

CITY OF PORTLAND, MAINE

PLANNING BOARD

Sean Dundon, Chair
Brandon Mazer, Vice Chair
David Eaton
David Silk
Austin Smith
Maggie Stanley
Lisa Whited

November 29, 2018

JP Sheridan LLC
Attention: Jake Edwards
PO Box 715
So. Freeport, ME 04078

Whipple Callender Architects
Attention: Anne Callender
PO Box 1276
Portland, ME 04104

| | | | |
|---------------|------------------------------------|-------------|----------------|
| Project Name: | Amend to Plan for Addition of Unit | Project ID: | PL-000370-2018 |
| Address: | 94 Walnut Street | CBL: | 012 P003 001 |
| Applicant: | JP Sheridan LLC | | |
| Planner: | Shukria Wiar | | |

Dear Mr. Edwards:

On November 13, 2018, the Planning Board approved an amendment to site plan and subdivision plat to add one residential unit for a total of four units in the building. The Planning Board reviewed the proposal for conformance with the standards of the Site Plan and Subdivision ordinances. The Planning Board unanimously voted 7-0 to approve the application with the following conditions as presented below:

Subdivision Review

The Planning Board unanimously voted 7-0 that the plan is in conformance with the subdivision standards of the Land Use Code, subject to the following conditions of approval:

1. That the applicant shall label State Plane Coordinates on at least two of the lot corners on the subdivision plat prior to recording.
2. That the applicant shall revise the plat to depict the new parking space prior to recording.

Site Plan Review

The Planning Board unanimously voted 7-0 that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following condition of approval:

1. The applicant shall revise the site plan to depict the new parking space with dimensions, prior to applying for a building permit.

The approval is based on the submitted plans and the findings related to site plan review standards as contained in the Planning Report for application PL-000370-2018 which is attached.

Standard Conditions of Approval

Please Note: The following standard conditions of approval and requirements apply to all approved site plans:

1. Subdivision Recording Plat A revised recording plat, listing all conditions of subdivision approval, must be submitted to the Planning and Urban Development Department for review. Once approved, the plat shall be signed by the Planning Board 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. The plan or notice must be recorded in the Cumberland County Registry of Deeds within two (2) years 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 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 Permitting and Inspections Department.
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 Expiration The subdivision approval is valid for up to three (3) years from the date of Planning Board approval.
7. Performance Guarantee and Inspection Fees A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department 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 Works 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

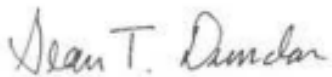
shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

10. Construction Management Plans The applicant, contractor and subcontractors are required to conform to the approved Construction Management Plan, and all conditions contained within the project's approval, for the entire duration of the project. Any amendments to the approved Construction Management Plan shall be reviewed and approved by the Department of Public Works prior to the execution. The Planning Authority and the Department of Public Works have the right to seek revisions to an approved Construction Management Plan. The applicant shall coordinate the project's construction schedule with the timing of nearby construction activities to avoid cumulative impacts on a neighborhood and prevent unsafe vehicle and pedestrian movements. Accordingly, nearby construction activities could involve a delay in the commencement of construction.
11. Department of Public Works Permits If work or obstructions will occur within the public right-of-way, such as utilities, curb, sidewalk, driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy Permit (s) is required for your site. Please contact the Department of Public Works Permit Clerk at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
12. As-Built Final Plans Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
13. Mylar Copies Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to Public Works prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning and Urban Development Department 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 Shukria Wiar at 756-8083 or via shukriaw@portlandmaine.gov

Sincerely,



Sean Dundon, Chair
Portland Planning Board

Attachments:

1. Planning Board Report
2. Performance Guarantee Packet



PLANNING BOARD REPORT PORTLAND, MAINE

Site Plan and Subdivision Amendment
94 Walnut Street
Level III Site Plan and Subdivision Review
PL-000370-2018
JP Sheridan, LLC

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|---|--|
| Submitted to: Portland Planning Board Public Hearing Date: November 13, 2018 | Prepared by: Shukria Wiar, Planner Date: November 9, 2018 |
|---|--|

I. INTRODUCTION

JP Sheridan, LLC has submitted a Level III Amendment application for site plan and subdivision review for their property at 94 Walnut Street (refer to Applicant's submission). The building will be a two-story structure, with a car garage on the ground floor and the apartments above. The purpose of this amendment is to create an additional residential unit, as well as add a parking space to the site plan.



