

6-6 Washington Ave,
Portland

26 Village Brook Rd,
Yarmouth, ME 04096

A1900

Maine Revised Statutes

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§2808

Title 17: CRIMES

§2852

Chapter 91: NUISANCES

Subchapter 4: DANGEROUS BUILDINGS

§2851. Dangerous buildings

Whenever the municipal officers in the case of a municipality, or the county commissioners in the case of the unorganized or deorganized areas in their county, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality or the unorganized or deorganized area, as measured from low water mark, **is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure.** [1997, c. 6, §1 (AMD).]

1. Notice. The notice must be served on the owner and all parties in interest, as defined in **Title 14, section 6321**, in the same way service of process is made in accordance with the Maine Rules of Civil Procedure.

[1997, c. 6, §1 (AMD) .]

2. Notice; how published. When the name or address of any owner or co-owner is unknown or is not ascertainable with reasonable diligence, then the notice must be published once a week for 3 successive weeks prior to the date of hearing in a newspaper generally circulated in the county, or if none, in the state paper.

[1997, c. 6, §1 (AMD) .]

3. Order. The order made by the municipal officers or county commissioners must be recorded by the municipal or county clerk, who shall cause an attested copy to be served upon the owner and all parties in interest in the same way service of process is made in accordance with the Maine Rules of Civil Procedure. If the name or address cannot be ascertained, the clerk shall publish a copy of the order in the same manner as provided for notice in subsection 2.

[1997, c. 6, §1 (AMD) .]

4. Proceedings in Superior Court. In addition to proceedings before the municipal officers or the county commissioners, the municipality or the county may **seek an order of demolition by filing a complaint in the Superior Court situated in the county where the**

City Council

structure is located. The complaint must identify the location of the property and set forth the reasons why the municipality or the county seeks its removal. Service of the complaint must be made upon the owner and parties-in-interest in accordance with the Maine Rules of Civil Procedure. After hearing before the court sitting without a jury, the court shall issue an appropriate order and, if it requires removal of the structure, it shall award costs as authorized by this subchapter to the municipality or the county. Appeal from a decision of the Superior Court is to the law court in accordance with the Maine Rules of Civil Procedure.

[1997, c. 6, §1 (AMD) .]

SECTION HISTORY

1965, c. 284, (RPR). 1967, c. 401, §1 (AMD). 1973, c. 143, §1 (AMD). 1979, c. 27, §§1-3 (AMD). 1997, c. 6, §1 (AMD).

Data for this page extracted on 12/10/2008 02:05:26.

**The Revisor's Office cannot provide legal advice or
interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.**

Office of the Revisor of Statutes

7 State House Station

State House Room 108

Augusta, Maine 04333-0007

CITY OF PORTLAND, MAINE
IN BOARD OF MUNICIPAL OFFICERS

Re: Premises at _____, Portland, Maine

NOTICE OF HEARING UNDER DANGEROUS BUILDING STATUTE
(17 M.R.S.A. SECTION 2851, et seq.)

To: _____, and all other persons having an interest in the premises situated at _____, in Portland, Maine, described as Chart ____, Block ____, Lot ____ of the Assessor's maps on file at Portland City Hall, and more particularly described in the deed from _____ to _____, dated _____, 19____, and recorded in the Cumberland County Registry of Deeds in Book ____, Page ____.

TIME AND PLACE OF HEARING

You are hereby notified that the Municipal Officers of the City of Portland will hold a public hearing on _____, _____, 19____, at ____ a.m./p.m. in the Council Chambers of Portland City Hall, Portland, Maine, for the purpose of hearing all persons interested in the condition of the premises described herein which are alleged to be a nuisance and dangerous within the meaning of 17 M.R.S.A. Section 2851, et seq., as amended.

At said hearing, the Municipal Officers will consider whether they will adjudge said premises, including the buildings thereon, or any part thereof, to be a nuisance or dangerous; and, if so adjudged, will record an order prescribing what disposal shall be made thereof.

It is **ORDERED** that attested copies of this Notice be served upon the persons above-named as required by law; and, pursuant to 17 M.R.S.A. Section 2857, that an attested copy be recorded in the Cumberland County Registry of Deeds.

Dated:

George N. Campbell, Jr.
Mayor

Charles W. Harlow
District 5

Karen A. Geraghty
District 2

Philip J. Dawson
At Large

Thomas V. Kane
District 3

Nicholas M. Mavodones, Jr.
At Large

Cheryl A. Leeman
District 4

John F. McDonough
At Large

Peter M. Rickett
At Large

October 8, 1998

VIA HAND DELIVERY

Deputy Sheriff Sam Rinaldi
Cumberland County Sheriff's Office
36 County Way
Portland, Maine 04103

RE: Premises at 629-631 Congress Street - Notice of Hearing

Dear Sam:

The City is considering demolishing the above-described property.

Fleet Bank may have an interest in the property as successor to Maine Savings Bank.

Enclosed herewith are two copies of a Notice of Service relating to the proposed demolition. Would you please serve the one marked "serve on bank" on C.T. Corporation Systems whose address is 1 Portland Square, Portland, Maine, make your return on the copy marked "return to the City," and return that to me together with a bill for your charges. PLEASE NOTE THAT SERVICE MUST BE COMPLETED ON OR BEFORE TUESDAY, OCTOBER 13, 1998.

Very truly yours,

Charles A. Lane
Associate Corporation Counsel

CAL:meg
Enclosures
O:\WP\CHARLIE\DEMO\629RINAL.LTR

NOTES:

- File original notices, orders, returns of service in City Clerk's Office
- forward invoices for title opinions and sheriff's bills to Bill Tracy, Housing Coordinator, for payment

SAMPLE NOTICE OF HEARING

Pursuant to Title 17 M.R.S.A. §§ 2851-2859

DANGEROUS BUILDINGS

TO: _____ (Owner's Name)

_____ (Owner's Address)

You are hereby notified that the Municipal Officers of the City/Town of _____, Maine will hold a hearing on _____ (date) at _____ (time) at _____ (place) to determine whether the building/structure owned by you and located on land owned by _____, described as _____ (type of premises) and shown on Map _____, Lot _____ of the current Tax Maps of the City/Town of _____, Maine on file at _____ (place), is dangerous or a nuisance within the meaning of Title 17 M.R.S.A. §§ 2851. If the Municipal Officers so determine, they may order abatement of said nuisance including but not limited to demolition and removal of said building/structure. If their order is not timely complied with and no appeal is taken, the Municipal Officers may undertake said abatement at municipal expense and recover all such expenses, including reasonable attorney's fees, by means of a special tax or civil action.

Dated: _____ Municipal Officers City/Town of _____, Maine

/s/ _____ /s/ _____

/s/ _____

STATE OF MAINE

_____ County, ss

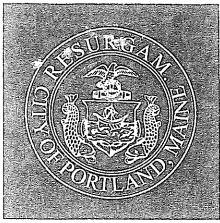
Date: _____.

Personally appeared before me the above-named _____, _____ and _____ and each acknowledged the foregoing instrument to be hi/her free act and deed.

Notary Public/Attorney at Law

MMA Legal Service 1998

subject of the appeal. The damages that may be awarded for wrongful demolition are limited to the actual value of the structure at the time of its removal. The provisions of Title 14, section 7552 do not apply. If the municipality should prevail, the court may award it its costs in defending any appeal which may include, but are not limited to, reasonable attorney's fees.



Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

Corporation Counsel
Gary C. Wood

Associate Counsel
Mary E. Costigan
Danielle P. West-Chuhta
Ann M. Freeman

October 7, 2009

Robert Danielson, Esq.
2 Canal Plaza
Portland, Maine 04101

Re: 6 Washington Avenue

Dear Attorney Danielson:

I understand that you spoke with Danielle West-Chuhta on Monday regarding the property at 6 Washington Ave. I was out of the office at a conference until today, but will be handling this matter moving forward. Danielle has fully briefed me on the situation and your conversation.

As Danielle informed you Monday, due to the unsafe condition of the building located on your client's property at 6 Washington Avenue (the "Property") which has existed for a couple of years, the City has ordered that it be demolished. See enclosed letter. To date, however, the building on the Property has yet to be demolished. Given your client's own stated concerns about safety and his apparent willingness to demolish the building, the City hereby orders that the building be demolished and the site be loamed and seeded within seven (7) to ten (10) business days from the date of this letter. Failure to comply with this deadline will result in the City filing a lawsuit seeking demolition.

At this time the City will not be seeking a bond from your client pursuant to the City's Housing Replacement Ordinance. The requirements of this Ordinance (including, but not limited to, the bond) will be triggered once a plan for redevelopment is in place or one year from the date of this letter, whichever comes first.

Thank you for your time and attention to this matter.

Sincerely,



Ann M. Freeman
Associate Corporation Counsel

Encls.

cc: Penny St. Louis Littell, Director of Planning & Urban Development
Tammy Munson, Director of Inspections



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

Planning & Urban Development Department
Penny St. Louis Littell, Director

August 17, 2009

Greg's Properties WashAve LLC
c/o Mr. Alec Altman
26 Village Brook Road
Yarmouth, Maine 04096

Re: 6 Washington Avenue
Chart/block/lot: 13-G-007

Dear Mr. Altman:

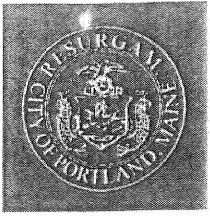
For several years now the City has worked with you on various plans to redevelop your property at 6 Washington Avenue. The Planning Department has discussed with you your various options for the site. No plan for redevelopment is presently pending.

The property at 6 Washington Avenue has experienced a lack of maintenance and protection over the last couple of years. It has been exposed to the elements subject to weather of all types. At this time, the structure is rendered unsafe in violation of the Portland Building Code, specifically §§202 of the International Existing Building Code.

Pursuant to the International Existing Building Code 2003 ("IEBC") Section 202, any building with any of the following characteristics shall be deemed a "dangerous building":

2. *Any portion, member, or appurtenance thereof likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons.*
4. *The building, or any portion thereof, is likely to collapse partially or completely because of dilapidation, deterioration or decay.*
5. *The exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.*

The building falls within the above IEBC definition and is a "dangerous building". It is hereby ordered that the building be demolished within the next 30 days. See City Code § 6-16; IEBC at § 117.1. If this action is not taken we will proceed to obtain a Court Order to demolish the building.



Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

Planning & Urban Development Department
Penny St. Louis Littell, Director

August 17, 2009

Greg's Properties WashAve LLC
c/o Mr. Alec Altman
26 Village Brook Road
Yarmouth, Maine 04096

Re: 6 Washington Avenue
Chart/block/lot: 13-G-007

Dear Mr. Altman:

For several years now the City has worked with you on various plans to redevelop your property at 6 Washington Avenue. The Planning Department has discussed with you your various options for the site. No plan for redevelopment is presently pending.

The property at 6 Washington Avenue has experienced a lack of maintenance and protection over the last couple of years. It has been exposed to the elements subject to weather of all types. At this time, the structure is rendered unsafe in violation of the Portland Building Code, specifically §§202 of the International Existing Building Code.

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The building falls within the above IEBC definition and is a "dangerous building". It is hereby ordered that the building be demolished within the next 30 days. See City Code § 6-16; IEBC at § 117.1. If this action is not taken we will proceed to obtain a Court Order to demolish the building.

Please contact me upon receipt of this letter so that we may coordinate *your* demolition with the Building Inspections Department.

Sincerely,



Penny St. Louis Littell
Director of Planning and Urban Development

cc: Tammy Munson, Director of Inspections
Gary Wood, Esq., Corporation Counsel

Can you redraft w/
right name/property & make
other changes?

6 Wash Ave

Re: Premises at _____, Portland, Maine

ORDER OF DEMOLITION
(17 M.R.S.A. §2851, et seq.)

Notice having been given to Greg's, and all other persons having an interest in the premises situated at _____ in Portland, Maine, described as Chart ____, Block ____, Lot ____ of the Assessor's maps on file at Portland City Hall, and more particularly described in the deed from _____ to _____, dated _____, 19____, and recorded in the Cumberland County Registry of Deeds in Book ____, Page ____.

A hearing having been duly held in the Council Chambers at Portland City Hall on 11/2/09, 19____. (write it out)

The said premises or any part thereof having been adjudged to be unsanitary; as constituting a fire hazard; as unsuitable or improper for the use of occupancy to which they are put; as constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence, or abandonment; or otherwise dangerous to life or property within the meaning of §2851-2853 of Title 17 of the Revised Statutes of Maine, 1964, as amended:

NOW THEREFORE, IT IS ORDERED that the structure situated on the premises known as Chart ____, Block ____, Lot ____ of the Assessor's maps, all as more fully described above, be removed within ^{ten (10)}~~thirty (30)~~ days from the date of this Order and that the premises be left in a safe and sanitary condition.

IT IS ORDERED that the City Clerk cause attested copies of this Order to be served upon the persons above-named as required by law; and

IT IS ORDERED that, if this Order should not be complied with, then the City Manager is hereby authorized and directed to ask for bids for the removal of the said structures described herein.

And, IT IS FURTHER ORDERED, that a lien be placed on the premises described as Chart ____, Block ____, Lot ____ of the Assessor's maps, for all expenses (as defined in 17 M.R.S.A. §2853, as amended) incurred by the City in connection with the removal of the said structure.

Dated:

Municipal Officers of the City of Portland

George N. Campbell, Jr.
Mayor

Charles W. Harlow
District 5

Karen A. Geraghty
District 2

Philip J. Dawson
At Large

Thomas V. Kane
District 3

Nicholas M. Mavodones, Jr.
At Large

Cheryl A. Leeman
District 4

John F. McDonough
At Large

Peter M. Rickett
At Large

Order 27-02/03

Given first reading: 8/5/02

Postponed on 8/19/02; Amended and Passed 10/7/02 9-0

KAREN A. GERAGHTY (MAYOR) (2)
PETER E. O'DONNELL (1)
NATHAN H. SMITH (3)
CHERYL A. LEEMAN (4)
JAY M. HIBBARD (5)

CITY OF PORTLAND
IN THE CITY COUNCIL

JAMES F. CLOUTIER (A/L)
PHILIP J. DAWSON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 DIVISION 29
(PRESERVATION AND REPLACEMENT OF HOUSING UNITS)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. *That Chapter 14, Division 29, Preservation and Replacement of Housing Units is hereby enacted to read as follows:*

DIVISION 29. PRESERVATION AND REPLACEMENT OF HOUSING UNITS

Sec. 14-483. Preservation and Replacement of Housing Units.

(a) Purpose. The City believes that it is in the public interest to promote and facilitate an adequate supply of housing, particularly affordable housing. Housing, because of its scarcity and high costs, has become an extremely valuable resource in the City, and is very difficult to replace once lost.

The purpose of this section is to limit the net loss of housing units in the City caused by the demolition of residential property, the conversion of housing units to nonresidential use or the elimination of housing units as the result of the reduction or consolidation of such units within a residential property.

The City believes that the preservation of housing by means of the procedures established in this section will contribute to the health, safety and welfare of its citizens.

It is anticipated that developments subject to this section which will require multiple approvals will be processed concurrently, so that action on one aspect of the development will not delay the project as a whole.

(b) Definitions. The following words shall be defined as set forth below for the purposes of this section.

Affiliate means any legal entity in common ownership with or subject to control of either the applicant or the owner.

Dwelling and dwelling unit means and includes rooming units and sheltered care group homes, as each of those terms are defined in Section 14-47 of this Code. For the purposes of this section, "dwelling" and "dwelling units" refers to the loss of such units as a result of demolition, their conversion to non-residential uses or their elimination as a result of the reduction or consolidation of such units within a residential property.

Original site means the location where the demolition, conversion to non-residential use or elimination of dwellings and dwelling units will take place.

(c) Application. The provisions of this section will apply:

1. in all zoning districts in cases where three or more lawfully existing dwellings or dwelling units, including single-family dwellings, dwellings or dwelling units within two-family and multi-family buildings, lodging houses, rooming units, and sheltered care group homes, are demolished, converted to nonresidential uses, or eliminated through the reduction or consolidation of units within a residential property, within a five (5) year period, from and after July 1, 2002, either by the owner or an affiliate of the owner, except in cases in which the original site will be used as surface parking, this Section will apply to each dwelling unit demolished;
2. to premises, designed and intended for use as a dwelling, which have been vacant and which are not otherwise exempt under the provisions of sub-section (n); and
3. to dwellings or dwelling units, situated on various locations on the applicant's property or properties that are functionally connected with the applicant's use of the original site or in the general vicinity of the original site.

(d) Historic Preservation. Notwithstanding anything to the contrary in Chapter 14 Division 29, nothing in this ordinance shall permit the demolition, conversion, reduction or

consolidation of dwelling units in residential property protected by the Historic Preservation Ordinance (Sections 14-601, et seq.), except as permitted by that ordinance.

(e) Reuse of Original Site. Any reuse of the original site and/or other properties of the applicant where housing has been demolished, converted or eliminated, shall be reviewed by the Planning Board as a Conditional Use and subject to Site Plan. In granting reuse approval the Planning Board shall require that impacts on adjoining residential uses shall be mitigated or buffered to the fullest degree, through the use of restrictions on access ways and points, buffering, screening, berming and landscaping, and through restrictions on noise and lighting. The Planning Board may require means of periodic or ongoing monitoring of effects from noise, light, trash or traffic when it finds that such monitoring will further the purposes of achieving mitigation or elimination of impacts.

(f) Approval. No dwelling nor dwelling units subject to the provisions of this section, shall be eligible for a demolition permit or change-of-use approval until the Planning Authority has approved such action in accordance with the provisions of this section.

1. The applicant files with the Planning Authority, on a form to be provided by the Planning Authority, a statement certifying the number of such units, as well as a description of the characteristics of each of those units.
2. The applicant submits a list containing the name of each tenant currently residing in the dwelling units, along with the current rent.
3. The applicant provides an affidavit verifying compliance with the notice requirement of sub-section (g).
4. The applicant demonstrates compliance with the requirements of subsection (g).

(g) Notice to Tenants. Prior to the demolition, conversion reduction or consolidation of dwelling units subject to the provisions of this section, the applicant will:

1. Deliver to each tenant who occupies such a dwelling unit a written notice to vacate the unit. The notice shall either be sent by certified mail, return receipt requested, or served in-hand. The notice will grant

the tenant not less than ninety (90) days from the date of receipt of the notice to vacate the unit.

2. The applicant will be required to file proof of service with the Planning Authority.

(h) Housing Replacement by the Creation of New Units.
Applicants may meet the replacement requirement by creating new dwelling units, pursuant to a plan approved by the Planning Authority. Such a plan shall conform to the following provisions:

1. The replacement units shall be located within the City of Portland.
2. The replacement units may not previously have been on the market as of the date of application.
3. The replacement units shall be situated within a development which has not been a candidate for site plan approval as of the date of the application.
4. The replacement units shall be compatible in size, number of bedrooms, affordability, tenure and amenities, unless they are part of a qualified plan under subsection(h) (6) (c).
5. The replacement units shall have an exterior design in keeping with the character of the neighborhood in which they will be located.
6. Replacement units may be provided by the applicant in one or more of three (3) ways, including:
 - a. The construction of housing units within a new structure or a new addition
 - b. The conversion of a nonresidential building to residential use, or
 - c. The creation of new housing units under a plan which meets another important housing need within the City, as evidenced by its inclusion in the housing element of the City's Comprehensive Plan.
 - d. Replacement housing may be created in advance of the application for the demolition, conversion, elimination or consolidation of housing at the original site provided the Planning Authority has

approved the applicant's plan prior to replacement housing being built.

(i) Availability of Replacement Housing Units.

1. Except where replacement housing units are being built on the original site, no building permit, demolition permit or change-of-use approval may be issued for the original site until the plan for the replacement units has been approved by the Planning Authority and a performance guarantee in the form of a Letter of Credit which comports with the requirements of sub-section (m) has been posted for the replacement units with the City.
2. Replacement units shall be available for occupancy before a certificate of occupancy may be issued for the new construction on the original site.
3. The replacement housing units shall be ready for occupancy within eighteen (18) months from the date on which the Planning Authority's approval was granted. Extensions, up to a total of 24 months, may be granted, provided the replacement housing units under construction are at least 30% complete.
4. Notwithstanding the foregoing sub-sections, in the event the replacement units are not completed within 24 months or the applicant wishes to obtain a certificate of occupancy for the original site prior to the availability of the replacement housing units, then the applicant can request that the City draw on the Letter of Credit, pursuant to Sub-section (l), to complete the replacement housing units, or deposit such funds in the City's Housing Development Fund.

(j) Housing Replacement by Contribution to the City's Housing Development Fund.

1. As an alternative to providing replacement housing as described in sub-section (h), the applicant may meet the requirements of this section by depositing \$30,000 for each rooming unit or \$50,000 for each dwelling unit, including multifamily apartments and single family home, to be demolished or converted to nonresidential use or eliminated to the City's Housing Development Fund.
2. Beginning on January 1, 2004 and annually thereafter, the amount of the contribution shall be adjusted by

multiplying this amount originally deposited for each unit by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W")," U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the Index") for January 1, 2003 Year, and the numerator of which shall be the Index for the same month in each subsequent year. In the event that the Index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence; or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the Index. If the Index shall cease to use 1982-84 equals 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the Index, the Base Index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. Notwithstanding anything herein to the contrary, contributions made after January 1, 2004 shall not be less than the amount originally required to be deposited pursuant to sub-section (i)(1) for each rooming or dwelling unit.

(k) Status of Dwelling Units. All dwelling units which are regulated by this section shall be deemed fit for human occupancy, including any dwelling unit which was posted against occupancy by the City's Building Authority because of deterioration caused by neglect of lack of maintenance and which is not otherwise exempt under the provisions of sub-section (n).

(l) Contract Zone. A contract zone may not be used to circumvent the application of this section. The terms of this section shall apply to any contract zone which involves dwelling units affected by this section. Notwithstanding the foregoing, nothing herein shall be deemed to prevent the City and the applicant from agreeing to terms which exceed those imposed by this section by means of a contract zone.

(m) Letter of Credit. Applicants who choose to comply with the provisions of this section by means of replacement housing shall provide a performance guarantee in the form of a Letter of Credit, acceptable to the City, in an amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Development Fund if the applicant had chosen that option pursuant to sub-section (j)(1).

(n) Exemptions. The requirements of this section shall not be applicable to:

1. Demolition, conversion reduction or consolidation of housing, the purpose of which is determined by the Planning Authority, to create either an equivalent or greater number of new housing units.
2. Demolition, conversion, reduction or consolidation of housing for projects which the City Council determines at a public hearing to be of special merit to the City of Portland. A project may not be designated as a project of special merit unless the council determines that:
 - a. The project is consistent with the comprehensive plan of the City of Portland;
 - b. The project will provide significant public and civic benefits, including without limitation, social or other benefits which are significant to the community, and particularly desirable at the location proposed; and
 - c. Notice of the hearing before the Council shall be published in a newspaper of general circulation in the City of Portland not less than seven (7) days prior to final action and notice shall also be sent to all persons who would receive notice in the case of an appeal for a variance.
3. Property which has been ordered demolished by the City, pursuant to 17 M.R.S.A. §2851, et seq., as amended, except where it is determined by the Building Authority that the deterioration was caused by neglect or lack of maintenance.
4. Property which, although designed and intended for residential use, is, at the time of adoption of this Section a legally grandfathered, non-residential use.
5. Any demolition, conversion reduction or consolidation of housing units which was approved by the Planning Board under the Site Plan Review and Conditional Use Standards of Chapter 14 of the Portland Code prior to July 1, 2002 and which approval is still in effect.
6. Existing residential structures which, exclusive of additions thereto, contain more dwelling units than

they were originally designed and built to accommodate and which are being modified to contain fewer dwelling units, subject to the condition that the number of dwelling units originally intended to be accommodated in such structures can be established by documentary evidence.

(o) Appeals. Any applicant aggrieved by a decision of the Building Authority under this section may appeal to the Planning Board within 30 days of that decision.

O:\OFFICE\amend\14-483 10-14 rev.doc

Order 215-05/06

Given first reading on 4/19/06

Public Hearing & Passage: 5/1/06 9-0

JAMES I. COHEN (MAYOR)(5)
WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
DONNA J. CARR (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JAMES F. CLOUTIER (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)
EDWARD J. SUSLOVIC (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 SECTION 483 (i)
(PRESERVATION AND REPLACEMENT OF HOUSING UNITS,
AVAILABILITY OF REPLACEMENT HOUSING UNITS)
RE: PERFORMANCE BOND FOR ORIGINAL SITE REGARDLESS OF
LOCATION OF REPLACEMENT UNITS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 14, SECTION 483 (i) (1), Availability of Replacement Housing Units is hereby amended to read as follows:*

(i) Availability of Replacement Housing Units.

1. ~~Except where replacement housing units are being built on the original site, no~~ **No** building permit, demolition permit or change-of-use approval may be issued for the original site until the plan for the replacement units has been approved by the Planning Authority and a performance guarantee in the form of a Letter of Credit which comports with the requirements of sub-section (m) **or equivalent cash escrow** has been posted for the replacement units with the City.

DAVID A. LOURIE
ATTORNEY AT LAW
189 SPURWINK AVENUE
CAPE ELIZABETH, MAINE 04107
(207) 799-4922 (Fax) 221-1688
david@lourielaw.com

Advance copy via e-mail attachment
October 16, 2009

Ann M. Freeman, Associate Corporation Counsel
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: Demolition of 6 Washington Avenue

Dear Ann:

This will confirm that I have taken over representation of Greg's Properties WashAve LLC (Alec Altman) from Bob Danielson. I am responding to your letter of 10/7/09 to Bob demanding demolition of the structure within ten (10) business days, and that "Failure to comply with this deadline will result in the City filing a lawsuit seeking demolition."

Mr. Altman has been wanting to demolish the structure for several years, but has been held up as an unintended consequence of the City's Zoning Ordinance provisions for the preservation of rental housing stock, as the City insisted that Mr. Altman agree to replace three dwelling units (or pay \$150,000 in lieu thereof) if he demolished the building. It is my client's position that the ordinance does not apply, as at all times material the upper floors were used for storage by the dry cleaning business (located downstairs) via a conveyor system; that none of these areas were occupied or used for residential purposes since early in the 1980's; and that these areas did not meet the definition of a "dwelling unit" in the zoning ordinance, as kitchen and/or toilet facilities were long gone from some or all of the former units before the ordinance was adopted.

The City's position, that the ordinance requires replacement of housing stock, makes no sense (as applied to 6 Washington Avenue), as no existing housing was lost.¹ As applied to 6 Washington Avenue, the ordinance is unreasonable and confiscatory.

¹ Please get back to be concerning the apparent expiration of this provision. This will confirm that the ordinance available at the City's website (which you indicated you believed to be up-to-date) states that this provision was only temporary, as it was limited to losses of housing stock "within a five (5) year period, from, and after July 1, 2002." I am aware that the City is currently considering "waiving" provisions of the apparently expired ordinance, so resolving this issue could be important to others besides my client.

Ann M. Freeman, Associate Corporation Counsel
Re: Demolition of 6 Washington Avenue
October 16, 2009
Page 2

Your recent offer to waive the \$150,000 bond (otherwise required for issuance of a demolition permit), and the City's willingness to proceed with a Complaint to the Superior Court under 17 M.R.S.A. §2851 provides a basis for breaking the logjam that has prevented demolition of this structure.

As you are aware, there are two different procedures which the City can employ under 17 M.R.S.A. §2851 to remove dangerous buildings. Since both parties agree that immediate demolition is desirable, it makes sense to follow the faster and cheaper route of having the municipal officers simply order demolition, rather than taking this matter to Court. ✓

We suggest that you ask for an Order of demolition under 17 M.R.S.A. §2851 to be passed at next Monday's Council Meeting. The owner will waive all statutory notices, and will consent to the Municipal Officers taking this matter up as an item "out of order" at its meeting next Monday, and to an emergency Order requiring demolition as a dangerous structure within ten (10) days. The owner will appear at the meeting and will state that it does not contest the Order, provided it is permitted to take the structure down. The owner has obtained bids, and will award a contract for demolition as soon as the City issues the required demolition permit. }

The owner has had many hundreds of thousands of dollars tied up in this property for several years due to this dispute, with no return whatsoever. The owner would like to use the area cleared as a temporary parking area following demolition. Hopefully, the dispute over the applicability of the housing preservation ordinance can be resolved promptly, once the building is demolished, and that the City will not continue to unreasonably hold up re-use of this property on the basis of these ghost apartments.

A hard copy of this letter will be sent via snail mail. Please let us know as soon as possible if this item will be considered at the Monday municipal officers meeting, and advise immediately if you have any questions concerning the above.

Sincerely,



David A. Lourie

cc: Alec Altman (via e-mail)
Alan Altman, Esq, (via e-mail)
Joseph Gray, City Manager (via e-mail)

DAVID A. LOURIE
ATTORNEY AT LAW
189 SPURWINK AVENUE
CAPE ELIZABETH, MAINE 04107
(207) 799-4922 (Fax) 221-1688
david@lourielaw.com

Sent via e-mail attachment
October 28, 2009

Ann M. Freeman, Associate Corporation Counsel
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: 6 Washington Avenue Applicability of §14-483 "Preservation and Replacement of Housing Units"

Dear Ann:

This will follow up on our conference with Penny Littell and Marge Schmuckal this afternoon.

The Department of Planning's insistence that §14-483 "Preservation and Replacement of Housing Units" is applicable to this property has held up demolition for several years. Since we have agreed to the Council ordering its demolition next Monday, I thought that we could now have a reasonable discussion of this issue, and avoid unpleasantness and litigation.

We were very disappointed in the tone of the meeting. It appeared to Alec Altman and me that the Planning Department wants to apply the ordinance, no matter what proof we give you that there were no existing dwelling units to be "preserved" at the time that the Ordinance was adopted. You indicated that the ordinance was not tied to units *existing* at the time of its enactment, despite the purpose of the Ordinance, and its reference to the elimination of "existing dwelling units"¹, and the exception for use for surface parking, as we proposed at the meeting.

It appeared that the Department had decided to exact \$150,000 from Alec for the replacement of three dwelling units which were no longer in existence at the time that the housing preservation ordinance was enacted.

Although proof that there were no dwelling units in existence would be irrelevant under

¹ (c) *Application*. The provisions of this section will apply: (1) in all zoning districts in cases where three or more lawfully **existing** dwellings or dwelling units, . . . are demolished, converted to nonresidential uses, or eliminated through the reduction or consolidation of units within a residential property, within a five (5) year period, from and after July 1, 2002, . . . , except in cases in which the original site will be used as surface parking,

Ann M. Freeman, Associate Corporation Counsel

Re: 6 Washington Avenue Applicability of §14-483 "Preservation and Replacement of Housing Units"

October 28, 2009

Page 2

your reading of the Ordinance, we will prove that these units were eliminated long before the Council enacted the housing preservation ordinance.

Mr. Altman has many hundreds of thousands of dollars tied up in this property for several years due to this dispute, with no return whatsoever. The owner would like to use the area cleared for accessory parking under a lease to the owner of the property next door following demolition, as permitted in the B-2b zone. Hopefully, the claim that the housing preservation ordinance is applicable will not hold up that re-use on the basis that these ghost apartments must be replaced.

Please confirm the Department's position on the applicability of the Housing Preservation ordinance to housing which was *not in existence* in 2002, and concerning the reuse of the property for accessory surface parking (as permitted in the B2b Zone), prior to Monday's Council Meeting. Hopefully, Penny Littell will now agree that proof (to the satisfaction of the Zoning Administrator) that B & B Cleaners eliminated these units some 50 years before the Ordinance was adopted will be enough to allow Mr. Altman the reasonable use of his property without additional delay and expense.

Sincerely,



David A. Lourie

cc: Alec Altman (via e-mail)
Alan Altman, Esq. (via e-mail)
Gary Wood, Corporation Counsel (via e-mail)
Penny Littell, Director (via e-mail)

Please note: This packet is intended for general information purposes only and should not take the place of a thorough review of pertinent statutes, consultation with legal counsel, or other specific guidance on this subject.

Dangerous Buildings


This packet includes the following attachments:

Title 17 M.R.S.A. §§ 2851-2859 [Use the arrows to move within the sections]

Title 14 M.R.S.A. § 6321

Title 30-A M.R.S.A. § 3106

Rule 4, Maine Rules of Civil Procedure, 2009 edition [scroll down and select Rule 4]

Sample Notice of Hearing 

Sample Findings and Order 

Sample Consent to Removal 

Sample Acknowledgment and Return of Service  

Important issues and considerations include:

I. Securing Structures

If a building poses a serious threat to public health and safety, a municipality may secure it pending the abatement proceedings discussed below, and may recover its expenses from the owner (17 M.R.S.A. § 2856). Notice must be served on the owner and all parties-in-interest in accordance with 17 M.R.S.A. § 2851(1), but notice need not be given in advance if prompt action to secure the structure is necessary.

II. Local Process; Alternative Summary Process

State law provides three methods for abating the nuisance and public safety threat posed by a dangerous building. Under the first method, the municipal officers (selectpersons or councilors) may, after notice and hearing, find that a building or structure, or portion thereof, is unsafe and is therefore a nuisance or dangerous and must be disposed of (17 M.R.S.A. § 2851). Notice of the hearing must be served on the owner and upon all parties-in-interest as defined in 14 M.R.S.A. § 6321 (mortgagors, holders of the fee interest, mortgagees, lessees under recorded leases or memoranda of leases, lienors and attaching creditors, all as shown by Registry of Deeds records and documents referred to therein). Published notice is required where the name or address of any owner or co-owner is unknown (17 M.R.S.A. § 2851(2)). The notice must be recorded in the Registry of Deeds by the municipal clerk (17 M.R.S.A. § 2857). After the hearing,

the municipal officers may issue an order: "prescribing what disposal must be made of that building or structure" (17 M.R.S.A. § 2851). The order must be accompanied by written "findings." Most often, the order is for abatement of structural defects within a specific period of time or removal of the structure. However, nothing in the statute limits municipal remedies, and it may order a building demolished. Neither the statute nor due process of law requires the municipality to first list the defects and allow a reasonable time for repairs before demolition. *Kirkpatrick v. City of Bangor*, 1999 ME 73, 728 A.2d 1268. The municipal clerk must record the order in the Registry of Deeds and must also serve an attested copy of the order upon the owner and all parties-in-interest (17 M.R.S.A. § 2851(3)). An appeal may be taken to Superior Court from the decision of the municipal officers. If no appeal is filed, the municipal officers may order the building or structure to be repaired or removed (17 M.R.S.A. §§ 2852-2853).

The second method of abatement is an alternative to proceeding before the municipal officers. Instead, a municipality may seek an abatement and/or demolition order directly from Superior Court (17 M.R.S.A. § 2851(4)). After a hearing, the Court may order abatement/demolition and may award costs to the municipality.

The third method of abatement is a "summary" (immediate) process that may be used in cases involving an immediate and serious threat to public health, safety and welfare (17 M.R.S.A. § 2859). To use the summary process, the building inspector (or other official named in the statute) must file a verified complaint with the Superior Court. The court may act "ex parte" to set a hearing date (within 10 days of the filing) and order the owner(s) to appear. Upon hearing, the court may order abatement/removal and may assess costs. There is no appeal from the court's judgment, although the owner may, within 30 days, contest costs and seek damages for wrongful removal if provable.

III. Acknowledgment; Return of Service

On a legal document, an "acknowledgment" attests to the authenticity of a signature and is required in order to record the document at the county Registry of Deeds. A "return of service" evidences that a copy of the document was actually served on a person by someone with authority to do so. All of the suggested forms in this packet should include an acknowledgment for each signature and should be recorded in the Registry of Deeds (17 M.R.S.A. §§ 2851, 2857 and 2858). Any notice or order required to be served on an owner or party-in-interest should also include a return of service (17 M.R.S.A. §§ 2851 and 2856). Service must be made by mail or by a sheriff or deputy in the same manner as a court summons is served (Rule 4, M.R.Civ.P.). Please note that while service on an out-of-state property owner may be made in the same manner in which service is made in Maine, the person serving the order on an out-of-state property owner must be one authorized to do so under the laws of the state where service is attempted.

IV. Records

In any proceeding before the municipal officers, a full record of testimony and deliberations should be kept (either a clearly audible tape recording or a written verbatim transcript). Documentary evidence (such as photos and inspection reports) also should be compiled and preserved. This record is essential to sustaining the municipal officers' decision if it is appealed. Proof of expenses (such as time cards and invoices) also will be important if a municipality itself undertakes the abatement and seeks to recover its costs.

V. Special Tax

If municipal expenses of abatement are not paid by the owner(s) within 30 days of demand, these costs may be recovered by assessing a "special tax" against the land (17 M.R.S.A. § 2853). The tax must be included in the "next annual warrant" to the collector and may be collected in the same manner as property taxes (including by automatic lien foreclosure). (See MMA's *Municipal Assessment Manual* for assessment and commitment discussions and related forms.)

VI. Personal Property Located in a Building Declared to be Dangerous

In many cases, there will be items of personal property inside a building that has been declared dangerous using the process outlined above. Before the building may be demolished, the personal property must be addressed. Title 30-A M.R.S.A. § 3106 outlines the statutory procedure that must be followed by the municipality in the event of abandoned personal property.

VII. Additional Concerns

As the discussion above indicates, a determination that a structure is a dangerous building requires careful consideration by the municipal officers and strict compliance with the requirements of State law, including complex notice provisions. A title search is recommended to identify all parties-in-interest entitled to notice of the proceedings. Moreover, demolition of property is a drastic measure that may result in liability for damages for wrongful removal. The municipality should take care to protect the due process rights of the owner or parties-in-interest by providing a meaningful opportunity to be heard and to address municipal concerns. *Kirkpatrick v. City of Bangor*, 1999 ME 73, 728 A.2d 1268; *Michaud v. City of Bangor*, 196 A.2d 106 (Me. 1963); *Bennett v. Town of Poland*, CV-88-64 (Super. Ct. Andro. Cty, Nov. 9, 1988). Therefore, we strongly urge the municipal officers to consult with local counsel before commencing such a proceeding. The municipality may recover the cost of legal advice as part of the "special tax" assessed against the property. (See *City of Brewer v. Michael W. Conners*, 2004 Me. Super. LEXIS 135 (No. CV-03-2, Me. Super. Ct., Pen. Cty., May 28, 2004), in which the Court awarded the City both its costs for demolishing the dangerous buildings and its attorney's fees and costs for bringing the action.)

Finally, and again in consideration of the complexity of the formal procedures outlined above, a municipality should first attempt to resolve the issue of an unsafe building informally by sending a letter by certified mail, return receipt requested, to the property owner setting forth the problem and explaining that unless the problem is resolved to the municipality's satisfaction within a specified number of days, the municipality will commence proceedings to have the building or structure demolished. Municipalities should be aware that any negotiated consent which allows the municipality to demolish property and assess a special tax against the property must include written consent by all parties-in-interest. Notices of the consent must be recorded in the Registry of Deeds (17 M.R.S.A. § 2858).

VIII. Forms

The MMA Legal Services Department would like to thank Geoff Hole, Esq. for sharing various forms that he developed for use in connection with the Title 17 dangerous building process. Those forms appear as part of this packet either in their original form or with modifications.

Date of last revision: 8/09

The statutes referenced here may have been amended during the last legislative session, and we will update them when the text becomes available.

CONSENT TO REMOVAL/CORRECTIVE ACTION

Pursuant to 17 M.R.S.A. §§ 2851-2859

(Dangerous Buildings)

I, _____, of _____

(owner

(address)

for myself, my successors, heirs and assigns, hereby consent to the removal or other corrective action by the City/Town of _____, Maine, or its agents, of the _____ (insert type of building/structure, i.e., residential, commercial) building/structure owned by me and located on land owned by _____ and shown on Map _____, Lot _____ of the current Tax Maps of the City/Town of _____, Maine on file at _____ (place) the action to which I am consenting is more specifically described as follows:

_____.

I further admit liability to the City/Town of _____, Maine for all expenses reasonably related to the removal or other corrective action, not to exceed \$ _____, and consent to recovery of those expenses by means of a special tax as set forth in 17 M.R.S.A. §§ 2851-2859 or civil action. I further waive any claim whatsoever arising out of the removal or corrective action or relating to recovery of the expenses thereof.

Dated: /s/ _____

Agreed: _____

(party in interest)

Dated: _____

Municipal Officer: _____

City/Town of _____, ME

STATE OF MAINE

_____ County, ss. Date: _____

Personally appeared before me the above-named _____,

_____, and _____ and each acknowledged the

foregoing instrument to be his/her free act and deed.

Notary Public/Attorney at Law

FINDINGS AND ORDER

Pursuant to Title 17 M.R.S.A. §§ 2851-2859

(Dangerous Buildings)

TO: _____ (Owner's Name)

_____ (Owner's Address)

On _____ (date) at _____ (time) at _____ (place), the Municipal Officers of the City/Town of _____, Maine held a hearing to determine whether the building/structure owned by you and located on land owned by _____, described as _____ (type of premises) and shown on Map _____, Lot _____ of the current Tax Maps of the City/Town of _____, Maine on file at _____ (place), is dangerous or a nuisance within the meaning of Title 17 M.R.S.A. § 2851. Notice of said hearing was duly served on said owner(s) and all parties in interest. The following persons were present and testified.

Based on their testimony and other evidence presented and made part of the record, the Municipal Officers find the facts: _____

Based on the foregoing findings, the Municipal Officers conclude that said building/structure is dangerous or a nuisance because (specify applicable conditions as described in Title 17 M.R.S.A. § 2851):

Therefore, pursuant to Title 17 M.R.S.A. § 2851, you are hereby ORDERED to (specify action): _____

Said abatement to be completed within _____ days of service of this order. This decision may be appealed to Superior Court under the Maine Rules of Civil Procedure, Rule 80B. If this order is not timely complied with and no timely appeal is taken, the Municipal Officers may undertake said abatement at municipal expense and recover all such expenses, including reasonable attorney's fees, by means of special tax or civil action.

Dated: _____ Municipal Officers City/Town of _____, Maine

/s/ _____ /s/ _____

/s/ _____

STATE OF MAINE

_____ County, ss

Date: _____.

Personally appeared before me the above-named _____,
and _____ and each acknowledged the foregoing instrument to be hi/her free
act and deed.

Notary Public/Attorney at Law

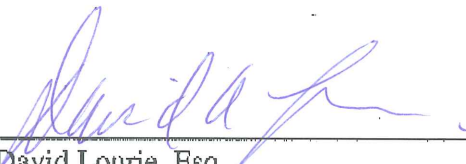
**CITY OF PORTLAND MAINE
IN BOARD OF MUNICIPAL OFFICERS
ACKNOWLEDGEMENT OF RECEIPT OF NOTICE OF HEARING AND WAIVER
OF FORMAL NOTICE REQUIREMENTS**

**Re: Premises at 6 Washington Avenue, Portland, Maine
Notice of Hearing under Dangerous Building Statute (17 M.R.S.A §2851 et seq.)
Acknowledgement of Waiver of Formal Notice Requirements**

I hereby acknowledge that I have received notice of the hearing relating to the proposed demolition of property situated at 6 Washington Avenue in Portland, Maine. I have been advised that the hearing will be before the City Council of the City of Portland, scheduled at Portland City Hall, on November 2, 2009 at 7pm.

Furthermore, I acknowledge waiver of the formal notice requirements under 17 M.R.S.A. § 2851 and 14 M.R.S.A. § 6321 having acknowledged receipt of Notice. I understand that I need to appear at that time in order to avoid passage of an order which would require demolition of the subject premises.

Dated: October 27, 2009



David Lourie, Esq.
Attorney for Greg's Properties Washave LLC

State of Maine
Cumberland, ss.

October 28, 2009

Personally appeared the above named David Lourie, Esq. in his capacity as attorney for Greg's Properties Washave LLC and made oath that the foregoing instrument is based upon his personal knowledge and is true.

Before me,

! Notary Public/Attorney at Law

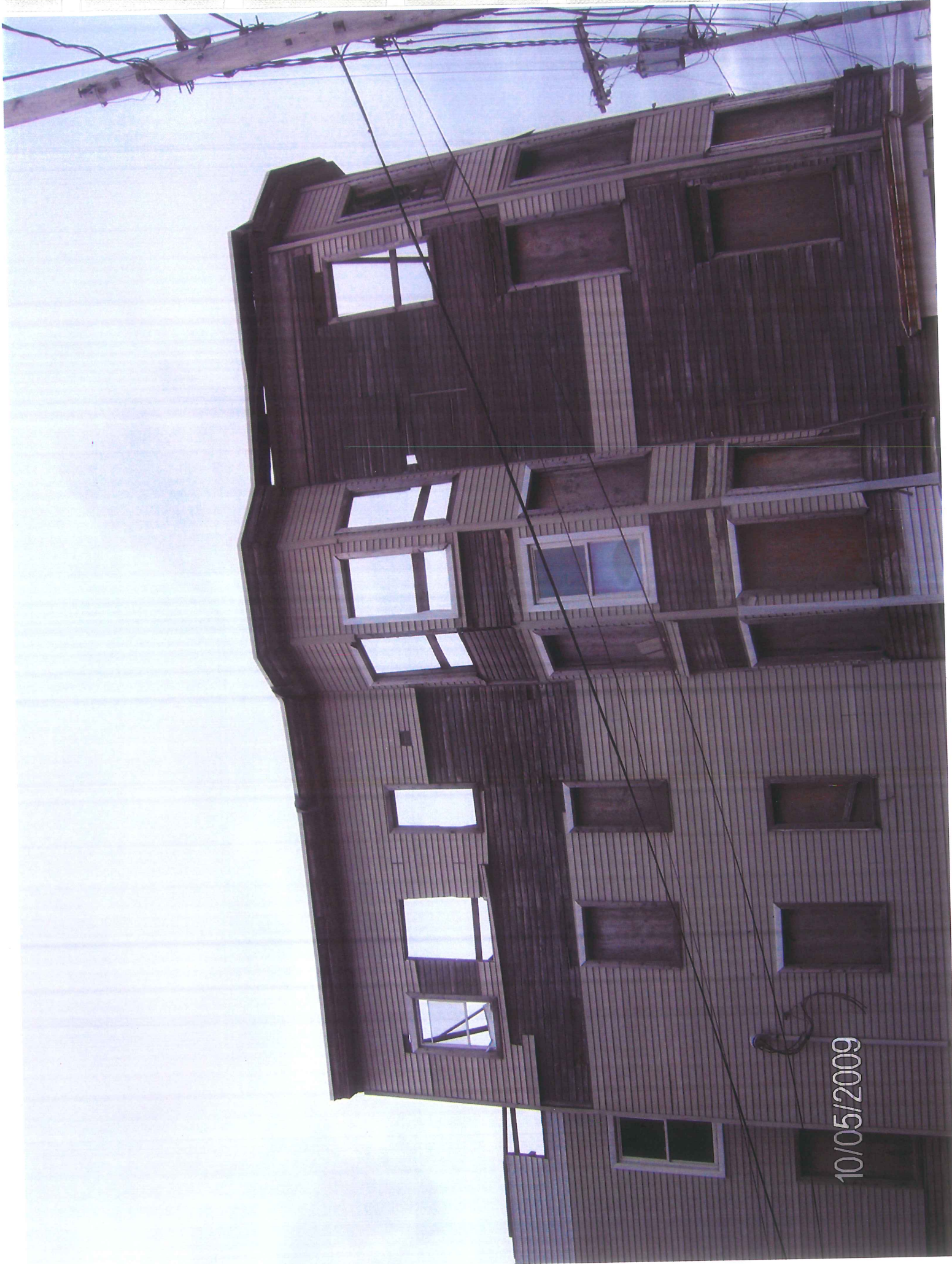
Print or type name



10/05/2009



10/05/2009



10/05/2009



10/05/2009



10/05/2009



10/05/2009

10/05/2009



EVENT	DATE	COMMENT
6. Advise staff of hearing date		
7. Prepare Order of Demolition		
8. Record lien in Registry of Deeds		
9. Serve Order of Demolition on Owner and Parties-in-Interest <u>Name of Owner/Parties-in-Interest</u>		<u>Method of Service</u> <u>Date Completed</u>
10. Determine expiration of appeal period (30 days from date last person served)		
11. Advise Purchasing when bids may be sought		

DEMOLITION CHECKLIST

Location of Property: 629-631 Congress Street, Portland

Chart, Block, Lot #: Chart 46, Block D, Lot 27

Principal Owner(s) : Arthur P. Alexander

EVENT	DATE	COMMENT
1. Request title search	done	
2. Prepare Notice of Hearing and set hearing date	11-2-98	
3. Establish date for submitting agenda package	10-16-98	
4. Record attested copy of Notice of Hearing in Registry of Deeds		

5. Provide attested copies of Notice of Hearing to Owner and Parties-in-Interest
Name of Owner/Parties-in-Interest Method of Service Date Completed

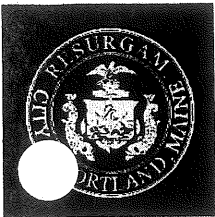
Memo

To: Mayor Jill Duson and City Councilors
From: Ann Freeman, Associate Corporation Counsel
Date: July 31, 2009
Re: 6 Washington Avenue Demolition

The Order before you requests the demolition of the building structure located at 6 Washington Avenue. The property owner agrees that the building needs to come down and will not contest demolition. Further, he has agreed that he will take down the building within ten (10) days from the date of the Order. Below is a brief history of this property.

