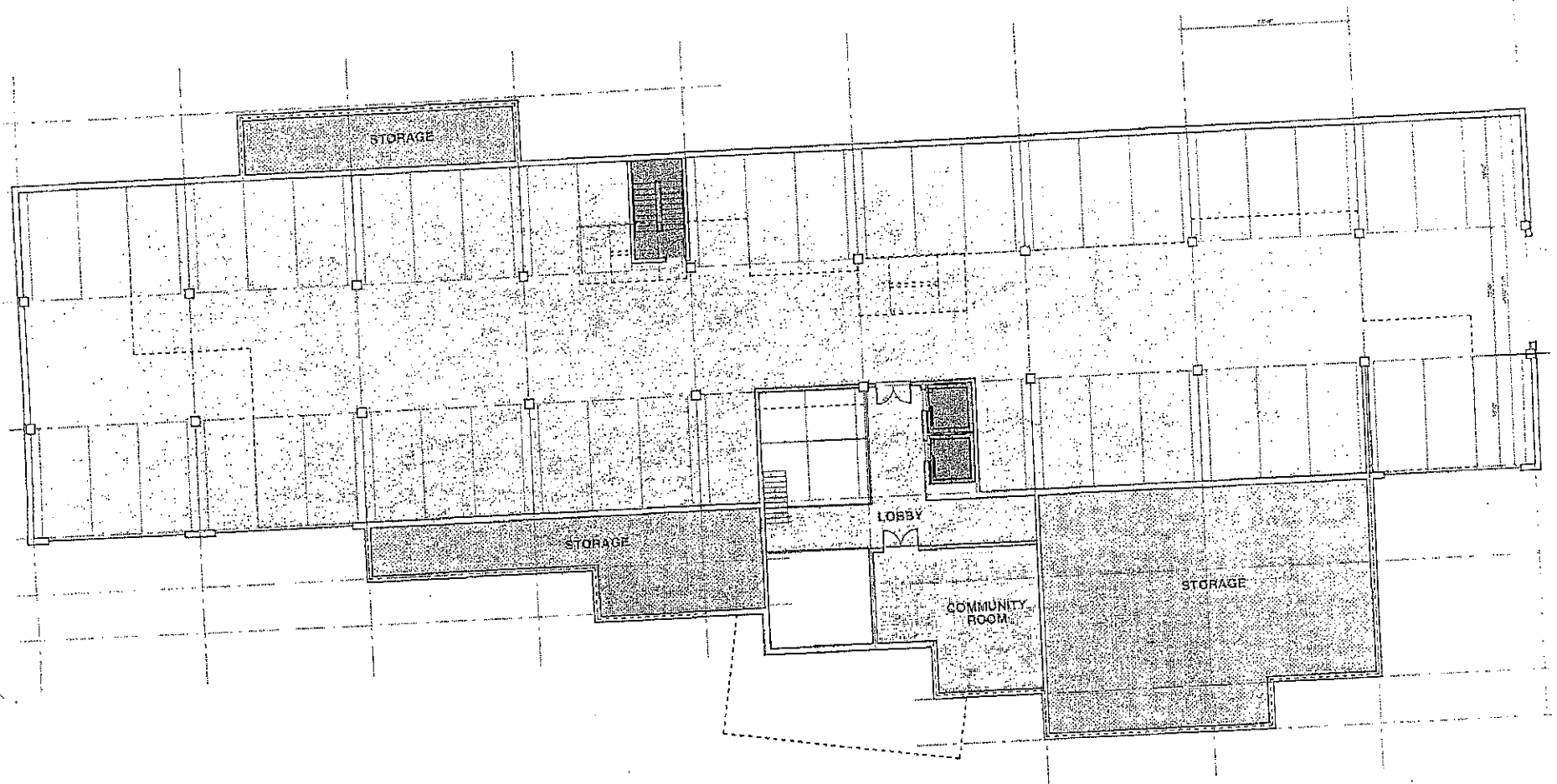
SSA
Scott Simons Architects



GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

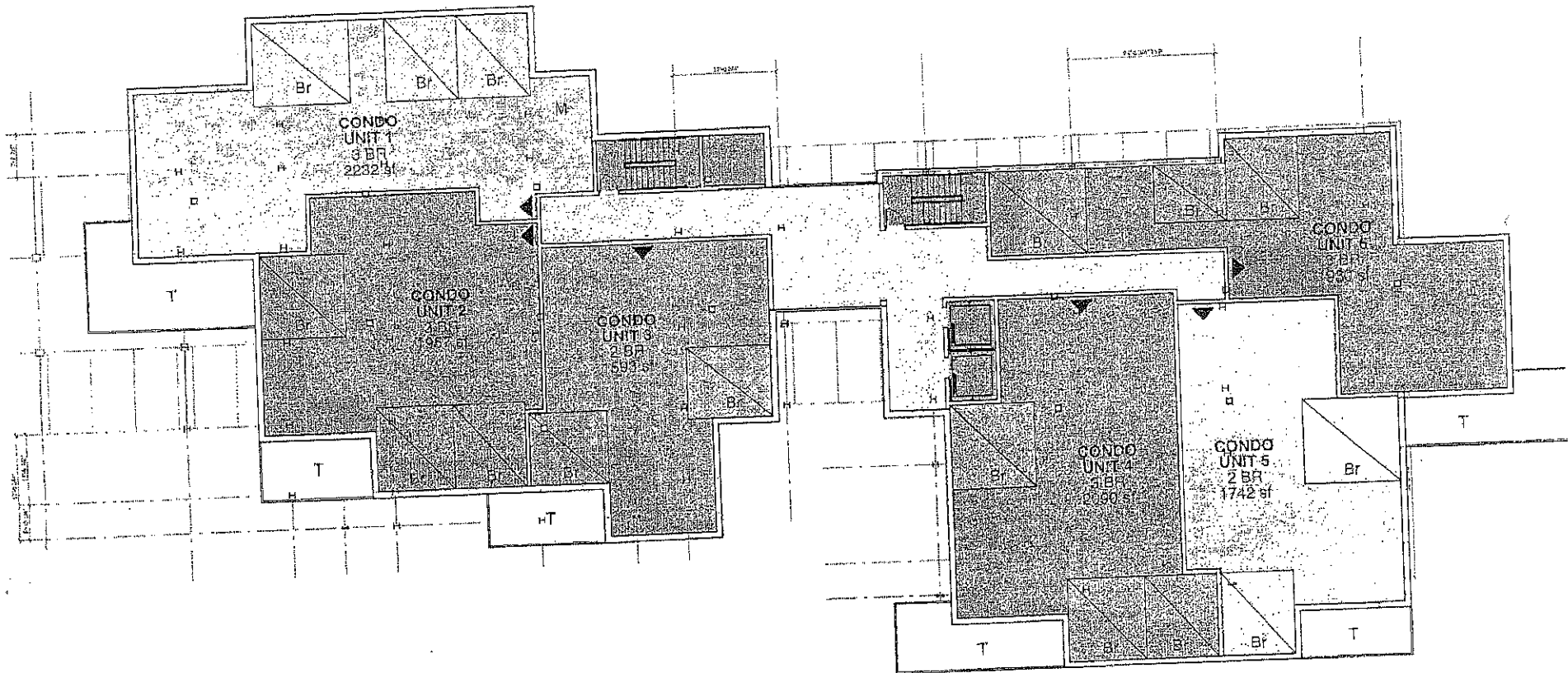
SSA
Scott Simons Architects

FLOOR 01: LOBBY & GARAGE



FLOOR 02: COMMUNITY ROOM & GARAGE

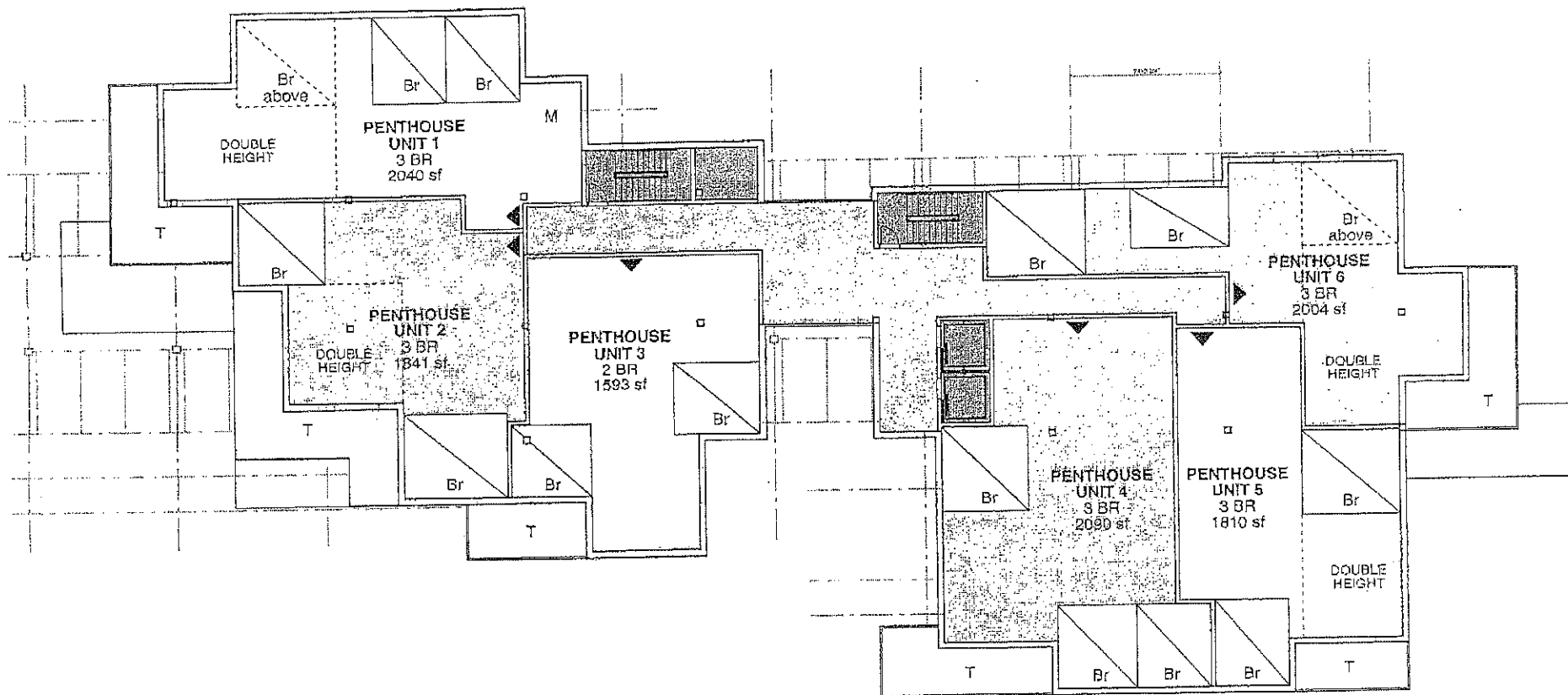
GRAVES HILL
OCEAN AVENUE
PORTLAND, ME



FLOOR 03-09: TYPICAL CONDOMINIUM
14,510 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

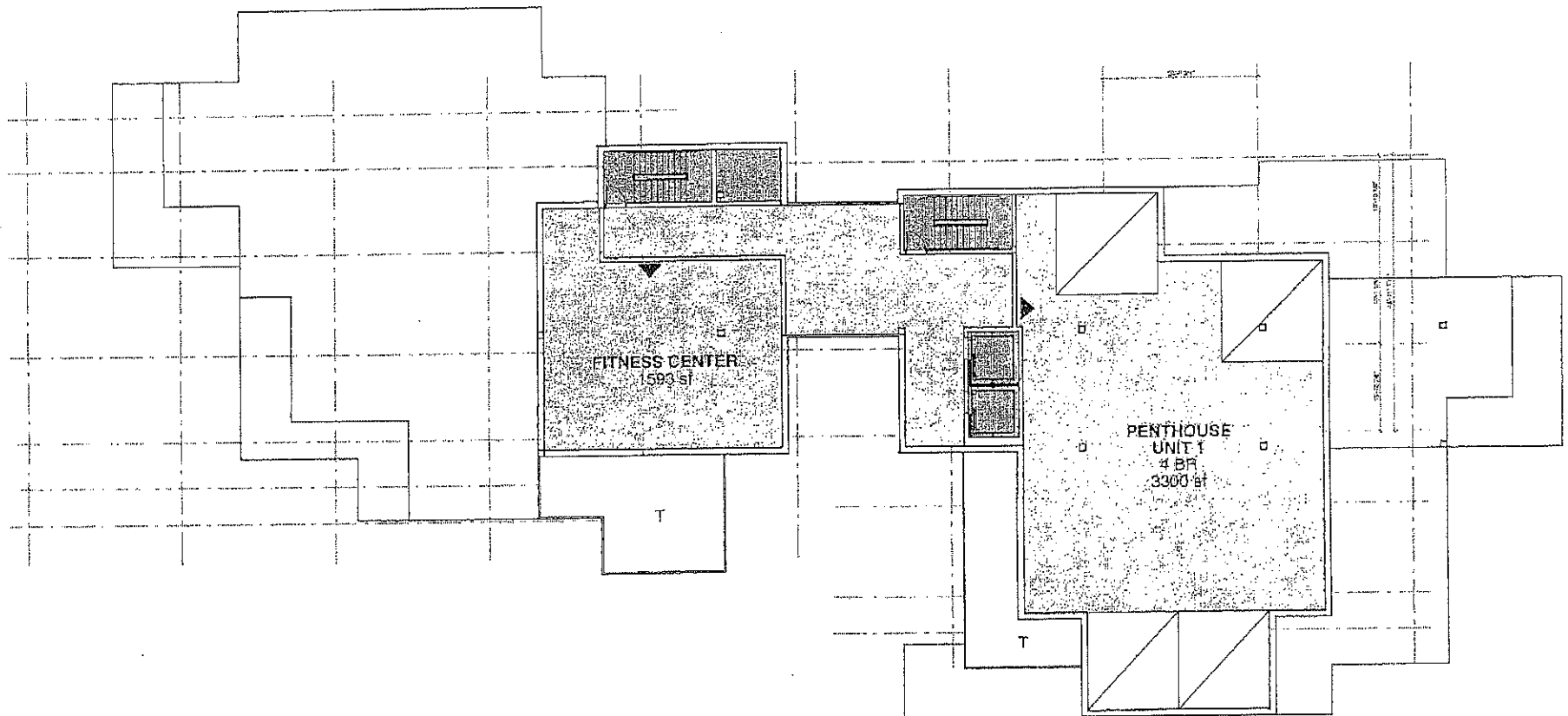
SSA
Scott Simons Architects



FLOOR 10: PENTHOUSE
13,405 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

SSA
Scott Stevens Architects



FLOOR 11: PENTHOUSE
6,653 SF TOTAL

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

EXHIBIT 4

Submitted to
PORTLAND PLANNING BOARD
AUGUST 17, 2004

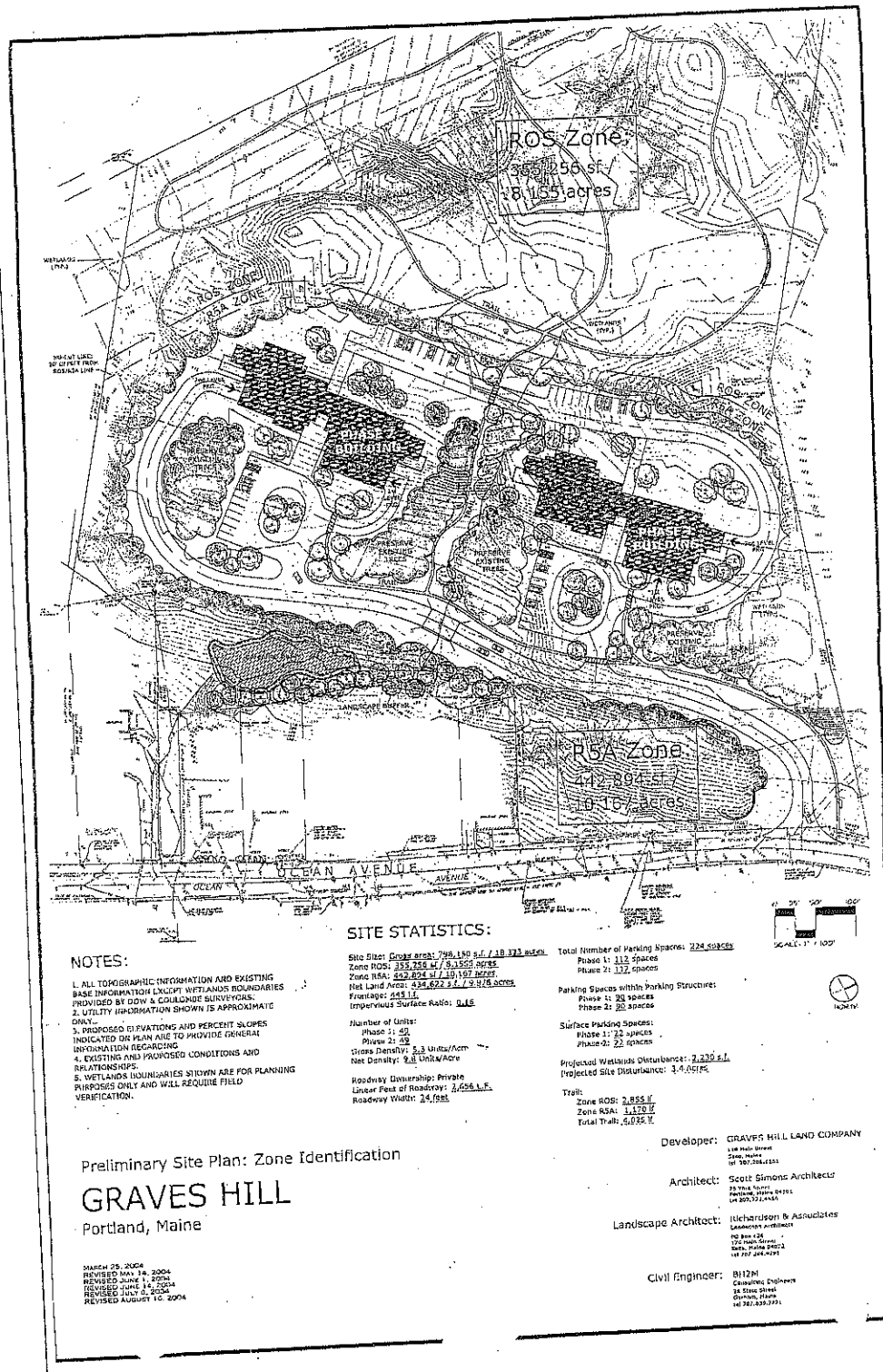
GRAVES HILL LAND COMPANY, LLC
Gina Doyle 503.394.1131

SCOTT SIMONS ARCHITECTS
Scott Simons 503.772.4526

RICHARDSON & ASSOCIATES
Todd Richardson 503.244.9291

B-12M
Lisa Barry 503.439.2777

EXHIBIT 1
PRELIMINARY SITE PLAN: ZONE IDENTIFICATION



NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING BASE INFORMATION EXCEPT WETLANDS BOUNDARIES PROVIDED BY DDW & COULLENDE SURVEYORS.
2. UTILITY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS BOUNDARIES SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

SITE STATISTICS:

Site Size: 798,150 sq ft / 18.322 acres
 Zone ROS: 363,256 sq ft / 8.355 acres
 Zone RSA: 442,894 sq ft / 10.167 acres
 Net Land Area: 434,672 sq ft / 9.918 acres
 Footprint: 453,111
 Impervious Surface Ratio: 0.48
 Number of Units:
 Phase 1: 50
 Phase 2: 50
 Gross Density: 2.3 Units/Acre
 Net Density: 2.8 Units/Acre
 Roadway Dimensions: Private
 Linear Feet of Roadway: 4,656 L.F.
 Roadway Width: 24,198

Total Number of Parking Spaces: 224 spaces
 Phase 1: 112 spaces
 Phase 2: 112 spaces
 Parking Spaces within Parking Structures:
 Phase 1: 30 spaces
 Phase 2: 20 spaces
 Surface Parking Spaces:
 Phase 1: 22 spaces
 Phase 2: 22 spaces
 Projected Wetlands Disturbance: 7,239 sq ft
 Projected Site Disturbance: 1,452 sq ft
 Trail:
 Zone ROS: 2,855 ft
 Zone RSA: 1,170 ft
 Total Trail: 4,025 ft

Preliminary Site Plan: Zone Identification

GRAVES HILL

Portland, Maine

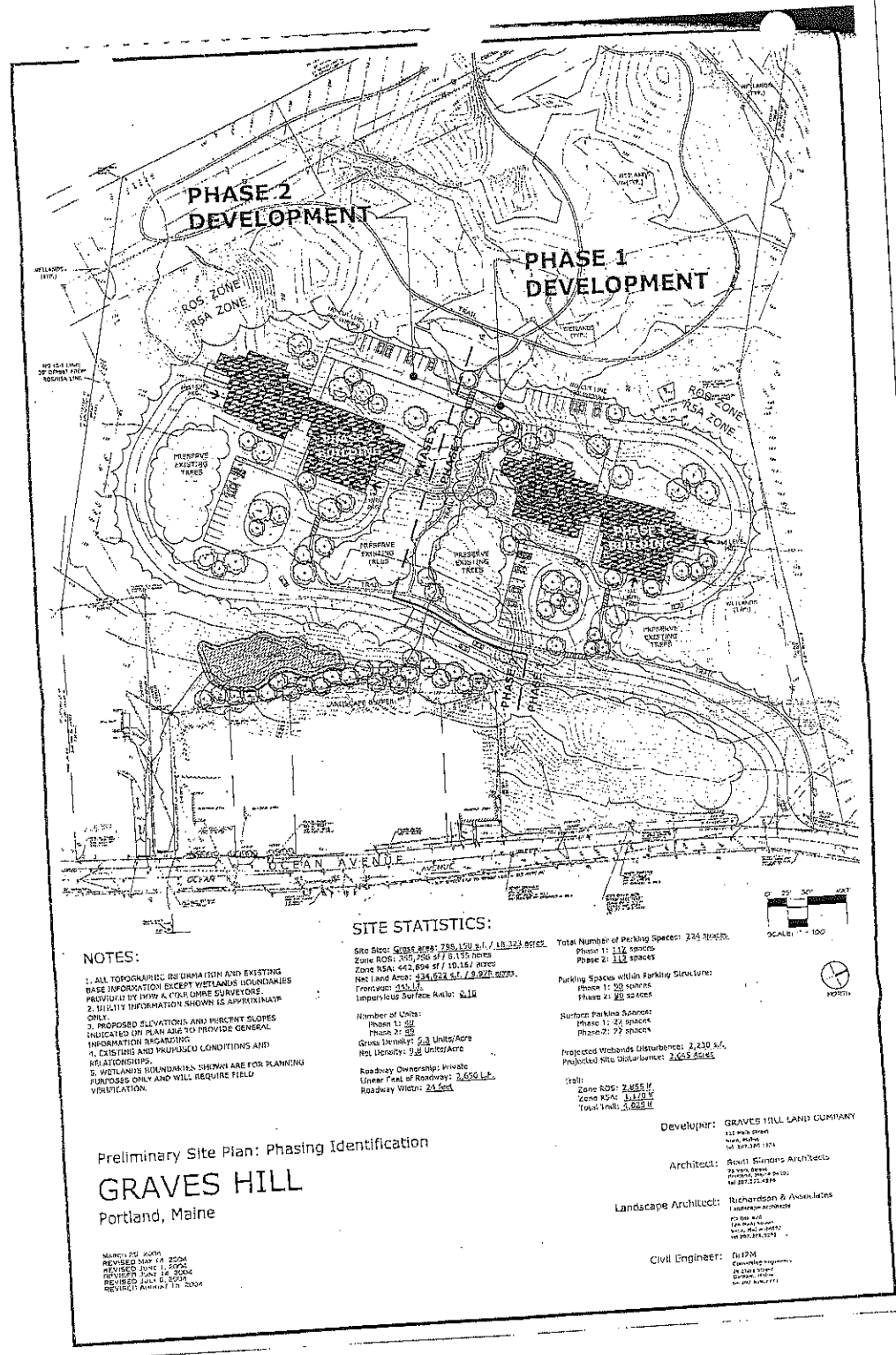
March 25, 2004
 Revised May 18, 2004
 Revised June 1, 2004
 Revised June 14, 2004
 Revised July 2, 2004
 Revised August 10, 2004

Developer: GRAVES HILL LAND COMPANY

Architect: Scott Simons Architects

Landscape Architect: Richardson & Associates

Civil Engineer: B12M



NOTES:

1. ALL TOPOGRAPHIC INFORMATION AND EXISTING BASE INFORMATION EXCEPT WETLANDS HIGHLIGHTED PROVIDE BY DDP & T&E SURVEYORS.
2. SURVEY INFORMATION SHOWN IS APPROXIMATE ONLY.
3. PROPOSED ELEVATIONS AND PERCENT SLOPES INDICATED ON PLAN ARE TO PROVIDE GENERAL INFORMATION REGARDING.
4. EXISTING AND PROPOSED CONDITIONS AND RELATIONSHIPS.
5. WETLANDS HIGHLIGHTED SHOWN ARE FOR PLANNING PURPOSES ONLY AND WILL REQUIRE FIELD VERIFICATION.

SITE STATISTICS:

Site Size: Gross Area: 785,150 s.f. / 18.022 acres
 Zone ROS: 300,750 s.f. / 6.935 acres
 Zone RSA: 484,400 s.f. / 11.087 acres
 Net Land Area: 334,624 s.f. / 7.627 acres
 Frontage: 155.17'
 Impervious Surface Area: 6.16'

Number of Units:
 Phase 1: 22
 Phase 2: 22
 Gross Density: 2.8 Units/Acre
 Net Density: 3.8 Units/Acre

Roadway Ownership: Private
 Linear Feet of Roadway: 2,659 L.F.
 Roadway Width: 24 feet

Total Number of Parking Spaces: 234 spaces
 Phase 1: 112 spaces
 Phase 2: 122 spaces

Parking Spaces within Parking Structures:
 Phase 1: 50 spaces
 Phase 2: 62 spaces

Surface Parking Spaces:
 Phase 1: 22 spaces
 Phase 2: 22 spaces

Projected Wetlands Disturbance: 2,210 s.f.
 Projected Site Disturbance: 2,659 s.f.

Trail:
 Zone ROS: 2,855 s.f.
 Zone RSA: 3,110 s.f.
 Total Trail: 5,965 s.f.

Preliminary Site Plan: Phasing Identification
GRAVES HILL
 Portland, Maine

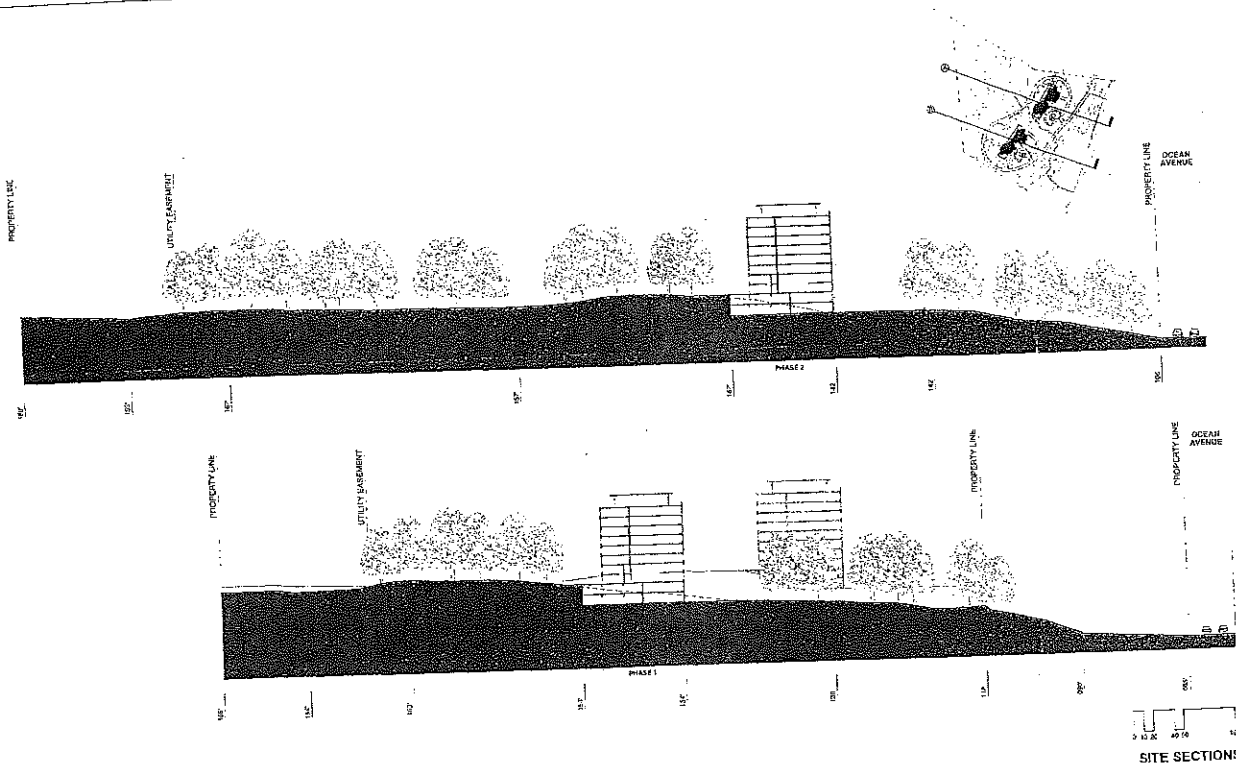
Developer: GRAVES HILL LAND COMPANY
 112 Main Street
 Portland, ME 04101
 Tel: 207.251.1371

Architect: Scott Simons Architects
 73 York Street
 Portland, ME 04101
 Tel: 207.251.4915

Landscape Architect: Richardson & Associates
 100 Main Street
 Portland, ME 04101
 Tel: 207.251.4915

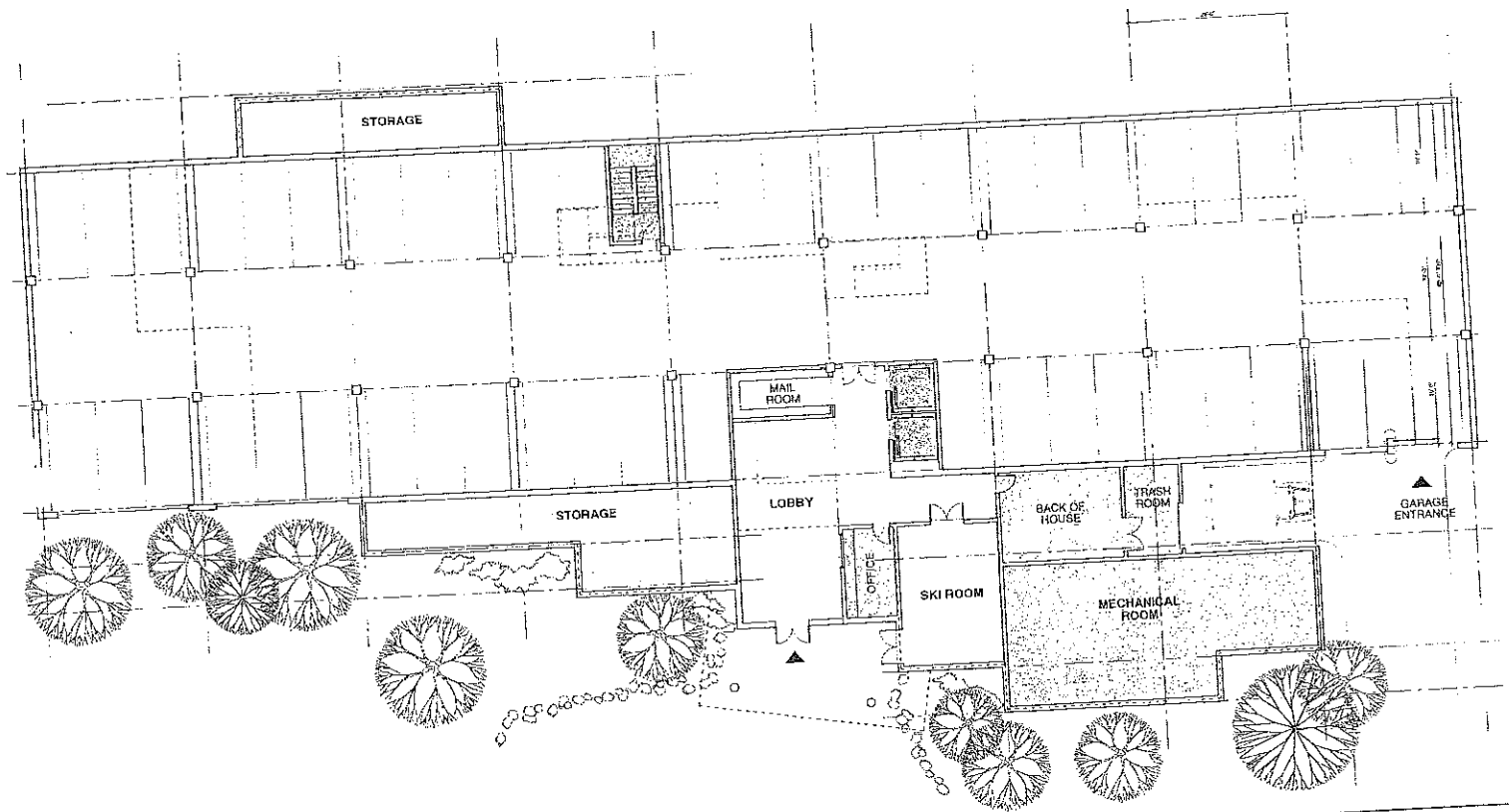
Civil Engineer: DEPM
 Consulting Engineers
 25 State Street
 Portland, ME 04101
 Tel: 207.251.4915

MAILED 12/20/03
 REVISED MAY 1/4 2004
 REVISED JUNE 1, 2004
 REVISED JUNE 2, 2004
 REVISED JULY 8, 2004
 REVISED AUGUST 17, 2004

