

CITY OF PORTLAND, MAINE

PLANNING BOARD

Bill Hall, Chair
Joe Lewis, Vice Chair
Lee Lowry, III
Carol Morrisette
Michael J. Patterson
David Silk
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April 21, 2010

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

RE: Planning Board approval for Conditional Use Review for surface parking in the B-3 Zone, Subdivision and Site Plan, including a Traffic Movement Permit, for a hotel, restaurant, and residential development at 207-209 Fore Street (former Jordan's Meats site)

CBL: 029-L-001,002,003
Application ID: 99700001

Dear Mr. Woglom,

On April 13, 2010, the Portland Planning Board considered a plan by Opechee Construction, doing business as Old Port Hospitality Inc., for a six story 122 room hotel with a 7000 square foot first floor restaurant and twelve top floor residential condominiums. The Planning Board reviewed the proposal for conformance with the standards of the Conditional Use Review for surface parking in the B-3 Zone, Subdivision Ordinance and Site Plan Ordinance, including a Traffic Movement Permit. The Planning Board voted (5 to 0, Patterson and Morrisette absent) to approve the application with the following motion(s), waivers, and condition(s) as presented below.

CONDITIONAL USE

The Planning Board voted (5 to 0, Patterson and Morrisette absent) that the proposed plans are in conformance with the applicable conditional use standards for surface parking in the B-3 Zone, Section 14-474 and 14-218(b)5 of the Land Use Code, subject to the following condition(s):

That the condominium documents for the site contain a provision that allows surface parking to transition to structured parking or be relocated to allow future development of the easterly portion of the site.

WAIVERS

The Planning Board considered waivers relevant to the Portland's Technical and Design Standards and other regulations as presented below.

1. Planning Board waived the Technical Standard for the Driveway curb radius, Section III, 2 (c). (5 to 0, Morrisette and Patterson absent)
2. The Planning Board waived the Technical Standard for Parking Layout, Section III, 3 C on the basis that the hotel will employ valet parking. (5 to 0, Morrisette and Patterson absent)

3. The Planning Board waived the Technical Standard requiring full cut off light fixtures, Section XV: Site Lighting Standards, 3.

Subject to the following condition:

That the lighting plans and specifications provided for architectural up-lighting require additional evaluation of illumination levels and potential light pollution impacts. Architectural lighting for the development is subject to staff review and approval prior to issuance of an electrical permit.

(4 to 1, Silk opposed, Morrisette and Patterson absent)

4. The Planning Board waived the Technical Standard for maximum illumination levels, Section XV: Site Lighting Standards, 4 for the areas near the restaurant main entrance and the rear entrance at the residential lobby at the northeasterly corner of the structure.
5. 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) (Does) 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 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.

Therefore the Board waived the 5-foot maximum building set back as per Site plan standard 14-526(a)16 b.2.

(5 to 0, Morrisette and Patterson absent)

SITE PLAN REVIEW

The Planning Board voted (5 to 0, Morrisette and Patterson absent) that the plan is in conformance with the site plan standards of the Land Use Code and for a Maine Department of Transportation Traffic Movement Permit, subject to the following condition(s) of approval:

1. Prior to issuance of a building permit, the applicant shall provide a revised site plan for staff review and approval showing revised pavement striping and installation of parking meter posts on Fore Street. The pavement markings shall remove on-street parking stalls and turning demarcations and shall adjust the center line markings to reflect proposed curb and parking adjustments to Fore Street.
2. 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 and improvement.

3. Prior to the issuance of a building permit, the applicant should make a contribution of \$1,200.00 towards improvements at the India Street/Middle Street intersection.
4. Prior to the issuance of a certificate of occupancy, the applicant shall develop and implement a signal timing plan for Franklin Street subject to Public Services review and approval that ensures optimal operations, including coordination with other intersections as may be necessary to mitigate impacts of the development.
5. Prior to issuance of a certificate of occupancy, the applicant shall submit to the Planning Authority evidence of right, title and interest by ownership or lease for 10 off-street parking spaces within reasonable walking distance of the development.
6. Prior to issuance of a building permit the applicant shall provide an revised glazing sample for review and approval of the Planning Staff showing clear or virtually clear glass for the street level openings and a suitable glass for upper floors consistent with the building program
7. Prior to issuance of a building permit the applicant shall provide material details and design specifications for the roof cornice canopy and brackets at the Fore and Franklin Street corner of the building.
8. Public pedestrian access shall be maintained through the site from Middle Street to Fore Street over stairs and passageways shown on the site plans and noted on the subdivision plat note 38. Such access shall not be removed or interrupted, except for routine safety or maintenance reasons without prior written request by the applicant or subsequent property owner subject to review and approval by the Planning Board.
9. Based on the applicant's representation to the Board, short-term development landscaping is satisfactory; but, if the applicant does not apply for further development of the site within 2 years of this approval, with a possibility for a 2 year extension, the applicant shall submit for implementation to the Planning Authority for review and approval a revised landscaping plan to satisfy applicable site plan landscaping standards.