As the attached fact sheet indicates, the owner of this property has come to the City at various times over the past three years to renovate his building or otherwise perform work to stabilize the building. On each occasion, the permitted work was ultimately not completed or the permit was withdrawn. The uncompleted work performed on the building has left it in a compromised structural condition and the building continues to deteriorate. As the fact sheet indicates, building inspections recommends that the building be demolished. The property owner does not disagree.

The issue remaining, and the issue that has been stalling the demolition from taking place to date, is the applicability of the Housing Replacement Ordinance, City Code Sec. 14-483. The City has indicated to the property owner that this ordinance applies to his demolition because demolition of the property will remove three housing units from the City's housing stock. The property owner contests the applicability of this ordinance at this time. Due to the precarious state of the building and its threat to the public safety, both parties have agreed to deal with these issues in turn. First, the building will be demolished. After the building has been demolished, we will focus on the applicability of the housing replacement ordinance and the future use of the site.



PORTLAND MAINE

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

*Director of Planning and Urban Development
Penny St. Louis Littell*

*Inspection Services, Director
Tammy Munson*

Dangerous Building Fact Sheet

6 Washington Ave
CBL: 013 G007001

Chronology of permits and activity:

- **09/5/06 Permit #06-1168 Issued:** Commercial interior demolition electrical, plumbing, linoleum, fixtures and old boilers. No walls involved (phase 1). *At some point during this work, the roof structure was removed without approvals.*
- **11/30/07 Permit #07-1309 Withdrawn:** Application submitted to demolish the entire building. Application withdrawn by Alec Altman due to conflict with approved site plan which was to rehabilitate the existing structure.
- **12/31/07 Permit #07-1493 Issued:** Construct a new roof system only. No work has been performed to this date.

Inspection 11/24/08: Met contractors on site to assess the condition and adequacy of the bracing and 4th floor walls :

The issue is the 4th floor walls. The roof rafters and rear wall are removed. The remaining 3 walls are braced temporarily with diagonal supports. The risk of those walls being compromised is high and is a potential safety hazard. The fourth floor walls should be removed to the floor deck, and cleared of all debris. Engineered Products Company crew was on site, they will secure or remove any loose aluminum siding or boards and clean up some of the debris inside.

Inspection October 15, 2009: An inspection was performed of the exterior of the building. Photographs were taken revealing the buildings compromised structural conditions remain and the building continues to deteriorate.

The Inspections Division finds the following:

1. The roof structure has been removed and therefore cannot maintain the integral tie-in of the exterior walls for stability and provide a weather tight membrane.
2. The 4th floor rear wall has been removed thus compromising the connection and structure with the remaining walls.
3. The existing wall braces are temporary and have not been engineered to support and stabilize the structure and withstand weather and further deterioration.

4. The building has been without a roof and has been exposed to the elements for a significant period of time.

The Building Department determines the building is severely dilapidated and structurally unsound. We recommend the structure be demolished.

Pursuant to the International Existing Building Code 2003 ("IEBC") Section 202, any building with any of the following characteristics shall be deemed a "dangerous building":

2. *Any portion, member, or appurtenance thereof likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons.*
3. *Any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of two thirds of that specified in the International Building Code for new buildings of similar structure, purpose, or location without exceeding the nominal strength permitted in the International Building Code for such buildings.*
4. *The building, or any portion thereof, is likely to collapse partially or completely because of dilapidation, deterioration or decay.*
5. *The exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.*



10/05/2009



10/05/2009



10/05/2009



10/05/2009

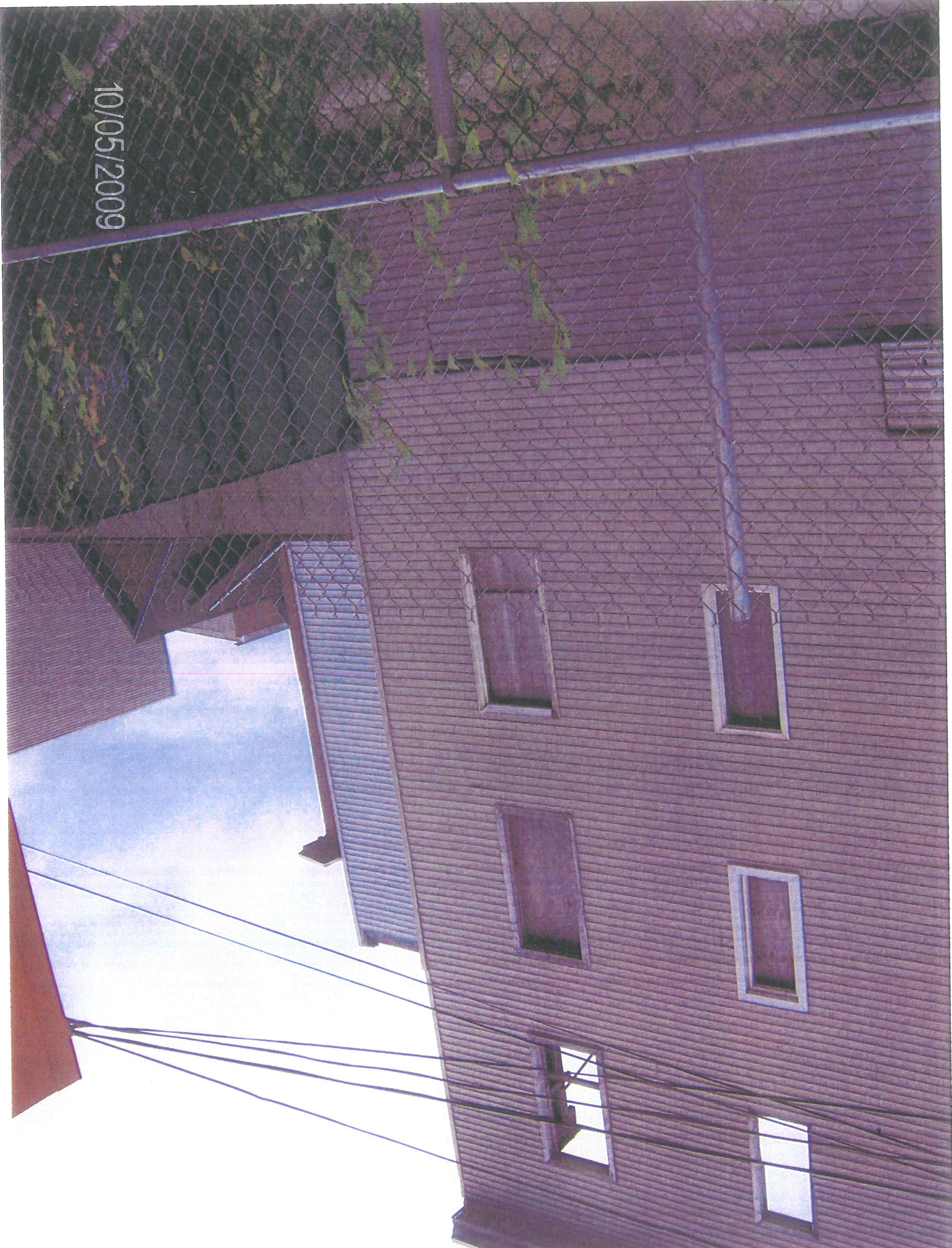


10/05/2009



10/05/2009

10/05/2009





ASSOCIATED DESIGN PARTNERS INC.

Office: 207.878.1751
Fax: 207.878.1788
e-mail: adp@adpengineering.com
web: www.adpengineering.com

80 Leighton Road ▪ Falmouth, Maine 04105

April 11, 2007

06202

Ms. Barbara Barhydt
Development Review Manager
389 Congress St
Portland, ME 04101

Re: Redevelopment of Existing Facility
6 Washington Ave
Portland, ME

Dear Barbara,

Attached are conceptual floor plans for the above referenced project. Please call if there are any questions.

Sincerely,

Aaron S Wilson, P. E.
Engineering Project Manager
Associated Design Partners Inc
ASW

**Planning and Development Department
SUBDIVISION/SITE DEVELOPMENT**

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: 12-10-07

Name of Project: Bingas Wingas

Address/Location: 6 Washington Ave.

Application ID #: 2007-0054

Developer: Greg's Properties Washave LLC – c/o Alec Altman

Form of Performance Guarantee: _____

Type of Development: ~~Subdivision~~ Change of Use Site Plan (Major/Minor) ~~Major~~ Minor

TO BE FILLED OUT BY THE APPLICANT:

Item	Quantity	Unit	PUBLIC		PRIVATE			
			Unit Cost	Subtotal	Quantity	Unit	Unit Cost	Subtotal
1. STREET/SIDEWALK								
Road/Parking Areas	0			0	1500	SF	4	6000
Curbing	208	LF	30	6240	0			0
Sidewalks	800	SF	4	3200	0			0
Esplanades	0			0	750	SF	2	1500
Monuments	NA			NA	NA			NA
Street Lighting	NA			NA	NA			NA
Street Opening Repairs	640	SF	4	2560	0			0
Other	0			0	0			0
2. EARTH WORK								
Cut	NA			NA	NA			NA
Fill	NA			NA	NA			NA
3. SANITARY SEWER								
Manholes	NA			NA	NA			NA
Piping	10	LF	100	1000	10	LF	100	1000
Connections	1	EA	200	200	2	EA	200	400
Main Line Piping	NA			NA	NA			NA
House Sewer Service Piping	NA			NA	NA			NA
Pump Stations	NA			NA	NA			NA
Grease Trap	0			0	1	EA	4000	4000
4. WATER MAINS								
	50	LF	40	2000	0			0
5. STORM DRAINAGE								

Manholes	NA		NA	NA		NA		NA
Catchbasins	NA		NA	NA		NA		NA
Piping	NA		NA	NA		NA		NA
Detention Basin	NA		NA	NA		NA		NA
Stormwater Quality Units	NA		NA	NA		NA		NA
Other	NA		NA	NA		NA		NA
6. SITE LIGHTING	0		0	14	EA	300		4200
7. EROSION CONTROL								
Silt Fence	NA		NA	NA				NA
Check Dams	NA		NA	NA				NA
Pipe Inlet/Outlet Protection	NA		NA	NA				NA
Level Lip Spreader	NA		NA	NA				NA
Slope Stabilization	NA		NA	NA				NA
Geotextile	NA		NA	NA				NA
Hay Bale Barriers	NA		NA	NA				NA
Catch Basin Inlet Protection	NA		NA	NA				NA
8. RECREATION AND OPEN SPACE AMENITIES	NA		NA	NA				NA
9. LANDSCAPING								
(Attach breakdown of plant materials, quantities, and unit costs)				1	EA	7500		7500
10. MISCELLANEOUS								
Wood Guardrails	0		0	320	LF	10		3200
		Public Total	\$15,200.00		Private Total			\$27,800.00
			Grand Total	\$43,000.00				

INSPECTION FEE (to be filled out by the City)

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

Waterproof	Common	Wire Glass
Construction	>Hardwood	Shutters
>Frame	Re-Concrete	Miscellaneous
Brick	Concrete Slab	Elevator
Tile	Waterproof	Sprinkler
Blocks	Ceiling	Fire Escape
Stucco	Plaster	Refrigerator
Re-Concrete	Metal	Vacuum Cleaner
Mill	Panelled	Safes and Vaults
Steel Frame	Rough	Telephone Equip.

Ground Area 1418 Height 49
 Cubic Feet 69482 Unit 16
 Depth 40 Per cent
 Sound Value, \$ 6670

Land 2630 Corner..... Interior..... Alley
 Front..... Depth..... =..... ft.

COMPUTATION

Area		Multiplier	Coefficient
<u>2630</u>		<u>106</u>	<u>2787</u>
Year	Unit	Coefficient	Land Value
<u>19</u>	<u>30</u>	<u>2787</u>	<u>83</u>

N-10000



Surveyed by M. W. Buscett
 (Remarks on other Side)
23-1116/304-19900-(5+7)



PORTLAND MAINE

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

Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

October 17, 2007

Greg's Properties WashAve, LLC
c/o Alec Altman
26 Village Brook Road
Yarmouth, ME 04096

RE: 6 Washington Ave.
CBL 013 G007001
Application 2007-0054

Dear Mr. Altman:

On March 28, 2007 you submitted a Site Plan to the Portland Planning Department for property at 6 Washington Avenue. The proposed tenant was a restaurant known as Binga Wingas. The Site Plan was reviewed for site improvements and rehabilitation of the existing four-story building on the site, which included the approval of two parking lots. Moreover, minimal site changes were being proposed. Based upon the Site Plan, as submitted, the Planning Department approved the project, after working extensively to achieve a better parking plan given the constraints of the site. Please be advised that a site plan for a new structure on this site would need to meet all of the B-2b zoning requirements, including being located within ten feet of the street frontage for Congress Street and Washington Avenue.

It has come to the attention of the City that you are now seeking a demolition permit for the entire building on the site. Because such demolition was not represented in the Site Plan submission received by the City, and the approval granted was premised upon the location of the existing building (and the constraints it posed) remaining, **please be advised that such Site Plan approval will no longer be valid once the existing building is removed.**

We look forward to receiving a new Site Plan that addresses all previously discussed issues.

Thank you for your time and attention to this matter. Should you have any questions regarding this matter please do not hesitate to contact Shukria Wiar at 756-8083 or shukriaw@portlandmaine.gov.

Sincerely,

Alexander Q. Jaegerman
Planning Division Director

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Shukria Wiar, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Jeanie Bourke, Inspections Division
Michael Bobinsky, Public Works Director
Kathi Earley, Public Works

Attachments:

1. B-2b Zoning
2. Site Plan Approval Letter, dated August 29, 2007

MODE = MEMORY TRANSMISSION

START=OCT-17 16:18

END=OCT-17 16:20

FILE NO.=599

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK		93478622	006/006	00:02:06

-CITY OF PORTLAND -

***** -PLANNING DEPT. - ***** 2077568258-*****

City of Portland
Department of Planning and Development
Planning Division
 389 Congress Street, 4th Floor
 Portland ME 04101
 (207)874-8721 or (207)874-8719
 Fax: (207)756-8258



FAX

To: Alec Altman

Company: Bingas Wingas

Fax #: 347-8622

Date: 10.17.2007

From: Planning Dept.

You should receive 6 page(s) including this cover sheet.

Comments:

Please see attached letter.

MODE = MEMORY TRANSMISSION

START=OCT-17 16:21

END=OCT-17 16:23

FILE NO.=600

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
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-CITY OF PORTLAND -

***** -PLANNING DEPT. - ***** 2077568258-*****

City of Portland
Department of Planning and Development
Planning Division
 389 Congress Street, 4th Floor
 Portland ME 04101
 (207)874-8721 or (207)874-8719
 Fax: (207)756-8258



FAX

To: Aaron Wilson

Company: Associated Design Partners

Fax #: 878-1788

Date: 10.17.2007

From: Planning Dept

You should receive 6 page(s) including this cover sheet.

Comments:

Please see attached letter

**City of Portland
Department of Planning and Development
Planning Division**

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Portland ME 04101
(207)874-8721 or (207)874-8719
Fax: (207)756-8258



FAX

To:

Aaron Wilson

Company:

Associated Design Partners

Fax #:

878-1788

Date:

10.17.2007

From:

Planning Dept

You should receive 6 page(s) including this cover sheet.

Comments:

Please see attached letter

**City of Portland
Department of Planning and Development
Planning Division**

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Please see attached letter.



PORTLAND MAINE

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Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

August 29, 2007

Greg's Properties WashAve, LLC
C/o Alec Altman
26 Village Brook Road
Yarmouth, ME 04096

Aaron Wilson
Associated Design Partners, Inc.
80 Leighton Road
Falmouth, ME 04105

RE: Change of Use, Site Improvements/ Rehab of Existing Building
CBL: 013 G007001
Application ID: 2007-0054

Dear Mr. Altman,

On August 27, 2007, the Portland Planning Authority approved a minor site plan for the site improvements and rehabilitation of the existing four-story building currently located at 6 Washington Avenue as shown on the approved plan with the following conditions:

1. The applicant shall submit catalogue cuts of the proposed lighting prior to the issuance of a certificate of occupancy; the proposed lighting fixture shall be in compliance with the City's lighting standards.
2. Parking spaces 18 to 22 shall incorporate the wooden guide rails as proposed on the site for the remaining parking spaces. This is to prevent cars from hitting the abutting residential building at 223 Congress Street and should be shown on the revised plan.
3. The revised final site plan shall not include any crosswalks in the driveways in either parking area.

The approval with conditions is based on the submitted site plan. Seven sets of the final plan meeting conditions #2 and 3 must be submitted for review and approval prior to the issuance of a building permit. The first condition must be met prior to the issuance of a certificate of occupancy. If you need to make any modifications to the approved site plan during the construction period, you must submit a revised site plan for staff review and approval.

Please note the following provisions and requirements for all site plan approvals:

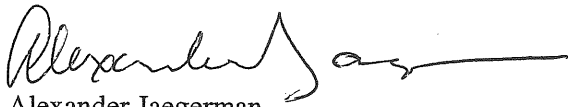
1. Final sets of plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.

2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, 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.
6. 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.)

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. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 shukriaw@portlandmaine.gov

Sincerely,



Alexander Jaegerman
Planning Division Director

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Shukria Wiar, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Jeanie Bourke, Inspections Division
Michael Bobinsky, Public Works Director
Kathi Earley, Public Works

Bill Clark, Public works
Jim Carmody, Transportation Manager
Michael Farmer, Public Works
Leslie Kaynor, Public Works
Jeff Tarling, City Arborist
Captain Greg Cass, Fire Prevention
Assessor's Office
Approval Letter File



ASSOCIATED DESIGN
PARTNERS INC.

Transmittal Note

No: 2

To:

Shukria Wiar
 Planner
 City of Portland, ME 04101

Reply to:

Associated Design Partners, Inc
 80 Leighton Road
 Falmouth, Maine 04105
 tel. (207) 878-1751 fax. (207) 878-1788
 email. adp@adpengineering.com

These documents are issued to you for:

Progress	
Comment	
Approval	x
Information	
Construction	
Records	
As noted	
Revision Purposes	
Progress	
Review	
Bidding	

Job Title:	6 Washington Ave
ADP Job #	06202

Remarks:

Drawing / Document No.	Revision	No. of Copies		Date	Title / Description	Comments
		Prints	Repos			
A103	2	4				
A301		4				
Exhaust fan data		3				

Copies have been forwarded for information as follows:

Complete Sets	No.	Transmittal Note Only

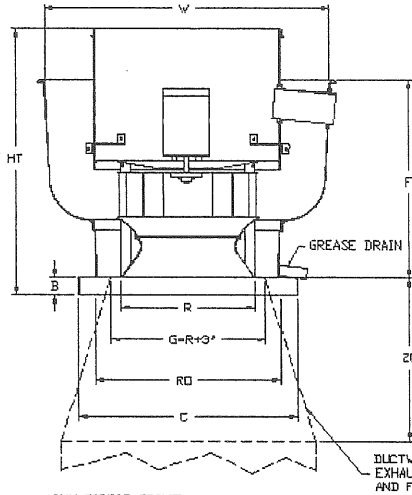
Issued By:

Date

Aaron Wilson

8/9/2007

DUH SERIES UPBLAST EXHAUST FANS (UL762)



FEATURES:

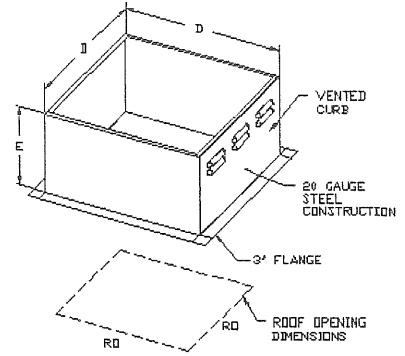
- ROOF MOUNTED FANS
- RESTAURANT MODEL
- UL762
- VARIABLE SPEED CONTROL
- INTERNAL WIRING
- WEATHERPROOF DISCONNECT
- THERMAL OVERLOAD PROTECTION (SINGLE PHASE)
- HIGH HEAT OPERATION 300°F (149°C)
- GREASE CLASSIFICATION TESTING

NORMAL TEMPERATURE TEST
 EXHAUST FAN MUST OPERATE CONTINUOUSLY WHILE EXHAUSTING AIR AT 300°F (149°C) UNTIL ALL FAN PARTS HAVE REACHED THERMAL EQUILIBRIUM, AND WITHOUT ANY DETRIMENTAL EFFECTS TO THE FAN WHICH WOULD CAUSE UNSAFE OPERATION.

ABNORMAL FLARE-UP TEST
 EXHAUST FAN MUST OPERATE CONTINUOUSLY WHILE EXHAUSTING BURNING GREASE VAPORS AT 600°F (316°C) FOR A PERIOD OF 15 MINUTES WITHOUT THE FAN BECOMING DAMAGED TO ANY EXTENT THAT COULD CAUSE AN UNSAFE CONDITION.

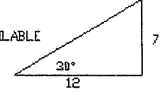
OPTIONS:

- GREASE BOX
- HINGED FAN
- PITCHED CURB
- INSULATED CURB



PITCHED CURBS ARE AVAILABLE FOR PITCHED ROOFS.

SPECIFY PITCH:
 EXAMPLE: 7/12 PITCH = 30° SLOPE



DUH DIRECT DRIVE CENTRIFUGAL UP-BLAST EXHAUST FANS DIMENSIONAL DATA

FAN MODEL	HT	W	B	C	F	R	RO	WEIGHT LB
DU12H	18	22	2	19	14 1/2	10 5/8	15 1/2	40
DU25H	25 1/4	25 1/2	2	21	18 1/2	12 1/8	17 1/2	50
DU30H	25 1/4	25 1/2	2	21	18 1/2	12 1/8	17 1/2	50
DU33H	25 1/4	25 1/2	2	21	18 1/2	12 1/8	17 1/2	50
DU50H	27 1/4	28 7/8	2	21	21 1/2	13 1/4	17 1/2	55
DU75H	30 1/2	31 7/8	2	24 3/4	23	14 7/8	21	60
DU85H	30 1/2	31 7/8	2	24 3/4	23	14 7/8	21	60

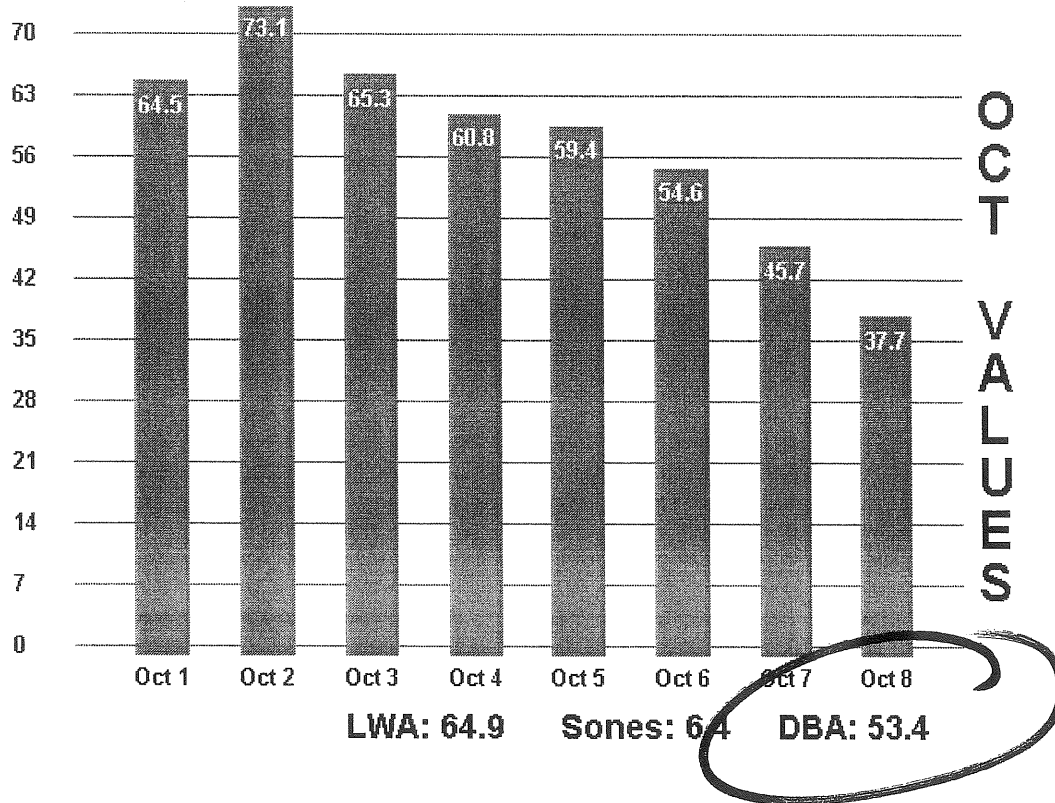
CURB DIMENSIONAL DATA

FAN MODEL	D	E
DU12H	17 1/2	26
DU25H	19 1/2	22
DU30H	19 1/2	22
DU33H	19 1/2	22
DU50H	19 1/2	20
DU75H	23	20
DU85H	23	20

Sound Data

DU75H running at 781 RPM.

Octave 1 Octave 2 Octave 3 Octave 4 Octave 5 Octave 6 Octave 7 Octave 8
64.5 73.1 65.3 60.8 59.4 54.6 45.7 37.7



DU-H Specification

TYPICAL SPECIFICATIONS

Model: DU-H

Description: Fan shall be a spun aluminum, roof or wall mounted, direct drive, upblast centrifugal exhaust ventilator.

Application: Spun aluminum centrifugal roof exhausters are engineered to discharge grease laden vapors, fumes and other contaminants vertically away from the building.

Certifications: All models shall be ETL Listed and comply with UL705 (electrical) Standards and CSA Std C22.2, No 113. Models 12 thru 85 are ETL Listed and comply with UL762 Standards. Fan shall bear the AMCA certified ratings seal for sound and air performance.

Construction:

Housing

The fan windband shall be constructed of heavy gauge aluminum and shall be spun on an automatic lathe to provide consistent dimensions. Horizontal and vertical internal supports shall be used to securely fasten the windband to the discharge apron to provide rigidity for hinging and added strength to reduce shipping damage. The discharge apron shall have a rolled bead for added strength.

Base

The base shall be constructed of galvanized steel for improved rigidity. Base corners shall be welded to provide strength and support for hinging and cleaning and to prevent leakage into the building.

Wheel

The fan wheel shall be centrifugal backward inclined and non-overloading. Wheels shall be balanced in two planes and done in accordance with AMCA standard 204-96, *Balance Quality and Vibration Levels for Fans*. The wheel blades shall be aerodynamically designed to minimize turbulence, increase efficiency and reduce noise. The wheel blades shall be welded to the wheel inlet cone. In the event that balancing weights are required they shall be riveted to the blades or wheel. The wheel inlet shall overlap the fan base inlet for maximum performance and efficiency. The wheel shall be firmly attached to the motor shaft with two set screws.

Motor & Motor Compartment

Standard 115 volt, open drip motors shall be permanently lubricated, rated for continuous duty and thermally protected. Motors shall be mounted out of the airstream and furnished at the specified voltage, phase and enclosure. Motor mounting plate shall be constructed of heavy gauge galvanized steel. The motor compartment shall be cooled by outside air drawn through an extruded aluminum conduit tube. To seal the conduit tube passage and prevent noise silicone rubber grommets shall isolate the conduit tube from the fan housing. The motor compartment shall be of a two-piece construction with the cap having quick release clips to provide quick and easy access to the motor compartment.

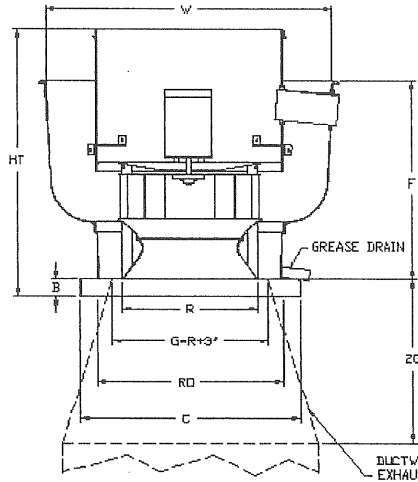
Grease Spout

A grease spout made of aluminum tubing shall be welded to the fan housing. The weld shall be factory tested to ensure it will not leak.

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To provide a tight seal all fasteners in the fan housing shall be backed with nylon washers.

DUH SERIES UPBLAST EXHAUST FANS (UL762)



FEATURES:

- ROOF MOUNTED FANS
- RESTAURANT MODEL
- UL762
- VARIABLE SPEED CONTROL
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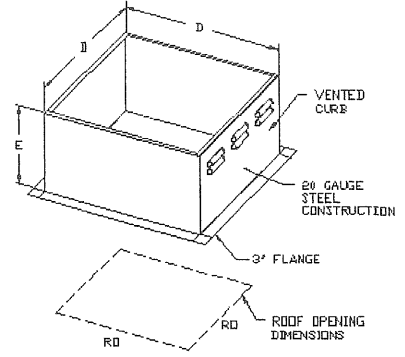
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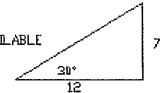
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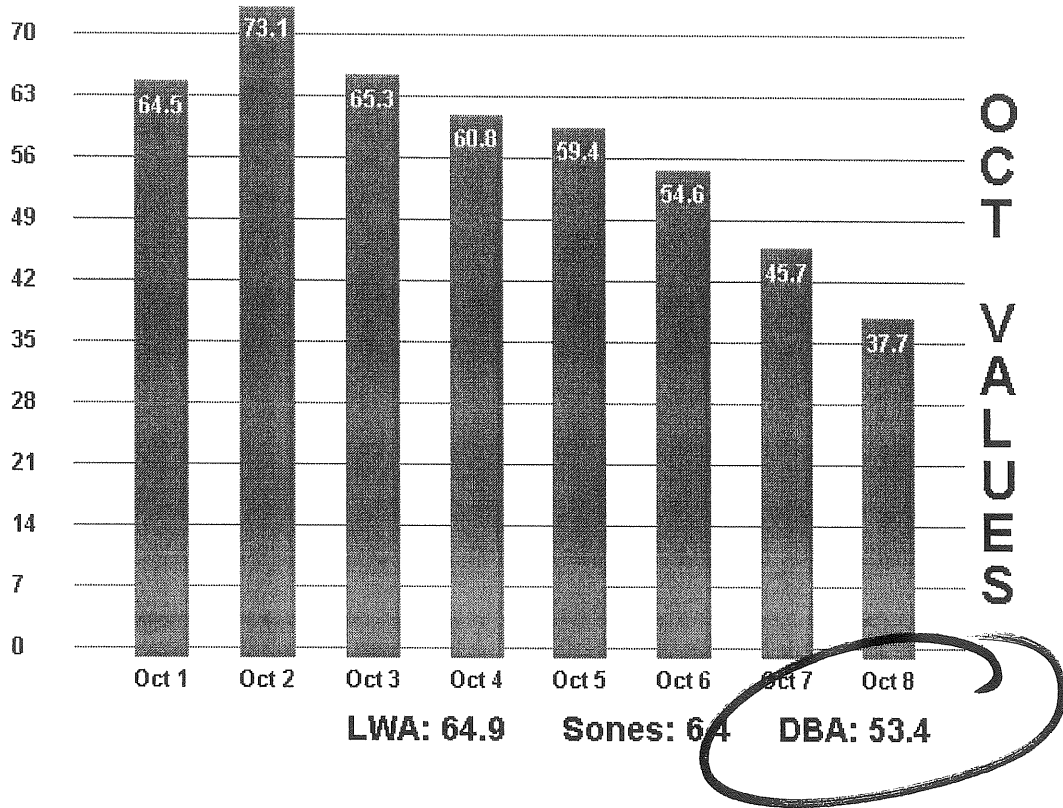
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Nylon Washers

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MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2007-0054

Date: 7/11/2007

I received revised plans on 7/2/07.

The applicant addressed the issue of impervious surface. It has been given that pre-construction 100% of the site is impervious. The applicant will be reducing the site to 95% impervious due to additional landscaped areas. This would be acceptable under zoning. However, if the site could get to a 90% impervious state, I would encourage it.

I have reviewed the floor plans showing the use change on the 2nd floor. My calculations show the area changed from restaurant seating to bulk storage as 290 square feet. This does change the parking requirements to a required 22 spaces. 22 spaces are being shown on the site plan. However, I caution that if this 2nd floor area is ever changed in the future to an area open to restaurant patrons, the owner shall be required to show 2 more off-street parking spaces.

I also confirmed the revised rear setback for the new accessory structure. The minimum 5' requirement is being met.

I have not yet seen any information on HVAC or hoods or any other systems that may produce noise. I would like confirmation that the noise standards of the B-2b zone is being met. Specifics from the manufacturing agent for the equipment being used would be needed for this confirmation. The standards state that from 7:00 am to 9:00 pm no noise shall be generated that exceed 60 decibels on the A scale. And that from 9:00 pm to 7:00 am no noise shall be generated that exceed 55 decibels on the A scale. All measurements are at the lot boundaries.

Signage shall require a separate permit through Inspection Services. However, it would be appropriate to review signage during the site plan review process.

Marge Schmuckal
Zoning Administrator

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2007-0054

Date: 4/10/2007

reviewed the site plan submittal - no floor plans submitted so I can finalize the figures on parking requirements. Either way is not showing enough parking. Today I spoke with Aaron Wilson concerning the project. He will get copies of the floor plans to us. He said that there is a parking lot behind this building off Cumberland Ave. I suggested that he try to get the spaces required; that a variance would not be likely. He will be looking further into the parking. I will need to assess the rest of the zoning such as setback, impervious surface etc. when the site plan is distributed.

From: Jeff Tarling
To: Shukria Wiar
Date: 8/29/2007 9:34:19 AM
Subject: Bingas Wingas

Hi Sukria -

The landscape plan for Bingas Wingas on Washington Avenue has improved since the first submission in response to our comments. The trees and landscape treatment will be an improvement from existing conditions despite the restricted spaces available.

Jeff Tarling
City Arborist

From: James Carmody
To: Wiar, Shukria
Date: 8/27/2007 12:52:20 PM
Subject: Bingas Wingas

Shukria:

Have reviewed the turning movement diagrams submitted by the applicant, and find them acceptable that vehicles can exit the two parking areas without backing out the driveway.

It has also been stated that the parking area adjacent to the applicant's building will only be used for employees and one handicapped spot. Since this parking area has maneuvering room, this condition is acceptable.

There will be no painted lines across the driveways in either parking area.

James Carmody, P. E.
City Transportation Engineer
City of Portland
207-874-8894
JPC@portlandmaine.gov

MEMORANDUM



TO: Shukria Wiar
FROM: Dan Goyette, PE
DATE: July 19, 2007
RE: Maine Historical Society Research Library

Woodard & Curran has reviewed the revised Site Plan submission for the Maine Historical Society Research Library addition and renovation project. The new addition will be located at 489 Congress Street and will consist of the demolition and replacement of the current addition (Nichols Wing). This will result in the addition of 7,547 square feet. Landscape rehabilitation in the historic garden will be completed, as well as reconstruction of the sidewalks and parking along the property on Brown Street.

Documents Reviewed

- Letter and attachments to Shukria Wiar, City of Portland Planner, dated July 2, 2007, from Daniel L. Riley, Sebago Technics, Inc.
- Engineering Plan Sheets C1.0-1.1, C2.0-2.1, C5.0-5.2, C6.0, L0-4, A3.01, A4.01, A5.01, A6.01-6.02 for Maine Historical Society Research Library, submitted by Schwartz/Silver Architects on behalf of Maine Historical Society, dated May 24, 2007.

Comments

- All engineering drawings must be stamped and signed by a professional engineer.
- No detail for the construction of the brick handicap ramps has been provided.
- Detail call-outs on sheet L1 need to be updated to reflect the new detail sheet number (L4). Detail call-outs should be added to brick sidewalk on the site plan (C1.1) to clarify a different brick detail than used in landscaping.
- Multiple aspects of the parking lot do not comply with City standards. Many of the parking spaces are smaller than the required 19' by 9' dimensions. Also, the aisle between the 90 degree parking spaces is only 22-feet, less than the 24-feet required. The 16-foot driveway does not comply with the minimum standards of 24-feet.
- According to ADA Accessibility Guidelines 4.1.2(5)(a) and (b), "if self parking is provided for employees or visitors, each parking area/lot or structure is required to have accessible parking spaces." For a parking lot with 26 to 50 parking spaces, a minimum of 2 accessible spaces is required. In addition, at least one space must be van accessible and be serviced by a 96-inch wide access aisle.
- The sidewalk from the entrance that is being closed to Congress Street is in poor condition and should be rebuilt.

All other issues from the previous memo have been adequately addressed.

Please contact our office if you have any questions.

DRG
203943.32

MEMORANDUM

To: FILE

From: Capt Greg Cass

Dept: Fire

Subject: Application ID: 2007-0054

Date:

submit the Fire dept. Checklist
recieved and approved 5-1-07

GRANT HAYS ASSOCIATES

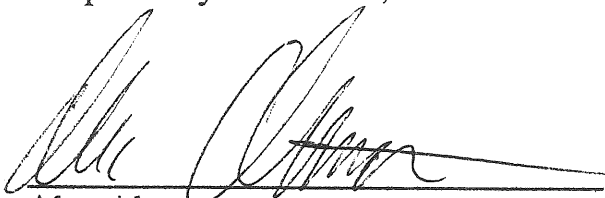
A R C H I T E C T U R E ♦ I N T E R I O R D E S I G N

MEMO

DATE: May 9, 2007
TO: Michael Collins – Portland CEO
Captain Greg Cass – Portland Fire Department
FROM: Mike Hays
RE: 223 Congress Street
CC: Alec Altman, Mike Salisbury, file

We have agreed to maintain a 28" (minimum) wide clear path for egress from the rear egress exit door from 223 Congress Street thru the parking lot to the public sidewalk at either Washington Avenue or Congress Street at all times. Construction crews, snow removal, and maintenance activities have been informed of this requirement, and will endeavor to limit their respective activities so as to maintain this clear egress path at all times.

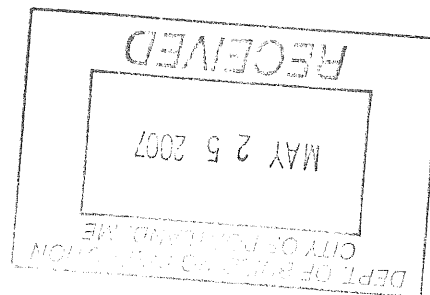
Respectfully Submitted,



Alec Altman
6 Washington Avenue



Mike Salisbury
223 Congress Street



From: James Carmody
To: Wiar, Shukria
Date: 7/25/2007 1:29:23 PM
Subject: Bingas Wingas

Shukria:

The proposed layout is adequate, although a few spaces are tight. The only requirement is that the applicant show that vehicles can turn around in the respective parking areas and exit the lots going forward. No backing out of the driveways.

The applicant is also to delete the pavement markings across the driveways as shown on the plan.

James Carmody, P. E.
City Transportation Engineer
City of Portland
207-874-8894
JPC@portlandmaine.gov

CC: Earley, Katherine

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2007-0054

Date: 8/16/2007

I have received a catalogue cut showing that the equipment for the hood fan is rated at 53.4 DBA which is just under the 55 DBA maximum evening allowance. This meets the zoning noise requirements.

Marge Schmuckal
Zoning Administrator

MEMORANDUM



TO: Barbara Barhydt
FROM: Dan Goyette, PE, and Lauren Swett, EIT
DATE: April 18, 2007
RE: Binga's Wingas, 6 Washington Avenue

Woodard & Curran has reviewed the Site Plan Review Submission for Binga's Wingas to be located at 6 Washington Avenue. An existing four-story building will be rehabilitated to include the Binga's Wingas restaurant, storage space, office space, and one residential unit. The project also includes site improvements, and the addition of parking to be located at 13 and 15 Washington Avenue, across the street from the building.

Documents Reviewed

- Site Plan Review Submission for Binga's Wingas 6 Washington Avenue, prepared by Associated Design Partners, Inc. for Greg's Properties Wash Ave LLC, dated March 21, 2007.
- Binga's Wingas 6 Washington Avenue, Engineering plan Sheets A001, A301c, and C101-C104, prepared by Associated Design Partners, Inc. for Greg's Properties Wash Ave LLC, dated March 21, 2007.

Comments

- The submission does not include any details. Details of items including curb, paving, and utility connections are necessary to show engineering design and conformance with City of Portland standards.
- No topography, proposed or existing is shown for the site.
- The number of parking spaces does not meet the City of Portland requirements.

Please contact our office if you have any questions.

DRG/LJS
203943.19

From: "Dan Goyette" <DGoyette@woodardcurran.com>
To: "Barbara Barhydt" <BAB.city-gov.port-gov@portlandmaine.gov>
Date: 4/27/2007 11:41:11 AM
Subject: Bingas Wingas

In addition to my earlier memo, it should be noted that they will be required to install a grease trap. They may be planning to but it was not shown on the plans.

Daniel Goyette, PE

41 Hutchins Drive
Portland, Maine 04102
Phone: 800-426-4262
Fax: 207-871-0724
Email: dgoyette@woodardcurran.com

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2007-0054

Date: 4/25/2007

I received floor plans on 4/18/07.

I need to know what the impervious surface is going to be. I am not finding it anywhere on the plans or in the text. The B-2b zone allows a maximum of 90% impervious surface.

Using the given floor plans, I have determined that 24 parking spaces are required based on the breakdown of uses and floor area. Only 22 spaces are shown on the submittal.

I am also scaling a 4' rear setback for the new accessory structure where a 5' minimum setback is required. The side and front setbacks are meeting the B-2b zone.

Marge Schmuckal
Zoning Administrator

MEMORANDUM

To: FILE

From: Capt Greg Cass

Dept: Fire

Subject: Application ID: 2007-0054

Date:

submit the Fire dept. Checklist

Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.

- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they are clearly visible from neighbors' properties or may be transferred beyond the lot boundaries by natural causes or forces. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in fully enclosed containers or receptacles. Areas attracting large numbers of birds, rodents or insects are prohibited.

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

Sec. 14-168. Reserved.
Sec. 14-169. Reserved.
Sec. 14-170. Reserved.
Sec. 14-171. Reserved.
Sec. 14-172. Reserved.
Sec. 14-173. Reserved.
Sec. 14-174. Reserved.
Sec. 14-175. Reserved.
Sec. 14-176. Reserved.
Sec. 14-177. Reserved.
Sec. 14-178. Reserved.
Sec. 14-179. Reserved.
Sec. 14-180. Reserved.

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

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

Sec. 14-181. Purpose.

- (a) B-2 Community Business Zone

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: _____

Its Duly Authorized Agent

(27) Development located in the B-1, B-1b, B-2, and B-2b zones shall meet the following additional standards. Where noted below, the city encourages adherence to the guidelines contained within the City's Technical and Design Standards and Guidelines, but such adherence is not mandatory in order to meet the standards otherwise set forth herein.

- a. Urban Street Wall. Standard: In the B-1, B-1b, and B-2b zone it shall be required that buildings shall be located to create and preserve an urban street wall.

Buildings located in the B-2 zone are encouraged to adhere to guidelines contained within Section XIV of the City's Technical and Design Standards and Guidelines.

- b. Mixed Uses. Standard: In B-1b zone buildings shall be multi-storied with mixed uses.

In the B-1, B-2 and B-2b zones building uses are encouraged to adhere to the guidelines contained within Section XIV of the City's Technical and Design Standards and Guidelines.

- c. Building Entrances. Standard: In the B-1 and B-2b zone building entrances shall be oriented toward, located adjacent to, and directly accessible from, a sidewalk in a public right-of-way.

In the B-1b and B-2 zones building entrances are encouraged to adhere to the guidelines contained within Section XIV of the City's Technical and Design Standards and Guidelines.

- d. Windows. Standard: In the B-1, B-1b, B-2, and B-2b zones windows shall be required along the street frontage of a building. Windows shall be transparent and installed at a height to allow views into the building by passersby.

- e. Facade Character. Standard: In the B-1, B-1b, B-2, B-2b zones, active and public portions of buildings

(e.g. doors, windows, entries, retail displays) shall be located adjacent to the public sidewalk to create an active presence along the sidewalk.

Where building facades situated along a public way have no interactive use or function, such facades shall be designed to provide sufficient architectural and graphic amenities to provide visual interest along the street and relate the building, and its use, to passersby.

- f. Building Design. Standard: B-1, B-1b, B-2, and B-2b commercial buildings shall be designed to be compatible with their residential and commercial neighbors. In the B-1 and B-1b zones building scale, roof pitch, and fenestration shall be designed to complement surrounding residential structures.
 - g. Building Materials. Standard: Façade materials of buildings located in the B-1, B-1b, B-2, and B-2b zones shall be compatible with those materials of surrounding residential and commercial uses.
 - h. Building Scale. Standard: In the B-1 and B-1b zones building scale must relate and be compatible with surrounding residential structures.
 - i. Landscaping and buffers. Standard: In the B-1, B-1b, B-2 and B-2b zones buildings and associated parking areas must be screened to buffer abutting properties. A densely planted landscape buffer and/or fencing will be required to protect neighboring properties from the impacts associated with the development, including lighting, parking, traffic, noise, odor, smoke, or other incompatible uses. Where buildings are setback from the street, a landscaped area must be planted along the front yard street line.
- (28) Small lot development located in the R-6 zone on lots of ten thousand (10,000) square feet or less shall meet the site plan requirements above and the requirements contained within the Planning and Development Design Manual which is incorporated herein by reference. The Planning Authority shall issue a Design Certificate, prior

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

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

(b) B-2b Community Business Zone

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

(c) B-2c Community Business Zone

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

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

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

Sec. 14-182. Permitted uses.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving drive-throughs are prohibited in these zones unless otherwise provided in section 14-183:

(a) *Residential:*

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

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;

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

18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) *Institutional:*

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

(d) *Other:*

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;

5. Bed and breakfast, subject to the standards of article v (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars
 - vi. Business and educational conferences.
 - b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.
6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4,000) square feet for each studio space.

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

Sec.14-183. Conditional uses.

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

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

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

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

- a. *Signs:* Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
- b. *Circulation:* No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.

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

- iv. **Screening and Enclosure:** Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- v. **Pedestrian access:** Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.
- vi. **Hours of Operation:** The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

(b) *Other:*

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

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

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

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

Sec. 14-184. Prohibited uses.

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

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

Sec. 14-185. Dimensional requirements.

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

(a) *Minimum lot size:*

1. Intermediate, longterm and extended care facilities:
Ten thousand (10,000).
2. *Nonresidential uses:*

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

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

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

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

1. *Front Yard*

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

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

Building additions are not required to meet this maximum setback.

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

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

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

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

2. *Rear yard:*

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

3. *Side yard:*

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.
- b. Accessory structures: Five (5) feet.
- c. Side yards on side streets (corner lot): In the B-2 and B-2c zone, a minimum of ten (10) feet. In the B-2b zone, a maximum of ten (10) feet except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.
- (d) *Minimum lot width:* None.
- (e) *Maximum structure height:* Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the minimum setbacks required under subsection (3) above are increased by one (1) foot in distance for each foot of height above forty-five (45) feet.
- (f) *Maximum impervious surface ratio:* Eighty (80) percent in the B-2 and B-2c; Ninety (90) percent in the B-2b.

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

Sec. 14-186. Other requirements.

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

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

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

(Ord. No. 293-88, 4-4-88; Ord. No. 94-99, 11-15-99; Ord. No. 151-03/04, 02-23-04)

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

DIVISOION 11. A-B AIRPORT BUSINESS ZONE*

*Editor's note—Ord. No. 295-88, adopted Apr. 4, 1988, repealed §§ 14-196–14-202 of Div. 11, A-B Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-196–14-202. Formerly, such sections derived from §§ 62.9A.A–602.9A.G of the City's 1968 Code and from Ord. No. 348-71, § 2, adopted Aug. 2, 1971; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 275-77, adopted May 16, 1977.

Sec. 14-196. Purpose.

The purpose of the A-B airport business zone is:

To provide an area for the development of airport-related enterprises. Appropriate uses permitted in this district are those customarily associated with the operation of the airport terminal and individual airlines and accessory uses to provide for the comfort and convenience of the airport's patrons and employees.

(Ord. No. 295-88, 5-23-88)

Sec. 14-197. Permitted uses.

