



Jeff Levine, AICP
Director, Planning & Urban Development Department

Noah Talmatch
The North Point
35 Silver Street
Portland, ME 04101

August 3, 2015

Re: Request for Consideration of Alternative Proposals for Outdoor Seating

Dear Mr. Talmatch:

Thanks for your second letter of June 24 suggesting alternative arrangements for outdoor seating at The North Point following the expiration of your current outdoor seating permit. As you know, we have discussed several different options to accommodate your needs under the revised outdoor seating regulations and I appreciate your persistence to find a solution that might work.

You suggest bagging the parking meters across the street and temporarily rerouting traffic to allow for outdoor seating in front of your restaurant. Such an approach would involve significant public actions and expense. As you mention, the City Council did approve a pilot project on Federal Street so such a change is not unprecedented. However, it would require action by the City Council as well as compensation for public expense and revenue loss. If you are interested in pursuing this route, the first step would be a request to have the item on the agenda of the City Council's Transportation, Sustainability and Energy Committee. If you are interested in pursuing that route, you can contact Bruce Hyman in our Transportation Division at 207-874-8171 or bhyman@portlandmaine.gov.

We value the contributions your business make to the vitality of the City, and appreciate your ongoing effort to find an outdoor seating solution.

Sincerely,

Jeff Levine

cc: Jon Jennings, City Manager
Mayor Michael Brennan
Kevin Donoghue, District One City Councilor
Anita LaChance, Deputy City Manager
Michael Bobinsky, Director of Public Services
Tammy Munson, Inspections Division Director
Bruce Hyman, Transportation Program Manager
Business Licensing

THE NORTH POINT

"Fine Food and Drink - Old Fashioned Friendly Service"

35 Silver St. Portland Maine 04101
(207) 899-3778
northpointportland.com



106 Exchange St.
Portland, ME 04101

(207) 805-1469
timberportland.com

RECEIVED
JUL 13 2015
PLANNING DEPARTMENT

6/24/15

Dear Mr. Levine & Ms. Munson,

Thank you for taking the time to consider our request for alternate outdoor seating proposals.

Again, we ask that you reconsider your decision to deny our recommendations because we believe our submitted proposals were not only reasonable but very workable. While we fully understand budget restraints as far as having the sidewalks widened at this time, we believe that the city should work with us and give us seasonal, temporary permission to use the street space until such time when the sidewalks can be widened. We don't think you fully understood what our proposal entailed, perhaps something was lost in communication.

1. We recommended that the 4 parking meters across the street from us, be bagged for the summer season thereby widening the street by an additional 7' for traffic to pass both ways. And by doing so, we could in turn use a 6' x 20' wide area on the street directly in front of our restaurant, not across the street, still leaving a 19' wide section for traffic to freely pass both ways. We would construct a temporary wooden deck with banisters that would not impede traffic nor be a hazard to pedestrian foot traffic. In fairness, the city has not only granted several of the newer hotels permission to widen the sidewalks for their valet parking needs, but has also allowed one hotel to completely close off an entire intersection for a "Pop up Park" on Federal St.
2. As far as hindering sidewalk access for pedestrian use, you clearly state in your letter that the sidewalks in front of our basement wells are a "preexisting condition" and yet the city has placed new parking meter terminals all over the old port, with many placed in such a way that they have reduced the space for pedestrian traffic by as much as two feet, leaving only 2'8" of passage on several sidewalks. We know, we went out and took measurements. I would be happy to provide you with pictures and locations of the various areas that are in violation of not only city regulations but in defiance of the Americans With Disabilities Act of 1990, at your request.
3. Lastly, you cite budget limitations, which we do fully understand, and yet the city has found money to rip up an entire length of Exchange St to replace bricks and plant trees amongst various other street improvements and alterations. If the city cannot afford to widen our sidewalks at this time and change Silver St to a one way Street heading North continuously, at least grant us the permission to continue having outdoor dining as we have done for the past three years. We believe our proposal is not only an alternative temporary solution, but just plain



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fair. Our business relies on the ability to capitalize on the summer tourist market and creates sorely needed jobs for hard working folks. We intend to continue to pursue this matter until a mutually acceptable outcome can be reached.

Thank You again for your consideration in this matter,

Noah Talmatch

Owner of The North Point & Timber Steakhouse.



Jeff Levine, AICP
Director, Planning & Urban Development Department

Noah Talmatch
The North Point
35 Silver Street
Portland, ME 04101

July 7, 2015

Re: Request for Consideration of Alternative Proposals for Outdoor Seating

Dear Mr. Talmatch:

Thanks for your letter of June 24 suggesting alternative arrangements for outdoor seating at The North Point following the expiration of your current outdoor seating permit in August.