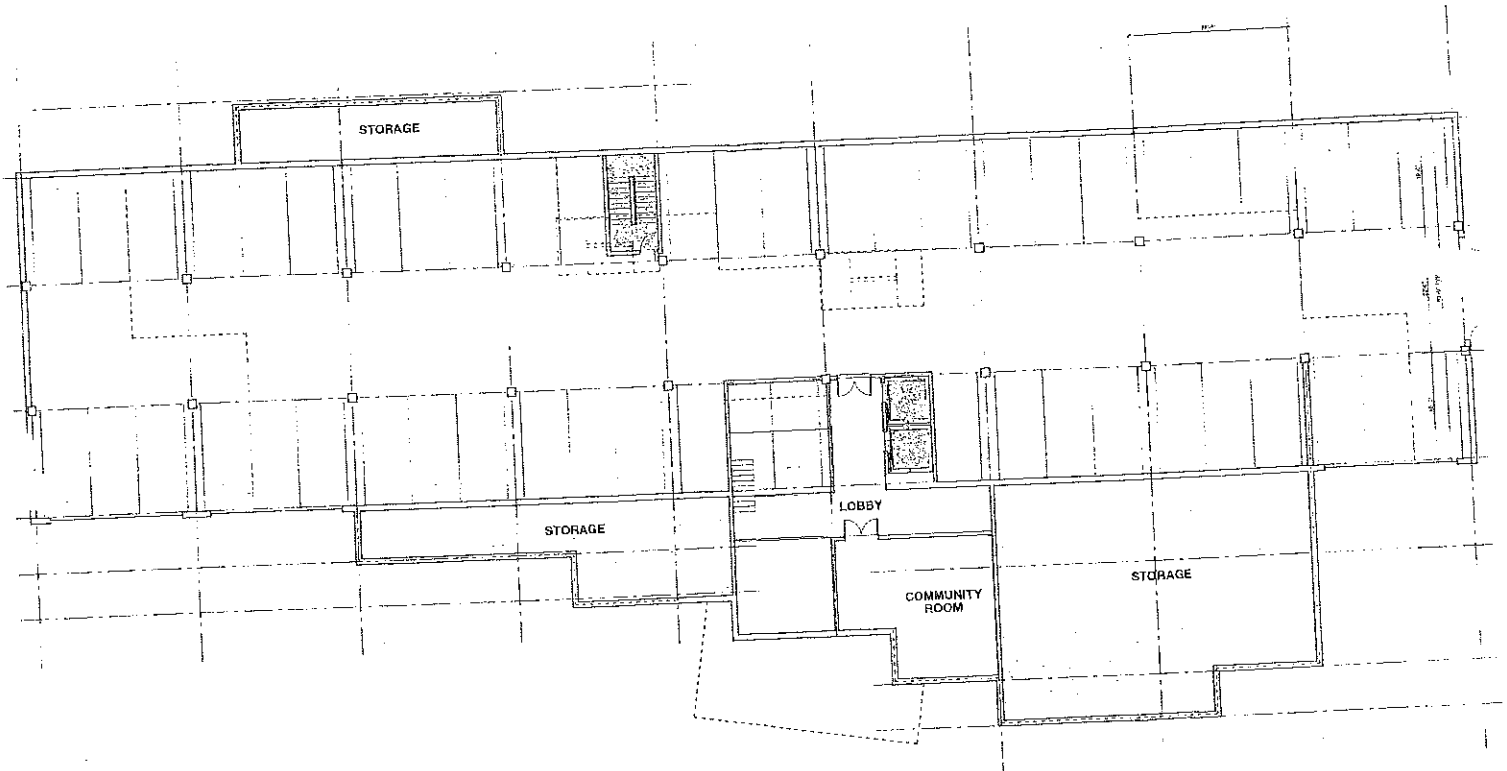


GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

Site Simon Architects



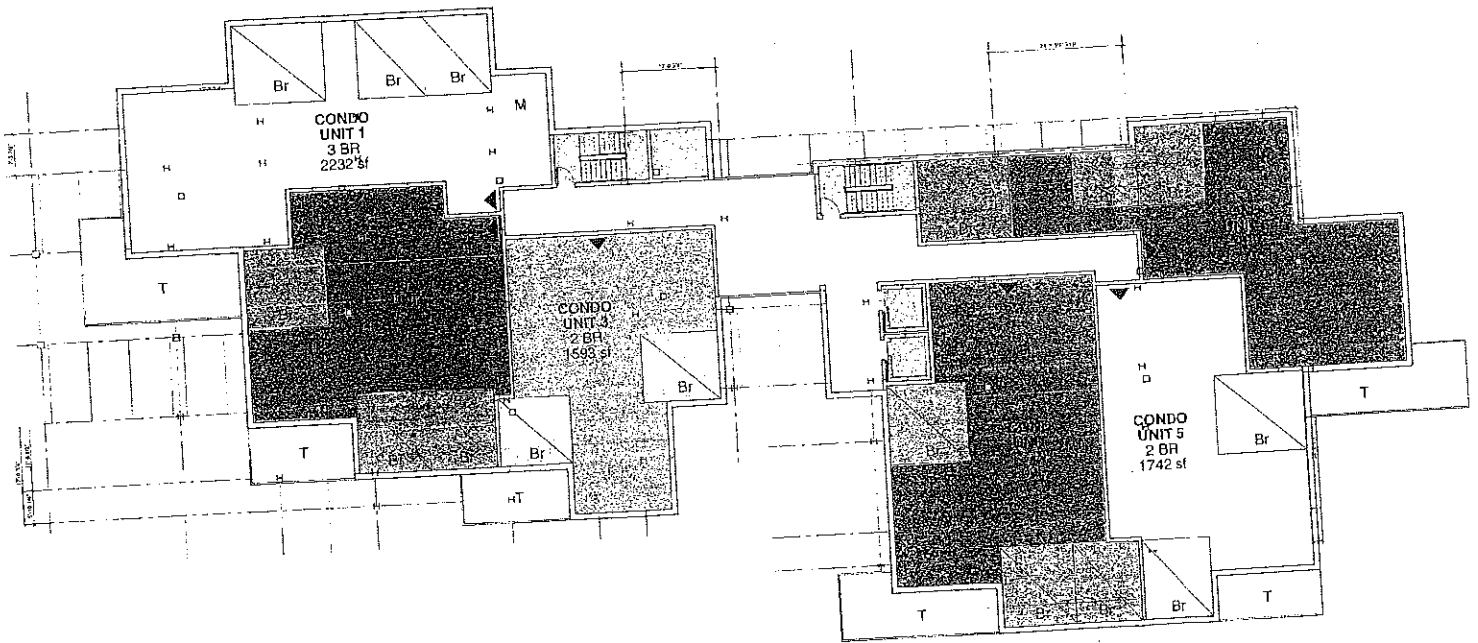
GRAVES HILL
OCEAN AVENUE
PORTLAND, ME



FLOOR 02: COMMUNITY ROOM & GARAGE

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

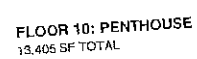




FLOOR 03-09: TYPICAL CONDOMINIUM
14,510 SF TOTAL

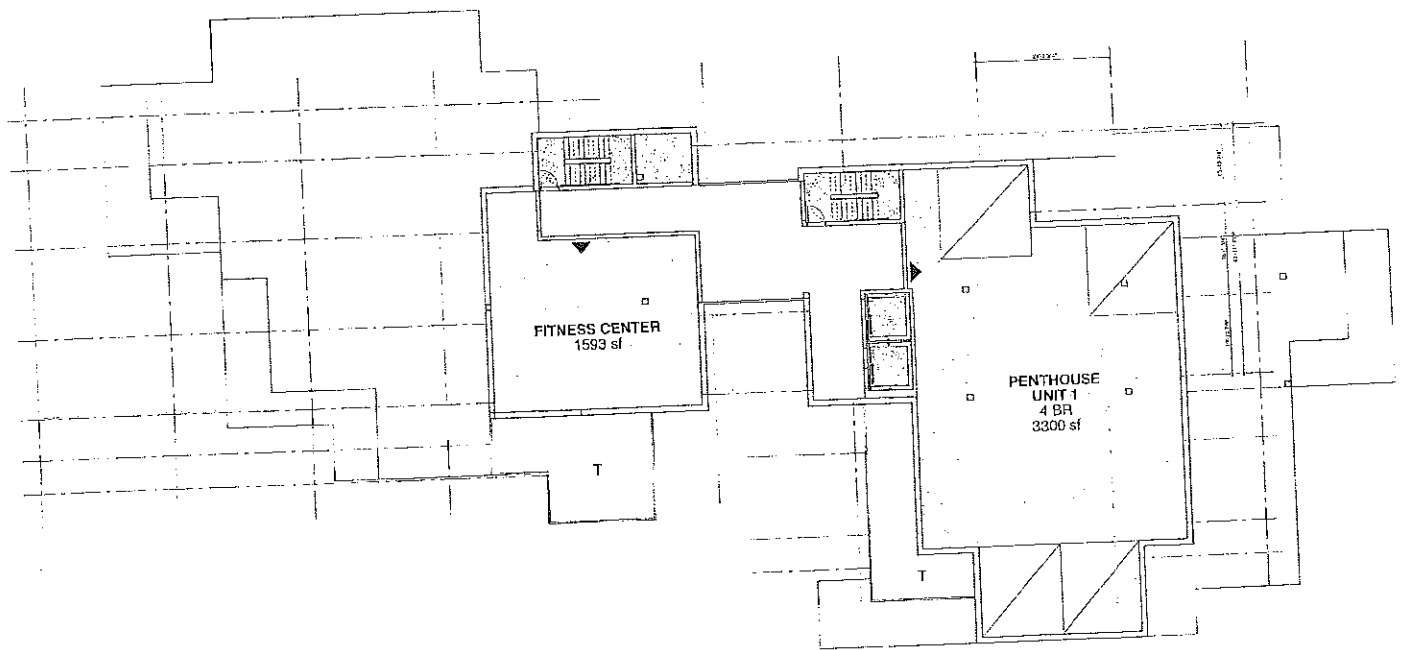
GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

Scott Simons Architects



GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

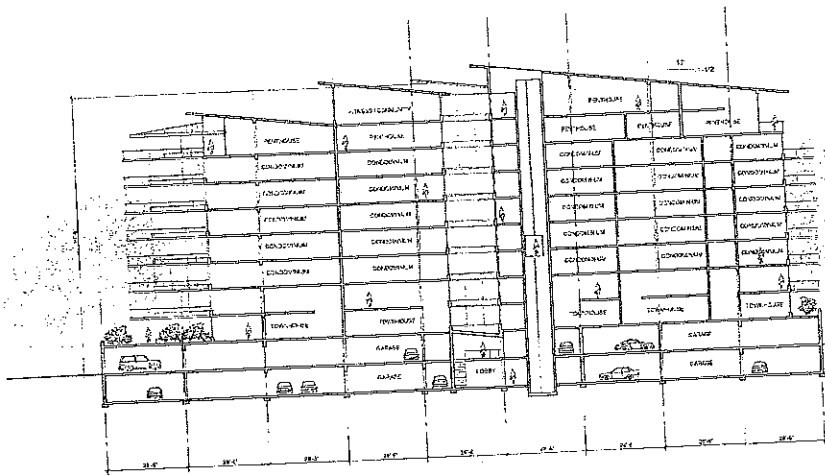
Scott Simon Architects



FLOOR 11: PENTHOUSE
6,653 SF TOTAL

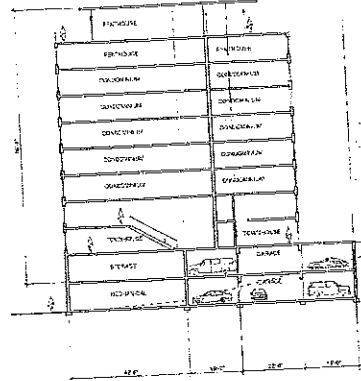
GRAVES HILL
OCEAN AVENUE
PORTLAND, ME





S-N BUILDING SECTION

- 1. ROOF
- 2. FLOOR 1
- 3. FLOOR 2
- 4. FLOOR 3
- 5. FLOOR 4
- 6. FLOOR 5
- 7. FLOOR 6
- 8. FLOOR 7
- 9. FLOOR 8
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- 100. FLOOR 99



E-W BUILDING SECTION

BUILDING SECTIONS

GRAVES HILL
OCEAN AVENUE
PORTLAND, ME

Michael F. Brennan
Kevin J. Donoghue
David A. Marshall
Cheryl A. Leeman
Edward J. Suslovic

CITY OF PORTLAND
IN THE CITY COUNCIL

John R. Coyne
John Hinck
JILL C. DUSON
NICHOLAS M. MAVODONES

ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: CONDITIONAL REZONING FOR
802-828 OCEAN AVENUE
RIDGE DEVELOPMENT, LLC

ORDERED, that the Zoning Map of the City of Portland, dated 2012 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below;

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective thirty (30) days following this rezoning.

CONDITIONAL ZONE AGREEMENT
RIDGE DEVELOPMENT, LLC

This Agreement made this _____ day of _____, 2014 by Ridge Development, LLC, a Maine limited liability company with an office in Portland, Maine (hereinafter "RIDGE DEVELOPMENT").

WITNESSETH:

WHEREAS, RIDGE DEVELOPMENT owns or has an option to buy a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

WHEREAS, RIDGE DEVELOPMENT proposes to construct upon a portion of the Property a maximum of 94 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

WHEREAS, RIDGE DEVELOPMENT has requested the rezoning of 10.4 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 7.92 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS); and

WHEREAS, the Planning Board of the **CITY OF PORTLAND** (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the **CITY**, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

it is necessary and appropriate to impose with **RIDGE DEVELOPMENTS** agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

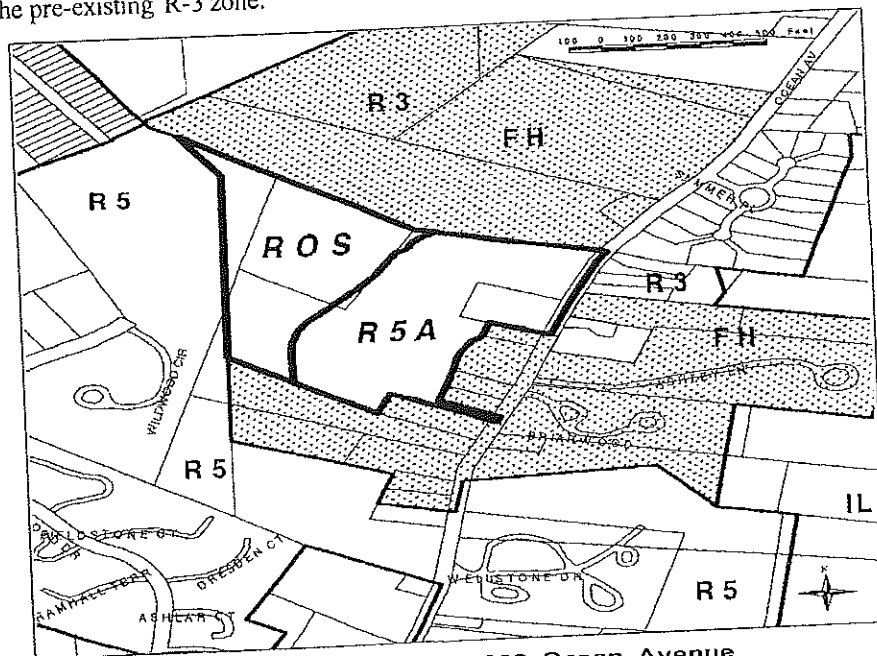
WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 2014, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1; and

WHEREAS, RIDGE DEVELOPMENT has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **RIDGE DEVELOPMENT**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **RIDGE DEVELOPMENT** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated 2012, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R5-A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Council's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert

to the pre-existing R-3 zone.



Proposed Rezoning for 802 Ocean Avenue
from R3 and Flexible Housing Overlay to R5A and ROS
April 2014

2. **RIDGE DEVELOPMENT** is authorized to establish and maintain the following uses on the **R-5A** portion of the property:

- a. up to 94 residential units located in two buildings, each building containing up to 47 units, which may be sold as condominium units, resulting in a maximum total of ninety-four (94) residential units within the Property; and
- b. parking in an amount of not less than 1 space per 1BR unit and 2 spaces per 2BR and 3BR units per residential unit, plus at least 28 additional surface visitor parking spaces; and
- c. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the **R-5A** portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to forty-seven (47) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to forty-seven (47) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **RIDGE DEVELOPMENT** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the **R-OS** portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access. Additionally, a future recreation area subject to Planning Board approval may be created.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **Ridge DEVELOPMENT** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public.

The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **RIDGE DEVELOPMENT**, its successors and assigns, Casco Heights Condominium Owners' Association, and Portland Trails to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, **RIDGE DEVELOPMENT** may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I.

If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as **RIDGE DEVELOPMENT** has made the required conveyance, by easement and/or in fee, to Portland Trails and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, **RIDGE DEVELOPMENT** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Sebago Technics (last revised March, 2014) and the Proposed Building Design site sections, building sections and floor plans submitted by Archetype (last revised March, 2014). The Casco Heights entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **RIDGE DEVELOPMENT**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment

the attached site plan without further amendment to this Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **RIDGE DEVELOPMENT** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **RIDGE DEVELOPMENT** shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

RIDGE DEVELOPMENT shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **RIDGE DEVELOPMENT** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **RIDGE DEVELOPMENT** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **RIDGE DEVELOPMENT** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which **RIDGE DEVELOPMENT** holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, **RIDGE DEVELOPMENT** or any successor in interest may convey the R- OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 47

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 75 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site plan

Parking: 204 Spaces, half in Phase I and half in Phase II.

Minimum recreation open space area:

Outdoor passive recreation in the form of pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **RIDGE DEVELOPMENT** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and **RIDGE DEVELOPMENT** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **RIDGE DEVELOPMENT**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized **representatives**.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event **RIDGE DEVELOPMENT** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **RIDGE DEVELOPMENT'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **RIDGE DEVELOPMENT** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **RIDGE DEVELOPMENT** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS:

RIDGE DEVELOPMENT, LLC

By: _____

Patrick Tinsman
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

_____, 2014_

Then personally appeared the above-named Patrick Tinsman, Manager of Ridge Development, LLC as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me:

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

Consistency of Casco Heights with Portland's Comprehensive Plan

1. Introduction: Portland's Comprehensive Plan attempts to safeguard Portland's status as a "truly remarkable city" by identifying its distinctive features and then creating a multi-faceted strategy to value, preserve and build upon those features. The Plan seeks to enhance Portland's best qualities and characteristics partially through incremental growth, but also through "bold initiatives tempered by careful consideration and foresight in planning." (Housing Component, p. 9). In some respects, Casco Heights might be viewed as a "bold initiative" due to its imaginative design, the balance it strikes between scale and massing and environmental protection. However, in many other ways, it is consistent with an incremental pattern of development; it is a residential use in a residential zone which preserves open space. This type of development is already anticipated in the R-5A zoning text.

To protect Portland's premier status as a vibrant, small city the Comprehensive Plan adopts the target of **increasing the number of housing units so that Portland grows at the same pace as the region**, maintaining a 25% share of Cumberland County's population (Housing, p. 20). Other components of the community vision seek to: **capitalize on Portland's economic assets**; support and encourage the **creation of an adequate supply of quality housing for all**; create a **sustainable community** while keeping **municipal taxes affordable**; and **protect valued community attributes** including a welcoming and people-scaled built environment, coastal amenities, parks, trails and natural resources, and distinctive sense of place. (Housing, p. 8-9)

As the Casco Heights site is one of the largest remaining parcels of undeveloped land in Portland, it is important for it to be developed in a way that furthers the community vision. The proposal for this site is consistent with that community vision and furthers the Comprehensive Plan's goals and objectives for housing and economic development, open space and recreation, environmental protection and urban design, as further outlined below.

2. Housing and Economic Development: The housing component of the Comprehensive Plan (*Housing: Sustaining Portland's Future*, November 18, 2002) endeavors to build upon Portland's: (1) identity as the regional center for jobs, economic activity and institutional services (social, educational, and medical); (2) unique combination of a welcoming "small town feel" with bigger city amenities; and (3) appreciation of its heritage, including coastal environment, natural resources, and architectural character (p. 8). The Casco Heights developer values and, in turn seeks to attract residents who value these same community attributes. In keeping with the community vision, Casco Heights will be accessible and welcoming, designed to complement the architectural and coastal heritage, and positioned to contribute to maintaining Portland's position as the economic engine of the region.

Accessible/Welcoming

Casco Heights will be welcoming not only to its own residents, but also to the community at large. Public access will be granted over trails which cross the entire site. While the primary trailhead will be located on the former landfill site (where parking will be available), neighborhood walkers from Summer Place, Ocean Ridge, and other nearby residences will be able to access the trail system from Ocean Avenue by walking through the R-5A portion of the site. Similarly, the open space will not be reserved for owners only. A number of neighborhood residents and others already use an informal trail system on the back portion of the site for running, walking, mountain biking, riding ATVs and hunting. While use by motorized vehicles and hunters will no longer be permitted, use by the general public for the remaining low impact uses will be encouraged and facilitated through improvements to be made in cooperation with Portland Trails.

Appreciation of Coastal Heritage

The Housing Plan encourages Portland to build upon the fact that it is a geographically varied and dynamic coastal community with "spectacular views of Casco Bay and the Islands, Back Cove, and Maine's Mountains from the City's promontories," and the fact that residents have ready access to natural features through trails, parks, and scenic viewpoints. Casco Heights is designed to provide water views from most of the units. Similarly, the trails and open space on the R-OS portion of the site will provide residents and the general public with access to wooded land and interesting natural features such as dramatic rock outcroppings.

Need for Higher Density to Maintain Regional Share

The Housing Plan recognizes that, given the limited amount of vacant land, in order for Portland achieve its target of maintaining a 25% share of the County's population, the City will have to allow higher residential density in areas that can support it. The Plan states:

[I]locations along arterials, near services, or adjoining public amenities may be appropriate for a medium or high-rise apartment building given appropriate controls, high quality design and neighborhood compatibility. The intent is to identify areas suitable for higher density without adversely impacting the character of Portland's neighborhoods. (Housing Plan, p. 27)

Casco Heights is one of those sites that is suitable for development at a density higher than the existing R-3 zone. It is located on a collector street with capacity to accommodate additional traffic, and it is not too far from Washington Avenue, a principal arterial.

It is served by public water and sewer, adjoins land which will be dedicated to public open space, is on a site of sufficient size to provide substantial buffers from its neighbors, and, due to the nature of the units to be built, should impact the character of the neighborhood in a positive way.

Need for Continuum of Options for All Income Levels

The Housing Plan also states that Portland needs to encourage a full range of housing types, including private market rate development:

Although there has been much emphasis on affordable assisted housing, the need for market rate housing for mid and higher income households is also critically important to Portland's future. Eliminating barriers to housing development and supporting market rate projects through the approval process can assist in this. (Housing Plan, "Early Achievable Actions, Production, #8, p. 64)

This market rate housing should "provide a continuum of options across all income levels" and should include all types of quality housing including condominium and town-house units (Housing Plan, p. 29). The goal is to allow households to "move up" in the real estate market within Portland (or be attracted back into Portland from outlying communities) so that Portland can remain competitive with suburban communities (Housing Plan, p. 15-16). Casco Heights will supply needed housing options at market rate and penthouses at the higher cost end of the continuum.

Integrate Housing and Economic Goals

The Comprehensive Plan recognizes that Portland is sliding into an unbalanced situation where the City provides much of the employment, educational, medical and social services, and arts and cultural opportunities for the region, but many of the higher income individuals who work in Portland and enjoy these services and amenities live in, and pay real estate taxes to, outlying communities. The Comprehensive Plan recognizes the need to improve the balance between where jobs are located and where housing is located by pursuing strategies to entice these individuals not to leave and/or to return to Portland (Comprehensive Plan, Vol I, p. 22).

The Casco Heights units can make a significant contribution to recapturing real estate tax dollars that would, most likely, otherwise flow to suburban communities. In addition, the net real estate tax benefit may be even greater because the high assessed value per unit may very well be coupled with relatively low service demands as a majority of the residents are expected to be older and/or without children in City schools, and some of them may only be in residence for part of each year.

Similarly, while there is no guarantee, it is very possible that one or more of the households attracted by Graves Hill may make a significant contribution to Portland's economic base. As technology makes it increasingly possible for certain types of businesses to relocate almost anywhere, a prime factor in deciding where to locate a business is often where top management would prefer to live. Allowing the creation of very high quality, innovative housing in our high-amenity community (with coastal resources, spectacular views, diverse recreational opportunities, arts and cultural offerings, historic resources, an authentic sense of place, and easy access to all amenities) may very well attract one or more residents who want to relocate their businesses to Portland, thus serving as an economic development tool.

3. Open Space and Recreation: The component of the Comprehensive Plan addressing open space and recreation (based on *Green Spaces, Blue Edges*, 1995, updated 2001), **recommends that neighborhoods have open space focal points within walking distance.**

The adjacent Ocean Avenue Landfill has been developed into The Ocean Avenue Recreation Area. The addition of 7.92 acres in the R-OS portion of the Casco Heights development will significantly increase the amount of forested open space and expand the length and quality of pedestrian trails available in the immediate vicinity for public recreational use.

In addition, *Green Spaces, Blue Edges* makes a city-wide recommendation to **"develop High Point Parks, open spaces located on the higher elevations of the city, in neighborhoods throughout the city such as the Ocean Avenue landfill, hilltop on Ocean Avenue by rock shop, Rocky Hill, and hills in Stroudwater"** (Comp. Plan Vol. I, p. 56). The second highest listed site is located on the Casco Height's property and will be part of the RO-S property.

Ridge Development will be working in conjunction with Portland Trails to develop the trail system on the site. **The Comprehensive Plan lauds Portland Trails** for its diligent work in creating at least 50 miles of public trails in Portland. Assuming final agreement by Ridge Development and Portland Trails, Ridge Development will convey a trail easement to Portland Trails over all of the trails on the R-5A portion of the site, and will convey all of the land to be rezoned R-OS to Portland Trails in fee, both subject to use restrictions. Between the two zones, at least 3,207 linear feet of trails will be constructed for public use. This is consistent with the strategies contained in the Comprehensive Plan to foster partnerships with nonprofits with similar goals and to continue to attract private funding to enhance recreation and open space goals (Comp. Plan, Vol. I, p. R-5).

4. Environmental Protection: Encouraging growth and development in appropriate areas, and discouraging or prohibiting development where it is hazardous or threatens natural resources is another goal of the Comprehensive Plan. Specifically, it states: **"locate and design housing to reduce impacts on environmentally sensitive areas"** (Comp. Plan, Vol. I, p. 22). The Casco Heights proposal has done this, both within its own site and within the context of Greater Portland.

Within the 18-acre site, the buildings and road infrastructure have been moved down the slope to stay away from environmentally sensitive wetland areas. The roads

have been designed to avoid going up steep inclines where possible, to minimize erosion. Structures have been massed to minimize the need for blasting and to reduce the amount of impervious surface. The developer will place 7.92 acres under the control of Portland Trails; all of the land in that portion of the site not used for pedestrian trails will be left in its natural state. On the R-5A portion of the site, Casco Heights has made a commitment to carefully evaluate construction options relative to the existing vegetation, and has identified tree preservation areas where it will actively work to save mature trees to the extent possible. There is also a 20' "no cut" strip of land in the R-5A zone abutting the R-OS zone for its entire length. These efforts to reduce negative environmental impact are all consistent with the goals of the Comprehensive Plan.

This environmental goal may also be viewed in a broader context, intended to **direct coastal development to sites that can accommodate it.** The State Coastal Management Policies, the Mandatory Shoreland Zoning Act (as implemented by City zoning), and the City's Islands Land Use and Zoning Study all recognize that absent regulation, there will be a very high demand to build residences in locations with views of coastal waters. Yet unless properly sited, building near coastal waters can pose an environmental threat to coastal resources, place residences in hazardous locations, and reduce the scarce supply of land suitable for water-dependent uses. Portland has adopted shoreland zoning and waterfront zoning to regulate setbacks and establish allowable uses along waterbodies. Similarly, Portland has zoned its islands for very low density development, based in part upon a groundwater carrying capacity analysis which sets limits based upon an assumption that each island might need to be self-supporting with regard to fresh water at some point in the future (Comp. Plan, Vol. I, p. 53).

Thus, if Portland wants to capitalize upon the high demand for views of coastal waters, that demand will have to be satisfied by non-harbor, non-island locations. Allowing 94 units on the Casco Heights site, approximately most of which will have spectacular views of Casco Bay, may take some pressure off more hazardous or environmentally fragile locations. This is very much in keeping with state and local policies and with the Comprehensive Plan (Comp. Plan, Vol. I, p. 59).

5. Urban Design: The Comprehensive Plan notes that Portland's topography plays an important role in shaping perceptions of and views from the City. The high bluffs of the Western and Eastern Promenades are said to help accentuate a sense of Portland as a "city of stature." Similarly, the Plan notes: "off the peninsula, the topography of the city includes several high points that provide scenic vistas or are appealing objects for viewing themselves. For example, Graves Hill offers a majestic view of the Presumpscot River Sanctuary and the islands." (Comp. Plan., Vol. I, p. N-15). At an elevation of 174 feet, Graves Hill is the second highest off-peninsula point of land, six feet lower than Summit Hill and one foot lower than the Western Promenade. Graves Hill is the site on which Casco Heights will be built.

The interplay of the natural topography with the built environment can further accentuate the distinctive sense of place. *Green Spaces, Blue Edges* challenges the City to:

[d]evelop a vision of the natural environment that enhances the full range of dynamic contrasts between the landscapes and built forms found in Portland, which will enrich the appearance and enliven the use of our City. (Comp. Plan, Vol. I, p. 24)

The building design proposed for Casco Heights embodies dynamic contrasts between natural features and the built forms. Siting relatively tall, built upon one of the higher hills in Portland emphasizes the natural topography. The buildings themselves will be surrounded by mostly-forested open space. Due to the vegetation, they will be only minimally visible to their immediate neighbors

Even though it addressed primarily non-residential uses, the Downtown Height Study, a component of the Comprehensive Plan, provides important guidance for approaching height issues at Graves Hill (Comp. Plan, Vol. I, p. N-17). Based on an extensive process lead by a skilled consultant, in 1989 the City adopted height overlay zones for the entire peninsula. The process examined the contextual relationship, the underlying topography, the skyline, view corridors, architectural massing, the resulting pedestrian environment, open space, transportation capacity, and build out scenarios.

One of the primary recommendations was that the **tallest structures should be located on the high points already established by the natural topography**. This meant the tallest buildings should be located along the raised spine of the peninsula (along Congress Street/Cumberland Avenue), and that heights should step down as the topography fell off toward Back Cove and Commercial Street. The rationale for this design was that it would produce the most visually interesting, graceful skyline, reflective of the underlying place, and it would also preserve views from multiple locations.

By analogy, the Downtown Height Study component of the Comprehensive Plan suggests that Casco Heights is located at precisely the right location, on one of the points of high natural topography, to create visual interest and avoid blocking views. It also suggests that heights in excess of 150 feet have been determined to be compatible with Portland's sense of a human scale and in keeping with the local context. Casco Heights, at a maximum height of 75 feet, is well under that height. Finally, consistent with the study's conclusion that architects needed to pay much more additional attention to the tops of buildings, the Casco Heights structures are already designed for maximum visual interest.

Policy Underlying R-SA Zone and Contract Zone Standards

HISTORY OF R-5A:

The R-5A zone was developed in 1988 as part of a multi-year, comprehensive review of all of the residential zones. It is unique in that when it was first enacted, it was the only residential zone which was not accompanied by any designation of corresponding land on a map. The Planning Board and City Council decided not to designate any specific land as R-5A, but rather to wait until individual applicants expressed an interest in having their land rezoned to that classification. As the zone requires a unique confluence of site characteristics coupled with an owner's desire to develop a particular type unit, the City determined it had an insufficient basis for "reducing the zone to the ground" in advance. Thus, the City made the zone available as a matter of policy, but opted to wait for specific rezoning requests to determine whether it was appropriate to change the map to R-SA in a particular location.

PURPOSE OF R-5A:

The R-5A zone was created to allow for moderate density in off-peninsula locations. It was designed to help maintain a strong residential tax base, to accommodate a diverse range of housing within Portland (both affordable and high end), and to allow developers to take advantage of unique development opportunities offering high site amenities.

The purpose statement anticipates use of the R-5A zone in three different situations:

- 1) To provide a unique residential living experience with a high degree of natural site amenities;
- 2) To provide areas in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods;
- 3) To increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Casco Ridge development is clearly consistent with the first purpose. As a large, undeveloped parcel with wooded hills, recreational trails, and magnificent views of Casco Bay, the City, and points west, the site amenities are unsurpassed. As proposed it would provide a residential living experience unique to Portland: a mix of market rate and high end penthouse units in mid-rise buildings in a natural, non-urban setting.

Casco Ridge is also consistent with the second purpose. Due to the easy proximity to the peninsula via Ocean Avenue/Washington Avenue, its access to the full range of municipal services, the size of the site, the ability to provide substantial buffering from its neighbors, and its intent to provide significant recreational open space for use by its

residents and the public, it can appropriately accommodate a more intensive use of the land.

COMPARISON OF DENSITY:

Land in the R-1 and R-2 zones, designated as "**low**" density, is probably unlikely to be rezoned to R-5A because that land is located in outlying areas and/or in areas with limited additional traffic capacity. Thus, it is most likely that R-5A rezoning request will involve land zoned R-3 or R-5. The ordinance describes R-3 and R-5 as "**medium**" density, requiring a minimum net land area of 6,500 and 3,000 square feet per dwelling unit, respectively. R-6, applicable to most peninsula residential neighborhoods, is designated as "**high**" density, requiring a minimum of 1,000 square feet per dwelling unit. R-5A, designated as a "**moderate**" density, falls in the middle, requiring a minimum of 1,600 square feet of net land area per dwelling unit.

Zone	Density Designation	Minimum Lot Area Per Dwelling Unit (sq. ft.)
R-1	Lower	15,000 (gross)
R-2	Low	10,000 (gross)
R-3	Medium	6,500 (net)*
R-5	Medium	3,000 (net)*
R-5A	Moderate	1,600 (net)*
R-6	High	1,000 (gross)

*Net land area, as defined in Sec. 14-47 deducts all unbuildable and "inaccessible" areas plus 20% of the remaining area, per formula.

Casco Heights significantly exceeds these lot area minimum requirements. Looking at the entire parcel, the gross area per dwelling unit is 8,144 sq. ft. and the net area is 4,435 sq. ft., almost triple the R-5A required minimum of 1,600 square feet. If Graves Hill Land Company conveys the R-OS portion of the site to Portland Trails in fee, the remaining R-5A portion of the site continues to meet the density requirements by itself, with a gross area of 4,519 sq. ft. and a net area of 3,249 sq. ft. per unit, still double the required 1,600 sq. ft. minimum.

Casco Heights Density Calculations

Land Area	Lot Area Per Dwelling Unit, Gross, Sq. Ft.	Lot Area Per Dwelling Unit, Net, Sq. Ft.
Entire parcel (R-5A and R-OS)	8,144	4,435
R-5A only	4,519	3,249

CONTRACT/CONDITIONAL ZONE IN R-5A:

The R-5A zone allows multiple-family attached dwelling units ("planned residential unit developments" or PRUDs) as a permitted use. However, rather than attempting to impose fixed requirements for what may be very divergent types of housing, it provides for each proposed PRUD to be reviewed and implemented through conditional or contract zoning (hereinafter "contract zoning").

