

CITY OF PORTLAND, MAINE

PLANNING BOARD

Carol Morrissette, Chair
Stuart O'Brien, Vice Chair
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August 17th, 2012

Greg Kirsch
Fore India Middle, LLC
11 Corporate Drive
Belmont, NH 03220

Project Name: **Phase II Development Jordan's Meat site**
Project ID: 2012-491 CBL: 29-3-L
Address: 203 Fore Street, Portland
Applicant: Fore India Middle, LLC, Opechee Construction Corporation
Planner: Jean Fraser

Dear Mr Kirsch:

On August 14th, 2012, the Planning Board considered the Level III application for Phase II Development of the former Jordan's Meat site to construct a five story mixed use condominium building comprising up to 22,077 sq ft of retail space, up to 63,856 sq ft of office space, up to 18 residential units and 178 on-site (internal garage) parking spaces. The Planning Board reviewed the proposal for conformance with the standards of the Traffic Movement Permit, Subdivision Ordinance and Site Plan Ordinance.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 40 -12 (Attachment 4) for the Phase II Re-development of the former Jordan's Meat site, Fore, India and Middle Streets relevant to the Site Plan and Subdivision reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 4-0 (Lewis, O'Brien and Venne absent) to approve the application with the following waivers and conditions as presented below:

WAIVERS

That the Planning Board voted 4-0 (Lewis, O'Brien and Venne absent) on the following waivers:

1. *Setback farther than 5 feet from the property line:*

The Planning Board finds that the increased building setback at the corner of Fore Street and India Street 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 Planning Board waives the 5-foot maximum building set back as per Site Plan standard 14-526(d) 9.

2. *Driveway width:*

The Planning Board waives Technical Standard, Section 1.7.1.4 that allows a maximum of 36 feet wide driveway width, to allow a driveway width of 42 feet wide on Middle Street to accommodate a 24 foot wide entry into the parking garage, a 15 foot wide loading bay and a 3 foot wide support column between the two drives.

3. *Driveway curb radius:*

The Planning Board waives Technical Standard, Section 1.7.1.5 which allows a minimum curb radius of 15 feet, to allow the curb radius to be reduced to 10 feet in order to decrease the length of pedestrian travel across the driveway mouth, with vehicle turning movements accommodated by the wide driveway entrance.

4. *Number of compact spaces:*

The Planning Board waives Technical Standard, Section 1.14, which allows parking lots with greater than 10 spaces to be comprised of up to 20% compact parking spaces, to allow 56 compact parking spaces in the Fore Street Garage (representing 49% of the spaces in the Fore Street garage and 31% of the total number of spaces in both garages that are within the Phase II development), subject to these spaces being only for 24-hour valet parking which would ensure appropriate use of the spaces.

5. *Standard parking space size:*

The Planning Board waives Technical Standard, Section 1.14 which requires standard parking spaces to be 9 feet by 18 feet, to allow slightly smaller or larger spaces to take account of the columns and tandem parking arrangements as shown on approved Plan C11 (Plan 13 to this Report), subject to “valet compact” spaces being controlled by 24-hour valet operation.

6. *Compact parking space size:*

The Planning Board waives Technical Standard, Section 1.14 which requires compact parking spaces to be 8 feet by 15 feet, to allow the 56 compact spaces in the Fore Street garage (valet –parked) to be slightly smaller or larger to take account of the columns, tandem parking arrangements and because they will only be used for 24-hour valet parking as described in the *Updated Parking Study* and shown on approved Plan C11 (respectively C.3 and Plan 13 to this Report).

7. *Parking Aisle:*

The Planning Board waives Technical Standard, Section 1.14, Figure I-27 and I-29 which requires a 24 foot wide drive aisle, to allow the reduction to 22 feet in both garages to accommodate structural columns, based on the parking use being limited to 24-hour valet and regular users where depicted on the approved Plan C11 (Plan 13 to this Report).

8. *Glass materials:*

The Planning Board waives the Design Standard a) Relationship to the pedestrian environment (1) which requires a VT of .7 or higher, to allow the window glass to be a VT of .64 (similar to the standard) to reduce solar heat gain, and allow the curtain wall to be a VT of .42 to reduce solar heat gain and as it is the full height of the building and encloses well lit lobby areas.

TRAFFIC MOVEMENT PERMIT

That the Planning Board voted 4-0 (Lewis, O'Brien and Venne absent) that the proposed plan is in conformance with 23 MRSA 704-A and Chapter 305 Rules and Regulations pertaining to Traffic Movement Permits, subject to the following condition:

- i. That the applicant shall develop and submit an all-way STOP controlled intersection at Middle Street and India Street for review and approval by the Planning Authority, and implement the approved design prior to the issuance of a Certificate of Occupancy. All costs associated with the design and implementation shall be the responsibility of the applicant.

SUBDIVISION

That the Planning Board voted 4-0 (Lewis, O'Brien and Venne absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following five (5) conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to the office and retail floorspace maximums and the use of office space for ancillary residential space, street trees, Condominium Association documents and relevant conditions; and
- ii. That the pedestrian access easement for the areas of the sidewalk that are not in right of way shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy; and
- iii. That the Condominium Association documents created for all of the Phase II units include references to the Stormwater Management Inspection and maintenance requirements and TDM Plan, shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy; and
- iv. That the Condominium Association created for all of the Phase II units shall develop, implement and manage the approved Transportation Demand Management (TDM) plan as referenced below, and submit *Development and Start-Up Phase* and *Post-Development Phase* status reports in accordance with the *Revised Transportation Demand Management (TDM) Plan Phase II Mixed-Use Redevelopment of Jordan's Meat Site* July 20, 2012 as updated July 26, 2012 (Attachment C.4 to this Report). If the *Post-Development* monitoring shows that the target of 10% reduction in SOV trips/parking has not been achieved, the *Post-Development* status report shall be referred to the Planning Authority for review.
- v. That the applicant and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the submitted Stormwater Pollution Prevention Plan (dated 5.29.2012 as updated 7.24.2012) and approved Plan CO6 in Attachments F.1 and F.2 and Plan 8 to this Report, and meet City standards and state guidelines.

SITE PLAN

The Planning Board voted 4-0 (Lewis, O'Brien and Venne absent) that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following nine (9) condition(s) of approval:

- i. That the parking required for the Phase II development has been determined by the Planning Board to be 192 spaces for all uses, as based on a total floorspace of 179,599 sq ft (22,077 sq ft floorspace for retail; 63,856 floorspace for offices; and up to 18 residential units), of which 121 on-site garage spaces are available for Phase II uses as based on shared use, valet parking management and allocations as described on pages 5 and 6 of the *Update to Applicant's Parking Study* dated 7.19.2012.

The shortfall of 71 spaces shall be addressed either through a fee in lieu or off-site parking leases in accordance with the Ordinance, depending on future buyer needs. Prior to the issuance of a building permit, the applicant shall post a performance guarantee of \$140,000 for fees in lieu parking for 40% of the shortfall, based on the estimate that 60% of the shortfall shall be met with off-site leases. Upon the sooner of (a) issuance of all COs for the project or (b) three years after the issuance of the first CO, the final fee in lieu amount shall be calculated and adjusted based on the number of documented off-site leases. In the event of any changes in the uses and/or the retail or office floorspace which trigger development review or building permits, the proposals shall be submitted to the Department of Planning and Urban Development; and

- ii. That the applicant shall make a \$5000 contribution to an account maintained by the City prior to the issuance of a building permit, to be used to fund pedestrian improvements at the India Street/Middle Street intersection; and

- iii. That the applicant shall work with the Department of Public Services to diagnose the cause of drainage ponding on the northwest corner of the Fore Street/India Street intersection (that impacts the sidewalk ramp) and shall implement a solution during construction (since the sidewalk bricks will be removed and saved for re-installation as part of the development) at the applicant's cost provided the solution is reasonably simple and non-disruptive; and
- iv. That the applicant shall submit revised plans/documents that address the comments of the Department of Public Services David Margolis-Pineo dated August 8, 2012, for review and approval by the Planning Authority prior to the issuance of a building permit; and
- v. That the applicant shall submit revised plans/documents that address the comments (including "new comments") of the Transportation Reviewer, Tom Errico, dated August 10, 2012, for review and approval by the Planning Authority prior to the issuance of a building permit; and
- vi. That the applicant shall obtain a license from the City for any canopies that extend over the City right-of-way, prior to the issuance of a Certificate of Occupancy; and
- vi. 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 set back from the roof edges and/or integrated into the roof design rather than be an add-on that requires high screening enclosures, and also shall meet zoning noise standards as documented in advance of installation; and
- vii. That the wall sconce under the glass canopy along the retail entrances shall be revised (regarding lamp wattage or spacing) so that the photometrics meet *Site Lighting Standard* 12.2.3); and
- viii. That the applicant shall address the comments of the Fire Department, Chris Pirone, as set out in the e-mail of June 7, 2012 which includes references to hydrant locations, CO protection and addressing of the property; and
- ix. That prior to the issuance of a Certificate of Occupancy, the applicant shall address and meet to the satisfaction of the City Arborist, the comments of the City Arborist, Jeff Tarling, dated August 10, 2012 attached to this report.

STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:


1. **Subdivision Recording Plat** 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. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in 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 Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.

6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** 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 Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held 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 Development Review Coordinator will confirm that the contractor is working from the approved site plan. 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.
10. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
11. **Department of Public Services Permits** 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.)
12. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
13. **Mylar Copies** 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.

The 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 the Planning Division at 874-8632. 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 Jean Fraser at 874-8728.