The Planning Board held a public hearing on February 21, 2017 and approved the project with conditions of approval, please see approval letter ([Attachment 1](#)). The original proposal is to construct a new building with three residential units and three-car garage underneath. The new building will be two stories. As part of the amendment, the applicant now wants to increase the units from three to four.

The original subdivision approval with the waivers and conditions still applies. The Planning Board will review the proposed amended plan against the Subdivision and Site Plan Ordinance of Land Use Code. The project will not be reviewed against the design manual since no exterior alternations are proposed.

| | |
|-----------------------------|--|
| Applicant Name | JP Sheridan, LLC |
| Consultants | |
| Agent Representative | Eric Dube of Casco Bay Engineering |
| Engineer | Eric Dube of Casco Bay Engineering |
| Surveyor | John Schwanda of Owen Haskell Inc. |
| Architect | Anne Callender, Whipple · Callender Architects |

II. PROJECT DATA

| | |
|------------------------------|--|
| Existing Zoning | B-2b Commercial Business Zone |
| Existing Use | Residential |
| Proposed Use | Residential- Apartments for Rental |
| Proposed Development Program | 4 residential units |
| - Bedroom Mix | 2 two-bedroom units, 1 three-bedroom unit, 1 studio unit |
| Parcel Size | 5,759 SF |
| Proposed Parking | 3 spaces in garage, one exterior. |

| | <i>Existing</i> | <i>Proposed</i> |
|---------------------------|-----------------|-----------------|
| Building Footprint | 621 SF | 1,932 SF |
| Building Floor Area | 621 SF | 5,506 SF |
| Impervious Surface Area | 1,886 SF | 3,182 SF |
| Parking Spaces (on site) | 4 | 4 |
| Bicycle Parking Spaces | 0 | 0 |
| Estimated Cost of Project | \$1,000,000 | |

III. EXISTING CONDITIONS

existing curb cut on Walnut Street. Currently the parcel has a one-story, three-car garage, which will be demolished. The site is surrounded by single-family and multifamily homes. The property does have an extended curb cut that is shared with an existing adjacent lot.

IV. PROPOSED DEVELOPMENT

The proposal, including floor plans and elevations, are included in the plan set and have been revised to address staff concerns. The development project is proposed as new construction of a two-story building with a three-car garage on the ground floor, the four apartments above, and one external parking space are proposed on site. At two stories high, the scale of this building will be in balance the residential uses of the street and neighborhood.

Vehicle access is proposed from Walnut Street via the existing drive shared with the existing house. Three parking spaces are proposed and bicycle parking will be accommodated within the garages. No external spaces are proposed on site. The parking area is not visible from Sheridan Street and slightly visible from Walnut Street since it is tucked-away in the building.

The building is proposed at the sidewalk on Walnut Street with no direct entrance from Walnut Street. The only entrance to the building is off a ‘court yard’ that is approximately 20 feet from Walnut Street.

A covered porch is proposed over the main building entrance, two balconies are shown on the northern façade, and a gabled roof with three separate dormers, which is similar to other buildings along the street. No direct entrance is proposed off of Sheridan Street.



V. PUBLIC COMMENT

Upon receipt of the subject site plan application, staff noticed property owners within 500 feet of the site and placed a legal ad in the *Portland Press Herald* newspaper in accordance with requirements. One hundred and seventy-eight (178) notices were sent to area residents. A notice also appeared in the November 5th and 6th, 2018 editions of the *Portland Press Herald*.

The applicant is not required to hold a neighborhood meeting since the amendment is for an amendment to an approved subdivision. As of the date of writing this report, staff has not received any written public communication pertaining to this application.