As you note, your current outdoor seating arrangement will not meet the new outdoor seating regulations as it does not allow for 4' of clearance on the public sidewalk. While you note that the existing basement wells limit the width of the sidewalk to as little as 3'3" in spots, that is a preexisting condition for limited lengths of passage. The goal of the new regulations is to accommodate those with disabilities as much as practicable, and therefore we don't accept outdoor seating proposals that further limit accessibility.

As you also note, we were not able to accept your earlier proposal for dining in the right-of-way as there is no parking space to utilize for outdoor seating in front of your restaurant.

We have reviewed the two additional proposals in your June 24 letter and cannot support them at this time:

- While widening the sidewalk and making Silver Street one-way would be a possibility for the future, current staff and capital budget limitations mean that we cannot consider such changes right now.
- As for bagging some or all of the meters across the street and reserving that area for outdoor seating, doing so would create a situation where your servers would have to cross the street to serve customers. We can't support that arrangement, as it would jeopardize those passing by as well as your staff.

We value the contributions your business make to the vitality of the City, and appreciate your ongoing effort to find an outdoor seating solution. If you have

additional suggestions, we welcome them and will consider a way to maintain public safety, accessibility, and your outdoor seating preferences if possible.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JL', is positioned above the name 'Jeff Levine'.

Jeff Levine

cc: Mayor Michael Brennan
Kevin Donoghue, District One City Councilor
Michael Sauschuck, Acting City Manager
Anita LaChance, Deputy City Manager
Michael Bobinsky, Director of Public Services
Tammy Munson, Inspections Division Director
Business Licensing



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6/24/15

Dear Director Jeff Levine & Inspections Director Tammy Munson,

Recently The North Point Restaurant, located at 35 Silver St. Old Port, Portland, applied for an increased outdoor seating permit but were rejected. We wanted to add an additional 8 tables that stretched the entire length of our storefront and the office building directly beside us, the MHR offices. We were given permission, by the director of MHR and the building owners to do so, any time after 5pm when most of their tenants leave for the day. We were hoping that you would have granted us permission as well.

We have a valid permit for 2 tables outside up until 8/22/15 as of now and have renewed it for the past three years. Because you have rejected our initial proposal, for increased outdoor seating, we wanted the opportunity to again present two alternate plans and recommendations for a possible solution as stated in the "Petition for Exception for special Circumstances".

As of now, the City of Portland requires 4' of unobstructed sidewalk passage. Our measured sidewalk directly in front of our building, is presently 6'6" and only 3'3" in front of our 2 basement wells. This violates the City's own requirements and therefore should be corrected. The only way to make the sidewalk legal width would be to increase it by another 7" to make a 4' continuous unobstructed passageway. We understand that the building was built back in the last century before there were paved streets but it remains that the basement wells remain a potential danger to the general public because of the limited size of the sidewalk passage in front of them.

Additionally, in your letter, you stated that Silver St. is a one way street, which is correct and incorrect at the same time. The portion of Silver St that runs from Milk St to Middle St is one way. The portion of Silver St. that runs from Fore St to Milk St. is presently two ways. The width of Silver St. is currently 26'. There are also four metered parking spaces directly across the street from our restaurant which narrow the two way passage to 17' when cars are parked there, resulting in frequent traffic blockage whenever two cars are passing each other going different directions. Most of the traffic on Silver Street stems from the Valet attendants of the Regency Hotel moving cars to and from their private parking lots. We have noticed that most people either walk on sidewalk that runs the length of the Regency hotel, measured at 9'8" or simply walk in the middle of the street because our sidewalk is very narrow and the basement wells impede foot traffic.

Given all the information, this is what we have 2 proposals:

Change the entirety of Silver St to "one way" continuously from Commercial Street to Middle St and increase the sidewalk width in front of our building to 9'8" (an addition of 3'2") to match the sidewalk directly across the street. This still would allow 16' 2" width for automobile traffic. It would not only give pedestrians a wider unobstructed passage on both sides of the street, but also allow us to increase the number of tables for outdoor dining but most importantly, make the sidewalk safe and legal under city

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guidelines. The potential for someone slipping on the 3'3" part of the sidewalk remains a danger to the public, especially during the icy winter months. Additionally, the city sidewalk plows are partially blocked from clearing these areas and during this past winter, they destroyed several bricks directly in front of the wells. We did in fact report this dangerous situation to the buildings department. We were assured that the bricks would be repaired but it never happened. So we fixed them ourselves. Increasing the sidewalk width would solve this problem.

OR:

For the outdoor dining season, from May to September, Bag meters on the four parking spaces directly across the street from us and allow us to use 6'x20' of actual street space, surrounded by temporary wooden planter boxes as we did on June 8th 2015 during the Old Port festival (Copy of permit enclosed) with two way traffic having no problem whatsoever, valets and street vendors driving unobstructed. . This would still allow approximately 19' width for automobile traffic remaining two way. The four meters generate a daily maximum of \$32 for the City which totals \$960 monthly. The revenue for taxes for the state & city of Portland, collected by an additional 8 tables, based upon our monthly sales tax reports, would be approximately \$6200.