The following uses are permitted in the A-B zone:

- (a) Administration;
- (b) Airline terminal including, but not limited to:
 - 1. Administration;
 - 2. Concessions including, but not limited to, newsstands, florists, pharmacies and sundries, parcel storage, insurance sales, vending machines and video games;
 - 3. Reservations and ticket sales;
 - 4. Air freight operations;
 - 5. Travel agency;
 - 6. Physical plant service, repair and storage;
 - 7. Cocktail lounges; and
 - 8. Public waiting area.
- (c) Charter flight service;
- (d) Airport carrier operations, including ground support and fueling;
- (e) Aircraft and aircraft accessory sales and services;
- (f) Flying school;

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Sec. 14-489. Reserved.
Sec. 14-490. Reserved.

ARTICLE IV. SUBDIVISIONS*

*Cross reference(s)--Ordinances dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-4(h).

State law reference(s)--Land subdivisions, 30-A M.R.S.A. § 4403.

Sec. 14-491. Authority and purpose.

This article is adopted pursuant to the terms and provisions of 30-A M.R.S.A. Sections 3001 and 4403, as amended. The purpose of this article is to provide for the harmonious and economic development of the city; for the orderly subdivision of land and its development; for the orderly development of the general area

significantly affected the prior denial.
(Code 1968, § 602.24.F; Ord. No. 437-74, 7-1-74)

Sec. 14-477. Violations.

In addition to any other remedies available, the board of appeals after notice and hearing may revoke any variance or other relief granted under this article when the provisions of this article or the conditions under which the relief was granted have not been complied with.
(Code 1968, § 602.24.G; Ord. No. 437-74, 7-1-74)

- Sec. 14-478. Reserved.
- Sec. 14-479. Reserved.
- Sec. 14-480. Reserved.
- Sec. 14-481. Reserved.
- Sec. 14-482. Reserved.

DIVISION 29. PRESERVATION AND REPLACEMENT OF HOUSING UNITS

Sec. 14-483. Preservation and Replacement of Housing Units.

(a) *Purpose.* The City believes that it is in the public interest to promote and facilitate an adequate supply of housing, particularly affordable housing. Housing, because of its scarcity and high costs, has become an extremely valuable resource in the City, and is very difficult to replace once lost.

The purpose of this section is to limit the net loss of housing units in the City caused by the demolition of residential property, the conversion of housing units to nonresidential use or the elimination of housing units as the result of the reduction or consolidation of such units within a residential property.

The City believes that the preservation of housing by means of the procedures established in this section will contribute to the health, safety and welfare of its citizens.

It is anticipated that developments subject to this section which will require multiple approvals will be processed concurrently, so that action on one aspect of the development will not delay the project as a whole.

(b) *Definitions.* The following words shall be defined as set forth below for the purposes of this section.

Affiliate means any legal entity in common ownership with or subject to control of either the applicant or the owner.

Dwelling and dwelling unit means and includes rooming units and sheltered care group homes, as each of those terms are defined in Section 14-47 of this Code. For the purposes of this section, "dwelling" and "dwelling units" refers to the loss of such units as a result of demolition, their conversion to non-residential uses or their elimination as a result of the reduction or consolidation of such units within a residential property.

Original site means the location where the demolition, conversion to non-residential use or elimination of dwellings and dwelling units will take place.

(c) *Application.* The provisions of this section will apply:

- (1) in all zoning districts in cases where three or more lawfully existing dwellings or dwelling units, including single-family dwellings, dwellings or dwelling units within two-family and multi-family buildings, lodging houses, rooming units, and sheltered care group homes, are demolished, converted to nonresidential uses, or eliminated through the reduction or consolidation of units within a residential property, within a five (5) year period, from and after July 1, 2002, either by the owner or an affiliate of the owner, except in cases in which the original site will be used as surface parking, this Section will apply to each dwelling unit demolished;

- (2) to premises, designed and intended for use as a dwelling, which have been vacant and which are not otherwise exempt under the provisions of sub-section (n); and
- (3) to dwellings or dwelling units, situated on various locations on the applicant's property or properties that are functionally connected with the applicant's use of the original site or in the general vicinity of the original site.

(d) *Historic Preservation.* Notwithstanding anything to the contrary in Chapter 14 Division 29, nothing in this ordinance shall permit the demolition, conversion, reduction or consolidation of dwelling units in residential property protected by the Historic Preservation Ordinance (Sections 14-601, et seq.), except as permitted by that ordinance.

(e) *Reuse of Original Site.* Any reuse of the original site and/or other properties of the applicant where housing has been demolished, converted or eliminated, shall be reviewed by the Planning Board as a Conditional Use and subject to Site Plan. In granting reuse approval the Planning Board shall require that impacts on adjoining residential uses shall be mitigated or buffered to the fullest degree, through the use of restrictions on access ways and points, buffering, screening, berming and landscaping, and through restrictions on noise and lighting. The Planning Board may require means of periodic or ongoing monitoring of effects from noise, light, trash or traffic when it finds that such monitoring will further the purposes of achieving mitigation or elimination of impacts.

(f) *Approval.* No dwelling nor dwelling units subject to the provisions of this section, shall be eligible for a demolition permit or change-of-use approval until the Planning Authority has approved such action in accordance with the provisions of this section.

- (1) The applicant files with the Planning Authority, on a form to be provided by the Planning Authority, a

statement certifying the number of such units, as well as a description of the characteristics of each of those units.

- (2) The applicant submits a list containing the name of each tenant currently residing in the dwelling units, along with the current rent.
- (3) The applicant provides an affidavit verifying compliance with the notice requirement of sub-section (g).
- (4) The applicant demonstrates compliance with the requirements of subsection (g).

(g) *Notice to Tenants.* Prior to the demolition, conversion reduction or consolidation of dwelling units subject to the provisions of this section, the applicant will:

- (1) Deliver to each tenant who occupies such a dwelling unit a written notice to vacate the unit. The notice shall either be sent by certified mail, return receipt requested, or served in-hand. The notice will grant the tenant not less than ninety (90) days from the date of receipt of the notice to vacate the unit.
- (2) The applicant will be required to file proof of service with the Planning Authority.

(h) *Housing Replacement by the Creation of New Units.* Applicants may meet the replacement requirement by creating new dwelling units, pursuant to a plan approved by the Planning Authority. Such a plan shall conform to the following provisions:

- (1) The replacement units shall be located within the City of Portland.
- (2) The replacement units may not previously have been on the market as of the date of application.

- (3) The replacement units shall be situated within a development which has not been a candidate for site plan approval as of the date of the application.
 - (4) The replacement units shall be compatible in size, number of bedrooms, affordability, tenure and amenities, unless they are part of a qualified plan under subsection(h) (6) (c) .
 - (5) The replacement units shall have an exterior design in keeping with the character of the neighborhood in which they will be located.
 - (6) Replacement units may be provided by the applicant in one or more of three (3) ways, including:
 - a. The construction of housing units within a new structure or a new addition
 - b. The conversion of a nonresidential building to residential use, or
 - c. The creation of new housing units under a plan which meets another important housing need within the City, as evidenced by its inclusion in the housing element of the City's Comprehensive Plan.
 - d. Replacement housing may be created in advance of the application for the demolition, conversion, elimination or consolidation of housing at the original site provided the Planning Authority has approved the applicant's plan prior to replacement housing being built.
- (i) *Availability of Replacement Housing Units.*
- (1) No building permit, demolition permit or change-of-use approval may be issued for the original site until the plan for the replacement units has been approved by the Planning Authority and a performance guarantee in the form of a Letter of Credit which comports with the requirements of sub-section (m) or equivalent cash escrow has been posted for the replacement units with the City.

- (2) Replacement units shall be available for occupancy before a certificate of occupancy may be issued for the new construction on the original site.
- (3) The replacement housing units shall be ready for occupancy within eighteen (18) months from the date on which the Planning Authority's approval was granted. Extensions, up to a total of 24 months, may be granted, provided the replacement housing units under construction are at least 30% complete.
- (4) Notwithstanding the foregoing sub-sections, in the event the replacement units are not completed within 24 months or the applicant wishes to obtain a certificate of occupancy for the original site prior to the availability of the replacement housing units, then the applicant can request that the City draw on the Letter of Credit, pursuant to Sub-section (1), to complete the replacement housing units, or deposit such funds in the City's Housing Development Fund.

(j) *Housing Replacement by Contribution to the City's Housing Development Fund.*

- (1) As an alternative to providing replacement housing as described in sub-section (h), the applicant may meet the requirements of this section by depositing \$30,000 for each rooming unit or \$50,000 for each dwelling unit, including multifamily apartments and single family home, to be demolished or converted to nonresidential use or eliminated to the City's Housing Development Fund.

- (2) Beginning on January 1, 2004 and annually thereafter, the amount of the contribution shall be adjusted by multiplying this amount originally deposited for each unit by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W")," U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the Index") for January 1, 2003 Year, and the numerator of which shall be the Index for the same month in each subsequent year. In the event that the Index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence; or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the Index. If the Index shall cease to use 1982-84 equals 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the Index, the Base Index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. Notwithstanding anything herein to the contrary, contributions made after January 1, 2004 shall not be less than the amount originally required to be deposited pursuant to sub-section (i)(1) for each rooming or dwelling unit.

(k) *Status of Dwelling Units.* All dwelling units which are regulated by this section shall be deemed fit for human occupancy, including any dwelling unit which was posted against occupancy by the City's Building Authority because of deterioration caused by neglect of lack of maintenance and which is not otherwise exempt under the provisions of sub-section (n).

(l) *Contract Zone.* A contract zone may not be used to circumvent the application of this section. The terms of this section shall apply to any contract zone which involves dwelling units affected by this section. Notwithstanding the foregoing,

nothing herein shall be deemed to prevent the City and the applicant from agreeing to terms which exceed those imposed by this section by means of a contract zone.

(m) *Letter of Credit*. Applicants who choose to comply with the provisions of this section by means of replacement housing shall provide a performance guarantee in the form of a Letter of Credit, acceptable to the City, in an amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Development Fund if the applicant had chosen that option pursuant to sub-section (j)(1).

(n) *Exemptions*. The requirements of this section shall not be applicable to:

- (1) Demolition, conversion, reduction or consolidation of housing, the purpose of which is determined by the Planning Authority, to create either an equivalent or greater number of new housing units.
- (2) Demolition, conversion, reduction or consolidation of housing for projects which the City Council determines at a public hearing to be of special merit to the City of Portland. A project may not be designated as a project of special merit unless the council determines that:
 - a. The project is consistent with the comprehensive plan of the City of Portland;
 - b. The project will provide significant public and civic benefits, including without limitation, social or other benefits which are significant to the community, and particularly desirable at the location proposed; and
 - c. Notice of the hearing before the Council shall be published in a newspaper of general circulation in the City of Portland not less than seven (7)

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surrounding such subdivision; for the coordination of streets within the general area; for adequate provisions for drainage, flood control, light, air and other public purposes; for the adequate and proper installation of streets, drainage, sanitary sewers, water and other utilities and facilities; for the dedication to the city of land for streets, alleys or other public purposes or the transfer to the city of easements or other rights or privileges; for the reservation for the city of land to be acquired for public facilities; and to protect public safety.

(Code 1968, § 603.1; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 155-89, § 1, 11-20-89)

Sec. 14-492. Jurisdiction.

This article shall govern each and every subdivision of land within the limits of the city unless specifically exempted in section 14-508. When application is made for the resubdividing of a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the owner of rights in the recorded subdivision.

(Code 1968, § 603.3; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-493. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Alley shall mean any way designed primarily for vehicular or utility access to the back or side of premises otherwise abutting on a street, except driveways unless officially designated otherwise.

Easement shall mean a right, privilege or liberty which one has in land owned by another for some special and definite purpose.

Engineer shall mean a registered professional engineer in good standing with the state board of registration for engineers.

Esplanade shall mean that portion of a street right-of-way which is located between the curblin and the edge of the sidewalk closest to the street.

Freshwater wetland shall mean freshwater swamps, marshes, bogs and similar areas which are:

- (a) Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- (b) Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

Land development plan shall mean any part or element of the land development plan for the city as adopted by city council resolution No. 540 of 1974, as amended.

Lot shall mean a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision of record or survey map or by metes and bounds, for the purpose of sale or lease to another.

Nonresidential subdivision shall mean a subdivision which is not intended for human habitation, such as a commercial or industrial subdivision.

Performance guarantee shall mean a surety bond, letter of credit or escrow account in an amount and form meeting the requirements of section 14-501.

Planned unit development shall mean a residential subdivision consisting of attached dwellings or a series of attached dwellings intended for separate ownership, with open spaces, recreational areas, access ways and buildings which are designed, built and controlled in accordance with a unified development plan.

Recording plat shall mean the completed subdivision plat in form for approval and recording.

Roadway shall mean that portion of a street between the regularly established curblines, or that part of a street or alley devoted to vehicular traffic.

Sidewalk shall mean that portion of a street not included in

the roadway, and devoted in whole or part to pedestrian traffic.

Sketch plan shall mean a very simple layout to show the location of the subdivision to gain informal comments of city staff.

Street shall mean a public way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated, excepting, however, an alley.

- (a) *Arterial street* shall mean a heavily traveled street of considerable continuity used primarily as a traffic artery among large areas.
- (b) *Collector street* shall mean a nonarterial street which carries traffic from a minor street to arterial streets, including the principal entrance to streets of a residential development and streets for circulation within such a development.
- (c) *Marginal access street* shall mean a minor street which is adjacent to and substantially parallel with an arterial street and which provides access to abutting properties and protection from through traffic.
- (d) *Minor street* shall mean a street which services one (1) or more minor streets used primarily for access to abutting properties.
- (e) *Cul-de-sac or dead-end street* shall mean with only one (1) outlet.

Subdivider or applicant shall mean any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

Subdivision shall mean the division of a lot, tract or parcel of land into three (3) or more lots, including lots of forty (40) acres or more, within any five-year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in 30-A M.R.S.A. Section 4401. The term subdivision shall

also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph. A dwelling unit shall include any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing condominiums, time-share units and apartments.

Subdivision plat shall mean a plan of the proposed subdivision for presentation to the planning board and the public.

Surveyor shall mean a qualified registered surveyor of good standing with the state board of registration.

Tract (or parcel) of land shall mean all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Vicinity sketch shall mean a sketch of the proposed subdivision location, not necessarily drawn to scale, showing the proximity of the subdivision to surrounding streets and highways.

(Code 1968, § 603.5; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 1, 2-18-87; Ord. No. 247-88, 11-28-88; Ord. No. 155-89, § 2, 11-20-89)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 14-494. Guidance to subdivider.

The purpose of the preapplication procedure is to afford the subdivider an opportunity to avail himself of the advice and assistance of the planning board, and to consult early and informally with the board staff before preparation of the subdivision plat and before formal application for its approval, to insure the development of a subdivision plan with mutual benefits for the subdivider and the city.

(Code 1968, § 603.2; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-495. Procedure for approval of a subdivision.

(a) *Application for approval:*

- (1) To obtain approval of a proposed subdivision the subdivider or applicant shall prepare for the planning board a subdivision plat, a vicinity sketch, and a recording plat in accordance with the requirements and standards established by this article.
- (2) The sketch plan may be prepared for staff and planning board review if desired by the applicant prior to formal submission of the subdivision plat.
- (3) The subdivider shall supply and submit five (5) copies of the complete subdivision plat and the vicinity sketch to the office of the planning authority at least fifteen (15) days prior to a regularly scheduled meeting of the planning board, to be in order for consideration by the board at the meeting.
- (4) The planning authority shall forward a copy of the subdivision plat and vicinity sketch to the public works authority, parks authority, fire department and building authority, all of which shall submit recommendations to the planning authority by the time of the initial hearing on the subdivision plat.
- (5) Prior to the date upon which the planning authority meets to consider the subdivision plat the applicant shall pay all costs incurred in providing public notice. The planning authority shall determine the amount of this fee based on the actual costs incurred in newspaper advertising and postage, and shall also be responsible for collecting and accounting for such fee. Public notice in the form of newspaper advertisement shall be provided as required under 14-32.
- (6) Notice shall be provided in accordance with section 14-32. Notice shall also be sent to the clerk and the reviewing authority of municipalities that abut or include any portion of a proposed subdivision.
- (7) The city council may from time to time establish by

order reasonable application fees to defray the costs of reviewing subdivisions.

(b) *Timing of subdivision review:* A public hearing shall be commenced within thirty (30) days following the receipt of a complete subdivision application. The staff shall notify the applicant in writing either that the application is complete or, if it is determined to be incomplete, the specific additional materials needed to make it a complete application. The planning board shall render its decision on any application submitted to it within sixty (60) days following receipt of a complete application, or such other time as may be mutually agreed to by the planning board and the applicant.

(c) *Engineering requirements:*

- (1) The applicant shall furnish the public works authority with all engineering data and plans necessary for the completion of the required improvements, as enumerated in section 14-496(b). Such plans may be furnished apart from but at the same time as the subdivision plat and vicinity sketch and shall be certified by a registered professional engineer.
- (2) The public works authority shall review the plans submitted as required in subsection (c)(1) above and shall approve, approve conditionally, or disapprove same within ten (10) days of submission as to whether such plans are in conformance with the standards set forth in this article.

(d) *Subdivision plat approval:* The planning board shall approve, approve conditionally or disapprove such subdivision plat at a public meeting. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the planning board may require the subdivider to submit a revised subdivision plat. If the planning board should disapprove the subdivision plat, the reasons for such action shall be stated and given in writing to the subdivider, and the board may state the conditions under which the proposed subdivision would be approved. One (1) copy of the subdivision plat as acted upon by the planning board shall be retained in its office, one (1) copy forwarded to the public works authority and one (1) copy returned to the subdivider.

(e) *Effect of subdivision plat approval:* Receipt of the approved copy of the subdivision plat of the subdivider is not authorization that he may proceed with the construction of any improvements. No construction will proceed until the recording plat has been approved by the planning board and has been properly recorded as required hereinafter in subsection (g).

(f) *Recording plat approval:*

(1) The applicant shall submit the recording plat and five (5) copies thereof to the planning authority at least fifteen (15) days prior to the date of the meeting of the planning board at which it is intended to be considered, which copies shall be distributed as hereinafter provided.

(2) Consideration of the recording plat, however, shall not take place until approvals required in subsections (c) and (d) are obtained.

(g) *Recording:*

(1) When the recording plat is approved, the subdivider shall pay the actual cost of recording and reproducing five (5) copies of the plat, one (1) of which shall be on mylar for the public works authority records.

(2) The recording plat shall be recorded in the office of the county registry of deeds by the subdivider.

(3) The registry book and page numbers will then be recorded on the five (5) copies of the plan, of which one (1) shall be kept at the office of the planning board, one (1) sent to the building authority, one (1) copy on mylar sent to the public works authority, one (1) to the assessor's office and one (1) to the subdivider.

(4) Unless the subdivider shall record his or her approved recording plat within three (3) years after the planning board has approved the subdivision plat, the recording plat approval shall become null and void. The preceding sentence notwithstanding, if the planning board's initial approval of a subdivision is based in part upon the granting of a variance from any

of the applicable subdivision approval standards, no such variance shall be valid unless that fact shall be expressly noted on the face of the recording plat and shall be noted in a certificate, each of which shall conform to 30-A M.R.S.A. Section 4406, and such recording plat or such certificate or both of them are recorded in the Cumberland County Registry of Deeds within ninety (90) days of final subdivision approval.

(h) *Sectional recordings:* Following subdivision plat approval, the planning board may permit the subdivision to be divided into two (2) or more sections for recording purposes subject to any conditions that the board deems necessary in order to insure the orderly development of the plan. The applicant may seek approval of and record a sectional recording plat with the county registry of deeds only if the section constitutes at least twenty (20) percent of the total number of lots contained in the approval plat and, in addition, shows the entire tract or parcel. In these circumstances, if the first section of the plat has been recorded within three (3) years after planning board approval, subdivision plat approval of the remaining sections of the plat shall remain in effect for five (5) years after planning board approval.
(Code 1968, § 603.6; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 692-81, 5-18-81; Ord. No. 123-85, 10-7-85; Ord. No. 127-87, §§ 2--4, 2-18-87; Ord. No. 94-88, 7-19-88; Ord. No. 155-89, §§ 3, 4, 11-20-89; Ord. No. 227-01, 4-2-01)

*Editor's note--Ord. No. 94-88, adopted July 19, 1988, amended § 14-495(g)(4) to read as herein set out. See also the editors note to Art. III of this chapter for additional provisions relative to Ord. No. 94-88.

Sec. 14-496. Plat requirements.

Each and every modification of the information required to be shown on the plat in this section shall be applied for in writing by the subdivider. The decision of the planning board on such request shall be final.

(a) *Information on subdivision plat.* The following information shall be shown on one (1) subdivision plat unless otherwise indicated:

1. Date, north point, title and graphic scale. Scale shall not be more than sixty (60) feet to the inch unless lots are more than an acre, but in no event more than one hundred (100) feet to the inch;
2. Based on a recent survey by the subdivider, existing contours at two (2) feet intervals or as otherwise required by the public works authority. Existing structures which are to remain will be delineated;
3. Names of proposed streets, width of rights-of-way, and typical cross section reservation, and depth of construction materials;
4. Locations, widths and purposes of other rights-of-way or easements to be recorded;
5. All appropriate street curve information, including point of curvature, point of tangency, tangent distance, radii and interior angle, in standard engineering format;
6. Location of those utilities existing on or adjacent to the tract to be subdivided, including size and elevation of buried or underground utilities (may be shown on separate plan);
7. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
8. Names of adjacent property owners with parcels over twenty-five thousand (25,000) square feet or names of adjacent subdivision;
9. Designation of flood hazard areas, as defined by the National Flood Insurance Program and shown on the city flood hazard boundary map, as well as any other areas in the subdivision subject to inundation by storm water or storm sewer overflow;
10. Existing historic sites and structures which either appear on the National Register or are nominated to

the National Register by the state historic preservation officer;

11. Proposed private and public utility system including water, gas, telephone, fire hydrants, and any other services which shall supply the area (may be shown on separate plan);
12. Sanitary sewer and storm drain plans and profiles showing size, kind and slope of pipe, proposed manhole rim and invert elevations and catch basin locations and drains (may be shown on separate plan);
13. Lighting plan showing the location, design, height and spacing from each other of the support poles, in accordance with standards and specifications established by the public works authority (may be shown on separate plan);
14. Tree plan showing groups of existing, sizeable trees which the subdivider intends to preserve (may be shown on separate plan);
15. A detailed plan of the entire subdivision and the immediate vicinity showing all existing and proposed drainage both on and off-site including drainage swales, ditches, etc., with directional flow arrows and approximate slope grades, and showing proposed finished "spot elevations" around the perimeter of the subdivision. Proposed drainage shall be shown as it may affect or restrict development on individual lots and with reference to improvements for which a performance guarantee is required under this article. Where deemed feasible by the public works authority, proposed finished contours at intervals of two (2) feet shall be provided on the drainage plan upon request (may be shown on separate plat):
16. Location and designation of any zoning district boundaries affecting the subdivision;;
17. All future phases and sections of the subdivision

proposed by the subdivider (may be shown on separate plat);

18. Proposed parks and school sites, or other public open space that the developer proposes to convey to the city;

19. Names and addresses of registered professional engineer, subdivider and owner:

20. At the option of the subdivider, any other information that may be necessary for the full and proper consideration of the subdivision shall be submitted in writing;

21. Streets and right-of-way monuments and property line markers;

22. Vicinity sketch, as defined in section 14-493 (may be shown on separate plan);

23. Total site data, including total area of the subdivision, total area in streets, total area in recreation or open space and number of house lots;

24. Additional submission items if required by the planning board and insofar as feasible (may be shown on separate sheets or by other appropriate method):

a. When private sewage systems are used, the results and supporting data of a soil test of each lot in the subdivision conducted by a soil evaluator licensed in the state;

b. When the adequacy of the subdivision's load bearing capacity is in question, the results and supporting data of test borings conducted by a professional engineer registered in the state;

c. When conditions warrant, a program which shall be implemented by the subdivider to control dust, erosion and sedimentation and/or

vehicular traffic during construction;

- d. Evidence of the applicant's financial capability to carry out all phases of the proposed development;
- e. Evidence of state and federal approvals, licenses or permits required by law, or the status of applications therefor;
- f. Price range of houses that will be built in the subdivision;
- g. Traffic impact analysis;
- h. High intensity soil survey, if required by the planning authority;
- i. Evidence of technical capacity to undertake the development;
- j. Types and estimated quantities of solid waste to be generated by the development;
- k. Construction plan outlining the anticipated sequence of construction of the major features of the project including without limitation roads, retention basins, sewer lines, seeding and other erosion and sedimentation control measures, and pollution abatement measures and also setting forth the approximate dates for commencement and completion of the project;
- l. A narrative and a plan showing all proposed buffer strips, their dimensions, and maintenance plans and responsibilities; and
- m. A description of any wetlands, wildlife and fisheries habitats, archaeological sites or unusual natural areas located on or near the project site and a description of the methods that will be used to protect such areas.
- n. Where submission drawings are available in

electronic form, the applicant shall submit any available electronic CADD.DXF files with final plans.

(b) *Recording plat.* The recording plat shall be an original ink drawing on linen or mylar, or as necessary to be acceptable to the registry of deeds, and shall be tied to an accepted street or to a proposed street under construction and bonded to insure construction. This plat also shall show the following:

1. Title, date, graphic scale, north arrow, name, signature and registration number or seal of a registered land surveyor licensed in the state, name and address of developer and owner;
2. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
3. All appropriate street curve information, including point of tangency, tangent distance, radii and interior angles, in standard engineering form;
4. Street names, width of street rights-of-way and typical cross section showing only surface dimensions of roadway pavement, esplanade and sidewalk reservation;
5. Street and right-of way monuments and property markers. Iron pipes shall be designated by a small circle at the point of installation;
6. Locations, dimensions and purposes of any easement or right-of-way;
7. Purpose for which sites, other than residential lots, are dedicated or reserved; it being understood that any reservations of areas shall be subject to the proper zoning thereof;
8. Reference to recorded subdivision plats of adjoining platted land by book and page number;

9. Space for the signatures of the planning board and date of approval;
10. Where required by 30-A M.R.S.A. Section 4406, the fact that initial approval or subsequent amendment of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards.

(c) *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.

(d) *Vacation of plats.* Any such plat recorded, or any portion thereof, may be vacated with the consent of the city council as follows:

1. At any time before the sale of any lot therein, by written instrument, signed by the city and the owners of such subdivision, declaring the same to be vacated and describing therein the part or

portion to be so vacated.

2. At any time after the sale of any lot therein and by written instrument, signed by the city and all owners of record of lots shown on the plat, declaring the same to be vacated and describing therein the part or portion to be so vacated.

Any instrument so executed vacating all or a portion of any plat shall be duly filed and recorded in the county registry of deeds. The execution and recording of the instrument described in subsection (d)2 above shall vest fee simple title to the centerline of the street, alley or easement for public passage so vacated in the owners of abutting properties. Title to property located within the vacated streets, alleys or easements for public passage shall pass to abutting property owners free and clear of any rights of the public or other owners of lots shown in the plan, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

(Code 1968, § 603.7; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, §§ 5, [12], 2-18-87; Ord. No. 95-88, §§ 1, 2, 7-19-88; Ord. No. 155-89, § 5, 11-20-89; Ord. No. 177-93, §§ 1, 2, 1-4-93; Ord. No. 165-97, 1-6-97)

*Editor's note--Ord. No. 95-88, adopted July 19, 1988, amended subsections (b) and (c) of this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 95-88.

Sec. 14-497. General requirements.

(a) *Review criteria.* When reviewing any subdivision for approval, the planning board shall consider, among others, the following review criteria and before granting approval shall determine that the proposed subdivision:

- (1) Will not result in undue water or air pollution. In making this determination it shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; the conformity to

the applicable state and local health and water resources regulations;

- (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- (3) Will not cause unreasonable burden on an existing water supply;
- (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highway or public roads existing or proposed;
- (6) Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- (7) Will not cause an unreasonable burden on the ability of the city to dispose of solid waste and sewage if municipal services are to be utilized;
- (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or by the city, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. For subdivisions within historic districts designated pursuant to article IX of this chapter, the planning board shall apply the standards of section 14-651(c) of article IX. The planning board may request that the historic preservation committee prepare an evaluation of the proposed subdivision based upon the standards of section 14-651(c);
- (9) Is in conformance with the land development plan or its successor;
- (10) The subdivider has adequate financial and technical capacity to meet the standards of this section;

- (11) Whenever situated, in whole or in part, within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;
- (12) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;
- (13) Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation;
- (14) All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands. Any mapping of wetlands may be done with the help of the local soil and water conservation district; and
- (15) Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 M.R.S.A. Section 480-B, subsection 9.

(b) *Burden of proof.* In all instances the burden of proof shall rest upon the person proposing the subdivision.

(c) *Conformity with Code.* Any proposed subdivision shall be in conformity with all relevant provisions of this Code.

(d) *Reserved.*

(e) *Construction records and inspection.*

(1) The project engineer and city engineer shall have the right to enter and inspect the construction site during all phases of the project to ensure compliance with this article.

(2) After approval of the subdivision plat and prior to the construction of any of the subdivision's public improvements, the subdivider shall supply the city engineer with a complete set of engineering drawings on mylar or linen showing all streets, sanitary sewers and surface water drains and all appurtenant work within the subdivision.

(3) The subdivider shall provide the project engineer with a complete and accurate list of any changes from the engineering drawings as approved by the planning board prior to the release of the performance bond.

(Code 1968, § 603.8; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, §§ 6, [13], 2-18-87; Ord. No. 155-89, § 6, 11-20-89; Ord. No. 15-92, § 31, 6-15-92; Ord. No. 221-93, 5-17-93)

Sec. 14-497.5. Adjustment of dimensional requirements for subdivisions in the R-3 zone.

Notwithstanding section 14-90 and any other section of this chapter, up to twenty-five (25) percent of the lots in a subdivision located in the R-3 zone may have reduced street frontage and/or lot widths, provided that the planning board finds as part of subdivision approval that the following standards are met:

(a) The subdivision is approved for the first time on or after December 1, 1997;

(b) The subdivision has a minimum land area of three (3) acres;

(c) The fire department determines that the reduced street frontage is adequate to provide access required to provide emergency services to each lot; and

(d) A lot with reduced lot width shall meet all required

setbacks.

(Ord. No. 165-97, § 6, 12-1-97)

Sec. 14-498. Technical and design standards.

(a) *Adoption and amendment of standards:* The public works authority may promulgate technical and design standards for subdivisions and site plans. Such technical and design standards for any amendments thereto shall become effective only upon approval of the planning board following a public hearing before the planning board. In approving the technical and design standards, the planning board may direct staff to make changes with respect to format and text but, to the extent that standards are based upon sound engineering practice, shall not direct changes in the standards themselves. Such standards shall be additional to and consistent with the provisions of this article and shall be necessary and reasonable and shall be in accord with sound engineering practice. The public works authority shall maintain for public inspection current copies of the effective standards.

(b) *Street plan:*

- (1) All streets shall be platted along contour elevations which result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.
- (2) The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.

When connecting streets within residential neighborhoods, new streets shall contribute to a neighborhood street system characterized by a network of interconnected streets, which minimizes through-traffic in residential neighborhoods. The layout of subdivision lots, streets, and pedestrian ways shall promote multiple paths of travel to get to destinations within and between neighborhoods by foot and bicycle, as well as auto.

The interconnection of new and existing streets is further subject to the following provisions to minimize and mitigate through-traffic in residential neighborhoods:

network connecting the same arterials; and

- iii. there is no likelihood that other public street connections will be developed in the future that would connect the arterials, whether because of topography limitations, existing development patterns, or other similar reason.

In circumstances where vehicular connections are disallowed per section (c) above, the planning board shall require that adequate right-of-way is reserved to permit the extension of the street for pedestrian, bicycle, emergency use, and potential vehicle connections as may develop in the future.

- (3) Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.
- (4) Street right-of-way widths shall not be less than:
 - a. Fifty (50) feet for marginal access street;
 - b. Fifty (50) feet for minor street;
 - c. Sixty (60) feet for collector street.

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- a. Where a determination is made that a proposed street connection will result in substantial increases in traffic volume and speed on the effected public streets, the planning board may require appropriate traffic calming solutions as set forth in the traffic calming ordinance. (Section 28-250) The department of public works (DPW) may by regulation and amendment to the technical and design standards establish standards for determining what is a "substantial increase in traffic volume and speed"; and
- b. In any circumstances where a street connection is allowed, the planning board may condition subdivision approval to require the developer to monitor future traffic patterns to determine whether, using existing traffic calming standards, new or additional traffic calming measures should be employed. The extent and design of traffic calming shall be determined by the DPW to mitigate the post development impact of connecting new and existing streets.

In cases where post development monitoring shows that increased traffic volume and speed is such that further traffic calming would be insufficient to mitigate traffic negative impacts of through-traffic, the DPW may require that the connection be modified to exclude regular vehicular traffic, while retaining bicycle, pedestrian, and where needed, emergency vehicle connections. The DPW shall develop typical standards and specifications for bicycle, pedestrian, and emergency vehicle connections and/or turnarounds.

- c. Where a determination is made by the DPW that a proposed street connection will result in substantial increases in traffic volume and speed on the affected public streets, the planning board may disallow a proposed street connection for vehicular purposes in favor of a connection for non-vehicular purposes in situations where a proposed residential street connection meets all of the following criteria:
 - i. the new street would result in the connection of two arterials; and
 - ii. the street would be located in a neighborhood where there is no existing public through-street

proposed subdivisions along existing, or dedicated, or platted streets where rights-of-way are inadequate shall provide additional land to meet the minimum standards.

- (5) Streets shall not occupy more land than needed to provide access nor create unnecessary fragmentation of the subdivision into small blocks. Streets will be designed to discourage outside traffic from traversing the development.
- (6) All dead-end streets shall provide for a cul-de-sac or, in the case of a dead-end street which will be extended, a temporary turn-around at the end of the street, subject to the approval of the public works authority.
- (7) The minimum roadway width including esplanades and sidewalks shall be:
 - a. Fifty (50) foot right-of-way, street pavement width, curbing, sidewalk width and esplanade width to conform to the requirements contained within the City of Portland technical and design standards and guidelines manual.
 - b. Sixty (60) foot right-of-way, street pavement width, curbing, sidewalk width and esplanade width to conform to the requirements contained within the City of Portland technical and design standards and guidelines manual.
 - c. Street right-of-way on the islands in Casco Bay shall comply with article III of chapter 25.
- (8) Sidewalks and curbs:
 - a. Sidewalks shall be constructed on each side of each street in accordance with article III of chapter 25. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic, with preference given to interior walks away from streets in common open space in block interiors.
 - b. Curbs shall be constructed on each side of each street. The curbing shall be constructed as provided in article VI of chapter 25.
- (c) *Street design:*

- (1) Profiles of each street or way in the subdivision shall be shown on the subdivision plat. They shall be drawn to a longitudinal scale of forty (40) feet to one (1) foot and a vertical scale of four (4) feet to one (1) inch. Such profiles shall include separate profiles of each side line and center line of the street or way. Any buildings abutting on the street shall be shown in standard engineering format as requested by the public works authority.
- (2) Street grades in all proposed subdivisions shall be subject to the approval of the public works authority.
- (3) The public works authority shall establish the sequence in which work is to be accomplished. Where it is determined by the public works authority that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section and of chapter 25, the director of parks and public works or an inspector from the public works authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the director of parks and public works or an inspector from the public works authority. Violation of the stop work order shall be considered an offense.
- (d) *Street and subdivision names:*
 - (1) Street names for all subdivisions shall appear on the subdivision plat and be subject to approval by the planning board.
 - (2) Subdivision names for plats shall be subject to approval by the planning board and not duplicate the name of any plat already recorded.
- (e) *Exception for private streets within PRUD's and manufactured housing parks.* Private streets within PRUD's and manufactured housing parks shall be exempt from the street right-of-way and roadway width requirements set forth above, provided that no such street shall be accepted by the city unless it is first improved to the standards set forth above at the

expense of those persons requesting the street acceptance. Private streets within a PRUD or a manufactured housing park shall meet specifications established by the public works department. All private streets shall be designed by a professional engineer and shall be built according to accepted engineering standards.

(f) *Sewers and storm drains:*

- (1) The design of all sewers and storm drains shall be subject to approval by the public works authority.
- (2) All subdivisions shall be provided with adequate storm drain systems within the subdivision separate from any sanitary sewer system required in article III of chapter 25.
- (3) Any natural or manmade areas, systems or facilities designated for stormwater control purposes and intended for city maintenance shall, except for detention or retention ponds or basins and regularly free-flowing watercourses, be structurally enclosed in accordance with the standards of the public works authority, and shall be dedicated with sufficient land for maintenance purposes. Warranty deeds to such areas shall be submitted for acceptance by the city council at the same time as the acceptance of streets. All such areas as are not intended for city maintenance shall be permanently protected and maintained by private agreement, deed covenant or restriction, as appropriate, in form approved by the corporation counsel.
- (4) The approval of the plumbing inspector is required for all subdivisions involving the use of septic tanks and drainage fields for sewage disposal.
- (5) The subdivider shall be responsible for the construction of all sewers and storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by the public works authority. All work shall be in accordance with public works specifications.
- (6) The public works authority shall establish the sequence in which work is to be accomplished. Where it is determined by the public works authority that work has

been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section and of chapter 24, the director of parks and public works or an inspector from the public works authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the director of parks and public works or an inspector from the public works authority. Violation of the stop work order shall be considered an offense.

(g) *Blocks:*

- (1) A maximum block length of eight hundred (800) feet, measured from the nearest street lines of intersecting streets, shall be observed except where, in the opinion of the planning board, conditions justify a departure from this standard. In general, block size should be the maximum consistent with the use and shape of the site and the convenience and safety of the occupants.
- (2) In blocks exceeding eight hundred (800) feet in length, measured from the nearest street lines of intersecting streets, the planning board may require where feasible the reservation of a twenty (20) foot wide easement to the city through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4) foot wide paved foot path be included.
- (3) The length, width and shape of blocks shall be determined on the basis of:
 - a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
 - b. Zoning requirements as to lot sizes, setbacks and dimensions;
 - c. Needs for convenient access, circulation, control and safety of street traffic;
 - d. Limitations and opportunities of topography.

- (4) Blocks with lots having double frontage on streets shall be avoided.
- (5) The foregoing dimensions may be adjusted by the planning board where type of use or topography requires such modification.
- (h) *Lots:*
 - (1) Lot sizes shall conform to the zoning ordinance in article III of this chapter and the city health code.
 - (2) Where easements for public utilities, storm or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.
 - (3) Lots which are reserved or laid out for business, commercial or industrial purposes shall have sufficient width and depth to accommodate the off-street parking and loading facilities required for the type of use and development contemplated, as established in article III of this chapter.
 - (4) Where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines).
- (i) *Public open space:*
 - (1) In all subdivisions open space may be provided for parks, recreational and other public areas. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under section 14-497(a), general requirements, the planning board may require provision of land for park or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this section, subject to the approval of the planning board.
 - (2) If a tract or parcel is intended for public ownership and is so designated on the subdivision plat, the acceptance of such land shall be first recommended by the various

*Editor's note--Ord. No. 66-88, adopted July 18, 1988, amended § 14-498 by adding subsections (c)(3) and (f)(6). The ordinance further provided as follows:

Be it further ordained and determined by the city council that the above amendments are necessary in order to prevent further work being done which is not in accordance with City technical standards. Therefore, this enactment shall take effect immediately as an emergency pursuant to Article II, Section 8 of the Charter and shall further apply to all pending proceedings, applications, petitions and to all projects which have work that remains to be completed at the date of enactment of these amendments.

Sec. 14-499. Required improvements.

Prior to the release of the approved recording plat the subdivider shall file a guarantee as hereinafter provided, and prior to release of such guarantee the subdivider shall have completed all improvements as follows:

- (a) All streets shall be graded in conformity with the requirements set out in section 14-498 and in accordance with article III of chapter 25.
- (b) On all streets, side streets, and alleys, a suitable hard surfaced permanent pavement shall be installed meeting the requirements set forth in article III of chapter 25.
- (c) Water, gas and sanitary sewer mains and storm drains shall be constructed prior to the installation of paving with all mains being extended from all lots having sufficient stub outs to avoid subsequent breaking of pavement.
- (d) Sidewalks and curbs shall be constructed as required in section 14-498.
- (e) Adequate storm drains shall be constructed subject to the provisions of section 14-496 and in accordance with the department of public works specifications.
- (f) A total of two (2) trees per lot, which shall be street trees, shall be planted near the street line in full public view on private property, as directed by the city arborist pursuant to "Arboricultural Specifications and Standards of Practice" contained in the public works authority's "Technical and Design Standards." Existing

healthy trees may be credited toward this requirement, subject to the approval of the city arborist.

- (g) Permanent markers will be set as prescribed by the public works authority.
- (h) All utility lines shall be placed underground unless otherwise approved by the planning board.
- (i) Street lighting shall be installed in accordance with the standards of the public works authority.
- (j) A public water supply shall be installed subject to the approval of the Portland Water District.
- (k) Erosion control measures shall be taken both during and after construction in accordance with the standards of the public works authority.

(Code 1968, § 603.10; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 9, 2-18-87; Ord. No. 105-87, § 1, 10-19-87)

Sec. 14-499.5. Additional requirements for manufactured housing parks.

All manufactured housing parks and subdivisions as defined in section 14-47 shall meet the requirements for residential subdivisions established by this article, the site plan and the zoning ordinance, in addition to the following requirements for manufactured housing parks:

- (a) The entire development shall be properly screened from abutting neighborhoods and uses. Such screen shall consist of plantings, or a combination of earth berm and plantings, not less than three (3) feet in width and six (6) feet in height at the time of initial occupancy of such development, and shall be set back on corner lots so as to comply with section 14-434. Individual shrubs or trees, as approved by the city arborist, shall be planted so as to establish a dense visual screen year round. At least fifty (50) percent of the plantings shall consist of evergreens. Such screen shall thereafter be permanently maintained in a condition meeting the specifications and intent of this subsection. In cases where such screen areas are to be separately owned, the

deed of conveyance shall contain a requirement that the grantee shall likewise maintain the screen area. Such requirement shall be in a form acceptable to the corporation counsel. Any area intended to be owned and used in common shall thereafter be maintained by a permanent organization as set forth in section 14-498(i)(3). Existing vegetation may substitute for new plantings if it forms an acceptable dense visual screen consistent with the intent of this subsection.

- (b) All manufactured housing units and any accessory structure within such development shall be located at least fifty (50) feet from any external property boundary of the development where the proposed park density is two (2) or more times greater than the density of residential development on adjacent parcels or the maximum permitted density of adjacent vacant parcels.
- (c) All units within such development shall be set back from any existing collector or arterial street, as defined in section 14-493, in accordance with the setback provisions for the underlying zone.
- (d) All fuel oil supply systems shall be constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- (e) All trash containers, bottled gas tanks, storage sheds, utility meters, or other similar items or accessory structures except parking garages, shall be located and suitably screened by plantings or fencing so as not to be clearly visible from the street or abutting properties.
- (f) All manufactured housing units shall be placed either on a foundation which forms a complete enclosure under exterior walls, or on suitable blocks on a foundation pad, in which case the unit shall be boxed or skirted with suitable material designed for such use.
- (g) All manufactured housing units shall be properly installed, blocked and leveled or affixed to a foundation wall, so as to rest on the wheels used to transport the unit. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation.

- (h) Notwithstanding the provisions of sections 14-498 and 14-499, private roads within a manufactured housing park shall be a minimum of twenty-three (23) feet wide, with a minimum pavement width of twenty (20) feet.

(Ord. No. 611-82, § 1, 7-7-82; Ord. No. 358-84, § 1, 12-17-84; Ord. No. 201-89, § 2, 12-18-89)

Sec. 14-500. Additional requirements for nonresidential subdivisions.

All nonresidential subdivisions must meet the requirements for residential subdivisions established by this article, the site plan in article V of this chapter and the zoning ordinance in article III of this chapter, in addition to the following considerations, except as waived by the planning board due to the commercial or industrial nature of the development:

- (a) Proposed industrial parcels shall be suitable in area and dimensions to the commercial or industrial development anticipated.
- (b) Street rights-of-way and pavement shall be adequate to accommodate the type, weight and volume of traffic anticipated to be generated.
- (c) The design and installation of public utilities including water, sewers and storm water drainage, shall be adequate to accommodate the anticipated usage.;
- (d) Streets carrying truck traffic shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

(Code 1968, § 603.11; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-501. Performance and defect guarantees; engineering review, inspection fees and administrative fees.

- (a) The performance guarantee shall be a letter of credit or escrow account with a responsible financial institution or the deposit, with the finance department of the city, of a sum required for the guarantee. (The city shall hold such funds in a noninterest bearing account until the completion of all of the improvements.) The performance guarantee shall be in the name of the city and

shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency.

(b) Performance guarantees shall be required to ensure the fulfillment of all improvements as required by section 14-499, as well as the requirement in article III of chapter 25 that the subdivider shall give to the city, prior to the release of the performance guarantee a warranty deed (with metes and bounds description) to the property within each street within the subdivision, as well as delivery to the city of the warranty deeds to all other improvements intended for city maintenance. Such guarantee shall specify the completion date of the improvements required in the subdivision and the delivery date to the city of such deed or deeds prior to the expiration of the performance guarantee. The performance guarantee shall be for a term not less than one (1) year. Furthermore, the performance guarantee shall be released only upon the completion, to the satisfaction of the city, of the public improvements and the tendering of a defect guarantee as required in subsections (e) and (f).

(c) The guarantee shall be equal in value to one hundred (100) percent of the estimated cost of the improvements as determined by the public works authority and the planning authority. The guarantor shall not be released from the guarantee except by a release in writing from the public works authority and the planning authority.

(d) Performance guarantees may be reduced periodically by the public works authority and the planning authority in the manner provided herein. Upon request, but in no event more than three (3) times in any calendar year, the developer shall be eligible to receive reductions in the performance guarantee equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced (1) by less than one hundred thousand dollars (\$100,000.00) or fifty (50) percent of the initial amount of the performance guarantee, whichever is less, at any one (1) time; or (2) in any line item where improvements remain to be completed; or (3) to a value which is less than the estimated cost of completing all remaining prescribed improvements for which a performance guarantee is required by section 14-525(j) as determined by the public works authority. Notwithstanding any other provision of this section, no performance guarantee shall be reduced to less than the amount of the defect guarantee to be

posted upon completion of the improvements.

(e) Upon the satisfactory completion of the subdivision's prescribed improvements, excepting tree planting and other landscaping if in the opinion of the city arborist the installation of such plantings is not feasible due to weather conditions, and following the city's receipt of the warranty deeds referred to in (b) above, the subdivider shall file a defect guarantee with the city. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the roadways, curbing, esplanades, sidewalks, sanitary sewerage systems (including manholes and house drain laterals), storm drainage systems (including manholes, catch basins and catch basin drains), street lighting, tree planting, other appropriate landscaping and all other public improvements which may become defective within one (1) year period, all as determined by the public works authority. The defect guarantee shall also ensure the proper installation of any required tree plantings or landscaping which were not installed prior to the filing of the defect guarantee during the next appropriate planting season, as determined by the city arborist. The defect guarantee shall be filed prior to the release of the performance guarantee and it shall not expire between October 30 and April 15 of the following year.

(f) The defect guarantee shall be a letter of credit or escrow account with a responsible financial institution or the deposit, with the finance department of the city, of a sum required for the guarantee (the city shall hold such funds in a noninterest bearing account until the completion of all of the improvements), equal in value to ten (10) percent of the estimated cost of public improvements. It shall be in the name of the city and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency. A guarantee which contains appropriate terms and conditions to cover both the performance and defect guarantee provisions as specified in subsections (a)--(e) above is an acceptable form of guarantee.

(g) A performance guarantee and defect guarantee shall also be required to ensure the completion of all improvements as required by section 14-499.5, as well as all improvements for the circulation, recreation, landscaping, light, air, drainage and service needs of a planned unit development which are not subject to section 14-501(b). For purposes of this subsection, sections 14-501(c) and (d) shall also apply. The planning authority may

waive all or any portion of this requirement if it determines that the developer has a proven record of satisfactory performance and sufficient financial capability.

(h) At the same time that the developer posts a performance guarantee, the developer shall also pay to the city the subdivision inspection fee equal to two (2) percent of the estimated costs of improvements required by this article, with actual inspection costs in excess of two (2) percent invoiced by the city at the completion of the project or as deemed necessary by the city. If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the city shall be required.

(i) The developer shall also pay a fee to cover the engineering review costs and administrative costs to be incurred by the city. The fee shall be based upon the actual hours of review time and prevailing hourly rate for reimbursement of city costs, and shall be invoiced periodically by the city.

No land use permits or applications of any kind shall be processed, reviewed or issued, no signed subdivision plats shall be released or recorded, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this ordinance unless all charges due under this ordinance have been paid and the developer is otherwise in compliance with the city code. No performance guarantee shall be released until all fees generated by the project are paid to the city, including but not limited to engineering, inspection and administrative fees as provided in section 14-525.

