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## 6. EVIDENCE OF STATE AND/OR FEDERAL APPROVALS

On behalf of CPB2 LLC, Woodard & Curran assessed the regulatory triggers/thresholds for permitting under MaineDEP Site Location of Development (Site Law), and MaineDEP Stormwater Law for the proposed re-development project. It is our understanding that the proposed project should not be subject to Site Location of Development standards since it will result in less than three acres of new Structure area from what was in existence in 1970 (establishment of Site Law), but that because the proposed project will disturb more than one acre of land and result in more than one acre of new impervious area, MaineDEP Stormwater Law applies and a Stormwater Permit will be required. The City of Portland has delegated review for Stormwater Permits, so approval will be obtained as part of the formal Site Plan application, to be submitted at a later date. A letter documenting these determinations was provided to the MaineDEP, which has been attached to this Section for your reference, and the proposed Stormwater Management strategy is described in Section 12 of this Report.

We anticipate that the following State and Federal Permits will be required:

- A Maine Construction General Permit will be required because the proposed project will disturb more than one acre of land.
- A MaineDEP Natural Resources Protection Act Permit-by-Rule (NRPA PBR) for new stormwater outfalls into the Fore River.
- A Category 1 Notification under the Maine General Permit through the Army Corps of Engineers for new stormwater outfalls into the Fore River.
- Development of the Marina will require full permits through MaineDEP and Army Corps of Engineers; it should be noted that the Marina will also require review and approval through the Portland Board of Harbor Commissioners. An application will be submitted to the Harbor Commissioners under separate cover.

No other State or Federal permits will be required.

### 6.1 ATTACHMENTS

- SLOD Determination Letter & Figure

Via FedEx

September 16, 2016



Alison Sirois, Director of Land Enforcement  
Maine Department of Environmental Protection  
Southern Maine Regional Office  
312 Canco Road  
Portland, Maine 04103

Re: 58 Fore Street Re-development  
Site Law Determination

Dear Alison:

On behalf of CPB2, LLC, Woodard & Curran is writing to confirm that the Site Location of Development Law (Site Law) does not apply to the proposed re-development of the former Portland Company Complex located at 58 Fore Street in Portland. The proposed project Site encompasses three parcels owned by CPB2, LLC. The parcels are identified as Tax Map 18A, Lots 1, 2, and 3. Lot 2 is located along the waterfront, separated from Lots 1 and 3 by a linear parcel owned by the State of Maine. A survey completed by Owen Haskell, Inc. in May 2013 identifies the areas of Lots 1 and 2 at 6.04 acres and 1.02 acres respectively, and Lot 3 as 2.87 acres for a total of 9.93 acres.

We have assessed the proposed re-development project under Site Law and have determined that it does not meet the definition of "development of state or regional significance that may substantially affect the environment." The property is less than 20 acres and the development is not oil or gas exploration or production activity, an oil terminal facility or an offshore wind power project. Therefore, the only question remaining is whether the development is a structure, i.e. does it contain "buildings, parking lots, roads, paved areas, wharves or areas to be stripped or graded and not to be revegetated that cause a total project to occupy a ground area in excess of 3 acres."

The property at 58 Fore Street was first developed in 1857, as part of the Portland Company. By 1970, the majority of the property was covered by roads, parking lots and buildings. The proposed re-development of the site will reuse many of the buildings and associated facilities existing on January 1, 1970 and therefore is exempted from review under 38 M.R.S. § 488. Accordingly, the Department may not consider the redevelopment of those areas in its determination of whether the proposed development meets the 3-acre threshold.

A 1969 aerial photograph of the Site was found in the records available from the City of Portland Public Works Department Archives Vault. Only approximately 2.83 acres of the 1969 Site was vegetated, such that much of the Site was developed and consisted of "structure" prior to January 1, 1970.

The proposed redevelopment project will result in approximately 2.77 acres of new buildings, parking lots, roads and paved areas. Attached is a Figure that shows the structure area from 1969, the proposed condition, and the resulting new structure area upon future buildout. Since the total proposed new structure area will be less than three acres, the 3-acre structure threshold is not met. Based on these findings, it is our understanding that the proposed project will not be subject to Site Location of Development standards.



