

**City of Portland, Maine – Building or Use Permit Application** 389 Congress Street, 04101, Tel: (207) 874-8703, FAX: 874-8716

Location of Construction: 113 Middle St		Owner: Pros. 3, LLC		Phone: 775-2352		Permit No: <b>980178</b>
Owner Address:		Lessee/Buyer's Name:		Phone:		
Contractor Name: Architect Bill Semers		Address: 424 Fore St., Portland		Phone: 774-3683 761-201		Zone: CBL: B-3 2K-4-0
Past Use: Retail		Proposed Use: Office		<b>COST OF WORK:</b> \$ 65,000.00 <b>PERMIT FEE:</b> \$345.00 <b>FIRE DEPT.</b> <input type="checkbox"/> Approved <input type="checkbox"/> Denied <b>INSPECTION:</b> Use Group: Type: Signature: [Signature] Date: [Date]		
Proposed Project Description: Change of use w/int reno		<b>PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)</b> Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied Signature: [Signature] Date: [Date]		<b>Zoning Appeal</b> <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied		
Permit Taken By: Vicki Dover		Date Applied For: 2/19/98		Signature: [Signature] Date: [Date]		<b>Historic Preservation</b> <input type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review

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

**PERMIT ISSUED WITH REQUIREMENTS**  
**PERMIT ISSUED WITH REQUIREMENTS**

**CERTIFICATION**

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

SIGNATURE OF APPLICANT: [Signature] ADDRESS: 424 Fore St., Portland DATE: 2/19/98 PHONE: 774-3683

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE: \_\_\_\_\_ PHONE: \_\_\_\_\_

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

CEO DISTRICT [Signature]

COMMENTS

5/13/98 CPO for First Floor only. *Of the Space All*  
6/11/98 CPO for Second Floor, *all*

Type Inspection Record Date

Foundation: \_\_\_\_\_

Framing: \_\_\_\_\_

Plumbing: \_\_\_\_\_

Final: \_\_\_\_\_

Other: \_\_\_\_\_



# BUILDING PERMIT REPORT

DATE: 3/3/98 ADDRESS: 115 Middle St  
REASON FOR PERMIT: renovation  
BUILDING OWNER: Bros. 3  
CONTRACTOR: -  
PERMIT APPLICANT: Bill Nemms  
USE GROUP M BOCA 1996 CONSTRUCTION TYPE 3B

## CONDITION(S) OF APPROVAL

This Permit is being issued with the understanding that the following conditions are met:

Approved with the following conditions: \*1 \*8 \*10 \*14 \*17 \*19 \*20 \*24 \*27 \*28 \*29