(Code 1968, § 603.12; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 611-82, §§ 2, 3, 7-7-82; Ord. No. 127-87, § 10, 2-18-87; Ord. No. 524-87, §§ 1, 2, 5-18-87; Ord. No. 122-91, § 1, 9-16-91; Ord. No. 262-96, §§ 1, 2, 5-20-96; Ord. No. 227-00, §2, 5-15-00)

Sec. 14-502. Extension of the guarantee period.

When the subdivider constructs improvements for which a performance guarantee is required and the public works authority has reasonable doubt concerning the stability or proper construction of such improvements, the subdivider shall be required to do such further work on the improvements as the public works authority shall order before the improvements will be accepted by the city. If the subdivider's current performance guarantee shall

expire before the extent or necessity for such further work can be determined, the subdivider shall be required to extend his or her guarantee covering such improvements, or secure a new guarantee, for such further period and in such amount as the public works authority shall deem necessary.

(Code 1968, § 603.13; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 11, 2-18-87)

Sec. 14-503. Sale of partially completed subdivisions.

The purchasing party or other succeeding owner of a subdivision for which a recording plat has received prior approval shall assume full responsibility for completion of the subdivision's improvements until acceptance of such improvements by the city. The purchaser or other succeeding owner of an unaccepted subdivision shall be required to comply with all the provisions of this article as if he were the original subdivider, and shall become responsible for completing such improvements in the same manner as the original subdivider.

(Code 1968, § 603.14; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-504. Enforcement, conveyance, markers and recording.

(a) No person may sell, lease, develop or build upon or convey for consideration, offer or agree to sell, lease, develop or build upon or convey for consideration any land in a subdivision unless the subdivision has been approved by the planning board, and unless a recording plat showing permanent marker locations at all lot corners has been recorded in the county registry of deeds.

(b) The term permanent marker is limited to the following: A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the public works authority. No subdivision plan shall be recorded by the registry of deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received planning board approval.

(c) Any person who sells, leases, develops or builds upon or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be punished by a

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fine of not more than five hundred dollars (\$500.00) for each such occurrence. The city may institute proceedings to enjoin any violation of this section.

(d) Notwithstanding the foregoing, alterations may be made to a site with a pending subdivision application if:

- (1) At minimum, a performance guarantee for the proposed site alterations has been posted and final site plans have been submitted to the planning authority; and
- (2) Written permission has been received from the director of planning and urban development or his designee that such site alterations may proceed pending subdivision approval. Such permission is solely within the discretion of the director of planning and urban development and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the subdivision application. An erosion control plan shall also be submitted when deemed necessary by the planning authority. Such written permission shall not be required when the only work proposed is the digging of test pits.

(Code 1968, § 603.15; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 95-01/02, 11-5-01)

Sec. 14-505. Appeals.

An appeal from any final decision of the planning board regarding subdivision approval may be taken by the applicant or his authorized agent to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(Code 1968, § 603.16; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-506. Modifications.

(a) Except for the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, the planning board if it finds that extraordinary conditions exist or that undue hardship may result

from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

(b) Where the planning board or planning authority finds that, for each of the requirements listed below, two or more of the conditions exist with respect to compliance with the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and/or sidewalks, it may waive, in whole or in part, the regulations so that substantial justice may be done and the public interest secured:

Sidewalks-

1. There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.
2. There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.
3. A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.
4. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
5. The street has been constructed or reconstructed without sidewalks within the last 24 months.
6. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

Curbing-

1. The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.
2. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
3. The street has been rehabilitated without curbing in the last 60 months.
4. Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.
5. Runoff from the development site or within the street does not require curbing for stormwater management.

In no event shall the waiver have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose of policies of the land development plan relating to transportation and pedestrian infrastructure and the regulations of this article.

At its discretion, the planning authority may refer any petition for a waiver from the curb and sidewalk requirement to the planning board for decision.

(c) The standards and requirements of this article may be modified by the planning board in the case of a plan and program for a planned unit development which in the judgment of the planning board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the land development plan.

(d) If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the project engineer and the public works authority that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the public works authority may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the planning board.

(Code 1968, § 603.17; Ord. No. 158-68, § 10, 5-6-88; Ord. No. 149-79, 6-6-79; Ord No. 41-84, §§ 2, 3, 6-18-84; Ord. No. 204-02/03, 5-29-03)

Sec. 14-507. Conditions.

In granting variances and modifications, the planning board and city council may require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirement so varied or modified.

(Code 1968, § 603-18; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79; 6-6-79)

Sec. 14-508. Exemptions.

(a) This article does not apply to subdivisions approved prior to June 6, 1979, nor to subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in registry of deeds prior to June 6, 1979.

(b) A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this article, or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.

(Code 1968, § 603.19; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-509. Reserved.

Sec. 14-510. Reserved.

Sec. 14-511. Reserved.

Sec. 14-512. Reserved.

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

[Date]

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

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

_____ (“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 Development and in his 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 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 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 shall expire on [Insert date between April 16 and October 30 of the following year] ("Expiration Date"). 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 Duane Kline, 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 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 Development and in his 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:

- Sec. 14-513. Reserved.**
- Sec. 14-514. Reserved.**
- Sec. 14-515. Reserved.**
- Sec. 14-516. Reserved.**
- Sec. 14-517. Reserved.**
- Sec. 14-518. Reserved.**
- Sec. 14-519. Reserved.**
- Sec. 14-520. Reserved.**

ARTICLE V. SITE PLAN*

***Editor's note--**Ord. No. 355-89, adopted July 17, 1989, amended Art. V, site plan, in its entirety, in effect repealing former §§ 14-521--14-530 and enacting similar new provisions in lieu thereof as §§ 14-521--14-528. The ordinance was enacted as an emergency in order for the Planning Board to have the necessary tools to protect the health, safety and welfare of the citizens and further provided that such amendments would be applicable to any alterations, modifications, revisions, amendments or filed changes to any previously approved site plan as provided in the article but would not be construed to invalidate any prior approval. Formerly, Art. V derived from §§ 604.1--604.6, 604.7.B, 604.8 and 604.9 of the city's 1968 Code, as amended by the following:

Ord. No.	Section	Date	Ord. No.	Section	Date
348-74		5-20-74	316-87	1	3- 4-87
442-78		8- 7-78	524-87	3-5	5-18-87
691-81		5-19-81	365-88		5- 4-88
88-84	2--6	7-16-84	301-88		5-31-88
292-84	1	11-19-84	67-88		7-18-88
294-84	1	11-19-84	96-88	2	7-19-88
359-84	1	12-17-84	97-88		7-19-88
370-85	1--3	1-21-85	98-88		7-19-88
128-87	1	2-18-87			

Sec. 14-521. Purposes.

(a) In an era of increasing complexity in urban life, the development of private land can have a profound impact upon the cost and efficiency of public services and upon those facilities and environmental qualities conducive to the well-being of citizens, such as open space and the efficiency and safety of vehicular and pedestrian movement. While the regulations of the zoning ordinance in article III of this chapter and the subdivision ordinance in article IV of this chapter may be sufficient to advance those objectives and to protect the health, safety, convenience and general welfare of the citizens of the city where development involves only the construction of single- and two-family dwellings, those regulations need to be supplemented when development involves commercial, retail, industrial, institutional uses or multiple-family residential development.

(b) Therefore, in order to further the purposes set forth in section 14-46; to ensure that those purposes will not be frustrated by increasingly complex urban growth; to require the use of the best planning by private developers in an age where there is available sophisticated technology in building and design; to promote the growth of the city in a manner that will provide its citizens with a safe, healthy and beneficial environment, including minimizing the effects of traffic, noise, dust and other pollution, and to protect property values and thereby secure the fiscal base for public services, this article is hereby enacted.
(Ord. No. 355-89, 7-17-89)

Sec. 14-522. Definitions.

For the purposes of this article all terms and words shall have their ordinary meanings, except as defined herein.

Approval by any board or department under this article shall include any approval with conditions.

Building addition means any attached structure which increases the total floor area of the structure.

Change of use means and includes any change in use from any use listed in article III, section 14-463(e) to any other use.

Construction means any act of building and includes, but is not limited to, the creation of any new parking area and the paving or expansion of any existing parking areas.

Development means and includes any construction or change of use which is either major or minor development.

Major development means and includes:

- (a) The construction of any new structures having a total floor area of ten thousand (10,000) square feet or more in all zones except the I-L, I-Lb, I-M, I-Mb, I-H or I-Hb zones or twenty thousand (20,000) square feet or more in the I-L, I-Lb, I-M, I-Mb, I-H or I-Hb zones;
- (b) The construction of any surface parking area(s) for more than seventy-five (75) vehicles except in the case of temporary parking;
- (c) The construction of any building addition(s), cumulatively having either a total floor area of ten thousand (10,000) square feet or more or which is larger than the original structure, within any three-year period; or
- (d) A change in the use of a total floor area of ten thousand (10,000) square feet or more in any existing building cumulatively within any three-year period; or
- (e) The construction of any structure for industrial use which is more than forty-five (45) feet high;
- (f) The addition of any additional dwelling unit to a building initially reviewed as a two-family dwelling or not previously reviewed under this article;
- (g) The construction of any new major or minor business in the B-2 or B-5 zone, or the construction of any new major or minor business with a structure greater than ten thousand (10,000) square feet of building area in any other permitted zone; or
- (h) Correctional prerelease facilities.

Minor development means and includes any of the following unless (1) the development is major development; or (2) the development is single-family development subject to the provisions of section 14-524(b):

- (a) The construction of any new structures having a total floor area of less than ten thousand (10,000) square feet in all zones except the I-L, I-Lb, I-M, I-Mb, I-H or I-Hb zones or less than twenty thousand (20,000) square feet in the I-L, I-Lb, I-M, I-Mb, I-H or I-Hb zones;
- (b) The construction of any parking area;
- (c) The construction of any temporary parking area or paving of any existing surface parking area(s) in excess of one thousand (1,000) square feet cumulatively within a three-year period;
- (d) The construction of any building addition(s) having a total floor area of up to ten thousand (10,000) square feet cumulatively within a three-year period;
- (e) The alteration of a watercourse, drain or swale;
- (f) A change in the use of a total floor area of between five thousand (5,000) and ten thousand (10,000) square feet in any existing building cumulatively within any three-year period;
- (g) When vehicle access is proposed from more than one (1) street;
- (h) Multiple-family development;
- (i) Two-family dwellings;
- (j) Lodging houses;
- (k) Emergency shelters;
- (l) Special needs independent living units;
- (m) Construction or installation of any signage for which approval is sought pursuant to section 14-526(a)(23);

- (n) The construction of any new major or minor auto service station with a structure of less than ten thousand (10,000) square feet of building area in any permitted zone other than the B-2, or B-5 zones;
- (o) The creation of day care facilities or home babysitting services not permitted as a home occupation under section 14-410 in any principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, where such facilities serve more than twelve (12) children;
- (p) Bed and breakfast.

Multiple-family development means and includes the construction or creation of three (3) or more dwelling units on any parcel of land or the addition of two (2) or more dwelling units cumulatively within a three-year period.

Owner means any person that has any interest, legal or beneficial, in any parcel proposed for development.

Site means and includes all contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.

Temporary parking means and includes the parking of vehicles permitted by a temporary certificate of occupancy for a limited period of time in anticipation of future development.

(Ord. No. 355-89, 7-17-89; Ord. No. 95-89, § 3, 9-6-89; Ord. No. 232-90, § 1, 2-21-90; Ord. No. 286-90, § 3, 4-2-90; Ord. No. 33-91, § 15, 1-23-91; Ord. No. 33A-91, § 9, 4-17-91; Ord. No. 253-94, § 1, 4-4-94; Ord. No. 39-96, § 6, 10-7-96; Ord. No. 134-96, 11-18-96; Ord. No. 154-96, 12-16-96; Ord. No. 154A-96, 12-16-96; Ord. No. 125-97, 3-3-97; Ord. No. 126-98, § 1, 10-19-98; Ord. No. 94-99, 11-15-99; Ord. No. 51-00, §4, 8-7-00)

***Editor's note--**Ord. No. 95-89, § 3, adopted Sept. 6, 1989, amended § 14-522 by adding subparagraph (f) to the definition of major development and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."

Sec. 14-523. Approval required.

No person shall undertake any development without obtaining a site plan improvement permit under this article.

- (a) Major development shall require the approval of the Planning Board, except as otherwise expressly provided by this article.
- (b) Minor development shall require the approval of the planning authority only, except as otherwise expressly provided by this article.
- (c) Those approvals required by section 14-524(b) shall require the approval only of the building authority.
- (d) The planning authority shall exempt from review under all standards in this article developments that meet all of the following requirements:
 1. The proposed development will be located within existing structures, and there will be no new buildings, demolitions, or building additions other than those permitted by subsection 2 of this subsection;
 2. Any building addition shall have a new building footprint expansion of less than five hundred (500) square feet;
 3. The proposed site plan does not add any new curb cuts, driveways, or parking areas; the existing site has no more than one (1) curb cut and will not disrupt the circulation flows and parking on-site; and there will be no drive-through services provided;
 4. The curbs and sidewalks adjacent to the lot are complete and in sound condition, as determined by the public works authority, with granite curb with at least four-inch reveal, and sidewalks are in good repair with uniform material and level surface and meet accessibility requirements of the Americans with Disabilities Act;

5. The use does not require additional or reduce existing parking, either on or off the site, and the project does not significantly increase traffic generation;
6. There are no known stormwater impacts from the proposed use or any existing deficient conditions of stormwater management on the site;
7. There are no evident deficiencies in existing screening from adjoining properties; and
8. Existing utility connections are adequate to serve the proposed development and there will be no disturbance to or improvements within the proposed right-of-way.

A developer claiming exemption under this subsection shall submit an application for exemption, detailing the site plan with dimensions of proposed improvements and distances from all property lines, and stating that the proposal meets all of the provisions in standards 1 through 8 of this subsection. Upon receipt of such an application, the planning authority will visit the site to verify that the exemption is applicable due to compliance with the standards. The planning authority, after consultation with the public works authority, shall render a written decision within twenty (20) working days after receipt of an application for exemption that contains all the information required by this subsection. If a full exemption is granted, the application shall be approved without further review under this article, and no performance guarantee shall be required. The planning authority may require full site plan review of a project that meets the criteria of this subsection if it determines that there is a substantial public interest in the project. In the event that the planning authority determines that standards a. and b. of this subsection and at least four (4) of the remaining standards have been met, the planning authority shall review the site plan under the review standards in section 14-526 that are affected by the standards in this subsection that have not been met. An application that receives review by the Planning Board shall receive a complete review under the standards of section 14-526. The planning authority

shall notify an applicant in writing that full or partial site plan review is required, the reasons for the decision, and the information that will be required for site plan review.

(Ord. No. 355-89, 7-17-89; Ord. No. 62-97, § 1, 8-18-97; Ord. No. 51-00, §5, 8-7-00; Ord. No. 227-01, 4-2-01)

Sec. 14-524. Application.

(a) This article shall apply to all proposals for development throughout the city, except proposals for development of detached single- and two-family dwellings and uses customarily accessory thereto on lots described on a recorded subdivision plat approved on or after June 5, 1968 (hereinafter an "exempt subdivision"). This article shall apply to any exempt subdivision where the Planning Board conditioned subdivision approval upon site plan approval of individual sites within the subdivision.

(b) With respect to all development of detached single-family dwellings and uses customarily accessory thereto on lots described in any subdivision which is not an exempt subdivision, such development shall be deemed minor development for purposes of this article regardless of its size. Development in a nonexempt subdivision shall not be subject to review under the standards set forth in section 14-526(a)(2), (3), (4), (6), (7), (9), (10), (12), (13), (14), and (15), except as provided in article III, or to conditions imposed under section 14-526(c) only, or to those submission requirements set forth in section 14-525 as relate solely thereto, but shall be exempt from the performance guarantee and inspection fee provisions set forth in section 14-525, except as provided by section 14-403. Except as provided herein, such development shall otherwise be fully subject to the provisions of this article.

(c) The city council may from time to time establish by order, reasonable application fees to defray the costs of administering this article.

(Ord. No. 355-89, 7-17-89; Ord. No. 232-90, § 2, 2-21-90)

Sec. 14-525. Final site plan.

(a) *Filing.* Every application submitted to the building authority for site plan approval shall be accompanied by seven (7) blue or black line copies of the proposed site plan and seven (7) copies of the written statement required by this section. Any

proposed revisions to that site plan and any amended statement(s) shall be filed in the same way as any original submission. The building authority shall make a preliminary review for compliance with article III of this chapter. If the preliminary review results in a determination that the application is in compliance, and contains all of the required information as provided in subsections (b) and (c) below, the proposed site plans and statements, or applicable component plans and statements, shall be transmitted forthwith to the authorities and departments for their review. A copy of the site plan and statements shall be retained by the building authority. Additional copies of any plan shall be furnished by the applicant if requested by any authority or department. Neither the acceptance of any application nor any determination or approval hereunder shall authorize the issuance of a permit under chapter 6 for any use which would violate the provisions of article III of this chapter.

Notwithstanding the submission of a complete application, any applicant shall delineate on the plan or supply such other information, studies or reports from qualified professionals when determined by the Planning Board or the planning authority to be reasonably necessary to make any of the determinations required by this article, or to impose or effectuate conditions which may be imposed pursuant to section 14-526 including, without limitation: a drainage plan showing the proposed contours at the same intervals as the site plan, drainage patterns and facilities, and those erosion and sedimentation control measures and devices to be employed either during construction and as part of the final development; a parking study; a traffic study; a noise study; an environmental impact study; a sun shadow study; a study of particulates, dust and any other noxious emissions; an analysis of wind impacts on surrounding properties; a study of any potential large scale water vapor emissions; a groundwater impact assessment; a high intensity soil survey; and a wetlands delineation.

The applicant shall submit such additional required information within one hundred twenty (120) days after the Planning Board or planning authority requests such information.

Failure to submit such information within one hundred twenty (120) days of the date upon which the request was made shall cause the application to expire and be deemed null and void.

(b) *Contents.* Any final or proposed site plan for a major or minor development shall include:

- (1) A standard boundary survey prepared by a registered land surveyor at a scale of not less than one (1) inch to one hundred (100) feet and shall set forth:
 - a. Name and address of the applicant and name of the proposed development;
 - b. Scale and north points;
 - c. Boundaries of the site;
 - d. Total land area of the site;
 - e. Topography, showing pre-development grade on the islands or existing and proposed contours at intervals of not more than two (2) feet or, in the case of a minor site plan, at intervals determined by the public works authority to be sufficient to properly evaluate existing and proposed drainage patterns and systems;

- (2) Plans and maps prepared by competent professionals, based upon the boundary survey, including the following additional information:
 - a. Existing soil conditions;
 - b. Location of watercourses, wetlands, rock outcroppings and wooded areas within the project site, and the nature, width and location of proposed easements, rights-of-way, culverts, catch basins or other means of channeling surface water within the development and over adjacent properties, and all proposed buffer strips;
 - c. Location, ground floor area and grade elevations of building and other structures existing and the location, ground floor area and grade of any proposed buildings and structures, and the elevation drawings of exterior facades, and materials to be used;
 - d. Approximate location of buildings or other structures on parcels abutting the site;

- e. Location of on-site solid waste receptacles, public utilities, water and sewer mains, culverts, drains, existing and proposed; showing size and direction of flows;
- f. Location, dimensions and ownership of easements, public or private rights-of-way, both existing and proposed;
- g. Location and dimensions of on-site pedestrian and vehicular accesses, parking areas, loading and unloading facilities, designs of ingress and egress of vehicles to and from the site onto public streets, and curb and sidewalk lines;
- h. Landscape plan showing location, type, quantity and approximate size of plantings, areas of existing vegetation to be preserved, preservation measures to be employed, and details of planting and preservation specifications;
- i. Location and dimensions of all fencing and screening;
- j. Location and intensity of outdoor lighting system;
- k. Location of fire hydrants, existing and proposed;
- l. If a site falls within or in proximity to an area shown on the United States Department of the Interior National Wetlands Inventory or within or in proximity to an area indicating hydric soils as shown on the Soil Conservation Service Soil Survey of Cumberland County or shows other evidence of the existence of wetlands as defined by the Natural Resources Protection Act and based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, a copy of which is on file in the department of planning and urban development, a delineation of wetlands boundaries prepared by a qualified professional shall be included on the plan or a written statement from a qualified professional that no wetlands exist on the site shall be submitted with the site plan.

Development activities requiring written permits from federal or state agencies shall be submitted to the building authority prior to construction;

- m. Location of test pits and test borings;
 - n. Location and details of all temporary and permanent erosion and sedimentation control measures;
 - o. Size and location of all on-site storage containers for recyclable materials for any commercial or industrial property.
- (3) In the case of a change of use of an existing building, the planning authority or the board may waive required submissions as to the exterior of the building or to the lot if there are no exterior or outside changes proposed or required.

(c) *Written statements.* All site plans shall be accompanied by a written statement by the applicant that shall set forth the names and addresses of all owners of the parcels proposed to be developed and the estimated cost of the development. The applicant shall also provide written statements containing the following:

- (1) A description of the proposed uses to be located on the site, including quantity and type of residential units, if any;
- (2) The total land area of the site and the total floor area and ground coverage of each proposed building and structure;
- (3) General summary of existing and proposed easements or other burdens now existing or to be placed on the property;
- (4) The types and estimated quantities of solid waste to be generated by the development;
- (5) Evidence of the availability of off-site facilities including sewer, water and streets;
- (6) A narrative describing the existing surface drainage on

the site and a stormwater management plan indicating measures which will be taken to control surface water runoff;

- (7) A construction plan outlining the anticipated sequence of construction of the major aspects of the proposed project, including without limitation roads, retention basins, sewer lines, seeding and other erosion control measures, and pollution abatement measures, and also setting forth the approximate dates for commencement and completion of the project;
- (8) A list of all state and federal regulatory approvals to which the development may be subject, the status of any pending applications, and the anticipated time frame for obtaining such permits or that a determination of no jurisdiction from the agency will be requested;
- (9) Evidence of financial and technical capacity to undertake and complete the development including, but not limited to, a letter from a responsible financial institution stating that it has reviewed the planned development and would seriously consider financing it when approved, if requested to do so;
- (10) Evidence of the applicant's title, right, or interest in the property, including without limitation deeds, leases, purchase options or any other documentation;
- (11) A narrative describing any unusual natural areas, wildlife and fisheries habitats, or archaeological sites located on or near the project site and a description of the methods that will be used to protect such areas or sites;
- (12) Where submission drawings are available in electronic form, the applicant shall submit any available electronic CADD.DXF files with final plans.
- (13) All new commercial property and industrial development shall include a narrative description of the estimated amount and type of recyclable material generated on-site; the location, size and type of containers providing outdoor storage of recyclable materials; the manner and methods of timely removal of recyclable materials

generated on-site; and the screening and landscaping proposed to provide adequate buffering between the stored materials and remainder of site and neighboring properties. The applicant may provide any other information detailing its plan to address the temporary storage and timely removal of recyclables.

(d) *Approval or disapproval:* Upon receipt of an application for site plan approval for a structure that is ten thousand (10,000) square feet or more, but less than twenty thousand (20,000) square feet or more and located in the I-L, I-Lb, I-M, I-Mb, I-H or I-Hb zone, the planning authority shall send the same notice that would be required if the building were major development. The planning authority shall not approve such a development until at least ten (10) working days after such notice has been mailed. Within ninety (90) days after receipt of a complete final site plan or applicable component plans and accompanying statements for minor development, except a two-family dwelling which is not subject to the provisions of section 14-117(a)1, the planning authority shall approve or disapprove the plan and shall advise the building authority and applicant in writing of its action. The planning authority shall approve or disapprove a plan for a two-family dwelling which is not subject to the provisions of section 14-117(a)1 within thirty (30) days of receipt of a complete final site plan or applicable component plans and accompanying statements for minor development. Appeal from a disapproval of or any condition imposed upon such a two-family dwelling by the planning authority shall be taken to the Planning Board within thirty (30) days of the decision. When a site plan requires approval by the Planning Board, a public hearing shall be scheduled within ninety (90) days after receipt of a complete site plan, unless such time period is extended in writing by the applicant and the authority. The Planning Board shall notify the applicant in writing of its approval or disapproval of the project within thirty (30) days after the board's final vote to approve or disapprove the project.

(e) *Approved plan prerequisite to issuance of permits.* No building permit, certificate of occupancy or street opening permit shall be issued until a final site plan, or applicable components thereof, has been approved under this article and a copy of the approved site plan is filed in the office of the building authority and such permit is determined to be consistent with the plan and any conditions of approval. In the event of any inconsistency between the approved site plan and any permit issued, the approved

site plan shall control; provided, however, site plan approval shall not excuse failure to meet any independent requirement of any other law or ordinance.

(f) *Expiration of approval.* A site plan approved under this article shall expire twelve (12) months from the date of approval unless:

1. significant construction has been undertaken and building is ongoing. Any lapse in construction for a period in excess of twelve (12) months shall result in an expiration of the site plan; or
2. (a) For industrial, office and retail developments: prior to the expiration of the site plan, such other time period is agreed upon, in writing, by the planning authority and the applicant, not to exceed three (3) years from the date of approval;

(b) For all other development: prior to the expiration of the site plan, such other time period is agreed upon, in writing, by the planning authority and the applicant, not to exceed two (2) years from the date of approval;

Provided that such extensions may not be granted if changes to the City's zoning ordinance would render the development nonconforming in any respect or if changes in the subdivision or site plan ordinance or the Technical and Design Standards and Guidelines would otherwise significantly impact the approved site plan as determined by the Director of Planning and Urban Development.

Where the approval or any related land use approval granted to the same applicant by any agency of the city with respect to the same development is appealed to any court by an opponent of the development, the applicant shall be granted further extensions, beyond the expiration of said period, where the applicant has exercised due diligence with respect to defending such appeal, which extensions shall not last beyond one (1) year from entry of final judgment.

(g) *Amendments to approved plans for development.* If at any time before or during development the applicant requests minor

amendments to an approved plan for major development, the planning authority may approve such minor amendments under the procedures for minor development, provided that they do not amount to a waiver or substantial alteration of the site plan, do not change the developer, and do not affect any condition or requirement of the Planning Board. The applicant shall supply a written statement of the proposed amendment(s) and proposed amended plans to the planning authority, whose decision as to whether the amendment is minor shall be final.

(h) *Referral of plans to Planning Board.* If at any time before approval or disapproval of a plan for minor development, the planning authority determines that, due to its nature or location, the development should be reviewed by the Planning Board, the planning authority may refer the plan to the Planning Board, whose decision shall be substituted for the planning authority's unless it declines jurisdiction. The Planning Board may decline jurisdiction and refer the matter back to the planning authority at any public meeting, including a workshop.

(i) *Improvements made in accordance with public works standards.* All improvements which would otherwise be subject to the standards of the public works authority if the development were a subdivision within the meaning of article IV of this chapter shall be made or constructed in accordance with the technical and design standards promulgated by the public works authority pursuant to section 14-498(a). In applying said standards, the Planning Board or authority, as applicable, may vary or modify them as provided in section 14-506.

(j) *Site plan performance guarantee, improvement inspection fee, engineering review fee and administrative costs.* No land use permits or applications of any kind shall be processed, reviewed or issued, no signed subdivision plats shall be released or recorded, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this ordinance unless all charges due under this ordinance have been paid and the developer is otherwise in compliance with the provisions of the city Code.

(1) Performance guarantee

Following site plan approval and prior to the issuance of a building permit, the developer shall post with the city a performance guarantee in the form and amount specified in section 14-501 specifying the completion of the

required site plan improvements within two (2) years from the origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one (1) year, nor shall any performance guarantee expire between October 30 and April 15 of the following year. For residential development, improvements include, but are not limited to, sanitary sewers, storm drains, drainage and erosion control, catch basins, manholes, other improvements constructed chiefly below grade, curbing, paving, sidewalks, lighting, and landscaping. For nonresidential development the following shall not be included in the performance guarantee: paving, except driveways and parking areas that are to be used by members of the general public, utilities that are located within the site, except the connections to public utilities; transformers; manholes that are not located in a city right-of-way; or landscaping other than that which buffers a development from neighboring properties.

In the event that a development is abandoned, the performance guarantee may be utilized to stabilize, secure, and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading and fencing.

Prior to the release of the performance guarantee, the developer shall provide a one-year defect guarantee upon completion of the improvements, which shall not expire between October 30 and the following April 15. The amount of the defect guarantee shall be ten (10) percent of the amount of the performance guarantee.

(2) Inspection fee

At the same time that the developer posts a performance guarantee, the developer shall also initially pay to the city a site plan improvement inspection fee equal to two (2) percent of the estimated costs of required site improvements for which a performance guarantee is to be posted. At the conclusion of the project, and before a temporary or permanent certificate of occupancy is issued, the developer shall pay to the city the balance of any inspection fees actually incurred by the city in its review of the project. The minimum inspection fee for a single-family or two-family structure shall be one

hundred dollars (\$100.00) and for all other development shall be three hundred dollars (\$300.00). If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the city shall be required.

(3) Engineering and administrative fees

The developer shall pay a fee to cover the engineering review costs and administrative costs incurred by the city. The fee shall be based upon the hours of review time and prevailing hourly rate for reimbursement of city costs. The city shall periodically invoice the developer for the engineering and administrative costs incurred by the city, which invoice shall be paid promptly by the developer. The balance of any remaining engineering and administrative costs shall be paid in full by the developer prior to the issuance of any temporary or permanent certificate of occupancy.

(k) *Occupancy prior to completion of certain improvements.* Notwithstanding sections 14-463, 14-524(b) or any other provision of this Code, a certificate of occupancy may be issued for a development or portion of a development which has otherwise been completed in accordance with final site plan approval and all applicable provisions of this Code where the applicant submits a written request therefor to the planning authority and public works authority for their review and approval, stating those improvements which remain to be completed and the reasons why such improvements have not been completed. In no event shall any certificate of occupancy be issued (1) where conditions exist which would justify denial of a certificate of occupancy under chapter 6; or (2) where required improvements to the city right-of-way remain to be completed by the developer and any required lighting is not yet operational; or (3) all access roads and any other roads and driveways required for the building or building(s) for which the certificate(s) are requested have not been improved to a passable condition; or (4) a remaining balance for fees incurred by the city exists; or (5) the developer otherwise is in violation of the city Code. Where a certificate of occupancy is sought for a portion of any development prior to the completion of the entire development, the following standards shall be met, in addition to all applicable requirements set forth above, prior to the issuance of any certificate of occupancy:

- (1) Those parking areas required for the portion of the development for which a certificate of occupancy is sought shall be available for use. Alternative arrangements must be made on-site for parking for any periods during which such parking areas will not be available for use.
- (2) All foundation plantings and other landscaping required for the portion of a development for which a certificate of occupancy is sought shall be installed prior to the issuance of a certificate of occupancy. This requirement may only be waived where, in the opinion of the public works authority, landscaping improvements cannot practically be completed due to seasonal weather conditions.
- (3) No certificate of occupancy shall be issued to any portion of a residential development where, in the opinion of the building authority and the public works authority, the work required to complete the rest of the development will endanger the health or safety of inhabitants of the completed portion.

All improvements which are not completed prior to the issuance of any certificate of occupancy must be completed prior to the completion date specified in the performance guarantee required by section 14-525(j) or by the temporary certificate of occupancy, whichever occurs first. Where improvements which remain uncompleted are those which are exempted from the performance guarantee requirement in accordance with section 14-525(j), no certificate of occupancy shall be issued unless a performance guarantee is submitted for those items. When such a performance guarantee is posted, neither an inspection fee nor a defect guarantee shall be required and the performance guarantee shall be released as soon as all work is completed in accordance with the approved site plan. The developer shall be eligible to receive reductions in the performance guarantee equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced (1) by less than two hundred thousand dollars (\$200,000.00) or fifty (50) percent of the initial amount of the performance guarantee, whichever is less, at any one time; or (2) in any line item where improvements remain to be completed; or (3) to a value which is less than the estimated cost of completing all remaining prescribed improvements for which a performance guarantee is required by section 14-525(j) as determined by the public works

authority. Notwithstanding any other provision of this section, no performance guarantee shall be reduced to less than the amount of the defect guarantee to be posted upon completion of the improvements.

Where any person accepts a temporary certificate of occupancy and does not complete the improvements as specified in the certificate, the city is authorized to enter upon such property itself or through its agents or contractors to complete such improvements with no liability therefor and may recover the costs thereof through the mechanic's lien procedure for the improvement of real property to the extent that the guarantee may be inadequate.

(l) *Site plan revisions.* The site shall be developed and maintained as depicted in the site plan and 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 this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the public works authority as provided herein, by any authority or department shall authorize any such modification or alteration. Field changes by the public works authority are limited to minor variation necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the Planning Board.

(m) *Expiration of application.* A site plan application must be diligently pursued from the date of submission. The planning authority shall notify the applicant whether the application is complete. If an application is not complete, the written notice shall set forth those items which have not yet been submitted and that the applicant will have one hundred twenty (120) days to complete its application. An application for development which is not yet complete may be scheduled for an informational workshop session with the Planning Board, which shall not be considered a

substantive review under this article. The applicant must submit all items which are outstanding within one hundred twenty (120) days of the date of the notice from the planning authority requiring additional information, a revision of the plan, or other submissions. If the applicant fails to submit any item specified within one hundred twenty (120) days of the date of said notice from the planning authority, the application shall expire and shall be deemed null and void. Nothing in this section shall prevent the Planning Board or planning authority from requiring additional information as otherwise permitted or required by the terms of the article.

(n) *Post-approval submissions.* Following site plan approval and prior to issuance of any building permit, the developer shall submit copies of the contract plans and specifications, in reproducible form, showing the design of all infrastructure improvements, including without limitation all streets, sewers, drainage structures and landscaping, for the review and approval of the public works authority for compliance with its technical standards. Thereafter, all departures from such plans shall be approved by the public works authority as field changes pursuant to subsection (l) above. Nothing herein shall diminish the obligation of the developer to supply plans or specifications as provided in this article.

(Ord. No. 355-89, 7-17-89; Ord. No. 233-90, 2-21-90; Ord. No. 286-90, 4-2-90; Ord. No. 122-91, §§ 2, 3, 9-16-91; Ord. No. 15-92, § 32, 6-15-92; Ord. No. 176-93, §§ 1--3, 1-4-93; Ord. No. 262-96, § 3, 5-20-96; Ord. No. 166-97, § 1, 1-6-97; Ord. No. 126-98, § 2, 10-19-98; Ord. No. 158-98, § 1, 11-16-98; Ord. No. 227, §3, 5-15-00 Ord. No. 51-00, § 6, 8-7-00; Ord. No. 295-01, § 2, 6-4-01)

Sec. 14-526. Standards.

(a) *Requirements for approval.* The Planning Board or planning authority shall not approve a site plan unless it meets the following criteria:

- (1) The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways; and the incremental volume of traffic will not create or aggravate any significant hazard to safety at or to and including intersections in any direction where traffic could be expected to be impacted; and will not cause traffic congestion on any street which reduces the level of service below Level "D" as described in the 1985 Highway Capacity Manual published by the Transportation

Research Board of the National Research Council, a copy of which manual is on file with the public works authority, or substantially increase congestion on any street which is already at a level of service below Level "D";

- (2) a. Where construction is proposed of new structures having a total floor area in excess of ten thousand (10,000) square feet but less than fifty thousand (50,000) square feet, or building additions having a total floor area in excess of five thousand (5,000) square feet, and the provisions for off-street parking under article III (zoning) do not require off-street parking or are determined to be insufficient, the site plan shall provide sufficient parking to satisfy the reasonably foreseeable demand for parking which will be generated by the proposed development;
- b. Where construction is proposed of new structures having a total floor area in excess of fifty thousand (50,000) square feet, the Planning Board shall establish the parking requirement for such structures. The parking requirement shall be determined based upon a parking analysis submitted by the applicant, which shall be reviewed by the city traffic engineer, and upon the recommendation of the city traffic engineer.
- c. The site plan shall provide adequate bicycle parking with suitable racks and conveniently located to meet the expected demand and to encourage bicycle use by employees, customers, residents and users of the proposed development, meeting the requirements as follows:
- (a) *Residential structures:* Two (2) bicycle parking spaces for every five (5) dwelling units.
- (b) *Non-residential structures:* The greater of a minimum of two (2) spaces, or two (2) bicycle parking spaces for every ten (10) motor vehicle parking spaces for the first one hundred (100) required motor vehicle parking

spaces, plus one (1) bicycle parking space for every twenty (20) motor vehicle parking space over one hundred (100).

- (c) *Location:* Bicycle parking shall be located in a convenient location, proximate to the entry or entries of the building(s), either immediately adjacent to or no further than the associated motor vehicle parking, as specified in the Technical and Design Standards and Guidelines Manual. Bicycle parking for commercial development shall be visible from the street or provided with prominent directional signage visible from the street.
 - (d) *Bicycle Racks:* Bicycle parking required by this ordinance shall be provided with durable racks that enable secure bicycle storage on site, as detailed in the requirements contained in the Technical and Design Standards and Guidelines Manual.
 - (e) *Reduction in Required Bicycle Parking:* The Planning Board may reduce the required number of bicycle parking spaces upon review of evidence that the demand or usage for such spaces will be below that required due to unique characteristics of the proposed development, such as elderly or disabled persons housing, and industrial uses located in outlying areas.
- (3) The bulk, location or height of proposed buildings and structures and the proposed uses thereof will not cause health or safety problems as to existing uses in the neighborhood, including without limitation health or safety problems resulting from any substantial reduction in light and air, any significant wind impact, and any significant snow loading on any neighboring structure, where setbacks from property lines are not required by article III;
- (4) The bulk, location or height of proposed buildings and structure minimizes, to the extent feasible, any substantial diminution in the value or utility to

- neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed;
- (5) The development will not overburden the sewers, sanitary and storm drains, water, solid waste disposal or similar public facilities and utilities;
 - (6) The on-site landscaping provides adequate buffering between the development and neighboring properties so as to adequately protect each from any detrimental features of the other;
 - (7) The site plan minimizes, to the extent feasible, any disturbance or destruction of significant existing vegetation;
 - (8) The site plan does not create any significant soil and drainage problems, whether on- or off-site, and adequately provides for control of erosion and sedimentation during construction and afterward;
 - (9) The provision for exterior lighting will not be hazardous to motorists traveling on adjacent public streets; is adequate for the safety of occupants or users of the site; and such lighting will not cause significant glare or direct spillover onto adjacent properties and complies with the applicable specifications of the City of Portland Technical and Design Standards and Guidelines;
 - (10) The development will not create fire or other safety hazards and provides adequate access to the site and to the buildings on the site for emergency vehicles;
 - (11) The proposed development is designed so as to be consistent with off-premises infrastructure, existing or proposed, supported, or endorsed by the city, including but not limited to sewer and stormwater, roadways, trails, paths, bicycle network, environmental management, or other facilities and plans and the site plan includes suitable easements, rights, and improvements to connect or continue such facilities as may be required by the Planning Board or Authority;
 - (12) Any industrial development will prevent undue adverse

environmental consequences, including without limitation any substantial diminution to the value or utility of neighboring structures or significant hazard to the health or safety of persons residing in the vicinity by controlling the odor levels, sound levels, particulates, and other emissions it generates:

- (13) For development within the R-P zone, where there is a consistent established architectural style or character to the existing structures in the immediate vicinity in which the development is proposed, that the concurrently visible architectural style or character of the proposed development would not be incongruous to that established style or character;
- (14) Planned residential unit developments in the R-3, R-5 or R-5A residential zones and manufactured housing parks shall meet the following standards:
- a. *Design relationship to site:* The layout and design of buildings, roadways, parking areas, open space, recreation amenities, landscaping, drainage facilities and control mechanisms and other site improvements are organized to complement and accentuate the natural topography, vegetation, streams, water features, and other existing features of the site, and the solar orientation provides natural light within dwelling units, in outdoor open space and in recreation areas.
 - b. *Internal design character and relationship to surrounding neighborhood:* The design and layout of the development and buildings exhibit a cohesive design character and complement existing development in the surrounding neighborhood by virtue of such features as architectural style, height, scale and massing, character of exterior facades and roofs, circulation, open space, landscaping, and the transition of scale and massing with the surrounding neighborhood. Buildings with more than two (2) dwelling units or greater than forty (40) feet in length shall provide variation in roof and facade character through changes in facade setback, roof configuration, and projecting or recessed building

elements.

- c. *Recreation and open space:* All open spaces on the site shall be integrated into the development and designated on the site plan. Each development shall have the following features:
1. *External buffers:* An effective and permanent screening from neighboring properties and roadways;
 2. *Internal buffers:* Areas planted, maintained and located in such a manner as to provide privacy between units and buildings and paved areas and screening of parking, utilities, roadways, waste collection facilities and storage facilities;
 3. *Passive recreational open space:* Open spaces, designated and improved with such features as gardens, picnic areas, walking trails; benches and lawn and seating areas;
 4. *Active recreational open space:* Open spaces designated and improved for active recreational use with facilities such as tennis courts, basketball courts, multipurpose game fields, swimming pools, and children's playgrounds; and
 5. *Private open spaces:* Open spaces designated for the individualized use of unit owners such as yards, decks and patios;

(15) Two-family, special needs independent living unit, multiple-family development, lodging houses, bed and breakfasts, and emergency shelters shall meet the following standards:

- a. Proposed structures and related site improvements shall meet the following standards:
1. (a) The exterior design of the proposed two-family structures, lodging houses and emergency shelters, including architectural

style, facade materials, roof pitch, building form and height, shall be designed to complement and enhance the nearest residential neighborhood;

- (b) The exterior design of the proposed special needs independent living unit, bed and breakfast or multiple-family structures, including architectural style, facade materials, roof pitch, building form and height, window pattern and spacing, porches and entryways, cornerboard and trim details, and facade variation in projecting or recessed building elements, shall be designed to complement and enhance the nearest residential neighborhood. The design of exterior facades shall provide positive visual interest by incorporating appropriate architectural elements;
2. The proposed development shall respect the existing relationship of buildings to public streets. New development shall be integrated with the existing city fabric and streetscape including building placement, landscaping, lawn areas, porch and entrance areas, fencing, and other streetscape elements;
 3. Open space on the site for all two-family, special needs independent living unit, bed and breakfast and multiple-family development shall be integrated into the development site. Such open space in a special needs independent living unit or a multiple-family development shall be designed to complement and enhance the building form and development proposed on the site. Open space functions may include but are not limited to buffers and screening from streets and neighboring properties, yard space for residents, play areas, and planting strips along the perimeter of proposed buildings;
 4. The design of proposed dwellings shall provide ample windows to enhance opportunities for

sunlight and air in each dwelling in principal living areas and shall also provide sufficient storage areas;

5. The scale and surface area of parking, driveways and paved areas are arranged and landscaped to properly screen vehicles from adjacent properties and streets;
 - a. Two-family or multiple-family dwellings shall not be converted to lodging houses unless all units in the building have been vacant for at least one (1) year prior to the date conversion is sought or unless the individual multiple-family units are less than one thousand (1,000) square feet in size. In no event shall any single-family dwelling in the R-5 or R-6 zone be converted in whole or in part to a lodging house.
- (16) Development located within the B-3 zone shall also meet the following standards. Adequacy in meeting these standards will be evaluated on the basis of descriptions and illustrations in the Downtown Urban Design Guidelines. Nothing in this section is intended to discourage creative and responsive design or to mandate similarity or mimicry of design in order to achieve the standards herein:
- a. *Relationship to the pedestrian environment:*
 1. *General:* The exterior design of portions of buildings within the first thirty-five (35) feet of height shall enhance the character, attractiveness, comfort, security, and usability of the street level pedestrian environment. Factors to be considered include the design, placement, character and quality of the following:
 - (a) Storefronts and building facades, including such factors as relationship to adjacent or nearby structures or open space, pedestrian character, materials and detailing, transparency and contemporary design;

- (b) Building entrances, including such factors as compatibility with the building's façade, prominence along the street, access to the street, and accessibility for physically handicapped or for those with special needs;
 - (c) Blank facades; and
 - (d) Special features, such as selective use of such features as building arcades and skywalks or elevated walkways.
2. *Pedestrian activities district (PAD)*: In addition to subsection 1 of this section, proposed development located within the pedestrian activities district (PAD) overlay zone, as shown on the pedestrian activities district map, a copy of which is on file in the department of planning and urban development, shall be designed and constructed to accommodate pedestrian-oriented uses at the street level. In determining such design, the following factors should be considered:
- (a) The exterior design of the street level building facade, including the placement of entrances, potential entrances, and window openings;
 - (b) The design and placement of impenetrable exterior building features such as columns, piers, bearing walls and retaining walls;
 - (c) The orientation of proposed street level uses to the street and the accessibility of floor area to the street by virtue of grade elevations and access;
 - (d) The adequacy of the interior layout of the first twenty(20) feet in depth of the building along specified streets to accommodate viable pedestrian-oriented

uses;

(e) The continuity of street level uses as impacted by service entrances to parking structures or lots, drive-through facilities or other interruptions.

3. *Pedestrian activities district (PAD) encouragement areas:* In addition to subsection 1 of this section, proposed development located within the pedestrian activities district (PAD) encouragement areas, as shown on the pedestrian activities district map, a copy of which is on file in the department of planning and urban development, shall be designed and constructed to be reasonably capable of being converted to accommodate uses permitted in the PAD overlay zone in accordance with the factors set forth in subsection 2 of this section.
4. *Sidewalk areas and open space:* The design of publicly accessible sidewalk areas and open space shall complement the general pattern of the downtown pedestrian environment, conform with special City of Portland streetscape programs described in the Technical and Design Standards and Guidelines, and enhance the attractiveness, comfort, security, and usability of the pedestrian environment. Factors to be considered include the design, placement, character, durability, and quality of the following:
 - (a) Sidewalk, crosswalk, and street paving materials;
 - (b) Landscaping, planters, irrigation, and tree guards and grates;
 - (c) Lighting;
 - (d) Pedestrian amenities such as benches and other seating, trash receptacles, kiosks,

bus shelters, artwork, directional and informational signage, fountains, and other special features; and

(e) Sidewalk vendors and sidewalk cafes.

b. *Relationship to existing development:*

1. *General:* Proposed development shall respect, enhance, and be integrated with the existing character of the general pattern of development in the downtown, surrounding building environment and streetscape, as described and illustrated in the Downtown Urban Design Guidelines. Factors to be considered include the relationship to the following existing patterns:

(a) Street walls and building setbacks;

(b) Open space;

(c) Building form, scale and massing;

(d) Facade proportion and composition;

(e) Pedestrian circulation and building entrances;

(f) Parking.

2. *Standards for increasing setback beyond street build-to line:* A proposed development may exceed maximum setbacks as required in section 14-220(c) only where the applicant demonstrates to the Planning Board that the introduction of increased building setbacks at the street level:

(a) Provides substantial and viable publicly accessible open space or other amenity at the street level that supports and reinforces pedestrian activity and interest. Such amenities may include without limitation plazas, outdoor eating

spaces and cafes, or wider sidewalk circulation areas in locations of substantial pedestrian congestion;

- (b) Does not substantially detract from the prevailing street wall character by introducing such additional setback at critical building locations such as prominent form-defining corners, or create a sense of discontinuity in particularly consistent or continuous settings;
 - (c) Does not detract from existing publicly accessible open space by creating an excessive amount of open space in one (1) area or by diminishing the viability or liveliness of that existing open space; and
 - (d) The area of setback is of high quality and character of design and of acceptable orientation to solar access and wind impacts as to be attractive to pedestrian activity.
- c. *Roof top appurtenances:* All mechanical equipment, ventilating and air conditioning and other building systems, elevators, stairways, radio or television masts or equipment, or other rooftop elements not intended for human occupancy shall be fully enclosed in a manner consistent with the character, shape and materials of the principal building, as described and illustrated in the Downtown Urban Design Guidelines;
- d. *Shadow impact on open space:* The location, massing and orientation of portions of buildings in excess of sixty-five (65) feet in height shall be such that substantial shadow impacts on public plazas, parks, and other publicly accessible open space are avoided. In determining the impact of shadows, the following factors shall be taken into account: the amount of area shadowed, the time and duration of the shadow, and the importance of sunlight to the

utility of the type of open space being shadowed, as described and illustrated in the Downtown Urban Design Guidelines;

- e. *Wind impacts:* The location, massing, orientation and architectural design of a new building or a building addition shall be such that no significant adverse wind impacts are created. In determining the impact of winds, the following factors shall be taken into account: the pre-development and projected post-development wind speeds and their impact on pedestrian movement, comfort and safety; and the impact of projected wind speed on the use of and comfort within existing and proposed pedestrian seating areas and other adverse impacts upon the surrounding area;
 - f. *Setbacks from existing structures:* The location and design of proposed structures shall not create a detrimental impact on the structural integrity or the safety of adjacent structures or the occupants thereof;
 - g. *Building tops:* Buildings or structures which exceed one hundred fifty (150) feet in height shall be designed so as to provide a distinctive top to the building which visually conveys a sense of interest and vertical termination to the building, as described and illustrated in the Downtown Urban Design Guidelines;
- (17) The applicant has submitted all information required by this article and the development complies with all applicable provisions of this Code;
- (18) If any part of a proposed structure or object is within one hundred (100) feet of any landmark, historic district, or historic landscape district designated or otherwise subject to the protection of article IX and not separated from such landmark or district by any public street, or any portion of any such street, such structure or object shall be determined not to be incongruous to the architectural style or character of those portions of such designated landmark or district as are currently visible to the development when viewed from a street or

public open space;

- (19) View corridors: The placement and massing of proposed development shall not substantially obstruct those public views to landmarks and natural features from those locations identified on the View Corridor Protection Plan, a copy of which is on file in the department of planning and urban development;
- (20) The proposed development shall have no adverse impact upon the existing natural resources including groundwater quantity and quality, surface water quantity and quality, wetlands, unusual natural areas, and wildlife and fisheries habitats. Stormwater runoff from paved areas shall be treated to the extent practicable to minimize contaminants;
- (21) The proposed development shall not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur.
- (22) Signs: Signs shall meet the following requirements:
- a. The size, scale, proportions, design, materials, placement, and source and intensity of illumination of all permanent freestanding and building signs shall be designed to complement and enhance the architectural attributes of the building(s) to which they are attached or visually related. In addition, such signs shall be appropriate to the scale and character of the neighborhood in which the sign is located, and shall be designed to suit the conditions from which it will be viewed, especially in relation to the distance, travel speed and mode of travel of the viewing public.
 - b. In the case of freestanding signs, such signs shall relate to the architecture of the buildings they identify and shall be integrated with other site and landscape features.
 - c. Sign lighting shall be designed to avoid glare, unshielded light sources and light spillover toward the sky. All light sources shall be shielded or provided with a diffuser lens so that lamps and

bulbs are not visible to pedestrians or drivers of vehicles.