VI. RIGHT, TITLE AND INTEREST AND FINANCIAL/TECHNICAL CAPACITY

a. The owner of the property is JP Sheridan LLC. The applicant has provided a copy of a short form quitclaim deed,

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recorded at the Cumberland County Registry of Deeds (Book 33444 Page 11), which demonstrates their right, title and interest in the property.

b. The estimated cost of the development was \$1,000,000. The applicant had submitted a letter from Camden National Bank, dated June 12, 2017, as demonstration of their financial and technical capacity to complete the proposed development.

VII. ZONING ASSESSMENT

The proposed project is to build a two-story, three-unit apartment building and is a permitted use in the B-2b zone since the zone allows multi-family dwellings. Under the zone all of the dimensional requirements are being met. For off street parking, Division 20 requires one parking space per unit for residential uses on the peninsula. Four parking spaces are shown.

VIII. DEVELOPMENT REVIEW

A. SUBDIVISION PLAN AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The applicant has submitted a recording plat. The final plat has been revised to reflect the one new unit and any waivers and conditions of approval that relate to the subdivision plan. William Scott, City Surveyor has reviewed the revised plat and states that the applicant label State Plane Coordinates on at least two of the lot corners.

B. SUBDIVISION (Section 14-497)

As an amendment to an approved subdivision, the subject application is subject to conformance with the applicable standards of the subdivision ordinance.

Section 14-496 (c) states:

Alterations to an approved plot. The planning authority may approve alterations to an approved recording plat when all of the following conditions are met; otherwise, a new subdivision plat must be submitted to the Planning Board:

- 1. The rearrangement of lot lines does not increase the number of lots within a block or other subdivision unit or area;*
- 2. The alteration will not affect any street, alley, utility easement or drainage easement;*
- 3. The alteration meets all of the minimum requirements of this article, article III of this chapter on zoning and other applicable state and local codes;*
- 4. The alteration is approved by the public works authority and the fire department.*

Such approved alterations shall be properly recorded in the registry within thirty (30) days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S.A. Section 4406.

Based on the application submitted, the project does not meet all of the above standards and therefore this application is before the Planning Board for review. The thirty (30) day recording applies to both Planning Authority and Planning Board review of amended subdivision plans.

As state before, the July 25, 2017 Planning Board approval of this project with all relevant waivers and conditions of approval remain in effect. The proposed amended plan has been reviewed by staff for conformance with the relevant review standards of Portland's Subdivision Ordinance and applicable regulations. Staff comments are listed below.

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)

As part of the amendment application, there are no proposed increase in site improvements or disturbance, so the Staff finds the proposed project in conformance with this standard.

2. Sufficient Water Available (Section 14-497 (a) 2 and 3)
The applicant has demonstrated in the original proposal that the project had sufficient water available, which can handle the additional three units. The project is currently served by the Portland Water District.
3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)
Tom Errico, P.E. Ty Lin has reviewed the original proposal. The proposed project is not anticipated to cause unreasonable traffic congestion. The staff finds the proposed project is in conformance with this standard.
4. Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)
The applicant is not proposing any new utilities services as part of this amendment and it is currently served by the City's sewer system. In the original application, the City of Portland has confirmed that the sewer system has sufficient capacity. Lauren Swett, P.E. Woodard and Curran, had reviewed the stormwater management plan finds the proposal to meet city standards. The staff finds the proposal is in conformance with this standard for the additional one unit.
5. Scenic Beauty, Natural, Historic, Habitat and other Resources (Section 14-497 (a) 8)
The proposal site is within an historic district and is in an urban neighborhood surrounded by a variety of residential building types. The proposed building does not impact the natural beauty of the area or adversely affect any significant wildlife habitat, rare or irreplaceable natural areas, or any public access to the shoreline. The staff finds the proposal in conformance with this standard.
6. Comprehensive Plan (Section 14-497 (a) 9)
The staff has identified the following goals and policies which are relevant to the proposed housing development and finds the proposal in conformance with the Comprehensive Plan:

Housing: A Livable City

State Goals: To encourage and promote affordable decent, housing opportunities for all Maine citizens

Local Goals:

- Increase, preserve, and modify the overall supply of housing City-wide to meet the needs, preferences and financial capabilities of all Portland households.
- Encourage additional contextually-appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.
- Encourage quality, sustainable design in new housing development.

