

28-I-12

32 Hampshire St.

Zone Change

Kelly + Walter Williams



APPLICATION FOR ZONING AMENDMENT
 City of Portland, Maine
 Planning and Development Department
 Portland Planning Board

1. Applicant Information:

Kelly + Walter Williams
 Name

286 Spring St
 Address

Portland Maine 04102

207-772-2053
 Phone Fax

2. Subject Property:

32 Hampshire St
 Address

Portland Maine 04101

~~56-I-7~~ 28-I-12
 Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other

 Name

 Address

 Phone Fax

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

own property

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

6. Existing Use:

Describe the existing use of the subject property:

2-Family - with vacant basement storefront (storefront previously many uses including upholstery shop, grocery store & workshop)

7. Current Zoning Designation(s):

basement-grandfathered B-2 house R-5

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

A retail store with part of the basement being for a workshop & storage area. I will run the store with several other women - setting the rooms - up as in a home. The merchandise will be from tag sales, flea markets... furniture repainted, lamps rewired, shades-recovered... as well as one of a kind quality items from local artists. Also architectural salvage & found items - that are reconfigured.

9. Sketch Plan: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100'.)

10. Proposed Zoning: Please check all that apply:

- A. Zoning Map Amendment, from R-5 to B-1
- B. Zoning Text Amendment to Section 14-_____

For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

- C. Conditional or Contract Zone

A conditional or contract rezoning may be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

The store will either be open 4-5 days a wk or once a month for 3-4 days - with all different merchandise each month.

11. **Application Fee:** A fee for must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing Notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

<input checked="" type="checkbox"/> Zoning Map Amendment	(\$500.00)
<input type="checkbox"/> Zoning Text Amendment	(\$500.00)
<input type="checkbox"/> Contract/Conditional Rezoning	(\$750.00)
<input type="checkbox"/> Conditional Use	(\$100.00)
Legal Advertisements	percent of total bill
Notices (workshop and public hearing)	40 cents each

NOTE: Legal notices placed in the newspaper are required by State Statue and local ordinance. Applicants are billed directly by the newspaper for these notices.

12. **Signature:** The above information is true and accurate to the best of my knowledge.

7/30/02
Date of Filing

Kelly A. Wilbur
Signature of Applicant

Further Information:

Please contact the Planning Office for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
Portland, Maine

Effective: July 6, 1998

HAMPSHIRE STREET ZONING

Since my husband and I bought the property almost three years ago we have continued to work on it. The first year we had an entire new roof put on and last year we had the house painted. We have also replaced windows, put in a new heating system and did a lot of work on the interior.

As noted on the application we plan to continue work on the exterior including window boxes, new lighting and attention to details.

I recently read in the Portland Magazine that the India street area is being considered the "So Ho" of Maine. I feel that with the creative twist in this retail store that this would complement the area. Being located on the corner of Hampshire and Newbury this location is visible from both Middle Street and India Street, and within easy walking distance from anywhere in downtown Portland. I plan on this store being an upscale place that would attract both tourists as well as locals. I have put a lot of time and energy into planning this space and have participated in Score, the SBDC as well as attended both the groups and business counseling with the Womens Enterprise Center. I have a background in management as well as experience running a retail operation. My interest in opening this business is to be part of Portland's business community, to have flexibility with scheduling (I have a three year old) and to have a chance to work with other creative women at the same time as I earn a living.

0017278

BK T5397PG 196

WARRANTY DEED

**KNOW ALL MEN BY THESE PRESENTS, that
Alice L. Dunn**

**OF Portland, Maine, FOR
CONSIDERATION PAID, grants to
Walter S. Williams, III**

**OF 16 Hodges Court, Salem, Massachusetts
WITH WARRANTY COVENANTS,
AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP, THE
FOLLOWING DESCRIBED PREMISES:**

A certain lot or parcel of land with the buildings thereon situated on the northwesterly corner of Newbury and Hampshire Streets in said Portland, and being all that portion of said corner which lies southerly of a line commencing on the westerly side of said Hampshire Street at a point distant forty-nine (49) feet northerly from the northerly side line of said Newbury Street, and running westerly at right angles to said Hampshire Street, to land now or formerly of one Lucas.

Meaning and intending to convey and hereby conveying the same premises conveyed to Alice L. Dunn being a portion of the Deed from Louise E. Orlando and Theresa M. Feroci Quatrano dated January 28, 1997 and recorded in the Cumberland County Registry of Deeds in Book 12922, Page 327.

MAINE REAL ESTATE TAX PAID

Witness her hand this 31st day of March 2000.

Kathleen McLaughlin
Witness

Alice L. Dunn
Alice L. Dunn

**State of Maine,
County of Cumberland**

March 31, 2000

Then personally appeared the above-named Alice L. Dunn

known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed same freely and intelligently, for the purposes contained herein, before me.

Kathleen McLaughlin
Notary Public/Attorney at Law

KATHLEEN McLAUGHLIN
Notary Public, Maine
My Commission Expires July 6, 2005

RECEIVED
RECORDED REGISTRY OF DEEDS

2000 APR -3 PH 12: 32

CUMBERLAND COUNTY

John B. O'Brien

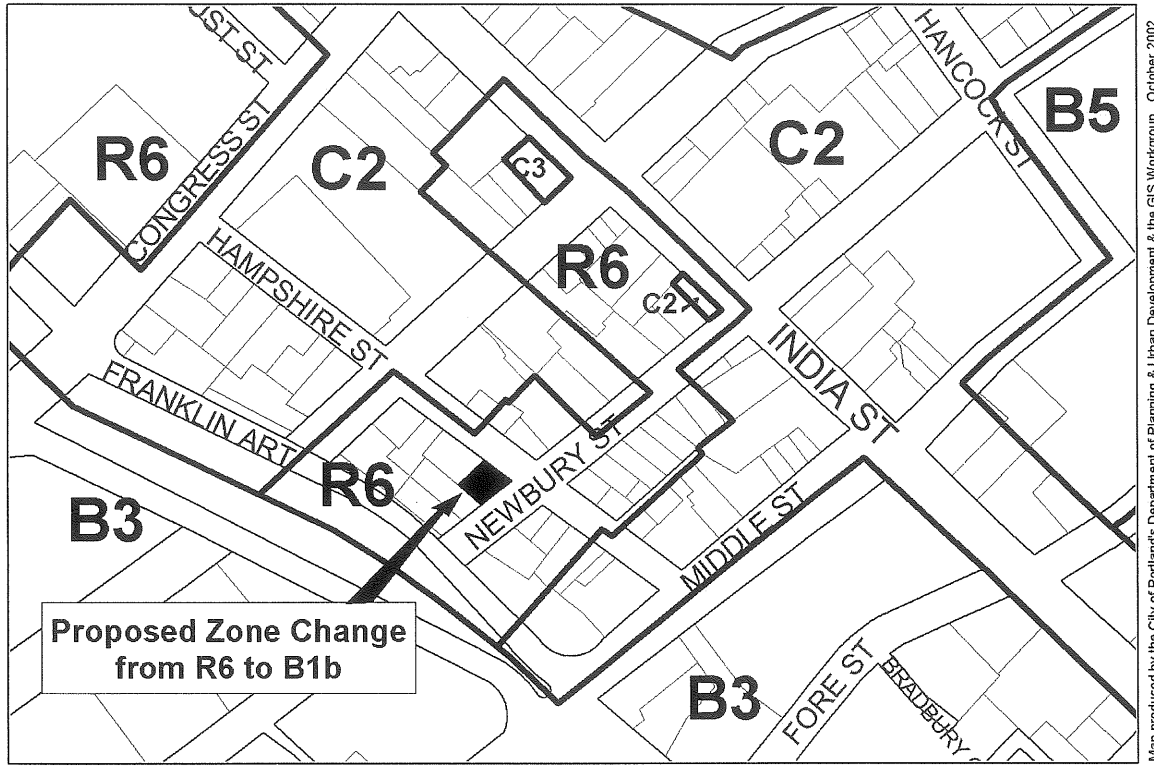
028 P021001 CARD 1	MALONE JOSEPH M & ANN MARIE JTS 30 HIGHLAND ST PORTLAND ME 04103	47 MIDDLE ST <i>Norm's</i>	MULTI-USE COMMERICAL
028 P022001 CARD 1	MALONE JOSEPH M & ANN MARIE JTS 30 HIGHLAND ST PORTLAND ME 04103	41 MIDDLE ST <i>P. B. Bates 4/6/01</i>	MULTI-USE COMMERICAL

New Search!

