

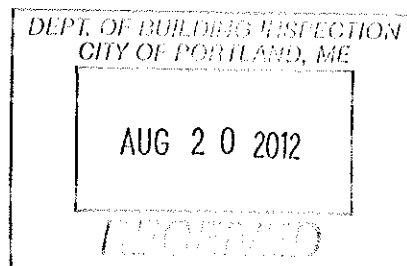
CITY OF PORTLAND, MAINE

PLANNING BOARD

Carol Morrisette, 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 Morrissette, 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 Schnuckal, 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