(5 to 0, Morrisette and Patterson absent)

SUBDIVISION REVIEW

The Planning Board voted (5 to 0, Morrisette and Patterson 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. Public pedestrian access shall be maintained through the site from Middle Street to Fore Street over stairs and passageways shown on the site plans and noted on the subdivision plat note 38. Such access shall not be removed or interrupted, except for routine safety or maintenance

reasons without prior written request by the applicant or subsequent property owner subject to review and approval by the Planning Board.

2. The applicant shall submit a revised recording plat for Public Services review and approval prior to signature by the Planning Board. Plat revisions will include citations for recorded parking and access easements between the subdivision lots and shall address bearing and elevation datum revisions issues addressed in the Public Services review memo dated April 7, 2010, included in Attachment 4 of this report.
3. That the applicants provide copies of the condominium documents for City Legal staff review and approval prior to recording the subdivision plat.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Report #7-10 which is attached.

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

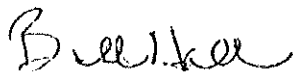
1. A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee.
2. The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification 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 Bill Needelman, Senior Planner at 874-8722.

Sincerely,



Bill Hall, Chair
Portland Planning Board

Attachments:

1. (applicable staff memo's)
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
Gayle Guertin, Inspections Division
Lisa Danforth, Inspections Division
Lannie Dobson, Inspections Division
Michael Bobinsky, Public Services Director
Kathi Earley, Public Services
Bill Clark, Public Services
David Margolis-Pinco, Deputy City Engineer
Todd Merkle, Public Services
Greg Vining, Public Services
John Low, Public Services
Jane Ward, Public Services
Keith Gautreau, Fire
Jeff Farling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File
Hard Copy: Project File



PLANNING BOARD REPORT PORTLAND, MAINE

HOTEL, RESIDENCES, AND RESTAURANT
207-209 FORE STREET (FORMER JORDAN'S MEATS SITE)
MAJOR SITE PLAN, SUBDIVISION, AND MDOT TRAFFIC MOVEMENT PERMIT
PROJECT ID #99700001
OLD PORT HOSPITALITY, LLC., OPECHEE CONSTRUCTION, APPLICANT

Submitted to: Portland Planning Board Public Hearing Date: APRIL 13, 2010	Prepared by: Bill Needelman, Senior Planner Date: April 9, 2010
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I. INTRODUCTION

Opechee Construction Corporation, doing business as, Old Port Hospitality, LLC., requests a public with the Planning Board to review a proposed hotel, restaurant, and residential development at 207-209 Fore Street on the former Jordan's Meats production plant site. The project anticipates total clearance and redevelopment of the site and is being reviewed as a major site plan, subdivision, conditional use (surface parking in the B-3 zone), and for an MDOT Traffic Movement Permit under delegated review authority.

As the Board will remember, this site has been the subject of extensive development review process, including a conditional rezoning and approval of a Westin Hotel/condominium project, and the recent reversion of the conditional rezoning to the underlying B-3 zone.

The Planning Board held a March 9, 2010 workshop covering the relevant issues regarding this application and the applicant has provided updated material responding to review comments. Updated material is provided in the attachments and has been reviewed by City staff for compliance with the relevant standards of the land use code.

154 notices were sent to area residents and interested parties by mail and an additional 60 interested parties were notified by email. Notices also appeared in the April 5 and April 6, 2010 editions of the *Portland Press Herald*.

The applicant held the require neighborhood meeting on March 18. The

II. PROJECT DATA

Total area of Lot: 72,290 sq. ft.
Zone: B-3 Downtown Business
Existing Uses: Food packaging plant (vacant) and commercial parking
Proposed Use: Hotel (122 rooms), restaurant (7000 sf) and 12 residential condominiums

Proposed bldg height: 65 feet (six stories)
Proposed floorspace: 96,953 sq. ft
Proposed parking: 93 parking spaces on site with
16-19 on-street spaces gained
Proposed bicycle pkg.: 22
Impervious surface:
Existing: 70,580
Proposed: 49,420

Traffic Trip generation: "Net" after subtracting out 50 "existing" trips from the
Jordan's site activity –
70 am peak hour,
95 pm peak hour,
137 Saturday peak hour.

III. PROPOSED DEVELOPMENT

a. Proposal Site and Context

The subject development parcel encompasses a nearly full city block of 1.75 acres in the heart of Portland's urban core. The site does not include an abutting two-story brick building at the corner of Franklin and Middle Streets, which currently houses Hugo's restaurant, Rabelais Books, and the Pepper Club restaurant. The surrounding area is a transitional district that links the Old Port retail/office area with the India Street neighborhood. As one moves east from the subject site, the area's character transitions from the mixed use India Street area to the Eastern Waterfront district, which has recently been improved with the Ocean Gateway Garage and the Residence Inn hotel on Fore Street.

