

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
DRC Copy**

2008-0032

Application I. D. Number

3/26/2008

Application Date

218 Washington Ave

Project Name/Description

Morse Glenn A

Applicant

Po Box 1466 , Scarborough , ME 04070

Applicant's Mailing Address

Consultant/Agent

Agent Ph:

Agent Fax:

Applicant or Agent Daytime Telephone, Fax

218 - 218 Washington Ave, Portland, Maine

Address of Proposed Site

010 A015001

Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Apt 0 Condo 0 Other (specify) _____

| | | | | | |
|---|--------------|-----------------|----------|---|-------------|
| Proposed Building square Feet or # of Units | 13140 | Acreage of Site | 0 | Proposed Total Disturbed Area of the Site | B1-b |
| | | | | | Zoning |

Check Review Required:

- Site Plan (major/minor) Zoning Conditional - PB Subdivision # of lots _____
- Amendment to Plan - Board Review Zoning Conditional - ZBA Shoreland Historic Preservation DEP Local Certification
- Amendment to Plan - Staff Review Zoning Variance Flood Hazard Site Location
- After the Fact - Major Stormwater Traffic Movement Other _____
- After the Fact - Minor PAD Review 14-403 Streets Review

Fees Paid: Site Plan **\$400.00** Subdivision _____ Engineer Review _____ Date **3/26/2008**

DRC Approval Status:

Reviewer _____

- Approved** **Approved w/Conditions** **Denied**
- See Attached

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached

Condition Compliance _____ signature _____ date _____

Performance Guarantee **Required*** **Not Required**

* No building permit may be issued until a performance guarantee has been submitted as indicated below

| | | | |
|---|----------------|--|-----------------|
| <input type="checkbox"/> Performance Guarantee Accepted | _____ | _____ | _____ |
| | date | amount | expiration date |
| <input type="checkbox"/> Inspection Fee Paid | _____ | _____ | |
| | date | amount | |
| <input type="checkbox"/> Building Permit Issue | _____ | | |
| | date | | |
| <input type="checkbox"/> Performance Guarantee Reduced | _____ | _____ | _____ |
| | date | remaining balance | signature |
| <input type="checkbox"/> Temporary Certificate of Occupancy | _____ | <input type="checkbox"/> Conditions (See Attached) | _____ |
| | date | | expiration date |
| <input type="checkbox"/> Final Inspection | _____ | _____ | |
| | date | signature | |
| <input type="checkbox"/> Certificate Of Occupancy | _____ | | |
| | date | | |
| <input type="checkbox"/> Performance Guarantee Released | _____ | _____ | |
| | date | signature | |
| <input type="checkbox"/> Defect Guarantee Submitted | _____ | _____ | _____ |
| | submitted date | amount | expiration date |
| <input type="checkbox"/> Defect Guarantee Released | _____ | _____ | |
| | date | signature | |



**Development Review Application
Portland, Maine**

Department of Planning and Development, Planning Division and Planning Board

| | | |
|--|--|--|
| Address of Proposed Development: | | |
| Zone: <u>B1-b</u> | | |
| Project Name: <u>218 Washington Ave</u> | | |
| Existing Building Size: <u>1,185</u> sq. ft. | Proposed Building Size: <u>768</u> sq. ft. | |
| Existing Acreage of Site: <u>13,140</u> sq. ft. | Proposed Acreage of Site: <u>13,140</u> sq. ft. | |
| Proposed Total Disturbed Area of the Site: <u>3000</u> sq. ft. * | | |
| * If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) or Chapter 500, Stormwater Management Permit with the Maine Department of Environmental Protection (DEP). | | |
| Tax Assessor's Chart, Block & Lot: Chart # Block # Lot # | Property Owners Name/ Mailing address: <u>Glenn Morse</u> <u>PO Box 1466</u> <u>Scarborough ME 04070</u> | Telephone #: <u>—</u> Cell Phone #: <u>(207) 590-3877</u> |
| Consultant/Agent Name, Mailing Address, Telephone #, Fax # and Cell Phone #: <u>Land Consulting Engineers</u> <u>Attw Steve Blais</u> <u>767-7300</u> | Applicant's Name/ Mailing Address: <u>Glenn Morse</u> <u>PO Box 1466</u> <u>Scarborough ME 04070</u> | Telephone #: Cell Phone #: <u>590-3877</u> |
| Fee for Service Deposit (all applications) _____ (\$200.00) | | |
| Proposed Development (check all that apply) | | |
| <input type="checkbox"/> New Building <input checked="" type="checkbox"/> Building Addition <input type="checkbox"/> Change of Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Office <input type="checkbox"/> Retail | | |
| <input type="checkbox"/> Manufacturing <input type="checkbox"/> Warehouse/Distribution <input checked="" type="checkbox"/> Parking lot | | |
| <input type="checkbox"/> Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) \$ _____ + major site plan fee if applicable | | |
| <input type="checkbox"/> Site Location of Development (\$3,000.00) (except for residential projects which shall be \$200.00 per lot _____) | | |
| <input type="checkbox"/> Traffic Movement (\$1,000.00) <input type="checkbox"/> Storm water Quality (\$250.00) | | |
| <input type="checkbox"/> Section 14-403 Review (\$400.00 + \$25.00 per lot) | | |
| <input type="checkbox"/> Other _____ | | |
| ~ Please see next page ~ | | |

Major Development (more than 10,000 sq. ft.)

- Under 50,000 sq. ft. (\$500.00)
- 50,000 - 100,000 sq. ft. (\$1,000.00)
- Parking Lots over 100 spaces (\$1,000.00)
- 100,000 - 200,000 sq. ft. (\$2,000.00)
- 200,000 - 300,000 sq. ft. (\$3,000.00)
- Over 300,000 sq. ft. (\$5,000.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Minor Site Plan Review

- Less than 10,000 sq. ft. (\$400.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

Plan Amendments

- Planning Staff Review (\$250.00)
- Planning Board Review (\$500.00)

Billing Address: (name, address and contact information)

Submittals shall include **seven (7) folded packets** containing of the following materials:

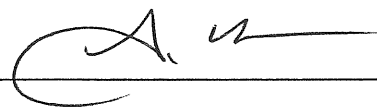
- A. Copy of the application.
- B. Cover letter stating the nature of the project.
- C. Written Submittal (Sec. 14-525 2. (c), including evidence of right, title and interest.
- D. A standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
- E. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
- E. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
- F. In addition to the seven (7) sets of documents listed above, one (1) set of the site plans reduced to 11 x 17 must be submitted.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521). Portland's Land Use Code is on the City's web site: www.portlandmaine.gov Copies of the ordinances may be purchased through the Planning Division.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for site review only; a Performance Guarantee, Inspection Fee, Building Permit Application and associated fees will be required prior to construction.

Signature of Applicant:



Date:

3/8/08

03/11/2008

Project Name: 218 Washington Ave.

Project description : Add a 3rd floor roof top addition to the existing 2 story building . Proposed area will be used as a 1 bedroom residential dwelling. The parking lot will be modified to accommodate the required 2 additional parking spaces. In addition, the new parking design will allow vehicles to turn around and drive forward on to Washington Ave.

**CITY OF PORTLAND, MAINE
CITY COUNCIL AGENDA REQUEST FORM**

TO: Sonia Bean, Senior Administrative Assistant
FROM: Alexander Jaegerman, Director of Planning Division
DATE: January 25, 2006
SUBJECT: Agenda Request Re: Zone Change Request From R-3 Residential to B-1b
Neighborhood Business - 190 to 250 Washington Avenue
Sponsored by: Planning Board

1) Council Meeting at which action is requested:

1st Reading: February 6, 2006
Final Action: February 22, 2006

Submission Deadlines:

- 1 electronic copy of packet due 2 weeks prior to Council meeting date for the agenda meeting
- 5 hard copies due the Thursday before the Council meeting

2) Can action be taken at a later date? YES NO

I. SUMMARY OF ISSUE

The applicant does not have any specific development plan at this time, but is requesting this B-1b zone change to allow retail and commercial uses in the building, along with construction of additional buildings on the site. The applicant has stated that his proposal is to construct two or three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

During the Planning Board review process, the Planning Board recommended that the entire R-3 zone along the westerly side of Washington Avenue, from Gould Street to Tukey's Bridge be rezoned B-1b.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The R-3 Residential Zone does not allow retail/commercial uses.

III. INTENDED RESULT (How does it resolve the issue/problem?)

To allow retail/commercial uses on the first floor along this portion of Washington Avenue, while maintaining residential uses on the upper floors.

IV. FINANCIAL IMPACT

The proposal does not have any known financial impact on the City.

V. STAFF ANALYSIS & RECOMMENDATION

Staff recommends that the parcels within the R-3 zone along Washington Avenue be rezoned to B-1b. It would maintain the current mixed use along Washington Avenue, with neighborhood uses on the first floor but maintaining residential uses on the upper floors. Washington Avenue is an arterial street and mixed uses are encouraged along arterial streets. In the Traffic Engineer's opinion, neighborhood uses should not increase traffic substantially on Washington Avenue.

VI. SPONSOR

On January 10, 2006 the Planning Board voted 5-1 (Lowry opposed; Silk absent) to recommend the proposed R-3 to B-1b for Washington Avenue, from Gould Street to Tukey's Bridge, to the City Council.

Attachments:

A. PBR #9-06

cc: Elizabeth Boynton, Associate Corporation Counsel

AH. A

PLANNING BOARD REPORT #9-06

**ZONE CHANGE REQUEST
FROM R-3 RESIDENTIAL TO B-1b NEIGHBORHOOD BUSINESS**

190 - 250 WASHINGTON AVENUE

GLEN MORSE, APPLICANT

Submitted to:
Portland City Council
Portland, Maine

Submitted by:
Kandice Talbot, Planner

January 25, 2006

I. INTRODUCTION

Glen Morse requested a zone change from R-3 Residential to the B-1b Neighborhood Business zone for the property located at 218 Washington Avenue. Currently located at the site is a 2-family residential building. The Planning Board recommended advertisement of the entire R-3 zone along the westerly side of Washington Avenue, from Gould Street to Tukey's Bridge, for rezoning.

The site proposed for rezoning by Glen Morse is approximately 10,000 sq. ft. and is located at 218 Washington Avenue. The zone change application is included as Attachment 1.

55 notices were sent to area residents and a legal ad was placed in the Portland Press Herald.

II. SURROUNDING USES

The uses in the area surrounding 218 Washington Avenue are mixed uses. Primarily along Washington Avenue the uses are single- and multi-family homes. Along Anderson Street, to the rear of the site, the uses are primarily industrial, which include Rockingham Electric, a warehouse, and an auto body shop. The use across from the site on Washington Avenue is City owned property and is part of the Eastern Prom parkland.

As shown on the attached zoning map, the B-2b zone is located further down Washington Avenue to the south and the I1b zone is located to the west of Washington Avenue, within this area.

III. DEVELOPMENT PLAN

The applicant does not have any specific development plan at this time, but is requesting this B-1b zone change to allow retail and commercial uses in the building, along with construction of additional buildings on the site. The applicant has stated that his proposal is to construct two to three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

The topography at the rear of Washington Avenue is very steep. The applicant has stated that he is proposing to fill the site to create more buildable area, but because of the steep slopes the development opportunities may be restricted.

The City's Traffic Engineer, Mr. Errico reviewed whether the rezoning of Washington Avenue, from Gould Street to Tukey's Bridge would raise any traffic concerns. He does not feel that there would be any significant traffic concerns with the rezoning. If the uses are neighborhood type uses, which do not generate significant traffic (not drive-through type uses) he feels that Washington Avenue should be able to accommodate the increased traffic.

IV. ZONING HISTORY

Staff has researched the zoning to determine why these parcels have remained R-3. It appears from old zoning maps that these parcels were zoned G, General Business in 1946. It appears from a zoning amendment dated in 1957, that this area had been rezoned between 1946 and 1957 to I-2 Industrial. Somewhere between 1957 and 1975, the parcels were rezoned to R-3.

It is not clear why these parcels were rezoned to R-3, but during research of zoning amendments within this area, a zoning amendment was approved for properties located in the vicinity of Fox Street, Anderson Street and Cove Street. The reason for this proposed amendment was because the plan for the Bayside Renewal Project specified the use of this area for residential purposes. The change allowed the residences along Cove Street protection under the Zoning Ordinance. It also permitted the provision of certain features to screen the residences from the adjacent industrial development and prevented the encroachment of industrial development.

Although research did not find a specific zoning amendment, which changed the zoning to R-3, it may be possible that given the residential units within this area of Washington Avenue, the rezoning occurred to prevent the encroachment of further industrial development, while maintaining the views toward North Street and along Washington Avenue.

V. POLICY CONSIDERATIONS

Discussions have been held regarding the B-1b, B-2b and B-2c zoning for this area. The applicant had requested a rezoning to B-2b Community Business Zone because it is the nearest business zone to the property. He has stated that the B-1b Neighborhood Business Zone would work also. The Planning Board also discussed rezoning all of the parcels within the R-3 zone, instead of just 218 Washington Avenue, because of frontage on Washington Avenue and its proximity to Tukey's Bridge. Following are discussions regarding the B-1b, B-2b and B-2c zoning.

B-1b Neighborhood Business Zone

The purpose of the B-1b Neighborhood Business zone is:

“To provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures.

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.”

The B-1b Neighborhood Business zone would require residential uses on upper floors of any new or existing buildings. The uses allowed in a B-1b zone are less intense uses and are more compatible with residential uses and are more of a neighborhood use. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-1b dimensional requirements include:

- Minimum lot size: Nonresidential uses: 10,000 sq. ft., however, where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Minimum front yard: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.
- Maximum structure height: thirty-five (35) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2b Community Business Zone

The purpose of the B-2b Community Business zone is:

“B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.”

The change from R-3 to B-2b would allow a commercial/retail use within the building. As stated previously, the nearest commercial zone is the B-2b zone, which is located further down Washington Avenue to the south. 218 Washington Avenue is located near Tukey’s Bridge and is located near an existing urban and neighborhood oriented building pattern. The B-2b zone does not require that residential uses be located on the upper stories within this zone, however in any structure that has commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

Uses allowed in the B-2b Community Business zone include, but are not limited to, residential, offices, personal services, retail establishments, restaurants, drinking establishments, miscellaneous repair services, theaters, hotels or motels, drive-throughs, etc.

The B-2b zone dimensional requirements include:

- Minimum lot size: Nonresidential uses: None, but where multiple uses are on one lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard (on-peninsula): ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2c Community Business Zone

Another possible zone to look at would be the B-2c Community Business Zone. The purpose of the B-2c Community Business Zone is:

“To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.”

The B-2c zone would allow the same uses as the B-2b zone, with the exception of businesses that serve liquor, service stations, and drive-throughs.

The B-2c dimensional requirements include:

- Minimum lot size: Nonresidential uses: None.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard: ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.

- Maximum impervious surface ratio: eighty (80) percent.

Housing: Sustaining Portland's Future

The Housing Plan, which is part of the City's Comprehensive Plan, states:

“Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.”

The Housing Plan also states that the City should do this by:

“Evaluating and updating current zoning, as needed, to encourage higher density multi-family development and mixed use projects that incorporate housing, particularly along major public transportation routes, near service areas, and in redevelopment or infill areas, where appropriate.”

VI. ZONING ANALYSES

The B-2b zone is the closest business zone to 218 Washington Avenue, which ends at Gould Street. Between Gould Street and the Eastern Prom are approximately six (6) properties, which are zoned R-3 along Washington Avenue. Since it is along an arterial street, it was recommended that the entire R-3 be rezoned B-1b.

As stated previously, the B-2b zone has more intense uses. Commercial uses, with the exception of the ROS zone across Washington Avenue, surround these properties within this area of Washington Avenue.

The B-1b zoning allows neighborhood uses within the first floor of a building, but requires that the upper floors of a building be maintained as residential. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-2c zone does not allow intense uses such as drinking establishments, service stations or drive-throughs, but does not require that residential uses be maintained on the upper floors of an existing or new building.

Also, the maximum height in the B-1b zone is 35 feet, which is the same height limitations as the R-3 zone. The B-2b or B-2c zone would allow a maximum height of 45 feet.

This proposed zone change is located in East Bayside and would increase the housing density in an area located near services and the downtown.

VII. STAFF RECOMMENDATION

Staff recommends that the parcels within the R-3 zone along Washington Avenue be rezoned to B-1b. It would maintain the current mixed use along Washington Avenue, with neighborhood uses on the first floor but maintaining residential uses on the upper floors. Washington Avenue is an arterial street and mixed uses are encouraged along arterial streets. In the Traffic Engineer's opinion, neighborhood uses should not increase traffic substantially on Washington Avenue.

VIII. PLANNING BOARD RECOMMENDATION

On January 10, 2006 the Planning Board voted 5-1 (Lowry opposed; Silk absent) to recommend the proposed R-3 to B-1b for Washington Avenue, from Gould Street to Tukey's Bridge, to the City Council.

Attachments:

1. Zone Change Application and Attachments
2. Vicinity Map
3. R-3 Zoning Text
4. Comparison Chart of the B-1b, B-2b and B-2c Zones
5. Pictures of Buildings within the R-3 Zone
6. Neighborhood Letters
7. Traffic Engineer's Memo dated January 5, 2006
8. Zoning Map



City of Portland, Maine
Department of Planning and Development
Text Amendment Application

Att. 1

Application ID: 832 **Application Date:** 07/28/2005 **CBL:** 010 A015001 **Property Location:** 218 Washington Ave

Applicant Information:

Glenn Morse
Name

Business Name

P.O. Box 1466
Address

Scarborough, ME 04070
City, State and Zip

207-590-3877 839-8091 (fax)
Telephone Fax

Applicant's Right, Title or Interest in Subject Property:
Title

Current Zoning Designation: R3

Existing Use of Property:

Subject property is presently a 2-family dwelling on a 10,000 sq. ft. lot in the R-3 zone.

Proposed Use of Property:

Proposal to rezone to B-2b from R-3.

Property Owner:

Maloney Philip
Name

218 Washington Ave
Address

Portland, ME 04101
City, State and Zip

Telephone Fax

Amendment A B2b

Amendment B _____

Amendment C _____

Section 14: _____

Planning Approval

REVIEW TYPE: Committee Review

RECOMMENDATION DATE: _____ **APPROVAL DATE:** _____ **ENACTMENT DATE:** _____



APPLICATION FOR ZONING AMENDMENT
 City of Portland, Maine
 Department of Planning and Development
 Portland Planning Board

1. Applicant Information:

Glenn Morse
 Name
P.O. Box 1466
 Address
Scarborough, Me 04070
207 (590-3877) (cell)
 Phone Fax

2. Subject Property:

218 WASHINGTON Ave
 Address
PORTLAND, Me 04101
10-A-15
 Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other

Name
Same as above
 Address

 Phone Fax

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

TITLE

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.)

5. 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.)

6. Existing Use:

Describe the existing use of the subject property:

Subject Property is presently a 2-Family Dwelling on a 10,000 sf. lot, R-3

7. Current Zoning Designation(s): R-3

8. 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.

Proposac to Re-zone to B 2b from R-3

9. Sketch Plan: On a separate sheet please provide a sketch 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"=100'.)

10. Proposed Zoning: Please check all that apply:

A. Zoning Map Amendment, from R-3 to B 2b

B. Zoning Text Amendment to Section 14-_____

For 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 with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning may 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 and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** An application fee must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code. The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing Notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

_____ Fee for Service Deposit (\$200.00) **(Required for all applications)**

Zoning Map Amendment \$2,000.00

_____ Zoning Text Amendment \$2,000.00

_____ Contract/Conditional Rezoning

Under 5,000 sq. ft. \$1,000.00

5,000 sq. ft. and over \$3,000.00

Legal Advertisements percent of total bill

Notices .55 cents each
(receipt of application, workshop and public hearing)

NOTE: Legal notices placed in the newspaper are required by State Statute and local ordinance. Applicants will be billed once the public hearing has taken place.

12. **Signature:** The above information is true and accurate to the best of my knowledge.

Date of Filing

Signature of Applicant

Further Information:

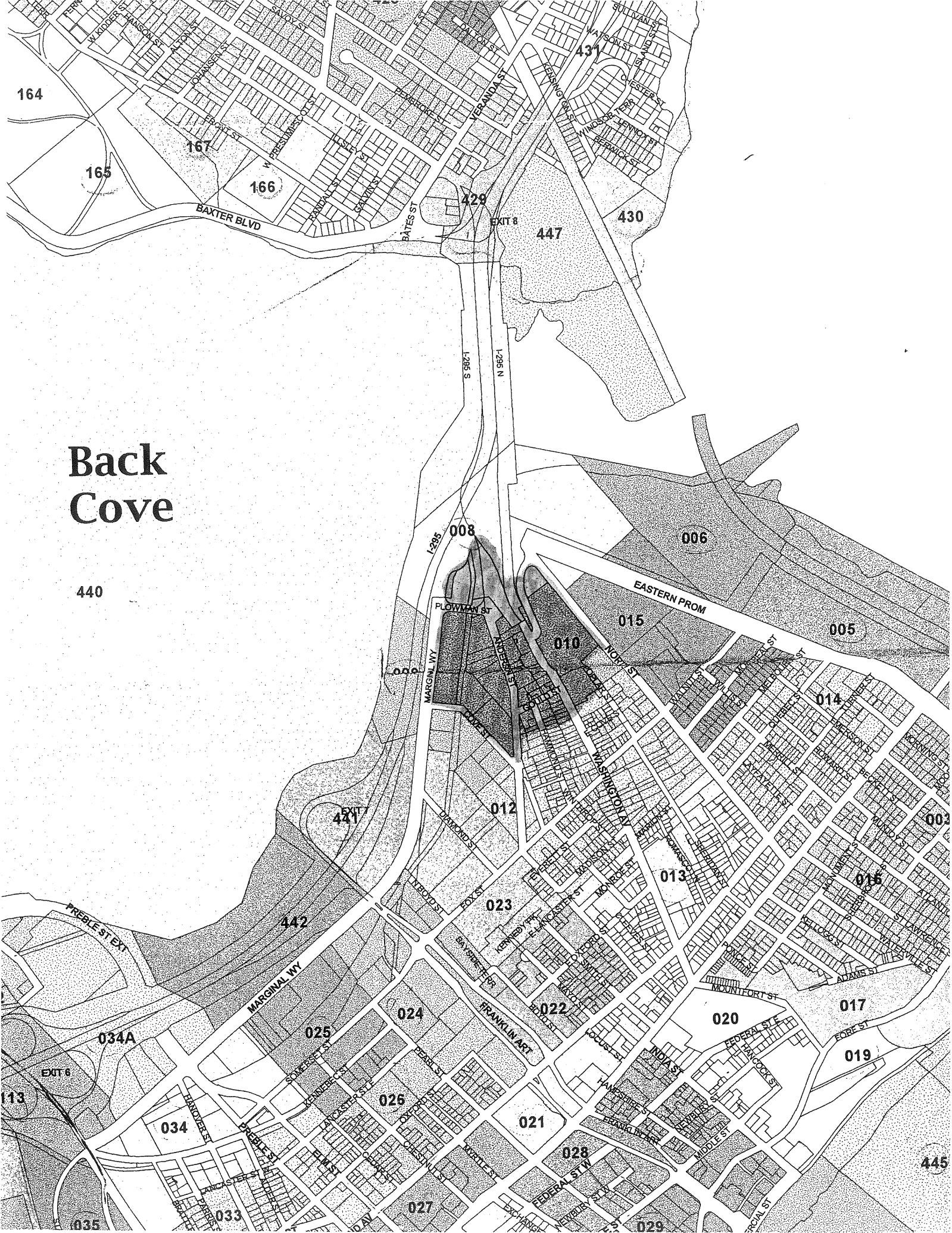
Please contact the Planning Division for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
Portland, Maine

Effective: July 6, 1998



Back Cove

440

164

165

167

166

429

447

430

008

006

EASTERN PROM

015

010

005

014

441

012

013

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034A

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445

PURCHASE AND SALE AGREEMENT

June 19, 2005

6/20/2005 Effective Date
Effective Date is defined in Paragraph 24 of this Agreement.

1. PARTIES: This Agreement is made between Glenn Morse (hereinafter called "Buyer") and Estate of Philip Maloney (hereinafter called "Seller").

2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy (all [X] part of [] ; If "part of" see para. 26 for explanation) the property situated in municipality of Portland, County of Cumberland, State of Maine, located at 218 Washington Ave and described in deed(s) recorded at said County's Registry of Deeds Book(s) , Page(s) .

3. FIXTURES: The Buyer and Seller agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, and electrical fixtures are included with the sale except for the following: none

Seller represents that all mechanical components of fixtures will be operational at the time of closing except: _____

4. PERSONAL PROPERTY: The following items of personal property are included with the sale at no additional cost, in "as is" condition with no warranties: none

Seller represents that such items shall be operational at the time of closing, except: none

5. CONSIDERATION: For such Deed and conveyance Buyer is to pay the sum of PRICE \$ 224,900.00 NKC
of which DEPOSIT \$ 200,000.00 NKC
is included herewith as an earnest money deposit, and an additional amount of DEPOSIT \$ 500.00 NKA
will be paid DEPOSIT \$ 2,000.00 NKA
The balance due amount is to be paid by certified or bank check, upon delivery of the Deed. BALANCE DUE \$ 199,500.00 NKA
223,900.00 NKA

This Purchase and Sale Agreement is subject to the following conditions:

6. EARNEST MONEY/ACCEPTANCE: Archie Giobbi Real Estate ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until June 20, 2005 (date) 5 AM [] PM [X]; 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.

7. 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 on August 1, 2005 (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 days, from the time Seller is notified of the defect, unless otherwise agreed to by both Buyer and Seller, to remedy the title, after which time, if such defect is not corrected so that there is a merchantable title, Buyer may, at Buyer's option, withdraw said earnest money and be relieved from all obligations. Seller hereby agrees to make a good-faith effort to cure any title defect during such period.

8. DEED: The property shall be conveyed by a Insurable Title 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.

9. POSSESSION, OCCUPANCY, AND CONDITION: Unless otherwise agreed in writing, possession and occupancy of premises, free of tenants and occupants, shall be given to Buyer immediately at closing. Said premises shall then be broom clean, free of all possessions and debris, and in substantially the same condition as at present, excepting reasonable use and wear. 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.

10. RISK OF LOSS, DAMAGE, DESTRUCTION AND INSURANCE: Prior to closing, risk of loss, damage, or destruction of premises shall be assumed solely by the Seller. Seller shall keep the premises insured against fire and other extended casualty risks prior to closing. If the premises are damaged or destroyed prior to closing, Buyer may either terminate this Agreement and be refunded the earnest money, or close this transaction and accept the premises "as-is" together with an assignment of the insurance proceeds relating thereto.

11. PRORATIONS: The following items, where applicable, shall be prorated as of the date of closing: collected rent, association fees, (other) _____ . The day of closing is counted as a Seller day. Metered utilities such as electricity, water and sewer will be paid through the date of closing by Seller. Fuel in tank (shall shall not) be paid by Buyer (cash price as of date of closing). 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.

12. PROPERTY DISCLOSURE FORM: Buyer acknowledges receipt of Seller's Property Disclosure Form and is encouraged to seek information from professionals regarding any specific issue or concern. The disclosure is not a warranty of the condition of the property and is not part of this Agreement.

13. INSPECTIONS: Buyer is encouraged to seek information from professionals regarding any specific issue or concern. Agent makes no warranties regarding the condition, permitted use or value of Sellers' real or personal property. This Agreement is subject to the following inspections, with results being satisfactory to Buyer:

| TYPE OF INSPECTION | YES | NO | RESULTS REPORTED TO SELLER | TYPE OF INSPECTION | YES | NO | RESULTS REPORTED TO SELLER |
|---|-------------------------------------|-------------------------------------|----------------------------|-------------------------|-------------------------------------|-------------------------------------|----------------------------|
| a. General Building | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within <u>7</u> days | h. Lead Paint | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within <u>7</u> days |
| b. Environmental Scan | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days | i. Arsenic Treated Wood | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within <u>7</u> days |
| c. Sewage Disposal | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days | j. Pests | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days |
| d. Water Quality (including but not limited to radon, arsenic, lead, etc.) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days | k. Pool | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days |
| e. Water Quantity | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days | l. Zoning | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days |
| f. Air Quality (including but not limited to asbestos, radon, etc.) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days | m. Flood Plain | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days |
| g. Mold | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days | n. Code Conformance | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within _____ days |
| | | | | o. Other _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within _____ days |

All inspections will be done by inspectors chosen and paid for by Buyer. If the result of any inspection 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 inspection 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 inspection 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.

14. HOME SERVICE CONTRACTS: At closing, the property will will not be covered by a Home Warranty Insurance Program to be paid by Seller Buyer at a price of \$ _____ .

15. FINANCING: This Agreement is is not subject to Financing. If subject to Financing:

- This Agreement is subject to Buyer obtaining a conv. loan of 80.000 % of the purchase price, at an interest rate not to exceed prev, % and amortized over a period of 30 years.
- Buyer to provide Seller with letter from lender showing that Buyer has made application and, subject to verification of information, is qualified for the loan requested within 5 days from the Effective Date of the Agreement. If Buyer fails to provide Seller with such letter within said time period, Seller may terminate this Agreement and the earnest money shall be returned to Buyer.
- Buyer to provide Seller with loan commitment letter from lender showing that Buyer has secured the loan commitment within 21 days of the Effective Date of the Agreement. If Buyer fails to provide Seller with this loan commitment letter within said time period, Seller may deliver notice to Buyer that this Agreement is terminated three business days after delivery of such notice unless Buyer delivers the loan commitment letter before the end of the three-day period. If the Agreement is terminated under the provision of this sub-paragraph, the earnest money shall be returned to Buyer.
- Buyer hereby authorizes, instructs and directs its lender to communicate the status of the Buyer's loan application to Seller or Seller's agent.
- After (b) or (c) are met, Buyer is obligated to notify Seller in writing if the lender notifies Buyer that it is unable or unwilling to proceed under the terms of the financing. Any failure by Buyer to notify Seller within two business days of receipt by Buyer of notice from the lender shall be a default under this Agreement.
- Buyer agrees to pay no more than 0 points. Seller agrees to pay up to \$ _____ toward Buyer's actual pre-pays, points and/or closing costs, but no more than allowable by Buyer's lender.
- Buyer's ability to obtain financing is is not subject to the sale of another property. See addendum Yes No .
- Buyer may choose to pay cash instead of obtaining financing. If so, buyer shall notify seller in writing and the Agreement shall no longer be subject to financing, and Seller's right to terminate pursuant to the provisions of paragraph 15 shall be void.

16. AGENCY DISCLOSURE: Buyer and Seller acknowledge they have been advised of the following relationships:

Archie Giobbi of Archie Giobbi Real Estate is a Seller Agent Buyer Agent
Licenses Agency 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.

17. MEDIATION: Except as provided below, any dispute or claim 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.

18. 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.

19. PRIOR STATEMENTS: Any representations, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

20. 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.

21. 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.

22. ADDENDA: Lead Paint - Yes [X] No []; Other - Yes [] No []
Explain: _____

23. SHORELAND ZONE SEPTIC SYSTEM: Seller represents that the property does [] does not [X] contain a septic system within the Shoreland Zone. If the property does contain a septic system located in the Shoreland Zone, Seller agrees to provide certification at closing indicating whether the system has/has not malfunctioned within 180 days prior to closing.

24. 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 agent. Withdrawals of offers and counteroffers will be effective upon communication, verbally or in writing, to the other party. This Agreement is a binding contract when signed by both Buyer and Seller and when that fact has been communicated to Buyer and Seller. Agent is authorized to complete Effective Date on Page 1 of this Agreement. Except as expressly set forth to the contrary, the use of "by (date)" or "within x days" shall refer to calendar days being counted from the Effective Date as noted on Page 1 of the Agreement, beginning with the first day after the Effective Date and ending at 5:00 p.m. Eastern Time on the last day counted.

25. CONFIDENTIALITY: Buyer and Seller understand that the terms of this Agreement are confidential but authorize the disclosure of the information herein to the agents, attorneys, lenders, appraisers, inspectors 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 closing statement to release a copy of the closing statement to the parties and their agents prior to, at and after the closing.

26. OTHER CONDITIONS: General Inspection : the seller will grant the Buyer 7 days to inspect the house but to limit the inspection to: Rqof to determine age and condition. Foundation to determine the integrity of the foundation and to inspect for rot in Floor Joists. Hazardous Material such as Asbestos, etc.

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 Bureau of Taxation.

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 PO Box 1466, Scarborough, Me 04070

[Signature] 6/19/05
BUYER Glenn Morse

007-76-6297
SS# OR TAXPAYER ID#

[Signature] 6/20/05
BUYER

SS# OR TAXPAYER ID#

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 _____

Nancy A Kelly 6/20/05
SELLER Estate of Philip Maloney DATE

7:30 pm
SS# OR TAXPAYER ID#

SELLER _____ DATE _____

SS# OR TAXPAYER ID# _____

Offer reviewed and refused on _____ day of _____, _____

SELLER _____

SELLER _____

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.

SELLER _____ DATE _____

SELLER _____ 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 _____ DATE _____

BUYER _____ DATE _____

SELLER _____ DATE _____

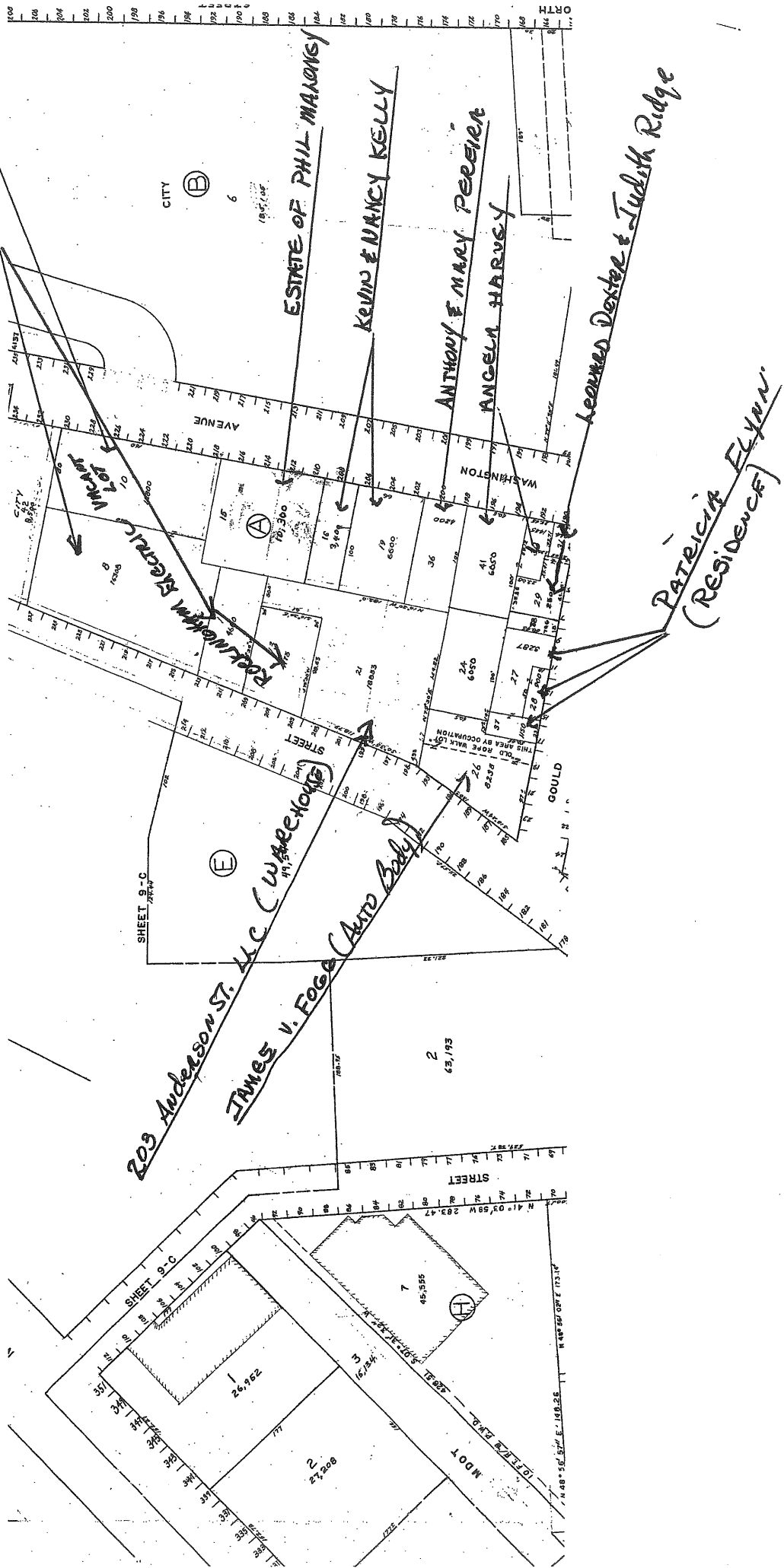
BUYER _____ DATE _____

SELLER _____ DATE _____

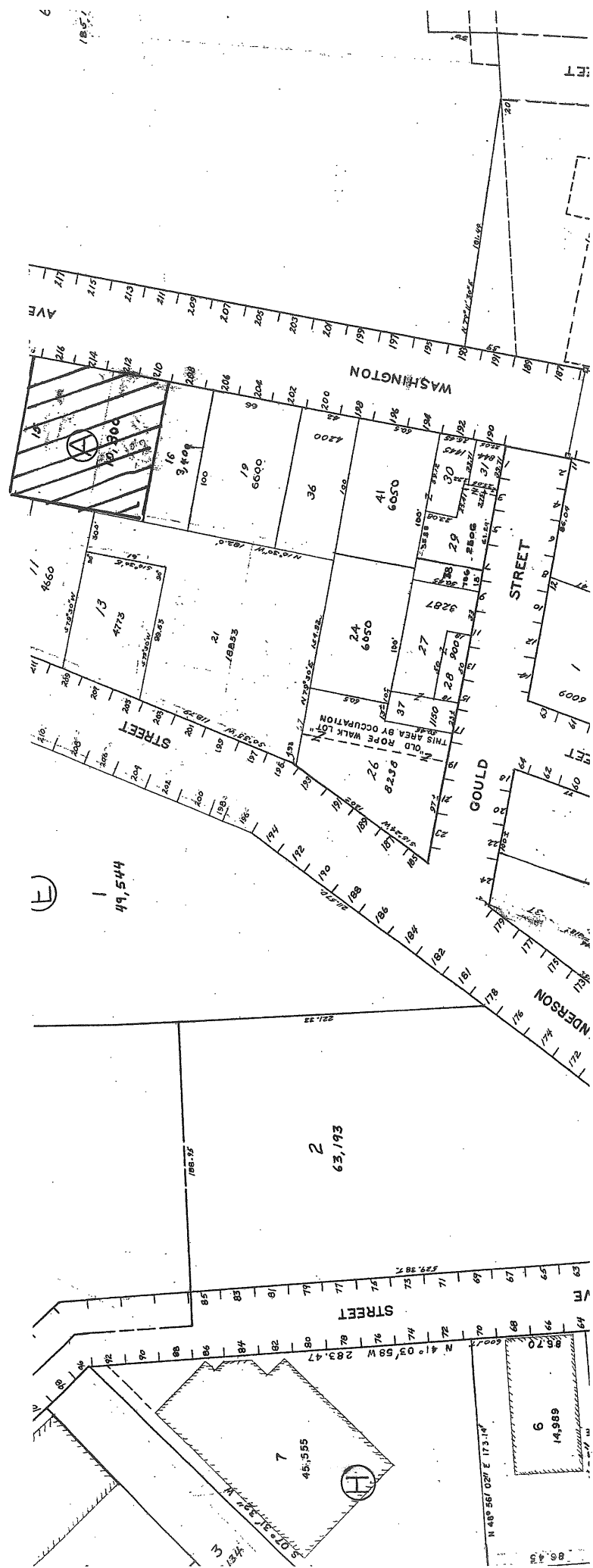
SUBJECT PARCEL & ADJUTING PARCELS (Ownership)

VICINITY MAP -

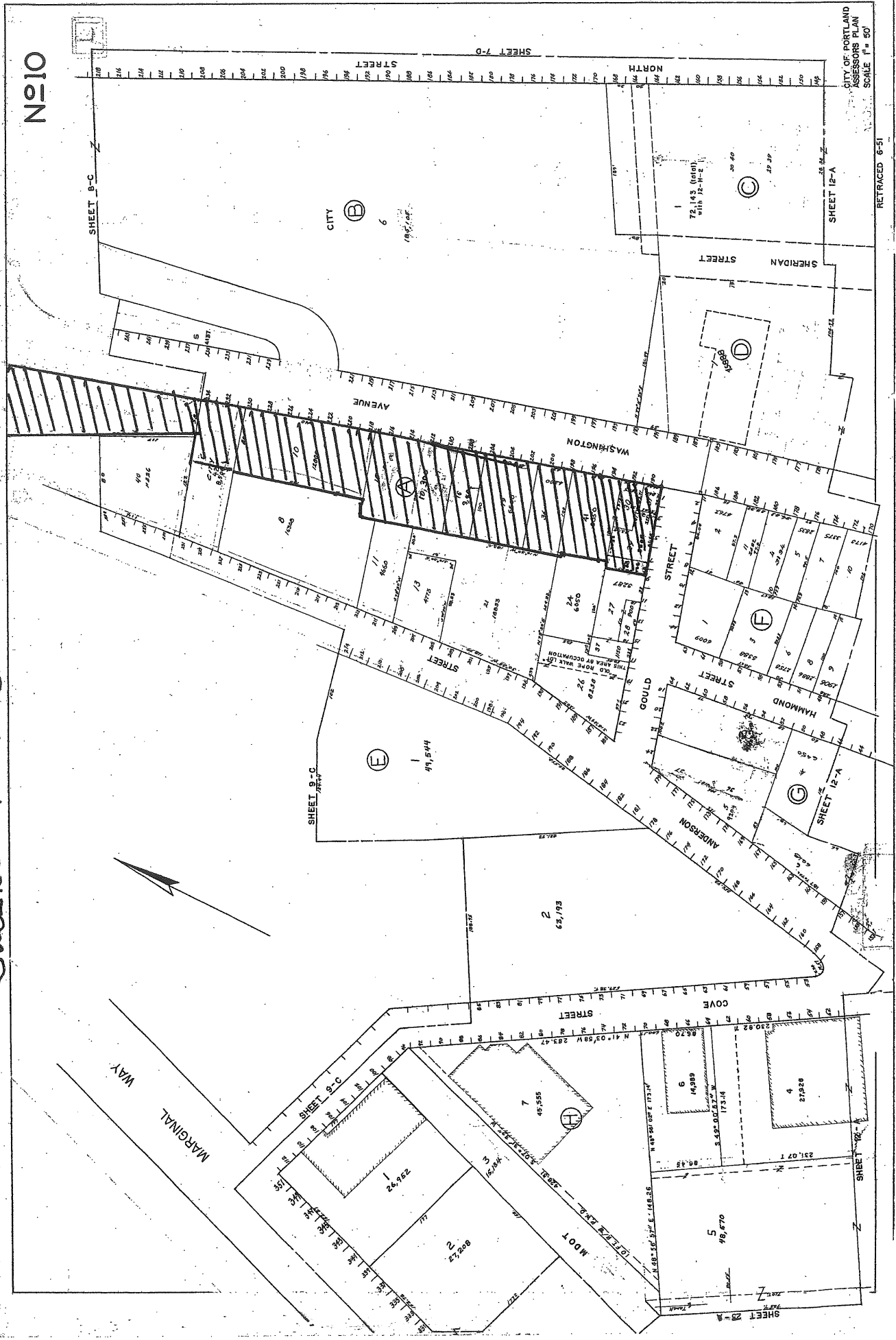
HERBERT CHAFFARD
1519 W 8th St
CLIFTON



Applicant's Subject Property - 218 WASHINGTON AVE.
Presently R-3



SUBJECT ZONE CHANGE FROM R-3 TO B2b



N910

SHEET 8-C

SHEET 7-0

SHEET 9-C

SHEET 12-A

SHEET 12-B

SHEET 7-0

SHEET 8-C

SHEET 9-A

SHEET 12-A

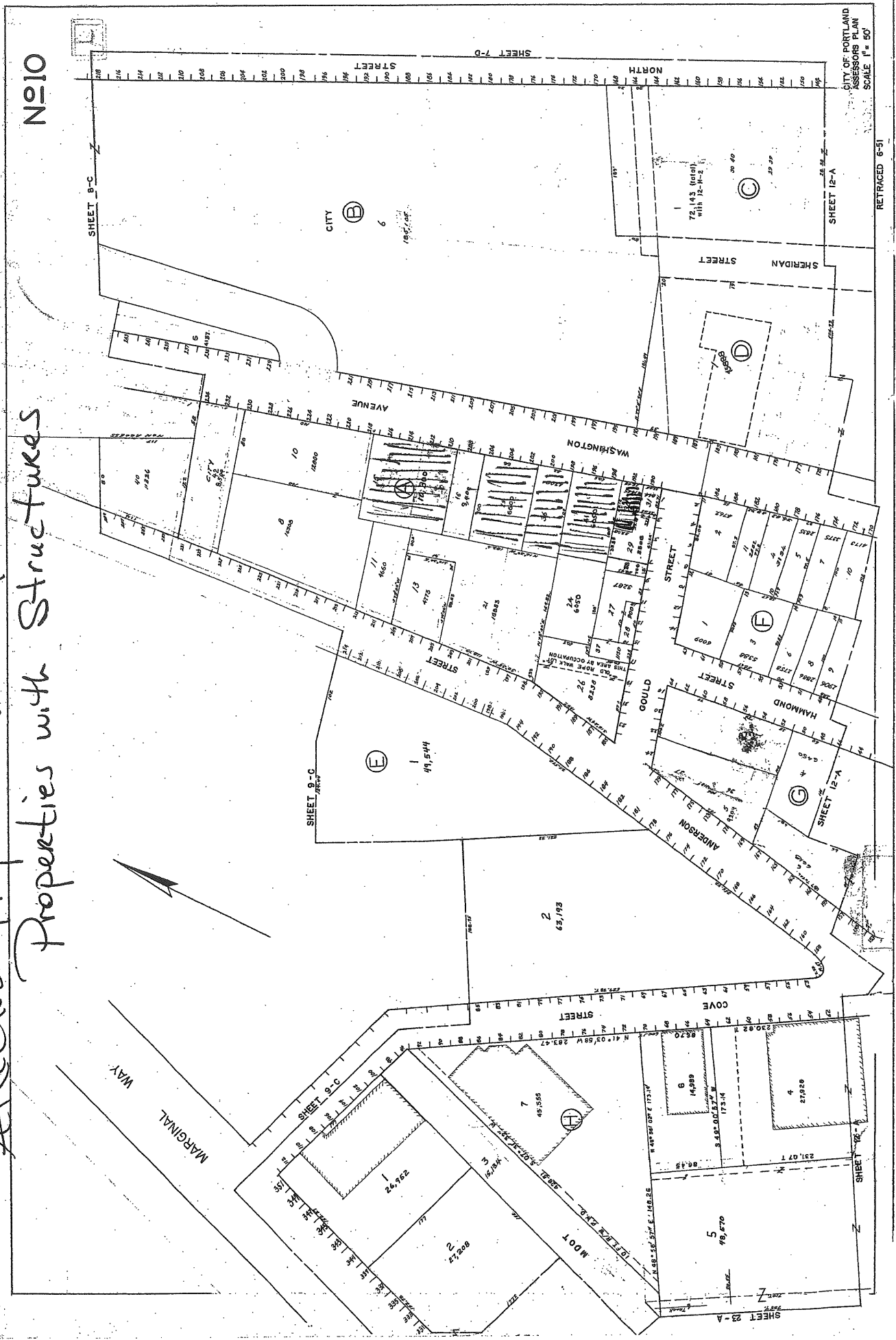
SHEET 12-B

CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 50'

RETRACED 6-51

Affected Properties within Present R-3 Zone
Properties with Structures

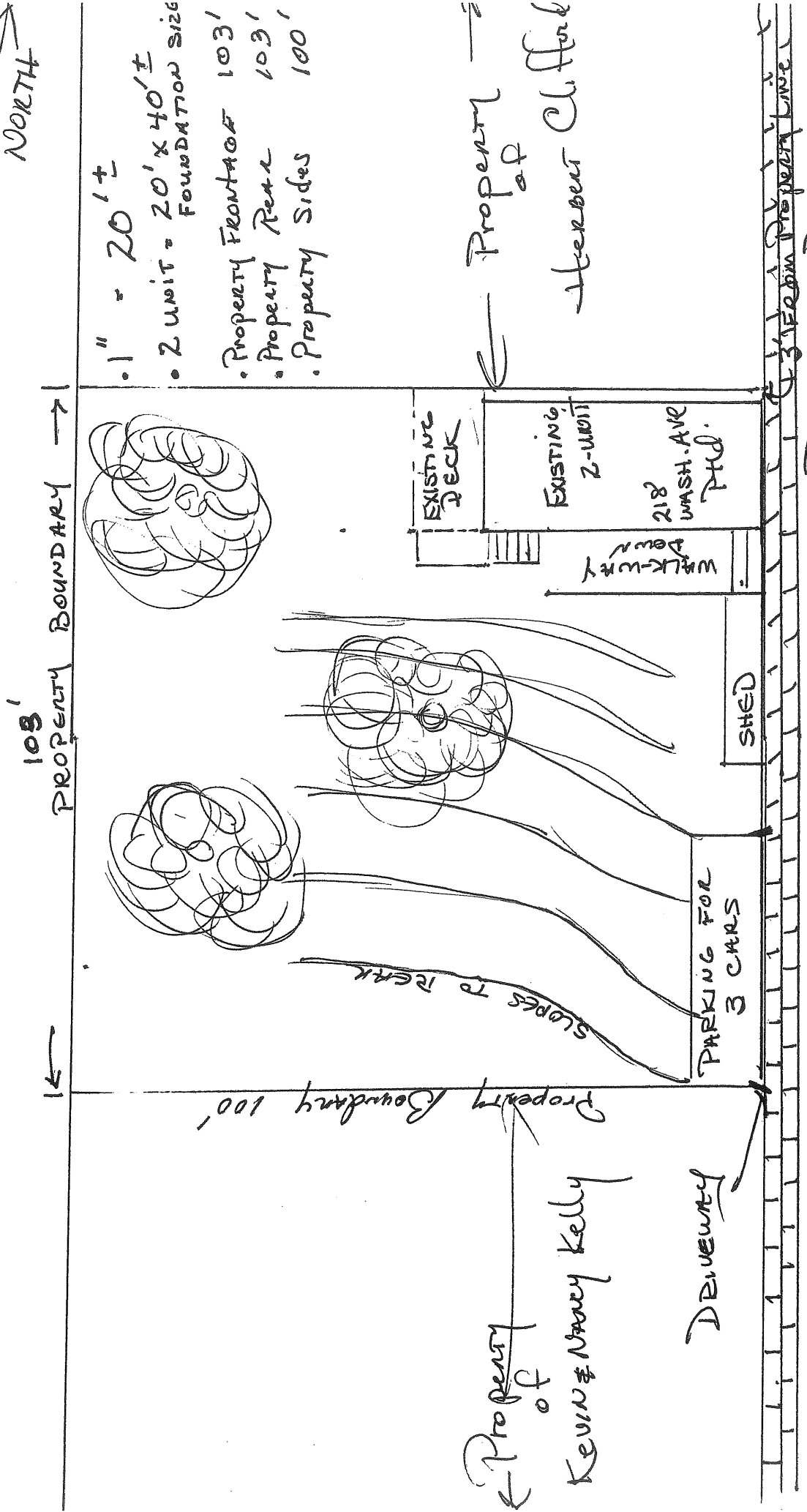
N210



CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 50'

RETRACED 6-51

SKETCH PLAN
218 WASHINGTON AVE.



1" = 20' ±

2 UNIT = 20' X 40' ±
FOUNDATION SIZE

PROPERTY FRONTAGE 103'

PROPERTY REAR 103'

PROPERTY SIDES 100'

← Property of
Kevin & Nancy Kelly

DRIVEWAY

← Property of
Herbert Clifford

WASHINGTON AVE - PORTLAND

Properties owners within 500'
of
Subject property 218 Washington Ave.

Map 10 Block A

1. Lot # 15 Subject property
2. Lot # 10 Herbert Clifford 219 Anderson St. Portland
3. Lot # 8 -11 - 13 Herbert Clifford 219 Anderson St. Portland
4. Lot # 21 203 Anderson Street LLC
5. Lot # 26 James V. Fogg 189 Anderson St. Portland
6. Lot # 27 - 28 - 37 - 24 Patricia Flynn 15 Gould St. Portland
7. Lot # 16 - 19 Kevin and Nancy Kelly 202 Washington Ave. Portland
8. Lot # 36 Anthony and Mary Pereira 198 Washington Ave. Portland
9. Lot # 30 - 41 Angela Harvey 194 Washington Ave. Portland
- 10 Lot # 29 - 31 Leonard Dexter and Judith Ridge 190 Washington ave. Portland

Map 10 Block E

11. Lot # 1
12. Lot # 2 Sanford Sandelman 185 NW Spanish River Blvd. Boca raton , Fl

**DEED OF SALE BY PERSONAL REPRESENTATIVE
(Testate)
Maine Statutory Short Form**

Know all Persons by these Presents,

That Nancy A. Kelly

of Portland, County of Cumberland, State of Maine, duly appointed and acting personal representative of the estate of **Philip Maloney**, deceased (testate), as shown by the probate records of the County of Cumberland, Maine, (and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale), by the power conferred by the Probate Code, and every other power, for consideration paid, grants to **Glenn A. Morse** of Portland, County of Cumberland, State of Maine, whose mailing address is: P.O. Box 10971, Portland, Maine, 04104, the real property in Portland, County of Cumberland, State of Maine described as follows:

See attached Exhibit A for legal description.

