

CITY OF PORTLAND, MAINE

PLANNING BOARD

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June 1, 2015

Redfern Bayside LLC
PO Box 8816
Portland, ME 04101

Acorn Engineering
PO Box 3372
Portland, ME 04104

Project Name: East Bayside Lofts
Project ID: 2015-009
Address: 89 Anderson Street CBL: 12-I-001 and -005
Applicant: Redfern Bayside LLC.
Planner: Nell Donaldson

Dear Mr. Culley:

On May 26, 2015, the Planning Board considered your application for a mixed use development at 89 Anderson Street, the East Bayside Lofts. The Planning Board reviewed the proposal for conformance with the standards of the subdivision and site plan ordinances of the Land Use Code. The Planning Board voted 6-0 (Boepple absent) to approve the application with the following waivers and conditions.

WAIVERS

The Planning Board voted 6-0 (Boepple absent) to grant the following waivers:

1. The planning board found, based upon the consulting transportation engineer's review (*Planning Board Report Attachment 3*), that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.7.2.3*) which establishes a minimum driveway width of 20 feet for sites with two-way access, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board waives the *Technical Manual* standard (*Section 1.7.2.3*) to allow a driveway of 18 feet in width at the overhead door on Everett Street;
2. The planning board found, based upon the consulting transportation engineer's review (*Planning Board Report Attachment 3*), that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14*) which requires that aisle width for right-angle parking be 24 feet per *Figure I-27*, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board waives the *Technical Manual* standard (*Section 1.14*) to allow a 23 foot wide aisle in the parking area at the interior of the site;

3. The planning board found, based upon the consulting transportation engineer's review (*Planning Board Report Attachment 3*), that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14 and Figures I-27 to I-29*) limiting compact spaces to 20% of total parking supply, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board waives the *Technical Manual* standard (*Section 1.14 and Figures I-27 to I-29*) to allow 83% non-standard spaces;
4. The Planning Board found that the applicant has demonstrated that site constraints prevent the planting of all required trees in the parking area due to the area's size and configuration. The planning board waives the site plan standard (*Section 14-526(b)2.b(ii)*) and concludes that the applicant shall make a financial contribution of \$1,800 for nine trees to Portland's tree fund; and
5. The planning board found that the applicant has demonstrated that site constraints prevent the planting of all required street trees in the right-of-way. The planning board waives the site plan standard (*Section 14-526(b)(iii)*) requiring one street tree per unit for multi-family development and concludes that the applicant shall contribute \$8,600 for 43 street trees to Portland's tree fund.

SITE PLAN REVIEW

The Planning Board voted 6-0 (Boepple absent) that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following conditions of approval, which must be met prior to the issuance of a building permit, unless otherwise stated:

1. The applicant shall provide a revised construction management plan, including:
 - a. Details regarding pedestrian detours, ADA compliance, and contractor parking as requested by the city's consulting traffic engineer (*Planning Board Report Attachment 3*),
 - b. Details regarding the constructability of the proposed retaining wall on the subject property as requested by the city's consulting civil engineer (*Planning Board Report Attachment 6*), and
 - c. Provisions for any necessary temporary construction easementsfor review and approval by the Department of Public Services;
2. The applicant shall make financial contribution of \$5,000 toward improvements at the Fox Street/Walnut Street/Washington Avenue intersection, for review and approval by the Department of Public Services;
3. The applicant shall submit a revised plan set, including:
 - a. Modifications to ramps and sidewalks, documentation of ADA accessibility, and porous pavers along the proposed retaining wall as requested by the city's consulting traffic engineer (*Planning Board Report Attachment 3*);
 - b. Final stamped retaining wall plans, inlet protection devices, and details related to the porous pavers and associated underdrain as requested by the city's consulting civil engineer (*Planning Board Report Attachment 6*);for review and approval by the Department of Public Services;

4. The applicant shall provide documentation that the parking requirements of Division 20 have been met by:
 - a. Finalizing off-site parking plans and providing evidence of control of off-site parking in accordance with *Section 14-334* for review and approval by the Planning Authority, Corporation Counsel, and the Department of Public Services, with an executed lease due at certificate of occupancy, or
 - b. Providing alternative plans in accordance with Division 20 for review and approval by the Planning Authority and the Department of Public Services;
5. Prior to issuance of a certificate of occupancy, the applicant shall provide supporting documentation for proposed changes to the on-street parking schedule for review and approval by the Department of Public Services;
6. The applicant shall revise the landscape plan to depict tree species, plant sizes, and planter details as requested by the city arborist (*Planning Board Report Attachment 4*) for review and approval by the arborist;
7. The applicant shall obtain a license, to be granted by the city, for the proposed grease trap in the Fox Street right-of-way for review and approval by the Department of Public Services and Corporation Counsel;
8. Prior to issuance of a certificate of occupancy, the applicant shall provide drawings related to the proposed treatment of the Fairpoint box for review and approval by the Planning Authority; and
9. Within three months of the issuance of a building permit, the applicant shall provide drawings addressing the comments of Ms. Cameron (*Planning Board Report Attachment 8*), particularly with respect to the treatment of the Fox Street screen, for review and approval by the Planning Authority.

SUBDIVISION REVIEW

The Planning Board voted 6-0 (Boepple absent) that the plan is in conformance with the subdivision standards of the Land Use Code, subject to the following conditions of approval, which must be met prior to the signing of the plat:

1. The applicant shall finalize the subdivision plat for review and approval by Corporation Counsel, the Department of Public Services, and the Planning Authority; and
2. The applicant shall provide a pedestrian access easement for the areas of sidewalk that do not lie within the right-of-way.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Report for application 2015-009 which is attached.

STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

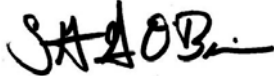
1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee. The performance guarantee must be issued prior to the release of the recording plat for recording at the Cumberland County Registry of Deeds.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements, an inspection fee payment of 2.0% of the guarantee amount, seven (7) final sets of plans, and one digital copy of the final plan set must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a subdivision plat for recording at the Cumberland County of Deeds, and prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

10. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Nell Donaldson at 874-8723.

Sincerely,



Stuart O'Brien, Chair
Portland Planning Board

Attachments:

4. Planning Board Report
5. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
Alexander Jaegerman, FAICP, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Nell Donaldson, Planner/Senior Planner
Philip DiPierro, Development Review Coordinator, Planning
Ann Machado, Acting Zoning Administrator, Inspections Division
Tammy Munson, Inspections Division Director
Jonathan Rioux, Inspections Division Deputy Director
Jeanie Bourke, Plan Reviewer/CEO, Inspections Division
Lannie Dobson, Administration, Inspections Division
Brad Saucier, Administration, Inspections Division
Michael Bobinsky, Public Services Director
Katherine Earley, Engineering Services Manager, Public Services
Bill Clark, Project Engineer, Public Services
David Margolis-Pineo, Deputy City Engineer, Public Services
Doug Roncarati, Stormwater Coordinator, Public Services
Greg Vining, Associate Engineer, Public Services
Michelle Sweeney, Associate Engineer
John Low, Associate Engineer, Public Services
Rhonda Zazzara, Field Inspection Coordinator, Public Services
Mike Farmer, Project Engineer, Public Services
Jane Ward, Administration, Public Services

Jeff Tarling, City Arborist, Public Services
Jeremiah Bartlett, Public Services
Keith Gautreau, Fire Department
Jennifer Thompson, Corporation Counsel
Thomas Errico, P.E., TY Lin Associates
David Senus, P.E., Woodard and Curran
Rick Blackburn, Assessor's Department
Approval Letter File



PLANNING BOARD REPORT PORTLAND, MAINE

East Bayside Lofts
89 Anderson Street
Level III Site Plan and Subdivision Review
2015-009
Redfern Properties

Submitted to: Portland Planning Board Date: May 22, 2015 Public Hearing Date: May 26, 2015	Prepared by: Nell Donaldson, Planner CBLs: 12-I-001 and -005 Project #: 2015-009
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I. INTRODUCTION

Redfern Properties returns to the planning board for final Level III site plan and subdivision review for a four-story mixed-use development, the East Bayside Lofts, at the corner of Fox and Anderson Streets in East Bayside. The proposed 44,000 SF development includes first floor commercial and 53 market rate apartment units on the three floors above. The proposal also includes 53 parking spaces and sidewalk and landscaping improvements. The site is currently occupied by 3Gs Tire and Auto Service, and was recently the subject of a zoning map amendment approved by the city council on the recommendation of the planning board.