Goals from Future Strategies:

g. Adopt Affordable Housing

- Pursue new opportunities for increased energy efficiency, increased densities, mixed incomes, and greater connectivity to surrounding neighborhoods.

C. SITE PLAN STANDARDS (Section 14-526)

The proposed amended plan has been reviewed by staff for conformance with the relevant review standards of Portland's site plan ordinance and applicable regulations. Staff review and comments are listed below.

1. Transportation Standards
Impact on surrounding street systems, access and circulation, public transit access, and parking were reviewed under the original application by Tom Errico, P.E. TY Lin. The amendments to the site plan for

the additional one unit does not affect the transportation standards except an additional parking space is required for the new residential unit as part of the application. Mr. Errico requests the following:

I have reviewed the application documents as it relates to adding a surface parking space in the driveway area. The applicant shall provide a plan that depicts the parking space with dimensions and an auto-turn analysis that documents adequate on-site circulation can occur without backing onto Walnut Street.

2. Environmental Quality Standards

a. *Preservation of Significant Natural Features and Landscaping and Landscape Preservation*
Jeff Tarling, City Arborist, had reviewed the landscaping plan as part of the original application. The amendment to the site plan does not affect the approved landscaping plan.

b. *Water Quality, Storm Water Management and Erosion Control*
Lauren Swett of Woodard and Curran, Consulting Engineer, had reviewed the stormwater management plan as part of the original application. The amendment to the site plan does not affect the stormwater standards.

3. Public Infrastructure and Community Safety Standards

a. *Public Safety and Fire Prevention*
Chief Robert Thompson has reviewed the amendment to the plans and does not have any comments.

b. *Availability and Adequate Capacity of Public Utilities*
Please see Paragraph VIII (B) Subdivision, above.

4. Site Design Standards

a. *Zoning Related Design Standards*
The project at 88 Walnut Street was originally viewed according to the *City of Portland Design Manual* standards by Caitlin Cameron, Urban Designer, Shukria Wiar, Planner, and Deb Andrews, Historic Preservation Program Manager against *the B2 Commercial Business Zones Standards* (Section (d) of the Design Manual) and *Multiple-Family Standards*. The site is within 100' of a historic landmark. As part of the amendment, there is not change to the façade and location of the building, therefore, a design review is not warranted.

IX. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed amendments to the approved Subdivision and Site Plan.

X. PROPOSED MOTIONS

Subdivision Plat

On the basis of the subdivision plat approved on November 13, 2018 with conditions, the application for an amendment, plans, reports, and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for application PL-000370-2018 relevant to the Subdivision Ordinance and other regulations, as well as the Planning Board deliberations and the testimony presented at the Planning Board hearings, the Planning Board finds that the amended plan, when taken together with the original plan and the conditions contained therein (**is** or **is not**) in conformance with the subdivision standards and all other applicable provisions of the land use code, with the following condition of approval:

1. That the applicant shall label State Plane Coordinates on at least two of the lot corners on the subdivision plat prior to recording.

2. That the applicant shall revise the plat to depict the new parking space prior to recording.

Level III Site Plan

On the basis of the site plan approved November 13, 2018 with conditions, the application for an amendment, plans, reports, and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for application PL-000370-2018 relevant to the Site Plan Ordinance and other regulations, as well as the Planning Board deliberations and the testimony presented at the Planning Board hearings, the Planning Board finds that the amended plan, when taken together with the original plan and the conditions contained therein (is or is not) in conformance with the site plan standards and all other applicable provisions of the land use code, with the following condition of approval:

1. The applicant shall revise the site plan to depict the new parking space with dimensions, prior to applying for a building permit.