Sincerely,



Carol Morrisette, Chair
Portland Planning Board

Attachments:

1. Department of Public Services Memo from David Margolis-Pineo dated August 8, 2012
2. Transportation Review comments, e-mail from Tom Errico dated August 10, 2012
3. City Arborist comments, e-mail from Jeff Tarling dated August 10, 2012
4. Planning Board Report #40-12
5. City Code, Chapter 32
6. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Jean Fraser, Planner
Philip DiPierro, Development Review Coordinator, Planning
Marge Schmuckal, Zoning Administrator, Inspections Division
Tammy Munson, Inspection Division Director
Lannie Dobson, Administration, Inspections Division
Gayle Guertin, Administration, Inspections Division
Michael Bobinsky, Public Services Director
Katherine Earley, Engineering Services Manager, Public Services
Bill Clark, Project Engineer, Public Services
David Margolis-Pineo, Deputy City Engineer, Public Services
Doug Roncarati, Stormwater Coordinator, Public Services
Greg Vining, Associate Engineer, Public Services
Michelle Sweeney, Associate Engineer
John Low, Associate Engineer, Public Services
Rhonda Zazzara, Field Inspection Coordinator, Public Services
Mike Farmer, Project Engineer, Public Services
Jane Ward, Administration, Public Services
Jeff Tarling, City Arborist, Public Services
Captain Chris Pirone, Fire Department
Thomas Errico, P.E., TY Lin Associates
David Senus, P.E., Woodard and Curran
Rick Blackburn, Assessor's Department
Approval Letter File

August 8, 2012

To: Barbara Barhydt
Jean Fraser
From: David Margolis-Pineo
Public Services Review Comments
Re: Opechee

Public Services staff has the following comments on this project.

1. The sidewalk brick on India St and the brick on Fore St, proposed to be removed and reset, are two different style bricks. During the removal and resetting process, it is expected that a percentage of brick will be damaged or broken requiring replacement. The applicant will be require to replace the brick in kind. It is my understanding that both bricks are available at LaChance. Please add a note informing the Contractor of this condition.
2. There are several locations where sewer lines are proposed to be removed. Please provide a detail on how the penetrations into manholes and catchbasins will be sealed. Also please add a note informing the contractor that the sealed penetrations shall be inspected by John Emerson (318-0239) prior to backfilling.
3. Please indicate HC detectable panels on the ramps at Middle and India Streets.
4. Please relocate the sidewalk ramp at Middle and India crossing India Street to create a more perpendicular crossing. This may mean eliminating a street tree.
5. HC detectable panels on the ramps at the drive entrance on Middle Street are not required.
6. Fore Street is under moratorium until October 21, 2016. To avoid cutting into Fore St. with the foundation drain, the City would consider tying into the back of the adjacent catchbasin on Fore St. The applicant is requested to contact me to discuss. 207-874-8850, 207-400-6695
7. The City of Portland will need an access easement for the portion of sidewalk which encroaches the applicant's property at the corner of India and Fore.

We have no further comments at this time.

From: Tom Errico <thomas.errico@tylin.com>
To: Jean Fraser <JF@portlandmaine.gov>
CC: David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>
Date: 8/10/2012 8:59 AM
Subject: Jordan's Site -- Phase II

Jean - The following presents a status report on my June 6, 2012 comments and this email represents my final comments for the project.

June 6, 2012 Comments

- * The traffic study indicates improved intersection operations are expected at the India Street/Middle Street intersection following implementation of an all-way STOP controlled intersection. My initial opinion is that I support this change.

Status: I support the change to an all-way STOP location and the applicant should be responsible for all costs associated with implementation.

- * The traffic study concludes that a traffic signal is not warranted at the India Street/Fore Street intersection. I need to review the data in detail and assess intersection conditions as it related to safe pedestrians provisions.

Status: I find conditions to be acceptable at this location. Bruce Hyman did identify drainage ponding on the northwest corner of the intersection that impacts the sidewalk ramp. If would be beneficial if this problem could be corrected, although considering that this is a newly constructed area, I do not believe the applicant should be required to make this change. If through construction of the building this corner is disturbed, consideration of correcting this problem is suggested.

- * I have reviewed the parking demand analysis and in general the methods seem acceptable. I need to review this in more detail. I would suggest that the applicant conduct a second parking occupancy survey to assess parking demand characteristics during the busy summer time period.

Status: The applicant has indicated that Phase II of the proposed project will require a parking supply of 192 parking spaces. I find that this parking demand estimate reasonably predicts an average parking demand condition for the site. The applicant conducted a very detailed parking analysis and the methods included factors that take into account, travel demand management strategies for the commercial uses, urban transportation choice considerations, shared parking adjustments that take into account the differing parking occupancy characteristics of hotel and office land uses, and building floor area adjustments accounting for bulk storage space. I would note that this parking methodology is site specific and is unique to this project and I do not endorse use of these methods for City-wide projects. I am comfortable with the estimate given that the TDM Plan includes actions that require project monitoring that will seek to ensure the project meets targets for minimizing traffic generation to the site, and thus parking generation by the project, and this mechanism will be a beneficial tool to managing future parking conditions.

- * The applicant should provide details on plans that specify parking lot layout dimensions and note if any waivers are required in conjunction with not meeting City standards.

Status: Several waivers have been requested by the applicant as noted below:

- o The applicant is proposing compact parking spaces that are slightly narrower and slightly longer than City standards. Given that the parking spaces will be used by valet services, I support a waiver from the City's Technical standard.

- o The applicant is proposing a greater percentage of compact parking spaces as allowable by City standards (49% vs. 20%). Given that the parking spaces will be used by valet services, I support a waiver from the City's Technical standard.
- o The applicant is proposing tandem parking stalls that have a shorter length (17.5 feet vs. 18 feet) as compared to City standards. Given that the parking spaces will be used by valet services, I support a waiver from the City's Technical standard.
- o The applicant is proposing parking stalls that have a shorter length (17 feet 9 inches vs. 18 feet) as compared to City standards. Given that the parking spaces will be used by valet services, I support a waiver from the City's Technical standard.
- o The applicant is proposing parking aisle widths that will be narrower (22 feet vs. 24 feet) than City standards require. While parking maneuvers will be tight, I support a waiver given that the Fore Street parking level will involve experience valet parking personnel, and the Middle Street parking lot is relatively small and slow vehicle maneuvering activity should not result in widespread issues.
- o Some parking spaces on the Middle Street level exceed the width standard (9.5 feet vs. 9 feet) allowed and therefore a waiver is required. Given that structural support columns are located in the areas where these wider parking spaces are proposed, I support a waiver from the City Technical standards.
- o Some parking spaces in the India Street level exceed the width standard (9 feet 2 inches vs. 9 feet) and a waiver is required. I support a waiver from City standards.
- o Some parking spaces in the India Street level exceed the length standard (18 feet 8 inches vs. 18 feet) and a waiver is required. I support a waiver from City standards.

* On-street parking spaces should not be delineated with paint.

Status: A note has been added to the plan that indicates the spaces are not to be delineated with paint. I have no further comment.

* The no-parking areas near the Middle Street driveway should not be delineated with paint.

Status: The plans have been revised and I have no further comment.

* The driveway width exceeds City standards and accordingly will need a waiver from the City's Technical standards. I support a waiver, but would like the applicant to provide recommendations on how best to design the driveway for optimal pedestrian safety.

Status: I support a waiver from the City Technical standards given site conditions and limited use of the loading area. With that said, I would suggest that distinct pavement treatment be used in the area of the sidewalk crossing in from of the loading area to provide some visual warning of a change of condition. I would suggest that a condition be provided that requires the applicant to submit a proposed material treatment for review and comment.

* The TDM Plan needs to craft specific details for implementation (e.g. designating carpool spaces). I will make suggestions on specific requirements in the future.

Status: Working with Planning Staff, I have provided comments on the TDM Plan and accordingly I have no further comment.

- * Based upon the fact that the project will be utilizing the parking supply at the Gateway Parking Garage, the applicant should contribute money towards pedestrian improvements at the India Street/Middle Street intersection.

Status: Based upon prior contribution levels, the applicant shall contribute \$5,000.00 towards the noted improvements.

New Comments

- * Detectible warning panels should not be provided at the Middle Street driveway.
- * The sidewalk ramp located on the southwest corner of the India Street/Middle Street intersection should be shift to the south to better align with the future crossing to the opposite side of the street. It may make sense to flip the street tree with the sidewalk ramp. I would further note that the configuration of the curb extension and ramps are subject to change during final design.
- * A portion of the sidewalk at the northwest corner of the India Street/Free Street intersection is located on private property. A pedestrian easement should be provided.
- * I have reviewed the applicant's construction management and traffic control plan. The plan assumes sidewalks will be closed along the entire perimeter of the property during construction. At this time I do not support full sidewalk closure. It is my recommendations that sidewalks remain open for as long and possible or temporary sidewalks constructed. Accordingly, the applicant will need to submit details on schedule and phasing of construction in support of any sidewalk closure. Any construction management plan will need to be reviewed and approved by DPS. I would also not that for any temporary sidewalk detours, the facility must meet ADA requirements for accessibility. The applicant should also identify the location of temporary parking spaces to replace the lost hotel parking spaces during construction.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director
[T.Y. Lin International]T.Y. Lin International
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Falmouth, ME 04105
207.347.4354 direct
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"One Vision, One Company"
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From: Jeff Tarling
To: Jean Fraser
Date: 8/10/2012 10:27 AM
Subject: Re: Final comments needed today Opechee Phase II

Hi Jean -

I have reviewed the latest revision of the Opechee Phase II landscape plan and offer the following recommendations / conditions:

a) eliminate the street tree near the corner of India Street and Middle Street near the bump out, this is due to the effect that winter plowing, the negative effect that deicing salts will have on this tree at this location. If the project decides that the tree is important to the landscape the condition would be removed if the project takes over the future maintenance / replacement.

b) eliminate the street-tree on Fore Street near the corner of India Street that is in the middle of the proposed stairs to improve pedestrian circulation. The street last two street-trees could be moved into the planter area. This recommendation is due to the concern of the effect of deicing / Winter operations. Noted some decline on the existing trees along Franklin Street and Fore Street - concerns on the long term survivability of the street trees. Caution is needed on the use of deicing materials on the walks with the nearby tree grates.

c) Fore Street plaza - "recommendation" would be to use a higher percentage or focus on native plants if possible... Bearberry, *Arctostaphylos uva-ursi*, see: <http://plants.usda.gov/java/profile?symbol=ARUV> is one of the low growing native plant suggestions. Street trees or ornamental trees should be included into the planter area. Web sites below offer some insight on other native gardens that might be of interest:

<http://www.fs.fed.us/wildflowers/regions/eastern/SacoViewingGarden/index.shtml>

<http://www.newfs.org/grow/plants>

The use of native plants is preferred for a number of environmental reasons and adds local interest to the site vs using plants that are found 'everywhere'.

d) A 'one tree per unit' donation to the 'Tree Fund' is recommended if the number of trees can not be placed in the project area.