Witness my hand and seal this 14th day of July, 2005.

Signed, Sealed and Delivered

in the presence of

Estate of Philip Maloney

By: Nancy A Kelly PR

Nancy A. Kelly


Personal Representative

State of Maine, County of Cumberland ss.

July 14, 2005

Then personally appeared the above named **Nancy A. Kelly, Personal Representative of The Estate of Philip Maloney** and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Before me,



Attorney at Law / Notary Public

Printed Name: Rachell Buchanan

EXHIBIT A
218 Washington Avenue, Portland, Maine

A certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, bounded and described as follows: Beginning at a point on the southwesterly side of Washington Avenue, which point marks the most northerly corner of land conveyed by John Coughlin to Hattie E. Junco by deed dated November 1897 and recorded in the Cumberland County Registry of Deeds in Book 656, Page 339; thence northwesterly along said southwesterly sideline of Washington Avenue, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles to said Washington Avenue, one hundred (100) feet to a point; thence at right angles in a southeasterly direction, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles in a southeasterly (incorrectly identified as northeasterly in deed 3828-70) direction, one hundred (100) feet to the point of beginning.

Excepting a parcel of land conveyed by Philip E. Maloney to Nancy A. Kelly dated July 23, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13210, Page 278.

Being the same premises conveyed to Philip Maloney and Phyllis Maloney by warranty deed from Donald H. Maloney dated April 14, 1976 and recorded in the Cumberland County Registry of Deeds in Book 3828, Page 70. Phyllis Maloney deceased on November 3, 1995 leaving Philip Maloney as surviving joint tenant. Philip Maloney deceased on December 8, 2004, Cumberland County Probate Court Docket# 2005-314; Nancy A. Kelly having been appointed Personal Representative on April 27, 2005.

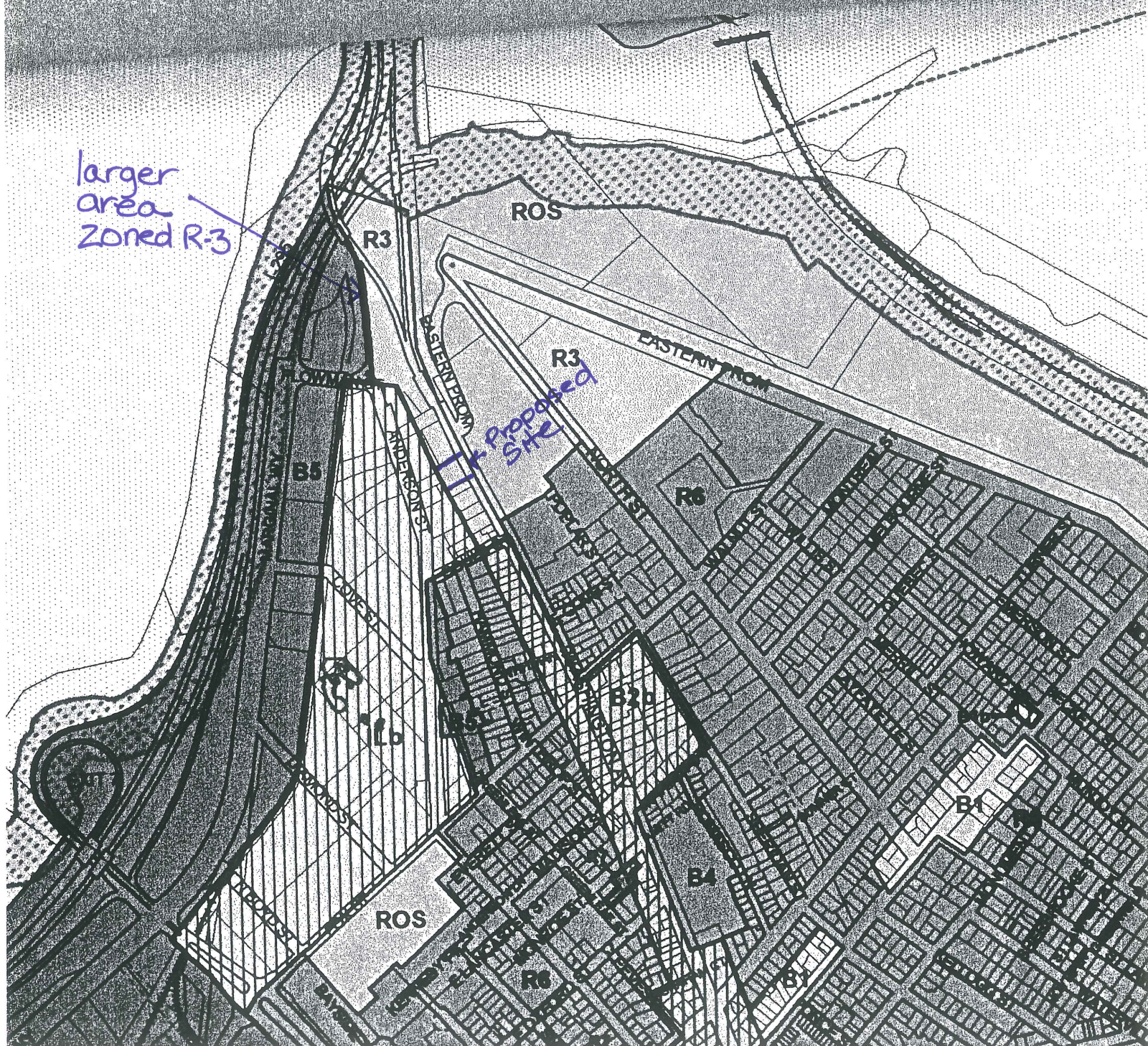
Properties Owners within 500'
Of
Subject property 218 Washington Ave.

Map 10 Block F

1. Lot # 1 John S and Denise L Ricchio 61 Hammond Street Portland
2. Lot # 2 Charles Loring Post AMVETS 186 Washington Ave.
3. Lot #3 Cynthia I. Edwards 59 Hammond Street
4. Lot #4 - 5 Louise Orlando 178 Washington Ave.
5. Lot # 6 Sarah J Bulley 53 Hammond Street
6. Lot# 7 - 10 TMJ Associates PO Box 734 Portland 170 Washington Ave
7. Lot # 8 Morgan P Shepard 51 Hammond Street
8. Lot # 9 Portland Housing (also 12-D-3-5)
9. Lot #11 Charles Loring Post AMVETS

Map 10 Block G

1. Lot # 2 Steven E and Roberta S Cope 56 Hammond street
2. Lot #4 Thomas C and Donna M Ferrante 48 Hammond street
3. Lot # 5 Brian H and Patricia A Milliken 175 Anderson Street
4. Lot # 6 Portland Housing



AH 3

City of Portland
Code of Ordinances
Sec. 14-81

Land Use
Chapter 14
Rev.3-25-05

Sec. 14-81. Other requirements.

Other requirements are as follows:

- (a) *Offstreet parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 533-84, 5-7-84; Ord. No. 15-92, § 6, 6-15-92)

- Sec. 14-82. Reserved.**
- Sec. 14-83. Reserved.**
- Sec. 14-84. Reserved.**
- Sec. 14-85. Reserved.**

DIVISION 4. R-3 RESIDENTIAL ZONE*

 *Editor's note--Ord. No. 534-84, adopted May 7, 1984, repealed Div. 4, §§ 14-87--14-90, and enacted a new Div. 4, §§ 14-86--14-91. Formerly, Div. 4 was derived from Code 1968, § 602.4.A--D, and the following ordinances: Ord. No. 49-74, 372-75, 406-75, 34-76, 145-79, 145-81, 303-81, 90-83, and 499-74.

Sec. 14-86. Purpose.

The purpose of the R-3 residential zone is:

To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.

(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 1, 7-19-88)

*Editor's note--Ord. No. 81-88, § 1, adopted July 19, 1988, amended § 14-86 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-87. Permitted uses.

The following uses are permitted in the R-3 residential zone:

(a) *Residential:*

1. Single-family detached dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-90 shall apply with respect to such development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions) of this chapter. Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.

5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District and until May 1, 1985, on the islands, provided that each unit meets the performance standards listed below.
 - a. More than half of the roofed area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboard shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
 - d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.

- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

- 1. Reserved;
- 2. Parks, and other active and passive noncommercial recreation spaces;
- 3. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory uses) of this article;
- 4. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 5. Municipal uses, excluding those specifically set forth in section 14-88 of this division.

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 1, 12-17-84; Ord. No. 36-85, § 1, 7-15-85; Ord. No. 81-88, §§ 2, 3, 7-19-88; Ord. No. 86A-89, § 3, 8-21-89; Ord. No. 33-91, § 4, 1-23-91; Ord. No. 165-97, § 1, 12-1-97)

***Editor's note**--Ord. No. 81-88, §§ 2 and 3, adopted July 19, 1988, amended subsections 14-87(a)2 and (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-88. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and

buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration of a detached single-family dwelling existing as of June 5, 1957, with floor area exceeding fifteen hundred (1,500) square feet, to accommodate one (1) additional dwelling unit, provided that:
 - a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;
 - c. The alteration will not result in a total cubical volume increase of more than ten (10) percent within the five (5) years immediately preceding the date of alteration;
 - d. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling;
 - e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;
 - f. A minimum lot size of ten thousand (10,000) square feet of land area shall be required;
 - g. No dwelling unit shall be reduced in size to

less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic;

- h. Parking shall be provided as required by division 20 of this article;
- i. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 - 1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building;
 - 2. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

(b) *Commercial:*

- 1. Reserved.

(c) *Institutional:* Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

- 1. Elementary, middle, and secondary school;
- 2.
 - a. Long-term and extended care facilities;
 - b. Intermediate care facility for thirteen (13) or more persons;
- 3. Church or other place of worship;

4. Private club or fraternal organization;
5. Hospital.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
 - b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
 - c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.
- (d) *Other:*
1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residence zones) of this article;
 2. Utility substations, including sewage treatment plants, sewage and water pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding

neighborhood;

3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use, home babysitting use, nursery school or kindergarten, or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

- e. Day care facilities, home babysitting uses, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting services, nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. Off-street parking shall be provided on the site for all staff of the facility. Parking for the facility shall not interfere with access to or use of play areas. Parking spaces may be stacked or placed side by side in order to lessen

their impact on the residential character of the lot and the neighborhood, and shall not be located closer than five (5) feet from the property line of any abutting residential use or residentially zoned site;

vii. The maximum number of children in a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and

viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 2, 12-17-84; Ord. No. 76-85, § 4, 7-1-85; Ord. No. 36-85, § 2, 7-15-85; Ord. No. 67-87, § 1, 11-2-87; Ord. No. 81-88, § 4, 7-19-88; Ord. No. 235-91, § 5, 2-4-91; Ord. No. 118-93, § 5, 10-18-93; Ord. No. 133-96, § 3, 11-18-96; Ord. No. 154-96, § 5, 12-16-96; Ord. No. 222-99, §3, 3-01-99)

Sec. 14-89. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 534-84, 5-7-84)

Sec. 14-90. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-3 zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Sixty-five hundred (6,500) square feet except as provided for lots of record is section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A

lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807 et seq., or the applicable zoning lot size, whichever is larger.

2. Alteration of a detached single-family dwelling to a two-family dwelling: Ten thousand (10,000) square feet.
3. Long-term, extended, or intermediate care facilities: Two (2) acres.
4. School: Two (2) acres.
5. Church or place of worship: Two (2) acres.
6. Private club or fraternal organization: Two (2) acres.
7. Municipal use: Sixty-five hundred (6,500) square feet.
8. Hospital: Ten (10) acres.
9. Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of continuous land.
10. All other uses: Sixty-five hundred (6,500) square feet.

Provided that for uses specified in section 14-90(a)3 through 8 above, no minimum lot area shall be required in the following cases:

- a. Uses existing as of June 1, 1983;
- b. Expansion onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the

reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;

- d. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

(b) *Minimum lot area per dwelling unit:*

PRUD: Sixty-five hundred (6,500) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Other uses: Sixty-five hundred (6,500) square feet, except for alteration of a single-family dwelling to a two-family dwelling as provided in section 14-88(a)2.

- (c) *Minimum street frontage:* Fifty (50) feet, except that lots located in a subdivision approved after the effective date of Ord. No. 165-97 pursuant to section 14-497.5 shall meet the street frontage requirements approved as part of the subdivision plan under the terms of that section.

(d) *Minimum yard dimensions:*

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Front yard:*

Principal or accessory structures: Twenty-five (25) feet.

2. *Rear yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
- b. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. *Side yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

| <i>Height of Structure</i> | <i>Required Side Yard</i> |
|----------------------------|---------------------------|
| 1 story | 8 feet |
| 1 1/2 stories | 8 feet |
| 2 stories | 14 feet |
| 2 1/2 stories | 16 feet |

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than eight (8) feet in width. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the

resulting side yards be less than eight (8) feet.

b. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

4. *Side yard on side street:*

a. Principal or accessory structures: Twenty (20) feet.

(e) *Maximum lot coverage:* Thirty-five (35) percent of lot area.

(f) *Minimum lot width:* Sixty-five (65) feet.

(g) *Maximum structure height:* Principal or accessory attached structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

(h) 1. *Maximum number of units in a building (PRUD of five (5) acres or more):* Six (6) units.

2. *Maximum number of units in a building (PRUD of less than five (5) acres):* Two (2) units.

(i) *Maximum average number of units in a building (PRUD of five (5) acres or more):* Five (5) units.

(j) *Maximum length of building (PRUD):* One hundred (100) feet for buildings without garages; one hundred forty (140) feet for buildings with integral garages.

(k) *Minimum building setback from external subdivision property lines (PRUD):*

1. Three (3) or fewer dwelling units in building: Twenty-five (25) feet.

2. Four (4) or more dwelling units in building: Thirty-five (35) feet.

- (l) *Minimum distance between detached PRUD dwelling unit:* Sixteen (16) feet.
- (m) *Reserved.*
- (n) *Minimum recreation open space area (PRUD):* Three hundred (300) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet with a minimum dimension of fifty (50) feet shall be provided and shall include one (1) or more of the uses set forth in section 14-526(a)(14)c.4., but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.
- (o) No habitable space in a PRUD shall be below grade, except basements that are a part of and below ground units.

(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 5, 7-19-88; Ord. No. 385-89, §§ 1, 2, 4-3-89; Ord. No. 235-91, § 6, 2-4-91; Ord. No. 118-93, § 6, 10-18-93; Ord. No. 154-96, § 6, 12-16-96; Ord. No. 165-97, § 2, 12-1-97; Ord. No. 95-04/05, 11-15-04)

***Editor's note**--Ord. No. 81-88, § 5, adopted July 19, 1988, amended § 14-90 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-91. Other requirement.

Other requirements are as follows:

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 534-84, 5-7-84; Ord. No. 15-92, § 7, 6-15-92)

Secs. 14-92. Reserved.

Secs. 14-93. Reserved.

DIVISION 4.5. FH FLEXIBLE HOUSING ZONE

Sec. 14-94. Purpose.

The intention of this division is to establish an overlay zone in which manufactured housing development is permitted in addition to those uses permitted in the underlying residential zone. The purpose of this division is to accommodate additional housing types in appropriate areas of the city, while protecting the value and integrity of established residential neighborhoods and ensuring a balanced and orderly pattern of residential development.

(Ord. No. 610-82, § 2, 7-7-82; Ord. No. 130-82, § 1, 9-20-82; Ord. No. 200-89, § 1, 12-18-89)

Sec. 14-95. Manufactured housing park or subdivision.

Notwithstanding any other provision of this article, no manufactured housing park or subdivision shall be permitted in any zone except as provided in this section.

(a) Manufactured housing park or subdivision, as defined in section 14-47, shall be permitted in the flexible housing zone, the Planning Board shall be the reviewing authority. Such development shall be in accordance with the space and bulk and other requirements applicable to similar uses permitted in the underlying zone, except those standards set forth in section 14-96, and shall also meet the following additional requirement:

1. Reserved.
2. Such development shall be subject to approval by the Planning Board with respect to each and every requirement of article VI of this chapter,

COMPARISON OF B-1b, B-2b and B-2c ZONES

| | B-1b Neighborhood Business Zone | B-2b Community Business Zone | B-2c Community Business Zone |
|-------------------|--|--|--|
| Purpose Statement | <p>The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c) (3).</p> <p>Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.</p> | <p>B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in the areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(c).</p> | <p>To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.</p> |
| Permitted Uses | <p>The following uses are permitted in the ground floor level of buildings in the B-1b zone.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot is permitted. If</p> | <p>The following uses are permitted in the B-2b except that any involving drive-throughs are prohibited in this zone unless otherwise provided in section 14-183.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot. If there is no</p> | <p>The following uses are permitted in the B-2c except that any involving drive-throughs are prohibited in this zone unless otherwise provided in section 14-183.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot. If there is no</p> |

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| | <p>there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.</p> <p>In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *Professional offices (excluding veterinarians); *Business services (excluding redemption centers); *Personal services; *Offices of building tradesman (no exterior storage of building materials); *Retail establishments (no drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and no deliveries between the hours of ten (10) p.m. to seven (7) a.m.); and *Beverage dealers. | <p>abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.</p> <p>In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *General, business and professional offices; *Personal services; *Office of building tradesmen; *Retail establishments; *Restaurants (shall close for all purposes including the service of alcohol no later than 11:00 p.m.); *Drinking establishments; *Billiard parlors; *Mortuaries or funeral homes; *Miscellaneous repair | <p>abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.</p> <p>In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *General, business and professional offices; *Personal services; *Office of building tradesmen; *Retail establishments; *Restaurants (shall close for all purposes including the service of alcohol no later than 11:00 p.m.); *Billiard parlors; *Mortuaries or funeral homes; *Miscellaneous repair |
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| | <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Church or other place of worship; *Municipal offices; *Elementary, middle and secondary schools; *Nursery schools and kindergarten; and *Clinics of less than three thousand (3,000) sq. ft. of | <p>services (excluding motor vehicle repair services);</p> <ul style="list-style-type: none"> *Communication studios or broadcasting and receiving facilities; *Health clubs and gymnasiums; *Veterinary hospitals (excluding outdoor kennels); *Theaters and performance halls; *Hotel or motels of less than one hundred fifty (150) rooms; *Dairies (existence as of 11/15/99); *Bakeries (existence as of 11/15/99 and if established after 11/15/99 must include retail sales within the principal structures and shall be no greater than seven thousand (7,000) sq. ft. in size); and *Drive-throughs associated with a permitted use when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Churches or other places of worship; *Municipal buildings and uses; *Kindergarten, elementary, middle and secondary schools; *College, university, and trade schools; *Clinics; | <p>services (excluding motor vehicle repair services);</p> <ul style="list-style-type: none"> *Communication studios or broadcasting and receiving facilities; *Health clubs and gymnasiums; *Veterinary hospitals (excluding outdoor kennels); *Theaters and performance halls; *Hotel or motels of less than one hundred fifty (150) rooms; *Dairies (existence as of 11/15/99); and *Bakeries (existence as of 11/15/99 and if established after 11/15/99 must include retail sales within the principal structures and shall be no greater than seven thousand (7,000) sq. ft. in size). <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Churches or other places of worship; *Municipal buildings and uses; *Kindergarten, elementary, middle and secondary schools; *College, university and trade schools; *Clinics; |
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| | <p>total floor space.</p> <p><i>Other:</i></p> <ul style="list-style-type: none"> *Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; and *Bed and breakfast. <p><i>Uses permitted above the ground floor level of buildings in the B-1b zone:</i></p> <ul style="list-style-type: none"> *Any residential use; and *Bed and breakfast. <p><i>Conditional Uses:</i></p> <ul style="list-style-type: none"> *Restaurants (maximum floor area for use of the public is one thousand (1,000) sq. ft.; hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day; food service and consumption | <ul style="list-style-type: none"> *Private Club or fraternal organization; and *Long term, extended and intermediate care facility. <p><i>Other:</i></p> <ul style="list-style-type: none"> *Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; *Bed and breakfast (may include a meeting facility as long as the facility shall be limited to the following types of uses: private parties; business meetings; weddings; receptions; seminars; and business and educational conferences.); and *Studios for artists and craftspeople (the area of such studios shall not exceed four thousand (4,000) sq. ft. for each studio space). <p><i>Conditional Uses:</i></p> | <ul style="list-style-type: none"> *Private Club or fraternal organization; and *Long term, extended and intermediate care facility. <p><i>Other:</i></p> <ul style="list-style-type: none"> *Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; *Bed and breakfast (may include a meeting facility as long as the facility shall be limited to the following types of uses: private parties; business meetings; weddings; receptions; seminars; and business and educational conferences.); and *Studios for artists and craftspeople (the area of such studios shall not exceed four thousand (4,000) sq. ft. for each studio space). <p><i>Conditional Uses:</i></p> |
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| | <p>are the primary function; and there shall be no drive-through service.</p> | <p>*Major or minor auto service stations (in existence as of 11/15/99); *Car Washes; *Drive-throughs which are adjacent to any residential use or zone and must be accessory to a principal use located on the same site; and *Automobile Dealerships.</p> <p>The above conditional uses are subject to signage, circulation, and drive-through standards.</p> <p>*Printing and publishing establishments; *Printing and publishing establishments (in continuous operation at their current location since 4/4/88 or earlier and which exceed 10,000 sq. ft. of aggregate gross floor area at that time; *Wholesale distribution establishments; and *Research and development and related production establishments.</p> <p>The above conditional uses shall be subject to traffic circulations and building and site design standards.</p> | <p>*Automobile Dealerships.</p> <p>The above conditional use is subject to signage and circulation.</p> <p>*Printing and publishing establishments; *Printing and publishing establishments (in continuous operation at their current location since 4/4/88 or earlier and which exceed 10,000 sq. ft. of aggregate gross floor area at that time; *Wholesale distribution establishments; and *Research and development and related production establishments.</p> <p>The above conditional uses shall be subject to traffic circulation and building and site design standards.</p> |
| <p>Dimensional Requirements</p> | <p>Residential uses shall meet the requirements of such abutting or nearest residential zone except as noted below and nonresidential uses shall meet the following</p> | <p>Residential uses shall meet the requirements of such abutting or nearest residential zone, except as noted below and nonresidential uses shall meet the following</p> | <p>Residential uses shall meet the requirements of such abutting or nearest residential zone, except as noted below and nonresidential uses shall meet the following</p> |

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| <p><i>Minimum lot size:</i></p> | <p>minimum requirements:</p> <p>*School: twenty thousand (20,000) sq. ft. *Church or place of worship: ten thousand (10,000) sq. ft. *All other nonresidential uses: none *Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.</p> | <p>requirements:</p> <p>*Intermediate, longterm and extended care facilities: ten thousand (10,000) sq. ft.</p> <p>*Nonresidential uses: none *Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.</p> <p>Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.</p> | <p>requirements:</p> <p>*Intermediate, longterm and extended care facilities: ten thousand (10,000) sq. ft.</p> <p>*Nonresidential uses: ten thousand (10,000) sq. ft. *Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.</p> <p>Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.</p> |
| <p><i>Minimum street frontage:</i></p> | <p>Fifty (50) feet, except that if the average street frontage of all lots within two hundred (200) feet of the boundaries of the lot in question on the same side of the street and within the zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.</p> | <p>Fifty (50) feet.</p> | <p>Fifty (50) feet.</p> |
| <p><i>Yard dimensions:</i></p> | <p>Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.</p> | <p>Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.</p> | <p>Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.</p> |

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| <p>Minimum front yard</p> | | | <p>None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.</p> |
| <p>Maximum front yard</p> | <p>*Principal or accessory structure: the maximum front yard setback shall either be: ten feet; or in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.</p> <p>Building additions are not required to meet this maximum setback.</p> | <p>*(On-peninsula): The maximum front yard setback shall either be: ten feet; or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.</p> <p>Building additions are not required to meet this maximum setback.</p> <p>*(Off-peninsula): None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.</p> <p>*Where the front yard setback exceeds ten (10) feet, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street.</p> | |
| <p>Rear yard</p> | <p>*Principal structures: none, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.</p> | <p>*Principal structures: ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.</p> | <p>*Where the front yard setback exceeds ten (10) feet, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street.</p> <p>*Principal structures: ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.</p> |

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| | <p>*Accessory structures (detached): none, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.</p> <p>*Principal and accessory structures: none, except where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.</p> <p>*Accessory structures (detached): none, except where a side yard abuts a residential use, a minimum of five (5) feet is required.</p> <p>*Side yards on side streets (corner lot): principal or accessory structures: ten (10) feet maximum setback, except for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets.</p> <p>This maximum setback shall not apply to building additions.</p> | <p>*Accessory structures: Five (5) feet.</p> <p>*Principal and accessory structures: none, except where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.</p> <p>*Accessory structures: Five (5) feet</p> <p>*Side yards on side streets (corner lot): a maximum of ten (10) feet except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets.</p> <p>This maximum setback shall not apply to building additions.</p> | <p>*Accessory structures: Five (5) feet.</p> <p>*Principal and accessory structures: none, except that where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.</p> <p>*Accessory structures: Five (5) feet</p> <p>*Side yards on side street (corner lot): A minimum of ten feet.</p> |
| <i>Side yard</i> | | | |
| <i>Minimum Lot Width:</i> | None | None | None |
| <i>Maximum Structure Height:</i> | Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone. | Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under side yard are increased by one (1) | Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under side yard are increased by one (1) |

| | | | |
|---|---|--|---|
| <p><i>Maximum impervious surface ratio:</i></p> <p><i>Floor area:</i></p> <p><i>Front yard parking:</i></p> | <p>Ninety (90) percent.</p> <p>The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) sq. ft.</p> <p>The maximum first floor area of a multi-tenant building shall be no greater than ten thousand (10,000) sq. ft.</p> <p>There shall be no off street parking in the front yard between the street line and the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.</p> | <p>foot in distance for each foot of height above forty-five (45) feet.</p> <p>Ninety (90) percent.</p> <p>*On-peninsula: There shall be no parking in the front yard between the street line and the required maximum setback line in the B-2b. Where existing buildings exceed the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.</p> <p>*Off-peninsula: Parking in the front yard between the street line and the required maximum setback line in the B-2b is discouraged. However, where parking in the front yard is permitted, a maximum of fifty percent (50%) of the total parking on the site may be located between the principal structure and the street.</p> | <p>foot in distance for each foot of height above forty-five (45) feet.</p> <p>Eighty (80) percent.</p> <p>There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.</p> |
|---|---|--|---|

Att. 5



**190 Washington Avenue
Single-Family**



**192 Washington Avenue
Three-Family**



**198 Washington Avenue
Single-Family**



**218 Washington Avenue
Two-Family**

Att. 6

Kandi Talbot
Portland Planning Dept.
City of Portland
390 Congress Street
Portland, Maine 04101

December 2, 2005

Dear Ms. Talbot;

I am writing you to express my support of the change of zoning that is now being considered by the Planning Board by application of Glenn Morse of 218 Washington Ave. Portland, Me.

I support his efforts in having the entire portion of land from Gould street through 218 Washington Ave rezoned from the present R-3 to B-2b or B-2a zoning.

I reside at 202 Washington Ave and my property abutts the property of Mr. Morse and I find no objection to his request for a zone change.

Thank You for conveying this letter to the Planning Board.

Nancy Kelly
202 Washington Ave.
Portland, Me 04103

Sincerely,

Nancy J Kelly

Kandi Talbot - Zoning at 218 Washington Ave

From: "Kathy Cole" <kcole@ywcaptldme.org>
To: <kcote@portlandmaine.gov>
Date: 01/05/2006 7:43 AM
Subject: Zoning at 218 Washington Ave

Kandace,

I am writing with concern and questions over the upcoming rezoning requested by Glen Morse for the above noted address.

Previously, it has been indicated that he is looking to change to B1b or B2b. The current postcard also indicates B2c. Could you please let me know what falls under B2c.

Also, this request is for changes from 190-230 Washington Ave? I assume that if a zoning change were made, any (or all) of these properties could make changes in their residences to include businesses which fall under the new zoning. Please clarify what that means for parking for each. For many years parking has been an issue in this stretch of Washington Ave – and I fear that increased traffic and businesses will create an increasingly dangerous situation. The police have visited 218 Washington Ave several times in the last few months with concerns about parking and the hazards that have been created during Glen's reconstruction.

Do you have any additional information on the proposed use of the property?

Thank you in advance for your response. I do plan to attend next Tuesday's meeting, but would like to have complete info before hand.

Kathleen Cole

Kathleen Cole, Director
Child Care Services
YWCA of Greater Portland
87 Spring Street, Portland, Maine
874-1130 ext. 3016
FAX: 874-1136
kcole@ywcaptldme.org

Confidentiality Notice: This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited.

From: Pamela Jack <pjack@maine.rr.com>
To: <kcote@portlandmaine.gov>
Date: 01/05/2006 2:27:21 PM
Subject: Proposed Zoning Change for Development at 121 & 135 Sheridan St., Portland

Hi Kandice,

It was a pleasure speaking with you today regarding my questions about the proposed zoning change for the proposed development at 121 & 135 Sheridan Street in Portland.

I own the property at 26 North Street. Since Sheridan Street is the street below mine, any new development will affect me, as well as the other residents in my neighborhood.

As I mentioned to you when we spoke, I have several concerns with adding 24 more residences on Sheridan Street. To begin with, Sheridan Street is quite narrow. To make matters worse, many residents park on both sides of the street at the Cumberland Avenue end, often making the street a single lane.

The intersection of Walnut Street and Washington Avenue is already difficult, given that there is no traffic light. Adding the daily traffic burden of 37 more cars coming and going at this intersection will make it even more dangerous.

I don't see why the City should change the zoning of the property from R-6 to R-7 simply to allow a developer to build more units. The advantage to the developer is obvious, but I don't see any benefit to our neighborhood by allowing this to happen.

I understand that development is sometimes necessary. I do not object to the fact that someone proposes to build on this parcel; rather, I object to the large number of units proposed on such a narrow street. There is currently an 8 unit building under construction at 117 Sheridan Street. If development is to happen at 135 Sheridan Street, I think that a building similar to the one being constructed at 117 Sheridan, with a similar number of units, is more appropriate for the property and the neighborhood.

Thank you for your time and attention.

Pamela Jack

26 North Street
Portland

From: "Thomas Errico" <terrico@wilbursmith.com>
To: "Kandi Talbot" <KCOTE@portlandmaine.gov>
Date: 01/05/2006 3:46:01 PM
Subject: RE: Proposed zone change from 190 to 230 Washington Avenue

Att. 7

Kandi--

I do not have a significant traffic concern about the rezoning noted below and as discussed this afternoon. In my opinion, neighborhood type commercial businesses are not likely to generate significant traffic (particularly without drive-through windows) and therefore Washington Avenue should be able to accommodate the increased traffic. I would note that we would review proposed projects and require traffic studies assessing traffic impact issues. I would also note that based upon my limited knowledge of the area, it seems that provision of on-site parking may be problematic or expensive and therefore could complicate developments.

If you have any questions, please call me.

Best Regards,

Thomas A. Errico, P.E.
Senior Transportation Engineer
Wilbur Smith Associates
59 Middle Street
Portland, Maine 04101
(207) 871-1785 Phone
(207) 871-5825 Fax

-----Original Message-----

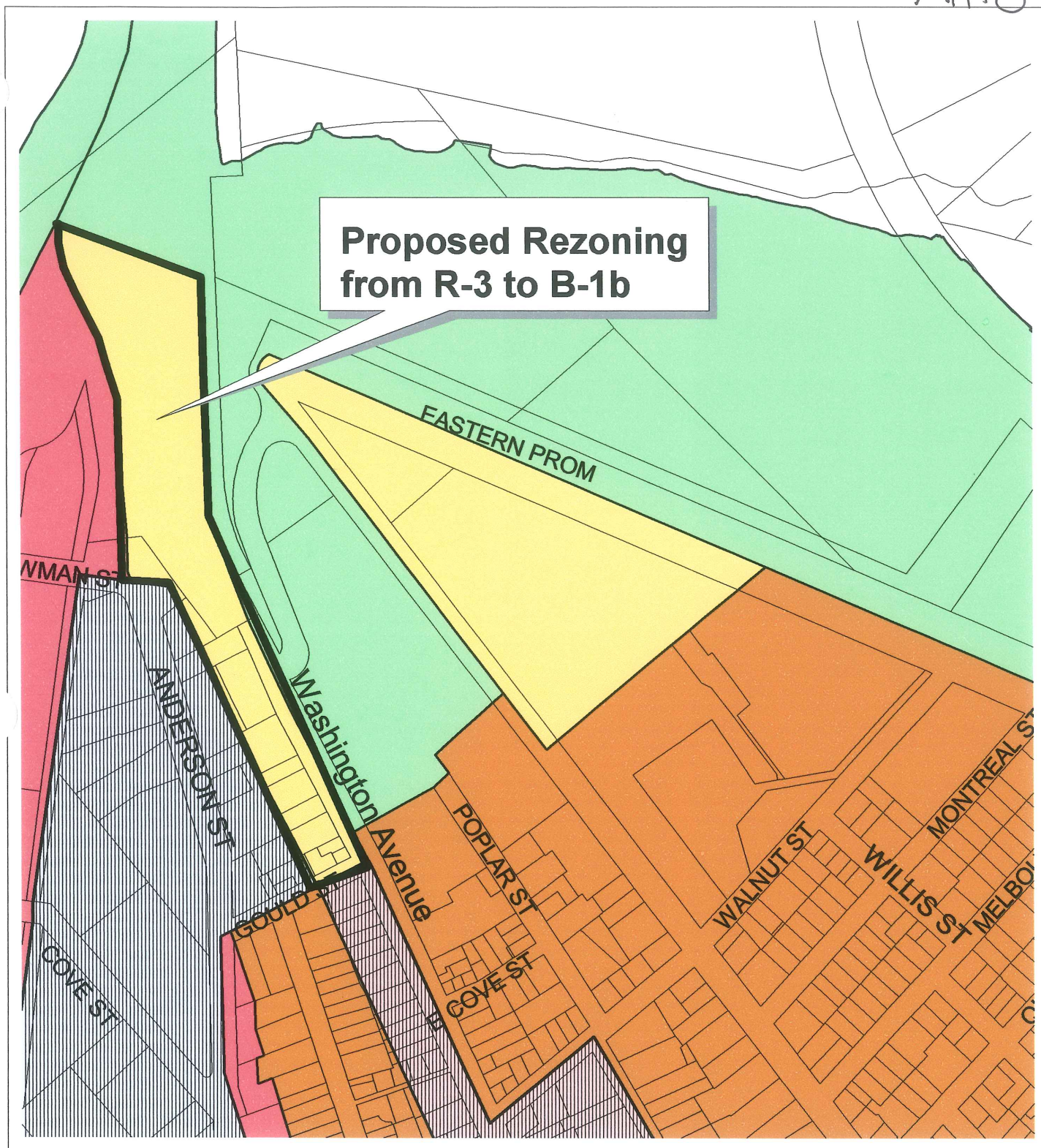
From: Kandi Talbot [mailto:KCOTE@portlandmaine.gov]
Sent: Thursday, December 22, 2005 11:16 AM
To: terrico@wilbursmith.com
Cc: SH@portlandmaine.gov
Subject: Proposed zone change from 190 to 230 Washington Avenue

Tom,

There is a zone change proposal for a property at 218 Washington Avenue. The proposal is to go from Residential to Business, most likely B-1b, which would be a neighborhood business type use on the ground floor and residential on upper stories.

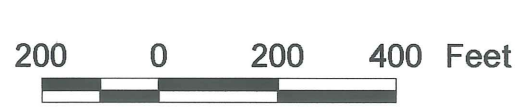
The Planning Board is looking at rezoning the entire R-3 zoning on this side of Washington Avenue to B-1b, but one of the concerns was traffic. Because these properties are so close to the entrance to the highway, would an increase in traffic affect this area? Washington Avenue is currently all business with the exception of this small section, so would it make a huge difference? At this point all of the properties along this block are basically residential, so there is a potential for approximately 5+ businesses going into this area.

This is scheduled for a public hearing on January 10th. Any questions, please let me know. Thanks.



190 to 250 Washington Avenue Proposed Rezoning from R-3 to B-1b

Prepared by the Department of Planning and Development using GIS Workgroup data. January 2006.



CITY OF PORTLAND, MAINE

Planning and Development Department

Planning Division

389 Congress Street, Portland, Maine 04101

(207) 874-8719 Fax (207) 756-8258

~~EE~~

David Silk - comp plan - rationale for change
John Anton - research for zone changes
in area

Lee Lowry - why retained as R-3 zone

Glen Morse - changes

Lee Lowry - spot zoning? plunk a ~~zone~~
zone on one small property

larger area - another workshop

just one property - public hearing

Memorandum
Department of Planning and Development
Planning Division



To: Chair Lowry and Members of the Portland Planning Board

From: Kandice Talbot, Planner

Date: Prepared on October 21, 2005 for
October 28, 2005 Workshop

Re: B-2b Zone Change, 218 Washington Avenue

Introduction

Glen Morse is requesting a zone change from R-3 Residential to the B-2b Community Business zone for the property located at 218 Washington Avenue. Currently located at the site is a 2-family residential building.

The site is approximately 10,000 sq. ft. and is located at 218 Washington Avenue. The zone change application is included as Attachment 1.

Surrounding Uses

The uses in the area surrounding 218 Washington Avenue are mixed uses. Primarily along Washington Avenue the uses are single- and multi-family homes. Along Anderson Street, to the rear of the site, the uses are primarily industrial, which include Rockingham Electric, a warehouse, and an auto body shop. The use across from the site on Washington Avenue is City owned property and is part of the Eastern Prom parkland.

As shown on the attached zoning map, the B-2b zone is located further down Washington Avenue to the south and an Ilb zone is located to the west of Washington Avenue, within this area.

Development Plan

The applicant does not have any specific development plan at this time, but is requesting this B-2b zone change to allow retail and commercial uses in the building, along with constructing additional buildings on the site. The applicant has stated that his proposal is to construct two to three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

The Planning Board should be aware, however, that the topography at the rear of 218 Washington Avenue is very steep. The applicant has stated that he is proposing to fill the site to create more buildable area, but because of the steep slopes the development opportunities may be restricted.

Policy Considerations

B-2b Community Business Zone

The purpose of the B-2b Community Business zone is:

“B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.”

The change from R-3 to B-2b would allow a commercial/retail use within the building. As stated previously, the nearest commercial zone is the B-2b zone, which is located further down Washington Avenue to the south. 218 Washington Avenue is located near Tukey’s Bridge and is located near an existing urban and neighborhood oriented building pattern. The B-2b zone does not require that residential uses be located on the upper stories within this zone, however in any structure that has commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

Uses allowed in the B-2b Community Business zone include, but are not limited to, residential, offices, personal services, retail establishments, restaurants, drinking establishments, miscellaneous repair services, theaters, hotels or motels, drive-throughs, etc.

The B-2b zone dimensional requirements include:

- Minimum lot size: Nonresidential uses: None, but where multiple uses are on one lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard (on-peninsula): ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-1b Neighborhood Business Zone

Although the applicant is requesting a B-2b zone change, the Board may want to look at the B-1b Neighborhood Business Zone. The purpose of the B-1b Neighborhood Business zone is:

“To provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures.

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.”

The B-1b Neighborhood Business zone would require residential uses on upper floors of any new or existing buildings. The uses allowed in a B-1b zone are less intense uses and are more compatible with residential uses and are more of a neighborhood use. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-1b dimensional requirements include:

- Minimum lot size: Nonresidential uses: 10,000 sq. ft., however, where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Minimum front yard: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.
- Maximum structure height: thirty-five (35) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2c Community Business Zone

Another possible zone to look at would be the B-2c Community Business Zone. The purpose of the B-2c Community Business Zone is:

“To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.”

The B-2c zone would allow the same uses as the B-2b zone, with the exception of businesses that serve liquor, service stations, and drive-throughs.

The B-2c dimensional requirements include:

- Minimum lot size: Nonresidential uses: None.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard: ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: eighty (80) percent.

Zoning Analysis

The B-2b zone is the closest business zone to 218 Washington Avenue, which ends at Gould Street. Between Gould Street and the Eastern Prom are approximately six (6) properties, which are zoned R-3 along Washington Avenue. The Board may want to consider rezoning the entire R-3 zone to a business zone, since it is along an arterial street.

As stated previously, the B-2b zone has more intense uses. Commercial zones, with the exception of the ROS zone across Washington Avenue, surround these properties within this area of Washington Avenue. If the Board did determine that a business zone would be appropriate for this area, the Board may want to take into consideration the existing residential homes in this neighborhood and the types of uses that may abut the residential uses.

Also, it is not clear why this area has remained R-3, but it may have something to do with the heights within this area, to maintain views to and from the Eastern Prom. If those views were to be maintained, the B-1b zone would be a more logical zone because the B-1b zone would allow a maximum height of 35 feet, which are the same height limitations as the R-3 zone, whereas the B-2b or B-2c zone would allow a maximum height of 45 feet.

Advertisement

The Planning Board may wish to look at a couple of options. One would be to rezone only 218 Washington Avenue to either the B-1b, B-2b or B-2c zone. Another option would be to rezone the properties on the westerly side of Washington Avenue, from Gould Street to the Eastern Prom, to either the B-1b, B-2b or B-2c zone. Staff will be looking for direction as to how the Planning Board would like to advertise for a public hearing.

Attachments:

1. Zone Change Application and Attachments
2. R-3 Zoning Text
3. B-1/B-1b Zoning Text
4. B-2/B-2b/B-2c Zoning Text



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

Mr. Glenn Morse
PO Box 1466
Scarborough, ME 04070

August 18, 2005

Dear Mr. Morse:

RE: Application for a Fill Permit, 218 Washington Avenue, ID # 2005-0182,

Upon receipt of your application for a fill permit, the City has the following comments:

Unfortunately, the City cannot process this application at this time, due to the pending application for a zone change/text amendment at this location.

Also, due to the topography of the land and the potential for slope stabilization issues to arise, this type of proposal would need to be submitted in the future as a 'minor site plan' application as opposed to a fill permit. Also, this application would need to be engineered and designed by someone specializing in the geotechnical field.

Sincerely,

✓ Jay Reynolds
Development Review Coordinator

cc: Lee Urban, Planning and Development Director
Alexander Jaegerman, Planning Division Director
Sarah Hopkins, Development Review Services Manager
Penny Littell, Associate Corporation Counsel
Michael Nugent, Inspection Services Manager

CITY OF PORTLAND, MAINE

PLANNING BOARD

Kevin Beal, Chair
Michael Patterson, Vice Chair
John Anton
Lee Lowry III
Shalom Odokara
David Silk
Janice E. Tevanian

January 11, 2006

Mr. Glen Morse
P.O. Box 1466
Scarborough, ME 04074

Re: Washington Avenue Rezoning R-3 to B-1b (ID #832, CBL #10-A-15)

Dear Mr. Morse:

On January 10, 2006 the Planning Board voted unanimously (6-0 Silk absent) to recommend the proposed R-3 to B-1b for Washington Avenue, from Gould Street to Tukey's Bridge, to the City Council.

The City Council is tentatively scheduled to vote on the rezoning on Wednesday, February 22, 2006.

If there are any questions, please contact Kandice Talbot at 874-8901.

Sincerely,



Kevin Beal, Chair
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Sarah Hopkins, Development Review Services Manager
Kandice Talbot, Planner
Jay Reynolds, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Inspections Division
Michael Bobinsky, Public Works Director
Traffic Division
Eric Labelle, City Engineer
Jeff Tarling, City Arborist
Penny Littell, Associate Corporation Counsel
Greg Cass, Fire Prevention
Assessor's Office
Approval Letter File

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM**

2005-0182

Application I. D. Number

8/10/2005

Application Date

Fill Permit

Project Name/Description

Maloney Philip

Applicant

218 Washington Ave, Portland, ME 04101

Applicant's Mailing Address

GeoTech / Site Plan / Re-Zone App?
DRC Copy
Reqs

218 - 218 Washington Ave, Portland, Maine

Address of Proposed Site

010 A015001

Assessor's Reference: Chart-Block-Lot

Consultant/Agent

Agent Ph:

Agent Fax:

Applicant or Agent Daytime Telephone, Fax

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify) _____

Proposed Building square Feet or # of Units

Acreage of Site

Zoning

Check Review Required:

- Site Plan (major/minor)
- Subdivision # of lots _____
- PAD Review
- 14-403 Streets Review
- Flood Hazard
- Shoreland
- Historic Preservation
- DEP Local Certification
- Zoning Conditional Use (ZBA/PB)
- Zoning Variance
- Other _____

Returned to Applicant

Fees Paid: Site Pla \$100.00 Subdivision _____ Engineer Review _____ Date 8/15/2005

DRC Approval Status:

Reviewer _____

- Approved
- Approved w/Conditions See Attached

Denied *with comments*

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached

Condition Compliance _____ signature _____ date _____

Performance Guarantee Required* Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

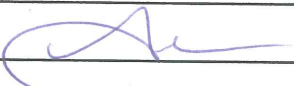
| | | | |
|---|----------------|--|-----------------|
| <input type="checkbox"/> Performance Guarantee Accepted | _____ | _____ | _____ |
| | date | amount | expiration date |
| <input type="checkbox"/> Inspection Fee Paid | _____ | _____ | |
| | date | amount | |
| <input type="checkbox"/> Building Permit Issue | _____ | | |
| | date | | |
| <input type="checkbox"/> Performance Guarantee Reduced | _____ | _____ | _____ |
| | date | remaining balance | signature |
| <input type="checkbox"/> Temporary Certificate of Occupancy | _____ | <input type="checkbox"/> Conditions (See Attached) | _____ |
| | date | | expiration date |
| <input type="checkbox"/> Final Inspection | _____ | _____ | |
| | date | signature | |
| <input type="checkbox"/> Certificate Of Occupancy | _____ | | |
| | date | | |
| <input type="checkbox"/> Performance Guarantee Released | _____ | _____ | |
| | date | signature | |
| <input type="checkbox"/> Defect Guarantee Submitted | _____ | _____ | _____ |
| | submitted date | amount | expiration date |
| <input type="checkbox"/> Defect Guarantee Released | _____ | _____ | |
| | date | signature | |

Fill Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

| | | |
|--|--|--|
| Location/Address of Fill Area: <u>218 Washington Ave</u> | | |
| Total Cubic Yardage of Proposed Fill <u>800</u> | Square Footage of Lot <u>15,200</u> | |
| Tax Assessor's Chart, Block & Lot Chart# <u>10</u> Block# <u>A</u> Lot# <u>15</u> | Owner: <u>Glenn Morse</u> | Telephone: <u>590-3877</u> |
| Lessee/Buyer's Name (If Applicable) | Applicant name, address & telephone: <u>Glenn Morse</u> <u>218 Washington Ave Portland</u> | 500cy-less \$50.00 500cy-more \$100.00 Fee: \$ |

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

| | |
|--|----------------------|
| Signature of applicant:  | Date: <u>8/10/05</u> |
|--|----------------------|

This is not a permit. You may not commence ANY work until the permit is issued.

FILL PERMIT SUBMISSION

- **Your submission must include 4 copies of the site plan on 11" x 17" paper or greater.**
- **A site plan shall include:** The shape and dimension of the lot, area and limits of the proposed fill area, and the distance from the actual property lines. **Any site plan not drawn to scale will not be accepted.**
- **The following items are guidelines to help applicant(s) prepare a site plan for approval of land areas being filled. It is the applicant's responsibility to locate and assess all impacts as a result of the proposed filling and to acquire all applicable permits outside of the City of Portland review. Site plans shall contain the information suggested in the following guidelines:**
 1. Fill elevations shall match and conform in height with the elevation of an existing road shoulder, an existing driveway or land abutting your property line. Embankments and sloped areas created by fill construction shall not exceed a 3:1 side slope or 33% grade. Areas steeper than 3:1 shall be stabilized using stone riprap, erosion control blankets, or an engineered retaining structure or system.
 2. The filled area shall be graded such as to provide positive gravity drainage from a roadside, driveway, and buildings to a ditch line, culvert, wetlands, or a common drainage system located within or adjacent to the applicant's lot.
 3. Fill shall not be placed near, within, or block the flow path of an existing drainage course. Any filling or

alteration of a wetland, shoreland, or floodplain must be reviewed as a site plan application and may require additional permitting from the Maine Department of Environmental Protection.

A Site plan application includes, but is not limited to, the submission of a stamped boundary survey, a stamped professional engineered plan, stormwater management calculations, channel sizing, and associated details.

4. Siltation fence shall be installed and maintained at all times. The siltation fence shall be located along the entire downstream limits of the filled area or around the perimeter of the filled area to protect the disturbed area from siltation and possible erosion. Installation shall be initially reviewed by the Development Review Coordinator (DRC) prior to filling and must be in accordance with the Best Management Practices for Construction Erosion and Sediment Control. Silt fence may not be removed until the lawn area or disturbed area is 80% re-vegetated or is approved by the DRC.
5. The applicant shall disclose the amount, a description of type, and the origin of the proposed fill material. Fill material shall consist of non-contaminated soils free of large debris. Only under special exceptions shall sources of inert construction debris (asphalt, concrete, brick, mortar, ceramics, etc.) be utilized for fill. Special exceptions for fill material shall be reviewed by the Development Review Coordinator prior to actual placement for approval.
6. The fill material shall not remain exposed without a temporary erosion and sedimentation control or seeding application for more than 14 days. Temporary erosion control such as hay mulching must also occur on stock piled material if the time of exposure is to be greater than 14 days.
7. The filled area must be covered with 3-4" layer of loam material, free of clay, stone, roots, or wood debris. Loamed areas shall be seeded within 7 days following final grading or be covered with hay mulch until the area is ready for final seeding. If the area fails to grow grass within 14 days, the area shall be re-seeded.
8. The applicant shall complete all construction, grading, and seeding activities by September 1, or a date agreed to by the Development Review Coordinator. Failure to complete will require the applicant to apply for a permit extension.
9. The Development Review Coordinator reserves the right to require additional lot grading or other drainage improvements as necessary due to field conditions. Also, a stamped boundary survey may be required depending on the location of fill areas.

Please take notice that these are only guidelines and that the review of each application is different and is dependent on field conditions and topography. Conditions or requirements requested may exceed these guidelines in certain circumstances.

ABSOLUTELY NO SITE WORK MAY BE DONE UNTIL THE PERMIT HAS BEEN ISSUED.

THIS INCLUDES THE FOLLOWING:

BLASTING

TREE CLEARING

HAULING IN FILL TO THE SITE

ANY TYPE OF GRADING OR EARTHWORK

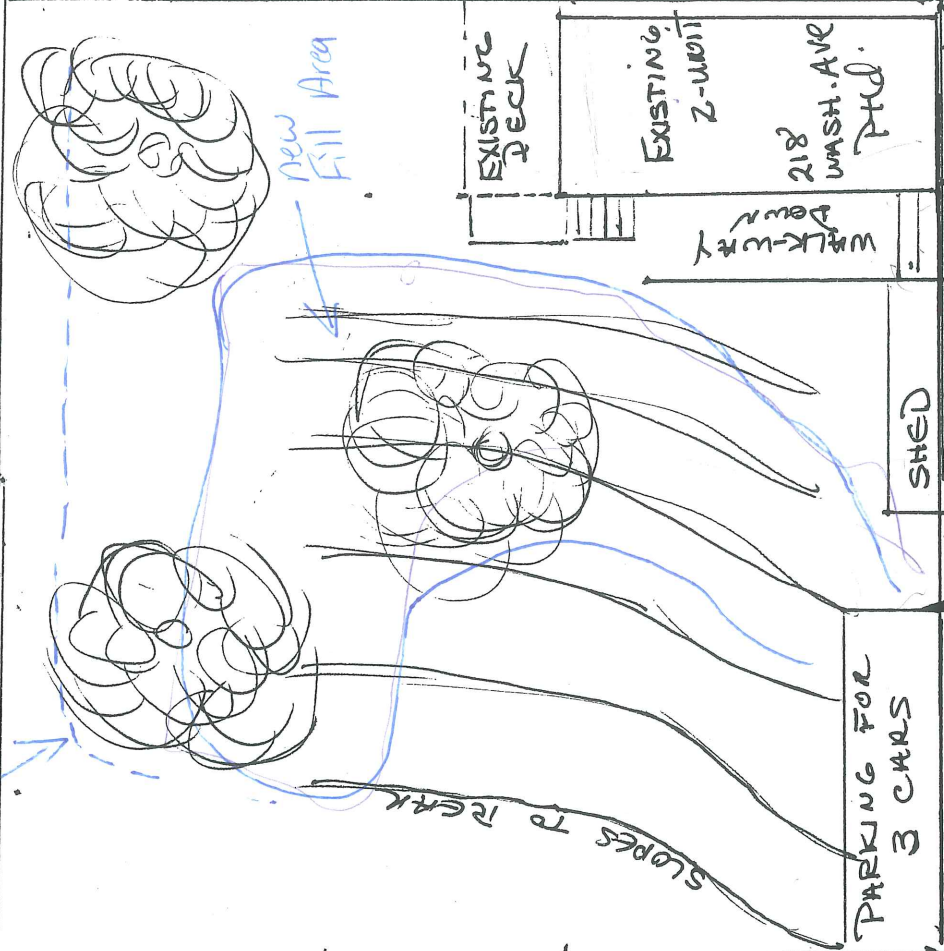
FILL PERMITS ARE VALID FOR ONE (1) YEAR FROM THE APPROVAL DATE. A ONE YEAR EXTENSION MAY BE GRANTED BY THIS DEPARTMENT IF REQUESTED BY THE APPLICANT IN WRITING PRIOR TO THE EXPIRATION DATE OF THE FILL PERMIT.