1. This permit does not excuse the applicant from meeting applicable State and Federal rules and laws.
2. Before concrete for foundation is placed, approvals from the Development Review Coordinator and Inspection Services must be obtained. (A 24 hour notice is required prior to inspection)
3. Precaution must be taken to protect concrete from freezing.
4. It is strongly recommended that a registered land surveyor check all foundation forms before concrete is placed. This is done to verify that the proper setbacks are maintained.
5. Private garages located beneath habitable rooms in occupancies in Use Group R-1, R-2, R-3 or I-1 shall be separated from adjacent interior spaces by fire partitions and floor/ceiling assembly which are constructed with not less than 1-hour fire resisting rating. Private garages attached side-by-side to rooms in the above occupancies shall be completely separated from the interior spaces and the attic area by means of ½ inch gypsum board or the equivalent applied to the garage means of ½ inch gypsum board or the equivalent applied to the garage side. (Chapter 4 Section 407.0 of the BOCA/1996)
6. All chimneys and vents shall be installed and maintained as per Chapter 12 of the City's Mechanical Code. (The BOCA National Mechanical Code/1993).
7. Sound transmission control in residential building shall be done in accordance with Chapter 12 section 1214.0 of the city's building code.
8. Guardrails & Handrails: A guardrail system is a system of building components located near the open sides of elevated walking surfaces for the purpose of minimizing the possibility of an accidental fall from the walking surface to the lower level. Minimum height all Use Groups 42" , except Use Group R which is 36". In occupancies in Use Group A, B, H-4, I-1, I-2 M and R and public garages and open parking structures, open guards shall have balusters or be of solid material such that a sphere with a diameter of 4" cannot pass through any opening. Guards shall not have an ornamental pattern that would provide a ladder effect. (Handrails shall be a minimum of 34" but not more than 38". Use Group R-3 shall not be less than 30", but not more than 38".) Handrail grip size shall have a circular cross section with an outside diameter of at least 1 1/4" and not greater than 2".
9. Headroom in habitable space is a minimum of 7'6".
10. Stair construction in Use Group R-3 & R-4 is a minimum of 10" tread and 7 3/4" maximum rise. All other Use group minimum 11" tread, 7" maximum rise.
11. The minimum headroom in all parts of a stairway shall not be less than 80 inches. (6' 8")
12. Every sleeping room below the fourth story in buildings of use Groups R and I-1 shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside without the use of special knowledge or separate tools. Where windows are provided as means of egress or rescue they shall have a sill height not more than 44 inches (1118mm) above the floor. All egress or rescue windows from sleeping rooms shall have a minimum net clear opening height dimension of 24 inches (610mm). The minimum net clear opening width dimension shall be 20 inches (508mm), and a minimum net clear opening of 5.7 sq. ft.
13. Each apartment shall have access to two (2) separate, remote and approved means of egress. A single exit is acceptable when it exits directly from the apartment to the building exterior with no communications to other apartment units.
14. All vertical openings shall be enclosed with construction having a fire rating of at least one (1) hour, including fire doors with self closer's. (Over 3 stories in height requirements for fire rating is two (2) hours.)
15. The boiler shall be protected by enclosing with (1) hour fire-rated construction including fire doors and ceiling, or by providing automatic extinguishment.
16. All single and multiple station smoke detectors shall be of an approved type and shall be installed in accordance with the

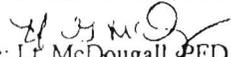
provisions of the City's Building Code Chapter 9, Section 19, 920.3.2 (BOCA National Building Code/1996). and NFPA 101 Chapter 18 & 19. (Smoke detectors shall be installed and maintained at the following locations):

- In the immediate vicinity of bedrooms
- In all bedrooms
- In each story within a dwelling unit, including basements

In addition to the required AC primary power source, required smoke detectors in occupancies in Use Groups R-2, R-3 and I-1 shall receive power from a battery when the AC primary power source is interrupted. (Interconnection is required)

- 17. A portable fire extinguisher shall be located as per NFPA #10. They shall bear the label of an approved agency and be of an approved type.
- 18. The Fire Alarm System shall be maintained to NFPA #72 Standard.
- 19. The Sprinkler System shall maintained to NFPA #13 Standard.
- 20. All exit signs, lights, and means of egress lighting shall be done in accordance with Chapter 10 Section & Subsections 1023. & 1024. Of the City's building code. (The BOCA National Building Code/1996)
- 21. Section 25-135 of the Municipal Code for the City of Portland states, "No person or utility shall be granted a permit to excavate or open any street or sidewalk from the time of November 15 of each year to April 15 of the following year".
- 22. The builder of a facility to which Section 4594-C of the Maine State Human Rights Act Title 5 MRSA refers, shall obtain a certification from a design professional that the plans commencing construction of the facility, the builder shall submit the certification to the Division of Inspection Services.
- 23. Ventilation shall meet the requirements of Chapter 12 Sections 1210. Of the City's Building Code.
- X 24. All electrical, plumbing and HVAC permits must be obtained by a Master Licensed holders of their trade.
- 25. All requirements must be met before a final Certificate of Occupancy is issued.
- 26. All building elements shall meet the fastening schedule as per Table 2305.2 of the City's Building Code. (The BOCA National Building Code/1996).
- X 27. Ventilation of spaces within a building shall be done in accordance with the City's Mechanical Code (The BOCA National Mechanical Code/1993).
- X 28. Please read and implement the attached Land Use-Zoning report requirements.
- X 29. Elevator must have STATE approval
- X 30. See attached Portland Fire Dept, requirements
- 31. \_\_\_\_\_
- 32. \_\_\_\_\_

