

27-B-4

2006-0023

439 Congress St.

Retail + Apts. (Metropolitan Apts.)

Metropolitan Apts. LLC.

on Spreadsheet

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

**2006-0023**  
Application I. D. Number  
**2/3/2006**  
Application Date  
**439 Congress Street**  
Project Name/Description

**Archetype 3**  
Applicant  
**48 Union Wharf, Portland, ME 04101**  
Applicant's Mailing Address

Consultant/Agent  
**Applicant Ph: (207) 772-6022      Applicant Fax: (207) 772-4056**  
Applicant or Agent Daytime Telephone, Fax

**439 - 439 Congress St, Portland, Maine**  
Address of Proposed Site  
**027 B004001**  
Assessor's Reference: Chart-Block-Lot

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

**6,467 s.f.** **B3**  
Proposed Building square Feet or # of Units      Acreage of Site      Zoning

**Check Review Required:**

- |  |   |  |  |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan<br>(major/minor) | <input checked="" type="checkbox"/> Subdivision<br># of lots <b>9</b> | <input type="checkbox"/> PAD Review            | <input type="checkbox"/> 14-403 Streets Review   |
| <input type="checkbox"/> Flood Hazard                          | <input type="checkbox"/> Shoreland                                    | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional<br>Use (ZBA/PB)    | <input type="checkbox"/> Zoning Variance                              | <input type="checkbox"/> Other _____           |  |

Fees Paid:    Site Pla    **\$1,125.00**    Subdivision    Engineer Review    Date **2/6/2006**

**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  |                 |

**From:** Jean Fraser  
**To:** Schmuckal, Marge  
**Date:** 4/11/2006 4:50:11 PM  
**Subject:** 439 Congress Street

Hi Marge,

I won't be able to attend Dev Rev tomorrow and this application is going straight to a Hearing on May 9th.

Its #2006-0023 submitted Feb 3, 2006- creating 9 units on the top of the building just under the roof. They are extending one of the elevator shafts so there will be two elevators to access that floor and apparently David Lloyd has discussed this with Mike re code (its sprinkled).

Do you have any comments or concerns?

Thanks  
Jean

*Get Marge  
the plan.*



# PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life [www.portlandmaine.gov](http://www.portlandmaine.gov)

6 April 2006

Public Works Department  
Michael J. Bobinsky, Director

Ms. Susan McEwen,  
Archetype,  
48 Union Wharf,  
Portland, Maine 04101

**RE: The City's Capacity to Handle Wastewater Flows, from a  
Proposed Conversion at 439 Congress Street, Portland, Maine.**

Dear Ms. McEwen:

The existing fifteen-inch diameter sanitary sewer pipe, in Congress Street, has **adequate capacity to transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have **adequate capacity to treat** the anticipated increased wastewater flows of **1,620 GPD**, from your proposed development.

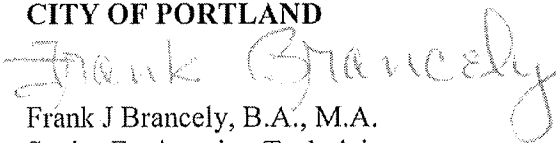
**Anticipated Wastewater Flows from the Proposed Addition:**

9 Proposed One Bedroom Units @ 180 GPD/Unit	= <u>1,620 GPD</u>
<b>Total Proposed Increase in Wastewater Flows for this Project</b>	<b>= 1,620 GPD</b>

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  
Jean Fraser, Planner, Department of Planning, and Urban Development, City of Portland  
Eric Labelle, P.E., City Engineer, City of Portland  
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland  
Stephen K. Harris, Assistant Engineer, City of Portland  
Desk file



**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 3/27/2006 4:42:48 PM  
**Subject:** 439 Congress Street

David,

Further to my e-mail on Friday, i have listed below the comments from Fire and as I mentioned I think the Board will want to be sure they are not approving a death trap!!!

Supply an updated plan for all Life Safety Systems.

Fire Alarm

Sprinkler

Ratings of all components in means of egress.

NFPA 101 Life Safety code compliance referance page requested.

I do have the subdivision internal layout but few of the units have any windows shown.

I will write later in the week but am giving you advance notice on these comments.

Jean

**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 3/24/2006 5:07:43 PM  
**Subject:** Re: 439 Congress

David,

Sorry- this has been discussed internally and is provisionally scheduled for May 9th as a Hearing.

There needs to be the Neighborhood Meeting...

On this there are also the Waste disposal issues and code issues; I am waiting for Jeff Tarling to advise re street trees (maybe can raise with him on Wed).

Probably a telephone call early next week will be enough on this although in view of the concerns raised by the Board re 341 Cumberland it might be an idea to show the internal subdivision, clarify re windows and means of escape and address the code issues explicitly.

Jean

[shown]

>>> "David Lloyd" <lloyd@archetypepa.com> 3/23/2006 5:21:53 PM >>>  
Jean

I'm getting pressured from my client to get this going. Can you please let me know when you can meet?

Thank You, I know you are very busy so I appreciate your time. I can meet 3/29 after 12 or 3/30 anytime

David Lloyd  
Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
Phone: (207) 772-6022  
Fax: (207) 772-4056  
[lloyd@archetypepa.com](mailto:lloyd@archetypepa.com)  
<http://www.archetype-architects.com> <<http://www.archetype-architects.com/>>

**From:** Jean Fraser  
**To:** Tarling , Jeff  
**Date:** 3/30/2006 12:54:11 PM  
**Subject:** Comments and info please

Jeff,

Sorry I couldn't go with you to the Western Promenade and consider the Mercy views...with Kandi out and Ethan gone I am the only planner and am lurching from planning board to planning board- hence the plea for comments as I have little time to chase or sort things.

Heres a list of my requests (most already in previous e-mails) and I will try and telephone to follow up.

1. **Neal Street-** Neal Street site goes to hearing April 11th so I need to be writing the Report Monday. I am chasing David for a revised Landscape Plan that you can 'clear'

2. **Mercy-** do you have/can get any plans of a campus-like recently built hospital that we could show to the Mercy Team next week (Lee Urban, Alex are meeting with them to try and get them to see appreciate the issues we have raised). I have also asked Pat Carroll if he knows any-can get hands on plans.

3. **Allagash-** this is approved and they want to start- being held up because they are waiting for you to approve their landscape plan (sent to you 3.10.06 and I have a copy). Could you approve please?

4. **Sacred heart school-** conversion to artists homes/studios (gave you plan yesterday): Peter Bass realizes that they have kind of overdone the area between the building and the north boundary with unnecessarily expensive landscape and left the chain link and steel guardrail boundary treatment un-improved. He would like some low cost suggestions to meet the request of the Planning Board for buffering on these two boundaries- I guess shrub planting along the chain link fence but east side more difficult as absolutely no space. Maybe need to discuss. He needs any suggestions urgently so they can be designed, costed and then he needs to reduce the landscape elsewhere to find the money. Peter would like to meet with you (and me) and I could arrange if you are willing.

There is also the question of street trees- they are asking for a waiver of the requirement to plant 16 trees or make a contribution in lieu- they have argued that the exterior works they are doing (including a site for outdoor temporary art installations and arty fence) is an adequate contribution to the streetscape (not quite in those words)

5. **Warren Ave Car Wash** (gave you the plan yesterday)- needs street trees at least but maybe more? Comments please- not desperate but asap.

6. **Rug Depot** I have conveyed your comments given at Dev Rev a couple of weeks ago and am expecting a revised plan this week. This is also scheduled for a hearing on April 11th but it may be delayed by other things- so this is just a warning that it may need urgent comments next week but then again might not!!!!

7. **439 Congress Street:** They are adding in 9 small units in the top floor and so require 18 street trees- there may be scope for one in the front on Congress St but your view is requested so I can sort out the contribution issue. This goes direct to a Hearing in early May and we need to have it all tied up- but least urgent in view of the rest of this list.

Think that's it for the moment-

Thanks  
Jean

6 April 2006

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Archetype,  
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Portland, Maine 04101

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Sincerely,  
**CITY OF PORTLAND**

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Senior Engineering Technician

FJB

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Jean Fraser, Planner, Department of Planning, and Urban Development, City of Portland  
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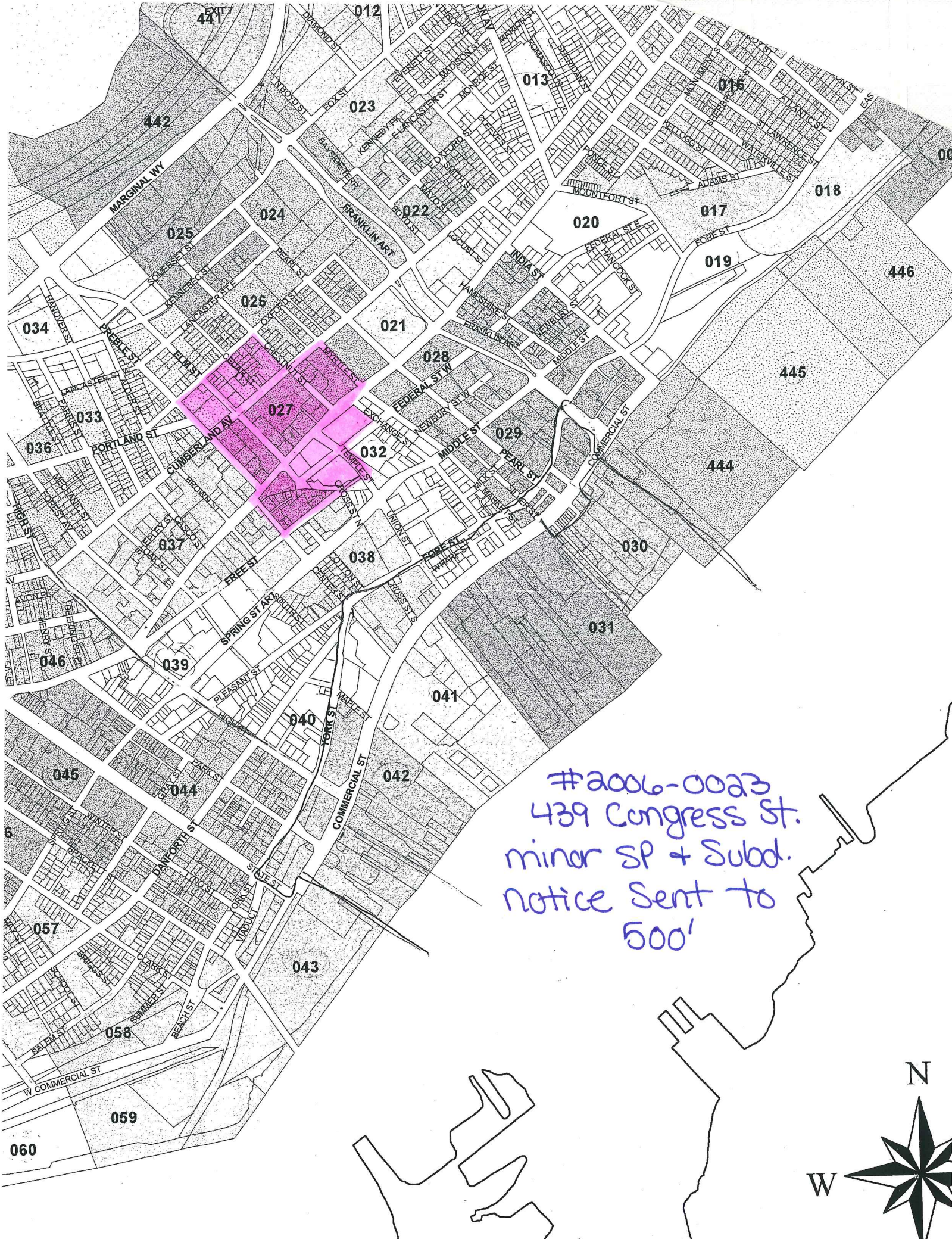
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Desk file





#2006-0023  
439 Congress St.  
minor SP + Subd.  
Notice Sent to  
500'



**PLANNING BOARD REPORT #28-06**

**439 CONGRESS STREET (METROPOLITAN APARTMENTS)  
SUBDIVISION AND MINOR SITE PLAN REVIEW  
METROPOLITAN APARTMENTS LLC (PORT PROPERTY MANAGEMENT), APPLICANT**

Submitted to:

Portland Planning Board  
Portland, Maine  
May 9, 2006 Public Hearing

Prepared by:

Jean Fraser, Planner  
May 5, 2006

## I. INTRODUCTION

Metropolitan Apartments LLC have requested a Subdivision and Minor Site Plan Review of their proposal for creating nine (9) small efficiency one-bed rental units within the existing sixth (top) floor of the 6-story building at 439 Congress Street.

