



PORTLAND MAINE

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*Penny St. Louis Littell- Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator*

November 3, 2010

Vin Veroneau
J.B. Brown & Sons
P.O. Box 207
Portland, Maine 04112-0207

Michael J. Pearce, Esq.
Pearce & Dow, LLC
P.O. 108
Portland, Maine 04112-0108

RE: 24 & 26 & 30 City Center -- 027-F-027 & 26 & 24 - B-3 Zone with the Pedestrian Activities District (PAD) Overlay Zone Covering First Floor Uses

Dear Vin & Michael,

I am in receipt of your determination request concerning the above property. I have re-reviewed the information that was submitted previously and information gathered at our meeting on 10/25/10.

This property is located within a B-3 Downtown Business Zone with a Pedestrian Activities District (PAD) Overlay Zone. The PAD District regulates first floor uses to those pedestrian orientated uses that are listed in the Land Use Ordinance. It is my understanding that this building (including the entire first floor) was occupied by offices uses prior to the enactment of the PAD requirements on 3/11/91. The office use(s) on the first floor are considered to be legally nonconforming in status. This legal nonconforming use of the first floor may continue regardless of the ownership of the building and property.

If the first floor use is changed to a PAD regulated use, by Ordinance, the legal nonconforming right(s) will be extinguished.

If you have any questions regarding this determination, please do not hesitate to contact me at 874-8695.

Very truly yours,


Marge Schmuckal
Zoning Administrator

Marge Schmuckal - RE: 24-26 City Center

From: "Vincent Veroneau" <veroneau@jbbrown.com>
To: "Marge Schmuckal" <MES@portlandmaine.gov>
Date: 10/28/2010 3:48 PM
Subject: RE: 24-26 City Center

Marge,

I understand that you are out on Thursdays and Fridays, so I thought email was the best way to get you a message. I wanted to follow up on the 26 City Center letter to see if I could get something before the end of next week as our due diligence period expires on Friday 11/5. Thanks again for your efforts. I hope you enjoyed the weekend,

Vin

From: Marge Schmuckal [mailto:MES@portlandmaine.gov]
Sent: Monday, October 25, 2010 2:54 PM
To: Vincent Veroneau
Subject: RE: 24-26 City Center

Vin,

I can write my own. That statement is in there because a lot of out of State financial institutions want specific sections of the Ordinance reviewed and mentioned.

Marge

>>> "Vincent Veroneau" <veroneau@jbbrown.com> 10/25/2010 2:33 PM >>>

Marge,

Thanks for meeting with us today. I will drop off the cover letter and \$150 fee tomorrow. Do you also want a "sample of a formatted letter" for your response or do prefer to write your own on this one? Thanks again,

Vin

From: Marge Schmuckal [mailto:MES@portlandmaine.gov]
Sent: Friday, October 22, 2010 9:13 AM
To: Vincent Veroneau
Subject: Re: 24-26 City Center

Zoning Division
Marge Schmuckal
Zoning Administrator

Department of Urban Development



CITY OF PORTLAND

November 19, 2001

Michael J. Pearce
C/o Michael J. Pearce & Associates
P.O. Box 108
Portland, ME 04112-0108

20124

RE: 24 City Center - 027-F-027 - B-3 Zone with the Pedestrian Activities District (PAD)
Overlay Zone Covering First Floor Uses

Dear Michael,

As I indicated in our phone conversation on Friday, November 16, 2001, I have accepted your documented statements concerning the past uses of this property. It appears that the nonconforming professional office uses have continued from prior to the enactment of the Pedestrian Activities District (PAD) through to today. These office uses are considered to be legally nonconforming uses and may continue.

It appears that the PAD use for a tenant fit-up that I issued on November 17, 1998 was really never built out in the manner explained to me. Therefore, since the building change did not meet the PAD requirements, it retained its legal nonconforming status.

As I mentioned above, the first floor may continue the professional offices uses as a legal nonconforming use. However, please note that if any time in the future, the first floor uses are changed to meet the PAD requirements, this property will lose any "grandfathered" or legal nonconforming rights in the future, and shall from then on meet the City's PAD conditions.

Very truly yours,

Marge Schmuckal
Zoning Administrator

Cc: Jack Lufkin, Economic Development
File

Zoning Division
Marge Schmuckal
Zoning Administrator

Department of Urban Development



CITY OF PORTLAND

November 19, 2001

Michael J. Pearce
C/o Michael J. Pearce & Associates
P.O. Box 108
Portland, ME 04112-0108

RE: 24 City Center - 027-F-027 - B-3 Zone with the Pedestrian Activities District (PAD)
Overlay Zone Covering First Floor Uses

Dear Michael,

As I indicated in our phone conversation on Friday, November 16, 2001, I have accepted your documented statements concerning the past uses of this property. It appears that the nonconforming professional office uses have continued from prior to the enactment of the Pedestrian Activities District (PAD) through to today. These office uses are considered to be legally nonconforming uses and may continue.

It appears that the PAD use for a tenant fit-up that I issued on November 17, 1998 was really never built out in the manner explained to me. Therefore, since the building change did not meet the PAD requirements, it retained its legal nonconforming status.

As I mentioned above, the first floor may continue the professional offices uses as a legal nonconforming use. However, please note that if any time in the future, the first floor uses are changed to meet the PAD requirements, this property will loose any "grandfathered" or legal nonconforming rights in the future, and shall from then on meet the City's PAD conditions.