The Planning Board and the City Council have significant discretion in recommending and/or approving a contract zone. The state enabling legislation requires that a contract zone be consistent with the municipality's growth management program, establish rezoned areas that are consistent with the existing and permitted uses within the original zones; and only include conditions and restrictions that relate to the physical development or operation of the property. (30A M.R.S.A. Sec. 4352) Portland's Land Use Ordinance directs that a contract zone may be granted where the City Council finds it necessary or appropriate to impose, by agreement with the property owner, certain conditions or restrictions to ensure that the rezoning is consistent with the city's comprehensive plan. The conditions imposed must relate only to the physical development and operation of the property, and may address the number of units and types of uses permitted, the scale and density of development, the design and layout of buildings, schedules for completion, performance guarantees, open space, buffers, protection of natural areas, and contributions toward the provision of municipal services. (Division 1.5, Conditional or Contract Zoning, Sec. 14-60 to -62)

In addition to these general principals, some of Portland's zones anticipate contract zone requests and incorporate more specific guidance into that section of the ordinance. For example, there are very detailed standards for the review of any proposed contract zone in the Waterfront Central Zone. Similarly, the R-5A zone sets some minimum standards for PRUDs applying for a contract zone, as follows:

- Minimum lot size: three acres gross area;
- Minimum land area per dwelling unit: 1,600 square feet of net land area;
- Minimum street frontage: Fifty (50) feet;
- Minimum building setback from external property lines: 35 feet if building length is greater than 100 feet;
- Minimum recreation open space area (PRUD): Two hundred (200) square feet per dwelling unit of common area designated on the site for recreational purposes, with additional standards addressing features of the area;
- No open outside stairways or fire escapes above the ground floor; and
- All land shall be owned and used in common and governed and maintained through condominium documents or similar instruments.

However, none of the other dimensional requirements contained in Sec. 14-130 (e.g., minimum yard dimensions, maximum lot coverage) or height limits apply to PRUDs, so the Planning Board and City Council retain discretion to determine appropriate limits for

those components, informed by the comprehensive plan, site plan and subdivision standards.

Casco Heights clearly meets or exceeds all of the minimum standards for PRUDs established in the R-5A zone. The applicant is requesting that those ordinance minima be supplemented by establishing the density and dimensional requirements listed in Paragraph 10 of the proposed contract zone (e.g., maximum units per building, 49; maximum number of buildings, 2; maximum building height, 100 feet (per ordinance definition); minimum parking of 2 spaces per unit plus 28 visitor spaces; recreation open space of not less than 3,207 linear feet of pedestrian trails). Similarly, consistent with City Code, the proposed contract zone addresses map changes, number and types of uses, protection of natural areas, design and layout of buildings, phasing, performance guarantees, and enforcement.

PURCHASE AND SALE AGREEMENT - LAND ONLY

October 3, 2013 Effective Date

Effective Date is defined in Paragraph 20 of this Agreement.

October 3, 2013

1. PARTIES: This Agreement is made between V&E Enterprises ("Buyer") and Graves Hill Land Trust ("Seller").

2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy (☒ all , ☐ part of; If "part of" see paragraph 26 for explanation) the property situated in municipality of Portland, County of Cumberland, State of Maine, located at 802 Ocean Ave. and described in deed(s) recorded at said County's Registry of Deeds Book(s) 21500, Page(s) 269.

3. PURCHASE PRICE: For such Deed and conveyance Buyer agrees to pay the total purchase price of \$1,100,000.00. Buyer has delivered; or will deliver to the Agency within 2 days of the date of this offer, a deposit of earnest money in the amount \$10,000.00. If said deposit is to be delivered after the submission of this offer and is not delivered by the above deadline, this offer shall be void and any attempted acceptance of this offer in reliance on the deposit being delivered will not result in a binding contract. The remainder of the purchase price shall be paid by a certified or cashier's check upon delivery of the Deed.

This Purchase and Sale Agreement is subject to the following conditions:

4. EARNEST MONEY/ACCEPTANCE: Malone Commercial Brokers ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until October 3, 2013 ☐ AM 5:00 ☒ PM; and, in the event of non-acceptance, this earnest money shall be returned promptly to Buyer. In the event that the Agency is made a party to any lawsuit by virtue of acting as escrow agent, Agency shall be entitled to recover reasonable attorney's fees and costs which shall be assessed as court costs in favor of the prevailing party.

5. TITLE AND CLOSING: A deed, conveying good and merchantable title in accordance with the Standards of Title adopted by the Maine Bar Association shall be delivered to Buyer and this transaction shall be closed and Buyer shall pay the balance due and execute all necessary papers the later of March 7, 2014 or 14 days following receipt of the Amended Contract zone and site Plan approvals per Paragraph 22 of this Contract, (closing date) or before, if agreed in writing by both parties. If Seller is unable to convey in accordance with the provisions of this paragraph, then Seller shall have a reasonable time period, not to exceed 30 calendar days, from the time Seller is notified of the defect, unless otherwise agreed to in writing by both Buyer and Seller, to remedy the title. Seller hereby agrees to make a good-faith effort to cure any title defect during such period. If, at the later of the closing date set forth above or the expiration of such reasonable time period, Seller is unable to remedy the title, Buyer may close and accept the deed with the title defect or this Agreement shall become null and void in which case the parties shall be relieved of any further obligations hereunder and any earnest money shall be returned to the Buyer.

6. DEED: The property shall be conveyed by a Maine State Short deed, and shall be free and clear of all encumbrances except covenants, conditions, easements and restrictions of record which do not materially and adversely affect the continued current use of the property.

7. POSSESSION: Possession of premises shall be given to Buyer immediately at closing unless otherwise agreed in writing.

8. RISK OF LOSS: Until the closing, the risk of loss or damage to said premises by fire or otherwise, is assumed by Seller. Buyer shall have the right to view the property within 24 hours prior to closing for the purpose of determining that the premises are in substantially the same condition as on the date of this Agreement.

9. PRORATIONS: The following items, where applicable, shall be prorated as of the date of closing: association fees, Real estate taxes shall be prorated as of the date of closing (based on municipality's fiscal year). Seller is responsible for any unpaid taxes for prior years. If the amount of said taxes is not known at the time of closing, they shall be apportioned on the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained, which latter provision shall survive closing. Buyer and Seller will each pay their transfer tax as required by State of Maine.

Mark Malone
Licensee

N/A
Licensee

Malone Commercial Brokers is the
Agency

N/A is a
Agency

☒ Seller Agent ☐ Buyer Agent
☐ Disc Dual Agent ☐ Transaction Broker

☐ Seller Agent ☐ Buyer Agent
☐ Disc Dual Agent ☐ Transaction Broker

If this transaction involves Disclosed Dual Agency, the Buyer and Seller acknowledge the limited fiduciary duties of the agents and hereby consent to this arrangement. In addition, the Buyer and Seller acknowledge prior receipt and signing of a Disclosed Dual Agency

Consent Agreement.

10. PROPERTY DISCLOSURE FORM: Buyer acknowledges receipt of Seller's Property Disclosure Form.

11. MEDIATION: Earnest money disputes subject to the jurisdiction of small claims court will be handled in that forum. For all other disputes or claims arising out of or relating to this Agreement or the property addressed in this Agreement shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules. Buyer and Seller are bound to mediate in good faith and pay their respective mediation fees. If a party does not agree first to go to mediation, then that party will be liable for the other party's legal fees in any subsequent litigation regarding that same matter in which the party who refused to go to mediation loses in that subsequent litigation. This clause shall survive the closing of the transaction.

12. DEFAULT: In the event of default by the Buyer, Seller may employ all legal and equitable remedies, including without limitation, termination of this Agreement and forfeiture by Buyer of the earnest money. In the event of a default by Seller, Buyer may employ all legal and equitable remedies, including without limitation, termination of this Agreement and return to Buyer of the earnest money. Agency acting as escrow agent has the option to require written releases from both parties prior to disbursing the earnest money to either Buyer or Seller.

13. PRIOR STATEMENTS: Any representations, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

14. HEIRS/ASSIGNS: This Agreement shall extend to and be obligatory upon heirs, personal representatives, successors, and assigns of the Seller and the assigns of the Buyer.

15. COUNTERPARTS: This Agreement may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

16. ADDENDA: ☐ Yes Explain: _____ ☒ No

17. EFFECTIVE DATE/NOTICE: Any notice, communication or document delivery requirements hereunder may be satisfied by providing the required notice, communication or documentation to the party or their licensee. Withdrawals of offers and counteroffers will be effective upon communication, verbally or in writing. This Agreement is a binding contract when signed by both Buyer and Seller and when that fact has been communicated which shall be the Effective Date. Licensee is authorized to fill in the Effective Date on Page 1 hereof. Except as expressly set forth to the contrary, the use of the term "days" in this Agreement, including all addenda made a part hereof, shall mean business days defined as excluding Saturdays, Sundays and any State/Federal holidays (including but not limited to Patriots Day, Columbus Day, Martin Luther King Holiday, etc.) Deadlines in this Agreement, including all addenda, expressed as "within x days" shall be counted from the Effective Date, unless another starting date is expressly set forth, beginning with the first day after the Effective Date, or such other established starting date, and ending at 5:00 p.m. Eastern Time on the last day counted. Unless expressly stated to the contrary, deadlines in this Agreement, including all addenda, expressed as a specific date shall end at 5:00 p.m. Eastern Time on

18. CONFIDENTIALITY: Buyer and Seller authorize the disclosure of the information herein to the real estate licensees, attorneys, lenders, appraisers, inspectors, investigators and others involved in the transaction necessary for the purpose of closing this transaction. Buyer and Seller authorize the lender and/or closing agent preparing the entire closing statement to release a copy of the closing statement to the parties and their licensees prior to, at and after the closing.

19. ZONING CONTINGENCY: This contract is contingent upon the City of Portland amending the Contract Zone to allow 98 units in 2 or more buildings, in a configuration mutually satisfactory to both the City and the Buyer. 2) The Buyer receives site plan approval for its intended project and 3) The Seller authorize Sebago Technics and any other professional service providers it has used for the evaluation of the Property, to use any and all data and material the Seller previously obtained while conducting the zone change and site plan approvals.

20. PERMITS AND APPROVALS: Purchase is subject to Buyer being able to obtain all necessary permits, approvals, and municipal zone changes within one hundred and fifty (150) days of the executed Purchase and Sale Agreement. Buyer shall submit applications to City and State agencies within thirty (45) days of the executed Purchase and Sale Agreement. Buyer shall have one - (30) day extension to this contingency if it has diligently pursued its permits and approvals and the City of Portland has caused delays to make this deadline impossible without the extension.

21. DUE DILIGENCE: Buyer is encouraged to seek information from professionals regarding any specific issue or concern.

Neither Seller nor Licensee makes any warranties regarding the condition, permitted use or value of Sellers' real property. This Agreement is subject to the following contingencies, with results being satisfactory to Buyer:

CONTINGENCY	YES	NO	DAYS FOR COMPLETION
1. SURVEY	☒	☐	<u>30</u>
Purpose:			
2. SOILS TEST	☒	☐	<u>30</u>
Purpose:			
3. SEPTIC SYSTEM DESIGN	☐	☒	<u>0</u>
Purpose:			
4. HAZARDOUS WASTE REPORTS	☒	☐	<u>30</u>
Purpose:			
5. UTILITIES	☒	☐	<u>30</u>
Purpose:			
6. WATER	☒	☐	<u>30</u>
Purpose:			
7. SUB-DIVISION APPROVAL	☒	☐	<u>30</u>
Purpose:			
8. HABITAT REVIEW/ WATERFOWL	☒	☐	<u>30</u>
Purpose:			
9. MDOT DRIVEWAY/ ENTRANCE PERMIT	☒	☐	<u>30</u>
Purpose:			
10. DEED RESTRICTION	☒	☐	<u>30</u>
Purpose:			

Further specifications regarding any of the above:

Unless otherwise specified above, all of the above will be obtained and paid for by Buyer. If the result of any investigation or other condition specified herein is unsatisfactory to Buyer, Buyer will declare the Agreement null and void by notifying Seller in writing within the specified number of days, and any earnest money shall be returned to Buyer. If the result of any investigation or other condition specified herein is unsatisfactory to Buyer, and Buyer wishes to pursue remedies other than voiding the Agreement, Buyer must do so to full resolution within the time period set forth above; otherwise this contingency is waived. If Buyer does not notify Seller that an investigation is unsatisfactory within the time period set forth above, this contingency is waived by Buyer. In the absence of inspection(s) mentioned above, Buyer is relying completely upon Buyer's own opinion as to the condition of the property.

22. FINANCING: None

A copy of this Agreement is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, contact an attorney. This is a Maine contract and shall be construed according to the laws of Maine. Seller acknowledges that State of Maine law requires buyers of property owned by non-resident sellers to withhold a prepayment of capital gains tax unless a waiver has been obtained by Seller from the State of Maine Revenue Services. Buyer acknowledges that Maine law requires continuing interest in the property and any back up offers to be communicated by the listing agent to the Seller.

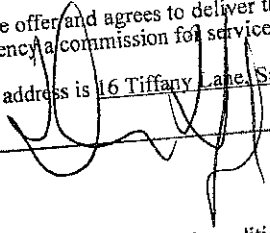
Buyer's Mailing address is 199 Elderberry Drive, So. Portland, ME.

James A. Mount 10-3-13
 BUYER DATE

 BUYER DATE

Seller accepts the offer and agrees to deliver the above-described property at the price and upon the terms and conditions set forth and agrees to pay agency a commission for services as specified in the listing agreement.

Seller's Mailing address is 16 Tiffany Lane, Saco, ME 04072.

SELLER  DATE 10/3/13

SELLER _____ DATE _____

COUNTER-OFFER

Seller agrees to sell on the terms and conditions as detailed herein with the following changes and/or conditions:

The parties acknowledge that until signed by Buyer, Seller's signature constitutes only an offer to sell on the above terms and the offer will expire unless accepted by Buyer's signature with communication of such signature to Seller by (date) _____ (time) _____ ☐ AM ☐ PM.

BUYER _____ DATE _____

BUYER _____ DATE _____

The Buyer hereby accepts the counter offer set forth above.

BUYER _____ DATE _____

BUYER _____ DATE _____

EXTENSION: The time for the performance of this Agreement is extended until _____.

BUYER _____ DATE _____

BUYER _____ DATE _____

BUYER _____ DATE _____

BUYER _____ DATE _____

**2nd AMENDMENT TO
PURCHASE AND SALE AGREEMENT – LAND ONLY**

The Contract For Sale of Real Estate for property located at 802 Ocean Ave. Portland, Maine between Graves Hill Land Company, LLC ("Seller") and V&E Enterprises (the original Buyer), with an effective date of October 7, 2013, for valuable consideration, is hereby amended as follows effective as of January 7, 2014:

1. Paragraph 1 Parties: The identity of the parties is hereby amended as follows:

The name of the Seller is hereby corrected to Graves Hill Land Company, LLC instead of Graves Hill Land Trust, and Seller hereby represents that it is duly authorized to enter into the Contract.

The identity of the Buyer is hereby changed to Ridge Development LLC and the original buyer, V&E Enterprises, hereby assigns its entire interest in the Contract to Ridge Development LLC, which hereby assumes and agrees to perform the Contract.

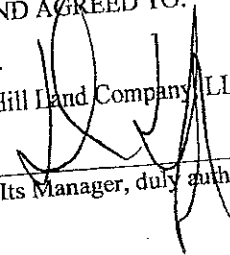
2. Paragraph 21, PERMITS AND APPROVALS: Paragraph 21 is hereby amended and restated as follows:

"Buyer's obligations under this Contract are subject to receipt of all necessary governmental permits and approvals satisfactory to Buyer, including without limitation City Council approval of a replacement/amended Contract Zone, which Buyer agrees to seek with due diligence and continuity of effort. Buyer shall have until 1/20/2014 to submit applications to the City of Portland and shall have until 5/5/2014 to receive approvals, provided that Buyer shall be entitled to 15 business days written notice of default and opportunity to cure."

This Amendment may be signed on any number of identical counterparts, including telefax or scanned copies, with the same binding effect as if all of the signatures were on one instrument. All other terms and conditions of the Contract as amended to date remain in full force and effect.

SEEN AND AGREED TO:

SELLER:
Graves Hill Land Company, LLC

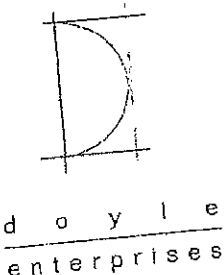
By: 
Its Manager, duly authorized

ASSIGNING BUYER
V&E Enterprises

By: _____
Its _____

BUYER:
Ridge Development LLC

By: 
Its Manager, duly authorized



CASCO HEIGHTS

Dear Members,

On May 6, 2014 we presented to you Casco Heights and the proposed amendment to the underlying 2004 approved Conditional Rezoning Amendment. That 2004 amendment rezoned the R-3 parcel into 8.15 acres of R-OS, improved with trails and 10.17 acres of R-5A developed with two 100 foot buildings containing a total of 98 luxury condominiums.

Based on the input from the neighbors, the Planning Board and advisors, we have slightly adjusted the proposed revision to the contract zone.

The factor most upsetting to the neighbors at the adjacent Ocean Ridge Condominium complex was the proximity of the north building to their units and the lack of a substantial buffer. In our previous submission, the building was 32 feet from the property line. We have increased that to 65 feet and included a buffer plan.

The site plan submitted in May divided the property into more or less the same amount of R-OS and R-5A as the contract zone, however the shape was different and included a rounded parking lot that would require blasting the second highest point in Portland. Our current plan's zoning division is within a hundredth of an acre of the existing contract zone, more in line with the contract zone's shape and preserves the second highest point.

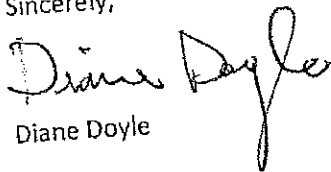
Staff suggested that rather than requiring a sidewalk on Ocean Avenue in front of Casco Heights, the sidewalk should go on the opposite side of Ocean Ave. and connect the existing pieces. This is now shown with a crosswalk connecting it to the Casco Heights Trail/sidewalk. The only other change to the site plan is the location of the detention pond. The pond has been moved to the front of the north building, away from the Ocean Avenue neighbors.

The approved contract zone allowed 98 units. On May 6, 2014 we asked that that be reduced to 94 units. After talking to local real estate agents, we determined that we needed a few more one bedroom units so we are asking that the maximum number of units be changed to 96 units, 48 per building. In each building we have taken a top floor two bedroom and converted it into two one bedroom units. The required parking spaces remain the same.

The final change to the amended contract zone regards the effective date of the conditional rezoning amendment. The approved contract zone orders the rezoning to become effective within 30 days of approval by City Council. We have asked that the zone amendment become effective upon sale of the property to Ridge Development.

We look forward to meeting with you on June 10th.

Sincerely,


Diane Doyle

Michael F. Brennan
Kevin J. Donoghue
David A. Marshall
Cheryl A. Leeman
Edward J. Suslovic

CITY OF PORTLAND
IN THE CITY COUNCIL

John R. Coyne
John Hinck
JILL C. DUSON
NICHOLAS M. MAVODONES

ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: CONDITIONAL REZONING FOR
802-828 OCEAN AVENUE
RIDGE DEVELOPMENT, LLC

ORDERED, that the Zoning Map of the City of Portland, dated 2012 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below;

BE IT FURTHER ORDERED, that the conditional rezoning amendment authorized herein shall become effective ~~thirty (30) days following this rezoning.~~

CONDITIONAL ZONE AGREEMENT
RIDGE DEVELOPMENT, LLC

upon sale to ridge
development llc

This Agreement made this _____ day of _____, 2014 by Ridge Development, LLC, a Maine limited liability company with an office in Portland, Maine (hereinafter "RIDGE DEVELOPMENT").

WITNESSETH:

WHEREAS, RIDGE DEVELOPMENT owns or has an option to buy a parcel of land consisting of approximately 18.32 acres located at 802-828 Ocean Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 411, Block A, Lot 7 and Tax Map 416, Block A, Lots 6, 7 and 21, and more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 21500, Page 269 (collectively the "Property"); and

96

WHEREAS, RIDGE DEVELOPMENT proposes to construct upon a portion of the Property a maximum of 94 condominium units in two mid-rise buildings in a Planned Residential Unit Development ("PRUD") while preserving and protecting a portion of the Property as open space, by utilizing a pattern of development designed to minimize the clearing of natural vegetation, to minimize the area to be blasted, to provide a unique residential living experience with a high degree of natural site amenities, and to promote public recreational use of trails which integrate with a larger trail system; and

10.18

WHEREAS, RIDGE DEVELOPMENT has requested the rezoning of 10.4 acres of the Property from R-3 to R-5A Residential Zone and the simultaneous approval of a contract zone to implement a planned residential unit development (PRUD) for dwelling units on that portion of the property, and the rezoning of 7.92 acres of the Property from R-3 to Recreation and Open Space Zone (R-OS); and

8.14

WHEREAS, the Planning Board of the **CITY OF PORTLAND** (hereinafter "**CITY**"), pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62 and 14-127, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the **CITY**, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland,

it is necessary and appropriate to impose with **RIDGE DEVELOPMENTS** agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the **CITY'S** comprehensive land use plan; and

WHEREAS, the City Council of the **CITY** authorized the execution of this Agreement on _____, 2014, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1; and

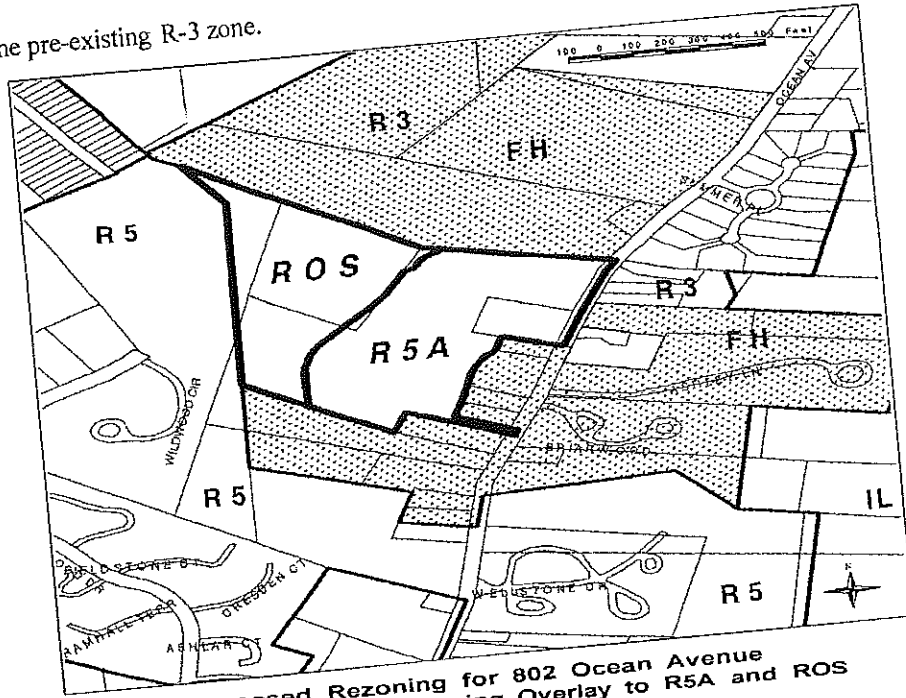
WHEREAS, RIDGE DEVELOPMENT has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **RIDGE DEVELOPMENT**, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, **RIDGE DEVELOPMENT** contracts to be bound by the following terms and conditions:

1. The **CITY** hereby amends the Zoning Map of the City of Portland dated 2012, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14-49 of the Code, by adopting the map change amendment shown below (rezoning to R5-A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Council's approval of said rezoning, then the rezoning shall become null and void and the zoning of the Property shall revert

sale of the property
to ridge
development

to the pre-existing R-3 zone.



**Proposed Rezoning for 802 Ocean Avenue
from R-3 and Flexible Housing Overlay to R-5A and R-OS**
April 2014

2. **RIDGE DEVELOPMENT** is authorized to establish and maintain the following uses on the R-5A portion of the property:

- a. up to 96 residential units located in two buildings, each building containing up to 47 units, which may be sold as condominium units, resulting in a maximum total of ninety-four (94) residential units within the Property; and

48

ninety six (96)

- b. parking in an amount of not less than 1 space per 1BR unit and 2 spaces per 2BR and 3BR units per residential unit, plus at least 28 additional surface visitor parking spaces; and

- c. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

forty eight (48)

3. The use of the **R-5A** portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to ~~forty seven (47)~~ dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to ~~forty seven (47)~~ dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

forty eight (48)

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. **RIDGE DEVELOPMENT** is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the **R-OS** portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, or similar improvements as necessary to facilitate access. Additionally, a future recreation area subject to Planning Board approval may be created.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. **Ridge DEVELOPMENT** shall grant to **Portland Trails**, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public.

The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize **RIDGE DEVELOPMENT**, its successors and assigns, Casco Heights Condominium Owners' Association, and Portland Trails to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, **RIDGE DEVELOPMENT** may opt to convey the R-OS portion of the Property to **Portland Trails** in fee, with such conveyance made subject to use conditions and reserved rights of enforcement as aforesaid. The form of such easement and/or deeds shall be reviewed and approved by Corporation Counsel in connection with the Site Plan approval process for Phase I.

If a conveyance, by easement or in fee, is to be made to **Portland Trails**, the certificate of occupancy for the residential units shall not be delayed due to the status of completion of the trail system on the R-OS portion of the site so long as **RIDGE DEVELOPMENT** has made the required conveyance, by easement and/or in fee, to Portland Trails and funds sufficient to complete construction the trails on the R-OS portion of the site have been placed in escrow. If, for any reason, Portland Trails declines to accept said trail easements and/or conveyances upon the terms offered, **RIDGE DEVELOPMENT** may satisfy this contract zone requirement by constructing the trails pursuant to the approved site plan and granting trail easements to the City of Portland, upon the same terms and conditions stated above, granting the City of Portland (rather than Portland Trails) the right to enforce the restrictions, with the form of the easement subject to review and approval by Corporation Counsel.

May

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by Sebago Technics (last revised March, 2014) and the Proposed Building Design site sections, building sections and floor plans submitted by Archetype (last revised March, 2014). The Casco Heights entrance on Ocean Avenue shall be at the location shown on said Site Plan and the City hereby grants such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, that at the request of **RIDGE DEVELOPMENT**, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment

May

the attached side of the building
two residential adjacent to Ocean
Ridge
Condominiums

an amendment to this Contract Zone Agreement. So long as the approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. **RIDGE DEVELOPMENT** shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, **RIDGE DEVELOPMENT** shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the **CITY** for the **CITY** to apply toward installing granite curbs and sidewalk in the vicinity of the **PROPERTY**.

RIDGE DEVELOPMENT shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the abutters whose lots front on Ocean Avenue, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by **RIDGE DEVELOPMENT** or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while **RIDGE DEVELOPMENT** shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestrian trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

8. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

9. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by **RIDGE DEVELOPMENT** or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which **RIDGE DEVELOPMENT** holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, **RIDGE DEVELOPMENT** or any successor in interest may convey the R- OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

10. For the portion of the Property rezoned **R-5A**, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRUDs except as follows:

Maximum number of units per building: 47 ← 48

Maximum number of buildings containing residential dwelling units: 2

Maximum building height: 75 feet, as measured per zoning ordinance, and in accordance with the plans attached hereto and in accordance with the location on the site plan

Parking: 204 Spaces, half in Phase I and half in Phase II.

Minimum recreation open space area:

Outdoor passive recreation in the form of pedestrian trails of not less than 3,207 linear feet shall be provided on the Property, generally as shown on the Preliminary Site Plans, Zone Identification. Such trails shall be composed of stone dust, asphalt or similar materials, and, if environmentally necessary or advisable, shall include bridges, raised walkways, or similar improvements as necessary to facilitate access, together with a reasonable number of wooden benches. The non-trail portion of the Property located in the R-OS zone shall otherwise remain in its natural vegetative state. A public recreational trail easement over the trails on the Property shall be conveyed to **Portland Trails** or, in the alternative, to the **City of Portland** granting the public the right to use the trails subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. In the alternative, **RIDGE DEVELOPMENT** may convey an easement over the recreational trails on the R-5A portion of the Property and convey the R-OS portion of the Property to **Portland Trails** in fee, both subject to such restrictions on hours, manner and intensity of use outlined in Paragraph 6, above. So long as at least the minimum passive recreational open space is provided as specified above, no additional active recreational open space is required. However, the developer may provide more than the minimum required, at its option, and subject to site plan review.

Except as set forth above, all provisions in Sections 14-126 through 14-131 of the **CITY's** zoning ordinance shall apply to the portion of the Property rezoned R-5A.

11. For the portion of the Property rezoned **R-OS**, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and **RIDGE DEVELOPMENT** need not submit any parking needs projections.

12. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **RIDGE DEVELOPMENT**, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the **CITY**, by and through its duly authorized **representatives**.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed as a separate, distinct and independent provision and such determinations shall not affect the validity of the remaining portions thereof.

14. In the event **RIDGE DEVELOPMENT** or its successors should fail to utilize the **PROPERTY** in accordance with this Agreement, or in the event of **RIDGE DEVELOPMENT'S** breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the **CITY** may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that **RIDGE DEVELOPMENT** has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the **PROPERTY** rezoned.

15. **RIDGE DEVELOPMENT** shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

16. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

RIDGE DEVELOPMENT, LLC

WITNESS:

By: _____

Patrick Tinsman
Its Manager

STATE OF MAINE
CUMBERLAND, SS.

_____, 2014

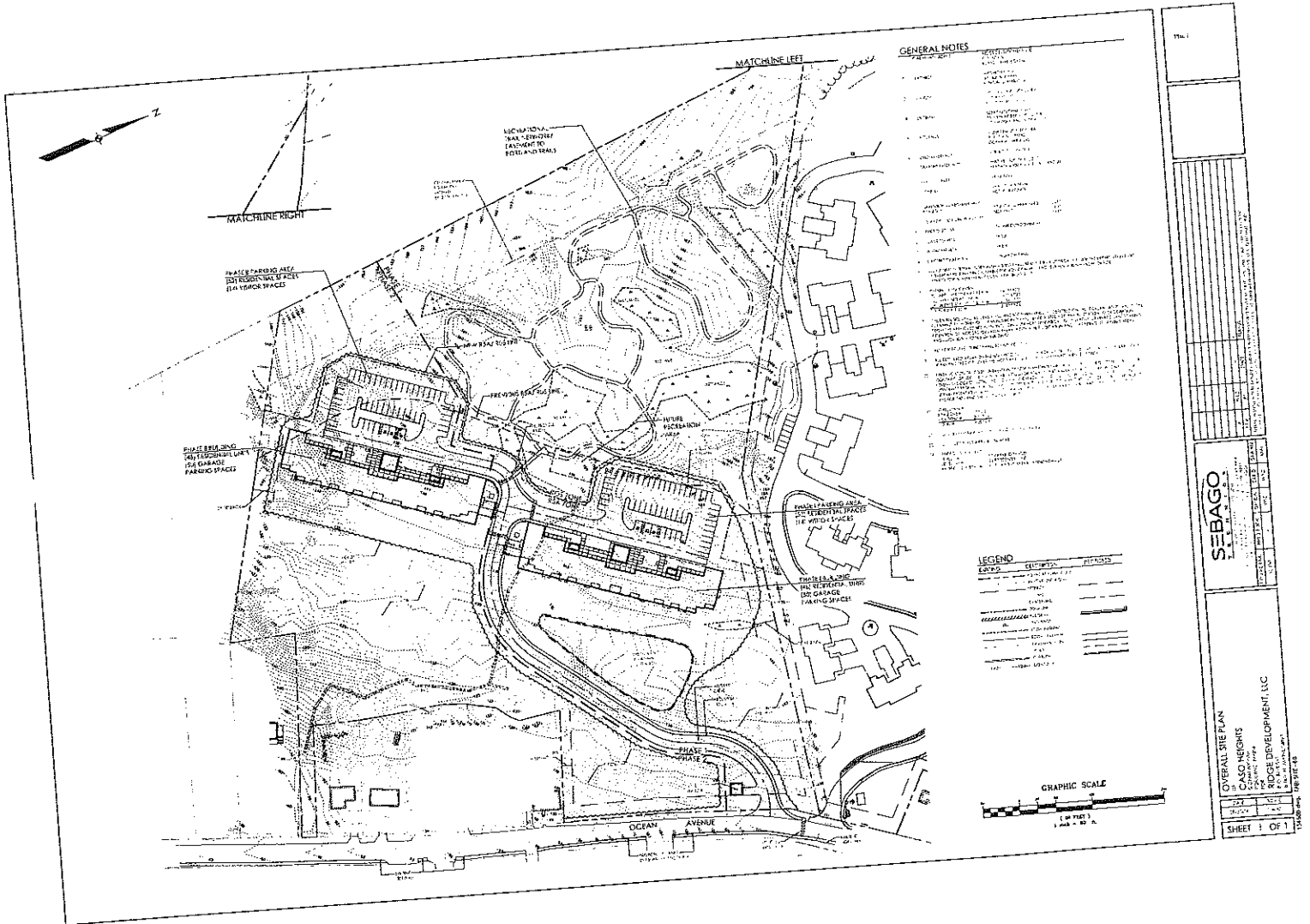
Then personally appeared the above-named Patrick Tinsman, Manager of Ridge Development, LLC as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me:

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

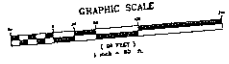


GENERAL NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE SEBAGO COUNTY ZONING ORDINANCES AND THE SEBAGO COUNTY SUBDIVISION MAP ACT.
2. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE SEBAGO COUNTY BOARD OF ZONING APPEALS AND THE SEBAGO COUNTY BOARD OF SUPERVISORS.
3. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE SEBAGO COUNTY BOARD OF ZONING APPEALS AND THE SEBAGO COUNTY BOARD OF SUPERVISORS.
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LEGEND

SYMBOL	DESCRIPTION
[Symbol]	EXISTING LOT LINES
[Symbol]	PROPOSED LOT LINES
[Symbol]	EXISTING BUILDINGS
[Symbol]	PROPOSED BUILDINGS
[Symbol]	EXISTING PARKING SPACES
[Symbol]	PROPOSED PARKING SPACES
[Symbol]	EXISTING DRIVEWAYS
[Symbol]	PROPOSED DRIVEWAYS
[Symbol]	EXISTING ROADS
[Symbol]	PROPOSED ROADS
[Symbol]	EXISTING UTILITIES
[Symbol]	PROPOSED UTILITIES