The first floor of the building is currently made up of four retail spaces, with four floors of apartments (seventy-two units) above and another floor (sixth floor) currently used for storage.

The existing apartment building is a brick building fronting onto Congress Street between the garden adjacent to the First Parish Unitarian Church and a seven story brick building (443 Congress Street) on the corner of Congress Street and Elm Street (see photograph in Attachment B). Between the proposal property and the Church garden there is a narrow drive within the property boundary which leads to a service area at the back, underneath part of the building.

The rear of the property abuts the paved pedestrian walkway between Chestnut Street, along the High School and out to Elm Street. The service area at the rear is at a higher level than the walkway.

This proposal would normally be an administrative review, but the conversion of the sixth floor is technically a subdivision which requires Planning Board approval. Given the minor nature of the development, Staff suggest it does not need a Workshop meeting and have brought the proposal directly to a Hearing.

A Neighborhood Meeting was held April 25, 2006; it was noticed to property owners within 500 feet but no one attended (Attachment K). No representations have been made directly to Planning staff.

Notices for the Hearing have also been sent to 127 property owners within 500 feet and appeared in the *Portland Press Herald* on May 1, 2006.

## II. ZONING

The property is located within a B3 business zone, which does not have a minimum land area per dwelling unit and does not require parking to be provided for any change of use (see e-mail from Marge Schmuckal of 4.19.2006 in Attachment H).

## III. SUMMARY OF FINDINGS

Zoning:	B3
Parcel Size:	13,300 square feet
Parking Spaces:	None
Building Floor Area:	6,467 square feet (existing sixth floor)
Building Height:	6 story (existing)
Uses:	9 One bedroom residential units



#### IV. PROPOSED DEVELOPMENT

Metropolitan Apartments LLC are proposing to divide the sixth floor of the property into nine one-bedroom units, which range from 320 square feet to 586 square feet (including mezzanine); six of the units include a mezzanine level as shown in Attachment O.

The proposals will not involve any external alterations and the sixth floor is not visible from the street due to the setback at that level. There is no existing or proposed parking on site except for vehicles parked within the service area under the building at the rear.

#### V. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision and site plan ordinances. Staff comments are included in this report.

#### VI. SUBDIVISION REVIEW

##### Subdivision Recording Plat

A draft Subdivision Recording Plat has been submitted and is attached in Attachment O. If approved, any conditions will also be included on the plat.

1. Water and Air Pollution

The project will not result in undue water or air pollution, as it is not in a flood plain and does not involve new construction.

2/3. Water

The applicant has provided a 'Capacity to Serve' letter dated 4.3.2006 from the Portland Water District (Attachment F). In view of the fact the proposed units are on the sixth floor there may be a question of water pressure, and the applicant has confirmed they will install an additional pump if necessary (Attachment M).

4. Soil Erosion

The proposal will not cause unreasonable soil erosion as it is entirely within an existing building.

5. Traffic

##### **Parking**

There are no zoning requirements in respect of parking. The building takes up most of the site parcel so there is no scope for parking on site. There are several parking garages nearby.

Service access currently is gained via the narrow drive within the site to the east of the building which leads to the rear service area.

- 6/7. Sanitary Sewer/Soils/Stormwater  
A Capacity to Serve letter dated 4.6.2006 is included in Attachment G.
8. Solid Waste Disposal  
The agent has confirmed in his application cover letter of 2.1.2006 that the trash from this building is put into totes at the rear of the building, out of sight, and picked up periodically by a private trash company. (Attachment A)
9. Scenic Beauty  
The proposal itself does not have any undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or significant wildlife habitat or rare or irreplaceable natural areas. It is not located with an Historic District nor near a Historic Landmark.  
  
However, the boundary of the rear service area is visible from the pedestrian route and at present is bounded by chain link fencing in poor condition which allows the public to view several trash cans and other items stored around the service area. A potential condition would be to require the submission of proposals for improvement to this boundary to better screen the service area.  
  
The City's Technical Standards regarding the provision of street trees has been applied in this type of subdivision to require two street trees per unit. Jeff Tarling has confirmed due to site constraints around the site it is difficult to plant trees and he requests a contribution in lieu (Attachment L). A potential condition would be to require a financial contribution of \$3600 to the Portland Tree Trust for the provision of 18 trees (two per unit) to be planted in the vicinity of the proposed project.
10. Comprehensive Plan  
The creation of 9 new units of housing is supported by the Comprehensive Plan policy "Housing: Sustaining Portland's Future" (November 2002) which encourages the provision of more housing in the city, especially where the housing can be located near to businesses, services, and public transit.
11. Financial Capability  
The applicant has provided a letter confirming financial capability from William Schad, Vice President of Banknorth (1.26.2006, Attachment D).
- 12./13. Groundwater/Flood Hazard/Shoreland/Wetlands  
The proposal is entirely within the envelope of an existing building and an existing paved area adjacent to the building, and therefore does not adversely affect the quality/quantity of groundwater, is not in a flood prone area and has no effect on wetlands or waterways.

## VII. SITE PLAN REVIEW

- 1/2. Traffic  
See VI Subdivision Review, paragraph 5. Traffic.

3./4. Bulk, Location, Health, Safety Air/Height of Proposed Buildings  
The proposal does not include the construction of any new buildings and there are no known health or safety problems with the existing building.

5. Sewers, Stormdrains, Water  
Refer to VI Subdivision Review, paragraphs 1, 2, 3, 6, and 7.

6./7. Landscaping and Existing Vegetation  
The proposal does not include any landscaping.

As discussed under VI Subdivision Review Paragraph 9, the landscaping/screening of the existing rear service area may be considered deficient, and improved boundary treatment is the subject of a potential condition.

8. Soils and Drainage  
Refer to VI Subdivision Review, paragraph 4.

9. Exterior Lighting  
There are no proposals for exterior lighting.

9. Fire  
In view of the concerns expressed by the Planning Board in relation to the safety of mezzanine apartments at a similar property in Cumberland Avenue, the agent was requested to ensure that Life Safety issues were explored at this stage to ensure that the proposal was capable of meeting code requirements at the Building Permit stage. The agent confirmed on 4.24.2006 that the building is fully sprinkled with fire alarms in place and that two means of egress are provided (Attachment I).

The Fire Department has also commented (Greg Cass, e-mail of 4.25.2006 in Attachment J) that at this stage there are no outstanding issues over and above the usual conditions requiring the supply of an updated plan for all Life Safety Systems (fire alarm, sprinkler, ratings of all components in means of egress) and NFPA 101 Life Safety code compliance reference page requested (Attachment E).

10. City Infrastructure  
The proposal is within an existing building and does not directly impact City infrastructure; it is already served by all utilities and bounded by sidewalk on the Congress Street frontage, by a public pedestrian path on one side and by private property on the other two sides.

Development located in the B-3 Zone Requirements

The proposal is within the B-3 zone and therefore must also meet other standards described in the Zoning Ordinance.

The relationship to the pedestrian environment at the rear of the property may be deficient in respect of the Ordinance 14-526 (16) which refers to development in the B3 zone and in Section (a) sets out a general requirement that “the exterior design 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.” Improvements to the boundary treatment of the service area would reduce its adverse visual impact on the pedestrian environment at the rear of the property.

#### **VIII. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #28-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Potential Conditions of Approval:

- i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board’s Signature.
- ii. That the developer contribute \$3600 towards the City’s Residential Tree Program to cover the cost of purchasing and installation of two (2) trees per unit in the vicinity of the project. The contribution shall be provided prior to issuance of a building permit.

2. That the plan is in conformance with the site plan standards of the land use code.

Potential Conditions of Approval:

- i. That the applicant submit for Staff review and approval a plan outlining boundary treatment improvements for the service yard beneath the rear part of the building, particularly the areas visible from the public pedestrian way.
- ii. That the applicant shall, prior to issuance of a building permit, present a Life Safety Plan that is updated in respect of all Life Safety Systems including the Fire Alarm, sprinkler and ratings of all components in the means of egress, and which confirms the NFPA 101 Life Safety code compliance reference page.

Attachments on next page

ATTACHMENTS

- A. Submitted Application
- B. Photograph of property taken from Congress Street
- C. Right, title and interest documentation
- D. William R. Schad, Vice President, Banknorth letter dated January 26, 2006
- E. Captain Greg Cass, Fire Department, Urban Insight February 22, 2006
- F. Portland Water District, letter confirming capacity dated April 3, 2006
- G. City of Portland Public Works Capacity to Serve re Wastewater dated April 6, 2006
- H. Marge Schmuckal, Zoning Administrator, e-mail dated April 19, 2006
- I. David Lloyd, e-mail of April 24, 2006
- J. Captain Greg Cass, Fire Department, e-mail dated April 25, 2006
- K. Neighborhood Meeting Certification dated April 26, 2006
- L. Jeff Tarling, City Arborist, e-mail of May 3, 2006
- M. David Lloyd, Archetype, e-mail of May 4, 2006
- N. Boundary Survey from Owen Haskell Inc (2005)
- O. Proposed Subdivision Plat Plan

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There are no zoning requirements in respect of parking. The building takes up most of the site parcel so there is no scope for parking on site. There are several parking garages nearby.

Service access currently is gained via the narrow drive within the site to the east of the building which leads to the rear service area.



- 6/7. Sanitary Sewer/Soils/Stormwater  
A Capacity to Serve letter dated 4.6.2006 is included in Attachment G.
8. Solid Waste Disposal  
The agent has confirmed in his application cover letter of 2.1.2006 that the trash from this building is put into totes at the rear of the building, out of sight, and picked up periodically by a private trash company. (Attachment A)
9. Scenic Beauty  
The proposal itself does not have any undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or significant wildlife habitat or rare or irreplaceable natural areas. It is not located with an Historic District nor near a Historic Landmark.  
  
However, the boundary of the rear service area is visible from the pedestrian route and at present is bounded by chain link fencing in poor condition which allows the public to view several trash cans and other items stored around the service area. A potential condition would be to require the submission of proposals for improvement to this boundary to better screen the service area.  
  
The City's Technical Standards regarding the provision of street trees has been applied in this type of subdivision to require two street trees per unit. Jeff Tarling has confirmed due to site constraints around the site it is difficult to plant trees and he requests a contribution in lieu (Attachment L). A potential condition would be to require a financial contribution of \$3600 to the Portland Tree Trust for the provision of 18 trees (two per unit) to be planted in the vicinity of the proposed project.
10. Comprehensive Plan  
The creation of 9 new units of housing is supported by the Comprehensive Plan policy "Housing: Sustaining Portland's Future" (November 2002) which encourages the provision of more housing in the city, especially where the housing can be located near to businesses, services, and public transit.
11. Financial Capability  
The applicant has provided a letter confirming financial capability from William Schad, Vice President of Banknorth (1.26.2006, Attachment D).
- 12./13. Groundwater/Flood Hazard/Shoreland/Wetlands  
The proposal is entirely within the envelope of an existing building and an existing paved area adjacent to the building, and therefore does not adversely affect the quality/quantity of groundwater, is not in a flood prone area and has no effect on wetlands or waterways.

## VII. SITE PLAN REVIEW

- 1/2. Traffic  
See VI Subdivision Review, paragraph 5. Traffic.

- 3./4. Bulk, Location, Health, Safety Air/Height of Proposed Buildings  
The proposal does not include the construction of any new buildings and there are no known health or safety problems with the existing building.
5. Sewers, Stormdrains, Water  
Refer to VI Subdivision Review, paragraphs 1, 2, 3, 6, and 7.
- 6./7. Landscaping and Existing Vegetation  
The proposal does not include any landscaping.

As discussed under VI Subdivision Review Paragraph 9, the landscaping/screening of the existing rear service area may be considered deficient, and improved boundary treatment is the subject of a potential condition.

8. Soils and Drainage  
Refer to VI Subdivision Review, paragraph 4.
9. Exterior Lighting  
There are no proposals for exterior lighting.
9. Fire  
In view of the concerns expressed by the Planning Board in relation to the safety of mezzanine apartments at a similar property in Cumberland Avenue, the agent was requested to ensure that Life Safety issues were explored at this stage to ensure that the proposal was capable of meeting code requirements at the Building Permit stage. The agent confirmed on 4.24.2006 that the building is fully sprinkled with fire alarms in place and that two means of egress are provided (Attachment I).  
  
