



PORTLAND MAINE

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Planning & Urban Development Department

Penny St. Louis Littell, Director

Planning Division

Alexander Jaegerman, Director

August 12, 2010

Mark Woglom, President
Opechee Construction Corp.
11 Corporate Drive
Belmont, NH 03220

RE: Planning Board approval for Major Site Plan and Subdivision. Structured Parking development at 207-209 Fore Street.

CBL: 029-L-001, 001

Dear Mr. Woglom,

On August 10, 2010 the Portland Planning Board considered a plan submitted by Opechee Construction, doing business as Fore India Middle, LLC., for a two story, 208 space parking structure located at 207-209 Fore Street. The Planning Board reviewed the proposal for conformance with applicable standards of the Subdivision Ordinance and the Site Plan Ordinance. The Planning Board voted (5 to 0, Patterson and Morrisette absent) to approve the application with the following motions, waivers, and conditions if approval, as detailed below.

WAIVERS

The Planning Board voted 5-0 (Lewis and Silk absent) to approve the following waivers relevant to the Portland's Technical and Design Standards and Section 14-220 of the City Code as presented below:

1. The Planning Board waived the Technical Standard for the Driveway curb radius, Section III, 2 (c), subject to the following condition of approval:
 - (a) The detectible warning panels at the Middle Street driveway entrance shall be revised to address review comments from Tom Errico, Consulting Engineer, dated August 5, 2010.
2. The Planning Board waived the Technical Standards for parking stall dimensions, Section III-1 and III-2.
3. The Planning Board found that the increased building setback beyond the requirements set forth in Section 14-220 (c), namely that *all buildings or structures shall be located within five (5) feet of the property line along street frontages*:

- (a) Provides substantial and viable publicly accessible open space or other amenity at the street level that supports and reinforces pedestrian activity and interest;
- (b) Does not substantially detract from the prevailing street wall character;
- (c) Does not detract from existing publicly accessible open space; and,
- (d) The area of setback is of high quality and character of design and of acceptable orientation to solar access and wind impacts as to be attractive to pedestrian activity.

And therefore waived the 5-foot maximum building set back requirement of Section 14-526(a)16 b.2 of the Site Plan Ordinance.

SITE PLAN REVIEW

The Planning Board voted 5-0 (Lewis and Silk absent) that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following condition(s) of approval:

1. The 6 street lights proposed as part of the development shall be of the designated lighting type, size and color for the lighting district, as detailed in Section 10 of the 2010 Technical Manual. The appropriate specifications shall be listed on the final plans.
2. *The detectible warning panels at the Middle Street driveway entrance shall be revised to address review comments from Tom Errico, Consulting Engineer, dated August 5, 2010.*

SUBDIVISION REVIEW

The Planning Board voted 5-0 (Lewis and Silk absent) that the plan is in conformance with the subdivision standards of the Land Use Code, subject to the following condition(s) of approval:

1. The applicant shall be responsible for incorporating all changes to parking signs on Middle Street near the proposed driveway. The exact details of on-street parking will be determined by City staff.
2. A post development traffic count shall be conducted for the intersection of Middle and India Streets.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Report #28-10.

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

1. A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee.
2. The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification of any approved site plan or alteration of a parcel

which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the planning authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.

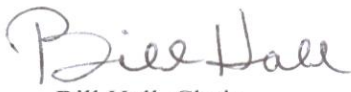
3. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
4. Pursuant to 30-A MRSA section 4406, notice of any waiver(s) must be recorded in the Cumberland County Registry of Deeds within 90 days of the granting of said waiver(s).
5. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Dept. prior to the release of a building permit, street opening permit or certificate of occupancy for site plans.
6. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
7. The subdivision approval is valid for three (3) years.
8. Final sets of plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
9. Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.
10. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
11. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
12. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact

Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

Philip DiPierro, Development Review Coordinator, must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Molly Casto, Senior Planner at 874-8719.

Sincerely,



Bill Hall, Chair
Portland Planning Board

Attachments:

1. Applicable Staff Memos
2. Performance Guarantee Packet

Electronic Distribution:

Penny St. Louis Littell, Director of Planning and Urban Development
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Bill Needelman, Senior Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Tammy Munson, Inspections Division Director
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Kathi Earley, Public Services
Bill Clark, Public Services
David Margolis-Pineo, Deputy City Engineer
Todd Merkle, Public Services
Greg Vining, Public Services
John Low, Public Services
Jane Ward, Public Services
Keith Gautreau, Fire
Jeff Tarling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File
Hard Copy: Project File

From: Thomas Errico <Thomas.Errico@tylin.com>
To: Molly Casto <MPC@portlandmaine.gov>
CC: Katherine Earley <KAS@portlandmaine.gov>, David Margolis-Pineo <DMP@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>
Date: 8/5/2010 11:24 AM
Subject: Old Port - Phase 2

Molly - I have reviewed the revised information transmitted yesterday and offer the following status report on prior comments.

July 1, 2010

· The first and second floor parking levels will require waivers for parking stall size (both width and length). I need to review the layout in greater detail before I render a decision on a waiver.