SKETCH PLAN
218 WASHINGTON AVE.



SIT Fence ---

108' PROPERTY BOUNDARY



1" = 20' ±

• 2 UNIT = 20' X 40' ±
FOUNDATION SIZE

• PROPERTY FRONTAGE 103'

• PROPERTY REAR 103'

• PROPERTY SIDES 100'

← Property of

Herbert Cl. Jr.

← Property of
Kevin & Nancy Kelly

Devenny

WASHINGTON AVE - PORTLAND

Scope: This Agreement is between You and Home Depot. Under this Agreement, Home Depot does not perform Installation, but arranges for Professional to do so directly or through Professional's specialty subcontractors. Home Depot does not provide, or arrange for, architectural/engineering services or structural changes to dwellings. You will not pay anything to Professional, although Professional may present this Agreement to You for Your review and signature and/or collect Your payment(s) to Home Depot on Home Depot's behalf. Installation will, subject to any Change Order, be completed in substantial conformance with the attached Invoice or Specifications. The State Supplement, if any, contains important additional terms, conditions, and information specific to Your state.

Special Order and Custom Made Merchandise: A description of any special order or custom made merchandise You have purchased appears in the Invoice or Specifications. The anticipated delivery date appears on the preceding page. This Agreement's provisions relating to Installation or Professional shall NOT apply to Your purchase of special order or custom made merchandise unless Home Depot will be arranging for its installation.

Professional's Responsibilities: Professional will complete Installation in a workmanlike manner. Professional will not start, perform, alter, or finish Installation except in accordance with applicable law. Professional will either not start, or will immediately discontinue, Installation upon discovery of unforeseen hazardous conditions at Your service address. Neither Home Depot nor Professional will attempt to remediate such conditions. Neither Home Depot nor Professional are responsible for identifying property lines, easements, covenants, or other legal encumbrances. Your service address is subject to. Neither Home Depot nor Professional will modify security systems to accommodate Installation. Professional will obtain required permits and provide permit numbers if required.

Your Responsibilities: You agree to pay Home Depot according to the terms and conditions of this Agreement. If Your service address is subject to any easements, covenants, or other legal encumbrances that could affect Installation, You agree to let Home Depot or Professional know about them before Installation. You agree to facilitate the location of utility lines. You are responsible for identifying property lines. You agree to ensure that work areas are free of preexisting physical or environmental hazards, and building/zoning code violations. You agree to provide Professional access to work areas during working hours and provide access to sanitary facilities or pay the facilities' rental costs. You agree to ensure any security system You have will not interfere with Installation. You agree to provide power to, and, as applicable, climate control in, work areas. You agree not to allow unattended minors at Your service address while Professional is present. You agree to control and keep pets away from work areas. You agree to keep posted permits on display at all times. You agree that if You or anyone You control interferes with or delays Installation, You may be subject to transportation/storage charges or other resulting charges. You agree not to assign or transfer this Agreement. You agree any claims against Home Depot or Professional under this Agreement should be made to Home Depot within thirty (30) calendar days of the date You first become aware of a problem. (Home Depot will attempt resolution of any claim(s) within sixty (60) calendar days of receiving Your notice.) YOU ASSUME THE RISK AND THE FULL LIABILITY OF PHYSICALLY ASSISTING WITH DELIVERY OF MATERIALS OR WITH INSTALLATION.

Changes and Change Orders: Home Depot, at Your request, may arrange for Professional to perform additional work, subject to a Change Order and additional charges payable by You to Home Depot. Any changes to Installation, i.e., a substitution of materials or an expansion of the scope of the work, will require You and Professional (on Home Depot's behalf) to sign a Change Order that will become part of this Agreement. Change Orders must be clear in scope and specify any additional payment(s) and/or changes in anticipated start/finish dates. Following discovery of previously undisclosed/unidentified legal encumbrances on Your premises, building/zoning code violations, or hidden/unforeseen physical or environmental hazards such as the presence of underground or overhead utility lines, rocks, roots, buried debris, mold, asbestos, lead paint, or any conditions differing from what You represented, Home Depot may immediately ask for a Change Order, discontinue Installation, or terminate this Agreement without further obligation to You.

Credit Card/Financed Transactions: Your separate cardholder agreement (to which Home Depot is NOT a party) will determine the total cost of Your purchase if by credit card, including any initial payment/deposit You may make and all interest charges and fees. You will be further subject to Your cardholder agreement's terms and conditions. If You are financing this transaction in whole or in part, Your separate loan agreement (to which Home Depot is NOT a party) will determine: (i) the amount financed (the amount of credit provided to You); (ii) the associated finance charges (the dollar amount the loan will cost You); and (iii) the total payment (the amount You will have paid when You have made all scheduled payments). You will be further subject to Your loan agreement's terms and conditions.

Liens; Security interests: If You make all payments as required under this Agreement, no security interest will be placed against Your property by Home Depot. If a security interest is placed against Your property, it creates a lien, mortgage, or other claim against Your property to secure payment and may cause a loss of Your property if You fail to pay as requested. After paying on any completed phase of Installation and before making any further payments, You should request from Professional a signed, unconditional release from, or waiver of, any right to place any claim against Your property applicable to the work then completed. You may ask an attorney about Your rights to discharge security interests.

LIMITED WARRANTY: HOME DEPOT WARRANTS THE WORKMANSHIP OF THE INSTALLATION FOR ONE (1) YEAR FROM ITS COMPLETION DATE. DURING THE WARRANTY PERIOD, HOME DEPOT WILL ARRANGE FOR REPAIR AT NO CHARGE TO YOU ANY DEFECTS DUE TO FAULTY WORKMANSHIP. HOME DEPOT'S WARRANTY DOES NOT COVER DAMAGE CAUSED BY ABUSE, MISUSE, NEGLIGENCE, OR IMPROPER CARE/CLEANING. MERCHANDISE AND MATERIALS ARE COVERED EXCLUSIVELY BY THE MANUFACTURER'S WARRANTY, IF ANY. (HOME DEPOT WILL ASSIST YOU WITH WARRANTY CLAIMS AGAINST MANUFACTURERS.) THIS WARRANTY PROVIDES YOU WITH SPECIFIC RIGHTS. YOU MAY HAVE OTHER RIGHTS UNDER APPLICABLE LAW.

From: Jay Reynolds
To: Nancy Kelly
Date: 12/7/2006 2:22:33 PM
Subject: FW: Re: 218 washington ave-update

Hello Nancy Kelly,
Pertaining to the site issue of removing the cinder blocks, I was advised by my previous supervisor, Sarah Hopkins, to wait until the owner comes in for site plan review. At that time, the removal of the material will be addressed. Currently, that material poses no environmental threat or safety issue.

If you need to inquire about the sewer issue, you could start by contacting Brad Roland in the Engineering Department. He can direct you better as to what the requirements are for sewer lines, and I believe he has had conversations with Mr. Morse.

Mr. Nugent no longer works for the City, Jeanie Bourke has taken his position.

Jay Reynolds
Development Review Coordinator
City of Portland Planning Division
(207) 874-8632
jayjr@portlandmaine.gov

>>> "Nancy Kelly" <hockeymom247@hotmail.com> 12/07/2006 1:43:50 PM >>>

From: "Nancy Kelly" <hockeymom247@hotmail.com>
To: JARJR@portlandmaine.gov, AXR@portlandmaine.gov, JMB@portlandmaine.gov
Subject: FW: Re: 218 washington ave-update
Date: Thu, 07 Dec 2006 13:25:21 -0500

Ms. Bourke, Mr. Reynolds, Mr. Rowe,
I sent each of you the following email message on Monday the 4th of December. Ms. Bourke, according to Mr. Nugent, your email was forwarded to you by him. I have no acknowledgement from anyone. Will this situation be looked into further by your departments? If so, when should I expect to hear a reply. As Mr. Rowe and Mr. Reynolds have stated in the past, keep the lines of communication open to the department.. That is the best way to resolve a neighbor issue. It is difficult when I am the only one communicating. These documented matters have been ongoing for far to long with no results. Just take a look at the attached photos of the hay cover above the ground sewer and are you able to tell me it is acceptable and legal?

Nancy Kelly
202 Washington Ave Portland 04101
7736285

hockeymom247@hotmail.com

From: "Nancy Kelly" <hockeymom247@hotmail.com>
To: JARJR@portlandmane.gov, MJN@portlandmaine.gov, AXR@portlandmaine.gov
Subject: FW: Re: 218 washington ave-update
Date: Mon, 04 Dec 2006 15:37:54 -0500

Dear Mr. Reynolds, Mr. Nugent, and Mr. Rowe;

Below are a few emails we sent back and forth to each other, some as far back as June. At that time, we were communicating about the above ground sewer pipe, and the fill at 218 Washington Ave. To recap the emails, on June 20th, Mr. Rowe writes that he and Mr. Reynolds, along with the property owner, Mr. Glenn Morse, had met on site. "The fill which has been dumped will be used to create a ramp for excavation equipment to repair a sewer line from the house. The fill will either be removed after completion of this project or stay if proper permits are issued by Jays's office. The concrete will have to be ground up and any rebar removed if the fill stays". From Mr. Reynolds on June 20th... "the fill in place today, is ok on a temporary basis for the purpose of accessing the back yard in order to make an emergency sewer repair. Mr Morse agreed not to bring in any more material. He also stated his intention to remove the cinder blocks, ect.. and NOT use this as a permanent fill material. This is preferred and acceptable. There is no timetable for the removal." and Mr. Reynolds, again, this time on August 21st..."I will have to revisit the site to verify conditions. When we met with Mr. Morse, we did agree to allow him to bring in more temporary material so that an excavator can access the rear of the property. I will have to investigate to see if he just filled over all that material.....The removal of that material still stands as previously mentioned. It is not acceptable.

Now that I have reminded all of you of the situation, let me state that the situation has NOT changed at all since I first contacted you in April, June and August. The fill situation is still there, only now covered with grass. If this fill was temporary as Mr. Morse has made you believe, then why did he take the time and efforts to grow grass on it? The rebar and cinder blocks are still beneath. As shown above in your emails, it was not acceptable in June, in August, and I can not believe it is acceptable in December. BUT there it still is. I want to know why it is still there and why it is acceptable by the city standards? Mr. Morse's only intention for this ramp was to get equipment down in the yard to do soil testing, which was done. This fill still exists beneath, and MUST be removed as you stated. Now to the sewer situation. That too, is still above the ground. How much of an emergency could this have been? Apparently not much of an emergency. This was brought to the attention of the city in April, and the only thing different now in December is, Mr. Morse has covered the above ground sewer pipe with hay. He has no intention of permanently taking care of this situation. This hay will sit the entire winter, and come spring, it will stink. I have allergies, and am concerned about my health issues then. Mr. Morse had a large machine to do a soil test, but he has yet to get an excavator down in the yard for sewer repairs. There is a business at 218 Washington Avenue, a massage and acupuncture business. If this sewer pipe freezes, and bursts, the DEP will then have to get involved. I can't imagine that will be a good thing. I have enough run around and enough of being put off and forgotten about with this matter. If I should be speaking with another person or department, please let me know who that is so that I can get these issues resolved. It seems that if a home owner is told by city officials to remove or repair property, and it isn't done, the home owner is breaking the law. I will wait a response with suggestions on how I can further handle this matter with the city officials, or if additional avenues need to be investigated to resolve this issue.

Nancy Kelly

202 Washington Avenue

Portland Maine 04101

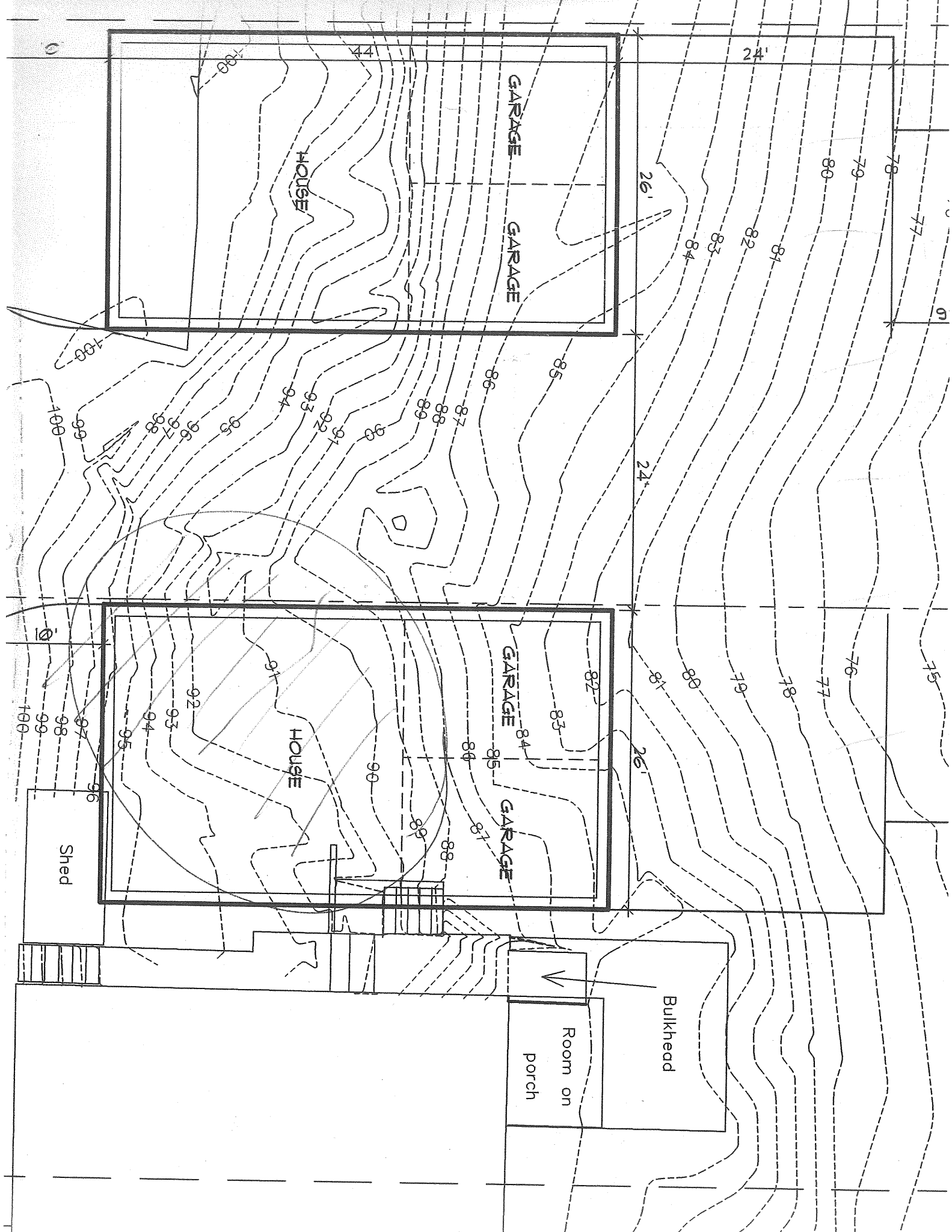
773 6285 hockeymom247@hotmail.com

From: "Jay Reynolds" <JAYJR@portlandmaine.gov>
To: hockeymom247@hotmail.com,AXR@portlandmaine.gov,MJN@portlandmaine.gov
CC: SH@portlandmaine.gov
Subject: Re: 218 washington ave-update
Date: Mon, 21 Aug 2006 13:20:13 -0400

MSN Shopping has everything on your holiday list. Get expert picks by style, age, and price. Try it!

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HOUSE

GARAGE

GARAGE

HOUSE

GARAGE

GARAGE

Shed

Bulkhead

Room on porch

24'

26'

24'

26'

44

78

79

80

77

81

82

83

84

6'

85

86

87

88

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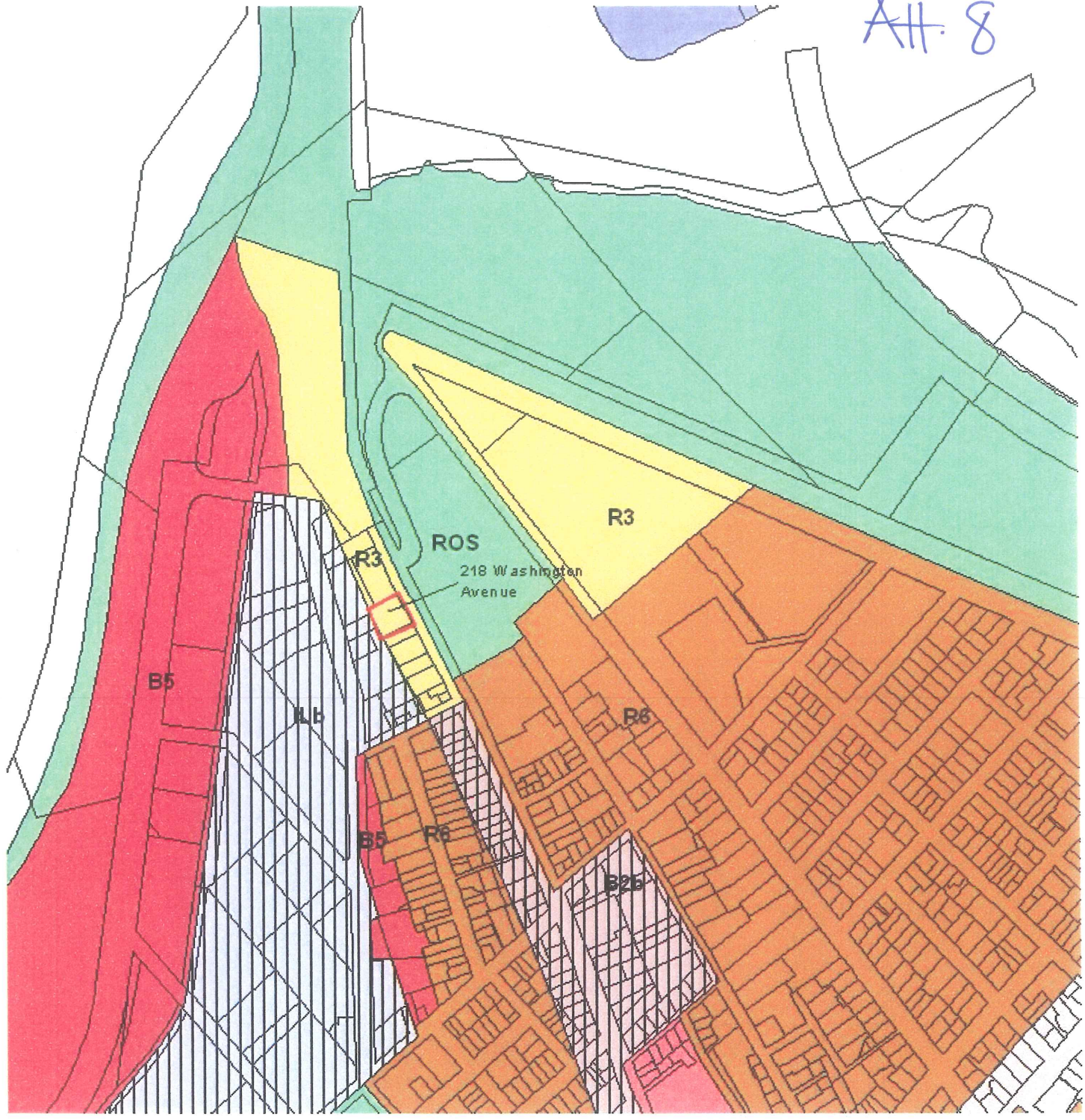
97

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Att. 8



Proposed Rezoning of 218 Washington Avenue from R-3 to Business Zones B-1b, B-2b or B-2c



300 0 300 600 Feet



Prepared by Department of Planning
and Development based on GIS
Workgroup Data. November 2005

File

PLANNING REPORT #03-06

**ZONE CHANGE REQUEST
FROM R-3 RESIDENTIAL TO B-1b NEIGHBORHOOD BUSINESS**

218 WASHINGTON AVENUE

GLEN MORSE, APPLICANT

Submitted to:
Portland Planning Board
Portland, Maine

Submitted by:
Kandice Talbot, Planner

January 6, 2006

I. INTRODUCTION

Glen Morse is requesting a zone change from R-3 Residential to the B-1b Neighborhood Business zone for the property located at 218 Washington Avenue. Currently located at the site is a 2-family residential building. The Planning Board asked at the last workshop that this property be advertised for rezoning of the entire R-3 zone along the westerly side of Washington Avenue, from Gould Street to Tukey's Bridge.

The site is approximately 10,000 sq. ft. and is located at 218 Washington Avenue. The zone change application is included as Attachment 1.

55 notices were sent to area residents and a legal ad was placed in the Portland Press Herald.

II. SURROUNDING USES

The uses in the area surrounding 218 Washington Avenue are mixed uses. Primarily along Washington Avenue the uses are single- and multi-family homes. Along Anderson Street, to the rear of the site, the uses are primarily industrial, which include Rockingham Electric, a warehouse, and an auto body shop. The use across from the site on Washington Avenue is City owned property and is part of the Eastern Prom parkland.

As shown on the attached zoning map, the B-2b zone is located further down Washington Avenue to the south and the I1b zone is located to the west of Washington Avenue, within this area.

III. DEVELOPMENT PLAN

The applicant does not have any specific development plan at this time, but is requesting this B-1b zone change to allow retail and commercial uses in the building, along with construction additional buildings on the site. The applicant has stated that his proposal is to construct two to three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

The Planning Board should be aware, however, that the topography at the rear of 218 Washington Avenue is very steep. The applicant has stated that he is proposing to fill the site to create more buildable area, but because of the steep slopes the development opportunities may be restricted.

The Planning Board had requested that the City's Traffic Engineer comment on any traffic concerns that the rezoning of Washington Avenue, from Gould Street to Tukey's Bridge would raise. Mr. Errico reviewed this and does not have any significant traffic concerns about the rezoning. If the uses are neighborhood type uses, which do not generate significant traffic (not drive-through type uses) he feels that Washington Avenue should be able to accommodate the increased traffic.

IV. ZONING HISTORY

Staff has researched the zoning to determine why these parcels have remained R-3. It appears from old zoning maps that these parcels were zoned G, General Business in 1946. It appears from a zoning amendment dated in 1957, that this area had been rezoned between 1946 and 1957 to I-2 Industrial. Somewhere between 1957 and 1975, the parcels were rezoned to R-3.

It is not clear why these parcels were rezoned to R-3, but during research of zoning amendments within this area, a zoning amendment was approved for properties located in the vicinity of Fox Street, Anderson Street and Cove Street. The reason for this proposed amendment was because the plan for the Bayside Renewal Project specified the use of this area for residential purposes. The change allowed the residences along Cove Street protection under the Zoning Ordinance. It also permitted the provision of certain features to screen the residences from the adjacent industrial development and prevented the encroachment of industrial development.

Although research did not find a specific zoning amendment, which changed the zoning to R-3, it may be possible that given the residential units within this area of Washington Avenue, the rezoning occurred to prevent the encroachment of further industrial development, while maintaining the views toward North Street and along Washington Avenue.

V. POLICY CONSIDERATIONS

Discussions have been held regarding the B-1b, B-2b and B-2c zoning for this area. The applicant had requested a rezoning to B-2b Community Business Zone because it is the nearest business zone to the property. He has stated that the B-1b Neighborhood Business Zone would work also. The Board also discussed rezoning all of the parcels within the R-3 zone, instead of just 218 Washington Avenue, because of frontage on Washington Avenue and its proximity to Tukey's Bridge. Following are discussions regarding the B-1b, B-2b and B-2c zoning.

B-1b Neighborhood Business Zone

The purpose of the B-1b Neighborhood Business zone is:

"To provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures.

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses."

The B-1b Neighborhood Business zone would require residential uses on upper floors of any new or existing buildings. The uses allowed in a B-1b zone are less intense uses and are more compatible with residential uses and are more of a neighborhood use. Uses that

are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-1b dimensional requirements include:

- Minimum lot size: Nonresidential uses: 10,000 sq. ft., however, where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Minimum front yard: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.
- Maximum structure height: thirty-five (35) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2b Community Business Zone

The purpose of the B-2b Community Business zone is:

“B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.”

The change from R-3 to B-2b would allow a commercial/retail use within the building. As stated previously, the nearest commercial zone is the B-2b zone, which is located further down Washington Avenue to the south. 218 Washington Avenue is located near Tukey’s Bridge and is located near an existing urban and neighborhood oriented building pattern. The B-2b zone does not require that residential uses be located on the upper stories within this zone, however in any structure that has commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

Uses allowed in the B-2b Community Business zone include, but are not limited to, residential, offices, personal services, retail establishments, restaurants, drinking establishments, miscellaneous repair services, theaters, hotels or motels, drive-throughs, etc.

The B-2b zone dimensional requirements include:

- Minimum lot size: Nonresidential uses: None, but where multiple uses are on one lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard (on-peninsula): ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2c Community Business Zone

Another possible zone to look at would be the B-2c Community Business Zone. The purpose of the B-2c Community Business Zone is:

“To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.”

The B-2c zone would allow the same uses as the B-2b zone, with the exception of businesses that serve liquor, service stations, and drive-throughs.

The B-2c dimensional requirements include:

- Minimum lot size: Nonresidential uses: None.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard: ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: eighty (80) percent.

Housing: Sustaining Portland's Future

The Housing Plan, which is part of the City's Comprehensive Plan, states:

"Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation."

The Housing Plan also states that the City should do this by:

"Evaluating and updating current zoning, as needed, to encourage higher density multi-family development and mixed use projects that incorporate housing, particularly along major public transportation routes, near service areas, and in redevelopment or infill areas, where appropriate."

VI. ZONING ANALYSES

The B-2b zone is the closest business zone to 218 Washington Avenue, which ends at Gould Street. Between Gould Street and the Eastern Prom are approximately six (6) properties, which are zoned R-3 along Washington Avenue. The Board may want to consider rezoning the entire R-3 zone to a business zone, since it is along an arterial street.

As stated previously, the B-2b zone has more intense uses. Commercial uses, with the exception of the ROS zone across Washington Avenue, surround these properties within this area of Washington Avenue. If the Board did determine that a business zone would be appropriate for this area, the Board may want to take into consideration the existing residential homes in this neighborhood and the types of uses that may abut the residential uses.

The B-1b zoning allows neighborhood uses within the first floor of a building, but requires that the upper floors of a building be maintained as residential. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-2c zone does not allow intense uses such as drinking establishments, service stations or drive-throughs, but does not require that residential uses be maintained on the upper floors of an existing or new building.

Also, the maximum height in the B-1b zone is 35 feet, which is the same height limitations as the R-3 zone. The B-2b or B-2c zone would allow a maximum height of 45 feet.

This proposed zone change is located in East Bayside and would increase the housing density in an area located near services and the downtown.

VII. STAFF RECOMMENDATION

Staff is recommending that the Planning Board rezone the parcels within the R-3 zone along Washington Avenue to B-1b. It would maintain the current mixed use along Washington Avenue, with neighborhood uses on the first floor but maintaining residential uses on the upper floors. Washington Avenue is an arterial street and mixed uses are encouraged along arterial streets. In the Traffic Engineer's opinion, neighborhood uses should not increase traffic substantially on Washington Avenue.

The proposed motion has been crafted to give the Board the option of B-1b, B-2b or B-2c rezoning for either 218 Washington Avenue or the entire R-3 area along Washington Avenue, from Gould Street to Tukey's Bridge.

VIII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant, the policies of the [B-1b, B-2b or B-2c] Zone, the Comprehensive Plan, the information contained in Planning Board Report #03-06, and or other findings as follows:

The Board finds that:

1. The proposed zone map change in the vicinity of [218 Washington Avenue or Washington Avenue, from Gould Street to Tukey's Bridge] [is or is not] consistent with the policies of the [B-1b, B-2b or B-2c] Zone and Comprehensive Plan of the City of Portland. The Planning Board therefore [recommends or does not recommend] to the City Council approval of the [B-1b, B-2b or B-2c] Zone map change.

Attachments:

1. Zone Change Application and Attachments
2. Vicinity Map
3. R-3 Zoning Text
4. Comparison Chart of the B-1b, B-2b and B-2c Zones
5. Pictures of Buildings within the R-3 Zone
6. Neighborhood Letters
7. Traffic Engineer's Memo dated January 5, 2006
8. Zoning Map

5-1
Lowry opposed
8/11/06 Calabrese

As stated previously, the B-2b zone has more intense uses. Commercial zones, with the exception of the ROS zone across Washington Avenue, surround these properties within this area of Washington Avenue. If the Board did determine that a business zone would be appropriate for this area, the Board may want to take into consideration the existing residential homes in this neighborhood and the types of uses that may abut the residential uses.

Staff would recommend that the Planning Board look at rezoning the parcels within the R-3 zone along Washington Avenue to B-1b. The B-1b zoning allows neighborhood uses within the first floor of a building, but requires that the upper floors of a building be maintained as residential. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-2c zone does not allow intense uses such as drinking establishments, service stations or drive-throughs, but does not require that residential uses be maintained on the upper floors of an existing or new building.

Also, the maximum height in the B-1b zone is 35 feet, which is the same height limitations as the R-3 zone. The B-2b or B-2c zone would allow a maximum height of 45 feet.

Advertisement

As stated previously, staff is recommending that the Planning Board advertise to rezone the properties within the R-3 zone, on the westerly side of Washington Avenue to B-1b.

However, the Planning Board may wish to look at a couple of options. One would be to rezone only 218 Washington Avenue to either the B-1b, B-2b or B-2c zone. Another option would be to rezone the properties on the westerly side of Washington Avenue, from Gould Street to the Eastern Prom, to either the B-1b, B-2b or B-2c zone. Staff will be looking for direction as to how the Planning Board would like to advertise for a public hearing.

Attachments:

1. Zone Change Application and Attachments
2. Zoning Map
3. R-3 Zoning Text
4. Comparison Chart of the B-1b, B-2b and B-2c Zones

Kandi

Development Plan

The applicant does not have any specific development plan at this time, but is requesting this B-2b zone change to allow retail and commercial uses in the building, along with constructing additional buildings on the site. The applicant has stated that his proposal is to construct two to three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

The Planning Board should be aware, however, that the topography at the rear of 218 Washington Avenue is very steep. The applicant has stated that he is proposing to fill the site to create more buildable area, but because of the steep slopes the development opportunities may be restricted.

Zoning History

Staff has tried to research the zoning to determine why these parcels have remained R-3. It appears from old zoning maps that these parcels were zoned G, General Business in 1946. It appears from a zoning amendment dated in 1957, that this area had been rezoned between 1946 and 1957 to I-2 Industrial. Somewhere between 1957 and 1975, the parcels were rezoned to R-3.

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Although research did not find a specific zoning amendment, which changed the zoning to R-3, it may be possible that given the residential units within this area of Washington Avenue, the rezoning occurred to prevent the encroachment of further industrial development, while maintaining the views toward North Street and along Washington Avenue.

Policy Considerations

At the previous workshop, discussions were held regarding the B-1b, B-2b and B-2c zoning. The applicant requested a rezoning to B-2b Community Business Zone because it is the nearest business zone to the property. The Board also discussed rezoning all of the parcels within the R-3 zone, instead of just 218 Washington Avenue, because of frontage on Washington Avenue and its proximity to Tukey's Bridge. Following are discussions regarding the B-1b, B-2b and B-2c zoning.

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pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.”

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- Minimum lot size: Nonresidential uses: None, but where multiple uses are on one lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard (on-peninsula): ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-1b Neighborhood Business Zone

The purpose of the B-1b Neighborhood Business zone is:

“To provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures.

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.”

The B-1b Neighborhood Business zone would require residential uses on upper floors of any new or existing buildings. The uses allowed in a B-1b zone are less intense uses and are more compatible with residential uses and are more of a neighborhood use. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

Memorandum
Department of Planning and Development
Planning Division



To: Chair Lowry and Members of the Portland Planning Board

From: Kandice Talbot, Planner

Date: Prepared on November 17, 2005 for
November 22, 2005 Workshop

Re: Zone Change, 218 Washington Avenue

Introduction

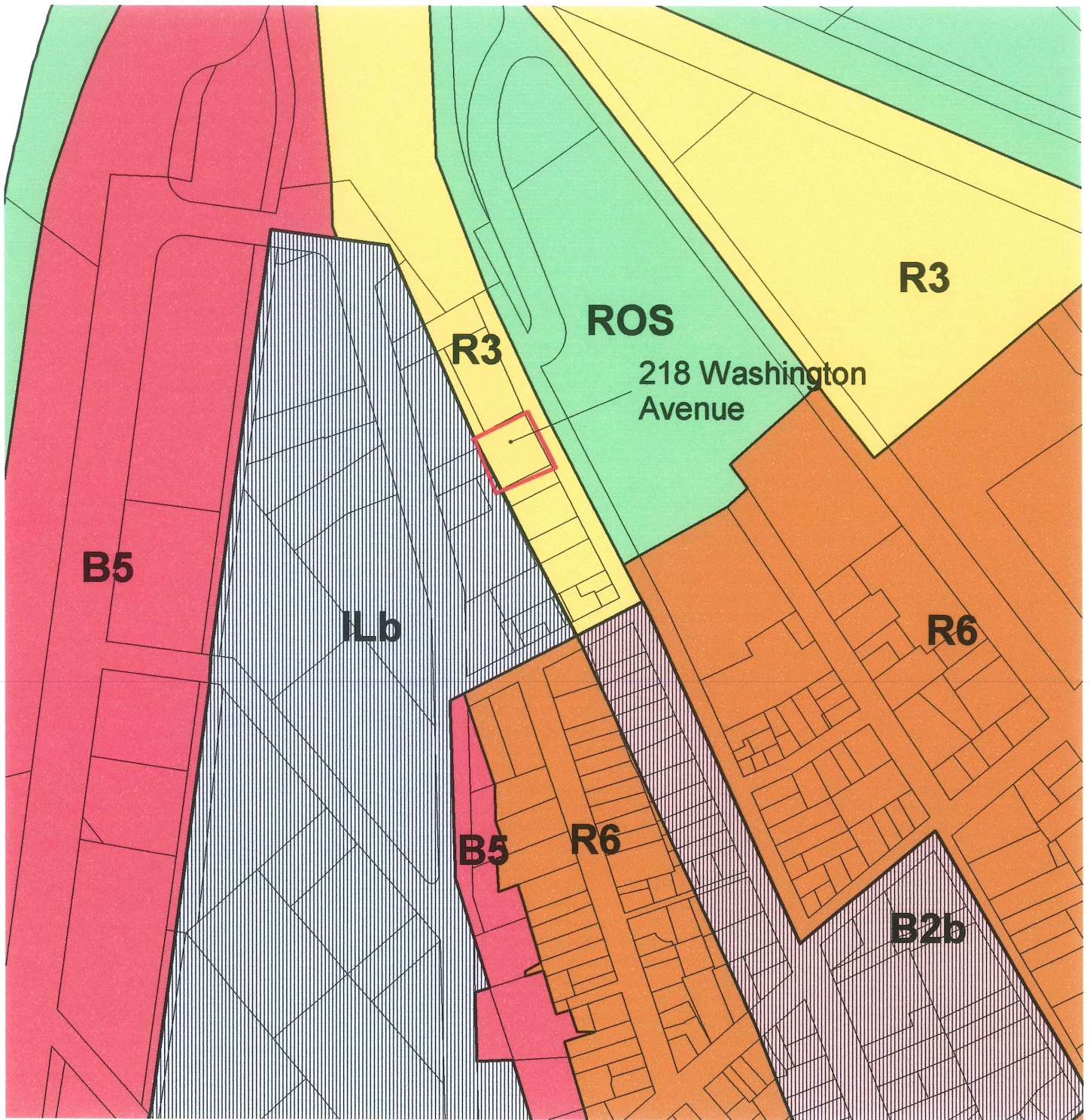
Glen Morse is requesting a zone change from R-3 Residential to the B-2b Community Business zone for the property located at 218 Washington Avenue. Currently located at the site is a 2-family residential building. This is the second workshop for this proposal. The Planning Board had requested research on the R-3 zoning of the site. The Planning Board also wanted to look at rezoning the area zoned R-3 along the westerly side of Washington Avenue, from Gould Street to Tukey's Bridge.

The site is approximately 10,000 sq. ft. and is located at 218 Washington Avenue. The zone change application is included as Attachment 1.

Surrounding Uses

The uses in the area surrounding 218 Washington Avenue are mixed uses. Primarily along Washington Avenue the uses are single- and multi-family homes. Along Anderson Street, to the rear of the site, the uses are primarily industrial, which include Rockingham Electric, a warehouse, and an auto body shop. The use across from the site on Washington Avenue is City owned property and is part of the Eastern Prom parkland.

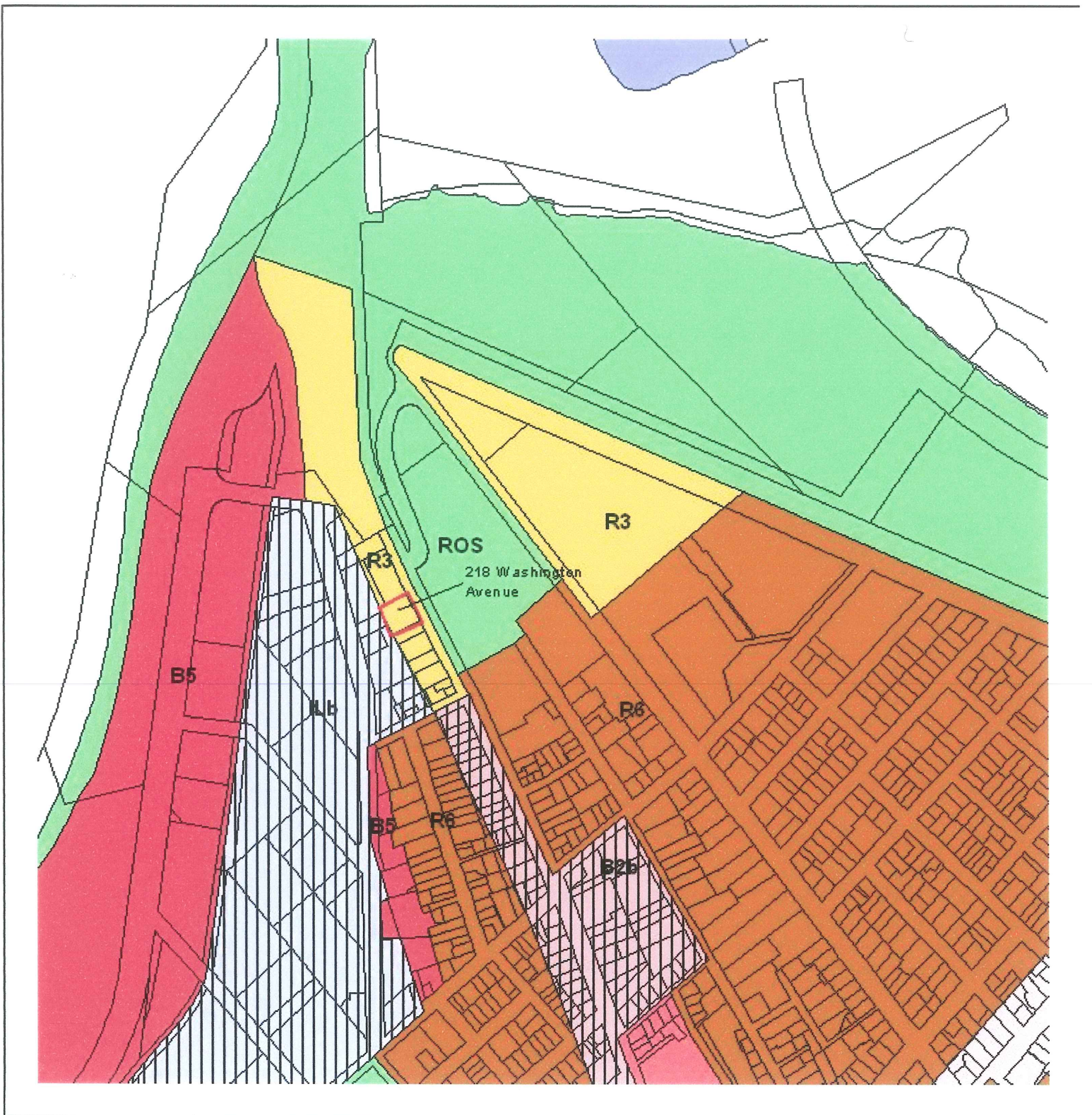
As shown on the attached zoning map, the B-2b zone is located further down Washington Avenue to the south and an Ilb zone is located to the west of Washington Avenue, within this area.



**Proposed Rezoning of 218 Washington Avenue
from R-3 to Business Zones B-1b, B-2b or B-2c**



Prepared by Department of Planning
and Development based on GIS
Workgroup Data. November 2005



Proposed Rezoning of 218 Washington Avenue from R-3 to Business Zones B-1b, B-2b or B-2c



300 0 300 600 Feet



Prepared by Department of Planning
and Development based on GIS
Workgroup Data. November 2005



**190 Washington Avenue
Single-Family**



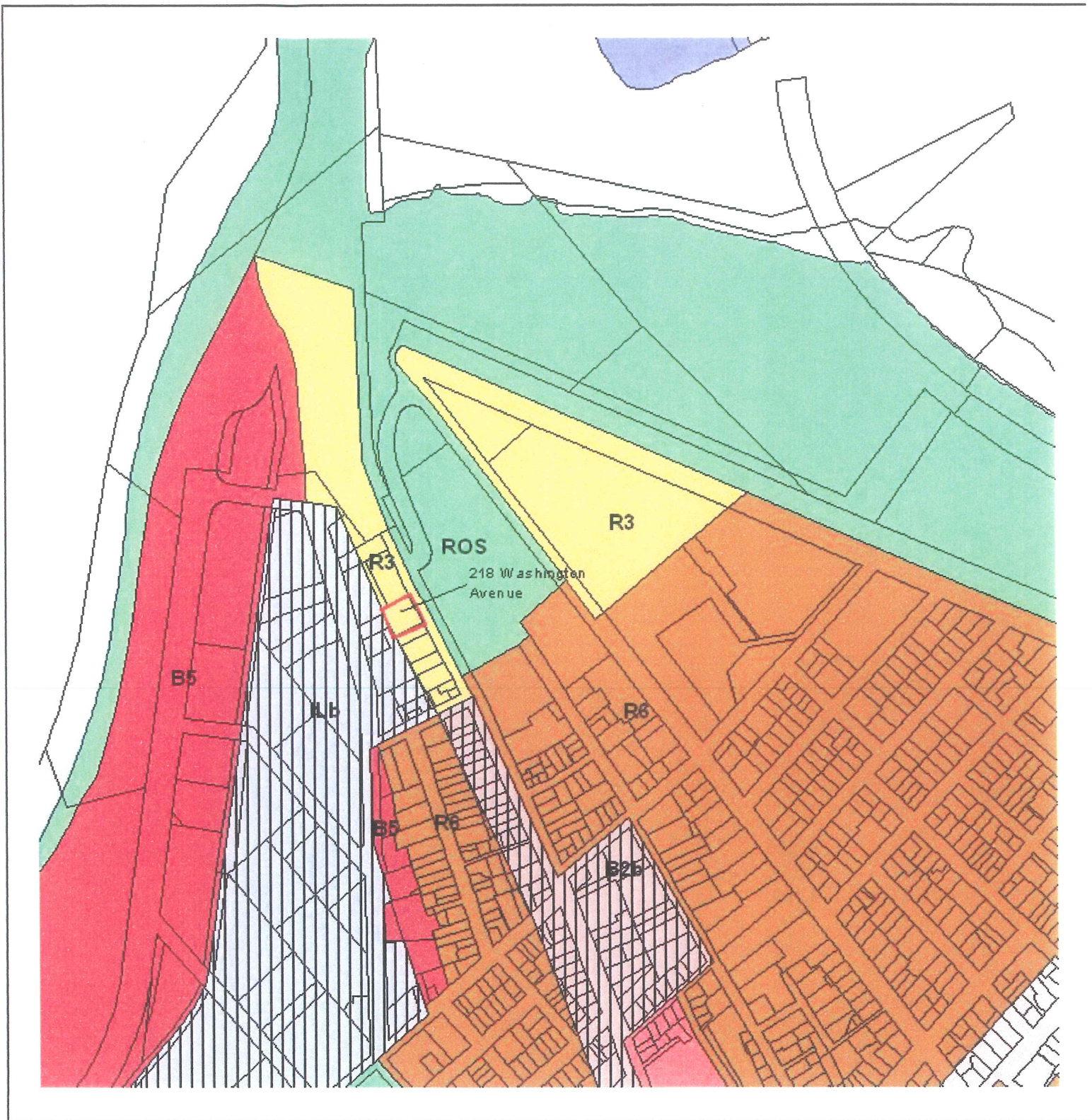
**192 Washington Avenue
Three-Family**



**198 Washington Avenue
Single-Family**



**218 Washington Avenue
Two-Family**



Proposed Rezoning of 218 Washington Avenue from R-3 to Business Zones B-1b, B-2b or B-2c



300 0 300 600 Feet



Prepared by Department of Planning
and Development based on GIS
Workgroup Data. November 2005



**190 Washington Avenue
Single-Family**



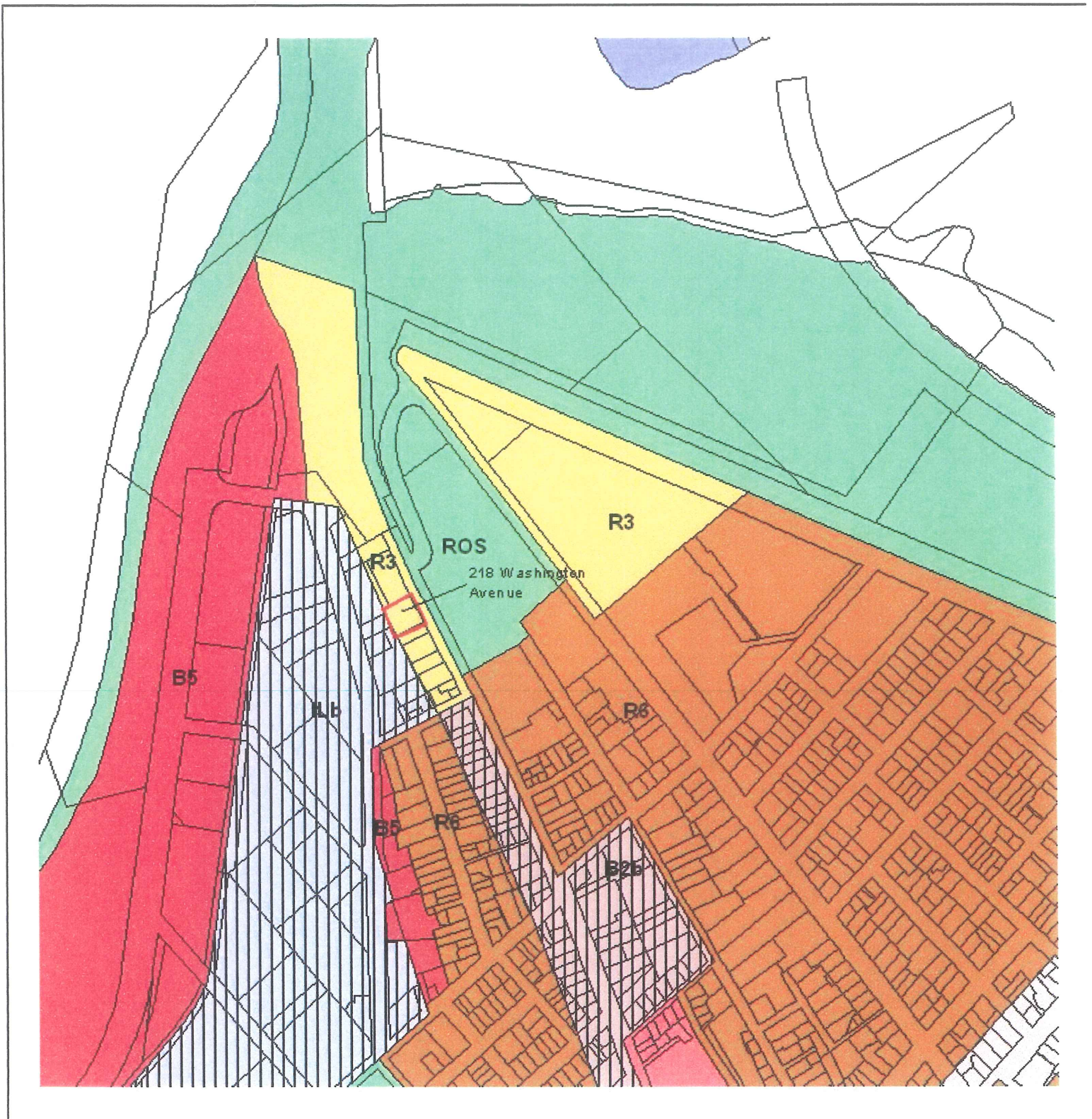
**192 Washington Avenue
Three-Family**



**198 Washington Avenue
Single-Family**



**218 Washington Avenue
Two-Family**



Proposed Rezoning of 218 Washington Avenue from R-3 to Business Zones B-1b, B-2b or B-2c



300 0 300 600 Feet

Prepared by Department of Planning
and Development based on GIS
Workgroup Data. November 2005

Memorandum
Department of Planning and Development
Planning Division



To: Chair Lowry and Members of the Portland Planning Board

From: Kandice Talbot, Planner

Date: Prepared on October 21, 2005 for
October 28, 2005 Workshop

Re: B-2b Zone Change, 218 Washington Avenue

Introduction

Glen Morse is requesting a zone change from R-3 Residential to the B-2b Community Business zone for the property located at 218 Washington Avenue. Currently located at the site is a 2-family residential building.

The site is approximately 10,000 sq. ft. and is located at 218 Washington Avenue. The zone change application is included as Attachment 1.

Surrounding Uses

The uses in the area surrounding 218 Washington Avenue are mixed uses. Primarily along Washington Avenue the uses are single- and multi-family homes. Along Anderson Street, to the rear of the site, the uses are primarily industrial, which include Rockingham Electric, a warehouse, and an auto body shop. The use across from the site on Washington Avenue is City owned property and is part of the Eastern Prom parkland.

As shown on the attached zoning map, the B-2b zone is located further down Washington Avenue to the south and an Ilb zone is located to the west of Washington Avenue, within this area.

Development Plan

The applicant does not have any specific development plan at this time, but is requesting this B-2b zone change to allow retail and commercial uses in the building, along with constructing additional buildings on the site. The applicant has stated that his proposal is to construct two to three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

The Planning Board should be aware, however, that the topography at the rear of 218 Washington Avenue is very steep. The applicant has stated that he is proposing to fill the site to create more buildable area, but because of the steep slopes the development opportunities may be restricted.

Policy Considerations

B-2b Community Business Zone

The purpose of the B-2b Community Business zone is:

“B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.”

The change from R-3 to B-2b would allow a commercial/retail use within the building. As stated previously, the nearest commercial zone is the B-2b zone, which is located further down Washington Avenue to the south. 218 Washington Avenue is located near Tukey’s Bridge and is located near an existing urban and neighborhood oriented building pattern. The B-2b zone does not require that residential uses be located on the upper stories within this zone, however in any structure that has commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

Uses allowed in the B-2b Community Business zone include, but are not limited to, residential, offices, personal services, retail establishments, restaurants, drinking establishments, miscellaneous repair services, theaters, hotels or motels, drive-throughs, etc.

The B-2b zone dimensional requirements include:

- Minimum lot size: Nonresidential uses: None, but where multiple uses are on one lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard (on-peninsula): ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-1b Neighborhood Business Zone

Although the applicant is requesting a B-2b zone change, the Board may want to look at the B-1b Neighborhood Business Zone. The purpose of the B-1b Neighborhood Business zone is:

“To provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures.

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.”

The B-1b Neighborhood Business zone would require residential uses on upper floors of any new or existing buildings. The uses allowed in a B-1b zone are less intense uses and are more compatible with residential uses and are more of a neighborhood use. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-1b dimensional requirements include:

- Minimum lot size: Nonresidential uses: 10,000 sq. ft., however, where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Minimum front yard: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.
- Maximum structure height: thirty-five (35) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2c Community Business Zone

Another possible zone to look at would be the B-2c Community Business Zone. The purpose of the B-2c Community Business Zone is:

“To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.”

The B-2c zone would allow the same uses as the B-2b zone, with the exception of businesses that serve liquor, service stations, and drive-throughs.

The B-2c dimensional requirements include:

- Minimum lot size: Nonresidential uses: None.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard: ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: eighty (80) percent.