The Fire Department has also commented (Greg Cass, e-mail of 4.25.2006 in Attachment J) that at this stage there are no outstanding issues over and above the usual conditions requiring the supply of an updated plan for all Life Safety Systems (fire alarm, sprinkler, ratings of all components in means of egress) and NFPA 101 Life Safety code compliance reference page requested (Attachment E).
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The proposal is within an existing building and does not directly impact City infrastructure; it is already served by all utilities and bounded by sidewalk on the Congress Street frontage, by a public pedestrian path on one side and by private property on the other two sides.

Development located in the B-3 Zone Requirements

The proposal is within the B-3 zone and therefore must also meet other standards described in the Zoning Ordinance.

The relationship to the pedestrian environment at the rear of the property may be deficient in respect of the Ordinance 14-526 (16) which refers to development in the B3 zone and in Section (a) sets out a general requirement that “the exterior design 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.” Improvements to the boundary treatment of the service area would reduce its adverse visual impact on the pedestrian environment at the rear of the property.

#### **VIII. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #28-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Potential Conditions of Approval:

- i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board’s Signature.
- ii. That the developer contribute \$3600 towards the City’s Residential Tree Program to cover the cost of purchasing and installation of two (2) trees per unit in the vicinity of the project. The contribution shall be provided prior to issuance of a building permit.

2. That the plan is in conformance with the site plan standards of the land use code.

Potential Conditions of Approval:

- i. That the applicant submit for Staff review and approval a plan outlining boundary treatment improvements for the service yard beneath the rear part of the building, particularly the areas visible from the public pedestrian way.
- ii. That the applicant shall, prior to issuance of a building permit, present a Life Safety Plan that is updated in respect of all Life Safety Systems including the Fire Alarm, sprinkler and ratings of all components in the means of egress, and which confirms the NFPA 101 Life Safety code compliance reference page.

Attachments on next page

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- B. Photograph of property taken from Congress Street
- C. Right, title and interest documentation
- D. William R. Schad, Vice President, Banknorth letter dated January 26, 2006
- E. Captain Greg Cass, Fire Department, Urban Insight February 22, 2006
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- N. Boundary Survey from Owen Haskell Inc (2005)
- O. Proposed Subdivision Plat Plan

**From:** Alex Jaegerman  
**To:** Jean Fraser  
**Date:** 5/3/2006 4:14:00 PM  
**Subject:** Re: PB Hearing Report: 439 Congress

Looks fine Jean, except, the water service, says it is not being pursued, but shouldn't they procure a capacity letter anyway? (Some upper floor spaces suffer from low water pressure unless there is a pressure booster pump.)

In the subdivision plat condition of approval, it should say " ...be submitted the Planning Board..."

>>> Jean Fraser 05/03/2006 4:01:53 PM >>>  
Alex,

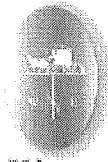
Please find draft PB Hearing Report attached.

This is another infill application from David Lloyd and I believe we have picked up all the issues though no doubt Kevin Beal will find something!!

Jeff Tarling was requested to comment in early March and repeatedly reminded by both Sarah and me; I spoke to him this afternoon and he promised an e-mail urgently.

Jean

**CC:** Sarah Hopkins



CUSTOMER SERVICE  
OFFICE HOURS  
8:30 A.M. - 4:30 P.M.

## Portland Water District

FROM SEBAGO LAKE TO CASCO BAY

April 3, 2006

Susan McEwen  
ARCHETYPE  
48 Union Wharf  
Portland, Me. 04101

Re: 439 Congress St.

Susan:


This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed 72 unit apartment and 4 retail space building at 439 Congress St. in Portland. Checking District records, I find there is a 16"CI water main on the south side of Congress St. as well as a water hydrant located across the street from 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: Congress St. @Elm St.  
Hydrant # 460  
Static pressure = 76 PSI  
Flow = 1321 GPM  
Last Tested = 7/31/2003

If the District can be of further assistance in this matter, please let us know.

Sincerely,  
Portland Water District

  
Jim Pandiscio  
Means Coordinator  
[jpandiscio@pwd.org](mailto:jpandiscio@pwd.org)

**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 5/3/2006 4:24:08 PM  
**Subject:** 439 Congress

David,

One other point that Alex has just raised is re the water capacity letter- I understand that because its 6th floor there could be a pressure issue.

that can be a condition but maybe you have that capacity letter??

Jean





CUSTOMER SERVICE  
OFFICE HOURS  
8:30 A.M. - 4:30 P.M.

Portland Water District  
FROM SEBAGO LAKE TO CASCO BAY

April 3, 2006

Susan McEwen  
ARCHETYPE  
48 Union Wharf  
Portland, Me. 04101

Re: 439 Congress St.

Susan:

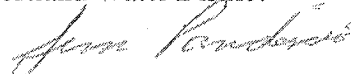
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Hydrant # 460  
Static pressure = 76 PSI  
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Sincerely,  
Portland Water District

  
Jim Pandiscio  
Means Coordinator  
[jpandiscio@pwd.org](mailto:jpandiscio@pwd.org)

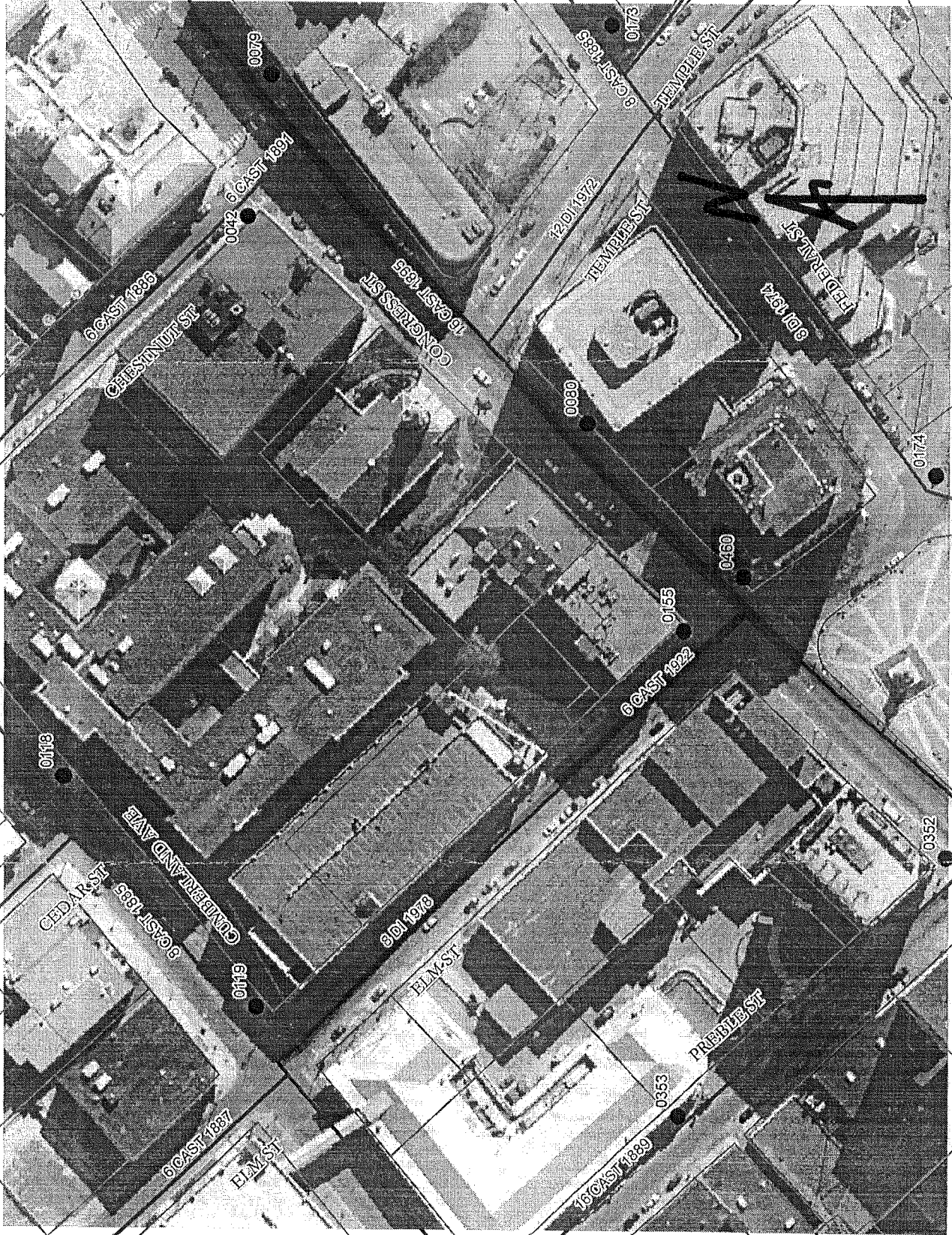
**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 5/3/2006 4:06:48 PM  
**Subject:** 439 Congress Street

David,

In drafting the hearing report I have noticed 2 issues which you may wish to address before the packet goes out rather than at the hearing:

1. the Subdivision Plat has as its title "439 Congress Condos" while your letter says these are apartments;
2. the report will mention that the fencing etc along the rear service yard where it can be seen from the public pedestrian route may be "deficient" and in light of the PB Chair's previous comments on other schemes I felt bound to suggest improvements and have put in a potential condition. Maybe a photo from the pedestrian area would be helpful...

Jean



6 EAST 1838

CHESTNUT ST

0079

0042 6 EAST 1894

18 EAST 1895

0310  
6 EAST 1816

1201 1912

TEMPLE ST

TEMPLE ST

801 1917

FREDERICK ST

0080

0174

0450

0155

6 EAST 1922

0113

COMERTLAND AVE

6 EAST 1895

0116

801 1918

ELM ST

0352

PREBLE ST

6 EAST 1887

ELM ST

0353

16 EAST 1889

**From:** Jean Fraser  
**To:** Tarling , Jeff  
**Date:** 3/8/2006 1:59:23 PM  
**Subject:** 439 Congress Street

Jeff,

This was discussed at Dev Rev today- its another of David Lloyds that just came in.

They are proposing to create 9 studio units on the sixth floor (currently storage) and therefore 18 trees are at issue. (The building already has 72 apartments in it)

Would you want any new street trees at this location (its next to the Unitarian Church just up from the Town Hall)- there are no street trees at present on Congress and I would imagine this is not a good place but I would be grateful for your confirmation.

Thanks  
Jean

**From:** Jean Fraser  
**To:** Tarling , Jeff  
**Date:** 3/8/2006 1:59:23 PM  
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Thanks  
Jean

MODE = MEMORY TRANSMISSION

START=MAY-05 16:48

END=MAY-05 16:51

FILE NO.=271

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001	STOP	a	97725056	000/000	00:00:00

-CITY OF PORTLAND -

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

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



FAX

To: David Lloyd

Company: ALCATE TYPE

Fax #: 773 - ~~5000~~ 4056

Date: Friday May 5, 2006

From: Jean Tracer

You should receive 8 page(s) including this cover sheet.

Comments:

F41 - as sent to the Planning Board.

Regards, Jean

MODE = MEMORY TRANSMISSION

START=MAY-05 16:30

END=MAY-05 16:49

FILE NO.=268

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, 4<sup>th</sup> Floor  
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FAX

---

To: David Lloyd

Company: ALCUTE TYPE

Fax #: 772-6022

Date: Friday May 5, 2006

From: Jean Fraser

You should receive 8 page(s) including this cover sheet.

---

Comments:

F41 - as sent to the Planning Board.

Regards, Jean

**PLANNING BOARD REPORT #28-06**

**439 CONGRESS STREET (METROPOLITAN APARTMENTS)  
SUBDIVISION AND MINOR SITE PLAN REVIEW  
METROPOLITAN APARTMENTS LLC (PORT PROPERTY MANAGEMENT), APPLICANT**

Submitted to:

Portland Planning Board  
Portland, Maine  
May 9, 2006 Public Hearing

Prepared by:

Jean Fraser, Planner  
May 5, 2006



## I. INTRODUCTION

Metropolitan Apartments LLC have requested a Subdivision and Minor Site Plan Review of their proposal for creating nine (9) small efficiency one-bed rental units within the existing sixth (top) floor of the 6-story building at 439 Congress Street.

The first floor of the building is currently made up of four retail spaces, with four floors of apartments (seventy-two units) above and another floor (sixth floor) currently used for storage.