The site currently reflects its industrial past showing nearly complete impervious surface. The Franklin Street side of the lot is improved with a concrete sidewalk and esplanade. The Middle Street frontage of the subject parcel begins at the North West corner near the extension of the Hampshire Street right of way (across the street to the north at the end of the Hugos building.) The cobbled alley way from Middle Street (currently fenced) at the Pepper Club end of the abutting building is on the subject parcel. The Middle Street corridor is dominated by the concrete block façade of the Jordan's plant and has hourly parking and a bituminous sidewalk in poor condition. The Jordan's building steps back from the India Street frontage of the site and is served by a brick sidewalk in

good condition with on-street parking. Fore Street previously served as the truck loading and parking area for the site, and reflects this use with no sidewalks, broken and intermittent curbing, and limited on-street parking.

The Jordan's complex is separated into two buildings. The westerly structure is a garage and maintenance building located adjacent to Franklin Street and shares a party wall with the Hugo's building to the north. The site property line follows this party wall from Franklin Street to Middle Street. Starting at the cobbled alley along Middle Street, the main Jordan's plant building extends nearly 320 feet toward India Street.

With the abandonment of meat processing several years ago, commercial parking is the only current activity on the site and is somewhat randomly distributed within the previous loading and circulation areas for the plant. As of the writing of this report, the applicant has begun the environmental remediation and interior demolition of the Jordan's plant and exterior demolition has been approved by the City.

The site slopes from Middle to Fore Street with drainage currently utilizing a combination of sheet flow and on-site drainage structures to carry storm water into the municipal combined sewer system at Fore and Franklin Streets. A public sewer easement currently crosses the site diagonally from Middle Street to Franklin Street running south down the cobbled alley and turning west along the front of the garage building.

On March 15 of this year, the applicant received City Council approval to relocate the sewer easement from its current location to a new corridor from Middle to Fore Street. The revised sewer easement is shown on the draft subdivision plat (Attachment Y.)

The site is served by all public utilities.

4. Proposed Development

The current proposal shows a single six-story building oriented to the Fore and Franklin Street corner of the site. The site is proposed to be cleared of all buildings resulting in the Hugos building, which currently shares a party wall with the westerly Jordan's structure, being opened to light and air on its southerly side.

a. Program

The first floor of the building is split nearly evenly between restaurant and hotel use. The restaurant occupies the corner location and includes an outside seating area at the Fore Street sidewalk. The restaurant has a primary entrance at the corner facing Fore Street and a secondary shared pedestrian entrance toward the middle of the Fore Street façade. The hotel lobby is located toward the easterly side of the building accessed from a porte cochere/valet entry from Fore

Street. The easterly end of the Fore Street façade has a dedicated pedestrian lobby and elevator core for residential condominiums.

Floors two to five are entirely occupied by hotel use and the top floor is entirely residential units.

The easterly portion of the site is occupied by surface parking which is buffered by a 35-foot strip of green space at Fore, India and Middle Streets (as required by B-3 conditional use standards.)

b. Circulation

There is a single vehicle entrance proposed through the building from Fore Street. The vehicle entrance serves a valet area at the hotel door, the parking area, and a loading/trash area facing Middle Street and the rear of the Hugos building. According to the applicant, a portion of the trash area is covered by a roof in updated plans provided.

Pedestrian circulation to the site is provided from the City sidewalks at Fore, Franklin and Middle Streets. The building has three pedestrian entrances from Fore Street and a pedestrian connection from Fore Street to the valet area and hotel lobby door. Previously, there were no doors proposed at Franklin Street, but in the revised drawings a secondary pedestrian entrance is shown on the Franklin façade providing access to an interior stair tower at the northwesterly corner of the building. Pedestrian access from Franklin Street is also proposed by a set of exterior stairs shown between the proposed structure and the Hugos building. Likewise, the applicants propose a set of stairs from Middle Street in the approximate location and orientation of the Hampshire Street right of way projected into the site.

Note: there are no public pedestrian rights over the exterior stair passages shown, but the applicant is willing to condition approval with these passages being kept open to the public. The applicant has provided a note on the draft subdivision plat and a condition of approval is suggested with the subdivision motions.

A mid block crosswalk at the Hampshire Street projection is proposed and has been reviewed by the City's Crosswalk Committee and has been conditionally recommended for approval by the Planning Board. The cross walk is improved with a "bump out" curb to shorten the crossing distance and to improve pedestrian visibility between cars parked on Middle Street.