Very truly yours,

Marge Schmuckal
Zoning Administrator

Cc: Jack Lufkin, Economic Development
File

No changes

2nd floor: Above

4+ Penthouse

Rm Davis

Law firm 1st floor

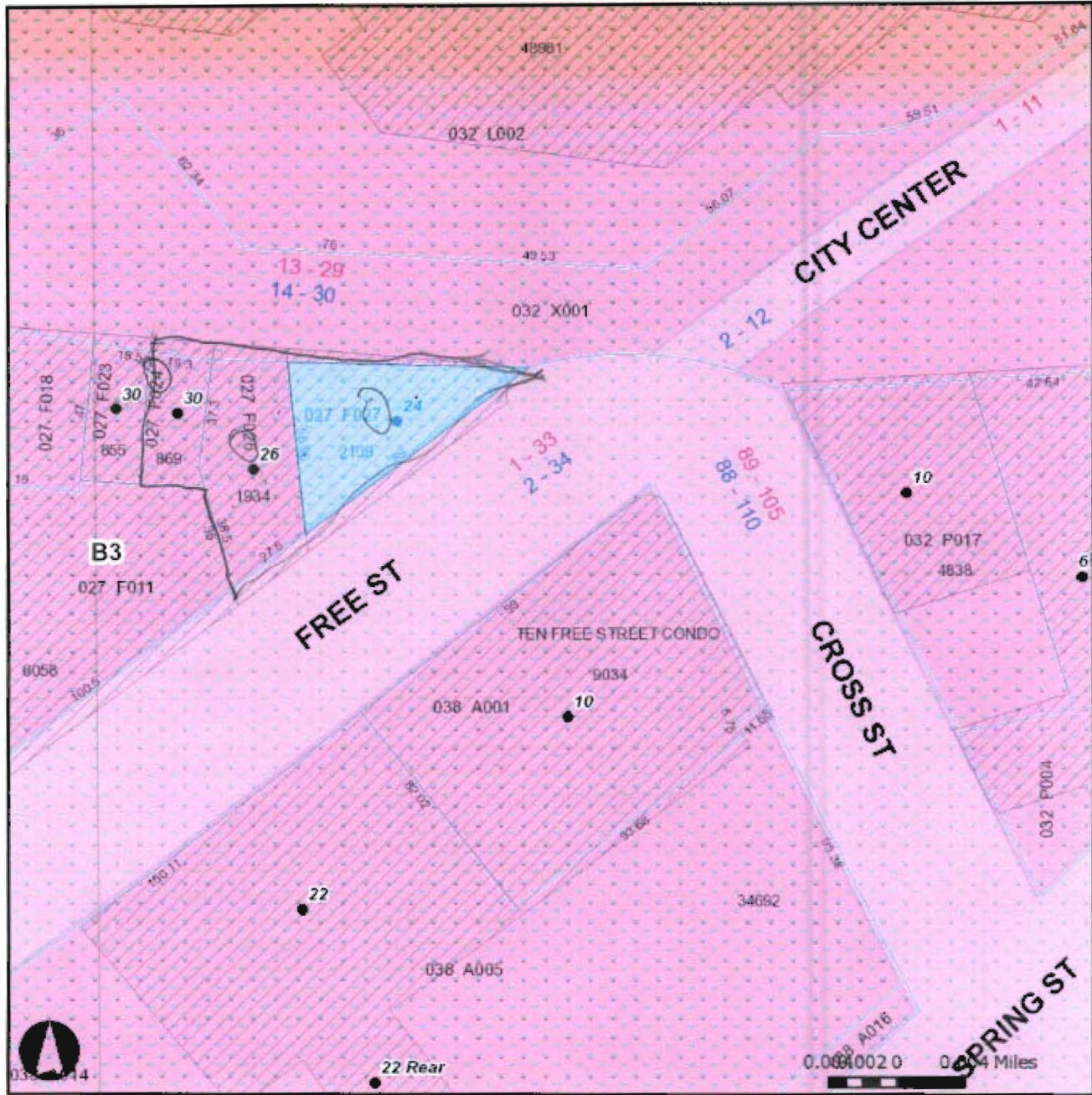
Beagle Ridge

822-9900

26130

26124

Map



Parcels	Shoreland Overlay Zone	Zoning (continued)	Zoning (continued)
Parcels	Stream Overlay Zone	R1 Residential	C25
Parcels	Stream_protection	R2 Residential	C26
Interstate	Island Zoning	R3 Residential	C27
Streets	C43	R4 Residential	C28
	I-B	R5 Residential	C29
	I-TS	R6 Residential	C30
		ROS Recreation Open	C31

MICHAEL J. PEARCE & ASSOCIATES
ATTORNEYS AT LAW
24 CITY CENTER
P.O. BOX 108
PORTLAND, ME 04112-0108
TEL (207) 822-9900
FAX (207) 822-9901
MJP@mjpmainelaw.com

11/15/01

Michael J. Pearce
Joshua R. Dow

November 14, 2001

Mr. Jack Lufkin
Ms. Marge Schmukal
City of Portland
389 Congress Street
Portland, ME 04101

PAD - 3/11/91

Re: 24 City Center Associates

Greetings:

As I believe you both know, I represent and am also a principal in 24 City Center Associates ("Associates"). Associates is the owner of property located at 24 City Center here in Portland. The existing building was formerly comprised of three buildings located at city addresses 24 and 26 City Center. Those buildings were known as the Hay building and the James Bailey buildings.

Associates purchased the Hay and Bailey buildings and combined them to make a single building in June of 1987. The new address became 24 City Center. There is no street in front of the building on the One City Center side. Attached hereto as Exhibit A is a newspaper article announcing the acquisition of the property by the four attorneys who became partners in Associates. Upon acquiring the property in 1987, Associates immediately renovated and combined all three buildings. The renovations were very tasteful and created a now well-known office building in downtown Portland. The building is, and has been since 1987, an upscale professional office building.

At the time Associates acquired the property, Dunlap Insurance ("Dunlap") occupied the first floor and basement of the Hay building. The first floor of the Bailey building was unoccupied. Associates renovated the entire first floor into office space for Dunlap. The original lease between Associates and Dunlap is in a closed file, but attached hereto as Exhibit B is the summary data for the March 1, 1992 renewal of the Dunlap lease pursuant to which Dunlap agreed to continue to rent the 3,610 square feet of the first floor as professional offices. This lease is substantially identical to the original lease, which I can try to locate if you need it. Dunlap utilized the entire first floor space as professional insurance offices with partitions,

desks, a receptionist, vertical blinds and the like. In short, the Dunlap use was entirely a professional office use - as were the uses on the 2nd, 3rd, 4th and 5th floors.¹

Dunlap advised Associates in 1998 that it would be consolidating its operations into its Lewiston-Auburn location. The Boulos Company located two replacement tenants for the Dunlap office space. On April 5, 1998, Associates entered into a lease with Waterhouse Securities pursuant to which Waterhouse leased 2,582 square feet on the 26 City Center side of 24 City Center. The permitted lease use was "professional office space and a security sales office." Attached hereto as Exhibit C is the summary data portion and signature page of the lease. Waterhouse, like Dunlap before it, continued to use the space as professional office space and maintained an assemblage of partitions, desks, receptionists and vertical blinds. I am sure you will recall walking by the Waterhouse space and seeing its white shirted professionals sitting at desks in the front window immediately adjacent to the sidewalk. At no time was any portion of the 24 City Center frontage on Free Street that was occupied by Waterhouse used for anything but professional office space.

Also in 1998, Associates entered into a lease with Commtel Internet ("Commtel") for the remaining first floor space in 24 City Center. The lease was dated September 17, 1998. A copy of the summary data portion and signature page of the lease is attached hereto as Exhibit D. Commtel agreed to rent approximately 1,152 square feet of space on the first floor of 24 City Center for use as "professional office for telecommunications sales, and service." Commtel remains in this space today and continues to use the space solely as professional office space. That office too is filled with desks, partitions, a reception area, and vertical blinds typical of any professional office.

At the time Waterhouse and Commtel entered into their leases, certain renovations were necessary, including a wall to separate the two leased spaces on the first floor. Associates applied for a building permit by application dated November 3, 1998. The permit was approved. The proposed use designated on the application was "office space." A copy of the application is attached hereto as Exhibit E. The proposed project description was "tenant fit-up for office space-first floor." The permit was approved without comments to Associates. The City never contacted Associates to discuss any potential application of the Pedestrian Activity District ("PAD"). There is some annotation on the permit apparently made by city officials, which references PAD, but Associates was never involved in any PAD discussion and knew nothing of any PAD issue.

Had Associates been informed in 1998 of even the suggestion that PAD could or might apply to limit the use of the building, Associates would have vigorously responded that its first floor professional office space use is a grandfathered use predating the time Associates even acquired the properties, assembled them as one and renovated them. Similarly, Associates believes that it remains clear today that its professional office use of the first floor of 24 City Center is and has been a lawful use under the ordinance which use may have been rendered

¹ Beagle, Pearce & Ridge occupied the entire 2nd floor. R.M. Davis now occupies the entire third, fourth and fifth floors and has occupied most of that space for several years except for a two year period during which Northeast Leasing and CPA, Wayne Smith, also occupied portions of the 4th and 5th floors.

nonconforming when PAD was enacted in 1991, but which remains a lawful one that has never ceased.