Zoning Analysis

The B-2b zone is the closest business zone to 218 Washington Avenue, which ends at Gould Street. Between Gould Street and the Eastern Prom are approximately six (6) properties, which are zoned R-3 along Washington Avenue. The Board may want to consider rezoning the entire R-3 zone to a business zone, since it is along an arterial street.

As stated previously, the B-2b zone has more intense uses. Commercial zones, with the exception of the ROS zone across Washington Avenue, surround these properties within this area of Washington Avenue. If the Board did determine that a business zone would be appropriate for this area, the Board may want to take into consideration the existing residential homes in this neighborhood and the types of uses that may abut the residential uses.

Also, it is not clear why this area has remained R-3, but it may have something to do with the heights within this area, to maintain views to and from the Eastern Prom. If those views were to be maintained, the B-1b zone would be a more logical zone because the B-1b zone would allow a maximum height of 35 feet, which are the same height limitations as the R-3 zone, whereas the B-2b or B-2c zone would allow a maximum height of 45 feet.

Advertisement

The Planning Board may wish to look at a couple of options. One would be to rezone only 218 Washington Avenue to either the B-1b, B-2b or B-2c zone. Another option would be to rezone the properties on the westerly side of Washington Avenue, from Gould Street to the Eastern Prom, to either the B-1b, B-2b or B-2c zone. Staff will be looking for direction as to how the Planning Board would like to advertise for a public hearing.

Attachments:

1. Zone Change Application and Attachments
2. R-3 Zoning Text
3. B-1/B-1b Zoning Text
4. B-2/B-2b/B-2c Zoning Text



APPLICATION FOR ZONING AMENDMENT
 City of Portland, Maine
 Department of Planning and Development
 Portland Planning Board

1. Applicant Information:
Glenn Morse
 Name
P.O. Box 1466
 Address
Scarborough, Me 04070
207 (590-3877) (Cell)
 Phone Fax

2. Subject Property:
218 WASHINGTON Ave
 Address
PORTLAND, Me 04101
10-A-15
 Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other
 Name
Same as above
 Address

 Phone Fax

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

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.)

5. 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.)

6. Existing Use:

Describe the existing use of the subject property:

Subject Property is presently a 2-Family Dwelling on a 10,000 sf. lot, R-3

7. Current Zoning Designation(s): R-3

8. 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.

Proposal to Re-zone to B 2b from R-3

9. Sketch Plan: On a separate sheet please provide a sketch 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"=100'.)

10. Proposed Zoning: Please check all that apply:

A. Zoning Map Amendment, from R-3 to B 2b

B. Zoning Text Amendment to Section 14-_____

For 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 with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning may 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 and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** An application fee must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code. The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing Notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

_____ Fee for Service Deposit (\$200.00) **(Required for all applications)**

~~X~~ Zoning Map Amendment \$2,000.00

_____ Zoning Text Amendment \$2,000.00

_____ Contract/Conditional Rezoning
 Under 5,000 sq. ft. \$1,000.00
 5,000 sq. ft. and over \$3,000.00

Legal Advertisements percent of total bill

Notices .55 cents each
 (receipt of application, workshop and public hearing)

NOTE: Legal notices placed in the newspaper are required by State Statute and local ordinance. Applicants will be billed once the public hearing has taken place.

12. **Signature:** The above information is true and accurate to the best of my knowledge.

 Date of Filing

 Signature of Applicant

Further Information:

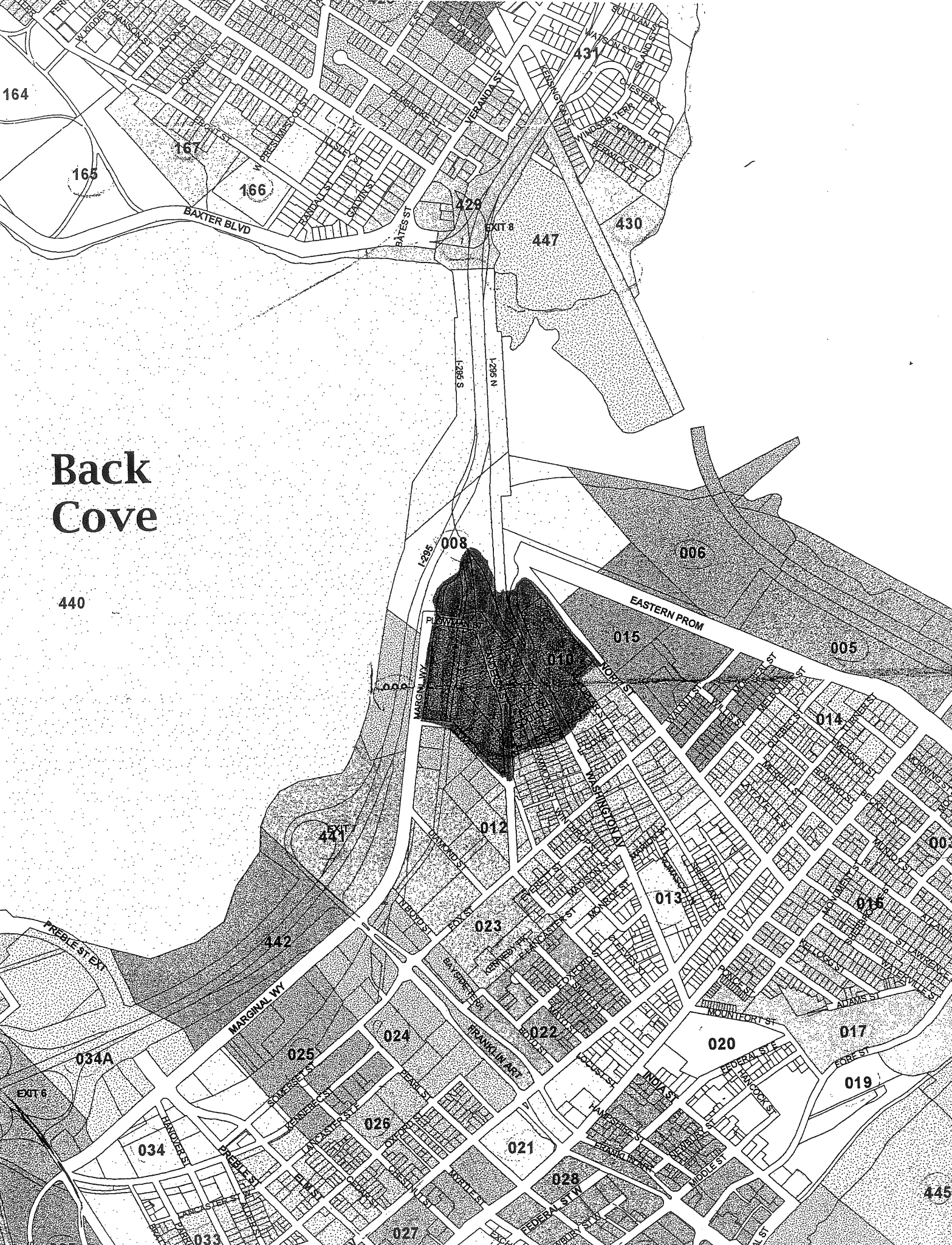
Please contact the Planning Division for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
 Portland, Maine

Effective: July 6, 1998



Back Cove

164

165

167

166

428

447

430

440

1296 S

1295 S

1295 N

008

006

EASTERN PROM

015

005

010

014

441

012

003

023

013

015

442

PRESLE ST EXT

034A

025

024

022

020

017

EXIT 6

034

025

026

021

028

019

445

035

033

027

021

445

PURCHASE AND SALE AGREEMENT

June 19, 2005

6/20/2005 Effective Date
Effective Date is defined in Paragraph 24 of this Agreement.

1. PARTIES: This Agreement is made between Glenn Morse (hereinafter called "Buyer") and Estate of Philip Maloney (hereinafter called "Seller").

2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy (all [X] part of [] ; If "part of" see para. 26 for explanation) the property situated in municipality of Portland, County of Cumberland, State of Maine, located at 218 Washington Ave and described in deed(s) recorded at said County's Registry of Deeds Book(s) , Page(s) .

3. FIXTURES: The Buyer and Seller agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, and electrical fixtures are included with the sale except for the following: none

Seller represents that all mechanical components of fixtures will be operational at the time of closing except:

4. PERSONAL PROPERTY: The following items of personal property are included with the sale at no additional cost, in "as is" condition with no warranties: none

Seller represents that such items shall be operational at the time of closing, except: none

5. CONSIDERATION: For such Deed and conveyance Buyer is to pay the sum of PRICE \$ 224,900.00 NKE of which DEPOSIT \$ 500.00 NKA is included herewith as an earnest money deposit, and an additional amount of DEPOSIT \$ 1,000.00 NKA will be paid

The balance due amount is to be paid by certified or bank check, upon delivery of the Deed. BALANCE DUE \$ 199,500.00 NKE

This Purchase and Sale Agreement is subject to the following conditions:

6. EARNEST MONEY/ACCEPTANCE: Archie Giobbi Real Estate ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until June 20, 2005 (date) 5 AM [X] 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.

7. 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 on August 1, 2005 (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 days, from the time Seller is notified of the defect, unless otherwise agreed to by both Buyer and Seller, to remedy the title, after which time, if such defect is not corrected so that there is a merchantable title, Buyer may, at Buyer's option, withdraw said earnest money and be relieved from all obligations. Seller hereby agrees to make a good-faith effort to cure any title defect during such period.

8. DEED: The property shall be conveyed by a Insurable Title 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.

9. POSSESSION, OCCUPANCY, AND CONDITION: Unless otherwise agreed in writing, possession and occupancy of premises, free of tenants and occupants, shall be given to Buyer immediately at closing. Said premises shall then be broom clean, free of all possessions and debris, and in substantially the same condition as at present, excepting reasonable use and wear. 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.

10. RISK OF LOSS, DAMAGE, DESTRUCTION AND INSURANCE: Prior to closing, risk of loss, damage, or destruction of premises shall be assumed solely by the Seller. Seller shall keep the premises insured against fire and other extended casualty risks prior to closing. If the premises are damaged or destroyed prior to closing, Buyer may either terminate this Agreement and be refunded the earnest money, or close this transaction and accept the premises "as-is" together with an assignment of the insurance proceeds relating thereto.

11. PRORATIONS: The following items, where applicable, shall be prorated as of the date of closing: collected rent, association fees, (other) _____ . The day of closing is counted as a Seller day. Metered utilities such as electricity, water and sewer will be paid through the date of closing by Seller. Fuel in tank (shall shall not) be paid by Buyer (cash price as of date of closing). 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.

12. PROPERTY DISCLOSURE FORM: Buyer acknowledges receipt of Seller's Property Disclosure Form and is encouraged to seek information from professionals regarding any specific issue or concern. The disclosure is not a warranty of the condition of the property and is not part of this Agreement.

13. INSPECTIONS: Buyer is encouraged to seek information from professionals regarding any specific issue or concern. Agent makes no warranties regarding the condition, permitted use or value of Sellers' real or personal property. This Agreement is subject to the following inspections, with results being satisfactory to Buyer:

| TYPE OF INSPECTION | | | YES | NO | RESULTS REPORTED TO SELLER | TYPE OF INSPECTION | | | YES | NO | RESULTS REPORTED TO SELLER |
|--|-------------------------------------|-------------------------------------|--------|----------|----------------------------|-------------------------|-------------------------------------|-------------------------------------|--------|----------|----------------------------|
| a. General Building | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | <u>7</u> | days | h. Lead Paint | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | <u>7</u> | days |
| b. Environmental Scan | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days | i. Arsenic Treated Wood | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | <u>7</u> | days |
| c. Sewage Disposal | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days | j. Pests | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days |
| d. Water Quality (including but not limited to radon, arsenic, lead, etc.) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days | k. Pool | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days |
| e. Water Quantity | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days | l. Zoning | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days |
| f. Air Quality (including but not limited to asbestos, radon, etc.) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days | m. Flood Plain | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days |
| g. Mold | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days | n. Code Conformance | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ | days |
| | | | | | | o. Other | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | _____ | days |

All inspections will be done by inspectors chosen and paid for by Buyer. If the result of any inspection 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 inspection 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 inspection 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.

14. HOME SERVICE CONTRACTS: At closing, the property will will not be covered by a Home Warranty Insurance Program to be paid by Seller Buyer at a price of \$ _____ .

15. FINANCING: This Agreement is is not subject to Financing. If subject to Financing:

- a. This Agreement is subject to Buyer obtaining a conv. loan of 80.000 % of the purchase price, at an interest rate not to exceed prev, % and amortized over a period of 30 years.
- b. Buyer to provide Seller with letter from lender showing that Buyer has made application and, subject to verification of information, is qualified for the loan requested within 5 days from the Effective Date of the Agreement. If Buyer fails to provide Seller with such letter within said time period, Seller may terminate this Agreement and the earnest money shall be returned to Buyer.
- c. Buyer to provide Seller with loan commitment letter from lender showing that Buyer has secured the loan commitment within 21 days of the Effective Date of the Agreement. If Buyer fails to provide Seller with this loan commitment letter within said time period, Seller may deliver notice to Buyer that this Agreement is terminated three business days after delivery of such notice unless Buyer delivers the loan commitment letter before the end of the three-day period. If the Agreement is terminated under the provision of this sub-paragraph, the earnest money shall be returned to Buyer.
- d. Buyer hereby authorizes, instructs and directs its lender to communicate the status of the Buyer's loan application to Seller or Seller's agent.
- e. After (b) or (c) are met, Buyer is obligated to notify Seller in writing if the lender notifies Buyer that it is unable or unwilling to proceed under the terms of the financing. Any failure by Buyer to notify Seller within two business days of receipt by Buyer of notice from the lender shall be a default under this Agreement.
- f. Buyer agrees to pay no more than 0 points. Seller agrees to pay up to \$ _____ toward Buyer's actual pre-pays, points and/or closing costs, but no more than allowable by Buyer's lender.
- g. Buyer's ability to obtain financing is is not subject to the sale of another property. See addendum Yes No .
- h. Buyer may choose to pay cash instead of obtaining financing. If so, buyer shall notify seller in writing and the Agreement shall no longer be subject to financing, and Seller's right to terminate pursuant to the provisions of paragraph 15 shall be void.

16. AGENCY DISCLOSURE: Buyer and Seller acknowledge they have been advised of the following relationships:

Archie Giobbi of Archie Giobbi Real Estate is a [X] Seller Agent [] Buyer Agent
Licensee Agency [] Disc Dual Agent [] Transaction Broker
Licensee Agency is a [] 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.

17. MEDIATION: Except as provided below, any dispute or claim 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. Earnest money disputes subject to the jurisdiction of small claims court will be handled in that forum.

18. 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.

19. PRIOR STATEMENTS: Any representations, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

20. 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.

21. 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.

22. ADDENDA: Lead Paint - Yes [X] No []; Other - Yes [] No []

Explain: _____

23. SHORELAND ZONE SEPTIC SYSTEM: Seller represents that the property does [] does not [X] contain a septic system within the Shoreland Zone. If the property does contain a septic system located in the Shoreland Zone, Seller agrees to provide certification at closing indicating whether the system has/has not malfunctioned within 180 days prior to closing.

24. 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 agent. Withdrawals of offers and counteroffers will be effective upon communication, verbally or in writing, to the other party. This Agreement is a binding contract when signed by both Buyer and Seller and when that fact has been communicated to Buyer and Seller. Agent is authorized to complete Effective Date on Page 1 of this Agreement. Except as expressly set forth to the contrary, the use of "by (date)" or "within x days" shall refer to calendar days being counted from the Effective Date as noted on Page 1 of the Agreement, beginning with the first day after the Effective Date and ending at 5:00 p.m. Eastern Time on the last day counted.

25. CONFIDENTIALITY: Buyer and Seller understand that the terms of this Agreement are confidential but authorize the disclosure of the information herein to the agents, attorneys, lenders, appraisers, inspectors 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 closing statement to release a copy of the closing statement to the parties and their agents prior to, at and after the closing.

26. OTHER CONDITIONS: General Inspection : the seller will grant the Buyer 7 days to inspect the house but to limit the inspection to: Rqof to determine age and condition. Foundation to determine the integrity of the foundation and to inspect for rot in Floor Joists. Hazardous Material such as Asbestos, etc.

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 Bureau of Taxation.

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 PO Box 1466, Scarborough, Me 04070

[Signature] 6/19/05 007-76-6297
BUYER Glenn Morse SS# OR TAXPAYER ID#

[Signature] 6/20/05 _____
BUYER SS# OR TAXPAYER ID#

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 _____

Nancy A Kelly 6/20/05 7:30 pm _____
SELLER Estate of Philip Maloney DATE SS# OR TAXPAYER ID#

SELLER _____ DATE _____ SS# OR TAXPAYER ID# _____

Offer reviewed and refused on _____ day of _____, _____

SELLER _____ SELLER _____

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.

SELLER _____ DATE _____ SELLER _____ 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 _____ DATE _____

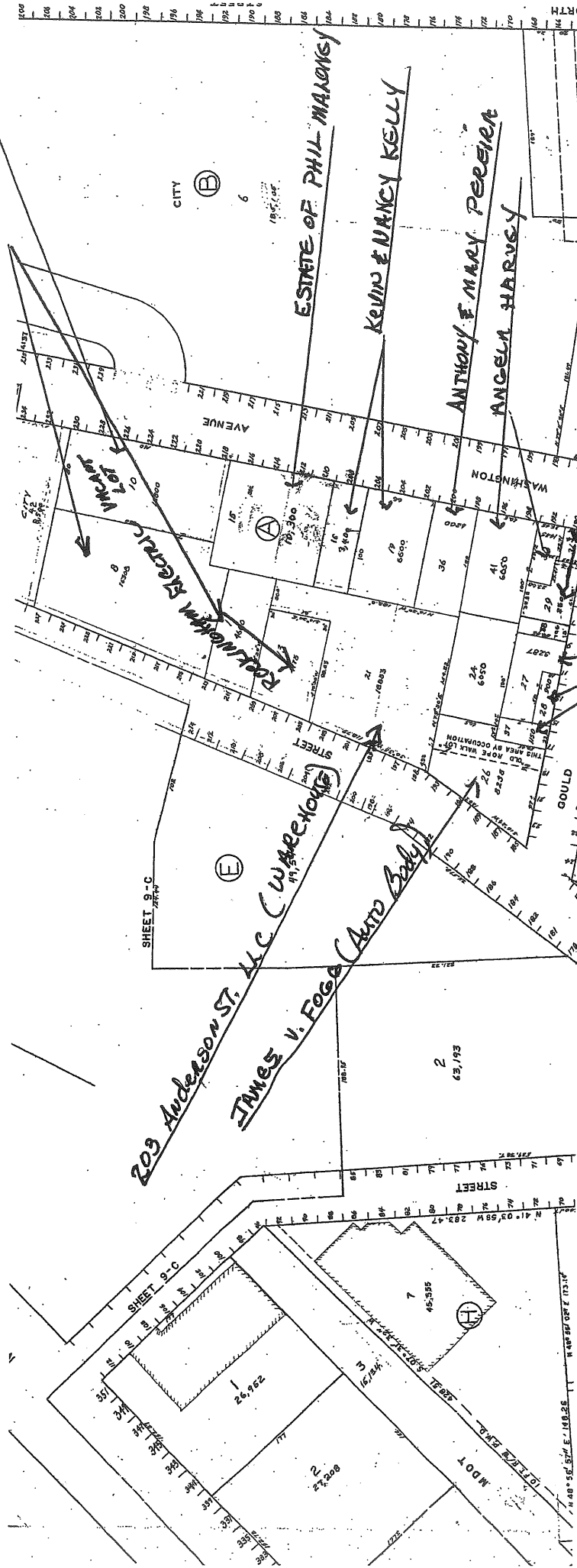
BUYER _____ DATE _____ SELLER _____ DATE _____

BUYER _____ DATE _____ SELLER _____ DATE _____

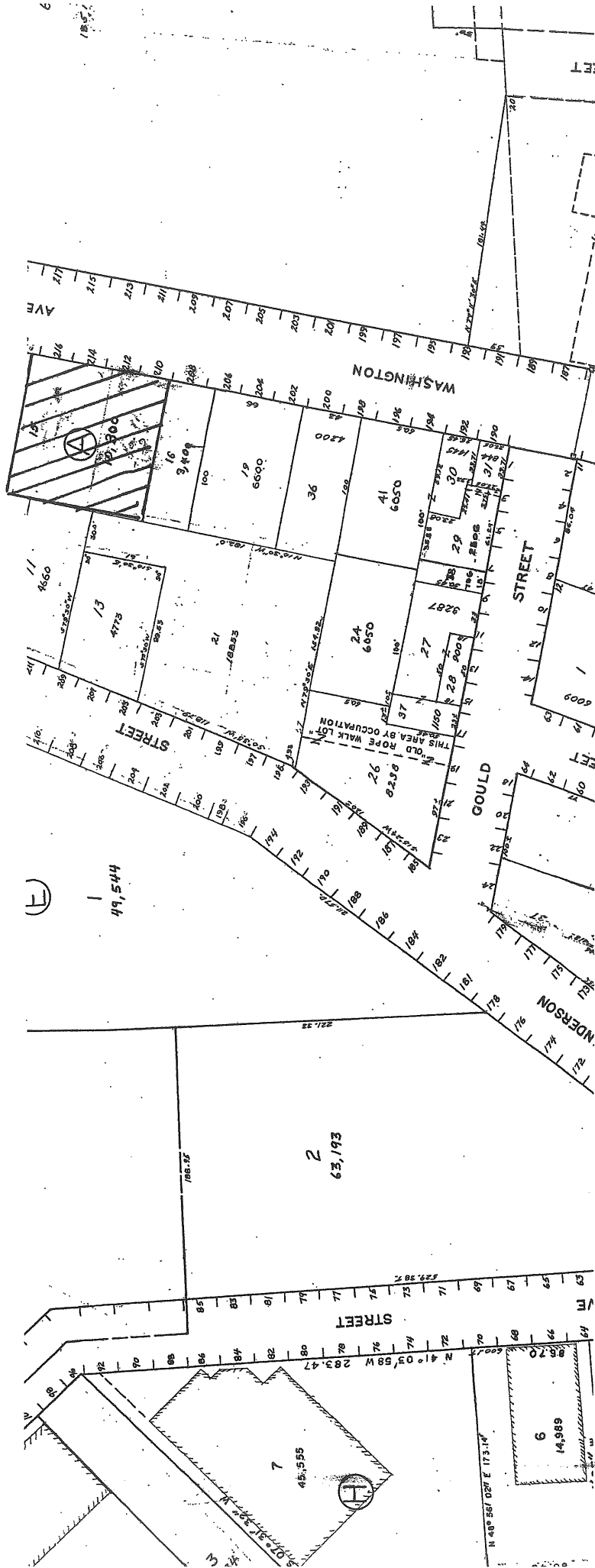
SUBJECT PARCELS & Abutting Parcels (Ownership)

— VICINITY MAP —

27
26
25
24
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3
2
1
HILLMAN ST
ANDERSON ST
CLIFTON

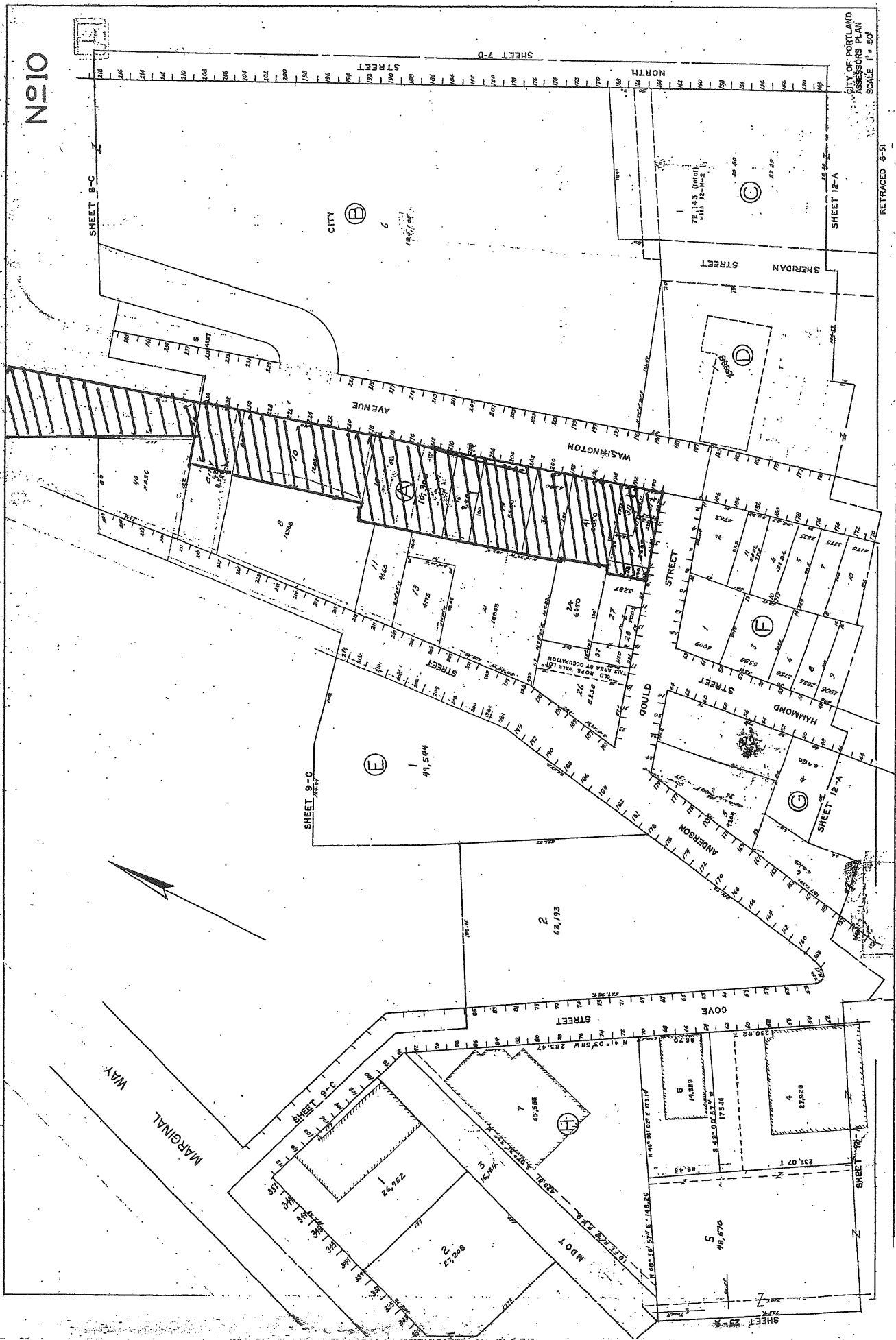


Applicant's Subject Property - 218 WASHINGTON AVE.
Presently R-3



SUBJECT ZONE CHANGE FROM R-3 TO B2b

N910

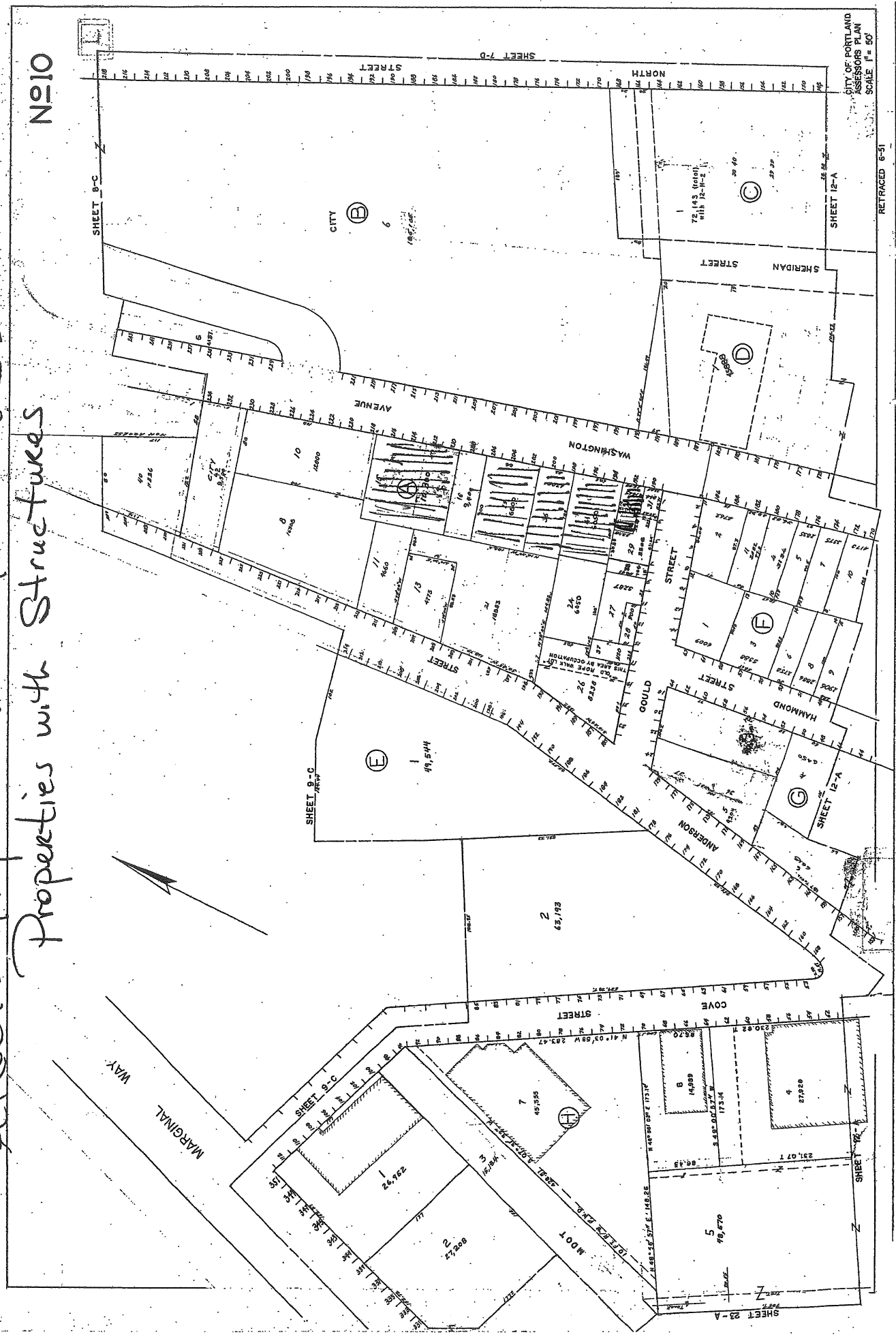


CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 50'

RETRACED 6-51

Affected Properties within Present R-3 Zone
Properties with Structures

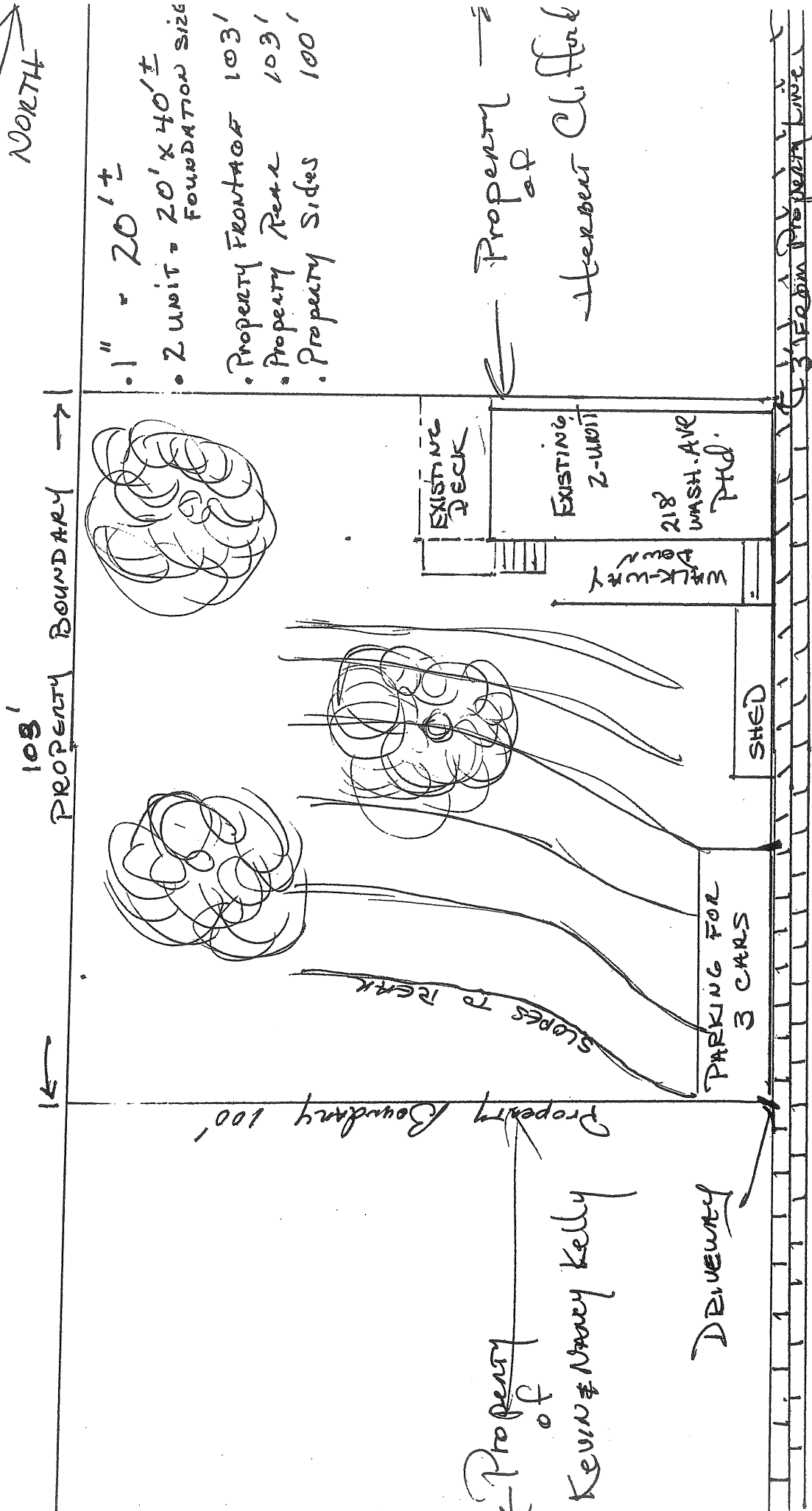
N910



CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 50'

RETRACED 6-51

SKETCH PLAN
218 WASHINGTON AVE.



- 1" = 20' ±
- 2 UNIT = 20' X 40' ± FOUNDATION SIZE
- PROPERTY FRONTAGE 103'
- PROPERTY REAR 103'
- PROPERTY SIDES 100'

Property of
Kevin & Nancy Kelly

DEWEENTY

Property of
Herbert Clifford

WASHINGTON AVE - PORTLAND

Properties owners within 500'
of
Subject property 218 Washington Ave.

Map 10 Block A

1. Lot # 15 Subject property
2. Lot # 10 Herbert Clifford 219 Anderson St. Portland
3. Lot # 8 -11 - 13 Herbert Clifford 219 Anderson St. Portland
4. Lot # 21 203 Anderson Street LLC
5. Lot # 26 James V. Fogg 189 Anderson St. Portland
6. Lot # 27 - 28 - 37 - 24 Patricia Flynn 15 Gould St. Portland
7. Lot # 16 - 19 Kevin and Nancy Kelly 202 Washington Ave. Portland
8. Lot # 36 Anthony and Mary Pereira 198 Washington Ave. Portland
9. Lot # 30 - 41 Angela Harvey 194 Washington Ave. Portland
- 10 Lot # 29 - 31 Leonard Dexter and Judith Ridge 190 Washington ave. Portland

Map 10 Block E

11. Lot # 1
12. Lot # 2 Sanford Sandelman 185 NW Spanish River Blvd. Boca raton , Fl

**DEED OF SALE BY PERSONAL REPRESENTATIVE
(Testate)**

Maine Statutory Short Form

Know all Persons by these Presents,

That Nancy A. Kelly

of Portland, County of Cumberland, State of Maine, duly appointed and acting personal representative of the estate of **Philip Maloney**, deceased (testate), as shown by the probate records of the County of Cumberland, Maine, (and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale), by the power conferred by the Probate Code, and every other power, for consideration paid, grants to **Glenn A. Morse** of Portland, County of Cumberland, State of Maine, whose mailing address is: P.O. Box 10971, Portland, Maine, 04104, the real property in Portland, County of Cumberland, State of Maine described as follows:

See attached Exhibit A for legal description.

Witness my hand and seal this 14th day of July, 2005.

Signed, Sealed and Delibered

in the presence of



Estate of Philip Maloney

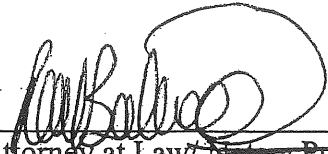
By: Nancy A Kelly PR
Nancy A. Kelly
Personal Representative

State of Maine, County of Cumberland ss.

July 14, 2005

Then personally appeared the above named **Nancy A. Kelly, Personal Representative of The Estate of Philip Maloney** and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Before me,



Attorney at Law/Notary Public

Printed Name: Rachell Bocharov

EXHIBIT A
218 Washington Avenue, Portland, Maine

A certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, bounded and described as follows: Beginning at a point on the southwesterly side of Washington Avenue, which point marks the most northerly corner of land conveyed by John Coughlin to Hattie E. Junco by deed dated November 1897 and recorded in the Cumberland County Registry of Deeds in Book 656, Page 339; thence northwesterly along said southwesterly sideline of Washington Avenue, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles to said Washington Avenue, one hundred (100) feet to a point; thence at right angles in a southeasterly direction, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles in a southeasterly (incorrectly identified as northeasterly in deed 3828-70) direction, one hundred (100) feet to the point of beginning.

Excepting a parcel of land conveyed by Philip E. Maloney to Nancy A. Kelly dated July 23, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13210, Page 278.

Being the same premises conveyed to Philip Maloney and Phyllis Maloney by warranty deed from Donald H. Maloney dated April 14, 1976 and recorded in the Cumberland County Registry of Deeds in Book 3828, Page 70. Phyllis Maloney deceased on November 3, 1995 leaving Philip Maloney as surviving joint tenant. Philip Maloney deceased on December 8, 2004, Cumberland County Probate Court Docket# 2005-314; Nancy A. Kelly having been appointed Personal Representative on April 27, 2005.

Properties Owners within 500'
Of
Subject property 218 Washington Ave.

Map 10 Block F

1. Lot # 1 John S and Denise L Ricchio 61 Hammond Street Portland
2. Lot # 2 Charles Loring Post AMVETS 186 Washington Ave.
3. Lot #3 Cynthia I. Edwards 59 Hammond Street
4. Lot #4 - 5 Louise Orlando 178 Washington Ave.
5. Lot # 6 Sarah J Bulley 53 Hammond Street
6. Lot# 7 - 10 TMJ Associates PO Box 734 Portland 170 Washington Ave
7. Lot # 8 Morgan P Shepard 51 Hammond Street
8. Lot # 9 Portland Housing (also 12-D-3-5)
9. Lot #11 Charles Loring Post AMVETS

Map 10 Block G

1. Lot # 2 Steven E and Roberta S Cope 56 Hammond street
2. Lot #4 Thomas C and Donna M Ferrante 48 Hammond street
3. Lot # 5 Brian H and Patricia A Milliken 175 Anderson Street
4. Lot # 6 Portland Housing

AH.2

Sec. 14-81. Other requirements.

Other requirements are as follows:

- (a) *Offstreet parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 533-84, 5-7-84; Ord. No. 15-92, § 6, 6-15-92)

Sec. 14-82. Reserved.

Sec. 14-83. Reserved.

Sec. 14-84. Reserved.

Sec. 14-85. Reserved.

DIVISION 4. R-3 RESIDENTIAL ZONE*

 *Editor's note--Ord. No. 534-84, adopted May 7, 1984, repealed Div. 4, §§ 14-87--14-90, and enacted a new Div. 4, §§ 14-86--14-91. Formerly, Div. 4 was derived from Code 1968, § 602.4.A--D, and the following ordinances: Ord. No. 49-74, 372-75, 406-75, 34-76, 145-79, 145-81, 303-81, 90-83, and 499-74.

Sec. 14-86. Purpose.

The purpose of the R-3 residential zone is:

To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.

(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 1, 7-19-88)

*Editor's note--Ord. No. 81-88, § 1, adopted July 19, 1988, amended § 14-86 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-87. Permitted uses.

The following uses are permitted in the R-3 residential zone:

(a) *Residential:*

1. Single-family detached dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-90 shall apply with respect to such development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions) of this chapter. Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.

5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District and until May 1, 1985, on the islands, provided that each unit meets the performance standards listed below.
 - a. More than half of the roofed area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboard shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
 - d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.

- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

- 1. Reserved;
- 2. Parks, and other active and passive noncommercial recreation spaces;
- 3. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory uses) of this article;
- 4. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 5. Municipal uses, excluding those specifically set forth in section 14-88 of this division.

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 1, 12-17-84; Ord. No. 36-85, § 1, 7-15-85; Ord. No. 81-88, §§ 2, 3, 7-19-88; Ord. No. 86A-89, § 3, 8-21-89; Ord. No. 33-91, § 4, 1-23-91; Ord. No. 165-97, § 1, 12-1-97)

***Editor's note--**Ord. No. 81-88, §§ 2 and 3, adopted July 19, 1988, amended subsections 14-87(a)2 and (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-88. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and

buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration of a detached single-family dwelling existing as of June 5, 1957, with floor area exceeding fifteen hundred (1,500) square feet, to accommodate one (1) additional dwelling unit, provided that:
 - a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;
 - c. The alteration will not result in a total cubical volume increase of more than ten (10) percent within the five (5) years immediately preceding the date of alteration;
 - d. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling;
 - e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;
 - f. A minimum lot size of ten thousand (10,000) square feet of land area shall be required;
 - g. No dwelling unit shall be reduced in size to

less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic;

- h. Parking shall be provided as required by division 20 of this article;
- i. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 - 1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building;
 - 2. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

(b) *Commercial:*

- 1. Reserved.

(c) *Institutional:* Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

- 1. Elementary, middle, and secondary school;
- 2.
 - a. Long-term and extended care facilities;
 - b. Intermediate care facility for thirteen (13) or more persons;
- 3. Church or other place of worship;

4. Private club or fraternal organization;
5. Hospital.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.

(d) *Other:*

1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residence zones) of this article;
2. Utility substations, including sewage treatment plants, sewage and water pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding

neighborhood;

3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use, home babysitting use, nursery school or kindergarten, or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

- e. Day care facilities, home babysitting uses, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting services, nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. Off-street parking shall be provided on the site for all staff of the facility. Parking for the facility shall not interfere with access to or use of play areas. Parking spaces may be stacked or placed side by side in order to lessen

their impact on the residential character of the lot and the neighborhood, and shall not be located closer than five (5) feet from the property line of any abutting residential use or residentially zoned site;

vii. The maximum number of children in a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and

viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 2, 12-17-84; Ord. No. 76-85, § 4, 7-1-85; Ord. No. 36-85, § 2, 7-15-85; Ord. No. 67-87, § 1, 11-2-87; Ord. No. 81-88, § 4, 7-19-88; Ord. No. 235-91, § 5, 2-4-91; Ord. No. 118-93, § 5, 10-18-93; Ord. No. 133-96, § 3, 11-18-96; Ord. No. 154-96, § 5, 12-16-96; Ord. No. 222-99, §3, 3-01-99)

Sec. 14-89. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 534-84, 5-7-84)

Sec. 14-90. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-3 zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Sixty-five hundred (6,500) square feet except as provided for lots of record is section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A

- lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807 et seq., or the applicable zoning lot size, whichever is larger.
2. Alteration of a detached single-family dwelling to a two-family dwelling: Ten thousand (10,000) square feet.
 3. Long-term, extended, or intermediate care facilities: Two (2) acres.
 4. School: Two (2) acres.
 5. Church or place of worship: Two (2) acres.
 6. Private club or fraternal organization: Two (2) acres.
 7. Municipal use: Sixty-five hundred (6,500) square feet.
 8. Hospital: Ten (10) acres.
 9. Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of continuous land.
 10. All other uses: Sixty-five hundred (6,500) square feet.

Provided that for uses specified in section 14-90(a)3 through 8 above, no minimum lot area shall be required in the following cases:

- a. Uses existing as of June 1, 1983;
- b. Expansion onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the

reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;

- d. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

- (b) *Minimum lot area per dwelling unit:*

PRUD: Sixty-five hundred (6,500) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Other uses: Sixty-five hundred (6,500) square feet, except for alteration of a single-family dwelling to a two-family dwelling as provided in section 14-88(a)2.

- (c) *Minimum street frontage:* Fifty (50) feet, except that lots located in a subdivision approved after the effective date of Ord. No. 165-97 pursuant to section 14-497.5 shall meet the street frontage requirements approved as part of the subdivision plan under the terms of that section.

- (d) *Minimum yard dimensions:*

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Front yard:*

Principal or accessory structures: Twenty-five (25) feet.

2. *Rear yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
- b. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. *Side yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

| <i>Height of Structure</i> | <i>Required Side Yard</i> |
|----------------------------|---------------------------|
| 1 story | 8 feet |
| 1 1/2 stories | 8 feet |
| 2 stories | 14 feet |
| 2 1/2 stories | 16 feet |

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than eight (8) feet in width. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the

resulting side yards be less than eight (8) feet.

b. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

4. *Side yard on side street:*

a. Principal or accessory structures: Twenty (20) feet.

(e) *Maximum lot coverage:* Thirty-five (35) percent of lot area.

(f) *Minimum lot width:* Sixty-five (65) feet.

(g) *Maximum structure height:* Principal or accessory attached structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

(h) 1. *Maximum number of units in a building (PRUD of five (5) acres or more):* Six (6) units.

2. *Maximum number of units in a building (PRUD of less than five (5) acres):* Two (2) units.

(i) *Maximum average number of units in a building (PRUD of five (5) acres or more):* Five (5) units.

(j) *Maximum length of building (PRUD):* One hundred (100) feet for buildings without garages; one hundred forty (140) feet for buildings with integral garages.

(k) *Minimum building setback from external subdivision property lines (PRUD):*

1. Three (3) or fewer dwelling units in building: Twenty-five (25) feet.

2. Four (4) or more dwelling units in building: Thirty-five (35) feet.

- (l) *Minimum distance between detached PRUD dwelling unit:* Sixteen (16) feet.
- (m) *Reserved.*
- (n) *Minimum recreation open space area (PRUD):* Three hundred (300) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet with a minimum dimension of fifty (50) feet shall be provided and shall include one (1) or more of the uses set forth in section 14-526(a)(14)c.4., but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.
- (o) No habitable space in a PRUD shall be below grade, except basements that are a part of and below ground units.
(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 5, 7-19-88; Ord. No. 385-89, §§ 1, 2, 4-3-89; Ord. No. 235-91, § 6, 2-4-91; Ord. No. 118-93, § 6, 10-18-93; Ord. No. 154-96, § 6, 12-16-96; Ord. No. 165-97, § 2, 12-1-97; Ord. No. 95-04/05, 11-15-04)
- ***Editor's note--**Ord. No. 81-88, § 5, adopted July 19, 1988, amended § 14-90 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-91. Other requirement.

Other requirements are as follows:

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.
(Ord. No. 534-84, 5-7-84; Ord. No. 15-92, § 7, 6-15-92)

Secs. 14-92. Reserved.

Secs. 14-93. Reserved.

DIVISION 4.5. FH FLEXIBLE HOUSING ZONE

Sec. 14-94. Purpose.

The intention of this division is to establish an overlay zone in which manufactured housing development is permitted in addition to those uses permitted in the underlying residential zone. The purpose of this division is to accommodate additional housing types in appropriate areas of the city, while protecting the value and integrity of established residential neighborhoods and ensuring a balanced and orderly pattern of residential development.

(Ord. No. 610-82, § 2, 7-7-82; Ord. No. 130-82, § 1, 9-20-82; Ord. No. 200-89, § 1, 12-18-89)

Sec. 14-95. Manufactured housing park or subdivision.

Notwithstanding any other provision of this article, no manufactured housing park or subdivision shall be permitted in any zone except as provided in this section.

(a) Manufactured housing park or subdivision, as defined in section 14-47, shall be permitted in the flexible housing zone, the Planning Board shall be the reviewing authority. Such development shall be in accordance with the space and bulk and other requirements applicable to similar uses permitted in the underlying zone, except those standards set forth in section 14-96, and shall also meet the following additional requirement:

1. Reserved.
2. Such development shall be subject to approval by the Planning Board with respect to each and every requirement of article VI of this chapter,

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City of Portland
Code of Ordinances
Sec. 14-159

Land Use
Chapter 14
Rev. 3-25-05

(Ord. No. 232-81, § 602.7B.7, 11-16-81; Ord. No. 15-92, § 15, 6-15-92)

Sec. 14-160. Reserved.

DIVISION 9. B-1 AND B-1b NEIGHBORHOOD BUSINESS ZONES*

*Editor's note--Ord. No. 292-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-161--14-167 of Div. 9, B-1 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-161--14-167. Formerly, such sections derived from §§ 602.8.A--602.8.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972, and Ord. No. 499-74, § 4, adopted Aug. 19, 1974.

Sec. 14-161. Purpose.

(a) B-1 Neighborhood Business Zone

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of smallscale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

(b) B-1b Neighborhood Business Zone

The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of

smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3).

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 1, 11-15-93; Ord. No. 94-99, 11-15-99)

Sec. 14-162. Permitted uses.

(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone. For permitted uses in the upper stories of buildings in the B-1b zone, refer to subsection (5) below: in existence on November 15, 1993:

(1) *Residential*

- a. Any residential use permitted in the residential zone abutting the lot is permitted. If there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.
- b. In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.

(2) *Business:*

- a. Professional offices, as defined in section 14-47, but excluding veterinarians.
- b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.
- c. Personal services, as defined in section 14-47.

- d. Offices of building tradesmen, provided there is no exterior storage of building materials.
- e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services between the hours of ten (10) p.m. to seven (7) a.m.
- f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:
 - 1. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;
 - 2. Beverage container redemption is an accessory use to a principal retail use that includes beverage sales. Local beverage container redemption centers as defined in 32 M.R.S.A. 1867, as may be amended, are not allowed as a principal use.
 - 3. Storage of all beverage containers shall be contained entirely within the building providing retail sales.

(3) *Institutional:*

- a. Church or other place of worship;
- b. Municipal offices;
- c. Elementary, middle and secondary schools;
- d. Nursery schools and kindergarten;
- e. Clinics of less than three thousand (3,000) square

feet of total floor space.

(4) *Other:*

- a. Lodging houses;
- b. Utility substations, as defined in section 14-47, subject to the standards of article V (site plan);
- c. Day care facilities or babysitting services;
- d. Accessory uses as provided in section 14-404;
- e. Bed and breakfast, subject to the standards of article V (site plan).

(5) Uses permitted above the ground floor level of buildings in the B-1b zone:

- a. Any residential use set forth in section 14-162(a);
- b. Bed and breakfast, subject to the standards of article V (site plan).

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 2, 11-15-93; Ord. No. 125-97, § 5, 3-3-97; Ord. No. 94-99, 11-15-99)

Sec. 14-163. Conditional uses.

The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- (a) Restaurants, provided they meet the following requirements:
 1. Maximum total floor area for use of the public shall be one thousand (1,000) square feet;
 2. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;
 3. Food service and consumption are the primary

function of the restaurant; and

4. There shall be no drive-through service.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99)

Sec. 14-164. Prohibited uses.

Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.

(Ord. No. 292-88, 4-4-88)

Sec. 14-165. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-162(a) shall meet the requirements of such abutting or nearest residential zone except as noted below, and nonresidential uses in the B-1 and B1-b zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. School: Twenty thousand (20,000) square feet.
2. Church or place of worship: Ten thousand (10,000) square feet.
3. All other nonresidential uses: None.
4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

(b) *Minimum street frontage:* Fifty (50) feet, except that if the average street frontages of all lots within two hundred (200) feet of the boundaries of the lot in question on the same side of the street and within the B-1 or B-1b zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.

(c) *Yard dimensions:* (Yard dimensions are required setbacks for structures from property lines and setbacks of

structures from one another. No structure shall occupy the minimum yard of another structure.)

1. Maximum *front yard*:

Principal or accessory structure: The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

2. *Rear yard*:

- a. Principal structures: None, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.
- b. Accessory structures (detached): None, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.

3. *Side yard*:

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.
- b. Accessory structures (detached): None, except that where the side yard abuts a residential zone or a first floor residential use, a minimum of five (5) feet is required.
- c. Side yards on side streets (corner lot):
Principal or accessory structures: Ten (10)

feet maximum setback, except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.

- (d) *Minimum lot width:* None.
- (e) *Maximum structure height:* Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.
- (f) *Maximum impervious surface ratio:* Ninety (90) percent.
- (g) *Floor area:*
 - 1. The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) square feet.
 - 2. The maximum first floor area of a multi-tenant building shall be no greater than ten thousand (10,000) square feet.

(Ord. No. 292-88, 4-4-88; Ord. No. 52-96, § 1, 7-15-96; Ord. No. 94-99, 11-15-99)

Sec. 14-166. Other requirements.