P. Samuel Hoffses, Code Enforcement

  
cc: Lt. McDougall, PFD  
Marge Schmuckal

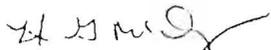
# PORTLAND FIRE DEPARTMENT

Review Date: \_\_\_\_\_ Contractor: \_\_\_\_\_

Address: \_\_\_\_\_ CBL: \_\_\_\_\_

## Please note marked Conditions of Approval

- \* The boiler or furnace shall be protected by enclosing with one hour fire rated construction including fire doors and ceiling or by providing automatic extinguishment and smoke protected enclosure. Sprinkler piping serving not more than six sprinklers may be connected to a domestic water supply system having a capacity sufficient to provide a 0.15 gpm per sq ft of floor throughout the entire area. An indicating shut-off valve shall be installed in an accessible location between the sprinkler and the connection to the domestic water supply. Minimum pipe size shall be 3/4" copper or 1" steel. Maximum coverage area of a residential sprinkler is 144 sq ft per sprinkler.
- \* All required fire alarm systems shall have the capacity of zone disconnect via switches or key pad program provided the method is approved by the Fire Prevention Bureau.
- \* All remote annunciators shall have a visible trouble indicator along with the fire alarm zone indicators.
- \* Any master box connected to the municipal fire alarm system shall have a supervised municipal disconnect switch.
- \* All master box locations shall be approved by the Fire Dept. Director of Communications.
- \* A master box shall be located so that the center of the box is five feet above finished floor.
- \* All master box locations are required to have a Knox box.
- \* A fire alarm acceptance report shall be submitted to the Portland Fire Department.
- \* All underground tank removal(s) and/or installation(s) shall be done in accordance with the Department of Environmental Protection and Regulation (Chapter 691).
- \* No cutting of tanks on site. Cutting of tanks to be done at an approved disposal site.
- \* The fire dispatcher must be notified at least 48 hrs in advance of removal or transportation of tanks.
- \* All above ground L/P tanks shall be located in accordance with NFPA 58 standards.
- \* Any tank located near the path of vehicle movement shall be protected.
- \* All piping shall be protected from possible mechanical damage and vandalism.
- \* A 4" storz fire department connection is required.
- \* Any renovation of sprinkler system over 20 heads must have State Fire Marshall approval.
- \* A sprinkler performance test shall be submitted to the P.F.D. after completion of work.
- \* State Fire Marshall approval is required for this project.



Lt. Gaylen Mc Dougall

Portland Fire Prevention Bureau

LAND USE - ZONING REPORT

ADDRESS: 115 Middle St DATE: 3/3/98

REASON FOR PERMIT: Change of use from retail to office with renovation

BUILDING OWNER: Brothers Three LLC C-B-L: 28-N-9

PERMIT APPLICANT: Bill Nemaner

APPROVED: With conditions #7 DENIED: \_\_\_\_\_

CONDITION(S) OF APPROVAL

1. During its existence, all aspects of the Home Occupation criteria, Section 14-410, shall be maintained.
2. The footprint of the existing \_\_\_\_\_ shall not be increased during maintenance reconstruction.
3. All the conditions placed on the original, previously approved, permit issued on \_\_\_\_\_ are still in effect for this amendment.
4. Your present structure is legally nonconforming as to rear and side setbacks. If you were to demolish the building on your own volition, you will not be able to maintain these same setbacks. Instead you would need to meet the zoning setbacks set forth in today's ordinances. In order to preserve these legally non-conforming setbacks, you may only rebuild the garage in place and in phases.
5. This property shall remain a single family dwelling. Any change of use shall require a separate permit application for review and approval.
6. Our records indicate that this property has a legal use of \_\_\_\_\_ units. Any change in this approved use shall require a separate permit application for review and approval.
7. Separate permits shall be required for any signage.
8. Separate permits shall be required for future decks and/or garage.
9. Other requirements of condition \_\_\_\_\_