AN IMPORTANT NOTICE FROM THE CITY OF PORTLAND PLANNING OFFICE

AH.3

WHAT: The Portland Planning Board will hold a public hearing to consider a proposal by Kelly and Walter Williams to consider a proposal for a zone change from R-6 Residential to B-1b Neighborhood Business at 32 Hampshire Street to allow the first floor and basement of the building to be as a “residential style” resale store and workshop, as shown on the map below.



Map produced by the City of Portland's Department of Planning & Urban Development & the GIS Workgroup October 2002

Proposed Zone Change from R6 to B1b ■
for 32 Hampshire Street



WHEN: Tuesday, November 12, 2002
6:30 p.m.
Room 209, 2nd Floor, City Hall

FOR MORE INFORMATION:

The proposal is available in the Portland Planning Department, 4th Floor, City Hall. If you wish to submit written comments, address them to Jonathan Spence, Planner, Planning Department, City Hall, 4th Floor, 389 Congress Street, Portland, Maine 04101, contact by phone at 756-8083 or e-mail at jspence@ci.portland.me.us.

32 HAMPSHIRE STREET

R-6 RESIDENTIAL TO B-1b NEIGHBORHOOD BUSINESS

KELLY AND WALTER WILLIAMS, APPLICANTS

2-2

Lowry / Cara opposed

Beal / Dejos - ps

Submitted to:

Portland Planning Board
Portland, Maine
November 12, 2002

I. INTRODUCTION

Kelly Williams has requested a Public Hearing before the Planning Board to request a zone change for the property located at 32 Hampshire Street. The proposed rezone is to facilitate the conversion of the first floor of the existing structure for use as a retail store specializing in bric-a-brac, furniture and unique objects from local artists with a workshop in the basement. The building is located at the northwest corner of Hampshire and Newbury Streets just east of Franklin Arterial. The site is currently zoned R-6 and the assessor's office has the property described as a residential two-unit. The property does possess one off-street parking space. The building, constructed in 1840, has a basement accessible at street level, which has historically been used as a storefront for businesses including an upholstery shop, grocery store and workshop. The property does not retain any nonconforming use rights.

II. FINDINGS

Property:	32 Hampshire Street
Current Zoning:	R-6 Residential
Proposed Zoning:	B-1b Neighborhood Business Zone
Land Area:	Approximately 2,200± square feet
Existing Use:	Two family residential property
Proposed Use:	Retail Store and Workshop with an Upstairs Residential Unit
Land Uses in the Vicinity:	Residential, Institutional, Commercial

III. DEVELOPMENT PLAN

The applicant proposes to operate the first floor of the building as a retail store selling merchandise from tag sales, flea markets and architectural salvage that have been refurbished in a workshop to be located in the basement. Possible sale items include repainted furniture, rewired lamps and recovered shades in addition to unique items from local artists. It is the intent of the applicant to arrange the store as if it were a home and run it with other women from the community. The project proposes no exterior alterations to the site other than window boxes, updated lighting and building detailing. The property has been updated with a new roof, windows, heating system and paint since purchased by the applicant in 2000. Any signage accompanying the retail store will meet the B-1b sign regulations. The zoning administrator has reviewed the proposal and found that the proposed use is in compliance with the B-1b zone requirements (see attachment 2).

IV. ZONING POLICY ANALYSIS

The City of Portland does have a policy of supporting neighborhood-based businesses that provide retail/services as well as employment opportunities, while preserving residential uses. The B-1b zone was created explicitly to allow appropriate opportunities for the establishment of ground floor commercial uses in existing buildings, while preserving residential uses above the ground floor. This neighborhood, bounded by Franklin Arterial, Commercial Street, India Street and Congress Street is a mixture of multi-family homes ranging from 2 to 8 units, professional offices and small to medium scale retail. The current zoning can be seen on the legal advertisement included as attachment 3. It is anticipated that this area will become increasingly active with the redevelopment of the eastern end of the waterfront.

V. NEIGHBORHOOD MEETING

The applicant held a neighborhood meeting at 286 Spring Street on Tuesday, November 5, 2002. No members of the public chose to attend this meeting.

VI. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant, the Comprehensive Plan, the information provided in Planning Board Report #65-02, and/or other findings as follows:

1. The Board finds that the proposed Rezoning [is or is not] consistent with the policies Comprehensive Plan of the City of Portland. The Planning Board therefore [recommends or does not recommend] to the City Council approval of the proposed rezoning of 32 Hampshire Street.

Attachments:

1. Applicant's Submittal including photos of subject property
2. Memo from Marge Schmuckal, 10-09-02
3. Legal Advertisement
4. B1-b Zoning Text

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Chair Caron and Members of the Portland Planning Board

FROM: Jonathan Spence, Planner

DATE: September 24, 2002

RE: Proposed rezone to allow retail use, 32 Hampshire Street
Kelly and Walter Williams, Applicants

Introduction

Kelly Williams has requested a workshop session before the Planning Board to introduce a project for a limited retail operation at 32 Hampshire Street. The project consists of utilizing the first floor of this 2+ story residential building for a resale operation specializing in bric-a-brac, furniture and unique objects from local artists. The building is located at the northwest corner of Hampshire and Newbury Streets just east of Franklin Arterial. The site is currently zoned R-6 and the assessor's office has the property described as a residential two unit. The property does possess two off-street parking spaces. The building, constructed in 1840, has a basement accessible at street level which has historically been used as a storefront for businesses including an upholstery shop, grocery store and workshop. The property does not retain any nonconforming use rights.

Proposed Use

The applicant proposes to operate the first floor of the building as a retail store selling merchandise from tag, flea market and architectural salvage that have been refurbished in a workshop to be located in the basement. Possible sale items include repainted furniture, rewired lamps and recovered shades in addition to unique items from local artists. It is the intent of the applicant to arrange the store as if it were a home and run it with other women of the community. Possible hours of operation and availability of parking are unclear as of this time.

Policy Considerations

The City of Portland does have a policy of supporting neighborhood-based businesses that provide retail/services as well as employment opportunities. The B-2b zone, the nearest commercial zone to the subject property, does allow first floor retail establishments with residential uses above, as a permitted use. It is unclear how this policy is considered under a scenario that would result in the potential loss of a residential unit.

Zoning Remedies

Three zoning remedies are possibly available that would allow the proposed use. One would be the rezoning of the subject parcel to B-2b, the closest commercial zoning to the parcel. This solution might be problematic as no B-2b zoning actually borders the property and other allowed uses in the B-2b would have a greater impact on the surrounding neighborhood.

A second zoning possibility would be the rezoning of the subject parcel to B1-b. The B1-b zone's express purpose is to provide opportunities for small-scale ground floor commercial uses in existing buildings, while preserving the residential uses and character above the ground floor. The commercial uses permitted in the B1-b zone are significantly more limited than those permitted in the B2-b.

A third zoning remedy would be the creation of a Contract zone for the property (with an underlying R-6 or B1-b zone designation) that would limit the effects of the project on the neighborhood and retain the residential use on the first floor in the future if this project were to discontinue. Contained in the purpose portion of the R-6 zoning text is:

“...to conserve the existing housing stock and residential character of the neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.” (Sec. 14-135)

Staff seeks guidance from the Planning Board on how to proceed with this request for zone change.