The existing apartment building is a brick building fronting onto Congress Street between the garden adjacent to the First Parish Unitarian Church and a seven story brick building (443 Congress Street) on the corner of Congress Street and Elm Street (see photograph in Attachment B). Between the proposal property and the Church garden there is a narrow drive within the property boundary which leads to a service area at the back, underneath part of the building.

The rear of the property abuts the paved pedestrian walkway between Chestnut Street, along the High School and out to Elm Street. The service area at the rear is at a higher level than the walkway.

This proposal would normally be an administrative review, but the conversion of the sixth floor is technically a subdivision which requires Planning Board approval. Given the minor nature of the development, Staff suggest it does not need a Workshop meeting and have brought the proposal directly to a Hearing.

A Neighborhood Meeting was held April 25, 2006; it was noticed to property owners within 500 feet but no one attended (Attachment K). No representations have been made directly to Planning staff.

Notices for the Hearing have also been sent to 127 property owners within 500 feet and appeared in the *Portland Press Herald* on May 1, 2006.

## II. ZONING

The property is located within a B3 business zone, which does not have a minimum land area per dwelling unit and does not require parking to be provided for any change of use (see e-mail from Marge Schmuckal of 4.19.2006 in Attachment H).

## III. SUMMARY OF FINDINGS

Zoning:	B3
Parcel Size:	13,300 square feet
Parking Spaces:	None
Building Floor Area:	6,467 square feet (existing sixth floor)
Building Height:	6 story (existing)
Uses:	9 One bedroom residential units

#### **IV. PROPOSED DEVELOPMENT**

Metropolitan Apartments LLC are proposing to divide the sixth floor of the property into nine one-bedroom units, which range from 320 square feet to 586 square feet (including mezzanine); six of the units include a mezzanine level as shown in Attachment O.

The proposals will not involve any external alterations and the sixth floor is not visible from the street due to the setback at that level. There is no existing or proposed parking on site except for vehicles parked within the service area under the building at the rear.

#### **V. STAFF REVIEW**

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision and site plan ordinances. Staff comments are included in this report.

#### **VI. SUBDIVISION REVIEW**

##### Subdivision Recording Plat

A draft Subdivision Recording Plat has been submitted and is attached in Attachment O. If approved, any conditions will also be included on the plat.

1. Water and Air Pollution

The project will not result in undue water or air pollution, as it is not in a flood plain and does not involve new construction.

2/3. Water

The applicant has provided a 'Capacity to Serve' letter dated 4.3.2006 from the Portland Water District (Attachment F). In view of the fact the proposed units are on the sixth floor there may be a question of water pressure, and the applicant has confirmed they will install an additional pump if necessary (Attachment M).

4. Soil Erosion

The proposal will not cause unreasonable soil erosion as it is entirely within an existing building.

5. Traffic

##### **Parking**

There are no zoning requirements in respect of parking. The building takes up most of the site parcel so there is no scope for parking on site. There are several parking garages nearby.

Service access currently is gained via the narrow drive within the site to the east of the building which leads to the rear service area.

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A Capacity to Serve letter dated 4.6.2006 is included in Attachment G.
  
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The agent has confirmed in his application cover letter of 2.1.2006 that the trash from this building is put into totes at the rear of the building, out of sight, and picked up periodically by a private trash company. (Attachment A)
  
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The applicant has provided a letter confirming financial capability from William Schad , Vice President of Banknorth (1.26.2006, Attachment D).
  
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- 1/2. Traffic  
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Development located in the B-3 Zone Requirements

The proposal is within the B-3 zone and therefore must also meet other standards described in the Zoning Ordinance.

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On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #28-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

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- i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board’s Signature.
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as sent for signing

**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

---

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

May 19, 2006

David Lloyd  
Archetype PA  
48 Union Wharf  
Portland ME 04101

**RE: 439 Congress Street ('Metropolitan Apartments')**  
**Application ID Number: 2006-0023**  
**Chart 27, Block B, Lot 4**

Dear Mr. Lloyd,

On May 9, 2006 the Portland Planning Board considered the proposal to create nine (9) small efficiency one-bed rental units within the existing sixth floor of the property known as 'Metropolitan Apartments' at 439 Congress Street. Approval was granted for the project by the following motions:

On the basis of plans and materials submitted by the applicant, and on the basis of information contained in Planning Report #28-06 relevant to standards for subdivision and site plan regulations set forth in or authorized by the City of Portland Code of Ordinances, and other findings:

1. The Planning Board voted 5-0 (Patterson and Anton absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following conditions of approval:
  - i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board's Signature;
  - ii. That the developer contribute \$3600 towards the City's Residential Tree Program to cover the cost of purchasing and planting of two (2) trees per unit in the vicinity of the project. The contribution shall be provided prior to issuance of a building permit; and
2. The Planning Board voted 5-0 (Patterson and Anton absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following condition of approval:
  - i. That the applicant submit for Staff review and approval a plan outlining boundary treatment improvements for the service yard beneath the rear part of the building, particularly the areas visible from the public pedestrian way.

The approval is based on the submitted site plan and the findings related to site plan and subdivision review standards as contained in Planning Report #28-06, which is attached.

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

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
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 Jean Fraser at 874-8728 or [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov).

Sincerely,

Kevin Beal, Chair  
Portland Planning Board



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

Metropolitan Apartments, LLC (fao Tom Watson),  
c/o Port Property Management, 104 Grant Street, Portland ME 04101

Attachments:

Planning Board Report #28-06

Janina  
May 9, 2006.

439 Congress St

Jan -

? where is service area (DL showed on plan)

DL - putting in roof lights - sort of visible.

ref. Fire Safety to Plans  
Captain Cass here  
? as to code compliance

Board

DS - where are windows visible from Church (Historic Bldg) no -

KB - status of alley - owned by applicant  
2<sup>nd</sup> means of egress goes into service area  
asked re Captain Cass OK - (yes) (enough room) yes

Public

Kevin Donahue - welcome units  
can't see windows so trust OK.

KB - windows - are we renewing ??  
no elevation so ??  
confirmed would be at Permit  
are in roof.

Moham 1. 5-0 Pat + Anton Absent

condition ii) 2. Permit 5-0 (cond. only)



**CITY OF PORTLAND, MAINE**

Planning and Development Department

Planning Division

389 Congress Street, Portland, Maine 04101

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

439 Congress Street  
Metropolitan Apartments

Direct to Hearing as minor in nature  
triggers subdiv. review

Proposed conversion of existing storage space  
on the 6<sup>th</sup> floor into 9 small efficiency  
apartments, of which 6 have mezzanines.

no external works:

held a neighborhood meeting <sup>April 25</sup> with no one  
attending

Zoned B3 so no parking requirements

Generally proposals have addressed  
Sub-Division and Site Plan Review standards  
and potential conditions

- a) request a contribution of \$3600 for street  
tree program
- b) requiring improvements to the boundary  
treatment of the ~~lower~~ rear service area,  
which abuts pedestrian areas & is  
currently in poor condition / unattractive
- c. ~~Hand~~ Fire Dept condition ~~although~~ reflecting  
Captain Cass's concerns that the existing  
stair egress from the 6<sup>th</sup> floor do not  
currently meet the 2-hour fire rating.

**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

---

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

May 19, 2006

David Lloyd  
Archetype PA  
48 Union Wharf  
Portland ME 04101

**RE: 439 Congress Street ('Metropolitan Apartments')**  
**Application ID Number: 2006-0023**  
**Chart 27, Block B, Lot 4**

Dear Mr. Lloyd,

On May 9, 2006 the Portland Planning Board considered the proposal to create nine (9) small efficiency one-bed rental units within the existing sixth floor of the property known as 'Metropolitan Apartments' at 439 Congress Street. Approval was granted for the project by the following motions:

On the basis of plans and materials submitted by the applicant, and on the basis of information contained in Planning Report #28-06 relevant to standards for subdivision and site plan regulations set forth in or authorized by the City of Portland Code of Ordinances, and other findings:

1. The Planning Board voted 5-0 (Patterson and Anton absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following conditions of approval:
  - i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board's Signature;
  - ii. That the developer contribute \$3600 towards the City's Residential Tree Program to cover the cost of purchasing and planting of two (2) trees per unit in the vicinity of the project. The contribution shall be provided prior to issuance of a building permit; and
2. The Planning Board voted 5-0 (Patterson and Anton absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following condition of approval:
  - i. That the applicant submit for Staff review and approval a plan outlining boundary treatment improvements for the service yard beneath the rear part of the building, particularly the areas visible from the public pedestrian way.

The approval is based on the submitted site plan and the findings related to site plan and subdivision review standards as contained in Planning Report #28-06, which is attached.

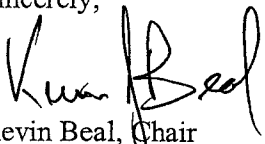
Please note the following provisions and requirements for all site plan approvals:

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
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 Jean Fraser at 874-8728 or [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov).

Sincerely,



Kevin Beal, Chair  
Portland Planning Board

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

Metropolitan Apartments, LLC (fao Tom Watson),  
c/o Port Property Management, 104 Grant Street, Portland ME 04101

Attachments:

Planning Board Report #28-06

*Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
(207) 772-6022  
(207) 772-4056 (Fax)*

***TRANSMITTAL***

***DATE:*** August 11, 2006

***FROM:*** Barry Yudaken

***TO:*** Jean Fraser  
City of Portland  
Planning Division  
389 Congress Street  
Portland, ME 04101

***RE:*** 439 Congress Street Apartments

---

***ATTACHED:***

11 x 17 – Proposed Fencing to Service yard drawing  
2 Color photos of fence.

Check for \$3,600 for Residential Tree Program

As Requested





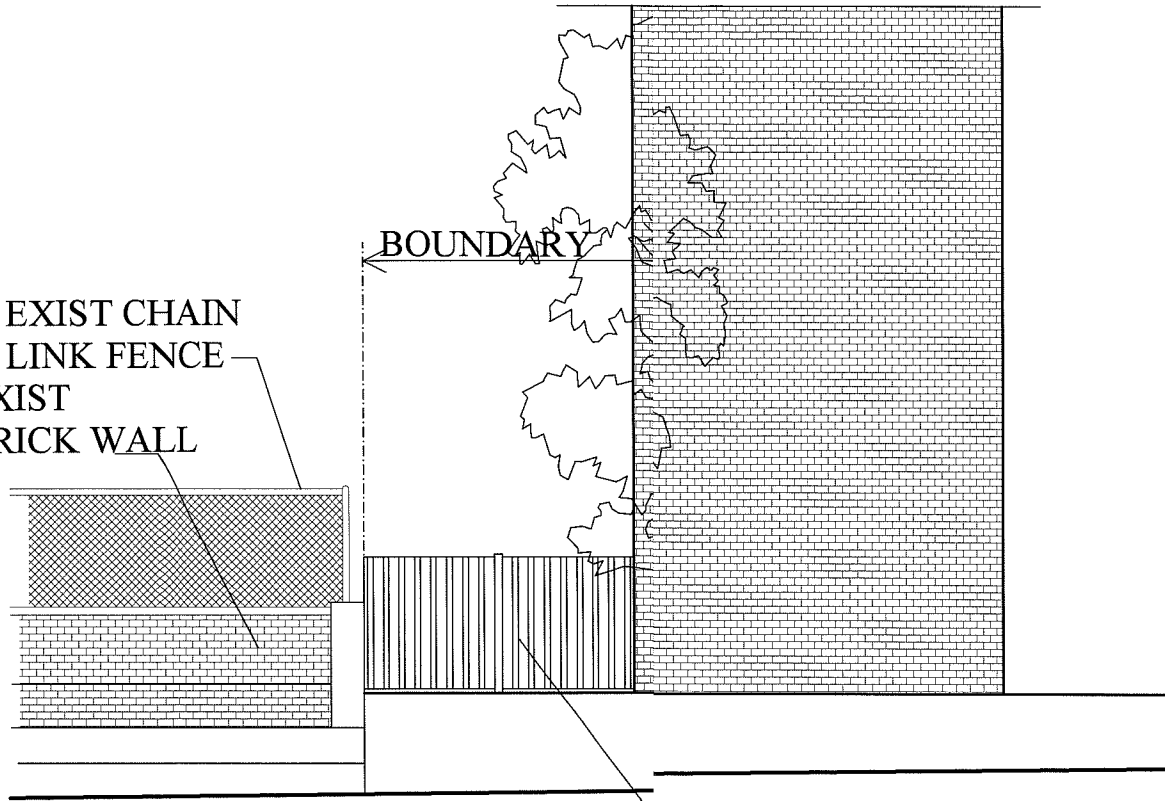




PRIVATE  
PROPERTY  
NO  
TRESPASSING



EXIST CHAIN  
LINK FENCE  
EXIST  
BRICK WALL



SHADOW BOX  
D BROWN

<p><b>PROPOSED FENCING TO SERVICE YARD</b></p>		Date	7/31/06
		Scale	NTS
<p>Project:</p> <p><b>THE METROPOLITAN 439 CONGRESS ST</b> 439 CONGRESS ST PORTLAND, ME</p>		<p>Revisions:</p>	
		<p>OWNER:</p> <p>METROPOLITAN APARTMENTS, LLC C/O PORT PROPERTY MANAGEMENT 104 GRANT STREET PORTLAND, ME 04101</p>	
<p>ARCHETYPE, P.A. ARCHITECTS</p> <p>48 Union Wharf Portland, Maine 04101 (207) 772-6022 Fax (207) 772-4056</p>		<p>OWNER:</p> <p>METROPOLITAN APARTMENTS, LLC C/O PORT PROPERTY MANAGEMENT 104 GRANT STREET PORTLAND, ME 04101</p>	

**From:** Jean Fraser  
**To:** Yudaken, Barry  
**Date:** 8/28/2006 4:47:45 PM  
**Subject:** 439 Congress Street

Barry,

**!. Condition 2i regarding the improvements to the service yard:**

You submitted a proposal on August 11th suggesting 6 foot high cedar shadow box fencing with heavy duty panels. We have reviewed this proposal and feel it is incompatible with the urban character of the pedestrian way.