Marge Schmuckal

Marge Schmuckal, Zoning Administrator,  
Asst. Chief of Code Enforcement

Post-It™ brand fax transmittal memo 7671		# of pages	one
To	Bill Nemmers		
From	W. A. Schmitt		
Co.	City of Portland		
Dept.	20115 Middle St		
Phone #			
Fax #	761-2836		

§ 14-218

iii

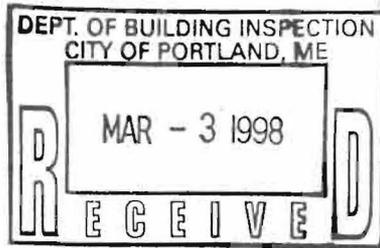
visually oriented  
ay zone

(Ord. No. 241-

**Sec. 14-218. Conditional uses.**

The following uses are permitted as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474(a) or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority:

- (1) Ground floor uses in the mandated pedestrian-oriented use area of the PAD overlay zone: Any use permitted in the B-3 and B-3b zone, provided that such uses shall meet the following conditions and standards:
  - a. The applicant can prove that it has been unable to market the space for a permitted use in accordance with section 14-217(b)(1) by providing:
    - i. For existing structures, evidence that the space has been actively marketed for permitted uses for a period of six (6) months and, in the case of new construction, evidence that the space has been actively marketed and available for use for a period of six (6) months; and
    - ii. Evidence of market, advertising, or real estate brokerage efforts to attract permitted uses.
  - b. The approval of any conditional use under this section shall be for the specific tenant proposed for the conditional use approval and shall not run with the space to subsequent tenants. A conditional use approval shall expire at the end of each tenant's use, and a new approval shall be required for new tenants. If the term of a lease is five (5) years or less, the tenant may sublet the area either for the approved conditional use or for any use permitted by section 14-217(b)(1)a.
  - c. The planning board may impose reasonable conditions concerning the design, appearance, use and extent of use of the space along the street frontage to ensure maximum pedestrian compatibility and interest.
  - d. Notwithstanding the above, the planning board may authorize a reduction in the percentage of required ground floor pedestrian-oriented uses where the physical limitations of an existing building so require. Any such reduction shall be the least necessary to provide relief and shall include mitigating design factors.
- (2) 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 located, screened and landscaped so as to ensure compatibility with the surrounding neighborhood.
- (3) Drive-up banking services, provided that drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to



WILLIAM NEMMERS ASSOCIATES ARCHITECTS  
424 FORE ST, PORTLAND, ME 04101 774-3883.

March 3, 1998

The Portland Zoning Board of Appeals  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: 115 Middle Street  
Building Permit Interpretation Appeal Application

To the Board:

With this letter I would like to request that the Appeal, which was requested for 115 Middle Street in my letter dated February 11, 1998, be withdrawn, without prejudice, as of this date.

Sincerely,

William Nemmers  
copy: Brothers Three L.L.C.



Order 224  
Tab 10 32-98

**City of Portland, Maine**  
IN THE CITY COUNCIL

**AMENDMENT TO PORTLAND CITY CODE  
§14-217 (ZONING ORDINANCE)  
RE: AMENDMENT OF BOUNDARIES OF PAD OVERLAY ZONE  
AND AMENDMENTS TO PAD OVERLAY ZONE MAP**

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

1. That Section 14-217(b) of the Portland City Code is hereby amended as follows:

**Sec. 14-217. Permitted uses.**

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

*Middle Street, north side, from Monument Square to ~~sixty (60)~~  
~~feet east of Garden Lane.~~*

2. That the PAD overlay map, referenced in §14-216(b) of the Portland City Code and thereby incorporated as part of said Code is hereby amended by adopting the map amendment shown on Attachment A hereto, said amendment to conform to the text amendment set forth above.

**BE IT FURTHER ORDAINED** that the above amendments shall take effect immediately as an emergency pursuant to Article II Section 8 of the Portland City Charter in order to allow the immediate redevelopment of the building located at 115 Middle Street.