Attachments:

1. Applicant's Submittal including photos of subject property
2. R-6 Zoning Text
3. B2-b Zoning Text
4. B1-b Zoning Text

**CITY OF PORTLAND, MAINE
COMMUNICATION**

TO: Chair Caron and Members of the Portland Planning Board
FROM: Jonathan Spence, Planner
DATE: October 22, 2002
SUBJECT: R-6 to B1-b rezone, vicinity of 32 Hampshire Street

The Planning Board was introduced to a proposed rezoning for the property located at 32 Hampshire Street at a workshop session on September 24, 2002. It is the applicant's intent to convert the first floor of an existing residential property, located on the corner of Hampshire and Newbury Streets, into a retail store with residential characteristic. At that time, the Planning Board requested that staff first verify that the applicant's proposal would be in compliance with the provisions of the B1-b zone district and second, to examine the surrounding neighborhood's existing uses.

The zoning administrator has reviewed the applicant's proposal and finds it to be compatible with the B1-b zoning regulations including both use and parking requirements. After a careful inventory of all properties in the neighborhood and with a close examination of uses in R-6 portion, staff has concluded that no non-residential activity is currently occurring within the R-6 zone. It was the direction of the Planning Board to advertise for the entire R-6 zone in this area in order to bring into compliance any existing B1-b type uses currently occurring. As no properties were found fitting this description, staff requests that the Board consider advertising only for the 32 Hampshire Street property.

OK to advertise
Jonathan's OK to advertise property
only

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The zoning administrator has reviewed the applicant's proposal and finds it to be compatible with the B1-b zoning regulations including both use and parking requirements. After a careful inventory of all properties in the neighborhood and with a close examination of uses in R-6 portion, staff has concluded that no non-residential activity is currently occurring within the R-6 zone. It was the direction of the Planning Board to advertise for the entire R-6 zone in this area in order to bring into compliance any existing B1-b type uses currently occurring. As no properties were found fitting this description, staff requests that the Board consider advertising only for the 32 Hampshire Street property.



City of Portland, Maine

Assessor's Office

389
Portlan
(20

Parcel ID	Name and Mailing Address	Property Location	Land Use
028 A001001 CARD 1	CITY OF PORTLAND 389 CONGRESS ST PORTLAND ME 04101	380 CONGRESS ST	GOVERNMENTAL
028 B001001 CARD 1	CITY OF PORTLAND 389 CONGRESS ST PORTLAND ME 04101	350 CONGRESS ST	GOVERNMENTAL
028 C002001 CARD 1	NCCS INC 696 CONGRESS ST PORTLAND ME 04101	316 CONGRESS ST <i>6 unit / lock smith</i>	FIVE TO TEN FAMILY
028 C004001 CARD 1	PIRONE PROPERTIES LIMITED LIABILITY COMPANY 1 PARTRIDGE CIR PORTLAND ME 04102	312 CONGRESS ST <i>Multi units</i>	ELEVEN TO TWENTY FAMILY
028 C005001 CARD 1	MAINE ADOPTION PLACEMENT SERVICES INC 156 HIGH ST PORTLAND ME 04101	306 CONGRESS ST <i>offices</i>	GOVERNMENTAL
028 C006001 CARD 1	OUELLETTE MARC R 68 HAMPSHIRE ST PORTLAND ME 04101	68 HAMPSHIRE ST <i>3 unit</i>	TWO FAMILY

028 C009001 CARD 1	ROBINSON TIMOTHY J & JUDITH ALLEN JTS 62 HAMPSHIRE ST # 3R PORTLAND ME 04101	62 HAMPSHIRE ST 6 unit	FIVE TO TEN FAMILY
028 C010001 CARD 1	FOX WILLIAM H 50 SOUTH SHORE DR #28 MIAMI BEACH FL 33141	60 HAMPSHIRE ST 4 unit	FOUR FAMILY
028 C013001 CARD 1	TALLY'S WHOLESALE TOBACCO CO INC PO BOX 7 PORTLAND ME 04112	60 HAMPSHIRE ST Wholesale	WHOLESALE
028 C018001 CARD 1	PIRONE PROPERTIES LIMITED LIABILITY COMPANY 1 PARTRIDGE CIR PORTLAND ME 04102	316 CONGRESS ST	PARKING LOTS
028 D001001 CARD 1	PICKUS OWEN B 2 CHABOT DR WESTBROOK ME 04092	51 HAMPSHIRE ST Rite Aid Strip	RETAIL & PERSONAL SERVICE
028 D003001 CARD 1	PICKUS OWEN B 2 CHABOT DR WESTBROOK ME 04092	290 CONGRESS ST Rite Aid Strip	RETAIL & PERSONAL SERVICE
028 D008001 CARD 1	SHALOM HOUSE INC PO BOX 560 PORTLAND ME 04112	284 CONGRESS ST 6 unit Residential	BENEVOLENT & CHARITABLE
028 D010001 CARD 1	MAINE MEDICAL CENTER 22 BRAMHALL ST PORTLAND ME 04102	272 CONGRESS ST Maine Med offices	BENEVOLENT & CHARITABLE

028 D014001 CARD 1	MUNJOY HILL PROPERTIES LLC PO BOX 641 FREEPORT ME 04032	98 INDIA ST <i>8 unit residential</i>	FIVE TO TEN FAMILY
028 D024001 CARD 1	SANGILLO FRANK A PO BOX 10756 PORTLAND ME 04104	75 FEDERAL ST <i>3 unit</i>	THREE FAMILY
028 D025001 CARD 1	FIELDS CHARLOTTE M 248 CONGRESS ST APT #307 PORTLAND ME 04101	73 FEDERAL ST <i>3 unit</i>	THREE FAMILY
028 D026001 CARD 1	SUNENBLICK STEPHEN P 97 INDIA ST PORTLAND ME 04101	69 FEDERAL ST <i>Doct's Office Interior Design</i>	FIVE TO TEN FAMILY
028 E001001 CARD 1	UNITED STATES PORTLAND ME 04101	152 FEDERAL ST	GOVERNMENTAL
028 F001001 CARD 1	CUMBERLAND COUNTY OF 142 FEDERAL ST PORTLAND ME 04101	134 FEDERAL ST	GOVERNMENTAL
028 G006001 CARD 1	CUMBERLAND COUNTY OF 142 FEDERAL ST PORTLAND ME 04101	122 NEWBURY ST	GOVERNMENTAL
028 G010001 CARD 1	CUMBERLAND COUNTY OF 142 FEDERAL ST PORTLAND ME 04101	124 FEDERAL ST	GOVERNMENTAL
028 I004001 CARD 1	MACDOUGALL DUNCAN S 100 FEDERAL ST PORTLAND ME 04101	100 FEDERAL ST <i>3 unit</i>	THREE FAMILY
028 I005001 CARD 1	KIBBEE MARY A TRUSTEE OF TARO REALTY TRUST 436 OCEAN AVE PORTLAND ME 04103	96 FEDERAL ST <i>6 unit</i>	FIVE TO TEN FAMILY