All nonresidential uses in B-1 and B-1b zones shall meet the requirements of division 25(space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).

- (a) *Enclosed structure*: The use shall be operated within a completely enclosed structure, except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise*: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they are clearly visible from neighbors' properties or may be transferred beyond the lot boundaries by natural causes or forces. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in fully enclosed containers or receptacles. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 292-88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-168. Reserved.
Sec. 14-169. Reserved.
Sec. 14-170. Reserved.
Sec. 14-171. Reserved.

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- Sec. 14-172. Reserved.**
- Sec. 14-173. Reserved.**
- Sec. 14-174. Reserved.**
- Sec. 14-175. Reserved.**
- Sec. 14-176. Reserved.**
- Sec. 14-177. Reserved.**
- Sec. 14-178. Reserved.**
- Sec. 14-179. Reserved.**
- Sec. 14-180. Reserved.**

DIVISION 10. B-2 AND B-2b COMMUNITY BUSINESS ZONES*

*Editor's note--Ord. No. 293-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-181--14-187 of Div. 10, B-2 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-181--14-187. Formerly, such sections derived from §§ 602.9.A--602.9.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 274-77, adopted May 16, 1977.

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major

shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

(b) B-2b Community Business Zone

B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(c).

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

(Ord. No. 293-88, 4-4-88; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §2, 4-24-00; Ord. No. 151-03/04, 02/23/04)

***Editor's Note:** Order No. 25, adopted 7-07-99, enacted an emergency 120-day moratorium on drive-through facilities on lots in B-2 Zone adjacent to lots with residential uses effective 7-07-99 through 11-1-99; Ord. No. 94A, adopted 11-01-99 extended the moratorium on said drive-through facilities through December 15, 1999.

Sec. 14-182. Permitted uses.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving drive-throughs are prohibited

in these zones unless otherwise provided in section 14-183:

(a) *Residential:*

1. Any residential use permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone; and
2. In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;
6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a)(1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving

facilities;

11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;
18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) *Institutional:*

1. Private club or fraternal organization;

2. Long term, extended and intermediate care facility;
3. Clinics, as defined in section 14-47;
4. Churches or other places of worship;
5. Kindergarten, elementary, middle and secondary schools;
6. College, university, trade schools; and
7. Municipal buildings and uses.

(d) *Other:*

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars.

vi. Business and educational conferences.

b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.

6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02/23/04)

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

(a) *Business.* Any of the following conditional uses, provided that, notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses:

1. Major and minor auto service stations in the B-2 zone, only;
2. Major or minor auto service stations in the B-2b zone in existence as of November 15, 1999;
3. Car washes;
4. Drive-throughs in the B-2 or B-2b zones which are adjacent to any residential use or zone, provided that, in the B-2b drive-throughs must be accessory to a principal use located on the same site;
5. Automobile dealerships.

In addition to approval by the Planning Board with respect to the requirements of article V (site plan), these uses shall comply with the following conditions and standards in addition to the provisions of section 14-474:

- a. **Signs:** Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
- b. **Circulation:** No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
- c. **Drive-throughs,** where permitted, shall also specifically comply with the following conditions:
 - i. **Location of Drive-throughs:** Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to any property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service

features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

- ii. **Noise:** Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
- iii. **Lighting:** Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- iv. **Screening and Enclosure:** Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- v. **Pedestrian access:** Drive-through lanes

shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.

vi. **Hours of Operation:** The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

vii. **Conditions specific to major or minor auto service stations, car washes and automobile dealerships:**

(a) A landscaped buffer, no less than five (5) feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the Technical and Design Standards and Guidelines;

(b) Car washes shall be designed to avoid the tracking of residual waters into the street.

(b) *Other:*

1. Printing and publishing establishments except as provided in subsection b. below;
2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time;
3. Wholesale distribution establishments; and
4. Research and development and related production establishments.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of

aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. Traffic circulation: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
- b. Building and site design: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of the Technical Standards and Design Guidelines adopted pursuant to section 14-498 and section 14-526 for screening between land uses.

(Ord. No. 293-88, 4-4-88; Ord. No. 16-92, 6-15-92; Ord. No. 39-96, § 3, 10-7-96; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 151-03/04, 02-23-04)

Sec. 14-184. Prohibited uses.

Uses not enumerated in sections 14-182 and 14-183 as either permitted uses or conditional uses are prohibited.

(Ord. No. 293-88, 4-4-88)

Sec. 14-185. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-182(a) shall meet the requirements of such abutting or nearest residential zone, and nonresidential uses, where permitted, shall meet the following requirements:

(a) *Minimum lot size:*

1. Intermediate, longterm and extended care facilities: Ten thousand (10,000).
2. *Nonresidential uses:*
 - B-2 zone: Ten thousand (10,000) square feet;
 - B-2b zone: None
 - B-2c zone: Ten thousand (10,000) square feet
3. Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

(b) *Minimum street frontage:* Fifty (50) feet.

(c) *Yard dimensions:* (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum or maximum yard of another structure.)

Except as provided in subsection (e) below, the following setbacks are required:

1. *Front Yard*

- a. *Minimum front yard in B-2 and B-2c zone:* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.
- b. *Maximum front yard in B-2b zone (On-peninsula):* The maximum front yard setback shall either be: (1) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten

feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

- c. *Maximum front yard in B-2b zone (Off-peninsula):* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

Where the front yard setback exceeds ten (10) feet, however, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street(s) consisting of street trees spaced at not more than fifteen (15) feet on center, (which otherwise meet the requirements of city arborist) and a combination of the following:

- i. landscaping of no less than four (4) feet in depth; and
- ii. ornamental brick or stone walls; and/or
- iii. ornamental fencing.

The site shall otherwise meet the requirements of article V (Site Plan).

2. *Rear yard:*

- a. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.
- b. Accessory structures: Five (5) feet.

3. *Side yard:*

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.
- b. Accessory structures: Five (5) feet.
- c. Side yards on side streets (corner lot): In the B-2 and B-2c zone, a minimum of ten (10) feet. In the B-2b zone, a maximum of ten (10) feet except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.

(d) *Minimum lot width:* None.

(e) *Maximum structure height:* Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under subsection (3) above are increased by one (1) foot in distance for each foot of height above forty-five (45) feet.

(f) *Maximum impervious surface ratio:* Eighty (80) percent in the B-2 and B-2c; Ninety (90) percent in the B-2b.

(Ord. No. 293-88, 4-4-88; Ord. No. 52-96, § 2, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. (Substitute)189-00, §3, 4-24-00; Ord. No. 151-03/04, 02/23/04)

Sec. 14-186. Other requirements.

All nonresidential uses in the B-2 and B-2b zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening*: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks*: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Offstreet parking and loading*: Offstreet parking and loading are required by division 20 and division 21 of this article;
- (d) *Front yard parking*:
 - 1. B-2 and B-2c zone: There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2 and B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 - 2. B-2b zone (On-peninsula): There shall be no parking in the front yard between the street line and the required maximum setback line in the B-2b. Where existing buildings exceed the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 - 3. B-2b zone (Off-peninsula): Parking in the front yard between the street line and the required maximum setback line in the B-2b is discouraged. However, where parking in the front yard is permitted pursuant to §14-185(c)(1)(c), a maximum of fifty percent (50%) of the total parking on the site may be located between the principal structure and the street.
- (e) *Signs*: Signs shall be subject to the provisions of division 22 of this article.

- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. Vehicles or truck trailers with or without wheels shall not be used for on-site storage (1) except where such storage is located in a designated loading zone identified on an approved site plan; or (2) such storage is not visible from the street or adjacent residences during winter months and such storage area is identified on an approved site plan. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occurs more frequently than three (3) times a calendar year.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 293-88, 4-4-88; Ord. No. 51-96, 7-15-96; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §4, 4-24-00; Ord. No. 151-03/04, 02/23/04)

Sec. 14-187. External effects.

Every use in a B-2, B-2b and B-2c zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise:* Except as provided in 14-183(1)(iii)(2) (relating to Drive-throughs), the volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A

scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

- (c) Vibration and heat: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 293-88, 4-4-88; Ord. No. 94-99, 11-15-99; Ord. No. 03/04, 02/23/04)

- Sec. 14-188. Reserved.**
- Sec. 14-189. Reserved.**
- Sec. 14-190. Reserved.**
- Sec. 14-191. Reserved.**
- Sec. 14-192. Reserved.**
- Sec. 14-193. Reserved.**
- Sec. 14-194. Reserved.**
- Sec. 14-195. Reserved.**

DIVISION 11. A-B AIRPORT BUSINESS ZONE*

*Editor's note--Ord. No. 295-88, adopted Apr. 4, 1988, repealed §§ 14-196--14-202 of Div. 11, A-B Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-196--14-202. Formerly, such sections derived from §§ 62.9A.A--602.9A.G of the city's 1968 Code and from Ord. No. 348-71, § 2, adopted Aug. 2, 1971; Ord. No. 499-74, § 4, adopted Aug. 19,

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

(b) B-2b Community Business Zone

B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(c).

2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;
6. Drinking establishments, except that drinking establishments as defined in section 14-47, and bars as defined in section 14-217.5 (a) (1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving facilities;
11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;

5. Bed and breakfast, subject to the standards of article v (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars
 - vi. Business and educational conferences.
 - b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.
6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4,000) square feet for each studio space.
(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02-23-04)

Sec.14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- c. Drive-throughs, where permitted, shall also specifically comply with the following conditions:
- i. **Location of Drive-throughs:** Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any residential zone. This distance shall be measured from the outermost edge of the outside drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.
 - ii. **Noise:** Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
 - iii. **Lighting:** Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. Traffic circulation: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
- b. Building and site design: The exterior design of the structures, including architectural style, façade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of the Technical Standards and Design Guidelines adopted pursuant to section 14-498 and section 14-526 for screening between land uses.

(Ord. No. 293-88, 4-4-88; Ord. No. 16-92, 6-15-92; Ord. No. 39-96, § 3, 10-7-96; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 151-03/04, 2-23-04)

Sec. 14-184. Prohibited uses.

Uses not enumerated in sections 14-182 and 14-183 as either permitted uses or conditional uses are prohibited.

(Ord. No. 293-88, 4-4-88)

Sec. 14-185. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-182(a) shall meet the requirements of such abutting or nearest residential zone, and nonresidential uses, where permitted, shall meet the following requirements:

average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

- c. *Maximum front yard in B-2b zone (Off-peninsula):* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

Where the front yard setback exceeds ten (10) feet, however, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street(s) consisting of street trees spaced at not more than fifteen (15) feet on center, (which otherwise meet the requirements of city arborist) and a combination of the following:

- i. Landscaping of no less than four (4) feet in depth; and
- ii. Ornamental brick or stone walls; and/or
- iii. Ornamental fencing.

The site shall otherwise meet the requirements of article V (Site Plan).

2. *Rear yard:*

- a. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.

- b. Accessory structures: Five (5) feet.

3. *Side yard:*

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are required by division 20 and division 21 of this article;
- (d) *Front yard parking:*
1. B-2 and B-2c zone: There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2 and B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 2. B-2b zone (On-peninsula): There shall be no parking in the front yard between the street line and the required maximum setback line in the B-2b. Where existing buildings exceed the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 3. B-2b zone (Off-peninsula): Parking in the front yard between the street line and the required maximum setback line in the B-2b is discouraged. However, where parking in the front yard is permitted pursuant to §14-185(c)(1)(c), a maximum of fifty percent (50%) of the total parking on the site may be located between the principal structure and the street.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.

COMPARISON OF B-1b, B-2b and B-2c ZONES

| | B-1b Neighborhood Business Zone | B-2b Community Business Zone | B-2c Community Business Zone |
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| Purpose Statement | <p>The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c) (3).</p> <p>Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.</p> | <p>B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in the areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(c).</p> | <p>To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.</p> |
| Permitted Uses | <p>The following uses are permitted in the ground floor level of buildings in the B-1b zone.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot is permitted. If</p> | <p>The following uses are permitted in the B-2b except that any involving drive-throughs are prohibited in this zone unless otherwise provided in section 14-183.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot. If there is no</p> | <p>The following uses are permitted in the B-2c except that any involving drive-throughs are prohibited in this zone unless otherwise provided in section 14-183.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot. If there is no</p> |

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| | <p>there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.</p> <p>In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *Professional offices (excluding veterinarians); *Business services (excluding redemption centers); *Personal services; *Offices of building tradesman (no exterior storage of building materials); *Retail establishments (no drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and no deliveries between the hours of ten (10) p.m. to seven (7) a.m.); and *Beverage dealers. | <p>abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.</p> <p>In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *General, business and professional offices; *Personal services; *Office of building tradesmen; *Retail establishments; *Restaurants (shall close for all purposes including the service of alcohol no later than 11:00 p.m.); *Drinking establishments; *Billiard parlors; *Mortuaries or funeral homes; *Miscellaneous repair | <p>abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.</p> <p>In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *General, business and professional offices; *Personal services; *Office of building tradesmen; *Retail establishments; *Restaurants (shall close for all purposes including the service of alcohol no later than 11:00 p.m.); *Billiard parlors; *Mortuaries or funeral homes; *Miscellaneous repair |
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| | <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Church or other place of worship; *Municipal offices; *Elementary, middle and secondary schools; *Nursery schools and kindergarten; and *Clinics of less than three thousand (3,000) sq. ft. of | <p>services (excluding motor vehicle repair services);</p> <ul style="list-style-type: none"> *Communication studios or broadcasting and receiving facilities; *Health clubs and gymnasiums; *Veterinary hospitals (excluding outdoor kennels); *Theaters and performance halls; *Hotel or motels of less than one hundred fifty (150) rooms; *Dairies (existence as of 11/15/99); *Bakeries (existence as of 11/15/99 and if established after 11/15/99 must include retail sales within the principal structures and shall be no greater than seven thousand (7,000) sq. ft. in size); and *Drive-throughs associated with a permitted use when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Churches or other places of worship; *Municipal buildings and uses; *Kindergarten, elementary, middle and secondary schools; *College, university, and trade schools; *Clinics; | <p>services (excluding motor vehicle repair services);</p> <ul style="list-style-type: none"> *Communication studios or broadcasting and receiving facilities; *Health clubs and gymnasiums; *Veterinary hospitals (excluding outdoor kennels); *Theaters and performance halls; *Hotel or motels of less than one hundred fifty (150) rooms; *Dairies (existence as of 11/15/99); and *Bakeries (existence as of 11/15/99 and if established after 11/15/99 must include retail sales within the principal structures and shall be no greater than seven thousand (7,000) sq. ft. in size). <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Churches or other places of worship; *Municipal buildings and uses; *Kindergarten, elementary, middle and secondary schools; *College, university and trade schools; *Clinics; |
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| | <p>total floor space.</p> <p><i>Other:</i></p> <p>Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; and *Bed and breakfast.</p> <p><i>Uses permitted above the ground floor level of buildings in the B-1b zone:</i></p> <p>*Any residential use; and *Bed and breakfast.</p> <p><i>Conditional Uses:</i></p> <p>*Restaurants (maximum floor area for use of the public is one thousand (1,000) sq. ft.; hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day; food service and consumption</p> | <p>*Private Club or fraternal organization; and *Long term, extended and intermediate care facility.</p> <p><i>Other:</i></p> <p>*Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; *Bed and breakfast (may include a meeting facility as long as the facility shall be limited to the following types of uses: private parties; business meetings; weddings; receptions; seminars; and business and educational conferences.); and *Studios for artists and craftspeople (the area of such studios shall not exceed four thousand (4,000) sq. ft. for each studio space).</p> <p><i>Conditional Uses:</i></p> | <p>*Private Club or fraternal organization; and *Long term, extended and intermediate care facility.</p> <p><i>Other:</i></p> <p>*Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; *Bed and breakfast (may include a meeting facility as long as the facility shall be limited to the following types of uses: private parties; business meetings; weddings; receptions; seminars; and business and educational conferences.); and *Studios for artists and craftspeople (the area of such studios shall not exceed four thousand (4,000) sq. ft. for each studio space).</p> <p><i>Conditional Uses:</i></p> |
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| | <p>are the primary function; and there shall be no drive-through service.</p> | <p>*Major or minor auto service stations (in existence as of 11/15/99); *Car Washes; *Drive-throughs which are adjacent to any residential use or zone and must be accessory to a principal use located on the same site; and *Automobile Dealerships.</p> <p>The above conditional uses are subject to signage, circulation, and drive-through standards.</p> <p>*Printing and publishing establishments; *Printing and publishing establishments (in continuous operation at their current location since 4/4/88 or earlier and which exceed 10,000 sq. ft. of aggregate gross floor area at that time; *Wholesale distribution establishments; and *Research and development and related production establishments.</p> <p>The above conditional uses shall be subject to traffic circulations and building and site design standards.</p> | <p>*Automobile Dealerships.</p> <p>The above conditional use is subject to signage and circulation.</p> <p>*Printing and publishing establishments; *Printing and publishing establishments (in continuous operation at their current location since 4/4/88 or earlier and which exceed 10,000 sq. ft. of aggregate gross floor area at that time; *Wholesale distribution establishments; and *Research and development and related production establishments.</p> <p>The above conditional uses shall be subject to traffic circulation and building and site design standards.</p> |
| <p>Dimensional Requirements</p> | <p>Residential uses shall meet the requirements of such abutting or nearest residential zone except as noted below and nonresidential uses shall meet the following</p> | | |

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| <p><i>Minimum lot size:</i></p> | <p>minimum requirements:</p> <ul style="list-style-type: none"> *School: twenty thousand (20,000) sq. ft. *Church or place of worship: ten thousand (10,000) sq. ft. *All other nonresidential uses: none *Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit. | | |
| <p><i>Minimum street frontage:</i></p> | <p>Fifty (50) feet, except that if the average street frontage of all lots within two hundred (200) feet of the boundaries of the lot in question on the same side of the street and within the zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.</p> | | |
| <p><i>Yard dimensions:</i></p> <p>Maximum front yard</p> | <ul style="list-style-type: none"> *Principal or accessory structure: the maximum front yard setback shall either be: ten feet; or in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. <p>Building additions are not required to meet this maximum setback.</p> | | |

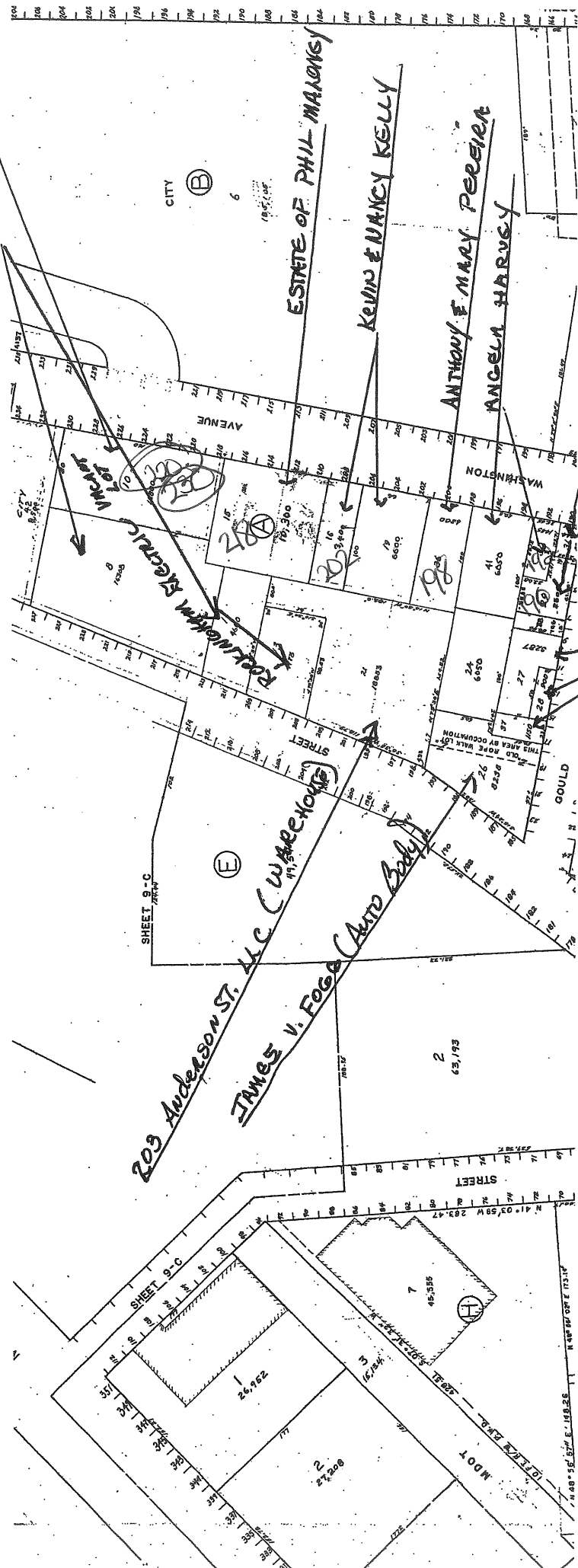
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| <p>Rear yard</p> | <p>*Principal structures: none, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.</p> <p>*Accessory structures (detached): none, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.</p> | | |
| <p>Side yard</p> | <p>*Principal and accessory structures: none, except where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.</p> <p>*Accessory structures (detached): none, except where a side yard abuts a residential use, a minimum of five (5) feet is required.</p> <p>*Side yards on side streets (corner lot): principal or accessory structures: ten (10) feet maximum setback, except for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets.</p> <p>This maximum setback shall not apply to building additions.</p> | | |
| <p><i>Minimum Lot Width:</i></p> | <p>None</p> | | |

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| <p><i>Maximum Structure Height:</i></p> | <p>Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.</p> | | |
| <p><i>Maximum impervious surface ratio:</i></p> | <p>Ninety (90) percent.</p> | | |
| <p><i>Floor area:</i></p> | <p>The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) sq. ft.</p> <p>The maximum first floor area of a multi-tenant building shall be no greater than ten thousand (10,000) sq. ft.</p> | | |

SUBJECT PARCEL

VICINITY MAP

HERBERT WAREHOUSE
EST. WAREHOUSE



Learned Dexter & Judith Ridge

PATRICIA FLYNN
(RESIDENCE)

203 Anderson St. LLC (WAREHOUSE)
JAMES V. FOGGS (AUTO BODY)

ESTATE OF PHIL MALIONS

KEVIN & NANCY KELLY

ANTHONY & MARY PEREIRA

ANGELA HARVEY

CITY 6

SHEET 9-C

Ⓔ

2
69,193

SHEET 9-C

26,922

27,200

7
46,355

STREET

STREET

WACKER DR

WASHINGTON AVENUE

YORK STREET

WACKER DR

WASHINGTON AVENUE

YORK STREET

WACKER DR

WASHINGTON AVENUE

YORK STREET

WACKER DR

WASHINGTON AVENUE

COMPARISON OF B-1b, B-2b and B-2c ZONES

| | B-1b Neighborhood Business Zone | B-2b Community Business Zone | B-2c Community Business Zone |
|-------------------|--|--|--|
| Purpose Statement | <p>The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c) (3).</p> <p>Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.</p> | <p>B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in the areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(c).</p> | <p>To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.</p> |
| Permitted Uses | <p>The following uses are permitted in the ground floor level of buildings in the B-1b zone.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot is permitted. If</p> | <p>The following uses are permitted in the B-2b except that any involving drive-throughs are prohibited in this zone unless otherwise provided in section 14-183.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot. If there is no</p> | <p>The following uses are permitted in the B-2c except that any involving drive-throughs are prohibited in this zone unless otherwise provided in section 14-183.</p> <p><i>Residential:</i></p> <p>Any residential use permitted in the residential zone abutting the lot. If there is no</p> |

| | | | |
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| | <p>there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.</p> <p>In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *Professional offices (excluding veterinarians); *Business services (excluding redemption centers); *Personal services; *Offices of building tradesman (no exterior storage of building materials); *Retail establishments (no drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and no deliveries between the hours of ten (10) p.m. to seven (7) a.m.); and *Beverage dealers. | <p>abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.</p> <p>In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *General, business and professional offices; *Personal services; *Office of building tradesmen; *Retail establishments; *Restaurants (shall close for all purposes including the service of alcohol no later than 11:00 p.m.); *Drinking establishments; *Billiard parlors; *Mortuaries or funeral homes; *Miscellaneous repair | <p>abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.</p> <p>In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.</p> <p><i>Business:</i></p> <ul style="list-style-type: none"> *General, business and professional offices; *Personal services; *Office of building tradesmen; *Retail establishments; *Restaurants (shall close for all purposes including the service of alcohol no later than 11:00 p.m.); *Billiard parlors; *Mortuaries or funeral homes; *Miscellaneous repair |
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| | <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Church or other place of worship; *Municipal offices; *Elementary, middle and secondary schools; *Nursery schools and kindergarten; and *Clinics of less than three thousand (3,000) sq. ft. of | <p>services (excluding motor vehicle repair services);</p> <ul style="list-style-type: none"> *Communication studios or broadcasting and receiving facilities; *Health clubs and gymnasiums; *Veterinary hospitals (excluding outdoor kennels); *Theaters and performance halls; *Hotel or motels of less than one hundred fifty (150) rooms; *Dairies (existence as of 11/15/99); *Bakeries (existence as of 11/15/99 and if established after 11/15/99 must include retail sales within the principal structures and shall be no greater than seven thousand (7,000) sq. ft. in size); and *Drive-throughs associated with a permitted use when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Churches or other places of worship; *Municipal buildings and uses; *Kindergarten, elementary, middle and secondary schools; *College, university, and trade schools; *Clinics; | <p>services (excluding motor vehicle repair services);</p> <ul style="list-style-type: none"> *Communication studios or broadcasting and receiving facilities; *Health clubs and gymnasiums; *Veterinary hospitals (excluding outdoor kennels); *Theaters and performance halls; *Hotel or motels of less than one hundred fifty (150) rooms; *Dairies (existence as of 11/15/99); and *Bakeries (existence as of 11/15/99 and if established after 11/15/99 must include retail sales within the principal structures and shall be no greater than seven thousand (7,000) sq. ft. in size). <p><i>Institutional:</i></p> <ul style="list-style-type: none"> *Churches or other places of worship; *Municipal buildings and uses; *Kindergarten, elementary, middle and secondary schools; *College, university and trade schools; *Clinics; |
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| | <p>total floor space.</p> <p><i>Other:</i></p> <ul style="list-style-type: none"> *Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; and *Bed and breakfast. <p><i>Uses permitted above the ground floor level of buildings in the B-1b zone:</i></p> <ul style="list-style-type: none"> *Any residential use; and *Bed and breakfast. <p><i>Conditional Uses:</i></p> <ul style="list-style-type: none"> *Restaurants (maximum floor area for use of the public is one thousand (1,000) sq. ft.; hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day; food service and consumption | <ul style="list-style-type: none"> *Private Club or fraternal organization; and *Long term, extended and intermediate care facility. <p><i>Other:</i></p> <ul style="list-style-type: none"> *Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; *Bed and breakfast (may include a meeting facility as long as the facility shall be limited to the following types of uses: private parties; business meetings; weddings; receptions; seminars; and business and educational conferences.); and *Studios for artists and craftspeople (the area of such studios shall not exceed four thousand (4,000) sq. ft. for each studio space). <p><i>Conditional Uses:</i></p> | <ul style="list-style-type: none"> *Private Club or fraternal organization; and *Long term, extended and intermediate care facility. <p><i>Other:</i></p> <ul style="list-style-type: none"> *Lodging houses; *Utility substations; *Day care facilities or babysitting services; *Accessory uses; *Bed and breakfast (may include a meeting facility as long as the facility shall be limited to the following types of uses: private parties; business meetings; weddings; receptions; seminars; and business and educational conferences.); and *Studios for artists and craftspeople (the area of such studios shall not exceed four thousand (4,000) sq. ft. for each studio space). <p><i>Conditional Uses:</i></p> |
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| | are the primary function; and there shall be no drive-through service. | <p>*Major or minor auto service stations (in existence as of 11/15/99);</p> <p>*Car Washes;</p> <p>*Drive-throughs which are adjacent to any residential use or zone and must be accessory to a principal use located on the same site; and</p> <p>*Automobile Dealerships.</p> <p>The above conditional uses are subject to signage, circulation, and drive-through standards.</p> <p>*Printing and publishing establishments;</p> <p>*Printing and publishing establishments (in continuous operation at their current location since 4/4/88 or earlier and which exceed 10,000 sq. ft. of aggregate gross floor area at that time;</p> <p>*Wholesale distribution establishments; and</p> <p>*Research and development and related production establishments.</p> <p>The above conditional uses shall be subject to traffic circulations and building and site design standards.</p> | <p>*Automobile Dealerships.</p> <p>The above conditional use is subject to signage and circulation.</p> <p>*Printing and publishing establishments;</p> <p>*Printing and publishing establishments (in continuous operation at their current location since 4/4/88 or earlier and which exceed 10,000 sq. ft. of aggregate gross floor area at that time;</p> <p>*Wholesale distribution establishments; and</p> <p>*Research and development and related production establishments.</p> <p>The above conditional uses shall be subject to traffic circulation and building and site design standards.</p> |
| Dimensional Requirements | Residential uses shall meet the requirements of such abutting or nearest residential zone except as noted below and nonresidential uses shall meet the following | Residential uses shall meet the requirements of such abutting or nearest residential zone, except as noted below and nonresidential uses shall meet the following | Residential uses shall meet the requirements of such abutting or nearest residential zone, except as noted below and nonresidential uses shall meet the following |

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| <p><i>Minimum lot size:</i></p> | <p>minimum requirements:</p> <p>*School: twenty thousand (20,000) sq. ft. *Church or place of worship: ten thousand (10,000) sq. ft. *All other nonresidential uses: none *Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.</p> | <p>requirements:</p> <p>*Intermediate, longterm and extended care facilities: ten thousand (10,000) sq. ft.</p> <p>*Nonresidential uses: none *Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.</p> <p>Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.</p> | <p>requirements:</p> <p>*Intermediate, longterm and extended care facilities: ten thousand (10,000) sq. ft.</p> <p>*Nonresidential uses: ten thousand (10,000) sq. ft. *Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.</p> <p>Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.</p> |
| <p><i>Minimum street frontage:</i></p> | <p>Fifty (50) feet, except that if the average street frontage of all lots within two hundred (200) feet of the boundaries of the lot in question on the same side of the street and within the zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.</p> | <p>Fifty (50) feet.</p> | <p>Fifty (50) feet.</p> |
| <p><i>Yard dimensions:</i></p> | <p>Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.</p> | <p>Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.</p> | <p>Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.</p> |

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| <p>Minimum front yard</p> | | | <p>None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.</p> |
| <p>Maximum front yard</p> | <p>*Principal or accessory structure: the maximum front yard setback shall either be: ten feet; or in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.</p> <p>Building additions are not required to meet this maximum setback.</p> | <p>*(On-peninsula): The maximum front yard setback shall either be: ten feet; or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.</p> <p>Building additions are not required to meet this maximum setback.</p> <p>*(Off-peninsula): None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.</p> <p>*Where the front yard setback exceeds ten (10) feet, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street.</p> | |
| <p>Rear yard</p> | <p>*Principal structures: none, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.</p> | <p>*Principal structures: ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.</p> | <p>*Principal structures: ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.</p> |

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| | <p>*Accessory structures (detached): none, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.</p> <p>*Principal and accessory structures: none, except where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.</p> <p>*Accessory structures (detached): none, except where a side yard abuts a residential use, a minimum of five (5) feet is required.</p> <p>*Side yards on side streets (corner lot): principal or accessory structures: ten (10) feet maximum setback, except for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets.</p> <p>This maximum setback shall not apply to building additions.</p> | <p>*Accessory structures: Five (5) feet.</p> <p>*Principal and accessory structures: none, except where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.</p> <p>*Accessory structures: Five (5) feet</p> <p>*Side yards on side streets (corner lot): a maximum of ten (10) feet except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets.</p> <p>This maximum setback shall not apply to building additions.</p> | <p>*Accessory structures: Five (5) feet.</p> <p>*Principal and accessory structures: none, except that where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.</p> <p>*Accessory structures: Five (5) feet</p> <p>*Side yards on side street (corner lot): A minimum of ten feet.</p> |
| <p>Side yard</p> | | | |
| <p><i>Minimum Lot Width:</i></p> | <p>None</p> | <p>None</p> | <p>None</p> |
| <p><i>Maximum Structure Height:</i></p> | <p>Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.</p> | <p>Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under side yard are increased by one (1)</p> | <p>Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under side yard are increased by one (1)</p> |

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| <p><i>Maximum impervious surface ratio:</i></p> <p><i>Floor area:</i></p> <p><i>Front yard parking:</i></p> | <p>Ninety (90) percent.</p> <p>The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) sq. ft.</p> <p>The maximum first floor area of a multi-tenant building shall be no greater than ten thousand (10,000) sq. ft.</p> <p>There shall be no off street parking in the front yard between the street line and the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.</p> | <p>foot in distance for each foot of height above forty-five (45) feet.</p> <p>Ninety (90) percent.</p> <p>*On-peninsula: There shall be no parking in the front yard between the street line and the required maximum setback line in the B-2b. Where existing buildings exceed the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.</p> <p>*Off-peninsula: Parking in the front yard between the street line and the required maximum setback line in the B-2b is discouraged. However, where parking in the front yard is permitted, a maximum of fifty percent (50%) of the total parking on the site may be located between the principal structure and the street.</p> | <p>foot in distance for each foot of height above forty-five (45) feet.</p> <p>Eighty (80) percent.</p> <p>There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.</p> |
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Cowdell

*Eastland 775-5411
 Marriott 871-8000
 P.Hd. Harbor 775-9090*

| Land Use | Proposed Westin | DoubleTree | Hilton Garden | Holiday Inn by Bay | Regency | MISC |
|----------------------------------|-----------------|------------|---------------|--------------------|----------|------|
| Phone/Contact | | 774-5611 | 780-0780 | 775-2311 | 774-4200 | |
| # Hotel Rooms | | | | 239 | | |
| #Condo/Hoteliniums | | 0 | 0 | 0 | 0 | |
| Restaurant size | | | | | | |
| Shops/Commercial | | | | | | |
| Meeting/BanquetSize | | | | 3000 sq ft. | | |
| Total # <i>Parking Spaces</i> | | | | | | |

HOTEL PARKING REQUIREMENTS

Portland, Maine Zoning

| | | | | |
|---------------------|--------------------|-------------------|-----------------|----------------------------------|
| 1 sp per 4 guest Rm | NPA | Parking | Prkng 101 | ITE 3 rd Edition peak |
| | 1 per Room + | 1 per Room + | 1 per Room + | Hotel .91 per Room |
| | 1 per 4 Employees | 1 per 4 Employees | Rstrnt/Bar/Bnqt | All Suites 1.1 per rm |
| | + Rstrnt/Bar/Bnqt. | 1.2 | & employees | Bus.Hotel .66 per rm |
| | | | | Resort 1.42 per room |

City of Portland, Maine
IN THE CITY COUNCIL

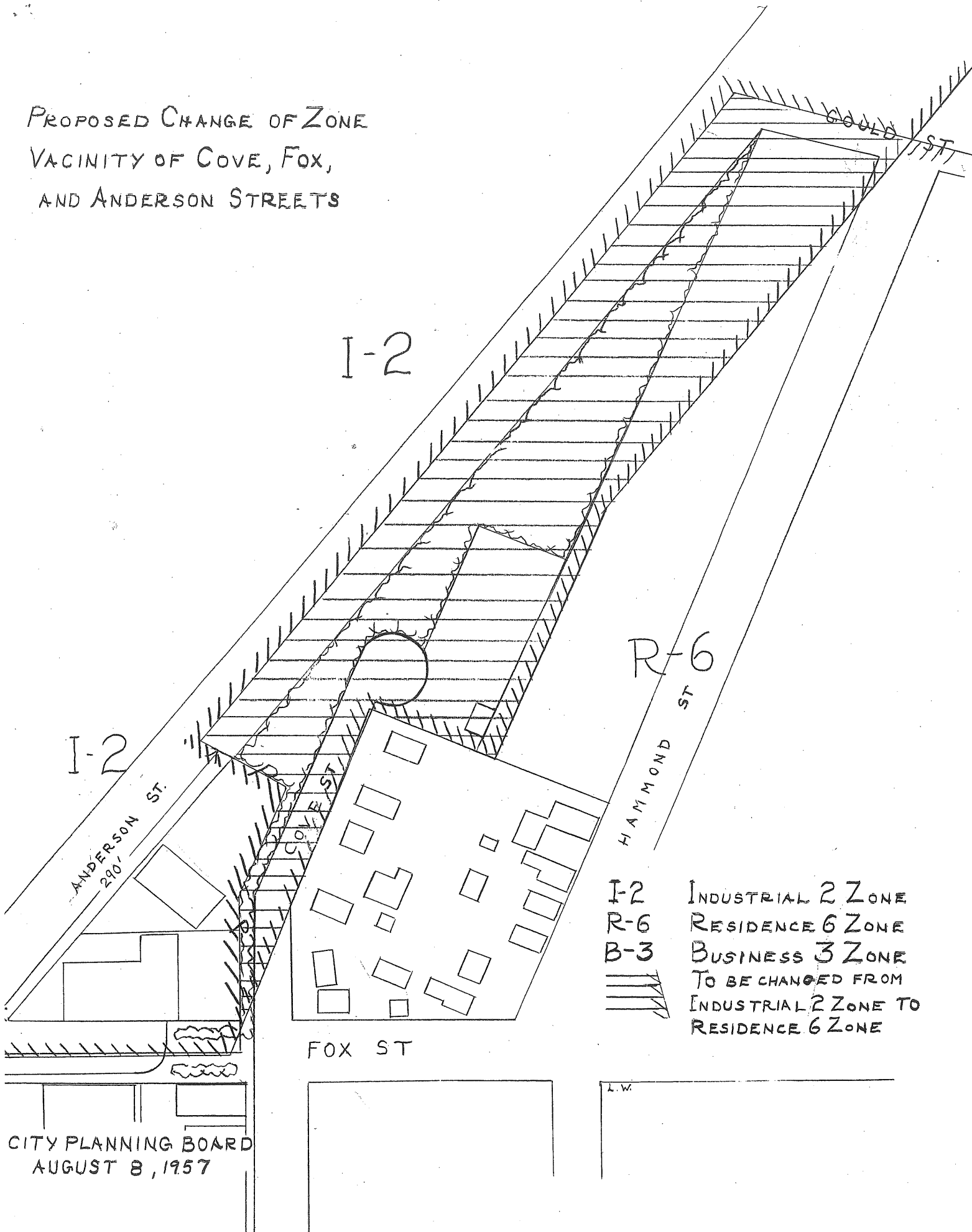
The Zoning Ordinance ordained June 6, 1957 is hereby amended as follows:

1. By amending Section 1-A as follows:

Zone lines and classifications, as established and laid down on the Official Zoning Maps dated ~~June 6, 1957~~ ^{March, 1957, as amended} are altered, changed and established as shown on the Plan entitled, "Proposed Change of Zone, Vicinity of Cove, Fox, and Anderson Streets," dated August 8, 1957, and such change shall be incorporated into and made a part of the Official Zoning Maps dated ~~June 6, 1957~~ March, 1957, as amended.

Aug. 15, 1957


PROPOSED CHANGE OF ZONE
 VACINITY OF COVE, FOX,
 AND ANDERSON STREETS



I-2

I-2

R-6

- I-2 INDUSTRIAL 2 ZONE
- R-6 RESIDENCE 6 ZONE
- B-3 BUSINESS 3 ZONE
-  TO BE CHANGED FROM INDUSTRIAL 2 ZONE TO RESIDENCE 6 ZONE

CITY PLANNING BOARD
 AUGUST 8, 1957

L.W.

City of Portland, Maine
IN THE CITY COUNCIL

OFFICE OF THE CITY CLERK
CITY OF PORTLAND, MAINE
The following proposed Amendments
to the Zoning Ordinance were pre-
sented to the City Council on August
19, 1957 and after having a first
reading the City Council in City
Council Assembled Ordered that the
City Clerk give notice that a Public
Hearing will be held in the Council
Chamber, City Hall, Portland, Maine
on Wednesday, September 4, 1957 at
9:00 A.M. at which time all inter-
ested parties will be heard.
Arthur H. Duffett, City Clerk

1. Re change of zone lines vicinity
Penwick Road
2. Re Parking Lots in B3 Business
Zone
3. Re Zone Expansion vicinity Fox,
Anderson & Cove Streets
4. Re Conditional Use of Fort Levitt
area
5. Re Division of Frontage Lots by
Zone Boundaries
6. Re Zone Chanke vicinity Warren
Avenue and Hicks Street

8/28/57

See 473 for Legal Advt.

AMENDMENT TO ZONING MAP
EXPANDING R6 RESIDENCE
ZONE VICINITY FOX, ANDER-
SON & COVE STREETS.

475-
9075


IN THE CITY COUNCIL

August 19, 19 57

Given first reading and tabled
for Public Hearing, 9 Yeas.

Sept. 4, 1957: Removed from table,
7 Yeas. Public Hearing held. Tabled.

Sept. 16, 1957 Removed from table,
8 Yeas. Given second reading and
passed, 8 Yeas.

Attest: 
City Clerk.

Planning Division
389 Congress Street
Portland, ME 04101
Phone: 207-874-8901
Fax: 207-756-8258

City of Portland, Maine

Fax

To: Glen Morse

From: Kandice Talbot

Fax: 839-8091

Date: November 18, 2005

Phone:

Pages: 7

Re: 218 Washington Avenue

CC:

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

•Comments: Attached are the Planning Board Memo and Planning Board Agenda for Tuesday's Planning Board Meeting. If you have any questions, please do not hesitate to contact me at 874-8901.

WORKSHOP AGENDA

The Portland Planning Board will hold a Workshop on Tuesday, November 22nd, 2005, 3:30 p.m., Room 209, 2nd Floor, City Hall. The tentative agenda includes the following:

- i. USM Campus Overlay Zone; Vicinity of Falmouth & Bedford Streets and Brighton & Forest Avenues; USM, Applicant.
- ii. R-3 to B-2b Rezoning; Vicinity of 218 Washington Avenue; Glen Morse, Applicant
- iii. Rand Road Rezoning RPZ to OP; Vicinity of Rand Road and Turnpike Exit Road; City of Portland, Applicant.

Workshop meetings are informational - no vote or final action is taken.

Memorandum
Department of Planning and Development
Planning Division



To: Chair Lowry and Members of the Portland Planning Board

From: Kandice Talbot, Planner

Date: Prepared on November 17, 2005 for
November 22, 2005 Workshop

Re: Zone Change, 218 Washington Avenue

Introduction

Glen Morse is requesting a zone change from R-3 Residential to the B-2b Community Business zone for the property located at 218 Washington Avenue. Currently located at the site is a 2-family residential building. This is the second workshop for this proposal. The Planning Board had requested research on the R-3 zoning of the site. The Planning Board also wanted to look at rezoning the area zoned R-3 along the westerly side of Washington Avenue, from Gould Street to Tukey's Bridge.

The site is approximately 10,000 sq. ft. and is located at 218 Washington Avenue. The zone change application is included as Attachment 1.

Surrounding Uses

The uses in the area surrounding 218 Washington Avenue are mixed uses. Primarily along Washington Avenue the uses are single- and multi-family homes. Along Anderson Street, to the rear of the site, the uses are primarily industrial, which include Rockingham Electric, a warehouse, and an auto body shop. The use across from the site on Washington Avenue is City owned property and is part of the Eastern Prom parkland.

As shown on the attached zoning map, the B-2b zone is located further down Washington Avenue to the south and an Ilb zone is located to the west of Washington Avenue, within this area.

Development Plan

The applicant does not have any specific development plan at this time, but is requesting this B-2b zone change to allow retail and commercial uses in the building, along with constructing additional buildings on the site. The applicant has stated that his proposal is to construct two to three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

The Planning Board should be aware, however, that the topography at the rear of 218 Washington Avenue is very steep. The applicant has stated that he is proposing to fill the site to create more buildable area, but because of the steep slopes the development opportunities may be restricted.

Zoning History

Staff has tried to research the zoning to determine why these parcels have remained R-3. It appears from old zoning maps that these parcels were zoned G, General Business in 1946. It appears from a zoning amendment dated in 1957, that this area had been rezoned between 1946 and 1957 to I-2 Industrial. Somewhere between 1957 and 1975, the parcels were rezoned to R-3.

It is not clear why these parcels were rezoned to R-3, but during research of zoning amendments within this area, a zoning amendment was approved for properties located in the vicinity of Fox Street, Anderson Street and Cove Street. The reason for this proposed amendment was because the plan for the Bayside Renewal Project specified the use of this area for residential purposes. The change allowed the residences along Cove Street protection under the Zoning Ordinance. It also permitted the provision of certain features to screen the residences from the adjacent industrial development and prevented the encroachment of industrial development.

Although research did not find a specific zoning amendment, which changed the zoning to R-3, it may be possible that given the residential units within this area of Washington Avenue, the rezoning occurred to prevent the encroachment of further industrial development, while maintaining the views toward North Street and along Washington Avenue.

Policy Considerations

At the previous workshop, discussions were held regarding the B-1b, B-2b and B-2c zoning. The applicant requested a rezoning to B-2b Community Business Zone because it is the nearest business zone to the property. The Board also discussed rezoning all of the parcels within the R-3 zone, instead of just 218 Washington Avenue, because of frontage on Washington Avenue and its proximity to Tukey's Bridge. Following are discussions regarding the B-1b, B-2b and B-2c zoning.

B-2b Community Business Zone

The purpose of the B-2b Community Business zone is:

“B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a

pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.”

The change from R-3 to B-2b would allow a commercial/retail use within the building. As stated previously, the nearest commercial zone is the B-2b zone, which is located further down Washington Avenue to the south. 218 Washington Avenue is located near Tukey’s Bridge and is located near an existing urban and neighborhood oriented building pattern. The B-2b zone does not require that residential uses be located on the upper stories within this zone, however in any structure that has commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

Uses allowed in the B-2b Community Business zone include, but are not limited to, residential, offices, personal services, retail establishments, restaurants, drinking establishments, miscellaneous repair services, theaters, hotels or motels, drive-throughs, etc.

The B-2b zone dimensional requirements include:

- Minimum lot size: Nonresidential uses: None, but where multiple uses are on one lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard (on-peninsula): ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-1b Neighborhood Business Zone

The purpose of the B-1b Neighborhood Business zone is:

“To provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures.

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.”

The B-1b Neighborhood Business zone would require residential uses on upper floors of any new or existing buildings. The uses allowed in a B-1b zone are less intense uses and are more compatible with residential uses and are more of a neighborhood use. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-1b dimensional requirements include:

- Minimum lot size: Nonresidential uses: 10,000 sq. ft., however, where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Minimum front yard: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.
- Maximum structure height: thirty-five (35) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2c Community Business Zone

Another possible zone to look at would be the B-2c Community Business Zone. The purpose of the B-2c Community Business Zone is:

“To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.”

The B-2c zone would allow the same uses as the B-2b zone, with the exception of businesses that serve liquor, service stations, and drive-throughs.

The B-2c dimensional requirements include:

- Minimum lot size: Nonresidential uses: None.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard: ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: eighty (80) percent.

Zoning Analysis

The B-2b zone is the closest business zone to 218 Washington Avenue, which ends at Gould Street. Between Gould Street and the Eastern Prom are approximately six (6) properties, which are zoned R-3 along Washington Avenue. The Board may want to consider rezoning the entire R-3 zone to a business zone, since it is along an arterial street.

As stated previously, the B-2b zone has more intense uses. Commercial zones, with the exception of the ROS zone across Washington Avenue, surround these properties within this area of Washington Avenue. If the Board did determine that a business zone would be appropriate for this area, the Board may want to take into consideration the existing residential homes in this neighborhood and the types of uses that may abut the residential uses.

Staff would recommend that the Planning Board look at rezoning the parcels within the R-3 zone along Washington Avenue to B-1b. The B-1b zoning allows neighborhood uses within the first floor of a building, but requires that the upper floors of a building be maintained as residential. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-2c zone does not allow intense uses such as drinking establishments, service stations or drive-throughs, but does not require that residential uses be maintained on the upper floors of an existing or new building.

Also, the maximum height in the B-1b zone is 35 feet, which is the same height limitations as the R-3 zone. The B-2b or B-2c zone would allow a maximum height of 45 feet.

Advertisement

As stated previously, staff is recommending that the Planning Board advertise to rezone the properties within the R-3 zone, on the westerly side of Washington Avenue to B-1b.

However, the Planning Board may wish to look at a couple of options. One would be to rezone only 218 Washington Avenue to either the B-1b, B-2b or B-2c zone. Another option would be to rezone the properties on the westerly side of Washington Avenue, from Gould Street to the Eastern Prom, to either the B-1b, B-2b or B-2c zone. Staff will be looking for direction as to how the Planning Board would like to advertise for a public hearing.

Attachments:

1. Zone Change Application and Attachments
2. Zoning Map
3. R-3 Zoning Text
4. Comparison Chart of the B-1b, B-2b and B-2c Zones

#471

CITY OF PORTLAND, MAINE

Neal W. Allen
Chairman
Dwight E. Sargent
Vice-Chairman
Robert E. Brackett
Helen C. Frost
Hubert H. Hauck

CITY PLANNING BOARD

August 15, 1957

Floyd E. McKay
Acting Planning
Director

To the Honorable City Council
of the City of Portland, Maine

Gentlemen:

The Planning Board at its meeting of August 8, 1957 voted to approve an amendment to the Zoning Map in the vicinity of Fox Street, Anderson Street and Cove Street expanding the R6 Residence Zone in that vicinity. The reason for this proposed amendment is that the plan for the Bayside Renewal Project specifies the use of this area for residential purposes. This change will give all the residences along Cove Street which are to be retained in the plan protection under the Zoning Ordinance that a portion of them previously lacked. It also permits the provision of certain features to screen the residences from the adjacent industrial development and prevents the encroachment of such development into the project along the easterly side of Anderson Street.

Respectfully submitted,

For

Neal W. Allen
Chairman

By

F. E. McKay

Acting Planning Director

Attachments 2

Results of search "RESIDENTIAL ZONE" (Page 1):

 Municipal Code, Zoning (6)

Context Lines:

Page 46: 14-67(2)(ϕ) re: R-1 **Residential Zone** Amend. to Code Ch. 14 (Lsnd Use) Art.
Page 46: Sec. 14-87(2)(a) re **Residential Zone** Amand. to Code Ch. 14 (Land Use) Art.
Page 47: . III IR-3 Island **Residential Zone** Amend. to Code Ch. 14 (Land Use) Ar
Page 48: t. III/ re Island **Residential Zone** IR-1 ~ ,~ 27
Page 55: Amend to : re R-5A **Residential zone** Amend to : re R-6 Residential Zone
Page 55: Amend to : re R-6 **Residential Zone** Amend to : re

 Planning, Planning & Urban Dev (3)

Context Lines:

Page 37: 14~??(2)(a) re R-2 **Residential Zone** Amend. to Code Ch. 14 (Land Use) Art
Page 37: Sec.14~~/2) (a) re **residential zone** Amend to Code Ch. 14 (Land use)A~
Page 38: Art, III) re R-1 **REsidential Zone** 3O 1102_130 -- 31 1102_135

Results of search "ZONING" (Page 1):

- 📄 Municipal Code, Zoning (208)
- 📄 Appeals, 1931 to Date, C (193)
- 📄 Appeals, 1931 to Date, M (184)
- 📄 Appeals, 1931 to Date, S (169)
- 📄 Appeals, 1931 to Date, D (129)
- 📄 Appeals, 1931 to Date, H (118)
- 📄 Appeals, 1931 to Date, B (110)
- 📄 Appeals, 1931 to Date, W (100)
- 📄 Appeals, 1931 to Date, G (88)
- 📄 Appeals, 1931 to Date, L (80)
- 📄 Appeals, 1931 to Date, R (80)
- 📄 Appeals, 1931 to Date, F (71)
- 📄 Appeals, 1931 to Date, K (59)
- 📄 Appeals, 1931 to Date, A (57)
- 📄 Appeals, 1931 to Date, T (55)
- 📄 Municipal Code Ordinances (50)
- 📄 Appeals, 1931 to Date, N (49)
- 📄 Appeals, 1931 to Date, J (33)
- 📄 Appeals, 1931 to Date, V (32)
- 📄 Planning, Planning Board (31)
- 📄 Appeals, 1931 to Date, E (29)
- 📄 Streets/Sewers, 1885 to Date, C (29)
- 📄 Appeals, 1931 to Date, O (21)
- 📄 Municipal Code Amendments (20)
- 📄 Streets/Sewers, 1885 to Date, W (19)
- 📄 Appeals, 1931 to Date, Y (14)
- 📄 Streets/Sewers, 1885 to Date, F (14)
- 📄 Appeals, 1931 to Date, U (12)
- 📄 Claims & Petitions, M (12)
- 📄 Streets/Sewers, 1885 to Date, B (12)
- 📄 Streets/Sewers, 1885 to Date, A (11)
- 📄 Board of Appeals (10)
- 📄 Streets/Sewers, 1885 to Date, P (10)
- 📄 Claims & Petitions, D (9)
- 📄 Claims & Petitions, C (7)
- 📄 Claims & Petitions, S (7)
- 📄 Streets/Sewers, 1885 to Date, R (7)
- 📄 Claims & Petitions, B (6)
- 📄 Committees (6)
- 📄 Streets/Sewers, 1885 to Date, S (6)
- 📄 Appeals, 1931 to Date, I (5)
- 📄 Claims & Petitions, F (5)
- 📄 Claims & Petitions, H (5)
- 📄 Municipal Code, Site Plan (5)
- 📄 Planning, Planning & Urban Dev (5)
- 📄 Streets/Sewers, 1885 to Date, M (5)
- 📄 Streets/Sewers, 1885 to Date, O (5)
- 📄 Claims & Petitions, G (4)
- 📄 Claims & Petitions, P (4)
- 📄 Claims & Petitions, R (4)
- 📄 Streets/Sewers, 1885 to Date, L (4)
- 📄 City Clerk (3)
- 📄 Individuals, 1885 - 1930, B (3)
- 📄 Portland Harbor (3)
- 📄 Streets, Parking (3)
- 📄 Streets/Sewers, 1885 to Date, D (3)
- 📄 Streets/Sewers, 1885 to Date, H (3)
- 📄 Appeals, 1931 to Date, Q (2)
- 📄 Appeals, 1931 to Date, Z (2)
- 📄 Claims & Petitions, E (2)
- 📄 Claims & Petitions, K (2)
- 📄 Claims & Petitions, L (2)

Results of search "ZONING" (Page 2):

- 📄 Claims & Petitions, Mc (2)
- 📄 Claims & Petitions, W (2)
- 📄 Comm Zoning & Bldg Ord Appeals (2)
- 📄 Communication (2)
- 📄 Executive Session (2)
- 📄 Special Meeting (2)
- 📄 Streets (2)
- 📄 Streets, Signs (2)
- 📄 Streets/Sewers, 1885 to Date, I (2)
- 📄 Streets/Sewers, 1885 to Date, N (2)
- 📄 Streets/Sewers, 1885 to Date, V (2)
- 📄 Airport (1)
- 📄 City Manager (1)
- 📄 Claims & Petitions, A (1)
- 📄 Claims & Petitions, J (1)
- 📄 Claims & Petitions, O (1)
- 📄 Claims & Petitions, U (1)
- 📄 Claims & Petitions, Y (1)
- 📄 Custom House Wharves (1)
- 📄 Economic Development (1)
- 📄 Elections (1)
- 📄 Historic Preservation Program (1)
- 📄 Individuals, 1885 - 1930, C (1)
- 📄 International Marine Terminal (1)
- 📄 Municipal Code - Building (1)
- 📄 Planning, Housing (1)
- 📄 Recreation (1)
- 📄 Referendum (1)
- 📄 Resolutions (1)
- 📄 Streets, Council of Governments (1)
- 📄 Streets, Traffic (1)
- 📄 Streets/Sewers, 1885 to Date, K (1)
- 📄 Streets/Sewers, 1885 to Date, T (1)
- 📄 Streets/Sewers, 1885 to Date, U (1)
- 📄 Streets/Sewers, 1885 to Date, Y (1)

Memorandum
Department of Planning and Development
Planning Division



To: Chair Lowry and Members of the Portland Planning Board

From: Kandice Talbot, Planner

Date: Prepared on October 21, 2005 for
October 28, 2005 Workshop

Re: B-2b Zone Change, 218 Washington Avenue

Introduction

Glen Morse is requesting a zone change from R-3 Residential to the B-2b Community Business zone for the property located at 218 Washington Avenue. Currently located at the site is a 2-family residential building.