Status: I support a waiver from the Technical Standards for the parking stall size.

· I have reviewed the proposed driveway entrance design and find it to be acceptable. In my professional opinion the driveway meets City standards for width (it will serve commercial uses) and therefore a waiver from the City's Technical standards is not needed. I support a waiver for reduced radii for the driveway. The ramps at the driveway shall include detectable warning devices.

Status: The detectable warning devices should be aligned to orientate pedestrians along the path of travel. The plan should be revised to best meet this standard. Otherwise, I have no further comment.

· The applicant should provide data on the amount of traffic entering and entering the second floor parking level under full occupancy (during AM and PM peak hours) and provide an assessment of conditions as it relates to traffic operations in respect to the India Street/Middle Street intersection.

Status: A traffic study has been provided and comments are noted below.

· The applicant will be responsible for incorporating all changes to parking signs on Middle Street near the proposed driveway. The exact details of on-street parking will be determined by City staff.

Status: I have no further comment.

· The applicant should consider pedestrian accessibility between the second floor parking level and destinations toward Fore Street.

Status: The applicant has provided a response, but I believe this issue is still outstanding.

July 30, 2010

- Knowing that several other developments in the area have been permitted it is unclear whether the build traffic volumes include approved projects (Village Café site, Ocean Gateway, Phase 1 Hotel, etc.). These projects should be included.

Status: Other development traffic has been included and I have no further comment.

- Looking at the turning movement volumes, I was surprised at the distribution. Examples include the low volume turning right onto Middle Street from southbound India Street in the morning and the reverse movement in the evening. Please check the data. Also, please note whether there were any substantial traffic detours in the area during the time of the count.

Status: I concur with the applicant that a post development traffic count be conducted at the subject intersection. The City has been collecting funds for traffic studies in the area and the money collected should be used for this discussed purpose. I would further note that when the office building phase is permitted, a monetary contribution and/or off-site mitigation improvements will likely be requested at that time.

- It does not appear that pedestrian volumes were included in the analysis. Did you collect pedestrian volumes? Pedestrians are significant at India/Middle.

Status: Pedestrian volume counts were conducted and a revised analysis performed. I have no further comment.

- Please conduct a four-way STOP sign warrant evaluation with the data you have at the India/Middle intersection. You likely will not have all required hours, but please try to draw some conclusion.

Status: The requested analysis has been provided and I have no further comment.

- For the comparison of LOS/Delay, please use SimTraffic results only. It will simplify things and I believe is the better data. I would like some reply on how the SimTraffic results compares to field conditions, particularly from a queuing perspective. Talk to the person who did the count. Also, provide LOS/Delay data in tabular form in the Memo for the site drive.

Status: The above requested information has been provided and I have no further comment.

In conclusion, I find the proposed project to be acceptable. It should be noted that the parking facility will not generate new traffic to the area. The purpose of the traffic study and analysis was to confirm that the Middle Street parking deck driveway is designed to accommodate future development phases (e.g. office space). In my professional opinion the Middle Street driveway is located such that it maximizes its distance from both Franklin Street and India Street, thus avoiding any backup problems. While it is located in close proximity to Hampshire Street, it is my opinion that this condition is not likely to be problematic due to the low volumes turning from Hampshire Street (Hampshire Street is a one-way southerly flow road). I would further note that the analysis conducted by the applicant indicates the driveway on Middle Street will operate at an excellent level of service. Lastly, I am not supportive of locating a truck loading dock adjacent to the proposed entrance. It is my suggestion that this item be considered at the time when the office building phase is permitted.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, P.E.

T.Y. Lin International

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PLANNING BOARD REPORT PORTLAND, MAINE

STRUCTURED PARKING
207-209 FORE STREET
MAJOR SITE PLAN, SUBDIVISION
PROJECT ID # 99700003
FORE INDIA MIDDLE, LLC. OPECHEE CONSTRUCTION CORP, APPLICANT

Submitted to: Portland Planning Board Public Hearing Date: August 10, 2010	Prepared by: Molly Casto, Senior Planner Date: August 6, 2010
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1. Introduction

Opechee Construction Corporation, doing business as Fore India Middle, LLC. requests Planning Board review and approval for a 2 unit condominium project at 207-209 Fore Street. The proposed condominium is comprised of the following:

- A two story parking structure, with each deck representing an individual lot

Please Note: The original proposal presented at the July 13th workshop was for a 6-unit subdivision comprised of the parking structure described above (2 lots) plus four townhouses (4 lots). Based on discussions with Planning staff, the applicant has chosen to bifurcate the review and is bringing forward the parking structure only for Planning Board consideration at this time. The townhouse component of the development will be presented to Board at a future meeting as an individual application.

This project is presented as the second phase of the recently approved hotel, restaurant, and residential development located at 207-209 Fore Street. The project is being reviewed as a major site plan and subdivision.

Notice has been sent to 154 property owners in the vicinity of the project area and was printed in the July 26th and August 2nd editions of the *Portland Press Herald*. Notice of the Public Hearing and a copy of this report were also posted on the City of Portland website.