028 I006001 CARD 1	LYNCH CHRISTOPHER A & ELIZABETH R LYNCH JTS 42 HAMPSHIRE ST PORTLAND ME 04101	42 HAMPSHIRE ST 3 unit	THREE FAMILY
028 I009001 CARD 1	CAIAZZO EUGENE N 167 NEWBURY ST PORTLAND ME 04101	169 NEWBURY ST 3 unit	THREE FAMILY
028 I010001 CARD 1	CAIAZZO EUGENE N & MILDRED E OR SURV 167 NEWBURY ST PORTLAND ME 04101	167 NEWBURY ST 2 unit	TWO FAMILY
028 I011001 CARD 1	THOMAS DARCY GRANT 80E COMMERCIAL ST WELLFLEET MA 02667	36 HAMPSHIRE ST 3 unit	THREE FAMILY
028 I012001 CARD 1	WILLIAMS WALTER S III 32 HAMPSHIRE ST PORTLAND ME 04101	32 HAMPSHIRE ST One parking spot	TWO FAMILY
028 I013001 CARD 1	CITY OF PORTLAND 389 CONGRESS ST PORTLAND ME 04101	104 FEDERAL ST	GOVERNMENTAL
028 J001001 CARD 1	ROMAN CATHOLIC BISHOP OF PORTLAND PO BOX 11559 PORTLAND ME 04104	88 FEDERAL ST offices Non-real-estate	RELIGIOUS

028 J002001 CARD 1	ROMAN CATHOLIC BISHOP OF PORTLAND PO BOX 11559 PORTLAND ME 04104	78 FEDERAL ST St. Peters church	RELIGIOUS
028 J003001 CARD 1	ROMAN CATHOLIC BISHOP OF PORTLAND P O BOX 11559 PORTLAND ME 04104	72 FEDERAL ST Shelter? st. Petrus Franciscan Friars	SINGLE FAMILY
028 J006001 CARD 1	KENDEIGH JASON P 56 LINCOLN ST # 1 PORTLAND ME 04103	78 INDIA ST 6 unit	FIVE TO TEN FAMILY
028 J007001 CARD 1	RICCI MARY ANN 39 HAMPSHIRE ST PORTLAND ME 04101	39 HAMPSHIRE ST 2 unit	TWO FAMILY
028 J009001 CARD 1	DIFILIPPO CARMELA & CARMINE JTS 33 HAMPSHIRE ST PORTLAND ME 04101	33 HAMPSHIRE ST 4 unit	FOUR FAMILY
028 J010001 CARD 1	ROMAN CATHOLIC BISHOP OF PORTLAND PO BOX 11559 PORTLAND ME 04104	157 NEWBURY ST parking	RELIGIOUS
028 J011001 CARD 1	GARDNER EDMUND S III 377 BRIGHTON AVE PORTLAND ME 04102	145 NEWBURY ST offices —	RETAIL & PERSONAL SERVICE
028 J013001 CARD 1	MCINTYRE MARK A 76 INDIA ST PORTLAND ME 04101	76 INDIA ST 2 unit	TWO FAMILY

028 J014001 CARD 1	HANSEN DOUGLAS M 139 NEWBURY ST PORTLAND ME 04101	139 NEWBURY ST <i>or 2 unit</i>	THREE FAMILY
028 J015001 CARD 1	MACFADYEN LUKE 15 HOWARD ST PORTLAND ME 04101	137 NEWBURY ST <i>residential office</i>	MULTI-USE COMMERICAL
028 J017001 CARD 1	MCINTYRE MARK A 76 INDIA ST PORTLAND ME 04101	143 NEWBURY ST <i>parking</i>	PARKING LOTS
028 K001001 CARD 1	SAWYER HARRISON H PO BOX 7225 PORTLAND ME 04112	77 MARKET ST	RETAIL & PERSONAL SERVICE
028 K002001 CARD 1	SOLEY BROTHERS LIMITED LIABILITY COMPANY 100 COMMERCIAL ST PORTLAND ME 04101	66 PEARL ST	OFFICE & BUSINESS SERVICE
028 K003001 CARD 1	WELLIN & CO 97 A EXCHANGE ST PORTLAND ME 04101	75 MARKET ST	OFFICE & BUSINESS SERVICE
028 L002001 CARD 1	CUMBERLAND COUNTY INHABITANTS OF 142 FEDERAL ST PORTLAND ME 04101	NEWBURY ST	GOVERNMENTAL
028 L005001 CARD 1	PISCOPO JOY A ETAL 141 MIDDLE ST PORTLAND ME 04101	75 PEARL ST	COMMERCIAL CONDOS

028 M001001 CARD 1	CUMBERLAND COUNTY OF 142 FEDERAL ST PORTLAND ME 04101	192 NEWBURY ST	GOVERNMENTAL
028 M005001 CARD 1	123 LLC 100 COMMERCIAL ST PORTLAND ME 04104	121 MIDDLE ST	RETAIL & PERSONAL SERVICE
028 N001001 CARD 1	CITY OF PORTLAND 389 CONGRESS ST PORTLAND ME 04101	101 MIDDLE ST	GOVERNMENTAL
028 N009001 CARD 1	BROTHERS THREE LLC 100 COMMERCIAL ST PORTLAND ME 04103	113 MIDDLE ST	RETAIL & PERSONAL SERVICE
028 N010001 CARD 1	JACQUES FLOYD B 1015 PORTLAND RD SACO ME 04072	111 MIDDLE ST	RETAIL & PERSONAL SERVICE
028 O003001 CARD 1	CLARK RICHARD & SUSAN L COX JTS 691 QUARRY RD WELLS ME 04090	160 NEWBURY ST 3 units	THREE FAMILY
028 O004001 CARD 1	CAIAZZO GERTRUDE M 28 HAMPSHIRE ST PORTLAND ME 04101	28 HAMPSHIRE ST 2 units	TWO FAMILY
028 O005001 CARD 1	BINTLIFF'S RESTAURANT CORPORATION 98 PORTLAND ST PORTLAND ME 04101	26 HAMPSHIRE ST 2 units	TWO FAMILY

028 0008001 CARD 1	SCOTT DONNA L & ARCHIBALD S JTS 24 HAMPSHIRE ST PORTLAND ME 04101	24 HAMPSHIRE ST 3 unit	THREE FAMILY
028 0011001 CARD 1	77 MIDDLE STREET ASSOCIATES LLC 155 CENTER ST BLDG G BOX 7 AUBURN ME 04210	77 MIDDLE ST office	OFFICE & BUSINESS SERVICE
028 0015001 CARD 1	SOLEY JAMES J 100 COMMERCIAL ST PORTLAND ME 04101	20 HAMPSHIRE ST 2 unit garage downstairs	RETAIL & PERSONAL SERVICE
028 0016001 CARD 1	CICCOMANCINI NICOLINO 43 WALTON ST PORTLAND ME 04103	18 HAMPSHIRE ST BAR	RETAIL & PERSONAL SERVICE
028 0017001 CARD 1	CITY OF PORTLAND 389 CONGRESS ST PORTLAND ME 04101	83 MIDDLE ST parking Lot	GOVERNMENTAL
028 P001001 CARD 1	WESLIEN KATARINA EVA 154 NEWBURY ST PORTLAND ME 04101	152 NEWBURY ST Single family	SINGLE FAMILY
028 P002001 CARD 1	WESLIEN KATARINA EVA 154 NEWBURY ST PORTLAND ME 04101	150 NEWBURY ST	VACANT LAND
028 P003001 CARD 1	PALANDA FRANCESCO & SEBASTIANA JTS 150 VERANDA ST PORTLAND ME 04103	23 HAMPSHIRE ST 3-unit	THREE FAMILY