This development is being referred to the planning board for compliance with the site plan and subdivision standards. A total of 145 notices were sent to property owners within 500 feet of the site and a legal ad ran on May 18 and 19, 2015.

Applicant: Jonathan Culley, Redfern Properties

Consultants: Will Savage, Acorn Engineering; Ryan Senatore, Ryan Senatore Architecture; Jim Nadeau, Nadeau Land Surveyors

II. REQUIRED REVIEWS

<i>Waiver Requests</i>	<i>Applicable Standards</i>
Driveway width – To allow an 18 foot opening at the overhead door on Everett Street <i>Supported by consulting traffic engineer</i>	Technical Manual, <i>Section 1.7.2.3</i> . Any site with two-way driveway access to the street shall have a minimum width of 20 feet.
Aisle width – To allow a 23 foot aisle in the parking area <i>Supported by consulting traffic engineer</i>	Technical Manual, <i>Section 1.14</i> , requiring that aisle width for right-angle parking be 24 feet per Figure I-27
Compact parking spaces and parking dimensions – To allow 83% compact size (44 spaces), 17% standard size (9 spaces) <i>Supported by traffic engineer</i>	Technical Manual, <i>Section 1.14 and Figures I-27 to I-29</i> . Parking lots with greater than 10 spaces may be comprised of up to 20% compact spaces. <i>53 spaces proposed = 11 compact permitted by right</i>
Parking lot landscaping – To plant 2 trees and >32 shrubs, less than required	Site Plan Standard, <i>Section 14-526(b)2.b(ii)</i> . Developments with >5 parking spaces shall include at least 2 trees (or 1 tree and 3 shrubs) per 5 parking spaces planted in landscaped islands. Waiver permitted where site constraints prevent it, with applicant contributing proportionate amount to Tree Fund. <i>53 parking spaces proposed = 22 trees or 11 trees & 32 shrubs required. Contribution for 9 trees outstanding.</i>

Street trees – To plant 10 street trees, less than required	Site Plan Standard, <i>Section 14-526(b)2.b(iii)</i> and Technical Manual, <i>Section 4.6.1</i> . All multi-family development shall provide one street tree per unit. Waiver permitted where site constraints prevent it, with applicant contributing proportionate amount to Tree Fund. <i>53 units = 53 street trees required. Contribution for 43 trees outstanding.</i>
Review	Applicable Standards
Site Plan	<i>Section 14-526</i>
Subdivision	<i>Section 14-497</i>

III. PROJECT DATA

Existing Zoning	B-1b
Existing Use	Auto repair and parking lot
Proposed Use	Mixed use (commercial and residential)
Proposed Development Program	App. 2,500 SF commercial (restaurant and office), 53 residential units
Parcel Size	23,360 SF

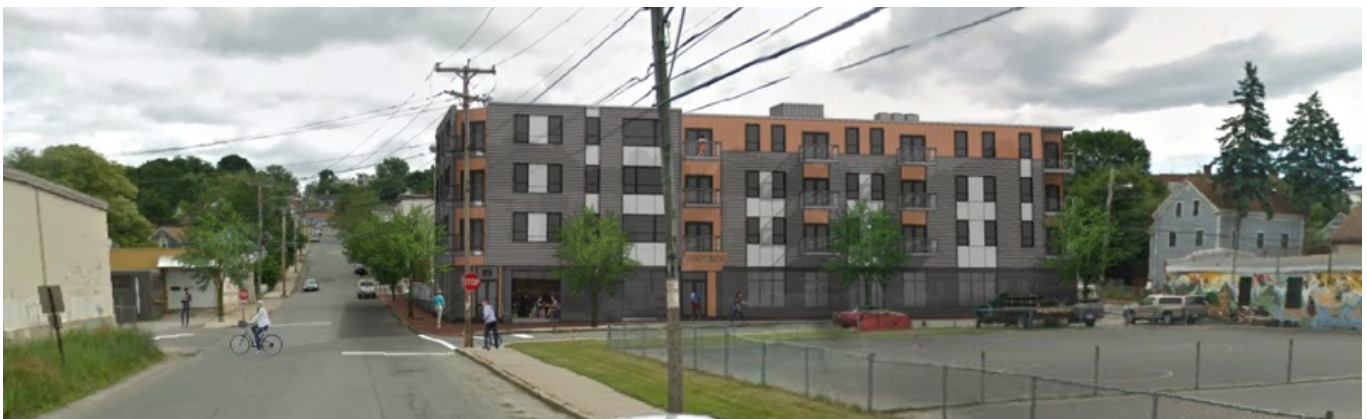
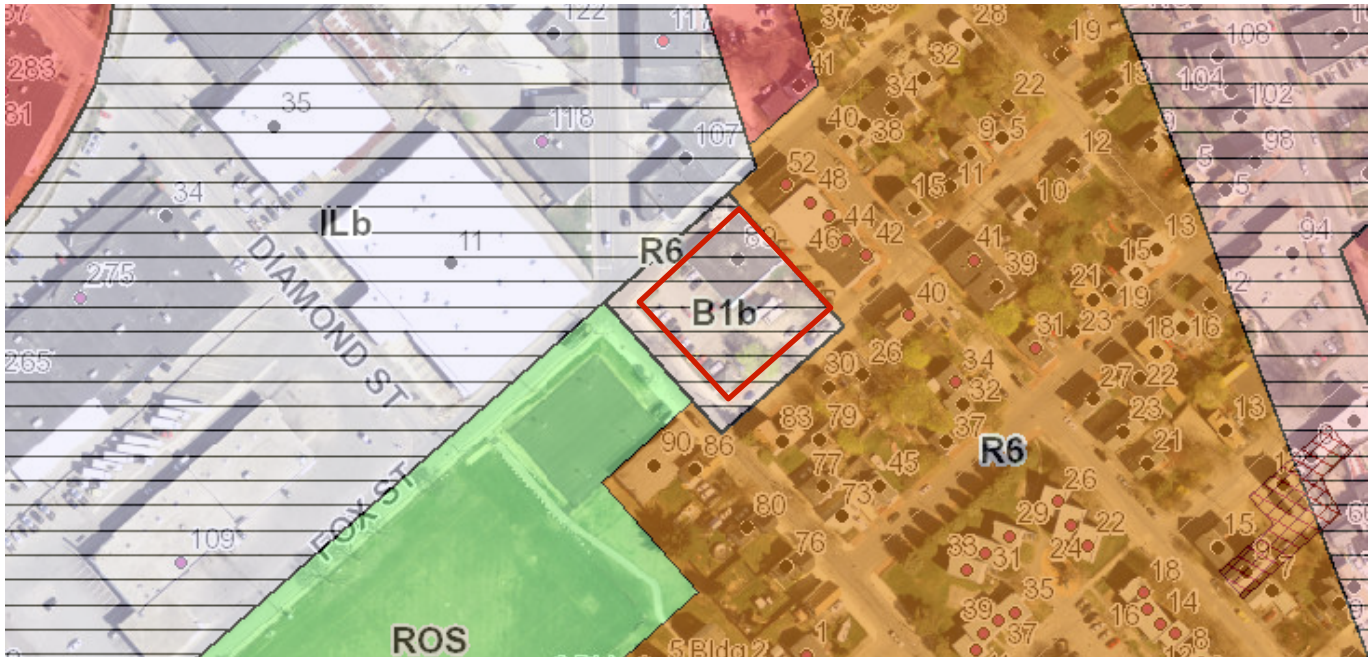
	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	6,225 SF	13,334 SF	7,109 SF
Building Floor Area	6,225 SF	44,050 SF	37,825 SF
Impervious Surface Area	23,360 SF	21,024 SF	-2,336 SF
Parking Spaces (on site)	17	53 (zoning req. 66)	36
Bicycle Parking Spaces	0	24 (meets standard)	24
Estimated Cost of Project	\$6,500,000		



Figure 1: 89 Anderson Street site

IV. BACKGROUND & EXISTING CONDITIONS

The site of the proposed East Bayside Lofts lies at the southeast corner of Fox and Anderson Streets in East Bayside. The site technically consists of two parcels and is currently occupied by 3Gs Tire and Auto Service. The eastern half of the site houses a one-story brick garage building. The remainder of the site, including the corner at Anderson and Fox Streets, is largely dedicated to surface parking. The zoning for the site was recently amended from R-6 to B-1b at the request of this applicant.



Figures 2 and 3 (from top): 89 Anderson Street, zoning context; rendering of proposed development looking east up Fox St.