Overall the landscape plan is acceptable.

Jeff Tarling
City Arborist



PLANNING BOARD REPORT PORTLAND, MAINE

Phase II Development Jordan's Meat site
203 Fore Street, Portland

TRAFFIC MOVEMENT PERMIT, SUBDIVISION AND SITE PLAN

Fore India Middle, LLC, Opechee Construction Corporation, Applicant

Submitted to: Portland Planning Board Public Hearing Date: August 14 th , 2012 Project ID 2012-491	Prepared by: Jean Fraser, Planner Date: August 10 th , 2012 Planning Board Report # 40-12
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I. INTRODUCTION

The applicant, Fore India Middle, LLC (Opechee Construction Corporation), has submitted final plans and requested a Level III Site Plan, Subdivision and Traffic Movement Permit review for the proposed second phase of the redevelopment of 203 Fore Street, former Jordans Meat site. Since the PB Workshop held in June, 2012 the applicant has reduced the total floorspace by 1441 sq ft and increased the parking provision so that the project now comprises a 5 story mixed use condominium building of 179,599 sq ft with a total footprint of 36,091 sq ft.

The project includes the following uses:

- **Retail:** Up to 9 units of retail floorspace totaling 22,077 sq ft facing Middle and Fore Streets on the lowest level;
- **Offices:** (accessed and addressed to Fore Street) totaling 63,856 sq ft;
- **Residential:** 18 residential 2 & 3 bedroom condominiums accessed from a lobby and elevator in India Street;
- **Internal garage parking:** Two levels of parking garage, one of 115 spaces accessed from Fore Street and one of 63 parking spaces and 24 bicycle spaces accessed from Middle Street.

This project is the second phase of the recently completed hotel, restaurant, and residential development located at 207-209 Fore Street. Currently the site comprises a 90 space at-grade parking lot for the existing hotel, with landscaping, on-site street lighting and benches.

Required reviews: The proposal is being reviewed under the Land Use Code provisions 14-497 (Subdivisions); 14-526 (Site Plan); and Traffic Movement Permit (delegated authority from the state). The applicant has revised the list of waivers (table below) to include those related to the interior layout of the parking garage.

<i>Requested Waiver</i>	<i>Standard and any waiver provisions</i>
Build-to line (setbacks from streets): to allow the building to be constructed farther than 5 feet from the property line due to shape of the site (see explanation in <u>Attachment B</u>)	Section 14-220(c) B3 Zoning: <i>All buildings or structures shall be located within five (5) feet of the property lines along street frontages, unless the Planning Board requires or approves an additional distance to comply with the requirements of section 14-526 (d)(9)</i>
Driveway width: to allow a 42 foot driveway on Middle Street to accommodate a 24 foot wide entry into the parking garage, a 15 foot wide loading bay and a 3 foot wide support column between the two.	City's Technical Manual Section 1.7.1.4 <u>Maximum Driveway Width (two way):</u> <i>the max. width of a driveway will be based upon site conditions or vehicle characteristics that warrant a wider access (eg dedicated turn lanes at exits) and will require approval of the reviewing authority. Maximum widths shall not exceed the following, although confirmation of exact capacity requirements will be necessary: * Major commercial – 36 feet (Two 12 foot exit lanes and one 12 foot entry lane)</i>
Driveway curb radius: to allow a 10 foot wide radii at the Middle Street driveway to decrease the length of pedestrian travel across the driveway mouth (the width of the driveway will allow for larger turning movements).	City's Technical Manual Section 1.7.1.5 <u>Curbing of driveways:</u> <i>...the radius size shall be based upon information in the following tables. The radii listed below are recommended standards. A vehicle template analysis may be submitted for review as an alternative to the use of the table below.</i>

<i>Requested Waiver</i>	<i>Standard and any waiver provisions</i>
Compact Parking Space size: required in order to provide 56 compact spaces that are 7 feet 4 inches wide and a minimum of 16 feet 8 inches long, located in the valet parking area. The valets will be the only persons allowed to utilize these spaces.	City's Technical Manual Section 1.14 <u>Parking Lot and Parking Space Design</u> : ... <i>Parking spaces shall meet the following dimensional requirements: Compact parking space: 8 feet wide by 15 feet long.</i>
Number of Compact Parking Spaces: required for the Fore Street Garage in order to provide 56 compact parking spaces in a parking lot having a total of 115 spaces (49% of the spaces in the Fore Street garage; 31% of the total spaces). The compact parking spaces are located within the valet parking area. The valets will be able to place the cars so as to best utilize the spaces based on size.	City's Technical Manual Section 1.14 <u>Parking Lot and Parking Space Design</u> : <i>Parking lots with greater than 10 spaces may be comprised of up to 20% compact parking spaces. [Note: 20% of the total spaces provided in these garages would equal 36 spaces]</i>
Standard Parking Space Size: required to provide standard parking spaces that are less than 18 feet long (See sheet C11 for both parking lot layouts and dimensions). [further detail provided in <u>Attachment B</u>]	City's Technical Manual Section 1.14 <u>Parking Lot and Parking Space Design</u> : ... <i>Parking spaces shall meet the following dimensional requirements: Standard parking space: 9 feet wide by 18 feet long.</i>
Parking Aisle width: required to provide a 22 foot aisle width for both parking garages (see Sheet CO11 for both parking lot layouts and dimensions) [further detail provided in <u>Attachment B</u>]	City's Technical Manual Section 1.14 <u>Parking Lot and Parking Space Design</u> : ... <i>Parking lot layout shall confirm to figures I-28 thru I-32 (I-27 and I-29 apply and show a 24 ft wide drive aisle is required for perpendicular parking)</i>
B-3 Design Manual Standard re window transparency: Required to allow use of glass windows with a higher energy efficiency as part of aim to achieve LEED accreditation; all windows are at .64 VT and the curtain wall is at .42 VT. Many of the windows and part of the curtain wall are above 35 feet above the sidewalk.	City's Design manual B-3 Downtown Business Zone standard a) (Relationship to the pedestrian environment): <i>General: The exterior design of portions of the 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: (1) Storefronts and building facades, including such factors as relationship to adjacent or nearby structures or open space, pedestrian character, materials and detailing, transparency (having a visible transmittance (VT) of .7 or higher) and contemporary design;"</i>

II. PROJECT DATA

<i>DATA</i>	<i>Phase II Proposed new building</i>
Total Site Acreage	47,473 sq. ft. (1.09 acres)
Existing Zoning	B-3 Downtown Business
No of Lots	18 residential units for subdivision purposes
Existing Use	Interim parking lot
Proposed Uses	Offices, retail and residential
Proposed number of residential units	No more than 18
Proposed structure height	61.8 ft as calculated re zoning
Total Disturbed Area	55,805 sq ft
Existing impervious areas	70,580 sq ft (Jordans Meat)
Proposed impervious areas	73,722 sq ft (Phase I and II – See analysis Att A)
New Impervious surface	3,142 sq ft
Proposed building footprint	36,091 sq ft
Proposed floorspace	179,599 sq ft
Proposed parking spaces on site	178 (including 3 handicapped)
Parking spaces needed based on calculated Parking Demand	192 (based on Parking Study in <u>Attachment C.3</u>)
Proposed number of new bicycle parking spaces	40 (of which 24 in the new garage) in addition to 22 existing that will be relocated
Estimated Cost of Project	\$18 million

III. BACKGROUND AND EXISTING CONDITIONS

Background

The overall parcel includes two lots. Lot 1 is at the western end (Franklin Street end) and comprises the recently completed six story Hampton Inn (122 rooms), Sebago Brewing Company restaurant (7000 sq ft) and 12 residential condominium units known as Portside Residences.

Lot 2 is the subject of this application and is approximately 1.09 acres, 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. In 2010 lot 2 received approval for a 90 space surface parking lot dedicated to the hotel and residences on lot 1, surrounded by a 35 foot wide strip of green space/treeplanting along the street frontages, including street lighting and granite benches.

The site is in the India Street Neighborhood area and 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 existing sidewalks along Fore Street and India Street are in brick and in good condition with some street trees that were installed as part of the parking lot project. The sidewalk along Middle Street is bituminous, which was approved as a temporary measure in Phase I in anticipation of Phase II. The applicant has placed all utilities in Fore Street underground as part of the Phase I development.

Middle Street is an average of about 10 feet higher than Fore Street.