We would recommend that the service yard be screened by 6-8' tall industrial grade aluminum fencing, painted black. Jerith's Style # 101 would be an appropriate solution. This would be consistent with the fencing immediately west of the property, as well as with the metal grates and metal fire escape in the area. It is important that the fencing be centered within the square brick piers, and not installed at the outside edge of the piers, as the current cyclone fencing is.

I would also point out that the applicant confirmed during the planning approval process (letter from David Lloyd dated Feb 1, 2006 which was copied to the Planning board) that the "trash from this building is put into totes at the rear of the building, out of site(sic) , and picked up periodically by a private trash company". As this was a review standard, this commitment to have the trash out of sight is important and all the trash cans and other rubbish should be removed (otherwise it would have been a condition).

**2. Regarding Note 2 of the Approval Letter (Performance Guarantee etc):** No Performance Guarantee is required for this project, including the works related to the above condition, but an inspection fee of \$300 is payable prior to the issuance of a building permit (can be paid direct to Jay Reynolds, DRC 874 8632).

Once the above are resolved we will release the Plat and continue the process as for Cumberland Ave.

Please contact me on 874 8728 if you wish to discuss this further.

Jean

**CC:** Andrews , Deb; Lloyd, David; Reynolds, Jay

**From:** Deb Andrews  
**To:** Jean Fraser  
**Date:** 8/28/2006 11:07:01 AM  
**Subject:** The Metropolitan - 439 Congress

Jean:

I have reviewed the plans submitted by Archetype for screening of The Metropolitan's rear service yard from the public pedestrian way. I also conducted a site visit to review existing conditions at the subject property, as well as site treatments at abutting properties. In my view, the proposed cedar shadow box screening is incompatible with the urban character of this pedestrian way. I would recommend that the service yard be screened by 6-8' tall industrial grade aluminum fencing, painted black. Jerith's Style # 101 would be an appropriate solution. This would be consistent with the fencing immediately west of the property, as well as with the metal grates and metal fire escape in the area. It is important that the fencing be centered within the square brick piers, and not installed at the outside edge of the piers, as the current cyclone fencing is.

Deb

**PLANNING BOARD REPORT #28-06**

**439 CONGRESS STREET (METROPOLITAN APARTMENTS)  
SUBDIVISION AND MINOR SITE PLAN REVIEW  
METROPOLITAN APARTMENTS LLC (PORT PROPERTY MANAGEMENT), APPLICANT**

Submitted to:

Portland Planning Board  
Portland, Maine  
May 9, 2006 Public Hearing

Prepared by:

Jean Fraser, Planner  
May 5, 2006

## I. INTRODUCTION

Metropolitan Apartments LLC have requested a Subdivision and Minor Site Plan Review of their proposal for creating nine (9) small efficiency one-bed rental units within the existing sixth (top) floor of the 6-story building at 439 Congress Street.

The first floor of the building is currently made up of four retail spaces, with four floors of apartments (seventy-two units) above and another floor (sixth floor) currently used for storage.

The existing apartment building is a brick building fronting onto Congress Street between the garden adjacent to the First Parish Unitarian Church and a seven story brick building (443 Congress Street) on the corner of Congress Street and Elm Street (see photograph in Attachment B). Between the proposal property and the Church garden there is a narrow drive within the property boundary which leads to a service area at the back, underneath part of the building.

The rear of the property abuts the paved pedestrian walkway between Chestnut Street, along the High School and out to Elm Street. The service area at the rear is at a higher level than the walkway.

This proposal would normally be an administrative review, but the conversion of the sixth floor is technically a subdivision which requires Planning Board approval. Given the minor nature of the development, Staff suggest it does not need a Workshop meeting and have brought the proposal directly to a Hearing.

A Neighborhood Meeting was held April 25, 2006; it was noticed to property owners within 500 feet but no one attended (Attachment K). No representations have been made directly to Planning staff.

Notices for the Hearing have also been sent to 127 property owners within 500 feet and appeared in the *Portland Press Herald* on May 1, 2006.

## II. ZONING

The property is located within a B3 business zone, which does not have a minimum land area per dwelling unit and does not require parking to be provided for any change of use (see e-mail from Marge Schmuckal of 4.19.2006 in Attachment H).

## III. SUMMARY OF FINDINGS

Zoning:	B3
Parcel Size:	13,300 square feet
Parking Spaces:	None
Building Floor Area:	6,467 square feet (existing sixth floor)
Building Height:	6 story (existing)
Uses:	9 One bedroom residential units

#### IV. PROPOSED DEVELOPMENT

Metropolitan Apartments LLC are proposing to divide the sixth floor of the property into nine one-bedroom units, which range from 320 square feet to 586 square feet (including mezzanine); six of the units include a mezzanine level as shown in Attachment O.

The proposals will not involve any external alterations and the sixth floor is not visible from the street due to the setback at that level. There is no existing or proposed parking on site except for vehicles parked within the service area under the building at the rear.

#### V. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision and site plan ordinances. Staff comments are included in this report.

#### VI. SUBDIVISION REVIEW

##### Subdivision Recording Plat

A draft Subdivision Recording Plat has been submitted and is attached in Attachment O. If approved, any conditions will also be included on the plat.

1. Water and Air Pollution

The project will not result in undue water or air pollution, as it is not in a flood plain and does not involve new construction.

2/3. Water

The applicant has provided a 'Capacity to Serve' letter dated 4.3.2006 from the Portland Water District (Attachment F). In view of the fact the proposed units are on the sixth floor there may be a question of water pressure, and the applicant has confirmed they will install an additional pump if necessary (Attachment M).

4. Soil Erosion

The proposal will not cause unreasonable soil erosion as it is entirely within an existing building.

5. Traffic

##### **Parking**

There are no zoning requirements in respect of parking. The building takes up most of the site parcel so there is no scope for parking on site. There are several parking garages nearby.

Service access currently is gained via the narrow drive within the site to the east of the building which leads to the rear service area.

- 6/7. Sanitary Sewer/Soils/Stormwater  
A Capacity to Serve letter dated 4.6.2006 is included in Attachment G.
8. Solid Waste Disposal  
The agent has confirmed in his application cover letter of 2.1.2006 that the trash from this building is put into totes at the rear of the building, out of sight, and picked up periodically by a private trash company. (Attachment A)
9. Scenic Beauty  
The proposal itself does not have any undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or significant wildlife habitat or rare or irreplaceable natural areas. It is not located with an Historic District nor near a Historic Landmark.  
  
However, the boundary of the rear service area is visible from the pedestrian route and at present is bounded by chain link fencing in poor condition which allows the public to view several trash cans and other items stored around the service area. A potential condition would be to require the submission of proposals for improvement to this boundary to better screen the service area.  
  
The City's Technical Standards regarding the provision of street trees has been applied in this type of subdivision to require two street trees per unit. Jeff Tarling has confirmed due to site constraints around the site it is difficult to plant trees and he requests a contribution in lieu (Attachment L). A potential condition would be to require a financial contribution of \$3600 to the Portland Tree Trust for the provision of 18 trees (two per unit) to be planted in the vicinity of the proposed project.
10. Comprehensive Plan  
The creation of 9 new units of housing is supported by the Comprehensive Plan policy "Housing: Sustaining Portland's Future" (November 2002) which encourages the provision of more housing in the city, especially where the housing can be located near to businesses, services, and public transit.
11. Financial Capability  
The applicant has provided a letter confirming financial capability from William Schad, Vice President of Banknorth (1.26.2006, Attachment D).
- 12./13. Groundwater/Flood Hazard/Shoreland/Wetlands  
The proposal is entirely within the envelope of an existing building and an existing paved area adjacent to the building, and therefore does not adversely affect the quality/quantity of groundwater, is not in a flood prone area and has no effect on wetlands or waterways.

## VII. SITE PLAN REVIEW

- 1/2. Traffic  
See VI Subdivision Review, paragraph 5. Traffic.



- 3./4. Bulk, Location, Health, Safety Air/Height of Proposed Buildings  
The proposal does not include the construction of any new buildings and there are no known health or safety problems with the existing building.
5. Sewers, Stormdrains, Water  
Refer to VI Subdivision Review, paragraphs 1, 2, 3, 6, and 7.
- 6./7. Landscaping and Existing Vegetation  
The proposal does not include any landscaping.

As discussed under VI Subdivision Review Paragraph 9, the landscaping/screening of the existing rear service area may be considered deficient, and improved boundary treatment is the subject of a potential condition.

8. Soils and Drainage  
Refer to VI Subdivision Review, paragraph 4.
9. Exterior Lighting  
There are no proposals for exterior lighting.
9. Fire  
In view of the concerns expressed by the Planning Board in relation to the safety of mezzanine apartments at a similar property in Cumberland Avenue, the agent was requested to ensure that Life Safety issues were explored at this stage to ensure that the proposal was capable of meeting code requirements at the Building Permit stage. The agent confirmed on 4.24.2006 that the building is fully sprinkled with fire alarms in place and that two means of egress are provided (Attachment I).
- The Fire Department has also commented (Greg Cass, e-mail of 4.25.2006 in Attachment J) that at this stage there are no outstanding issues over and above the usual conditions requiring the supply of an updated plan for all Life Safety Systems (fire alarm, sprinkler, ratings of all components in means of egress) and NFPA 101 Life Safety code compliance reference page requested (Attachment E).
10. City Infrastructure  
The proposal is within an existing building and does not directly impact City infrastructure; it is already served by all utilities and bounded by sidewalk on the Congress Street frontage, by a public pedestrian path on one side and by private property on the other two sides.

Development located in the B-3 Zone Requirements

The proposal is within the B-3 zone and therefore must also meet other standards described in the Zoning Ordinance.

The relationship to the pedestrian environment at the rear of the property may be deficient in respect of the Ordinance 14-526 (16) which refers to development in the B3 zone and in Section (a) sets out a general requirement that “the exterior design 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.” Improvements to the boundary treatment of the service area would reduce its adverse visual impact on the pedestrian environment at the rear of the property.

### **VIII. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #28-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Potential Conditions of Approval:

- i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board’s Signature.
- ii. That the developer contribute \$3600 towards the City’s Residential Tree Program to cover the cost of purchasing and installation of two (2) trees per unit in the vicinity of the project. The contribution shall be provided prior to issuance of a building permit.

2. That the plan is in conformance with the site plan standards of the land use code.

Potential Conditions of Approval:

- i. That the applicant submit for Staff review and approval a plan outlining boundary treatment improvements for the service yard beneath the rear part of the building, particularly the areas visible from the public pedestrian way.
- ii. That the applicant shall, prior to issuance of a building permit, present a Life Safety Plan that is updated in respect of all Life Safety Systems including the Fire Alarm, sprinkler and ratings of all components in the means of egress, and which confirms the NFPA 101 Life Safety code compliance reference page.