The site is approximately 10,000 sq. ft. and is located at 218 Washington Avenue. The zone change application is included as Attachment 1.

Surrounding Uses

The uses in the area surrounding 218 Washington Avenue are mixed uses. Primarily along Washington Avenue the uses are single- and multi-family homes. Along Anderson Street, to the rear of the site, the uses are primarily industrial, which include Rockingham Electric, a warehouse, and an auto body shop. The use across from the site on Washington Avenue is City owned property and is part of the Eastern Prom parkland.

As shown on the attached zoning map, the B-2b zone is located further down Washington Avenue to the south and an Ilb zone is located to the west of Washington Avenue, within this area.

Development Plan

The applicant does not have any specific development plan at this time, but is requesting this B-2b zone change to allow retail and commercial uses in the building, along with constructing additional buildings on the site. The applicant has stated that his proposal is to construct two to three additional three-story buildings on site and market the first floor space as retail/commercial space, while maintaining residential uses on the upper two stories, with parking below the buildings.

The Planning Board should be aware, however, that the topography at the rear of 218 Washington Avenue is very steep. The applicant has stated that he is proposing to fill the site to create more buildable area, but because of the steep slopes the development opportunities may be restricted.

Policy Considerations

B-2b Community Business Zone

The purpose of the B-2b Community Business zone is:

“B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.”

The change from R-3 to B-2b would allow a commercial/retail use within the building. As stated previously, the nearest commercial zone is the B-2b zone, which is located further down Washington Avenue to the south. 218 Washington Avenue is located near Tukey’s Bridge and is located near an existing urban and neighborhood oriented building pattern. The B-2b zone does not require that residential uses be located on the upper stories within this zone, however in any structure that has commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

Uses allowed in the B-2b Community Business zone include, but are not limited to, residential, offices, personal services, retail establishments, restaurants, drinking establishments, miscellaneous repair services, theaters, hotels or motels, drive-throughs, etc.

The B-2b zone dimensional requirements include:

- Minimum lot size: Nonresidential uses: None, but where multiple uses are on one lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard (on-peninsula): ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-1b Neighborhood Business Zone

Although the applicant is requesting a B-2b zone change, the Board may want to look at the B-1b Neighborhood Business Zone. The purpose of the B-1b Neighborhood Business zone is:

“To provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures.

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.”

The B-1b Neighborhood Business zone would require residential uses on upper floors of any new or existing buildings. The uses allowed in a B-1b zone are less intense uses and are more compatible with residential uses and are more of a neighborhood use. Uses that are allowed in the B-2b zone, but not allowed in the B-1b zone are drinking establishments, miscellaneous repair services, theaters, hotels or motels, and drive-throughs. Restaurants are allowed, but need to obtain conditional use approval first.

The B-1b dimensional requirements include:

- Minimum lot size: Nonresidential uses: 10,000 sq. ft., however, where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Minimum front yard: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot.
- Maximum structure height: thirty-five (35) feet.
- Maximum impervious surface ratio: ninety (90) percent.

B-2c Community Business Zone

Another possible zone to look at would be the B-2c Community Business Zone. The purpose of the B-2c Community Business Zone is:

“To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.”

The B-2c zone would allow the same uses as the B-2b zone, with the exception of businesses that serve liquor, service stations, and drive-throughs.

The B-2c dimensional requirements include:

- Minimum lot size: Nonresidential uses: None.
- Minimum lot size: Multi-family dwellings above the first floor: 1,000 sq. ft. of land area per dwelling unit.
- Maximum front yard: ten feet or in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth.
- Maximum structure height: forty-five (45) feet.
- Maximum impervious surface ratio: eighty (80) percent.

Zoning Analysis

The B-2b zone is the closest business zone to 218 Washington Avenue, which ends at Gould Street. Between Gould Street and the Eastern Prom are approximately six (6) properties, which are zoned R-3 along Washington Avenue. The Board may want to consider rezoning the entire R-3 zone to a business zone, since it is along an arterial street.

As stated previously, the B-2b zone has more intense uses. Commercial zones, with the exception of the ROS zone across Washington Avenue, surround these properties within this area of Washington Avenue. If the Board did determine that a business zone would be appropriate for this area, the Board may want to take into consideration the existing residential homes in this neighborhood and the types of uses that may abut the residential uses.

Also, it is not clear why this area has remained R-3, but it may have something to do with the heights within this area, to maintain views to and from the Eastern Prom. If those views were to be maintained, the B-1b zone would be a more logical zone because the B-1b zone would allow a maximum height of 35 feet, which are the same height limitations as the R-3 zone, whereas the B-2b or B-2c zone would allow a maximum height of 45 feet.

Advertisement

The Planning Board may wish to look at a couple of options. One would be to rezone only 218 Washington Avenue to either the B-1b, B-2b or B-2c zone. Another option would be to rezone the properties on the westerly side of Washington Avenue, from Gould Street to the Eastern Prom, to either the B-1b, B-2b or B-2c zone. Staff will be looking for direction as to how the Planning Board would like to advertise for a public hearing.

Attachments:

1. Zone Change Application and Attachments
2. R-3 Zoning Text
3. B-1/B-1b Zoning Text
4. B-2/B-2b/B-2c Zoning Text



City of Portland, Maine
Department of Planning and Development

Att. 1

Text Amendment Application

Application ID: 832 Application Date: 07/28/2005 CBL: 010 A015001 Property Location: 218 Washington Ave

Applicant Information:

Glenn Morse
Name

Business Name

P.O. Box 1466
Address

Scarborough, ME 04070
City, State and Zip

207-590-3877 839-8091 (fax)
Telephone Fax

Applicant's Right, Title or Interest in Subject Property:

Title

Current Zoning Designation: R3

Existing Use of Property:

Subject property is presently a 2-family dwelling on a 10,000 sq. ft. lot in the R-3 zone.

Proposed Use of Property:

Proposal to rezone to B-2b from R-3.

Property Owner:

Maloney Philip
Name

218 Washington Ave
Address

Portland, ME 04101
City, State and Zip

Telephone Fax

Amendment A B2b

Amendment B

Amendment C

Section 14:

Planning Approval

REVIEW TYPE: Committee Review

RECOMMENDATION DATE: _____ APPROVAL DATE: _____ ENACTMENT DATE: _____



APPLICATION FOR ZONING AMENDMENT
 City of Portland, Maine
 Department of Planning and Development
 Portland Planning Board

1. Applicant Information:
Glenn Morse
 Name
P.O. Box 1466
 Address
Scarborough, Me 04070
207 (590-3877) (Cell)
 Phone Fax

2. Subject Property:
218 WASHINGTON Ave
 Address
PORTLAND, Me 04101
10-A-15
 Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other
 Name
Same as above
 Address

 Phone Fax

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

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.)

5. 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.)

6. Existing Use:

Describe the existing use of the subject property:

Subject Property is presently a 2-Family Dwelling on a 10,300 sf. lot, R-3

7. Current Zoning Designation(s): R-3

8. 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.

Proposal to Re-zone to B 2b from R-3

9. Sketch Plan: On a separate sheet please provide a sketch 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"=100'.)

10. Proposed Zoning: Please check all that apply:

A. Zoning Map Amendment, from R-3 to B 2b

B. Zoning Text Amendment to Section 14-_____

For 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 with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning may 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 and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** An application fee must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code. The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing Notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

_____ Fee for Service Deposit (\$200.00) **(Required for all applications)**

~~_____~~ Zoning Map Amendment \$2,000.00

_____ Zoning Text Amendment \$2,000.00

_____ Contract/Conditional Rezoning
Under 5,000 sq. ft. \$1,000.00
5,000 sq. ft. and over \$3,000.00

Legal Advertisements percent of total bill

Notices .55 cents each
(receipt of application, workshop and public hearing)

NOTE: Legal notices placed in the newspaper are required by State Statute and local ordinance. Applicants will be billed once the public hearing has taken place.

12. **Signature:** The above information is true and accurate to the best of my knowledge.

Date of Filing

Signature of Applicant

Further Information:

Please contact the Planning Division for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

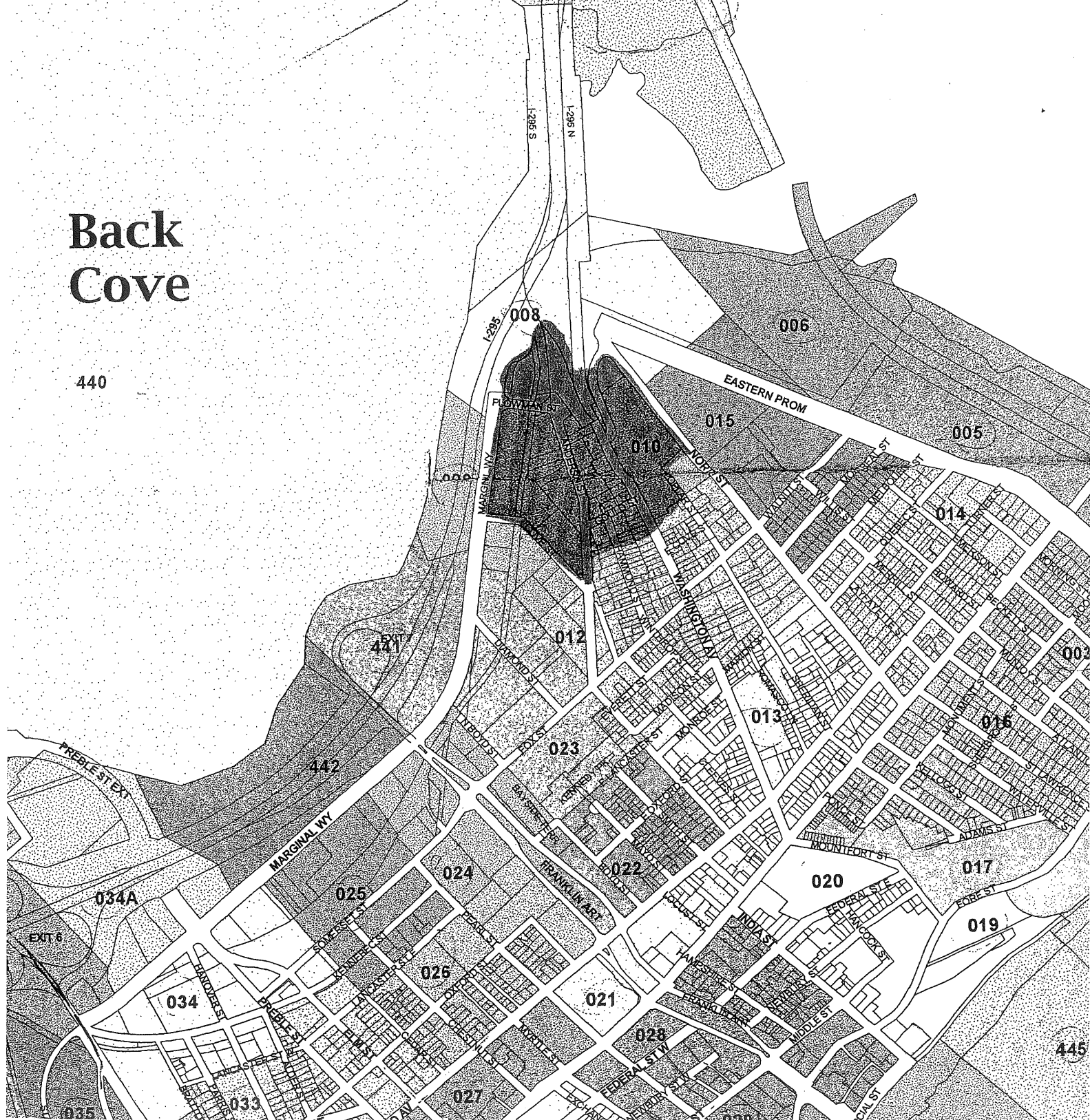
Portland Planning Board
Portland, Maine

Effective: July 6, 1998



Back Cove

440



445

PURCHASE AND SALE AGREEMENT

June 19, 2005

6/20/2005 Effective Date
Effective Date is defined in Paragraph 24 of this Agreement.

1. PARTIES: This Agreement is made between Glenn Morse (hereinafter called "Buyer") and Estate of Philip Maloney (hereinafter called "Seller").

2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy (all [X] part of [] ; If "part of" see para. 26 for explanation) the property situated in municipality of Portland, County of Cumberland, State of Maine, located at 218 Washington Ave and described in deed(s) recorded at said County's Registry of Deeds Book(s) , Page(s) .

3. FIXTURES: The Buyer and Seller agree that all fixtures, including but not limited to existing storm and screen windows, shades and/or blinds, shutters, curtain rods, built-in appliances, heating sources/systems including gas and/or kerosene-fired heaters and wood stoves, and electrical fixtures are included with the sale except for the following: none

Seller represents that all mechanical components of fixtures will be operational at the time of closing except:

4. PERSONAL PROPERTY: The following items of personal property are included with the sale at no additional cost, in "as is" condition with no warranties: none

Seller represents that such items shall be operational at the time of closing, except: none

5. CONSIDERATION: For such Deed and conveyance Buyer is to pay the sum of PRICE \$ 224,900.00 NKC of which DEPOSIT \$ 200,000.00 NKC is included herewith as an earnest money deposit, and an additional amount of DEPOSIT \$ 500.00 NKA will be paid DEPOSIT \$ 2,000.00 NKA. The balance due amount is to be paid by certified or bank check, upon delivery of the Deed. BALANCE DUE \$ 199,500.00 NKC 223,900.00 NKA

This Purchase and Sale Agreement is subject to the following conditions:

6. EARNEST MONEY/ACCEPTANCE: Archie Giobbi Real Estate ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until June 20, 2005 (date) 5 [] AM [X] 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.

7. 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 on August 1, 2005 (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 days, from the time Seller is notified of the defect, unless otherwise agreed to by both Buyer and Seller, to remedy the title, after which time, if such defect is not corrected so that there is a merchantable title, Buyer may, at Buyer's option, withdraw said earnest money and be relieved from all obligations. Seller hereby agrees to make a good-faith effort to cure any title defect during such period.

8. DEED: The property shall be conveyed by a Insurable Title 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.

9. POSSESSION, OCCUPANCY, AND CONDITION: Unless otherwise agreed in writing, possession and occupancy of premises, free of tenants and occupants, shall be given to Buyer immediately at closing. Said premises shall then be broom clean, free of all possessions and debris, and in substantially the same condition as at present, excepting reasonable use and wear. 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.

Rev. Jan. 2005 Page 1 of 4 - P&S Buyer(s) Initials AG Seller(s) Initials NAK

10. **RISK OF LOSS, DAMAGE, DESTRUCTION AND INSURANCE:** Prior to closing, risk of loss, damage, or destruction of premises shall be assumed solely by the Seller. Seller shall keep the premises insured against fire and other extended casualty risks prior to closing. If the premises are damaged or destroyed prior to closing, Buyer may either terminate this Agreement and be refunded the earnest money, or close this transaction and accept the premises "as-is" together with an assignment of the insurance proceeds relating thereto.

11. **PRORATIONS:** The following items, where applicable, shall be prorated as of the date of closing: collected rent, association fees, (other) _____. The day of closing is counted as a Seller day. Metered utilities such as electricity, water and sewer will be paid through the date of closing by Seller. Fuel in tank (shall shall not) be paid by Buyer (cash price as of date of closing). 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.

12. **PROPERTY DISCLOSURE FORM:** Buyer acknowledges receipt of Seller's Property Disclosure Form and is encouraged to seek information from professionals regarding any specific issue or concern. The disclosure is not a warranty of the condition of the property and is not part of this Agreement.

13. **INSPECTIONS:** Buyer is encouraged to seek information from professionals regarding any specific issue or concern. Agent makes no warranties regarding the condition, permitted use or value of Sellers' real or personal property. This Agreement is subject to the following inspections, with results being satisfactory to Buyer:

| TYPE OF INSPECTION | YES | NO | RESULTS REPORTED TO SELLER | | TYPE OF INSPECTION | YES | NO | RESULTS REPORTED TO SELLER | |
|---|-------------------------------------|-------------------------------------|----------------------------|---------------|-------------------------|-------------------------------------|-------------------------------------|----------------------------|---------------|
| | | | | | | | | | |
| a. General Building | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | <u>7</u> days | h. Lead Paint | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | <u>7</u> days |
| b. Environmental Scan | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days | i. Arsenic Treated Wood | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | <u>7</u> days |
| c. Sewage Disposal | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days | j. Pests | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days |
| d. Water Quality (including but not limited to radon, arsenic, lead, etc.) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days | k. Pool | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days |
| e. Water Quantity | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days | l. Zoning | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days |
| f. Air Quality (including but not limited to asbestos, radon, etc.) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days | m. Flood Plain | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days |
| g. Mold | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days | n. Code Conformance | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Within | _____ days |
| | | | | | o. Other _____ | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Within | _____ days |

All inspections will be done by inspectors chosen and paid for by Buyer. If the result of any inspection 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 inspection 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 inspection 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.

14. **HOME SERVICE CONTRACTS:** At closing, the property will will not be covered by a Home Warranty Insurance Program to be paid by Seller Buyer at a price of \$ _____.

15. **FINANCING:** This Agreement is is not subject to Financing. If subject to Financing:

- This Agreement is subject to Buyer obtaining a conv. loan of 80.000 % of the purchase price, at an interest rate not to exceed prev. % and amortized over a period of 30 years.
- Buyer to provide Seller with letter from lender showing that Buyer has made application and, subject to verification of information, is qualified for the loan requested within 5 days from the Effective Date of the Agreement. If Buyer fails to provide Seller with such letter within said time period, Seller may terminate this Agreement and the earnest money shall be returned to Buyer.
- Buyer to provide Seller with loan commitment letter from lender showing that Buyer has secured the loan commitment within 21 days of the Effective Date of the Agreement. If Buyer fails to provide Seller with this loan commitment letter within said time period, Seller may deliver notice to Buyer that this Agreement is terminated three business days after delivery of such notice unless Buyer delivers the loan commitment letter before the end of the three-day period. If the Agreement is terminated under the provision of this sub-paragraph, the earnest money shall be returned to Buyer.
- Buyer hereby authorizes, instructs and directs its lender to communicate the status of the Buyer's loan application to Seller or Seller's agent.
- After (b) or (c) are met, Buyer is obligated to notify Seller in writing if the lender notifies Buyer that it is unable or unwilling to proceed under the terms of the financing. Any failure by Buyer to notify Seller within two business days of receipt by Buyer of notice from the lender shall be a default under this Agreement.
- Buyer agrees to pay no more than 0 points. Seller agrees to pay up to \$ _____ toward Buyer's actual pre-pays, points and/or closing costs, but no more than allowable by Buyer's lender.
- Buyer's ability to obtain financing is is not subject to the sale of another property. See addendum Yes No .
- Buyer may choose to pay cash instead of obtaining financing. If so, buyer shall notify seller in writing and the Agreement shall no longer be subject to financing, and Seller's right to terminate pursuant to the provisions of paragraph 15 shall be void.

16. AGENCY DISCLOSURE: Buyer and Seller acknowledge they have been advised of the following relationships:

Archie Giobbi of Archie Giobbi Real Estate is a [X] Seller Agent [] Buyer Agent
Licensee Agency [] Disc Dual Agent [] Transaction Broker
Licensee Agency is a [] 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.

17. MEDIATION: Except as provided below, any dispute or claim 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. Earnest money disputes subject to the jurisdiction of small claims court will be handled in that forum.

18. 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.

19. PRIOR STATEMENTS: Any representations, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

20. 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.

21. 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.

22. ADDENDA: Lead Paint - Yes [X] No []; Other - Yes [] No []
Explain: _____

23. SHORELAND ZONE SEPTIC SYSTEM: Seller represents that the property does [] does not [X] contain a septic system within the Shoreland Zone. If the property does contain a septic system located in the Shoreland Zone, Seller agrees to provide certification at closing indicating whether the system has/has not malfunctioned within 180 days prior to closing.

24. 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 agent. Withdrawals of offers and counteroffers will be effective upon communication, verbally or in writing, to the other party. This Agreement is a binding contract when signed by both Buyer and Seller and when that fact has been communicated to Buyer and Seller. Agent is authorized to complete Effective Date on Page 1 of this Agreement. Except as expressly set forth to the contrary, the use of "by (date)" or "within x days" shall refer to calendar days being counted from the Effective Date as noted on Page 1 of the Agreement, beginning with the first day after the Effective Date and ending at 5:00 p.m. Eastern Time on the last day counted.

25. CONFIDENTIALITY: Buyer and Seller understand that the terms of this Agreement are confidential but authorize the disclosure of the information herein to the agents, attorneys, lenders, appraisers, inspectors 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 closing statement to release a copy of the closing statement to the parties and their agents prior to, at and after the closing.

26. OTHER CONDITIONS: General Inspection : the seller will grant the Buyer 7 days to inspect the house but to limit the inspection to: Rqof to determine age and condition. Foundation to determine the integrity of the foundation and to inspect for rot in Floor Joists. Hazardous Material such as Asbestos, etc.

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 Bureau of Taxation.

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 PO Box 1466, Scarborough, Me 04070

[Signature] 6/19/05 007-76-6297
BUYER Glenn Morse SS# OR TAXPAYER ID#

[Signature] 6/20/05
BUYER SS# OR TAXPAYER ID#

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 _____

Nancy A Kelly 6/20/05 7:30 pm
SELLER Estate of Philip Maloney DATE SS# OR TAXPAYER ID#

SELLER DATE SS# OR TAXPAYER ID#

Offer reviewed and refused on _____ day of _____, _____

SELLER SELLER

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.

SELLER DATE SELLER 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 _____ DATE

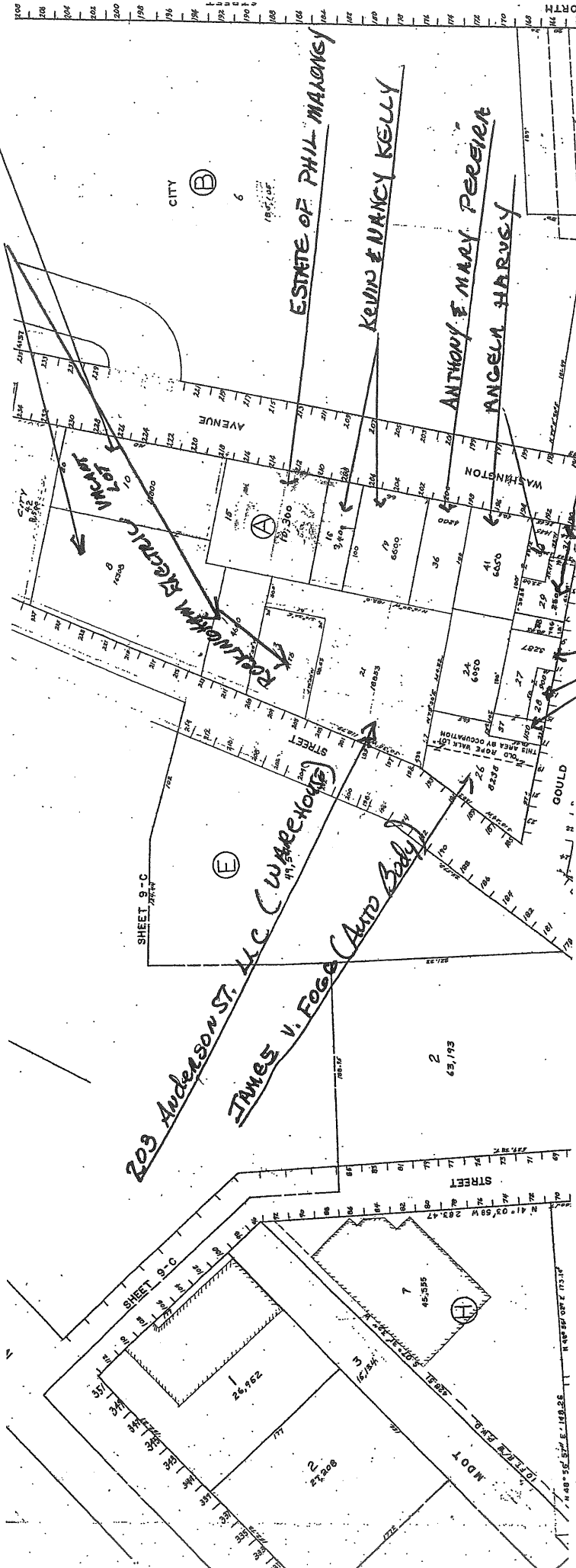
BUYER DATE SELLER DATE

BUYER DATE SELLER DATE

SUBJECT PARCEL & Abutting Parcels (Ownership)

Vicinity MAP

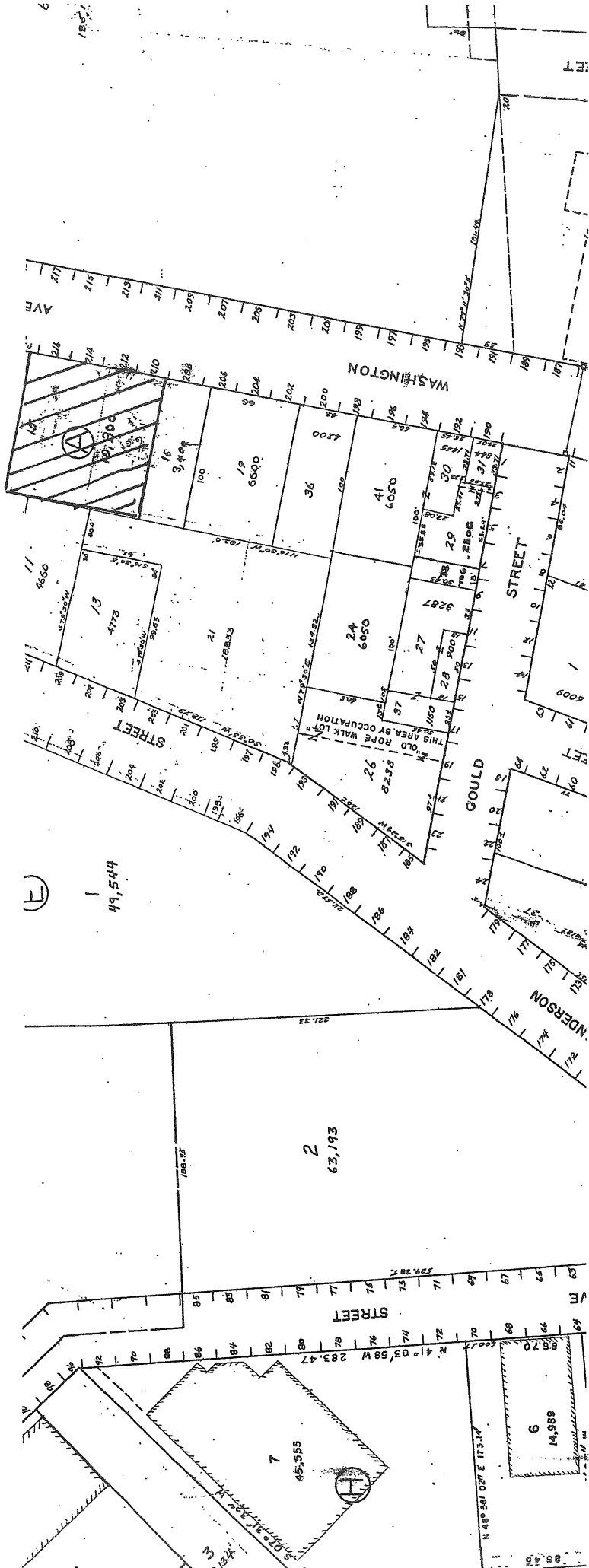
HARBERT CALFEORD
13th MARSON ST



Learned Dexter & Judith Ridge

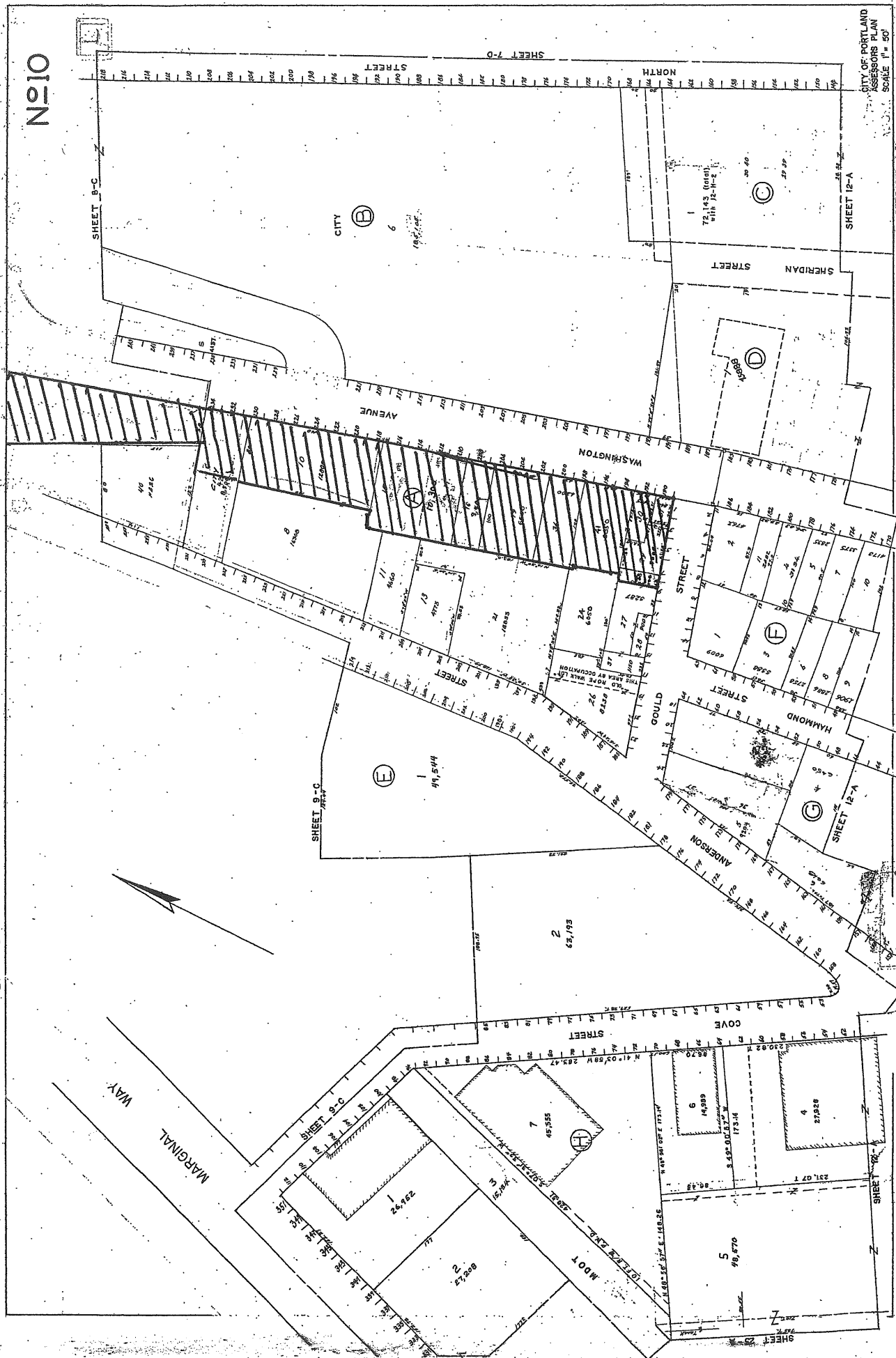
PATRICIA FLYNN
(RESIDENCE)

Applicant's Subject Property - 218 Washington Ave.
Presently R-3



SUBJECT ZONE CHANGE FROM R-3 TO B2b

Nº10

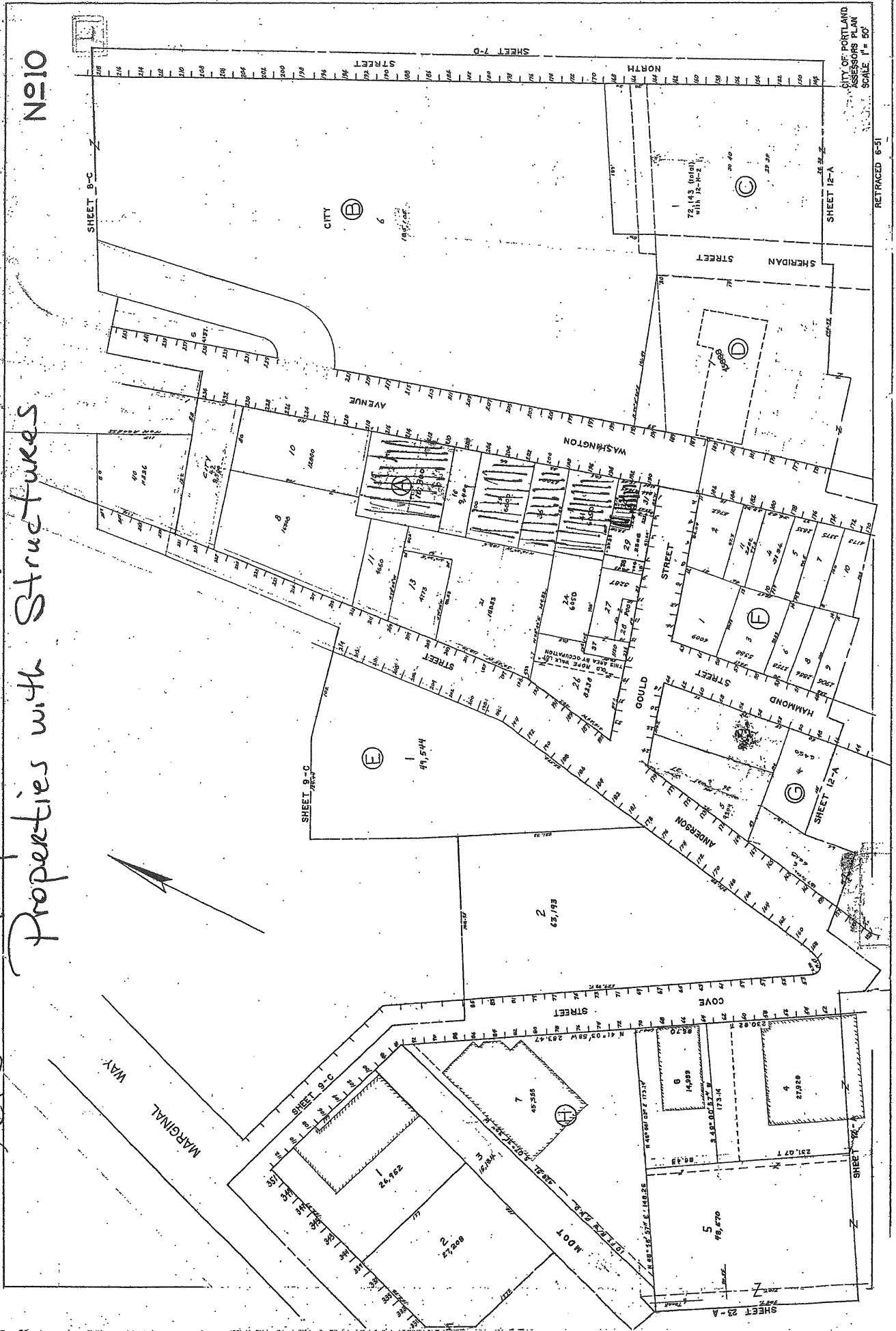


CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 50'

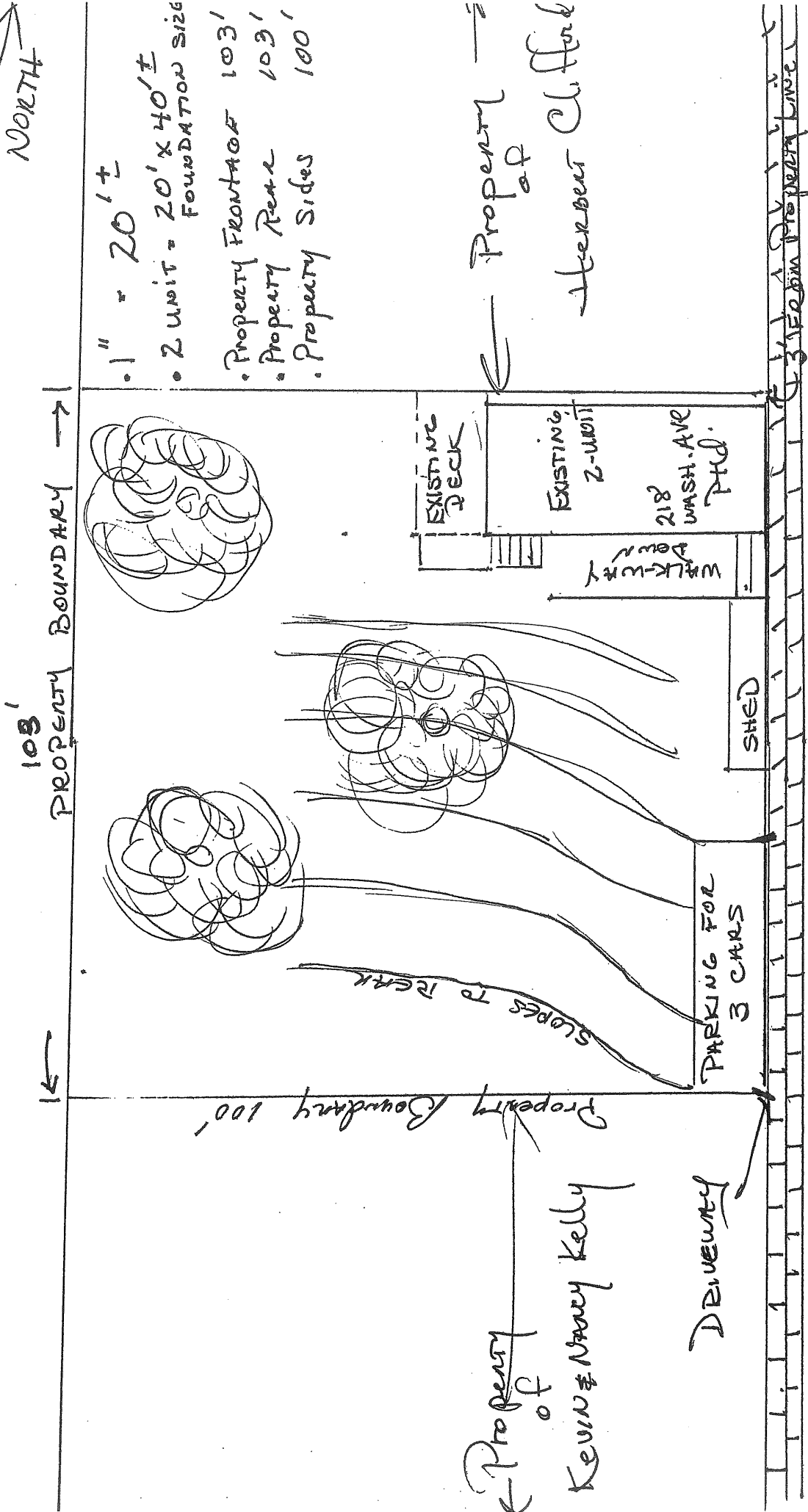
RETRACED 6-51

Affected Properties within Present R-3 Zone
Properties with Structures

Nº10



SKETCH PLAN
218 WASHINGTON AVE.



- 1" = 20' ±
- 2 UNIT = 20' X 40' ±
FOUNDATION SIZE
- PROPERTY FRONTAGE 103'
- PROPERTY REAR 103'
- PROPERTY SIDES 100'

Property of
Herbert Clifford

Property of
Kevin & Nancy Kelly

DRIVEWAY

WASHINGTON AVE - PORTLAND

Properties owners within 500'
of
Subject property 218 Washington Ave.

Map 10 Block A

1. Lot # 15 Subject property
2. Lot # 10 Herbert Clifford 219 Anderson St. Portland
3. Lot # 8 -11 - 13 Herbert Clifford 219 Anderson St. Portland
4. Lot # 21 203 Anderson Street LLC
5. Lot # 26 James V. Fogg 189 Anderson St. Portland
6. Lot # 27 - 28 - 37 - 24 Patricia Flynn 15 Gould St. Portland
7. Lot # 16 - 19 Kevin and Nancy Kelly 202 Washington Ave. Portland
8. Lot # 36 Anthony and Mary Pereira 198 Washington Ave. Portland
9. Lot # 30 - 41 Angela Harvey 194 Washington Ave. Portland
- 10 Lot # 29 - 31 Leonard Dexter and Judith Ridge 190 Washington ave. Portland

Map 10 Block E

11. Lot # 1
12. Lot # 2 Sanford Sandelman 185 NW Spanish River Blvd. Boca raton , Fl

**DEED OF SALE BY PERSONAL REPRESENTATIVE
(Testate)
Maine Statutory Short Form**

Know all Persons by these Presents,

That **Nancy A. Kelly**

of Portland, County of Cumberland , State of Maine, duly appointed and acting personal representative of the estate of **Philip Maloney**, deceased (testate), as shown by the probate records of the County of Cumberland , Maine, (and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale), by the power conferred by the Probate Code, and every other power, for consideration paid, grants to **Glenn A. Morse** of Portland, County of Cumberland, State of Maine, whose mailing address is: P.O. Box 10971, Portland, Maine, 04104 , the real property in Portland, County of Cumberland, State of Maine described as follows:

See attached Exhibit A for legal description.

Witness my hand and seal this 14th day of July , 2005.

Signed, Sealed and Delivered

in the presence of



Estate of Philip Maloney


By: Nancy A Kelly PR
Nancy A. Kelly
Personal Representative

State of Maine, County of Cumberland ss.

July 14, 2005

Then personally appeared the above named **Nancy A. Kelly, Personal Representative of The Estate of Philip Maloney** and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Before me,



Attorney at Law/Notary Public

Printed Name: Rachelle Bocharon

EXHIBIT A
218 Washington Avenue, Portland, Maine

A certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, bounded and described as follows: Beginning at a point on the southwesterly side of Washington Avenue, which point marks the most northerly corner of land conveyed by John Coughlin to Hattie E. Junco by deed dated November 1897 and recorded in the Cumberland County Registry of Deeds in Book 656, Page 339; thence northwesterly along said southwesterly sideline of Washington Avenue, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles to said Washington Avenue, one hundred (100) feet to a point; thence at right angles in a southeasterly direction, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles in a southeasterly (incorrectly identified as northeasterly in deed 3828-70) direction, one hundred (100) feet to the point of beginning.

Excepting a parcel of land conveyed by Philip E. Maloney to Nancy A. Kelly dated July 23, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13210, Page 278.

Being the same premises conveyed to Philip Maloney and Phyllis Maloney by warranty deed from Donald H. Maloney dated April 14, 1976 and recorded in the Cumberland County Registry of Deeds in Book 3828, Page 70. Phyllis Maloney deceased on November 3, 1995 leaving Philip Maloney as surviving joint tenant. Philip Maloney deceased on December 8, 2004, Cumberland County Probate Court Docket# 2005-314; Nancy A. Kelly having been appointed Personal Representative on April 27, 2005.

Properties Owners within 500'
Of
Subject property 218 Washington Ave.

Map 10 Block F

1. Lot # 1 John S and Denise L Ricchio 61 Hammond Street Portland
2. Lot # 2 Charles Loring Post AMVETS 186 Washington Ave.
3. Lot #3 Cynthia I. Edwards 59 Hammond Street
4. Lot #4 - 5 Louise Orlando 178 Washington Ave.
5. Lot # 6 Sarah J Bulley 53 Hammond Street
6. Lot# 7 - 10 TMJ Associates PO Box 734 Portland 170 Washington Ave
7. Lot # 8 Morgan P Shepard 51 Hammond Street
8. Lot # 9 Portland Housing (also 12-D-3-5)
9. Lot #11 Charles Loring Post AMVETS

Map 10 Block G

1. Lot # 2 Steven E and Roberta S Cope 56 Hammond street
2. Lot #4 Thomas C and Donna M Ferrante 48 Hammond street
3. Lot # 5 Brian H and Patricia A Milliken 175 Anderson Street
4. Lot # 6 Portland Housing

Sec. 14-81. Other requirements.

Other requirements are as follows:

- (a) *Offstreet parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 533-84, 5-7-84; Ord. No. 15-92, § 6, 6-15-92)

- Sec. 14-82. Reserved.**
- Sec. 14-83. Reserved.**
- Sec. 14-84. Reserved.**
- Sec. 14-85. Reserved.**

DIVISION 4. R-3 RESIDENTIAL ZONE*

 *Editor's note--Ord. No. 534-84, adopted May 7, 1984, repealed Div. 4, §§ 14-87--14-90, and enacted a new Div. 4, §§ 14-86--14-91. Formerly, Div. 4 was derived from Code 1968, § 602.4.A--D, and the following ordinances: Ord. No. 49-74, 372-75, 406-75, 34-76, 145-79, 145-81, 303-81, 90-83, and 499-74.

Sec. 14-86. Purpose.

The purpose of the R-3 residential zone is:

To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.

(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 1, 7-19-88)

*Editor's note--Ord. No. 81-88, § 1, adopted July 19, 1988, amended § 14-86 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-87. Permitted uses.

The following uses are permitted in the R-3 residential zone:

(a) *Residential:*

1. Single-family detached dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-90 shall apply with respect to such development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions) of this chapter. Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.

5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District and until May 1, 1985, on the islands, provided that each unit meets the performance standards listed below.
 - a. More than half of the roofed area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboard shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
 - d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.

- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

- 1. Reserved;
- 2. Parks, and other active and passive noncommercial recreation spaces;
- 3. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory uses) of this article;
- 4. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 5. Municipal uses, excluding those specifically set forth in section 14-88 of this division.

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 1, 12-17-84; Ord. No. 36-85, § 1, 7-15-85; Ord. No. 81-88, §§ 2, 3, 7-19-88; Ord. No. 86A-89, § 3, 8-21-89; Ord. No. 33-91, § 4, 1-23-91; Ord. No. 165-97, § 1, 12-1-97)

*Editor's note--Ord. No. 81-88, §§ 2 and 3, adopted July 19, 1988, amended subsections 14-87(a)2 and (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-88. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and

buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration of a detached single-family dwelling existing as of June 5, 1957, with floor area exceeding fifteen hundred (1,500) square feet, to accommodate one (1) additional dwelling unit, provided that:
 - a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;
 - c. The alteration will not result in a total cubical volume increase of more than ten (10) percent within the five (5) years immediately preceding the date of alteration;
 - d. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling;
 - e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;
 - f. A minimum lot size of ten thousand (10,000) square feet of land area shall be required;
 - g. No dwelling unit shall be reduced in size to

less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic;

- h. Parking shall be provided as required by division 20 of this article;
- i. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 - 1. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building;
 - 2. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

(b) *Commercial:*

- 1. Reserved.

(c) *Institutional:* Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

- 1. Elementary, middle, and secondary school;
- 2.
 - a. Long-term and extended care facilities;
 - b. Intermediate care facility for thirteen (13) or more persons;
- 3. Church or other place of worship;

4. Private club or fraternal organization;
5. Hospital.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.

(d) *Other:*

1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residence zones) of this article;
2. Utility substations, including sewage treatment plants, sewage and water pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding

neighborhood;

3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use, home babysitting use, nursery school or kindergarten, or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

- e. Day care facilities, home babysitting uses, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting services, nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. Off-street parking shall be provided on the site for all staff of the facility. Parking for the facility shall not interfere with access to or use of play areas. Parking spaces may be stacked or placed side by side in order to lessen

their impact on the residential character of the lot and the neighborhood, and shall not be located closer than five (5) feet from the property line of any abutting residential use or residentially zoned site;

vii. The maximum number of children in a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and

viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 2, 12-17-84; Ord. No. 76-85, § 4, 7-1-85; Ord. No. 36-85, § 2, 7-15-85; Ord. No. 67-87, § 1, 11-2-87; Ord. No. 81-88, § 4, 7-19-88; Ord. No. 235-91, § 5, 2-4-91; Ord. No. 118-93, § 5, 10-18-93; Ord. No. 133-96, § 3, 11-18-96; Ord. No. 154-96, § 5, 12-16-96; Ord. No. 222-99, §3, 3-01-99)

Sec. 14-89. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 534-84, 5-7-84)

Sec. 14-90. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-3 zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Sixty-five hundred (6,500) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A

lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807 et seq., or the applicable zoning lot size, whichever is larger.

2. Alteration of a detached single-family dwelling to a two-family dwelling: Ten thousand (10,000) square feet.
3. Long-term, extended, or intermediate care facilities: Two (2) acres.
4. School: Two (2) acres.
5. Church or place of worship: Two (2) acres.
6. Private club or fraternal organization: Two (2) acres.
7. Municipal use: Sixty-five hundred (6,500) square feet.
8. Hospital: Ten (10) acres.
9. Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of continuous land.
10. All other uses: Sixty-five hundred (6,500) square feet.

Provided that for uses specified in section 14-90(a)3 through 8 above, no minimum lot area shall be required in the following cases:

- a. Uses existing as of June 1, 1983;
- b. Expansion onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the

reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;

- d. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

(b) *Minimum lot area per dwelling unit:*

PRUD: Sixty-five hundred (6,500) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Other uses: Sixty-five hundred (6,500) square feet, except for alteration of a single-family dwelling to a two-family dwelling as provided in section 14-88(a)2.

- (c) *Minimum street frontage:* Fifty (50) feet, except that lots located in a subdivision approved after the effective date of Ord. No. 165-97 pursuant to section 14-497.5 shall meet the street frontage requirements approved as part of the subdivision plan under the terms of that section.

(d) *Minimum yard dimensions:*

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Front yard:*

Principal or accessory structures: Twenty-five (25) feet.

2. *Rear yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
- b. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. *Side yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

| <i>Height of Structure</i> | <i>Required Side Yard</i> |
|----------------------------|---------------------------|
| 1 story | 8 feet |
| 1 1/2 stories | 8 feet |
| 2 stories | 14 feet |
| 2 1/2 stories | 16 feet |

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than eight (8) feet in width. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the

resulting side yards be less than eight (8) feet.

b. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.

4. *Side yard on side street:*

a. Principal or accessory structures: Twenty (20) feet.

(e) *Maximum lot coverage:* Thirty-five (35) percent of lot area.