Easements: In addition to easements between the Phase I and Phase II owners regarding joint access and use of parking etc, there is a 30 foot easement along the boundary between the two phases (see Plan 2- CO1 Property Information). This easement allows for maintenance of underground sewer and stormwater lines.

IV. PROPOSED DEVELOPMENT

The proposed site plan and floor plans (Plans 5 and 13) show a single building of 179,599 sq ft comprising a number of separate use areas interleaved within the building to take advantage of the change of the grade between Fore and Middle and to enclose the parking garage:

- Ground level Fore Street: 4 units (9,826 sq ft) retail with pedestrian access at street level; plus internal parking garage of 103 parking spaces on the Middle street side (underground) but accessed by driveway from Fore Street;
- Ground level Middle Street: 5 units (12,251 sq ft) retail; all five likely to be occupied by one retail unit (urban grocery store- see Attachment J.3) - pedestrian access at street level; plus internal parking garage of 63 spaces (on Fore Street side above retail and under residential condos) accessed from driveway on Middle Street
- Floors 3,4,5 facing Middle Street: Offices (63,856 sq ft) (lobby and elevators on Middle Street)
- Floors 3,4,5 facing Fore Street: 18 Residential Condominiums (access from lobby and elevator on India Street or from within garage)

The proposal is for a single large 5 story building and the architectural design (Elevations and Renderings in Plans 18, 19, 26-28) aim to break up the building so it reads as different buildings with a mixture of materials and features.

The Parking Study (Attachment C.3) explains that the Fore Street garage (115 spaces) will replace the 90 existing parking spaces and fully serve the parking needs of the existing Hampton Inn and Portside Residences (Phase I) and

because of low usage during the day will also provide shared parking for office and retail employees. It also clarifies that the Middle Street garage (63 spaces) will have 18 dedicated spaces for the new residential condominiums and provide for employees of the retail and office space.

The overall parking provided on site does not meet the calculated demand of 192 spaces (Attachment C.3), and it is proposed that this demand will be met by a combination of shared parking, off-site parking in the Ocean Gateway Garage and fee in lieu payments. A TDM Plan has been submitted.

The applicant has requested waivers in respect of the design of the parking garage access from Middle Street; the increased setback at the corner of Fore Street and India Street; the interior layout of the garage parking spaces and aisles and the transparency of the windows (Attachment B and K).

The applicant proposes to complete the brick sidewalk along Middle Street so the new building will have wide brick sidewalks on all three street frontages as India and Fore Streets are currently brick in good condition. The existing street lights in the Fore Street sidewalk will remain, and new matching streetlights will be provided along India and Middle Streets. The above-ground utilities in Middle street will be placed underground.

The proposals include street trees, site landscaping and a plaza at the corner of Fore Street and India Street where there is the increase in setback.

V. PUBLIC COMMENT AND WORKSHOP SUMMARY

A. Public Comment:

Notice has been sent to 118 property owners in the vicinity of the project area and was printed in the August 6th and 7th, 2012 editions of the *Portland Press Herald*. No further public comments have been received in addition to those at the Planning Board Workshop (re dumpster enclosure) and at the required Neighborhood Meeting (see below).

B. Neighborhood Meeting: The applicants held the required Neighborhood Meeting on May 16, 2012 which was attended by 10 people. The notice, attendance and minutes of this meeting are provided in Attachment I of this report.

C. June 12, 2012 Planning Board Workshop

At the Planning Board Workshop in June the following questions arose at the meeting:

- Information on the demand for the retail units and what would happen if they remain vacant;
- Address staff comments regarding ventilation and TDM;
- How loading with a tractor trailer would be achieved;
- Elevation of lower level Fore Street (needs improvement);
- Public Safety/lighting- suggest carry through what at Sebago; and
- Dumpster and integration phase II with existing on Middle Street.

The applicant has addressed these in a memo at Attachment J.3, which confirms the applicant's response in detail. A letter from CBRE -Boulos (Attachment L) has been submitted to elaborate on the potential market for the proposed retail units.

The revisions and further submissions will be discussed in detail under the appropriate review sections below, and in summary they comprise:

- Reduction in total floorspace of 1441 sq ft;
- Increase in number of parking spaces, achieved by introduction of compact valet spaces;
- Revised building elevation at midblock Middle Street including integration of the compactor (formerly referred to as a dumpster) with a roof over;
- Revised elevation corner Fore and India as suggested in staff Design Memo;
- Revised plaza area at corner of India Street and Fore Street to address staff suggestions in Design Memo (also to meet zoning requirements of 14-220 (c));
- Revised TDM Plan which identifies importance of car sharing and more clearly spells out the stages of TDM finalization and implementation;

- Further survey data and revision to some sections of the parking study, resulting in increased “supply” (through introduction of compact spaces) and “demand” for parking; net shortfall is 71 based on space sharing, valet parking and allocations as described in the Updated Parking Study (Attachment C.3); and
- Revised estimate of the fee in lieu of parking to 40% fee in lieu and 60% off site leases, and confirmation of the mechanism by which the fee in lieu would be paid.

VI. RIGHT, TITLE AND INTEREST

The applicant has provided a copy of a Quitclaim Deed, recorded at the Cumberland County Registry of Deeds (Book 27850 Page 63) demonstrating right, title and interest in the property (Attachment A).

VII. ZONING ASSESSMENT

The Zoning Administrator has confirmed that the project meets the B-3 zoning requirements (Attachment 3) and notes that a waiver is required from 14-220 (c) (which states the street-build-to line is required to be not more than 5') because of the odd shape of the lot.

It is noted that a section of the glass canopy over the retail frontage along Fore Street overhangs the right of way and a license from the City will be required. A potential condition of approval has been included to confirm this requirement.

VIII. TRAFFIC MOVEMENT PERMIT (TMP)

The proposed development requires a State of Maine Traffic Movement Permit (TMP) as it generates between 100 and 200 trips. The TMP would be issued by the City under delegated authority. The TMP application and scoping documentation was submitted 5.1.2012 (Attachment C.1) and a Scoping meeting was held on 5.16.2012. The Consulting Transportation Engineer Reviewer, Tom Errico, requested further traffic information regarding the impacts on the India Street intersections and on how the driveway accesses to the parking garages would work (queuing etc). The applicant provided the additional traffic information in a Memo dated 5.30.2012 but received 6.5.2012.

Tom Errico has submitted the following review comments (Attachment 2, as updated in Attachment 10):

- *The traffic study indicates improved intersection operations are expected at the India Street/Middle Street intersection following implementation of an all-way STOP controlled intersection. My initial opinion is that I support this change.
Status as of 8.10.2012: I support the change to an all-way STOP location and the applicant should be responsible for all costs associated with implementation.*
- *The traffic study concludes that a traffic signal is not warranted at the India Street/Fore Street intersection. I need to review the data in detail and assess intersection conditions as it relates to safe pedestrian provisions.
Status as of 8.10.2012: I find conditions to be acceptable at this location. Bruce Hyman did identify drainage ponding on the northwest corner of the intersection that impacts the sidewalk ramp. If would be beneficial if this problem could be corrected, although considering that this is a newly constructed area, I do not believe the applicant should be required to make this change. If through construction of the building this corner is disturbed, consideration of correcting this problem is suggested.*

Potential conditions of approval have been included to reflect these comments.

IX. DEVELOPMENT REVIEW

A. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The applicant has submitted plans and information that address all of the ordinance submission requirements with the exception of the draft Condominium Association documents. The Condominium Association documentation will need to address the relationship of all of the units including the retail and office units (that do not trigger the

subdivision ordinance) and the TDM. The applicant has suggested that the public access easement for the parts of the public sidewalk that fall within the private property of the project be included within the Condominium Association documents, but the City's Associate Corporation Counsel would prefer that the easement be separate.

The applicant has requested that the submission of the Condominium Association documents be deferred due to their complexity and the need for them to reflect Planning Board decisions and conditions. Staff agreed at a meeting on 7.11. 2012 that these could be submitted prior to the issuance of the Certificate of Occupancy and a potential condition of approval is included to this effect.

The Subdivision Plat has been submitted in Plans 16 and 17 (SO1 & SO2). As the Subdivision Plat primarily relates to the 18 residential units that trigger subdivision, a subject for discussion between staff and the applicant has been how to document the other uses and associated floorspace areas on the plat in a way that reflects the Board's approval and also gives the applicant flexibility to combine units or use some of the office space for ancillary residential uses. Staff and the applicant met in July (applicant's note in Attachment J) to resolve this question but do not support Note 3 on Plan 17 (SO2, second page of the plat), which states:

3. THE APPLICANT OR ITS SUCCESSORS OR ASSIGNS MAY DESIGNATE AND ALTER THE NUMBER, LAYOUT, DIMENSIONS AND BOUNDARIES OF THE CONDOMINIUM'S RESIDENTIAL UNITS, OFFICE UNITS, RETAIL UNITS, GARAGE UNIT, AND COMMON ELEMENTS WITHOUT FURTHER PLANNING BOARD APPROVAL PROVIDED THAT NO MORE THAN 18 DWELLING UNITS MAY BE DESIGNATED AND CONSTRUCTED.

Staff consider that that the note should indicate the maximum floorspaces for the retail and office use; this would give flexibility to alter unit areas within each of the total areas, and also allow for some of the office space to become ancillary residential. Staff suggest that if the floorspace amounts INCREASE then the Subdivision Plat should be amended and recommend the note be also revised to that effect. The first potential condition under *Subdivision* includes this reference.