2. Project Data

Total Site Acreage:	47,473 sq. ft. (1.09 acres)
Zone:	B-3 Downtown Business
Existing Uses:	Unconstructed 90 space surface parking lot (approved April, 2010).
Proposed Use:	2 story structured parking.
Proposed structure height:	<u>Parking Structure:</u> <ul style="list-style-type: none">• 11' higher than the grade at abutting hotel corner on Fore Street.
Proposed parking:	106 (lower) + 102 (upper) = 208 spaces
Required Parking	
Proposed bicycle pkg.:	12 spaces at Fore Street
Impervious surface:	Existing: 19,770 (approved April, 2010) Proposed: 36,023

3. Right, Title and Interest

The owner of the property is Fore India Middle, LLC. The applicant provided a copy of a Quitclaim Deed, recorded at the Cumberland County Registry of Deeds (Book 27859 Page 68) demonstrating right, title and interest in the property ([Attachment 2](#)).

4. Proposed Development and Background

The subject development parcel encompasses the recently created Lot 2 at 207-209 Fore Street. Lot 2 is approximately 1.09 acres and is bounded by the new subdivision property line with lot 1 to the west, Middle Street to the north, Fore Street to the south and India Street to the east. The surrounding area is a transitional district that links the Old Port District with the India Street neighborhood and Eastern Waterfront District. Existing development on the opposite side of abutting streets includes a mix of surface parking and multi-storied development including retail, office and restaurant with some upper story residential.

The site is currently under construction for the recently approved six-story hotel, residence and restaurant development oriented to the Fore and Franklin Street corner of the site. The April, 2010 approval included a 90 space surface parking lot on Lot 2 buffered by a 35-foot strip of green space at Fore, India and Middle Streets (as required by the B-3 conditional use standards of the Land Use Code). This site plan seeks to accommodate a 2 story parking structure in the place of the approved surface parking.

The site slopes from Middle to Fore Street and is served by all public utilities.

The first floor of the proposed parking structure is accessed from Fore Street. The 106 parking spaces proposed on this floor will be designated for use by the approved hotel and residences located on Lot 1 and will replace the 90 parking spaces that were previously approved. The first level would include 3 uncovered spaces and 103 covered spaces. The 102 space upper parking deck is accessed through a two-lane drive on Middle Street. The

proposed parking spaces are between 8 and 10.5 ft wide by 17 to 18 ft deep. The proposed aisle width is 24 ft, throughout.

Waiver Request: The applicant has requested a waiver from the applicable technical standards for parking stall dimensions. See staff review comments under site plan review for further discussion.

The upper story of the parking structure will be illuminated by three 20 ft light poles, each with four fixtures. This has been revised from the applicant's original proposal, which would have required a waiver from the City of Portland technical standards. The applicant has withdrawn their request for a waiver.

According to the submitted elevation drawings, the upper deck will be enclosed with a partial height wall. This represents a revision to the original proposal, which proposed a decorative fence.

Waiver Request: The applicant has submitted a waiver request to exceed the 5 ft minimum build-to line required in the B3 zone, in order to allow the parking lot to be constructed further than 5 ft from the property line (see Attachments 2 and 10). The applicant is required to demonstrate compliance with Section 14-220(c) of the Land Use Code. Additional discussion is provided under the 'Zoning' and 'Staff review' sections of this memorandum.

The applicant will be constructing brick sidewalk along Fore Street as required of the April, 2010 approval. There is existing brick sidewalk along India Street. The applicant proposes to retain bituminous concrete sidewalk along Middle Street until the proposed townhouses and future office structure at the corner of Middle and India are constructed. The City retained a performance guarantee as part of the April, 2010 approval of Phase 1 for the installation of brick sidewalk along the Middle Street frontage to account for future construction. The condition of Planning Board approval reads as follows:

Prior to issuance of a building permit, the applicant shall post a performance guarantee equal to the value of installing brick sidewalk for the entire length of the Middle Street frontage of the subject parcel. The term of the performance guarantee shall be no-longer than 2 years after the date of approval for the subject development, as may be extended at the City's sole discretion. If after 2 years following the date of site plan approval, the applicant has not installed a brick sidewalk along the entire Middle Street lot frontage, the City may draw on the Performance Guarantee funds to complete such an improvement.

5. Zoning

The following comments, with updates since the July 13th workshop, have been provided by Marge Schmuckal, Zoning Administrator:

This new project is located on lot #2 in the B-3 Zone. The proposal is proposing a two story parking garage (which is a listed permitted use) and four town house condominiums (also a listed permitted use).

The applicant is requesting that the approval be considered for two phases: first the parking garage and then the four residential units.

- The proposal is now for a two story parking garage only. The townhouse phase will return as a separate application.

My count of parking spaces on the plans shows that there are 104 parking spaces on the lower level instead of the 110 spaces stated in the submitted text. There will be 103 spaces on the upper level just as outlined in the narrative. Additionally there are three surface parking spaces that are located 35' from Middle Street.

- The site plan and narrative have been updated to show 106 spaces on the lower level, including the 3 uncovered spaces, and 103 spaces on the upper level.