Attachments on next page

ATTACHMENTS

- A. Submitted Application
- B. Photograph of property taken from Congress Street
- C. Right, title and interest documentation
- D. William R. Schad, Vice President, Banknorth letter dated January 26, 2006
- E. Captain Greg Cass, Fire Department, Urban Insight February 22, 2006
- F. Portland Water District, letter confirming capacity dated April 3, 2006
- G. City of Portland Public Works Capacity to Serve re Wastewater dated April 6, 2006
- H. Marge Schmuckal, Zoning Administrator, e-mail dated April 19, 2006
- I. David Lloyd, e-mail of April 24, 2006
- J. Captain Greg Cass, Fire Department, e-mail dated April 25, 2006
- K. Neighborhood Meeting Certification dated April 26, 2006
- L. Jeff Tarling, City Arborist, e-mail of May 3, 2006
- M. David Lloyd, Archetype, e-mail of May 4, 2006
- N. Boundary Survey from Owen Haskell Inc (2005)
- O. Proposed Subdivision Plat Plan



Attachment A  
(3 pages)

# 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.

<b>Address of Proposed Development:</b> 439 Congress Street		<b>Zone:</b> B-3
<b>Total Square Footage of Proposed Structure:</b> 6,467		<b>Square Footage of Lot:</b> 13,300
<b>Tax Assessor's Chart, Block &amp; Lot:</b> Chart# 27    Block# B    Lot# 4	<b>Property owner's mailing address:</b> Metropolitan Apartments, LLC C/O Port Property Management 104 Grant Street Portland, ME 04101	<b>Telephone #:</b> (207) 771-2883
<b>Consultant/Agent, mailing address, phone # &amp; contact person:</b> David Lloyd Archetype, PA 48 Union Wharf Portland, ME 04101	<b>Applicant's name, mailing address, telephone #/Fax#/Pager#:</b> David Lloyd-Archetype, PA 48 Union Wharf Portland, ME 04101 (207) 772-6022 Fax (207) 772-4056	<b>Project name:</b> 439 Congress Street

**Fee For Service Deposit (all applications)**       **(\$200.00)**

**Proposed Development (check all that apply)**  
 New Building     Building Addition     Change of Use     Residential     Office     Retail  
 Manufacturing     Warehouse/Distribution     Parking lot  
 Subdivision (\$500.00) + amount of lots 9 (\$25.00 per lot) \$ **225.00** + 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 #)**

Tom Watson  
Metropolitan Apartments, LLC  
C/O Port Property Management  
104 Grant Street  
Portland, ME 04101  
(207) 771-2883

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 6 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](http://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: 	Date: 2/2/06
---	--------------

**This application is for site review ONLY; a building Permit application and associated fees will be required prior to construction.**

February 1, 2006

Alex Jaegerman  
City of Portland  
389 Congress Street  
Portland, ME 04101

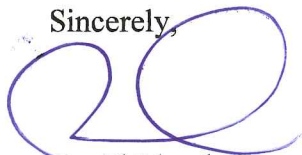
**RE: 439 Congress Street**

Dear Alex,

This is an existing seventy-two unit apartment building and four retail spaces on the first floor. The apartments are small consisting of thirty-nine one bedroom units and thirty-three studio apartments. The existing sixth floor is presently used for storage. The owner's intention is to covert this space to nine small efficiency one-bed rental units. The trash from this building is put in to totes at the rear of the building, out of site, and picked up periodically by a private trash company. I have reviewed these plans with Mike Nugent for code compliance. We do not believe there are any code compliant issues at this time.

Please call with any questions or concerns.

Sincerely,



David Lloyd  
Architect







**WARRANTY DEED**  
(Maine Statutory Short Form)

KNOW ALL PERSONS BY THESE PRESENTS, that **The Metro Group**, a Maine general partnership, with a place of business in Portland, County of Cumberland, and State of Maine, for consideration paid, grants to **Metropolitan Apartments, LLC**, a Maine limited liability company, of Pownal, Maine whose mailing address is: c/o Thomas Watson, 429 Elmwood Road, Pownal, ME 04069, with **WARRANTY COVENANTS**, the real property in the City of Portland, County of Cumberland, State of Maine, described as follows:

A certain lot or parcel of land, together with the buildings thereon, situated on the Northerly side of Congress Street, in Portland, in the County of Cumberland and State of Maine, being the premises formerly known as the Farrington Block, now known as the Metropolitan Building, bounded and described as follows:

Beginning at a point on said Northerly side of Congress Street at the division line established in an agreement between William Chadwick (a former owner of the property under description) and the First Parish Church, dated July 31, 1826, by deed recorded in the Cumberland County Registry of Deeds, in Book 107, Page 4, said line being forty (40) feet six (6) inches Westerly of and parallel to the Westerly line of said Church as indicated by its granite underpinnings;

and running thence from said line Westerly by said Congress Street ninety-nine and eighty-eight hundredths (99.88) feet to land formerly owned by Mary J.E. Clapp, deceased, on which the so-called Clapp Memorial Building now or formerly stands;

thence Northwesterly by said Clapp land on a course determined by an included angle on the land under description of  $89^{\circ}18'$  for a distance of eighty-two and one-half ( $82 \frac{1}{2}$ ) feet to a small angle;

thence continuing Northwesterly by said Clapp land on a course determined by an included angle of  $177^{\circ}47'$  for a distance of fifty-one and twenty-four hundredths (51.24) feet to land now or formerly of the City of Portland (Portland High School lot);

thence Northeasterly by said City of Portland land ninety-seven and twenty-four hundredths (97.24) feet, more or less, to the Westerly line of land now or formerly of the First Parish Church as above defined;

thence southeasterly by said Church land one hundred thirty-three and sixty-eight hundredths (133.68) feet to the place of beginning.

Subject to the conditions set forth in a certain agreement dated November, 1922, recorded in the Cumberland County Registry of Deeds in Book 1222, Page 32, between the Estate of Mary J.E. Clapp and Farrington H. Whipple, et als, which agreement relates to the dividing line between said Clapp premises and the property

MAINE REAL ESTATE TAX PAID




under description, provides that, the buildings on said adjoining premises may abut upon each other, and that the brick face on the fronts of said buildings where they face on Congress Street shall be on the same line and equally distant from the Northerly line of said street; said agreement providing further that if for any reason said buildings, or either of them, are destroyed, the building or buildings which are erected to take their place shall conform to said agreement unless either party thereto in writing objects.

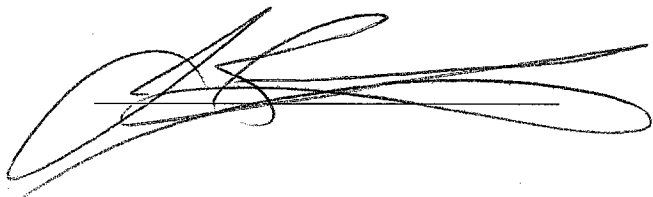
Meaning and intending to convey, and hereby conveying, the same premises conveyed to the Grantor herein by deed of Metropolitan Corporation dated September 16, 1986, and recorded at Book 7377, Page 154 Cumberland County Registry of Deeds.

IN WITNESS WHEREOF, it, the said **The Metro Group**, has caused this instrument to be signed and sealed in its partnership name by Frank Read, M.D., its Managing General Partner, thereunto duly authorized, on May 15, 2000.

WITNESS:

The Metro Group

By:   
Frank Read, M.D.,  
Its Managing General Partner

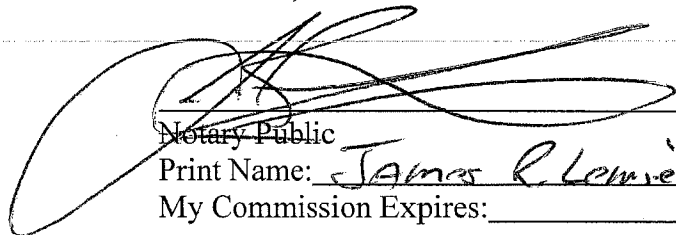


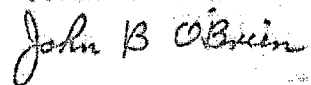
STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

May 15, 2000

Then personally appeared the above named Frank Read, M.D., Managing General Partner of said The Metro Group, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said The Metro Group.

Before me,

  
Notary Public  
Print Name: James R. Lemire  
My Commission Expires: \_\_\_\_\_

RECEIVED  
RECORDED REGISTRY OF DEEDS  
2000 MAY 16 AM 10:38  
CUMBERLAND COUNTY  


FROM :Port Property Management  
01/26/2006 11:46 FAX 2077618660

FAX NO. :2077618048  
TD BANKNORTH, N.A.

Jan. 27 2006 09:38AM P2



**Banknorth**

Maine

One Portland Square  
P.O. Box 9540  
Portland, ME 04112-9540  
F: 207 761-8660  
207 761-8500 Toll Free: 800 462-3666  
TDBanknorth.com

January 26, 2006

Planning Board  
City of Portland  
Portland, ME 04101

Re: Metropolitan Apartments, LLC / Thomas Watson

To whom it concerns:

TD Banknorth has shared a banking relationship with Tom Watson, principal owner of Metropolitan Apartments, LLC, for nearly ten years. In my opinion, he maintains the financial capacity to complete his planned improvements to the real estate located at 439 Congress Street also known as The Metropolitan.

If you require additional information, please call me directly at 761-8612.

Sincerely,

William R. Schad  
Vice President

Application ID Number:	<input type="text" value="2006-0023"/>	<input type="button" value="Delete Review"/>	<input type="button" value="Save"/>	<input type="button" value="C"/>				
Department:	<input type="text" value="Fire"/>	Status	<input type="text" value="Approved with Conditions"/>	Reviewer	<input type="text" value="Cptn Greg Cass"/>			
Comments:	<input type="checkbox"/>	<input type="text"/>	Approval Date	<input type="text" value="02/22/2006"/>	Expiration Date	<input type="text" value="02/22/2007"/>	Extension Date	<input type="text"/>
<input type="checkbox"/>	OK to Issue Permit	Name	<input type="text"/>	Date	<input type="text"/>	Date 2	<input type="text"/>	
<b>Conditions Section:</b>		<input type="button" value="Add New Condition From Default List"/>	<input type="button" value="Add New Condition"/>	<input type="button" value="Delete Condition"/>				
<input type="text" value="Supply an updated plan for all Life Safety Systems."/>								
<input type="text" value="Fire Alarm"/>								
<input type="text" value="Sprinkler"/>								
<input type="text" value="Ratings of all components in means of egress."/>								
<input type="text" value="NFPA 101 Life Safety code compliance reference page requested."/>								
Create Date:		<input type="text" value="02/22/2006"/>	By	<input type="text" value="cassg"/>	Update Date:	<input type="text" value="02/22/2006"/>	By	<input type="text" value="cassg"/>

Attachment F  
(2 pages)

CUSTOMER SERVICE  
OFFICE HOURS  
8:30 A.M. - 4:30 P.M.



Portland Water District  
FROM SEBAGO LAKE TO CASED BAY

April 3, 2006

Susan McEwen  
ARCHETYPE  
48 Union Wharf  
Portland, Me. 04101

Re: 439 Congress St.

Susan:


This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed 72 unit apartment and 4 retail space building at 439 Congress St. in Portland. Checking District records, I find there is a 16" CI water main on the south side of Congress St. as well as a water hydrant located across the street from 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: Congress St. @ Elm St.  
Hydrant # 460  
Static pressure = 76 PSI  
Flow = 1321 GPM  
Last Tested = 7/31/2003

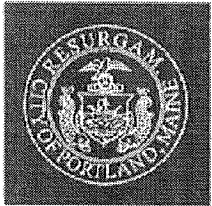
If the District can be of further assistance in this matter, please let us know.

Sincerely,  
Portland Water District

  
Jim Pandiscio  
Means Coordinator  
[jpandiscio@pwd.org](mailto:jpandiscio@pwd.org)







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

6 April 2006

Public Works Department  
Michael J. Bobinsky, Director

Ms. Susan McEwen,  
Archetype,  
48 Union Wharf,  
Portland, Maine 04101

**RE: The City's Capacity to Handle Wastewater Flows, from a  
Proposed Conversion at 439 Congress Street, Portland, Maine.**

Dear Ms. McEwen:

The existing fifteen-inch diameter sanitary sewer pipe, in Congress Street, has **adequate capacity to transport**, while The Portland Water District sewage treatment facilities, located off Marginal Way, have **adequate capacity to treat** the anticipated increased wastewater flows of **1,620 GPD**, from your proposed development.