WILLIAM NEMMERS ASSOCIATES ARCHITECTS  
424 FORE ST. PORTLAND, ME 04101 774-3683.

February 11, 1998

Marge Schmuckle,  
Building Inspections Office  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: 115 Middle Street  
Building Permit Application

Dear Marge:

In response to our conversation today regarding this Permit Application, specifically in respect to the project's compatibility with the Pedestrian Overlay District (P.A.D.) Zone, I would like to offer the following arguments with the intention of persuading you that this use is compatible with the philosophy of the zone.

The prospective tenant is the Sweetster Children's Services. They particularly want a store-front location to house their Development and Communications functions.

They want to encourage drop in and visitor traffic to their Community Outreach and Volunteer Services programs.

They need a central location to serve as a focus of its state-wide network of service providers, volunteers, and clients. These functions will be coordinated here.

They would like to use the store-front windows to help promote the services that Sweetster offers, by displaying artwork and crafts made by their clients, and displays of posters (including a series of original art posters developed for them), and displays of their resources, to attract public attention and encourage informational visits.

The Communication function of the facility will handle inquiries from the public involving questions on its many services for children, and so they wanted the facility to be open, with a lot of glass, so that it would look inviting for parents and children.

In addition to the public aspects of the facility there will also be internal aspects which draw people in to the facility. There are many committees and sub-committees which now meet regularly in various places around southern Maine which would meet here on a regular basis, including State wide board meetings.

The building would be the center for the Sweetster fund-raising operation, using the store-front display windows to help pull in volunteers and donors for workshops and information.

We have designed the interior layout with glass walls so that all the activity inside is visible from the street, so that the passers-by will be intrigued by the color and activity inside and drawn to investigate, and hopefully to contribute time, energy, or funds to the Sweetster causes.

I believe that the location of the building within the P.A.D. zone should also be considered. It is at the end of the P.A.D. zone as it stretches down Middle Street and there is no P.A.D. zoning across the street. With its brightly lit store-front windows and colorful displays, it will be the most pedestrian friendly building on either side of the street in the entire block.

We believe that this is a very pedestrian related facility, intentionally designed to encourage interaction between the pedestrian and the internal space, and therefore should be allowed under the following items of Paragraph 14.217.1.a:

ii - Personal services: the marketing of children's services to the public

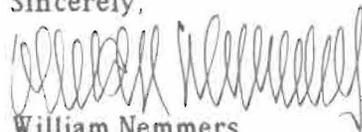
x - Visitor Information Services: the Statewide center for children services information

xv - Galleries: the artwork and handiwork of the many clients of Sweetster will be displayed

xvi - Other uses: We have shown that the proposed use "will not differ substantially from a retail use in its effect on the continuity of pedestrian-oriented use" and has "established a ground floor use that generates pedestrian interest and activity".

I would be happy to discuss these items with you, if you have any questions please call me at 774-3683.

Sincerely,



William Nemmers



CITY OF PORTLAND, MAINE  
Department of Building Inspection

# Certificate of Occupancy

LOCATION 115 Middle St 028-N-009

Issued to Brothers 3, LLC Date of Issue 11 June 1998

This is to certify that the building, premises, or part thereof, at the above location, built — altered — changed as to use under Building Permit No. 980178, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

Second floor

Office Space

Limiting Conditions:

This certificate supersedes  
certificate issued

Approved:

6/11/98  
Inspector

Inspector

Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.



CITY OF PORTLAND, MAINE  
Department of Building Inspection

# Certificate of Occupancy

LOCATION 115 Middle St 028-N-009

Issued to Brothers 3, LLC Date of Issue 14 May 1998

This is to certify that the building, premises, or part thereof, at the above location, built — altered — changed as to use under Building Permit No. 980178, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

First Floor Only

Office Space

Limiting Conditions:

This certificate supersedes  
certificate issued

Approved:

5/14/98  
.....  
(Date)

.....  
Inspector

.....  
Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.