Although we understand that the project will not be subject to Site Location of Development standards, substantial review of the project has and will occur by Local, State and Federal regulatory agencies. Specifically, in 2014 and 2015 the property was re-zoned in accordance with a zone change application reviewed by the City of Portland Planning Board and approved by the Portland City Council for consistency with the City's Comprehensive Plan; in 2015 and 2016 the City of Portland Historic Preservation Board recommended and the Portland City Council approved a Historic District designation on portions of the property; the property owner is currently preparing a Master Development Plan to be submitted to and reviewed by the City of Portland Planning Board for consistency with the City's Land Use Code; future development of each building or development blocks on the site will be subject to Site Plan review by the City of Portland Planning Board for consistency with the City's Land Use Code; and redevelopment of the marina and any modifications to the sea wall or stormwater outfalls will be subject to review by the MaineDEP for compliance with the Natural Resources Protection Act and US Army Corps of Engineers for compliance with the Maine General Permit.

It should also be noted that, because the proposed project will disturb more than one acre of land, MaineDEP Stormwater Law applies and a Stormwater Permit will be required. The proposed project will create more than one acre of new impervious area, and will therefore be required to comply with the Basic and General Standards of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Maine Construction General Permit. The City of Portland has delegated review for Chapter 500 Stormwater Permits, so approval will be obtained as part of the formal Site Plan application, to be submitted at a later date. The City of Portland recently adopted changes to their Stormwater Standards that require treatment of redevelopment areas beyond the standards of the Chapter 500 Stormwater Management Rules; as such we anticipate that stormwater quality treatment utilizing technologies acceptable under the General Standards will be provided for a substantial area of the site, a significant improvement over the existing site condition, which has no stormwater treatment systems in place.

Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

WOODARD & CURRAN

A handwritten signature in black ink, appearing to read "D. Senus".

David Senus, PE  
Project Manager

AEA/das

Enclosure(s)      Site Law Determination Figure

cc:      CPB2 LLC – c/o James Brady, Kevin Costello, Casey Prentice  
         Barbara Barhydt, Development Review Services Manager, City of Portland Planning Division  
         Mary E. Costigan, Bernstein Shur

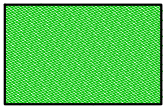


**PLAN NOTES:**

1. THE PURPOSE OF THESE FIGURES IS TO DETERMINE WHETHER THE PROPOSED PROJECT TRIGGERS THE REGULATORY THRESHOLDS FOR PERMITTING UNDER MAINEDEP SITE LOCATION OF DEVELOPMENT (SITE LAW) BASED ON "STRUCTURE" AREA.
2. "STRUCTURE" IS DEFINED AS BUILDINGS, PARKING LOTS, ROADS, PAVED AREAS, WHARVES OR AREAS TO BE STRIPPED OR GRADED AND NOT TO BE REVEGETATED WHICH CAUSE A TOTAL PROJECT TO OCCUPY A GROUND AREA IN EXCESS OF THREE ACES. FOR THE PURPOSES OF THIS EVALUATION, ANY NON-VEGETATED AREAS ARE ASSUMED TO BE STRUCTURE.
3. THE EFFECTIVE DATE FOR SITE LOCATION OF DEVELOPMENT LAW WAS JANUARY 1, 1970, AND THE "STRUCTURE" THRESHOLD UNDER SITE LAW WAS IMPLEMENTED ON OCTOBER 1, 1975. DEVELOPMENT THAT WAS IN PLACE PRIOR TO 1970 IS CONSIDERED TO BE GRANDFATHERED AND EXEMPT FROM SITE LAW REGULATION, AND ANY STRUCTURE ADDED AFTER THIS DATE IS CONSIDERED 'NEW STRUCTURE'.