New brick sidewalks are proposed along Fore and Franklin frontages of the site. The applicant proposes bituminous sidewalks along Middle Street, as a later phase of development is hoped for in the foreseeable future. The applicant is willing to post a performance guarantee equal to the value of a brick sidewalk for Middle Street in case a future development does not occur within a reasonable timeframe. A condition of approval is suggested in the site plan motions.

c. *Parking*

The 93 surface parking spaces are proposed and are designed to conform to the 35-foot street set back requirements of the B-3 zone. The applicant proposes stacking the hotel spaces in tandem as these spaces can be managed by the hotel valet staff. The residential spaces are proposed for the non-tandem spots in the surface lot and handicapped spaces are proposed near the loading area. Eleven bike racks (22 bicycle spaces) are shown adjacent to the easterly end of the building along Fore Street at the residential lobby. No parking is proposed for the restaurant.

d. *Building Architecture*

The proposed building is a conservative brick and concrete block structure oriented to Fore Street. The applicants have provided revised elevations responding an initial staff review. See the B-3 Design Review comments below.

Generally, the design respects the direction and intent of the applicable design standards.

e. *Utilities*

The applicants are proposing upgrades for all utilities.

A public sewer easement currently crosses the site from Middle to Franklin, carrying combined wastewater from on-site and off-site sources. As noted above, the proposal will move the easement to the area in line with the Hampshire Street right of way projection from Middle Street, under the valet area, out to Fore Street. The applicants have designed separated storm and sanitary lines through the site to Fore Street continuing all the way to Franklin Street. The applicant's design will also pick up previously separated storm water lines from the Hampshire Street area. The Hampshire Street connection is significant as it will result in over six acres of watershed being removed from the combined system.

New waterlines are proposed from Franklin Street. Underground electrical service will route from Franklin down Fore through the valet area to an on-site transformer in the loading area. Gas will route from Middle Street.

Telecommunications, sewer, water, gas, and electrical "ability to serve" letters have been provided.

**IV. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-525) and
SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS
(Section 14-496)**

The application material provided is sufficiently complete to allow adequate review of the proposal under applicable standards. After the March 9 Planning

Board Workshop, the applicant has provided an updated set of plans, and building drawings reflecting comments previously provided.

Planning Staff is requesting additional specifications on certain architectural details, as noted in the design discussion below. Additionally, a condition of approval is suggested that the applicant provide a revised site plan addressing pavement marking adjustments and the installation of parking meter posts. Site plan comments are more fully described below.

The draft subdivision plat contains the minimum required information for recording, however, the Public Services surveying staff have recommended that certain horizontal locations and vertical datum be adjusted or referenced to City survey control. (See Public Services Review Memo, April 7, 2010, Attachment 4.) Furthermore, it is recommended that mutual access easements between lots created through this subdivision should be noted with greater clarity on the subdivision plat with recording information. A condition of approval is recommended in the suggested motions.

V. WAIVER REQUESTS

The applicant is requesting waivers from certain technical standards as part of this project review. The waiver narrative below was supplied by the applicant (applicant comments in ***bold italics***) followed by Planning Staff comments. Waiver motions for the Board to consider, with recommended conditions, are provided in the Motions section at the conclusion of this report.

A. B-3 Build-To Line:

Section 14-220 (c) (Zoning Ord.): All buildings or structures shall be located within five (5) feet of the property line along street frontages, unless the Planning Board requires or approves an additional distance to comply with the requirements of section 14-526(a)(16)

This waiver is required in order to place the south side of the building a distance greater than 5' from the property line. The increased distance will provide adequate room for the outdoor eating area associated with the proposed restaurant. The waiver also allows for increased pedestrian access along the southern side of the building.

Planning Staff Comment: The B-3 site plan standards are addressed below. Planning Staff supports this waiver.

B. Driveway curb radius:

Standard: Under the City's 'Technical and Design Standards and Guidelines' **Section III, 2 (c) Curbing of Driveways**, requires that the minimum radius be 20 feet.

The waiver is required in order to provide 10 foot wide curb radii at the driveway. The smaller curb radii are proposed in order to decrease the length of pedestrian travel across the driveway mouth. However, with the proposed on-street parking along Fore Street, the entrance can accommodate 20-foot turning radii and will accommodate truck turning movements.

Planning Staff Comment: The City's consulting traffic engineer, Tom Errico, has reviewed this request and has no concerns with the waiver.

C. Parking Layout:

Standard: Under the City's 'Technical and Design Standards and Guidelines' Section III, 3 C Parking Layout: Lot layout shall conform to figures III-1 and III-2.

A waiver is required in order to provide a parking lot layout that includes tandem valet spaces. These spaces will smaller than the required 9 foot by 19 foot standard parking space. These spaces will be utilized by the valet service attendants only.