I believe that the parking garage is exempt from the minimum 35' building height requirement under section 14-220(h)(1) which gives an exemption to the 35' minimum height for "accessory building components and structures such as truck loading docks, covered parking, mechanical equipment and refrigeration units". I have determined that the parking structure meets the requirement of covered parking.

The project does not meet the 5' setback of the street wall build-to line. The Ordinance allows the PB to approve the differences under 14-526(a)(16). The project will need to go to the PB for a subdivision approval on the 4 residential dwelling units.

- The townhouses will return to the Planning Board as a separate application; however subdivision approval is still required for the parking structure.

The project is not in the Historic District nor a PAD district. The street line along Middle Street is a PAD Encouragement area. I believe that all other B-3 Zone requirements are being met. I would like to get a scaled drawing of the town houses for further reviews. Only unscaleable sketches were submitted.

- Scaled elevation drawings have been submitted for the parking structure. The townhouses are not under review at this time.

6. Public Comment and Neighborhood Meeting

Other than at the Planning Board workshop and the required Neighborhood Meeting, one letter public comment was received during this review. This was provided to the Board at the July 13th workshop and is attached to this report ([Attachment 14](#))

The applicants held the required Neighborhood Meeting on Thursday July 29, 2010 at Portland High School. Documentation of this meeting are provided as [Attachment 9](#).

7. July 13th Workshop Summary

At the July 13th workshop, issues were raised by public regarding the project's proposed phasing (at the time when the townhouses were proposed as phase 2 under this application). There was concern over the proposed design of the townhouses and whether the parking structure would result in an overabundance of parking in this neighborhood. This was especially of concern if future proposed development phases did not proceed.

After the workshop, Planning staff met with the applicant. Based on recommendations generated at that meeting, the applicant proposed to revise the townhouse plan and bring that phase forward as a separate application at a future meeting. Parking is a permitted use in the zone by right. At the workshop, the applicant presented their vision for future development phases, which include an office building at the corners of India, Middle and Fore Streets. They are proposing the parking structure at this time in order to establish the necessary infrastructure and base for that future development. The applicant has submitted a plan that addresses applicable site plan and design standards to present the parking structure as a standalone application.

8. Staff Review

The development has been reviewed by staff according to applicable site plan and subdivision standards of Section 14-526 and 14-497 of the Land Use Code.

Documents Reviewed

- Major Site Plan with Subdivision Application dated June 22, 2010 prepared by Opechee Construction Corporation
- Traffic Analysis Memo and revised memo, submitted by Sebago Technics, Inc. on behalf of Fore India Middle, LLC dated July 23, 2010 and August 4, 2010.
- Revised Engineering Plans, Sheets C01 – C03, C04a-C04c, C05a-C05c, C06a-C06c, C07a-C07c, C08, C09, C10. Sectional Subdivision Plan SO1 by Opechee Construction on behalf of Fore India Middle, LLC.
- Subdivision Plat, dated April 23, 2010 prepared for Old Port Hospitality, LLC by Sebago Technics.
- Elevation drawings prepared by Opechee Construction, dated July 20, 2010.

(a) SUBDIVISION STANDARDS

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision ordinance. Staff comments are listed below.

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)

The revised plans have been reviewed by Dan Goyette, Consulting Engineer and by David Margolis Pineo, Deputy City Engineer. Both their original and final comments are included as Attachments C and D. The applicant has adequately addressed City

review comments. The submitted Stormwater Management Plan is consistent with the Grading and Utilities Plans. The development will not result in undue air and water pollution or undue soil erosion.

2/3. Sufficient Water Available (Section 14-497 (a) 2 and 3)

The applicant has submitted a letter from Portland Water District (PWD) stating that there is adequate capacity for both water and sewer for the proposed development (Attachment 8). Note that the capacity letter incorporates the originally proposed townhouses as well as the proposed parking structure, which is connected to existing water service from India Street.

4. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)

Tom Errico, Consulting Transportation Engineer has reviewed the revised proposal and finds the project to be acceptable. It should be noted that the parking facility will not generate new traffic to the area. The purpose of the traffic study and analysis was to confirm that the Middle Street parking deck driveway is designed to accommodate future development phases (e.g. office space) should they be brought forward. It is Tom Errico's professional opinion that the Middle Street driveway is located such that it maximizes its distance from both Franklin Street and India Street, thus avoiding any backup problems. While it is located in close proximity to Hampshire Street, this condition is not likely to be problematic due to the low volumes turning from Hampshire Street (Hampshire Street is a one-way southerly flow road). The analysis conducted by the applicant indicates the driveway on Middle Street will operate at an excellent level of service. Tom's complete comments are provided as Attachment A.

The applicant has provided a Traffic Study detailing the amount of traffic entering and entering the second floor parking level under full occupancy (during AM and PM peak hours) along with an assessment of conditions relating to traffic operations with respect to the India Street/Middle Street intersection (Attachment 6). Tom Errico has reviewed and approved the submitted traffic study, as discussed above.