B. Subdivision Review: 14-497. Subdivision General Requirements (a) Review Criteria

- (1) *Will not result in undue water or air pollution.*
- (2) *Has sufficient water available for the reasonably foreseeable needs of the subdivision;*
- (3) *Will not cause unreasonable burden on an existing water supply; and*
- (4) *Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;*

The submitted Stormwater Pollution Prevention Plan (Attachment F.2) and the Erosion Control Plan CO6 (Attachment Plan 8) have been amended and are considered satisfactory (Attachments 1 and 8). The applicant has provided a capacity letter from the Portland Water District (Attachment G) confirming water capacity.

- (5) *Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highway or public roads existing or proposed;*

See **Section VIII Traffic Movement Permit.**

- (6) *Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized;*

The application has been reviewed by the Department of Public Services. The proposal is satisfactory subject to including the revised details and notes as outlined in Attachments 5 as updated in Attachment 9). The capacity to serve letter regarding sanitary waste is included in Attachment G.

Storm water

This Phase II development is located on the former Jordans Meat production site, which was mostly impervious prior to the Phase I parking lot/green space development. The proposed Phase II results in a net increase in impervious area (taking Phase I and II together) of 3142 sq ft over the existing site condition (Attachment E).

The applicant has submitted a Stormwater Management Plan Addendum which updates the approved Stormwater Report associated with the original Phase I proposals, and a Stormwater Pollution Prevention Plan with amendments and graphics submitted since the Workshop (both in Attachment F) which have been reviewed by the Consulting Engineer Reviewer, David Senus.

Mr Senus had confirmed at the PB Workshop (Attachment 1) that he supports a waiver from the flooding standard in respect of the minor amount of additional runoff and that the proposed tree box on Middle Street (shown in Plan 6) is acceptable for treatment of the additional impervious area, subject to calculations showing the treebox will treat an area of at least 3142 sq ft. The applicant has submitted the requested detail and calculations (Att. F.2) and Mr Senus has confirmed this adequately addresses the comments (Att.8).

The treebox is located in the ROW and the DPS have confirmed that this is acceptable with the understanding that the applicant is responsible for its annual inspection and maintenance program (Attachment 5).

- (7) *Will not cause an unreasonable burden on the ability of the city to dispose of solid waste and sewage if municipal services are to be utilized;*

The applicant has confirmed that as a private condominium there will be an association to manage solid waste collection by private firms (Attachment H).

- (8) *Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or by the city, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*

The proposed building is on the site of a former factory, now temporary parking lot, and there are no adverse impacts. Landscaping and street trees are included in the proposals and are satisfactory subject to some recommended relocation of two street trees (one near the top of the secondary steps into the plaza and one near the Middle/India Street bumpout) into the plaza area at the corner of Fore Street and India Street (Attachment 11).

The subdivision requirement would be one tree per unit or 18 street trees. There are 8 existing street trees around the Phase II site on the Fore and India frontages and the applicant is proposing to add a further 10 (Plan 9). These should be shown on the Subdivision Plat as the residential units constitute the subdivision elements.

- (9) *Is in conformance with the land development plan or its successor;*

The applicant has referred to the Comprehensive Plan policies (Attachment G) and staff recommend that the project is compatible with Comprehensive Plan goals and policies.

- (10) *The subdivider has adequate financial and technical capacity to meet the standards of this section;*

The applicant has submitted a letter dated 4.19.2012 from Bangor Savings Bank confirming interest in financing the project and noting the high public infrastructure costs (Attachment A).

- (11) *(Whenever situated, in whole or in part, within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;*
- (12) *Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;*
- (13) *Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant.*
- (14) *All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands.*
- (15) *Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application.*

These review criteria do not apply to this project.

C. Subdivision Review: 14-499. Required improvements. [where not covered under Section IX B above]

(d) *Sidewalks and curbs shall be constructed as required in section 14-498.*

The proposals include the replacement of the Middle Street sidewalk with new brick sidewalk with curbing details to match in with the existing where the new curb cut is created on Middle Street. The existing sidewalks on India and Fore streets are brick in good condition, and these will be re-laid using the existing bricks and curbing. Details include the integration of new and existing street lamps and street trees and pedestrian accommodations.

DPs have noted that the Demolition Plan (Plan 4 CO3) proposes that the existing bricks in Fore and India Streets be taken up and reset and requested a condition that requires replacement of any damaged bricks in kind (Attachment 9).

(h) *All utility lines shall be placed underground unless otherwise approved by the Planning Board.*

The proposals include the placement of all utility lines along Middle Street underground; those in Fore Street are already underground. The applicant requested and received a TIF of \$650,000 towards the cost of the undergrounding in Middle Street, which was estimated to be upwards of \$1,000,000.

Associated TIF funding was approved by the City to support an India Street neighborhood planning process to "provide direction related to future development uses, development scale and supporting infrastructure related investment needs" (including undergrounding of overhead power lines in India Street).

To underground the large scale utilities in India Street as part of this project would overload this project and be premature in view of the wider infrastructure assessment to be undertaken with the TIF funding. Staff recommend the project be approved as proposed.

D. SITE PLAN REVIEW 14-526 Site Plan Level III Final Plan Requirements

1. Transportation Standards

Impact on Surrounding Street Systems and Site Vehicle Access

The TMP review (above) addresses the impact on the surrounding streets.

The project proposes an additional access on Middle Street and utilizes the existing access on Fore Street, to be shared with the phase I (Hampton Inn) project.

The Middle Street driveway access into the parking garage is proposed to be 42 feet wide, which includes a 24 foot wide access to the parking garage, a 15 foot wide loading bay and a 3 foot support column between these two. The proposed width exceeds the technical standard of 36 feet and the applicant has submitted a waiver request (Attachment B) for the wider curb cut. Although the radii are designed to minimize the length of the curb cut that pedestrians must cross, Tom Errico, Transportation Reviewer, raised concerns about pedestrian safety in the comments for the PB Workshop (Attachment 2):

The driveway width exceeds City standards and accordingly will need a waiver from the City's Technical standards. I support a waiver, but would like the applicant to provide recommendations on how best to design the driveway for optimal pedestrian safety.

The applicant has confirmed (Attachment J.4) that the new Middle Street drive access will be constructed similar to the Phase I access on Fore Street and submitted a photograph of this existing curb cut on Fore Street (Attachment N). The applicants do not consider the proposal can be improved. Mr Errico has further commented (Attachment 10):

Status as of 8.10.2012: I support a waiver from the City Technical standards given site conditions and limited use of the loading area. With that said, I would suggest that distinct pavement treatment be used in the area of the sidewalk crossing in from of the loading area to provide some visual warning of a change of condition. I would suggest that a condition be provided that requires the applicant to submit a proposed material treatment for review and comment.

The proposed motions for the Board to consider include a condition requiring the applicant to address Mr Errico's comments in Attachment 10, including this requirement regarding the driveway. Mr Errico's comments included additional comments regarding details and the Construction Management Plan and these are also covered by the suggested condition.

Pedestrian Access

Pedestrian circulation through the site is already addressed by the existing stairs from Middle Street and cross walk under the Hampton Inn, along with the provision of sidewalks. The applicant has confirmed that visitors and customers to the retail units and offices (and maybe some employees) would be utilizing the Ocean Gateway Parking Garage located on the other side of India Street. Given the expectation of increased pedestrian crossings of India Street between the site and the off-site garage, Mr Errico suggests that a contribution of \$5000 to pedestrian crossing improvements should be required (Attachment 2, as updated in Attachment 10). This is addressed by a potential condition of approval that has been included in the motions for the board to consider.

Public Transit

Under the Site Plan ordinance requirements for public transit improvements, a project is required to provide an improvement consisting of a bus shelter and pullout bay unless there is an existing transit shelter and/or pullout bay within 1350 feet of the closest primary proposed building. In this case there is a bus shelter provided at the Ferry Terminal on Commercial Street which is within the 1350 feet and the ordinance requirement does not apply.

Vehicle Parking

The applicant has analyzed the parking demand and supply for the Phase II development based on a combination of ITE guidelines and observational data (Attachment C.3). The analysis includes an assessment of the potential for shared parking that takes advantage of the low daytime parking demand of the hotel and the high daytime demand from offices/retail. It clarifies that the Middle Street garage (63 spaces) will have 18 dedicated spaces for the new residential condominiums and also provide for employees of the retail and office space. The overall parking provided on site does not meet the calculated demand of 192 spaces; after taking into account shared parking a shortfall of 71 spaces has been identified. This shortfall is proposed to be met by a combination of off-site parking in the Ocean Gateway Garage and fee in lieu payments.

The extract at right is from submitted plan CO4 (Plan 5 attached) and reflects the Updated Parking Study (Attachment C.3 which outlines the mechanism discussed with staff for collecting the fee in lieu for parking in advance of occupation by prospective buyers of the office, retail and residential units.