Planning Staff Comment: The City's consulting traffic engineer, Tom Errico, has reviewed this request and has no concerns with the waiver.

D. Required Brick Sidewalk along Middle Street:

As shown on the Sidewalk Replacement Material Map.

A waiver is required in order to replace a portion of the sidewalk along Middle Street with a bituminous sidewalk where a brick sidewalk is required. This portion of sidewalk is intended to be temporary. A brick sidewalk will be installed in the future. A bond will be provided for the installation of a brick sidewalk if none is installed in the next three years.

Planning Staff Comment: The sidewalk material policy of the city is a separate ordinance subject to City Council review and is not subject to waiver by the Planning Board. The applicant is committed to the eventual installation of the required brick material, but asks for a temporary asphalt sidewalk to serve this site while development plans for the easterly portion of the site mature. The installation of temporary asphalt sidewalks in the downtown on lots that have planned or anticipated future development has been approved for other developments in the vicinity of the subject site. Public Services and Planning Staff support allowing a temporary asphalt sidewalk for a portion of Middle Street, subject to the performance guarantee condition. A condition of approval requiring a performance guarantee for the brick sidewalk is suggested in the Site Plan motions.

E. Building facade illumination:

Standard: Under the City's 'Technical and Design Standards and Guidelines' Section XV: Site Lighting Standards, 3. General Standards, All fixtures, including wall packs, shall be a "cut-off" type where...no direct light shall be directed at or above the horizontal plane.

A waiver is required in order to provide the building facade with illumination. Illumination that directs light above a horizontal plane has been integrated into the exterior design of the structure to help create a greater sense of security and interest for pedestrians, patrons, and residents. Also, facade illumination will help draw the awareness of new patrons to the building that are unfamiliar with the City.

Planning Staff Comment: Planning Staff was only provided a short period of time to evaluate the lighting submission. Regarding the architectural up-lighting, the fixtures proposed (LED panels) are new to Portland, and the illumination levels shown on the building façade appear greater than have been previously approved by the Planning Board for comparable projects. Planning Staff would like to take additional time to evaluate the architectural lighting for the building and there is a suggested condition of approval that the architectural lighting for the development be subject to staff review and approval prior to issuance of an electrical permit.

F. Illumination levels above the maximum:

Standard: Under the City's 'Technical and Design Standards and Guidelines' Section XV: Site Lighting Standards, 4. Specific Standards, Maximum illumination level of 5.0 foot candles shall be measured at the grade.

A waiver is required in order to integrate down lighting on the building facade to highlight the restaurant entrance. Maximum illumination level of 5.0 foot-candles will be exceeded as a result light accumulated from the restaurant's proposed down lighting and the public street lights. Since the ambient light that is spilled onto the property from the public street lights is not addressed in the standards, a waiver is being sought to highlight the restaurant entrance with building facade down lighting. This outside lighting often makes the first impression to the pedestrian customer and can attract customers passing by the establishment. Also, the facade down light illumination will relay a sense of security and comfort during the outdoor dining season.

Planning Staff Comment: The applicant's lighting plan shows illumination levels of over 8 foot candles near a rear door to the residential lobby, and over 10 foot candles near the restaurant main entrance. These levels would not be expected to cause significant glare or undue impacts to the surrounding area. Planning Staff supports this waiver.

VI. PUBLIC COMMENT AND WORKSHOP SUMMARY

- A. Public Comment: Other than at the Planning Board workshop and the required Neighborhood Meeting, no public comment has been received during this review.
- B. Neighborhood Meeting: The applicants held the required Neighborhood Meeting on March 18, 2010. The notice, attendance and minutes of this meeting are provided in Attachment AA of this report. As suggested by the Planning Board, the neighborhood meeting was noticed to the Franklin Arterial "revisioning" contact list by email.
- C. March 9, 2010 Planning Board Workshop
Issues raised by public were largely regarding the project's relationship to Franklin Street and mid-construction circulation issues.

The Planning Board explored the project in detail with both the applicants and staff. Some Board members questioned the details of design on the building and the landscaping around the parking lot. Several Board members expressed the opinion that additional landscaping was needed.

The pedestrian routes through the site received considerable discussion, mostly related to what public rights would be secured and by what means. The Board appeared comfortable with pedestrian access tied to a condition of approval as a compromise mechanism less than a pedestrian easement.

As the Planning Board is the authority that sets the parking requirement for the project, the Board discussed the parking proposal to some detail. Given that the applicant is not proposing parking to be dedicated to the restaurant, options for this parking were discussed with the applicant.

VII. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision ordinance, site plan ordinances, the requirements of the B-3 zone, and a Traffic Movement Permit under delegated authority from the Maine Department of Transportation. Staff comments are highlighted in this report.