ATTACHMENTS:

Staff Review Comments and Background Information

1. July 21, 2017 Approval Letter
2. Traffic Engineer Comments (Tom Errico) Dated 11.06.2018
3. City Surveyor (William Scott) Dated 11.06.2018

Applicant's Submittal

- A. Summary of Site Plan Amendment application
- B. Walnut St. - 88 (PB) 7-25-17
- C. Walnut St. - 88 (Report)
- D. Planning Board Applicants Document submittal
- E. Planning Board Applicants Drawing submittal
- F. Walnut Level III Checklist_ Amendment
- G. Zoning Analysis Table_94 Walnut

Plans

Civil Plans

- Plan P1 Amendment to Level III Site Plan Review Plan & Elevations
Plan P2 Site Utility Plan Amendment to Level III Site Plan Review
Plan P3 Subdivision Plat_Revised_88 Walnut 10-11-18
Plan P4 Turning Template for new Parking

Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP

Director, Planning & Urban Development Department

Performance Guarantee, Inspection Fee, and Infrastructure Financial Contribution Packet

A. Site Plan/Subdivision Performance Guarantees Required

Portland's Land Use Code requires all developers with approved site plan and/or subdivision applications to submit a performance guarantee to the City prior to the start of any construction or site improvements. The performance guarantee represents 100% of the total cost of site improvements, as determined by the City. The code further requires developers to pay an inspection fee of 2% of the performance guarantee amount to the City for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications. (Portland's Land Use Code, Sections 14-501 and 14-530)

B. Cost Estimate Form and Inspection Fee

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. Please submit an itemized cost estimate form to determine the detailed costs of both public and private site improvements to the Planning Division for review and approval. The cost estimate form is included as [Attachment 1](#). The approved amount on the Cost Estimate form is the amount to be covered by the performance guarantee and is the basis for calculating the 2% inspection fee.

C. Acceptable Types of Performance Guarantees

The accepted forms of a performance guarantee, covering the amount approved on the Cost Estimate form, must be one of the following options consistent with the attached templates, with **NO** exceptions:

1. A letter of credit from a bank/credit union (Attachment 2)
2. A deposit into a bank-held escrow account (Attachment 3)
3. A deposit into a City-held escrow account (Attachment 4)

NOTE: No land use application of any kind shall be processed, reviewed or issued, no signed subdivision plat shall be released or recorded, and no building permit of any kind shall be issued unless all fees have been paid and every aspect of the proposed development is in compliance with City Codes as determined by the Development Review Coordinator in the Planning Division.

The developer is eligible to receive up to three reductions from the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced 1) in any line item where improvements remain to be completed; or 2) to a value which is less than the estimated cost of completing all remaining required improvements; or 3) to a value less than 10% of the Performance Guarantee.

At the conclusion of the project, the City will release 90% of the performance guarantee after the Development Review Coordinator determines that site improvements have been satisfactorily completed at the time of the final inspection. The City will then retain a 10% defect guarantee to cover the workmanship and durability of materials used in construction. The defect guarantee will be released one (1) year from date of acceptance, subject to the Development Review Coordinator inspecting the site and finding it in compliance with the approved site plan.

D. Housing Replacement Performance Guarantees

For those projects that are subject to Portland's Housing Preservation and Replacement Ordinance (Section 24-483) and have an approved plan, then a performance guarantee is required for housing replacement. An owner or developer must post a performance guarantee in the form of a letter of credit in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Fund, if the applicant had chosen that option. The guarantee shall be valid for no more than three years, after which the full amount shall be provided to the City's Housing Trust Fund, if replacement units meeting the code do not have certificates of occupancy. The guarantee can be released upon the issuance of a certificate of occupancy for the replacement units. A suggested template for a Housing Replacement Performance Guarantee is included as Attachment 5.

E. Infrastructure Accounts

Contributions to infrastructure accounts may be required as part of the conditions of site plan approval. The contributions must be submitted prior to the issuance of any permits, unless stated otherwise in the approval. The form for submitted required contributions is included as Attachment 6.