<b><u>Anticipated Wastewater Flows from the Proposed Addition:</u></b>	
9 Proposed One Bedroom Units @ 180 GPD/Unit	= <u>1,620 GPD</u>
<b>Total Proposed Increase in Wastewater Flows for this Project</b>	<b>= 1,620 GPD</b>

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  
Jean Fraser, Planner, Department of Planning, and Urban Development, City of Portland  
Eric Labelle, P.E., City Engineer, City of Portland  
Bradley A. Roland, P.E., Environmental Projects Engineer, City of Portland  
Stephen K. Harris, Assistant Engineer, City of Portland  
Desk file

Attachment H.

**From:** Marge Schmuckal  
**To:** Jean Fraser  
**Date:** 4/19/2006 4:31:47 PM  
**Subject:** 439 Congress Street #2006-0023

Jean,

This site plan/subdivision review meets all the requirements of the B-3 business zone. The 9 new units are being proposed within the existing building shell. No additional parking spaces are required by the ordinance.

I hope this helps you.

Marge Schmuckal  
Zoning Administrator

Attachment I

**From:** "David Lloyd" <lloyd@archetypepa.com>  
**To:** "Fraser Jean" <jf@portlandmaine.gov>  
**Date:** 4/24/2006 3:26:06 PM  
**Subject:** 439 Congress Street/inspection 4/24

Jean

Per your request I have reviewed the above mentioned project with Captain Cass. The building is fully sprinkled with fire alarm systems in place and I explained the two means of egress from the renovated floor.

Captain Cass asked that I insure the fire integrity of the existing stairwells by either closing off existing access panels in the stairwell or providing fire rated panels. He also asked that we provide fire rated doors on the gas meter room and the electric meter room. These are located on each level within one of the egress stairways.

He was otherwise satisfied with the intent of the proposal.

Please call with any questions you may have

David Lloyd  
Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
Phone: (207) 772-6022  
Fax: (207) 772-4056  
lloyd@archetypepa.com  
<http://www.archetype-architects.com> <<http://www.archetype-architects.com/>>



Attachment J.

**From:** Gregory Cass  
**To:** Jean Fraser  
**Date:** 4/25/2006 7:42:38 AM  
**Subject:** Re: 439 Congress Street

I have no issues at this site in regards to SITE plan review.  
All my issues have to do with the Building itself and I will address them during the BUILDING permit process.  
I didnt realize this up for Site review.  
Thank you for keeping me in the loop

>>> Jean Fraser 4/24/2006 5:26:17 PM >>>  
Greg,

I understand you have met with David Lloyd and asked for a few other things to be checked out.

Are these conditions for the sub division/site plan approval?

If so, could you send a detailed e-mail outlining what the conditions should be so I can include them in the Hearing Report for May 9th PB Hearing.

Many thanks  
Jean

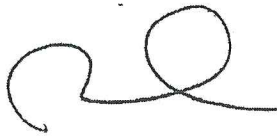
## Neighborhood Meeting Certification

439 Congress Street  
Portland, Maine

I, David Lloyd hereby certify that a neighborhood meeting was held on April 25, 2006 at Archetype 48 Union Wharf at 5:30 pm. David Lloyd (Architect) and Tom Watson (owner) were the only attendees.

I also certify that on April 11, 2006, 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,



April 26, 2005

Attached to this certification are

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes (none as no attendees)

April 10, 2006

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for an existing seventy-two unit apartment building located at 439 Congress Street. The apartments are small consisting of thirty-nine one bedroom units and thirty-three studio apartments. The existing 6th floor is presently used for storage. The owner's intention is to convert this space to nine small efficiency one-bed rental units. There is no parking within this building.

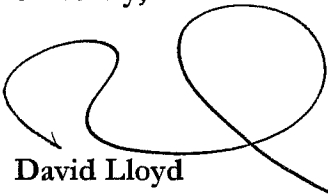
Meeting Location: Archetype, 48 Union Wharf, Portland, ME

Meeting Date: Tuesday, April 25, 2006

Meeting Time: 5:30 p.m.

If you have any questions, please call David Lloyd, Archetype, P.A. (207) 772-6022.

Sincerely,



David Lloyd

**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.

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.

SIGN UP SHEET  
439 Congress Street Neighborhood Meeting  
April 25, 2006 @ 5:30 pm

	Name	Address
1	David Hays - Architect -	490 Union St. Cohasset
2	Tom Watson - owner -	104 Grand St.
3		
4		
5		
6		
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25		

Attachment L.

**From:** Jeff Tarling  
**To:** Jean Fraser  
**Date:** 5/3/2006 4:57:30 PM  
**Subject:** 439 Congress Street Site Plan

Jean -

Due to site constraints around the proposed 439 Congress Street site plan we would request our standard contribution per tree / per unit cost to be used for tree planting in the vicinity of the project.

Jeff Tarling  
City Arborist

**CC:** ALEX JAEGERMAN; Phillip Labbe

Attachment M.

**From:** "David Lloyd" <lloyd@archetypepa.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 5/4/2006 8:54:20 AM  
**Subject:** RE: 439 Congress

Jean

Sue will e mail you the capacity letter. There is adequate water in the street to serve this building. But like all structures of this height the system will be reviewed by our mechanical engineer and if necessary to maintain adequate pressure on the top floor a water pump within the building will be added.

David

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Wednesday, May 03, 2006 4:24 PM  
To: lloyd@archetypepa.com  
Subject: 439 Congress

David,

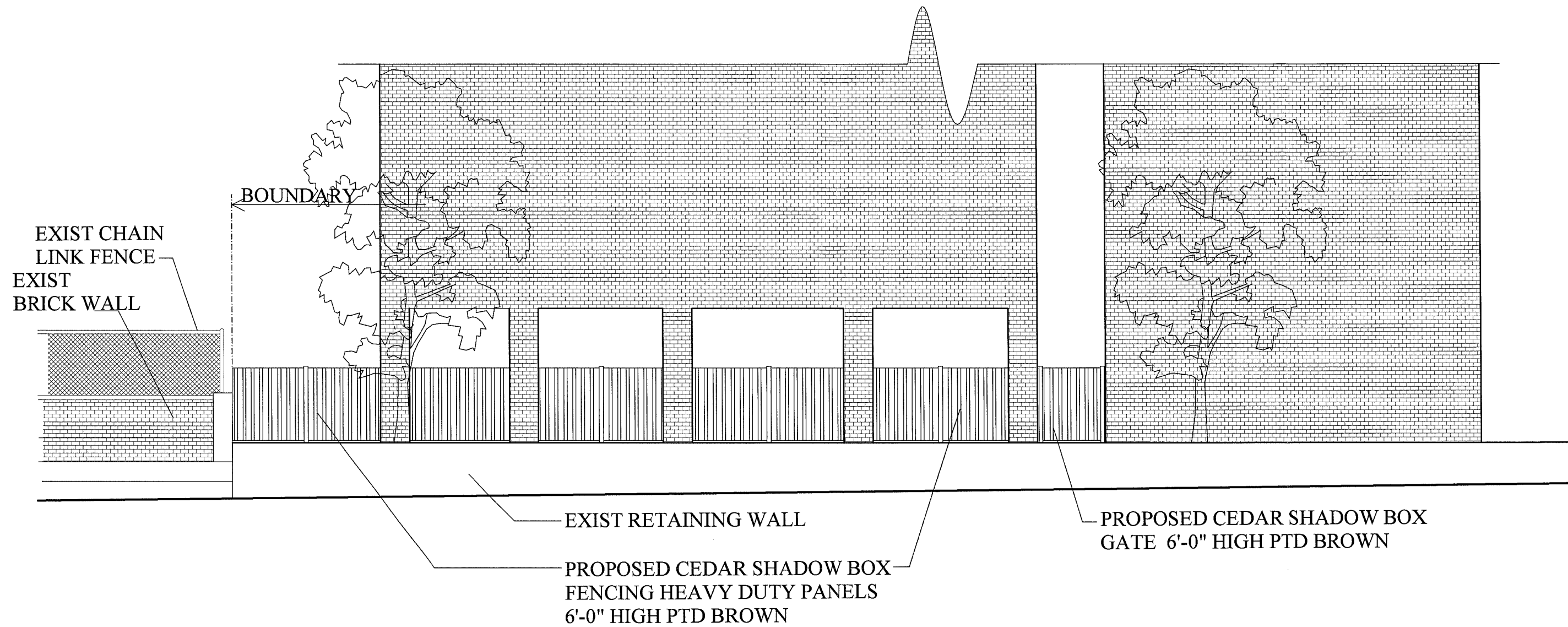
One other point that Alex has just raised is re the water capacity letter- I understand that because its 6th floor there could be a pressure issue.

that can be a condition but maybe you have that capacity letter??

Jean

**CC:** "Al Milasauskis" <al@awmeng.com>



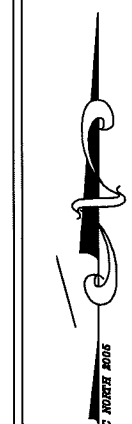
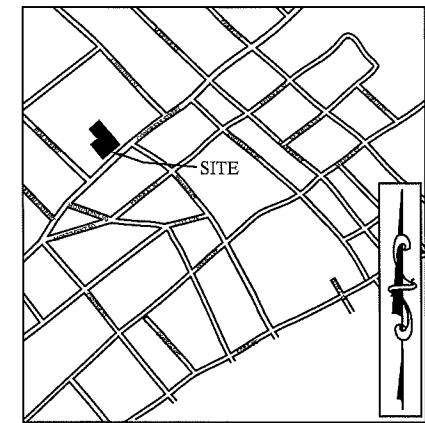


## ELEVATION OF SERVICE YARD FROM PUBLIC PEDESTRIAN WAY

	OWNER:	METROPOLITAN APARTMENTS, LLC C/O FORT PROPERTY MANAGEMENT 104 GRANT STREET PORTLAND, ME 04101
	ARCHETYPE, P.A. ARCHITECTS	48 Union Wharf Portland, Maine 04101 (207) 772-6022 Fax (207) 772-4056
	Project:	THE METROPOLITAN 439 CONGRESS ST PORTLAND, ME
	Date	7/31/06
	Scale	NTS
	Revisions:	
	Date	
	Scale	
	Revisions:	
<b>PROPOSED FENCING TO SERVICE YARD</b>		

Attachment N

**SITE LOCATION MAP:**



**GENERAL NOTES:**

- RECORD OWNER OF PARCEL: METROPOLITAN APARTMENTS, LLC., BOOK 15472 PAGE 139 AS RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS (C.C.R.D.).
- BEARINGS ARE BASED UPON A MAGNETIC OBSERVATION TAKEN AT THE TIME OF THIS SURVEY, UTILIZING THE FOLLOWING EQUIPMENT:  
LIETZ SOKKISHA SET 4 TOTAL STATION, LIETZ SDR 33 DATA COLLECTOR, HAND-HELD MAGNETIC COMPASS.
- AREA OF SUBJECT PARCEL: 13246.8 SQ. FT., 0.30 ACRES
- REFERENCE IS MADE TO THE FOLLOWING PLANS:
  - PORTLAND HIGH SCHOOL PROJECT, ELM STREET PARKING GARAGE, ELM AND CUMBERLAND STREETS, PORTLAND, MAINE, DATED MAY 5, 1989, BY PORTLAND DESIGN TEAM, RECORDED IN THE PORTLAND CITY VAULT, PLAN BOOK 873 PAGE 5.
  - PORTLAND HIGH SCHOOL PROPERTY PLAN, CITY OF PORTLAND, MAINE, PARKS AND PUBLIC WORKS DEPARTMENT ENGINEERING DEPARTMENT, DATED 20 OCTOBER 1986, PROJECT 85108-49-43-04, RECORDED IN THE PORTLAND CITY VAULT, FILE NUMBER 934 PAGE 31.
  - PLAN OF PROPERTY IN PORTLAND, MAINE, MADE FOR FIRST PARISH CHURCH, DATED AUG. 13, 1979, BY H.I. & E.C. JORDAN, CITY OF PORTLAND VAULT FILE NUMBER 990 PAGE 14.
- THERE WERE APPARENT EASEMENTS OR RESTRICTIONS BURDENING OR BENEFITING SUBJECT PROPERTY AT THE TIME OF THIS SURVEY:  
PER AGREEMENT DATED NOVEMBER 1932, BETWEEN THE ESTATE OF MARY J.E. CLAPP AND FARRINGTON H. WHIPPLE, ET ALS. WHICH RELATES TO THE DIVIDING LINE BETWEEN SAID CLAPP PREMISES AND THE SUBJECT PROPERTY, PROVIDES THAT THE BUILDINGS ON SAID ADJOINING PREMISES MAY ABUT UPON EACH OTHER, AND THAT THE BRICK FACE ON THE FRONTS OF SAID BUILDINGS WHERE THEY FACE ON CONGRESS STREET SHALL BE ON THE SAME LINE AND EQUALLY DISTANT FROM THE NORTHERLY LINE OF THE STREET; PROVIDING FURTHER THAT IF FOR ANY REASON SAID BUILDINGS, OR EITHER OF THEM, ARE DESTROYED, THE BUILDING OR BUILDINGS WHICH ARE ERRECTED TO TAKE THEIR PLACE SHALL CONFORM TO SAID AGREEMENT UNLESS EITHER PARTY THERETO IN WRITING OBJECTS.