028 P004001 CARD 1	HIRSHON DAVID M & MARK G FUREY 21 SHEFFIELD ST PORTLAND ME 04102	148 NEWBURY ST <i>Vacant</i>	VACANT LAND
028 P005001 CARD 1	MISHIO JANE R & RONALD I SR JTS 148 NEWBURY ST PORTLAND ME 04101	148 NEWBURY ST <i>2 Family</i>	TWO FAMILY
028 P006001 CARD 1	CAPELLUTI ORLANDO & JOSEPHINE JTS 146 NEWBURY ST PORTLAND ME 04101	146 NEWBURY ST <i>2 units</i>	TWO FAMILY
028 P007001 CARD 1	OLEBE FLORENCE A 142 NEWBURY ST PORTLAND ME 04101	142 NEWBURY ST <i>2 unit</i>	TWO FAMILY
028 P008001 CARD 1 <i>9, 19, 20</i>	JORDAN'S READY TO EAT MEATS 38 INDIA ST PORTLAND ME 04101	62 INDIA ST <i>Parking</i>	PARKING LOTS
028 P010001 CARD 1	80-90 CORPS 100 SILVER ST PORTLAND ME 04104	63 MIDDLE ST <i>10, 11, 12</i> →	PARKING LOTS
028 P013001 CARD 1	MALONE MARK 5 MOULTON ST PORTLAND ME 04101	59 MIDDLE ST <i>Peak Performance offices upstairs</i>	RETAIL & PERSONAL SERVICE
028 P015001 CARD 1	PORT CITY GLASS INC 50 INDIA ST PORTLAND ME 04101	50 INDIA ST <i>Port City Glass</i>	RETAIL & PERSONAL SERVICE
028 P016001 CARD 1	MALONE JOSEPH M & ANN MARIE JTS 30 HIGHLAND ST PORTLAND ME 04103	45 MIDDLE ST <i>downtown food woodies / 2 unit res</i>	MULTI-USE COMMERICAL

CITY COUNCIL REPORT #65-02

32 HAMPSHIRE STREET

R-6 RESIDENTIAL TO B-1b NEIGHBORHOOD BUSINESS

KELLY AND WALTER WILLIAMS, APPLICANTS

Submitted to:

Portland City Council
Portland, Maine
December 4, 2002

I. INTRODUCTION

Kelly Williams has requested a Public Hearing before the City Council to request a zone change for the property located at 32 Hampshire Street. The proposed rezone is to facilitate the conversion of the first floor of the existing structure for use as a retail store specializing in refurbished furniture and unique objects from local artists with a workshop in the basement. The building is located at the northwest corner of Hampshire and Newbury Streets just east of Franklin Arterial. The site is currently zoned R-6 and the assessor's office has the property described as a residential two-unit. The property does possess one off-street parking space. The building, constructed in 1840, has a basement accessible at street level, which has historically been used as a storefront for businesses including an upholstery shop, grocery store and workshop. The property does not retain any nonconforming use rights.

II. FINDINGS

Property:	32 Hampshire Street
Current Zoning:	R-6 Residential
Proposed Zoning:	B-1b Neighborhood Business Zone
Land Area:	Approximately 2,200± square feet
Existing Use:	Two family residential property
Proposed Use:	Retail Store and Workshop with an Upstairs Residential Unit
Land Uses in the Vicinity:	Residential, Institutional, Commercial

III. DEVELOPMENT PLAN

The applicant proposes to operate the first floor of the building as a retail store selling merchandise from tag sales, flea markets and architectural salvage that have been refurbished in a workshop to be located in the basement. Possible sale items include repainted furniture, rewired lamps and recovered shades in addition to unique items from local artists. It is the intent of the applicant to arrange the store as if it were a home and run it with other women from the community. The project proposes no exterior alterations to the site other than window boxes, updated lighting and building detailing. The property has been updated with a new roof, windows, heating system and paint since purchased by the applicant in 2000. Any signage accompanying the retail store will meet the B-1b sign regulations. The zoning administrator has reviewed the proposal and found that the proposed use is in compliance with the B-1b zone requirements (see attachment 2).

IV. ZONING POLICY ANALYSIS

The City of Portland does have a policy of supporting neighborhood-based businesses that provide retail/services as well as employment opportunities, while preserving residential uses. The B-1b zone was created explicitly to allow appropriate opportunities for the establishment of ground floor commercial uses in existing buildings, while preserving residential uses above the ground floor. This neighborhood, bounded by Franklin Arterial, Commercial Street, India Street and Congress Street is a mixture of multi-family homes ranging from 2 to 8 units, professional offices and small to medium scale retail. The current zoning can be seen on the legal advertisement included as attachment 3. It is anticipated that this area will become increasingly active with the redevelopment of the eastern end of the waterfront.

V. NEIGHBORHOOD MEETING

The applicant held a neighborhood meeting at 286 Spring Street on Tuesday, November 5, 2002. No members of the public chose to attend this meeting.

VI. PLANNING BOARD RECOMMENDATION

The Planning Board held a public hearing on November 12, 2002, at which time the Board, following thoughtful deliberations on the proposal, voted 2-2 (Lowry, Caron opposed; Kritchels, Malone absent), to recommend to the City Council rezoning of 32 Hampshire Street from R-6 Residential to B-1b Neighborhood Business.

Attachments:

1. Applicant's Submittal including photos of subject property
2. Memo from Marge Schmuckal, 10-09-02
3. Legal Advertisement
4. B1-b Zoning Text



APPLICATION FOR ZONING AMENDMENT
 City of Portland, Maine
 Planning and Development Department
 Portland Planning Board

Att. 1

Applicant Information:

Kelly + Walter Williams
 Name

286 Spring St
 Address

Portland Maine 04102

207-772-2053
 Phone

Fax

Property Owner: Applicant Other

 Name

 Address

 Phone

Fax

2. Subject Property:

32 Hampshire St
 Address

Portland Maine 04101

~~56-I-7~~ 28-I-12
 Assessor's Reference (Chart-Block-Lot)

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

own property

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use:

Describe the existing use of the subject property:

2-family - with vacant basement storefront (storefront previously many uses including upholstery shop, grocery store & workshop)

Current Zoning Designation(s): basement-grandfathered B-2 house R-5

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

A retail store with part of the basement being for a workshop & storage area. I will run the store with several other women - setting the rooms - up as in a home. The merchandise will be from tag sales, flea markets... furniture repainted, lamps rewired, shades - recovered... as well as one of a kind quality items from local artists. Also architectural salvage & found items - that are reconfigured.

Sketch Plan: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100'.)

10. **Proposed Zoning:** Please check all that apply:

A. Zoning Map Amendment, from R-5 to B-1

B. Zoning Text Amendment to Section 14- _____

For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning may be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

The store will either be open 4-5 days a wk or once a month for ^{2 of 3} 3-4 days - with all different merchandise each month.

Application Fee: A fee for must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing Notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

<input checked="" type="checkbox"/> Zoning Map Amendment	(\$500.00)
<input type="checkbox"/> Zoning Text Amendment	(\$500.00)
<input type="checkbox"/> Contract/Conditional Rezoning	(\$750.00)
<input type="checkbox"/> Conditional Use	(\$100.00)
Legal Advertisements	percent of total bill
Notices (workshop and public hearing)	40 cents each

NOTE: Legal notices placed in the newspaper are required by State Statue and local ordinance. Applicants are billed directly by the newspaper for these notices.

2. **Signature:** The above information is true and accurate to the best of my knowledge.

7/30/02
Date of Filing

Kelly A. Willu
Signature of Applicant

Further Information:

Please contact the Planning Office for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
Portland, Maine

Effective: July 6, 1998

HAMPSHIRE STREET ZONING

Since my husband and I bought the property almost three years ago we have continued to work on it. The first year we had an entire new roof put on and last year we had the house painted. We have also replaced windows, put in a new heating system and did a lot of work on the interior.

As noted on the application we plan to continue work on the exterior including window boxes, new lighting and attention to details.

I recently read in the Portland Magazine that the India street area is being considered the "So Ho" of Maine. I feel that with the creative twist in this retail store that this would complement the area. Being located on the corner of Hampshire and Newbury this location is visible from both Middle Street and India Street, and within easy walking distance from anywhere in downtown Portland. I plan on this store being an upscale place that would attract both tourists as well as locals. I have put a lot of time and energy into planning this space and have participated in Score, the SBDC as well as attended both the groups and business counseling with the Womens Enterprise Center. I have a background in management as well as experience running a retail operation. My interest in opening this business is to be part of Portland's business community, to have flexibility with scheduling (I have a three year old) and to have a chance to work with other creative women at the same time as I earn a living.