In addition to more tax revenue, we would also be willing to pay a monthly fee of \$960 directly to the city to make up for the loss of meter revenue.

This is a serious matter for us. A large part of our yearly revenue relies on the ability to attract customers with tables in front of our business. Other nearby business, due to slightly wider, legal sidewalks have tables outside and it would be an unfair for us not to be able to enjoy the same privilege, especially since we have had a permit to do so for the past three years. The City of Portland changes sidewalk width to suit the new hotels for valet parking, why not us as well? We are every bit, just as important to Portland's tourist economy. It also creates much needed summer jobs and quite frankly, restaurants play the largest part of Portland's appeal to the tourist market.

We have had well over 160,000 guests dine with us since opening in 2012 and The North Point has become a much loved and respected community business. Please reconsider your decision. This could be a win -win situation for us and the city.

Enclosed is a copy of the original application, you have it on file, sent via e-mail (fees have already been paid, check cashed by the city), photographs and plans with new proposed dimensions.

Thank You for your consideration in this matter,



Noah Talmatch

Owner of The North Point & Timber Steakhouse.

City of Portland, Maine
Office of the City Clerk

License No. 693

Issue Date June 8, 2015

To all Whom These Presents May Concern:

This is to certify that the Municipal Officers have granted a license to
THE NORTH POINT

Doing business as OLD PORT FESTIVAL
at SILVER

for TEMPORARY FOOD SERVICE LICENSE /

and at that place only on the following conditions:

Participation pending passage of Fire and Health Inspections. Fire Prevention requires vendor meet all applicable Life Safety requirements. If producing grease-laden vapors in enclosed truck or trailer, must meet requirements of NFPA 96. Those not in enclosed space require Type K extinguishers. All safety requirements for use/storage of propane shall be adhered to.

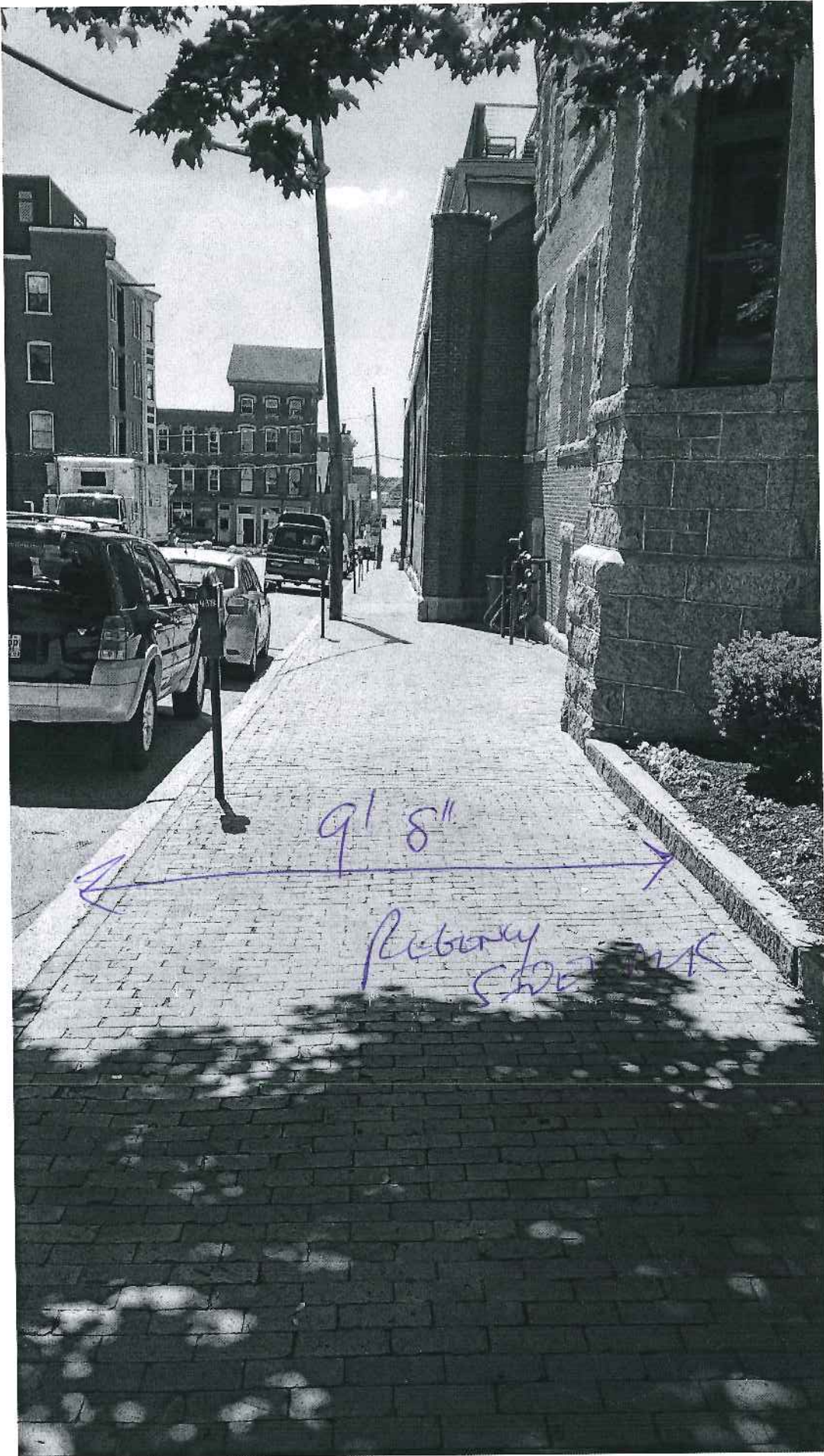
This license is granted subject to strict observance of all laws, ordinances and regulations enacted for the protection of the City of Portland so far as they may apply and is to continue in force until 06/14/2015 unless sooner revoked.