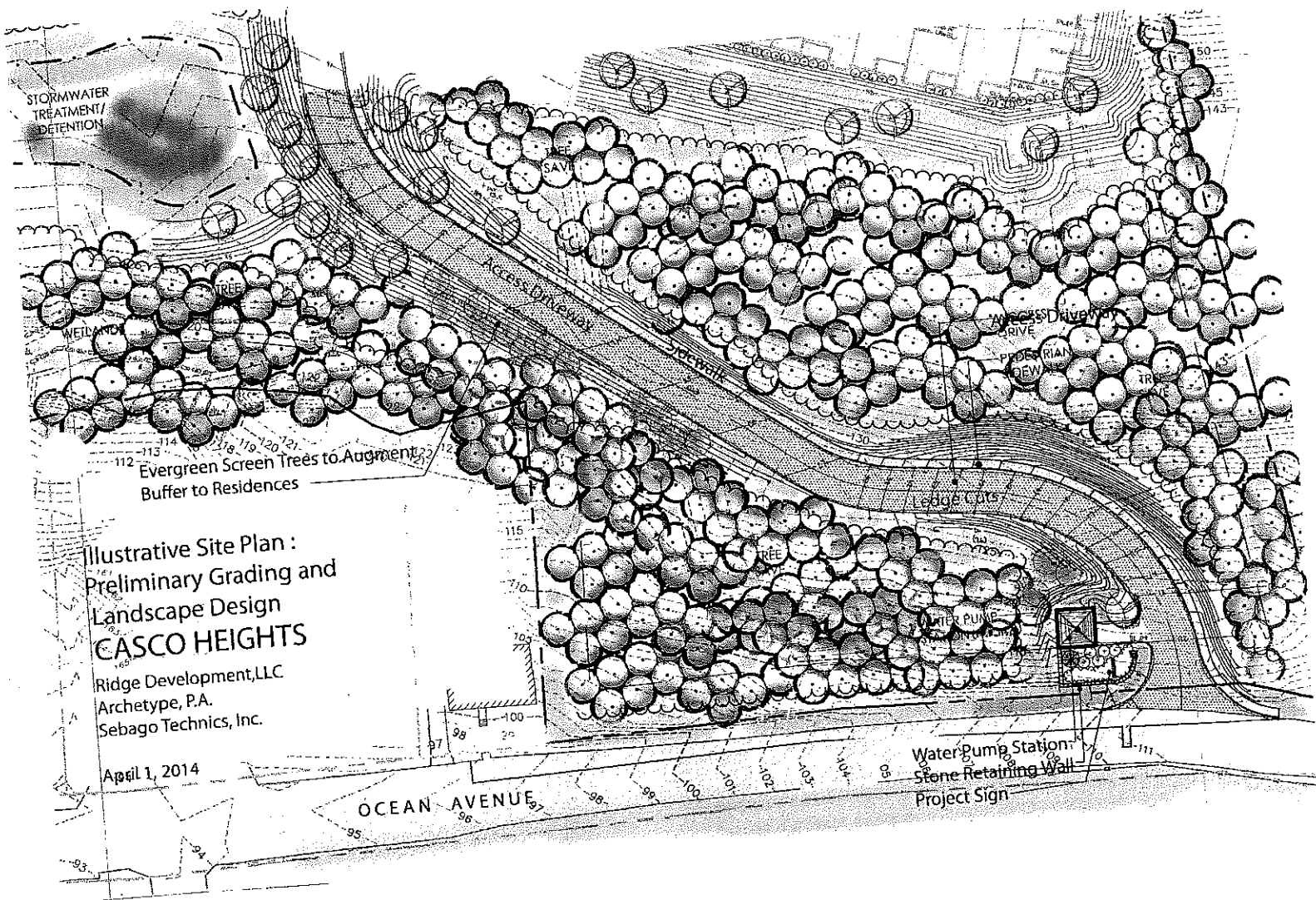


SEBAGO

OVERALL SITE PLAN

CASO NEIGNIS
RIDGE DEVELOPMENT, LLC

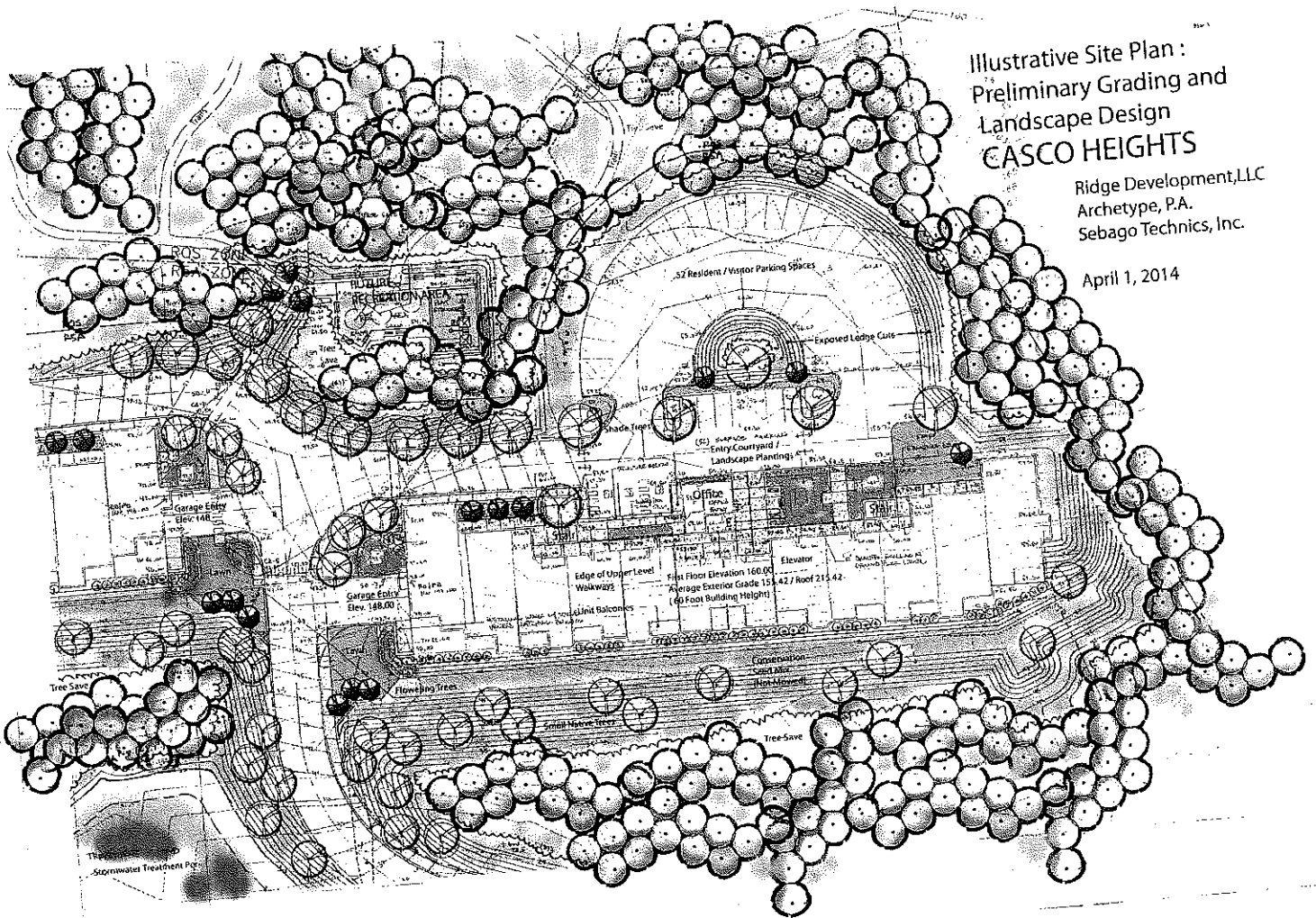
SHEET 1 OF 1



Illustrative Site Plan :
Preliminary Grading and
Landscape Design
CASCO HEIGHTS

Ridge Development, LLC
Archetype, P.A.
Sebago Technics, Inc.

April 1, 2014



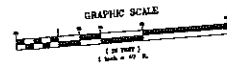
SET BACK FROM THE GAP
 CATCH THEM
 DRAIN BLOODLINE
 THROUGHT
 WATER VALVE
 BOMBS SAWDUST
 AGAIN
 VIBRANT POLE
 HEDGE ON BURN
 MORE OR FORMALLY!
 WATER AND
 SHINY BROWN BURN
 EIGHTH LINE
 EXPLOSION WHITE LINES
 STONE WALL

[illegible]

ONE 1 MEAL ESTIMATE COMP.
30
LEO J DELICATA AND JEANNE B DELICATA
AUGUST 14, 1962 BOOK 10076, PAGE 828

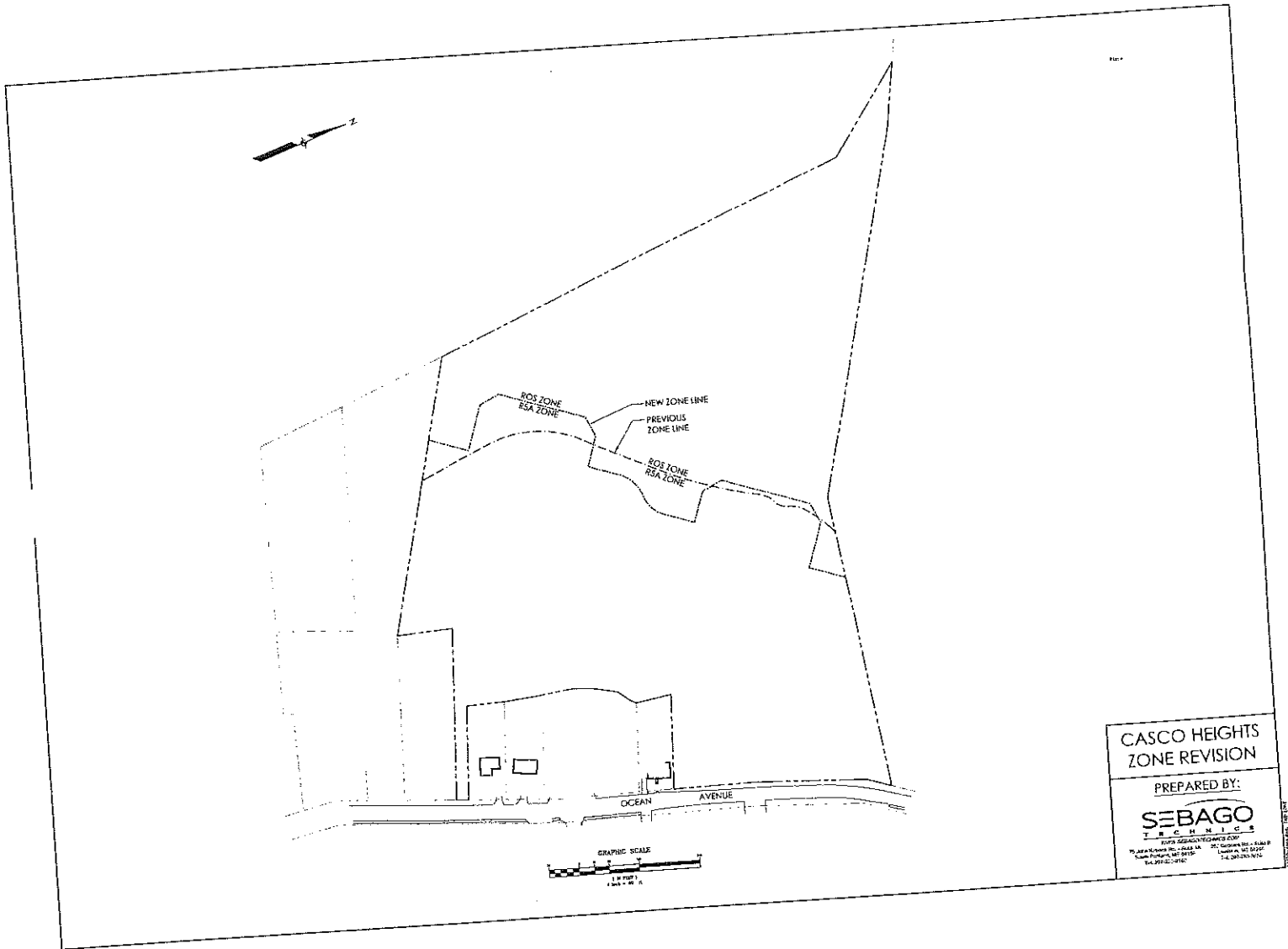
[illegible]

RE: "STARVEY PLAT PRINCE & ALLEN'S WALK, A CONTEMPORARY
PUBLISHED 1822, LONDON, PORTLAND, MADE FOR THE DARTMOUTH
UNIVERSITY, DAVID ROBERTSON, 2, TART, BY GLEN HEDGECOCK, INC.
RESIDENCE AT CUMBERLAND, CURRENT INDUSTRY OF DEEDS IN
PLAT BOOK 122, PAGE 85



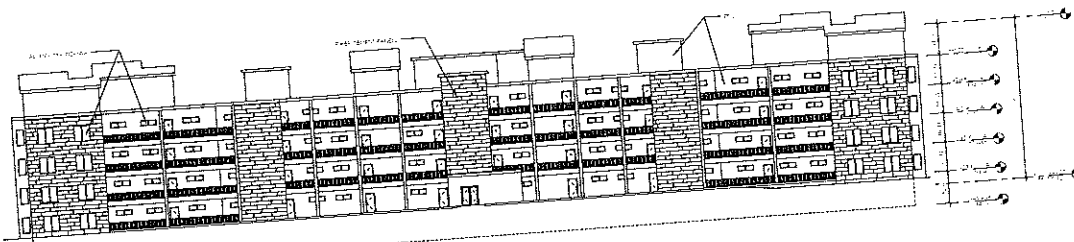
LINE

Dow & Coulombe, Inc. Land Surveys & Land Planners 11 West Main Street, Box 1491 Portland, ME 04102 Telephone: (207) 864-1320 • Fax: (207) 864-4822		Map No. _____ Date _____ Scale _____ Project _____ Sheet _____ of _____
DIANE DOYLE (MAINE ADDRESS IS 15 SPRING ST., ME 04102) PORTLAND MAINE		Map No. _____ Date _____ Scale _____ Project _____ Sheet _____ of _____

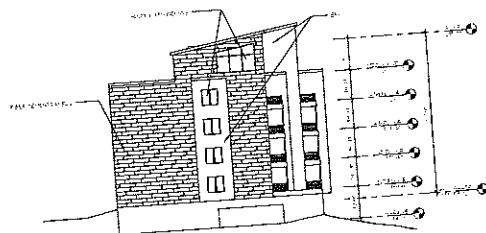




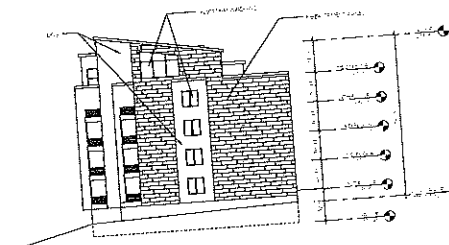
1 | Front Elevation
1/8" = 1'-0"



2 | Back Elevation
1/8" = 1'-0"



3 | Side Elevation
1/8" = 1'-0"



4 | Side Elevation 2
1/8" = 1'-0"

Owner

ARCHETYPE
ARCHITECTS & PLANNERS
1000 1st Ave. S.W.
Seattle, WA 98101
206.461.1000

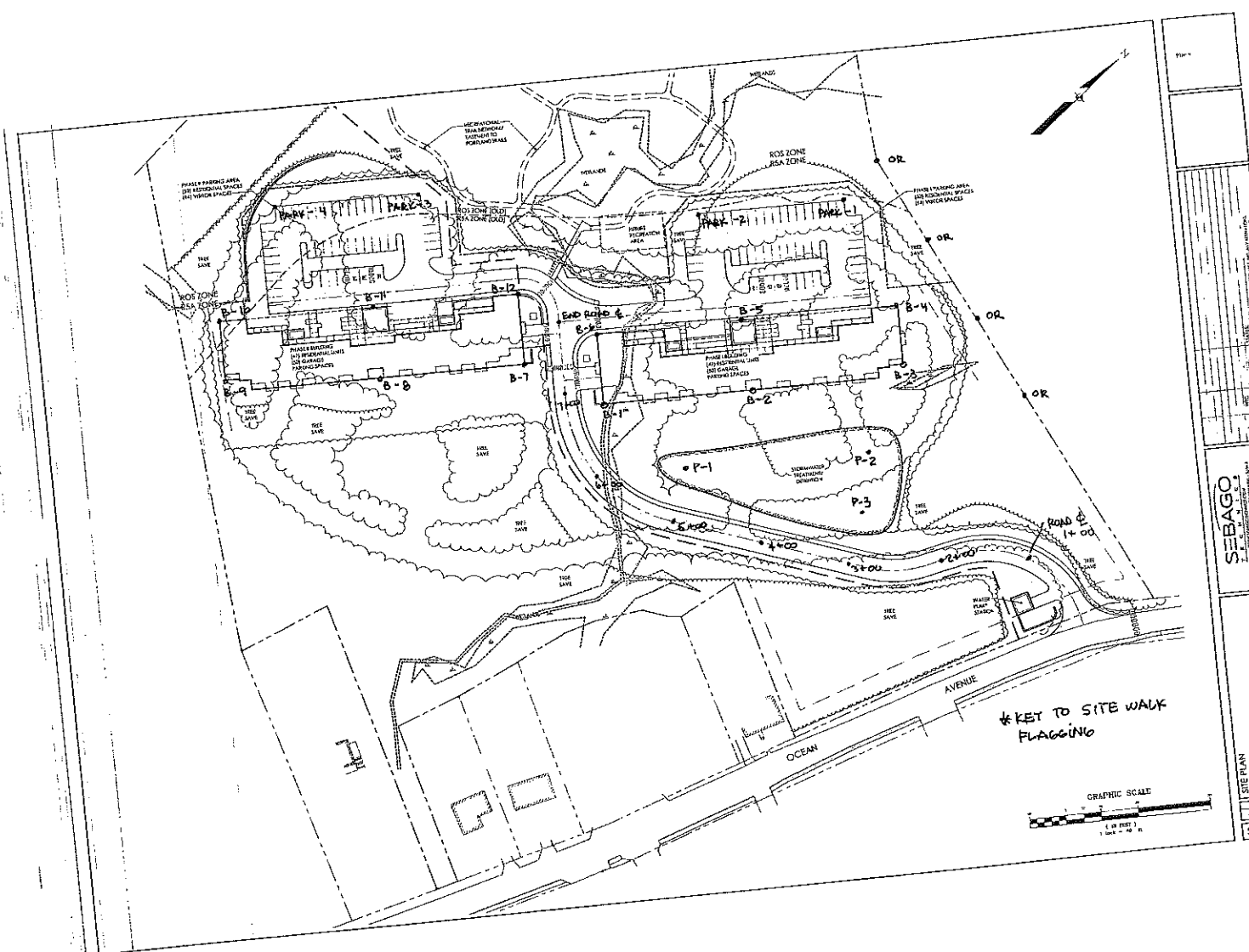
CASCO HEIGHTS

June 28th, 2014 1:00 PM

Building Elevations

A2.01



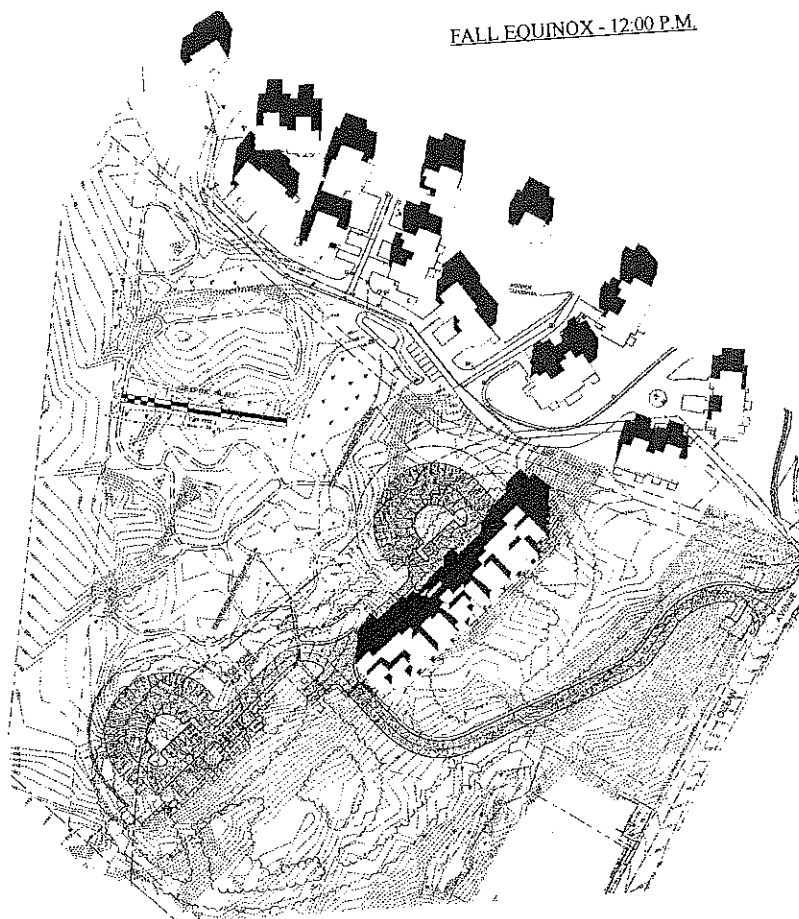


SEBAGO SEBAGO ENGINEERING & ARCHITECTURE, INC. 1000 W. 10TH AVE. SUITE 100 PORTLAND, ME 04106 TEL: (207) 761-1111 FAX: (207) 761-1112 WWW.SEBAENGINEERING.COM	
SITE PLAN CASO HEIGHTS ROSE ZONE ROSE DEVELOPMENT, LLC 1000 W. 10TH AVE. SUITE 100 PORTLAND, ME 04106 TEL: (207) 761-1111 FAX: (207) 761-1112 WWW.SEBAENGINEERING.COM	DATE: 11/11/11 SCALE: 1" = 20' SHEET 1 OF 1

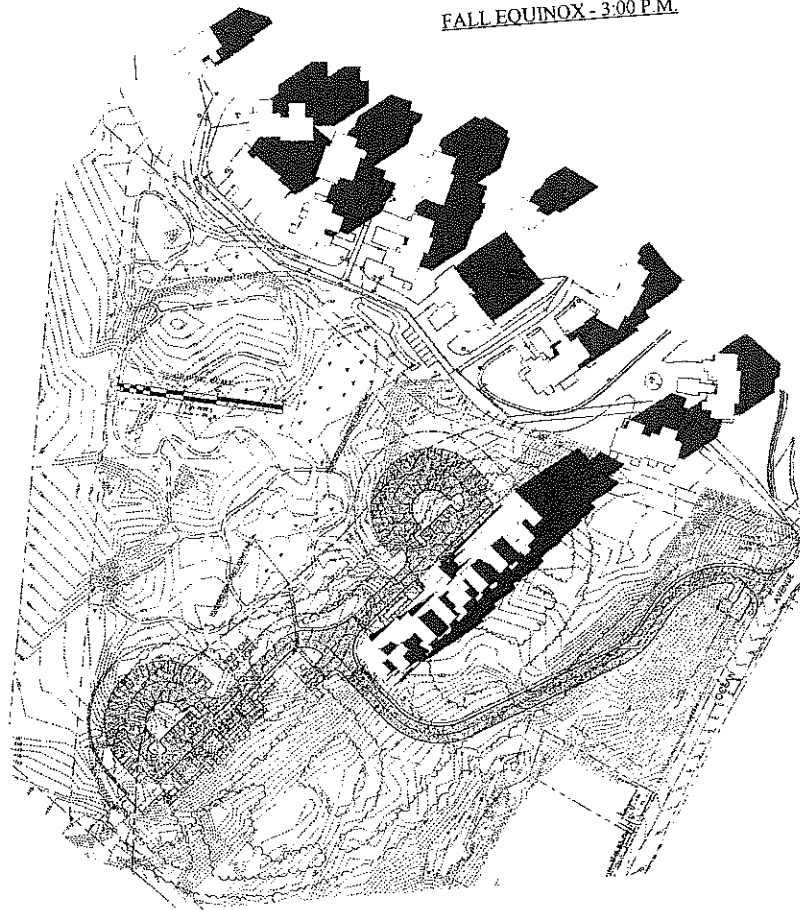
FALL EQUINOX - 9:00 A.M.



FALL EQUINOX - 12:00 P.M.

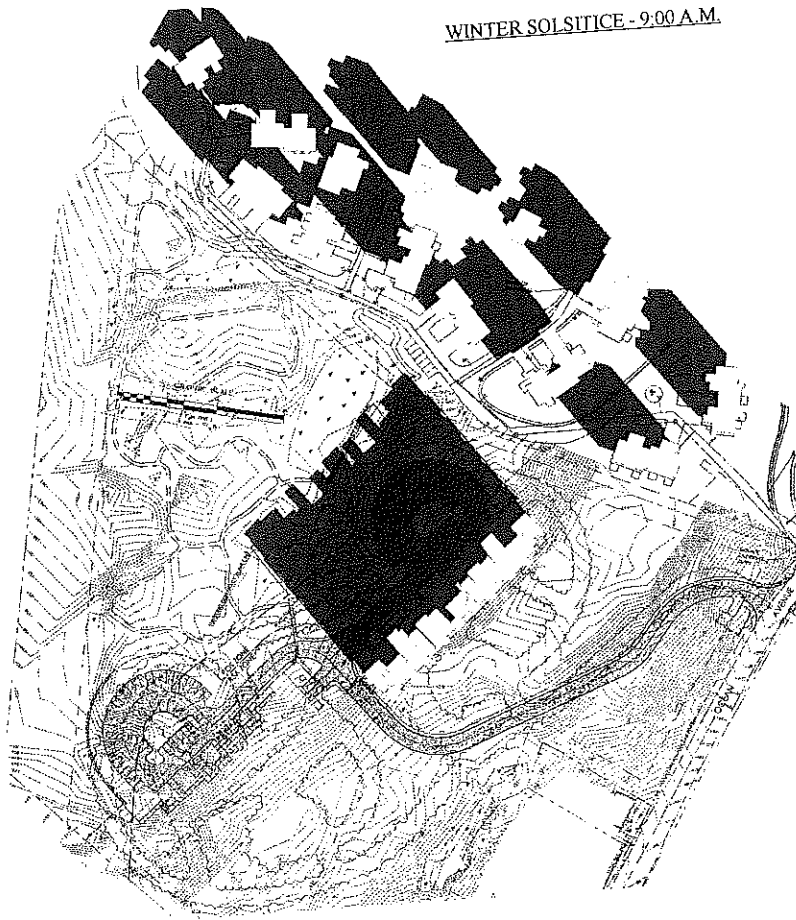


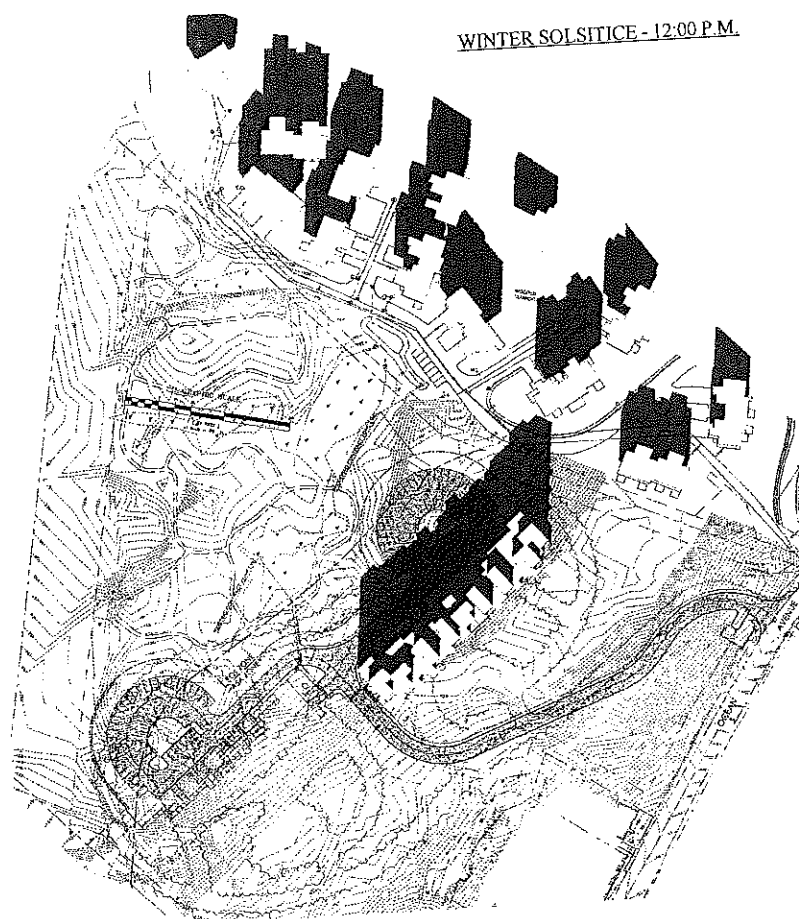
FALL EQUINOX - 3:00 P.M.



WINTER SOLSTICE - 9:00 A.M.

Plan 13





WINTER SOLSTICE - 3:00 P.M.



SUMMER SOLSTICE - 9:00 A.M.



SUMMER SOLSTICE - 12:00 P.M.



SUMMER SOLSTICE - 3:00 P.M.

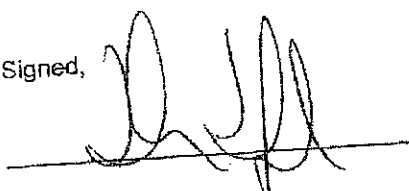


Neighborhood Meeting Certification

I, (applicant/consultant) hereby certify that a neighborhood meeting was held on (date) at (location) at (time).

I also certify that on (date at least ten (10) days prior to the neighborhood meeting), invitations were mailed to the following:

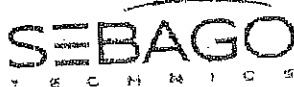
1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change.
2. Residents on the "interested parties" list.
3. A digital copy of the notice was also provided to the Planning Office (imy@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list who receive e-mail notices.

Signed, 

APRIL 21, 2014 (date)

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes



April 11, 2014
13450

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a conditional re-zoning amendment for Casco Heights Condominium (Formerly Graves Hill Condominium) 802 - 828 Ocean Avenue, Portland, ME.

Meeting Location: The Atrium, located at the Cedars Retirement Community-
630 Ocean Avenue, Portland, ME 04103

Meeting Date: April 21, 2014
Meeting Time: 6:30pm

The city code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

If you have any questions, please call Shawn Frank at Sebago Technics, Inc. at 207-200-2100.

Sincerely,

SEBAGO TECHNICS, INC.

A handwritten signature in dark ink, appearing to read "Shawn M. Frank", written over the printed name.

Shawn M. Frank, P.E.
Senior Project Manager

SMF:jsf

Sign In Sheet

Chuck Grossman

Antoinette Mancusi

VINCENZO MAROTTA

Amy Hebel

Gene DiBenedetto

John Johnson

Judy Richard

F.R. + N.A. Goodwin

Carol Vellinga

CHRISTY WILLMAN

BILL PUSEY

Jeff Burr

Glenn IRVINE

Thammy Ellis

Jim CAIAZZO

Laurette Johnston

Jay Mattimore

John M. McCalla

Karen McCallum

Barbara Miller

Stacey Hong

MATT SMITH

Doug Mc Gowan

Leslie Merrill

Mark Sweet

Chuck Miller

Jonathan Camire

LESTER A FULLER

Dick Perkins

Mike Payson

Casco Heights Contract Zone Amendment Neighborhood Meeting

The Cedars-April 21, 2014

Diane Doyle opens meeting with a discussion about the change in the height of the building-

-Can you still fit the same number of units in it?

Doyle gives explanation of the change in number of units within the building-

-The average size of units?

Doyle explains the change of parking lot layout-

- What is the excavation involved in creating these parking spaces?

Is the excavation/blasting report available from the plan created 10 years ago?

Not part of approval. Did not apply for building permit

-Ocean Ridge was put on slabs, that development in in a similar environment, why not follow their example instead of blasting?

Blasting basically for a flat surface. Less than previous plan.

Doyle gives explanation of past drilling samples, there has been no blasting done yet, everything needs to be approved by planning board

Gives details on traffic impact study-

-How far away from Ocean Ridge is the entrance for the project?

Fairly close.

-Is there going to be an access road?

-Is there going to be a natural buffer or constructed buffer around the new extension of the building?

-When are we going to be able to see a map of where our properties lay in relation to this proposed plan?

Sebago Tech to provide to City for viewing soon.

-What in the elevation of the back of the parking lot? And what is the excavation involved in creating these parking areas?

-What is the estimated price range of the various units? (This is important for us to know since it relates to how the general real estate of the area will be impacted)

Not certain. Maybe \$300,000 for one bedroom.

-How much of the natural vegetation on coming down/going to be affected?

-Implication of opening up private property to the public with trails around property-

-Will you be allowing public access through the easement over the road? (Neighbors not pleased about the fact of tapping into "their road and their resources) Can the new owners utilize the easement?

Sidewalk from Ocean Ave through Casco Heights to be open for people connecting to trails on open space.

-Who is the new developer? We would like to know more about Steve Goodrich-Who are his partners?

Pat Tinsman. Vinnie Mietta

Ledgewood Condos-The traffic and parking issue related to the trailhead at Pheasant Hill are an issue; the trails are not public trails but people use them as such, bringing bikes, dogs etc. to them; This area is supposed to remain undeveloped according to them

-Are there any designated wet lands in the proposed developed area? The detention pond sits over homes, Do you know the numbers of the homes that the pond sits over?

-Where will we see the change in the length of the building?

-Again: When will we be able to see the maps of the other properties around the development?

Ocean Ridge: Doesn't want their views to be impacted or to have to look at the new buildings; important for their visuals

-A building of this size blocks limited light available to surrounding properties, especially to the four properties next to building extension.

Diane explains Shadow study-

-What is the time frame of when the development will begin?

Not sure

Further discussion on amendment to contract-

Orca- there is a current problem with parking at our establishment, for example when someone has a party or guests, your planned parking seems "wildly inaccurate"

Explanation of city calculated minimum-

-Did your contract zone not lapse? Why couldn't they reverse that decision?

-Does the storm water solution still impact Briarwood Apartments?

-What is the elevation on the peaks of the building?

Height is 60'. Is not the peak but average roof height possibly.

-Again: Is there an estimate of what the units will be selling for? When will we know the answer to that?

-When does the city look at and take into consideration the previous track record of the new developers?

Need financial and technical capability.

Concern about finishing the project with quality- Neighbors don't want to look at construction for an extended period of time and also voice concerns about the end product being of quality. What if it lacks quality and they are unable to sell the units? What if the value of their property is decreased by the addition of a subpar development?

Comment that a 5A Zone needs to be in character of surrounding neighborhood, will this development follow that rule?

-What is the impact of the blasting to surrounding homes?(They have previous experience with a small home being contrasted in the area that required blasting and the blasts could be felt in the neighborhood, there are even cracks in sheetrock in some homes from it)

Will have to get a blasting survey and explained.

-How long does a project like this take to build?

-How do you plan to preserve the trails? How many miles are the proposed trails?

Ocean Ridge: back to the issue of the easement, it would give them more security knowing that it wasn't there and wasn't able to be utilized by new developers.

-What is that second access area next to ocean road on the map? Will it continue to be a drain for the property?

-How many feet away from the development is Ocean Road?

Concern: If the road (Ocean Road) is not well maintained (which is currently is not-they have made previous calls to the city in regards to this) then the added traffic of new residents and construction vehicles is a concern.

-What is the distance from the back parking lot to the power lines?

-So the city of Portland has no problem blasting the second highest point in Portland...?

Aldens Waik: Are you purporting to give all the open space to Portland Trails? We don't want all the trees getting cut down.

Did Ocean Ridge exist in 2004 when you created your first plan for the property?

-Again: We would like to see what the buffer consists of-Do we, as neighbors, have a say in it?

Planning board discussion

-Does the changed contract zone eliminate the previous contract zone? Can you specify what the contract changes entail?

-Does one space (regarding the change in the parking situation) mean that the owner of the unit only has one vehicle as well? Can they use the visitor parking for extra vehicles?

In regards to "Tab 4" (in handout): The City of Portland letterhead is used-was this document penned by the contractor, who signed it, and not the city of Portland like it primarily gives the allusion to?