- (23) An applicant for minor site plan review of a sign denied for failure to comply with the requirements of section 14-369.5 shall meet the following standards for approval of such a sign under this division:
- a. The size, scale, proportions, design, materials, placement, and source and intensity of illumination of any signage approved shall be designed to complement and enhance the architectural attributes of the building(s) to which they are attached or to which they are visually related. In addition, such signs shall be appropriate to the scale and character of the neighborhood in which the sign is located, and shall be designed to suit the conditions from which it will be viewed, especially in relation to the distance, travel speed, and mode of travel of the viewing public;
 - b. The signage shall either be of special design merit or shall respond to unique circumstances associated with the subject property;
 - c. The signage shall have no detrimental impact upon the neighborhood;
 - d. The provisions of this subsection shall be limited to commercial uses in business or industrial zones, industrial uses or institutional uses.
- (24) All major or minor businesses shall meet the following requirements:
- a. *Signs:* Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
 - b. *Circulation:* No ingress or egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles

shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.

- c. *Drive-up features:* Drive-up features, such as gasoline pumps, vacuum cleaners and menu/order boards, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.
- d. *Car washes:* Car washes shall be designed to avoid the tracking of residual waters into the street.

(25) Development in the industrial zones shall meet the following additional requirements:

a. *Landscaping and buffering:*

- 1. Buildings, parking areas and other paved or unvegetated areas shall be landscaped to screen and enhance the property and to buffer adjacent properties from the proposed use or uses.
- 2. The existing landscape shall be preserved in its natural state to the greatest extent practicable by minimizing tree removal and grade changes. Where preservation of the existing landscape is not possible, new planted materials will be required.
- 3. Where a building, parking lot or unvegetated area abuts a residential zone, a landscaped strip shall be established between abutting property and the structure, parking lot or unvegetated area. Such landscaping shall be maintained and replaced as necessary to continue the buffer.
- 4. Front yards along arterial and collector streets, as delineated on the Maine Department

of Transportation Map, a copy of which is on file in the department of planning and urban development, shall be landscaped. Landscaping shall also be required for the following:

- (a) Rear yards.
- (b) Side yards.
- (c) Parking areas for more than fifteen (15) vehicles in the I-L and I-Lb zones, twenty-five (25) vehicles in the I-M and I-Mb zones, or thirty-five (35) vehicles in the I-H and I-Hb zones.

5. Where pavement or gravel is proposed for vehicle or machinery parking or storage, a landscaped buffer shall be planted or a preserved buffer shall be maintained along the downward slope of the paved or graveled area to provide passive treatment of stormwater before it leaves the site.

(26) Development located in the B-5 and B-5b zones shall meet the following additional standards:

- a. Shared infrastructure: Shared circulation, parking, and transportation infrastructure shall be provided to the extent practicable, with utilization of joint curb cuts, walkways, service alleys, bus pull-out areas, and related infrastructure shared with abutting lots and roadways. Easements for access for abutting properties and shared internal access points at property lines shall be provided where possible to facilitate present or future sharing of access and infrastructure.
- b. Buildings and uses shall be located close to the street where practicable. Corner lots shall fill into the corner and shall provide an architectural presence and focus to mark the corner.
- c. Buildings shall be oriented toward the street and shall include prominent facades with windows and entrances oriented toward the street. Uses that

include public access to a building or commercial/office uses in mixed-use developments shall be oriented toward major streets whenever possible.

- d. Parking lots shall be located to the maximum extent practicable toward the rear of the property and shall be located along property lines where joint use or combined parking areas with abutting properties are proposed or anticipated.

(27) Development located in the B-1, B-1b, B-2, and B-2b zones shall meet the following additional standards. Where noted below, the city encourages adherence to the guidelines contained within the City's Technical and Design Standards and Guidelines, but such adherence is not mandatory in order to meet the standards otherwise set forth herein.

- a. Urban Street Wall. Standard: In the B-1, B-1b, and B-2b zone it shall be required that buildings shall be located to create and preserve an urban street wall.

Buildings located in the B-2 zone are encouraged to adhere to guidelines contained within Section XIV of the City's Technical and Design Standards and Guidelines.

- b. Mixed Uses. Standard: In B-1b zone buildings shall be multi-storied with mixed uses.

In the B-1, B-2 and B-2b zones building uses are encouraged to adhere to the guidelines contained within Section XIV of the City's Technical and Design Standards and Guidelines.

- c. Building Entrances. Standard: In the B-1 and B-2b zone building entrances shall be oriented toward, located adjacent to, and directly accessible from, a sidewalk in a public right-of-way.

In the B-1b and B-2 zones building entrances are encouraged to adhere to the guidelines contained within Section XIV of the City's Technical and

Design Standards and Guidelines.

- d. Windows. Standard: In the B-1, B-1b, B-2, and B-2b zones windows shall be required along the street frontage of a building. Windows shall be transparent and installed at a height to allow views into the building by passersby.
- e. Facade Character. Standard: In the B-1, B-1b, B-2, B-2b zones, active and public portions of buildings (e.g. doors, windows, entries, retail displays) shall be located adjacent to the public sidewalk to create an active presence along the sidewalk.

Where building facades situated along a public way have no interactive use or function, such facades shall be designed to provide sufficient architectural and graphic amenities to provide visual interest along the street and relate the building, and its use, to passersby.

- f. Building Design. Standard: B-1, B-1b, B-2, and B-2b commercial buildings shall be designed to be compatible with their residential and commercial neighbors. In the B-1 and B-1b zones building scale, roof pitch, and fenestration shall be designed to complement surrounding residential structures.
- g. Building Materials. Standard: Facade materials of buildings located in the B-1, B-1b, B-2, and B-2b zones shall be compatible with those materials of surrounding residential and commercial uses.
- h. Building Scale. Standard: In the B-1 and B-1b zones building scale must relate and be compatible with surrounding residential structures.
- i. Landscaping and buffers. Standard: In the B-1, B-1b, B-2 and B-2b zones buildings and associated parking areas must be screened to buffer abutting properties. A densely planted landscape buffer and/or fencing will be required to protect neighboring properties from the impacts associated with the development, including lighting, parking,

traffic, noise, odor, smoke, or other incompatible uses. Where buildings are setback from the street, a landscaped area must be planted along the front yard street line.

- (28) Small residential lot development located in the R-6 zone on lots of ten thousand (10,000) square feet or less shall provide a high degree of architectural quality and compatibility with the surrounding neighborhood as demonstrated by compliance with the principles and standards of the R6 infill development principles and standards, promulgated by the planning board and contained in the planning and development design manual. Any proposal required to obtain a certificate of appropriateness under Portland's historic preservation ordinance is exempt from the R-6 design review standards.
- (29) *University of Southern Maine design standards:* All major and minor development reviewed under the provisions of the University of Southern Maine Overlay zone shall be designed to create a quality and cohesive campus environment while integrating with and respecting the residential character of surrounding neighborhoods as demonstrated by compliance with the principles and standards of the University of Southern Maine design standards, promulgated by the planning board, and contained in the planning and development design manual.
- (30) *Bayside mixed use urban district zone (B-7 zone) design standards:* All major and minor development reviewed under the provisions of the bayside B-7 zone shall be designed to support the development of this urban neighborhood as a dense, mixed-use, pedestrian friendly neighborhood in accordance with the standards contained in the bayside (B-7) design standards, promulgated by the planning board, and contained in the planning and development design manual. Effective August 9, 2006, and until such time as the B-7 design standards are adopted by the planning board, the B-3 design standards of this article and the downtown urban design guidelines shall apply to all major and minor development in the bayside B-7 zone.
- (31) *Eastern waterfront design standards:* All major and minor development reviewed under the provisions of the eastern waterfront zone shall be designed to support the

development of this urban neighborhood as a dense, mixed-use, pedestrian friendly neighborhood in accordance with the standards contained in the eastern waterfront zone design standards, promulgated by the planning board, and contained in the planning and development design manual.

(b) *Conditions.* Notwithstanding the provisions of subsection (a), the Planning Authority or Planning Board may impose any condition upon its approval of any site plan: (1) to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities, to the extent feasible; or (2) to bring the development into compliance with the requirements of subsection (a); or (3) to minimize any other adverse environmental effects of the proposed development. Such conditions may include, but are not limited to, enclosing of equipment or operations, imposing limitations upon the hours of operation, or requiring the employment of specific design technologies, modes of operation, or traffic patterns, and may also include the construction of, or financial contribution to the construction of, on- or off-premises public facilities including, without limitation, streets and sewers impacted by the development. All such conditions shall be consistent with the purposes set forth in section 14-521.

(c) *Statement of findings.* All findings and decisions by the Planning Board or by the planning authority, denying or conditionally approving any site plan, shall be made in writing or reduced to writing promptly thereafter and shall state the reason(s) therefor sufficiently to apprise the applicant and any interested member of the public of the basis for the decision.

(Ord. No. 355-89, 7-17-89; Ord. No. 202-89, 12-18-89; Ord. No. 234-90, 2-21-90; Ord. No. 236-90, §§ 1, 2, 2-26-90; Ord. No. 33-91, § 16, 1-23-91; Ord. No. 244-91, § 1, 3-11-91; Ord. No. 33A-91, § 10, 4-17-91; Ord. No. 176-93, § 4, 1-4-93; Ord. No. 253-94, § 2, 4-4-94; Ord. No. 254-94, 4-4-94; Ord. No. 39-96, § 7, 10-7-96; Ord. No. 166-97, §§ 2, 3, 1-6-97; Ord. No. 125-97, 3-3-97; Ord. No. 164-97(Subst.), § 6, 5-19-97; Ord. No. 165-97, § 7, 12-1-97; Ord. No. 94-99, 11-15-99; Ord. No. 51-00, §7, 8-7-00; Ord. No.78-03/04, 10-20-03; Ord. No. 215-04/05, 5-2-05; Ord. No. 171-05/06, 3-20-06; Ord. No. 201-05/06, 4-19-06; Ord. No.254-05/06, 6-5-06; Ord. No. 39-06/07, 9-6-06)

Sec. 14-527. Appeals.

(a) When the planning authority has finally approved or disapproved a site plan, any person aggrieved may appeal the decision to the Planning Board within ten (10) days of the decision being rendered. Upon the taking of such an appeal, the application

shall be reviewed as if referred by the planning authority, except that the Planning Board may not decline to accept the reference.

(b) When the Planning Board has finally approved or disapproved a site plan, any person aggrieved or the city may appeal the decision of the superior court, pursuant to Rule 80B of the Maine Rules of Civil Procedure, within thirty (30) day of the decision being rendered.

(Ord. No. 355-89, 7-17-89)

Sec. 14-528. Enforcement.

(a) All construction or alterations to the site performed under the authorization of building permits or certificates of occupancy issued for development within the scope of the article shall be in conformance with the approved final site plan or an amendment thereto under section 14-525(g) and (l). The building authority shall institute or cause to be instituted any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article. Where work is required pursuant to the terms of chapters 24 or 25 as part of an approval granted under this article, such work shall be accomplished in the sequence established by the public works authority. Where the public works authority determines that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of chapters 24 and 25, the director of parks and public works or an inspector from the public works authority may issue a stop-work order. Work shall recommence only after such order has been lifted by the director of parks and public works or an inspector from the public works authority. Violation of a stop-work order shall be considered an offense.

(b) No alterations shall be made to a site with a pending or approved site plan application until:

- (1) The performance guarantee has been posted and final site plans have been submitted to the planning authority; or
- (2) Written permission has been received from the director of planning and urban development or his designee. Such permission shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the site plan

SECTION XVI

B-1, B-1b, B-2, B-2b DESIGN GUIDELINES

1. INTENTION
2. APPLICABILITY
3. GUIDELINES

SECTION XVI

B-1, B-1b, B-2, B-2b DESIGN GUIDELINES

1. INTENTION

These guidelines are intended to provide direction for proposed development in the B-1, B-1b, B-2, B-2b zones in order to meet the Site Plan Standards specific to construction in these zones.

The guidelines are meant to highlight the important qualities of design and construction in the B-1 and B-2 zones, in order to encourage the development of quality design which is consistent with the surrounding business and residential community.

2. APPLICABILITY

The following development proposals will be required to meet the Site Plan Standards specific to development in the B-1 and B-2 zones and, as such, will be encouraged to address and be consistent with the following guidelines:

- A. All major and minor development in the B-1, B-1b, B-2, and B-2b zones.

3. GUIDELINES

1. Building Location and Form

Buildings shall be located near the street so as to create an urban street wall.

An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major street. The location of buildings is one of several related factors defining the street environment.

The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is proportionate to the width of the adjoining major street.

Shorter buildings of one story facing broad streets will not achieve the desired relationship. (Street width for this purpose is defined as the distance measured from curb to curb.)

By way of example, for a fifty-foot street right-of-way, a minimum building height of 15' is acceptable, with 25' height preferred. Buildings located as close as possible to the street right-of-way will provide better definition and proportion than buildings set further back.

2. Building Function

An urban street and business district requires a substantial intensity and variety of uses.

It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.

3. Orientation of Buildings and their Entrances to the Street

Major building entries should be designed and located to provide the primary building access oriented to the public street and sidewalk.

Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should primarily address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.

4. Windows

Windows should be located in all building facades visible from the public way, especially on building facades along the major public street.

Retail uses with storefronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent, and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.

5. Building Character, Detail, Scale, and Graphic Qualities

Building design should include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use. Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank facade.

Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. Signage and Building Entrances

Building entrances and building signage in the B-1, B-1b, and B-2b zones should be designed and constructed at the pedestrian scale.

7. Development Relationship to Street

Building facades and site amenities should form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, should be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Parking Lots should be buffered from view of the public way.

Landscaping or ornamental fencing should be used to buffer parking lots from public ways and residential neighbors. Where parking is located within the front yard, or side yard of a corner lot, a landscaped buffer or ornamental fence should be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Parking lots should be screened from neighboring properties.

A densely planted landscape buffer or fencing should be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

Crosswalks should be provided within parking lots and across entrance driveways, directing pedestrians to building entrances.

Street trees should be planted along property street frontage 25ft. on center.

9. Transit Connections

Development proposed along established transit corridors should be designed to provide uninterrupted access from the proposed development to the transit stop.

An easement to place a transit shelter may be requested for development located along a transit corridor.

application including, but not limited to, an erosion control plan. Such written permission shall not be required when the only work proposed is the digging of test pits.

(c) Where construction, alteration or modification to a site is performed without a valid site plan improvement permit, an after-the-fact permit shall be obtained from the Planning Board or planning authority, as applicable. The cost of an after-the-fact permit shall be as provided in section 6-18 of this code, plus the cost of engineering and administrative costs associated with the review and processing of the after-the-fact permit.

(Ord. No. 355-89, 7-17-89; Ord. No. 119-01/02, § 4, 12-3-01)

Sec. 14-529. Planning and Development Design Standards.

(a) *Adoption and amendment of standards:* The planning authority shall develop design standards to be incorporated within the planning and development design standards. Such design standards shall become effective only upon approval of the planning board following a public hearing. Any amendments shall become effective only upon approval of the planning board following a public hearing. Such standards shall be additional to and consistent with the provisions of this article and shall be necessary and reasonable and shall be in accord with sound architectural practice. The Planning Authority shall maintain for public inspection current copies of the effective standards.

(b) *Design certificate:* The planning authority shall issue a design certificate prior to planning board site plan review, after finding that the standards contained within the planning and development design manual have been met. Any decision to grant or deny a design certificate shall be made in writing stating the findings of the planning authority. Any person aggrieved by the decision of the planning authority to grant or deny a design certificate may appeal that decision to the planning board within 30 days of the date of such decision. In the event of such appeal, the planning board will conduct a de novo review of the project's compliance with the standards contained within the planning and development design manual.

(Ord. No. 78-03/04, 10-20-03; Ord.No. 21-04/05, 8-2-04; Ord. No. 171-05/06, 3-20-06)

Sec. 14-530. Reserved.

Sec. 14-531. Reserved.

Sec. 14-532. Reserved.

DIVISION 30. INCENTIVES FOR AFFORDABLE HOUSING

Sec.14-484. Purpose.

The city believes that it is in the public interest to promote an adequate supply of affordable housing for its residents. The purpose of this division therefore is to offer incentives to developers to include units of affordable housing within development projects, thereby mitigating the impact of market rate housing construction on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the city. The city believes that this division will assist in meeting the city's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing, and by doing so promote the health, safety and welfare of its citizens.
(Ord. No. 98-06/07, 12-4-06)

Sec. 14-485. Definitions.

Affordable housing unit for rent means a dwelling unit for which:

- (a) The rent is affordable to a household earning 80% or less of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size; and
- (b) Annual rent increases for that unit are limited in perpetuity by deed restriction or other legally binding agreement to the percentage increase in the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size.

Affordable housing unit for sale means a dwelling unit for which:

- (a) The sale price is affordable to a household earning 120% or less of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size; and

- (b) The resale price is limited by deed restriction or other legally binding agreement for all future sales of the unit to an amount that is affordable to a household earning 120% of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size, as calculated for the year in which the sale takes place.

Development fees means:

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees; and
- (b) Construction and permit fees as described in chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city.

Dwelling unit has the same meaning as that term is defined in section 14-47.

Eligible project means a development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;
- (b) That will be a multi-family dwelling, as defined in section 14-47, and will not be located in an R-1 or R-2 zone;
- (c) Which has not and will not receive any public funding, reduced-interest loans or other subsidies or incentives other than those described in this division; and
- (d) That creates new dwelling units, among which is at least one affordable housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other

units within an eligible project.
(Ord. No. 98-06/07, 12-4-06)

Sec. 14-486. Reduction of fees.

Notwithstanding any other provision of this chapter or chapter 6 to the contrary, development fees shall be reduced by the city for an eligible project in the manner described in the following table:

Percentage of new units that are affordable units	Percentage discount of development fees
5% up to but not including 10%	5% reduction
10% up to but not including 15%	10% reduction
15% up to but not including 20%	15% reduction
20% up to but not including 25%	20% reduction
25% or more	25% reduction

(Ord. No. 98-06/07, 12-4-06)

Sec. 14-487. Priority review.

The planning division shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope or thoroughness of the review. The planning division may adopt administrative procedures to prioritize review of eligible projects and facilitate this expedited review.

The planning board shall make its best efforts to give priority in scheduling workshops and public hearings related to any plans or applications required for an eligible project that are within the planning board's jurisdiction, without impairing the scope or thoroughness of its review. At the conclusion of these public meetings, the planning board shall promptly issue a decision on all such plans and applications before it for consideration.

(Ord. No. 98-06/07, 12-4-06)

Sec. 14-488. Density, parking and dimensional bonuses and

reductions.

Notwithstanding any other provision of this chapter to the contrary:

- (a) *Density bonuses.* The maximum number of units that would otherwise be allowed under this chapter shall be increased for an eligible project in the manner described in the following table:

Percentage of new units that are affordable units	Percentage increase in maximum number of units allowed
5% up to but not including 10%	5% increase
10% up to but not including 15%	10% increase
15% up to but not including 20%	15% increase
20% up to but not including 25%	20% increase
25% or more	25% increase

- (b) *Parking requirement reduction.* For each affordable housing unit for rent or sale within an eligible project, no more than one (1) parking space shall be required. The planning board may establish a parking requirement for affordable housing units for rent or sale within an eligible project that is less than one (1) parking space per affordable housing unit, regardless of the size of the structure.
- (c) *Building height bonus.* The maximum structure height for an eligible project building:
1. That is located in a B-2 or B-2b community business zone;
 2. That contains five (5) or more dwelling units; and
 3. Of which 20% or more of new dwelling units created are affordable units for rent or sale, is an additional ten feet above the maximum structure height that would

otherwise apply to the building pursuant to this chapter.

The total height of the eligible project, including any bonus received pursuant to this subsection, may not exceed the maximum height recommended for the location of the project pursuant to a height study that has been adopted as part of the city's comprehensive plan.

(Ord. No. 98-06/07, 12-4-06)

Q: Can we do a 5 Floor
60 Ft Bldg (Contract zone) - Special Recognition
or 50 Ft Bldg (R7 zone) - Special Recognition
or 45 Ft Bldg (R6 zone) - Conforming zone

1st Floor Pub
2nd Floor Deck + lounge (Indoor/outdoor)

3rd - Condo, one unit

4th - Condo, one unit
desired

5th - Condo, one unit



CONCEPT SKETCH 4.15.08

BINGAS WINGAS



Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

Planning & Urban Development Department

Penny St. Louis Littell, Director

Planning Division

Alexander Jaegerman, Director

May 27, 2009

Melinda P. Shain, Esq.
Law Offices of Robert E. Danielson
Two Canal Plaza, Suite 401
P.O. Box 545
Portland, ME 04112-0545

Dear Attorney Shain:

I have reviewed the request for a site plan exemption for the Binga's Wingas restaurant and bar at 6 Washington Avenue. Based upon the material submitted it is apparent that your client intends to make site improvements, demolish and replace of the existing structure (with the two footprint additions) and increase the impervious surface (a gravel lot was shown on the north side of the building in an earlier site plan). As a result, the proposed project does not meet the criteria for a site plan exemption and your client must instead submit a site plan application for review.

Background

On August 27, 2007, the Planning Authority approved a minor site plan (Application # 2007-0054) for 6 Washington Avenue with three conditions of approval. The applicant was Greg's Properties Washave LLC. At that time the proposal was reviewed as a change of use and minor site plan. The site plan application was for the rehabilitation and change of use of the four-story building at 6 Washington Avenue to be converted for a restaurant, bar and dwelling unit. The site plan application included the construction of two parking lots, a loading area, and other site improvements. The project was also reviewed under the City's Housing Replacement Ordinance, as the City's building inspection files document that there were three dwelling units at 6 Washington Avenue. The applicant proposed to eliminate two units and retain one dwelling unit. The approval for this plan expired on August 28, 2008.

Greg's Properties Washave LLC, submitted another site plan application (Application # 2008-0174) for 6 Washington Avenue on December 3, 2008. No final action has been taken on this application which was for a new structure, public plaza area and on-site parking lot, as the applicant chose not to pursue this option and has not submitted additional information requested for the application.

May 12, 2009 Request for Site Plan Exemption

The request for a site plan exemption submitted on May 12, 2009 does not qualify for an exemption under the City's Site Plan Ordinance, Article V of the Land Use Code. Based upon the information submitted for the exemption request, the proposal does not qualify for an exemption based on the following criteria:

- a. *The proposed development will be located within existing structures, and there will be no new buildings, demolitions or building additions other than those permitted by subsection b of this section.*
 1. Mr. Johnson's summary states that the existing footprint and foundation will be used. It appears that entire building located at 6 Washington will be demolished and a new two story-structure is proposed on the existing footprint. The development does not appear to be within an existing structure given the two footprint additions of a cooler and stairwell. The site plan included with the exemption also shows site improvements, including demolition of structures, creation of a parking lot, closing and relocating curb cuts, and changes to the corner lot. The site plan ordinance requires minor site plan review for the construction of any new structures having a total floor area of less than 10,000 square feet and for the construction of any parking area and the paving of any existing surface parking area(s) in excess of one thousand (1,000) square feet cumulatively within a three year period.

- b. *Any building addition shall have a new building footprint expansion of less than five hundred (500) square feet.*
 1. The cooler is noted as having 80 square feet and the foot print for the stairs is not noted. The addition may be less than 500 square feet, but as noted above it appears that a new structure is proposed on the existing foundation.

- c. *The proposed site plan does not add any new curb cuts, driveways, or parking areas; the existing site has not more than one (1) curb cut and will not disrupt the circulation flows and parking on-site; and there will be no drive-through services provided.*
 1. A new parking lot with 16 spaces is proposed across the street with two curb cuts. A parking area on the Washington Avenue and Congress Street corner is to be eliminated and the area to the north of the site is shown as a patio area. In the previous site plan, this area did include parking and a loading area. These site improvements and changes to curb cuts require site plan review. No drive-through is proposed.

- d. *The curbs and sidewalks adjacent to the lot are complete and in sound condition, as determined by the public works authority, with granite curb with at least four (4) inch reveal, and sidewalks are in good repair with uniform material and level surface and meet accessibility requirements of the Americans with Disabilities Act.*
 1. The previously approved site plan included the reconstruction of the sidewalk to meet City Standards. The proposed changes to the curb cuts require review of sidewalk improvements and ADA accessibility.

- e. *The use does not require additional or reduce existing parking, either on or off the site, and the project does not significantly increase traffic generation.*
 1. Mr. Johnson notes in his summary that the proposal does not require additional or reduce parking. He also notes that it does not increase traffic generation. The

proposed use eliminates one parking area and increases the size of another parking area. A change of use from a dry cleaner and three units to a restaurant and bar with one residential unit may increase the traffic generation for this site. Documentation on the expected traffic generation based on the capacity of the restaurant and bar is needed to assess this criteria. The use may also require increased truck deliveries and loading, which do not appear to be addressed in this request.

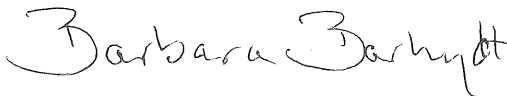
- f. *There are no known stormwater impacts from the proposed use or any existing deficient conditions of stormwater management on the site.*
 - 1. Any new or expanded parking or paved area is subject to site plan review and the stormwater impacts of the proposal are reviewed. The proposed parking lot and other site improvements for 6 Washington Avenue are subject to review.

- g. *There are no evident deficiencies in existing screening from adjoining properties.*
 - 1. The parking area and outside seating areas may require additional screening and buffering as there is nothing existing at this time.

- h. *Existing utility connections are adequate to serve the proposed development and there will no disturbance to or improvements within the public right of way.*
 - 1. There is no utility information on the plan, so this cannot be determined. The approved site plan did show new utility connections into the right-of-way, including a grease trap for the restaurant on the site with a connection to the City's sewer system.

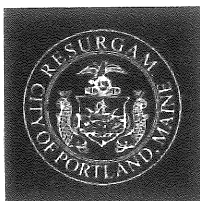
Enclosed is a copy of the City's site plan ordinance and a site plan application. We look forward to receiving your client's application.

Sincerely,



Barbara Barhydt
Development Review Services Manager

cc: Penny St. Louis Littell, Director, Department of Planning and Urban Development
Alexander Jaegerman, Planning Division Director
Danielle West-Chuhta, Associate Corporation Counsel
Tammy Munson, Inspection Division Director
Marge Schmuckal, Zoning Administrator



PORTLAND

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Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

November 30, 2007

Greg's Properties WashAve, LLC
C/o Alec Altman
26 Village Brook Road
Yarmouth, ME 04096

Aaron Wilson
Associated Design Partners, Inc.
80 Leighton Road
Falmouth, ME 04105

Leslie E. Lowry, Esq.
Jensen Baird Gardner & Henry
Ten Free Street
P.O. Box 4510
Portland, Maine 04112-4510

RE: Rehabilitation of Existing Building
CBL: 013 G007001
Application ID: 2007-0054

Dear Mr. Altman,

On August 27, 2007, the Portland Planning Authority approved a minor site plan for the site improvements and rehabilitation of the existing four-story building currently located at 6 Washington Avenue. This approval is still valid with the following conditions:

1. The limit of demolition and the proposed rehabilitation shall be done in accordance with the Leslie Lowery, Esq. email dated November 20, 2007 and accordance with Mr. James Thibodeau, P.E.'s correspondence of November 27, 2007.
2. The demolition permit application, submitted on October 17, 2007 to the Inspection Department, shall be formally withdrawn by the applicant.

This approval is for Portland's site plan review only. Attached is a copy of the stop work order issued by the Inspection Division. You must contact Jeanie Bourke, Director of Inspection Division, to satisfy the City's requirements for releasing the stop work order.

If there are any questions regarding the Planning Divisions review, please contact Shukria Wiar at 756-8083 or shukriaw@portlandmaine.gov

Sincerely,

Alexander Jaegerman
Planning Division Director

Attachments:

1. Leslie Lowery, Esq. Dated: November 20, 2007
2. Mr. James Thibodeau, P.E. Dated: November 27, 2007
3. Copy of Stop Work Order Dated: October 25, 2007

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Shukria Wiar, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Jeanie Bourke, Inspections Division
Jon Rioux, Code Enforcement Officer
Michael Bobinsky, Public Works Director
Kathi Earley, Public Works
Bill Clark, Public works
Jim Carmody, Transportation Manager
Michael Farmer, Public Works
Leslie Kaynor, Public Works
Jeff Tarling, City Arborist
Captain Greg Cass, Fire Prevention
Assessor's Office
Approval Letter File

December 26, 2008

Memo To: Barbara Barhydt – Planning Department
From: David Margolis-Pineo, Todd Merkle, Harold Downs – Public Services
RE: Bingas Wingas

1. City standards require the sidewalks on Congress and Washington Streets to be replaced with brick. The driveway, if not in the historic district does not have to be brick. The sidewalk brick on Congress to run perpendicular to the curb line.
2. The existing sewer lateral will have to be sealed outside the building and at the sewer main in the street prior to demolition.
3. The tip downs at the drive need to be straight. Buried radius curb will not be allowed in the driveway.
4. The curb opening on Washington Ave. needs to be 24 foot maximum.
5. There is no stamp on the drawings.
6. There needs to be a note on the drawings that states all Work in the right of way needs to meet City standards.
7. The applicant will need to install an external grease trap. Steve Harris (874-8843) will assist in developing the design criteria. An inspection and sign-off by Steve will be required before an occupancy permit may be issued.

From: Stephen Smith <sa.smith@post.harvard.edu>
To: Deb Andrews <DGA@portlandmaine.gov>
Date: 1/7/2009 9:37:24 PM
Subject: 645 congress st

Hi Deb...

It was great to see you and discuss the 645 Congress Street project today...

I've been reviewing the zoning code and I think that the use of the portion of the site which is in the R6 Zone (which is more or less the same as the portion of the site that's in the Deering St Historic District) as a commercial parking lot is not a permitted in the R6 zone. I think it's fairly clear that this is a commercial parking lot since they only propose 56 units but they propose 112 parking spaces, 56 more than required for the residential units. Parking is not listed in Sec 14-136 as a permitted use, except for the requirement that there be 1 space per residential unit - and since they are not proposing any residential units in the R6 zone portion of the site, no parking is permitted under this provision. Off-street parking is listed as a Conditional Use in the R6 zone but only "for uses permitted in the R-6 zone." Sec 14-135b.4 allows "accessory uses" -- which section 14-404(a) defines as "subordinate use of land....which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use." Sec 14-404(b) specifies that an allowed accessory use includes "off-street parking when serving conforming uses located in any zone, but not more than one (1) motor vehicle may be parked or stored per dwelling unit, except that three (3) motor vehicles may be parked on any lot use for a single or two (2) family house."

In short, I think parking is only allowed in R6 zone when accessory to permitted uses, and not as a commercial lot, so it seems clear to me that since they are proposing that the only use of the lot which is in the R6 zone is for parking that the proposed use is not permitted by zoning, either as a permitted use or as a conditional use.

I'd be interested in your thoughts on this...

best, Stephen

CC: James Harnar Harnar <jharnar@maine.rr.com>, Kathleen McKeen <Kathleen_B_McKeen@keybank.com>

MEMORANDUM

To: FILE

From: Capt Greg Cass

Dept: Fire

Subject: Application ID: 2008-0179

Date: 12/22/2008

Approved

December 26, 2008

Memo To: Barbara Barhydt – Planning Department
From: David Margolis-Pineo, Todd Merkle, Harold Downs – Public Services
RE: Bingas Wingas

1. City standards require the sidewalks on Congress and Washington Streets to be replaced with brick. The driveway, if not in the historic district does not have to be brick. The sidewalk brick on Congress to run perpendicular to the curb line.
2. The existing sewer lateral will have to be sealed outside the building and at the sewer main in the street prior to demolition.
3. The tip downs at the drive need to be straight. Buried radius curb will not be allowed in the driveway.
4. The curb opening on Washington Ave. needs to be 24 foot maximum.
5. There is no stamp on the drawings.
6. There needs to be a note on the drawings that states all Work in the right of way needs to meet City standards.
7. The applicant will need to install an external grease trap. Steve Harris (874-8843) will assist in developing the design criteria. An inspection and sign-off by Steve will be required before an occupancy permit may be issued.

From: Barbara Barhydt
To: Thomas Errico; Wiar, Shukria
Date: 12/31/2008 9:11:49 AM
Subject: Fwd: Bingas Wingas - Washington Avenue

Hi Shukria:
Here are Tom's comments.

>>> "Errico, Thomas A" <TERRICO@wilbursmith.com> Wednesday, December 31, 2008 8:58 AM >>>
Barbara -

I have reviewed the plans and materials submitted by Associated Design Partners, Inc. dated November 20, 2008 and offer the following initial comments.

* Several on-site parking lot dimensions do not meet City Standards including aisle width and parking stall size. I would suggest that the applicant reduce the length of the parking stalls to 18 feet (this will require a design waiver) and increase the aisle width to 24 feet.

* The compact spaces will be difficult to egress, but it appears that on-site maneuvering will be possible such that backing maneuvers onto Washington Avenue will be minimized.

* The driveway curb cut is proposed to be 30 feet wide. I would suggest that the driveway width be reduced to 24 feet.

* The driveway does not appear to meet City access management standards. Driveway spacing to the Big Apple driveway is non-conforming and intersection corner clearance is not met. The project is eliminating one curb cut and thus is improving conditions. I will continue to review this issue with DPS.

* The materials indicate that 28 parking spaces will be provided, but plans only illustrate 11 parking spaces. The applicant shall provide details on the other 17 parking spaces.

Please contact me if you have any questions.

Best regards,

Thomas A. Errico, P.E.

Senior Transportation Engineer

Wilbur Smith Associates

59 Middle Street

MEMORANDUM



TO: Barbara Barhydt
FROM: Dan Goyette, PE
DATE: December 30, 2008
RE: Bingas Wingas – 6 Washington Avenue

Woodard & Curran has reviewed the Application for Site Plan Review for a proposed redevelopment of the properties located on Washington Avenue. The project involves the demolition of an existing building and the construction of a new four story mixed use structure.

Documents Reviewed

- Site Plan Application, prepared by Caleb Johnson Architects, dated November 20, 2008.
- Plan sheets – C101 dated March 21, 2007, C102-103, C105-106, dated November 14, 2008 and C201-202 dated June 29, 2007 prepared by Associated Design Partners .

Comments

- A grading plan has not been provided.
- The application states that there are 28 parking spaces. Only 11 are shown on the plans. Where are the remaining spaces located? In addition, being over 25 spaces triggers the City requirement to provide stormwater treatment.
- There are no catch basin or manhole details provided. In addition the proposed pipe materials are not called out on the plans.
- The existing conditions site plan does not label anything on the property. The building should be labeled as well as existing parking spaces and curb cuts.
- A bituminous curb detail is included in the plans yet there is no indication of this type of curbing anywhere on the plans.
- The grease trap details and design should be coordinated with Steve Harris of the City Engineering Division (in the Department of Public Services).

Please contact our office if you have any questions.

DRG
203939

MEMORANDUM

To: FILE

From: Greg Cass

Dept: Fire

Subject Application ID: 2008-0174 *Binga Wingas*

Date:

Please provide details of proposed fire protection.

Please provide recent hydrant flow test data. And provide fire flows using Annex H of NFPA # 1

Please complete the Fire Dept. Checklist

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject Application ID: 2008-0174 *Binga Wingas*

Date: 12/18/2008

Today I received a copy of scaleable plans. I am not sure that decks shown on the floor plans are denoted on a site plan. I would also want to know how it is expected that people will get to the basement Speakeasy? Stairway B may need to be included in the parking count for a restaurant/bar use. That's why I want a little bit more information. The parking breakdown does not include the office space on the 2nd floor. So at this time I can not complete my review.

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject Application ID: 2008-0174 *Binga Wings*

Date: 12/8/2008

I reviewed this project with Barbara B. The project now is to demolish the existing building and build a new restaurant with 1 dwelling unit. The property is located within a B-2b zone. A new park is being propose along the Congress Street side of the property. It is unclear as to where an actual property line would be located between the new park and the new project.. The land area did not change in size after the park proposal. There are mechanicals in the rear of the building. I saw no information regarding the noise that would be created. It shall meet the maximum noise allowance under the B-2b zone.

All the parking is not shown. Is the parking across the street the same or different?. A copy of the parking plan across the street should be part of this new submittal. I did not see submitted scaleable floor plans that would help me determine the parking requirements. I will also need scaleable building elevations to determine that the maximum height limitations are being met. I also did not immediately see that information was submitted in regards to the impervious surface requirements (90% maximum).

Marge Schmuckal



**ASSOCIATED DESIGN
PARTNERS INC.**

80 Leighton Road ▪ Falmouth, Maine 04105

Office: 207.878.1751
Fax: 207.878.1788
e-mail: adp@adpengineering.com
web: www.adpengineering.com

**BINGA'S WINGAS
6 WASHINGTON AVE
SITE AND BUILDING IMPROVEMENTS**

6, 13, and 15 WASHINGTON AVE
PORTLAND, MAINE

Site Plan Review Submission Material

March 21, 2007

OWNER:

Greg's Properties Wash Ave LLC
c/o Alec Altman
26 Village Brook Rd
Yarmouth, ME 04096

DESIGN PROFESSIONAL:

Associated Design Partners, Inc
80 Leighton Road
Falmouth, Maine 04105

ARCHITECT:

Johnson and Bell Architects
57 Jefferson St
Biddeford, ME 04005

LAND SURVEYOR:

Tom Raymond, PLS, PE
80 Winn Rd
Falmouth, ME 04105

1) PROJECT NARRATIVE

**2) SITE PLAN
APPLICATION**

**3) SITE PLAN
CHECKLIST**

**4) EVIDENCE OF RIGHT,
TITLE, & INTEREST**

**5) EVIDENCE OF
FINANCIAL CAPACITY**

6) PLANS



ASSOCIATED DESIGN PARTNERS INC.

Office: 207.878.1751
Fax: 207.878.1788
e-mail: adp@adpengineering.com

80 Leighton Road • Falmouth, Maine 04105

March 21, 2007

06202

Ms. Barbara Barhydt
Development Review Manager
389 Congress St
Portland, ME 04101

Re: Redevelopment of Existing Facility
6 Washington Ave
Portland, ME

Dear Barbara,

Associated Design Partners, Inc. is pleased to submit this application and supporting documents for development review of the site improvements and rehabilitation of the existing 4-story building currently located at 6 Washington Avenue (formerly B&B Cleaners). The property was purchased by Alec Altman of Greg's Properties Wash Ave LLC in March of 2006. Mr. Altman currently is the owner / proprietor of two restaurants in Portland – Binga's Wingas at 795 Congress and 40 Portland Street. Mr. Altman's intent is to redevelop the existing site at 6 Washington Ave and operate Portland's third and premier Binga's Wingas establishment at this location. A summary of the redevelopment program is listed below:

1. Redesign the site to accommodate the increased parking demand and to satisfy the City of Portland's Land Use Ordinance to the greatest extent possible.
 - a. In order to increase the number of available parking spaces, Greg's Properties Wash Ave LLC purchased the properties at 13 and 15 Washington Ave (directly across the street from the building site). Working with the Jim Charmody, City of Portland Traffic Engineer, we have determined that the maximum number of standard parking spaces that will physically fit on the three parcels (6, 13, and 15 Wash. Ave) is 22 + one loading space (See drawing C103). Though this is 6 spaces shy of the 28 of-street spaces required by the Land Use Ordinance, we feel that the 22 spaces proposed will satisfy the actual demand of the new establishment. We anticipate a large portion of the patrons to be local walk-in due to the high density of residential dwellings in the area. Currently the Binga's Wingas establishment at 795 Congress has no off-street parking, and typically fills to capacity (40 seats) on Friday and Saturday nights. Additionally, the high demand hours for Binga's Wingas are from 5:00pm to 10pm, which does not overlap the current high demand hours of 8am to 4:30pm for on-street parking along Washington and Congress streets. Therefore, additional on-street parking is anticipated to be available during the restaurants' peak demand hours.
 - b. New site lighting is proposed in two locations to supplement the existing lighting provide by street lights and adjacent building lights. See drawing C104.
 - c. A 4ft wide landscaped buffer strip is proposed between all parking areas and existing streets / sidewalks. See plan C103.
 - d. Removal of the existing wood framed building and pump island at 13 Washington Ave is proposed, and new bituminous pavement will be added to these vacated areas. There will be no net increase in new impervious surface area.
 - e. The entrances to each parking lot are proposed to be widened and reconfigured based on our correspondence with the City Traffic Engineer.

- f. New underground utility connections are proposed to be made between the existing gas, water, and sewer mains located under Washington Ave. See plan C103.
 - g. The existing free standing sign at the corner of Washington and Congress will be rehabilitated with new signage (total sign area to match existing).
2. Rehabilitate the building to facilitate operation of new mixed-use establishment, including: restaurant (5094sf) / storage (1365 sf) / office (675sf) / and residential (one unit 589). Proposed modifications to the building include:
- a. Complete structural upgrade to bring the existing building up to the standards of IBC 2003 Building Code.
 - b. Install 4 story elevator and new vertical circulation.
 - c. Completely redesign exterior envelope and street level storefront.
 - d. Install all new Mechanical, Electrical, and Plumbing systems.
 - e. Install new fire protection (sprinkler) system.
 - f. Install new exterior food service cooler and freezer.
 - g. Design and install all new interior partition walls, finishes, and décor.
 - h. Existing footprint to be enlarged only to accommodate new elevator, cooler / freezer, and second means of egress to existing basement.

Please find the Site Plan Application, Site Plan Checklist, photos of the existing site, site development drawings, and conceptual exterior elevations. If you have any questions regarding this project or the information contained within, please do not hesitate to call.

Sincerely,



Aaron S Wilson, P. E.
Engineering Project Manager
Associated Design Partners Inc
ASW



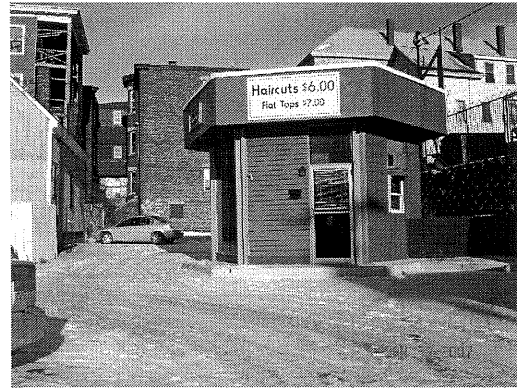
6 Washington Ave – Viewing Southeast



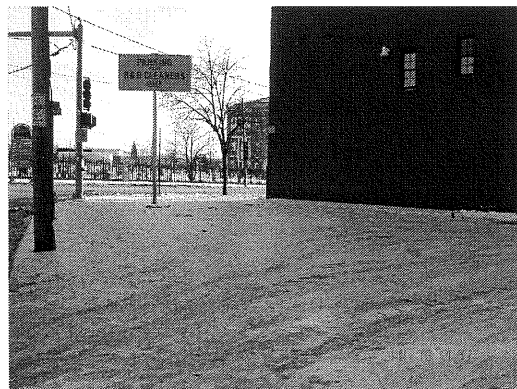
13-15 Washington Ave parking lot – Viewing West



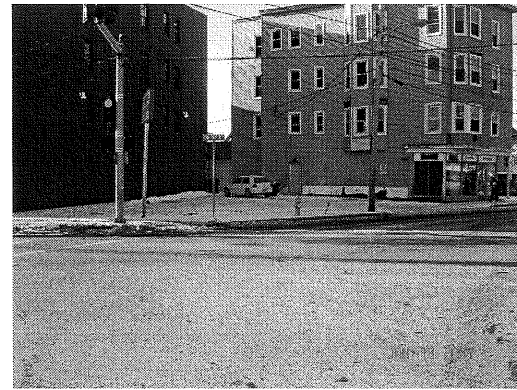
6 Washington Ave – Viewing Southwest



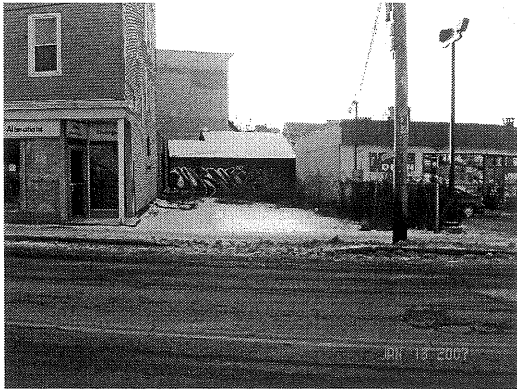
13 Washington Ave parking lot – Viewing North



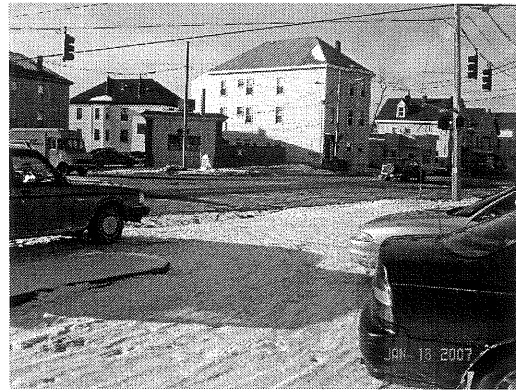
6 Washington Ave parking lot – Viewing East



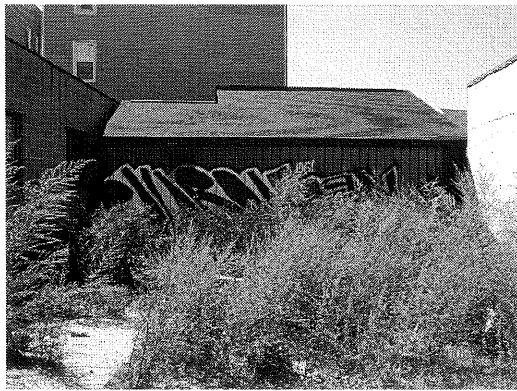
6 Washington Ave parking lot – Viewing Southwest



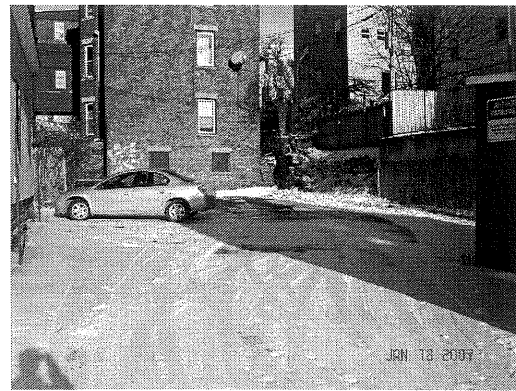
6 Washington Ave parking lot –
Viewing South



15 Washington Ave parking lot –
Viewing Southwest



6 Washington Ave parking lot –
Viewing South



13 Washington Ave parking lot –
Viewing North



City of Portland Site Plan Application

If you or the property owner owes real estate taxes, personal property taxes or user charges on any property within the City, payment arrangements must be made before permit applications can be received by the Inspections Division.

