



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

DEPARTMENT ORDER

IN THE MATTER OF

ENCHANTED HOMES, LLC)	SITE LOCATION OF DEVELOPMENT ACT
Raymond, Cumberland County)	
TARKILN HILL ESTATES SUBDIVISION)	
SUBDIVIDE LOTS 1 AND 7)	MINOR AMENDMENT
L-21806-L3-D-B (approval))	FINDINGS OF FACT AND ORDER

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

1. PROJECT DESCRIPTION:

A. History of Project: In Department Order #L-21806-L3-A-N, dated September 24, 2004, the Department approved the development of a 23-lot residential subdivision on a 95-acre parcel of land. The project site is located at the end of Tarkiln Hill Road in the Town of Raymond.

B. Summary: The applicant proposes to subdivide Lots 1 and 7. The applicant proposes to reduce the area of Lot 1 from 2.65 acres to 1.11 acres. The 1.54 acres removed, which includes the existing wet pond at the back of the lot, will be transferred to open space. The applicant also proposes to remove 1.05 acres from the open space at the rear of Lot 7 and add it to the 1.54 acres of Lot 7, which will then be subdivided into Lot 7A and 7B, each 1.30 acres in size. Lot 7A and 7B will contain a single-family residence and will be developed within the parameters established by Department Order #L-21806-L3-A-N. The proposed modification is shown on a plan entitled "Amended Subdivision, Lot 1 & Lot 7", drawn by Land Services, Inc., and dated September 13, 2006.

C. Current Use of Site: The site is currently being developed into a residential subdivision.

2. STORMWATER MANAGEMENT:

The proposed project includes approximately 6,250 square feet of new impervious area and 11,000 square feet of new developed area. It lies within the watershed of Panther Pond, a lake most at risk from new development. The applicant submitted a stormwater management plan based on the basic, phosphorus, and flooding standards contained in

Department Rules, Chapter 500. The proposed stormwater management system consists of an existing wet pond and grassed swale.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The original Erosion and Sedimentation Control Plan (Section 14 of the application) submitted by the applicant was based on the Best Management Practices outlined in the Maine Erosion and Sediment Control BMPS, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in response to the comments of the Division of Watershed Management (DWM) of the Bureau of Land and Water Quality (BLWQ).

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

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

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

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

B. General Standard:

Phosphorus: Because of the proposed project's location in the watershed of Panther Pond, stormwater runoff from the project site must meet the phosphorus standard outlined in Chapter 500(4)(2). The applicant's phosphorus control plan was developed using methodology developed by the Department and outlined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" and approved in Department Order #L-21806-L3-A-N. The maximum phosphorus allocation for Panther Pond is 1.89 pounds of phosphorus per acre per year. The applicant proposes to remove phosphorus from the project's stormwater runoff by utilizing the existing wet pond. The stormwater management system will provide a phosphorus treatment and removal rate of

approximately 69 percent. It will not be able to reduce the discharge of phosphorus to a level that will be in compliance with the per-acre phosphorus allocation for Panther Pond.

The applicant indicated that it is unable to meet the phosphorus standard at a reasonable cost and because of site constraints by utilizing additional, conventional on-site phosphorus control measures. Therefore, the applicant is addressing the remaining phosphorus reduction requirements of Chapter 500 through the payment of a compensation fee. In order to compensate for the additional excess phosphorus export of 0.05 pounds per year from the proposed project, the applicant submitted a payment of \$500 to the Department's Lake Phosphorus Compensation Fund to be utilized at other sites in the Panther Pond watershed to reduce phosphorus exports to the pond.

The phosphorus control measures proposed to meet the Chapter 500, General Standard were reviewed by, and revised in response to comments from DWM staff. DWM stated that the proposed project is in compliance with the Chapter 500 General Standard.

Based on DWM's review of the stormwater management plan, the Department finds that the proposed project meets the General Standard contained in Chapter 500(4)(B).

C. Flooding Standard:

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

The stormwater management system proposed by the applicant was reviewed by, and revised in response to, comments from DWM. In its comments, DWM stated that the proposed system complies with the Chapter 500 Flooding Standard.

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

3. GROUNDWATER:

The project site is not located over a mapped sand and gravel aquifer. Other than individual drinking water wells and wastewater disposal systems, the proposed project does not propose any withdrawal from, or discharge to, the groundwater.

Based on the information discussed in Finding 4, the Department finds that the proposed project will not unreasonably deplete ground water resources. Therefore, the Department further finds that the proposed project will not have an unreasonable adverse effect on ground water quality or quantity.