At all times since the 1987 renovations, both the 24 and 26 City Center sides of the first floor (indeed, the entire building) of 24 City Center have been dedicated to office use. Associates has cultivated a high grade professional office use for the building consisting of lawyers, CPAs, an insurance company, investment advisors, investment professionals and an internet provider's offices. Although Waterhouse had a area of entry for its clients, it always maintained professional office space throughout the first floor, including to the sidewalk window itself. Commtel continues to maintain a strictly professional office use on the first floor. The professional office use of both Waterhouse and Commtel has been continuously maintained not only on the City Center sidewalk side of the building, but also on the Free Street side. Dunlap maintained a strictly office use beforehand.

Clearly, Associates has never met PAD requirements and remains a legally existing, nonconforming use². Attached hereto as Exhibit F is a sketch of the building 's first floor. Please note that 24 City Center is a triangular shaped building with frontage on both the City Center sidewalk and on Free Street. Notably, the City Center frontage of the building is approximately 104 feet, 8 inches in length. No portion of it, either frontage has ever used for anything but professional office space. See Sections 14-217(b)(1)(first and last paragraphs). The PAD requirement is that 75% of the frontage on both streets multiplied by a 20 foot depth must be a PAD use. Since no portion of the first floor was a PAD use, the requirements of the PAD provisions have never been met. Properly applied, the PAD enactments would require that 3,139.80 square feet be a PAD activity i.e., $104.66 \text{ feet} \times 2 \text{ "streets"} \times 75\% \times 20 \text{ feet} = 3,139.80$ square feet. This is just 500 square feet, or a 22' x 22' room less than the entire square footage of the first floor. In short, the continuing lawful use of the first floor as office space is a lawful nonconforming use that has never been discontinued and is therefore, grandfathered.

At this time, Associates is in danger of losing a long term lease one of the City's finest tenants; R.M. Davis, Inc. ("RMD") has advised Associates that unless the City confirms that RMD will be permitted to expand its professional office space use onto the first floor of 24 City Center (both sides) in five years, it will not sign a long term lease with Associates. This would mean a loss of approximately 52 currently existing jobs downtown and literally scores more over the next few years. This would also cause the entire 24 City Center building to be vacant and in need of re-leasing - hardly an easy task in any real estate market. Associates' financing is also implicated. Associates has a loan with Peoples Heritage Bank now being held up because of this issue. RMD has informed Associates that it will not sign a long term lease until the City states in writing that the professional office use on the first floor of 24 City Center (i.e., both 24 and 26 City Center) is a legal, nonconforming use that is currently entitled to continue with grandfathered status. We respectfully request the City to state that to us in writing.

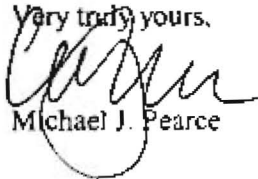
Finally, I note that Middle Street no longer exists in front of 24 City Center and the

² Please note a portion of first floor space is now occupied by Beagle & Ride, a professional office user.

ordinance references only frontage on a street. There is some question as to whether Pad actually applies³.

I request your response and look forward to hearing from you as soon as possible. R.M. Davis insists on a response from us no later than November 16, 2001. Anything you could do to get back to us would be appreciated. Thank you for your attention to this matter.

Very truly yours,



Michael J. Pearce

MJP/rap
enclosures

c: C. Alan Beagle
Martin J. Ridge
Ford S. Reiche
Ronald Epstein, Esq.
Daniel P. Thornton, Vice President
Peoples Heritage Bank, N.A.

³ Section 14-217(b) provides that the PAD overlay zone "shall be located on the streets listed below and as further delineated on the PAD overlay zone map. . . ." Since there is no street in front of 24 City Center, 24 City Center is not both "located on [a] street" and delineated on an overlay map. See Attached Exhibit G.

EXHIBIT

tabular

A

Law firm buys Hay and Bailey buildings

The law firm of Beagle, Reiche, Pearce & Ridge has purchased the lower H.H. Hay Co. building, now occupied by several firms, at 24 City Center and the former James Bailey Co. building next to it at 264 Middle St., Ford S. Reiche of the law firm reported Thursday.

No purchase price was disclosed. The H.H. Hay building was purchased from the Northland Corp. and the James Bailey building was sold by Charles L. Sawyer, former owner of James Bailey.

Reiche said the law firm will move from its present location at 17 Commercial St. to the second floor in the two buildings effective Aug. 15. The firm moved into the Commercial Street building in 1985 after it bought the structure

from contractor Richard E. Dobson of Falmouth.

Reiche said the firm sold the Commercial Street building to William J. Dowd & Associates in January.

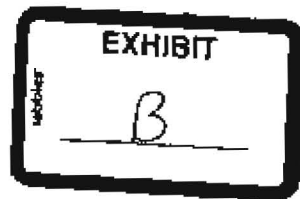
Reiche said the former James Bailey structure (which actually is two small buildings that are joined) was the only building left standing in the center of Portland after the fire of 1866. The Hay building was rebuilt in 1867 after it was destroyed in the fire, he noted.

Reiche said the Dunlap Agency, now on the first floor of the former

Hay building, will expand into the first floor of the Bailey building in October.

R.M. Davis, an investment firm, will also expand from the third floor of the Hay building into the third floor of the Bailey structure Aug. 15. Northeast Leasing will move into the fourth floor of the two buildings Aug. 15 from its present location at 157 Fox St.

Finally, Ad Works and Marketing, now on the fifth floor at 24 City Center, will have its penthouse there expanded, Reiche said.



AGREEMENT OF LEASE

24 CITY CENTER ASSOCIATES

and

THE DUNLAP AGENCY

Dated: March 1, 1992

ARTICLE I - REFERENCE DATA

Subjects Referred to

Each reference in this Lease to any of the following subjects shall be construed to incorporate the data stated for that subject in this Article:

LANDLORD and LANDLORD'S ADDRESS: 24 City Center Associates, a Maine general partnership, 24 City Center, P. O. Box 7044, Portland, Maine 04112.

TENANT and TENANT'S ADDRESS: The Dunlap Agency, 24 City Center, Portland, Maine 04101.

SCHEDULED TERM COMMENCEMENT DATE: March 1, 1992.

TENANT'S SPACE: Ground floor office space located at 24-26 City Center, Portland, Maine, excluding common halls and entrances.

TERM: Three years, three months (until May 31, 1995) with two two-year extension options as described in Section 2.03.

ANNUAL RENT: \$39,710.17.

MONTHLY RENT: \$3,309.00.

SECURITY DEPOSIT: \$4,500.00.

RENTABLE FLOOR AREA OF TENANT'S SPACE: 3,610 square feet.

PERMITTED USES: Office Space.

PUBLIC LIABILITY INSURANCE: Bodily Injury - \$500,000.00/
\$1,000,000.00; Property Damage - \$100,000.00.

ARTICLE II - PREMISES AND TERM

2.01 Landlord hereby LEASES unto Tenant and Tenant hereby hires from Landlord Tenant's Space consisting of approximately 3,610 square feet on the first floor of the buildings known as and

16.02 Landlord and Tenant agree that this Lease shall not be enforceable. At the request of the other, Landlord and Tenant shall execute into a Memorandum of this Lease Agreement in recordable form.