Proposed Condition of Approval: The applicant will be responsible for incorporating all changes to parking signs on Middle Street near the proposed driveway. The exact details of on-street parking will be determined by City staff.

Proposed Condition of Approval: In reviewing the submittal, Tom concurs with the applicant that a post development traffic count should be conducted at the subject intersection. Staff recommends that this be included as a condition of approval. If an office building phase is permitted, a monetary contribution and/or off-site mitigation improvements will likely be requested at that time. Note that as part of the Phase 1 approval, there was a condition of approval requiring a contribution of \$1,200.00 towards improvements at the India Street/Middle Street intersection.

5. Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)

See (a) 1 above concerning discussion of stormwater disposal.

6. Scenic Beauty, Natural, Historic, Habitat and other Resources (Section 14-497 (a) 8)

The applicant has provided letters from state agencies showing no significant natural or historic resources in the area. Additionally, the site is not subject to local historic preservation protections. Jeff Tarling, City Arborist has reviewed the revised landscaping plan and approves of the proposed design (Attachment C).

7. Comprehensive Plan (Section 14-497 (a) 9)

The project is designed to be compliant with the B-3 zone which implements the following relevant components of the City's Comprehensive Plan for this portion of the Downtown.

- Downtown Vision - *The overall goals contained in Downtown Vision include:*
 - *Preserve and enhance the livability and walkability of Downtown Portland for residents, workers, shoppers, and visitors.*
 - *Encourage growth and development Downtown while preserving and strengthening the unique identity and character of the Downtown.*
 - *Achieve the highest quality urban experience through high standards of excellence for improvements to the physical environment, including new construction, building alterations, and the enhancement of the pedestrian environment.*
 - *Guide and position the Downtown in response to changing market conditions to maintain its vitality and strength to achieve the above stated goals.*

The proposal addresses applicable design standards for the B3 zone, which are intended to enhance the livability of Portland's Downtown and adjoining neighborhoods through incorporation of façade and landscape treatments and other pedestrian amenities into the design. Applicable design standards are discussed in detail in the Site Plan Review section of this report.

8. Financial Capability (Section 14-497 (a) 10)

The estimated cost of the parking structure development is \$1.2 million. The applicant has submitted a written statement citing the following as demonstration of Financial Capacity (Attachment 2):

- Acquisition of the 1.75 acre Fore Street site for 3.8 million with 1.9 million of bank debt (public record).
- Funding necessary engineering, surveying, legal and design work for review and approval of Phase 1 within the past year.
- Obtaining ownership of the Hampton Inn Portland Downtown/Waterfront franchise currently under construction at the site.
- Providing two bank letters of credit to secure performance guarantees for the April, 2010 approval.
- Financing the demolition of the Jordan's Meat production Plant Facility
- Obtaining financing from Bank of New England for Phase 1, currently under construction at the site.

Planning has reviewed and approves of the applicant's statement of financial capacity.

9. Shoreland Impact (Section 14-497 (a) 11) and Flood Hazard (Section 14-497 (a) 13)

The project is not in a Shoreland Zone. The project is not in a 100-year flood zone.

10. Groundwater (Section 14-497 (a) 12), Wetlands (Section 14-497 (a) 14) and Streams (Section 14-497 (a) 15).

No ground or surface water impacts are anticipated.

(b) SITE PLAN STANDARDS

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's site plan ordinance and applicable regulations. Staff comments are listed below.

1. Traffic (Section 14-526 (a) 1), Vehicle and Bicycle Parking (Section 14-526 (a) 2 a, b and c)

The applicant proposes to construct 106 spaces on the lower parking deck, including 3 uncovered spaces, and 103 spaces on the upper level. For Phase 1, the applicant submitted a parking analysis citing an anticipated parking demand of 92 vehicles (assuming the 122 room hotel generates a need for 80 parking spaces and the 12 condominium units generate a need for 12 spaces). This proposal expands the approved parking to allocate 106 spaces to the hotel and condominiums. Thus, staff finds the proposed amount of parking to be adequate. Parking on the upper deck would be available for public lease, pending future development phases. In future phases, 8 of the spaces would be dedicated to the proposed townhouses and the remaining 95 would be dedicated to the proposed office building.

As previously stated, the applicant has requested a waiver from the dimensional requirements for parking stalls, as detailed in the City of Portland Technical Manual. Tom Errico has reviewed and supports the applicant's request.

Waiver Request: The applicant requests a waiver from the City of Portland Technical Standards to allow for reduced radii for the driveway along Middle Street. Tom Errico has reviewed and supports the applicant's request.

Proposed Condition of Approval: The applicant has included detectible pedestrian warning devices at the Middle Street driveway. The detectible warning devices should be aligned to orientate pedestrians along the path of travel. Planning Staff proposes a condition of approval requiring that the plan should be revised to meet this standard.

The applicant has included parking for 12 bicycles along Fore Street.

2. Bulk, Location, Health, Safety Air (Section 14-526 (a) 3) and Bulk, Location, Height of Proposed Buildings (Section 14-526 (a) 4)

The bulk height and location of the development is not anticipated to negatively impact surrounding properties.