The applicant has submitted a letter from the owners of the Ocean Gateway Garage confirming the availability of up to 100 parking spaces (Attachment M). The Traffic Engineering Reviewer, Tom Errico, has commented (Attachments 2 and 10):

PARKING:

1. PURSUANT TO SEC. 14-526(A)(1)(A) OF THE CITY LAND USE ORDINANCE, THE PLANNING BOARD HAS DETERMINED THE OFF-STREET PARKING REQUIREMENTS FOR THIS PROJECT TO BE 192 SPACES.
2. A NET TOTAL OF 121 PARKING SPACES ARE PROVIDED FOR THIS PHASE II PROJECT ON THE SUBJECT PROPERTY, CONSISTING OF THE FOLLOWING:
 - (a) 63 SPACES ARE LOCATED IN THE PROPOSED MIDDLE STREET LEVEL GARAGE, ALL OF WHICH ARE DEDICATED TO USE FOR THE PROPOSED PROJECT.
 - (b) 115 SPACES ARE LOCATED IN THE PROPOSED FORE STREET GARAGE, WHICH WILL BE PRIMARILY USED TO REPLACE THE EXISTING SURFACE PARKING LOT ON THE SUBJECT PROPERTY THAT SERVES THE ADJACENT EXISTING HOTEL AND RESIDENTIAL CONDOMINIUM UNITS. BASED ON THE APPLICANT'S PARKING STUDY, THE FORE STREET GARAGE WILL PROVIDE THE PROPOSED PROJECT WITH 14 SPACES ON A FULL-TIME BASIS AND 44 SPACES ON A SHARED BASIS MONDAY THROUGH FRIDAY 9:00 AM TO 6:00 PM.
 - (c) THE NET TOTAL OF 121 ON-SITE PARKING SPACES PROVIDED IS A SHORTFALL OF 71 SPACES LESS THAN REQUIRED.
 - (d) BASED ON DISCUSSIONS WITH CITY OF PORTLAND PLANNING STAFF, THE FOLLOWING PROCEDURES ARE EXPECTED FOR SECURING AND PAYING THE FEE IN LIEU OF PARKING, PURSUANT TO SECTION 14-345 OF THE LAND USE ORDINANCE, THE APPLICANTS WILL PROVIDE A PERFORMANCE GUARANTEE FOR PAYMENT OF \$140,000 OF FEES IN LIEU OF PARKING, BASED ON THE PRELIMINARY CALCULATION FOUND IN THE APPLICANT'S PARKING STUDY THAT WAS UPDATED ON JULY 19TH, 2012. BECAUSE NUMEROUS SEPARATE CERTIFICATES OF OCCUPANCY WILL BE ISSUED FOR THE SEPARATELY OWNED SPACES IN THE MIXED-USE PROJECT, THE PLANNING DEPARTMENT WILL TRACK THE ACTUAL DOCUMENTATION OF LEASED SPACES SATISFYING THE REQUIREMENTS OF SECTION 14-334, AND FROM TIME TO TIME MAY REDUCE THE PERFORMANCE GUARANTY IF APPROPRIATE. UPON THE SOONER OF (a) ISSUANCE OF ALL C.O.'S FOR THE PROJECT OR (b) THREE YEARS AFTER THE ISSUANCE OF THE FIRST C.O., THE FINAL FEE IN LIEU WILL BE CALCULATED BASED ON THE NUMBER OF DOCUMENTED OFF-SITE LEASES AND THE FEE WILL BE PAID.

- I have reviewed the parking demand analysis and in general the methods seem acceptable. I need to review this in more detail. I would suggest that the applicant conduct a second parking occupancy survey to assess parking demand characteristics during the busy summer time period.

Status as of 8.10.2012: *The applicant has indicated that Phase II of the proposed project will require a parking supply of 192 parking spaces. I find that this parking demand estimate reasonably predicts an average parking demand condition for the site. The applicant conducted a very detailed parking analysis and the methods included factors that take into account, travel demand management strategies for the commercial uses, urban*

transportation choice considerations, shared parking adjustments that take into account the differing parking occupancy characteristics of hotel and office land uses, and building floor area adjustments accounting for bulk storage space. I would note that this parking methodology is site specific and is unique to this project and I do not endorse use of these methods for City-wide projects. I am comfortable with the estimate given that the TDM Plan includes actions that require project monitoring that will seek to ensure the project meets targets for minimizing traffic generation to the site, and thus parking generation by the project, and this mechanism will be a beneficial tool to managing future parking conditions.

A potential condition of approval is included in the motions for the Board to consider:

That the parking required for the Phase II development has been determined by the Planning Board to be 192 spaces for all uses, as based on a total floorspace of 179,599 sq ft (22,077 sq ft floorspace for retail; 63,856 floorspace for offices; and up to 18 residential units), of which 121 on-site garage spaces are available for Phase II uses as based on shared use, valet parking management and allocations as described on pages 5 and 6 of the Update to Applicant's Parking Study dated 7.19.2012.

The shortfall of 71 spaces shall be addressed either through a fee in lieu or off-site parking leases in accordance with the Ordinance, depending on future buyer needs. Prior to the issuance of a building permit, the applicant shall post a performance guarantee of \$140,000 for fees in lieu parking for 40% of the shortfall, based on the estimate that 60% of the shortfall shall be met with off-site leases. Upon the sooner of (a) issuance of all COs for the project or (b) three years after the issuance of the first CO, the final fee in lieu amount shall be calculated and adjusted based on the number of documented off-site leases. In the event of any changes in the uses and/or the retail or office floorspace which trigger development review or building permits, the proposals shall be submitted to the Department of Planning and Urban Development.

The parking provision within the garages is based on the provision of 56 compact spaces (used only for valet parking) and striping that varies the parking space standards by a few inches to accommodate columns and maximize the use of the garage space given the tandem valet parking. A waiver request has been submitted ([Attachment B](#)) and the Transportation Engineering Reviewer supports the waivers based on the unique and specific circumstances of the proposed parking garage operations which he has documented ([Attachment 10](#)).

The applicant has addressed other minor comments regarding parking that were raised in the Workshop memo.

Bicycle parking

The applicant has included a bicycle parking assessment ([Attachment C.3](#), at end) which outlines the requirement for 53 spaces (including 22 to replace those lost in Phase I) and confirms that 62 spaces will be provided in total. This number includes 30 spaces that will be provided in covered or secure locations (24 in Middle Street garage, 6 immediately outside the Fore Street parking garage, all marked for residents and employees).

An additional 10 spaces (uncovered) are located on India Street just behind the sidewalk where the building is set back. A further 22 (uncovered) spaces are existing spaces relocated within the lower level service area near the bottom of the steps from Middle Street (shown on [Plan 5](#)). Staff suggested in the Workshop memo that this location does not appear to be ideal for members of the public going to the retail or office uses, in that they can only be accessed through the driveway access under the hotel to the parking garage. The applicant has indicated ([Attachment K](#)) that they are not able to identify any other location that would not impede pedestrian access.

Snow Storage

The proposed site plan in [Plan 5](#) identifies snow storage areas and includes a Note 1 that identifies when snow will be trucked from the site.

Transportation Demand Management plan

The applicant has submitted a revised TDM ([Attachment C.4](#)) which addresses staff comments in the Workshop memorandum and has been the focus for considerable discussions with staff. Development of a TDM at this stage is difficult because the occupiers and their travel characteristics are not known.

Staff welcome the dedication of a TDM coordinator from the start and the suggested target of 10% reduction in trips. The proposed de-coupling of parking from the residential condominium sale cost (ie they would be purchased separately) is helpful in giving condo owners a choice regarding car ownership.

The TDM identifies a process (via the Condominium Association) for ensuring individual owners adopt and coordinate TDM plans for their particular businesses. The TDM requirements for monitoring have been revised to clearly provide mechanism to review progress, including a review of the target and measures. The required reports are (quote from the submitted TDM):

Development and Start-Up Phase. Within 60 days after the project reaches 85% occupancy, the Project developer (Greg Kirsch) will prepare and submit to the Planning Department a status report containing the following information:

- Status of implementation of development and start-up phase measures of this TDM Plan
- Status of sales of retail, office and residential units
- Identity and description of all occupants (number of occupants for residences; identity and description of operations, including number of employees, for each employer)
- Proposed enhancements or changes to post-development TDM measures based, if any
- Status and summary of TDM surveys and TDM plan design for each employer in the Project, listing measures as implemented or proposed in near future and noting any coordinated approaches
- Baseline measurements of actual parking and SOV trips (against which future monitoring data can be compared).
- Status and membership on the TDM Coordinating Committee of the condo association
- Identity of any consultant or firm retained to assist with TDM monitoring and implementation

Post-Development Phase. One year after the Project reaches 85% occupancy, the TDM Coordinating Committee will appoint an individual (potentially an outside TDM consultant) to conduct the following monitoring activities, with a report to the City's Planning Division TDM Manager approximately 8 weeks after the monitoring studies are conducted.

- Status of sales of retail, office and residential units
- Identity and description of all occupants (number of occupants for residences; identity and description of operations, including number of employees, for each employer)
- Employees and residents at the Project will be surveyed regarding their commuting/transportation modes, frequency, timing, parking (vehicle and/or bicycle), and available and desired transportation options. A report of these survey results will be presented in a format to be developed in consultation with the City's TDM Manager.
- Employers will be surveyed regarding their TDM programs and summaries will be reported.
- Status and membership on the TDM Coordinating Committee of the condo association
- Detailed measurements of parking and SOV reductions against targets
- Any proposed enhancements or changes to implemented TDM measures, or proposed additional TDM measures, as considered effective to achieve targets
- Identity of any consultant or firm retained to assist with TDM monitoring and implementation

After the first post-development monitoring and reporting cycle is completed, the TDM Coordinating Committee will consult with the City TDM Manager with respect to proposed improvements to the Project's TDM programs and/or modifications to the monitoring and reporting actions.

Staff, including Tom Errico, Transportation Reviewer, recommend that the TDM is acceptable given the mixed use and speculative nature of the development ([Attachment 10](#)). A potential condition of approval is included to require the Phase II development condominium association to implement the approved TDM Plan.

2. Environmental Quality Standards

Preservation of significant natural features

See above under *Subdivision Review* and below under B3 Design Review

Site Landscaping

See above under *Subdivision Review* and below under B3 Design Review. The City Arborist comments relate to the street trees and the plaza planting and are included at [Attachment 11](#).