0017278

BK 5397PG196

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that
Alice L. Dunn

OF Portland, Maine, FOR
CONSIDERATION PAID, grants to
Walter S. Williams, III

OF 16 Hodges Court, Salem, Massachusetts
WITH WARRANTY COVENANTS,
AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP, THE
FOLLOWING DESCRIBED PREMISES:

MAINE REAL ESTATE TAX PAID

A certain lot or parcel of land with the buildings thereon situated on the northwesterly corner of Newbury and Hampshire Streets in said Portland, and being all that portion of said corner which lies southerly of a line commencing on the westerly side of said Hampshire Street at a point distant forty-nine (49) feet northerly from the northerly side line of said Newbury Street, and running westerly at right angles to said Hampshire Street, to land now or formerly of one Lucas.

Meaning and intending to convey and hereby conveying the same premises conveyed to Alice L. Dunn being a portion of the Deed from Louise E. Orlando and Theresa M. Feroci Quatrano dated January 28, 1997 and recorded in the Cumberland County Registry of Deeds in Book 12922, Page 327.

Witness her hand this 31st day of March, 2000.

Kathleen McLaughlin
Witness

Alice L. Dunn
Alice L. Dunn

State of Maine,
County of Cumberland

March 31, 2000

Then personally appeared the above-named Alice L. Dunn

known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed same freely and intelligently, for the purposes contained herein, before me.

Kathleen McLaughlin
Notary Public/Attorney at Law

KATHLEEN McLAUGHLIN
Notary Public, Maine
My Commission Expires July 6, 2005

RECEIVED
RECORDED REGISTRY OF DEEDS

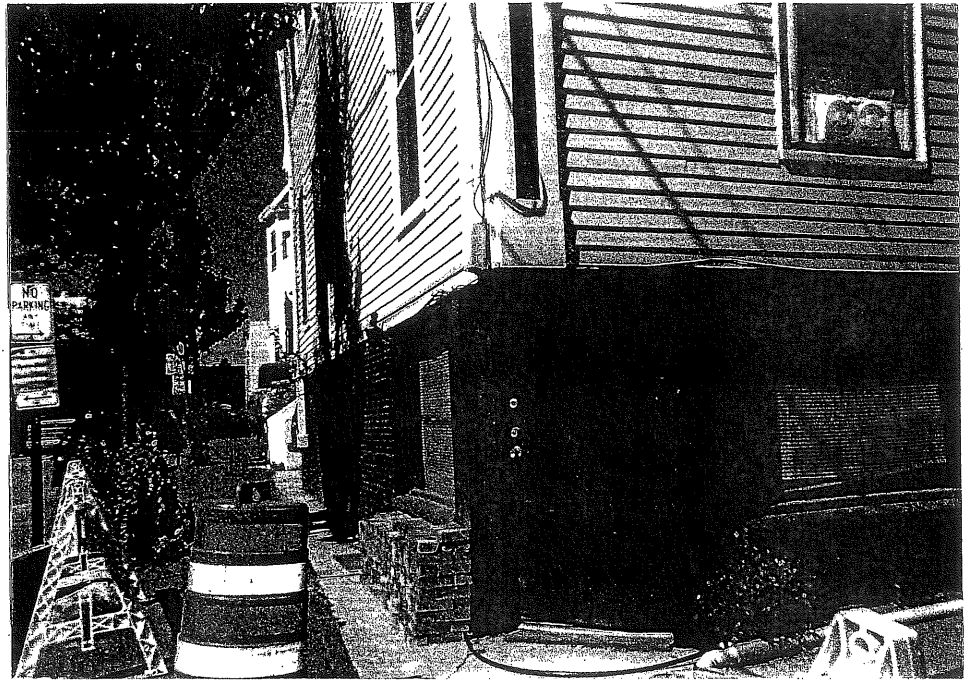
2000 APR -3 PH 12: 32

CUMBERLAND COUNTY

John B. O'Brien



32 Hampshire St
Portland ME



o structural changes - only cosmetics
∴ new lights, flower boxes, new door. . . .

50 Hampshire St
PHD ME



The streets are being
redone - after water- and
sewer lines put in



32 Hampshire St
Portland ME



Att. 2

From: Marge Schmuckal
To: Jonathan Spence
Date: Wed, Oct 9, 2002 11:15 AM
Subject: 32 Hampshire St - rezoning

The proposed B-1b zone allows retail uses. The owner's plan is to use one unit for a retail display of items and the basement would be used as an accessory workshop for fixing and preparing these items for sale. I understand that the unit on the top floor will continue to be rented out.

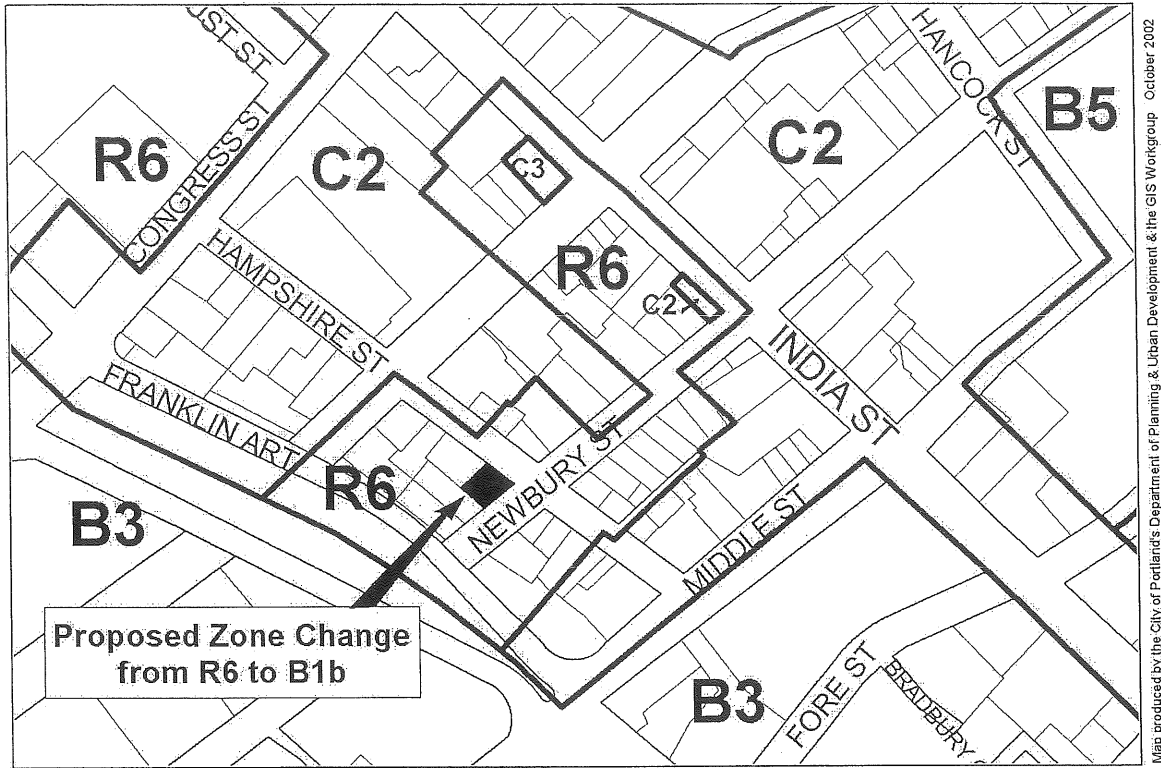
Retail uses do not require parking for the first 2,000 sq. ft. of floor area. It was my understanding that the retail floor area is composed of 1,200 sq. feet. Therefore, there are no additional parking requirements.