In regards to the timing of the project: it says that the date previously given (May 5) has been amended, what has that date been amended to? What are you extending it to?

In regards to the difference in the two buildings 10 years ago versus now-has the foot print really changed that much?

Narrower but longer.

-What/when will the next step of this new project begin?

Comment that the type of zoning (conditional contract zoning) is not very common in the state or city.

Explains why taller buildings and more open space works. Good use of contract zone

-How many acres is the building total? What is the effect on the change of open space due to these changes?

-Have the purchasers of the property considered a project like Ocean Ridge (maybe even a continuation) which is comprised of more home-like homes instead of condos? This proposed project has a much bigger impact on the environment.

No. If homes all developed and no R-OS.

-Why would a developer not make a 100ft structure if it was already approved-why not make the most of your investment?

4 stories can be made of wood.

-What materials are the buildings made of? What type of siding?

Not sure.

-So, the city council approved your previous plan? Why wasn't it developed?

2007

Even though projects get approved by the city council, they don't always fit in with the rest of the community-The neighbors are afraid of this and the quality of the finished project, concerned that new developers will be "cutting corners," just looking to make a profit and not care about the effect on the neighborhood as a whole.

-What is "Plan B"? Going back to the original design?

Possible

Alden's Walk- A previous developer began a project near their community and then went bankrupt, leaving the area unfinished and an eyesore to the community, the community sued them for leaving the unfinished land and won the land in the lawsuit, they kept the land until they found a quality developer who only built 25 quality homes on the land, which in turn increased their real estate values.

-Once you sell the property you're done with the project? So, Pat wants you to do his dirty work and get it approved? Are you going to be involved in the building process at all?

Comment that Ledgewood and Aldens Walk were both built without cutting all the trees down.

-Who is the Ocean Ridge developer?

The people who are most drastically impacted by the closer building don't necessarily think that the new contract is better.

-There is money involved for the people who are affected by the easement (\$10,000 per unit), so is Pat Tinsman paying himself?

Again: Concerns about the buffer between the new project and Ocean Ridge-if it's a natural buffer what about during the season changes when the leaves fall off.

-Is that a pump house (referring to a location on the blue print)? Is that for natural gas?

-Is there any way to make the easement go away with the contract change?

-You currently own the property-so the decision of the easement is up to you?

From: Mark Lourie <mark@skylineonline.com>
To: Barbara Barhydt <BAB@portlandmaine.gov>
Date: Wednesday, April 23, 2014 4:41 PM
Subject: Re: Casco Heights Development

Thank you Barbara and yes, please include my comments.

Mark Lourie

VP of Development <> Skyline Music, LLC

Full Skyline Roster: <http://skylineonline.com> – includes bios, digital assets, and links on our artists

PH – *866-531-2172 x104 *Fax – 207-930-4512

Skyline Music News @skylineagency <<http://twitter.com/skylineagency>>

On Wed, Apr 23, 2014 at 6:31 PM, Barbara Barhydt <BAB@portlandmaine.gov> wrote:

> Hello:
 >
 > Thank you for your comments and I will share them with the city staff who
 > are reviewing this project.
 >
 > The meeting on the 21st was a neighborhood meeting held by the applicant.
 > A workshop with the Planning Board will be scheduled soon. It may be on
 > their agenda for May 6th or May 13th. The schedule will be finalized
 > tomorrow. I can let you know the timing for this project. Please let me
 > know if you would like me to include your comments in the packet for the
 > Planning Board.
 >
 > Thank you.
 >
 > Barbara
 >
 >
 >
 >
 > Barbara Barhydt
 > Development Review Services Manager
 > Planning Division
 > 389 Congress Street 4th Floor
 > Portland, ME 04101
 > (207) 874-8699
 > Fax: (207) 756-8256
 > bab@portlandmaine.gov
 > >>> Mark Lourie <mark@skylineonline.com> Monday, April 21, 2014 10:15 AM
 > >>>
 > Dear Barbara,
 >
 > As a resident and owner at Ocean Ridge Condominium Association I have
 > serious concerns about the proposed Casco Heights development at 802 - 828
 > Ocean Ave.
 >
 > I am unable to attend the April 21 meeting and so would like to present
 > these concerns. In general, I do not feel the site is appropriate for a
 > development of this size.
 >
 > 1 - The parking allotment is insufficient, as we have learned the hard way
 > from our own development by the same developer, and am concerned that
 > traffic pressure on Ocean Avenue, with inadequate sidewalks and limited
 > width, could be a problem.
 >
 > 2 - High Rise buildings in this area are out of context with the
 > neighborhood.
 >
 > 3 - The ledge over units and the proposed development would be built on is

> unique and potentially fragile. It would be hard to imagine blasting of
> that ridge not causing potentially significant damage to our adjacent
> buildings, not to mention disturbance of the peace.
>
> 4 - A quick look at a google map in satellite view will show that the
> woods and trails surrounding Ocean Ridge is the single remaining
> uninterrupted parcel of such natural environment in the city. A major
> development like this would ruin such a wonderful resource.
>
> I hope you will consider the impact of such a major development.
>
> Obviously the City cannot impose restrictions beyond their jurisdiction on
> the development of a parcel within it's zoned usage, but this seems to be
> stretching the limits of what is reasonable in this particular property.
>
> Thanks for your attention to this matter.
>
> Sincerely,
>
> Mark Lourie
>
> VP of Development <> Skyline Music, LLC
>
> Full Skyline Roster: <http://skylineonline.com> -- includes bios, digital
> assets, and links on our artists
>
> PH - *866-531-2172 <866-531-2172> x104 *Fax - 207-930-4512
>
> Skyline Music News @skylineagency <<http://twitter.com/skylineagency>>
>
>
> Notice: Under Maine law, documents - including e-mails - in the possession
> of public officials or city employees about government business may be
> classified as public records. There are very few exceptions. As a result,
> please be advised that what is written in an e-mail could be released to
> the public and/or the media if requested. --
>

Barbara Barhydt

From: <rmay11301@aol.com>
To: <bab@portlandmaine.gov.>
Date: Tuesday, April 29, 2014 6:59 PM

Barbara, Blasting of any sort with this Ledge surrounding our homes here in Ledgewood is very worrisome. Building 94 new homes is alot. All our pipes for our condos as you must know are just beneath our cement and could cause problems from the long blasting movements. This is my real concern!!!!

Thank you
Roberta Loring

Barbara Barhydt - Comment to Casco Heights Project

From: Dagmar Decker <dagmardecker@gmail.com>
To: <bab@portlandmaine.gov>
Date: Saturday, May 03, 2014 12:59 PM
Subject: Comment to Casco Heights Project

Dear Portland Planning Board:

As a person looking to move to Portland (preferably the North Deering neighborhood) I am horrified at knowing that there is a proposal being put forth of the scale of the Casco Heights project!!!! How awful for the neighborhood. I strongly encourage you to scale down the project to ensure that development in such a lovely neighborhood is not contrary to its the character. This project is most certainly inappropriate!!!!

Sincerely,

Dagmar Decker

PCS

Barbara Barhydt - Re: Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development); 802-828 Ocean Avenue

From: "Anthony C. Miller MD" <nillerac@me.com>
To: <bab@portlandmaine.gov>
Date: Saturday, May 03, 2014 4:39 PM
Subject: Re: Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development); 802-828 Ocean Avenue
CC: Anthony Miller <millerac@me.com>

Anthony C. Miller

56 Ridge Road

Portland, ME 04103-4715

May 3, 2014

Barbara Barhydt

Development Review Services Manager

Planning Division

City Hall

Fourth Floor

389 Congress Street

Portland, ME 04101

Re: Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development); 802-828 Ocean Avenue; Ridge Development, LLC., Applicant

Dear Ms. Barhydt:

In reference to the above amendment to be discussed by the Planning Board at upcoming meetings, I am presenting the following concerns and comments for consideration.

1. Scale and position of buildings on the lot

Although I understand that the goal of Zone R5A is to increase the density of certain off-peninsula lots, the proposed scale of the buildings of Casco Heights is greatly out of character with the East Deering neighborhood. The nearby buildings are all three stories or less, yet the proposed structures are 60 to 75 feet tall. Furthermore, the dimensions of the structures make each of them approximately the size of the Thomas Block on Commercial Street. This contrast of scale and mass will make the new buildings oppressive to their neighbors. Furthermore, the repositioning of the new buildings on the lot in comparison to the original plan submitted to the Board places the nearer only approximately 110 feet from the closest building of the Ocean Ridge Condominium Association. This is about twice as close as the original development plan, and the decrease in height from the original proposal is not enough to ameliorate the affect of this proximity. Given that the Casco Heights structures will be about twice as tall as the Ocean Ridge buildings, they will cast shadows into Ocean Ridge, especially in the winter when the sun is low in the southern sky. I recommend that Board require a shadow study of the proposed structures.

2. Buffer

Given the proximity of the Casco Heights units to Ocean Ridge, I believe that the inadequacy of the proposed buffer must be addressed. Not only is physical separation a consideration, but noise, sight lines, and privacy must be examined. The Casco Heights building nearest Ocean Ridge will afford its occupants a view down into the windows of their neighbors. This will encroach on their privacy and may reduce the value of their property. Furthermore, although the plan is to keep some existing trees, the extensive blasting and construction will likely damage the root structures of many of those trees. I recommend that the Board consider how to address protecting the buffer should some of those trees eventually die.

3. Parking and Traffic

The proposed amendment to the number of parking spots (less than one per bedroom on average) is inadequate. The lack of parking will push occupants to use both Ocean Avenue, which is not wide enough for parking in that area, and the overflow parking of Ocean Ridge, which is only a short walk away. Furthermore, automobiles for 94 units will dramatically increase the traffic on Ocean and Washington Avenues. I recommend that the Board require a traffic study to determine the effects of this increase in traffic volume as well as the noise and light pollution caused by surface parking for nearly 150 vehicles. The easement from Ocean Ridge to Casco Heights should not be used for routine traffic flow from one to the other given that the Ocean Ridge private road was never designed for that volume of cars and trucks.

4. Blasting

The amended project will require blasting in close proximity to Ocean Ridge. Given the dense rock formation underlying Graves Hill, vibrations will be transmitted into Ocean Ridge and the entire neighborhood. I recommend that the Board consider a substantial bond for blasting damage caused by the project to existing structures in the neighborhood. In addition, a mechanism for assessment of both internal and external damage to neighboring structures as well as their contents should be established.

5. Impact on Graves Hill

The proposed amendment includes a provision to blast the top of Graves Hill for one of the buildings and for surface parking. The hill is the third highest point in the City, and a United States Geological Survey marker is in place to mark that area. At the recent community meeting, a spokesperson for the developer stated that they plan to blast the peak and "move" the marker. I am troubled by this disdain for the site and neighborhood.

6. Property values

Given that the Casco Heights structures will be twice as tall as the Ocean Ridge units, they will cast shadows and allow their occupants to look down into the nearest Ocean Ridge buildings. This may adversely affect the property value of Ocean Ridge property.

In closing, I want to make clear that I am not opposed to development of this parcel on Ocean Avenue. However I have several concerns about the particular amendments requested by the developer with regard to its lack of appropriateness for the neighborhood, scale, proximity to existing buildings, inadequate buffer, traffic, parking, and blasting.

Thank you for your attention.

Sincerely,

Anthony C. Miller

Barbara Barhydt - Casco Heights Project Comments

From: "MarMan" <marman@maine.rr.com>
To: <bab@portlandmaine.gov>
Date: Sunday, May 04, 2014 6:55 AM
Subject: Casco Heights Project Comments

Dear Planning Board/City Council:

As the owner of a home in the Ocean Ridge Condominium Association, I am in dread of the potential massive housing project being proposed by Ridge Development LLC. It is quite evident that the developers have complete disregard for the surrounding neighborhood. Although they propose reductions in units (from 98 to 94), reductions in building height and parking ratio changes which on their face may seem positive, the proposed changes do nothing to mitigate the negative consequences of this project's scale and proximity to my home. The modifications are simply insufficient. The project's scale is too large given the surrounding neighborhood. Moreover, by moving the buildings closer to the Ocean Ridge property line, this project is much more detrimental to Ocean Ridge than the original 2004 proposal. Please do not allow this project to go through on the scale they are proposing. Also critical, please do not allow them to move the building so close to our property line!!! Our quality of life will suffer. Our home values will suffer. The neighborhood will suffer.

Thank you for listening.

Vincenzo Marotta
Ocean Ridge Condominium Owner

Barbara Barhydt - Public comment to Casco Heights Project

From: Jeff Degan <jrdegan@gmail.com>
To: <bab@portlandmaine.gov>
Date: Sunday, May 04, 2014 11:13 AM
Subject: Public comment to Casco Heights Project

Dear City of Portland Planning Board:

I am writing to express my opposition to the proposed Casco Heights Project.

I am very concerned that one of largest undeveloped tracts of land in the city will soon be the site of an over-sized development, a development which would be in glaring conflict with the existing neighborhood's character.

Furthermore, I am vigorously opposed to seeing Portland's third-highest elevation blasted away in order to accommodate the development's design. This is totally unacceptable. Please preserve this natural landmark.

I strongly encourage the Planning Board to utilize its power under the Code of Ordinances, Chapter 14, Sec. 14-62, which supports conditions and restrictions on the physical development and operation of the property. The scale and density of the proposed project alone is reason enough to reject it, given the neighborhood's characteristics. This project is too massive and tall given the surrounding area.

Sincerely,

Jeffrey Degan

Antoinette Mancusi
58 Ridge Road
Portland, Maine 04103

City of Portland, City Hall
389 Congress Street
Portland, Me. 04101

Attn: Barbara Barhydt, Development Review Services Manager

May 4, 2014

Via email: bab@portlandmaine.gov

RE: Public Comment to "Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development)"

Dear Portland Planning Board/City Council:

As a resident of the Ocean Ridge Condominium Association (ORCA) I am extremely concerned about the proposed Casco Heights project. Clearly, the planning board/city council, by virtue of the City of Portland Code of Ordinances, Chapter 14, DIVISION 1.5. CONDITIONAL OR CONTRACT ZONING Sec. 14-60, has the authority to impose conditions and restrictions on such a project. I am hopeful that the board/council will reflect upon the negative consequences that this project will have on ORCA and the surrounding neighborhood and impose conditions/restrictions that will protect us.

First, it is vital to acknowledge the extraordinary difference in backdrop that exists between the original 2004 decision (granting the conditional contract zoning agreement) and TEN years later—2014. There are currently 46 family homes directly adjacent to the proposed project. We exist now. We did not then. The feasibility of this project must be analyzed under the current context—not the context that existed an entire decade ago.

Moreover, the developer's proposed amendments have moved the structures so close to our homes that there would be an enormous negative impact on ORCA. I urge the Planning Board and City Council to utilize their authority to set conditions and restrictions permissible under Sec. 14-62. The conditions and restrictions imposed must:

- 1) Restrict the scale and density of this development; it's a monolith. It is too large given the tract of buildable land and natural surroundings. The proposed height is still too tall — it is not compatible with ORCA nor is it compatible with our neighborhood.
- 2) Preserve our open space and buffers, and protect our natural areas and historic sites; the proposed project does not provide a sufficient buffer. It's too too close to ORCA. The current proposal would also require a magnitude of blasting that is of great concern to us. Moreover, Ms. Doyle, the developer/owner, specifically told us at the first neighborhood meeting that the USGS marker representing the 3rd highest point in our City would be blasted. She remarked it would just be moved! How could this be reasonable and consistent with the City's comprehensive plan?

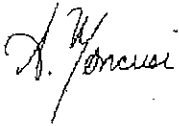
Although I attended the first neighborhood meeting, very little information was provided by Ms. Doyle. As a result, I am unable to comment on other elements of this proposed project that will certainly come into play such as:

- Specifications for the design and layout of buildings and other improvements;
- Schedules for commencement and completion of construction;
- Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
- Contributions toward the provision of municipal services required by the development; and
- Provisions for enforcement and remedies for breach of any condition or restriction.

I reserve judgment/commentary on these elements until the time we have more information.

As an aside, on the matter of the neighborhood meeting, let me say that I was quite disappointed that Ms. Doyle felt it necessary to utilize scare tactics on the meeting's attendees. She, in essence, described our options as being threefold; the original 2004 building plan, the 2014 proposed plan (at issue currently) or, potential clear cutting to build a multitude of homes. I find all these options utterly unacceptable given the aforementioned reasons and implore the Planning Board/City Council to utilize its authority in controlling any such project on Graves Hill.

Sincerely,



Antoinette Mancusi

Barbara Barhydt - Comments regarding proposed Casco Heights development

From: Jon Camire <jon_camire@yahoo.com>
To: "BAB@portlandmaine.gov" <BAB@portlandmaine.gov>
Date: Sunday, May 04, 2014 7:10 PM
Subject: Comments regarding proposed Casco Heights development

Dear Portland Planning Board Members:

My name is Jonathan Camire. I am a resident living at 173 Ridge Rd in the Ocean Ridge Condominiums, and I would like to express my concerns with the proposed Casco Heights development at 802 Ocean Avenue.

As proposed, this Casco Heights development presents the following major concerns:

The type, size and height of this development are completely inconsistent with the character of the surrounding area along Ocean Avenue. The area consists of many single family homes along with several condominium projects with multiple townhouse buildings containing a few units each with 2-3 floors. Construction of multiple 75-foot buildings containing 47 units comprising 70,000 square feet or more each cannot be considered consistent with the current or desired nature of this area of the Portland community.

[if !supportLists]-->2. Construction of the proposed Casco Heights project would require substantial geological blasting of the ledge that makes up Graves Hill and the surrounding area. Given the very close proximity of the Ocean Ridge condominiums of which I am a resident, I am very concerned about potential for damage to underground utilities, foundations or the skeletal structure of the existing buildings in the area.

[if !supportLists]-->3. The scale of the development will significantly increase traffic in the area. The section of pavement on Ocean Avenue from Presumpscot St. to Washington Ave. has historically shown to deteriorate very quickly, and is often in disrepair. The eventual addition of 150+ vehicles, not to mention the coming and goings of the construction equipment and the ledge blasting, will only serve to exacerbate the condition of this section of Ocean Avenue.

[if !supportLists]-->4. The area of Ocean Avenue adjacent to Graves Hill has no sidewalk and no easy ability to park on the street near the development. The number of parking spaces allocated to this project is woefully inadequate for residents, their visitors, and the potential public that will seek to use the trail system that is part of the development. This presents the potential of public safety issues along Ocean Avenue, but also presents the possibility that Casco Heights residents, visitors or the public trail users will seek to park in the Ocean Ridge condominiums or other surrounding developments, potentially disrupting the surrounding community.

These issues with the proposed Casco Heights development leave me very concerned about the potential impact to the nature, comfort and value of my neighborhood and personal residence. I trust you will take these concerns under advisement when considering the Casco Heights development.

Thank you for the opportunity to comment.

Sincerely,

Jonathan Camire

From: Pam <pamela630@gmail.com>
To: "bab@portlandmaine.gov" <bab@portlandmaine.gov>
Date: Monday, May 05, 2014 1:08 AM
Subject: Casco Heights project

Dear Board Members,
I'm very concerned and worried about this new project that is proposed on Ocean Ave close to my home at Oceanridge..

I understand the density and height of the proposed buildings is not what is considered acceptable use of that land.

My biggest issue is that the blasting is going to damage my home and endanger the natural habitat that exists there. My condo sits close to the edge and I want to be assured that my home won't be damaged.

I also expect that IF this project is approved that I should see my property taxes go down. This obviously devalues my home.

I await a thoughtful decision of the board.

Pam Anzelc

Sent from my iPhone

Jennifer Yeaton - Fwd: Public Comment re. Proposed Casco Heights Condo (Towers) Project

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/5/2014 11:56 AM
Subject: Fwd: Public Comment re. Proposed Casco Heights Condo (Towers) Project

PC11

public comment

>>> Jade Arn <jadearn@hotmail.com> Monday, May 05, 2014 11:18 AM >>>
Good Morning,

As a North Deering resident, I am submitting this public comment to express my concerns regarding the Casco Heights Development Project as proposed. The scale and nature of this project are not consistent with the area. The magnitude of the development will bring population density and all of its associated noise, traffic, etc. to an otherwise quiet residential area. The architecture, size, height and design is totally out of place off the peninsula. As a taxpayer, I feel that this project jeopardizes the desirable characteristics of the neighborhood and may have a negative impact on livability and property values as a result.

I urge the Planning Board to deny approval of this project as it is currently planned.

Thank you for your consideration.

Sincerely,

Jade Arn

PC12

Jennifer Yeaton - Fwd: Casco Heights Project - Urgent Appeal

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/5/2014 1:50 PM
Subject: Fwd: Casco Heights Project - Urgent Appeal

public comment

>>> <danielsmediaco@gmail.com> Monday, May 05, 2014 1:46 PM >>>
May 5, 2014

Dear Planning Board - City of Portland:

It has been brought to my attention that a developer is trying to get a behemoth project passed in Portland which is most out of character with the charming neighborhood in which it would potentially be situated in. Please review this plan scrupulously and insist that the developer's plan remain consistent with it's neighbors and residents/families in the area.

A 95 unit high rise apartment complex is outrageous in this area!
Portland is a gem. Keep it that way!

Please help keep the quality of life at its highest level in Casco Heights.

Sincerely,

Helen Daniels

May 6 2014

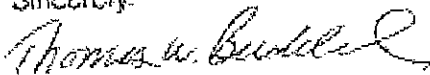
Thomas & Sheila Buckland
95 Ridge Road
Portland, ME 04103

To: Portland Planning Board.

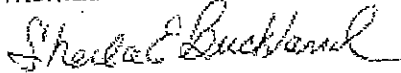
As residents of Portland we oppose the Casco Heights development. The proposed project is out of character with the Neighborhood. The density of the project would effect neighborhood livability and negatively impact the traffic patterns and congestion of Ocean avenue and Washington Street. To build in the location would require tremendous blasting efforts and possibly endanger surrounding structures.

These are just some of the reasons we oppose the Casco Heights development project and do not support it.

Sincerely,



Thomas W. Buckland



Sheila E. Buckland

May 5, 2014

To: Portland Planning Board
From: Sabrina Nickerson, Randy Judkins Residents at Ocean Ridge Condominiums

Dear Planning Board,

As residents of Ocean Ridge Condominiums, we are speaking today because we truly want to protect what is good in our neighborhood. As much as possible we want to preserve our surrounding hardwood forest, vernal pools and the 3rd highest peak in the city of Portland. In addition, we seek to maintain the unique character and style of the architecture of our Ocean Avenue Neighborhood.

We certainly understand that the abutting property, the proposed Casco Heights Development is a candidate for construction. We'd like to ask then, "Is Casco Heights Project a good example of smart growth and responsible land use?"

In regards to the proposed Casco Heights project, we have some questions:

- 1) Given the proposed changes in the footprint of the two large buildings and adjoining parking lots, I would ask the planning board to consider the preservation of this unique hardwood forest, the vernal pools and the third highest peak known historically as 'Graves Hill'.
- 2) Will the board please consider that the current footprint and proposed height of the tower-like structure will create visual blight and most assuredly block much needed sunlight and solar gain for our Ocean Ridge homeowners.
- 3) How much damage to our existing homes will be realized with extended and prolonged amounts of blasting during Phase 1 and then during Phase 2 of this building project? Should any damage occur during or after this prolonged blasting, what kind of assurance do we have that the developers will take responsibility and fix any related damages?
- 4) How mindful and environmentally responsible will efforts be for habitat restoration after all the blasting, building and road construction?
- 5) Is the proposed development IN character with the surrounding architecture, the scale, density and livability?
- 6) We respectfully request that the Planning Board reconsider Casco Heights' original buffer zone of at least 100 ft which was adjusted to 80 feet when a new plan was proposed a few years later when Ocean Ridge Condominiums were not yet constructed.

Thank you for your consideration,
Respectfully submitted,

Sabrina T. Nickerson
and Randy Judkins
54 Ridge Road
Portland, Maine

Jennifer Yeaton - Fwd: May 6 Planning Board Workshop: Proposed Casco Heights Project at 802-828 Ocean Avenue

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/5/2014 3:49 PM
Subject: Fwd: May 6 Planning Board Workshop: Proposed Casco Heights Project at 802-828 Ocean Avenue

public comment

>>> Jean Mattimore <jeanmattimore@gmail.com> Monday, May 05, 2014 2:52 PM >>>
TO: Barbara Barhydt, Development Review Manager, Planning Division

Dear Ms. Barhydt,

As an owner in the Ocean Ridge condominium community, I'd like to express several concerns about the proposed development being considered. They also relate directly to the mission of the Planning Division as stated on your website:

"We plan Portland's future by building upon the City's distinct historic, cultural and natural assets to achieve a livable and sustainable built and natural environment, exemplified by dignified and engaging public spaces, a strong sense of community, and a diversity of healthy neighborhoods and business districts comprising a vibrant urban center."

- The proposed development will add significant traffic to the already heavily traveled Ocean Avenue and surrounding roads, challenging the safety and sense of community in the area.
- The addition of so many units in an already densely populated area can affect the livable quality of the neighborhood and some of its valuable natural environment.
- The design, scale and density of the proposed plan is inconsistent with the character of other buildings in the area, including other condominium communities such as Ocean Ridge.
- The blasting this project will require could materially affect the stone ridge we would share. That, in turn, could have a substantial impact on our homes.
- These factors could affect the value and sustainability of our property.

Thank you for including these comments as the Planning Board considers this proposal at its workshop.

Jean Mattimore

147 Ridge Road

Portland, ME 04103

Jennifer Yeaton - concerns

From: <Gfdb115@aol.com>
To: <bab@portlandmaine.gov>
Date: 5/5/2014 7:36 PM
Subject: concerns

I'm not certain I will be able to attend the Planning Board Meeting but I have similar concerns about the project that have already been expressed, namely:

1. The scope of the project
2. The environmental impact the project would have on populations density and traffic on Ocean and Washington Avenues.
3. Impact on property values at Ocean Ridge
4. The amount of blasting that would be required.

Gene DiBenedetto

Jennifer Yeaton - Fwd: Casco Heights Condominium project

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/6/2014 8:11 AM
Subject: Fwd: Casco Heights Condominium project

Public Comment

>>> "Richard, Judith" <Judy.Richard@astellas.com> Monday, May 05, 2014 9:39 PM >>>
 My apologies for the late comments, I had a death in the family and couldn't respond sooner.

I would like to voice my concerns regarding the proposed Casco Heights Condominium project and request the planning board consider these concerns and make appropriate changes/recommendations to the proposed project.

1. The proposed Casco Heights Condominiums are totally out of character with anything in the neighborhood. It is out of scale for the neighborhood as there are no buildings that high anywhere near the proposed area and a development like this would stick out. It is just not consistent with the neighborhood as it is mainly single family living consisting of two or three levels. This would have a negative financial impact on property values in the area. The original plan was to have "luxury" condominiums and that has changed significantly by decreasing the amenities, etc.
2. The proposed project would consist of 94 or 98 units – 1 bedroom, 2 bedrooms and 3 bedrooms. That would bring a considerable amount of people to the area thus having an impact on traffic, which is already heavy enough without this additional load. The impacted areas would be Ocean Avenue, Presumpscott Street and Washington Avenue. There is already an overload of traffic in this area. Also, there are several schools in the area that children walk to and this development would significantly increase the traffic in the area.
3. The proposed condominium project would have a negative impact on quality of life by significantly creating density on that part of Ocean Avenue. There are already several condominium, apartment projects and Nursing Home/Rehab facility that create a lot of traffic. Air quality by the significant increase in vehicles would be diminished and the blasting necessary to develop the project would affect so many people.
4. The proposed entrance to Casco Heights is too close to the entrance to Ridge Road and this would create a danger to have two entrances so close together with people trying to enter and exit at the same time.
5. Can our existing municipal services handle the extra load on our schools, roads, water and sewer and garbage removal? Will the increase in tax revenue offset the costs to the school system? I doubt it. The original proposal was for luxury condominiums which would have brought in more tax revenues than the current proposal.
6. Lastly, but not of least importance, is the concern of one of the partners in this development. He was involved in Ocean Ridge Condominiums and we are still paying for his failure to complete the project and his cutting of corners. Ocean Ridge was not completed per his contractual obligations and per the specifications and this has cost the residents a lot of money for his failure to meet his obligations. What if this happens at Casco Heights? This will also negatively impact property values.

I don't object to the rights of a property owner to develop his or her land. However, I do object to the

suitability of the project for the neighborhood and recommend a different type of development that is more suitable to the neighborhood. I want to be assured that any blasting that is done does not result in any damage to surrounding properties. I also want to live in a neighborhood where I don't have to worry about entering and leaving my property and feel safe with where the entrance/exit is located.

Thank you for your consideration.

Regards,

Judy Richard

Senior Corporate Account Director

Astellas Pharma US, Inc.

(207) 879-7373 Office

(207) 712-3230 Cell



PC18

Jennifer Yeaton - Fwd: Casco Heights

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/6/2014 2:59 PM
Subject: Fwd: Casco Heights

public comment

>>> "Glenna Irvine" <gmirvine2003@yahoo.com> Tuesday, May 06, 2014 1:31 PM >>>
I wanted to take a moment to share my views/concerns regarding the Casco Heights Project.

As the President of the Ocean Ridge Condo Association and an owner myself, I have heard from numerous owners. The main concerns are:

- Disruption of the natural habitat – frogs, birds, trees, deer, fox, etc.
- The escalated noise level from having a site so close to Ocean Ridge condo Association
- Based on the tape marking off the lot – the buildings appear to be extremely close – leaving no barrier between Ocean Ridge Condo Association and Casco Heights – having the appearance of clear cutting.
- Damage to our buildings as a result of the blasting
- Potential property devaluation. Ocean Ridge Condo Association was not in existence when Graves Hill/Casco Heights was approved to be built so owners purchased a very private, wooded scenic landscape. That will no longer exist as a result of this project.
- Developer – Tinsman – built Ocean Ridge and we are still making repairs from the poor workmanship and incomplete items.
- Additional traffic on both Ocean Avenue and Washington Avenue. Ocean Avenue is and has been in very poor condition for years. So additional traffic would certainly not improve that situation. Washington Avenue is a mess. It is literally bumper to bumper traffic day and night.

As a Real Estate Broker, I think the above concerns are valid. I have sold a number of condos in Ocean Ridge as well as other associations in Portland. The big draw for buyers looking at Ocean Ridge is the close proximity to downtown Portland and the very peaceful, quiet, natural setting. That would change if we don't have a significant barrier between the two communities. If a significant barrier with trees and natural habitat are left so that there is still an element of privacy, I don't think it will have as significant impact on the resale value.

Please feel free to contact me,

Glenna Irvine
91 ridge Rd
Portland, ME 04103
207-749-9098

Jennifer Yeaton - Fwd: FW: Wellstone Condominium Association

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/6/2014 3:03 PM
Subject: Fwd: FW: Wellstone Condominium Association

Public Comment

>>> Jeanette Haskell <jeanette@mainpropertiesinc.com> Tuesday, May 06, 2014 2:05 PM >>>

Barbara

Per our conversation this morning regarding the meeting scheduled this evening for Ridge Development LLC the Board of Wellstone Condo Association would ask that the Planning Board take into consideration the following. After the prior blasting and development surrounding the Wellstone property the Association experienced leaks in the basements of 12+ units and they had to install battery backup sump pumps to keep the basements dry. The Association has also hired a contractor to repair many of these basement walls which were not a problem prior to the blasting. The Association did not experience water issues in these basements prior to the blasting. They continue to have issues today and are concerned that the blasting created a fissure in the ledge that has somehow changed the water flow. The Association just spent \$35,000 to do additional drainage work due to changes in ground water flow which they feel may have been caused by the blasting as well.

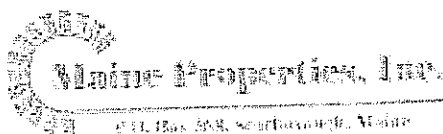
There are also some concerns about water flow from Ridge Development displacing water to the ditches (as engineers are designing). My understanding is that the plan is to direct the water to the Ocean Ave. ditch which then flows under Ocean Ave. just above the bus stop up the street from Wellstone. This would have an impact on increasing the level of the water table here as we are already experiencing this from the previous development. Presently, the water table is just under the slab of several buildings.

Please let me know if you have any questions.

Thank you

Jeanette

Jeanette Haskell, CMCA
Maine Properties, Inc.
207-883-3753
Fax: 207-883-2135
E-mail: jeanette@mainpropertiesinc.com



Jennifer Yeaton - Fwd: Workshop of 5/6/2014

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/7/2014 8:18 AM
Subject: Fwd: Workshop of 5/6/2014

public comment

>>> Ocean Ridge <concerned.orca@gmail.com> Wednesday, May 07, 2014 8:15 AM >>>

To members of the Planning Board:

As an owner at Ocean Ridge I attended and spoke at the workshop on 5/7/14 on the Casco Heights project.

I offer these brief post-meeting comments:

1. Carol Morrissette characterized the potential decision, at first glance, as a "...no brainer..." given that the height of the buildings was reduced from a controversial 100' to 75'. I remind her that as the building came down 25', their footprints expanded by 100' so as to maintain essentially the same occupancy and infringe closer to the buildings of Ocean Ridge.
2. Several PB members characterized the Amendment as having "...lesser impact..." I respectfully and forcefully disagree with this characterization. The density is unchanged, the adequacy of parking continues to be questionable, the buffer to adjacent properties is less and the water drainage to Ocean Avenue and down-the-hill residences is still problematic.
3. Bill Hall in his comments "...look at the big picture..." and "...appropriateness after a decade..." seems to be thinking correctly. Is the scope of this project good for the City of Portland generally and do we want to disrupt the neighborhood?
4. Eventual development of the acreage in question is inevitable and welcome. But please keep in mind the neighborhood, the environment and the City.

Respectfully,

Frank W. Pandolfo

Owner at 146 Ridge Road

Jennifer Yeaton - Fwd: Re: 5-6-2014 City Plan. Div.Meeting regarding Ridge 802....Ocean Ave

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 5/7/2014 8:03 AM
Subject: Fwd: Re: 5-6-2014 City Plan. Div.Meeting regarding Ridge 802....Ocean Ave

public comment

>>> Linda Belanger <lindaportlandmaine@yahoo.com> Wednesday, May 07, 2014 6:41 AM >>>
Dear Barbara,

Re: 5-6-2014 City Plan. Div.Meeting regarding Ridge 802....Ocean Ave.

I feel I must clarify something that was misinterpreted at last night's meeting. The Chairman stated that everyone that voiced opinions and concerns from the public sector appeared to "not be in favor" of the Ridge project. I don't recall saying that I was not in favor. I would like to apologize if I misled the board without realizing it. I began by saying that I was not going to say one way or the other about being in favor or not with regards to the general proposal, that I was there to mainly listen and learn about the process. I went on to say that I had two major concerns (1. the blasting and 2. water flow) I also stated that the Wellstone complex has experienced actual problems associated with this two issues over the last 28 years due to development that has taken place in the area.
Thank you.