Address of Proposed Development: 6 WASHINGTON AVE		Zone: B2(b)
Existing Building Size: _____ sq. ft.	Proposed Building Size: _____ sq. ft.	
Existing Acreage of Site: 7518 + 7363 sq. ft.	Proposed Acreage of Site: 7518 + 7363 sq. ft.	
Tax Assessor's Chart, Block & Lot: Chart# 13 Block# 9 Lot# 5 13 9 7 13 M 3 13	Property owner's mailing address: 26 VILLAGE BRBOK RD YARMOUTH ME 04096	Telephone #: 207-347-6072
Consultant/Agent, mailing address, phone # & contact person: AARON WILSON ASSOCIATED DESIGN PARTNERS, INC 80 LEIGHTON RD, FARMOUTH ME 04105 878-1751	Applicant's name, mailing address, telephone #/Fax#/Pager#: SAME AS AGENT	Project name: BINGAS WINGAS 6 WASHINGTON AVE

Fee For Service Deposit (all applications) X (\$200.00)

Proposed Development (check all that apply) **< 5000 SF**

- New Building Building Addition Change of Use Residential Office Retail **ASSEMBLY**
- Manufacturing Warehouse/Distribution Parking lot
- Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) \$ _____ + major site plan fee if applicable
- Site Location of Development (\$3,000.00)
(except for residential projects which shall be \$200.00 per lot _____)
- Traffic Movement (\$1,000.00) Storm water Quality (\$250.00)
- Section 14-403 Review (\$400.00 + \$25.00 per lot)
- Other _____

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

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

RECEIVED

MAR 28 2007

City of Portland
Inspection Division

Minor Site Plan Review

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

Plan Amendments

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

~ Please see next page ~

Who billing will be sent to: (Company, Contact Person, Address, Phone #)

GREG'S PROPERTIES WASHAVE LLC
C/O ALEC ALTMAN
26 VILLAGE BROOK RD
YARMOUTH ME 04096

Submittals shall include (9) separate **folded** packets of the following:

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans checklist
- d. 1 set of 11 x 17 plans

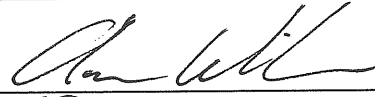
Amendment to Plans: Amendment applications should include 9 separate packets of the above (a, b, & c)

ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

Section 14-522 of the Zoning Ordinance outlines the process which is available on our web site: portlandmaine.gov

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

Signature of applicant:

AARON WILSON 
AUTHORIZED REP.

Date:

1/19/07

This application is for site review ONLY; a building Permit application and associated fees will be required prior to construction.



City of Portland, Maine Site Plan Checklist

6 WASHINGTON AVE

Project Name, Address of Project
Number

Application

Submitted () & Date (b,c)	Item	Required Information	Section 14-525
✓	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	1
✓	(2)	Name and address of applicant and name of proposed development	a
✓	(3)	Scale and north points	b
✓	(4)	Boundaries of the site	c
✓	(5)	Total land area of site	d
✓	(6)	Topography - existing and proposed (2 feet intervals or less)	e
✓	(7)	Plans based on the boundary survey including:	2
✓	(8)	Existing soil conditions	a
✓	(9)	Location of water courses, marshes, rock outcroppings and wooded areas	b
✓	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
✓	(11)	Approx location of buildings or other structures on parcels abutting the site	d
✓	(12)	Location of on-site waste receptacles	e
✓	(13)	Public utilities	e
✓	(14)	Water and sewer mains	e
✓	(15)	Culverts, drains, existing and proposed, showing size and directions of flows	e
✓	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
✓	(17)	Location and dimensions of on-site pedestrian and vehicular access ways	g
✓	(18)	Parking areas	g
✓	(19)	Loading facilities	g
✓	(20)	Design of ingress and egress of vehicles to and from the site onto public streets	g
✓	(21)	Curb and sidewalks	g
✓	(22)	Landscape plan showing:	h
✓	(23)	Location of existing/proposed vegetation	h
✓	(24)	Type of vegetation	h
✓	(25)	Quantity of plantings	h
✓	(26)	Size of proposed landscaping	h
✓	(27)	Existing areas to be preserved	h
✓	(28)	Preservation measures to be employed	h
✓	(29)	Details of planting and preservation specifications	h
✓	(30)	Location and dimensions of all fencing and screening	i
✓	(31)	Location and intensity of outdoor lighting system	j
✓	(32)	Location of fire hydrants, existing and proposed	k
✓	(33)	Written statement	c
✓	(34)	Description of proposed uses to be located on site	l
✓	(35)	Quantity and type of residential, if any	l
✓	(36)	Total land area of the site	b2
✓	(37)	Total floor area and ground coverage of each proposed building and structure	b2
✓	(38)	General summary of existing and proposed easements or other burdens	c3
✓	(39)	Method of handling solid waste disposal	4
✓	(40)	Applicant's evaluation of availability of off-site public facilities, including sewer, water and streets	5
✓	(41)	Description of any problems of drainage or topography, or a representation that there are none	6
✓	(42)	An estimate of the time period required for completion of the development	7
✓	(43)	A list of all state and federal regulatory approvals to which the development may be subject to. **	8

LOCUS
MAIN BUILDING
13-G-5
13-G-7
13-G-12

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that UMBEL PROPERTIES, LLC, a Maine limited liability company with a place of business at Portland, Maine, for consideration paid, grant to GREG'S PROPERTIES WASHAVE LLC, a Maine limited liability company with a mailing address of 26 Village Brook Road, Yarmouth, ME 04096, with WARRANTY COVENANTS, the land in Portland, County of Cumberland and State of Maine, described below:

A certain lot or parcels of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, more particularly described as follows:

LOT (7)

Beginning at a point on the westerly side of Washington Avenue, which is ninety-one and thirty-three hundredths (91.33) feet from the intersection of the northerly sideline of Congress Street, and the westerly sideline of Washington Avenue; thence southwesterly at an internal angle of 73° 26' ninety-nine and ninety-seven hundredths (99.97) feet to a post; thence southeasterly by an internal angle of 81° 51' twenty-five and ten hundredths (25.10) feet to a post; thence easterly thirty and forty-five hundredths (30.45) feet to an iron pin; thence easterly fifty-six and three hundredths (56.03) feet to an iron pin on the westerly sideline of Washington Avenue; said line making an internal angle with Washington Avenue of 95° 44'; thence northerly along the westerly sideline of said Washington Avenue thirty-seven and seventy-five hundredths (37.75) feet to the point of beginning.

MAINE REAL ESTATE TAX PAID

Also, a certain lot or parcel of land situated on Congress Street, in said City of Portland, bounded and described as follows:

12

Commencing at the northwesterly corner of Congress Street and Washington Avenue in the City of Portland; thence by said Congress Street southwesterly twenty-six (26) feet five (5) inches to land formerly owned by Samuel H. Quincy; thence by said Quincy's land northwesterly sixty-seven (67) feet nine (9) inches; thence northeasterly fifty-two (52) feet three (3) inches to Washington Avenue; thence southerly by said Washington Avenue fifty-three (53) feet seven (7) inches to the first mentioned bounds.

Also, a certain lot or parcel of land, with the buildings thereon, situated on the southwesterly side of Washington Avenue, in said Portland, bounded and described as follows:

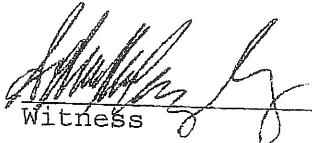
Beginning at the most Easterly corner of the lot of land

5

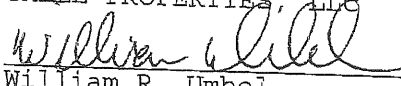
which was conveyed to John C. Preston by Deeds from Sidney S. Nason and others and Charles A. York and others, dated November 16, 1881 and recorded in Cumberland County Registry of Deeds, in Book 482, Page 313 and 314; thence running Southwesterly by said Preston's land Ninety and thirty-four one-hundredths (90.34) feet to land of Edward Moore; thence Southeasterly at an included angle of Eighty-five degrees and twenty-two minutes (85° 22') by said Moore's land Thirty-one and eighteen one-hundredths (31.18) feet to land formerly of Ann Woodman; thence Northeasterly at an included angle of Ninety-three degrees and fifty-one minutes (93° 51') and by said Woodman's land Eighty and forty-five one-hundredths (80.45) feet to Washington Avenue; thence Northwesterly at an included angle of one hundred four degrees and forty-six minutes (104° 46') Thirty and eight tenths (30.8) feet to the place of beginning.

Being the same premises conveyed to the Grantor herein by warranty deed dated June 8, 2001 from East End Corp. and recorded in the Cumberland County Registry of Deeds in Book 16402, Page 196.

IN WITNESS WHEREOF, the said Umbel Properties, LLC has set its hand this 20 day of March, 2006.



Witness

UMBEL PROPERTIES, LLC
BY: 

William R. Umbel
Its Manager

STATE OF MAINE
COUNTY OF CUMBERLAND

March 20, 2006

Then personally appeared Umbel Properties, LLC by its Manager, William R. Umbel and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said company.

Before me


Notary Public/Attorney at Law

Received
Recorded Register of Deeds
Mar 20, 2006 12:59:38P
Cumberland County
John B O'Brien

QUITCLAIM DEED WITH COVENANT

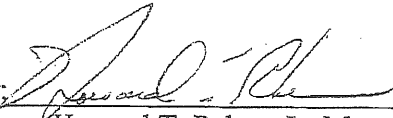
KNOW ALL MEN BY THESE PRESENTS, that HOSAN, LLC, a Maine limited liability company with a principal place of business at 90 India Street, Portland, Maine ("Grantor") in consideration of \$1.00 and other valuable consideration, paid by GREG'S PROPERTIES WASHAVE LLC, a Maine limited liability company with a mailing address of 26 Village Brook Road, Yarmouth, Maine 04096 ("Grantee"), the receipt whereof it does hereby acknowledge, does hereby remise, release, bargain, sell and convey, and forever quitclaim unto the said Grantee, its heirs, successors, and assigns forever, the real estate more particularly described on Exhibit A attached hereto.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said Grantee, its heirs, successors, and assigns, to their own use and behoof forever.

AND the Grantor does COVENANT with the Grantee, its heirs, successors, and assigns, that it shall and will WARRANT AND DEFEND the premises to the said Grantee, its heirs, successors, and assigns forever, against the lawful claims and demands of all persons claiming by, through, or under me.

DATED: October 31, 2006

HOSAN, LLC


By: 
Howard T. Reben, Its Manager

STATE OF MAINE
CUMBERLAND, ss.

October 31, 2006

Then personally appeared the above-named Howard T. Reben, in his capacity as Manager of Hosan, LLC, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said Hosan, LLC.

Before me,


Notary Public/Attorney at Law
Printed Name: David J. Perkins

MAINE REAL ESTATE TAX PAID

EXHIBIT A

Lot 1:

A certain lot or parcel of land, with the buildings thereon, situated on the easterly side of Washington Avenue in the City of Portland, Cumberland County, Maine, being a part of Lot #2, on Plan #6 of the Division of the Real Estate of Robert Boyd, late of Portland, and recorded in Plan Book 169, Page 478 of the Cumberland County Registry of Deeds, bounded and described as follows:

BEGINNING on the easterly side of said Washington Avenue at a point of 100.3 feet northerly from the monument at the intersection of said Washington Avenue with the northerly sideline of Congress Street, thence northerly by said Washington Avenue 40.12 feet to Lot No. 3 on said plan, or to land now or formerly of Nellie A. Osborne, thence easterly by Lot No. 3 on said plan and land of said Osborne 123.5 feet to the westerly side line of land of Michael C. Connellan and Mary E. Sullivan sold to Nellie E. Mahoney, September 24, 1906, and recorded in said Registry of Deeds in Book 793, Page 62; thence southerly, by the westerly line of said land which is on course at right angles to Cumberland Avenue, 34.67 feet to the northerly face of a masonry retaining wall at the northerly line of property fronting on Congress Street, thence westerly on a straight line by land of various owners 142.4 feet to Washington Avenue and the point of beginning.

Reference is hereby made to a Warranty Deed from Howard T. Reben to Hosan LLC dated May 27, 2003 and recorded in the Cumberland County Registry of Deeds in Book 19446, Page 216.

Lot 2:

Also another lot or parcel of land with the buildings thereon, situated on the southeasterly corner of Washington and Cumberland Avenue, in said Portland, bounded and described as follows;

Beginning at the corner formed by the intersection of the southerly side of Cumberland and the easterly side of Washington Avenues; thence running N 58° E by said Cumberland Avenue 40 feet to a spike in said southerly line of Cumberland Avenue at the southwest corner of land conveyed by Rose Latkin to one Lotfey; thence S 8° 58' E by said Lotfey land 45.26 feet to an iron hub which is situated 0.33 of a foot easterly from the corner of the house on the lot under description; thence S 24° 03' E parallel to an 0.33 of a foot easterly of said house, 21 feet, more or less, to land formerly of Scanlan and Connellan, and now, or more recently of Louis Ealfoot; thence southwesterly by said Belfont land 52 feet, more or less, to said Washington Avenue; thence northwesterly by the easterly side line of said Washington Avenue 70 feet, more or less to the point of beginning.

This conveyance is made subject to the restriction that the premises shall not be used in whole or in part, directly or indirectly for automobile service station purposes; or for the sale, offering for sale, storage or distribution of gasoline, motor vehicle fuel, motor vehicle lubricants or any other petroleum products (except for consumption on the premises by occupant); or for the sale of tires, batteries, or automotive parts and accessories during the period of 20 years from and after April 16, 1987, and Grantee, for Grantee and the heirs, executors, administrators, successors and assigns of Grantee, as the case may be, hereby covenants and agrees, with Sohio Oil Company, its successors and assigns (which covenant shall be deemed running with and binding the land

herein conveyed), that neither Grantee, nor anyone claiming by, through, or under Grantee shall use or permit to be used the premises or any part thereof, directly or indirectly, for automobile service station purposes; or for the sale, offering for sale, storage or distribution of gasoline, motor vehicle fuel, motor vehicle lubricants, or any other petroleum products (except for consumption on the premises by occupant); or for the sale of tires, batteries and automotive parts and accessories during the said 20 years. The foregoing condition and restriction is intended for the benefit and protection of Sohio Oil Company, its successors and assigns, as the owner and/or lessee of other real property in the political subdivision (City, Village or Township, as the case may be) in which the premises are located and in the surrounding area within a distance of 5 miles from the boundaries of said political subdivision, now, or during the 20 year period, used and operated by the Sohio Oil Company or its lessees for automobile service station purposes and shall run with the land and shall bind the premises herein conveyed in favor of such other real property owned or leased by Sohio Oil Company.

Hosan, LLC (the "Grantor") hereby reserves an easement (the "Parking Space Easement") on the within conveyed property (the "Property") for up to nine (9) parking spaces on the Property (the "Parking Spaces") to be located in such areas on the Property as are designated by Greg's Properties Washave LLC (the "Grantee"), or its successors from time to time. The Parking Spaces shall be available at no cost for use by the Grantor, its assigns and/or successors, including, without limitation, Howard Reben of Raymond, Maine, Susan Hirsh of Raymond, Maine, members and/or employees of the law firm of Reben Benjamin & March of Portland, Maine, and other occupants of the building located upon the land described in a deed recorded in the Cumberland County Registry of Deeds in Book 19466, Page 224 (the "97 India Street Property"), during weekdays from 6:00 a.m. to 6:00 p.m. (the "Grantor's Parking Hours"). The Grantee may require vehicles to carry identification, may control access by installing a gate requiring access cards, or employ other reasonable management procedures. The Grantee may, on occasion, use the Parking Spaces during the Grantor's Parking Hours when the Parking Spaces are not in use by the Grantor provided that the Grantee shall promptly move any vehicle occupying the Parking Spaces promptly upon request by the Grantor, and such use occasionally used by Grantee shall not interfere with Grantor's, and Grantor's assigns, use and enjoyment of such spaces during the 6:00 a.m. to 6 p.m. weekday time period. This Parking Space Easement shall be in effect for 15 years from the date that this deed is recorded in the Cumberland County Registry of Deeds. This Parking Space Easement shall run with the land and shall benefit the Grantor, its successors and/or assigns, and any person whom Grantor (or its successors or assigns) designates for the right to park in the Parking Spaces. The Grantor, its successors and/or assigns, shall also have the right to place a 2-foot by 2-foot (2' x 2') sign, subject to prior written consent of the Grantee and in accordance with all applicable zoning and land use regulations, at its own cost and expense, as it deems reasonably necessary and appropriate on the Property to identify the Parking Spaces assigned to it by Grantee. Grantee, its successor and/or assigns, shall provide snowplowing and maintenance to allow Grantor and its successors and/or assigns use and enjoyment of the Parking Spaces during the entire 15 year easement.

Grantor also reserves an easement upon the Property for the benefit of the 97 India Street Property allowing the Grantor, and future owners of the 97 India Street Property (collectively, the "Benefited Party"), the option, after the expiration of the Parking Space Easement, to lease up to twelve (12) parking spaces at the Property (the "Spaces"), to be located in such areas on the Property as are designated by the Grantee, or its successors from time to time, at fair market rent, adjusted annually, with each lease to have a term of at least one (1) year, with the spaces available during Grantor's Parking Hours. In the event that the parties are unable to agree as to

fair market rent with respect to the Spaces at anytime, the dispute will be resolved by calculating ninety percent (90%) of the average monthly rental from Top of the Old Port Parking Lot, Amato's Federal St. Parking Lot and 321 Commercial Street Parking Lot from the City of Portland parking survey which is done annually. In the event that such parking survey is no longer produced or the data from those parking lots is no longer available, the fair market rent shall be determined by an appraiser mutually agreeable to the parties. In the event that the parties are unable to agree upon an appraiser, then (a) the Grantor and the Grantee (or their successors and/or assigns) shall each promptly appoint a licensed Maine commercial real estate appraiser who, in turn, shall jointly appoint a third licensed Maine commercial real estate appraiser to act as an arbitrator; (b) these appraisers shall submit to the arbitrator their separate appraisals of the fair market rent of the twelve (12) Spaces based upon whatever methods of valuation each appraiser considers most appropriate to reflect the fair market rent; and (c) the arbitrator, in his/her sole discretion, shall determine the fair market rent. This option to rent the spaces shall be a perpetual easement on the Property that shall run with the land, benefiting the Benefited Party. This option to rent the parking spaces shall not lapse or be waived in the event the option is not used during all times that it is available. The Grantor and/or its successors and assigns shall have the right to rent less than the twelve (12) Spaces, and the provisions for determining rent provided herein shall be used in such circumstances. The Benefited Party shall provide sixty (60) days advance notice of their intent to lease and the Grantee, its successors and/or assigns, shall have a duty to provide the 12 parking spaces (or any lesser number requested by the Benefited Party) at or prior to the conclusion of the sixty (60) days notice period. The Grantee may require vehicles to carry identification, may control access by installing a gate requiring access cards, or employ other reasonable management procedures. The Grantee may, on occasion, use the Spaces during the Grantor's Parking Hours when the spaces are not in use by the Grantor provided that the Grantee shall promptly move any vehicle occupying the spaces promptly upon request by the Grantor, and such use occasionally used by Grantee shall not interfere with Grantor's, and Grantor's assigns, use and enjoyment of such spaces during the 6:00 a.m. to 6 p.m. weekday time period.

In the event that the Benefited Party shall fail to cure any default hereunder within a period of sixty (60) days from written notice thereof, the Grantee may record a notice of termination of this easement to lease in the Cumberland County Registry of Deeds and neither party shall have any further obligations hereunder. The Benefited Party shall hold the Grantee harmless from any claims, damages and/or liability arising out of or resulting from the Benefited Party's use of the Spaces. The Grantee shall have the right to amend this option to lease easement by relocating the Spaces to another location off of the Property provided that such alternate location shall be located no farther away from the 97 India Street Property, and the Benefited Party receives substantially the same benefits and rights in the replacement parking spaces as is provided with the original parking spaces. In addition, the Grantee may, at any time, elect to construct any improvements upon the Property, including but not limited to a parking garage, provided such construction and/or improvements do not unreasonably interfere with the Benefited Party's rights hereunder. Notwithstanding anything to the contrary herein, the Grantee may tow or cause to have towed or removed, any vehicle which remains on the Property beyond the Grantor's Parking Hours. In no event shall the Benefited Party park or keep unregistered or junk vehicles on the Property.

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number 1 of 1
 Parcel ID 013 M003001
 Location 15 WASHINGTON AVE
 Land Use RETAIL & PERSONAL SERVICE
 Owner Address GREG'S PROPERTIES WASHAVE LLC
 26 VILLAGE BROOK RD
 YARMOUTH ME 04096

Book/Page 24529/315
 Legal 13-M-3-9
 WASHINGTON AVE 11-19
 CUMBERLAND AVE 110
 7217 SF

Current Assessed Valuation

Land	Building	Total
\$133,300	\$19,200	\$152,500

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1971	1	330	1

Total Acres	Total Buildings Sq. Ft.	Structure Type	Building Name
0.166	330	RETAIL - SINGLE OCCUPANCY	LOVEJOYS BARBER SHOP

Exterior/Interior Information

Section	Levels	Size Use
1	01/01	330 MULTI-USE SALES

Height	Walls	Heating	A/C
10	CONC. BLOCK	ELECTRIC	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
1	CANOPY - ONLY	1

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1980	ASPHALT PARKING	4000	1

Sales Information

Date	Type	Price	Book/Page
------	------	-------	-----------

Picture and Sketch

[Picture](#) [Sketch](#) [Tax Map](#)

[Click here to view Tax Roll Information.](#)

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

[New Search!](#)

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number 1 of 1
 Parcel ID 013 G007001
 Location 6 WASHINGTON AVE
 Land Use MANUFACTURING & CONSTRUCTION

 Owner Address GREG'S PROPERTIES WASHAVE LLC
 26 VILLAGE BROOK RD
 YARMOUTH ME 04096

Book/Page 23771/200
 Legal 13-G-7
 WASHINGTON AVE 6-8

 2695 SF

Current Assessed Valuation

Land	Building	Total
\$57,300	\$203,500	\$260,800

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1910	1	8789	1

Total Acres	Total Buildings Sq. Ft.	Structure Type	Building Name
0.062	8789	RETAIL - SINGLE OCCUPANCY	ACCENT DRY CLEANERS

Exterior/Interior Information

Section	Levels	Size Use
1	B1/B1	1570 SUPPORT AREA
1	01/01	2446 RETAIL STORE
1	02/04	1591 MULTI-USE STORAGE

Height	Walls	Heating	A/C
8		HW/STEAM	NONE
11	MASNRY/FRAME	HW/STEAM	NONE
10	FRAME	HW/STEAM	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
2	OVERHEAD DOOR - WD/MT	1

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1960	PAVING CONC AVG	264	1

Sales Information

Date	Type	Price	Book/Page
03/20/2006	LAND + BLDING	\$420,000	23771-200
06/12/2001	LAND + BLDING	\$150,000	16402-196
06/01/1995	LAND	\$60,000	11963-065
06/01/1995	LAND	\$115,000	

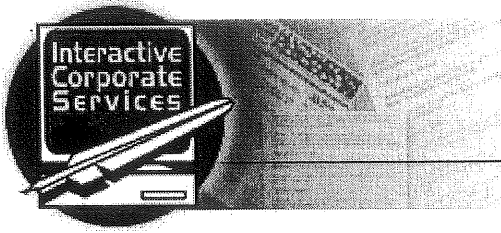
Picture and Sketch

[Picture](#)
 [Sketch](#)
 [Tax Map](#)

[Click here](#) to view Tax Roll Information.

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

[New Search!](#)



MAINE

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Corporate Name Search

Information Summary

Subscriber activity report

This record contains information from the CEC database and is accurate as of: Tue Jan 16 2007 16:00:09. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
GREG'S PROPERTIES WASHAVE LLC	20062684DC	LIMITED LIABILITY COMPANY (DOMESTIC)	GOOD STANDING

Filing Date	Expiration Date	Jurisdiction
03/09/2006	N/A	MAINE

Other Names (A=Assumed ; F=Former)

NONE

Clerk/Registered Agent

ROBERT E. DANIELSON
P.O. BOX 545
PORTLAND, ME 04112 0545

Obtain a Certified Copy of this record for an additional \$5.00 fee

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Certificate of Existence [\(more info\)](#)

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amendments](#)
(\$30.00)

[Long Form with
amendments](#)
(\$30.00)

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© Department of the Secretary of State

Theodore Altman
94 Hights Cross Road
Chappaqua, New York 10514

March 27, 2007

Ms. Barbara Barhydt
Development Review Manager
389 Congress Street
Portland, Maine 04101

Dear Ms. Barhydt:

Alec Altman and I are the sole owners of Greg's Properties, LLC which, through wholly owned companies, owns and develops real estate in New England. Among its holdings are a four story building located at the intersection of Washington and Congress Avenues and contiguous and nearby parking facilities which it acquired to redevelop. On a cost basis, the property in its current undeveloped state is valued at approximately \$600,000. This property, like Greg's Properties other holdings, is entirely financed internally and carries no outside debt. Our current plans are to also finance the development of this property internally. We have a multiple of the amount of liquid assets necessary to complete the construction without resorting to funds obtained through construction or other loans. We, however, may consider whether such third party financing is appropriate for this project.

Sincerely,



Theodore Altman

**BINGA'S WINGAS
6 WASHINGTON AVE
SITE AND BUILDING IMPROVEMENTS**

6, 13, and 15 WASHINGTON AVE
PORTLAND, MAINE

Site Plan Review Submission Material

June 29, 2007

OWNER:

Greg's Properties Wash Ave LLC
c/o Alec Altman
26 Village Brook Rd
Yarmouth, ME 04096

DESIGN PROFESSIONAL:

Associated Design Partners, Inc
80 Leighton Road
Falmouth, Maine 04105

ARCHITECT:

Johnson and Bell Architects
57 Jefferson St
Biddeford, ME 04005

LAND SURVEYOR:

Tom Raymond, PLS, PE
80 Winn Rd
Falmouth, ME 04105

1	COVER LETTER
2	QUALIFICATIONS
3	WATER & SEWER CAPACITY LETTERS
4	ARCHIECTURAL NARRATIVE
5	ORIGINAL SUBMISSION MATERIAL

80 Leighton Road ▪ Falmouth, Maine 04105

June 29, 2007

Shukria Wiar
Planner
City of Portland, ME 04105

RE: Site Plan Review Comments: 6 Washington Ave
Change of Use: Mixed Use Establishment
Application # 2007-0054; CBL 013 G007001

Dear Ms. Wiar,

Associated Design Partners Inc. has prepared the following responses to comments from various City departments on the site plan application material for the proposed changes to properties at 6, 13, and 15 Washington Avenue. The original comments are in regular type font, with our responses listed in italics. Please contact this office if you have any questions.

1. Lighting cannot be more than 0.1-foot candle at the property lines. Please submit catalogue cuts for all proposed lighting.
1.1 Drawing C104 shows revised proposed low level lighting.
2. All dumpsters shall be enclosed. DPW will require a detail of this enclosure.
2.1 Dumpster enclosure details are now shown on dwg C201.
3. The project is not meeting the City's parking requirement.
3.1 300 square feet of restaurant (assembly) has been converted to bulk storage / kitchen space to reduce the parking demand from 24 to 22 spaces.
4. The Planning Board may question the viability of the parking lots.
4.1 Both 13 and 15 Washington Ave is currently being used for parking, and the proposed arrangement meet the minimum travel way and space dimensions specified by the ordinance.
5. The angled parking spaces needs to be the following:

Stall depth: 19'-6"
Stall width: 9'-0"
Aisle width: 14'-0"

5.1 The angled parking spaces have been revised on dwg C103.
6. Crosswalks will need to be striped across entrances driveways to direct pedestrians to building entrances. Please provide this on the site plan.
6.1 Crosswalk striping is now shown on dwg C103.
7. Per the City's sidewalk policy, the sidewalk shall be brick with asphalt aprons.
7.1 All existing concrete sidewalks in front of 6, 13, and 15 Washington to be removed and replaced with Brick sidewalks. See sidewalk construction detail on C202.

8. According to 14-185 (C) (1), there needs to be a densely landscaped area or an ornamental fence around the properties. Currently there are fences scattered on the two properties but are deteriorating and will need to be replaced. There also needs to be street trees proposed every 15'.

8.1 We are proposing to add landscaping and ornamental fencing between all of the parking lots and existing streets in accordance with the ordinance. However, a majority of the properties are bounded by zero lot line buildings or site retaining walls. There is physically no room to install a landscaped area or ornamental fence at these locations, and meet the city's parking requirements for the proposed use. A 6ft wood stockade fence is proposed between the residential building and the parking lot at 13 Washington Ave, as shown on dwg C103.

9. Submit architectural plans and renderings of the proposed building (east, west, south and north elevations) as well as a narrative addressing the exterior materials to be used.

9.1 Please reference revised dwgs A301 and A302.

10. Will the portion in the back of the building, stay as a one story?

10.1 Yes.

11. Show how the applicant is meeting the requirements of 14-187 (186) and 14-187 (see attached). Please provide a narrative addressing these items.

11.1 14-186

- a. See the City Arborist comments (item 18) and responses.*
- b. New curbs and sidewalks are proposed in front of 6, 13, and 15 Washington Ave.*
- c. It is our opinion that the proposed off-street parking and loading as depicted on the site drawing satisfy the ordinance requirements.*
- d. Currently parking is setback 8'-9" min. from the lot lines along Washington Ave. Section 14-185 (1) b. allows the 10ft maximum front yard setback to be reduced to "average depth of the front yard of the nearest developed lots on either side of the lot in question". The current existing average front yard of lot 13-M-15 (11 Washington Ave) is 8'-7".*
- e. The existing free standing sign at the corner of Washington and Congress is proposed to remain, with new graphics. A new wall sign is proposed on the north side of the building that meets the dimensional and illumination requirements of Article III, division 22 of the land use ordinance (150sf, 2sf/ft of building, 1 per façade.*

12. Submit capacity letters for water (Portland Water District) and sewer (City of Portland)

12.1 Capacity letters are attached

13. Submit technical capability letter

13.1 Tech. capability letter attached.

14. Zoning Comments:

a. State the existing and proposed impervious surface. The B-2b zone allows a maximum of 90% impervious surface.

14.1 Existing impervious surface is 100%. Proposed is 95% due to addition of landscaped areas.

15. Using the given floor plans, it has been determined that 24 parking spaces are required based on the breakdown of uses and floor area. Only 22 spaces are shown on the submittal.

15.1 300 square feet of restaurant (assembly) has been converted to bulk storage / kitchen space to reduce the parking demand from 24 to 22 spaces.

16. The project is proposing a 4' rear setback for the new accessory structure where a 5' minimum setback is required. The side and front setbacks are meeting the B-2b zone.

16.1 This setback has been revised to 5.3ft.

17. Department of Public Works:

a. The submission does not include any details. Details of items including curb, paving, and utility connections are necessary to show engineering design and conformance with City of Portland standards.

17.1 Detail sheets C201, C202 have been added to the drawing set.

b. No topography, proposed or existing is shown for the site.

17.2 Existing topography has been added.

c. The applicant will be required to install a grease trap. Please revise the site plans to show this.

17.3 See 1000gal grease trap on C103 and C202.

18. City Arborist (via e-mail)

a. The submission does not include any details. Details of items including curb, paving, and utility connections are necessary to show engineering design and conformance with City of Portland standards.

18.1 Detail sheets C201, C202 have been added to the drawing set.

b. The landscaping being proposed at the parking lot near the building will need to have either concrete or granite curbing all around. The proposed bituminous will not hold up with the automobile traffic.

18.2 New granite curbing is now shown here.

c. On the same site, the plant species being proposed are part shade shrubs and you will need to propose full sun shrubs such as Dwarf Korean, Miss KIM, Lilac shrubs, Bayberry or Rugosa Roase. The City arborist request that three shade trees be distributed along the landscaping; the 3 upright shade trees will need to be 2.5" in caliper and can be chosen from any of the following species... 'Armstrong' Red Maple, Ginkgo, Upright Ash, English Oak or European Hornbeam.

18.3 See revised landscaping on plan C103. Two (2) shade trees can be provided along Washington Ave. There is an existing free standing sign in the corner of the parking lot near the intersection with Washington and Congress. Though these 2 trees will block the view of the sign from Washington Ave, proposed building mounted signage will compensate for this. However, if a third shade tree were installed in the planter along Congress St, views of the free standing sign would be completely blocked from all sides. Therefore, 2 shade trees are proposed in the planter along Washington Ave.

- d. As for the landscaping across the street, everything looks good except for the island. There needs to be more landscaping proposed here.
18.4 See revised landscaping on plan C103.
- e. All the parking bays shall have wooden guide rails along the abutting properties.
18.5 See revised landscaping on plan C103. Wood guide-rails are proposed around abutting properties where impact with a vehicle could result in potential damage to existing abutting properties.

If you have any questions please do not hesitate to call me at (207) 878-1751 or email at awilson@adpengineering.com

Sincerely,



Aaron S. Wilson, P.E.
Engineering Project Manager

Cc Barbara Barhydt, Interim Development Review Manager



ASSOCIATED DESIGN
PARTNERS INC.

Office: 207.878.1751
Fax: 207.878.1788
e-mail: adp@adpengineering.com

80 Leighton Road ▪ Falmouth, Maine 04105

May 18, 2007

Ms. Shukria Wiar
Planner
City of Portland
Portland, ME 04101

Re: Qualifications for Structural Engineering Services – App # 2007-0054; CBL 013 G007001
6 Washington Ave
Portland, ME

Dear Shukria

Associated Design Partners, Inc. is pleased to submit this qualifications package for engineering services related to the proposed rehabilitation of the building and site improvements at 6, 13, and 15 Washington Ave..

Please contact myself if you have any questions regarding the following information,

Sincerely,



Aaron S. Wilson, PE
Engineering Project Manager

COMPANY PROFILE:

Associated Design Partners, Inc. Is a Professional Engineering Company, specializing in the following areas:

- Structural analysis and design of steel, concrete, masonry, and wood structures for new building construction and renovation and rehabilitation projects.
- Design-build projects, with emphasis on coordination between the design-build team members.
- Site plan design and details including new and existing grading, storm water management design and parking/roadway design and layout.
- Obtaining project approvals from the State Fire Marshal; city and town planning boards and code enforcement officers.
- Mechanically Stabilized Earth (MSE) retaining wall design.
- Light gauge steel stud shop drawings, including structural calculations including cost savings design alternatives, light gauge framing layout plans and construction details.
- Investigative engineering evaluation, analysis and report for existing building system for insurance adjusting.

Associated Design Partners, Inc. is founded on the principles of:

- Teamwork
- Integrity in a design construction environment
- Design flexibility
- Ability to offer innovative construction alternatives
- Providing superior quality and service
- Staying within project budget and schedule

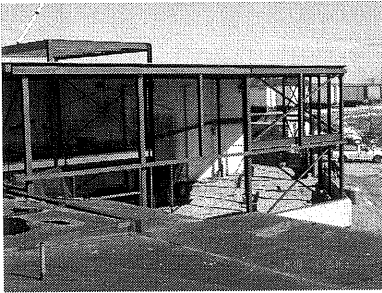
The term partnering in the design construction industry is defined as a collective effort between the owner, designer, and constructor. They mutually work together toward a common goal of producing a quality construction project on time and within budget. To achieve these goals, the collective team players must assume 100% self-responsibility for their portion of the project requirements. They maintain an understanding and assisting attitude with respect to other issues and agendas associated with the overall outcome of the project. Exemplary communication skills, along with flexibility in the design approach geared towards providing integrity and cost effective designs distinguish Associated Design Partners, Inc. from other design professionals in the industry.

STATEMENT OF DESIGN QUALIFICATIONS:

With the past 10 years, Associated Design Partners, Inc has successfully collaborated on numerous civil and structural engineering ventures throughout southern and central Maine. We will rely on our experience with reconstruction and rehabilitation of existing facilities to ensure a successful redevelopment of the building and site at 6 Washington Ave. The following is a list of projects recently completed, or under construction, where Associated Design Partners, Inc was the lead design professional and/or engineer of record:

Canned Meat Facility Expansion; B&M Foods, Portland, Maine 2004 (currently under construction)

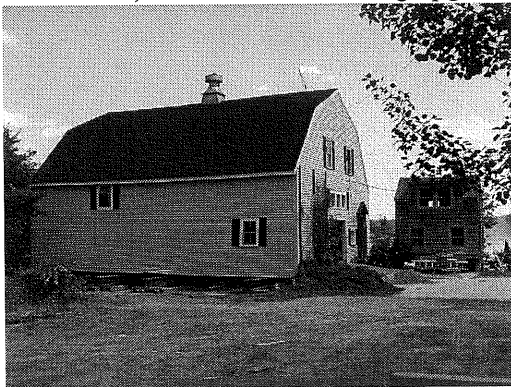
Provided civil and structural engineering for 13,100sf addition to the landmark B&M baked bean facility. Managed all design aspects of the project including schematic design, Construction documents, bidding and construction monitoring. The design of the addition incorporated a steel pile supported foundation, structural steel frame with insulated exterior wall panels, conventional steel framed low slope roofs, and steel framed concrete mezzanine floors to provide optimum performance and flexibility.



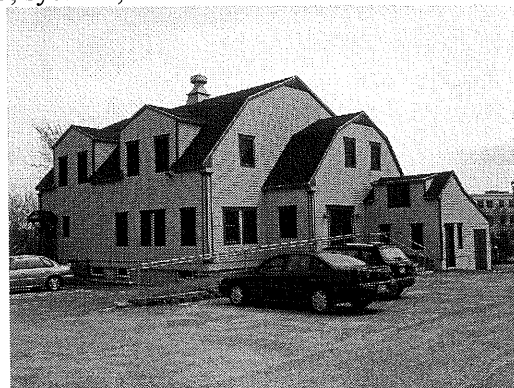
Approximate Construction Cost: \$4.0M

80 Leighton Rd Office Building and Site Development

When the need arose for a larger space, Associated Design Partners undertook the planning and design for the rehabilitation of this existing site and circa 1880 barn. The project was completed in 2002, with a total of 7500sf of office space. Rehabilitation of the existing barn included new full basement foundations, floor and roof framing upgrades, new M,E,P, systems, and all new interior finishes.



Before

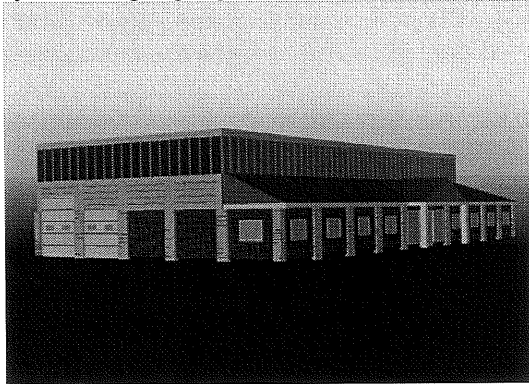


After

Approximate Construction Cost: \$750K

Lot 14 at Cummings Road Business Park; South Portland, Maine

Provided complete structural design and details for 6000 SF combined office and warehouse building, including: concrete foundation design, structural steel design for gravity and lateral force resistance systems, light gauge metal wall framing and roof truss analysis and design.



Approximate Construction Cost: \$630K

HVAC Services Inc Office / Warehouse

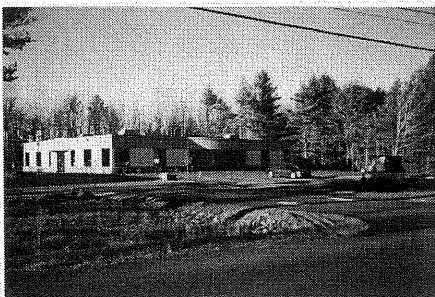
A Westbrook Industrial Park site and building project, HVAC Services was developed using cost-effective, and functionality considerations. This commercial office warehouse building has 20-foot high exterior cold-formed steel stud bearing walls. Composite steel stud columns at the exterior walls and a structural steel girder line at the center of the building support steel bar joists. Difficult geotechnical conditions were overcome by using lightweight construction materials and limiting soil fills on the site.



Approximate Construction Cost: \$1.5M

Allegra Print and Imaging Building

The 8000 sf Allegra Print & Imaging commercial building featured by an innovative, simplistic, cost-effective structural system. Two rows of structural steel beams and columns at the center third points of the building support bar joists spanning to exterior steel stud bearing walls. Steel studs were doubled at each bar joist location to efficiently distribute concentrated forces. In-wall diagonal cross bracing was utilized at the center of the building between steel columns and at exterior steel studs to accommodate lateral wind loads. Composite cold-formed steel sections were designed to economically support windows, doors, and overhangs. ADP worked as a team with the Architect, Contractor and Owner through schematics and design development to effectively integrate the cost-effective structural system.



Approximate Construction Cost: \$1.2M

REFERENCES:

- Adam Bear, PE – Facilities Engineer
B&M Baked Beans
One Bean Pot Circle
Portland, ME 04103
207-772-8340
- Rob Tod – Owner
Allagash Brewing Co.
100 Industrial Way
Portland, Maine 04103
(207) 878-5385
- Beth Krizsan
Barber Foods
70 St. John Street
Portland, Maine 04102
(207) 541-2853
- Steve Milley – Owner
Engineered Products Company,
Inc
1039 Riverside St Ste 5
Portland, ME 04103
(207) 878 – 6590
- Alec Altman - Owner
Bingas Wingas Restaurant
795 Congress Street
Portland, Maine 04103
(207) 347-6072
- Paul Rousseau – Partner
Greely Capital, LLC
35 E. Grand Ave
Old Orchard Beach, Me 04064
(207) 450-4060
- Kelly Sawyer
Stone Coast Properties, LLC
PO Box 4152
Portland, ME 04101
(207) 772-1540
- Paul Urennek – Vice President
The Bolous Company
One Canal Plaza
Portland, Maine 04101
(207) 772-1333
- Yves Lapoint – Owner
Lapoint Drywall
3 Powderhorn Lane
AUBurn, ME 04210
(207) 777-5739
- Norm Boutin
Cumberland County Glass
51 Pond Road
Bowdoinham, ME 04008
(207) 666-3700
- Paul Beers
Precast Concrete Products of ME
PO Box 307
Augusta Road
Topsham, Maine 04086
(207) 729-1628

JAMES A. THIBODEAU, P.E.**PRESIDENT**

Mr. Thibodeau is the owner and founder of Associated Design Partners, Inc, Inc. With over 25 years experience as a practicing engineer, he has gained valuable design experience through his dedication and involvement in countless civil and structural engineering projects. Mr. Thibodeau's practical, common sense approach to design problems has earned him a distinctive reputation in the engineering and construction communities. He has refined abilities in design-build projects; structural repair and rehabilitation design, foundation engineering, Mechanically Stabilized Earth retaining wall design, existing structure analysis and investigation. Mr. Thibodeau is also well established in the field of forensic engineering in Maine and surrounding New England States. He is an expert in investigating building failures, water damage losses, mold contamination, roofing and roof shingle failure, blasting claims, foundation and retaining structure failures, ice damage, building material failures, product failures, fire damage evaluations, and structural collapse. This experience has served as a valuable asset, relied upon when developing new designs, evaluating existing systems, and developing conceptual designs for renovation and new construction projects. He has also developed a reputation of being a team player, working successfully with owners, architects and contractors, and achieving success by providing superior service to our clients.

Vermont PE # 8147

AARON S. WILSON, P.E.**STRUCTURAL ENGINEERING PROJECT MANAGER**

Mr. Wilson is a registered professional engineer who has over 8 years of experience in the structural design and engineering of municipal, commercial, and residential facilities. His expertise includes the engineering and design of steel, reinforced concrete, wood, masonry, and light gage metal structures. In addition to Mr. Wilson's engineering capability he possesses a professional attitude, superior communication skills, and the ability to manage diverse projects from conceptual design to construction completion reflecting the founding principles of Associated Design Partners, Inc. Mr. Wilson's positive attitude, practical problem solving skills and proficient engineering capability allows Associated Design Partners, Inc to provide high quality, economical, and functional facilities to our clients.

Maine PE # 10429

CHRIS M. BROWN, E.I.T.**STRUCTURAL DESIGNER**

Mr. Brown began his career as a structural designer at Associated Design Partners, Inc, Inc. after graduation from Vermont Technical College in June 2000. Since joining Associated Design Partners, Inc, Mr. Brown has gained extensive experience in the design and detail of light gauge steel and aluminum curtain wall framing systems. He is also well versed in the design of structural steel, wood framing, and concrete foundations. Mr. Brown has also become very familiar with the numerous building codes required of today's structures, including the BOCA National Building Codes, the International Building Code, the National Design Specification for Wood Construction, and the American Iron and Steel Institutes Cold Formed Design Manual. Mr. Brown's engineering capability and steadfast work ethic make him a valuable asset to the Associated Design Partners, Inc team.

RICK COCHRAN**CAD TECHNICIAN II**

Mr. Cochran is currently studying for an Associates degree in Architectural Engineering and Design from Southern Maine Community College, and expects to graduate in May 2007. He has over 4 years experience in CAD drafting of structural and architectural plans using recent versions of AutoCad software. Coupled with 3 years of experience as a structural steel erector, Mr. Cochran brings a unique combination of technical and field experience to the Associated Design Partners, Inc team.

Qualifications

Thomas J. Raymond, P.E., P.L.S.
Senior Engineer / Land Surveyor
80 Winn Road
Falmouth, Maine 04105
Tel. (207) 797-5767
Cell (207) 899-5209

EXPERIENCE:

I have a broad range of experience in civil engineering and surveying including: Highway and Airport pavement design; Airport Lighting and Navigational Aids; Stormwater analysis and permitting; Utilities including underground electrical and telecommunications, sewer and water pumping stations, industrial sewage pretreatment and stormwater treatment; Site Design and Planning and Permitting for Commercial and Industrial Buildings and Commercial and Industrial Business Parks and Residential Subdivisions.
Surveying Experience includes project management for very large projects, highway, railroad and hydrographic surveys, survey peer review and expert witness testimony.

EMPLOYMENT HISTORY:

February 1983 to March 2006, Senior Civil Engineer / Surveyor, OEST Associates, Inc.
South Portland, Maine

Lead Engineer for Site Design, Business and Industrial Park design and permitting; Airport design; Environmental projects including landfill monitoring and closure design, industrial sewerage pretreatment, stormwater treatment, erosion control and slope stabilization. Provided Project Management for large Railroad and Road survey projects. Also provided expert witness services for boundary litigations.

May 1979 to February 1983, Civil / Environmental Engineer, E.C Jordan Co., Inc.
Portland Maine

Design Engineer for Operations and Closure plans for industrial and Municipal Landfills. Prepared permit applications for the expansion of paper mill sludge landfills. Also prepared landfill monitoring plan and reviewed monitoring results.

May 1969 to May 1979, Civil Engineer / Surveyor, E.C. Jordan Co., Inc. Presque isle,
Maine

Lead engineer for numerous street reconstruction sewer and stormwater projects for Aroostook County area Municipalities. Also served as Chief Surveyor for 6 person surveying department.

LICENSURE:

Registered Professional Engineer, Maine # 8612
Professional Land Surveyor, Maine # 1021
Licensed Land Surveyor, New Hampshire # 769

EDUCATION:

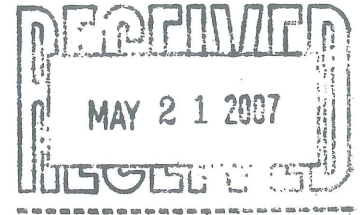
B.S. Geology, Houlton, Maine
Graduate Studies, Mining Engineering University of New Brunswick, Fredricton N.B. Canada
Environmental Engineering, University of Maine



PORTLAND MAINE

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06202



Public Works Department
Michael J. Bobinsky, Director

16 May 2007

Mr. Aaron Wilson, P.E.,
Structural Engineer,
Associated Design Partners, Inc.,
80 Leighton Road,
Falmouth, Maine 04105

**RE: The Capacity to Handle Wastewater Flows, from a Proposed
Restaurant, Residential Project, at 6 Washington Avenue.**

Dear Mr. Wilson:

The existing twelve-inch diameter cured-in-place plastic ("Insituform") sewer pipe located within the earlier concrete sewer pipe in Washington Avenue has adequate capacity to **transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to **treat** the total anticipated wastewater flows of **2,085 GPD**, from the proposed mixed use project.

Anticipated Wastewater Flows from the Proposed Mixed Use Project:

116 Proposed Restaurant Seats @ 20 GPD/Seat	= 2,320 GPD
15 Proposed Employees @ 15 GPD/Employee	= 225 GPD
1 Proposed Residential Unit @ 180 GPD/Unit	= 180 GPD
Less Existing Wastewater Flows of	= (640 GPD)
Total Proposed Increase in Wastewater Flows for this Project	= 2,085 GPD

The City combined sewer overflow (C.S.O.) abatement consent agreement (with the U.S.E.P.A., and with the Maine D.E.P.) requires C.S.O. abatement, as well as storm water mitigation, in order to offset any increase in sanitary flows, from all projects. If the City can be of further assistance, please call 874-8832.