**LEGEND**

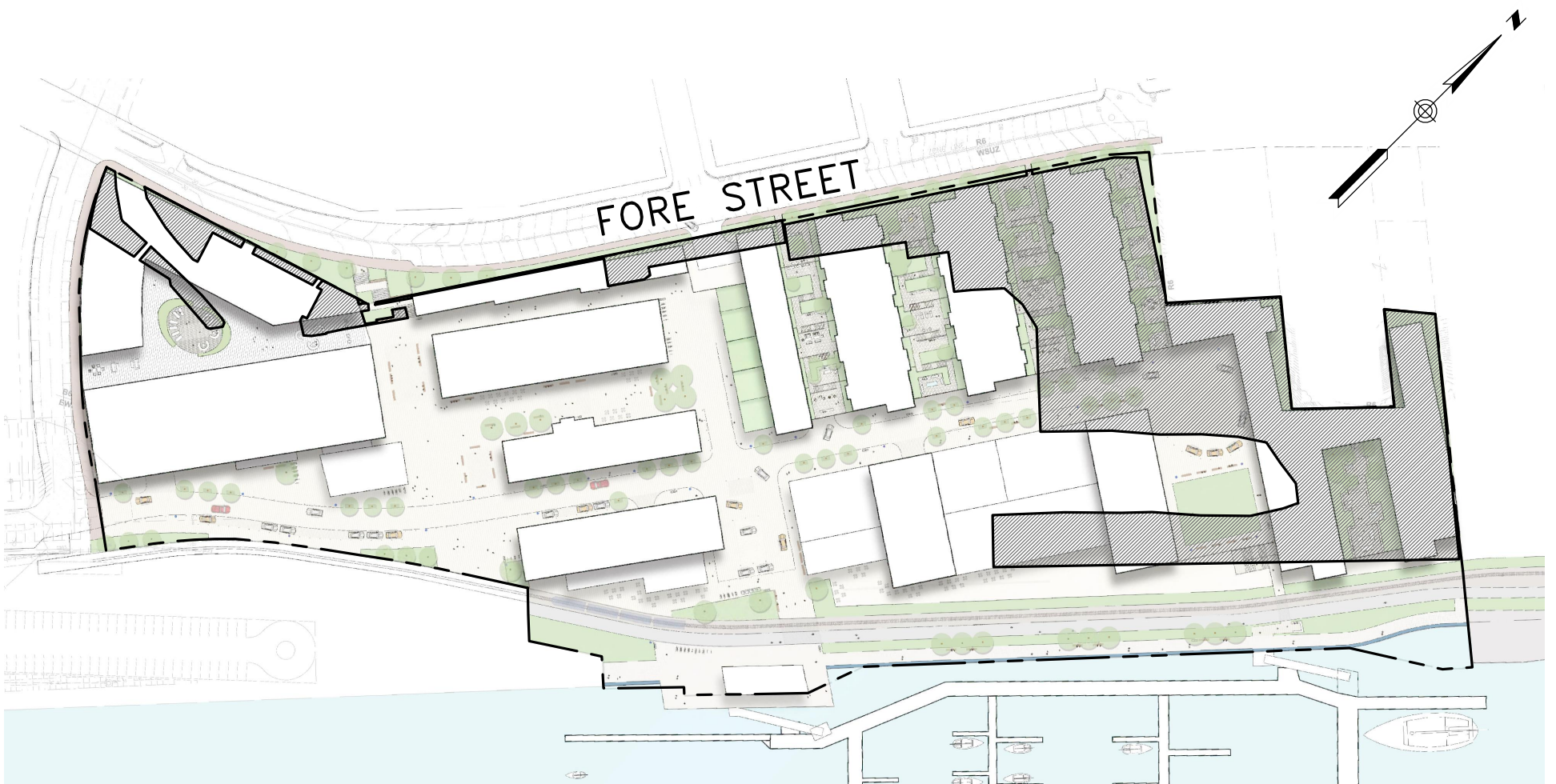


NON-"STRUCTURE" AREA  
123,107 S.F. = 2.83 ACRES

BAR SCALE  
1" = 150'  
CHECK GRAPHIC SCALE BEFORE USING

**PRE-SITE LAW CONDITIONS - 1969**

SCALE: 1"=150'



**LEGEND**



PROPOSED NEW "STRUCTURE" AREA  
(1969 TO FUTURE BUILDOUT)  
120,489 S.F. = 2.77 ACRES

BAR SCALE  
1" = 150'  
CHECK GRAPHIC SCALE BEFORE USING

**PROPOSED NEW "STRUCTURE" AREA**

SCALE: 1"=150'