16.03 If any provision of this Lease or its application to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease or the application of any provision of this Lease shall be valid and enforceable to the maximum extent permitted by law.

16.04 The submission of this Lease or a summary of some or all of its provisions for examination by Tenant does not constitute a reservation of or option for the premises or an offer to lease the premises.

16.05 The index and headings herein contained are for convenience only, and shall not be considered a part of this Lease.

Executed this 3rd day of March, 1992.

24 CITY CENTER ASSOCIATES

By: _____

C. Alh. De...
Its *Partner*

Witness

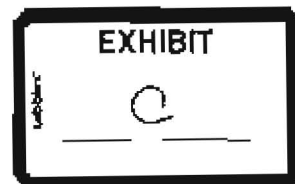
THE DUNLAP AGENCY

By: _____

Its _____

Witness

Original for
24 City Center Ass.



LEASE

BETWEEN

24 CITY CENTER ASSOCIATES

(LANDLORD)

AND

WATERHOUSE SECURITIES, INC.

(TENANT)

ARTICLE I
REFERENCE

Subjects Referred To. Each reference in this Lease to any of the following subjects shall be construed to incorporate the data for that subject in this Article.

PARTIES:

LANDLORD: 24 City Center Associates, a Maine general partnership.

LANDLORD'S ADDRESS: 24 City Center, Portland, Maine 04101.

TENANT: Waterhouse Securities, Inc., a New York corporation.

TENANT'S ADDRESS: One Hundred Wall Street, New York, New York 10005

BUILDING AND LEASE PREMISES: Approximately 2582 square feet of space (The "Premises") on the 26 City Center side of the first floor of the Hay building, 24 City Center, Portland, Maine (the "Building"). The Premises are located as shown on Exhibit A.

LEASE TERM: Sixty-two (62) months. Commencing upon substantial completion of Landlord's Improvements, anticipated on or about August 15, 1998, and terminating 62 months thereafter, on or about October 15, 2003.

LEASE COMMENCEMENT DATE: Upon substantial completion of Landlord's Improvements, anticipated on or about August 15, 1998.

OPTION: One five-year option.

BASE RENT: No rent for the first two months of the tenancy.

Thereafter:

Year 1 (months 3-14):	\$35,502.50 = \$2,958.54 per month
Year 2 (months 15-26):	\$36,535.30 = \$3,044.61 per month
Year 3 (months 27-38):	\$37,568.10 = \$3,130.67 per month
Year 4 (months 39-50):	\$38,600.90 = \$3,216.74 per month
Year 5 (months 51-62):	\$39,633.70 = \$3,302.81 per month

In addition, Tenant shall pay its prorata share of utility, HVAC and janitorial costs.

PROPORTIONATE SHARE: Fifteen and eight-tenths percent (15.8%)

PERMITTED USE OF PREMISES: Professional office space and securities sales office.

TENANT INSURANCE REQUIREMENTS: Public liability insurance and casualty.

Bodily Injury: \$500,000.00 per person/\$1,000,000.00 each occurrence.

Property Damage: \$100,000.00 each occurrence.

Casualty and Extended Coverage: Eighty percent (80%) of value.

SECURITY DEPOSIT: None

GUARANTOR: None

BROKER: The Boutos Company, One Canal Plaza, Portland, Maine and the Dunham Group, One Portland Square, Portland, Maine.

EXHIBITS: The Exhibits listed below in this Section are incorporated into this Lease by reference and are to be construed as part of this Lease:

Exhibit A	Floor Plan of Premises
Exhibit B	Utility and HVAC Costs
Exhibit C	Tenant's Construction
Exhibit D	Landlord's Services

CONSTRUCTION OF PREMISES: The following work will be completed by Landlord prior to lease commencement in accordance with a plan to be mutually agreed upon by August 1, 1998: install entrance off sidewalk to the west of the current entrance; construct door/wall separation from remainder of first floor at approximate location shown on Exhibit A; repair/repaint existing discolored metal area over window on front exterior of Premises. Tenant will in all other respects renovate the Premises to its needs, including new carpet. Construction shall be performed by Tenant as set forth on Exhibit C. Any and all plans or modifications to the Building by Tenant or Tenant's agent will be submitted to Landlord for its approval, which shall not be unreasonably withheld or delayed. COS
A.M.

ARTICLE II

DESCRIPTION OF PREMISES AND APPURTENANT RIGHT

2.1 Location of Premises. In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Tenant to be paid, observed and performed. Landlord hereby demises and leases to Tenant, and Tenant hereby rents from Landlord, the Premises identified in the foregoing portion of the Lease.

2.2 Appurtenant Rights. Tenant shall have, as appurtenant to the Premises, the nonexclusive rights to use, and permit its invitees to use in common with others, an exit way from the rear door of the Premises into the common rear hall to the rear Building door to Free Street.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of this 5th day
of ~~July~~, 1998.

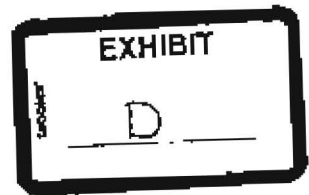
August

LANDLORD:
24 CITY CENTER ASSOCIATES

By: *C. C. Al*
Its Partner

TENANT:
WATERHOUSE SECURITIES, INC.

By: *[Signature]*
Its *FIRST VP*



LEASE

BETWEEN

24 CITY CENTER ASSOCIATES
(LANDLORD)

AND

COMMTEL INTERNET
(TENANT)

ARTICLE I
REFERENCE

Subjects Referred To. Each reference in this Lease to any of the following subjects shall be construed to incorporate the data for that subject in this Article.

PARTIES:

LANDLORD: 24 City Center Associates, a Maine general partnership.

LANDLORD'S ADDRESS: 24 City Center, Portland, Maine 04101.

TENANT: CommTel Internet, a Maine corporation.

TENANT'S ADDRESS: 5 Winada Drive, Winthrop, Maine

BUILDING AND LEASE PREMISES: Approximately 1152 square feet of space (The "Premises") on the 24 City Center side of the first floor of the Hay building, 24 City Center, Portland, Maine (the "Building"). The Premises are located as shown on Exhibit A. Tenant shall also have access to lavatories through a common (with adjoining tenant) hallway to be constructed by Landlord prior to lease commencement.

LEASE TERM: Thirty-six (36) months. Commencing upon substantial completion of Landlord's Improvements, anticipated on or about October 4, 1998, and terminating 36 months thereafter, on or about October 3, 2001.

LEASE COMMENCEMENT DATE: Upon substantial completion of Landlord's Improvements, anticipated on or about October 4, 1998.

BASE RENT:

Year 1 (months 1-12):	\$16,128.00 = \$1,344.00 per month
Year 2 (months 13-24):	\$16,612.00 = \$1,384.00 per month
Year 3 (months 25-36):	\$17,107.00 = \$1,426.00 per month

PROPORTIONATE SHARE: Six and one-half percent (6.5%)

PERMITTED USE OF PREMISES: Professional office for telecommunications sales and service.

TENANT INSURANCE REQUIREMENTS: Public liability insurance and casualty.

Bodily Injury: \$500,000.00 per person/\$1,000,000.00 each occurrence.