A. ZONING ASSESSMENT

Initial Zoning Comments from Zoning Administrator, Marge Schmuckal,
February 25, 2010

The entire property is located within a B-3 Downtown Business Zone. It is not within a Pedestrian Activities District (PAD). However the street

frontage along Middle Street is considered a PAD Encouragement District. No structure is being proposed along Middle Street at this time. It is not in a Historic District.

The applicant is proposing to redevelop the site to include a new 180 seat restaurant, a 122 room hotel, and 12 residential condominiums. This is considered a change of use for the property. On an adjoining lot a parking lot for 93 parking spaces is being proposed. The proposed uses are meeting the allowable uses listed in the B-3 Zone. The surface parking lot use is a conditional use appeal before the Planning Board. The surface parking lot is required to be no closer than 35 feet to any street line. This submitted plan is showing all parking 35 feet from all the street lines. Because the proposed project is over 50,000 square feet in floor area, parking requirements are to be determined by the Planning Board under section 14-332(t). 22 bike spaces are proposed.

The B-3 Zone requires a street build-to setback of no more than 5 feet, unless the Planning Board reviews and approves an appropriate setback further back. The applicant has requested a further setback of approximately 10 feet for outdoor seating for the first floor restaurant use.

Because there will be 12 residential condominiums, this project must also be approved under Subdivision requirements.

I believe that this project is probably meeting the maximum building height of 65 feet for this area of the City. However, I would like to confirm that supposition with more information from the applicant using the same methodology that I use with all applicants. I would like to know the grades around the outside of the proposed building so that I can average the grades. The actual height of the structure can be determined from that information.

I would also like to confirm where the property line is located at the rear of the proposed building where the stairs descend from the street. It was unclear to me.

It is noted that no official loading bays are required under section 14-351. However, it may be useful to indicate how the rear dumpster area will be accessed and utilized by servicing vehicles. This area may also service deliveries, linen services and the like.

Separate permits from Inspection Services will be required for the demolition of existing structures and for signage.

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

Final Zoning Comments for Public Hearing: March 22, 2010

On 3/17/10 Barry Stowe, Opechee, Construction, submitted (by e-mail) building height calculations for review. The calcs use the standard

methodology for determining heights. It is understood that the building plans are still being created at this juncture. It is further understood that the development of the building plans will not differ significantly to violate the required building heights.

B. CONDITIONAL USE STANDARDS

As noted above, surface parking in the B-3 zone is a conditional use. Such parking is subject to a set back requirement where any surface parking must be located 35 feet from any public street. The proposed design meets this requirement.

The proposed development has additionally been reviewed by staff for conformance with the relevant Conditional Use standards of Portland's Zoning Ordinance.

1. *There are unique or distinctive characteristics or effects associated with the proposed conditional use.*
2. *There will an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and*
3. *Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

The proposed parking is not anticipated to have unique characteristics or effects, will not adversely impact the surrounding area, and does not differ substantially from other surface parking lots in the B-3 zone.

B. SUBDIVISION STANDARDS

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision ordinance and applicable regulations. 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 proposed development is not anticipated to cause undue water, air or soil pollution or erosion.

At the time of the previous review, the applicant was asked to make various amendments to the plans to improve the storm water quality. The revised plans are described in the applicant's Attachment BB and respond proactively to City comments. The revised plans have altered the proposed storm water system to route parking runoff into a vegetated swale and through "tree box" filters. The applicant has additionally

increased catch basin sump depth as suggested. Given that storm water quality treatment is not technically required, Staff appreciates the applicant's willingness to improve the environmental infrastructure for the site.

Through extensive sewer separation, improved storm water quality enhancements, and reduced impervious surface, the proposed development should improve environmental impacts of the subject site.

Revised engineering comments are provided in Attachment 4 of this report.

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

The applicant has received a water capacity letter from the Portland Water District the Portland Fire Safety Officer, Captain Keith Gautreau had recommended that adequate hydrant access is available.

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

Traffic movement and parking are additionally addressed in the Site Plan section of this report, below. Regarding the latest submission by the applicants, Consulting Traffic Engineer, Tom Errico, has offered the following comments. Mr. Errico's complete memo, including previous comments, is included as Attachment 5 of this report.

- *On-street parking stalls on Fore Street should not include pavement marking lines.*
- *The pavement markings delineating the radii at the entrance should be removed.*
- *The applicant should make a contribution of \$1,200.00 towards improvements at the India Street/Middle Street intersection.*
- *Based upon the results of the traffic study and need to retime the Franklin Street signal at Fore Street, the applicant shall be responsible for the development of a signal timing plan for Franklin Street that ensures optimal operations. It should be noted that coordination with other intersections may be necessary.*
- *On-street parking stalls on Fore Street should have a width of 8 feet. Accordingly, two 13-foot travel lanes with a center line shall be provided.*
- *A STOP sign shall be installed at the driveway on Fore Street.*
- *Crosswalks should have a minimum width of 8 feet.*

Conditions of approval, as needed to satisfy the comments above, are suggested in the Site Plan motions below.