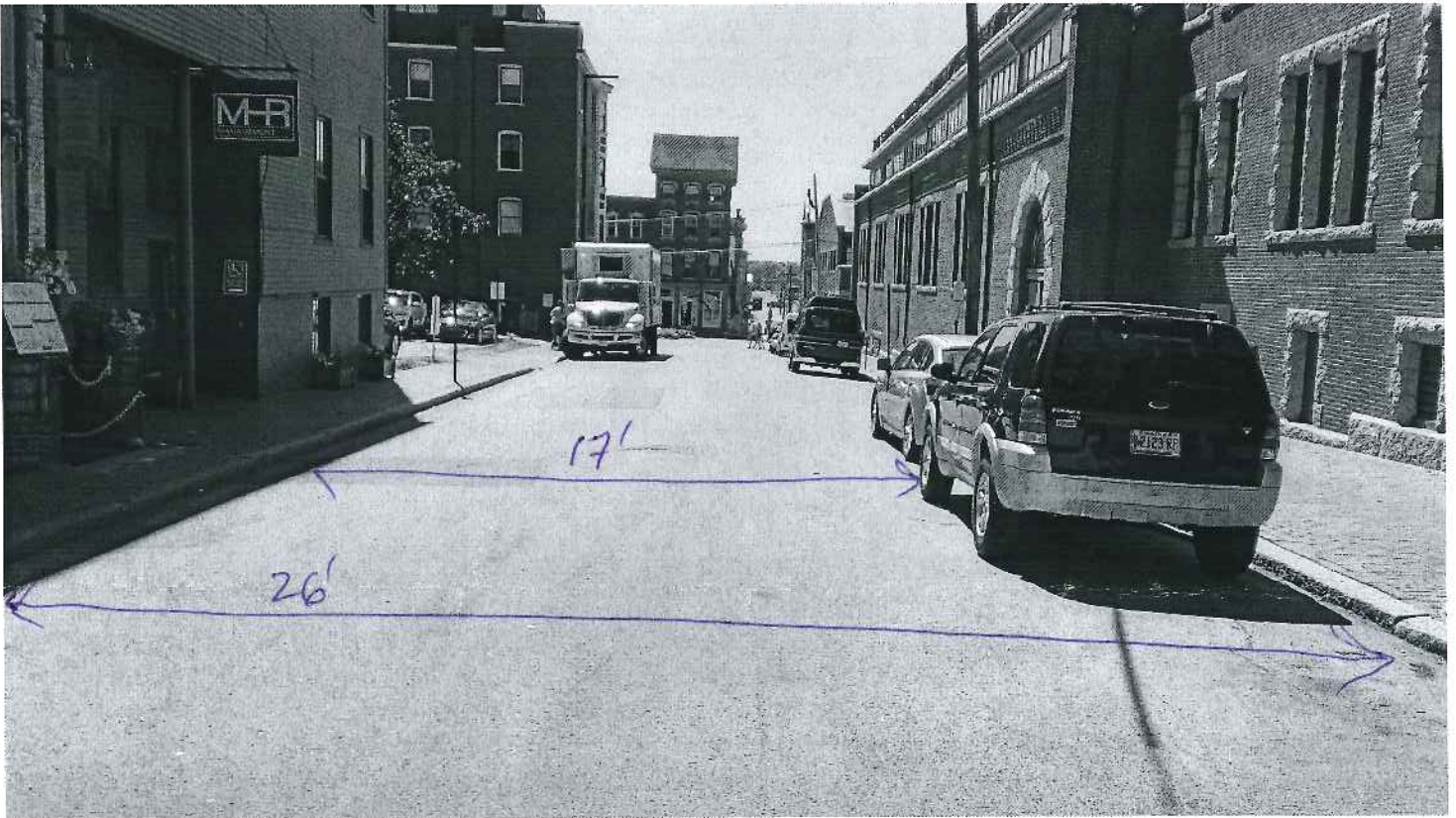


Katherine R. Jones

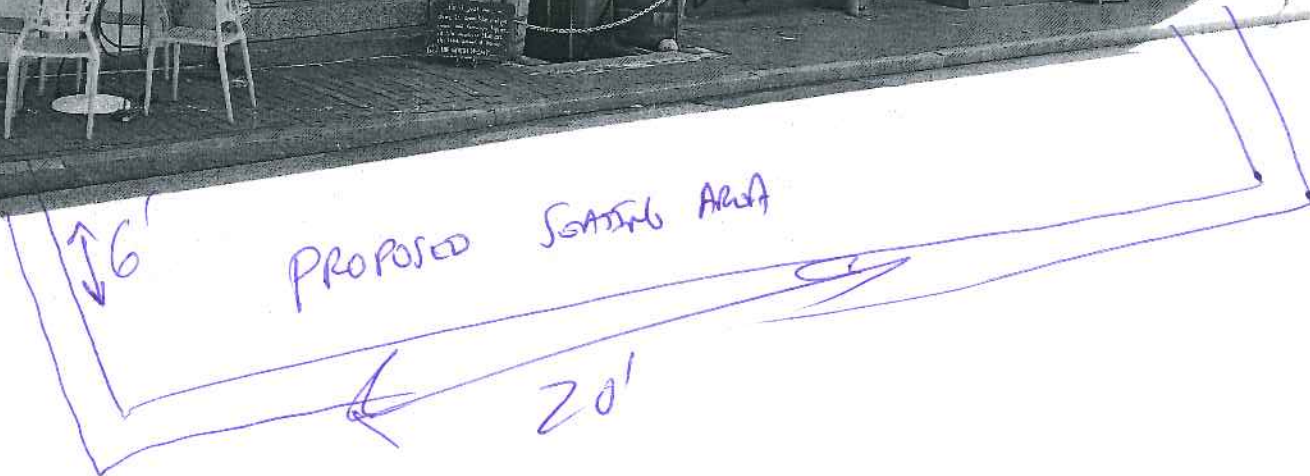
City Clerk

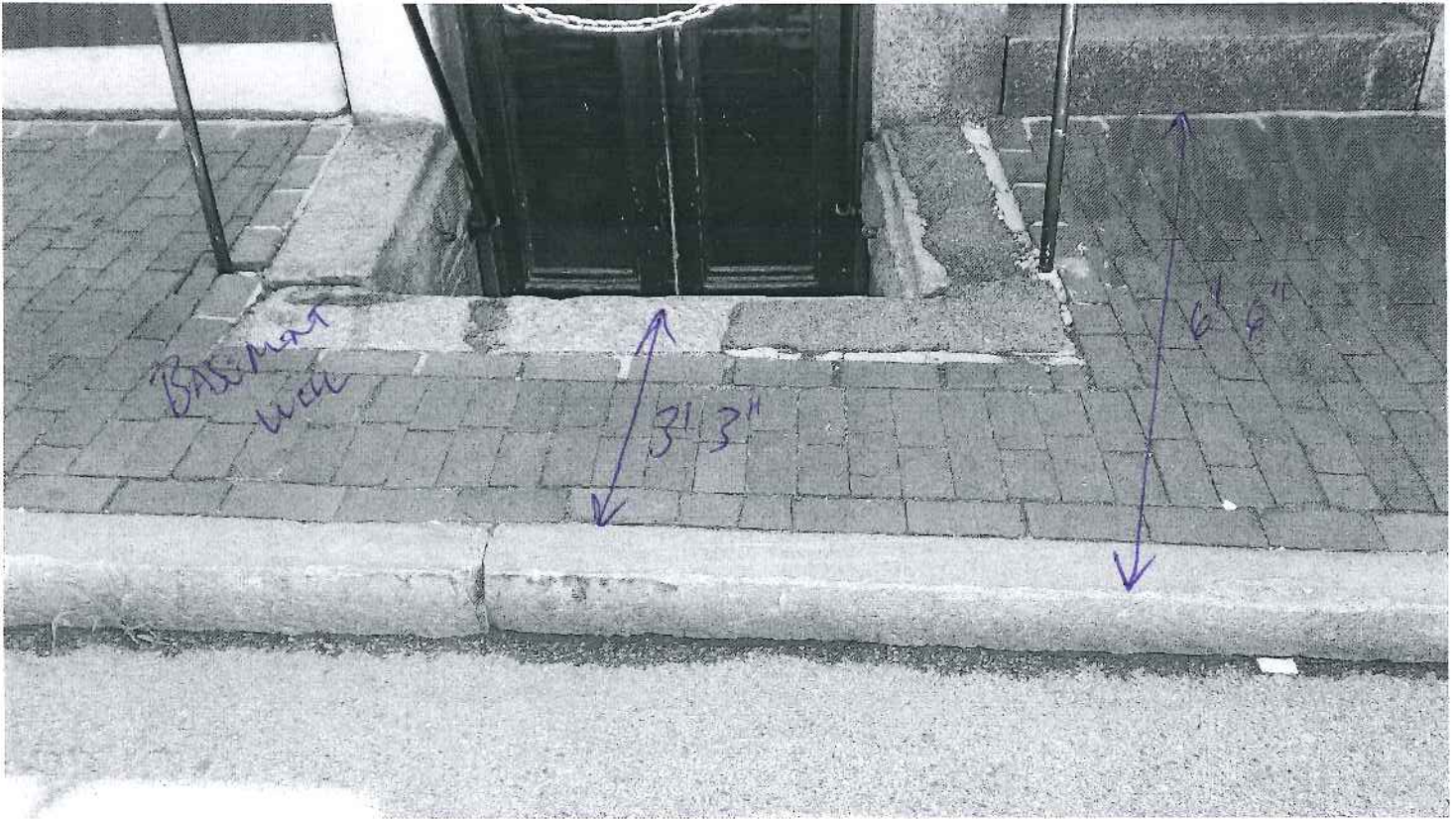