Sincerely,
CITY OF PORTLAND

Frank Brancely
Frank J Brancely, B.A., M.A.
Senior Engineering Technician

FJB

- cc: Alexander Q. Jaegerman, Director, Planning Division, Department of Planning, and Urban Development, City of Portland
 Barbara Barhydt, Development Review Services Manager, Department of Planning, and Urban Development, City of Portland
 Michael Farmer, P.E., Project Engineer, City of Portland
 Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland
 Stephen K. Harris, Assistant Engineer, City of Portland
 Jane Ward, Administrative Assistant, City of Portland
 Desk file



CUSTOMER SERVICE
OFFICE HOURS
8:30 A.M. - 4:30 P.M.

Portland Water District

FROM SEBAGO LAKE TO CASCO BAY

May 11, 2007

Associated Design Partners
80 Leighton Road
Falmouth, ME 04105

Attn: Aaron Wilson
Re: 6 Washington Avenue – Portland, ME
Ability to serve with PWD water

Dear Mr. Wilson:

This letter is to confirm that there should be an adequate supply of clean and healthful water to serve the needs for the building located at 6 Washington Avenue in Portland. According to District records, there is a 6-inch cast iron water main on the west side of the street and a 12-inch cast iron water main on the east side of the street as well as a hydrant located 150' north of the property.

The current data from the nearest hydrant indicates there should be adequate capacity of water to serve the needs of your proposed project.

Hydrant Location: Cumberland Avenue @ Washington Ave
Hydrant Number: POD-HYD00107
Static Pressure: 76 psi
Flow: 1209 gpm
Last Tested: 8/22/1991

If the District can be of further assistance in this matter, please let us know.

Sincerely,
Portland Water District

Rico Spugnardi, P.E.
Business Development Engineer
rspugnardi@pwd.org

City of Portland Maine
Planning Board

6.8.07

To Whom It May Concern:

6 Washington Ave is a four story building currently clad in aluminum siding and windows that are past their useful life. Being vacant for many years all of the exterior materials are in serious disrepair. The exterior treatment that is being proposed is part of a new rain screen system that will be added to the building. The rain screen which consists simply of a cladding over a ventilated airspace with the water vapor and wind control layers protected behind the airspace, is a system designed to help the cladding system have full ventilation increasing its longevity as well as improving the overall performance of the wall system.

The proposed elevation will use black aluminum windows to open views to the water and the city. A clear rhythm from floor to floor has been established in the placement of the windows which will span between floor level bands expressed with cladding. The cladding will be dark grey cement board form Cement Board Fabricators and will be applied in 2' bands at floor levels and 6" strips similar to clapboard siding between floors and windows. The cladding combined with the windows will give a highly articulated surface with all of the shadow lines that will be created between strips. At the entry there will be a steel and wood canopy that will bring tactile and visual warmth to the street level. A new substantial soffit will be added to the top of the building which will have wood cladding similar to the entry canopy.

The renovated exterior is designed to be highly articulated like its traditional neighbors but have a crisp contemporary aesthetic that is long lasting and easy to maintain.

Regards,

A handwritten signature in black ink, appearing to read 'Caleb Johnson', written in a cursive style.

Caleb Johnson AIA
Principal CJA



ASSOCIATED DESIGN PARTNERS INC.

Office: 207.878.1751
Fax: 207.878.1788
e-mail: adp@adpengineering.com

80 Leighton Road • Falmouth, Maine 04105

March 21, 2007

06202

Ms. Barbara Barhydt
Development Review Manager
389 Congress St
Portland, ME 04101

Re: Redevelopment of Existing Facility
6 Washington Ave
Portland, ME

Dear Barbara,

Associated Design Partners, Inc. is pleased to submit this application and supporting documents for development review of the site improvements and rehabilitation of the existing 4-story building currently located at 6 Washington Avenue (formerly B&B Cleaners). The property was purchased by Alec Altman of Greg's Properties Wash Ave LLC in March of 2006. Mr. Altman currently is the owner / proprietor of two restaurants in Portland – Binga's Wingas at 795 Congress and 40 Portland Street. Mr. Altman's intent is to redevelop the existing site at 6 Washington Ave and operate Portland's third and premier Binga's Wingas establishment at this location. A summary of the redevelopment program is listed below:

1. Redesign the site to accommodate the increased parking demand and to satisfy the City of Portland's Land Use Ordinance to the greatest extent possible.
 - a. In order to increase the number of available parking spaces, Greg's Properties Wash Ave LLC purchased the properties at 13 and 15 Washington Ave (directly across the street from the building site). Working with the Jim Charmody, City of Portland Traffic Engineer, we have determined that the maximum number of standard parking spaces that will physically fit on the three parcels (6, 13, and 15 Wash. Ave) is 22 + one loading space (See drawing C103). Though this is 6 spaces shy of the 28 of-street spaces required by the Land Use Ordinance, we feel that the 22 spaces proposed will satisfy the actual demand of the new establishment. We anticipate a large portion of the patrons to be local walk-in due to the high density of residential dwellings in the area. Currently the Binga's Wingas establishment at 795 Congress has no off-street parking, and typically fills to capacity (40 seats) on Friday and Saturday nights. Additionally, the high demand hours for Binga's Wingas are from 5:00pm to 10pm, which does not overlap the current high demand hours of 8am to 4:30pm for on-street parking along Washington and Congress streets. Therefore, additional on-street parking is anticipated to be available during the restaurants' peak demand hours.
 - b. New site lighting is proposed in two locations to supplement the existing lighting provide by street lights and adjacent building lights. See drawing C104.
 - c. A 4ft wide landscaped buffer strip is proposed between all parking areas and existing streets / sidewalks. See plan C103.
 - d. Removal of the existing wood framed building and pump island at 13 Washington Ave is proposed, and new bituminous pavement will be added to these vacated areas. There will be no net increase in new impervious surface area.
 - e. The entrances to each parking lot are proposed to be widened and reconfigured based on our correspondence with the City Traffic Engineer.

- f. New underground utility connections are proposed to be made between the existing gas, water, and sewer mains located under Washington Ave. See plan C103.
 - g. The existing free standing sign at the corner of Washington and Congress will be rehabilitated with new signage (total sign area to match existing).
2. Rehabilitate the building to facilitate operation of new mixed-use establishment, including: restaurant (5094sf) / storage (1365 sf) / office (675sf) / and residential (one unit 589). Proposed modifications to the building include:
- a. Complete structural upgrade to bring the existing building up to the standards of IBC 2003 Building Code.
 - b. Install 4 story elevator and new vertical circulation.
 - c. Completely redesign exterior envelope and street level storefront.
 - d. Install all new Mechanical, Electrical, and Plumbing systems.
 - e. Install new fire protection (sprinkler) system.
 - f. Install new exterior food service cooler and freezer.
 - g. Design and install all new interior partition walls, finishes, and décor.
 - h. Existing footprint to be enlarged only to accommodate new elevator, cooler / freezer, and second means of egress to existing basement.

Please find the Site Plan Application, Site Plan Checklist, photos of the existing site, site development drawings, and conceptual exterior elevations. If you have any questions regarding this project or the information contained within, please do not hesitate to call.

Sincerely,



Aaron S Wilson, P. E.
Engineering Project Manager
Associated Design Partners Inc
ASW



6 Washington Ave – Viewing Southeast



13-15 Washington Ave parking lot – Viewing West



6 Washington Ave – Viewing Southwest



13 Washington Ave parking lot – Viewing North



6 Washington Ave parking lot – Viewing East



6 Washington Ave parking lot – Viewing Southwest



6 Washington Ave parking lot –
Viewing South



15 Washington Ave parking lot –
Viewing Southwest



6 Washington Ave parking lot –
Viewing South



13 Washington Ave parking lot –
Viewing North



City of Portland Site Plan Application

If you or the property owner owes real estate taxes, personal property taxes or user charges on any property within the City, payment arrangements must be made before permit applications can be received by the Inspections Division.

Address of Proposed Development: 6 WASHINGTON AVE		Zone: B2(b)
Existing Building Size: _____ sq. ft.	Proposed Building Size: _____ sq. ft.	
Existing Acreage of Site: 7518 + 7363 sq. ft.	Proposed Acreage of Site: 7518 + 7363 sq. ft.	
Tax Assessor's Chart, Block & Lot: Chart# 13 Block# .9 Lot# 5 13 9 7 13 M 12 13 M 9	Property owner's mailing address: 26 VILLAGE BRBOK RD YARMOUTH ME 04096	Telephone #: 207-347-6072
Consultant/Agent, mailing address, phone # & contact person: AMRON WILSON ASSOCIATED DESIGN PARTNERS, INC. 80 LEIGHTON RD, FARMOUTH ME 04105 878-1751	Applicant's name, mailing address, telephone #/Fax#/Pager#: SAME AS AGENT	Project name: BINGAS WINGAS 6 WASHINGTON AVE

Fee For Service Deposit (all applications) X (\$200.00)

Proposed Development (check all that apply) **< 5000SF**

New Building
 Building Addition
 Change of Use
 Residential
 Office
 Retail
 ASSEMBLY

Manufacturing
 Warehouse/Distribution
 Parking lot

Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) \$ _____ + major site plan fee if applicable

Site Location of Development (\$3,000.00) (except for residential projects which shall be \$200.00 per lot _____)

Traffic Movement (\$1,000.00)
 Storm water Quality (\$250.00)

Section 14-403 Review (\$400.00 + \$25.00 per lot)

Other _____

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

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

Minor Site Plan Review

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

Plan Amendments

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

~ Please see next page ~

Who billing will be sent to: (Company, Contact Person, Address, Phone #)

GREG'S PROPERTIES WASHAVE LLC
C/O ALEC ALTMAN
26 VILLAGE BROOK RD
YARMOUTH ME 04096

Submittals shall include (9) separate **folded** packets of the following:

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans checklist
- d. 1 set of 11 x 17 plans

Amendment to Plans: Amendment applications should include 9 separate packets of the above (a, b, & c)

ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

Section 14-522 of the Zoning Ordinance outlines the process which is available on our web site: portlandmaine.gov

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

Signature of applicant: <i>AARON WILSON</i> AUTHORIZED REP.	Date: <i>1/19/07</i>
---	-------------------------

This application is for site review ONLY; a building Permit application and associated fees will be required prior to construction.



City of Portland, Maine Site Plan Checklist

6 WASHINGTON AVE

Project Name, Address of Project
Number

Application

Submitted () & Date (b,c)	Item	Required Information	Section 14-525
✓	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	1
✓	(2)	Name and address of applicant and name of proposed development	a
✓	(3)	Scale and north points	b
✓	(4)	Boundaries of the site	c
✓	(5)	Total land area of site	d
✓	(6)	Topography - existing and proposed (2 feet intervals or less)	e
✓	(7)	Plans based on the boundary survey including:	2
✓	(8)	Existing soil conditions	a
✓	(9)	Location of water courses, marshes, rock outcroppings and wooded areas	b
✓	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
✓	(11)	Approx location of buildings or other structures on parcels abutting the site	d
✓	(12)	Location of on-site waste receptacles	e
✓	(13)	Public utilities	e
✓	(14)	Water and sewer mains	e
✓	(15)	Culverts, drains, existing and proposed, showing size and directions of flows	e
✓	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
✓	(17)	Location and dimensions of on-site pedestrian and vehicular access ways	g
✓	(18)	Parking areas	g
✓	(19)	Loading facilities	g
✓	(20)	Design of ingress and egress of vehicles to and from the site onto public streets	g
✓	(21)	Curb and sidewalks	g
✓	(22)	Landscape plan showing:	h
✓	(23)	Location of existing/proposed vegetation	h
✓	(24)	Type of vegetation	h
✓	(25)	Quantity of plantings	h
✓	(26)	Size of proposed landscaping	h
✓	(27)	Existing areas to be preserved	h
✓	(28)	Preservation measures to be employed	h
✓	(29)	Details of planting and preservation specifications	h
✓	(30)	Location and dimensions of all fencing and screening	i
✓	(31)	Location and intensity of outdoor lighting system	j
✓	(32)	Location of fire hydrants, existing and proposed	k
✓	(33)	Written statement	c
✓	(34)	Description of proposed uses to be located on site	1
✓	(35)	Quantity and type of residential, if any	1
✓	(36)	Total land area of the site	b2
✓	(37)	Total floor area and ground coverage of each proposed building and structure	b2
✓	(38)	General summary of existing and proposed easements or other burdens	c3
✓	(39)	Method of handling solid waste disposal	4
✓	(40)	Applicant's evaluation of availability of off-site public facilities, including sewer, water and streets	5
✓	(41)	Description of any problems of drainage or topography, or a representation that there are none	6
✓	(42)	An estimate of the time period required for completion of the development	7
✓	(43)	A list of all state and federal regulatory approvals to which the development may be subject to. **	8

LOCUS
MAIN BUILDING
13-G-5
13-G-7
13-G-12

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that **UMBEL PROPERTIES, LLC**, a Maine limited liability company with a place of business at Portland, Maine, for consideration paid, grant to **GREG'S PROPERTIES WASHAVE LLC**, a Maine limited liability company with a mailing address of 26 Village Brook Road, Yarmouth, ME 04096, with **WARRANTY COVENANTS**, the land in Portland, County of Cumberland and State of Maine, described below:

A certain lot or parcels of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, more particularly described as follows:

LOT 7

Beginning at a point on the westerly side of Washington Avenue, which is ninety-one and thirty-three hundredths (91.33) feet from the intersection of the northerly sideline of Congress Street, and the westerly sideline of Washington Avenue; thence southwesterly at an internal angle of 73° 26' ninety-nine and ninety-seven hundredths (99.97) feet to a post; thence southeasterly by an internal angle of 81° 51' twenty-five and ten hundredths (25.10) feet to a post; thence easterly thirty and forty-five hundredths (30.45) feet to an iron pin; thence easterly fifty-six and three hundredths (56.03) feet to an iron pin on the westerly sideline of Washington Avenue; said line making an internal angle with Washington Avenue of 95° 44'; thence northerly along the westerly sideline of said Washington Avenue thirty-seven and seventy-five hundredths (37.75) feet to the point of beginning.

MAINE REAL ESTATE TAX PAID

Also, a certain lot or parcel of land situated on Congress Street, in said City of Portland, bounded and described as follows:

12

Commencing at the northwesterly corner of Congress Street and Washington Avenue in the City of Portland; thence by said Congress Street southwesterly twenty-six (26) feet five (5) inches to land formerly owned by Samuel H. Quincy; thence by said Quincy's land northwesterly sixty-seven (67) feet nine (9) inches; thence northeasterly fifty-two (52) feet three (3) inches to Washington Avenue; thence southerly by said Washington Avenue fifty-three (53) feet seven (7) inches to the first mentioned bounds.

Also, a certain lot or parcel of land, with the buildings thereon, situated on the southwesterly side of Washington Avenue, in said Portland, bounded and described as follows:

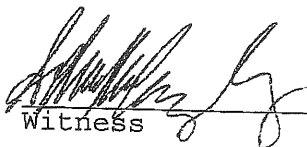
Beginning at the most Easterly corner of the lot of land

5

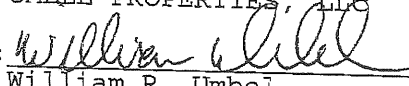
which was conveyed to John C. Preston by Deeds from Sidney S. Nason and others and Charles A. York and others, dated November 16, 1881 and recorded in Cumberland County Registry of Deeds, in Book 482, Page 313 and 314; thence running Southwesterly by said Preston's land Ninety and thirty-four one-hundredths (90.34) feet to land of Edward Moore; thence Southeasterly at an included angle of Eighty-five degrees and twenty-two minutes (85° 22') by said Moore's land Thirty-one and eighteen one-hundredths (31.18) feet to land formerly of Ann Woodman; thence Northeasterly at an included angle of Ninety-three degrees and fifty-one minutes (93° 51') and by said Woodman's land Eighty and forty-five one-hundredths (80.45) feet to Washington Avenue; thence Northwesterly at an included angle of one hundred four degrees and forty-six minutes (104° 46') Thirty and eight tenths (30.8) feet to the place of beginning.

Being the same premises conveyed to the Grantor herein by warranty deed dated June 8, 2001 from East End Corp. and recorded in the Cumberland County Registry of Deeds in Book 16402, Page 196.

IN WITNESS WHEREOF, the said Umbel Properties, LLC has set its hand this 20 day of March, 2006.



Witness

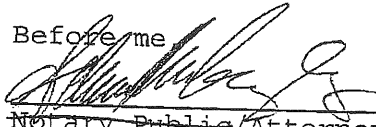
UMBEL PROPERTIES, LLC
BY: 

William R. Umbel
Its Manager

STATE OF MAINE
COUNTY OF CUMBERLAND

March 20, 2006

Then personally appeared Umbel Properties, LLC by its Manager, William R. Umbel and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said company.

Before me


Notary Public/Attorney at Law

Received
Recorded Register of Deeds
Mar 20 2006 12:59:38P
Cumberland County
John B O'Brien

QUITCLAIM DEED WITH COVENANT

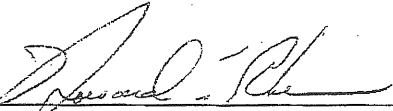
KNOW ALL MEN BY THESE PRESENTS, that HOSAN, LLC, a Maine limited liability company with a principal place of business at 90 India Street, Portland, Maine ("Grantor") in consideration of \$1.00 and other valuable consideration, paid by GREG'S PROPERTIES WASHAVE LLC, a Maine limited liability company with a mailing address of 26 Village Brook Road, Yarmouth, Maine 04096 ("Grantee"), the receipt whereof it does hereby acknowledge, does hereby remise, release, bargain, sell and convey, and forever quitclaim unto the said Grantee, its heirs, successors, and assigns forever, the real estate more particularly described on Exhibit A attached hereto.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said Grantee, its heirs, successors, and assigns, to their own use and behoof forever.

AND the Grantor does COVENANT with the Grantee, its heirs, successors, and assigns, that it shall and will WARRANT AND DEFEND the premises to the said Grantee, its heirs, successors, and assigns forever, against the lawful claims and demands of all persons claiming by, through, or under me.

DATED: October 31, 2006

HOSAN, LLC


By: 
Howard T. Reben, Its Manager

STATE OF MAINE
CUMBERLAND, ss.

October 31, 2006

Then personally appeared the above-named Howard T. Reben, in his capacity as Manager of Hosan, LLC, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said Hosan, LLC.

Before me,


Notary Public/Attorney at Law
Printed Name: David J. Perkins

MAINE REAL ESTATE TAX PAID

EXHIBIT A

Lot 1:

A certain lot or parcel of land, with the buildings thereon, situated on the easterly side of Washington Avenue in the City of Portland, Cumberland County, Maine, being a part of Lot #2, on Plan #6 of the Division of the Real Estate of Robert Boyd, late of Portland, and recorded in Plan Book 169, Page 478 of the Cumberland County Registry of Deeds, bounded and described as follows:

BEGINNING on the easterly side of said Washington Avenue at a point of 100.3 feet northerly from the monument at the intersection of said Washington Avenue with the northerly sideline of Congress Street, thence northerly by said Washington Avenue 40.12 feet to Lot No. 3 on said plan, or to land now or formerly of Nellie A. Osborne, thence easterly by Lot No. 3 on said plan and land of said Osborne 123.5 feet to the westerly side line of land of Michael C. Connellan and Mary E. Sullivan sold to Nellie E. Mahoney, September 24, 1906, and recorded in said Registry of Deeds in Book 793, Page 62; thence southerly, by the westerly line of said land which is on course at right angles to Cumberland Avenue, 34.67 feet to the northerly face of a masonry retaining wall at the northerly line of property fronting on Congress Street, thence westerly on a straight line by land of various owners 142.4 feet to Washington Avenue and the point of beginning.

Reference is hereby made to a Warranty Deed from Howard T. Reben to Hosan LLC dated May 27, 2003 and recorded in the Cumberland County Registry of Deeds in Book 19446, Page 216.

Lot 2:

Also another lot or parcel of land with the buildings thereon, situated on the southeasterly corner of Washington and Cumberland Avenue, in said Portland, bounded and described as follows;

Beginning at the corner formed by the intersection of the southerly side of Cumberland and the easterly side of Washington Avenues; thence running N 58° E by said Cumberland Avenue 40 feet to a spike in said southerly line of Cumberland Avenue at the southwest corner of land conveyed by Rose Latkin to one Lotfey; thence S 8° 58' E by said Lotfey land 45.26 feet to an iron hub which is situated 0.33 of a foot easterly from the corner of the house on the lot under description; thence S 24° 03' E parallel to an 0.33 of a foot easterly of said house, 21 feet, more or less, to land formerly of Scanlan and Connellan, and now, or more recently of Louis Ealfoot; thence southwesterly by said Belfont land 52 feet, more or less, to said Washington Avenue; thence northwesterly by the easterly side line of said Washington Avenue 70 feet, more or less to the point of beginning.

This conveyance is made subject to the restriction that the premises shall not be used in whole or in part, directly or indirectly for automobile service station purposes; or for the sale, offering for sale, storage or distribution of gasoline, motor vehicle fuel, motor vehicle lubricants or any other petroleum products (except for consumption on the premises by occupant); or for the sale of tires, batteries, or automotive parts and accessories during the period of 20 years from and after April 16, 1987, and Grantee, for Grantee and the heirs, executors, administrators, successors and assigns of Grantee, as the case may be, hereby covenants and agrees, with Sohio Oil Company, its successors and assigns (which covenant shall be deemed running with and binding the land

herein conveyed), that neither Grantee, nor anyone claiming by, through, or under Grantee shall use or permit to be used the premises or any part thereof, directly or indirectly, for automobile service station purposes; or for the sale, offering for sale, storage or distribution of gasoline, motor vehicle fuel, motor vehicle lubricants, or any other petroleum products (except for consumption on the premises by occupant); or for the sale of tires, batteries and automotive parts and accessories during the said 20 years. The foregoing condition and restriction is intended for the benefit and protection of Sohio Oil Company, its successors and assigns, as the owner and/or lessee of other real property in the political subdivision (City, Village or Township, as the case may be) in which the premises are located and in the surrounding area within a distance of 5 miles from the boundaries of said political subdivision, now, or during the 20 year period, used and operated by the Sohio Oil Company or its lessees for automobile service station purposes and shall run with the land and shall bind the premises herein conveyed in favor of such other real property owned or leased by Sohio Oil Company.

Hosan, LLC (the "Grantor") hereby reserves an easement (the "Parking Space Easement") on the within conveyed property (the "Property") for up to nine (9) parking spaces on the Property (the "Parking Spaces") to be located in such areas on the Property as are designated by Greg's Properties Washave LLC (the "Grantee"), or its successors from time to time. The Parking Spaces shall be available at no cost for use by the Grantor, its assigns and/or successors, including, without limitation, Howard Reben of Raymond, Maine, Susan Hirsh of Raymond, Maine, members and/or employees of the law firm of Reben Benjamin & March of Portland, Maine, and other occupants of the building located upon the land described in a deed recorded in the Cumberland County Registry of Deeds in Book 19466, Page 224 (the "97 India Street Property"), during weekdays from 6:00 a.m. to 6:00 p.m. (the "Grantor's Parking Hours"). The Grantee may require vehicles to carry identification, may control access by installing a gate requiring access cards, or employ other reasonable management procedures. The Grantee may, on occasion, use the Parking Spaces during the Grantor's Parking Hours when the Parking Spaces are not in use by the Grantor provided that the Grantee shall promptly move any vehicle occupying the Parking Spaces promptly upon request by the Grantor, and such use occasionally used by Grantee shall not interfere with Grantor's, and Grantor's assigns, use and enjoyment of such spaces during the 6:00 a.m. to 6 p.m. weekday time period. This Parking Space Easement shall be in effect for 15 years from the date that this deed is recorded in the Cumberland County Registry of Deeds. This Parking Space Easement shall run with the land and shall benefit the Grantor, its successors and/or assigns, and any person whom Grantor (or its successors or assigns) designates for the right to park in the Parking Spaces. The Grantor, its successors and/or assigns, shall also have the right to place a 2-foot by 2-foot (2' x 2') sign, subject to prior written consent of the Grantee and in accordance with all applicable zoning and land use regulations, at its own cost and expense, as it deems reasonably necessary and appropriate on the Property to identify the Parking Spaces assigned to it by Grantee. Grantee, its successor and/or assigns, shall provide snowplowing and maintenance to allow Grantor and its successors and/or assigns use and enjoyment of the Parking Spaces during the entire 15 year easement.

Grantor also reserves an easement upon the Property for the benefit of the 97 India Street Property allowing the Grantor, and future owners of the 97 India Street Property (collectively, the "Benefited Party"), the option, after the expiration of the Parking Space Easement, to lease up to twelve (12) parking spaces at the Property (the "Spaces"), to be located in such areas on the Property as are designated by the Grantee, or its successors from time to time, at fair market rent, adjusted annually, with each lease to have a term of at least one (1) year, with the spaces available during Grantor's Parking Hours. In the event that the parties are unable to agree as to

fair market rent with respect to the Spaces at anytime, the dispute will be resolved by calculating ninety percent (90%) of the average monthly rental from Top of the Old Port Parking Lot, Amato's Federal St. Parking Lot and 321 Commercial Street Parking Lot from the City of Portland parking survey which is done annually. In the event that such parking survey is no longer produced or the data from those parking lots is no longer available, the fair market rent shall be determined by an appraiser mutually agreeable to the parties. In the event that the parties are unable to agree upon an appraiser, then (a) the Grantor and the Grantee (or their successors and/or assigns) shall each promptly appoint a licensed Maine commercial real estate appraiser who, in turn, shall jointly appoint a third licensed Maine commercial real estate appraiser to act as an arbitrator; (b) these appraisers shall submit to the arbitrator their separate appraisals of the fair market rent of the twelve (12) Spaces based upon whatever methods of valuation each appraiser considers most appropriate to reflect the fair market rent; and (c) the arbitrator, in his/her sole discretion, shall determine the fair market rent. This option to rent the spaces shall be a perpetual easement on the Property that shall run with the land, benefiting the Benefited Party. This option to rent the parking spaces shall not lapse or be waived in the event the option is not used during all times that it is available. The Grantor and/or its successors and assigns shall have the right to rent less than the twelve (12) Spaces, and the provisions for determining rent provided herein shall be used in such circumstances. The Benefited Party shall provide sixty (60) days advance notice of their intent to lease and the Grantee, its successors and/or assigns, shall have a duty to provide the 12 parking spaces (or any lesser number requested by the Benefited Party) at or prior to the conclusion of the sixty (60) days notice period. The Grantee may require vehicles to carry identification, may control access by installing a gate requiring access cards, or employ other reasonable management procedures. The Grantee may, on occasion, use the Spaces during the Grantor's Parking Hours when the spaces are not in use by the Grantor provided that the Grantee shall promptly move any vehicle occupying the spaces promptly upon request by the Grantor, and such use occasionally used by Grantee shall not interfere with Grantor's, and Grantor's assigns, use and enjoyment of such spaces during the 6:00 a.m. to 6 p.m. weekday time period.

In the event that the Benefited Party shall fail to cure any default hereunder within a period of sixty (60) days from written notice thereof, the Grantee may record a notice of termination of this easement to lease in the Cumberland County Registry of Deeds and neither party shall have any further obligations hereunder. The Benefited Party shall hold the Grantee harmless from any claims, damages and/or liability arising out of or resulting from the Benefited Party's use of the Spaces. The Grantee shall have the right to amend this option to lease easement by relocating the Spaces to another location off of the Property provided that such alternate location shall be located no farther away from the 97 India Street Property, and the Benefited Party receives substantially the same benefits and rights in the replacement parking spaces as is provided with the original parking spaces. In addition, the Grantee may, at any time, elect to construct any improvements upon the Property, including but not limited to a parking garage, provided such construction and/or improvements do not unreasonably interfere with the Benefited Party's rights hereunder. Notwithstanding anything to the contrary herein, the Grantee may tow or cause to have towed or removed, any vehicle which remains on the Property beyond the Grantor's Parking Hours. In no event shall the Benefited Party park or keep unregistered or junk vehicles on the Property.

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number 1 of 1
 Parcel ID 013 M003001
 Location 15 WASHINGTON AVE
 Land Use RETAIL & PERSONAL SERVICE

 Owner Address GREG'S PROPERTIES WASHAVE LLC
 26 VILLAGE BROOK RD
 YARMOUTH ME 04096

Book/Page 24529/315
 Legal 13-M-3-9
 WASHINGTON AVE 11-19
 CUMBERLAND AVE 110
 7217 SF

Current Assessed Valuation

Land	Building	Total
\$133,300	\$19,200	\$152,500

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1971	1	330	1
Total Acres	Total Buildings Sq. Ft.	Structure Type	Building Name	
0.166	330	RETAIL - SINGLE OCCUPANCY	LOVEJOYS BARBER SHOP	

Exterior/Interior Information

Section	Levels	Size Use
1	01/01	330 MULTI-USE SALES

Height	Walls	Heating	A/C
10	CONC. BLOCK	ELECTRIC	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
1	CANOPY - ONLY	1

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1980	ASPHALT PARKING	4000	1

Sales Information

Date	Type	Price	Book/Page
------	------	-------	-----------

Picture and Sketch

[Picture](#) [Sketch](#) [Tax Map](#)

[Click here to view Tax Roll Information.](#)

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed.](#)

[New Search!](#)

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number 1 of 1
 Parcel ID 013 G007001
 Location 6 WASHINGTON AVE
 Land Use MANUFACTURING & CONSTRUCTION

Owner Address GREG'S PROPERTIES WASHAVE LLC
 26 VILLAGE BROOK RD
 YARMOUTH ME 04096

Book/Page 23771/200
 Legal 13-G-7
 WASHINGTON AVE 6-8
 2695 SF

Current Assessed Valuation

Land	Building	Total
\$57,300	\$203,500	\$260,800

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1910	1	8789	1

Total Acres	Total Buildings	Sq. Ft.	Structure Type	Building Name
0.062	1	8789	RETAIL - SINGLE OCCUPANCY	ACCENT DRY CLEANERS

Exterior/Interior Information

Section	Levels	Size Use
1	B1/B1	1570 SUPPORT AREA
1	01/01	2446 RETAIL STORE
1	02/04	1591 MULTI-USE STORAGE

Height	Walls	Heating	A/C
8		HW/STEAM	NONE
11	MASNRY/FRAME	HW/STEAM	NONE
10	FRAME	HW/STEAM	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
2	OVERHEAD DOOR - WD/MT	1

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1960	PAVING CONC AVG	264	1

Sales Information

Date	Type	Price	Book/Page
03/20/2006	LAND + BLDING	\$420,000	23771-200
06/12/2001	LAND + BLDING	\$150,000	16402-196
06/01/1995	LAND	\$60,000	11963-065
06/01/1995	LAND	\$115,000	

Picture and Sketch

[Picture](#) [Sketch](#) [Tax Map](#)

[Click here to view Tax Roll Information.](#)

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed.](#)

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MAINE

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Corporate Name Search

Information Summary

Subscriber activity report

This record contains information from the CEC database and is accurate as of: Tue Jan 16 2007 16:00:09. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
GREG'S PROPERTIES WASHAVE LLC	20062684DC	LIMITED LIABILITY COMPANY (DOMESTIC)	GOOD STANDING

Filing Date	Expiration Date	Jurisdiction
03/09/2006	N/A	MAINE

Other Names (A=Assumed ; F=Former)

NONE

Clerk/Registered Agent

ROBERT E. DANIELSON
P.O. BOX 545
PORTLAND, ME 04112 0545

Obtain a Certified Copy of this record for an additional \$5.00 fee

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List of Filings

[View list of filings](#)

Obtain additional information:

Additional Addresses

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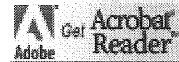
[Certified copy](#)

Certificate of Existence [\(more info\)](#)

[Short Form without
amendments](#)
(\$30.00)

[Long Form with
amendments](#)
(\$30.00)

You will need Adobe Acrobat version 3.0 or higher in order to view PDF files.



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To all Development Applicants and Consultants:

On July 15, 2005, the Planning Division will implement a **fee-for-service** for City planners and City attorneys involved in development review and zoning amendments. This change was instituted by the City Council as part of the budget process for the upcoming year to ensure that the full cost of development review services is borne by the applicant proposing the development.

We will institute this change for all new and pending projects as of July 15, 2005, for review time expended after that date. For all developments there will be no additional charge for the first four hours of review processing time. We will collect a deposit of \$200.00 at the time of development review and zoning amendment application. Should the planner or attorney combined spend over four hours on the review of a project, the deposit will be drawn down to cover that cost. When the \$200.00 deposit has been expended, the applicant will receive a monthly invoice for reimbursement of review services rendered.

These charges will be billed at an hourly rate based on actual review costs to the City. At present the billing rate for planning services is \$30.00 per hour, and the rate for legal services is \$40.00. These rates and the deposit amount are subject to change on an annual or as-needed basis to reflect then-current cost structures.

As we strive to provide efficient and timely review services, it is necessary to provide a funding mechanism that does not unduly burden the property taxpayer. Nationally, more municipal services are being converted to a user fee basis. We commit to doing our best to provide efficiency in the process in order to keep the costs reasonable, and we will work with you to make the most efficient use of the billable time. (As we implement this fee system, we will be available to describe any invoiced charges.)

As always, we will strive continually to improve the quality of our customer services to the development community.

If you have any questions, please do not hesitate to call us at 874-8720.

Sincerely,

Sarah Hopkins
Development Review Services Manager

Alexander Jaegerman
Planning Division Director



Development Review Fee Schedule (effective July 15, 2005)

- Fee for Service Deposit (all applications) \$200.00
 - Planning Services \$30.00/hour
 - Legal Services \$40.00/hour

- Major Site Plan Review (more than 10,000 sq. ft.)
 - Under 50,000 sq. ft. \$500.00
 - 50,000 - 100,000 sq. ft. \$1,000.00
 - Parking Lots over 100 spaces \$1,000.00
 - 100,000 - 200,000 sq. ft. \$2,000.00
 - 200,000 - 300,000 sq. ft. \$3,000.00
 - Over 300,000 sq. ft. \$5,000.00
- After-the-fact Major Site Plan Review \$1,000.00 + applicable application fee
- Minor Site Plan Review (less than 10,000 sq. ft.) \$400.00 (or up to 20,000 in an Industrial zone)
- After-the-fact Minor Site Plan Review \$1,000.00 + applicable application fee
- Minor-Minor Site Plan Review (Single Families) \$300.00
- Amendment to Plans
 - Planning Board Review \$500.00
 - Planning Staff Review \$250.00
- Subdivision Fee \$500.00 + \$25.00 per lot
- Section 14-403 Review \$400.00 + \$25.00 per lot
- Site Location of Development \$3,000.00
(except for residential projects which shall be \$200.00 per lot)
- Traffic Movement Permit \$1,000.00
- Storm water Quality Permit \$250.00
- Street Vacation \$2,000.00

Engineering Fees

- Engineer Review Fee - This fee is assessed by the Engineer
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Zone Change

- Zoning Map Amendments \$2,000.00
- Text Amendments \$2,000.00
- Contract/Conditional Rezoning
 - Under 5,000 sq. ft. \$1,000.00
 - 5,000 sq. ft. and over \$3,000.00
- Conditional Use \$100.00

Historic Preservation

- Administrative Review \$50.00
- Minor Projects - Committee Review \$100.00
- Major Projects - Committee Review \$500.00
- After-the-fact Review \$750.00
- HP Special Exception Sign Review \$35.00

Noticing/Advertisements for Historic Preservation and Planning Board Review

- Legal Advertisement: Percent of total bill
(Legal Ads are placed in the newspaper for workshop and public hearing meetings)
- Notices: .55 cents each
(Notices are sent to abutters when the application is received in the Planning Division, workshop meeting and public hearing meeting)



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A Guide to Holding Neighborhood Meetings

In order to improve communication between development applicants and neighbors, the City of Portland requires such applicants to hold a neighborhood meeting.

What type of development proposal requires a neighborhood meeting?

Neighborhood meetings, organized and hosted by the applicant, are required for the following development proposals:

- proposed zone changes, contract zones and zoning text amendments;
- subdivisions of five or more units or lots; and
- major site plan proposals.

Who must be invited to a neighborhood meeting?

Property owners within 500 feet of the proposed development (1000 feet for proposed industrial development), as well as those people on a list of interested citizens and neighborhood groups, must be invited to the planned neighborhood meeting.

Upon request, the Planning Division will provide to the applicant mailing labels for the neighborhood meeting invitation. We require at least 48 hours prior notice to generate the mailing labels. A charge of \$1.00 per sheet of labels will be payable upon receipt of the labels.

When and where must the neighborhood meeting be held?

The neighborhood meeting must be held after the first Planning Board workshop but not less than seven days prior to the Planning Board public hearing.

The meeting should be held in the evening, during the week, at a location in the neighborhood. Neighborhood schools are usually available for evening meetings.

When must invitations be sent out?

In order to provide sufficient notice to residents, invitations must be sent out no less than seven days prior to the neighborhood meeting.

What information should the invitation include?

A recommended invitation format is included in this packet of material.

Neighborhood Meeting Handouts

Included with this packet of material is a handout sheet from the Planning Division that must be handed out to meeting attendees. This handout explains the requirement for the meeting and additional information on the review process.

Sign-up Sheets and Meeting Minutes

At the meeting, the applicant must circulate a sign-up sheet for those in attendance. The applicant must also keep accurate minutes of the meeting.

After holding the neighborhood meeting, the applicant must submit the sign-up sheet and meeting minutes to the Planning Division. The meeting minutes and sign-up sheet will be attached to the Planning Board report. A public hearing will not be scheduled until the meeting minutes and sign-up sheet are submitted to the Planning Division.

Certification

Included with this packet is a Certification to be completed and signed by the applicant. The applicant is required to certify when the invitations were sent out.

Please call the Planning Division (874-8720) if you have any questions.

Attachments

1. Neighborhood Meeting Invitation Format
2. Handout to Attendees from the Planning Division
3. Neighborhood Meeting Certification

**** Applicant/Consultant: Please include all of the information listed below in the notice sent to neighbors)**

Neighborhood Meeting Invitation Format

Applicant/Consultant
Letterhead

(Date)

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a (development proposal) located at (location/street address).

Meeting Location: _____

Meeting Date: _____

Meeting Time: _____

The City code requires that property owners within 500 feet of the proposed development and residents on an “interested parties list” be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

If you have any questions, please call (telephone number of applicant or consultant).

Sincerely,

(Applicant)

Note:

Under Section 14-32(C) of the City Code of Ordinances, an applicant for a major development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting at least seven days prior to the Planning Board public hearing on the proposal.



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Dear Neighbor:

Thank you for attending this evening's neighborhood meeting.

Applicants for major developments, zone changes, and subdivisions of more than five units/lots are required to hold a neighborhood meeting prior to the Planning Board's public hearing on the development proposal.

The purpose of these meetings is to improve communication between neighbors and applicants for development. We have found that neighbors raise questions and offer insight that often improves the design or compatibility of a proposed development.

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list" be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

Should you wish to offer additional comments on this proposed development, you may send correspondence to:

Planning Division
Department of Planning and Development
City Hall
389 Congress Street
Portland, ME 04101;

Or email:
sh@portlandmaine.gov;

Or call 874-8720.

Thank you for taking the time to attend tonight's meeting.

Sincerely,

Sarah Hopkins
Development Review Services Manager

Neighborhood Meeting Certification

I, (applicant/consultant) hereby certify that a neighborhood meeting was held on (date) at (location) at (time).

I also certify that on (date at least seven days prior to the neighborhood meeting), invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development and the residents on the "interested parties" list

Signed,

_____ (date)

Attached to this certification are

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes



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Notice to Developers of New Subdivisions

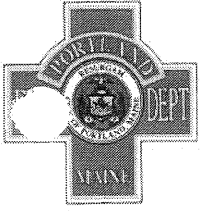
Effective January 1, 1998, the City of Portland requests that developers of new subdivisions submit information regarding the origin of the name of any new street(s) created within the City limits. This information shall be submitted to the Planning Division with all other related application materials.

In 1997, Portland residents, Norman and Althea Green, presented the City of Portland with a compilation of research, which documents the origins of all street names existing in the City as of 1995. The person, event, location, or subject for which each street was named is now recorded for posterity, constituting an important public record for all those interested in the development of Portland. This compilation is on file at the Portland Public Library, the Maine Historical Society, and the library of the Portland Newspapers, as well as in the City Clerk's Office at Portland City Hall.

It is the intent of the City of Portland to continue this documentation for all streets created in the City. As part of the subdivision review process, applicants are required to submit information regarding the person or subject for which all new streets are being named. In the case of a person, the full name should be submitted, as well as their vocation, relationship to the developer or the area, or other pertinent information. Once the street is formally accepted by the City Council, the information will be placed on file at the City Clerk's office and copies will be sent to the other three Portland repositories.

Street Numbering Assignments

The assignment of official street addresses is the sole responsibility of the Department of Public Works. These assignments proceed by a set of guidelines and are done from submitted site plans whenever possible. For Enhanced 9-1-1 purposes, they need to be as accurate as possible and depending on size and site layout, the creation of new street names may be required. Despite addresses listed on such things as the check sheet for site plan approval, building inspection documents or tax maps, it is requested you contact the Department of Public Works for your official address(es). Please call Jessica Hanscom, Associate Engineer at (207) 874-8849 or Eric Labelle at (207) 756-8850.



PORTLAND FIRE DEPARTMENT

SITE REVIEW

FIRE DEPARTMENT CHECKLIST

A separate drawing[s] shall be provided to the Portland Fire Department for all site plan reviews.

1. Name, address, telephone number of applicant.
2. Name address, telephone number of architect
3. Proposed uses of any structures [NFPA and IBC classification]
4. Square footage of all structures [total and per story]
5. Elevation of all structures
6. Proposed fire protection of all structures
7. Hydrant locations
8. Water main[s] size and location
9. Access to any fire department connections
10. Access to all structures [min. 2 sides]
11. A code summary shall be included referencing NFPA 1 and all fire department. Technical standards.
12. Elevators shall be sized to fit an 81" x 23" stretcher and two personnel.

Some structures may require Fire flows using annex H of NFPA 1



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To All Development Applicants and Consultants:

The City of Portland has instituted the following fees to recover the costs of reviewing development proposals under the Site Plan and Subdivision ordinances: application fee; engineering fee; and inspection fee. Performance and defect guarantees are also required by ordinance to cover all site work proposed.

The **Application Fee** covers general administrative processing costs, and is paid at the time of application.

A **Fee for Service Deposit** of \$200.00 is paid at the time of application for all development and zoning proposals. Should the planner or attorney combined spend over four hours on the review of a project, the deposit will be drawn down to cover that cost. When the \$200.00 deposit has been expended, the applicant will receive a monthly invoice for reimbursement of review services rendered. (please see attached letter for more detail)

The Planning Division is required to send notices to neighbors upon receipt of an application and prior to public meetings. The applicant will be billed for mailing and advertisement costs. Applicants for development will be charged an **Engineering Review Fee**. This fee is charged by the Planning Division for review of on-site improvements of a civil engineering nature, such as storm water management as well as the engineering analysis of related improvements within the public right-of-way, such as public streets and utility connections, as assessed by the Department of Public Works. The Engineering Review fee must be paid before a building permit can be issued. Monthly invoices are sent out by the Planning Division on a monthly basis to cover engineering costs.

A **Performance Guarantee** will be required following approval of development plans. This guarantee covers all required improvements within the public right-of-way, plus certain site improvements such as landscaping, paving, and drainage improvements. The Planning Division will provide a cost estimate form for figuring the amount of the performance guarantee, as well as sample form letters to be filled out by a financial institution.

An **Inspection Fee** must also be submitted to cover inspections to ensure that sites are developed in accordance with the approved plan. The inspection fee is 2.0% of the performance guarantee amount, or as assessed by the planning or public works engineer. The minimum inspection fee is \$300 for development, unless no site improvements are proposed. Public Works inspects work within the City right-of-way and Planning inspects work within the site including pipe-laying and connections. (The contractor must work with inspectors to coordinate timely inspections, and should provide adequate notice before inspections, especially in the case of final inspection.)

Upon completion of a development project, the performance guarantee is released, and a Defect Guarantee in the amount of 10% of the performance guarantee must be provided. The Defect Guarantee will be released after a year.

Other reimbursements to the City include actual or apportioned costs for advertising and mailed notices. All fees shall be paid prior to the issuance of any building permit. For more information on the fees or review process, please call the Planning Division at 874-8719 or 874-8721.

Alexander Jaegerman, AICP
Planning Division Director

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

2007-0054

Application I. D. Number

3/28/2007

Application Date

Bingas Wingas

Project Name/Description

Greg's Properties Washave Llc

Applicant

26 Village Brook Rd , Yarmouth, ME 04096

Applicant's Mailing Address

6 - 6 Washington Ave, Portland, Maine

Address of Proposed Site

013 G007001

Assessor's Reference: Chart-Block-Lot

Consultant/Agent

Applicant Ph: (207) 878-1751 Agent Fax:

Applicant or Agent Daytime Telephone, Fax

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential Office Retail

Manufacturing Warehouse/Distribution Parking Lot Apt 0 Condo 0 Other (specify) **Assembly**

14881

B2b

Proposed Building square Feet or # of Units

Acreage of Site

Zoning

Check Review Required:

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

Fees Paid: Site Plan \$400.00 Subdivision _____ Engineer Review _____ Date 3/28/2007

Planning Approval Status:

Reviewer _____

- Approved Approved w/Conditions See Attached Denied

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

OK to Issue Building Permit _____ signature _____ date _____

Performance Guarantee Required* Not Required

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

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



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Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

November 30, 2007

Greg's Properties WashAve, LLC
C/o Alec Altman
26 Village Brook Road
Yarmouth, ME 04096

Aaron Wilson
Associated Design Partners, Inc.
80 Leighton Road
Falmouth, ME 04105

Leslie E. Lowry, Esq.
Jensen Baird Gardner & Henry
Ten Free Street
P.O. Box 4510
Portland, Maine 04112-4510

RE: Rehabilitation of Existing Building
CBL: 013 G007001
Application ID: 2007-0054

Dear Mr. Altman,

On August 27, 2007, the Portland Planning Authority approved a minor site plan for the site improvements and rehabilitation of the existing four-story building currently located at 6 Washington Avenue. This approval is still valid with the following conditions:

1. The limit of demolition and the proposed rehabilitation shall be done in accordance with the Leslie Lowery, Esq. email dated November 20, 2007 and accordance with Mr. James Thibodeau, P.E.'s correspondence of November 27, 2007.
2. The demolition permit application, submitted on October 17, 2007 to the Inspection Department, shall be formally withdrawn by the applicant.

This approval is for Portland's site plan review only. Attached is a copy of the stop work order issued by the Inspection Division. You must contact Jeanie Bourke, Director of Inspection Division, to satisfy the City's requirements for releasing the stop work order.

If there are any questions regarding the Planning Divisions review, please contact Shukria Wiar at 756-8083 or shukriaw@portlandmaine.gov

Sincerely,

Alexander Jaegerman
Planning Division Director

Attachments:

1. Leslie Lowery, Esq. Dated: November 20, 2007
2. Mr. James Thibodeau, P.E. Dated: November 27, 2007
3. Copy of Stop Work Order Dated: October 25, 2007

cc: Lee D. Urban, Planning and Development Department Director
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Shukria Wiar, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Jeanie Bourke, Inspections Division
Jon Rioux, Code Enforcement Officer
Michael Bobinsky, Public Works Director
Kathi Earley, Public Works
Bill Clark, Public works
Jim Carmody, Transportation Manager
Michael Farmer, Public Works
Leslie Kaynor, Public Works
Jeff Tarling, City Arborist
Captain Greg Cass, Fire Prevention
Assessor's Office
Approval Letter File

From: Alex Jaegerman
To: Shukria Wiar
Date: 11/30/2007 11:36:37 AM
Subject: Fwd: 6 Washington Avenue--Site Plan issues

>>> "Leslie E. Lowry" <LLowry@JBGH.com> 11/20/2007 3:00:06 PM >>>
Alex:

This message follows our conversation from earlier this afternoon regarding the above project.

I subsequently spoke further with Aaron Wilson of ADP to get some more facts. Aaron advised me as follows:

1. The demolition permit that you and I discussed was a 2006 permit for interior demolition. Eric Altman was advised this year that that interior demo permit was still valid as long as some demolition had been undertaken (which apparently was the case).
2. With respect to the rehabilitation of the existing building, approximately 80% of the existing structural components of the existing building will remain. In a number of places, existing structural members will be reinforced. Other areas will be upgraded. All of this work is necessary to make the building building code compliant, as I understand it.
3. Approximately 90% of the existing foundation will remain. Additional foundation wall will be installed inside the existing foundation in order to support the building, as approved.