Property Damage: \$100,000.00 each occurrence.
Casualty and Extended Coverage: Eighty percent (80%) of value.

SECURITY DEPOSIT: \$1,344.00 upon lease execution.

GUARANTOR: Community Service Communications, Inc.

BROKER: The Boulos Company, One Canal Plaza, Portland, Maine.

EXHIBITS: The Exhibits listed below in this Section are incorporated into this Lease by reference and are to be construed as part of this Lease:

Exhibit A	Floor Plan of Premises
Exhibit B	Landlord's Services

CONSTRUCTION OF PREMISES: The following work will be completed by Landlord prior to lease commencement: Carpets professionally cleaned, walls patched and painted, existing one-half wall removed (Tenant assumes responsibility of any carpet repair/patching), tenant access to bathroom via common hall with abutting tenant. Any and all plans or modifications to the Building by Tenant or Tenant's agent will be submitted to Landlord for its approval, which shall not be unreasonably withheld or delayed.

ARTICLE II DESCRIPTION OF PREMISES AND APPURTENANT RIGHT

2.1 Location of Premises. In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Tenant to be paid, observed and performed, Landlord hereby demises and leases to Tenant, and Tenant hereby rents from Landlord, the Premises identified in the foregoing portion of the Lease.

2.2 Appurtenant Rights. Tenant shall have, as appurtenant to the Premises, the nonexclusive rights to use, and permit its invitees to use in common with others, the Building's entrance lobby and, in common with the Builder's other first floor tenant, the common first floor bathrooms and the common hallway providing access to the bathrooms.

Except for the first floor common lobby and bathrooms/hallway, Tenant shall not have access to other areas of the Building. So long as no bother or nuisance is generated to other tenants of the Building, Tenant may use the Premises for permitted purposes at any hour, subject to interruption due to causes beyond Landlord's reasonable control.

2.3 Landlord's Reservations. Landlord hereby reserves the right to place in the Premises (in such manner as to reduce to a minimum interference with Tenant's use of Premises) utility lines, pipes, equipment and the like, to serve the Premises or premises other than the Premises, and to

reorganization, bankruptcy, receivership or insolvency proceedings involving Tenant or Guarantor. The term "obligations" is used herein in its most comprehensive sense and includes any and all debts, obligations and liabilities of Tenant to Landlord, heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary, and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, for the payment of money or the taking or refraining from taking of any action, and whether Tenant may be liable individually or jointly, or whether recovery upon such obligations may be or hereafter become unenforceable.

Upon any default by Tenant as to any of its obligations, Guarantor covenants duly and punctually to pay and perform all of the obligations, without demand, presentment, protest or notice of any kind, all of which are hereby waived, without any action, proceeding or suit, and without further steps to be taken or further conditions to be performed by Landlord. Failure of Landlord to make any demand or otherwise to proceed against Guarantor in respect to any default of Tenant shall not constitute a waiver of Landlord's right to proceed in respect to any and all other defaults, whether of like or different nature, by Tenant

Guarantor hereby waives any and all rights of exoneration. Immediately upon the occurrence of any Event of Default, Landlord shall have the right to proceed first and directly against Guarantor under this Guaranty. The obligations of Guarantor hereunder are independent of the obligations of Tenant, and a separate action or actions may be brought and prosecuted against Guarantor, whether action is brought against Tenant or any other guarantor or whether Tenant or any other guarantor be joined in any such action or actions. Guarantor acknowledges that there are no conditions precedent to the effectiveness of this Guaranty and that this Guaranty is in full force and effect and is binding on Guarantor upon execution and delivery of this Lease.

This Lease contains all of the agreements of the parties with respect to the subject matter thereof and supersedes all prior dealings between them with respect to such subject matters. Tenant and Guarantor shall be jointly and severally liable for all obligations herein.

TIME IS OF THE ESSENCE.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of this 17th day of September, 1998.

LANDLORD:
24 CITY CENTER ASSOCIATES

At City Centre Associates

By: C. Al Day
Its Partner

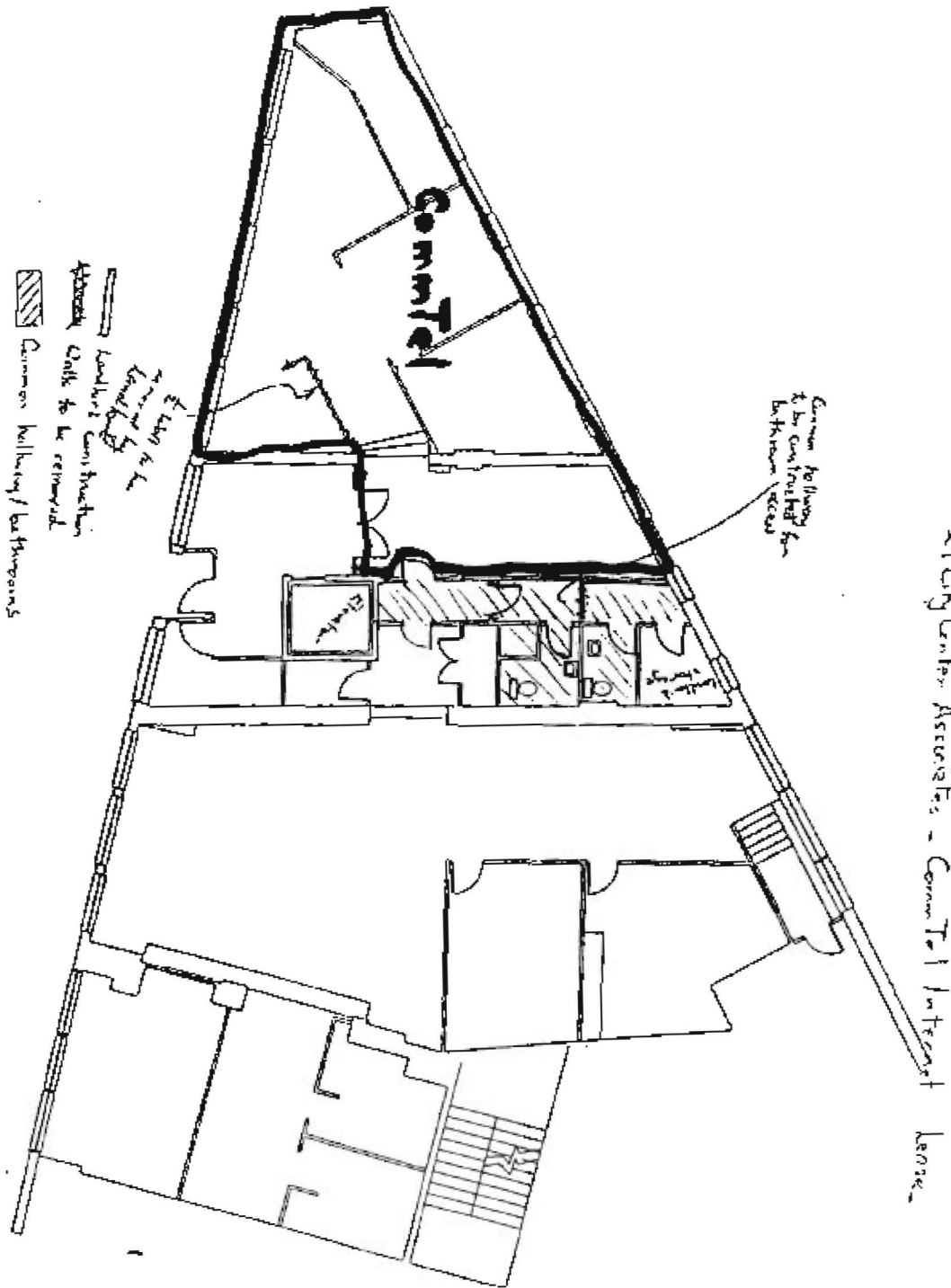
TENANT:
COMMTEL INTERNET

By: Anthony Flone
Its General Manager

GUARANTOR:
COMMUNITY SERVICE
COMMUNICATIONS, INC.