**THIS LICENSE IS NOT TRANSFERABLE
PLEASE POST IN A CONSPICUOUS PLACE**





SILVER ST. WIDTH







45 MIN

THE
CROOKED
MINE

THE NORTH POINT
35 S.W. ST.

M/R

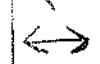
10' 0" S.W. ST.

RECORDY HORN

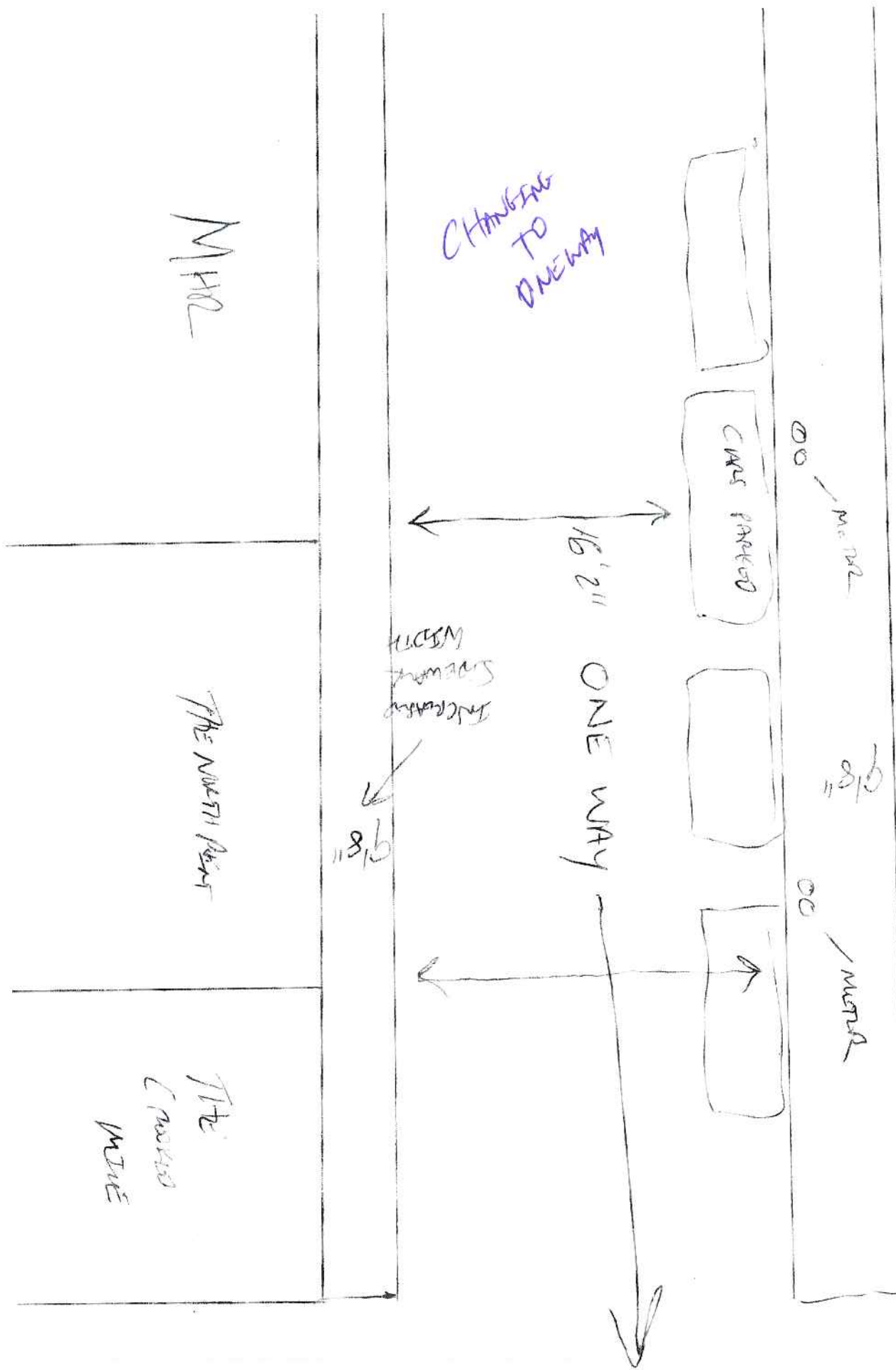
19' 9" S.W. ST.