The site lies at the intersection of several zones and thus several disparate patterns of use and form. The property is surrounded on two sides by the R-6 zone and its residential uses, including some large three-story multi-family housing to the east. Most of the adjacent housing is of a smaller scale, with a mix of single and two-family buildings characteristic of the city’s East End. A sizable Recreation Open Space (ROS) parcel, the site of the Kennedy Park basketball courts and Fox Field, sits directly to the southwest. An Industrial IL-b zone, with uses typical of the evolving East Bayside, including Coffee By Design’s roastery, Tandem coffee roasters, and Bunker Brewery, lies across Fox Street. The Urban Commercial Business B-5 zone is the nearest commercial zone; portions of Anderson Street north of Fox are zoned B-5. This B-5 zone is home to numerous multi-family properties, including a recent condominium development.

V. PROPOSED DEVELOPMENT

The East Bayside Lofts are proposed as a mixed-use commercial/residential project with major frontages on Anderson and Everett Streets (Figure 3). Ground floor retail would include a 1,400 SF restaurant space as well as two smaller commercial/retail spaces (of approximately 600 SF and 400 SF). The upper three floors would include 10 efficiency units, 34 one-bedroom units, and 9 two-bedroom units, all market rate apartments. Primary entrances to all interior spaces, residential and commercial, would be from Anderson Street, with the restaurant entrance positioned at the prominent corner of Fox and Anderson.

Cars would access the development via an overhead door from Everett Street. As proposed, the driveway cuts through the first floor of the building and enters a 53-space parking area at the interior of the site, some of which is located below the building. The applicant has proposed to shield these spaces from Fox Street with a decorative screen.

New brick sidewalks, street trees, and street lights are proposed on Fox, Anderson, and Everett Streets. The development is also proposed with landscaping on both the Anderson and Everett Street frontages and around the parking lot at the building's rear.

VI. PUBLIC COMMENT

The applicant hosted a neighborhood meeting on February 25, 2015. Five attendees signed in at the meeting. Questions generally focused on stormwater, bicycle and vehicular parking, pedestrian and vehicular safety at surrounding intersections, and landscaping (*Attachment PC-1*). In addition, staff received correspondence from one neighbor via email (*Attachments PC-2 and 3*). This neighbor reiterated concerns expressed during the related zone change review regarding the applicant's traffic impact study. The correspondence also included requests for specific information regarding sight line distances, accident history, and building and intersection design alternatives related to the treatment of the Fox/Anderson intersection, expressing concerns regarding traffic and pedestrian safety at this location. In the period since the workshop on this proposal, staff has worked with the applicant's traffic engineer to provide the requested information to the neighboring property owner. This property owner provided additional public comments on May 21, 2015, just as this memo was published (*Attachment PC-4*). These comments express dissatisfaction with the sight distance analysis, crash data, and design responses provided. The property owner has requested that the board address her comments directly at the public hearing, as she will be unable to attend.

It should also be noted once again that, over the course of the zoning map amendment review related to this application, the planning board received numerous public comments. In general, many of the questions and concerns expressed in this correspondence focused on three major issues:

1. *Transportation and traffic-related impacts:* Residents raised issues regarding traffic generation and impacts to Washington Avenue/Walnut Street/Fox Street and Fox Street itself; geometry and sight lines at Fox Street/Anderson Street and Washington Avenue/Walnut Street/Fox Street, particularly with respect to pedestrian (but also vehicular) safety (as noted above); and Fox Street width, in combination with the existing parking situation, grades, speeds, and snow. Nearby residents have called for traffic calming, pedestrian upgrades, signal improvements, and the elimination of tractor trailer parking along lower Fox as a way to mitigate some of these concerns. Safety was a general, overriding issue.
2. *Design and massing:* Residents also previously expressed opposition regarding the scale of the building, both in terms of mass and in terms of number of units. Neighbors argued that the project would be out of context with the surrounding neighborhood. In conjunction with these concerns, residents also expressed a desire for additional open space on the site.
3. *Project composition:* Lastly, residents previously voiced concerns regarding the target rents and size of the housing units to be developed, expressing fears about what small footprint market rate housing might mean in terms of the affordability and character of the surrounding neighborhood. These and other comments reflect a general concern about the changing nature of East Bayside.

Over the course of the zone change review, there were also numerous comments in support of the project, citing the 89 Anderson site as an ideal location for mixed-use development.

VII. RIGHT, TITLE, & INTEREST

The applicant's original submittal included a purchase and sale agreement as evidence of right, title, and interest. It should be noted that there is an existing easement, now held by Fairpoint Communications, on the southeast corner of the property at Anderson and Everett Streets. This easement measures 7.65 feet by 12.5 feet and grants Fairpoint the right to "place and maintain underground electric and communication cables, conduits, cabinets, and appurtenances along with a pad-type foundation" within the easement area.

VIII. FINANCIAL & TECHNICAL CAPACITY

The estimated cost of the development is \$6.5 million. The applicant has submitted a letter from Androscoggin Bank indicating that their intent to consider financing for the project (*Attachment G*).

IX. ZONING ANALYSIS

Ann Machado, Zoning Administrator, and planning staff have conducted a zoning analysis on the final plans. In the final plan set, the applicant has resolved earlier issues regarding balconies and doors encroaching into the right-of-way and extended upper floors toward the right-of-way in order to meet a maximum front yard setback requirement equal to the average of the adjacent lots (or 3.2'). The applicant has also provided documentation regarding off-site parking spaces in an effort to meet the parking requirements of Division 20 of the city's land use ordinance. These off-site parking arrangements are discussed in detail under site plan review below.

X. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

In accordance with the city's land use ordinance, the applicant provided a draft plat in the final plan submittal. Corporation Counsel, the Department of Public Services, and planning staff have reviewed the draft plat and provided comments (*Attachments 1 and 2*). The applicant has revised the plat in response (*Plan 12*). Due to the timing of the revised submittal, Corporation Counsel and DPS have not had the opportunity to review revisions. Accordingly, review and approval of the final plat has been included as a condition of approval.

It should be noted that the plat depicts sidewalk areas on private property that will be contiguous with the right-of-way. It is assumed that these will be subject to public pedestrian easements. A license for a proposed grease trap, located in consultation with the Department of Public Services, has also been depicted. Both of these agreements have been included as conditions of approval.

The applicant has provided a construction management plan, prepared by Allied Cook Construction, which shows temporary measures to control access around the site during the construction period (*Plan 41*). Thomas Errico, the city's traffic engineer, has reviewed this plan and offered the following comments,

I have reviewed the construction management plan and generally find it to be acceptable guide. I would note that a temporary crossing on Anderson Street will be required. The specific locations and how these crossings are designed will need to be reviewed and approved by DPS. I would further note that all sidewalk detours will need to be ADA compliant. Lastly, the contractor shall provide provisions for worker parking that does not utilize on-street parking spaces.

David Margolis-Pineo of the city's Department of Public Services has echoed these comments (*Attachment 5*). In addition, David Senus, the city's consulting civil engineer, has commented on the construction of a retaining wall proposed 1.5 feet from the eastern property line. He writes,

The Applicant has provided the following response to comments related to the proximity of the proposed retaining wall to the properties located north of the site: For the retaining wall adjacent to Greenleaf, Redfern has employed the services of a Structural Engineer for the design of the wall and a Construction Management Company to analyze constructability. The proposed wall utilizes shoring and design methods to avoid impacts to the adjacent landowner's property. This is reinforced in Grading and Drainage Note 3 on Sheet C-02. We would respectively request that temporary access/construction agreements only be required should the owner/contractor elect to obtain agreements as a cost savings measure versus shoring. We recommend requiring as a condition of approval that a final retaining wall design, stamped by a professional engineer, be submitted to the City as part of the Building Permit application. This design should clearly reflect the construction measures to be taken to ensure that the work will not impact adjacent properties, or should contain the necessary agreements if impacts are anticipated as part of the construction.

A condition of approval has been included to this effect.

XI. SUBDIVISION REVIEW (14-497(a). Review Criteria)

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's subdivision ordinance. Staff comments are below.

1. Water, Air Pollution

The site is currently occupied by an auto garage and surface parking lots and is completely impervious. A total of approximately 21,000 SF of impervious area is proposed, representing a net decrease of approximately 2,300 SF. The majority of the post-development impervious surface would be comprised of roof, which is expected to improve the quality of the water leaving the site. No detrimental water or air quality impacts are anticipated.

2 & 3. Adequacy of Water Supply

The applicant has provided evidence of capacity from the Portland Water District (*Attachment K*).

4. Soil Erosion

No unreasonable soil erosion or reduction in the capacity of the land to hold water is anticipated.