3. Sewers, Storm drains, Water (Section 14-526 (a) 5), Soils and Drainage (Section 14-526 (a) 8), and Consistent with City Infrastructure (Section 14-526 (a) 11)

See Subdivision comments above and the City Engineer comments in Attachments D and E. The development is designed to be consistent with surrounding City infrastructure, including sewers, storm drains, and roadways.

4. Landscaping and Buffering (Section 14-526 (a) 6) and Minimizes Disturbance or Destruction of Existing Vegetation (Section 14-526 (a) 7)

Jeff Tarling, City Arborist has reviewed and approves of the proposed landscape design (Attachment C).

5. Exterior Lighting (Section 14-526 (a) 9)

The submitted exterior lighting plan shows three 20 ft lighting poles, each with four fixtures. The submitted illumination levels meet applicable City technical standards, not exceeding 5.0 fc (maximum), 0.2 fc (minimum) and 1.25 fc (average).

Condition of Approval: There are 6 street lights (total) proposed along the Middle and Fore Street frontages. There is no street lighting proposed along the India Street frontage at this time. Planning staff recommends a condition of approval requiring that these 6 street lights be of the approved lighting type, size and color according to the recently adopted Section 10- Municipal Street Lighting of the 2010 City of Portland Technical Manual.

6. Fire and Emergency Access (Section 14-526 (a) 10)

Captain Keith Gautreau of the City of Portland Fire Department has reviewed and approves of the proposed plan (Attachment B).

7. Industrial Development (Section 14-526 (a) 12)

Not applicable.

8. Existing Natural Resources (Section 14-526 (a) 20) and Significant Groundwater Aquifer (Section 14-526 (a) 21)

No significant natural or ground water resources will be impacted by this development. See subdivision standards, above.

(c) DESIGN REVIEW:

12. B-3 Design Standards (Section 14-526 (a) 16)

The applicant has submitted a narrative describing how the proposal meets applicable design standards (Attachment 10). Planning Staff has conducted a review of the revised plans for conformance with the B-3 Design Standards and the applicable Downtown Urban Design Guidelines and approves of the proposal.

Site Plan Standards 14-526 (a)

(16) Development located within the B-3 zone shall also meet the following standards. Adequacy in meeting these standards will be evaluated on the basis of descriptions and illustrations in the Downtown Urban Design Guidelines. Nothing in this section is intended to discourage creative and responsive design or to mandate similarity or mimicry of design in order to achieve the standards herein:

a. Relationship to the pedestrian environment:

1. General: The exterior design of portions of buildings within the first thirty-five (35) feet of height shall enhance the character, attractiveness, comfort, security, and usability of the street level pedestrian environment. Factors to be considered include the design, placement, character and quality of the following:

(a) Storefronts and building facades, including such factors as relationship to adjacent or nearby structures or open space, pedestrian character, materials and detailing, transparency and contemporary design;

(b) Building entrances, including such factors as compatibility with the building's façade, prominence along the street, access to the street, and accessibility

for physically handicapped or for those with special needs;

(c) Blank facades; and

The parking structure façade will be brick with concrete detail. The applicant proposes stone wall and landscaping treatments in the revised plan to break up what had been a blank façade along India Street. 4 granite benches are proposed along the Fore and Middle Street frontages as pedestrian amenities. Lighted display windows for artwork and information are located along the Fore Street frontage.

(d) Special features, such as selective use of such features as building arcades and skywalks or elevated walkways.

These types of special features are not proposed as part of this development.

2. Pedestrian activities district (PAD):

Not Applicable.

3. Pedestrian activities district (PAD) encouragement areas: In addition to subsection 1 of this section, proposed development located within the pedestrian activities district (PAD) encouragement areas, as shown on the pedestrian activities district map, a copy of which is on file in the department of planning and urban development, shall be designed and constructed to be reasonably capable of being converted to accommodate uses permitted in the PAD overlay zone in accordance with the factors set forth in subsection 2 of this section.

The proposed parking structure is designed to permit additional development on top of and around it, thus meeting the intent of this standard.

4. Sidewalk areas and open space: The design of publicly accessible sidewalk areas and open space shall complement the general pattern of the downtown pedestrian environment, conform with special City of Portland streetscape programs described in the Technical and Design Standards and Guidelines, and enhance the attractiveness, comfort, security, and usability of the pedestrian environment. Factors to be considered include the design, placement, character, durability, and quality of the following:

(a) Sidewalk, crosswalk, and street paving materials;

The applicant proposes to install brick sidewalk along the Middle Street frontage at the completion of future phases. As previously stated, as a condition of the April, 2010 approval for the hotel, restaurant and residences, a performance guarantee has been held by the City equal to the value of installing brick sidewalk for the entire length of the Middle Street frontage. The term of the performance guarantee shall be no-longer than 2 years after the date of approval for the subject development, but may be extended at the City's sole discretion. If after 2 years following the date of site plan approval, the applicant has not installed a brick sidewalk along the entire Middle Street lot frontage, the City may draw on the Performance Guarantee funds to complete sidewalk construction.