26' S.W. ST.

3' 3" S.W. ST.



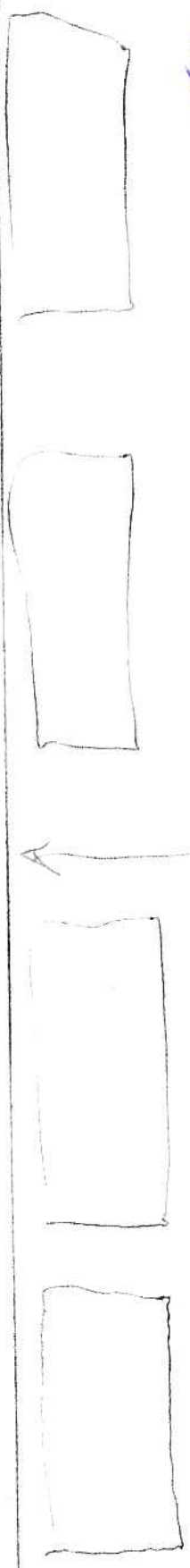
Retention



THE PUBRARY

00 METERS

00 METERS



Remainder
Two
way
BAYED METERS

STREET SPACE

20'

SIDE WALK

THE NORTH
POINT

THE
CROWN
MTR

MTR

1' SIDE WALK
6' SIDE WALK

NEW ST

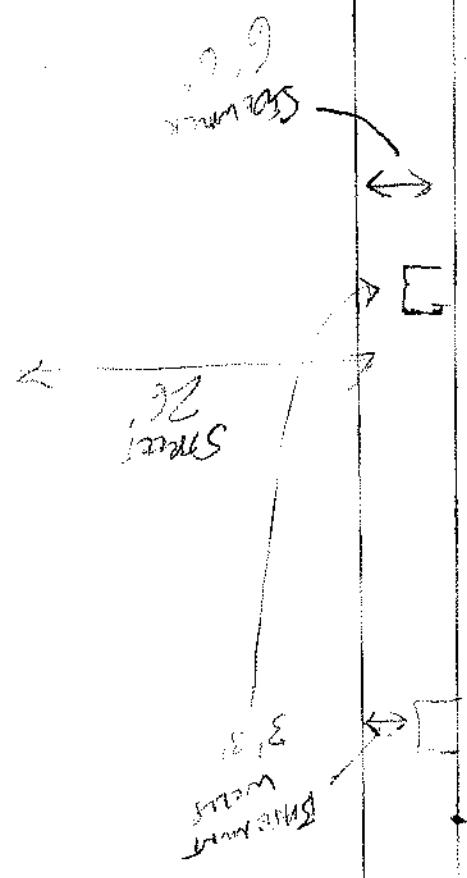
THE
CANTON
MUSEUM

THE NORTH RIVER
35 STREET
ST.

MAR

9.8' ±
SIDEWALK

RECENTLY LOST



8/22/14

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK



CITY OF PORTLAND BUILDING PERMIT



This is to certify that

WITT-T LLC

Located at

37 SILVER ST

PERMIT ID: 2014-01784

ISSUE DATE: 08/20/2014

CBL: 029 B001001

has permission to 2014 Outside dining; 4 chairs, 2 tables.

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of the buildings and structures, and of the application on file in the department.

Notification of inspection and written permission procured before this building or part thereof is lathed or otherwise closed-in. 48 HOUR NOTICE IS REQUIRED.

A final inspection must be completed by owner before this building or part thereof is occupied. If a certificate of occupancy is required, it must be procured prior to occupancy.

N/A

Fire Official

/s/ Tammy Munson

Building Official

THIS CARD MUST BE POSTED ON THE STREET SIDE OF THE PROPERTY
THERE IS A PENALTY FOR REMOVING THIS CARD

Approved Property Use - Zoning

Building Inspections

Fire Department

1st floor is restaurant

CURRENT
PERMIT

PERMIT ID: 2014-01784

Located at: 37 SILVER ST

CBL: 029 B001001



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Check all that apply:

New Application for Outdoor Dining or Renewal Application for Outdoor Dining

Outdoor Dining in a Public Park If Renewal, are there changes to previous permit?