5. Impacts on Existing or Proposed Highways and Public Roads

The applicant has provided a traffic impact assessment, with multiple addenda, prepared by Bill Bray of Traffic Solutions. Mr. Errico has reviewed this traffic study and provided comments, discussed in detail under site plan review below.

6. Sanitary Sewer/Stormwater Disposal

The applicant has provided a wastewater capacity letter from the Department of Public Services attesting to the city's capacity to transport and treat the anticipated wastewater flows from the project (*Attachment K*). All sewer connections are proposed to the separated system in Fox Street. As noted above, the proposed development would result in a net decrease in impervious surfaces on site. As proposed, all runoff would enter into catch basins or roof drains leading to the separated system in Fox Street.

7. Solid Waste

The applicant has proposed a solid waste enclosure near the restaurant for restaurant use. This is accompanied by an interior trash room for residential use. In their final submittal, the applicant has stated that the property manager would contract with a private hauler for removal of solid waste and recycling from the property, including that generated by both the residential and commercial tenants (*Attachment R*).

8. Scenic Beauty

This proposal is not deemed to have an adverse impact on the scenic beauty of the area.

9. Comprehensive Plan

Over the course of the related zoning map amendment review, the board essentially deliberated on the compatibility of the project with comprehensive plan goals and policies, finding the proposed project generally in conformance. The project was deemed to achieve goals related to "support[ing] Portland's livable neighborhoods by encouraging a mix of uses that provide needed goods and services within walking distance of most residents," "encourag[ing] neighborhood business centers throughout the city to reduce dependence on the car and make neighborhood life without a car more practical," "encourag[ing] higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation," and "increas[ing] Portland's rental housing stock."

10. Financial and Technical Capacity

As noted above, the applicant has submitted a letter from Androscoggin Bank indicating the intent to consider project financing (*Attachment G*).

11. Wetland/Water Body Impacts

There are no anticipated impacts to wetlands or water bodies.

12. Groundwater Impacts

There are no anticipated impacts to groundwater supplies.

13. Flood-Prone Area

Per the city's existing flood maps, the site is not located in a flood zone. However, the applicant has elected to raise the finished floor elevation to the extent practicable. The applicant writes that the FFE should "provide for approximately 5-6 ft. of storm surge, sea level rise, or a combination thereof" (*Attachment H*).

XII. SITE PLAN REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's site plan ordinance. Staff comments are below.

1. Transportation Standards

a. Impact on Surrounding Street Systems

The applicant provided a traffic impact assessment as part of the zoning map amendment review related to this proposal, which was previously considered by the planning board in late 2014. The study, conducted by William Bray of Traffic Solutions in the fall of 2014 and subsequently revised at the request of Mr. Errico, included summaries of existing bicycle and pedestrian volumes and safety trends at several locations near the 89 Anderson site; estimated trip generation from the proposed site uses; and calculated existing and future anticipated levels of service at several nearby intersections, taking into account traffic to be generated by other approved projects in the vicinity (*Attachment N*).

It should be noted that, over the course of the zone change review, Mr. Bray completed several rounds of traffic counts at the Washington Avenue/Walnut Street/Fox Street and Anderson Street/Fox Street intersections. These counts were completed at the request of both the neighborhood and Mr. Errico. Mr. Bray's counts generally corroborated the findings of his initial level of service analysis, which found no significant degradation of service under future conditions at the three area intersections studied (Washington Avenue/Walnut Street/Fox Street, Anderson Street/Fox Street, and Anderson Street/Cumberland Street).

At the request of Mr. Errico, the applicant has provided an update to the original traffic impact study in the final submittal (*Attachment N*). This update includes revised trip generation estimates based upon the final building program and trip generation rates suggested by Mr. Errico, a sensitivity analysis for the Fox Street/Anderson Street intersection, and a sight distance analysis for this intersection as well. The trip generation calculations prepared in this update result in a revised estimate of 41 AM and 48 PM peak hour trips, or slightly higher numbers than the calculations contained in the original traffic impact study. When trips from the existing 3Gs use are taken as credit, the net change in trips from the site is revised to 29 AM peak hour and 24 PM peak hour trips. Mr. Bray notes that the original traffic impact study for the project conducted vehicular capacity analyses based on similar trip generation numbers (27 AM and 33 PM peak hour trips), and thus he argues that the level of service analysis remains valid. Again, that analysis found very little impact on peak hour level of service at the three intersections studied. Regarding the revised trip generation numbers and the capacity analysis, Mr. Errico writes,

The applicant has revised the trip generation analysis to account for a restaurant use and is estimating the overall projected to generate 29 new vehicles during the AM peak hour and 24 new vehicles during the PM peak hour (these represent the net increase when accounting for 3G's Traffic). This level of traffic is similar to traffic increases assumed in the original traffic impact study analysis and in my professional opinion would not alter the conclusions of the Fox Street/Anderson Street capacity analysis (that acceptable levels of service would be provided).

Based on neighbors' concerns regarding future operations at the Fox Street/Anderson Street intersection in particular, Mr. Bray also completed a sensitivity analysis, which hypothetically increased the vehicular trips through this intersection by 200% (to 1,120 entering vehicles in the AM peak and 1,460 entering vehicles in the PM peak). The study found that, generally, acceptable vehicular levels of service (i.e.

overall level of service of B during the AM peak hour and C during the PM peak hour) would continue to result. The only movement with any significant level of delay under this hypothetical scenario would be the Fox Street northbound movement during the PM peak hour.

During the preliminary review, neighbors of the site also raised concerns about the corner of Fox Street/Anderson Street and the potential for obstructed sight lines as a result of the proposed development (*Attachments PC-2 and 3*). In response, the applicant both met with the neighbor and provided documentation of a sight distance analysis in the revised submittal (*Attachment N*). This analysis took into account the Anderson Street Byway Project improvements for the intersection and found that “[a]pproximately 100 feet of unobstructed sight distance exists from [the southbound approach on Fox Street] with the caveat that on-street parking is prohibited along the north side of Anderson Street across the frontage of the...site for a distance of 45 feet from the Fox Street curb line.” This represents the on-street parking condition proposed in the site plan, assuming council approval of changes to the on-street parking schedule.

Related to this concern, one neighbor also requested additional information related to the safety of the Fox Street/Anderson Street intersection (*Attachment PC-2 and 3*). In the original traffic impact study, Mr. Bray provided documentation of accidents at the Fox Street/Anderson Street intersection based on Maine DOT data. This review showed that the intersection had experienced two accidents over the most recent available three-year data collection period. Based on that data, Fox Street/Anderson Street did not qualify as a high crash location per MDOT standards. In his review, as well as at subsequent planning board meetings, Mr. Errico corroborated that accident data does not indicate existing safety problems at Fox Street/Anderson Street and that, since this intersection is designed as a four-way stop, he does not have concerns about the existing geometry. He also noted that the capital investments associated with the Anderson Street Byway project, which include bumpouts at the Fox Street/Anderson Street intersection, should improve the overall function of the Fox Street/Anderson Street intersection (*Figure 4*). The applicant’s plans include curbing and sidewalk improvements along their frontages in accordance with the Byway project.

In his final comments, Mr. Errico has spoken to the questions regarding safety at this intersection,

As noted in previous correspondence, it is my professional opinion that the Fox Street/ Anderson Street intersection will operate safely following project completion. The applicant's traffic engineer has conducted extensive analysis that evaluated motorist sight lines and concluded that conditions are expected to be safe under the four-way STOP sign condition. As part of project comments, we have requested the applicant review other similar four-way STOP controlled intersections within the City, that generally have similar characteristics (traffic volumes, building locations, geometric configuration, etc.). Based upon a review of the most recent three-year period, the following crash frequency was recorded:

- *Cumberland Avenue @ Mellon Street - 2 crashes; CRF (Critical Rate Factor) of 0.56 with 2.839 Annual Million Entering Vehicles*
- *Spring Street @ Brackett Street - 5 crashes; CRF of 1.38 with 2.967 Annual Million Entering Vehicles*
- *North Street @ Walnut Street - 0 crashes; 0 CRF with 0.310 Annual Million Entering Vehicles*
- *Fox Street @ Anderson Street - 2 crashes; 0.73 CRF with 1.996 Annual Million Entering Vehicles*