Marge Schmuckal
10/09/02

AN IMPORTANT NOTICE FROM THE CITY OF PORTLAND PLANNING OFFICE

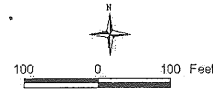
A#3

HAT: The Portland City Council will hold a public hearing to consider a proposal by Kelly and Walter Williams to consider a proposal for a zone change from R-6 Residential to B-1b Neighborhood Business at 32 Hampshire Street to allow the first floor and basement of the building to be as a "residential style" resale store and workshop, as shown on the map below.



Map produced by the City of Portland's Department of Planning & Urban Development & the GIS Workgroup October 2002

Proposed Zone Change from R6 to B1b ■
for 32 Hampshire Street



WHEN: Monday, December 16, 2002
7:30 P.M.
City Hall, Council Chambers, 2nd Floor

FOR MORE INFORMATION:

The proposal is available in the Portland Planning Division, 4th Floor, City Hall. If you wish to submit written comments, address them to Jonathan Spence, Planner, Planning Division, City Hall, 4th Floor, 389 Congress Street, Portland, Maine 04101, contact by phone at 756-8083 or e-mail at jspence@ci.portland.me.us.

AH.
4

- (c) Loading areas shall be screened and parking areas shall be screened and landscaped so as to avoid a large continuous expanse of paved area.
- (d) Buildings and structures shall be sited to avoid obstructing significant scenic views presently enjoyed by nearby residents, passersby, and users of the site.
- (e) Storage of commodities and equipment shall be completely enclosed within buildings or provided with screening by a fence, wall, or landscaping.
- (f) The outer perimeter of playfields, playlots, and other active recreational areas shall be screened, or shall be located a reasonable distance from any residential use.
- (g) Off-street parking shall conform to the requirements of division 20 of this article, where applicable. Otherwise, off-street parking adequate to serve projected employee and visitor needs shall be provided. Parking needs projections provided by the applicant or the planning department should be considered in the review.

(Ord. No. 232-81, § 602.7B.6, 11-16-81)

Sec. 14-159. Shoreland and flood plain management regulations.

Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(Ord. No. 232-81, § 602.7B.7, 11-16-81; Ord. No. 15-92, § 15, 6-15-92)

Sec. 14-160. Reserved.

DIVISION 9. B-1 AND B-1b NEIGHBORHOOD BUSINESS ZONES*

*Editor's note--Ord. No. 292-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-161--14-167 of Div. 9, B-1 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-161--14-167. Formerly, such sections derived from §§ 602.8.A--602.8.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972, and Ord. No. 499-74, § 4, adopted Aug. 19, 1974.

Sec. 14-161. Purpose.

(a) B-1 Neighborhood Business Zone

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of smallscale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

(b) B-1b Neighborhood Business Zone

The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of smallscale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3).

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 1, 11-15-93; Ord. No. 94-99, 11-15-99)

Sec. 14-162. Permitted uses.

(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone. For

permitted uses in the upper stories of buildings in the B-1b zone, refer to subsection (5) below: in existence on November 15, 1993:

(1) *Residential*

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

(2) *Business:*

- a. Professional offices, as defined in section 14-47, but excluding veterinarians.
- b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.
- c. Personal services, as defined in section 14-47.
- d. Offices of building tradesmen, provided there is no exterior storage of building materials.
- e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services between the hours of ten (10) p.m. to seven (7) a.m.
- f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:
 1. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no

greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;

2. Beverage container redemption is an accessory use to a principal retail use that includes beverage sales. Local beverage container redemption centers as defined in 32 M.R.S.A. 1867, as may be amended, are not allowed as a principal use.

3. Storage of all beverage containers shall be contained entirely within the building providing retail sales.

(3) *Institutional:*

- a. Church or other place of worship;
- b. Municipal offices;
- c. Elementary, middle and secondary schools;
- d. Nursery schools and kindergarten;
- e. Clinics of less than three thousand (3,000) square feet of total floor space.

(4) *Other:*

- a. Lodging houses;
- b. Utility substations, as defined in section 14-47, subject to the standards of article V (site plan);
- c. Day care facilities or babysitting services;
- d. Accessory uses as provided in section 14-404;
- e. Bed and breakfast, subject to the standards of article V (site plan).

(5) Uses permitted above the ground floor level of buildings in the B-1b zone:

- a. Any residential use set forth in section 14-162(a);
- b. Bed and breakfast, subject to the standards of article V (site plan).

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 2, 11-15-93; Ord. No. 125-97, § 5, 3-3-97; Ord. No. 94-99, 11-15-99)

Sec. 14-163. Conditional uses.

The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- (a) Restaurants, provided they meet the following requirements:

1. Maximum total floor area for use of the public shall be one thousand (1,000) square feet;
2. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;
3. Food service and consumption are the primary function of the restaurant; and
4. There shall be no drive-through service.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99).

Sec. 14-164. Prohibited uses.

Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.

(Ord. No. 292-88, 4-4-88)

Sec. 14-165. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-162(a) shall meet the requirements of such abutting or nearest residential zone except as noted below, and nonresidential uses in the B-1 and B1-b zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. School: Twenty thousand (20,000) square feet.
2. Church or place of worship: Ten thousand (10,000) square feet.
3. All other nonresidential uses: None.
4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

(b) *Minimum street frontage:* Fifty (50) feet, except that if the average street frontages of all lots within two hundred (200) feet of the boundaries of the lot in question on the same side of the street and within the B-1 or B-1b zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.

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

1. *Maximum front yard:*

Principal or accessory structure: The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

2. *Rear yard:*

- a. Principal structures: None, except where a rear yard abuts a residential zone or first

floor residential use, a minimum of twenty (20) feet is required.

- b. Accessory structures (detached): None, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.

3. *Side yard:*

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.

- b. Accessory structures (detached): None, except that where the side yard abuts a residential zone or a first floor residential use, a minimum of five (5) feet is required.

- c. Side yards on side streets (corner lot):
Principal or accessory structures: Ten (10) feet maximum setback, except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.

(d) *Minimum lot width:* None.

(e) *Maximum structure height:* Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.

(f) *Maximum impervious surface ratio:* Ninety (90) percent.

(g) *Floor area:*

1. The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) square feet.
2. The maximum first floor area of a multi-tenant building shall be no greater than ten thousand (10,000) square feet.

(Ord. No. 292-88, 4-4-88; Ord. No. 52-96, § 1, 7-15-96; Ord. No. 94-99, 11-15-99)

Sec. 14-166. Other requirements.

All nonresidential uses in B-1 and B-1b zones shall meet the requirements of division 25(space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Offstreet parking and loading:* Offstreet parking and loading are required as provided in division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no off street parking in the front yard between the street line and the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. In no event

shall vehicles, or truck trailers with or without wheels, be used for on-site storage. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occur more frequently than three (3) times a calendar year.

- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 292.88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-167. External effects.

Every use in a B-1 or B-1b zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke:* Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in

truck trailers with or without wheels shall not be used for on-site storage (1) except where such storage is located in a designated loading zone identified on an approved site plan; or (2) such storage is not visible from the street or adjacent residences during winter months and such storage area is identified on an approved site plan. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occurs more frequently than three (3) times a calendar year.

- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 293-88, 4-4-88; Ord. No. 51-96, 7-15-96; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §4, 4-24-00)

Sec. 14-187. External effects.

Every use in a B-2 and B-2b zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise:* Except as provided in 14-183(1)(iii)(2) (relating to Drive-throughs), the volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without

32 Hampshire St
Portland ME



No structural changes - only cosmetics
i.e. new lights, flower boxes, new door. ...

32 Hampshire St
Portland ME



The streets are being
redone - after water-~~and~~
sewer lines put in



52 Hampshire St
Portland ME



or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 537-84, 5-7-84; Ord. No. 15-92, § 10, 6-15-92)

Sec. 14-132. Reserved.
Sec. 14-133. Reserved.
Sec. 14-134. Reserved.