(f) *Minimum lot width:* Sixty-five (65) feet.

(g) *Maximum structure height:* Principal or accessory attached structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

(h) 1. *Maximum number of units in a building (PRUD of five (5) acres or more):* Six (6) units.

2. *Maximum number of units in a building (PRUD of less than five (5) acres):* Two (2) units.

(i) *Maximum average number of units in a building (PRUD of five (5) acres or more):* Five (5) units.

(j) *Maximum length of building (PRUD):* One hundred (100) feet for buildings without garages; one hundred forty (140) feet for buildings with integral garages.

(k) *Minimum building setback from external subdivision property lines (PRUD):*

1. Three (3) or fewer dwelling units in building: Twenty-five (25) feet.

2. Four (4) or more dwelling units in building: Thirty-five (35) feet.

- (l) *Minimum distance between detached PRUD dwelling unit:* Sixteen (16) feet.
- (m) *Reserved.*
- (n) *Minimum recreation open space area (PRUD):* Three hundred (300) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet with a minimum dimension of fifty (50) feet shall be provided and shall include one (1) or more of the uses set forth in section 14-526(a)(14)c.4., but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.
- (o) No habitable space in a PRUD shall be below grade, except basements that are a part of and below ground units.
(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 5, 7-19-88; Ord. No. 385-89, §§ 1, 2, 4-3-89; Ord. No. 235-91, § 6, 2-4-91; Ord. No. 118-93, § 6, 10-18-93; Ord. No. 154-96, § 6, 12-16-96; Ord. No. 165-97, § 2, 12-1-97; Ord. No. 95-04/05, 11-15-04)

*Editor's note--Ord. No. 81-88, § 5, adopted July 19, 1988, amended § 14-90 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-91. Other requirement.

Other requirements are as follows:

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.
(Ord. No. 534-84, 5-7-84; Ord. No. 15-92, § 7, 6-15-92)

Secs. 14-92. Reserved.

Secs. 14-93. Reserved.

DIVISION 4.5. FH FLEXIBLE HOUSING ZONE

Sec. 14-94. Purpose.

The intention of this division is to establish an overlay zone in which manufactured housing development is permitted in addition to those uses permitted in the underlying residential zone. The purpose of this division is to accommodate additional housing types in appropriate areas of the city, while protecting the value and integrity of established residential neighborhoods and ensuring a balanced and orderly pattern of residential development.
(Ord. No. 610-82, § 2, 7-7-82; Ord. No. 130-82, § 1, 9-20-82; Ord. No. 200-89, § 1, 12-18-89)

Sec. 14-95. Manufactured housing park or subdivision.

Notwithstanding any other provision of this article, no manufactured housing park or subdivision shall be permitted in any zone except as provided in this section.

(a) Manufactured housing park or subdivision, as defined in section 14-47, shall be permitted in the flexible housing zone, the Planning Board shall be the reviewing authority. Such development shall be in accordance with the space and bulk and other requirements applicable to similar uses permitted in the underlying zone, except those standards set forth in section 14-96, and shall also meet the following additional requirement:

1. Reserved.
2. Such development shall be subject to approval by the Planning Board with respect to each and every requirement of article VI of this chapter,

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(Ord. No. 232-81, § 602.7B.7, 11-16-81; Ord. No. 15-92, § 15, 6-15-92)

Sec. 14-160. Reserved.

DIVISION 9. B-1 AND B-1b NEIGHBORHOOD BUSINESS ZONES*

*Editor's note--Ord. No. 292-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-161--14-167 of Div. 9, B-1 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-161--14-167. Formerly, such sections derived from §§ 602.8.A--602.8.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972, and Ord. No. 499-74, § 4, adopted Aug. 19, 1974.

Sec. 14-161. Purpose.

(a) B-1 Neighborhood Business Zone

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of smallscale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

(b) B-1b Neighborhood Business Zone

The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of

smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c) (3).

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 1, 11-15-93; Ord. No. 94-99, 11-15-99)

Sec. 14-162. Permitted uses.

(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone. For permitted uses in the upper stories of buildings in the B-1b zone, refer to subsection (5) below: in existence on November 15, 1993:

(1) *Residential*

- a. Any residential use permitted in the residential zone abutting the lot is permitted. If there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.
- b. In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.

(2) *Business:*

- a. Professional offices, as defined in section 14-47, but excluding veterinarians.
- b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.
- c. Personal services, as defined in section 14-47.

- d. Offices of building tradesmen, provided there is no exterior storage of building materials.
- e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services between the hours of ten (10) p.m. to seven (7) a.m.
- f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:
 - 1. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;
 - 2. Beverage container redemption is an accessory use to a principal retail use that includes beverage sales. Local beverage container redemption centers as defined in 32 M.R.S.A. 1867, as may be amended, are not allowed as a principal use.
 - 3. Storage of all beverage containers shall be contained entirely within the building providing retail sales.

(3) *Institutional:*

- a. Church or other place of worship;
- b. Municipal offices;
- c. Elementary, middle and secondary schools;
- d. Nursery schools and kindergarten;
- e. Clinics of less than three thousand (3,000) square

feet of total floor space.

(4) *Other:*

- a. Lodging houses;
- b. Utility substations, as defined in section 14-47, subject to the standards of article V (site plan);
- c. Day care facilities or babysitting services;
- d. Accessory uses as provided in section 14-404;
- e. Bed and breakfast, subject to the standards of article V (site plan).

(5) Uses permitted above the ground floor level of buildings in the B-1b zone:

- a. Any residential use set forth in section 14-162(a);
- b. Bed and breakfast, subject to the standards of article V (site plan).

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 2, 11-15-93; Ord. No. 125-97, § 5, 3-3-97; Ord. No. 94-99, 11-15-99)

Sec. 14-163. Conditional uses.

The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- (a) Restaurants, provided they meet the following requirements:
 1. Maximum total floor area for use of the public shall be one thousand (1,000) square feet;
 2. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;
 3. Food service and consumption are the primary

function of the restaurant; and

4. There shall be no drive-through service.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99)

Sec. 14-164. Prohibited uses.

Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.

(Ord. No. 292-88, 4-4-88)

Sec. 14-165. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-162(a) shall meet the requirements of such abutting or nearest residential zone except as noted below, and nonresidential uses in the B-1 and B1-b zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. School: Twenty thousand (20,000) square feet.
2. Church or place of worship: Ten thousand (10,000) square feet.
3. All other nonresidential uses: None.
4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

(b) *Minimum street frontage:* Fifty (50) feet, except that if the average street frontages of all lots within two hundred (200) feet of the boundaries of the lot in question on the same side of the street and within the B-1 or B-1b zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.

(c) *Yard dimensions:* (Yard dimensions are required setbacks for structures from property lines and setbacks of

structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Maximum front yard:*

Principal or accessory structure: The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

2. *Rear yard:*

a. Principal structures: None, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.

b. Accessory structures (detached): None, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.

3. *Side yard:*

a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.

b. Accessory structures (detached): None, except that where the side yard abuts a residential zone or a first floor residential use, a minimum of five (5) feet is required.

c. Side yards on side streets (corner lot): Principal or accessory structures: Ten (10)

feet maximum setback, except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.

- (d) *Minimum lot width:* None.
- (e) *Maximum structure height:* Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.
- (f) *Maximum impervious surface ratio:* Ninety (90) percent.
- (g) *Floor area:*
 - 1. The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) square feet.
 - 2. The maximum first floor area of a multi-tenant building shall be no greater than ten thousand (10,000) square feet.

(Ord. No. 292-88, 4-4-88; Ord. No. 52-96, § 1, 7-15-96; Ord. No. 94-99, 11-15-99)

Sec. 14-166. Other requirements.

All nonresidential uses in B-1 and B-1b zones shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).

- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Offstreet parking and loading:* Offstreet parking and loading are required as provided in division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no off street parking in the front yard between the street line and the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. In no event shall vehicles, or truck trailers with or without wheels, be used for on-site storage. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occur more frequently than three (3) times a calendar year.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 292.88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-167. External effects.

Every use in a B-1 or B-1b zone shall be subject to the following requirements:

- (a) *Enclosed structure*: The use shall be operated within a completely enclosed structure, except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise*: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they are clearly visible from neighbors' properties or may be transferred beyond the lot boundaries by natural causes or forces. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in fully enclosed containers or receptacles. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 292-88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-168. Reserved.
Sec. 14-169. Reserved.
Sec. 14-170. Reserved.
Sec. 14-171. Reserved.

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Sec. 14-172

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- Sec. 14-172. Reserved.
- Sec. 14-173. Reserved.
- Sec. 14-174. Reserved.
- Sec. 14-175. Reserved.
- Sec. 14-176. Reserved.
- Sec. 14-177. Reserved.
- Sec. 14-178. Reserved.
- Sec. 14-179. Reserved.
- Sec. 14-180. Reserved.

DIVISION 10. B-2 AND B-2b COMMUNITY BUSINESS ZONES*

*Editor's note--Ord. No. 293-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-181--14-187 of Div. 10, B-2 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-181--14-187. Formerly, such sections derived from §§ 602.9.A--602.9.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 274-77, adopted May 16, 1977.

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major

shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

(b) B-2b Community Business Zone

B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(c).

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

(Ord. No. 293-88, 4-4-88; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §2, 4-24-00; Ord. No. 151-03/04, 02/23/04)

***Editor's Note:** Order No. 25, adopted 7-07-99, enacted an emergency 120-day moratorium on drive-through facilities on lots in B-2 Zone adjacent to lots with residential uses effective 7-07-99 through 11-1-99; Ord. No. 94A, adopted 11-01-99 extended the moratorium on said drive-through facilities through December 15, 1999.

Sec. 14-182. Permitted uses.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving drive-throughs are prohibited

in these zones unless otherwise provided in section 14-183:

(a) *Residential:*

1. Any residential use permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone; and
2. In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;
6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a) (1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving

facilities;

11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;
18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) *Institutional:*

1. Private club or fraternal organization;

2. Long term, extended and intermediate care facility;
3. Clinics, as defined in section 14-47;
4. Churches or other places of worship;
5. Kindergarten, elementary, middle and secondary schools;
6. College, university, trade schools; and
7. Municipal buildings and uses.

(d) *Other:*

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars.

vi. Business and educational conferences.

b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.

6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02/23/04)

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

(a) *Business.* Any of the following conditional uses, provided that, notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses:

1. Major and minor auto service stations in the B-2 zone, only;
2. Major or minor auto service stations in the B-2b zone in existence as of November 15, 1999;
3. Car washes;
4. Drive-throughs in the B-2 or B-2b zones which are adjacent to any residential use or zone, provided that, in the B-2b drive-throughs must be accessory to a principal use located on the same site;
5. Automobile dealerships.

In addition to approval by the Planning Board with respect to the requirements of article V (site plan), these uses shall comply with the following conditions and standards in addition to the provisions of section 14-474:

- a. Signs: Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
- b. Circulation: No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
- c. Drive-throughs, where permitted, shall also specifically comply with the following conditions:
 - i. **Location of Drive-throughs:** Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to any property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service

features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

- ii. **Noise:** Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
- iii. **Lighting:** Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- iv. **Screening and Enclosure:** Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- v. **Pedestrian access:** Drive-through lanes

shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.

vi. **Hours of Operation:** The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

vii. **Conditions specific to major or minor auto service stations, car washes and automobile dealerships:**

(a) A landscaped buffer, no less than five (5) feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the Technical and Design Standards and Guidelines;

(b) Car washes shall be designed to avoid the tracking of residual waters into the street.

(b) *Other:*

1. Printing and publishing establishments except as provided in subsection b. below;
2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time;
3. Wholesale distribution establishments; and
4. Research and development and related production establishments.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of

aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. Traffic circulation: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
- b. Building and site design: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of the Technical Standards and Design Guidelines adopted pursuant to section 14-498 and section 14-526 for screening between land uses.

(Ord. No. 293-88, 4-4-88; Ord. No. 16-92, 6-15-92; Ord. No. 39-96, § 3, 10-7-96; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 151-03/04, 02-23-04)

Sec. 14-184. Prohibited uses.

Uses not enumerated in sections 14-182 and 14-183 as either permitted uses or conditional uses are prohibited.

(Ord. No. 293-88, 4-4-88)

Sec. 14-185. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-182(a) shall meet the requirements of such abutting or nearest residential zone, and nonresidential uses, where permitted, shall meet the following requirements:

(a) *Minimum lot size:*

1. Intermediate, longterm and extended care facilities: Ten thousand (10,000).
2. *Nonresidential uses:*
 - B-2 zone: Ten thousand (10,000) square feet;
 - B-2b zone: None
 - B-2c zone: Ten thousand (10,000) square feet
3. Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

(b) *Minimum street frontage:* Fifty (50) feet.

(c) *Yard dimensions:* (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum or maximum yard of another structure.)

Except as provided in subsection (e) below, the following setbacks are required:

1. *Front Yard*

- a. *Minimum front yard in B-2 and B-2c zone:* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.
- b. *Maximum front yard in B-2b zone (On-peninsula):* The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten

feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

- c. *Maximum front yard in B-2b zone (Off-peninsula):* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

Where the front yard setback exceeds ten (10) feet, however, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street(s) consisting of street trees spaced at not more than fifteen (15) feet on center, (which otherwise meet the requirements of city arborist) and a combination of the following:

- i. landscaping of no less than four (4) feet in depth; and
- ii. ornamental brick or stone walls; and/or
- iii. ornamental fencing.

The site shall otherwise meet the requirements of article V (Site Plan).

2. *Rear yard:*

- a. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.
- b. Accessory structures: Five (5) feet.

3. *Side yard:*

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.
- b. Accessory structures: Five (5) feet.
- c. Side yards on side streets (corner lot): In the B-2 and B-2c zone, a minimum of ten (10) feet. In the B-2b zone, a maximum of ten (10) feet except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.

(d) *Minimum lot width:* None.

(e) *Maximum structure height:* Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under subsection (3) above are increased by one (1) foot in distance for each foot of height above forty-five (45) feet.

(f) *Maximum impervious surface ratio:* Eighty (80) percent in the B-2 and B-2c; Ninety (90) percent in the B-2b.

(Ord. No. 293-88, 4-4-88; Ord. No. 52-96, § 2, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. (Substitute)189-00, §3, 4-24-00; Ord. No. 151-03/04, 02/23/04)

Sec. 14-186. Other requirements.

All nonresidential uses in the B-2 and B-2b zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening*: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks*: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Offstreet parking and loading*: Offstreet parking and loading are required by division 20 and division 21 of this article;
- (d) *Front yard parking*:
 - 1. B-2 and B-2c zone: There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2 and B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 - 2. B-2b zone (On-peninsula): There shall be no parking in the front yard between the street line and the required maximum setback line in the B-2b. Where existing buildings exceed the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 - 3. B-2b zone (Off-peninsula): Parking in the front yard between the street line and the required maximum setback line in the B-2b is discouraged. However, where parking in the front yard is permitted pursuant to §14-185(c)(1)(c), a maximum of fifty percent (50%) of the total parking on the site may be located between the principal structure and the street.
- (e) *Signs*: Signs shall be subject to the provisions of division 22 of this article.

- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. Vehicles or truck trailers with or without wheels shall not be used for on-site storage (1) except where such storage is located in a designated loading zone identified on an approved site plan; or (2) such storage is not visible from the street or adjacent residences during winter months and such storage area is identified on an approved site plan. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occurs more frequently than three (3) times a calendar year.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 293-88, 4-4-88; Ord. No. 51-96, 7-15-96; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, S4, 4-24-00; Ord. No. 151-03/04, 02/23/04)

Sec. 14-187. External effects.

Every use in a B-2, B-2b and B-2c zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise:* Except as provided in 14-183(1)(iii)(2) (relating to Drive-throughs), the volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A

scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

- (c) Vibration and heat: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 293-88, 4-4-88; Ord. No. 94-99, 11-15-99; Ord. No. 03/04, 02/23/04)

Sec. 14-188. Reserved.
Sec. 14-189. Reserved.
Sec. 14-190. Reserved.
Sec. 14-191. Reserved.
Sec. 14-192. Reserved.
Sec. 14-193. Reserved.
Sec. 14-194. Reserved.
Sec. 14-195. Reserved.

DIVISION 11. A-B AIRPORT BUSINESS ZONE*

***Editor's note--**Ord. No. 295-88, adopted Apr. 4, 1988, repealed §§ 14-196--14-202 of Div. 11, A-B Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-196--14-202. Formerly, such sections derived from §§ 62.9A.A--602.9A.G of the city's 1968 Code and from Ord. No. 348-71, § 2, adopted Aug. 2, 1971; Ord. No. 499-74, § 4, adopted Aug. 19,

QUITCLAIM DEED

(Release Deed)

Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS

THAT, GLENN A. MORSE, of Portland, Maine, for consideration paid, release to MORGAN GAVIN, LLC, a Maine Limited Liability Company, whose mailing address is P.O. Box 1466, Scarborough, ME 04070, a certain lot or parcel of land, with any buildings thereon, located in Portland, County of Cumberland, State of Maine, bounded and described as follows:

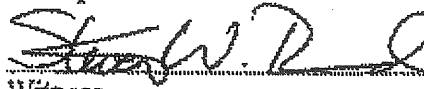
SEE EXHIBIT "A" ATTACHED HERETO, MADE A PART HEREOF AND INCORPORATED BY REFERENCE HEREIN

Being the same premises conveyed to Glenn A. Morse by Nancy A. Kelly, Personal Representative of the Estate of Philip Maloney dated July 14, 2005 and recorded in the Cumberland County Registry of Deeds in Book 22895, Page 28.

IN WITNESS WHEREOF, I, GLENN A. MORSE, have caused this instrument to be executed on this 12th day of June, 2006.

SIGNED, SEALED AND DELIVERED

in presence of



Witness

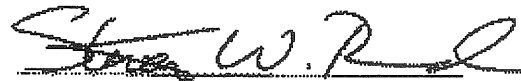

GLENN A. MORSE

STATE OF MAINE
COUNTY OF CUMBERLAND

June 12, 2006

Then personally appeared the above-named GLENN A. MORSE and acknowledged the foregoing instrument to be his free act and deed.

Before me,


Notary Public/Attorney-at-Law

Printed Name:

Stephen W. Rand

COMMISSION EXPIRES:

EXHIBIT A
DESCRIPTION OF LAND

Doc#: 38302 Bk:24078 Pg: 204

EXHIBIT A

A certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a point on the southwesterly side of Washington Avenue, which point marks the most northerly corner of land conveyed by John Coughlin to Hattie E. Junco by deed dated November 1897 and recorded in the Cumberland County Registry of Deeds in Book 656, Page 339; thence northwesterly along said southwesterly sideline of Washington Avenue, One Hundred Fifty-Two and One-Half (152-1/2') feet to a point; thence at right angles to said Washington Avenue, One Hundred (100') feet to a point; thence at right angles in a southeasterly direction, One Hundred Fifty-Two and One-Half (152-1/2') feet to a point; thence at right angles in a southeasterly (incorrectly identified as northeasterly in deed 3628-70) direction, One Hundred (100') feet to the point of beginning.

Excepting a parcel of land conveyed by Philip E. Maloney to Nancy A. Kelly dated July 23, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13210, Page 278.

Received
Recorded Register of Deeds
Jan 19 2006 09:48:12A
Cumberland County
John E. O'Brien

QUITCLAIM DEED

(Release Deed)

Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS

THAT MORGAN GAVIN, LLC, a Maine Limited Liability Company, of Scarborough, Cumberland County, State of Maine, for consideration paid, releases to GLENN A. MORSE, whose mailing address is P.O. Box 1466, Scarborough, Maine 04070, a certain lot or parcel of land, with any buildings thereon, located in Portland, Cumberland County, State of Maine, bounded and described as follows:

SEE EXHIBIT "A" ATTACHED HERETO
MADE A PART HEREOF AND INCORPORATED BY REFERENCE HEREIN

Being the same premises conveyed in a deed from Glenn A. Morse to Morgan Gavin, LLC, a Maine Limited Liability Company, dated June 12, 2006 and recorded in the Cumberland County Registry of Deeds in Book 24078, Page 203. Reference is also made in a deed conveyed to Glenn A. Morse by Nancy A. Kelly, Personal Representative of the Estate of Philip Maloney dated July 14, 2005 and recorded in the Cumberland County Registry of Deeds in Book 22895, Page 28.

IN WITNESS WHEREOF, Glenn A. Morse, Manager of Morgan Gavin, LLC, caused this instrument to be executed on this 6th day of Dec, 2006.

SIGNED, SEALED AND DELIVERED
in presence of

MORGAN GAVIN, LLC

Stuart W. Reed
Witness

By: * [Signature]
Glenn A. Morse
Its: Manager

STATE OF MAINE
Cumberland, ss.

December 6, 2006.

Then personally appeared the above-named Glenn A. Morse, Manager of said Grantor Limited Liability Company 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,

Stuart W. Reed
Notary Public/Attorney at Law

Printed Name:
COMMISSION EXPIRES:

EXHIBIT A
DESCRIPTION OF LAND

Doc#: 80743 BK:24451 Pt: 158

EXHIBIT A

A certain lot or parcel of ~~land with right of passage~~ ~~3828-70~~ ~~McGregor~~, situated in Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a point on the southwesterly side of Washington Avenue, which point marks the most northerly corner of land conveyed by John Coughlin to Mattie E. Junco by deed dated November 1897 and recorded in the Cumberland County Registry of Deeds in Book 656, Page 339; thence northwesterly along said southwesterly sideline of Washington Avenue, One Hundred Fifty-Two and One-Half (152-1/2') feet to a point; thence at right angles to said Washington Avenue, One Hundred (100') feet to a point; thence at right angles in a southeasterly direction, One Hundred Fifty-Two and One-Half (152-1/2') feet to a point; thence at right angles in a southeasterly (incorrectly identified as northeasterly in deed 3828-70) direction, One Hundred (100') feet to the point of beginning.

Excepting a parcel of land conveyed by Philip E. Maloney to Nancy A. Kelly dated July 23, 1987 and recorded in the Cumberland County Registry of Deeds in Book 13210, Page 278.

Received
Recorded Register of Deeds
Dec 12, 2006 11:59:40A
Cumberland County
John B. Frier

**DEED OF SALE BY PERSONAL REPRESENTATIVE
(Testate)
Maine Statutory Short Form**

Know all Persons by these Presents,

That Nancy A. Kelly

of Portland, County of Cumberland, State of Maine, duly appointed and acting personal representative of the estate of **Philip Maloney**, deceased (testate), as shown by the probate records of the County of Cumberland, Maine, (and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to the sale), by the power conferred by the Probate Code, and every other power, for consideration paid, grants to **Glenn A. Morse** of Portland, County of Cumberland, State of Maine, whose mailing address is: P.O. Box 10971, Portland, Maine, 04104, the real property in Portland, County of Cumberland, State of Maine described as follows:

See attached Exhibit A for legal description.

Witness my hand and seal this 14th day of July, 2005.

Signed, Sealed and Delivered

in the presence of



Estate of Philip Maloney

By: Nancy A Kelly PR
Nancy A. Kelly
Personal Representative

State of Maine, County of Cumberland ss.

July 14, 2005

Then personally appeared the above named Nancy A. Kelly, Personal Representative of The Estate of Philip Maloney and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

MAINE REAL ESTATE TAX PAID

Before me,



Attorney at Law/Notary Public

Printed Name: Rachel Bouchard

RACHEL L. BOUCHARD
ATTORNEY AT LAW

EXHIBIT A
218 Washington Avenue, Portland, Maine

A certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland and State of Maine, bounded and described as follows: Beginning at a point on the southwesterly side of Washington Avenue, which point marks the most northerly corner of land conveyed by John Coughlin to Hattie E. Junco by deed dated November 1897 and recorded in the Cumberland County Registry of Deeds in Book 656, Page 339; thence northwesterly along said southwesterly sideline of Washington Avenue, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles to said Washington Avenue, one hundred (100) feet to a point; thence at right angles in a southeasterly direction, one hundred fifty-two and one-half (152 ½) feet to a point; thence at right angles in a southeasterly (incorrectly identified as northeasterly in deed 3828-70) direction, one hundred (100) feet to the point of beginning.

Excepting a parcel of land conveyed by Philip E. Maloney to Nancy A. Kelly dated July 23, 1997 and recorded in the Cumberland County Registry of Deeds in Book 13210, Page 278.

Being the same premises conveyed to Philip Maloney and Phyllis Maloney by warranty deed from Donald H. Maloney dated April 14, 1976 and recorded in the Cumberland County Registry of Deeds in Book 3828, Page 70. Phyllis Maloney deceased on November 3, 1995 leaving Philip Maloney as surviving joint tenant. Philip Maloney deceased on December 8, 2004, Cumberland County Probate Court Docket# 2005-314; Nancy A. Kelly having been appointed Personal Representative on April 27, 2005.

Received
Recorded Register of Deeds
Jul 15, 2005 03:11:37P
Cumberland County
John B O'Brien

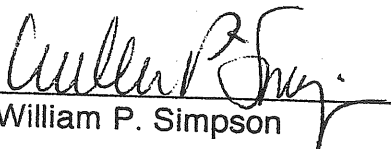
4/13/07

William P. Simpson has a purchase and sale agreement under contract for a piece of real estate containing several parcels of land, situated in the municipality of Portland, County of Cumberland, and State of Maine described as 219 Anderson Street, being all the property owned by the seller, book and page TBD, along with a 13,000 sq. ft. building, currently being occupied by Rockingham Electric.


After the completion of a successful purchase of the aforementioned property, William Simpson will thereby agree to grant to Glen Morse a right of way along the south border of the property described above for \$10,000, for the use of sewer line ^{to storm water} service Mr. Morse's property at 218 Washington Avenue. This so-called grant shall expire five years after the agreement is granted if the project is not completed. Mr. Morse agrees to indemnify Mr. Simpson of any liability and provide proof of liability insurance as an additional insured.

Additionally, if and when William Simpson sells parcel 10 or any portion of parcel 10 as a separate unoccupied parcel, Simpson agrees to allow Morse first right of refusal to purchase parcel 10.

In exchange for all of the above Mr. Morse agrees to discontinue pursuing the purchase of City owned land between Anderson Street and Washington Ave, adjoining 219 Anderson Street.


William P. Simpson

MICHAEL P. VOISINE
Notary Public, Maine
My Commission Expires March 9, 2012


Glen Morse





Financial Capacity Letter

LINCOLN CAPITAL, LLC
1124 Brighton Avenue, Suite 49
Portland, Maine 04102

July 30, 2007

Glenn Morse
PO Box 1466
Scarborough, Maine 04074

Re: 218 Washington Avenue, Portland, Maine

Dear Glenn:

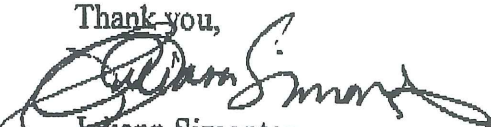
This letter of intent is entered into this 30th day of July by and between Glenn Morse (Borrower) and Lincoln Capital, LLC (Lender).

After reviewing plan developments, Borrower is approved for financing for any subdivision work that is needed to be done at 218 Washington Avenue, Portland, Maine. Borrower has entered into previous loans with Lender in the past and proves to be a strong borrower.

Lincoln Capital, LLC upon completion of its due-diligence will close the loan pursuant to a forthcoming loan commitment.

Borrower acknowledges that this is not a commitment to lend. It is only intended to outline both parties intending with respect to this transaction.

Thank you,


Juliann Simonton
Administrator

cc: Todd Miranda, President

**PRE-APPLICATION MEETING
CITY OF PORTLAND, DEPARTMENT OF PLANNING AND DEVELOPMENT**

Project Name: 218 Washington Ave Date: 4/13/07

People in attendance: Glen Morse - Steve Blais/Land consulting engineer
Sebege - Geo-technical report - may be able to use on site -
- 4% - for a ways - then 10% slope -

Address of development: _____ Zone: B-1b

Lot Size: 11,700 sq ft Proposed Building Size: _____ sq. ft
Stamped survey -

Existing Use of site: office Proposed Use of site: _____

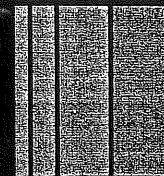
Description of Proposed Project: - 1st floor - office space - 45 flr - 3 stories
residential - garage parking underneath -
Existing 4th floor office - 19 spaces / 19 spaces on site - tandem underneath -
1700 sq ft office - 4 spaces - 5 units -

Potential Reviews Required¹: H + H - 10 - 18 spaces - *
5 feet above - (1st floor -)

| | Shoreland Zoning Stream Protection | Conditional use | Flood Plains | Design Review | Historic Preservation | Replacement Housing | Site Plan | Sub-division | Zone Change Request | Street Extension 14-403 | Site Location of Development | Traffic Permit DEP | Storm water Management DEP |
|----------|------------------------------------|-----------------|--------------|---------------|-----------------------|---------------------|-----------|--------------|---------------------|-------------------------|------------------------------|--------------------|----------------------------|
| Yes | | | | | | | X | X | | | | | |
| Possible | | | | | | | | | | | | | |

Next Steps: Exterior Elevation
Mike Farmer - sewer line & stormwater -
Deeds & easements
Engineering documentation for retaining wall
landscaping -
Parking - Traffic generation (B-1 traffic limitation)
Lighting - impervious surface -

¹ Please note: this meeting is not a pre-approval of any ordinances. Any project must go through the appropriate reviews and receive permits from Portland before construction or reuse can begin. The meeting and notes are intended to outline the City processes that may apply to a proposal based upon the information provided at the meeting. Any changes to the information or proposal may change the development review requirements. Please check on-line for Portland's Land Use Ordinance and other information at www.portlandmaine.gov.



August 16, 2006
06172

Mr. Glenn Morse
Morse Construction
P. O. Box 1466
Scarborough, ME 04070

Report on Subsurface and Foundation Investigation
Proposed Apartment Buildings, Washington Avenue, Portland, Maine

Dear Glenn:

This report presents the results of our subsurface and foundation investigation for the proposed Apartment Buildings at 218 Washington Avenue in Portland, Maine. These services were provided in accordance with our proposal dated June 29, 2006.

In summary, it is our opinion that the proposed buildings may be supported on undisturbed, naturally deposited sand, improved existing fill, or on compacted structural fill placed after excavation of unsuitable materials. Earth supported slabs-on-grade may be used for the ground floors. In addition, the proposed retaining wall at the rear of the site may consist of a mechanically stabilized earth (MSE) wall. Specific recommendations regarding foundation design and construction considerations are presented below.

Introduction

The site is located at 218 Washington Avenue. The site is presently open and ground surface elevations within the limits of construction vary from approximately El. 70 towards the rear of the site to El. 100 at Washington Avenue. Fill was recently placed near Washington Avenue to provide equipment access to the lower part of the site. We understand that development will include two multi-family houses with parking below the structures and a retaining wall near the rear of the property that may be as much as 20 feet high to provide parking areas beyond the buildings.

Subsurface Explorations

On July 28, 2006, Maine Test Borings, Inc. (MTB) drilled six borings at the site at locations shown on Sheet 1, Boring Plan. MTB drilled the borings to depths below ground surface varying from 12.0 feet to 22.0 feet. Sebago Technics, Inc. monitored the borings and prepared the logs included in Appendix A. Table I summarizes the results of borings. MTB backfilled the borings with the drilled material.

Recommendations for Foundation Design

Recommended Foundation Type and Design Criteria

The topsoil and existing fill in its present condition are not considered suitable for support of the buildings or floor slabs. All topsoil and fill containing debris should be removed from within the building limits. In our opinion, the buildings may be supported on spread and continuous footings bearing on undisturbed, naturally-deposited sand, improved existing fill, or on compacted structural fill placed after removal of unsuitable soil or for raises-in-grade. Interior walls may be supported on footings or thickened portions of the floor slab.

For uniformity, footings may be proportioned for an allowable bearing stress in pounds per square foot (psf) equal to 1,000 multiplied by the least lateral dimension of the footing in feet, up to 3,000 psf. All footings should be a minimum of 2.0 feet wide.

Exterior footings should be founded at least 4.5 feet below the lowest adjacent ground surface exposed to freezing. Interior footings should be founded a minimum of 1.5 feet below the ground floor slab.

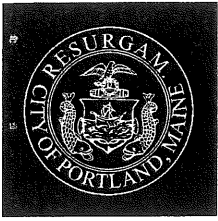
The existing fill consists primarily of silty to well-graded sand with trace wood, concrete, brick, bituminous and cinders. We recommend that the existing fill below the building be compacted by intensive surface compaction (ISC). We recommend that ISC be performed using a minimum 30,000 pound vibratory roller operating at 30 cycles per second (Hz) and a forward speed of 1 to 2 feet per second. Compaction should consist of 10 coverages of the vibratory roller. The direction of each two successive coverages should be rotated perpendicular to the previous two coverages. Following intensive surface compaction, a minimum of two coverages of the roller should be applied without vibration to recompact the upper surface of the fill soil.

Compacted structural fill supporting footings should extend laterally from the footings to at least the limits defined by 1 horizontal to 1 vertical lines sloped outward and downward from points located at least 2 feet horizontally beyond the bottom edges of the footings.

At the recommended bearing stress, we anticipate that foundation settlement will be less than one inch. We estimate that most of this settlement will occur during the construction period as loads are applied. We anticipate that settlement of this magnitude is acceptable. However, the structural engineer should determine final acceptability of settlement.

Ground Floor Slab

We recommend that the lowest level floor slab be designed as an earth-supported slab-on-grade bearing on a minimum 6-inch thickness of compacted structural fill. All existing fill should be compacted as described above prior to placing fill. All fill placed below the floor slab for raises-in-grade should consist of compacted structural fill. Normal dampproofing and vapor barriers should be used below the floor slab.



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

Planning and Development Department

Lee D. Urban, Director

Planning Division

Alexander Jaegerman, Director

August 27, 2007

Land Consulting Engineers, PA
C/o Steve Blais
967 Broadway
South Portland, ME 04106

**RE: Site Plan Review: 218 Washington Avenue
Four Residential Condominiums
Application # 2007-0130; CBL 010 A015001**

Dear Mr. Blais,

I refer to the Site Plan Review Application for a proposed four (4) residential units condominiums located at 218 Washington Avenue, as submitted on August 1, 2007.

The various departments are reviewing the proposal and any comments will be forwarded to you. There are a number of issues that need to be addressed before a Planning Board workshop can be scheduled.

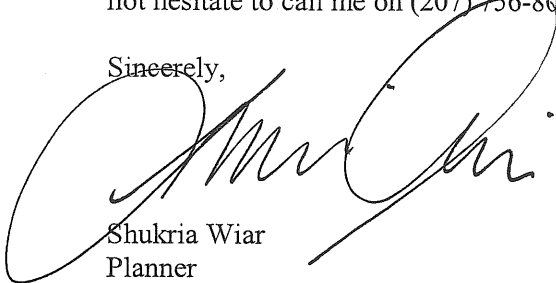
1. There should be a street tree added in front of the existing building. The City's Technical and Design Standards and Guidelines state there be two (2) street trees per residential unit. There are four residential units therefore we will require that eight street trees be propose. Due to the limitation of the frontage, two street trees are being proposed and in lieu of the remaining street trees, there shall be a contribution to the City's tree fund. The break down of the contribution is as follows:

4 units therefore need 8 street trees
2 proposed therefore 6 street trees remain
6 x \$200 = \$1200.
2. Landscaping needs to be more intense; there needs to be more landscaping along the existing building, back of the property and on the south side of the proposed building.
3. Submit catalogue cuts for all proposed lighting fixtures. What is the height and wattage level for the proposed lighting? These fixtures shall be cut-off types and in compliance with the City's lighting standards.

4. This project name is similar to an approved project on Smith Street, Bayside East. In regard to E911 concerns, please consider changing the project's name.
5. Submit architectural plans that included floor plans and renderings.
6. Submit geotechnical report.
7. In regard to the sewer/stormwater system, there is a system on Washington Ave. The applicant should look into tying into this system instead of the one on Anderson Street.
8. Submit sewer capacity letter as soon as it is received.
9. Any existing and proposed easements and encroachments on the property and/or on the right-of-way should be put on the site plan.
10. Please provide a typical, and more information on the 'see-through' and screening fence being proposed. Specify the type and height of the fences.
11. Provide a typical for the guardrails. What is the height of these guardrails?
12. List the abutters' information on the site plans (similar to what is put on the recording plat).
13. Please provide more information in regard to the building encroaching the parcel.
14. Solid waster dumpster, is this to private or public?
15. Enclosed are the design guidelines for the B-1b zone; in a narrative, describe how the project is meeting these guidelines.

Please submit the information at your earliest convenience. If you have any questions please do not hesitate to call me on (207) 756-8083 or at shukriaw@portlandmaine.gov.

Sincerely,



Shukria Wiar
Planner

cc Barbara Barhydt, Development Review Manager

SECTION XVI: B-1, B-1b, B-2, B-2b DESIGN GUIDELINES

INTENTION

These guidelines are intended to provide direction for proposed development in the B-1, B-1b, B-2, B-2b zones in order to meet the Site Plan Standards specific to construction in these zones.

The guidelines are meant to highlight the important qualities of design and construction in the B-1 and B-2 zones, in order to encourage the development of quality design which is consistent with the surrounding business and residential community.

APPLICABILITY

The following development proposals will be required to meet the Site Plan Standards specific to development in the B-1 and B-2 zones and, as such, will be encouraged to address and be consistent with the following guidelines:

- A. All major and minor development in the B-1, B-1b, B-2, and B-2b zones.

GUIDELINES

1. Building Location and Form

Buildings shall be located near the street so as to create an urban street wall.

An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major street. The location of buildings is one of several related factors defining the street environment.

The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is proportionate to the width of the adjoining major street.

Shorter buildings of one story facing broad streets will not achieve the desired relationship. (Street width for this purpose is defined as the distance measured from curb to curb.)

By way of example, for a fifty-foot street right-of-way, a minimum building height of 15' is acceptable, with 25' height preferred. Buildings located as close as possible to the street right-of-way will provide better definition and proportion than buildings set further back.

2. **Building Function**
An urban street and business district requires a substantial intensity and variety of uses.

It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.

3. **Orientation of Buildings and their Entrances to the Street**

Major building entries should be designed and located to provide the primary building access oriented to the public street and sidewalk.

Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should primarily address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.

4. **Windows**

Windows should be located in all building facades visible from the public way, especially on building facades along the major public street.

Retail uses with storefronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent, and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.

5. **Building Character, Detail, Scale, and Graphic Qualities**

Building design should include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use. Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank facade. Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. **Signage and Building Entrances**

Building entrances and building signage in the B-1, B-1b, and B-2b zones should be designed and constructed at the pedestrian scale.

7. Development Relationship to Street

Building facades and site amenities should form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, should be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Parking Lots should be buffered from view of the public way.

Landscaping or ornamental fencing should be used to buffer parking lots from public ways and residential neighbors. Where parking is located within the front yard, or side yard of a corner lot, a landscaped buffer or ornamental fence should be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Parking lots should be screened from neighboring properties.

A densely planted landscape buffer or fencing should be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

Crosswalks should be provided within parking lots and across entrance driveways, directing pedestrians to building entrances.

Street trees should be planted along property street frontage 25ft. on center.

9. Transit Connections

Development proposed along established transit corridors should be designed to provide uninterrupted access from the proposed development to the transit stop.

An easement to place a transit shelter may be requested for development located along a transit corridor.



City of Portland, Maine Site Plan Checklist

Zoning not meeting front set back - / 1 1/4 ft. needed

Bayside East Condos - 218 Washington

2007-0130

Project Name, Address of Project

Number 10-A-15

11 4-unit residential bldg.

Subdivision -

Application

B-1b

Section 14-525

Submitted () & Date
(b,c) - right title & interest

Item

Required Information

~~assessment for utilities (tabs)~~ - no height / no elevations
Height - ~~max~~

~~(not stamped)~~

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)
- (7)
- (8)
- (9)
- (10)

- (1) Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:
 - a Name and address of applicant and name of proposed development
 - b Scale and north points
 - c Boundaries of the site
 - d Total land area of site
 - e Topography - existing and proposed (2 feet intervals or less)
- 2 Plans based on the boundary survey including:
 - a Existing soil conditions
 - b Location of water courses, marshes, rock outcroppings and wooded areas
 - c Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used

- 1
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- Pending -

DWD shown
no capacity letters
proposed
✓ stormwater plan

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- (11) Approx location of buildings or other structures on parcels abutting the site
- (12) Location of on-site waste receptacles
- (13) Public utilities
- (14) Water and sewer mains
- (15) Culverts, drains, existing and proposed, showing size and directions of flows
- (16) Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed
- (17) Location and dimensions of on-site pedestrian and vehicular access ways
- (18) Parking areas
- (19) Loading facilities
- (20) Design of ingress and egress of vehicles to and from the site onto public streets
- (21) Curb and sidewalks
- (22) Landscape plan showing:
 - h Location of existing proposed vegetation
 - h Type of vegetation
 - h Quantity of plantings
 - h Size of proposed landscaping
 - h Existing areas to be preserved
 - h Preservation measures to be employed
 - h Details of planting and preservation specifications

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need catalog etc / height

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- (31) Location and dimensions of all fencing and screening
- (32) Location and intensity of outdoor lighting system
- (33) Location of fire hydrants, existing and proposed
- (34) Written statement
- (35) Description of proposed uses to be located on site
- (36) Quantity and type of residential, if any
- (37) Total land area of the site
- (38) Total floor area and ground coverage of each proposed building and structure
- (39) General summary of existing and proposed easements or other burdens
- (40) Method of handling solid waste disposal
- (41) Applicant's evaluation of availability of off-site public facilities, including sewer, water and streets
- (42) Description of any problems of drainage or topography, or a representation that there are none
- (43) An estimate of the time period required for completion of the development

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From: Jay Reynolds
To: Nancy Kelly
Date: 12/7/2006 2:22:33 PM
Subject: FW: Re: 218 washington ave-update

Hello Nancy Kelly,

Pertaining to the site issue of removing the cinder blocks, I was advised by my previous supervisor, Sarah Hopkins, to wait until the owner comes in for site plan review. At that time, the removal of the material will be addressed. Currently, that material poses no environmental threat or safety issue.

If you need to inquire about the sewer issue, you could start by contacting Brad Roland in the Engineering Department. He can direct you better as to what the requirements are for sewer lines, and I believe he has had conversations with Mr. Morse.

Mr. Nugent no longer works for the City, Jeanie Bourke has taken his position.

Jay Reynolds
Development Review Coordinator
City of Portland Planning Division
(207) 874-8632
jayjr@portlandmaine.gov

>>> "Nancy Kelly" <hockeymom247@hotmail.com> 12/07/2006 1:43:50 PM >>>

From: "Nancy Kelly" <hockeymom247@hotmail.com>
To: JARJR@portlandmaine.gov, AXR@portlandmaine.gov, JMB@portlandmaine.gov
Subject: FW: Re: 218 washington ave-update
Date: Thu, 07 Dec 2006 13:25:21 -0500

Ms. Bourke, Mr. Reynolds, Mr. Rowe,
I sent each of you the following email message on Monday the 4th of December. Ms. Bourke, according to Mr. Nugent, your email was forwarded to you by him. I have no acknowledgement from anyone. Will this situation be looked into further by your departments? If so, when should I expect to hear a reply. As Mr. Rowe and Mr. Reynolds have stated in the past, keep the lines of communication open to the department.. That is the best way to resolve a neighbor issue. It is difficult when I am the only one communicating. These documented matters have been ongoing for far to long with no results. Just take a look at the attached photos of the hay cover above the ground sewer and are you able to tell me it is acceptable and legal?

Nancy Kelly
202 Washington Ave Portland 04101
7736285

hockeymom247@hotmail.com

From: "Nancy Kelly" <hockeymom247@hotmail.com>
To: JARJR@portlandmane.gov, MJN@portlandmaine.gov, AXR@portlandmaine.gov
Subject: FW: Re: 218 washington ave-update
Date: Mon, 04 Dec 2006 15:37:54 -0500

Dear Mr. Reynolds, Mr. Nugent, and Mr. Rowe;

Below are a few emails we sent back and forth to each other, some as far back as June. At that time, we were communicating about the above ground sewer pipe, and the fill at 218 Washington Ave. To recap the emails, on June 20th, Mr. Rowe writes that he and Mr. Reynolds, along with the property owner, Mr. Glenn Morse, had met on site. "The fill which has been dumped will be used to create a ramp for excavation equipment to repair a sewer line from the house. The fill will either be removed after completion of this project or stay if proper permits are issued by Jays's office. The concrete will have to be ground up and any rebar removed if the fill stays". From Mr. Reynolds on June 20th... "the fill in place today, is ok on a temporary basis for the purpose of accessing the back yard in order to make an emergency sewer repair. Mr Morse agreed not to bring in any more material. He also stated his intention to remove the cinder blocks, ect.. and NOT use this as a permanent fill material. This is preferred and acceptable. There is no timetable for the removal." and Mr. Reynolds, again, this time on August 21st...."I will have to revisit the site to verify conditions. When we met with Mr. Morse, we did agree to allow him to bring in more temporary material so that an excavator can access the rear of the property. I will have to investigate to see if he just filled over all that material.....The removal of that material still stands as previously mentioned. It is not acceptable.

Now that I have reminded all of you of the situation, let me state that the situation has NOT changed at all since I first contacted you in April, June and August. The fill situation is still there, only now covered with grass. If this fill was temporary as Mr. Morse has made you believe, then why did he take the time and efforts to grow grass on it? The rebar and cinder blocks are still beneath. As shown above in your emails, it was not acceptable in June, in August, and I can not believe it is acceptable in December. BUT there it still is. I want to know why it is still there and why it is acceptable by the city standards? Mr. Morse's only intention for this ramp was to get equipment down in the yard to do soil testing, which was done. This fill still exists beneath, and MUST be removed as you stated. Now to the sewer situation. That too, is still above the ground. How much of an emergency could this have been? Apparently not much of an emergency. This was brought to the attention of the city in April, and the only thing different now in December is, Mr. Morse has covered the above ground sewer pipe with hay. He has no intention of permanently taking care of this situation. This hay will sit the entire winter, and come spring, it will stink. I have allergies, and am concerned about my health issues then. Mr. Morse had a large machine to do a soil test, but he has yet to get an excavator down in the yard for sewer repairs. There is a business at 218 Washington Avenue, a massage and acupuncture business. If this sewer pipe freezes, and bursts, the DEP will then have to get involved. I can't imagine that will be a good thing. I have enough run around and enough of being put off and forgotten about with this matter. If I should be speaking with another person or department, please let me know who that is so that I can get these issues resolved. It seems that if a home owner is told by city officials to remove or repair property, and it isn't done, the home owner is breaking the law. I will wait a response with suggestions on how I can further handle this matter with the city officials, or if additional avenues need to be investigated to resolve this issue.

Nancy Kelly

202 Washington Avenue

Portland Maine 04101

773 6285 hockeymom247@hotmail.com

Drawing C-4, Erosion Control and Landscaping Plan

- ✓ All steep slopes that are to be grassed shall be protected with an erosion control blanket or mesh and noted on the plan.
- ✓ We also believe that more landscaping should be provided around the foundation. The striping at the southeastern corner could be made into a landscape island to break up pavement and sight lines. Final review shall be conducted with Jeff Tarling, City Arborist.

Drawing C-5, Construction Details

- ? • Sloped granite curbing is shown, where will this be installed? Please label on site plan.

Drawing C-6, Utility Details

- The detail for the Downstream Defender should indicate the size of particulate to be removed, the design flow rate it can handle, and proposed sediment removal efficiency. Also can the structure act both as a catch basin and oil/grit separator and perform to the documented levels?

Summary

The submitted application will need a Lighting Plan. Please check with the Planner regarding issues with these requirements.

Overall we feel the revisions needed and the comments generated are minor detail corrections with exception to the drainage alignment and request to treat the entire site rather than one side of the parking lot. Please feel free to contact us if you have questions.

JS:js



05P026

TO: Kandi Talbot - Planner
FROM: Jim Seymour, P.E.
Development Review Engineer, Sebago Technics, Inc.
RE: A & M Partners, LLC-107 Washington Avenue Parking Renovation
DATE: March 30, 2005

Sebago Technics has reviewed the Site Plan package, as submitted by A & M Partners for the Parking Renovations at the property located at 107 Washington Avenue. The following comments are organized by submitted drawing:

Drawing C-2, Layout Plan

- ✓ The plan should lengthen tip-down curbs and ramps that are proposed in the City's Right-of-Way at the proposed entrances to seven feet.
- ? • The handicap parking stalls and signs shall be labeled.
- ? • The crossing of the sidewalk over the driveway shall be completed in brick per City standards
- ? • Will there be any designated loading dock areas into the existing building?
- ? • We recommend curbing or wheel stops for the parking spaces facing the perimeter of the property.

Drawing C-3, Grading and Utility Plan

- ✓ • All steep slopes that are to be grassed shall be protected with an erosion control blanket or mesh.
- ? • We recommend that a separate drain structure may be needed to collect runoff in the southern side of the site and that the drainage from the northern side be connected across the front before being treated by the proposed Downstream Defender. The system then could tie into the catch basin in Washington Ave. as proposed.
- ✓ • A detail of the proposed retaining wall is needed. If the wall is going to be designed by a structural engineer this may be included with the Building Permit Submittal or as part of the manufacturers design.
- ? • Please indicate the cored elevation needed in the existing Catch Basin in Washington Avenue to connect the site drainage.

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
Planning Copy**

2005-0026
Application I. D. Number

02/17/2005
Application Date

A & M Partners Llc
Applicant
120 Exchange St, Portland, ME 04101
Applicant's Mailing Address

101 Washington Avenue
Project Name/Description

Consultant/Agent
Applicant Ph: (207) 775-2100 Agent Fax:
Applicant or Agent Daytime Telephone, Fax

101 - 101 Washington Ave, Portland, Maine
Address of Proposed Site
012 P019001
Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify)

Proposed Building square Feet or # of Units Acreage of Site **B4**
Zoning

Check Review Required:

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan (major/minor) | <input type="checkbox"/> Subdivision # of lots | <input type="checkbox"/> PAD Review | <input type="checkbox"/> 14-403 Streets Review |
| <input type="checkbox"/> Flood Hazard | <input type="checkbox"/> Shoreland | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional Use (ZBA/PB) | <input type="checkbox"/> Zoning Variance | | <input type="checkbox"/> Other |

Fees Paid: Site Plan \$400.00 Subdivision Engineer Review \$2,797.40 Date 06/22/2005

Planning Approval Status:

Reviewer **Kandi Talbot**

- Approved **Approved w/Conditions**
See Attached Denied

Approval Date 06/15/2005 Approval Expiration 06/15/2006 Extension to Additional Sheets
Attached

OK to Issue Building Permit **Kandi Talbot** 06/22/2005
signature date

Performance Guarantee **Required*** **Not Required**

* No building permit may be issued until a performance guarantee has been submitted as indicated below

- | | | | |
|--|--------------------|--|-------------------------------|
| <input checked="" type="checkbox"/> Performance Guarantee Accepted | 06/21/2005 date | \$114,370.00 amount | 06/17/2007 expiration date |
| <input checked="" type="checkbox"/> Inspection Fee Paid | 06/21/2005 date | \$2,287.40 amount | |
| <input type="checkbox"/> Building Permit Issue | date | | |
| <input type="checkbox"/> Performance Guarantee Reduced | date | remaining balance | signature |
| <input type="checkbox"/> Temporary Certificate of Occupancy | date | <input type="checkbox"/> Conditions (See Attached) | expiration date |
| <input type="checkbox"/> Final Inspection | date | signature | |
| <input type="checkbox"/> Certificate Of Occupancy | date | | |
| <input type="checkbox"/> Performance Guarantee Released | date | signature | |
| <input type="checkbox"/> Defect Guarantee Submitted | submitted date | amount | expiration date |
| <input type="checkbox"/> Defect Guarantee Released | date | signature | |

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
ADDENDUM**

2005-0026
Application I. D. Number

A & M Partners LLC
Applicant
120 Exchange St, Portland, ME 04101
Applicant's Mailing Address

02/17/2005
Application Date

101 Washington Avenue
Project Name/Description

Consultant/Agent
Applicant Ph: (207) 775-2100 Agent Fax:
Applicant or Agent Daytime Telephone, Fax

101 - 101 Washington Ave, Portland, Maine
Address of Proposed Site
012 P019001
Assessor's Reference: Chart-Block-Lot

Approval Conditions of Planning

- 1 that when the existing building is occupied, the Zoning Administrator shall review the number of parking spaces required for the reuse.