Best Regards,
Linda Belanger, Wellstone Condominium Board member, Portland

**Questions for Workshop
Portland Planning Board
May 6th @ 6 PM**

Geology/Blasting/Environmental Survey/Site Plans

1. Geology – Graves Hill is a geologically unique place in Cumberland County and the State of Maine according to a Professor at USM. The whole area has been subjected to fault-type shearing that is reflected in the overall texture of the rock. The weaker rock in this case is the foliated metamorphic rocks that flank the mass of granite that makes up Graves Hill. You can see this in the steep grade of the entry drive into Ocean Ridge Condos. This is why the 13 buildings of Ocean Ridge were built on top of the mass of granite and not excavated in to the mass. My question to the Planning Board is whether the plans have taken this into account and how would it affect the stability of the granite mass known as Graves Hill?
2. Blasting – I would like to raise the issue of blasting, and potential issues resulting therefrom. What are the regulations in place to limit any adverse effects of Blasting? Does the Planning Board require a project bond (in an adequate amount) in light of the blasting/fault lines and other safety concerns?
3. Environmental Survey and Site Plan – Has there been an Environmental Survey done? Is there an up to date to the Site Plan? Has there been site consideration for the protection of the natural areas and historic sites.

Thank you,
Chuck Grossman
175 Ridge Road

>>> Lesli Rodgers <LRodgers@buxtonco.com> Wednesday, May 07, 2014 10:02 AM >>>
TO: Barbara Barhydt, Development Review Services Manager

Unfortunately, I could not attend last night's workshop due to a prior commitment. But I wanted to make sure I was letting you know of my concern regarding this proposed condominium project - Casco Heights.

As a resident of Ocean Ridge, this proposed project would be right next door. While I have no objections to neighbors, I am concerned that this project will considerably change and deteriorate the neighborhood already in existence.

None of the homes in this area are more than a few stories ... it is my understanding that Casco "Heights" is proposing to build two towers, up to or exceeding 75' in height. This will dramatically change the sky line here, especially as the proposed building site is already on a hill.

It is also my understanding that these towers are meant to include 94 units...in a relatively small footprint. None of the surrounding area tries to compact so many people into such a small space. The impact on the neighborhood of an additional 94 families in terms of traffic, garbage, noise, pollution, etc. is certainly something never anticipated when I purchased my home here 5 years ago.

I'm not sure of what the options here are for a private citizen...or how far along the road to inevitability this proposed project is. But I have to voice my concern...and I would very much appreciate it if you (or someone else on your team) could let me know what I can personally do to stop this project from moving forward.

I look forward to your response. Thank you.

Lesli Rodgers
145 Ridge Road
Portland, ME 04103

Jennifer Yeaton - Fwd: Casco Heights Development

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 6/4/2014 4:22 PM
Subject: Fwd: Casco Heights Development

public comment

>>> <Gfdb115@aol.com> Wednesday, June 04, 2014 3:38 PM >>>
To The Planning Board

I would like to express my concerns regarding the development of the Casco Heights Project on Graves Hill. My concerns are the following:

1. The proposed construction is out of character with the surrounding neighborhood. All surrounding buildings are 3 stories or less.
2. An environmental impact study should be conducted and the results made available to local residents. My chief concerns are traffic on Ocean and Washington Avenues, water, drainage, destruction of trees and shrubs and the negative effects on wildlife.
3. The scope of the project is too ambitious; namely 94 units in 75 foot buildings which will have a negative impact on the area.
4. An enormous amount of blasting will no doubt be required with potential damage to adjacent buildings. What financial provisions have been made by the developers to underwrite repairs to neighboring buildings, especially Ocean Ridge.
5. The project will have a negative impact on neighbors, namely livability, safety and a sense of community.
6. Another consideration is the potential negative effect the project will have on property values.

Thank you for your attention on this important matter.

Sincerely,
Gene DiBenedetto
17 Osprey Terrace

Richard L. Kessler
50 Ridge Road
Portland, ME 04103

Phone: 207-899-0066
Email: rkessler5@yahoo.com

To: Barbara Barhydt

The proposed development of 802-928 Ocean Avenue (aka Graves Hill) presented to the Portland Planning Board by Doyle Enterprises will have substantial consequences for neighbors of the property, impact traffic and livability in the community and is generally inappropriate for off-peninsula Portland.

1. Building height of 75' is inappropriate for off-peninsula location. All surrounding buildings are 3 stories or less. This includes private homes, Summer Place, Wellstone, Ocean Ridge, Ledgewood, Townhouses at Ocean East, Oceanwoods, The Cedars (even it latest addition of a nursing home facility), Alden's Walk and Martins Point.
2. The addition of 94 residential units and likely 200+ automobiles will impact traffic and safety. Ocean Avenue is narrow, offers no safe option for on-street parking and should have sidewalks and bike paths. A traffic study should be done.
3. Condos east of Ocean Avenue claim to have water seepage in basements. The problem will be exacerbated with Casco Heights development. A proper engineering study is requested.
4. Doyle Enterprises was advised by the Planning Board to consult with neighbors and interested parties prior to amending the site plan provided to the Board at the May 9, 2014 meeting. The revision was submitted; the offer to meet with neighbors arrived later. Concerned parties seem to be an afterthought.
5. The original 2004 proposal called for two 100' towers, 98 residential units, 2 levels of underground parking, amenities (office, exercise room, x-country ski room and community center). A smaller building footprint was posed further down Graves Hill and, importantly, offered a more reasonable buffer to adjacent properties. The 2014 proposal reduces the controversial 100' height to 75' but expands the footprint so as to maintain essentially the same residential density (98 vs. 94 units). Also, all amenities are eliminated, construction changed from steel/concrete to less expensive wood frame and buffers are reduced. Profit motive seems to be at play here.
6. The project will require enormous amounts of blasting in granite. Damage to adjacent buildings is a possibility. Engineers must determine the range of potential damage, all structure

"camera-ed" before blasting and an insurance bond on the order of \$20,000,000 should be in place.

7. Development of Graves Hill is inevitable and should be welcomed by all Portlanders. However, reasonableness must prevail. Considerations must include scale, density, livability, community, safety and environment.

I was born and raised in Portland and have lived at 60 Ridge road for 10 years. Doyle Enterprises wants out from the property so they need to have changes made to sell a package. I get it but am not happy that it affects all abutting owners and my unit with such an impact. Directly behind, no privacy at all.

The City has a reputation for approving and then letting the plans be completely altered. The original foot print gave everyone plenty of privacy and was well laid out. Do the right thing and have them come up with a better plan so we can all be happy.

Thank you,

Richard L. Kessler

Jennifer Yeaton - Fwd: CASCO HEIGHTS

From: Barbara Sarhydt
To: Yeaton, Jennifer
Date: 7/1/2014 12:34 PM
Subject: Fwd: CASCO HEIGHTS

public comment

>>> Lesli Rodgers <LRodgers@buxtonco.com> Monday, June 30, 2014 12:14 PM >>>
To Whom It May Concern:

Unfortunately, I have prior commitments on July 8, so will not be able to attend the upcoming planning meeting where it is my understanding this development is to be addressed. I am therefore sending you my expression of concern, in the hopes that it will be shared with those on the planning committee.

As a resident of Ocean Ridge, I am naturally interested in any new development of the area. When it comes to development of land that is virtually on top of our community, I am more than just interested...I'm concerned. It is my understanding that these structures will be approximately 6-7 stories high...sitting on top of the hill, this will definitely change the skyline in this immediate area, putting the buildings well above the height of the mature and lovely trees that surround us. These would stick out like the proverbial sore thumbs and ruin the atmosphere that we've worked so hard to maintain not only in our development, but those surrounding us as well. Such buildings would definitely NOT blend into the neighborhood.

I'm not an engineer, but it is basic common sense that to build up to that height, they're going to have to dig down to a significant level with the support structure. As the area around here is mostly rock, I dread to think what the ramifications of blasting would be. My biggest concern would be that blasting would have to be substantial, prolonged, and at very close range...this cannot help but have a detrimental impact on the structures in Ocean Ridge.

If I am reading the preliminary plans correctly, Casco Heights has an easement that runs through Ocean Ridge, and this is how access to Casco Heights would be achieved. This would more than double the amount of traffic on Ridge Road, to serve the 96 (?) units proposed in the new development, compared to the 45 (or so?) units in Ocean Ridge. Considering that the existing community has a number of pet owners who walk their dogs, children who play outside, and health enthusiasts who walk the roads and trails, this additional traffic will detract from the environment as well as safety of current residents to a significant degree.

I fully understand that the designated land will be developed at some point...but I would sincerely hope that such development would be in keeping with the area as it exists today, with reasonable expectations for the impact on the environment as well as existing residents. I don't believe Casco Heights has taken these factors into consideration, but sincerely hope that the planning commission will.

Thank you.

Lesli Rodgers
VP/Marketing Services
BUXTON
207-899-0623 - Direct
817-332-3681 - Switchboard
203-940-3762 - Cell

PC27

Jennifer Veaton - Fwd: HIGHLY OPPOSED TO Casco Heights Condominiums!!!!!!!!

From: Barbara Barhydt
To: Veaton, Jennifer
Date: 7/1/2014 12:35 PM
Subject: Fwd: HIGHLY OPPOSED TO Casco Heights Condominiums!!!!!!!!

public comment

>>> Robin Schulte <robin.schulte@gmail.com> Monday, June 30, 2014 1:32 PM >>>
I am a resident of Alden's Walk and I am writing to let you know that my husband and I are highly opposed to this project. The condominiums will virtually destroy the woods behind our home where we walk on trails with our dog and replace them with concrete and cars and congestion on Ocean Avenue and virtually ruin the tranquility of the area, not to mention affect property values. I truly feel as if this will totally change our ability to live comfortably in this area.

Robin Schulte & Jim Fairbanks
19 Wildwood Circle
Alden's Walk

PC28

May 5, 2014

Dear Planning Board - City of Portland:

It has been brought to my attention that a developer is trying to get a behemoth project passed in Portland which is most out of character with the charming neighborhood in which it would potentially be situated in. Please review this plan scrupulously and insist that the developer's plan remain consistent with it's neighbors and residents/families in the area.

A 95 unit high rise apartment complex is outrageous in this area!
Portland is a gem. Keep it that way!

Please help keep the quality of life at its highest level in Casco Heights.
Sincerely,

Helen Daniels

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

> "Fair Take and Give" meeting - Sunday, June 23, 2014 2:14 P.

Dear Board members,

I understand you'll be voting on the Essex Heights project this week. I've seen property studies and the enormous size of this project. I am very concerned that blasting and building this close to my property at Oceanridge Condominiums will not only lower my property value but will actually damage my home, especially the foundation. What assurances will I be given that my home won't be disturbed? Who will pay if damage occurs? I'm all for new development, but think this project is too big and too dense for that piece of land. Thanks for your careful consideration. I hope protection of your current taxpayers' property is considered.

Pamela Anzelc

Sent from my iPhone

file:///C:/Users/JMY/AppData/Local/Temp/XPgrpwise/53B2A7F1PortlandCityHall1001346... 7/1/2014

PC30

Jennifer Yeaton - Fwd: RE: Ridge Development

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 7/1/2014 12:08 PM
Subject: Fwd: RE: Ridge Development

public comment for Casco Heights

>>> Carol Hayden <sfocph@aol.com> Saturday, June 28, 2014 1:31 PM >>>
I am a homeowner east and downhill of the proposed development and I attended the site walk last week. My concerns, aside from the obvious impact on the neighborhood with increased traffic and the noise that goes along with a construction site of this size, is the need to mitigate water run off downhill. There is a small stream that runs in a gully in my backyard and after a good rain it swells to considerable size on it's way to a culvert that runs under the road maintained by our association. Without the natural water management the wooded hillside provides I'm concerned that the runoff will exceed the existing ability to keep it in check and create risk for my neighborhood. It is also worth noting that quite a lot of wildlife that lives on the hillside and they will be driven from their habitat with construction. I often see foxes in my backyard since the blasting to provided access for a single home on Ocean and can foresee more on the move.
I will continue to be interested in the progress of this project as will many of my neighbors.

Carol Hayden
45 Ashley Lane

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WITNESSETH:

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17 Aug 2018 09:00:00 [FBI Process Records Confidential Review Agreement] - FBI records~~

WHEREAS, the Planning Board recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the CITY, by and through its City Council has determined that because of the bold and innovative design which:

- promotes efficient land use and conservation of natural resources,
- protects the natural environment by locating the development so as to reduce the impact on environmentally sensitive areas,
- utilizes one of the last large undeveloped tracts of residentially-zoned land to provide housing of a type not currently available in Portland,
- reduces the impact on surrounding properties by minimizing the area to be blasted, preserving natural site amenities, and providing substantial buffers, and
- enhances the recreational trail system in Portland.

it is necessary and appropriate to impose with GRAVES HILL & RIDGE DEVELOPMENT'S agreement the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the CITY'S comprehensive land use plan; and

WHEREAS, the City Council of the CITY authorized the execution of this Agreement on _____, 2008, by City Council Order No. _____, a true copy of which is attached hereto as Attachment I; and

WHEREAS, GRAVES HILL RIDGE DEVELOPMENT has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind GRAVES HILL RIDGE DEVELOPMENT, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, ~~GRAVES~~
~~HILL RIDGE DEVELOPMENT~~ contracts to be bound by the following terms and conditions:

1. The CITY hereby amends the Zoning Map of the City of Portland dated December 2000, as amended from time to time and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by Section 14.49 of the Code, by adopting the map change amendment shown below (re zoning to R-5A and R-OS). If this Agreement is not recorded within thirty (30) days of the City Council's approval of said rezoning sale of the property in Ridge Development (I), or within one hundred and eighty (180) days of the City Council's approval of said rezoning, whichever is later, then the rezoning shall become null and void and the zoning of the Property (together with all conditions) shall revert to

2. GRANDVIEW HILL RIDGE DEVELOPMENT is authorized to establish and maintain the following uses on the R-5A portion of the property:

- a. Up to ~~40~~ 96 residential units located in two buildings, each building containing up to ~~40~~ 48 units, which may be sold as condominium units, resulting in a maximum total of ninety ~~sixty~~ ninety-six (96) residential units within the Property; and
- b. ~~a community room in each building available for use by the residents of the PRUDs and~~
- ~~a small office in each building to be used by employees of the condominium owners' association, only for on-site property management and security; and~~
- ~~a fitness and special events room in each building available for use by the residents of the PRUDs; and~~
- c. ~~a cross-country ski center/locker room in each building available for use by the residents of the PRUDs and~~
- d. parking in an amount of not less than 3 spaces per residential unit one (1) space per one bedroom unit and two (2) spaces per two and three bedroom units, plus at least 28 additional surface visitor parking spaces; and
- e. a trail system traversing the site, extending from Ocean Avenue to connect with the trail system on the R-OS portion of the site. A future recreation area is also permitted, subject to Site Plan Review and approval by the Planning Board.

The uses specified herein supersede the otherwise permitted uses contained within the underlying R-3 and R-5A zones.

3. The use of the R-5A portion of the property, by virtue of this contract rezoning, shall be limited to that of a residential PRUD with the accessory uses described in paragraph 2. The Property may be developed in two phases, Phase I to consist of all necessary blasting for both buildings, one structure containing up to ~~forty-nine~~ (40-48) dwelling units plus all accessory uses associated with that structure, and the entire trail system in both the R-5A and R-OS portions of the Property (excluding only the portion of the trail accessing the building to be constructed in Phase II) and Phase II to consist of the second structure, containing up to ~~forty-nine~~ ~~eight~~ (40-48) dwelling units plus all accessory uses associated therewith and trail sections and roads serving only that structure, all as more fully set forth in the Site Plans.

4. Separate performance guarantees shall be issued for Phases I and II. The amounts and terms of such performance guarantees shall be determined by the Planning Authority at the time of Site Plan and Subdivision approval for each Phase, but each Phase must provide minimum financial guarantees such that each Phase constitutes a separate and complete project. Surface stabilization of any portions of the project area located in Phase II that have been affected by blasting performed during Phase I shall be accomplished prior to the issuance of a Certificate of Occupancy for Phase I, unless construction of Phase II has commenced. The intent of this condition is to ensure a complete site in the event Phase II is never built.

5. ~~GRAVES HILL RIDGE DEVELOPMENT~~ is authorized, and is hereby required pursuant to this Contract Zone Agreement, to establish and maintain the following use on the R-OS portion of the Property:

a trail system, for pedestrian, bicycle and/or other non-motorized use, together with associated benches, bridges, raised walkways, ~~linear recreation areas~~, or similar improvements as necessary to facilitate access.

The R-OS portion of the Property not used as aforesaid shall be left in its natural state, and natural features, mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.

6. ~~GRAVES HILL RIDGE DEVELOPMENT~~ shall grant to Portland Trails, a Maine nonprofit corporation, a recreational trail easement at least five feet in width for trails on the R-5A portion of the Property and ten feet in width for trails on the R-OS portion of the property, extending for a distance of not less than 3,207 linear feet, to allow for passive recreational use by the general public. The easement may impose reasonable restrictions upon the trail use, including the following: Permitted uses are limited to low-impact recreational uses, including, without limitation, walking, hiking, nature viewing, photography, mountain biking, cross-country skiing, snowshoeing, walking dogs on leashes as long as dog owners pick up after their dogs, and educational programs. Prohibited uses include, but are not necessarily limited to, motorized vehicles (except for authorized trail construction, repair or maintenance), camping, fires, horses, removing, cutting, or otherwise altering trees, branches, and other vegetation (except for authorized trail construction, repair and maintenance, to restore native flora and fauna, or to remove invasive or dangerous flora and fauna), any filling, excavation or alteration of the surface of the earth other than for authorized trail construction, repair or maintenance purposes, any disposal of rubbish, garbage or other waste material, hunting, trapping, wildlife collecting, any loud activities which disturb others, all overnight uses, and other activities which have a high impact by degrading or destroying the natural resource values of the property or which conflict with the rights of other users for a quiet, peaceful and contemplative experience in a natural area. In no event shall any of the above prohibited uses interfere with the right to construct, repair and maintain a recreational trail and associated recreational structures. The hours of use may be strictly limited to daylight hours. The easement may authorize ~~GRAVES HILL RIDGE DEVELOPMENT~~, its successors and assigns, ~~Graves Hill Ridge Development Condominium Owners' Association~~, and Portland Trails to enforce those restrictions. In the alternative, instead of granting a trail easement on the R-OS portion of the Property, ~~GRAVES HILL RIDGE DEVELOPMENT~~ may opt to convey the R-OS portion of the Property to Portland Trails in fee, with such

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Zone Identification and Phasing Identification submitted by ~~Richardson and Associates~~ (last revised August 16, 2004), ~~Sehago Technion~~ (last revised May 2011) and the Proposed Building Design site sections, building sections and floor plans submitted by ~~Scott Simons Architects~~ (last revised July 8, 2004), ~~Archetype PA~~ (last revised May 2014) and the preliminary ~~location~~ ~~from~~ ~~Madawaska Island~~ (updated, submitted August 17, 2004), attached hereto. The Ridge Development entrance on Ocean Avenue as shown on the site plan shall achieve separation from Ridge Road to the maximum extent practicable be at the location shown on said Site Plans subject to site plan review by the Planning Board and the City hereby grants consideration of such waivers as may be necessary to permit the entrance in that proximity to adjacent driveways; provided, however, ~~that at the request of RIDGE DEVELOPMENT, with the approval of the Planning Board, the site~~ that at the request of RIDGE DEVELOPMENT, with the approval of the Planning Board, the site ~~final Planning Board approved location of the entrance may be moved up to 20 feet southerly of the location shown~~ from the location on the attached site plan without any further amendment to this Contract Zone Agreement. So long as the two residential structures include an approved fire sprinkler system, the required fire access shall be satisfied by the provision of one access road, as shown on the site plan. ~~GRAVES III-L- RIDGE DEVELOPMENT~~ shall provide sidewalk and granite curb along the property's frontage on Ocean Avenue and also as along the frontage of the four intervening residential parcels, or, at the option of the Planning Board, ~~GRAVES III-L- RIDGE DEVELOPMENT~~ shall instead contribute funds equal to the cost of installing sidewalk and granite curbs as aforesaid to the CITY for the CITY to apply toward installing granite curbs and sidewalk in the vicinity of the PROPERTY.

GRAVES HILL RIDGE DEVELOPMENT shall provide a planted buffer as shown on the site plan in the vicinity of the rear lot lines of the buffers whose lots front on Ocean Avenue side of the building adjacent to Ocean Ridge Condominiums, with precise specifications subject to final site plan review. Such planted buffer, in addition to the areas on the site plan designated as "preserve existing trees" and "no cut area" shall remain in perpetuity and shall not be eliminated by GRAVES HILL RIDGE DEVELOPMENT or its successors, provided that, to the extent applicable, the planted buffer may be maintained according to standards contained within the *National Arborist Association, Inc. Standards for Tree Care Operations*. Furthermore, while GRAVES HILL RIDGE DEVELOPMENT shall provide at least 3,207 linear feet of pedestrian trails in the general configuration shown on the plans, it is stipulated that the pedestri-

no trails shown on the attached plans are for diagrammatic purposes only, and actual proposed trail locations will be submitted to and reviewed by the Planning Board as part of the site plan process.

3. The Planning Board shall review and approve Phase I and Phase II of this development according to the subdivision and site plan provisions of the Portland Land Use Code.

4. The blasting plan required by Chapter 14, Article VII of the Portland City Code and Section 3 of the City of Portland Technical Manual for issuance of a blasting permit shall be included in the applications for Site Plan and Subdivision Review and shall require final review and approval by the Planning Board, a third-party, independent, seismologist approved and hired by the Planning Authority at the Applicant's expense hereinafter "third-party seismologist").

10. The notification of neighbors required by Section 14-592 of the Portland City Code shall be accomplished by certified mail rather than regular mail.

11. During blasting operations, ground vibration monitoring shall be conducted by an independent third-party seismologist or blasting consultant. RIDGE DEVELOPMENT shall select the independent seismologist or blasting consultant in subject to the review and approval of the City of Portland Planning Authority.

12. Notwithstanding Section 3.7.13 of the City of Portland Technical Manual, the blasting contractor shall be required to carry liability insurance (XCL) coverage in an amount no less than \$4,000,000.00.

13. In addition to the requirements outlined in Paragraphs 9-11 above, RUCON DEVELOPMENT expressly agrees that, with respect to its development of the Property, it will comply with all other provisions relating to the regulation of blasting and explosives contained in Chapter 14 of the Portland City Code and the City of Portland Technical Manual.

149. Any change in ownership shall be brought to the Planning Board for its review and approval, but this requirement shall not apply to the granting of mortgages by GRAVES HILL RIDGE DEVELOPMENT or any successor in interest, or to the enforcement by the mortgagees of their rights under such mortgages, or to the assignment or conveyance of the ownership to an entity in which GRAVES HILL RIDGE DEVELOPMENT and/or Diane Boyle holds at least a 30% interest, nor shall this requirement apply to the conveyance of individual condominium units or to the granting of mortgages upon individual condominium units. Similarly, GRAVES HILL RIDGE DEVELOPMENT or any successor in interest may convey the R-OS portion of the Property to Portland Trails in fee simple and/or may grant trail easements and conservation easements to Portland Trails and/or to the City of Portland as provided above without any further review of the change in ownership by the Planning Board.

1015. For the portion of the Property rezoned R-5A, the dimensional requirements and other zoning requirements for the Property shall be those of the underlying R-5A zone with respect to PRIDs except as follows:

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Except as set forth above, all provisions in Sections 14-126 through 14-131 of the CITY's zoning ordinance shall apply to the portion of the Property rezoned R-5A.

164. For the portion of the Property zoned R-OS, the dimensional requirements and other zoning requirements of the R-OS zone shall apply, except as follows: despite any requirement to the contrary in § 14-158 (g), due to the linkage of the trail system to publicly-owned property which will provide public parking, no off-street parking need be provided on any portion of the Property for visitors projected to use the R-OS portion of the Property and ~~GRAVES HILL RIDGE DEVELOPMENT~~ need not submit any parking needs projections.

4217. The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit GRANITE HILL RIDGE DEVELOPMENT, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit and be enforceable by the CITY, by and through its duly authorized representatives.

4-19. In the event ~~CLAYES-III-RIDGE DEVELOPMENT~~ or its successors should fail to utilize the PROPERTY in accordance with this Agreement, or in the event of ~~CLAYES-III-RIDGE DEVELOPMENT'S~~ breach of any condition(s) set forth in this Agreement which differs from the provisions of Portland's Land Use Code which would otherwise be applicable to property situated in the R-5A or ROS zone, the CITY may prosecute such violations in accordance with 30-A M.R.S.A. §4452, M.R.Civ.P. 80K, or in any other manner available by law.

In addition, if such an enforcement action should result in a finding that ~~GRAVES-HILL~~ RIDGE DEVELOPMENT has breached the Agreement, then either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Conditional Rezoning be modified or the PROPERTY rezoned.

~~429. GRAMBLE-HILL~~ RIDGE DEVELOPMENT shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

4621. Except as expressly modified herein, the development, use and occupancy of the Property shall be governed by and comply with the applicable provisions of the Portland City Code and any applicable amendments thereto or replacements thereof.

WITNESS: CRENSHAW LAND COMPANY RIDGE DEVELOPMENT, LLC

By: Patrick Tinsman
~~Blank~~ Day 1: Patrick Tinsman
 Its Manager

STATE OF MAINE
CUMBERLAND, SS. _____, 200__

Then personally appeared the above-named ~~Marie Doyle Patrick Tinsman~~, Manager of ~~GRAVES HILL LAND COMPANY~~ RIDGE DEVELOPMENT, LLC as aforesaid, and acknowledged the foregoing instrument to be ~~her~~ his free act and deed in ~~her~~ his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney-at-Law

Printed name: _____

My Commission Expires: _____

PC31

Jennifer Yeaton - Fwd: Casco Heights Condominiums

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 7/1/2014 10:56 AM
Subject: Fwd: Casco Heights Condominiums

public comment

>>> Terence Goodwin <tgoodwin1232@gmail.com> Friday, June 27, 2014 6:42 PM >>>
This proposed development should not be approved. It is totally out of character with the neighborhood, and therefore not in compliance with the city's standards for community planning. In addition, it is a serious threat to the integrity and safety of the neighboring buildings and their occupants because of the required heavy blasting. Ocean Ridge, for example, has buried propane tanks and lines which stand a good chance of being damaged, presenting a very real threat of the type of gas explosion such as we saw recently in Yarmouth.

Terence & Barbara Goodwin
1 Wildwood Circle
Portland, ME 04103

PC32

Jennifer Yeaton - Fwd: Casco Heights Project Comments for 7/8/14

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 7/2/2014 7:45 AM
Subject: Fwd: Casco Heights Project Comments for 7/8/14

public comment

>>> "MarMan" <marman@maine.rr.com> Tuesday, July 01, 2014 6:48 PM >>>
Dear Planning Board:

Still vehemently opposed to the proposed Casco Heights Project I send my previous comments as a re-statement of my opposition to the project.

Thank you,

Vincenzo Marotta
Ocean Ridge Condominium Owner

"MarMan" <marman@maine.rr.com> Sunday, June 08, 2014 6:59 PM >>>

Dear Planning Board/City Council:

I write once again to voice my opposition to the proposed Casco Height project.

I am concerned that the planning board is going to approve revisions to the original zoning agreement (the conditional contract zoning agreement -2004) which had a most different and specific architectural plan with much more set back from ORCA (the Ocean Ridge Condominium Association).

I am also in terrible disagreement with the new proposed storm water treatment detention pond. With a project of the scale and cost of the current plan it is most incredible that this is the best they could come up with. Shabby -a mosquito breeding pond!

The red-line document (revisions) clearly entertain a completely new plan but what prey tell is it? Bottom line, why would the 2014 planning board deem it necessary to approve anything that was not as depicted in the 2004 plan?

Thanks again,

Vincenzo Marotta
Ocean Ridge Condominium Owner

From: MarMan [<mailto:marman@maine.rr.com>]

Sent: Sunday, May 04, 2014 6:50 AM

To: 'bab@portlandmaine.gov'

Subject: Casco Heights Project Comments

Dear Planning Board/City Council:

As the owner of a home in the Ocean Ridge Condominium Association, I am in dread of the potential massive housing project being proposed by Ridge Development LLC. It is quite evident that the developers have

complete disregard for the surrounding neighborhood. Although they propose reductions in units (from 98 to 94), reductions in building height and parking ratio changes which on their face may seem positive, the proposed changes do nothing to mitigate the negative consequences of this project's scale and proximity to my home. The modifications are simply insufficient. The project's scale is too large given the surrounding neighborhood. Moreover, by moving the buildings closer to the Ocean Ridge property line, this project is much more detrimental to Ocean Ridge than the original 2004 proposal. Please do not allow this project to go through on the scale they are proposing. Also critical, please do not allow them to move the building so close to our property line!! Our quality of life will suffer. Our home values will suffer. The neighborhood will suffer.

Thank you for listening.

Vincenzo Marotta
Ocean Ridge Condominium Owner

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.



JUN 07, 2014 10:31 PM

PC33

Wayne Goodman & Jo Ann Miller Goodman
15 Wildwood Circle
Portland, ME 04103

June 8, 2014

City of Portland Planning Board
339 Congress Street
Portland, ME 04101

Dear Portland Planning members,

I am an abutting neighbor to the proposed Casco Heights condominium project. Having participated in the recent site walk, I have several concerns about the developer's proposal.

My greatest concern is the size of the two buildings. According to the developer's site plan, each building measures more than 300 feet long and up to 75 feet tall. As one neighbor measured, that is about the size of the entire city block at 100 Commercial Street. Any building of that size is totally out of place in a neighborhood of modest sized condos and private homes; yet there are two such buildings planned on one of the highest points of land on Portland.

I am not suggesting that development on that site be prohibited; however restricting the project to buildings with smaller footprints and more green space, especially as buffers to abutting neighbors, would certainly be preferable. As an example, during the site walk, I stood on the spot where the Phase 2 parking lot would be built and looked across the CMP right of way directly at the back deck of an Aidan's Walk neighbor. There was no buffer at all since the Casco Heights property borders the right of way.

During its June 10 meeting, I'm asking that the Board revisit the original zoning variance that allowed the Casco Heights developer to build two oversized buildings on her property in favor of recommending more suitable zoning for the neighborhood.

Sincerely,

Wayne Goodman
15 Wildwood Circle
Portland, ME

Jennifer Yeaton - Fwd: Casco Heights Condo Development

From: Barbara Barhydt
 To: Yeaton, Jennifer
 Date: 6/5/2014 9:46 AM
 Subject: Fwd: Casco Heights Condo Development

public comment

>>> Matt Smith <mattdivel0@gmail.com> Sunday, June 08, 2014 2:50 PM >>>
 To Portland City Hall Planning Board

I am writing as concerned resident of Ocean Ridge regarding the proposed Casco Heights Condo Development project on Graves Hill. I strongly urge you to make the right choice here and deny the rezoning. It is a move in the wrong direction

Below please find the key rationale points for the denying of the re-zone:

1.) Buildings that are 75' high and are residential in nature, really have no place in an off peninsula location in Portland. People move off the peninsula to move away from large, sky rise buildings and less "city" quality of life. While this proposal reduces the 100' towers to 75' it is still not appropriate as all surrounding buildings are 3 stories or less. This includes private homes in the surrounding area, Ocean Ridge, Ledgewood, Wellstone, The Cedars (even its latest addition of a nursing home facility), Alden's Walk and Martins Point.

The developers must be held to a higher standard and figure out a way to develop the property just as the developers of these other properties have done in a fashion suiting to this area of Portland.

2.) The original 2004 proposal, while its approval was disappointing given 100' steel/concrete luxury towers with 98 units in a quiet residential neighborhood, again, is completely inappropriate for this part of Portland, this proposal, while lowering it to 75', expands the footprint dramatically. It is shorter, yes, but now fatter, as they seek to maintain essentially the same residential density with 94 units. This is worse as it moves the development closer to infringing on Ocean Ridge's space. Furthermore, this proposal eliminated all of the luxury amenities of the towers (fitness center, etc.), and moved to cheaper wood frame siding from the steel/concrete.

Their vision for this property is not suited for this area. The re-zone will result in tall, fat building structures made of cheap materials. It will become an eye sore for those in the area and for those in Portland, and will result in many owners, like myself, to take our high tax dollars elsewhere and out of Portland and into Freeport, Falmouth and Yarmouth.

3.) The addition of 94 residential units all the 200+ cars from both residents and guests will greatly impact traffic and safety. Ocean Avenue today is a narrow road, often in need but rarely receives repair, offers no safe option for on-street parking. Ocean Avenue is a challenging road and this proposal wants to put another 200+ cars on it. That is a recipe for disaster. A traffic study should be done to understand the impact of the development on the roads.

4) In addition to the impact of traffic and safety due to the increase in cars driving on Ocean Ave, developing the Graves Hill property to this new vision will require significant amounts of blasting of granite, which will not only disrupt the peace of the area, particularly those in the nursing home at Cedar's, but will likely result in damage of adjacent buildings. Engineers MUST determine the range of damage before any blasting happens, and apply an insurance bond on the order of \$20MM.

5). We learned that Doyle Enterprises was advised by the Planning Board to consult with neighbors and interested parties PRIOR to amending the site plan provided to the Board at the May 9, 2014 meeting. The revision was submitted; and the offer to meet with neighbors arrived AFTER.

Concerned parties seem to be an afterthought.

Net - Doyle Enterprises is only interested in developing, unloading the property, start making money off it, not for whether it is good for Portland, good for the area, good for the neighbors, good with any of the interested parties. It is up to the Planning Board to see this for what it is and deny the rezone until a proposal is in front that we can all support.

In summary, while I absolutely am supportive of developing Graves Hill and that its development is inevitable given the housing challenges of Portland, this proposal in front of the Board for consideration is a bad idea and should be denied.

Thank you

Matt Smith

Jennifer Yeaton - Fwd: Public Commentary - Proposed Casco Heights Project

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 6/9/2014 9:48 AM
Subject: Fwd: Public Commentary - Proposed Casco Heights Project
Attachments: AM Comment 6-6-14.pdf, AM public comment 5-3.pdf

public comment - please include both pdfs

>>> "Antoinette Mancusi" <amancusi@coastalcounties.org> Sunday, June 08, 2014 4:09 PM >>>

Hello Barbara: Please accept the attached as my comments for the 10th's planning board meeting. (I have also attached my previous (5/6/14) comments for your convenience).

Thank you,

Antoinette Mancusi

(Owner/Resident at Ocean Ridge Condominium Assoc.)

Antoinette Mancusi
58 Ridge Road
Portland, Maine 04103

City of Portland, City Hall
385 Congress Street
Portland, Me. 04101

Attn: Barbara Barhydt, Development Review Services Manager

June 4, 2014

Via email: bbarhydt@portlandmaine.gov

RE: Public Comment to "Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development)"

Dear Portland Planning Board/City Council:

Per my earlier comment (5/4/14), which I yet again attach for your consideration, I am an owner of a home at the Ocean Ridge Condominium Association (ORCA) and am terribly concerned with the proposed Casco Heights project. (Please refer to my earlier comment for specific concerns with the project.)

I have another concern which I am hopeful the Planning Board can allay. I do not understand why the planning board is entertaining changes (revisions) to a conditional rezoning agreement when the plan put forth in 2004 (on which the conditional rezoning agreement was based) is no longer the plan being proposed by the builder. I am confounded as to how these revisions could possibly be approved, if for example, using the height revision, the height of the building being proposed currently does not apply to the building (site plan) provided in 2004. Doyle has put forth a completely different site plan.