Outdoor Dining in a Historic District * Yes No

Petition for Exception for Special Circumstances * SEE ATTACHED LETTER

Liquor License required

City Clerk signature for liquor license approval: [Signature]

Location Name & Address: THE NORTH POINT
35 SILVER ST, PORTLAND ME

Chart **Block** **Lot**

Owner Name: NOAM TALMARCHI
Owner Phone #: 646-701-1011

Total Square Footage of Proposed Outdoor Dining Area: 180 SF

Applicant *must* be owner or lessee
Name: NOAM TALMARCHI
Address: 35 SILVER ST PORTLAND ME 04101
City, State & Zip: PORTLAND ME 04101
E-Mail: NOAZARC62@GMAIL.COM

Annual Fee: \$80
Total Sq. Ft.: 180
Sq. Ft. Fee: (sq ft x \$2) \$ 360
(sq ft x \$6 for public parks)
(Due when issued)
Total Fees: \$ 440
(Permit not issued until all fees are paid.)

Current use: RESTAURANT / BISTRO
Business name: AAA THE NORTH POINT LLC

Seating area dimensions: 30' x 6' = 180 SF
How many chairs? 40 **How many tables?** 10

Yes Alcohol is served.
 No Alcohol being served.

Who should we contact for the pre-inspection: NOAM TALMARCHI
Mailing address: 35 SILVER ST PORTLAND **Phone:** 646-701-1011

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit. New applications and renewals are reviewed on an annual basis and should be submitted no later than June 1st.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

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

Signature of Applicant: [Signature] Date: 5/6/13

In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.
This is not a permit; you may not commence ANY work until the permit is issued.



Jeff Levine, AICP, Director
Planning & Urban Development Department

Tammy Munson, Director
Inspections Division

OUTDOOR DINING PERMIT CHECKLIST

Permits are required for expanding food service establishments to the outside on City Property. The annual fee is \$80.00 plus \$2.00 per square foot of dining area on streets, sidewalks or other public ways and \$80.00 plus \$6.00 per square foot of dining area in city parks. The annual fee is due when you drop off your permit application. The square footage fee is paid when you pick up your permit. *For purposes of fee calculation, the area abutting the buildings which border Monument Square and extending ten (10) feet from the facade of said buildings shall be considered a sidewalk. The ten (10) foot area shall be measured from that portion of the facade that protrudes furthest into the sidewalk. The area beyond the ten (10) foot sidewalk shall be considered park space.*

Outdoor dining is permitted year round under the permit; however, furniture must be removed in inclement weather to allow for sidewalk snow removal.

The permit must be renewed each year.

All of the following information is required and must be submitted. You will also be required to fill out an Outdoor Dining Permit Application.

A plot plan is required and must include:

- A drawing of the lot, where the building sits on the lot along with the lot and building dimensions
- The dimensional setback from the sidewalk to the building
- The location of the street, and if it's a corner lot, the intersecting streets
- The sidewalk along with its width and curbing location
- The location of the table and chair placement, including dimensions

(NOTE: there must be a minimum of four feet of open sidewalk from the outer boundary of the seating area to the curb, and a minimum of five feet on corners, and egress from the building must be maintained free of obstruction per the building code and NFPA Life Safety Code).

Additional Requirements:

- The permit holder is required to produce at the time of submission and maintain public liability insurance coverage in an amount of not less than four hundred thousand dollars (\$400,000) combined single limit for bodily injury, death and property damage, naming the City as an additional insured thereon.

All permits for outdoor dining are issued subject to the following conditions:

- The tables and chairs must be placed within the permitted area on the sidewalk in such a manner as to allow the free and safe passage of pedestrian traffic. If the tables and chairs are moved and located outside of the permitted outdoor seating area, they must be relocated to within the permitted area. Failure to contain the tables and chairs to the permitted area may result in a reduced permitted area or a revocation of the permit.



PORTLAND MAINE

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

Jeff Levine, AICP, Director
Director of Planning and Urban Development

Tammy Munson
Director, Inspections Division

Electronic Signature and Fee Payment Confirmation

Notice: Your electronic signature is considered a legal signature per state law.

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a **legal signature** per Maine state law. You are also signifying your intent on paying your fees by the opportunities below.

I, the undersigned, intend and acknowledge that no permit application can be reviewed until payment of appropriate permit fees are **paid in full** to the Inspections Office, City of Portland Maine by method noted below:

- Within 24-48 hours, once my complete permit application and corresponding paperwork has been electronically delivered, I intend to call the **Inspections Office** at 207-874-8703 and speak to an administrative representative and provide a credit/debit card over the phone.
- Within 24-48 hours, once my permit application and corresponding paperwork has been electronically delivered, I intend to **hand deliver** a payment method to the Inspections Office, Room 315, Portland City Hall.
- I intend to deliver a payment method through the U.S. Postal Service mail once my permit paperwork has been electronically delivered.

Applicant Signature:

Date:

5/6/15

I have provided digital copies and sent them on:

Date:

5/6/15

NOTE: All electronic paperwork must be delivered to buildinginspections@portlandmaine.gov or by physical means ie; a thumb drive or CD to the office.