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
DRC Copy**

2005-0026
Application I. D. Number

A & M Partners Lic
Applicant
120 Exchange St, Portland, ME 04101
Applicant's Mailing Address

02/17/2005
Application Date
101 Washington Avenue
Project Name/Description

Consultant/Agent
Applicant Ph: (207) 775-2100 Agent Fax:
Applicant or Agent Daytime Telephone, Fax

101 - 101 Washington Ave, Portland, Maine
Address of Proposed Site
012 P019001
Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Parking Lot Other (specify)

Proposed Building square Feet or # of Units _____ Acreage of Site _____ **B4**
Zoning

Check Review Required:

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan (major/minor) | <input type="checkbox"/> Subdivision # of lots | <input type="checkbox"/> PAD Review | <input type="checkbox"/> 14-403 Streets Review |
| <input type="checkbox"/> Flood Hazard | <input type="checkbox"/> Shoreland | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional Use (ZBA/PB) | <input type="checkbox"/> Zoning Variance | | <input type="checkbox"/> Other |

Fees Paid: Site Plan \$400.00 Subdivision _____ Engineer Review \$2,797.40 Date 06/22/2005

DRC Approval Status:

Reviewer **Sebago Technic**

- Approved** **Approved w/Conditions** **Denied**
See Attached

Approval Date **06/15/2005** Approval Expiration **06/15/2006** Extension to _____ Additional Sheets
Attached

Condition Compliance **Kandi Talbot** **06/22/2005**
signature date

Performance Guarantee **Required*** **Not Required**

* No building permit may be issued until a performance guarantee has been submitted as indicated below

- | | | | |
|--|---------------------------|--|--------------------------------------|
| <input checked="" type="checkbox"/> Performance Guarantee Accepted | 06/21/2005 date | \$114,370.00 amount | 06/17/2007 expiration date |
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| <input type="checkbox"/> Building Permit Issue | date | | |
| <input type="checkbox"/> Performance Guarantee Reduced | date | remaining balance | signature |
| <input type="checkbox"/> Temporary Certificate of Occupancy | date | <input type="checkbox"/> Conditions (See Attached) | expiration date |
| <input type="checkbox"/> Final Inspection | date | signature | |
| <input type="checkbox"/> Certificate Of Occupancy | date | | |
| <input type="checkbox"/> Performance Guarantee Released | date | signature | |
| <input type="checkbox"/> Defect Guarantee Submitted | submitted date | amount | expiration date |
| <input type="checkbox"/> Defect Guarantee Released | date | signature | |

City of Portland
Department of Planning and Development
Planning Division
389 Congress Street, 4th Floor
Portland ME 04101
(207)874-8721 or (207)874-8719
Fax: (207)756-8258



FAX

To:

Mike Scarks

Company:

Neptune Properties

Fax #:

874-6988

Date:

May 17, 2005

From:

Kandi Talbot

You should receive 5 page(s) including this cover sheet.

Comments:

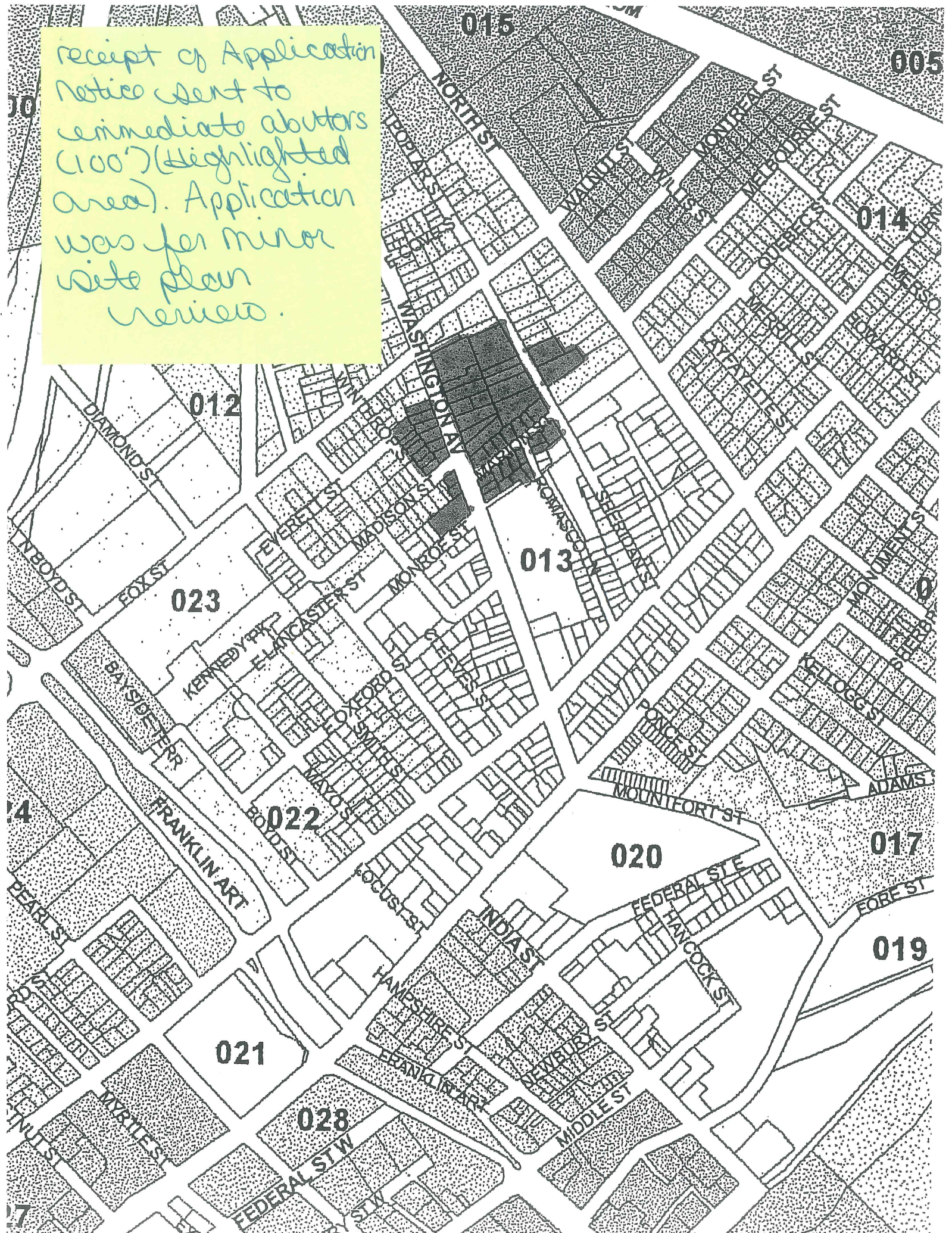
Mike,

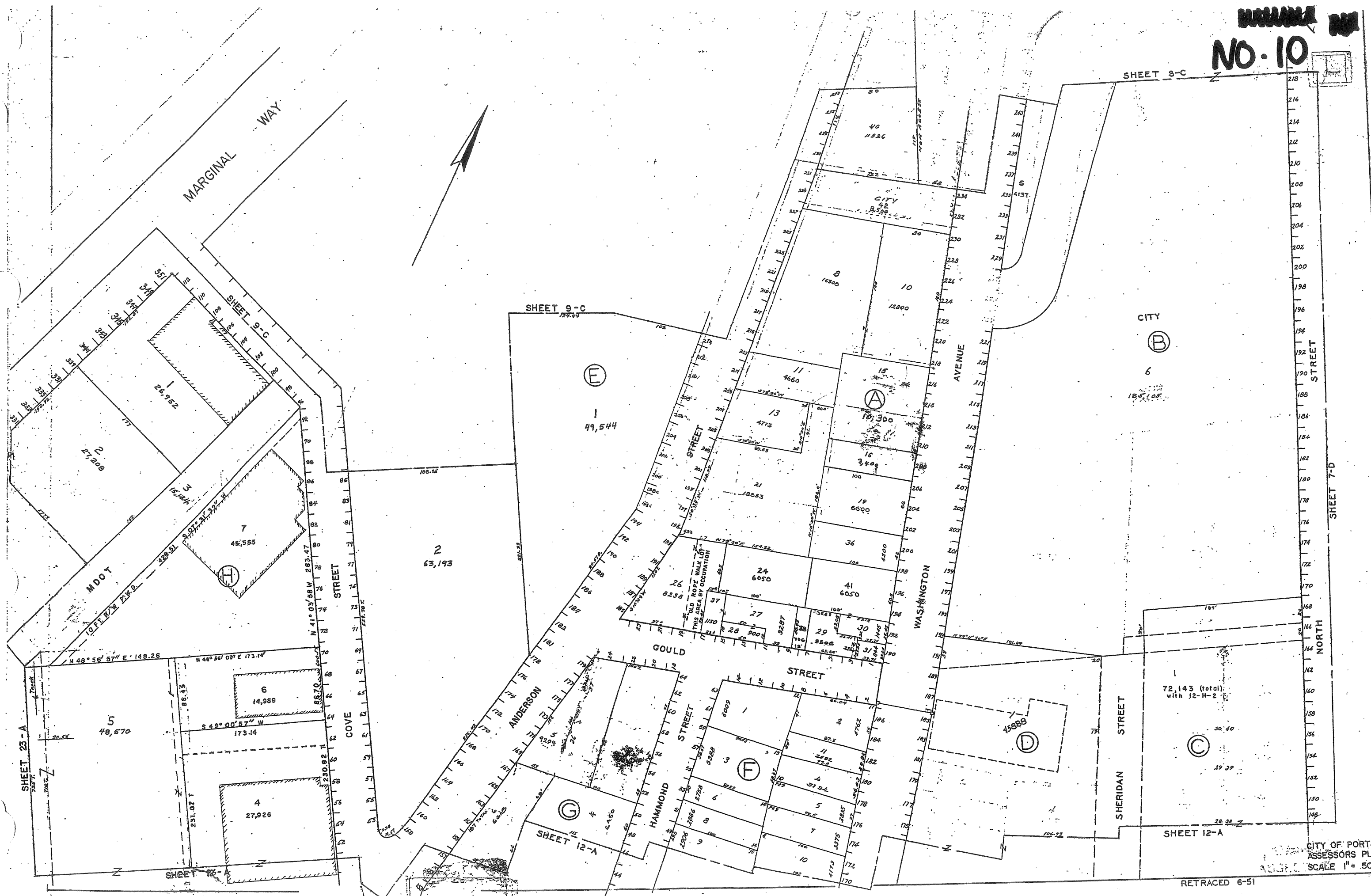
Attached are comments from Public Works and Jim Seymour regarding 107 Washington Avenue. Jim Seymour's comments are from his previous memo; ✓ are marked completed, ? are not responded to or completed. The attached plan is marked up for stormwater layout. Treatment tank cannot be in R.O.W. Jay Reynolds is currently reviewing private cost estimates. Any questions, please call.

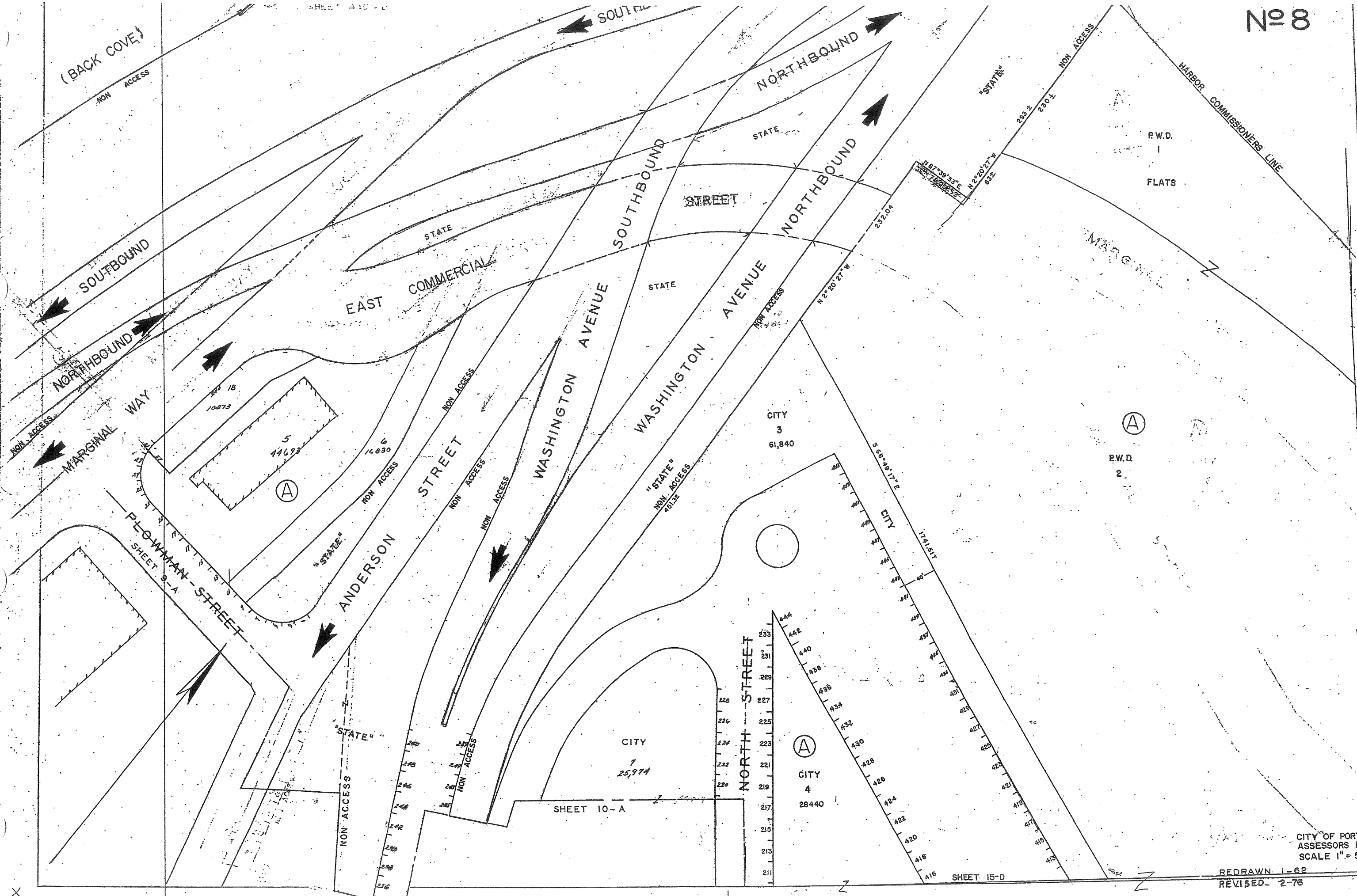
Thanks

Kandi

receipt of Application
Notice sent to
immediate abutters
(100') (highlighted
area). Application
was for minor
site plan
review.



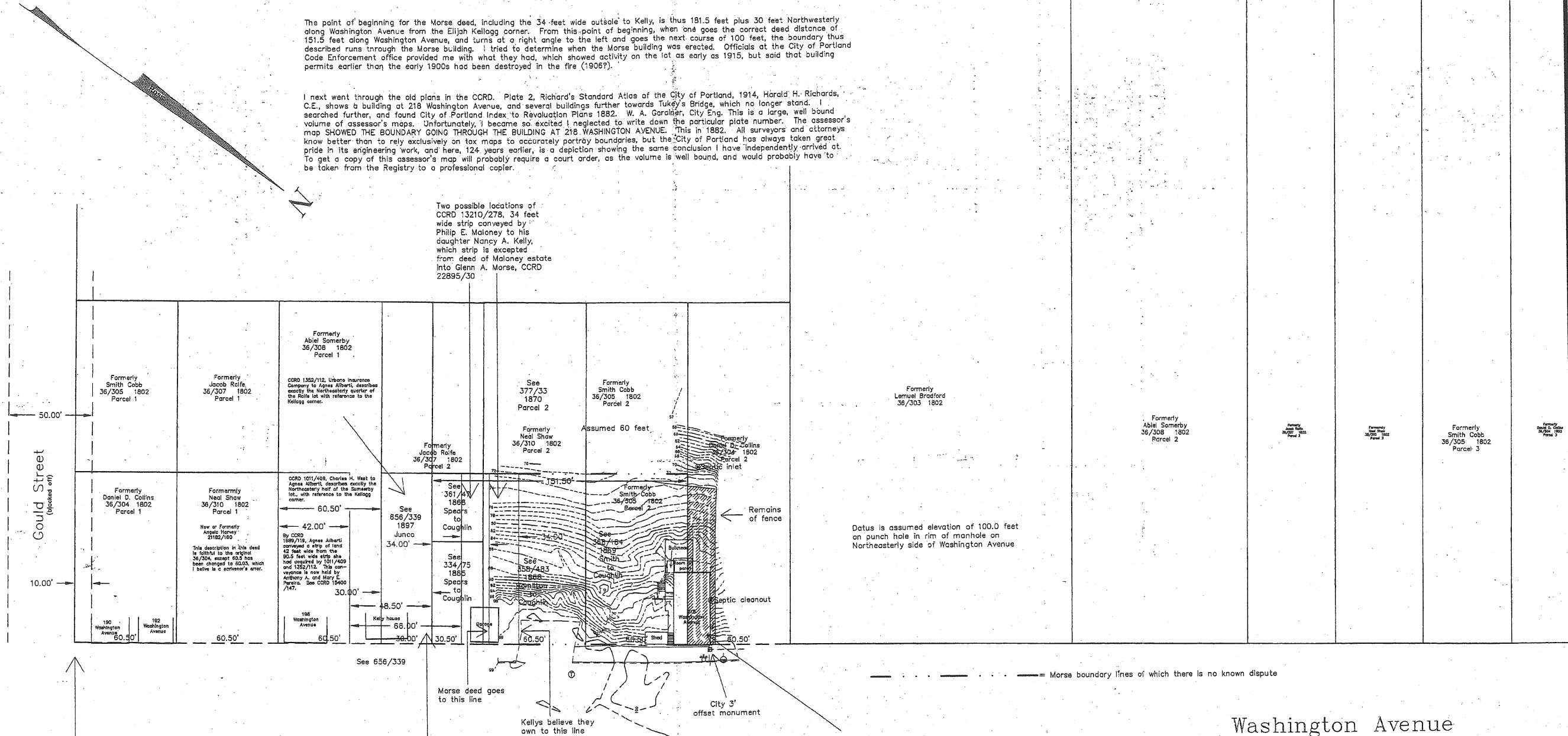




Glenn A. Morse received from the Estate of Philip Maloney by 22895/30, a strip of land along Washington Avenue 151.5 feet wide. [Deed says 152.5 feet wide, but this is due to rounding up. Correct historical distance is 151.5 feet.] From this is subtracted a 34 feet wide strip next to land of Kelly. See 13210/278. The Morse parcel, before outside, begins at the Northernly corner of land described in CCRD Book 656, Page 339. 856/339 says "... which monument [not found] is one hundred eighty one and a half feet Northwestly from the Easterly corner of land purchased of Elijah Kellogg... thence running from said first corner Northwestly on Washington Street thirty feet to a point and monument... [not found]."

The point of beginning for the Morse deed, including the 34-foot wide outside to Kelly, is thus 181.5 feet plus 30 feet Northwestly along Washington Avenue from the Elijah Kellogg corner. From this point of beginning, when one goes the correct deed distance of 151.5 feet along Washington Avenue, and turns at a right angle to the left and goes the next course of 100 feet, the boundary thus described runs through the Morse building. I tried to determine when the Morse building was erected. Officials at the City of Portland Code Enforcement office provided me with what they had, which showed activity on the lot as early as 1915, but said that building permits earlier than the early 1900s had been destroyed in the fire (1906?).

I next went through the old plans in the CCRD. Plate 2, Richard's Standard Atlas of the City of Portland, 1914, Harold H. Richards, C.E., shows a building at 218 Washington Avenue, and several buildings further towards Tukey's Bridge, which no longer stand. I searched further, and found City of Portland Index to Revolution Plans 1882. W. A. Garalier, City Eng. This is a large, well bound volume of assessor's maps. Unfortunately, I became so excited I neglected to write down the particular plate number. The assessor's map SHOWED THE BOUNDARY GOING THROUGH THE BUILDING AT 218 WASHINGTON AVENUE. This in 1882. All surveyors and attorneys know better than to rely exclusively on tax maps to accurately portray boundaries, but the City of Portland has always taken great pride in its engineering work, and here, 124 years earlier, is a depiction showing the same conclusion I have independently arrived at. To get a copy of this assessor's map will probably require a court order, as the volume is well bound, and would probably have to be taken from the Registry to a professional copier.

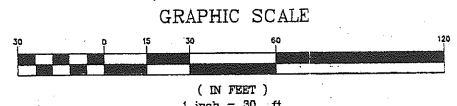


Corner of land purchased of Elijah Kellogg by Neal Shaw, Abiel Somerby, Jacob Rolfe, Lemuel Bradford and Daniel D. Collins by deed recorded in CCRD Book 35, Page 305. In following deeds these five divided the property among themselves, in every case referring to this corner as the point of commencement, with lines running Southwestly perpendicular to Washington Avenue. This corner is also shown on subdivision plan recorded in CCRD Book 36, Page 247, as the corner of Little. This corner was determined by the surveyor from the definition of Gould Street in Portland city records, from field book notes found in the Portland Engineering office, as was also the streetline of Washington Avenue. Because many of the buildings from which ties were taken when the City of Portland did its engineering work are gone, and remaining buildings probably have been refaced, other surveyors may determine streelines which differ from that shown here a few inches, but what is here is the most accurate which Ross Boundary Surveys can determine.

Agnes Aliberti received by two deeds, 1011/409 and 1352/112, a strip of land 90.5 feet wide. From this strip of land 90.5 feet wide, she conveyed by 1889/119 a strip of land 42 feet, and by 1704/496, a strip of land 66 feet wide. Thus what came in to possession as 90.5 feet wide, left possession as 108 feet wide. Kevin Kelly appears to believe that his Northwestly property line conveyed by 6285/251 lies distant 66 feet along Washington Avenue from the concrete retaining wall called in his deed marking the Northwestly property line of Pereira. By historical deed measurement, his property can be only 48.5 feet wide, unless some unwritten means of transfer has been accomplished.

The Herbert Clifford deed, 3311/6, calls for a sewer right to cross to Anderson Street. Examination of the title chain shows that this right was to service a building lying Westly of the Morse property, which building no longer exists.

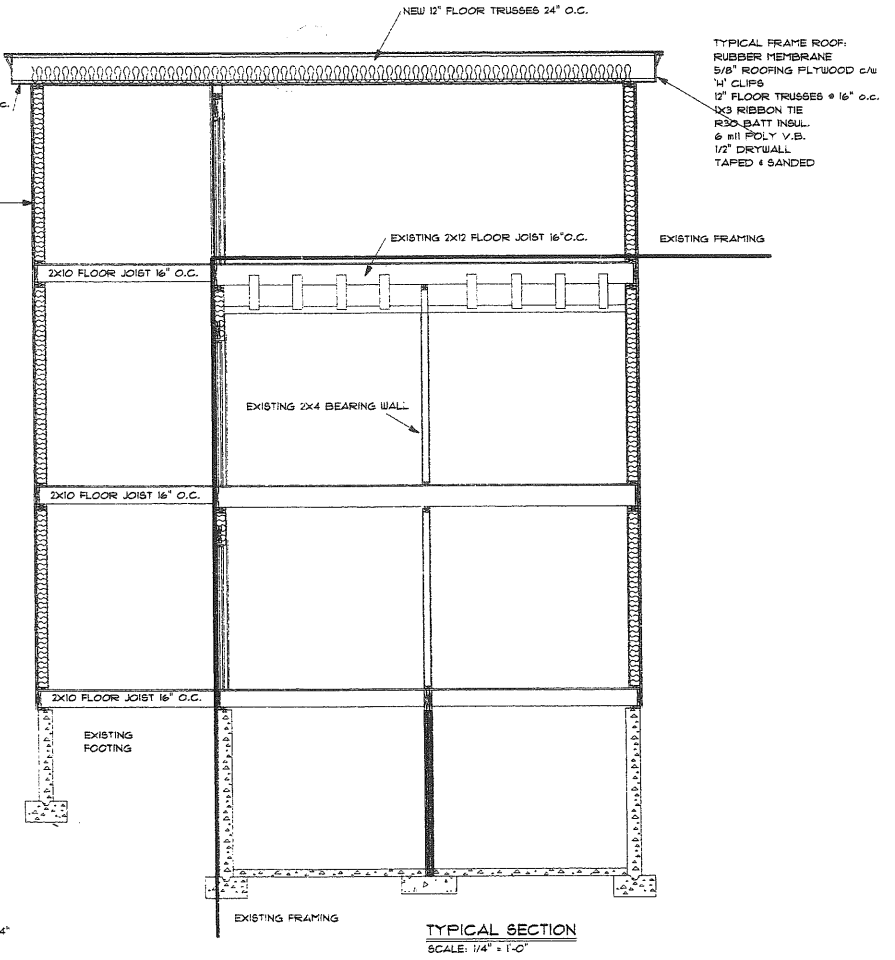
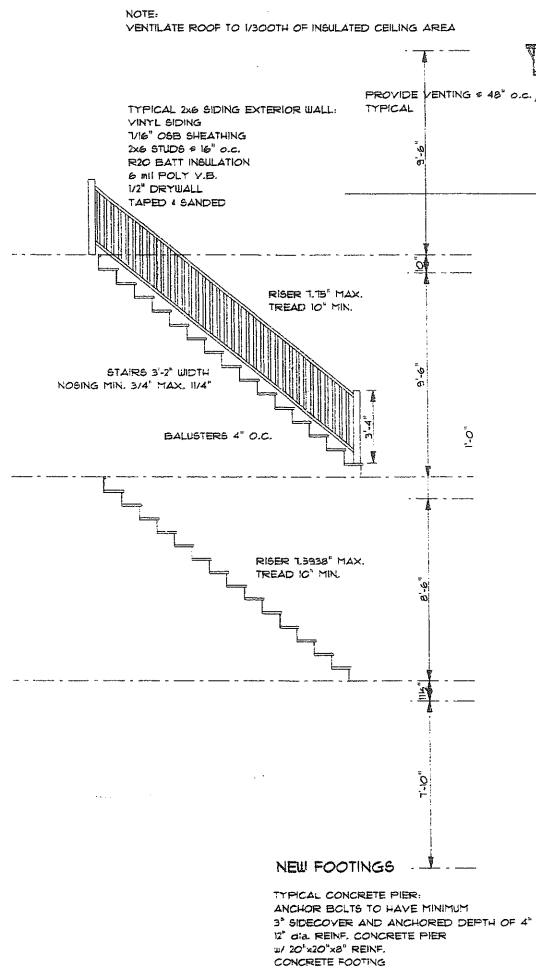
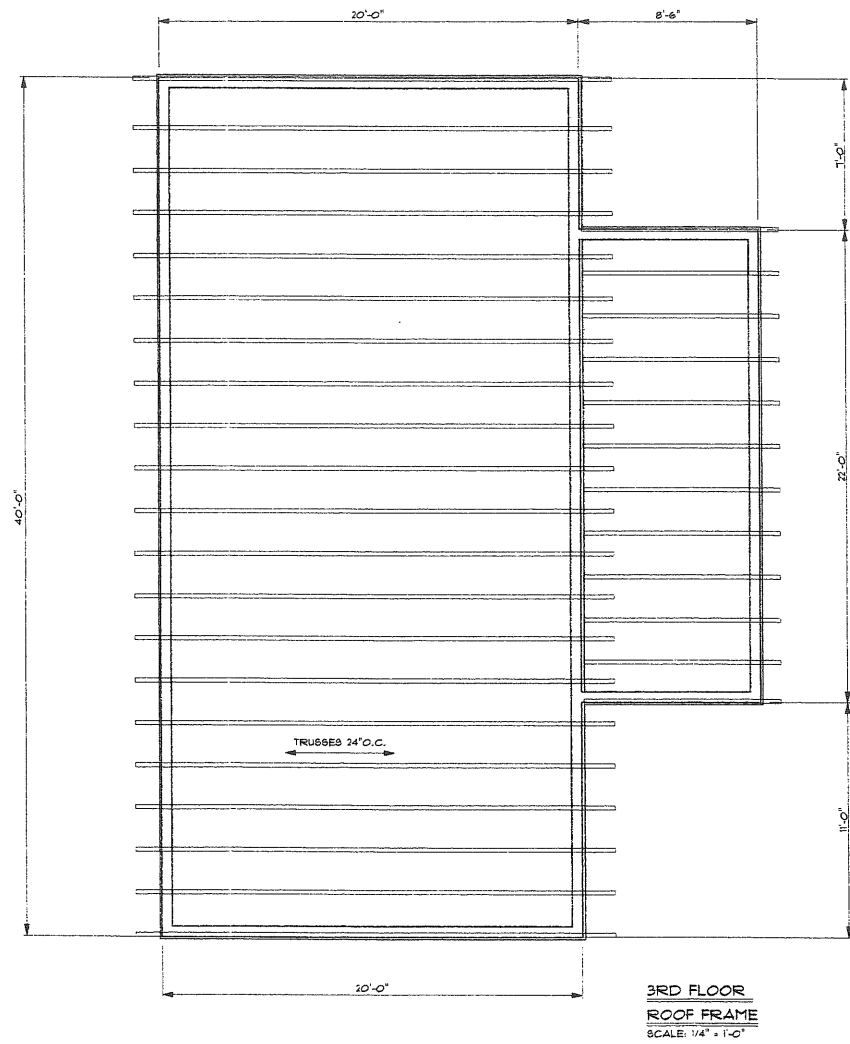
The estate of Herbert B. Clifford is listed as the abutter of the Morse property on the Northwest side. However, once again, things are not exactly as they appear. Mr. Clifford received his property from ideal Cleaners & Launderers, Inc. by 3311/6. C&L received from M. Alberta Achorn by 1820/431. Alberta Achorn received from Charles C. Achorn by 1328/122. Charles Achorn received from Cash Fuel Company by 944/141 on March 23, 1915. The last course in 944/141 is the course along the Morse property, and states: "...thence easterly by said fence to the point of beginning." The remains of the fence are present, which I have shown on the Northwestly side of the hatched area. The deed into Cash Fuel Company is 844/384, December 9, 1909. It refers to several mortgage deeds and foreclosures, which I have read, and then says: "Said property is shown in four parcels upon the City Re-valuation Plan of 1882, No. 10, each of said parcels being marked 'D. W. Fessenden 1/2 A. R. Mitchell 1/2', and has been continuously in our possession since the date of foreclosure." ONE OF THOSE FOUR PARCELS IS THE PARCEL BOUNDED SOUTHEASTERLY BY THE LINE RUNNING THROUGH THE MORSE BUILDING. Thus, Cash Energy sold out less than it acquired, the remainder shown by the hatched area. I could not find reference to Cash Energy after the 1920's. That does not mean that there is not a successor company, but it does suggest a possible solution to the boundary problem.



CERTIFICATION

Ross Boundary Surveys certifies to the location of the Northeastly (along Washington Avenue) and Southwestly boundaries of the locus, and to the relative accuracy of the topography depicted, in the opinion of Ross Boundary Surveys, the locations of the Northwestly and South-easterly boundaries should be settled within the legal system.

Steve N. Ross
 Steve N. Ross, P.L.S. #2205
 July 2007
 STATE OF MAINE
 PLANNING & ZONING BOARD
 STEVE N. ROSS
 P.L.S. #2205
 2007



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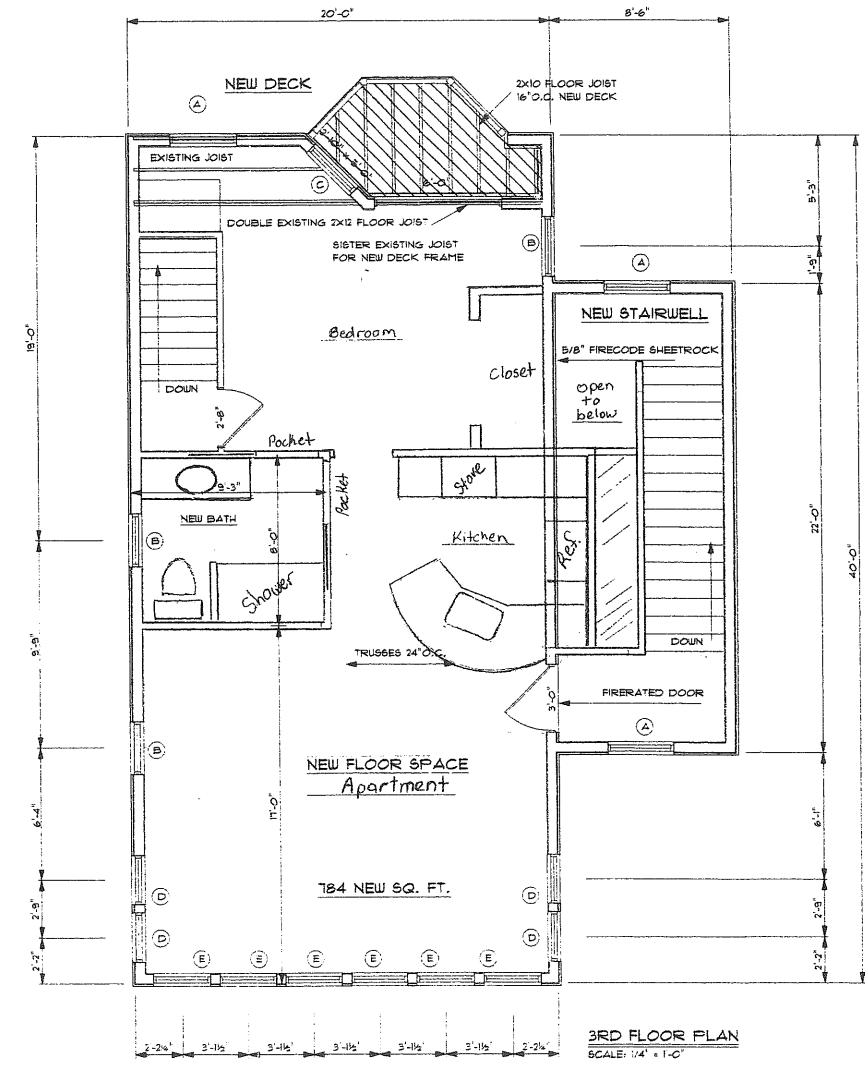
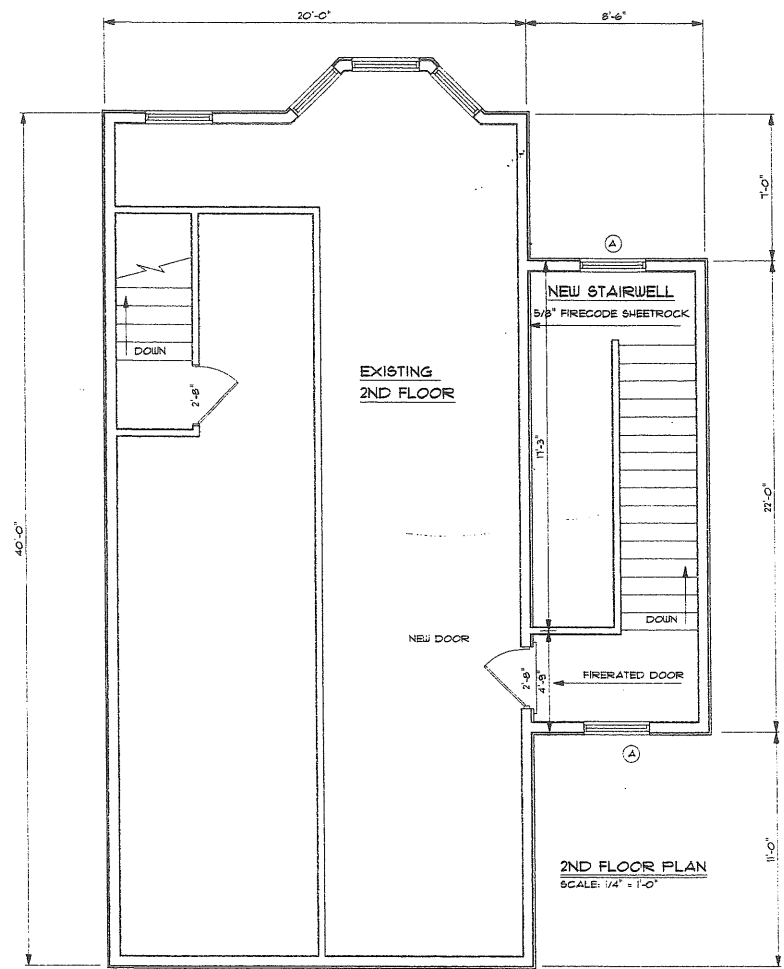
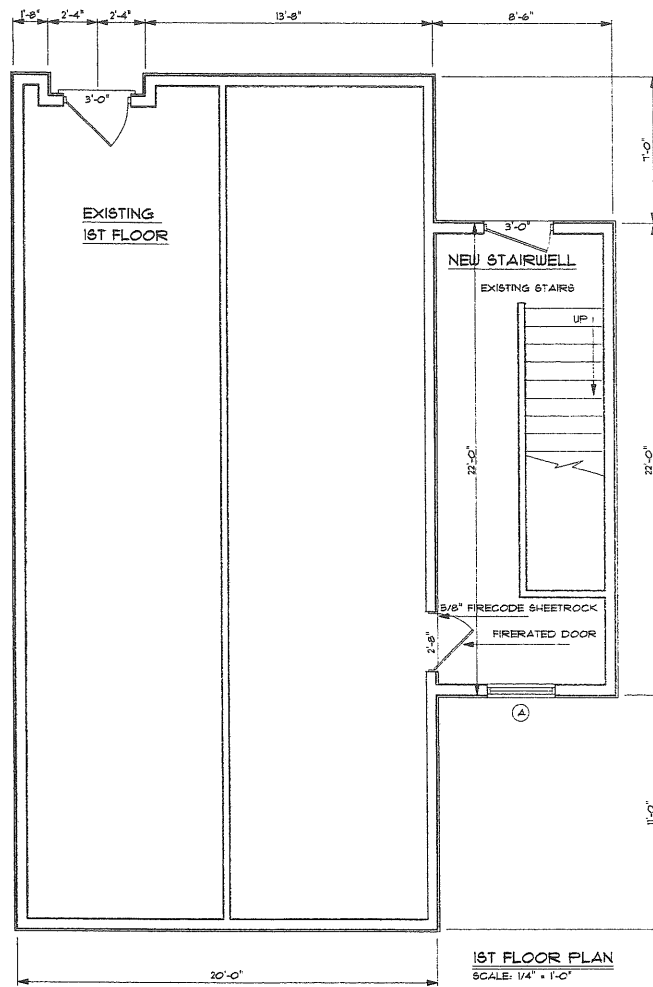
PROJECT FOR:
GLEN MORSE

CONTRACTOR:
GLEN MORSE

DRAWN BY
JACK SPRAGUE 16-T-80844

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| | |
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| DATE: | 02-01-2001 |
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| DRAWN: | J.E.S. |
| FILE: | |
| SHEET: | 3 OF 3 |



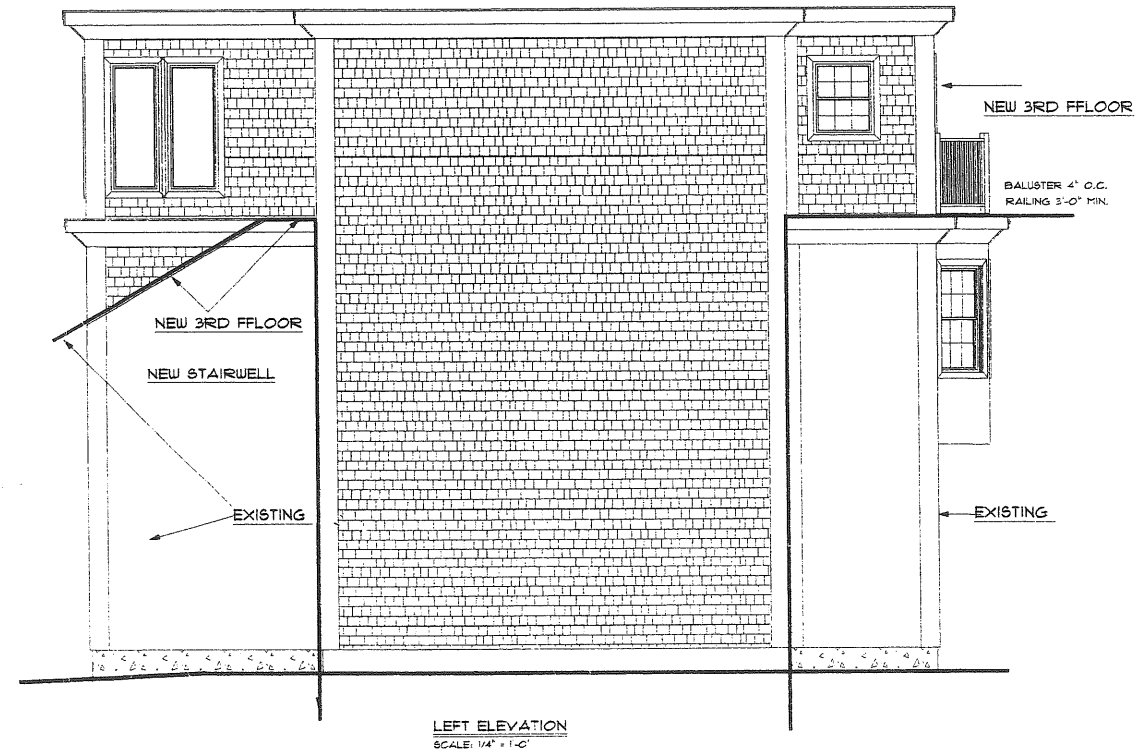
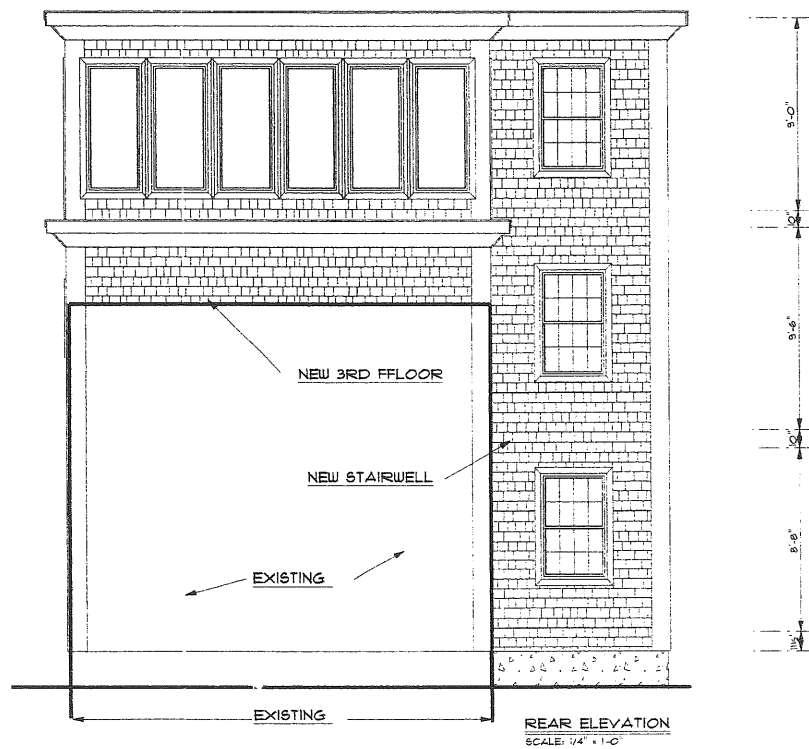
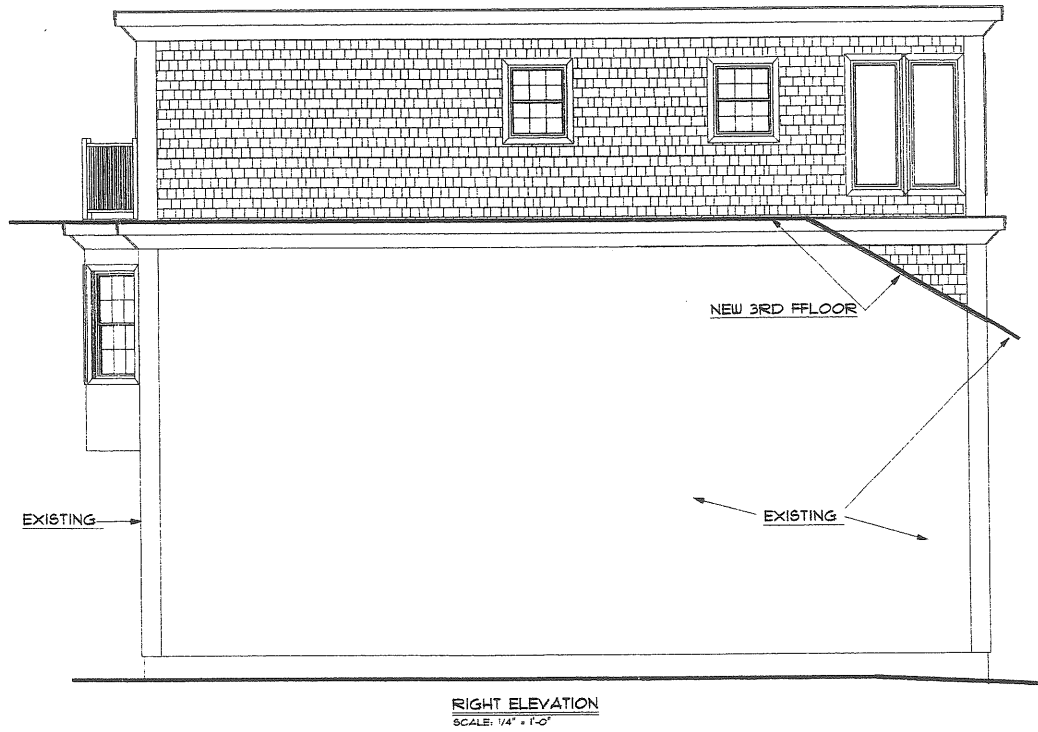
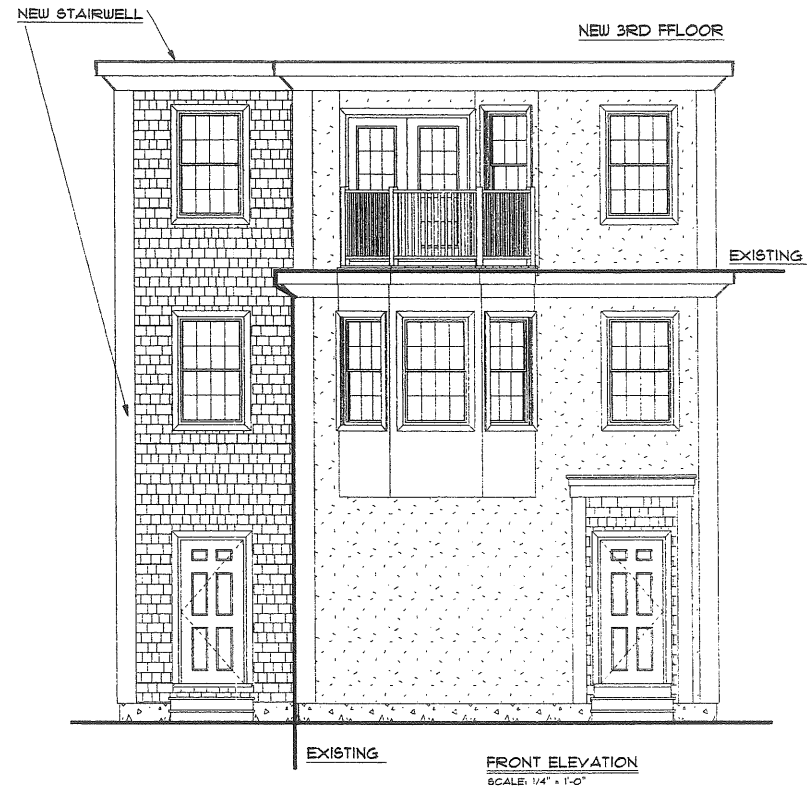
| ALSIDE WINDOWS | | | | |
|----------------|-------------|------------------|--------------------|----------------|
| NO. | CALL LETTER | ORDER NUMBER | WINDOW TYPE | ROUGH OPENING |
| 1 | (A) | 3660 | DOUBLE HUNG EGRESS | 3'-2" X 5'-0" |
| 2 | (B) | 3036 | DOUBLE HUNG | 2'-6" X 5'-0" |
| 3 | (C) | 3442 | DOUBLE HUNG | 2'-0" X 4'-11" |
| 4 | (D) | 2472 | CASEMENT | 2'-2" X 6'-1" |
| 5 | (E) | MADE ON JOB SITE | FIXED CASEMENT | 2'-8" X 6'-0" |

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GLEN MORSE
CONTRACTOR:
GLEN MORSE

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DATE: 02-07-2001
SCALE: AS NOTED
DRAWN: J.E.S.
FILE:
SHEET: 2 OF 3



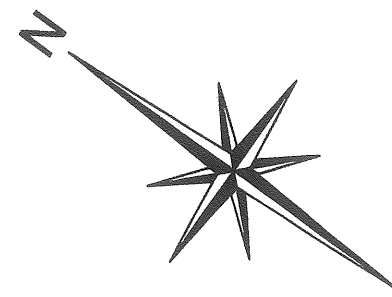
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PROJECT FOR:
GLEN MORSE
CONTRACTOR:
GLEN MORSE

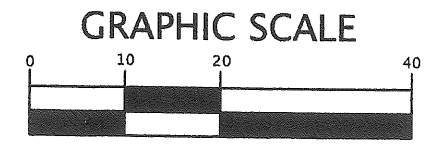
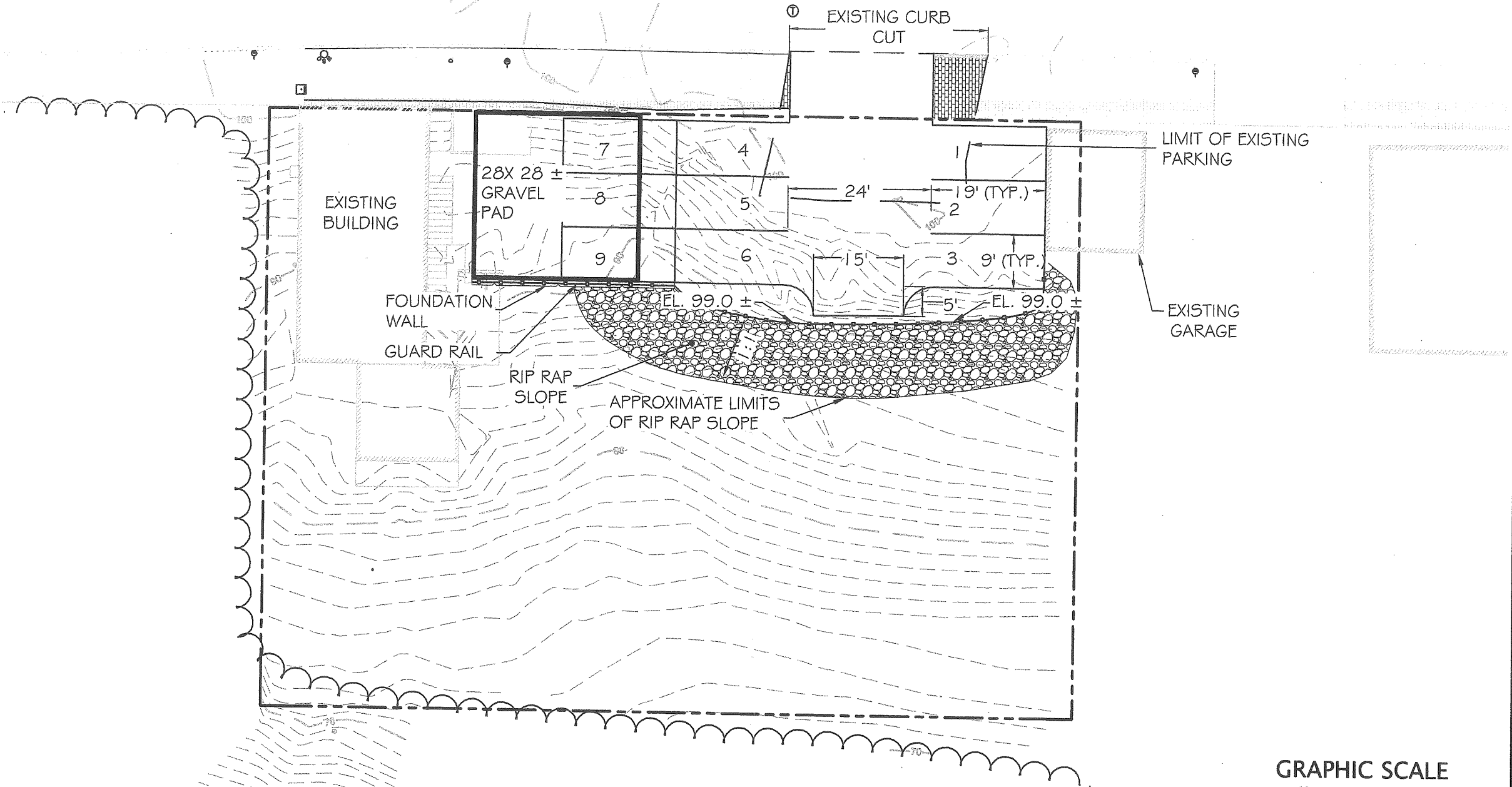
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| | |
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| DATE: | 02-01-2001 |
| SCALE: | AS NOTED |
| DRAWN: | J.E.S. |
| FILE: | |
| SHEET: | 1 OF 3 |



WASHINGTON AVENUE



(IN FEET)
1 inch = 20ft.

FOR PRELIMINARY REVIEW ONLY - NOT FOR CONSTRUCTION

SITE SKETCH PLAN

GLENN MORSE
218 WASHINGTON AVE.
PORTLAND
MAINE

LAND CONSULTING ENGINEERS, PA

967 BROADWAY
SOUTH PORTLAND, MAINE 04106
(207) 767-7300



DATE: 02/01/08

C.I.: 10'

SCALE: 1"=20'

DRAWING

C1

LCE07101