F. Administrative Process for Submitting Performance Guarantee

- **Step 1 - Cost Estimate**

Submit completed cost estimate form to Planning Division for review and approval. Once approved, use this total amount as the performance guarantee amount in Step 2.

- **Step 2 - Performance Guarantee**

Complete a draft of 1 of the 3 attached performance guarantee templates, inputting project specific information into blank and bracketed areas, and submit to the Planning Division for final approval. Once staff approved the draft, the applicant shall submit the official signed original performance guarantee document, which for option 1) or 2) must be on Bank/Credit Union letterhead with original signatures.

- **Step 3 - Submit Performance Guarantee, Inspection Fee, and Infrastructure Contributions**

Submit the final original Performance Guarantee, the required inspection fee, and any infrastructure contributions to the Planning Division. The Planning Division will confirm that the final documents are accurate and acceptable.

- **Step 4 - Release of Recording Plat and Permits**

Only after the performance guarantee is issued, fees paid, and all other conditions of site plan approval and compliance are met, will the recording plat be released for recording at the Cumberland County Registry of Deeds and/or City permits issued.

Contact: Please email the cost estimate form to jdealaman@portlandmaine.gov

After the cost estimate is approved, all subsequent paperwork can be submitted by mail to 389 Congress Street, 4th Floor, Portland, ME 04101, Attn: James Dealaman.

Please call 207-874-8721 with any questions.

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 Escrow Form with the City of Portland
5. Housing Replacement Performance Guarantee Form
6. Infrastructure Financial Contribution Form with the City of Portland

| | | | | | | |
|---|-------|-------|-------|-------|-------|-------|
| 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 the quantities of plant material 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) | |

TEMPLATE – PERFORMANCE GUARANTEE LETTER OF CREDIT

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 Applicant]
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “Bank”) hereby issues its Irrevocable Letter of Credit for the account of [Insert: Name of Applicant] (hereinafter referred to as “Applicant”), 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 the City of Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65.

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 Applicant 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 Applicant 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 Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City 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 City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the Bank, by written certification, to reduce the available amount of the escrowed money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this Letter of Credit that the expiration date 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 Brendan O’Connell, 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, 530 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 Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant 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

TEMPLATE –ESCROW ACCOUNT WITH FINANCIAL INSTITUTION

SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
ESCROW ACCOUNT WITH FINANCIAL INSTITUTION
[ACCOUNT NUMBER]

[Date]

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

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

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “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 the Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by [Insert: Applicant].

[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 Applicant 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 Applicant 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 Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City 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 City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the [Bank], by written certification, to reduce the available amount of the escrowed

money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Escrow Account will automatically expire on **[Insert date one year from the date of this Escrow Account]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this Escrow Account that the expiration date 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 Brendan O’Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this 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 Escrow Account 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, 530 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 Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant 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: _____

TEMPLATE - PERFORMANCE GUARANTEE ESCROW ACCOUNT
with the City of Portland

Applicant’s Tax Identification Number: _____

Applicant’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 noninterest 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 the Portland Code of
Ordinances Chapter 14 §§ 501, 530and Chapter 25 §§46-65.

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 Applicant 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 Applicant 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 Applicant 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 Brendan O’Connell,
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 City, 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, 530 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 one years from the date of this performance
guarantee] (“Expiration Date”), or on the date when the City determines that all improvements guaranteed
by this Performance Guarantee are satisfactorily completed, whichever is later, provided that the expiration

date does not fall between October 30th and April 15th.

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

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 Applicant.
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.

**TEMPLATE - PERFORMANCE GUARANTEE FOR
COMPLIANCE WITH HOUSING REPLACEMENT ORDINANCE**

Demolition and Housing Replacement
PERFORMANCE GUARANTEE
LETTER OF CREDIT
[ACCOUNT NUMBER]

[Insert Date]

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

Re: [Insert Project Address] Demolition and Housing Replacement

[Insert Name of Lender] (“Bank”) hereby issues its Irrevocable Letter of Credit for the account of **[Insert Name of Applicant]** (“Applicants”), held for the exclusive benefit of the City of Portland (“City”), in the aggregate amount of **[Insert exact amount to be determined by the City]**. These funds represent the estimated cost of **[Insert Amount]** for the housing replacement fee applicable to the demolition of **[insert number of units demolished]** dwelling units if no replacement units are constructed, as approved on _____ (“**Demolition Approval**”) and as required under Portland Code of Ordinances Chapter 14-483(j).