DIVISION 7. R-6 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 538-84, adopted May 7, 1984, repealed Div. 7, §§ 14-131--14-134, and enacted a new Div. 9, §§ 14-135--14-139, 14-145. However, in order to avoid duplication of division numbers and in consultation with the city, the provision has been included as Div. 7.

Sec. 14-135. Purpose.

The purpose of the R-6 residential zone is:

To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(Ord. No. 538-84, 5-7-84)

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 residential zone:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section 14-524 shall be altered to include any

additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with section 14-524 or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a major development pursuant to article V of this chapter.

2. Multifamily dwellings, provided that any alteration of a structure in residential use on December 2, 1987:
 - a. Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and
 - b. Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;
 - c. Parking shall be provided as required by division 20 of this article;
 - d. No open outside stairways or fire escapes above the ground floor shall be constructed;
 - e. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building;
 - f. Such development shall be subject to article V (site plan) of this chapter for site plan review and approval.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured

housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.

5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
 - d. Each unit shall have the long side of the unit

parallel to the street line where the required street frontage is met.

- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

- 1. Lodging house;
- 2. Cemeteries;
- 3. Parks, and other active and passive noncommercial recreation spaces;
- 4. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 5. Home occupation subject to the provisions of section 14-410 (home occupation) of this article;
- 6. Municipal uses, excluding those specifically set forth in section 14-137 of this division;
- 7. Special needs independent living units, provided

that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.

8. Conversion of a structure existing on March 3, 1997, into a bed and breakfast with up to four (4) guest rooms, subject to the standards of article V (site plan).

(Ord. No. 538-84, 5-7-84; Ord. No. 267-84, § 1, 12-17-84; Ord. No. 67-87, § 4, 11-2-87; Ord. No. 85-88, §§ 1, 2, 7-19-88; Ord. No. 86A-89, § 7, 8-21-89; Ord. No. 95-89, § 2, 9-6-89; Ord. No. 279-90, § 2, 3-19-90; Ord. No. 33-91, § 8, 1-23-91; Ord. No. 33A-91, § 6, 4-17-91; Ord. No. 125-97, § 2, 3-3-97)

*Editor's note--Ord. No. 85-88, §§ 1, 2, adopted July 19, 1988, amended § 14-136 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88. Ord. No. 95-89, § 2, adopted Sept. 6, 1989, amended subsection (1)a of § 14-136 to read as set out and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."

Sec. 14-137. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Reserved.

2. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:

- a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
- b. There shall be no open outside stairways or fire escapes above the ground floor.
- c. The facility shall make provision for adequate on-site staffing and supervision of residents in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

3. Conversion of a structure existing on March 3, 1997, into a bed and breakfast with five (5) to nine (9) guest rooms.

(c) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a)

(conditional uses) of this article or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle, and secondary school;
2. a. Long-term and extended care facilities;
b. Intermediate care facility for thirteen (13) or more persons;
3. Intermediate care facility;
4. Church or other place of worship;
5. Private club or fraternal organization;
6. Community Hall provided that:
 - a. The structure was in existence as of date of enactment, March 15, 1999;
 - b. The structure was built for institutional or other non-residential uses;
 - c. The structure is owned and operated by a not-for-profit entity; and
 - d. A parking management plan is submitted for review and approval by the Planning Board.
7. Hospital;
8. College, university, trade school.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion onto land of existing such uses other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing

site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.

(c) *Other:*

- 1. Utility substations, such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
- 2. Professional offices of a member of a recognized profession maintained for the conduct of that profession. Professional office uses exclude personal services, retail services, and veterinarians.

The illustrative examples that follow indicate the type of professional offices permitted: health care practitioner, attorney, social worker, engineer, architect, accountant, real estate agent, insurance agent.

Professional office uses shall meet the following standards in addition to provisions of section 14-474, except that subsections a., b., c. and d. of this section 14-137(c)2 shall not apply to the use of any building not designed or constructed for residential use, which was not in actual use as a

residence on April 18, 1984, or thereafter.

- a. A professional office shall not be located within five hundred (500) feet of another as measured along the street line to the respective property lines.
 - b. A building with one (1) or more professional offices shall have at least fifty (50) percent of the total floor area of the building devoted to residential uses.
 - c. The total number of individuals working in a building of professional offices shall not exceed the equivalent of four (4) full-time employees.
 - d. Any additions or exterior alterations shall be compatible with the architecture of the building and maintain the residential appearance of the building. Construction of a new building shall be compatible with the architectural character of the surrounding area.
 - e. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.
 - f. On-site parking shall be required as specified in division 20 (off-street parking) of this article for the combined uses of the site.
3. Chancellery.
 4. Nursery school and kindergarten.
 5. Off-street parking for passenger cars for uses permitted in the R-6 zone.
 6. Day care facilities or home babysitting services

not permitted as a home occupation under section 14-410, subject to the following conditions:

- a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
- b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children

AH.3

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

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

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

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

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

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

Sec. 14-181. Purpose.

- (a) B-2 Community Business Zone

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

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

(b) B-2b Community Business Zone

B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(3).

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

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

Sec. 14-182. Permitted uses.

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

(a) *Residential:*

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

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants;
6. Drinking establishments;
7. Billiard parlors;
8. Mortuaries or funeral homes;

9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving facilities;
11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;
18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) *Institutional:*

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

(d) Other:

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.

v. Seminars.

vi. Business and educational conferences.

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

6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

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

Sec. 14-183. Conditional uses.

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

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

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

5. Automobile dealerships.

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

- a. Signs: Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
- b. Circulation: No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
- c. Drive-throughs, where permitted, shall also specifically comply with the following conditions:
 - i. Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to any property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular

circulation or creating hazards to vehicular circulation on adjoining streets.

- ii. **Noise:** Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
- iii. **Lighting:** Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- iv. **Screening and Enclosure:** Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- v. **Pedestrian access:** Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways

or otherwise impeding pedestrian access.

vi. **Hours of Operation:** The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

vii. **Conditions specific to major or minor auto service stations, car washes and automobile dealerships:**

(a) A landscaped buffer, no less than five (5) feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the Technical and Design Standards and Guidelines;

(b) Car washes shall be designed to avoid the tracking of residual waters into the street.

(b) *Other:*

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

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

provision of section 14-474:

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

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

Sec. 14-184. Prohibited uses.

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

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

Sec. 14-185. Dimensional requirements.

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

(a) *Minimum lot size:*

1. Intermediate, longterm and extended care

facilities: Ten thousand (10,000).

2. *Nonresidential uses:*

B-2 zone: Ten thousand (10,000) square feet;

B-2b zone: None

3. Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.

4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

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

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

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

1. *Front Yard*

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

b. *Maximum front yard in B-2b zone (On-peninsula):* The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet

this maximum setback.

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

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

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

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

2. *Rear yard:*

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

3. *Side yard:*

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, ten (10) feet is required.

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

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

Sec. 14-186. Other requirements.

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

- (a) *Landscaping and screening*: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks*: Curbs and sidewalks as specified in article VI of chapter 25.

(c) *Offstreet parking and loading:* Offstreet parking and loading are required by division 20 and division 21 of this article;

(d) *Front yard parking:*

1. B-2 zone: There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.

2. B-2b zone (On-peninsula): There shall be no parking in the front yard between the street line and the required maximum setback line in the B-2b. Where existing buildings exceed the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.

3. B-2b zone (Off-peninsula): Parking in the front yard between the street line and the required maximum setback line in the B-2b is discouraged. However, where parking in the front yard is permitted pursuant to §14-185(c)(1)(c), a maximum of fifty percent (50%) of the total parking on the site may be located between the principal structure and the street.

(e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.

(f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. Vehicles or