By: Mark A. Sola
Its President

Exhibit A
 24 City Centre Associates - CommTel Internet Lease



17 (Project) 2000

24
 CITY CENTRE

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City of Portland, Maine - Building or Use Permit Application 305 Congress Street, 5th Fl., Portland, ME 04101

Location of Construction: 24 City Center		Owner: 24 City Center Associates	Phone: 773-1751	Permit No: 981297
Owner Address: SAA	Lessee/Buyer's Name: Waterhouse Securities	Phone:	Business Name:	PERMIT ISSUED NOV 17 CITY OF PORTLAND Zoning: CBL: 027-F-027 B-3
Contractor Name: * Wright-Ryan Construction, Inc.	Address: 10 Danforth St. Pctd 04101	Phone: 773-3625		
Past Use: Office Space - Vacant	Proposed Use: Office Space	COST OF WORK: \$ 75,000	PERMIT FEE: \$ 395.00	FIRE DEPT. <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied INSPECTION: Use Group: B Type: 99 DOCA 16 Signature: <i>[Signature]</i> Signature: <i>[Signature]</i>
Proposed Project Description: Tenant fit up for Office Space - 1st Floor		PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied Signature: <i>[Signature]</i> Date: <i>[Date]</i>		
Permit Taken By: MG	Date Applied For: Nov. 3, 1998	Zoning Approval: <i>[Signature]</i> 11/13/98 Special Zone or Reviews: <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan maj Ordinar Ordm <input type="checkbox"/>		

- This permit application does not preclude the Applicant(s) from meeting applicable State and Federal rules.
- Building permits do not include plumbing, septic or electrical work.
- Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.

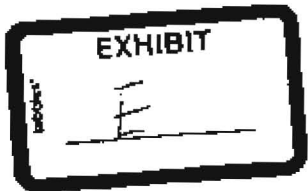
- Zoning Appeal
- Variance
 - Miscellaneous
 - Conditional Use
 - Interpretation
 - Approved
 - Denied

- Historic Preservation
- Not in District or Landmark
 - Does Not Require Review
 - Requires Review

Action:

- Approved
- Approved with Conditions
- Denied

Date: *[Signature]*



PERMIT ISSUED WITH REQUIREMENTS

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit.

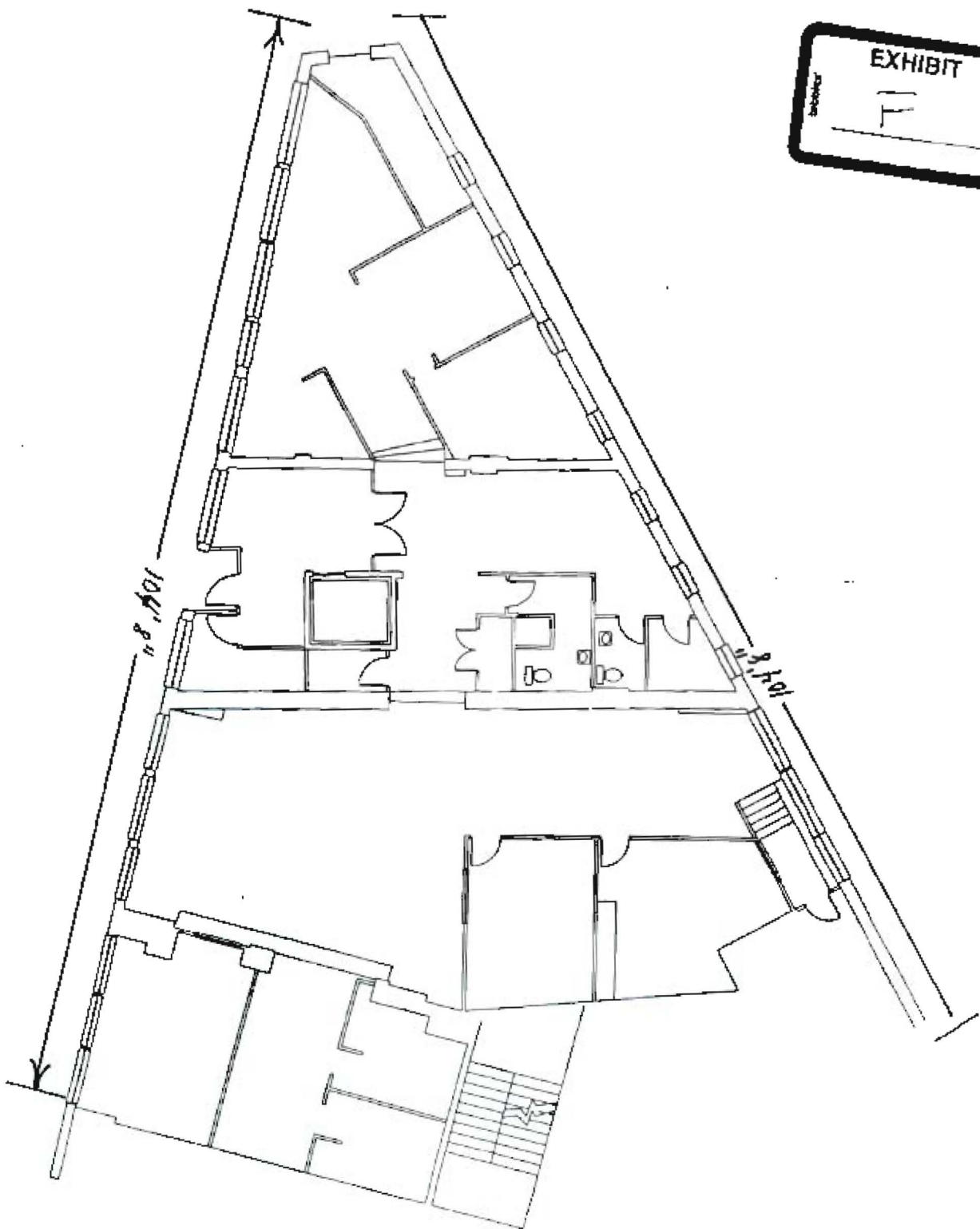
SIGNATURE OF APPLICANT _____ ADDRESS: _____ DATE: 11-4-98 PHONE: _____

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE _____ PHONE: _____

White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector

CEO DISTRICT **1**

EXHIBIT
F



24
CITY CENTRE

- Grand Staircase
- Elevator
- Staircase
- Restroom
- Kitchen

- Existing
- New
- Existing
- Existing
- Existing
- Existing

- Existing
- New
- Existing
- Existing
- Existing
- Existing

B E.1.1



City of Portland
Code of Ordinances
Sec. 14-215

Land Use
Chapter 14
Rev. 10-15-01

429-83	1	4-25-83	153-89	2--7	11-20-89
173-87	1	3- 4-87	235-91	16	2- 4-91

Cross reference(s)--Public arts program, § 14-851 et seq.; relocation of displaced tenants, § 14-861 et seq.