4. WATER SUPPLY:

Drinking water for Lots 7A & 7B will be supplied by individual wells. The applicant submitted an assessment of groundwater supplies that are available on the project site and an analysis of potential impacts to on-site wells resulting from on-site wastewater disposal. These assessments were reviewed by the Division of Environmental Assessment (DEA) of the BLWQ and approved in Department Order #L-21806-L3-A-N.

Department Order #L-21806-L3-A-N requires all water supply well casings will be set and grouted a minimum of 20 feet into the solid bedrock surface, if bedrock is less than 10 feet in depth at well sites. Wells must not be located in the exclusion areas identified on the Well Exclusion Areas Plan included in the set of plans referenced in Finding 1.

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

5. WASTEWATER DISPOSAL:

Wastewater will be disposed of by an individual subsurface wastewater disposal system on each lot. Each individual system must be designed to meet the requirements of the Maine State Plumbing Code and located as outlined on the Well Exclusion Areas Plan.

Individual wastewater disposal field locations were determined based on the nitrate-nitrogen impact analysis. The DEA commented that the nitrate-nitrogen impact assessment was based on wastewater flows generated by a 4-bedroom dwelling, and therefore, single-family residences for the proposed project must be limited to 4-bedroom dwellings.

Individual subsurface wastewater disposal systems that exceed the design flow for a 4-bedroom dwelling or relocation of an individual subsurface wastewater disposal system will require review and approval from the BLWQ prior to installation of the system.

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

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6. ALL OTHER:

All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-21806-L3-A-N, and subsequent orders.

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

- A. The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards.
- B. The applicant has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing uses, scenic character, air quality, water quality, or other natural resources in the municipality or in neighboring municipalities.
- C. The proposed development will be built on soil types which are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil.
- D. The proposed development meets the standards for storm water management in Section 420-D and the standard for erosion and sedimentation control in Section 420-C.
- E. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.
- F. The applicant has made adequate provision of utilities, including water supplies, sewerage facilities, solid waste disposal and roadways required for the development and the development will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services provided individual wells and subsurface wastewater disposal systems are designed, located and installed as outlined in Findings 4 and 5.
- G. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

THEREFORE, the Department APPROVES the application of ENCHANTED HOMES, LLC to subdivide Lots 1 and 7, as described above, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

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

2. In addition to any specific erosion control measures described in this or previous orders, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.
3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. The applicant or other responsible party shall, within three months of the expiration of each five-year interval from the date of this Order, submit a report certifying that the items listed in Department Rules, Chapter 500, Appendix B(4) have been completed in accordance with the approved plans.
5. The applicant shall include in all conveyances of subdivision lots deed restrictions making the conveyance subject to all terms and conditions of this Department permit and any applicable municipal approval. These terms and conditions may be incorporated by specific and prominent reference to the permit in the deed. All conveyances required by this approval to contain restrictions shall include in the restrictions the requirement that any subsequent conveyance shall specifically include the same restrictions.
6. The applicant shall give a copy of this permit, including the standard conditions, and a copy of the approved subdivision plan to each lot buyer at least 14 days prior to the date of closing on the sale or lease of the lot. The applicant also shall maintain a file containing signed and dated statements by lot buyers or lessees acknowledging that they have received and read their copy of this permit and the subdivision plan prior to the closing on their lot. The file shall also contain a copy of the signed and dated deed or lease containing the restrictive covenants required under this approval. The applicant shall make this file available for inspection upon request by the Department.
7. Individual subsurface wastewater disposal systems that exceed the design flow for a 4-bedroom dwelling or relocation of an individual subsurface wastewater disposal system shall require review and approval from the BLWQ prior to installation of the system.

- 8. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-21806-L3-A-N, and subsequent orders, and are incorporated herein.

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

DONE AND DATED AT AUGUSTA, MAINE, THIS 20TH DAY OF November, 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: 
 DAVID P. LITTELL, COMMISSIONER

A TRUE COPY

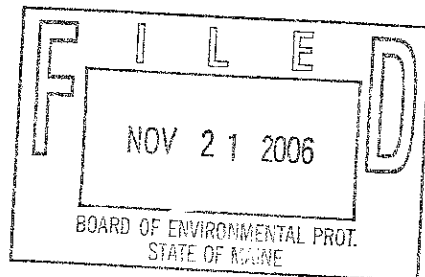
ATTEST: 
 Lorraine C. Kelley
 Bureau of Land & Water

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application September 18, 2006

Date of application acceptance October 4, 2006

Date filed with Board of Environmental Protection
 RLG/ATS60759/L21806DB



SITE LOCATION OF DEVELOPMENT (SITE)
STANDARD CONDITIONS

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

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

(2/81)/Revised November 1, 1979

DEPLW 148

Received
Recorded Register of Deeds
Dec 05, 2006 01:15:20P
Cumberland County
John B O'Brien