In reference to the discussion you and I had, it is very clear that the structure of the building is "salvageable." Aaron Wilson is confident of that fact, and reconfirmed to me his written statements to the City, in letters of Oct. 17th and 23rd, that the reason for a requested change to re-construction had to do with financial reasons and not otherwise, i.e. not because the building was not salvageable. The statements in your letter of November 9, 2007, that the building is "unsalvageable" and "replacement of all the major structural elements, the framing, the foundation, the floor joists, and the roof is needed" is a misunderstanding of what was being stated at the meeting and in those letters.

ADP suggests that it submit a building permit application to replace the roof immediately, and that it then will proceed to complete its remaining building permit application process as required by the Site Plan approval. I would appreciate a prompt reply as the weather is not doing anyone any good at this date.

Thank you, as always, for your consideration of this letter, and I truly hope that this can be resolved both quickly and amicably.

Lee

Leslie E. Lowry, Esq.
Jenson Baird Gardner & Henry
Ton Free Street
P.O. Box 4510
Portland, Maine 04112-4510
Phone: (207) 775-7271
Fax: (207) 775-7935

REQUIRED DISCLOSURE:

United States Treasury Regulations require us to inform you that any tax advice contained in this communication and any attachment or enclosure is not intended or written by us to be used, and cannot be used, by any taxpayer for the purpose of avoiding tax penalties.

DISCLAIMER:

This e-mail and any file or attachment transmitted with it, is only intended for the use of the person and/or entity to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the recipient of this message is not the intended recipient or otherwise responsible for delivering the message to the intended recipient, be notified that any disclosure, distribution or copying of this information is strictly prohibited. If you received this communication in error, destroy all copies of this message, attachments and/or files in your possession, custody or control and any other copies you may have created, and notify the sender at (207) 775-7271 or at the sender's e-mail address listed above.

November 27, 2007

06202

Mr. Alex Jaegerman
 Planning Division Director
 389 Congress St
 Portland, ME 04101

Re: 6 Washington Ave
 Portland, ME
 CBL 013 G007001
 2007-0054

Dear Mr. Jaegerman;

Associated Design Partners Inc. has prepared the following responses to comments from a letter composed by you dated November 26, 2007 relating to the Bingas Wingas project at 6 Washington Ave. The original comments are in regular type font, with our responses listed in italics. Please contact this office if you have any questions.

1. Please explain how the Bingas Wingas present proposal addresses the limitations imposed by Portland City Code Sec. 14-382 (e) and 385.
 - 1.1 The City planning department has implied that if the wood framed structure of the existing building is demolished down to the level of the existing foundation, a new site plan approval would be required. Because of the time and costs involved in resubmitting for a new site plan approval, it is desirable for this project to proceed as previously proposed and approved on 8/27/07 – Rehabilitate the existing structure and make site improvements as depicted within the previously approved submission materials. This will be explained in depth in the response to item 2. We offer the following list to illustrate conformance of the prior approved plans with Sec. 14-382 (e). The items have been presented in prior submission material(s).*
 - 1.1.1 *The proposed uses (restaurant & residential) are in conformance with sections 14-182 (a) 2, 14-182 (b) 5 & 6.*
 - 1.1.2 *The existing lot size of 7518sf meets the requirements of sec 14-185 (a) 2 & 4. There is no min. lot size for non-residential uses in the B-2b zone. The min. lot size for 1 dwelling unit above the first floor is 1000sf.*
 - 1.1.3 *The existing street frontage of 143ft is in accordance with 14-185 (b)*
 - 1.1.4 *As stated in the letter from Shukria Wiar, item 14 states that the front and side setbacks are in conformance with the B-2b zone (Sec 14-185 (c) 1 & 3. The rear setback of the existing building is in non-conformance (10ft min setback per 14-185 (c) 2 a). The proposed accessory building has a 5.3ft setback (5ft min per sec. 14-185 (c) 2 b) and subsequently does not increase the non-conformance of the rear setback of the existing building. Sec. 14-436(a) states that building extensions to existing lawfully non-conforming structures are allowed to be constructed to no more than 50% of the first floor footprint of the building. The accessory structure has a proposed one-story area of 530sf, 50% of the existing first floor footprint is 1046sf (measured to the outside of the foundations).*
 - 1.1.5 *The 4ft landscaped area around the parking lot that abuts Washington and Congress satisfies 14-185 1 i. Per email from Shukria Wiar dated 7/20/07, the city arborist is not requiring an ornamental fence.*
 - 1.1.6 *Maximum structure height is 45ft per 14-185 (e). The roof of the existing building was (and will be when replaced) 45ft above the average exterior grade.*

- 1.1.7 *The existing impervious surface ratio of the parcel at 6 Wash. Ave is 100%, a mix of asphalt pavement, compacted gravel surface, and buildings. The proposed impervious surface ratio is 95% due to the addition of the landscaping between the parking area and the sidewalk. Per the letter from Marge Schmuckal dated 7/11/07, the proposed 95% impervious surface ratio is acceptable under zoning.*
 - 1.1.8 *The requirements of section 14-186 "Other Requirements" (a thru h) pertain to the site development (not specifically to the proposed modifications, alterations, additions to the existing building, which is the topic of interest discussed here). It is our understanding that the planning department has deemed the proposed re-development in conformance with Sec. 14-186.*
 - 1.1.9 *The use will be contained within an enclosed structure, as required by sec. 14-187 (a), except that an open-air patio is proposed, which we understand will require special licensing from the City.*
 - 1.1.10 *There is a proposed roof top mounted kitchen exhaust fan that produces 53.4 decibels of noise at the unit when operating. This is in conformance with sec. 14-187 (b). This information was provided to Marge Schmuckal after her letter dated 7/11/07 was issued, and as far as we know is acceptable.*
 - 1.1.11 *The proposed use will not generate excessive vibration and heat, meeting the requirements of sec. 14-187 (c).*
 - 1.1.12 *All kitchen exhaust will be ducted and vented to the max. Roof elevation of 45ft to minimize the perceptibility of fumes at the lot boundaries in accordance with 14-187 (d).*
 - 1.1.13 *Smoke is not anticipated to be generated with an opacity greater than 20% in accordance with 14-187 (e).*
 - 1.1.14 *All solid wastes generated by the building use is proposed to be disposed of via enclosed dumpsters located on the North West corner of the site. Waste water will be transmitted to the City collection and treatment system. According to the letter dated 5/16/07 from Frank Brancely, the existing system has the capacity to handle the new wastewater generated.*
- 1.2 *It is questionable as to whether this building should be considered "damaged" or not. Though it has been exposed to weather for approximately 1 month, it is our professional opinion that the building has not been "damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay or otherwise" as specified by Sec. 14-385. Though the existing structural elements have periodically dampened by rain, it will be possible to dry out the interior framing after a new roof is installed. There is relatively little rot (decay) within the existing framing, mostly at the existing rough sawn sill plates, which will be replaced or reinforced as necessary once the proper building permits are obtained and construction begins. Whether or not the building is considered damaged, the previously approved site plan (the desired plan under which to proceed with) meets the conditions of 14-385 (a), (c) and (d). 14-385 (b) states that the reconstruction must be within the existing footprint, which is what the site plan proposes, with the exception of the approved 530sf new accessory structure. The approved site plan is also in accordance with the part of Sec. 14-385 (b) that states that no new non-conformities may be created.*

2. Please submit a plan detailing what/how the owner intends to build on the site. The estimates and percentages of building reuse contained within your email do not correspond to the representations made in the October 23, 2007 letter to the City submitted by Aaron Wilson, P.E. At this point, therefore, the City does not know what is being proposed vis a vis the site.

2.1 As stated in item 1.1, it is desirable for this project to proceed as previously proposed and approved on 8/27/07. We are rescinding the proposal to demolish the wood framed section of the building and re-build a new wood structure as outlined in Aaron Wilson's October 23, 2007 letter. The percentages of the structural elements to remain as outlined in my email of 11/20/2007 represent the approximate portions of the existing structure that would not be demolished under the approved plan to rehabilitate the building. The general scope of rehabilitation includes the following (not necessarily in order of actual occurrence).

- Immediately submit a roof framing plan to the code enforcement for a roof only building permit to get the existing building closed in as soon as possible. Board up all existing window openings.*
- Complete the construction documents for the modifications and upgrades to the existing building and submit for necessary building permits.*
- Send the construction drawings to contractors for bidding.*
- Select a contractor and begin construction after necessary permits obtained.*
- Demolish sections of the walls and floors to allow for the installation of new windows and vertical circulation.*
- Reinforce / upgrade existing structural elements that are shown to be deficient by structural analysis.*
- Construct new masonry stair / elevator shafts.*
- Install exterior finishes as depicted on approved building elevation drawings A301 and A302.*
- Install interior finishes and non-structural assemblies.*

We trust this letter addresses your questions at this time; we look forward to moving ahead with this project. Please contact us here at the office if you have any additional questions.

Sincerely,



James A Thibodeau, P.E.
President
Associated Design Partners, Inc

Cc: Lee Lowry



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

Lee Urban - Director of Planning and Development
Jeanie Bourke - Inspection Division Services Director

October 25, 2007

COPY

GREG'S PROPERTIES WASHAVE LLC
26 VILLAGE BROOK RD
YARMOUTH, ME 04096

CBL: 013 G007001
Located at 6 WASHINGTON AVE

Certified Mail 70070710000135801109

POSTING NOTICE/ STOP WORK ORDER

Dear Greg's Properties Washave LLC.:

An evaluation of the above-referenced property on the 23rd day of October, 2007 revealed that the structure fails to comply with § 6-120. (a) of the Housing Code of the City of Portland, and § 105.1 of the IBC®, 2003 Code.

Attached is a list of the violations.

Based on that list, and pursuant to § 6-120. (c), and § 105.1 of the IBC, 2003 Code, this office declares the dwelling unit is unfit for human habitation. This notice serves as a Stop-Work-Order, all un-permitted demolition work must cease immediately.

A re-inspection of the premises will occur on the 5th day of November, 2007, at which time the vacant building must be: (1) weather-proof and watertight, (2) secured from vandalism, (3) verified structurally sound by a licensed structural engineer, or submit the appropriate materials for acceptance of a demolition permit from this office.

Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in § 1-15 of the Code in Title 30-A of M.R.S.A § 4452.

This constitutes an appealable decision pursuant to § 6-127 of the Code. Please feel free to contact me if you have any questions or would like to discuss this matter further.

Sincerely,

Jen Rioux,
Code Enforcement Officer

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
 389 Congress Street
 Portland, Maine 04101

Inspection Violations

Owner/Manager GREG'S PROPERTIES WASHAVE LLC		Inspector Jon Rioux	Inspection Date 10/23/2007
Location 6 WASHINGTON AVE	CBL 013 G007001	Status Posting Notice	Inspection Type Housing-Inspection

Code	Int/Ext	Floor	Unit No.	Area	Compliance Date
------	---------	-------	----------	------	-----------------

1)

Violation:

Notes: Sec. 6 124. Property to be secured if not improved.

If the owner or operator of any property which has been condemned as unfit for habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this article, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard shall exist.

2) 6-109/5.1

Violation: Found.,cellars, exterior walls, roofs.

Notes: (a) Foundations, basements, cellars, exterior walls, roofs. Every foundation, basement, cellar, exterior wall and roof shall be substantially weathertight, watertight and vermin proof; shall be structurally sound and in good repair; and shall be safe for the intended use as well as capable of supporting whatever load normal use may cause to be placed thereon. Every exterior wall or portion thereof shall be painted or stained. Water from roofs shall be so drained and conveyed therefrom as not to cause repeatedly wet floors, walls or ceilings, or hazard to adjacent buildings or the occupants thereof.

3) 6-109/5.2

Violation: Interior floors, walls, ceilings,doors.

Notes: (b) interior floors, walls, ceilings and doors. Every floor, wall, ceiling and door shall be in a structurally sound condition and shall be substantially vermin proof.

4) 6-109/5.3

Violation: Exterior windows, doors and skylights.

Notes: (c) Exterior windows, doors and skylights. Every window or door, including basement or cellar door and hatchway, and skylight shall be substantially weathertight, watertight and vermin proof, and shall be kept secured to prevent ingress of people and animals.

5) 6-120.1 thru 5

Violation: Posted against occupancy.

Notes: (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested in such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;

6) 105.1 Interior

Various locations

Violation: Building w/o Permit

Notes: Building and or demolishing without benefit of a permit.

Comments:



PORTLAND MAINE

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Planning and Development Department
Lee D. Urban, Director

Planning Division
Alexander Jaegerman, Director

November 9, 2007

Greg's Properties WashAve, LLC
C/o Alec Altman
26 Village Brook Road
Yarmouth, ME 04096

Aaron Wilson
Associated Design Partners, Inc.
80 Leighton Road
Falmouth, ME 04105

RE: Change of Use, Site Improvements/ Rehab of Existing Building
CBL: 013 G007001
Application ID: 2007-0054

Dear Msrs. Altman and Wilson:

Thank you for meeting with us on Wednesday, October 24th and providing us with a written description of your plans for 6 Washington Avenue. The letter from Aaron Wilson (Associated Design Partners) and dated October 23, 2007 is included as Attachment 1.

As noted in our previous correspondence, on March 28, 2007 a Site Plan application was submitted to the Portland Planning Department for the property at 6 Washington Avenue. The application was for a change of use of the existing structure (formerly a dry cleaning establishment) to a Binga Wingas restaurant and that the existing structure would be rehabilitated. The Site Plan was reviewed for site improvements and rehabilitation of the existing four-story building on the site, which included the approval of two parking lots. The revised site plan (last revision date of 06.29.2007) was approved on August 27, 2007. At the time of review the Planning Department expressed concern about your plan layout, the inability of the building to be located at the street line and the substandard parking layout.

Based upon our meeting, you indicated that the interior demolition of the building has been extensive, including the removal of the roof, so that at this time only the framing and sheathing remains. You are seeking to demolish the building and retain only the one story masonry addition at the rear of the structure. In the meeting and your letter you have indicated that the structure of the building is unsalvageable, and replacement of all the major structural elements, the framing, the foundation, the floor joists, and the roof is needed.

The premise of the City's site plan approval was on the rehabilitation of the original building, not the complete reconstruction of the building. The extent of reconstruction is now beyond the rehabilitation. Further, the site plan for a new structure on this site would need to meet all of the

B-2b zoning requirements, including being located within ten feet of the street frontage for Congress Street and Washington Avenue.

Thus, the previously approved site pan is now void, and a new site plan must be submitted for the redevelopment of the site meeting the applicable B-2b zoning, site plan and design standards.

If there are any questions, please contact Shukria Wiar at 756-8083 or myself at 874-8724.

Sincerely,

A handwritten signature in cursive script that reads "Alexander Jaegerman". The signature is written in black ink and includes a long horizontal line extending to the right.

Alexander Jaegerman
Planning Division Director

cc: Lee D. Urban, Planning and Development Department Director
Barbara Barhydt, Development Review Services Manager
Penny Little, Corporate Counsel
✓ Shukria Wiar, Planner
Marge Schmuckal, Zoning

October 23rd, 2007

06202

Ms. Shukria Wiar
Planner
389 Congress St
Portland, ME 04101

Re: Partial Demolition of Existing Building
6 Washington Ave
Portland, ME
CBL 013 G007001
2007-0054

Dear Shukria,

As you are aware, it has been determined that the extensive reinforcing and upgrades necessary to make the framing, and sections of the foundations code compliant are cost prohibitive and jeopardize the financial feasibility of the 6 Washington Ave project. Therefore, we proposed the following:

- Demolish the existing 26'x60' (1560 sf footprint) 4-story wood framed section of the building.
- Keep the existing 20'x36' (720 sf footprint) 1-story masonry section of the building.
- Demolish sections of the foundation for installation of new masonry elevator pits.
- Cast new concrete walls inside existing foundation walls to remain.
- Re-build a new 4-story wood framed building on the same footprint as the section demolished.
- The new 4-story building will have the exterior aesthetics previously presented in the site plan application.
- The site plan as previously submitted will remain unchanged.

Please contact myself or Jim Thibodeau (Principal) with any questions you may have.

Sincerely,



Aaron S Wilson, P. E.
Engineering Project Manager
Associated Design Partners Inc
ASW

**City of Portland
Department of Planning and Development
Planning Division**

389 Congress Street, 4th Floor
Portland ME 04101
(207)874-8721 or (207)874-8719
Fax: (207)756-8258



FAX

To:

Jim and/or Aaron

Company:

Associated Design Partners, Inc.

Fax #:

878-1788

Date:

11.09.07

From:

Shukria Wiar

You should receive 4 page(s) including this cover sheet.

Comments:

Please see attached.

MODE = MEMORY TRANSMISSION

START=NOV-09 14:45

END=NOV-09 14:47

FILE NO.=654

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK		98781788	004/004	00:01:24

-CITY OF PORTLAND -

***** -PLANNING DEPT. - ***** 2077568258- *****

City of Portland
Department of Planning and Development
Planning Division
 389 Congress Street, 4th Floor
 Portland ME 04101
 (207)874-8721 or (207)874-8719
 Fax: (207)756-8258



FAX

To: Jim and/or Aaron

Company: Associated Design Partners, Inc.

Fax #: 878-1788

Date: 11.09.07

From: Shukria Wiar

You should receive 4 page(s) including this cover sheet.

Comments:

Please see attached.



ASSOCIATED DESIGN
PARTNERS INC.

Transmittal Note

No: 3

To:

Shukria Wiar
 Planner
 City of Portland, ME 04101

Reply to:

Associated Design Partners, Inc
 80 Leighton Road
 Falmouth, Maine 04105
 tel. (207) 878-1751 fax. (207) 878-1788
 email. adp@adpengineering.com

These documents are issued to you for:

Progress	
Comment	
Approval	
Information	
Construction	
Records	X
As noted	
Revision Purposes	
Progress	
Review	
Bidding	

Job Title: 6 Washington Ave

ADP Job # 06202

Remarks:

Drawing / Document No.	Revision	No. of Copies		Date	Title / Description	Comments
		Prints	Repos			
		4			Lighting Cut sheets	
		1			CD of site plans and Cad files	

Copies have been forwarded for information as follows:

Complete Sets	No.	Transmittal Note Only

Issued By:

Date

Aaron Wilson

9/20/2007

October 17th, 2007

06202

Ms. Shukria Wiar
Planner
389 Congress St
Portland, ME 04101

Re: Redevelopment of Existing Property
6 Washington Ave
Portland, ME
CBL 013 G007001
2007-0054

Dear Shukria,

Attached are the site plan documents issued for final approval, with conditions of approval as listed on the August 29, 2007 letter from the City of Portland addressed. Additionally, the owner has decided to renovate the existing 1-story masonry section of the building, and demolish the 4 story wood framed section of the building. This is primarily due to the fact that nearly all of the framing does not have the structural capacity to resist the gravity and lateral loads specified by the IBC building code without becoming overstressed.

We have determined that the extensive reinforcing and upgrades necessary to make the framing and foundations code compliant are cost prohibitive and jeopardize the financial feasibility of the project. Therefore, we are proposing to re-build the same 4-story wood framed building with new foundations and framing elements that have the structural capacity to resist the minimum gravity and lateral loads specified by the code. The building will be constructed on the same foundation footprint with the same geometry as the demolished section of the original building. The building height will also be the same as the original. The previously presented conceptual exterior elevations and finish materials will remain unchanged, except that the masonry elevator shaft is now located inside the building, improving the north exterior façade.

It is our position that, though the concealed wall studs and floor framing elements will be new, the proposed exterior of the building has not changed. We feel the design as originally presented is in accordance with the requirements of Section 3 of the Design Certification Program (enacted 4-13-04) and the existing neighborhood as a whole. Attached please find the architectural narrative by Caleb Johnson AIA, Maine Licensed Architect.

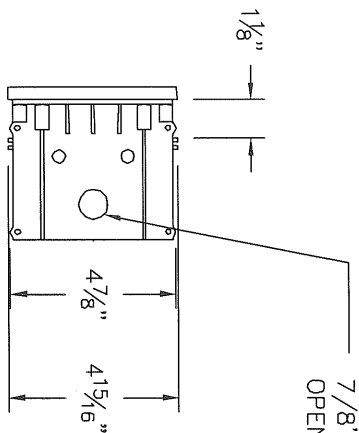
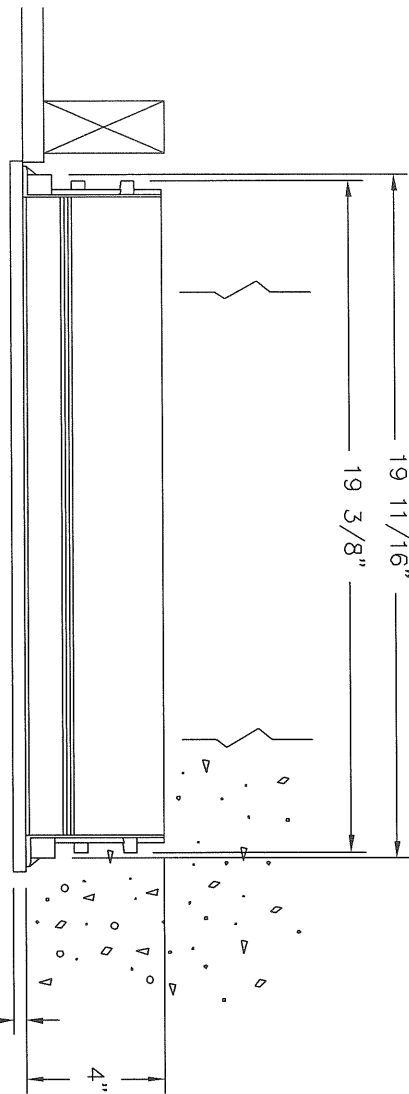
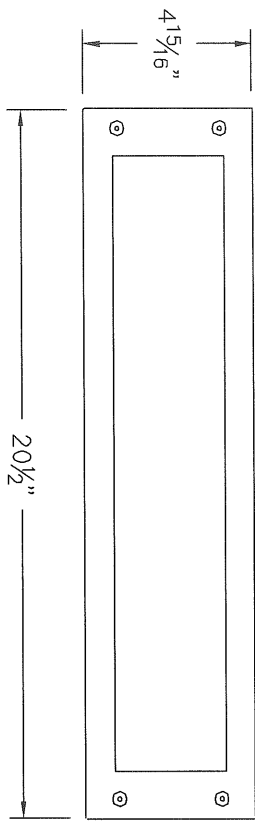
Please contact myself or Jim Thibodeau (Principal) with any questions you may have.

Sincerely,



Aaron S Wilson, P. E.
Engineering Project Manager
Associated Design Partners Inc
ASW

Att: lighting cuts, architectural narrative, site and building plans, CD containing drawings and CAD files.



7/8" DIA CONDUIT
OPENING - 2 @ 180°

- NOTES:
1. LUMINAIRE # 2025P - SEE SPECIFICATIONS
 2. 120V-277V ELECTRONIC BALLAST LOCATED IN LUMINAIRE.
 3. (1) 39W CF TWIN-4P LAMP (BY OTHERS)
 4. AVAILABLE IN STANDARD BEGA COLORS
 5. ALL DIMENSIONS ARE ± 1/16"

This print contains confidential information which is the property of BEGA/US. By accepting this information, the borrower agrees that it will not be used for any other purpose other than that which is was loaned.

Catalog No.: 2025P
 Description: RECESSED WALL LUMINAIRE
 Drawn by: DEM Date: 04/16/01 File Name: 2025P
 SCALE: NONE - DO NOT SCALE DRAWING

BEGA
 1000 Bega Way
 Carpinteria, Ca. 93013
 (805) 684-0533

Recessed wall luminaires Housing:

Constructed of die cast and extruded aluminum components with integral wiring compartment. Mounting tabs provided.

Enclosure: One piece die cast aluminum faceplate. Tempered glass, .157" thick with translucent white ceramic coating, machined flush to faceplate surface. Faceplate is secured by four (4) flush, socket head, stainless steel captive screws threaded into stainless steel inserts in the housing casting. Continuous high temperature, molded silicone rubber gasket for weather tight operation.

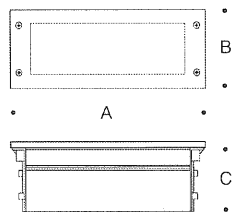
Electrical: Compact fluorescent lampholder: 2G11, 4-pin, rated 75W, 600V. Ballast: Electronic, HPF for -18°C starting, universal voltage (120V through 277V).

Through Wiring: Maximum four (4) No. 12 AWG conductors (plus ground) suitable for 75°C. Two 7/8" knockouts provided for 1/2" conduit.

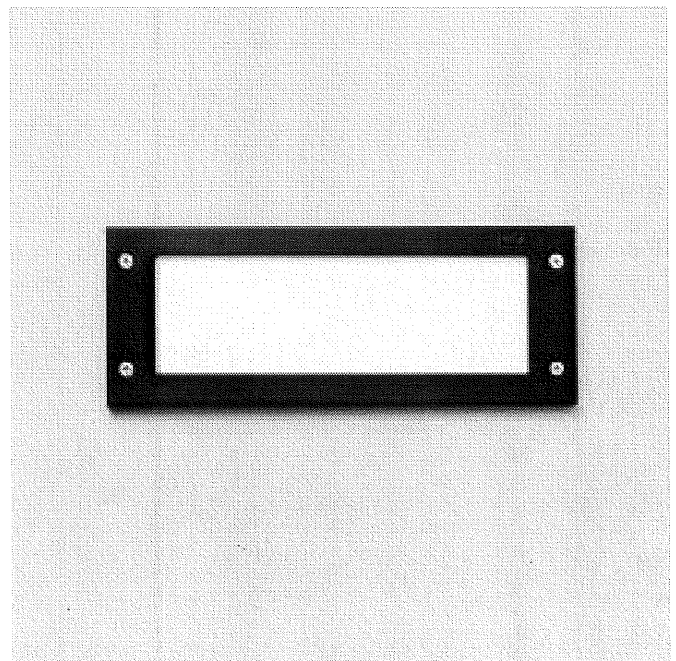
Finish: These luminaires are available in five standard BEGA colors: Black (BLK); White (WHT); Bronze (BRZ); Silver (SLV); Eurocoat™ (URO). To specify, add appropriate suffix to catalog number. For complete description of BEGA finishing process, refer to technical information section at end of catalog. Custom colors supplied on special order.

U.L. listed, suitable for wet locations and for installation within 3 feet of ground. Suitable for all types of construction, including poured concrete. Type non-IC. Protection class: IP 65.

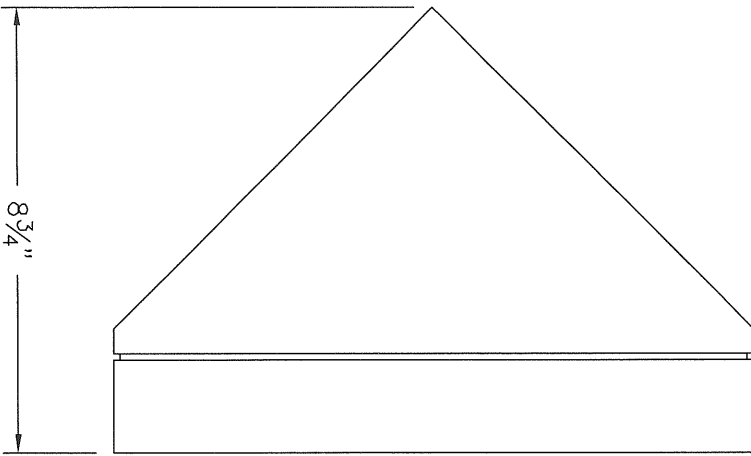
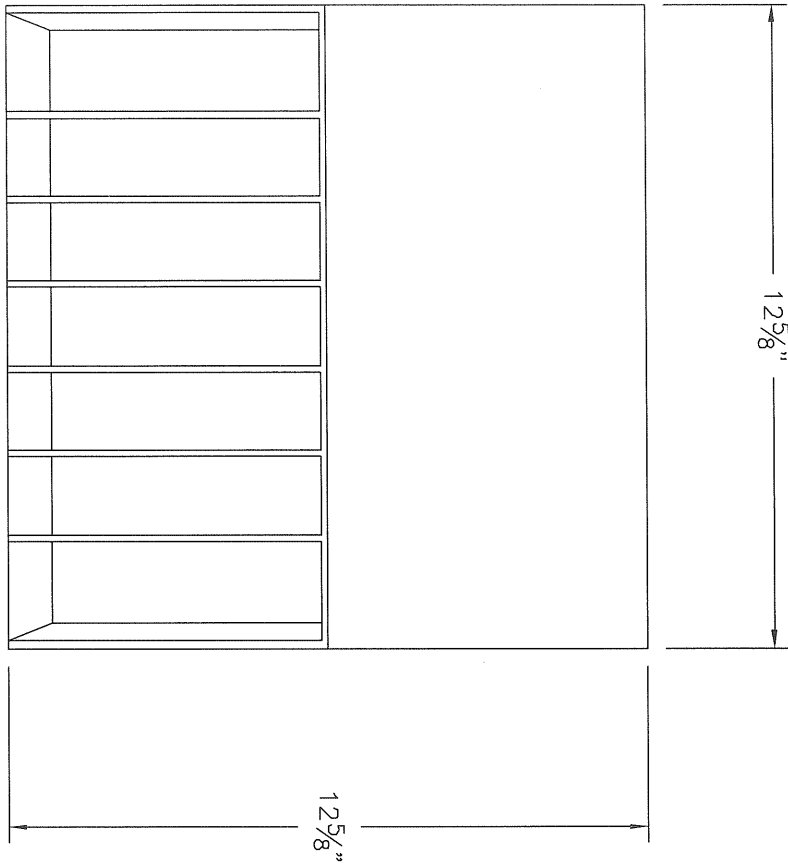
Type:
 BEGA Product #:
 Project:
 Voltage:
 Color:
 Options:
 Modified:



Horizontal or vertical recessed luminaires with die cast aluminum faceplate. Flush machined, tempered glass diffusers with internal white translucent ceramic coating. Electronic ballast for -18°C starting. U.L. listed, suitable for wet locations. IP 65. Color: Standard BEGA finishes.



Lamp	ADA	Lumen	A	B	C
2025P Recessed	ADA	1 39W CF twin-4p	2900	20 1/2	4 15/16 4



- NOTES:
1. LUMINAIRE #2479MH – SEE SPECIFICATIONS.
 2. 120V/277V MAGNETIC BALLAST LOCATED IN LUMINAIRE.
 3. (1) 100W ED-17 MH LAMP (BY OTHERS)
 4. AVAILABLE IN STANDARD BEGA COLORS

This print contains confidential information which is the property of BEGA/US. By accepting this information, the borrower agrees that it will not be used for any other purpose other than that which is was loaned.

Catalog No.: 2479MH
 Description: WALL LUMINAIRE WITH SHIELDED LIGHT SOURCES
 Drawn by: JAM Date: 01/30/02 File Name: 2479MH
 SCALE: NONE – DO NOT SCALE DRAWING

BEGA
 1000 Bega Way
 Carpinteria, Ca. 93013
 (805) 684-0533

Wall luminaires with shielded light sources

Housing: One piece die cast aluminum supplied with universal mounting bracket for direct attachment to 3/2" or 4" octagonal wiring box.

Enclosure: One piece die cast aluminum cover frame, secured by captive socket head, stainless steel, screws threaded into stainless steel inserts. Semi-specular, anodized aluminum internal reflector. Stippled tempered clear glass. Fully gasketed for weather tight operation using a molded silicone rubber O-ring.

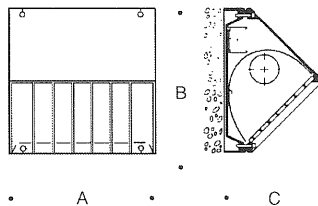
Electrical: Lampholders: H.I.D. are medium base porcelain with nickel plated screw shell supplied with 200°C high temperature leads. Pulse rated 4KV.

Ballasts: H.I.D. are magnetic, available in 120V or 277V - specify.

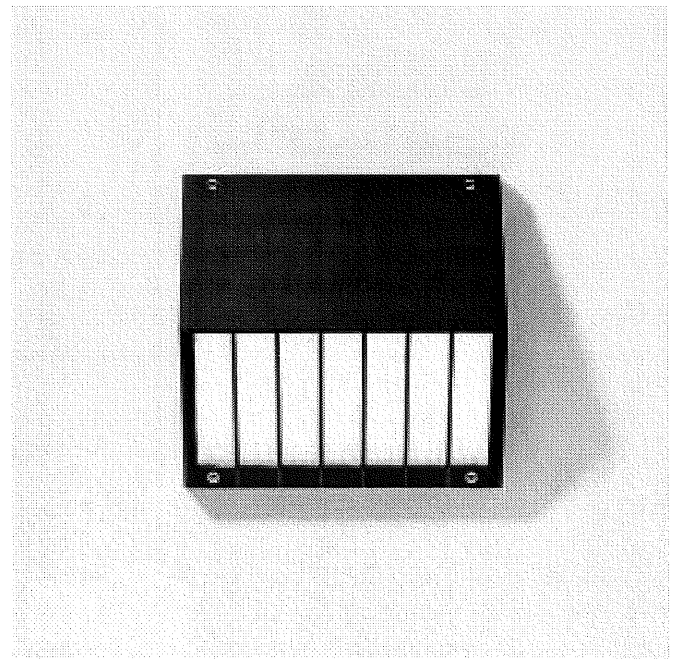
Finish: These luminaires are available in five standard BEGA colors: Black (BLK); White (WHT); Bronze (BRZ); Silver (SLV); Eurocoat™ (URO). To specify, add appropriate suffix to catalog number. For complete description of BEGA finishing process, refer to technical information section at end of catalog. Custom colors supplied on special order.

U.L. listed, suitable for wet locations. Protection class: IP 55.

Type:
 BEGA Product #:
 Project:
 Voltage:
 Color:
 Options:
 Modified:



Wall mounted luminaires for direct or indirect illumination. Anodized aluminum reflector. Stippled tempered glass behind die cast aluminum louvers. Any wall mounting orientation. U.L. listed, suitable for wet locations. IP 55. Color: Standard BEGA finishes.



	Lamp	Lumen	A	B	C
2479MH	Wall 1 100W ED-17 MH	8800	12%	12%	8%

City of Portland Maine
Planning Board

6.8.07

To Whom It May Concern:

6 Washington Ave is a four story building currently clad in aluminum siding and windows that are past their useful life. Being vacant for many years all of the exterior materials are in serious disrepair. The exterior treatment that is being proposed is part of a new rain screen system that will be added to the building. The rain screen which consists simply of a cladding over a ventilated airspace with the water vapor and wind control layers protected behind the airspace, is a system designed to help the cladding system have full ventilation increasing its longevity as well as improving the overall performance of the wall system.

The proposed elevation will use black aluminum windows to open views to the water and the city, a clear rhythm from floor to floor has been established in the placement of the windows which will span between floor level bands expressed with cladding. The cladding will be dark grey cement board from Cement Board Fabricators and will be applied in 2' bands at floor levels and 6" strips similar to clapboard siding between floors and windows. The cladding combined with the windows will give a highly articulated surface with all of the shadow lines that will be created between strips. At the entry there will be a steel and wood canopy that will bring tactile and visual warmth to the street level. A new substantial soffit will be added to the top of the building which will have wood cladding similar to the entry canopy.

The renovated exterior is designed to be highly articulated like its traditional neighbors but have a crisp contemporary aesthetic that is long lasting and easy to maintain.

Regards,

A handwritten signature in black ink, appearing to read 'Caleb Johnson', written over a horizontal line.

Caleb Johnson AIA
Principal CJA

October 23rd, 2007

06202

Ms. Shukria Wiar
Planner
389 Congress St
Portland, ME 04101

Re: Partial Demolition of Existing Building
6 Washington Ave
Portland, ME
CBL 013 G007001
2007-0054

Dear Shukria,

As you are aware, it has been determined that the extensive reinforcing and upgrades necessary to make the framing, and sections of the foundations code compliant are cost prohibitive and jeopardize the financial feasibility of the 6 Washington Ave project. Therefore, we proposed the following:

- Demolish the existing 26'x60' (1560 sf footprint) 4-story wood framed section of the building.
- Keep the existing 20'x36' (720 sf footprint) 1-story masonry section of the building.
- Demolish sections of the foundation for installation of new masonry elevator pits.
- Cast new concrete walls inside existing foundation walls to remain.
- Re-build a new 4-story wood framed building on the same footprint as the section demolished.
- The new 4-story building will have the exterior aesthetics previously presented in the site plan application.
- The site plan as previously submitted will remain unchanged.

Please contact myself or Jim Thibodeau (Principal) with any questions you may have.

Sincerely,



Aaron S Wilson, P. E.
Engineering Project Manager
Associated Design Partners Inc
ASW

16 May 2007

Mr. Aaron Wilson, P.E.,
Structural Engineer,
Associated Design Partners, Inc.,
80 Leighton Road,
Falmouth, Maine 04105

**RE: The Capacity to Handle Wastewater Flows, from a Proposed
Restaurant, Residential Project, at 6 Washington Avenue.**

Dear Mr. Wilson:

The existing twelve-inch diameter cured-in-place plastic ("Insituform") sewer pipe located within the earlier concrete sewer pipe in Washington Avenue has adequate capacity to **transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to **treat** the total anticipated wastewater flows of **2,085 GPD**, from the proposed mixed use project.

Anticipated Wastewater Flows from the Proposed Mixed Use Project:

116 Proposed Restaurant Seats @ 20 GPD/Seat	= 2,320 GPD
15 Proposed Employees @ 15 GPD/Employee	= 225 GPD
1 Proposed Residential Unit @ 180 GPD/Unit	= 180 GPD
Less Existing Wastewater Flows of	= <u>(640 GPD)</u>
Total Proposed Increase in Wastewater Flows for this Project	= 2,085 GPD

The City combined sewer overflow (C.S.O.) abatement consent agreement (with the U.S.E.P.A., and with the Maine D.E.P.) requires C.S.O. abatement, as well as storm water mitigation, in order to offset any increase in sanitary flows, from all projects. If the City can be of further assistance, please call 874-8832.

Sincerely,
CITY OF PORTLAND

Frank J Brancely, B.A., M.A.
Senior Engineering Technician

FJB

cc: Alexander Q. Jaegerman, Director, Planning Division, Department of Planning, and Urban Development, City of Portland
Barbara Barhydt, Development Review Services Manager, Department of Planning, and Urban Development, City of Portland
Michael Farmer, P.E., Project Engineer, City of Portland
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland
Stephen K. Harris, Assistant Engineer, City of Portland
Jane Ward, Administrative Assistant, City of Portland
Desk file



PORTLAND MAINE

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Lee Urban - Director of Planning and Development
Jeanie Bourke - Inspection Division Services Director

October 25, 2007

COPY

GREG'S PROPERTIES WASHAVE LLC
26 VILLAGE BROOK RD
YARMOUTH, ME 04096

CBL: 013 G007001
Located at 6 WASHINGTON AVE

Certified Mail 70070710000135801109

POSTING NOTICE/ STOP WORK ORDER

Dear Greg's Properties Washave LLC.:

An evaluation of the above-referenced property on the 23rd day of October, 2007 revealed that the structure fails to comply with § 6-120. (a) of the Housing Code of the City of Portland, and § 105.1 of the IBC®, 2003 Code.

Attached is a list of the violations.

Based on that list, and pursuant to § 6-120. (c), and § 105.1 of the IBC, 2003 Code, this office declares the dwelling unit is unfit for human habitation. This notice serves as a Stop-Work-Order, all un-permitted demolition work must cease immediately.

A re-inspection of the premises will occur on the 5th day of November, 2007, at which time the vacant building must be: (1) weather-proof and watertight, (2) secured from vandalism, (3) verified structurally sound by a licensed structural engineer, or submit the appropriate materials for acceptance of a demolition permit from this office.

Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in § 1-15 of the Code in Title 30-A of M.R.S.A § 4452.

This constitutes an appealable decision pursuant to § 6-127 of the Code. Please feel free to contact me if you have any questions or would like to discuss this matter further.

Sincerely,


Jon Rioux,
Code Enforcement Officer

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

Inspection Violations

Owner/Manager GREG'S PROPERTIES WASHAVE LLC		Inspector Jon Rioux	Inspection Date 10/23/2007
Location 6 WASHINGTON AVE	CBL 013 G007001	Status Posting Notice	Inspection Type Housing-Inspection

Code	Int/Ext	Floor	Unit No.	Area	Compliance Date
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- 1) **Violation:**
Notes: Sec. 6 124. Property to be secured if not improved.

 If the owner or operator of any property which has been condemned as unfit for habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this article, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard shall exist.
-
- 2) 6-109/5.1
Violation: Found.,cellars, exterior walls, roofs.
Notes: (a) Foundations, basements, cellars, exterior walls, roofs. Every foundation, basement, cellar, exterior wall and roof shall be substantially weathertight, watertight and vermin proof; shall be structurally sound and in good repair; and shall be safe for the intended use as well as capable of supporting whatever load normal use may cause to be placed thereon. Every exterior wall or portion thereof shall be painted or stained. Water from roofs shall be so drained and conveyed therefrom as not to cause repeatedly wet floors, walls or ceilings, or hazard to adjacent buildings or the occupants thereof.
-
- 3) 6-109/5.2
Violation: Interior floors, walls, ceilings,doors.
Notes: (b) interior floors, walls, ceilings and doors. Every floor, wall, ceiling and door shall be in a structurally sound condition and shall be substantially vermin proof.
-
- 4) 6-109/5.3
Violation: Exterior windows, doors and skylights.
Notes: (c) Exterior windows, doors and skylights. Every window or door, including basement or cellar door and hatchway, and skylight shall be substantially weathertight, watertight and vermin proof, and shall be kept secured to prevent ingress of people and animals.
-
- 5) 6-120.1 thru 5
Violation: Posted against occupancy.
Notes: (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested in such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;
-
- 6) 105.1 Interior Various locations
Violation: Building w/o Permit
Notes: Building and or demolishing without benefit of a permit.

Comments:

November 27, 2007

06202

Mr. Alex Jaegerman
Planning Division Director
389 Congress St
Portland, ME 04101

Re: 6 Washington Ave
Portland, ME
CBL 013 G007001
2007-0054

Dear Mr. Jaegerman;

Associated Design Partners Inc. has prepared the following responses to comments from a letter composed by you dated November 26, 2007 relating to the Bingas Wingas project at 6 Washington Ave. The original comments are in regular type font, with our responses listed in italics. Please contact this office if you have any questions.

1. Please explain how the Bingas Wingas present proposal addresses the limitations imposed by Portland City Code Sec. 14-382 (e) and 385.

1.1 The City planning department has implied that if the wood framed structure of the existing building is demolished down to the level of the existing foundation, a new site plan approval would be required. Because of the time and costs involved in resubmitting for a new site plan approval, it is desirable for this project to proceed as previously proposed and approved on 8/27/07 – Rehabilitate the existing structure and make site improvements as depicted within the previously approved submission materials. This will be explained in depth in the response to item 2. We offer the following list to illustrate conformance of the prior approved plans with Sec. 14-382 (e). The items have been presented in prior submission material(s).

- 1.1.1 *The proposed uses (restaurant & residential) are in conformance with sections 14-182 (a) 2, 14-182 (b) 5 & 6.*
- 1.1.2 *The existing lot size of 7518sf meets the requirements of sec 14-185 (a) 2 & 4. There is no min. lot size for non-residential uses in the B-2b zone. The min. lot size for 1 dwelling unit above the first floor is 1000sf.*
- 1.1.3 *The existing street frontage of 143ft is in accordance with 14-185 (b)*
- 1.1.4 *As stated in the letter from Shukria Wiar, item 14 states that the front and side setbacks are in conformance with the B-2b zone (Sec 14-185 (c) 1 & 3. The rear setback of the existing building is in non-conformance (10ft min setback per 14-185 (c) 2 a). The proposed accessory building has a 5.3ft setback (5ft min per sec. 14-185 (c) 2 b) and subsequently does not increase the non-conformance of the rear setback of the existing building. Sec. 14-436(a) states that building extensions to existing lawfully non-conforming structures are allowed to be constructed to no more than 50% of the first floor footprint of the building. The accessory structure has a proposed one-story area of 530sf, 50% of the existing first floor footprint is 1046sf (measured to the outside of the foundations).*
- 1.1.5 *The 4ft landscaped area around the parking lot that abuts Washington and Congress satisfies 14-185 1 i. Per email from Shukria Wiar dated 7/20/07, the city arborist is not requiring an ornamental fence.*
- 1.1.6 *Maximum structure height is 45ft per 14-185 (e). The roof of the existing building was (and will be when replaced) 45ft above the average exterior grade.*

- 1.1.7 *The existing impervious surface ratio of the parcel at 6 Wash. Ave is 100%, a mix of asphalt pavement, compacted gravel surface, and buildings. The proposed impervious surface ratio is 95% due to the addition of the landscaping between the parking area and the sidewalk. Per the letter from Marge Schmuckal dated 7/11/07, the proposed 95% impervious surface ratio is acceptable under zoning.*
 - 1.1.8 *The requirements of section 14-186 "Other Requirements" (a thru h) pertain to the site development (not specifically to the proposed modifications, alterations, additions to the existing building, which is the topic of interest discussed here). It is our understanding that the planning department has deemed the proposed re-development in conformance with Sec. 14-186.*
 - 1.1.9 *The use will be contained within an enclosed structure, as required by sec. 14-187 (a), except that an open-air patio is proposed, which we understand will require special licensing from the City.*
 - 1.1.10 *There is a proposed roof top mounted kitchen exhaust fan that produces 53.4 decibels of noise at the unit when operating. This is in conformance with sec. 14-187 (b). This information was provided to Marge Schmuckal after her letter dated 7/11/07 was issued, and as far as we know is acceptable.*
 - 1.1.11 *The proposed use will not generate excessive vibration and heat, meeting the requirements of sec. 14-187 (c).*
 - 1.1.12 *All kitchen exhaust will be ducted and vented to the max. Roof elevation of 45ft to minimize the perceptibility of fumes at the lot boundaries in accordance with 14-187 (d).*
 - 1.1.13 *Smoke is not anticipated to be generated with an opacity greater than 20% in accordance with 14-187 (e).*
 - 1.1.14 *All solid wastes generated by the building use is proposed to be disposed of via enclosed dumpsters located on the North West corner of the site. Waste water will be transmitted to the City collection and treatment system. According to the letter dated 5/16/07 from Frank Brancely, the existing system has the capacity to handle the new wastewater generated.*
- 1.2 *It is questionable as to whether this building should be considered "damaged" or not. Though it has been exposed to weather for approximately 1 month, it is our professional opinion that the building has not been "damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay or otherwise" as specified by Sec. 14-385. Though the existing structural elements have periodically dampened by rain, it will be possible to dry out the interior framing after a new roof is installed. There is relatively little rot (decay) within the existing framing, mostly at the existing rough sawn sill plates, which will be replaced or reinforced as necessary once the proper building permits are obtained and construction begins. Whether or not the building is considered damaged, the previously approved site plan (the desired plan under which to proceed with) meets the conditions of 14-385 (a), (c) and (d). 14-385 (b) states that the reconstruction must be within the existing footprint, which is what the site plan proposes, with the exception of the approved 530sf new accessory structure. The approved site plan is also in accordance with the part of Sec. 14-385 (b) that states that no new non-conformities may be created.*

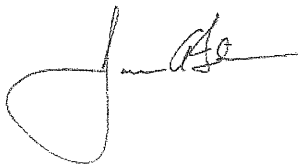
2. Please submit a plan detailing what/how the owner intends to build on the site. The estimates and percentages of building reuse contained within your email do not correspond to the representations made in the October 23, 2007 letter to the City submitted by Aaron Wilson, P.E. At this point, therefore, the City does not know what is being proposed vis a vis the site.

2.1 As stated in item 1.1, it is desirable for this project to proceed as previously proposed and approved on 8/27/07. We are rescinding the proposal to demolish the wood framed section of the building and re-build a new wood structure as outlined in Aaron Wilson's October 23, 2007 letter. The percentages of the structural elements to remain as outlined in my email of 11/20/2007 represent the approximate portions of the existing structure that would not be demolished under the approved plan to rehabilitate the building. The general scope of rehabilitation includes the following (not necessarily in order of actual occurrence).

- Immediately submit a roof framing plan to the code enforcement for a roof only building permit to get the existing building closed in as soon as possible. Board up all existing window openings.*
- Complete the construction documents for the modifications and upgrades to the existing building and submit for necessary building permits.*
- Send the construction drawings to contractors for bidding.*
- Select a contractor and begin construction after necessary permits obtained.*
- Demolish sections of the walls and floors to allow for the installation of new windows and vertical circulation.*
- Reinforce / upgrade existing structural elements that are shown to be deficient by structural analysis.*
- Construct new masonry stair / elevator shafts.*
- Install exterior finishes as depicted on approved building elevation drawings A301 and A302.*
- Install interior finishes and non-structural assemblies.*

We trust this letter addresses your questions at this time; we look forward to moving ahead with this project. Please contact us here at the office if you have any additional questions.

Sincerely,



James A Thibodeau, P.E.
President
Associated Design Partners, Inc

Cc: Lee Lowry