Sec. 14-216. Purpose.

(a) The purposes of the B-3 and B-3b downtown business zones are to:

- (1) Maintain and enhance the role of the downtown as the business and commercial center of the region;
- (2) Enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city's resident, working and visitor populations;
- (3) Encourage increased housing opportunity downtown for a diverse residential population;
- (4) Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment;
- (5) Encourage excellence in urban design;
- (6) Preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures;
- (7) Provide opportunity for an enhanced presence and integration of the arts and cultural activities downtown;
- (8) Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups;

- (9) Provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment;
- (10) In the pedestrian activities district (PAD) overlay zone, create continuity of pedestrian-oriented uses along streets where such uses predominate and along streets which, over time, will establish and maintain a strong retail and pedestrian-oriented use pattern; and
- (11) Provide for the relocation of residents who are displaced by development.

(b) The B-3c downtown business zone recognizes that the business uses appropriate in this zone are constrained by the proximity of multi-unit elderly housing. In addition to the purposes of the B-3 and B-3b zones, the purpose of the B-3c zone is to promote the safety, quiet enjoyment, and general welfare of citizens residing in a dense urban neighborhood by decreasing the conflicts between residential uses and loud, uncontrolled late night activities.

(Ord. No. 241-91, 3-11-91; Ord. No. 46-97, § 2, 8-4-97)

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3 and B-3b zones:

(1) *Residential:*

- a. Attached single-family, two-family and multifamily dwellings;
- b. Handicapped family units;
- c. Lodging houses;
- d. Combined living/working spaces including, but not limited to, artist residences with studio space.

(2) *Business:*

- a. General and business offices;

- b. Professional offices;
- c. Personal services;
- d. Offices of building tradesmen;
- e. Retail establishments, excluding gasoline sales, wholesale and bulk purchase lumber and construction supply sales;
- f. Restaurants, excluding drive-through or drive-in restaurants;
- g. Drinking establishments, except that drinking establishments and chemical-free night clubs, as defined in section 14-47, shall not be permitted in any location in the B-3c zone, including but not limited to the PAD overlay area;
- h. Billiard parlors;
- i. Miscellaneous repair services, excluding motor vehicle repair services;
- j. Communication studios or broadcast and receiving facilities;
- k. Health clubs and gymnasiums;
- l. Theaters and performance and exhibition halls;
- m. Convention and meeting facilities;
- n. Hotels;
- o. Business services;
- p. Parking garages and surface parking lots;
- q. Galleries.

(3) *Institutions*

- a. Museums;
 - b. Public or private schools of any type;
 - c. Clinics;
 - d. Church or other place of worship;
 - e. Private club or fraternal organization;
 - f. College, university, trade school;
 - g. Nursery schools, kindergartens, and day care facilities or home babysitting services.
- (4) *Other:*
- a. County and municipal uses;
 - b. Studios for artists and craftspeople including, but not limited to, carpenters, cabinetmakers and silkscreeners;
 - c. Printing, publishing and related manufacture of cardboard or paper boxes, provided that these activities are conducted wholly within a building.
 - d. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 1. The meeting facility shall be limited to the following types of uses:
 - (a) Private parties.
 - (b) Business meetings.
 - (c) Weddings.
 - (d) Receptions.
 - (e) Seminars.

- (f) Business and educational conferences.
2. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.

(b) The following additional restrictions shall apply in the PAD overlay zone, which shall be located on the streets listed below and as further delineated on the PAD overlay zone map, a copy of which is on file in the office of planning and urban development:

Center Street, from Fore Street to Commercial Street.

Commercial Street, north side, from Foundry Lane to Pearl Street.

Commercial Street, south side, from Carroll Block to Thomas Block, inclusive.

Congress Street, from Longfellow Square to Monument Square.

Dana Street.

Exchange Street, from Federal Street to Fore Street.

Fore Street, north side, from one hundred ten (110) feet west of Center Street to two hundred seventy-five (275) feet west of Pearl Street.

Fore Street, south side, from Center Street to Pearl Street.

Free Street, north side, from Congress Square to Temple Street.

Free Street, south side, from Congress Square to four hundred twenty-three (423) feet east of Oak Street and from Center Street to Temple Street.

Middle Street, north side, from Monument Square to sixty

(60) feet east of Garden Lane.

Middle Street, south side, from Monument Square to two hundred fifty (250) feet east of Pearl Street.

Milk Street, from Exchange Street to Pearl Street.

Moulton Street.

Pearl Street, from Middle Street to Fore Street.

Wharf Street.

York Street, south side, from Center Street to Dunphy's Lane.

Frontages of the following areas: Longfellow, Congress, and Monument Squares; Tommy's and Post Office Parks.

(1) *Ground floor uses:*

- a. Subject to the following limited uses, at least seventy-five (75) percent of the street level frontage of a building on a street located within the PAD overlay zone must be utilized, and, at minimum, the floor area to be occupied shall be seventy-five percent (75%) of the street level frontage multiplied by a twenty (20) foot depth:
 - i. Retail establishments as permitted in 14-217(a)(2)e;
 - ii. Personal services;
 - iii. Hotels;
 - iv. Copying centers;
 - v. Restaurants as permitted in 14-217(a)(2)f;
 - vi. Drinking establishments;
 - vii. Theaters, provided that only ticket and refreshment sales, lobbies, lounges and entrances shall be located within this area;

- viii. Travel agencies;
- ix. Real estate sales;
- x. Visitor information services;
- xi. Museums;
- xii. Libraries;
- xiii. Banks, financial and other business services, provided that only tellers and spaces primarily used for customer services shall be located in this area;
- xiv. Municipal or county uses;
- xv. Galleries and studios for artists and craftspeople including, but not limited to, carpenters, cabinetmakers and silkscreeners;
- xvi. Performing arts studios which attract and allow for public, pedestrian observation from the adjacent sidewalks (including dance studios, music conservatories, and the like);
- xvii. Other uses where the applicant can demonstrate to the zoning administrator that the proposed use will not differ substantially from a required ground floor retail use in its effect on the continuity of pedestrian-oriented use and that the proposal establishes a ground floor use that generates pedestrian interest and activity.

For those buildings which have frontage on more than one (1) street located within the PAD overlay zone, the street level area of each such frontage shall meet the above requirements.

- b. For those buildings which have forty (40) feet or less of frontage on a street within the PAD overlay zone, the above restrictions shall be

reduced to fifty (50) percent of the frontage where required to accommodate a service entrance. For buildings which have frontage on more than one (1) street located within a PAD overlay zone, only one (1) such frontage shall be permitted to reduce the required retail area to fifty (50) percent of the frontage.

- c. In no event shall any required retail frontage area be used for any of the following:
- i. Storage;
 - ii. Service entrances, including loading docks, dumpsters and compactors, except as provided in subsection b; or
 - iii. Food preparation areas, unless such preparation areas are visually oriented toward pedestrians on streets located within a PAD overlay zone.