As Section 7. from page 5 of Doyle's "red-line" agreement (see below) provides, the plans are now by Sebago Technics and Archetype PA. These are not the 2004 Richardson Associates plan. How, therefore, can the planning board accept changes to a plan (on which the conditional rezoning agreement was based in 2004) when the plan NO LONGER EXISTS?

Was not the conditional rezoning agreement based on the 2004 site plan? Since the 2004 site plan is no longer the "plan", how could current proposed considerations regarding the building i.e., it's height, go forward presently?

Incidentally, despite the planning board directing Ms. Doyle (at the May 6th meeting) to speak to the ORCA residents in order to address our concerns prior to revising her plan, much to our chagrin Ms. Doyle developed her current plan without meeting with us,

7. The Property will be developed substantially in accordance with the Preliminary Site Plans, Site Use, Zoning and Phasing Identification submitted by Richardson and Associates, Incorporated (referred to as "R&A") and the Proposed Building Design site plan, building sections and floor plans submitted by Scott Simons Architects (referred to as "SSA") and the preliminary elevation from Macdonald Island (submitted August 27, 2004), prepared by SSA. The three-foot entrance on Doran Avenue shall be at the location shown on said Site Plan and the City hereby grants such variance as may be necessary to permit the entrance to be primarily to adjacent driveways; provided, however, that at the request of GEORGE HILL, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet southerly of the location shown on the attached site plan without any further amendment to this ordinance.

Sincerely,

A. J. Mason

Antoinette Mancusi

Antoinette Mancusi
58 Ridge Road
Portland, Maine 04103

City of Portland, City Hall
389 Congress Street
Portland, Me. 04101

Attn: Barbara Barbault, Development Review Services Manager

May 4, 2014

Via email: barbault@portlandmaine.gov

RE: Public Comment to "Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (Formerly Graves Hill Development)"

Dear Portland Planning Board/City Council:

As a resident of the Ocean Ridge Condominium Association (ORCA) I am extremely concerned about the proposed Casco Heights project. Clearly, the planning board/city council, by virtue of the City of Portland Code of Ordinances, Chapter 14, DIVISION 1.5. CONDITIONAL OR CONTRACT ZONING Sec. 14-60, has the authority to impose conditions and restrictions on such a project. I am hopeful that the board/council will reflect upon the negative consequences that this project will have on ORCA and the surrounding neighborhood and impose conditions/restrictions that will protect us.

First, it is vital to acknowledge the extraordinary difference in backdrop that exists between the original 2004 decision (granting the conditional contract zoning agreement) and TEN years later—2014. There are currently 46 family homes directly adjacent to the proposed project. We exist now. We did not then. The feasibility of this project must be analyzed under the current context—not the context that existed an entire decade ago.

Moreover, the developer's proposed amendments have moved the structures so close to our homes that there would be an enormous negative impact on ORCA. I urge the Planning Board and City Council to utilize their authority to set conditions and restrictions permissible under Sec. 14-62. The conditions and restrictions imposed must:

- 1) Restrict the scale and density of this development; it's a monolith. It is too large given the tract of buildable land and natural surroundings. The proposed height is still too tall — it is not compatible with ORCA nor is it compatible with our neighborhood.
- 2) Preserve our open space and buffers, and protect our natural areas and historic sites; the proposed project does not provide a sufficient buffer. It's too too close to ORCA. The current proposal would also require a magnitude of blasting that is of great concern to us. Moreover, Ms. Doyle, the developer/owner, specifically told us at the first neighborhood meeting that the USGS marker representing the 3rd highest point in our City would be blasted. She remarked it would just be moved! How could this be reasonable and consistent with the City's comprehensive plan?

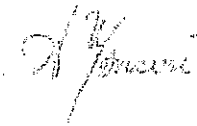
Although I attended one first neighborhood meeting, very little information was provided by Ms. Doyle. As a result, I am unable to comment on other elements of this proposed project that will certainly come into play such as:

- Specifications for the design and layout of buildings and other improvements;
- Schedules for commencement and completion of construction;
- Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
- Contributions toward the provision of municipal services required by the development; and
- Provisions for enforcement and remedies for breach of any condition or restriction.

I reserve judgment/commentary on these elements until the time we have more information.

As an aside, on the matter of the neighborhood meeting, let me say that I was quite disappointed that Ms. Doyle felt it necessary to utilize scare tactics on the meeting's attendees. She, in essence, described our options as being threefold: the original 2004 building plan, the 2014 proposed plan (at issue currently) or, potential clear cutting to build a multitude of homes. I find all these options utterly unacceptable given the aforementioned reasons and implore the Planning Board/City Council to utilize its authority in controlling any such project on Graves Hill.

Sincerely,



Antonette Mancusi

Jennifer Yeston - Fwd: Casco Heights Project Comments for 6/10/14

From: Barbara Berhydt
 To: Yeston, Jennifer
 Date: 6/9/2014 9:54 AM
 Subject: Fwd: Casco Heights Project Comments for 6/10/14

public comment

>>> "MarMan" <marman@maine.rr.com> Sunday, June 08, 2014 6:59 PM >>>

Dear Planning Board/City Council:

I write once again to voice my opposition to the proposed Casco Height project.

I am concerned that the planning board is going to approve revisions to the original zoning agreement (the conditional contract zoning agreement-2004) which had a most different and specific architectural plan with much more set back from ORCA (the Ocean Ridge Condominium Association).

I am also in terrible disagreement with the new proposed storm water treatment detention pond. With a project of the scale and cost of the current plan it is most incredible that this is the best they could come up with. Shabby--a mosquito breeding pond!

The red-line document (revisions) clearly entertain a completely new plan but what prey tell is it? Bottom line, why would the 2014 planning board deem it necessary to approve anything that was not as depicted in the 2004 plan?

Thanks again,

Vincenzo Marotta

Ocean Ridge Condominium Owner

From: MarMan [mailto:marman@maine.rr.com]
 Sent: Sunday, May 04, 2014 6:50 AM
 To: 'bab@portlandmaine.gov'
 Subject: Casco Heights Project Comments

Dear Planning Board/City Council:

As the owner of a home in the Ocean Ridge Condominium Association, I am in dread of the potential massive housing project being proposed by Ridge Development LLC. It is quite evident that the developers have complete disregard for the surrounding neighborhood. Although they propose reductions in units (from 98 to 94), reductions in building height and parking ratio changes which on their face may seem positive, the proposed changes do nothing to mitigate the negative consequences of this project's scale and proximity to my home. The modifications are simply insufficient. The project's scale is too large given the surrounding neighborhood. Moreover, by moving the buildings closer to the Ocean Ridge property line, this project is much more detrimental to Ocean Ridge than the original 2004 proposal. Please do not allow this project to go through on the scale they are proposing. Also critical, please do not allow them to move the building so close to our property line!!! Our quality of life will suffer. Our home values will suffer. The neighborhood will suffer.

Thank you for listening.

Vincenzo Marotta

Ocean Ridge Condominium Owner

Jennifer Yeaton - Fwd: The Casco Heights project

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 6/9/2014 9:57 AM
Subject: Fwd: The Casco Heights project

public comment

>>> <FWPardolfo@aol.com> Sunday, June 08, 2014 8:02 PM >>>
City of Portland, City Hall
389 Congress Street
Portland, Me. 04101

Attn: Barbara Barhydt, Development Review Services Manager

RE: Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development)

Dear Portland Planning Board/City Council:

I attended the Planning Board workshop in early May where I presented my concerns about the above referenced project/amendment. Unfortunately I cannot attend the coming meeting on June 10. Therefore I wish to present my concerns in writing.

Where to begin? The list seems endless:

1. Proximity to adjacent homes, 46 of which did not exist a decade ago when the original plan was approved in 2004. It seems strange to amend the 2004 plan without considering the new neighbors that did not exist in 2004. Actually, the 2014 plan marginally resembles the 2004 plan
2. Lack of significant buffer. At the site walk we all observed the meager offer by the developer to plant a few trees. It was laughable.
3. Appropriateness for the neighborhood. All condos (Ocean Ridge, Ladgewood, Alden's Walk, Summer Place, Wellstone, Townhouses at Ocean East, Oceanwoods), Martins Point, The Cedars (including the recent addition) are all 3 stories or less.
4. Open water detention pond to harbor mosquitoes.
5. Expanded footprint.
6. Stick construction vs. steel/concrete, presumably to magnify profit. When asked at the site walk why build with wood Ms. Doyle so much as said because it was cheaper. Regardless of the present zoning, is it really a good idea to house 94 residences in a wood frame building?
7. Blessing! At the site walk we all saw the granite ledge. ORCA has about 9 very large buried propane tanks. Has anyone considered or even mentioned this potential hazard?
8. The likely developers/builders are, from my experience as an original owner at Ocean Ridge, are unreliable. Shortcuts were taken at Ocean Ridge; I would be highly skeptical of their involvement at Casco Heights.
9. At the May meeting, Ms. Doyle was advised to consult with neighbors about changes to her plan. That consultation NEVER happened. She reached out a few days before the site walk and after she had already revised the plans.
10. "Impervious" is increased where drainage is already an issue on Ocean Avenue. Ask the residents east of Ocean Avenue. Is not a drainage/environment impact study by qualified engineers appropriate before a project is considered?
11. At the site walk we all noticed how narrow is Ocean Avenue. Parking, bike and pedestrian lanes are absent. It is dangerous. Imagine adding another 200 or so Casco Heights vehicles to the traffic patterns.
12. When asked at the site walk about the pricing of the residential units, one of the principals offered "...\$400,000 to a good million". A little pricey, maybe even greedy--n'est ce pas?

I urge the Planning Board to deny the amendment. Then in the future the Planning Board, the Zoning Board and the City Council should rethink the decade old decision to allow Portland's version the Twin Towers to exist in a residential off-peninsula community.

Thank you for your consideration for doing what at times must seem like a thankless job.

Respectfully,

Frank W. Pandolfo

Jennifer Veaton - Pwch 502-928 Ocean Avenue

From: Barbara Barhydt
 To: Veaton, Jennifer
 Date: 5/9/2014 9:59 AM
 Subject: Pwch 502-928 Ocean Avenue

public comment

>>> "Richard, Judith" <Judy.Richard@astellas.com> Sunday, June 08, 2014 8:29 PM >>>
 Portland Planning Board,

I would like to give my concerns to the planning board about this proposed development. I wish I could attend the meeting in person but I am away on a business trip. While I am in favor of people's rights to develop their property, I have deep concerns about this proposed developments also known as Graves Hill.

The project is not in character with the existing surroundings, all existing surrounding properties are 3 stories or less. The proposed development exceeds this and the height of the proposed buildings is inappropriate for this neighborhood. That is more in character with what is on the peninsula and not Ocean Avenue. Even the Cedars is not this large.

One of the developers of this property was the developer for Ocean Ridge and he did not complete the project he started. What's to say that he won't do the same here? He left the residents of Ocean Ridge high and dry financially. He also cut corners and we are still having issues with work that was done under him. Will there be a guarantee that he does not do the same here?

The project is extremely large with so many proposed residences. This will require an lot of blasting with potential damage to several adjacent buildings.

The owner of the property says they are going to sell the residences for \$400,000 to \$1,000,000. They have eliminated or scaled back all of the amenities and kept the same amount of units. They have changed construction materials and reduced the buffers with adjacent properties. How is a 1 BR unit going to sell for \$400,000 when neighboring 3 BR properties are selling for under \$400,000 with a view? If these units don't sell, you have a big monster of a development that could be foreclosed on, rented out, etc. etc. This would devalue the properties in the area. It appears that they have a significant profit motive with no regard for the surrounding properties and what is best for the neighborhood and City of Portland.

There are 94 units being proposed. This will have a huge negative impact on traffic on Ocean Avenue, especially at the Washington Avenue light which is already a dangerous and busy intersection. This is already a dangerous street to bike and walk on.

Doyle enterprises does not seem to be willing to consult with neighbors of this development. They have been vague in their dissemination of information and have said they would get back to us with more information and I have not received anything from them. They don't want to inform us because they know they are not in keeping with the scale and density of the neighborhood. They have no regard for the community and safety of Ocean Avenue residents, only their profit.

Please consider these concerns greedly while making decisions about the proposed development.

Thank you for your consideration.

Regards,

Judy Richard

(207) 875-7373 Office

(207) 712-3230 Cell

Jennifer Veston - Fwd: Casco Heights Project

From: Barbara Barhydt
To: Veston, Jennifer
Date: 6/9/2014 10:00 AM
Subject: Fwd: Casco Heights Project
Attachments: Casco Heights comments.pdf

public comment

>>> Barbara Miller <btmiller100@gmail.com> Monday, June 09, 2014 7:42 AM >>>
Dear Barbara

Attached please find my questions regarding the proposed Casco Heights Residential Condominium.

Thank you for your consideration,

Barbara Miller

My name is Barbara Miller. I live at 56 Ridge Road in Portland. In addition to the comments I forwarded to the Planning Board prior to the May 2014 Workshop, I would like suggest the following items be considered regarding the proposed changes to the Casco Heights Residential Condominium:

- The original zoning agreement had a very specific architectural plan attached to it. The current plans are not specific, other than site footprint. With such a major change, why is the conditional zoning still pertinent?
- Because the footprint has changed, a request was made at the PB workshop to determine the measured difference and between the original plan's building/parking lot and the current plan's buildings/parking lot and nearby neighbors. What is that difference?
- The current footprint has a greater percentage of impervious certain - what will this do to water flow down the hill?
- The new plans moved the storm water treatment detention pond next to ORCA (downhill from building 1 of the proposal) - the current proposal is a open treatment pond - are there better options that will not become mosquito hatcheries?
- If these amendments are approved - what kind of protection will be put into place if this plan, like the 2004 plan, is not built? Can a rider be added to the amendment requesting a return to R-3 status after a certain amount of time?
- Reduction in number of parking spaces - always a problem as there are no street options for parking in the immediate neighborhood
- At the PB Workshop in May, it was suggested the developer meet with neighbors - I have received no notification of any such meeting prior to the revised plans being submitted to the Planning Board

Thank you for your consideration

Jennifer Yeaton - Fwd: Casco Heights Condominiums

From: Barbara Berhydt
To: Yeaton, Jennifer
Date: 6/9/2014 10:22 AM
Subject: Fwd: Casco Heights Condominiums

public comment

>>> Karen McCallum <kjmccallu@hotmail.com> Monday, June 09, 2014 9:00 AM >>>

Good Morning,

My name is Karen McCallum and I live at Alden's Walk in Portland. I am writing to let the planning board know of my deep concern over the building of Casco Heights off of Ocean Ave. I have lived in Portland my whole life and love the beauty of this city and have seen what a building that doesn't fit in with the surrounding landscape can look like. Once it's up there is nothing you can do to correct it and every day you have to look at it. That is how I feel about Casco Heights.

I walk the power lines behind our condo's and drive by the area where Casco Heights is to be built every day. It's a beautiful wooded area with many different forms of wildlife and vegetation and to put these modern, in my opinion, very ugly large buildings in there would be a travesty. They can be seen from our condos at Alden's Walk and from the interstate and route one. My husband and I are very upset about them.

In addition to the looks of them we are concerned about the damage all the blasting may do to our buildings at Alden's Walk and the traffic we already deal with on Ocean Ave. and Washington Ave. Also the condition of the road there is already a problem and to add more traffic would only make it worse.

I ask that you take this into consideration in making any decisions you have to about this project. As I have said the beauty of this city is an asset we have and Casco Heights will most certainly be a detraction from that.

Thank you
Karen McCallum

Sent from Windows Mail

Jennifer Yeaton - Fwd: HIGHLY OPPOSED TO Casco Heights Condominiums!!!!!!

From: Barbara Barhydt

To: Yeaton, Jennifer

Date: 6/9/2014 10:24 AM

Subject: Fwd: HIGHLY OPPOSED TO Casco Heights Condominiums!!!!!!

public comment

>>>Robin Schulte <robin.schulte@gmail.com> Monday, June 09, 2014 9:48 AM >>>

I am a resident of Alden's Walk and I am writing to let you know that my husband and I are highly opposed to this project. The condominiums will virtually destroy the woods behind our home where we walk on trails with our dog and replace them with concrete and cars and congestion on Ocean Avenue and virtually ruin the tranquility of the area, not to mention affect property values. I truly feel as if this will totally change our ability to live comfortably in this area.

Robin Schulte & Jim Fairbanks
19 Wildwood Circle
Alden's Walk

Jennifer Yeaton - Fwd: Casco Heights Development

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 6/9/2014 1:04 PM
Subject: Fwd: Casco Heights Development

public comment

>>> Richard Kessler <rkessler5@yahoo.com> Monday, June 09, 2014 12:42 PM >>>
Did the walk through last week and I am not in favor of the changes.

1. The retention pond location.
2. Where they want to build Phase One.
3. The impact on people that live here now.
4. Amount of blasting necessary.

I can keep going on and on.

Not in favor, please vote no.

Richard L. Kessler
60 Ridge Road
Portland, ME 04013

From: Barbara Barhydt
To: Yeason, Jennifer
Date: 6/9/2014 1:23 PM
Subject: Fwd: Casco Heights development plan

S>> Glenn Turner <ghturner35@gmail.com> Monday, June 09, 2014 1:14 PM >>>
To: The City of Portland Planning Board

My wife and I participated in a site walk of the proposed Casco Heights development plan. We were taken aback by the scope of this project and dramatic changes which would result if it goes through as planned.

It is a huge development right between two existing condo clusters (Ocean Ridge and Alden's Walk) abutting each in an "in your face" manner which we doubt the proposed buffer of planted trees will mitigate unless Sequoias are planted. In the winter months, the buffer will be less effective. The two-condo towers will be up to 70 feet high. Much more of an elephant in the living room than an adjoining development should be and still be good neighbors.

Set on the rocky hillside, there will be, especially for the large footprint of this project, a lot of blasting. Even up-front discussion of offering to have videotape pictures taken of the insides of all the adjoining condo units in Aiden Walk and Ocean Ridge sends shivers up our spines. If our foundations do crack, what are the limits of liability, the compensation for the disruption of our lives?

There are our fears that five years of building and blasting, and the erection of this behemoth, will drive down the property values of the condos in both associations. I would guess that our condo's value would drop tens of thousands of dollars. And, even a lowering of our tax assessment to reflect our deflated property value is not enough to offset that kind loss. Which raises the question of whether the City of Portland does drop its property assessment in such cases.

The area between Alden Walk and Ocean Ridge condos is a very lovely piece of land harboring older trees and

body slippers and abutting the Portland Trail System. Surely something kinder to the environment and its neighbors can be developed in keeping with it.

In the original novel, the creator of Frankenstein's Monster meant well. That, it turned out, was not enough.

Sincerely,

Glenn Turner and Caroline Loupe

Jennifer Yeaton - Fwd: Casco Heights Planning Board Public Hearing on June 10

From: Barbara Barhydt
 To: Yeaton, Jennifer
 Date: 6/9/2014 2:35 PM
 Subject: Fwd: Casco Heights Planning Board Public Hearing on June 10

public comment

>>> Jean Mattimore <jeanmattimore@gmail.com> Monday, June 09, 2014 1:33 PM >>>
 Dear Ms. Barhydt,

I've included the May 5 message I sent to you prior to the Planning Board's workshop on this project on May 6. I attended the workshop and also tagged along on the site visit on June 3, at which we received updated plans for the site. The visit and discussion of the proposed plan heightened the concerns I sent earlier and emphasized a few, as follows:

- Now I appreciate how much of the ridge would need to be blasted to achieve the design proposed, although the design itself still seemed to lack details that could affect the impact on the ridge and neighboring properties. Will more of these specifics be clarified before the Board votes on the amendment as was the case in the original plan approved? This would be important since, as I understood from the discussion, it is this plan that would be part of the Board's review of the amendment on June 10 and possible recommendation.
- The drawing of the blueprint for the proposed complex shows more clearly to me why this project is incompatible with the surrounding area. This point is not about aesthetics--which we've been told often are a discussion for a later date--but about the underlying plan for these structures, which would be so completely different from everything surrounding them and appear quite close to some other structures. There will be only 4 fewer units than were originally planned, so these structures will still have many more units than and be up to twice the height of Ocean Ridge and other communities surrounding the site. The size and population density--and related traffic--is unique in the area and would be disruptive.
- While the developers indicated that surrounding properties would be "camera-ed" before the project begins for comparison--and compensation, I assume--for repairs required post-construction, I wonder how the many units built on slabs rather than foundations (mine included) can even accomplish that structural comparison. This may be my lack of knowledge, but is a significant concern.
- Given the time and aggravation the ORCA Board has gone through to get promised construction requirements met here, I'm concerned any reparations would be prolonged, disruptive and costly to us (legal fees were involved before). I know this might seem like predicting a worst case, but the ORCA folks who were here at that time have very clear knowledge of these issues and we're still fixing some years later.

Again, thanks to you and the Board for the consideration being given to the proposed amendment and related issues, as this proposal would have a profound effect on this section of Portland and have what still appears to be a negative impact on surrounding properties.

Jean Mattimore
 147 Ridge Road

TO: Barbara Barhydt, Development Review Manager, Planning Division

Jennifer Veston - Fwd: Casco Heights Condominiums

From: Barbara Berhydt
To: Veston, Jennifer
Date: 6/9/2014 5:14 PM
Subject: Fwd: Casco Heights Condominiums

public comment

>>> Terence Goodwin <tgoodwin1232@gmail.com> Monday, June 09, 2014 5:09 PM >>>

To: Portland Planning Board

From: B. Terence & Barbara Goodwin

1 Wildwood Circle

Portland, ME 04103

Re: Casco Heights Condominiums

We wish to express our complete opposition to the approval of the proposed Casco Heights Condominium project. As abutting neighbors in the Alden's Walk condominiums, we are deeply concerned about the scale and density of this proposed project, its affect on traffic, it being totally out of character with the neighborhood, the potential damage to the foundations and structures of our buildings from the extensive blasting, and the negative affect it will have on the value of our properties. While we are not opposed to a reasonable development of the land, this particular project has no place in this neighborhood, and should not be approved for a zone change or anything else. To do otherwise would be a colossal mistake, and show a total disregard for the legitimate concerns of those of us taxpayers who live here.

Sincerely,

B. Terence & Barbara Goodwin

Jennifer Yeaton - Fwd: The Casco Heights Project Hearing

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 6/10/2014 8:23 AM
Subject: Fwd: The Casco Heights Project Hearing
Attachments: City of PortlandJune9.docx

public comment

>>> Chuck NGrossman <chuckngrossman@gmail.com> Monday, June 09, 2014 5:50 PM >>>
Ms. Barhydt please find attached letter with questions for the Planning Board Hearing on June 10th.
Thank you for your attention

--

Chuck Grossman
+1-201-787-9022 (Mobile)
+1-207-518-9303 (Home)

City of Portland, City Hall
389 Congress Street
Portland, Me, 04101

Attn: Barbara Bartholt, Development Review Services Manager

RE: Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums
(formerly Graves Hill Development)

Date: June 9, 2014

Dear Portland Planning Board/City Council:

I attended the Planning Board Workshop on May 5th, 2014. At that time I presented questions for the Planning Board in regards to Casco Heights Project.

I will be out of town and unable to attend the meeting on June 10th so I would like to present my concerns and questions for the record.

Amendment to Conditional Rezoning Agreement Granted in 2004 vs. 2014 – This NEW project is not similar to the Original Project approved in 2004. The Owner Doyle has submitted Amendments to the Original project at least twice this year.

1. The first Amendment had a relatively straight line between the ROS and R5-parcels and asked for a decrease to ROS and increase to the R5-a in order to accommodate her NEW project.
2. After the Hearing a new list of Admendments have been presented for the June 10th Hearing. Now the ROS and R5-a acreage is very close to the original project. This has been achieved by redrawing the boundary between the ROS and R5-parcels. The new boundary resembles a Double S.
3. **Question: Why has the Owner redrawn the boundary line between the ROS and R5-parcels?** To me it looks like a creative way to shoehorn the project within the original Conditional Zoning Agreement.
4. Another concern is the footprints of the buildings has moved up the hill and are considerably closer to adjacent property lines. The Impervious Area on the Original Site Plan was listed as 0.16%. The Impervious Area on the Site Plan presented at the Workshop was 15.6%.
5. **Questions: How can this be considered the same project that was approved in 2004 with the changing footprint and site of the building and increased surface parking? Has the Impervious Area been increased 10 fold?**

Blasting – I would like to raise the issue of blasting and the safe guards and potential adverse effects to the surrounding properties.

1. At the last meeting the Owner Doyle could not identify the Size of Blast (Small, Medium, Large) as required by the City. When this survey is completed I hope the geology of Graves Hill and adjacent properties will be taken into account.

2. According to Prof. Mark Swanson, Geosciences Dept., University of South Maine: "The whole area has been subjected to fault-type shearing that is reflected in the overall texture of the rock. The weaker rock in this case is foliated metamorphic rocks that flank the mass of granite that makes up Graves Hill."
3. *Question: Considering this will the developer be required to post a substantial bond for any damage caused by the blasting?* In particular the blast waves that will cause vibration under the surface of the ground where the propane, electrical, water and communication pipes and conduit have been placed.

Casco Heights is Out of Character and Scale for the Neighborhood - Besides the concerns I have raised above and not seen/heard answers to I believe it is just wrong for the R-3 zoned neighborhood.

1. The Owner Doyle has asked for a project to be approved with density within the limits of an R5-a zone but has twice the number of units on half the buildable acreage of Ocean Ridge Condominiums. That translates to four times the density. The very high density raises concerns of increased traffic and need for water drainage.
2. *Question: Where are the studies and surveys for these concerns so the Planning Board can make the best decision on the NEW project?*
3. The Owner Doyle has asked for the minimum number of parking spaces allowed with R5-a zoning.
4. The Owner Doyle has not met with concerned neighbors as suggested by the Planning Board at the Workshop.

I ask the Planning Board not to approve the Amendments to the Conditional Rezoning Agreement granted in 2004. Furthermore I would like the Planning Board to look at the big picture and determine if this project is appropriate 10 years later.

Thank you for your attention and consideration.
Charles Grossman
175 Ridge Road
Portland.

Jennifer Yeaton - Fwd: Casco Heights - proposed development on Ocean Avenue in Portland

From: Barbara Barthold
 To: Yeaton, Jennifer
 Date: 6/10/2014 8:25 AM
 Subject: Fwd: Casco Heights - proposed development on Ocean Avenue in Portland

public comment

>>> "Craig Williams" <craig@churchillcaterers.com> Monday, June 09, 2014 5:57 PM >>>
 Dear Members of the Planning Board:

RE: Casco Heights Condominiums

I joined you and others last Tuesday, 3 June 2014, to meet with the developers of the subject project in order to review their plans for the development of land between the CMP power line rights-of-way and the Ocean Ridge condominium project.

I had no idea of the scope of this project (and its potentially adverse environmental impact) until this gathering; and the more I have learned – through reading and discussions with those who live in its surrounding environs – the more convinced I am that this project needs major alterations in order to be viable in this setting.

Nothing in the area comes close to approximating the size of these two (2) buildings. And when completed they will be the highest residential structures in greater Portland... they will overpower everything within sight. More importantly, the amount of site work required will necessitate months... possibly several years... of noise and disruption to daily life. No one is capable of determining the potential damage which will result from the blasting work required to make the site suit the required work of the proposed construction and surrounding landscape/hardscape. What is the developers' liability, even if our basements are photographed and the information stored for future reference?

Traffic and road conditions will be adversely affected during the various phases of construction... heavy equipment will undoubtedly wreak havoc on this section of City pavement that is always being repaired, caused not only by construction in the immediate area and heavy trucks going in and out of the Dragon facility several hundred yards away, but undoubtedly by the water that follows the ledge from the top of the ridge, flowing under the road bed, ultimately reaching the bay. Further, the potential of 150 residents' cars in and out every day once the project has been completed will have detrimental effects on this section of Ocean Avenue.

The close proximity of the proposed buildings to our residences in Alden's Walk ensures that the proposed buildings will dominate our neighborhood's skyline... and in fact may prevent some of our units from realizing the sunlight they receive now.

Please consider the various ramifications of this project and the long-term shortcomings...

perhaps they could consider constructing the units perpendicular to Ocean Avenue, rather than parallel.

Thank you for your consideration,

Sincerely,

Craig W. Williams
4 Wildwood Circle
Portland, ME 04103

Jennifer Yeston - Fwd: Concerned About Casco Heights

From: Barbara Berhydi
 To: Yeston, Jennifer
 Date: 6/10/2014 8:28 AM
 Subject: Fwd: Concerned About Casco Heights

public comment

>>> "James Harnar" <jharnar@maine.n.com> Monday, June 09, 2014 6:02 PM >>>

To Portland Planning Board,

As homeowners at 11 Wildwood Circle (Alden's Walk), we are writing to express our deep concern over the proposed Casco Heights high-rise development.

We attended the recent Planning Board workshop and have familiarized ourselves with the site where the develop plans to build the high rises.

Our concerns are two fold—first of all, there is no doubt the development, as proposed, will substantially change the character of an entire neighborhood, altering forever a rare section of Portland that is wooded, peaceful and characterized by a mix of single family homes, apartments and low rise condominiums. There is no question that the large number of occupants proposed, their cars, visitors, delivery vehicles, etc. will bring noise and congestion to our neighborhood. It is clear that the high rises will be visible from Alden's Walk as well as other neighborhoods. It's also important to note that the high rises will overshadow the nearby walking trails, diminishing the opportunity for Portland residents to enjoy the wooded paths and peaceful area that now exists.

Secondly, as avid sailors on Casco Bay, we are concerned about the impact Casco Heights will have on the Portland skyline. Visitors from around the world travel here to enjoy the unique coastline of Maine. Clearly, the high rises will irrevocably change the skyline along the ridge, eliminating a rare beautiful wooded view that is the second highest point in Portland. As we continue to overdevelop wooded ridgelines, cruise ships and airplanes arriving in Portland will be greeted by a skyline littered with a jumble of buildings—just like so many other cities. As stewards of the City of Portland, we must be aware of projects that are out of character with their surroundings, as Casco Heights clearly will be.

We certainly do not object to development in this area. The landowner certainly has a right to develop the land. Single family homes or one or two story condominiums are much more in keeping with the neighborhood and will not contribute materially to overcrowding, noise and congestion. Development of this kind will minimize the impact on the view from the Bay and the overall appearance of the wooded ridgeline.

There comes a time to draw a line in the sand. Are short term construction jobs worth all that is given

up when multi-level buildings rise up from a rare, undeveloped and verdant ridge line? Do we want to deny our children and grandchildren the opportunity to enjoy a community that offers a reasonable mix of developed and undeveloped neighborhoods in Portland? Finally, we want to point out that high priced high rises on the Peninsula—and off Ocean Avenue—do little to meet the most pressing housing needs in our community. Instead they become havens for people of means who could live anywhere.

We implore you to take all of these points into consideration and help us preserve a special part of Portland that's a peaceful, accessible respite for residents and visitors alike.

Thank you very much.

James Harnar and Kathleen McKeen
11 Wildwood Circle
Portland

Jennifer Yeaton - Fwd: Planning Board - Re: Proposed Development 802-928

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 6/10/2014 8:29 AM
Subject: Fwd: Planning Board - Re: Proposed Development 802-928

public comment

>>> Stacey Hong <hong.stacey@gmail.com> Monday, June 09, 2014 9:22 PM >>>

As a homeowner on Osprey Terrace at Ocean Ridge Condominium Association, I am writing to discourage the Planning Board from approving the proposed rezoning 802-928 Ocean Avenue (aka Graves Hill).

When rezoning of the site was considered many years ago I spoke at the meeting to discourage the rezoning. Then, and now, I do not feel that a building 100' in height, at one of the highest points in Portland, fits with the Ocean Ave neighborhood or with Portland (off peninsula). At that time I felt the decision makers could have been more thoughtful, and that they did not act in the best interest of the people of Portland then, and for future generations.

I am opposed to rezoning Graves Hill and reducing the building height to 75' and enabling the developer to construct a building closer to any abutting property line, including Ocean Ridge. If a developer is going to construct a 75' building at Graves Hill, then the developer may as well develop to the previously approved 100' height. The Planning Board and the people of Portland can then consider the 100' building. Undeveloped ground surface area at Graves Hill should be preserved.

I appreciate the desire of the landowner to maximize their return on their property, and the City's desire to increase tax revenues, but each objective should not be achieved at any cost.

I hope sensitivity is applied by the Planning Board in evaluating non-financial considerations, not simply for our community today, but for our community for years to come.

Please do not approve the rezoning request.

Sincerely,

Stacey Hong

Jennifer Yeaton - Fwd: proposed Casco Heights Condominium project zoning change

From: Barbara Barbydt
To: Yeaton, Jennifer
Date: 6/10/2014 8:31 AM
Subject: Fwd: proposed Casco Heights Condominium project zoning change

public comment

>>> Asherah Cinnamon <acinnamon@meca.edu> Monday, June 09, 2014 9:58 PM >>>

To: Portland Planning Board
From: Asherah Cinnamon and Dr. Ronald Breazeale
21 Wildwood Circle
Portland, ME 04103
Re: Casco Heights Condominiums

Thank you for your hard work and dedication to the well being of Portland and its residents.

We wish to express our opposition to a zoning change requested for the proposed Casco Heights Condominium project. As abutting neighbors in the Alden's Walk condominiums, we are deeply concerned about the scale and people density of this proposed project. It would increase traffic in the area by many times the current load. As it is now Ocean Ave can get backed up during weekday travel to and from work. That road is actually quite narrow, where it meets Washington Avenue especially. And Washington Ave in this neighborhood is the only direct way to I 295 and also to the Turnpike.

The proposal is out of character with the neighborhood. It would require extensive blasting of ledge to build. We have already experienced the negative impact of blasting on a previous home in another Maine community. There is potential damage to the foundations and structures of our property from the extensive blasting, and simply saying that photos of before and after construction will take care of this is naive! That kind of damage does not always show up until one or two years later. Compensation is at that point a pipe dream. There can be damage to water lines and gas lines also.

We are not opposed to a reasonable development of the land, but this enormous project has no place in this neighborhood, and should not be approved for a zone change.

Thank you for your ear about our concerns. We count on you to protect us, as residents and voters.

Best wishes
Asherah and Ron

Jennifer Yeaton - Fwd: Casco Heights condominium project

From: Barbara Bartydt
To: Yeaton, Jennifer
Date: 6/10/2014 8:32 AM
Subject: Fwd: Casco Heights condominium project

public comment

>>> Jim Fairbanks <jim@duragrass.com> Monday, June 09, 2014 10:09 PM >>>

To whom it may concern,

I believe this project does not fit the developments in the area and will adversely affect the area property values, traffic and overall quality of living in the area. I am strongly apposed and am willing to do what I can to stop it. I can't believe the city would let such a project ruin such a unique living area.