The vehicle entrance to the upper parking deck along Middle Street includes handicap ramps with detectable warning panels to help facilitate safe pedestrian movements. The relocation of the Middle St entrance towards Hampshire Street will help facilitate the creation of a largely uninterrupted building façade along Middle Street in the future when it is further developed by the applicant or otherwise.

(b) Landscaping, planters, irrigation, and tree guards and
grates;

Landscaping and street trees are proposed on all three frontages. See City Arborist comments and discussion under 'staff review'.

(c) Lighting;

See staff review comments addressing lighting. The applicant should anticipate the installation of an electrical distribution system with a metering box suitable for serving all fixtures to be owned by the City rather than leased from CMP. A CMP lease will be considered if it is determined that metering is not practicable.

(d) Pedestrian amenities such as benches and other
seating, trash receptacles, kiosks, bus shelters, artwork,
directional and informational signage, fountains, and
other special features; and

Publicly accessible bicycle parking is proposed along the Fore Street frontage. Granite benches are proposed along the Fore and Middle Street frontages and illuminated display cases are proposed along the Fore Street frontage to display art and/or information.

(e) Sidewalk vendors and sidewalk cafes.

Not applicable.

b. Relationship to existing development:

1. General: Proposed development shall respect, enhance, and be integrated with the existing character of the general pattern of development in the downtown, surrounding building environment and streetscape, as described and illustrated in the Downtown Urban Design Guidelines. Factors to be considered include the relationship to the following existing patterns:

(a) Street walls and building setbacks;

The applicant has requested a waiver to exceed the maximum 5 ft building setback. See additional discussion of this below. The proposed design allows for future phasing to be in alignment with existing street walls.

(b) Open space;

Not applicable.

(c) Building form, scale and massing;

(d) Facade proportion and composition;

The building form, scale and massing and the proposed façade proportions are compatible with surrounding development.

(e) Pedestrian circulation and building entrances;

Addressed above.

(f) Parking.

The proposed parking will read as structured parking from Fore Street and will resemble surface parking from Middle Street. There is landscaping and fencing proposed as buffering.

2. Standards for increasing setback beyond street build-to line: A proposed development may exceed maximum setbacks as required in section 14-220(c) only where the applicant demonstrates to the Planning Board that the introduction of increased building setbacks at the street level:

(a) Provides substantial and viable publicly accessible open space or other amenity at the street level that supports and reinforces pedestrian activity and interest. Such amenities may include without limitation plazas, outdoor eating spaces and cafes, or wider sidewalk

circulation areas in locations of substantial pedestrian congestion;

- (b) Does not substantially detract from the prevailing street wall character by introducing such additional setback at critical building locations such as prominent form-defining corners, or create a sense of discontinuity in particularly consistent or continuous settings;
- (c) Does not detract from existing publicly accessible open space by creating an excessive amount of open space in one (1) area or by diminishing the viability or liveliness of that existing open space; and
- (d) The area of setback is of high quality and character of design and of acceptable orientation to solar access and wind impacts as to be attractive to pedestrian activity.

The applicant has submitted a waiver request to increase the setback beyond the street build-to line. The proposal includes landscaping and street trees on all four frontages and other amenities including granite benches, display cases and a bicycle rack in portions of the increased setback. It is anticipated that future development at the corner of Middle, India and Fore will establish more form-defining corners. The brick sidewalk along the Fore Street frontage has been extended to provide pedestrian access to the display cases.

- c. Roof top appurtenances: All mechanical equipment, ventilating and air conditioning and other building systems, elevators, stairways, radio or television masts or equipment, or other rooftop elements not intended for human occupancy shall be fully enclosed in a manner consistent with the character, shape and materials of the principal building, as described and illustrated in the Downtown Urban Design Guidelines;

Not applicable.

- d. Shadow impact on open space: The location, massing and orientation of portions of buildings in excess of sixty-five (65) feet in height shall be such that substantial shadow impacts on public plazas, parks, and other publicly accessible open space are avoided. In determining the impact of shadows, the following factors shall be taken into account: the amount of area shadowed, the time and duration of the shadow, and the importance of sunlight to the utility of the type of open space being shadowed, as described and illustrated in the Downtown Urban Design Guidelines;

Not applicable.

- e. Wind impacts: The location, massing, orientation and architectural design of a new building or a building addition shall be such that no significant adverse wind impacts are created. In determining the impact of winds, the following factors shall be taken into account: the pre-development and projected post-development wind speeds and their impact on pedestrian movement, comfort and safety; and the impact of projected wind speed on the use of and comfort within existing and proposed pedestrian seating areas and other adverse impacts upon the surrounding area;

Undue wind impacts are not anticipated.

- f. Setbacks from existing structures: The location and design of proposed structures shall not create a detrimental impact on the structural integrity or the safety of adjacent structures or the occupants thereof;

Not applicable.

- g. Building tops: Buildings or structures which exceed one hundred fifty (150) feet in height shall be designed so as to provide a distinctive top to the building which visually conveys a sense of interest and vertical termination to the building, as described and illustrated in the Downtown Urban Design Guidelines;

Not applicable.