(Ord. No. 241-91, 3-11-91; Ord. No. 200-95, § 1, 3-20-95; Ord. No. 126-97, § 7, 3-3-97; Ord. No. 46-97, § 3, 8-4-97; Ord. No. 226-98, §§ 1, 2, 3-2-98; Ord. No. 51-00, §2, 8-7-00)

Sec. 14-217.5. Old Port overlay zone.

The following additional restrictions shall apply in the Old Port overlay zone, as delineated on the Old Port overlay zone map, a copy of which is on file in the department of planning and urban development:

(a) *Definitions:*

- (1) *Bar:* Any establishment that derives more than fifty (50) percent of its income during a license year from the sale of liquor.
- (2) *After-Hours Entertainment:* An entertainment activity that takes place between 1 a.m. and 3 a.m., including music and dancing, on premises to which an admission fee is charged, regardless of the time when the fee is charged, for either the entertainment or access to the premises.

This data is provided by the Assessor's Office and is current as of November 2, 2001

CBL	027 F027001	CARD	1 of 1	Property Address	24 CITY CTR
Owner Name 1	24 CITY CENTER ASSOCIATES			Property Type	COMMERCIAL
Name 2				Description	27-F-27
Mailing Address	PO BOX 7044				CITY CENTER 22-26
City, State, Zip	PORTLAND	ME	04112		FREE ST 1-7
					2109SF

OFFICE & BUSINESS SERVICE

1

HEAVY

B3

020

CENTRAL BUSINESS DISTRICT

10640

ALL PUBLIC

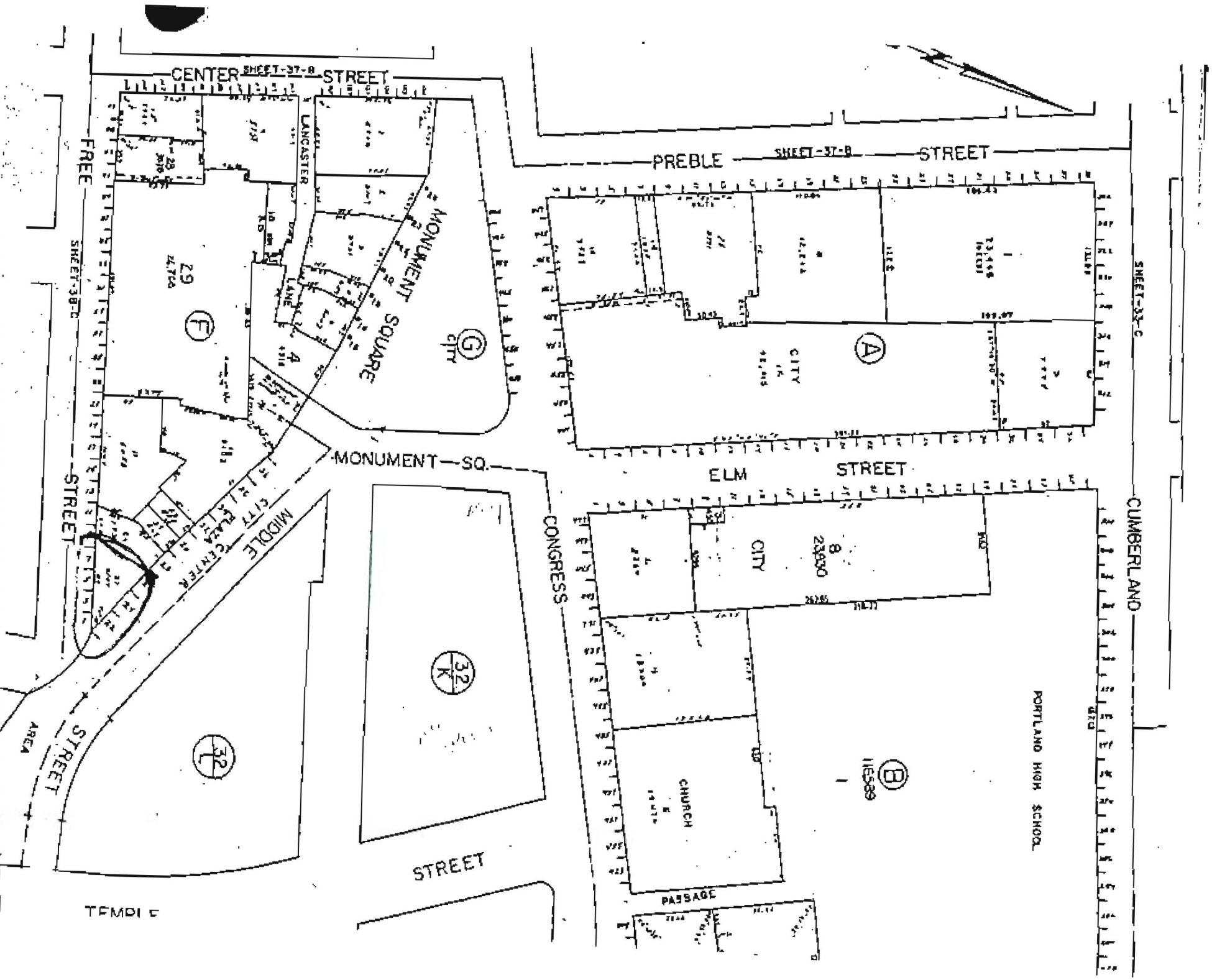
NONE

NONE

24 CITY CTR

12/28/2000

vjm



CENTER STREET SHEET-37-B

PREBLE STREET SHEET-37-B

SHEET-33-C

CUMBERLAND

FREE

SHEET-38-C

29

(E)

MONUMENT SQUARE

(G)

(A)

CITY

MONUMENT SQ.

ELM STREET

23600

CITY

(32/K)

CONGRESS

CHURCH

(B)

116389

PORTLAND HIGH SCHOOL

STREET

PASSAGE

STREET

STREET

TEMPLE

AREA

REVIEWED FOR
BARRIER FREE
COMPLIANCE

NOT

STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
LICENSING AND INSPECTIONS UNIT
AUGUSTA
CONSTRUCTION PERMIT



027 F027

Permit No 9581

PERMISSION IS HEREBY GIVEN TO:

Location of project:

PROJECT TITLE:

Beagle Pierce Ridge

Waterhouse Securities

24 City Center

24 City Center

OCCUPANCY CLASSIFICATION:

Portland, ME 04101

Portland, ME

Business

To construct or alter the afore referenced building according to the plans hitherto filed with the Commissioner and now approved. No departure from such plans shall be made without prior approval in writing.

This permit will expire at midnight on April 5, 1999

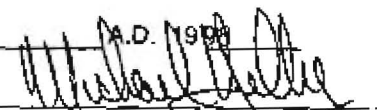
This permit is issued under the provisions of Title 25, Chapter 317, Section 2448

Nothing herein shall excuse the holder of this permit for the failure to comply with local ordinances, zoning laws, or other pertinent legal restrictions.

Dated the 6th day of October, A.D. 1999

FEE \$ 100.00

NOT SPRINKLED


Commissioner - Public Safety

Pedestrian Activities District Overlay Zone Portland, Maine

— Pedestrian Activities District (PAD) Overlay Zone
— PAD Encouragement Area



Map prepared by the City of Portland's Department of
Public Works and Planning and Development
December 2002