Water quality, Stormwater Management and Erosion Control

As discussed above under IX B. *Subdivision Review 14-497. Subdivision General Requirements (a) Review Criteria*

3. Public Infrastructure and Community Safety Standards

Public Infrastructure

See discussion of sidewalks and utilities under Section IX C. *Subdivision Review: 14-499. Required improvements.*

Public Safety (CPTED)

The proposals emphasize pedestrian convenience and include 11 pedestrian entrances to the building. All of the entrances are lit and CPTED principles have been addressed.

In the Workshop Memo Staff suggested there were two areas where further consideration of the design was suggested: the area between the existing steps in Middle Street and the driveway access/new office building of Phase II; and the plaza area at the corner of Fore and India Streets. The applicant has revised the proposals for these areas and provided further details which staff considers address the earlier comments. In summary:

- The “mid-block” area on Middle street has been enhanced through evergreen screening planting (shown on [Plan 9 Landscaping Plan](#)) and architectural treatment of the compactor enclosure with themed fencing (see “Mid Block View” rendering in [Attachment Plan 28](#)). At the PB Workshop a member of the public expressed concern that the compactor would be visible from the existing residences on top of the hotel, and the applicant has confirmed that the compactor enclosure will have a roof ([Attachment K](#)). The design now provides for natural surveillance of this area and meets B-3 Design Standards (discussed below and in [Attachment 12](#)).



- The plaza area at Fore/India Streets has been redesigned ([Plans 7 \(CO5a\) and 9 \(CO7\)](#) and Rendering in [Plan 26](#)) to provide improved access to the sunken area in front of the retail units and to increase visual surveillance by limiting the height of the ground level planting material. In addition it incorporates wall seating (see also the Updated Design Review Memo ([Attachment 12](#))). The City Arborist has suggested that 2 of the proposed street trees would be more successful if relocated into this area and also has suggested that a higher percentage of native plants if possible (see comments in [Attachment 12](#)).



Fire prevention

Captain Chris Pirone of the Fire Department has provided comments in Attachment 4 and notes that there will need to be carbon monoxide protection relating to the internal parking garages and refers to hydrant locations and addressing of the property. The applicant has indicated that these comments have been addressed (Attachment J). Captain Pirone has not been able to review the details as of the time this Report was prepared, and a potential condition of approval is included in the motions to document these issues.

Availability and Capacity of Public utilities

The applicant has provide all letters confirming capacity of utilities- see Attachment G.

Massing, Ventilation and Wind Impact

The proposed building creates a solid building form along Fore Street as it is connected to the hotel and the access to the lower parking garage is under the hotel. The massing is broken up by the introduction of balconies and indentations and different materials at the lower and/or highest floors. Further design review is included below under the B3 Downtown Design Standards.

The mechanical ventilation has not yet been designed for the building and the internal garage will require CO ventilation equipment. Given the scale of the building all roof features, elevator shafts and mechanical equipment should ideally be set back from the roof edges and/or integrated into the roof design rather than be an add-on that requires high screening enclosures and a potential condition of approval has been suggested to this effect.

Shadows, snow and ice loading

There are no particular issues.

View Corridors/Historic Resources

The site does not fall within or near any view corridors or historic resources.

Exterior Lighting

The applicant has submitted a plan confirming the locations and type of existing, relocated and new street lighting around the site and site lighting (Plan 10). The site lighting will comprise:

- Four “Orbiter” wall mounted lamps (Plan 10(Lighting Plan) and Plan 23 (Material Specifications)- these are cut off in design and located on the Fore Street retail frontage where there are no glass canopies overhanging;
- 18 wall sconces (Specification in Attachment 10 and Plan 24); these are not “cut-off” type but could be considered “Architectural and Specialty Lighting” as they are beneath the canopy (so no uplighting) and illuminate the canopy and retail windows. Such lighting is encouraged in the *Downtown Urban Design Guidelines* and staff suggest these meet the ordinance, which states:

Architectural and specialty lighting, but not up-lighting, of such features as architectural details, monuments, public art or other site features shall be designed to illuminate specific details or attributes only and shall meet the standards of Section 12 of the Technical Manual.

However, the Photometric Plan in Plan 10 CO8 shows that these lights result in illumination levels ranging up to 10.0 footcandles and exceed the maximum of 5.0 footcandles specified Section 12 of the Technical Manual in approximately 20 places. Staff recommend the following potential condition to bring these light levels down where they exceed the standard:

That the wall sconce under the glass canopy along the retail entrances shall be revised (regarding lamp wattage or spacing) so that the photometrics meet the Site Lighting Standard 12.2.3).

- At India Street entrance the applicant has confirmed (Attachment K, though not shown on the plans) that there are recessed lights that are located in the soffit area, immediately at the top of the exterior stairs.

Noise and Vibration

The project is not expected to have noise and vibration impacts except during construction or from external HVAC or ventilation systems. Construction impacts are largely controlled by the Building Codes and the construction management plan. The Zoning Administrator has advised ([Attachment 3](#)) that the Inspection Division will need documentation concerning the noise emissions of HVAC systems to determine compliance with the ordinance, and this reference has been included in the potential condition related to rooftop appurtenances.

Signage and Wayfinding

The elevations and renderings in [Plans 26-28](#) give an indication of proposed building signage but no specific signs are include in the Site plan Application and separate permits (through Inspections Division) would be required.

Zoning Related Design Standards:

A. B3 Zoning Ordinance 14-220 (c)

Street wall build-to line: 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 (d)9 and the City of Portland Design Manual.

Section 14-526 (d) 9 is the Zoning Related Design Standards and states:

- (i) *B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the EWPZ waterfront zone shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual.*

The applicable design standards are discussed below.

B. B3 Design Standards and the Downtown Urban Design Guidelines

For the PB Workshop Planning Staff had conducted a preliminary review of the project for conformance with the B-3 Design Standards and the applicable *Downtown Urban Design Guidelines* ([Attachment 7](#)). Since then the applicant has addressed these staff comments and staff have updated the Design Review Memo ([Attachment 12](#)).

Overall the Design review concluded that the Design Standards were met by the proposals, subject to two waivers and condition as discussed below.

Waiver for glass materials

The applicant has submitted specifications for all of the materials ([Plan 20-25](#)) and also specified the transparency of the proposed window and curtainwall glass in [Attachment K](#). The applicants have requested a waiver for the glass materials to allow VT values that are lower than indicated in the standard in order to meet energy efficiency objectives.

The Design Standards state:

General: The exterior design of portions of the 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: (1) Storefronts and building facades, including such factors as relationship to adjacent or nearby structures or open space, pedestrian character, materials and detailing, transparency (having a visible transmittance (VT) of .7 or higher) and contemporary design;"

As outlined in the Updated Design memo ([Attachment 12](#)), staff recommend a waiver of the indicated VT value for glass as the window glass is proposed to be a VT of .64 (similar to the standard) and the curtain wall (proposed VT of .42) is the full height of the building and encloses well lit lobby areas. Staff have also commented that if the storefront glass could be specified at a higher VT score, that would be desirable as this is the most important location for transparency.

Waiver in relation to building setback

The Design Standards include the following requirements in respect of the setback over 5 feet at the corner of Fore and India Streets:

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:
 - i. 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;
 - ii. 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;
 - iii. 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
 - iv. 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.
 - v. 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 (Appendix 1);

The applicant has addressed these standards in a narrative include in Attachment H (H.5 specifically) and staff consider that the revised design of the south facing plaza area meets i-iv of this requirement and support the waiver of this part of the standard.

The applicant has not yet designed the roof top appurtenances and in view of the ventilation requirements for the garage staff suggest a potential condition as follows to address v. of the requirement:

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 set back from the roof edges and/or integrated into the roof design rather than be an add-on that requires high screening enclosures, and also shall meet zoning noise standards as documented in advance of installation;

X. STAFF RECOMMENDATION

The Planning staff recommend approval of this project subject to the suggested conditions of approval as cited in the proposed motions.

XI. PROPOSED MOTIONS

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 40 -12 for the Phase II Re-development of the Jordan's meat site, Fore, India and Middle Streets relevant to the Site Plan and Subdivision reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

WAIVERS

1. *Setback farther than 5 feet from the property line:*

The Planning Board finds that the increased building setback at the corner of Fore Street and India Street 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 Planning Board **(waives/does not waive)** the 5-foot maximum building set back as per Site Plan standard 14-526(d) 9.

2. *Driveway width:*

The Planning Board **(waives/ does not waive)** Technical Standard, Section 1.7.1.4 that allows a maximum of 36 feet wide driveway width, to allow a driveway width of 42 feet wide on Middle Street to accommodate a 24 foot wide entry into the parking garage, a 15 foot wide loading bay and a 3 foot wide support column between the two drives.

3. *Driveway curb radius:*

The Planning Board **(waives/ does not waive)** Technical Standard, Section 1.7.1.5 which allows a minimum curb radius of 15 feet, to allow the curb radius to be reduced to 10 feet in order to decrease the length of pedestrian travel across the driveway mouth, with vehicle turning movements accommodated by the wide driveway entrance.

4. *Number of compact spaces:*

The Planning Board **(waives/ does not waive)** Technical Standard, Section 1.14, which allows parking lots with greater than 10 spaces to be comprised of up to 20% compact parking spaces, to allow 56 compact parking spaces in the Fore Street Garage (representing 49% of the spaces in the Fore Street garage and 31% of the total number of spaces in both garages that are within the Phase II development), subject to these spaces being only for valet parking which would ensure appropriate use of the spaces.

5. *Standard parking space size:*

The Planning Board **(waives/ does not waive)** Technical Standard, Section 1.14 which requires standard parking spaces to be 9 feet by 18 feet, to allow slightly smaller or larger spaces to take account of the columns and tandem parking arrangements as shown on approved Plan C11 (Plan 13 to this Report).