As noted above low crash frequency was experienced and none of the locations are considered to be High Crash Locations per MaineDOT criteria. All-Way STOP sign control is generally known as a safe type of intersection traffic control and is a typical strategy for addressing safety issues. The Manual on Uniform Traffic Control Devices, Federal Highway Administration specifically notes the use of All-Way STOP control as an option for addressing crash patterns at two-way STOP intersection. The Highway Safety Manual, American Association of State Transportation Officials notes the crash reduction benefits of implementing All-Way STOP control, and is a suggested safety strategy at an existing two-way STOP intersection. In my professional opinion,

b. *Access and Circulation*

The final plans include new brick sidewalks on three frontages and new ramps at the Fox Street/Anderson Street and Everett Street/Anderson Street intersections. Block-style crosswalks are proposed at the Fox Street/Anderson Street intersection as part of the city's Anderson Street Byway project. Pedestrian access to the residential and commercial units is proposed from Anderson Street; pedestrian or bicycle access to the open space at the interior of the site could also be achieved via two doors in the decorative screen on Fox Street, or a door at the building's eastern corner. Mr. Errico has reviewed the proposed sidewalk and ramp design and provided the following comments,

Sheet C-10

Each curb ramp needs to show more specific detail as to their construction and not defer to the 'Details' to ensure constructability and meeting ADA/City Technical Standards. Currently they do meet standards nor show sufficient detail to ensure constructability. Please note the following:

- *All of the curb ramp flares/tip-downs are too short for new construction.*
- *The two ramps on Anderson Street are not perpendicular to the curb and are poorly configured. The ramp at Anderson Street/Everett Street is poorly designed and not ADA-compliant. (see comment below regarding the incorrect Detail).*
- *The one ramp on Fox Street does not have a minimum 4' wide landing at the top, requiring sidewalk users to traverse the flares of the ramps. If necessary, the entire sidewalk should ramp down to the curb ramp to provide a maximum 2% cross-slope and ramp slope within the curb ramp*
- *The curb ramp on Fox Street should be relocated to provide a perpendicular/shortened crossing across Fox Street.*

Sheet C-30

This sheet should document the required ADA-compliant pedestrian access route (max 2% cross-slope) will be attained along the project's frontage within the public ROW, and if not, provide any required easements to meet the requirements.

The diagonal curb ramp detail is not correct and ADA-compliant. The ramp SHALL be perpendicular, not skewed as shown.

Revision of the plans to address these comments has been included as a condition of approval.

The plans include vehicular access via an overhead door on Everett Street and internal vehicular circulation in the parking area at the interior of the site. Mr. Errico has reviewed the proposed parking layout and site access and writes,

The layout includes a parking space located at the garage entrance. This space is extremely difficult to enter and exit. The applicant has provided a auto-turn graphic for this space... While this space is not easily accessed, my expectation is that this parking space will have low turnover and thus the maneuvering activity should be minimized. I also believe it will be the least or last space used on-site given its configuration. Given that maneuvering activity will not significantly impact the public street system, I have no further comment.

The applicant is proposing a driveway that will be 18-feet wide at the garage door opening. Given low traffic volumes entering and exiting the project and slow speeds and low traffic volumes on Everett Street, I support a waiver from the City's driveway width standard.

Mr. Errico has also expressed his support for the driveway location and a waiver for aisle width on the site (Attachment 3).

c. *Public Transit Access*

The proposed development is not located along a public transit route. As such, no provisions for transit access are required.

d. *Parking*

Division 20 of the land use ordinance requires one parking space/unit for residential development located on the peninsula (*Section 14-332(a)3*). At this ratio, the project would be required to provide 53 parking spaces for the 53 residential units. Division 20 also requires parking for restaurant uses at a rate of one space/each 150 SF not used for food preparation or bulk storage and for retail uses at a rate of one space/each 200 SF in excess of 2,000 SF. The applicant has documented on the draft plat that 1,200 SF of the 1,425 SF restaurant space is not programmed for food preparation or bulk storage and that both commercial units, which the applicant has identified as “retail,” measure less than 2,000 SF in size. Given the parking ratios, then, the applicant is required to provide eight parking spaces for the restaurant use and no parking spaces for the retail. This raises the total parking requirement to 61 spaces.

The final plans continue to show 53 spaces on site, failing to meet this total parking requirement. Since the proposal does not meet the 50,000 SF floor area threshold that qualifies a project for a discretionary parking review by the planning board, the applicant is required to comply with the parking requirements of *Section 14-332*. As a mixed use development on the peninsula, however, the applicant has a variety of tools at their disposal in terms of making up the difference between the parking requirement and the proposed parking supply, among these the use of off-site parking (per *Section 14-334*), shared use parking (per *Section 14-343*), or payment of the peninsula in-lie fee (per *Section 14-345*). Per *Section 14-332*, as a residential development on the peninsula, the applicant may also use shared vehicles to meet portions of the residential parking requirement.

The applicant has proposed to use off-site parking to meet the outstanding parking requirements of Division 20, the eight spaces required for the restaurant use. Per *Section 14-334*, the planning board may permit off-site parking for uses in non-residential zones so long as that parking is located less than 1,500 feet from the use measured along lines of public access and secured by lease with a term of not less than five years with an option to renew. The ordinance reads, “[e]vidence of such control shall be required by showing for review and approval by City Corporation Counsel, at a minimum, a signed letter of intent, purchase and sale agreement, or option for sale or lease at the time of approval, and an executed deed or lease prior to issuance of any certificate of occupancy.”

The applicant has provided a letter documenting the intent to enter into such an agreement at the property directly across Fox Street at 107 Anderson Street, currently occupied by Marine Electric, with overflow spaces available by agreement with the adjacent property owner at 41 Fox Street (*Attachment T*). Per the applicant’s off-site parking plan, these spaces fall within the 1,500 foot proximity requirement (*Attachment T*). However, there are several unresolved elements of this off-site parking proposal. Mr. Errico writes,

The applicant is proposing a sufficient parking supply for the residential use on-site and for the commercial uses off-site. I find the number of parking spaces noted to be acceptable but have the following comments as it relates to the off-site leased parking spaces:

- *The two tandem spaces located off Anderson Street will block an existing entrance to the building and will the interior parked vehicle will have difficulty exiting the space, when the other space is occupied.*
- *It is unclear where vehicles for the existing Marine Electric business will park.*
- *City maps indicate that the parking spaces located to the east are located off the Marine Electric site and therefore it is unclear of use rights. It is also unclear of rights/lease agreement for the three parking spaces illustrated on the plan east of the Paper Street.*
- *The City typically requires multi-year lease agreements. The draft agreement is for one year.*

- *I would note that as an option, paying into the in-lieu parking fund is allowable and would not require any off-site parking spaces.*

At this time, then, the submittal does not meet the requirements of *Section 14-334*. Finalization of the off-site parking plans, including evidence of control of that off-site parking, has been included as a condition of approval for review by the Department of Public Services and Corporation Counsel.

According to the applicant's submittal, 83%, or 44, of the proposed on-site parking spaces are designed as compact spaces. Per the city's Technical Manual (*Section 1.14*), up to 20% of parking provided may be compact in design. In this case, then, only 11 compact parking spaces are technically permitted. The applicant has requested a waiver (*Attachment Q*). It should be noted that the board has supported waivers for a higher percentage of compact spaces where the parking is privately controlled and not available for public use. It should also be noted that the compact space calculations are based solely on the total on-site parking number proposed. Pending the agreement for the use of off-site spaces, all of which are depicted as standard in size, the ratio of compact spaces would decrease. Related to this issue, Mr. Errico has previously expressed concerns regarding the applicant's use of landscaped area in calculations of parking space dimensions, and requested that the applicant remove these landscaped areas in favor of pervious pavers, which would presumably function better under parking conditions and could thus be counted towards parking dimensional standards. This change would result in 30 additional 8'x18' parking spaces. Per the *Technical Manual*, a standard space is 9'x18'. Mr. Errico writes,

I do not support the dimensional configuration of the 16-foot parking spaces. The applicant shall provide full size parking spaces by converting the landscaping strips to a durable pervious pavement/materials that allows for vehicle loading. The applicant is proposing a grass paver that I find to be acceptable. I would also suggest that grass pavers also be installed between the 16-foot parking spaces and the proposed retaining wall.

The proposed project exceeds the allowable percentage of compact spaces according to City standards...With the change required above, the number of compact parking spaces is reduced and I have no further comment.

Modifying the site plan to add porous pavers along the retaining wall has been included as a condition of approval.

Related to on-street parking, Mr. Errico previously requested a plan of on-street parking recommendations. He has reviewed the proposed changes and writes,

The applicant has provided the suggested recommendation that I find to be acceptable and have no further comment...It should be noted that the project will require changes to the Traffic Schedule for on-street parking regulations and thus will require City Council approval. The applicant shall be responsible for providing supporting documentation as part of the City Council review packet.

Documentation of changes to the on-street parking schedule has been included as a condition of approval.