9. STAFF RECOMMENDATION

Subject to the conditions suggested below, staff recommends that the Planning Board approve the proposed development subject to conditions. The requested waivers are reasonable accommodations to the specifics of the proposed uses and the site and will not unreasonably impact surrounding properties or the public.

The applicants have provided amenities and site design considerations consistent with the intent of the B3 Design Standards.

10. MOTIONS FOR THE BOARD TO CONSIDER

A. Waivers:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations, contained in the Planning Board Report for application # 99700003 relevant to the Portland's Technical and Design Standards and other regulations and the testimony presented at the Planning Board hearing:

1. The Planning Board (waives/does not waive) the Technical Standard for the Driveway curb radius, Section III, 2 (c)

Subject to the following condition:

The detectible warning panels at the Middle Street driveway entrance shall be revised to address review comments from Tom Errico, Consulting Engineer, dated August 5, 2010.

2. The Planning Board (waives/ does not waive) the Technical Standards for parking stall dimensions, Section III-1 and III-2.
3. The Planning Board finds that the increased building setback beyond the requirements set forth in Section 14-220 (c), namely that *all buildings or structures shall be located within five (5) feet of the property line along street frontages*:
 - (a) (Does/Does not) Provide substantial and viable publicly accessible open space or other amenity at the street level that supports and reinforces pedestrian activity and interest;
 - (b) (Does/Does not) substantially detract from the prevailing street wall character;
 - (c) (Does/ Does not) detract from existing publicly accessible open space; and,
 - (d) The area of setback (is/is not) of high quality and character of design and of acceptable orientation to solar access and wind impacts as to be attractive to pedestrian activity.

Therefore the (waives/does not waive) the 5-foot maximum building set back as per Site plan standard 14-526(a)16 b.2.

B. Subdivision:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for application # **99700003** relevant to the Subdivision Ordinance and other regulations, and the testimony presented at the Planning Board hearing, the

Planning Board finds that the plan (is/is not) in conformance with the subdivision standards of the land use code subject to the following conditions of approval.

- The applicant shall be responsible for incorporating all changes to parking signs on Middle Street near the proposed driveway. The exact details of on-street parking will be determined by City staff.
- A post development traffic count shall be conducted for the intersection of Middle and India Streets.

C. Site Plan:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for application # **99700003** relevant to the Site Plan Ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan (is/is not) in conformance with the site plan standards of the land use code, subject to the following conditions of approval:

- The 6 street lights proposed as part of the development shall be of the designated lighting type, size and color for the lighting district, as detailed in Section 10 of the 2010 Technical Manual. The appropriate specifications shall be listed on the final plans.
- The detectible warning panels at the Middle Street driveway entrance shall be revised to address review comments from Tom Errico, Consulting Engineer, dated August 5, 2010.

ATTACHMENTS:

City of Portland Staff Submittals:

- A. Final Traffic Review Comments, Submitted by Thomas Errico, Consulting Transportation Engineer, TY Lin Associates.
- B. Final Fire Department Review, submitted by Captain Keith Gautreau, Portland Fire Department
- C. Final Landscape Review, Submitted by Jeff Tarling, City Arborist
- D. Final Public Services Review, Submitted by David Margolis Pineo, Deputy Engineer. Department of Public Services
- E. Final Stormwater Management Review, Submitted by Dan Goyette, Consulting Engineer. Woodard and Curran.

Applicant's Submittals:

- 1. Site Plan and Subdivision Application
- 2. Applicant's Narrative and Written Submittal Package (**note- this is the original submittal which includes information pertaining to the 4 townhouses, originally proposed as part of the application*)
 - Proposed Uses and Site Design
 - Land Area
 - Easements
 - Solid Waste
 - Availability of Off-site Facilities
 - Stormwater Drainage
 - Construction Plan
 - Regulatory Approvals
 - Financial and Technical Capacity
 - Right, Title and Interest

- Natural Areas, Wildlife Habitat and Archeology
 - Recyclable Materials
 - Catalogue cuts
 - Waiver Requests
3. Stormwater Calculations, submitted by Opechee Construction on July 21, 2010
 - a. Stormwater Pollution Prevention Plan
 - b. Stormwater Management Plan Addendum
 - c. Spot Elevations, dated July 16, 2010
 4. Temporary Traffic Control Plan
 5. Applicant's Response Letter to Staff Comments, dated July 20, 2010
 6. Traffic Analysis, submitted by Sebago Technics
 - a. Traffic Analysis Memo, dated July 23, 2010
 - b. Revised Traffic Analysis Memo, dated August 4, 2010
 7. Copy of Applicant's Permit By Rule submittals to Maine DEP, dated July 6, 2010
 8. Capacity Letter from Portland Water District, dated July 7, 2010
 9. Neighborhood Meeting Documentation, Dated August 3, 2010
 10. Revised Narrative addressing Applicable Design Standards, submitted by applicant.
 11. Rendering of Proposed Parking Structure
 - a. Fore Street view
 - b. Fore Street view with Potential Future Building
 12. Sectional Subdivision Plan
 13. Revised Site Plans
 14. Public Comment