**ZONING:**

ZONE: B3 DOWNTOWN BUSINESS ZONE  
 SETBACKS: FRONT - NONE (NOT MORE THAN 5 FT)  
 REAR - NONE  
 SIDE - NONE  
 MINIMUM LOT SIZE: NONE  
 MINIMUM STREET FRONTAGE: 15 FT  
 BUILDING HEIGHT: NOT LESS THAN 35 FT - SEE OVERLAY MAP FOR MAXIMUM HEIGHT  
 MAXIMUM LOT COVERAGE: 100%

**FLOOD NOTE:**

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE C OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 230051 13B, WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 1986 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

**LEGEND:**

□	Granite Pillar Found	(50.00') Distance from reference Plan or deed.
DH ⊕	Drill Hole Found	N/F Now Or Formerly
MH ⊕	Manhole	12345/99 Dead Book/Page of Local Registry
TELE ⊕	Telephone Manhole	27-B-5 Tax Map - Block - Lot
LP *	Lamp Post	♂ Utility Pole
CB ⊠	Catch Basin	— Edge of traveled way
—	Abutter Line	— Z — Indicates Ownership In Common
—	Property Line	
—	Street Line	
—	Old Lot Line	

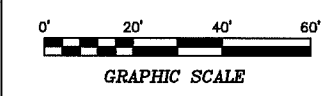
**BOUNDARY SURVEY/SITE PLAN  
AT 439 CONGRESS STREET, PORTLAND, MAINE**

FOR: **TOM WATSON**

	PREPARED BY: <b>BACK BAY BOUNDARY, INC. LAND SURVEYING</b>	DRAWN BY:
	643 FOREST AVENUE PORTLAND, MAINE 04101	CHECKED BY: <b>DMD</b>
	207-774-2855 FAX 207-347-4346	SCALE: 1" = 20'
		DATE OF SURVEY: 12/23/2005
		JOB NUMBER: 2005155
		SHEET: 1 OF 1
		DRAWER: 2005 NO: 155

**REVISIONS:**


STATE OF MAINE, CUMBERLAND SS  
 REGISTRY OF DEEDS  
 RECEIVED: 2006  
 AT : H .M. AND RECORDED IN  
 PLAN BOOK PAGE

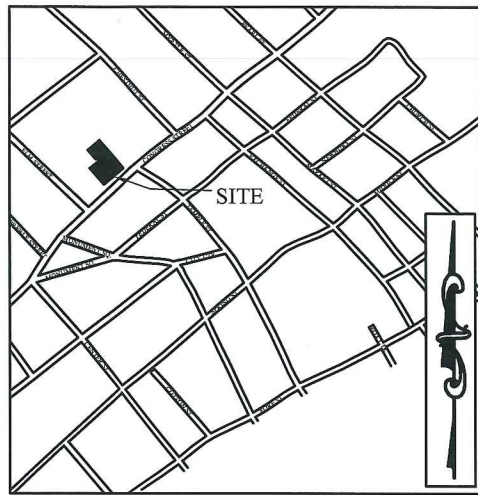


**CERTIFICATE:**

I HEREBY CERTIFY THAT THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS' STANDARDS OF PRACTICE AS ADOPTED APRIL 01, 2001 WITH THE FOLLOWING EXCEPTIONS:  
 a) NO WRITTEN REPORT  
 b) NO NEW DESCRIPTION  
 c) NO NEW CORNERS WERE SET

ROBERT T. GREENLAW P.L.S., #2303  
 V. PRESIDENT BACK BAY BOUNDARY, INC. DATE: JANUARY 16, 2006

LOCATION: 439 CONGRESS STREET, PORTLAND, MAINE

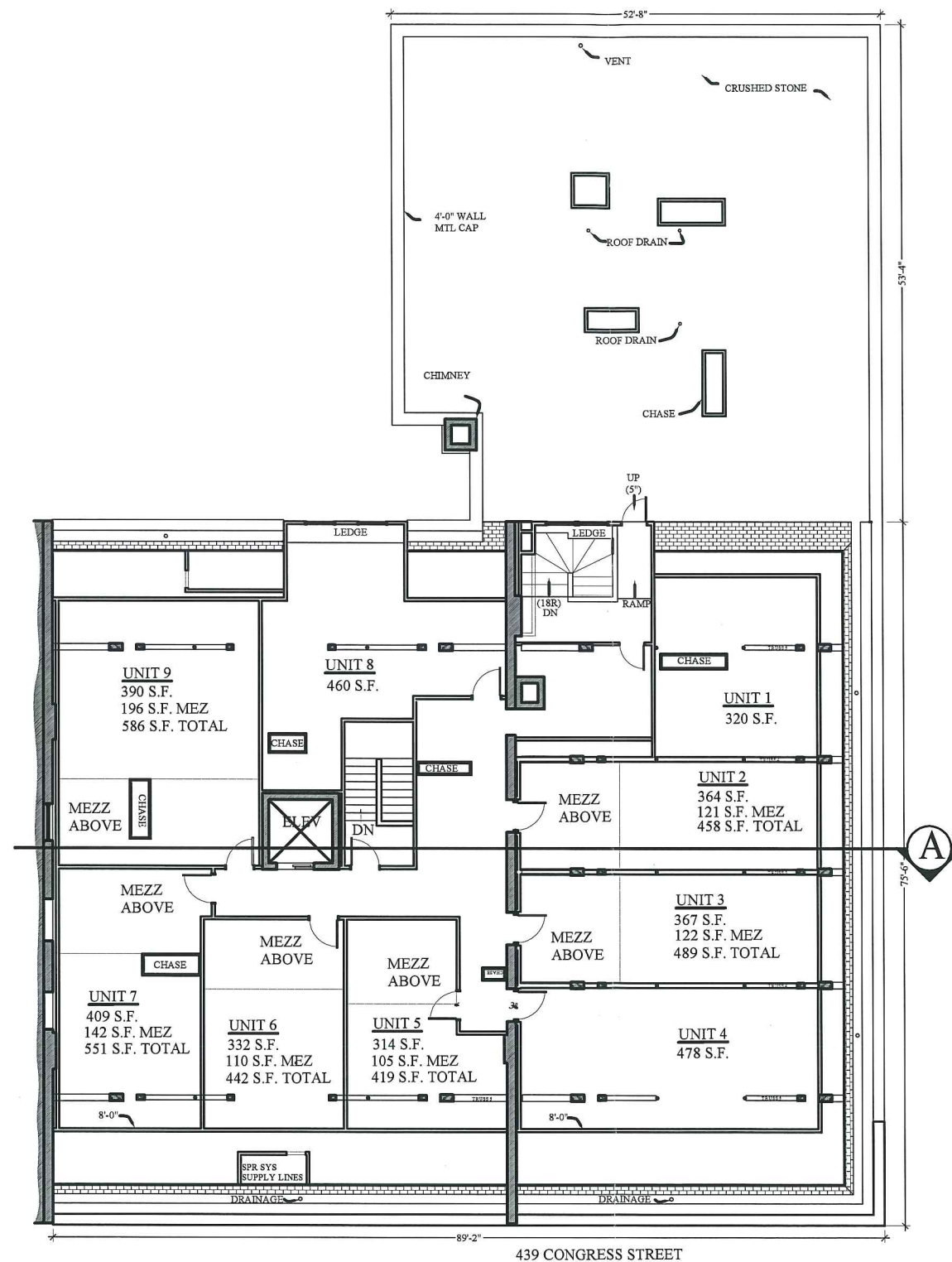


**UNIT SQUARE FOOTAGES**

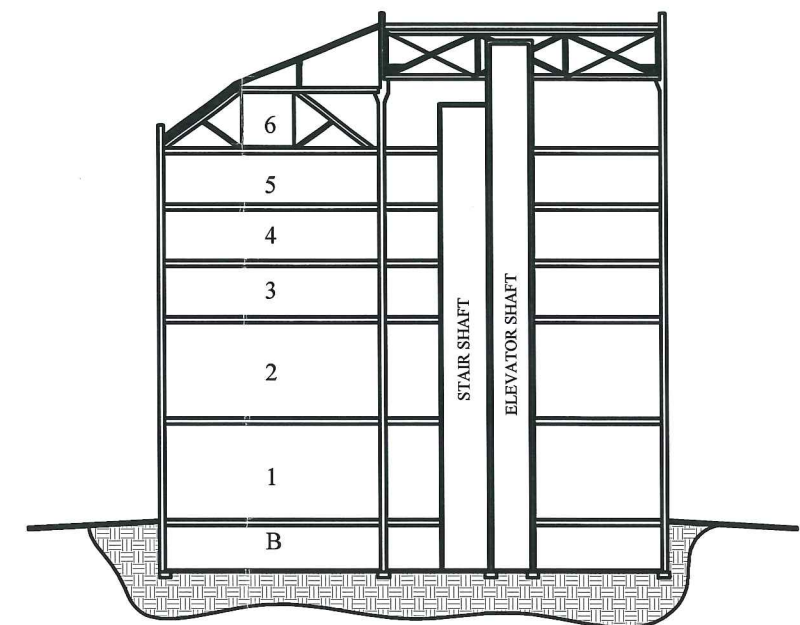
UNIT 01 -	320 SQ.FT.
UNIT 02 -	458 SQ.FT.
UNIT 03 -	489 SQ.FT.
UNIT 04 -	478 SQ.FT.
UNIT 05 -	419 SQ.FT.
UNIT 06 -	442 SQ.FT.
UNIT 07 -	551 SQ.FT.
UNIT 08 -	460 SQ.FT.
UNIT 09 -	586 SQ.FT.

**GENERAL NOTES**

A SUBDIVISION SHALL BE DEFINED AS THE DIVISION OF A LOT, TRACT OR PARCEL OF LAND INTO THREE (3) OR MORE LOTS, INCLUDING 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. 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 PART OF A STRUCTURE WHICH, THROUGH SALE OR LEASE, IS INTENDED FOR HUMAN HABITATION, INCLUDING SINGLE-FAMILY AND MULTI-FAMILY HOUSING CONDOMINIUMS, TIME-SHARE UNITS AND APARTMENTS.



**A** 7TH FLOOR PLAN  
SCALE: 1/8" = 1'-0"



**B** BUILDING SECTION  
SCALE: 1/16"=1'

APPROVED BY CITY OF PORTLAND PLANNING BOARD

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 APPROVAL DATE: \_\_\_\_\_

STATE OF MAINE  
 COUNTY REGISTRY OF DEEDS  
 RECEIVED \_\_\_\_\_, 20\_\_\_\_  
 AT \_\_\_\_\_ h \_\_\_\_\_ m \_\_\_\_\_ M. AND RECORDED IN  
 PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
 ATTEST \_\_\_\_\_ REGISTER

Owner of Record: METROPOLITAN APARTMENTS, LLC C/O PORT PROPERTY MANAGEMENT 104 GRANT STREET PORTLAND, ME 04101	Architect: <b>ARCHETYPE, P.A.</b> ARCHITECTS 48 Union Wharf Portland, Maine 04101 (207) 772-6022 Fax (207) 772-4056
Project: <b>439 CONGRESS CONDOS</b> 439 CONGRESS STREET PORTLAND, MAINE	Date: 25 JAN, 2006 Scale: As Noted 25 JAN, 2006 SITE PLAN APP
Drawing: <b>SUBDIVISION PLAT</b>	APPROVED BY CITY OF PORTLAND PLANNING BOARD _____ _____ _____ APPROVAL DATE: _____
STATE OF MAINE COUNTY REGISTRY OF DEEDS RECEIVED _____, 20____ AT _____ h _____ m _____ M. AND RECORDED IN PLAN BOOK _____ PAGE _____ ATTEST _____ REGISTER	