The final plans include 43 bike parking spaces, 39 in an enclosed bike storage area at the building's rear, two in a rack proximate to the restaurant entrance on Anderson Street, and two in a rack between the entrance to the two retail units. This number meets the site plan standard of two spaces/five dwelling units for residential structures (*Section 14-526(a)4.b*). The applicant has provided a detail of the interior bicycle parking as requested during preliminary site plan review.

e. *Transportation Demand Management*

A transportation demand management plan is not required.

2. Environmental Quality Standards

a. Preservation of Significant Natural Features

There are no known significant natural features on the site.

b. Landscaping and Landscape Preservation

The final landscaping plans include 10 red maples as street trees along the street frontages. Shrub plantings have been revised to include high and lowbush blueberries, inkberry holly, and fountain grass along the Anderson and Everett Street facades. Feather reed grass is proposed at the interior of the site, as are two service berry trees as requested by the city arborist. The final submittal has not been reviewed by the city arborist. This has been included as a condition of approval.

The applicant has requested waivers from both the street tree and parking lot landscaping requirements, citing site constraints. With respect to the parking lot, two trees are proposed, but due to the design of the parking area, which places most of the parking below the building, additional tree plantings untenable. Compensatory contributions to the city’s tree fund have been identified in the waiver motions.

c. Water Quality/Storm Water Management/Erosion Control

The site is sloped from a low point at the corner of Fox and Anderson Streets to a high point at the lot’s southeast corner, with a grade change of almost 10 feet. The applicant proposes to cut near the rear of the site, along the interior of the block where the property abuts the adjacent residential buildings, and develop a 5 foot retaining wall in this location. Mr. Senus has provided comments with respect to the construction of this wall, as noted above.

The applicant has provided a stormwater management plan (*Attachment I*). As noted above, the site is entirely impervious under the existing condition. Permeability will actually increase under the proposed buildout. The applicant proposes to run stormwater into the existing separated storm drain in Fox Street. Treatment is neither proposed nor required. Mr. Senus has reviewed the grading and drainage plans and writes,

The Applicant has provided an Erosion Control Plan to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in general accordance with Appendix A, B, & C of MaineDEP Chapter 500 (Basic Standards). Although Note 3 on Sheet C-30 requires that catch basin inlet protection be provided on all adjacent, down-gradient catch basins, the plan should show inlet protections on all basins, including the existing catch basins on Fox & Anderson Streets.

Sheet C-10 indicates that the landscaped area between the center parking spaces has been revised to include permeable pavers. The applicant has noted that additional details will be provided for the construction of the permeable paver system prior to construction, including the underdrain configuration designed to avoid the tree root balls. We recommend including a condition of approval requiring submittal of these additional details for review prior to granting a building permit.

These comments have been reflected in the conditions of approval.

3. Public Infrastructure and Community Safety Standards

a. Consistency with Related Master Plans

As noted above, the project is generally deemed consistent with related master plans.

b. *Public Safety and Fire Prevention*

In preliminary comments, staff raised some concerns with respect to the treatment of the Fairpoint box, which is designed to be enclosed on five sides by the proposed building. The applicant has indicated their intent to screen this area in order to control access and provide for an improved pedestrian experience. Because this area is subject to an existing easement, the details of such a treatment involve multiple parties and remain unresolved at this time. The design for this area has been included as a condition of approval.

The applicant has provided a life safety summary for review by the city's Fire Prevention Bureau (*Attachment L*). Per this summary, the building will be "protected by a full NFPA 13 sprinkler system with standpipes in each of the egress stairs." Craig Messinger, of the Fire Prevention Bureau, has indicated general approval (*Attachment 7*).

c. *Availability and Capacity of Public Utilities*

The applicant has provided evidence of sewer capacity. The Portland Water District has also provided documentation of capacity to serve the project (*Attachment K*).

4. *Site Design Standards*

a. *Massing, Ventilation, and Wind Impact*

No comments.

b. *Shadows*

A brief assessment of potential shadow impacts on the part of staff indicates that there are not likely to be impacts on publicly accessible open spaces.

c. *Snow and Ice Loading*

Snow storage plans have been provided (*Plan 13*). In their revised submittal, the applicant has indicated that, in heavy storm events, snow will be removed from the site.

d. *View Corridors*

There are no comments.

e. *Historic Resources*

There are no comments.

f. *Exterior Lighting*

The applicant has provided a lighting plan indicating full cutoff fixtures in accordance with the city's Technical Manual. The accompanying photometric plans conform to the Technical Manual standards as well (*Plan 17*). In the revised submittal, the applicant has also depicted two Bayside Medium LED street light fixtures on each of the frontages as requested by staff.

Regarding lights nearby at the Kennedy Park courts, Mr. Margolis-Pineo notes,

A previous site plan for the basketball area was recently approved with lights for night time activities. This site plan has expired and is no longer valid. However the Parks and Rec Dept. would like to make the applicant aware that lights may be installed in the future and hereby reserves the right to do so.

g. *Noise and Vibration*

No comments at this time.

h. *Signage and Wayfinding*

No signage or wayfinding is proposed at this time.

i. *Zoning-Related Design Standards*

The city’s site plan ordinance establishes design standards for development in the B-1b zone (*Section 14-526(d)9.a(iii)*). The Design Manual further includes design guidelines for the B-1b zone, as well as design standards for multi-family housing. In the final submittal, the applicant has revised the architectural drawings to address comments from the preliminary design review based on these standards and guidelines (*Figures 5, 6, and 7*). Among the modifications, the applicant has aligned the fenestration on the Fox Street facade, confirmed that windows on the ground floor meet minimum transparency requirements, revised the cladding pattern in order to bring in more of the copper color into the building’s vertical elements, added lighting and signs at the ground floor, and evolved the Fox Street screening concept.

Caitlin Cameron, the city’s urban designer, has provided design review comments based on the revised submittal (*Attachment 9*). The outstanding comments from this review include several related to the proposed screening treatment at the Fox Street frontage. In their final submittal, the applicant provided design alternatives for this area, all based on an abstracted figure ground of East Bayside (*Plan 40*). Staff reviewed these design alternatives and provided interim comments to the applicant suggesting a finer-grained iteration of the figure ground with a higher degree of porosity. In response, the applicant has very recently indicated the intent to change course entirely. This new concept has not yet been fully developed and, given the timing, the applicant has not provided elevations depicting it graphically. Ms. Cameron notes,

The design details of the screen walls on Fox Street and the Fairpoint service box remain to be finalized. Staff recommends a Condition of Approval that enables staff to develop the details of this design with the applicant’s design team. The design team has arrived a concept and material choice for the screens but final graphics were not available for final Site Plan submission.

...
Design of the parking screen should provide visual interest since it is located at ground level of an active street. The design concept and materials have been identified, but the details remain to be finalized. The applicant proposes the use of graphic text generated from site-specific, local stories. The story text, with varying fonts and sizes will comprise the screen cut into Corten steel.

She has also added,

On Anderson Street, applicant chose to keep the proposed landscaping along the commercial façade. Staff recommended more vertical landscaping treatment between the fenestration rather than landscaping placed in front of the windows of the commercial spaces.

The resolution of these design issues, particularly the Fox Street screen, has been included as a condition of approval.

XIII. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the planning board approve the proposed East Bayside Lofts at 89 Anderson Street.



Figures 5, 6, and 7: Revised Anderson Street, Everett Street, and Fox Street elevations

XIV. PROPOSED MOTIONS

A. WAIVERS

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the planning board report for the public hearing on May 26, 2015 for application 2015-009 relevant to Portland's technical and design standards and other regulations; and the testimony presented at the planning board hearing:

1. The planning board **finds/does not find**, based upon the consulting transportation engineer's review (*Attachment 3*), that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.7.2.3*) which establishes a minimum driveway width of 20 feet for sites with two-way access, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board **waives/does not waive** the *Technical Manual* standard (*Section 1.7.2.3*) to allow a driveway of 18 feet in width at the overhead door on Everett Street;
2. The planning board **finds/does not find**, based upon the consulting transportation engineer's review (*Attachment 3*), that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14*) which requires that aisle width for right-angle parking be 24 feet per *Figure I-27*, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board **waives/does not waive** the *Technical Manual* standard (*Section 1.14*) to allow a 23 foot wide aisle in the parking area at the interior of the site;
3. The planning board **finds/does not find**, based upon the consulting transportation engineer's review (*Attachment 3*), that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14 and Figures I-27 to I-29*) limiting compact spaces to 20% of total parking supply, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board **waives/does not waive** the *Technical Manual* standard (*Section 1.14 and Figures I-27 to I-29*) to allow 83% compact spaces;
4. The Planning Board **finds/does not find** that the applicant has demonstrated that site constraints prevent the planting of all required trees in the parking area due to the area's size and configuration. The planning board **waives/does not waive** the site plan standard (*Section 14-526(b)2.b(ii)*) and concludes that the applicant shall make a financial contribution of \$1,800 for nine trees to Portland's tree fund; and
5. The planning board **finds/does not find** that the applicant has demonstrated that site constraints prevent the planting of all required street trees in the right-of-way. The planning board **waives/does not waive** the site plan standard (*Section 14-526 (b) (iii)*) requiring one street tree per unit for multi-family development and concludes that the applicant shall contribute \$8,600 for 43 street trees to Portland's tree fund.