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)

Sewer capacity for the site has been documented by a letter from Public Services, and is included as Attachment 3 of this report.

As was noted during the workshop review on March 9, this project will aid the City in removing storm water from +/-6 acres of urban land from the combined sewer system in the India Street area and the separated stormwater system has the capacity to handle the additional flows as far as the outlet to Portland Harbor at the foot of Franklin Arterial.

Solid waste will be handled by a private hauler.

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.

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

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

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

The applicant's submissions include letters of financial and technical capacity to complete the proposed project in Attachment I of this report.

9. Shoreland Impact (Section 14-497 (a) 11) and Flood Hazard (Section 14-497 (a) 13). Not applicable.

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. See Environmental standards section above

C. **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) 2a, b and c), and Bayside B-7 Transportation Demand Management (Section 14-526 (a) 30)

Traffic:

See Subdivision Section above and Attachment 5 for complete comments by the Consulting Traffic Engineer.

Vehicle Parking:

Status: I have performed a review of the Parking Analysis conducted by the applicant dated February 26, 2010 and offer the following input.

- *Based upon the analysis provided, the project is anticipated to have a parking demand of 92 vehicles. This assumes the 122 room hotel generates a need for 80 parking spaces and 12 spaces are designated to the 12 residential condominium units. Parking will not be provided for the proposed restaurant. Accordingly, the applicant concludes that the 93 parking spaces will adequately serve the project.*
- *According to the Parking Generation Manual, Institute of Transportation Engineers (ITE), a Business Type Hotel generates 0.64 parking spaces per room. This correlates to 78 parking spaces for the 122 room hotel. This closely matches that estimated by the applicant.*
- *I support the assumption that one parking space per residential unit is appropriate. Although some residential units may have more than one vehicle, the City has been permitting projects that provide one parking space per unit. Accordingly, 12 parking spaces will be required.*
- *According to ITE and other publications, the restaurant can be expected to generate a parking demand of between 43 and 67 spaces. Considering the project location, the City has recognized that many restaurant patrons will be captured from existing businesses and therefore would not generate the need defined in the professional publications. As a compromise, the City has required restaurant developments to provide for parking for their employees only, and customers can utilize on-street or public parking facilities. Based upon the applicants documents, the proposed restaurant can be expected to have 14 employees during peak time periods. To account for alternative modes of transport, I would estimate the need for 10 parking spaces. The City is in the process of implementing a fee-in-lieu parking program and such would suggest that the applicant make a contribution that would be used toward increasing the parking supply in the vicinity of the project. Based upon parking contribution rates being considered (the lower end is \$5,000 per space), the applicant should contribute \$50,000.00.*

The Planning Staff recommends that the off-street parking supply proposed for the hotel and residential components of the development are adequate for the anticipated demand of the development. The lack of parking proposed for the restaurant component of the development has the potential to increase pressure on the on-street parking supply for the area. The Planning Board is recommended to impose a \$50,000 contribution of funds for use by the City to increase the on-street parking supply in the vicinity of the subject property. The funds may be used for the design and construction necessary to adjust curbing, install signage, install meters, or implement other physical improvements needed to increase public auto and bicycle parking supply within 1500 feet of the subject property.

The applicant has indicated their agreement to this condition.

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

The applicant has provided a context massing study of the proposed development and surrounding area for the Board's evaluation. Please see Attachment ZZ. 9-ZZ.13. 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 Attachment 4.

The development is designed to be consistent with surrounding City infrastructure, including sewers, storm drains, and roadways.

The Franklin Street corridor has conceptual alternatives for future redevelopment and the proposed changes do not prohibit additional changes to the corridor.

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

At the time of the March 9 workshop, the City Arborist had several comments regarding additional trees and landscaping amendments to the site. The revised plans respond to these suggestions and the Arborist supports the new design.

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

Exterior lighting is discussed in the "waiver" section above.

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

Captain Keith Gautreau has conducted a review of the submitted plans and offers the following comments:

The initial Fire review is all set for the Jordan's project 207 & 209 Fore Street. Access to the structure will be adequate and the water supply (hydrants) are acceptable and in compliance with NFPA 1.

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.

9. Residence Professional Zone – Design Standard (Section 14-526 (a) 13)
Not applicable.

10. Planned Residential Unit Development Review (Section 14-526 (a) 14)
Not applicable.

11. Multi-family and Other Housing Types Design Standard (Section 14-526 (a) 15)
Not applicable.

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

Planning Staff has reviewed the project for conformance with the B-3 Design Standards and the applicable Downtown Urban Design Guidelines. The following review comments are offered by the Planning Staff after reviewing the revised design of a hotel, restaurant and residential development proposed by Opechee Construction Corp. for the former Jordan's Meats site at 207 to 209 Fore Street.