Jim Fairbanks

Dear Planning Board members,

PC52

Jennifer Veaton - Fwd: Comments to the Planning Board on Casco Bay Heights project

From: Barbara Berlynet
To: Veaton, Jennifer
Date: 6/10/2014 8:34 AM
Subject: Fwd: Comments to the Planning Board on Casco Bay Heights project
Attachments: R-5 Design Standards_.pdf

public comment

>>> "Carol Veilleux" <cveille1@maine.rr.com> Monday, June 09, 2014 10:48 PM >>>
Dear Planning Board members,

We would like to express our opposition to the proposed Casco Bay Heights project as you consider the amended zoning change from a similar proposal approved by the City Council in 2004. As residents of North Deering for the past 30 years, we have seen many changes in the area, the vast majority of which have kept and enhanced the quality of this residential neighborhood. The approval of this project, as currently proposed by the current/future land owners, significantly diverges from previous housing projects in numerous ways:

- 1) The size and height of the buildings and the surrounding site are completely unlike any other privately owned housing in the area. The project does not meet the City of Portland's Comprehensive plan goals of increasing the housing stock while maintaining neighborhood characteristics and livability.
- 2) The proposed condo unit selling prices (we have been told from \$450K to \$1M) do not align with the City's Comprehensive Plan directive to increase affordable housing for the area's workforce. How can the Planning Board and the City Council approve a project that proposes to add 94 new housing units whose target market most likely represents less than 1% of households in the city?
- 3) The proposed project does not align with the City's Comprehensive plan regarding the preservation of open space. The project's mass and height will effectively result in the clear-cutting of 10 acres of the Graves Hill ridge and provide no significant buffers for two adjacent communities. Are there no other options for the development of this site that mitigate the destruction of so much open space? If you are not familiar with the area, we urge you to take look at how Ledgewood, Alden's Walk, the Pheasant Hill Association homes, Ocean Ridge and other area projects have managed to maintain and enhance the natural landscape.
- 4) The proposed project does not meet the required City zoning guidelines for an R5 zone (see attached from the City of Portland, Planning Division website). While we are not a zoning expert by any means, how does approval of this project in an R5 zone comply with the R5 published guidelines?

Thank you for your consideration of our comments.

Carol Veilleux and Donald Kale
16 Wildwood Circle
Alden's Walk
Portland, Maine

Draft
Planning and Development Design Manual
R-5 Small Residential Lot Development Design Standards

Small Residential Lot development in the R-5 Zone shall comply with the following standards. The general intent of these standards is to achieve an attractive and comfortable neighborhood environment. Except where stated otherwise, these standards shall apply to the front façade and those portions of the building that are visible from the public way.

1. **Context:** Residential development shall include design elements that reinforce the context and existing character of the neighborhood, and enhance the streetscape. Neighborhood context refers to the existing residential development within a two block radius of the site. The more definite and easily discernable traits within an established neighborhood shall serve as a basis for a design solution.
2. **Public Realm:** The public realm of open space, sidewalks and streets shall be reinforced through appropriately scaled entries, porches, fenestration, architectural details and landscaping. The transition space between the street and the primary building entrance shall include features such as porches, stoops, covered entries, landscaping or other measures to delineate the space.
3. **Massing:** The building's massing (as defined by its size, scale, and form) shall be consistent with existing residential buildings in a two block radius.
4. **Orientation:** Principal façades, primary entrances, porches and bays shall orient to the street, not to interior blocks or parking lots. The primary entrance shall either face the street, or be located on the side with a covered porch (minimum six feet wide) that extends to the front of the building. The slope of the roof shall be either parallel or perpendicular to the street.
5. **Articulation:** Façades shall be articulated with architectural details that create visual interest consistent with the context of the neighborhood. The primary façade and all façades visible from public ways shall include at least two of the following architectural details: gables or dormers, balconies, bay windows, recessed entries, covered porches (minimum six feet wide), covered entries, or stoops. The area of fenestration shall be a minimum of 25% of the total area of street facing façades. Windows shall be included on all sides of a building. The rhythm, size and proportion of door, window and other openings shall be proportional to the overall massing of the building, and consistent with existing residential buildings in a two block radius.
6. **Garages:** Attached and detached garages shall be oriented to the side, or oriented to the street as long as the garage is set back from the primary façade by a minimum of four feet. In such case, the total width of the garage door(s) shall be less than 40% of the overall building width (however, the garage door shall not be required to be reduced to less than 9 feet wide).
7. **Roofs:** Roofs shall be peaked, unless evidence can be shown for an alternative roof form that is predominant on existing residential buildings in a two block radius. Buildings shall have a main roof form, and subsidiary roofs (except for porch roofs) shall follow the pitch and form of the main roof. Rooflines shall have a cornice treatment.

8. Materials: Building materials shall be consistent with the context and overall character of the neighborhood. Facade materials shall provide visual cohesion. Chimneys shall be brick, finished metal, stone or boxed in.

9. Sound: Provide visual and acoustical privacy between units.

10. Light and air: Maximize natural light and ventilation with units.

PC53

Jennifer Yeaton - Fwd: We Remain Highly Concerned

From: Barbara Benjydt
To: Yeaton, Jennifer
Date: 7/3/2014 7:26 AM
Subject: Fwd: We Remain Highly Concerned

public comment Casco Heights

>>> Jim Harnar <jamesharnar@hanleyleadership.org> Thursday, July 03, 2014 6:51 AM >>>

To Portland Planning Board,

This is our second letter to the Board expressing our strong and growing opposition to the Casco Heights high rise. We attended an initial Planning Board this spring and will certainly be in attendance at the July 8 hearing.

The more we learn about this proposal and its unfortunate impact, the stronger our opposition as grown. With this letter we want to restate with greater emphasis, key points from our June 10 letter to the Board:

As homeowners at 11 Wiltwood Circle (Alden's Walk), we are writing to express our deep concern over the proposed Casco Heights high-rise development.

We attended the recent Planning Board workshop and have familiarized ourselves with the site where the developer plans to build the high rises.

Our concerns are two fold—first of all, there is no doubt the development, as proposed, will substantially change the character of an entire neighborhood, altering forever a rare section of Portland that is wooded, peaceful and characterized by a mix of single family homes, apartments and low rise condominiums. There is no question that the large number of occupants proposed, their cars, visitors, delivery vehicles, etc. will bring noise and congestion to our neighborhood. It is clear that the high rises will be visible from Alden's Walk as well as other neighborhoods. It's also important to note that the high rises will overshadow the nearby walking trails, diminishing the opportunity for Portland residents to enjoy the wooded paths and peaceful area that now exists.

Secondly, as avid sailors on Casco Bay, we are concerned about the impact Casco Heights will have on the Portland skyline. Visitors from around the world travel here to enjoy the unique coastline of Maine. Clearly, the high rises will irrevocably change the skyline along the ridge, eliminating a rare

beautiful wooded view that is the second highest point in Portland. As we continue to overdevelop wooded ridgelines, cruise ships and airplanes arriving in Portland will be greeted by a skyline littered with a jumble of buildings—just like so many other cities. As stewards of the City of Portland, we must be aware of projects that are out of character with their surroundings, as Casco Heights clearly will be.

We certainly do not object to development in this area. The landowner certainly has a right to develop the land. Single family homes or one or two story condominiums are much more in keeping with the neighborhood and will not contribute materially to overcrowding, noise and congestion. Development of this kind will minimize the impact on the view from the Bay and the overall appearance of the wooded ridgeline.

There comes a time to draw a line in the sand. Are short term construction jobs worth all that is given up when multi-level buildings rise up from a rare, undeveloped and verdant ridgeline? Do we want to deny our children and grandchildren the opportunity to enjoy a community that offers a reasonable mix of developed and undeveloped neighborhoods in Portland? Finally, we want to point out that high priced high rises on the Peninsula—and off Ocean Avenue—do little to meet the most pressing housing needs in our community. Instead they become havens for people of means who could live anywhere.

We implore you to take all of these points into consideration and help us preserve a special part of Portland that's a peaceful, accessible respite for residents and visitors alike.

Thank you very much.

James Harnar and Kathleen McKeen
11 Wildwood Circle
Portland

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June 28, 2014

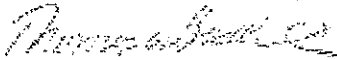
Thomas & Sheila Buckland
65 Ridge Road
Portland, ME 04103

To: Portland Planning Board,

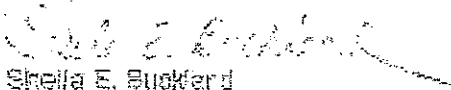
As residents of Portland we oppose the Casco Heights development. The proposed project is completely out of character with the Neighborhood. The density of the project would effect neighborhood livability and negatively impact the safety of traffic that travels on Ocean Avenue and Washington Street. To build in the location would require tremendous blasting efforts and possibly endanger surrounding structures.

These are just some of the reasons we oppose the Casco Heights development project and do not support it.

Sincerely,



Thomas W. Buckland



Sheila E. Buckland

9055

Jennifer Yeason - Ocean Ridge Public Comments

From: Barbara Barhydt
To: Yeason, Jennifer
Sent: 7/7/2014 8:26 AM
Subject: Re: July Public Comments
Attachments: AM Comment 8-6-14.pdf; AM public comment 8-3.pdf

public comment - please include attachments

>>> "Antoinette Mancusi" <amancusi@coastalcounties.org> Saturday, July 05, 2014 7:48 AM >>>
Dear Planning Board:

I am re-submitting my previous comments as a restatement of my disapproval of the Casco Heights project (as is being proposed).

I am also hopeful that the City is examining how to mitigate the potential damage of this terrible zoning decision which was made in 2004. Since this was a "conditional" agreement it should have had an end date (a date by which if not fulfilled the agreement would become void and the zone would revert back to an R3 zone.) How could the City have entered into a "conditional" zoning decision which is good in perpetuity? This makes no sense and goes against sound land use planning and moreover, sound public policy.

Thank you,

Antoinette Mancusi
Owner of Ocean Ridge Condominium Assoc. (ORCA)

Antoinette Mancusi
58 Ridge Road
Portland, Maine 04103

City of Portland, City Hall
389 Congress Street
Portland, Me. 04101
Attn: Barbara Barbydt, Development Review Services Manager

June 6, 2014

Via email: bab@portlandmaine.gov

RE: Public Comment to "Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development)"

Dear Portland Planning Board/City Council:

Per my earlier comment (5/4/14), which I yet again attach for your consideration, I am an owner of a home at the Ocean Ridge Condominium Association (ORCA) and am terribly concerned with the proposed Casco Heights project. (Please refer to my earlier comment for specific concerns with the project.)

I have another concern which I am hopeful the Planning Board can allay. I do not understand why the planning board is entertaining changes (revisions) to a conditional rezoning agreement when the plan put forth in 2004 (on which the conditional rezoning agreement was based) is no longer the plan being proposed by the builder. I am confounded as to how these revisions could possibly be approved, if for example, using the height revision, the height of the building being proposed currently does not apply to the building (site plan) provided in 2004. Doyle has put forth a completely different site plan.

As Section 7, from page 5 of Doyle's "red-line" agreement (see below) provides, the plans are now by Sebago Technics and Archetype PA. These are not the 2004 Richardson Associates plan. How, therefore, can the planning board accept changes to a plan (on which the conditional rezoning agreement was based in 2004) when the plan NO LONGER EXISTS?

Was not the conditional rezoning agreement based on the 2004 site plan? Since the 2004 site plan is no longer the "plan", how could current proposed considerations regarding the building i.e., it's height, go forward presently?

Incidentally, despite the planning board directing Ms. Doyle (at the May 6th meeting) to speak to the ORCA residents in order to address our concerns prior to revising her plan, much to our chagrin Ms. Doyle developed her current plan without meeting with us.

7. The Agency will be developed substantially in accordance with the following:

7. The Property will be developed substantially in accordance with the Preliminary SUD.

Plans, Zoning Map, Section and First of Easement Form submitted by Richardson and Associates, Incorporated, August 16, 1979, and the Proposed Building Design and sections, building footprints and floor plans submitted by West Plains Architects (not a member of the City) include a preliminary elevation from 100 feet to 150 feet for a structure, 175 feet high, with 100 feet of height. The proposed building entrance on Oak Avenue shall be at the location shown on said Zoning Map and the City hereby grants such waivers as may be necessary to permit the entrance to the property to adjacent driveways; provided, however, that the location of entrance shall, with the approval of the Planning Board, the location of the entrance may be moved up to 20 feet south of the location shown on the attached site plan without any further amendment to this

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I would greatly appreciate any clarification you might be able to provide.

Sincerely,

H. J. Forster

Antoine Wierowski

Antoinette Mancusi
58 Ridge Road
Portland, Maine 04103

City of Portland, City Hall
389 Congress Street
Portland, Me. 04101

Attn: Barbara Barhydt, Development Review Services Manager

May 4, 2014

Via email: baty@portlandmaine.gov

RE: Public Comment to "Amendment to Conditional Rezoning Agreement; Casco Heights Condominiums (formerly Graves Hill Development)"

Dear Portland Planning Board/City Council:

As a resident of the Ocean Ridge Condominium Association (ORCA) I am extremely concerned about the proposed Casco Heights project. Clearly, the planning board/city council, by virtue of the City of Portland Code of Ordinances, Chapter 14, DIVISION 1.5. CONDITIONAL OR CONTRACT ZONING Sec. 14-60, has the authority to impose conditions and restrictions on such a project. I am hopeful that the board/council will reflect upon the negative consequences that this project will have on ORCA and the surrounding neighborhood and impose conditions/restrictions that will protect us.

First, it is vital to acknowledge the extraordinary difference in backdrop that exists between the original 2004 decision (granting the conditional contract zoning agreement) and TEN years later—2014. There are currently 46 family homes directly adjacent to the proposed project. We exist now. We did not then. The feasibility of this project must be analyzed under the current context—not the context that existed an entire decade ago.

Moreover, the developer's proposed amendments have moved the structures so close to our homes that there would be an enormous negative impact on ORCA. I urge the Planning Board and City Council to utilize their authority to set conditions and restrictions permissible under Sec. 14-62. The conditions and restrictions imposed must:

- 1) Restrict the scale and density of this development; it's a monolith. It is too large given the tract of buildable land and natural surroundings. The proposed height is still too tall — it is not compatible with ORCA nor is it compatible with our neighborhood.
- 2) Preserve our open space and buffers, and protect our natural areas and historic sites; the proposed project does not provide a sufficient buffer. It's too close to ORCA. The current proposal would also require a magnitude of blasting that is of great concern to us. Moreover, Ms. Doyle, the developer/owner, specifically told us at the first neighborhood meeting that the USGS marker representing the 3rd highest point in our City would be blasted. She remarked it would just be moved! How could this be reasonable and consistent with the City's comprehensive plan?

P0016

Initial: 11/20/14 - 11/20/14 - 11/20/14 - 11/20/14 - 11/20/14 - 11/20/14 - 11/20/14 - 11/20/14 - 11/20/14 - 11/20/14

From: Barbara Barhydt

To: Vernon, Jennifer

Date: 7/3/2014 2:25 PM

Subject: Asst. Castro Heights Planning Board Public Hearing on June 10

Public comments

>>> Jean Matlimore <jeanmatlimore@gmail.com> Thursday, July 03, 2014 2:25 PM >>>

Dear Ms. Barhydt,

I'm resubmitting my previous comments in anticipation of the Planning Board hearing on July 7 on 802-828 Ocean Avenue. I wanted to communicate to the Board that my concerns and questions remain as stated previously.

Thank you,

Jean Matlimore

147 Ridge Road

----- Forwarded message -----

From: Jean Matlimore <jeanmatlimore@gmail.com>

Date: Mon, Jun 9, 2014 at 1:33 PM

Subject: Castro Heights Planning Board Public Hearing on June 10

To: barb@castroheights.org

Dear Ms. Barhydt,

I've included the May 5 message I sent to you prior to the Planning Board's workshop on this project on May 6. I attended the workshop and also tagged along on the site visit on June 3, at which we received updated plans for the site. The visit and discussion of the proposed plan heightened the concerns I sent earlier and emphasized a few, as follows:

- Now I appreciate how much of the ridge would need to be blasted to achieve the design proposed, although the design itself still seemed to lack details that could affect the impact on the ridge and neighboring properties. Will more of these specifics be clarified before the Board votes on the amendment as was the case in the original plan approved? This would be important since, as I understood from the discussion, it is this plan that would be part of the Board's review of the amendment on June 10 and possible recommendation.
- The drawing of the blueprint for the proposed complex shows more clearly to me why this project is incompatible with the surrounding area. This point is not about aesthetics--which we've been told often are a discussion for a later date--but about the underlying plan for these structures, which would be so completely different from everything surrounding them and appear quite close to some other structures. There will be only 4 fewer units than were originally planned, so these structures will still have many more units than and be up to twice the height of Ocean Ridge and other communities surrounding the site. The size and population density--and related traffic--is unique in the area and would be disruptive.
- While the developers indicated that surrounding properties would be "camera-ed" before the project begins for comparison--and compensation, I assume--for repairs required post-construction, I wonder how the many units built on slabs rather than foundations (mine included) can even accomplish that

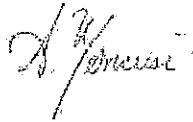
Although I attended the first neighborhood meeting, very little information was provided by Ms. Doyle. As a result, I am unable to comment on other elements of this proposed project that will certainly come into play such as:

- o Specifications for the design and layout of buildings and other improvements;
- o Schedules for commencement and completion of construction;
- o Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
- o Contributions toward the provision of municipal services required by the development; and
- o Provisions for enforcement and remedies for breach of any condition or restriction.

I reserve judgment/commentary on these elements until the time we have more information.

As an aside, on the matter of the neighborhood meeting, let me say that I was quite disappointed that Ms. Doyle felt it necessary to utilize scare tactics on the meeting's attendees. She, in essence, described our options as being threefold; the original 2004 building plan, the 2014 proposed plan (at issue currently) or, potential clear cutting to build a multitude of homes. I find all these options utterly unacceptable given the aforementioned reasons and implore the Planning Board/City Council to utilize its authority in controlling any such project on Graves Hill.

Sincerely,



Antoinette Mancusi

structural comparison. This may be my lack of knowledge, but is a significant concern.

- Given the time and aggravation the ORCA Board has gone through to get promised construction requirements met here, I'm concerned any reparations would be prolonged, disruptive and costly to us (legal fees were involved before). I know this might seem like predicting a worst case, but the ORCA folks who were here at that time have very clear knowledge of these issues and we're still fixing some years later.

Again, thanks to you and the Board for the consideration being given to the proposed amendment and related issues, as this proposal would have a profound effect on this section of Portland and have what still appears to be a negative impact on surrounding properties.

Jean Mattimore
147 Ridge Road

TO: Barbara Berlydt, Development Review Manager, Planning Division

Dear Ms. Berlydt:

As an owner in the Ocean Ridge condominium community, I'd like to express several concerns about the proposed development being considered. They also relate directly to the mission of the Planning Division as stated on your website:

"We plan Portland's future by building upon the City's distinct historic, cultural and natural assets to achieve a livable and sustainable built and natural environment, exemplified by dignified and engaging public spaces, a strong sense of community, and a diversity of healthy neighborhoods and business districts comprising a vibrant urban center."

- The proposed development will add significant traffic to the already heavily traveled Ocean Avenue and surrounding roads, challenging the safety and sense of community in the area.
- This addition of so many units in an already densely populated area can affect the livable quality of the neighborhood and some of its valuable natural environment.
- The design, scale and density of the proposed plan is inconsistent with the character of other buildings in the area, including other condominium communities such as Ocean Ridge.
- The blasting this project will require could materially affect the stone ridge we would share. That, in turn, could have a substantial impact on our homes.
- These factors could affect the value and sustainability of our property.

Thank you for including these comments as the Planning Board considers this proposal at its workshop.

Jean Mattimore

147 Ridge Road

Portland, ME 04103

2067

Agenda Item 15 - Board of Planning Board Meeting July 8th on rezoning 802 Ocean Ave.

From: Barbara Barbydt

To: Yeaton, Jennifer

Date: 7/3/2014 4:31 PM

Subject: Fwd: Planning Board Hearing July 8th on rezoning 802 Ocean Ave.

public comment for casco heights

>>> Glenn Turner <gturner35@gmail.com> Thursday, July 03, 2014 4:28 PM >>>

To: the Planning Board of the City of Portland

I am writing again to voice our objections to the proposed plans for the two high-rise condominiums which will be situated between the Alden Walk condominium development and the Ocean Ridge development.

My wife, Caroline Loupe, and I agree with the comments sent to you in an email from Wayne Goodman. I won't belabor those points.

It's would be an incongruous development between Alden Walk and Ocean Ridge. It would destroy views of the nearest neighbors because of the proximity and height. It would dominate the skyline. During, and probably after, construction it would decrease the value of neighboring condos. Condo owners would take a loss if they tried to sell their properties. There's the question of whether the City of Portland would revise our taxes downward if the project went forward. Five years of building and blasting. Who would want to move close to that? There is significant rock to be blasted for this size building. I would expect collateral damage, damage that might take years to discover, and the prospect of costly litigation.

Moreover, if the city is looking for affordable housing, prices of over \$400,000 are not it. Nor is the impact of the number of units and drivers inconsiderable. Congestion in our area, especially at peak hours, is such that we don't directly drive to Washington Ave. but skirt through Ledgewood over to the traffic light at Ocean and Washington to have a fighting chance. Even then it's dicey.

We strongly urge you to advise the City Council to reconsider this entire development that is compatible with the neighborhood and with less potential damage to surrounding buildings and the natural environment.

Sincerely,

Glenn H. Turner
Caroline M. Loupe
3 Wildwood Circle
Portland, ME 04103

PC58

Don Miller (Fam) - Portland City Hall Heights Project

From: Barbara Barthold
 To: Yeaton, Jennifer
 Date: 7/7/2014 10:04 AM
 Subject: Portland Casco Bay Heights Project

public comment

>>> "Craig Williams" <craig@churchillcaterers.com> Monday, July 07, 2014 9:52 AM >>>
 In re: Casco Bay Heights Project

Dear Members of the Portland, Maine Planning Board:

I do not envy your jobs, particularly with the responsibility of oversight for this specific project; nevertheless, I want to reiterate my concerns (shared by many homeowners in the areas abutting the referenced proposed project), which I expressed in a letter on 9 June 2014, as follows:

Nothing in the area comes close to approximating the size of these two (2) buildings. And when completed they will be the highest residential structures in greater Portland...they will overpower everything within sight. Driving along I-295 from either direction, the buildings will loom large over the few currently visible residential projects (though not as large, these structures will appear visually in context to be nearly as large as the Maine Medical Center does when approaching Portland from the south).

More importantly, the amount of site work required will necessitate months...possibly several years...of noise and disruption to daily life. No one is capable of determining the potential damage which will result from the blasting work required to make the site suit the required work of the proposed construction and surrounding landscape/hardscape. What is the developers' liability, even if our basements are photographed and the information stored for future reference?

Traffic and road conditions will be adversely affected during the various phases of construction...heavy equipment will undoubtedly wreak havoc on this section of City pavement that is always being repaired, caused not only by construction in the immediate area and heavy trucks going in and out of the Dragon facility several hundred yards away, but undoubtedly by the water that follows the ledge from the top of the ridge, flowing under the road bed, ultimately reaching the bay. Further, the potential of 150 residents' cars in and out every day once the project has been completed will have detrimental effects on this section of Ocean Avenue.

And, this will not bring new affordable housing to the greater Portland community, with units being priced between \$400,000 and \$1,000,000. I am all for growth when it conforms with the tenets that everyone can support; in this case, I believe strongly that the original conditional zoning be reversed – and that the parcel be reserved for single family development and/or retained as open space for all.

Thank you for your consideration.

Craig W. Williams
4 Wildwood Circle
Portland, ME 04103
(President, Alden's Walk Homeowners' Association Board)

PC 59

Portland Planning Board Meeting - Fwd: Planning Board Meeting July 8, 2014 - Conditional Rezoning of 802-828 Ocean Avenue

From: Barbara Barhydt
To: Yerton, Jennifer
Date: 7/7/2014 11:56 AM
Subject: Fwd: Planning Board Meeting July 8, 2014 - Conditional Rezoning of 802-828 Ocean Avenue

public comment for Casco Heights

>>> Paulette Tidd <ptidd1011@gmail.com> Monday, July 07, 2014 11:48 AM >>>
Members of the Portland Planning Board:

I am very concerned about the effect that this development will have on Ocean Ridge Condominium where I live. I am particularly concerned about the effect that the blasting could have on our underground propane storage tanks. If the blasting should damage these tanks in any way, the result could be catastrophic on our community.

In addition I think that this development will have a negative impact on:

- damage to our units from the blasting
- parking in the neighborhood since 1 space for a 1 bedroom unit is not adequate to handle some residents' needs, visitors to these apartments, and service people who will need to go to these apartments
- the amount of traffic on Ocean Avenue and Washington Avenue
- the character of our neighborhood since this development is totally out of line with the other structures in the neighborhood
- the noise level in the neighborhood both during construction and afterwards
- the narrow width of the buffer of natural vegetation that will be left between our community and this development
- the shadows that this development will cast on our neighborhood

Sincerely,

Paulette S. Tidd
182 Ridge Road
Portland ME

PC 40

Forward: Casco Heights - Fwd: Casco Heights Condo project.

From: Barbara Barhydt
To: Yeaton, Jennifer
Sent: 7/8/2014 8:05 AM
Subject: Fwd: Casco Heights Condo project.

public comment

>>> Jim Fairbenks <jim@dunegrass.com> Monday, July 07, 2014 10:34 PM >>>

This will be my second email apposing this project. It does not meet zoning and will be an extremely negative impact on the area.

Jennifer Yeaton - Public Input to School Board

From: Barbara Barnydt
To: Yeaton, Jennifer
Date: 7/8/2014 8:28 AM
Subject: Pwd: Casco Heights Proposal
Attachments: SAVEORCA3.doc

public comment

>>> Sabrina Nickerson <snickerson@windhamraymondschools.org> Tuesday, July 08, 2014 8:20 AM >>>

Hello,
Please accept my comments attached for tonight's planning board meeting.
Thank you,
Sabrina Nickerson

Sabrina T. Nickerson
Grade 5 Teacher
Manchester School
709 Roosevelt Trail
Windham, Maine 04062
207-892-1830

July 5th, 2014

To: Portland Planning Board

From: Sabrina Nickerson, Resident at Ocean Ridge Condominiums

Dear Planning Board,

As a resident of Ocean Ridge Condominiums, I am writing today because I truly believe Portland residents need to protect the natural environment, beauty and historical value of their neighborhoods. As much as possible we want to preserve our surrounding hardwood stands of oak, and maple, rare plants such as Lady Slippers, and vernal pools that are essential breeding habitats for blue spotted salamanders, wood frogs, and fairy shrimp. (<http://www.maine.gov/dcp/water/wetlands/vernal.html>) Our neighborhood, historically known as Grave's Hill also includes the 3rd highest peak in the city of Portland. We therefore wish to maintain the unique forest habitat and the character and architectural style of our Ocean Avenue Neighborhood.

Given the Casco Heights Project proposal, I must ask the following questions to the all of the members of the Planning Board if this type of building construction is truly responsible land use and smart and considerate growth for our already heavily trafficked neighborhood:

- 1) Is the proposed development in character with the surrounding architecture, the scale, density and livability?
- 2) Will the board please consider that the current footprint and proposed height of the tower-like structure will create visual blight and most assuredly block much needed sunlight and solar gain for our Ocean Ridge homeowners.
- 3) Will the Planning Board reconsider and require that Casco Heights' readjust their buffer zone which was adjusted to 80 feet when a new plan was proposed a few years later when Ocean Ridge Condominiums were not yet constructed.
- 4) How much damage to our existing homes will be realized with extended and prolonged amounts of blasting during Phase 1 and then during Phase 2 of this building project?
- 5) Should any damage occur during or after this prolonged blasting, what kind of assurance do we have that the developers will take responsibility and fix any related damages?
- 6) Last but certainly not least, given the proposed changes in the footprint of the two large buildings and adjoining parking lots, I would ask the planning board to promote the optimum building construction that would consider the preservation of this unique hardwood forest, the vernal pools and the third highest peak known historically as 'Graves Hill'.

Respectfully submitted,
Sabrina T. Nickerson
54 Ridge Road , Portland, Maine

7-1-14

Dear Planning Board Members - Please find attached the Casco Bay Heights project for July 8 Planning Board Meeting

From: Barbara Barhydt

To: Veaton, Jennifer

Date: 7/7/2014 2:32 PM

Subject: Fwd: Fwd: Comments on Casco Bay Heights project for July 8 Planning Board Meeting

public comment

>>> "Carol Veilleux" <cveille1@maine.m.com> Monday, July 07, 2014 2:29 PM >>>

Hi Barbara,

I tried to send this last night, but I got an error message. Hope my comments can still be included in the Planning Board package. Thank you.

Carol Veilleux

From: Carol Veilleux [mailto:cveille1@maine.m.com]

Sent: Sunday, July 06, 2014 8:30 PM

To: 'bab@portlandmaine.gov'

Subject: Comments on Casco Bay Heights project for July 8 Planning Board Meeting

Dear Planning Board Members,

Attached below are the comments I submitted for the last Planning Board Meeting that addressed the Casco Bay Heights project. I would like to re-submit them as you re-consider the proposed amendment and making a recommendation to the City Council. I believe the fundamental issues regarding the neighborhood opposition to this project continue to be those you have thoroughly discussed:

- 1) The original conditional zoning was approved for this site 10 years ago. For some unknown reason, the Council at that time, did not include any anti-dele to this conditional zoning which has prevented the Planning Board from recommending any substantial changes to the proposed project in terms of scale and height. Would the Planning Board consider recommending to the council that the original conditional zoning be reversed, given the extreme realities of the now existing neighborhoods near this project? The zoning should then revert to and/or RDS and R2.
- 2) Your decision to table the vote on this project, as expressed by all of the Planning Board members present at the last meeting, was due to the Board's complete dissatisfaction with the scale and height of the project. Since the developer has not submitted any new plans to address these issues, we expect that your opposition to the scale and size of the project remains. The Board continues to be hampered by the issue raised in my previous point in its efforts to make a recommendation to the City Council.
- 3) I believe that the property known as the Graves Hill parcel (Casco Bay Heights project) is currently on the list of high priority open space parcels for the City's Land Bank program. Should this be the case, then a reversal of the original conditional zoning of 2004 is warranted and all efforts be made by the City and its residents to preserve this parcel as open space for the benefit of the entire community.

Thank you for your consideration.

Carol Veilleux

18 Wilkeson Circle

Portland, Maine

From: Carol Veilleux [mailto:cveille1@maine.m.com]

Sent: Monday, June 09, 2014 10:48 PM

Handwritten signature

To: 'bab@portlandmaine.gov'

Subject: Comments to the Planning Board on Casco Bay Heights project

Dear Planning Board members,

We would like to express our opposition to the proposed Casco Bay Heights project as you consider the amended zoning change from a similar proposal approved by the City Council in 2004. As residents of North Osering for the past 30 years, we have seen many changes in the area, the vast majority of which have kept and enhanced the quality of this residential neighborhood. The approval of this project, as currently proposed by the current/future land owners, significantly differs from previous housing projects in numerous ways:

- 1) The size and height of the buildings and the surrounding site are completely unlike any other privately owned housing in the area. The project does not meet the City of Portland's Comprehensive plan goals of increasing the housing stock while maintaining neighborhood characteristics and livability.
- 2) The proposed condo unit selling prices (we have been told from \$450K to \$1M) do not align with the City's Comprehensive Plan directive to increase affordable housing for the area's workforce. How can the Planning Board and the City Council approve a project that proposes to add 94 new housing units whose target market most likely represents less than 1% of households in the city?
- 3) The proposed project does not align with the City's Comprehensive plan regarding the preservation of open space. The project's mass and height will effectively result in the clear-cutting of 10 acres of the Graves Hill ridge and provide no significant buffers for two adjacent communities. Are there no other options for the development of this site that mitigate the destruction of so much open space? If you are not familiar with the area, we urge you to take look at how Ledgewood, Alden's Walk, the Pheasant Hill Association homes, Ocean Ridge and other area projects have managed to maintain and enhance the natural landscape.
- 4) The proposed project does not meet the required City zoning guidelines for an R5 zone (see attached from the City of Portland, Planning Division website). While we are not a zoning expert by any means, how does approval of this project in an R5 zone comply with the R5 published guidelines?

Thank you for your consideration of our comments.

Carol Veilleux and Donald Kato
16 Wildwood Circle
Alden's Walk
Portland, Maine

PCU4

Jennifer Yeaton - Fwd: Delivery Status Notification (Failure)

From: Barbara Barhydt
To: Yeaton, Jennifer
Date: 7/8/2014 1:44 PM
Subject: Fwd: Delivery Status Notification (Failure)

public comment

>>> George Campbell <georgencampbelljr@gmail.com> Tuesday, July 08, 2014 1:30 PM >>>
> Members of Planning Board and Staff- I write in support of the request
> to amend the existing contract zone.
>
> Although, I now live on Clifford St in Portland, I was at the time
> of the original contract zone approval a resident of Alden's Walk, in
> fact my townhouse was the very closest to the site.
>
> After hours of attending hearings, listening to all sides of the
> contract zone, I became an ardent supporter of the Graves Hill
> Project.
>
> Why? The contract zone gave opportunity for the City to work
> directly with the developer and ensure we would get a much more
> desirable project than the underlying R-3 Zone allowed. More desirable
> because our City added 8 acres of open space and created essential
> deeded connections to other open space. In addition, trees and other
> vegetation was much more preserved, unlike the Ocean Ridge proposal
> for example.
>
> There were many other important points that helped me become a
> project advocate- the quality of the developer; the design of
> buildings; support from key conservation groups; and the ability of
> Planning Board and City Council to have direct and effective input in
> shaping the proposal- rather than reacting to a site plan under R-3.
>
> The amendment requests of the current development team adheres to the
> principles and core concepts of the contract zone, while actually
> reducing height, expanding opportunities for housing beyond the high
> end only market; and offers specific changes that are readily
> analyzed.
>
> As a former City Councilor, Chair of the Eastern Promenade Master
> Planning Committee, and current active member of Friends of the
> Eastern Promenade I have long come to understand the value of
> dedicated open space. These amendments give you a chance to add to our
> open space inventory while allowing the private developer to create
> a place that can long serve as home to Portlanders of many economic
> stripes.

- >
- > Please vote yes to recommend amending the contract zone to the
- > Portland City Council.
- >
- > Regards, George Campbell
- >
- > ----- Message truncated -----
- >

Lannie Dobson - Re: Fwd: Casco Heights Condominiums

From: Lannie Dobson
To: Barbara Barhydt
Subject: Re: Fwd: Casco Heights Condominiums

>>> Barbara Barhydt Tuesday, July 01, 2014 10:56 AM >>>
public comment

>>> Terence Goodwin <tgoodwin1232@gmail.com> Friday, June 27, 2014 6:42 PM >>>
This proposed development should not be approved. It is totally out of character with the neighborhood, and therefore not in compliance with the city's standards for community planning. In addition, it is a serious threat to the integrity and safety of the neighboring buildings and their occupants because of the required heavy blasting. Ocean Ridge, for example, has buried propane tanks and lines which stand a good chance of being damaged, presenting a very real threat of the type of gas explosion such as we saw recently in Yarmouth.

Terence & Barbara Goodwin
1 Wildwood Circle
Portland, ME 04103