B. SUBDIVISION

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the planning board report for the public hearing on May 26, 2015 for application 2015-009 relevant to the subdivision regulations; and the testimony presented at the planning board hearing, the planning board finds that the plan **is/is not** in conformance with the subdivision standards of the land use code, subject to the following conditions of approval, which must be met prior to the signing of the plat:

1. The applicant shall finalize the subdivision plat for review and approval by Corporation Counsel, the Department of Public Services, and the Planning Authority; and
2. The applicant shall provide a pedestrian access easement for the areas of sidewalk that do not lie within the right-of-way.

C. DEVELOPMENT REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board Report for the public hearing on May 26, 2015 for application 2015-009 relevant to the site plan regulations; and the testimony presented at the planning board hearing, the planning board finds that the plan **is/is not** in conformance with the site plan standards of the land use code, subject to the following conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

1. The applicant shall provide a revised construction management plan, including:
 - a. Details regarding pedestrian detours, ADA compliance, and contractor parking as requested by the city's consulting traffic engineer (*Attachment 3*),
 - b. Details regarding the constructability of the proposed retaining wall on the subject property as requested by the city's consulting civil engineer (*Attachment 6*), and
 - c. Provisions for any necessary temporary construction easements for review and approval by the Department of Public Services;
2. The applicant shall make financial contribution of \$5,000 toward improvements at the Fox Street/Walnut Street/Washington Avenue intersection, for review and approval by the Department of Public Services;
3. The applicant shall submit a revised plan set, including:
 - a. Modifications to ramps and sidewalks, documentation of ADA accessibility, and porous pavers along the proposed retaining wall as requested by the city's consulting traffic engineer (*Attachment 3*);
 - b. Final stamped retaining wall plans, inlet protection devices, and details related to the porous pavers and associated underdrain as requested by the city's consulting civil engineer (*Attachment 6*);for review and approval by the Department of Public Services;
4. The applicant shall provide documentation that the parking requirements of Division 20 have been met by:
 - a. Finalizing off-site parking plans and providing evidence of control of off-site parking in accordance with *Section 14-334* for review and approval by the Planning Authority, Corporation Counsel, and the Department of Public Services, with an executed lease due at certificate of occupancy, or
 - b. Providing alternative plans in accordance with Division 20 for review and approval by the Planning Authority and the Department of Public Services;
5. Prior to issuance of a certificate of occupancy, the applicant shall provide supporting documentation for proposed changes to the on-street parking schedule for review and approval by the Department of Public Services;
6. The applicant shall revise the landscape plan to depict tree species, plant sizes, and planter details as requested by the city arborist (*Attachment 4*) for review and approval by the arborist;
7. The applicant shall obtain a license, to be granted by the city, for the proposed grease trap in the Fox Street right-of-way for review and approval by the Department of Public Services and Corporation Counsel;
8. Prior to issuance of a certificate of occupancy, the applicant shall provide drawings related to the proposed treatment of the Fairpoint box for review and approval by the Planning Authority; and

9. The applicant shall provide drawings addressing the comments of Ms. Cameron (*Attachment 8*), particularly with respect to the treatment of the Fox Street screen, for review and approval by the Planning Authority.

XV. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. City surveyor review (memo from Bill Clark, 5/4/15)
2. Corporation counsel review (memo from Jennifer Thompson, 4/28/15)
3. Traffic engineer review (memo from Thomas Errico, 5/20/15)
4. Civil engineer review (memo from David Senus, 5/7/15)
5. Department of Public Services review (memo from David Margolis-Pineo, 5/6/15)
6. City Arborist review (memo from Jeff Tarling, 2/11/15)
7. Fire Prevention Bureau review (memo from Craig Messinger, 2/11/15)
8. Design review (memo from Caitlin Cameron, 5/20/15)

APPLICANT'S SUBMITTALS

- A. Cover letter (from Jonathan Culley, Redfern Properties, 1/21/15)
- B. Level III site plan application
- C. Evidence of right, title, and interest
- D. Evidence of state and/or federal permits
- E. Zoning analysis
- F. Summary of easements
- G. Evidence of financial capacity
- H. Civil engineer cover letter (from Will Savage, 1/14/15)
- I. Stormwater management report
- J. Erosion and sedimentation control report
- K. Capacity to serve letters
- L. Summary of fire safety
- M. Architectural design narrative
- N. Traffic impact study (including signal warrant analysis and crash data)
- O. Cover letter (from Jonathan Culley, Redfern Properties, 4/22/15)
- P. Civil engineer cover letter (from Will Savage, 4/16/15)
- Q. Written request for waivers
- R. Solid waste generation letter
- S. Geotechnical report
- T. Off-site parking plan and letters of intent
- U. PWD approval letter

PLANS

- Plan 1. Cover Sheet & Legend
- Plan 2. General Notes
- Plan 3. Boundary Survey
- Plan 4. Site Layout Plan
- Plan 5. Utility Plan
- Plan 6. Grading, Drainage, & Erosion Control Plan
- Plan 7. Site Details - 1
- Plan 8. Site Details - 2
- Plan 9. Utility Details
- Plan 10. Drainage Details
- Plan 11. Erosion Control Details & Notes
- Plan 12. Subdivision Plat
- Plan 13. Snow Storage Plan
- Plan 14. Circulation Plan
- Plan 15. Parking detail

- Plan 16. Retaining wall profile
- Plan 17. Photometric plan
- Plan 18. Landscape Plan
- Plan 19. First Floor Plan
- Plan 20. Second Floor Plan
- Plan 21. Fourth Floor Plan
- Plan 22. Anderson Street Elevation
- Plan 23. Fox Street Elevation
- Plan 24. Everett Street Elevation
- Plan 25. Looking SE at Fox/Anderson (Before)
- Plan 26. Looking SE at Fox/Anderson (After)
- Plan 27. Looking NE from Fox (Before)
- Plan 28. Looking NE from Fox (After)
- Plan 29. Looking SE from Anderson (Before)
- Plan 30. Looking SE from Anderson (After)
- Plan 31. Looking SW from Fox (Before)
- Plan 32. Looking SW from Fox (After)
- Plan 33. Looking NW from Anderson (Before)
- Plan 34. Looking NW from Anderson (After)
- Plan 35. Anderson/Everett (Before)
- Plan 36. Anderson/Everett (After)
- Plan 37. Fox/Anderson (Before)
- Plan 38. Fox/Anderson (After)
- Plan 39. Fox Street (After)
- Plan 40. Screen Alternatives
- Plan 41. Construction management plan

PUBLIC COMMENTS

- PC-1. Neighborhood meeting packet
- PC-2. Public comment (email from Cynthia Cochran, 3/2/15)
- PC-3. Public comment (email from Cynthia Cochran, 3/4/15)
- PC-4. Public comment (email from Cynthia Cochran, 5/21/15)



PORTLAND MAINE

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Planning & Urban Development Department

Jeff Levine, AICP, Director

Planning Division

Alexander Jaegerman, FAICP, Director

Performance Guarantee and Infrastructure Financial Contribution Packet

The municipal code requires that all development falling under site plan and/or subdivision review in the City of Portland be subject to a performance guarantee for various required site improvements. The code further requires developers to pay a fee for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications.

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. A detailed itemized cost estimate is required to be submitted, which upon review and approval by the City, determines the amount of the performance guarantee. The performance guarantee will usually be a letter of credit from a financial institution, although escrow accounts are acceptable. The form, terms, and conditions of the performance guarantee must be approved by the City through the Planning Division. The performance guarantee plus a check to the City of Portland in the amount of 2.0% of the performance guarantee or as assessed by the planning or public works engineer, must be submitted prior to the issuance of any building permit for affected development.

Administration of performance guarantee and defect bonds is through the Planning Division. Inspections for improvements within existing and proposed public right-of-ways are the responsibility of the Department of Public Services. Inspections for site improvements are the responsibility of the Development Review Coordinator in the Planning Division.