The review was based on site plan drawings supplied with the development application dated March 23, 2010. Review comments below are provided in *italics* in response to land use code text and the applicable site plan standards for development in the B-3 zone, as shown in underline. Review comments were further informed by language found within the Downtown Urban Design Guidelines.

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;

Comment: Visual permeability between interior and exterior spaces at the pedestrian level is indicated by this standard. The sample glass provided appears overly opaque and more transparent glazing is recommended – particularly at the street level. A condition of approval is suggested.

- (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;

Comment: The prominence and frequency of pedestrian entrances along Fore Street has been improved with the revised design. The mid-block entry has a more pronounced treatment, which has been repeated at the valet area to accentuate the pedestrian entrance to the lobby from the street.

- (c) Blank facades; and

The building is generally well fenestrated and does not show excessive blank walls in the pedestrian areas.

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

The pedestrian access stairs from Middle Street are well positioned for use and are integrated with the site and building design.

2. Pedestrian activities district (PAD):

Not Applicable

3. Pedestrian activities district (PAD) encouragement areas:

Applicable to Middle Street only for any later phase of development.

4. Sidewalk areas and open space:

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

Cross walk design pavement materials have been addressed above

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

See City Arborist comments.

Provide planter details for drainage and irrigation that promote the viability of plantings and minimize impacts to the public sidewalk.

- (c) Lighting;

Addressed above in the waiver site plan sections.

- (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

Granite benches are proposed for Fore Street and a granite seat wall is proposed for the head of the Middle Street stairs.

- (e) Sidewalk vendors and sidewalk cafes.

The restaurant use is proposed to extend onto the Fore Street façade of the building near Franklin Street.

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:

General Comment: Context information is provided with new materials in Attachments ZZ. The proposal is compatible with the general development pattern of the downtown area.

(a) Street walls and building setbacks;

The street walls of Fore and Franklin are enforced by this development.

(b) Open space;

NA

(c) Building form, scale and massing;

See below:

(d) Facade proportion and composition;

The revised elevation drawings adequately address proportion and composition issues previously addressed. Additional detail on the cornice feature shown at the Fore and Franklin Street corner should be provided prior to issuance of a building permit.

(e) Pedestrian circulation and building entrances;

Addressed above.

(f) Parking.

Surface parking is not typically associated with downtown development, but with the setbacks shown, there is room to develop around the parking or, more predictably, convert it to structured parking in a later development phase. The expanse of pavement is off-set by the augmented landscaping shown in the revised plans.

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;

The Fore Street façade sets back to accommodate outside seating and an expanded sidewalk and landscaped area.

- (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;

Prevailing street walls will not be interrupted by the setback.

- (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

Not applicable

- (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 area of set back is on the southerly side of the building and should be attractive to pedestrian activity.

Standards for set back appear to be met. Staff recommends approval of the larger setback.

- 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;

The applicant has provided section drawings (Attachment ZZ.3) showing that the roof top mechanicals will have no visibility from pedestrians in the area of the site. It is possible that rooftop mechanical equipment will be visible at a distance from Franklin Street at Congress Street and the area around Lincoln Park. The Board may want to explore with the applicant whether additional screening is needed for views at this distance.

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;

NA

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;

Set backs from the adjacent building at Franklin and Middle will be increased.

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;

NA

13. Adjacent or within 100 feet of a Historic Resource (Section 14-526 (a) 18)

The Historic Preservation Staff participated in the design review of the building and does not find the design incongruous with the near by waterfront historic district.

14. View Corridors (Section 14-526 (a) 19)

None impacted.

15. and 16. Signage (Section 14-526 (a) 22 and 23), Design Standards for Major and Minor Businesses (Section 14-526 (a) 24)

Signage will be reviewed at the time of building permit application. The schematic signs shown appear compatible with comparable developments in the B-3 zone.

17. Design Standards for Development in Industrial Zones (Section 14-526 (a) 25)

Not applicable.

18. Design Standards for B-5 and B-5b (Section 14-526 (a) 26)

Not applicable.

19. Design Standards for B-1, B-1b, B-2 and B-2b (Section 14-526 (a) 27)

Not applicable.

20. Design Standards for R-6 Small Residential Lot Development (Section 14-526 (a) 28)

Not applicable.

21. University of Southern Maine Design Standards (Section 14-526 (a) 29)

Not applicable.

22. Bayside B-7 Design Standards (Section 14-526 (a) 30)

Not applicable.

23. Eastern Waterfront Design Standards (Section 14-526 (a) 31)

Geographically, the subject parcel is covered both by the Downtown Urban Design Guidelines (as reflected in the B-3 design standards above)