6. *Compact parking space size:*

The Planning Board **(waives/ does not waive)** Technical Standard, Section 1.14 which requires compact parking spaces to be 8 feet by 15 feet, to allow the 56 compact spaces in the Fore Street garage (valet – parked) to be slightly smaller or larger to take account of the columns, tandem parking arrangements and because they will only be used for valet parking as described in the Updated Parking Study and shown on approved Plan C11 (respectively C.3 and Plan 13 to this Report).

7. *Parking Aisle:*

The Planning Board **(waives/ does not waive)** Technical Standard, Section 1.14, Figure I-27 and I-29 which requires a 24 foot wide drive aisle, to allow the reduction to 22 feet in both garages to accommodate structural columns, based on the parking use being limited to valet and regular users.

8. *Glass materials:*

The Planning Board (**waives/does not waive**) the Design Standard a) Relationship to the pedestrian environment (1) which requires a VT of .7 or higher, to allow the window glass to be a VT of .64 (similar to the standard) to reduce solar heat gain, and allow the curtain wall to be a VT of .42 to reduce solar heat gain and as it is the full height of the building and encloses well lit lobby areas.

TRAFFIC MOVEMENT PERMIT

That the Planning Board finds that the proposed plan [**is/is not**] in conformance with 23 MRSA 704-A and Chapter 305 Rules and Regulations pertaining to Traffic Movement Permits.

Potential conditions of approval:

- i. That the applicant shall develop and submit an all-way STOP controlled intersection at Middle Street and India Street for review and approval by the Planning Authority, and implement the approved design prior to the issuance of a Certificate of Occupancy. All costs associated with the design and implementation shall be the responsibility of the applicant.

SUBDIVISION

That 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:

Potential conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to the office and retail floorspace maximums and the use of office space for ancillary residential space, street trees, Condominium Association documents and relevant conditions; and
- ii. That the pedestrian access easement for the areas of the sidewalk that are not in the right of way shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy; and
- iii. That the Condominium Association documents created for all of the Phase II units include references to the Stormwater Management Inspection and maintenance requirements and TDM Plan, shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy; and
- iv. That the Condominium Association created for all of the Phase II units shall develop, implement and manage the approved Transportation Demand Management (TDM) plan as referenced below, and submit *Development and Start-Up Phase* and *Post-Development Phase* status reports in accordance with the *Revised Transportation Demand Management (TDM) Plan Phase II Mixed-Use Redevelopment of Jordan's Meat Site* July 20, 2012 as updated July 26, 2012 (Attachment C.4 to this Report). If the *Post-Development* monitoring shows that the target of 10% reduction in SOV trips/parking has not been achieved, the *Post-Development* status report shall be referred to the Planning Authority for review.
- v. That the applicant and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the submitted Stormwater Pollution Prevention Plan (dated 5.29.2012 as updated 7.24.2012) and approved Plan CO6 in Attachments F.1 and F.2 and Plan 8 to this Report, and meet City standards and state guidelines.

SITE PLAN

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 condition(s) of approval:

Potential conditions of approval:

- i. That the parking required for the Phase II development has been determined by the Planning Board to be 192 spaces for all uses, as based on a total floorspace of 179,599 sq ft (22,077 sq ft floorspace for retail; 63,856 floorspace for offices; and up to 18 residential units), of which 121 on-site garage spaces are available for Phase II uses as based on shared use, valet parking management and allocations as described on pages 5 and 6 of the *Update to Applicant's Parking Study* dated 7.19.2012.

The shortfall of 71 spaces shall be addressed either through a fee in lieu or off-site parking leases in accordance with the Ordinance, depending on future buyer needs. Prior to the issuance of a building permit, the applicant shall post a performance guarantee of \$140,000 for fees in lieu parking for 40% of the shortfall, based on the estimate that 60% of the shortfall shall be met with off-site leases. Upon the sooner of (a) issuance of all COs for the project or (b) three years after the issuance of the first CO, the final fee in lieu amount shall be calculated and adjusted based on the number of documented off-site leases. In the event of any changes in the uses and/or the retail or office floorspace which trigger development review or building permits, the proposals shall be submitted to the Department of Planning and Urban Development; and

- ii. That the applicant shall make a \$5000 contribution to an account maintained by the City prior to the issuance of a building permit, to be used to fund pedestrian improvements at the India Street/Middle Street intersection; and
- iii. That the applicant shall work with the Department of Public Services to diagnose the cause of drainage ponding on the northwest corner of the Fore Street/India Street intersection (that impacts the sidewalk ramp) and shall implement a solution during construction (since the sidewalk bricks will be removed and saved for re-installation as part of the development) at the applicant's cost provided the solution is reasonably simple and non-disruptive; and
- iv. That the applicant shall submit revised plans/documents that address the comments of the Department of Public Services David Margolis-Pineo dated August 8, 2012, for review and approval by the Planning Authority prior to the issuance of a building permit; and
- v. That the applicant shall submit revised plans/documents that address the comments (including "new comments") of the Transportation Reviewer, Tom Errico, dated August 10, 2012, for review and approval by the Planning Authority prior to the issuance of a building permit; and
- vi. That the applicant shall obtain a license from the City for any canopies that extend over the City right-of-way, prior to the issuance of a Certificate of Occupancy; and
- vi. 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 set back from the roof edges and/or integrated into the roof design rather than be an add-on that requires high screening enclosures, and also shall meet zoning noise standards as documented in advance of installation; and
- vii. That the wall sconce under the glass canopy along the retail entrances shall be revised (regarding lamp wattage or spacing) so that the photometrics meet *Site Lighting Standard 12.2.3*); and
- viii. That the applicant shall address the comments of the Fire Department, Chris Pirone, as set out in the e-mail of June 7, 2012 which includes references to hydrant locations, CO protection and addressing of the property.

ATTACHMENTS:

Attachments to Memorandum for 6.12.2012

1. Peer Engineering Review comments 5.24.2012 and 6.6.2012
2. Transportation Engineering comments 6.6.2012
3. Zoning Administrator comments 6.7.2012

4. Fire Department Comments 6.7.2012
5. Department of Public Services comments 6.8.2012
6. City Arborist comments 6.8.2012
7. Design Review comments 6.7.2012

Attachments to PB Hearing Report for 8.14.2012

8. Civil Engineer Review 7.25.2012 (Memo from David Senus)
9. Department of Public Services Comments 8.8.2012 (Memo from David Margolis-Pineo)
10. Transportation Engineering comments 8.10.2012 (E-mail from Tom Errico)
11. City Arborist comments 8.10.2012 (E-mail from Jeff Tarling)
12. Updated for Hearing Design Review comments 8.10.2012

Applicant's Submittal

- A. Applications: Site Plan and Subdivision (including revised data sheet and project description dated 7.24.2012) and relevant deeds/easements 5.1.2012
- B. Financial Capability 5.1.2012 and Requested Waivers 7.24.2012
- C. Traffic and parking reports
 1. TMP submission 5.1.2012
 2. Traffic memo with further traffic analysis received 6.5.2012
 3. Applicants Parking Study 5.1.2012, with 7.24.2012 Update
 4. Revised Transportation Demand Management Plan (TDM) 7.24.2012
 5. Further information addressing staff questions on parking 5.30.2012
- D. Significant Natural Features 5.1.2012
- E. Project narrative 5.1.2012
- F. Stormwater Analysis
 1. Stormwater Management Plan Addendum 5.1.2012
 2. Stormwater Pollution Prevention Plan 5.29.2012 with addendum of 7.24.2012 (incl. plan of area treated)
- G. Applicant's Narrative 5.1.2012 (addressing Site Plan and Subdivision Standards) including utility capacity to serve letters
- H. Narrative addressing Design Standards 5.1.2012
- I. Neighborhood Meeting Certification 5.21.2012
- J. Greg Kirsch (applicant) Letter, Log and Memo 7.24.2012 (incl responses to staff comments and summarizing revisions) - (Note: some attachments included in above attachments as noted)
- K. Mark Woglum e-mails clarifying re details
- L. CBRE -Boulos Letter 7.17.2012 re demand for Retail
- M. Ocean Gateway Garage letter 7.17.2012 confirming up to 100 spaces available
- N. Driveway- sidewalk Transition Photo (as referred to in Memo in Att J)

PLANS (Final Plan Set all submitted 7.24.2012 or after)

- | | |
|----------------|---|
| Plan 1 | Cover sheet |
| Plan 2 CO1 | Property Information |
| Plan 3 CO2 | Existing Conditions |
| Plan 4 CO3 | Demolition Plan |
| Plan 5 CO4 | Site Plan |
| Plan 6 CO5 | Grading and Utilities Plan |
| Plan 7 CO5a | Plaza Grading and Details |
| Plan 8 CO6 | Erosion Control Plan |
| Plan 9 CO7 | Landscaping Plan |
| Plan 10 CO8 | Lighting Plan |
| Plan 11 CO9 | Construction Details |
| Plan 12 CO10 | Drainage Details |
| Plan 13 CO11 | Floor Plans |
| Plan 14 CMTCO1 | Construction Management and Traffic Control Plan (demolition) |
| Plan 15 CMTCO2 | Construction Management and Traffic Control Plan (building construction) |
| Plan 16 SO1 | Subdivision Plan (Plat) |
| Plan 17 SO2 | Subdivision Plan (Plat) Unit Layout |
| Plans 18 to 19 | Rendered elevations A6 and A7 with materials information |
| Plans 20 to 25 | Materials and Lighting specifications |
| Plans 26 to 28 | Updated Building Elevation Renderings, including plaza corner Fore and India, and mid-block on Middle St. |