Performance Guarantees will not be released by the City until all required improvements are completed and approved by the City and a Defect Bond has been submitted to and approved by the City.

If an infrastructure financial contribution is required by the City as part of a development approval, please complete the contribution form and submit it along with the designated contribution to the Planning Division. Please make checks payable to the City of Portland.

Attachments

1. Cost Estimate of Improvements Form
2. Performance Guarantee Letter of Credit Form (with private financial institution)
3. Performance Guarantee Escrow Account Form (with private financial institution)
4. Performance Guarantee Form with the City of Portland
5. Infrastructure Financial Contribution Form with the City of Portland

SUBDIVISION/SITE DEVELOPMENT
Cost Estimate of Improvements to be covered by Performance Guarantee

Date: _____

Name of Project: _____

Address/Location: _____

Application ID #: _____

Developer: _____

Form of Performance Guarantee: _____

Type of Development: Subdivision _____ Site Plan (Level I, II or III) _____

TO BE FILLED OUT BY THE APPLICANT:

<u>Item</u>	PUBLIC			PRIVATE		
	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>
1. STREET/SIDEWALK						
Road/Parking Areas	_____	_____	_____	_____	_____	_____
Curbing	_____	_____	_____	_____	_____	_____
Sidewalks	_____	_____	_____	_____	_____	_____
Esplanades	_____	_____	_____	_____	_____	_____
Monuments	_____	_____	_____	_____	_____	_____
Street Lighting	_____	_____	_____	_____	_____	_____
Street Opening Repairs	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____
2. EARTH WORK						
Cut	_____	_____	_____	_____	_____	_____
Fill	_____	_____	_____	_____	_____	_____
3. SANITARY SEWER						
Manholes	_____	_____	_____	_____	_____	_____
Piping	_____	_____	_____	_____	_____	_____
Connections	_____	_____	_____	_____	_____	_____
Main Line Piping	_____	_____	_____	_____	_____	_____
House Sewer Service Piping	_____	_____	_____	_____	_____	_____
Pump Stations	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____
4. WATER MAINS	_____	_____	_____	_____	_____	_____
5. STORM DRAINAGE						
Manholes	_____	_____	_____	_____	_____	_____
Catchbasins	_____	_____	_____	_____	_____	_____
Piping	_____	_____	_____	_____	_____	_____
Detention Basin	_____	_____	_____	_____	_____	_____
Stormwater Quality Units	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____

6. SITE LIGHTING	_____	_____	_____	_____	_____	_____	_____
7. EROSION CONTROL							
Silt Fence	_____	_____	_____	_____	_____	_____	_____
Check Dams	_____	_____	_____	_____	_____	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	_____	_____
Slope Stabilization	_____	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	_____	_____
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	_____	_____	_____	_____	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	_____	_____	_____

INSPECTION FEE (to be filled out by the City)

	PUBLIC	PRIVATE	TOTAL
A: 2.0% of totals:	_____	_____	_____
<u>or</u>			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	

SAMPLE FORM

**SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
LETTER OF CREDIT
[ACCOUNT NUMBER]**

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: **[Insert: Name of Developer]**
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank] hereby issues its Irrevocable Letter of Credit for the account of **[Insert: Name of Developer]**, (hereinafter referred to as “Developer”), held for the exclusive benefit of the City of Portland, in the aggregate amount of **[Insert: amount of original performance guarantee]**. These funds represent the estimated cost of installing site improvements as depicted on the **[Insert: subdivision and/ or site plan]**, approved on **[Insert: Date]** and as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65.

This Letter of Credit is required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §46 through 65 and is intended to satisfy the Developer’s obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, up to thirty (30) days before or sixty (60) days after its expiration, stating any one of the following:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert date]**; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or

3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Services and Planning Division, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the [Bank], by written certification, to reduce the available amount of the escrowed money by a specified amount.

This performance guarantee will automatically expire on [Insert date between April 16 and October 30 of the following year] ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development, at Bank's offices located at

_____ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, this Performance Guarantee Letter of Credit shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Letter of Credit. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the [Insert: subdivision and/ or site plan] approval, dated [Insert: Date] as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Letter of Credit by presentation of a sight draft and this Letter of Credit and all amendments thereto, at Bank's offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

SAMPLE FORM

**SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
ESCROW ACCOUNT
[ACCOUNT NUMBER]**

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: **[Insert: Name of Developer]**
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank] hereby certifies to the City of Portland that **[Bank]** will hold the sum of **[Insert: amount of original performance guarantee]** in an interest bearing account established with the Bank. These funds shall be held for the exclusive benefit of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the **[Insert: subdivision and/or site plan]**, approved on **[Insert: date]** as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by **[Insert: Developer]**.

[Bank] will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert date]**; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Services and Planning Division, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the **[Bank]**, by written certification, to reduce the available amount of the escrowed money by a specified amount.

This performance guarantee will automatically expire on **[Insert date between April 16 and October 30 of the following year]** ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this agreement that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider the Escrow Account renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw against the Escrow Account by presentation of a sight draft drawn on the Bank and a statement purportedly signed by the Director of Planning and Urban Development, at Bank's offices located at _____ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Escrow Account are satisfactorily completed, this Performance Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Guarantee shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee by presentation of a sight draft at Bank's offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

Seen and Agreed to: **[Applicant]**

By: _____

**PERFORMANCE GUARANTEE
with the City of Portland**

Developer's Tax Identification Number: _____

Developer's Name and Mailing Address: _____

City Account Number: _____

Application ID #: _____

Application of _____ [Applicant] for _____ [Insert street/Project Name] at _____ [Address], Portland, Maine.

The City of Portland (hereinafter the "City") will hold the sum of \$_____ [amount of performance guarantee] on behalf of _____ [Applicant] in a non-interest bearing account established with the City. This account shall represent the estimated cost of installing _____ [insert: subdivision and/ or site improvements (as applicable)] as depicted on the subdivision/site plan, approved on _____ [date] as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Applicant's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account in the event that:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the _____ [insert: subdivision and/ or site improvements (as applicable)] approval, dated _____ [insert date]; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Developer has failed to notify the City for inspections in conjunction with the installation of improvements noted in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option,

either thirty days prior to the expiration date contained herein, or s/he may draw against this escrow for a period not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its representative, will give the City written notice, by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of this escrow within sixty (60) days prior thereto.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Works and Planning, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the City to reduce the available amount of the escrowed money by a specified amount.

This Guarantee will automatically expire on **[Insert date between April 16 and October 30 of the following year]** (“Expiration Date”) or on the date when the City determines that all improvements guaranteed by this Performance Guarantee are satisfactorily completed, whichever is later. At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to **[the applicant]**. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: Subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship;
or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Seen and Agreed to:

By: _____
[Applicant]

Date: _____

By: _____
****Planning Division Director

Date: _____

By: _____
Development Review Coordinator

Date: _____

Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

Distribution

1. This information will be completed by Planning Staff.
2. The account number can be obtained by calling Cathy Ricker, ext. 8665.
3. The Agreement will be executed with one original signed by the Developer.
4. The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, together with a copy of the Cash Receipts Set.
5. ****Signature required if over \$50,000.00.

Infrastructure Financial Contribution Form
Planning and Urban Development Department - Planning Division

Amount \$

City Account Number: 710-0000-236-98-00

Project Code: _____

(This number can be obtained by calling Cathy Ricker, x8665)

Project Name:

Application ID #:

Project Location:

Project Description:

Funds intended for:

Applicant's Name:

Applicant's Address:

Expiration:

If funds are not expended or encumbered for the intended purpose by _____, funds, or any balance of remaining funds, shall be returned to contributor within six months of said date.

Funds shall be permanently retained by the City.

Other (describe in detail) _____

Form of Contribution:

Escrow Account

Cash Contribution

Interest Disbursement: Interest on funds to be paid to contributor only if project is not commenced.

Terms of Draw Down of Funds: The City shall periodically draw down the funds via a payment requisition from Public Works, which form shall specify use of City Account # shown above.

Date of Form:

Planner:

- Attach the approval letter, condition of approval or other documentation of the required contribution.
- One copy sent to the Applicant.

Electronic Distribution to:

Peggy Axelsen, Finance Department
Catherine Baier, Public Services Department
Barbara Barhydt, Planning Division
Jeremiah Bartlett, Public Services Department
Michael Bobinsky, Public Services Department
Diane Butts, Finance Department
Philip DiPierro, Planning Division
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Jeff Tarling, Public Services Department
Planner for Project