In the event that Applicant fails to satisfy its housing replacement obligation, 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, if any.

The housing replacement requirement shall be deemed satisfied upon the City’s issuance of a Certificate of Occupancy for **[insert number of units to be replaced]** dwelling units located in the City of Portland provided that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units.

After construction of each of the replacement units has been completed, the City, as provided in Chapter 14 of the Portland Code of Ordinances, may authorize the Bank, by written certification along with the return of the original of this Letter of Credit, to reduce the available amount of the escrowed money by the full amount of the Letter of Credit.

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.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever comes first (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this

Letter of Credit that the expiration date 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 Brendan O'Connell, 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 that the Bank provides notice of its election to discontinue this Letter of Credit and Applicant has not satisfied its housing replacement obligation, 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 signed by the Director of Planning and Urban Development, at Bank's offices located at Portland Maine stating that:

this drawing results from notification that the Bank has elected to discontinue its Letter of Credit No. _____.

Date: _____ By: _____

[Name]

[Title]

Its Duly Authorized Agent

**Contribution Form (Watershed, Tree, and Infrastructure Accounts)
Planning and Urban Development Department - Planning Division**

| | | | |
|-----------------------------|--|----------------------|--|
| Application ID: | | Planner: | |
| Project Name: | | Date of Form: | |
| Project Address: | | | |
| Applicant's Name: | | | |
| Applicant's Address: | | | |
| Project Description: | | | |

| TYPE OF CONTRIBUTION | Account # | Project Code | Funds Intended for: | Retained by City | Funds not Expended | Expiration Date: | Amount |
|----------------------------|--------------------|--------------|---------------------|------------------|--------------------|----------------------|--------|
| Infrastructure #1 | 710-0000-236-98-00 | | | | | | \$ |
| Infrastructure #2 | 710-0000-236-98-00 | | | | | | \$ |
| TYPE OF CONTRIBUTION | Account # | Project Code | Funds Intended for: | | | | Amount |
| Transportation Fund | 710-0000-238-01-00 | | | | | | \$ |
| Infrastructure (Tree Fund) | 242-3100-341-00-00 | PR0045 | | | | | \$ |
| Watershed (Nason's Brook) | 257-3100-327.10-00 | CFUP03 | | | | | \$ |
| Watershed (Fallbrook) | 257-3100-327.10-00 | CFUP02 | | | | | \$ |
| Watershed (Capisic Brook) | 257-3100-327.10-00 | CFUP01 | | | | | \$ |
| | | | | | | Total Amount: | \$ |

* Funds not expended or encumbered by the expiration date, shall be returned to contributor within 6 months of said date.

* Office Use Only

FORM OF CONTRIBUTION: (Please check the applicable box below for an Infrastructure Account only)

| | |
|--------------------------|--|
| Cash Contribution | |
| Escrow Account | |

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

The City shall periodically draw down funds from Public Works, which form shall specify use of City Account # as shown above.

Electronic Distribution:

Tiffany Mullen, Finance Department
 Joanna Coey, Principal Financial Officer, Recreation and Facilities Mgt.
 Stuart O'Brien, City Planning Director
 Barbara Barhydt, Development Review Services Manager, Planning Division
 Jeremiah Bartlett, Public Services Department
 Christopher Branch, Public Services Director

Philip DiPierro, Development Review Coordinator, Planning Division
 Katherine Earley, Engineer Services Manager, Public Services
 Michael Farmer, Project Engineer, Public Services Department
 David Margolis Pineo, Deputy City Engineer, Public Services Department
 Jeff Tarling, City Arborist, Public Services Department
 Planner for the Project